

Report on Legislative Consent Memorandums 3 and 4 for the Planning and Infrastructure Bill

September 2025

- 1.** The Planning and Infrastructure Bill (“the Bill”) was introduced into the House of Commons on 11 March 2025. The Bill is sponsored by the Ministry of Housing, Communities and Local Government.
- 2.** The Welsh Government laid a Legislative Consent Memorandum (LCM) on the Bill before the Senedd on 26 March 2025. A supplementary Legislative Consent Memorandum (“Memorandum No.2”) was laid on 15 May 2025. The Committee’s Report (“first Report”) on these LCMs can be found on the Senedd’s website (<https://laiddocuments.senedd.wales/cr-ld17278-en.pdf>).
- 3.** Further supplementary Legislative Consent Memorandums (“Memorandum No.3” and “Memorandum No.4”) were laid on 17 June and 7 August 2025, respectively.

Policy objectives

- 4.** The UK Government’s stated policy objectives for the Bill are to speed up and streamline the delivery of new homes and critical infrastructure, supporting delivery of the government’s Plan for Change milestones of building 1.5 million safe and decent homes in England and fast-tracking 150 planning decisions on major economic infrastructure projects by the end of this Parliament. It also seeks to support delivery of the UK Government’s Clean Power 2030 target by ensuring that clean energy projects are built as quickly as possible. Further detail is included in the Committee’s first Report on the LCMs arising from the Bill.



Correspondence from stakeholders and the Cabinet Secretary

5. The Committee received correspondence from Wales Environment Link (WEL), Wildlife Trusts Wales (WTW), and RSPB Cymru, in relation to the first Legislative Consent Memorandum. The organisations raised several concerns, which are set out in the Committee's first Report.
6. The Cabinet Secretary wrote to the Committee on 11 August to address several matters raised in the Committee's first Report. The correspondence is included at Annex 1 of this Report.
7. On 5 September 2025, the Cabinet Secretary wrote to the Committee in response to issues raised in its first report, specifically, the availability of UK Government guidance. The Cabinet Secretary said:

"In that report you raised concern over the proposed amendments to the pre-application process for Nationally Significant Infrastructure Projects (NSIPs) and felt it difficult to reach a judgement as you have not seen the UK Government's guidance. The UK Government is currently undertaking a consultation on streamlining infrastructure planning. This includes proposed guidance on consultation and engagement following the removal of statutory preapplication consultation requirements for NSIPs."

Provisions in the Bill for which consent is required

Supplementary Legislative Consent Memorandum (Memorandum Number 3)

8. Memorandum No.3 states the following amendments have been assessed by the Welsh Government as requiring the legislative consent of the Senedd:
 - Gov 93 which amends clause 31 (previously clause 28) "Procedure for certain orders and schemes";
 - Gov 94 which amends clause 41 (previously clause 38) "Deemed consent under marine licence";
 - Gov 95 which amends clause 41 and is consequential on Gov 97;
 - Gov 96 which amends clause 41 and is consequential on Gov 97;
 - Gov 97 which amends clause 41 and is consequential on Gov 94; and

- Gov 98 which amends clause 41 and is consequential on Gov 97.

9. Gov 93 amends clause 31 (previously clause 28) “Procedure for certain orders and schemes”. Amendment Gov 93 relates to section 326 of the Highways Act 1980, which concerns the revocation and variation of schemes and orders under the Act. The original amendment allowed section 10 orders (trunk roads) and section 16 (special roads) and 106(3) schemes (construction of bridges over or tunnels under navigable waters) to be amended and revoked by a subsequent order or scheme. Separate provision is proposed in Wales under section 2 of the Legislation (Procedure, Publication and Repeals) (Wales) Bill.

10. Amendment Gov 93 revises the original amendment to ensure that the position in Wales is preserved and in particular that the amendments proposed in the separate Welsh Bill will not be affected by Amendment Gov 93.

11. Gov 94 amends clause 41 “Deemed consent under marine licence”. Paragraph 14 of Memorandum No.3 states as introduced, clause 41 (previously clause 38) inserted a new section 19A into the Transport and Works Act 1992 (“TWA 1992”) and provides the Secretary of State and Welsh Ministers with the power to include within a Transport and Works Act Order (made under sections 1 or 3 of that Act) a deemed marine licence under Part 4 of the Marine and Coastal Access Act 2009, authorising the activities specified, and the conditions to which they are subject, in the order (see new section 19A(1), below).

12. New section 19A(2) (as introduced) prescribed that (a) the activity carried out under new section 19A(1) must be in one or more of the areas in which a deemed marine licence can apply specified in subsection (3)) or (b) an activity for which Welsh Ministers are the appropriate licensing authority.

13. The wording of subsection (3) created uncertainty as to the intended application offshore and how that interacted with the Welsh Ministers’ functions of granting marine licences.

14. Memorandum No.3 provides that amendment Gov 94 omits the drafting in clause 41 from the beginning to the end of line 19 on page 55 of the Bill (as amended in Public Committee stage) and inserts new replacement text. Subsections (1) to (4) of new section 19A are replaced with new drafting and a new subsection (4A) is introduced.

15. Further, the effect of amendment Gov 94 amends clause 94 and the provision for deemed marine licences in TWA Orders so that the Welsh Ministers may only authorise activity for which they are responsible under the marine licensing legislation, and it does the same for the Secretary of State. The amendments to new section 19A provide clarification that it is the

responsibility of the Welsh Ministers, as the appropriate licensing authority, to deem a marine licence in Welsh offshore waters.

16. Paragraph 29 of Memorandum No.3 states that “In the LCM laid on 26 March I indicated that whilst I was supportive of the provision to deem a marine licence under clause 38 (now clause 41), I sought reassurance from UK Government there was no unintended consequence in the offshore region. This amendment provides clarity as to the geographic extent that the Secretary of State and Welsh Ministers may grant a deemed marine licence, and the amendment address my concerns. Therefore, I am supportive of the amendment.”

17. The Welsh Government are of the view that amendments Gov 95 to 98 require Senedd consent. This is on the basis that they are consequential on amendment Gov 94. Amendment Gov 97 amends new section 19A(5) to add a new definition of “the MCAA 2009” to that section. Gov 97 is consequential on Gov 94 which refers to the abbreviation “MCAA 2009” in new section 19A(4A). it also adds a definition for “marine licence” which is a term used through new section 19A and is consequential on amendment Gov 94.

The Cabinet Secretary’s view

18. Paragraphs 28 to 30 of Memorandum No.3 provides the reasons for making these provisions for Wales in the Planning and Infrastructure Bill:

“Gov 93

28. The inclusion of the provisions for Wales is needed to help address an issue identified during the Bill process. In essence, by removing the requirement for section 10 orders and section 16/106(3) schemes to be made by Statutory Instrument, the Welsh Ministers lost the ability to amend and revoke them. By amending section 326, this issue has been rectified, and the Welsh Ministers retain the ability to do so.

Gov 94

29. In the LCM laid on 26 March I indicated that whilst I was supportive of the provision to deem a marine licence under clause 38 (now clause 41), I sought reassurance from UK Government there was no unintended consequence in the offshore region. This amendment provides clarity as to the geographic extent that the Secretary of State and Welsh Ministers may grant a deemed marine licence, and the amendment address my concerns. Therefore, I am supportive of the amendment.

Gov 95 to Gov 98

30. Whilst these amendments are technical in nature, they are consequential upon Amendment Gov 94. I am supportive of these amendments."

19. The Cabinet Secretary states in paragraph 32 of Memorandum No.3 that it is appropriate to deal with these provisions in a UK Bill, because "These technical amendments address the issues previously raised to ensure the powers work for Wales."

Supplementary Legislative Consent Memorandum (Memorandum Number 4)

20. Paragraph 8 of Memorandum No.4 states the following amendments have been assessed by the Welsh Government as requiring the legislative consent of the Senedd:

- Amendment No.56 which amends clause 46 (previously clause 42 on introduction) – "Fees for application for harbour orders"
- Amendment No.359 which amends clause 110 (previously clause 96 on introduction) – "Commencement and transitional provision"

21. Clause 46(4) and (5) provide a new power for the Welsh Ministers to set fees for Harbour Revision Order applications in regulations. Clause 46(2) amends paragraph 7(1) of Schedule 3 to the Harbours Act 1964 so to remove the current requirement that an application for a HRO must be accompanied by a fee, as this is now to be set out in regulations.

22. Clause 110(1)(x) provides that the Secretary of State has the power to commence clause 46(2) on such day as it may appoint as set out in regulations. Clause 46(6) and (7) allow the Welsh Ministers to retain existing powers to charge fees under the Harbours Act 1964 until new fee regulations are made and clause 46(2) is commenced.

23. Government amendment 359 adjusts the commencement of clause 46 so that the repeal of existing fee charging powers in the Harbours Act 1964 takes effect in Wales only when new fees regulations, to be made by the Welsh Ministers, come into force. So, the commencement of the new fee-charging powers in Wales is controlled by the Welsh Ministers. As a result, clauses 46(6) and (7) are no longer needed and the effect of Government amendment 56 is to omit these sub-sections from the Bill.

24. Whilst Government amendment 359 introduces different commencement provisions, the effect still means the Welsh Ministers are able to charge a fee for a Harbour Revision Order

application under the existing regime under Schedule 3 of the Harbours Act 1964 until such time as they make new regulations, and those regulations come into force.

The Cabinet Secretary's view

25. Paragraph 16 of Memorandum No.4 provides the reasons for making these provisions for Wales in the Planning and Infrastructure Bill:

"The proposals are considered acceptable as they would provide the Welsh Ministers with the ability to retain powers charge fees for Harbour Order applications under existing provisions in the Harbours Act 1964 until such time as they make new fee regulations and these regulations come into force."

Our view

In our Report on the first and second LCMs arising from this Bill, we raised concerns about several matters. We have included correspondence from the Cabinet Secretary at Annex 1 of this Report which addresses some of those concerns.

One of the key areas was the proposed removal of certain pre-application requirements from NSIPs, including those in Wales. We are grateful that the Cabinet Secretary has sought reassurances from the UK Government's Minister for Housing and Planning on this matter. However, we remain concerned about the potential implications of the proposals on the pre-application consultation process, and that this might lead to a situation where the process for NSIPs in Wales and Welsh SIPs are not aligned.

In terms Memorandums 3 and 4, we agree with the Cabinet Secretary's position that legislative consent is necessary for the provisions. We are not able to recommend, at this stage, that the Senedd agrees to give consent, given that there remain issues that need to be addressed, as set out in our first Report.

Annex 1 – Correspondence from Cabinet Secretary

Rebecca Evans AS/MS
Cabinet Secretary for Economy, Energy and Planning
Ysgrifennydd y Cabinet dros yr Economi, Ynni a Chynllunio



Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref MA-RE-1879-25

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11 August 2025

Dear Llyr,

Thank you for the Climate Change, Environment and Infrastructure Committee's report on the Legislative Consent Memorandums¹ for the Planning and Infrastructure Bill. I have set out below my position with regards to the matters raised in the report.

NSIP pre-application

I understand the concerns raised by the Committee and the stakeholders who have written to you in relation to the proposed amendments to the pre-application process for NSIPs.

Pre-application engagement with all stakeholders is a vital part of consenting, ensuring that our developments are shaped in a way that takes account of the needs of communities and our environment. The legislation I laid to implement the Infrastructure (Wales) Act 2024, shows my commitment to having a robust system which ensures local communities and other stakeholders are fully engaged on developments at all stages of the process.

The relevant provisions within the Planning and Infrastructure Bill relate to the process for NSIPs under the Planning Act 2008 and are not within the legislative competence of the Senedd. However, where a development is in Wales, we want to ensure the process is equally front loaded. Given the potential for negative effects, I wrote to the UK Government on these amendments seeking reassurance on pre-application engagement. Matthew Pennycook MP, Minister for Housing and Planning, responded on 2 June 2025.

This letter provides the rationale for the change and confirms front-loaded engagement and consultation remains central to their approach, which is also reflected in their written statement: <https://questions-statements.parliament.uk/written-statements/detail/2025-0423/hcws594>.

¹ Legislative Consent Memorandum and supplementary Legislative Consent Memorandum (No.2).

Although we have taken a different mechanism in Wales to ensure pre-application engagement results in quality applications, I am reassured that all stakeholders will continue to influence applications at an early stage. On this basis, I am content to support the provision.

NRF cross border issues

I am aware of the concerns raised by stakeholders about the potential cross border implications of the NRF. My officials are working with UK Government officials to consider amendments to the Bill to mitigate this.

HRA territorial extent

My officials have raised the issue of the territorial application of Schedule 4 with UK Government who have advised this was an omission. They have confirmed that they will amend the next iteration of the Explanatory Notes for Schedule 4 to make clear that, as with the other provisions in Part 3, the territorial extent of the Schedule is England and Wales, but it applies to England only.

I have also copied this letter to Mike Hedges MS, Chair of the Legislation, Justice and Constitution Committee, as these matters may also be of interest to that Committee.

Yours sincerely,



Rebecca Evans AS/MS

Cabinet Secretary for Economy, Energy and Planning
Ysgrifennydd y Cabinet dros yr Economi, Ynni a Chynllunio