

LEGISLATIVE CONSENT MEMORANDUM

Planning and Infrastructure Bill

1. This legislative consent memorandum is laid under Standing Order (“SO”) 29.2. SO29 prescribes that a legislative consent memorandum must be laid, and a legislative consent motion may be tabled, before Senedd Cymru (“the Senedd”) if a UK Parliamentary Bill makes provision in relation to Wales that has regard to devolved matters.
2. The Planning and Infrastructure Bill (“the Bill”) was introduced in the House of Commons on 11 March 2025. The Bill can be found at: [Planning and Infrastructure Bill](#)

Policy Objectives

3. The UK Government’s stated policy objectives for the Bill is 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 will also support delivery of the government’s Clean Power 2030 target by ensuring that clean energy projects are built as quickly as possible. To achieve this, the Bill seeks to:
 - a. Provide for a faster and more certain consenting process for critical infrastructure and strengthen the policy framework around National Policy Statements.
 - b. Deliver a more efficient and predictable system for energy infrastructure projects, including:
 - i. Reforms to update the electricity grid connection process;
 - ii. Establishing a new cap and floor scheme to support the deployment of long duration electricity storage;
 - iii. Reforms to electricity infrastructure consenting in Scotland, to reduce system inefficiencies and insert elements of best practice;
 - iv. Establishing a bill discount scheme for those living closest to new electricity transmission infrastructure; and
 - v. Updating a process for offshore electricity transmission, by extending the generator commissioning clause period.
 - c. Streamline and improve the efficiency of delivering transport infrastructure projects, including:
 - i. Changing the process of street works approval in order to accelerate the installation of electric vehicle public charge points;
 - ii. Various reforms to the Transport and Works Act 1992 and Highways Act 1980 to streamline processes and accelerate delivery of projects; and
 - iii. Improving cost recovery for Harbour Revision Orders.

- d. Introduce a more strategic approach to nature recovery in relation to development, enabling developers to fund restoration more efficiently through a new Nature Restoration Fund, whilst securing improved outcomes for the environment.
- e. Improve certainty and decision-making increasing the capacity of local planning authorities by enabling the cost recovery of planning fees.
- f. Unlock land and secure public value for large-scale investment through reforms to the compulsory purchase order process and compensation rules.
- g. Strengthen development corporation powers for infrastructure delivery, including transport, and clarify and update development corporation remits and objectives.
- h. Provide for the introduction of a strategic planning system for England.

Summary of the Bill

- 4. The Bill is sponsored by the Ministry for Housing, Communities and Local Government.
- 5. The Bill makes provision for infrastructure; to make provision about town and country planning; to make provision for a scheme, administered by Natural England, for a nature restoration levy payable by developers; to make provision about development corporations; to make provision about the compulsory purchase of land; to make provision about environmental outcomes reports; and for connected purposes.

Engagement with the UK Government

- 6. UK Government and Welsh Government officials have been in regular contact during the development of the Bill. Engagement will continue at an official and Ministerial level where necessary.

Provisions in the Bill for which consent is required

- 7. The clauses with particular relevance to matters within the legislative competence of the Senedd are:

Part 1 Infrastructure

Chapter 1 - Nationally Significant Infrastructure Projects

Clause 4(3) to (5) - Applications for development consent: consultation

- 8. Clause 4(3) to (5) amend the process for nationally significant infrastructure projects (“NSIPs”) in relation to the engagement of specified consultees. Clause 4(3) introduces a new section 50A into the Planning

Act 2008 (“the 2008 Act”) to provide that relevant public authorities must have regard to guidance issued by the Secretary of State to assist such authorities in responding effectively to consultation under section 42 of the 2008 Act. Section 42 requires applicants to consult certain bodies and persons as part of the NSIP application process. The bodies that must have regard to the guidance on responding to consultations include local authorities in Wales (by virtue of section 42(1)(b) of the 2008 Act), the Welsh Ministers and other devolved Welsh authorities (by virtue of section 42(1)(a) of the 2008 Act).

9. Clause 4(4) amends section 60 relating to local impact reports. It provides that an authority producing a local impact report must have regard to any relevant guidance issued by the Secretary of State. This would apply to a local authority in Wales where the development is in Wales.
10. Clause 4(5) introduces a new section 96A into the 2008 Act to provide that a relevant public authority making any representations about an application (oral or written) must have regard to any guidance issued by the Secretary of State. This also includes local authorities in Wales (by virtue of section 56(2)(b) of the 2008 Act) and the Welsh Ministers and other devolved Welsh authorities (by virtue of section 56(2)(a) of the 2008 Act).
11. In summary, the changes will mean that specified public authorities including the Welsh Ministers, local authorities and other devolved Welsh authorities, will have to have regard to guidance issued by the Secretary of State when responding to a consultation or making representations about an application for orders granting development consent under the 2008 Act. On this basis I consider that clause 4(3) to (5) do trigger this process as it would affect the function of devolved Welsh authorities.

Chapter 2 – Electricity Infrastructure – Electricity generation on forestry land

Clause 24 - Use of forestry estate for renewable energy

12. Clause 24 amends the Forestry Act 1967 (by inserting a new section 3A after section 3) granting the appropriate forestry authority (in Wales this would be Natural Resources Wales (“NRW”) by virtue of the Natural Resources Body for Wales (Functions) Order 2013) the power to:
 - Use, or enter into arrangements in connection with the use of, forestry land for the generation, storage, or transmission/supply of renewable electricity;
 - Sell, or enter into arrangements concerning, renewable electricity that is generated, stored or supplied on, or transmitted across forestry land;
 - use, or enter into arrangements connected with the use of, forestry land for activity intended to satisfy (or enable the satisfaction of) a relevant condition of development or activity connected with such a condition.

13. A relevant condition of development is a condition that relates to a renewable electricity development located on forestry land and which is intended to benefit the natural environment. A condition of development is one subject to planning permission, or a requirement contained in a Development Consent Order.
14. In respect of Wales, the purposes of the powers conferred in this clause are to obtain funds for meeting the expenses for the activities of NRW and to facilitate or promote the use of renewable electricity.
15. The clause gives powers to the Welsh Ministers to make regulations that provide that NRW may not exercise their powers under this clause without the consent of the Welsh Ministers. The regulations can make provision about the process to seek and give consent and to provide for consent to be subject to conditions. The regulations would be made under the negative procedure.
16. I consider that this clause triggers the legislative consent motion process. The purpose of the provision is to enable forestry land to be used for the purposes of renewable electricity. This contributes to the move away from fossil fuels and therefore to the overall decarbonisation pathway in Wales. The provision therefore has regard to a devolved matter – the environment and climate change, in particular the effectiveness of decarbonisation policy in Wales.

Chapter 3 – Transport Infrastructure - Amendments to the Highways Act 1980

17. I consider that clauses 25, 28 and 29 trigger the legislative consent motion process. The clauses make provision in relation to Wales that has regard to highways and is therefore within the legislative competence of the Senedd.

Clause 25 - Fees for certain services

18. Clause 25 amends the Highways Act 1980 by including a new section following 281A. The provision enables the Welsh Ministers to make regulations to stipulate public bodies who are allowed to charge for their services provided in connection with orders and schemes made in relation to road projects under the Highways Act 1980. These regulations will be subject to the negative resolution procedure.

Clause 28 - Procedure for certain orders and schemes

19. Clause 28 amends section 325 of the Highways Act 1980 by removing the requirement for orders under section 10 and schemes under section 16 or 106(3) to be made by statutory instrument. It also allows section 10 orders and section 16 and 106(3) schemes to be amended and revoked by a subsequent order or scheme. This amendment enables a consistent approach to handle various Highways Act orders in England. The clause currently inadvertently applies to Wales and discussions are ongoing with UK Government officials to ensure the provision applies to England only.

Clause 29 - Compulsory acquisition powers to include taking of temporary possession

20. Clause 29 amends section 250(8) of the Highways Act 1980. The proposed additional provision includes the right to take temporary possession or occupation of land when exercising compulsory acquisition powers in relation to road schemes. This introduces powers to temporarily possess and use land (compulsorily or by agreement) to allow scheme promoters a proportionate route to land assembly where permanent acquisition of land or rights or uncertainty over return of acquired land cause delay.

Chapter 3 – Transport Infrastructure - Amendments to the Transport and Works Act 1992

21. I consider that clauses 30 to 38 and 41 trigger the legislative consent motion process. These clauses align with the narrative and legal framework of the Infrastructure (Wales) Act 2024 Act to ensure the consenting process of Transport and Works Act 1992 Orders is as effective as possible.

Clause 30 - Replacement of model clauses with guidance

22. Clause 30 of the Bill amends section 8 of the Transport and Works Act 1992 (“TWA 1992”) which currently allows the Secretary of State to make an Order prescribing Model Clauses that can be incorporated into TWA 1992 Orders, however there is no requirement for applicants to use these Model Clauses. The provision allows the Welsh Ministers to publish guidance regarding the preparation of TWA Orders, the guidance may include Model Clauses, allowing them to be updated on a more regular basis via a more efficient process. When determining a TWA application the Welsh Ministers must have regard to any departure from that guidance, and reasons given by the applicant for this departure.

Clause 31 - Removal of special procedure for projects of national significance

23. Clause 31 omits section 9 of the TWA 1992 which applies to applications that relate to proposals which in the opinion of the Welsh Ministers are of national significance. It is no longer necessary as the Planning Act 2008 now consents nationally significant infrastructure projects and the Infrastructure (Wales) Act 2024 will capture such projects in Wales. There is provision to ensure any notice made under section 9(2) of the TWA 1992, before this power comes into effect are not impacted.

Clause 32 - Duty to hold inquiry or hearing

24. Clause 32 amends section 11 of the TWA 1992, which sets out a process for an objector to inform the Secretary of State or the Welsh Ministers if they wish their objection to be referred to an inquiry or be dealt with in accordance with section 11(2). The provision amends section 11(3) of the TWA 1992 to require the Secretary of State or the Welsh Ministers to only hold a public inquiry when an objector raises an objection that is considered to be substantial and not trivial or frivolous. There is also provision to ensure any application in respect of which rule 5(1) of the

Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006 applies has been complied with before this power comes into effect are not impacted.

Clause 33 - Costs of inquiries

25. Clause 33 amends section 11 of the TWA 1992. The provision clarifies section 250 of the Local Government Act 1972 to make clear that any costs arising from a public inquiry necessary for a TWA 1992 application to progress are to be borne by the applicant. It also sets out a new power to ensure decisions on costs are made by the Inspector unless the Welsh Ministers direct otherwise.

Clause 34 - Deadlines for decisions

26. Clause 34 amends section 13 of the TWA 1992 to add a power to enable regulations to set rules that provide a time period for undertaking actions and making decisions for cases involving applications under section 6 (applications for orders under sections 1 and 3) of the TWA 1992. If a rule is to apply in relation to Wales, it may only be made with the agreement of the Welsh Ministers. These regulations will be subject to the negative resolution procedure.

Clause 35 - Publication of decisions and time for bringing challenge

27. Clause 35 amends section 14 of the TWA 1992 to change how a decision is published. Changing this from publication in the London Gazette to the Welsh Ministers' website. Section 22 of the TWA 1992 is also amended to provide that the challenge period (of 6 weeks) starts the day it is published in accordance with the new requirements.

Clause 36 - Fees for certain services

28. Clause 36 inserts a new section 23A into the TWA 1992 which provides the Welsh Ministers with regulation making power to stipulate public bodies (limited to certain statutory bodies and local planning authorities) who are allowed to charge for the services provided to schemes within the TWA application process. These regulations will be subject to the negative resolution procedure.

Clause 37 - Disapplication of heritage regimes

29. Clause 37 inserts a new section 17 into the TWA 1992 disapplying the listed building consent, conservation area consent for demolition and scheduled monument authorisation under the Historic Environment (Wales) Act 2023 where a TWA 1992 consent is given.

Clause 38 - Deemed consent under marine licence

30. Clause 38 introduces a new section 19A to the TWA 1992. The provision enables an order made under section 1 or 3 of the TWA 1992 to include provision deeming a marine licence under Part 4 of the Marine and Coastal Access Act 2009 to have been granted by the Welsh Ministers or Secretary of State.

31. The activities specified in a TWA Order for which a marine licence may be deemed must be an activity carried out wholly in one or more of the areas specified in subsection (3), or an activity for which the Welsh Ministers are the appropriate licensing authority. The areas in subsection (3)(c) to (e) cover the offshore region, including a Renewable Energy Zone where the Welsh Ministers are the appropriate licensing authority under the Marine and Coastal Access Act 2009. Discussions are ongoing with UK Government officials about how the TWA 1992 is intended to apply offshore and how that interacts with the Welsh Ministers' functions of granting marine licences.

Clause 41 - Power to make consequential amendments

32. Clause 41 enables the Secretary of State to make consequential amendments for clauses 30 to 40 by regulation. The regulations that amend an Act of Parliament or an Act or Measure of the Senedd are subject to the affirmative resolution procedure. The other regulations will be subject to the negative resolution procedure.

Chapter 3 – Transport Infrastructure – Harbours: Fees for applications for harbour orders

Clause 42 - Fees for applications for harbour orders

33. I consider that this clause triggers the legislative consent motion process. The Wales Act 2017 amended Government of Wales Act 2006 to devolve legislative competence and a range of executive functions, so far as not already transferred to the Welsh Ministers, over ports and harbours in Wales to the Senedd and the Welsh Ministers respectively (except for 'reserved trust ports', i.e. Milford Haven).
34. This included the regulatory regime to make harbour revision and empowerment orders set out in sections 14, 15 and 16 of the 1964 Act and therefore the provision of setting fees.
35. Clause 42 amends paragraphs 7 and 9, includes a new paragraph in Schedule 3 and amends section 54 of the Harbours Act 1964. The proposed changes would remove the current provisions in paragraph 7(1)(c) in Schedule 3 of the Harbours Act. Fees would no longer be set out in published guidance by the Welsh Ministers as is the current situation. Instead, the Welsh Ministers would be provided with the power to make regulations relating to Harbour Revision Order application fees to be paid by the applicant.
36. The provisions set out that the regulations may:
- Set the fee amount by a method laid down in regulations.
 - Allow the Welsh Ministers not to undertake certain tasks in relation to an application if a fee is not paid on time.
 - Provide for the payment of a deposit.
 - Make incidental or supplemental provisions.
 - Make different provision for different purposes.

37. These regulations will be subject to the negative resolution procedure.
38. The provisions enabling the powers to make regulations come into force two months after the Act is passed. However, existing powers to charge fees under paragraph 7(1)(c) of Schedule 3 to the Harbours Act 1964 would continue until a date is specified in regulations.

Part 5 Compulsory Purchase

39. Clauses 83 to 87 and 89 to 92 relating to compulsory purchase impact on the Welsh Ministers in their capacity as both a confirming authority and as an acquiring authority and it is therefore considered that they modify the functions of the Welsh Ministers.
40. The Senedd has limited legislative competence in respect of compulsory purchase in devolved areas, including land use planning. Whilst compulsory purchase is not an expressly reserved matter under Schedule 7A of the Government of Wales Act 2006 ("GoWA"), it is restricted at paragraph 3 of Schedule 7B of GoWA. Paragraph 3 states that an Act of the Senedd is not able to modify (or confer power to modify) the private law. "Private law" includes the compulsory acquisition of property. The Senedd is therefore unable to modify the law of compulsory purchase generally, or to achieve reserved ends. This prevents the Senedd from modifying the general rules on compulsory purchase in legislation such as the Acquisitions of Land Act 1981 in respect of all compulsory acquisitions in Wales, as is proposed by the Bill.

Clause 83 - Electronic service etc

41. Clause 83 amends section 6 of the Acquisition of Land Act 1981, section 38 of the Land Compensation Act 1961, and includes a new section after section 84 of the Land Compensation Act 1973. These amendments look to facilitate electronic communication for the serving of notices and documents on different parties to the Compulsory Purchase Order ("CPO") process to speed up the process and reduce the administrative burden. In addition to the current requirements to serve a notice or document, the proposed provisions will add two new methods of electronic service; either by email or by uploading it to an agreed or appropriate website. This would bring them in line with the powers for electronic communication that are already set out within the Compulsory Purchase (Vesting Declarations) Act 1981.

Clause 84 - Required content of newspaper notices

42. Clause 84 amends sections 11, 15 and paragraphs 2 and 6 of Schedule 1 of the Acquisition of Land Act 1981. These simplify the level of detail required to be included within a newspaper notice for the advertising, making and confirmation of CPOs, by replacing the requirement for a complete description of the land with the postal address of the land or a description of the land's location.

Clause 85 - Confirmation by acquiring authority orders with modifications

43. Clause 85 amends section 14A Acquisition of Land Act 1981. These amend the current position where the acquiring authority (instead of the confirming authority) can confirm the CPO providing the confirming authority is satisfied that there are no objections to the order and the order is capable of being made without modifications. The proposal is to introduce a discretionary power to enable the confirming authority to give the acquiring authority responsibility for confirming its own CPO where certain categories of non-controversial modifications are specified by the confirming authority. The provisions set out what modifications are allowed, which are:
- adding a new interest to the CPO where the person has agreed for their interest to be included;
 - removing an interest from a CPO;
 - removing part of an interest to the CPO where the person has agreed to this modification; and
 - modifications to the order in a way that no interests in the land are affected.

44. Where the acquiring authority has confirmed an order with modifications it will then need to provide a copy of the CPO as modified to the confirming authority and certify that it only non-controversial modifications have been made.

Clause 86 - General vesting declarations: expedited procedure

45. Clause 86 amends sections 2 and 6 and inserts two new sections after section 4 of the Compulsory Purchase (Vesting Declarations) Act 1981. The current position where a CPO has been confirmed is that the acquiring authority can begin the process of taking possession of the land/property by giving notice to occupiers and others with an interest in the land/property. The actual taking of possession will be proceeded by either the acquiring authority serving a notice to treat or executing a General Vesting Declaration. Before an acquiring authority can take possession of land/property in a confirmed CPO it must give a minimum three months notice. This allows those who occupy or use the land/property to make alternative arrangements.
46. The proposal would create an expedited process in certain circumstances which will change the timescale from the three months to no less than six weeks where:
- The land/dwelling is unoccupied and is considered unfit for its ordinary use/human habitation.
 - Where the acquiring authority has not been able to identify any persons with an interest in the specified land.

Clause 87 - General vesting declaration: advancement of vesting by agreement

47. Clause 87 amends sections 7, 8, 9, inserts a new section after 8A and amends paragraphs 5 and 17 of Schedule A1 of the Compulsory Purchase (Vesting Declarations) Act 1981, section 5A of the Land

Compensation Act 1961 and section 33A of the Land Compensation Act 1973. The current position where a CPO has been confirmed is that the acquiring authority can begin the process of taking possession of the land/property by giving notice to occupiers and others with an interest in the land/property. The provisions propose to enable the acquiring authority to take possession of the land earlier, only when agreement has been obtained from the owner with the interest.

Clause 89 - Home loss payments: exclusions

48. Clause 89 amends section 29, 33 and 33D and inserts a new section after section 32 in the Land Compensation Act 1973. The current situation where a person is occupying a property which is subject to a CPO, they may be entitled to a home loss payment in addition to any other compensation which may be due e.g. the market value of the property. Sections 29 to 33 of the Land Compensation Act 1973 provide for home loss payments as an additional sum of compensation to reflect the distress, inconvenience and discomfort of people being compelled to move out of their home.
49. The provisions provide for an exclusion to discretionary home loss payments in certain circumstances where:
- A person is displaced from a dwelling as a result of compulsory acquisition, a notice has been served and the person has failed to comply with it. This includes situations where a notice has been served requiring the proper maintenance of land under section 215 of the Town and Country Planning Act 1990, improvement notices under sections 11 and 12 of the Housing Act 2004, repairs notices under sections 48 of the Planning (Listed Buildings and Conservation Areas) Act 1990 or section 138 of the Historic Environment (Wales) Act 2023.
 - A person is displaced from a dwelling as a result of compulsory acquisition, an order has been served, and the order has not been quashed on appeal. This includes situations where an order has been made under sections 20 and 21 of the Housing Act 2004 which cover prohibition orders relating to category 1 and 2 hazards, section 43 of that Act which cover emergency prohibition or section 265 of that Act which covers demolition orders in relation to category 1 or 2 hazards.
50. The provisions also include powers that enable the Secretary of State (in relation to England) and the Welsh Ministers (in relation to Wales) to amend the list of relevant notices and orders by regulations. The provisions confirm that for regulations made by the Welsh Ministers, these must be made by statutory instrument and will be subject to the negative resolution procedure.

Clause 90 - Temporary possession of land in connection with compulsory purchase

51. Clause 90 amends section 18 of the Neighbourhood Planning Act 2017, which has not yet been brought into force. The Neighbourhood Planning Act 2017 introduced power for temporary possession for compulsory acquisition of land as it was recognised that temporary possession of land

for CPO may be needed for worksites, storage etc. and to require land on a temporary basis the acquiring authority must either obtain a permanent right or enter into a commercial agreement with the landowner. This can result in delay to the delivery of a project and increased costs.

52. Stakeholders raised concerns that the Neighbourhood Planning Act 2107 powers for temporary possession could limit the operation of existing powers available under the Transport and Works Act 1992 and the Planning Act 2008. The Infrastructure (Wales) Act 2024 takes a similar approach to temporary possession of land and this limitation would also impact on these powers. Clause 90 therefore allows the existing powers for temporary possession under the Transport and Work Act 1992, the Planning Act 2008 and the Infrastructure (Wales) Act 2024 to continue to provide for temporary possession for orders under those Acts.

Clause 91 - Amendments relating to section 14A of the Land Compensation Act 1961

53. Clause 91 amends sections 14A, 15A and Schedule 2A of the Acquisition of Land Act 1981, sections 30, 33A, 33B and 33C of the Land Compensation Act 1973. These provisions include parish and community councils to the list of acquiring authorities where CPO directions to remove hope value may be sought. The Levelling-up and Regeneration Act 2023 introduced a power for directions to be included in CPOs to remove value attributed to the prospects of planning permission, which is also known as 'hope value', from the assessment of compensation for land taken. This is seen to help with the delivery of affordable housing and development in the public interest where the use of compulsory purchase powers is required to facilitate land assembly.
54. The provisions also apply directions to remove hope value to claims for home loss (and related) payments under the Land Compensation Act 1973 where market value of land is a component in the assessment of compensation.

Clause 92 - New powers to appoint an inspector

55. Clause 92 includes a new section after section 4 of the New Towns Act 1981 and includes a new paragraph after paragraph 1 of Schedule 2A of the Land Compensation Act 1961. Under the New Towns Act 1981 all CPOs must be submitted by the acquiring authority to the relevant Welsh Minister or Secretary of State for confirmation. They also have discretion under the Acquisition of Land Act 1981 to allow Inspectors to confirm CPOs.
56. The proposed provisions would allow the Welsh Ministers to appoint an Inspector to confirm decisions on CPOs made under the New Towns Act 1981 or acquiring authorities where there are no objections. The provisions also provide for powers to revoke its appointment of an Inspector at any time and appoint another Inspector. Where the confirming authority does not appoint a new Inspector, it must give reasons for doing so.

UK Government view on the need for consent

57. Matthew Pennycook MP, Minister of State for Housing and Planning, has written to me to advise in the UK Government's view the consent of the Senedd is needed for the following clauses:
- Part 1 – Clauses 24, 25, 29, 30 to 39, 41 and 42.
 - Part 5 – Clauses 83 to 87 and 89 to 92.
58. In the view of the UK Government consent of the Senedd is not required for the following clauses:
- Part 1 – Clauses 1 to 8 which make provision in respect to NSIPs and clauses 9 to 23 as they relate to the reserved matters in relation to NSIP and electricity.
 - Part 1 – Clauses 26 to 28 as they do not have any practical application in Wales except for the very limited application for highways that are the responsibility of the Secretary of State.
 - Part 1 – Clause 40 as it only applies to Scotland.
 - Part 1 – Clause 43 as it only applies to England.
 - Part 2 – Clauses 44 to 47 as they only apply to England.
 - Parts 3 and 4 – Clauses 48 to 82 as they only apply to England.
 - Part 6 – Clause 93 as the provision only changes the extent of an existing power exercisable in some circumstances by Wales but does not amount to a modification of executive competence.
59. Whilst I broadly agree with the UK Government's devolution analysis, there is a divergence between my view, and the view of the UK Government on the need for Senedd consent on a small number of provisions in the Bill. I am of the view clause 4(3) to (5) (Applications for development consent: consultation) also require legislative consent from the Senedd. This is on the basis that it has an impact on the functions of devolved Welsh Authorities and therefore has regard to a devolved matter. It is for this reason this Legislative Consent Memorandum covers this clause. I have also included clause 28 within this Legislative Consent Memorandum until discussions with UK Government officials on the application of the clause to England only have concluded. I have written Matthew Pennycook MP on these matters.
60. The UK Government has indicated that clause 39 would require an LCM. The provision relates to England only and has no effect in Wales, therefore it has not been included in the LCM.

Reasons for making these provisions for Wales in the Planning and Infrastructure Bill

61. The Bill contains provisions that could benefit the people of Wales.

Clauses 1 to 8 – Nationally Significant Infrastructure Projects (NSIP)

62. I broadly agree that these clauses do not trigger the legislative consent motion process. I consider that clause 4(3) to (5) do trigger this process as it would affect the function of devolved Welsh authorities. The

participation of public authorities is critical to the determination of large-scale projects. Welsh and UK bodies participate in the Welsh consenting process, currently Developments of National Significance and the future process under the Infrastructure (Wales) Act 2024. These processes place a duty on public bodies to provide a substantive response when they are consulted.

63. Welsh bodies already participate in the UK Government NSIP process, and these clauses are similar to that found in the Welsh system. I consider these clauses, which introduce a 'duty to have regard to guidance', will help ensure Welsh public authorities engage and provide expert advice in a meaningful and timely manner. This will help shape development and expedite decision making, providing certainty on major development that affects Wales.

Clause 24 - Use of forestry estate for renewable energy

64. In Wales, Natural Resource Wales (NRW) can already dispose of parts of the Welsh Government Woodland Estate (WGWE) for the purposes of renewable energy (e.g. to construct windfarms). The Welsh Ministers' consent is required for this, under an agreement made under s.83 of the Government of Wales Act 2006. However, NRW cannot currently develop its own renewable energy projects on the WGWE. The current drafting of clause 24 provides that NRW may use its new powers under clause 24 to obtain funds for its activities. While I am supportive of the provision conferring powers on NRW, further engagement is needed with UK Government to ensure these provisions will align with Welsh Government policy in this area.

Clauses 25, 28 and 29 – Amendments to the Highways Act 1980

65. Clause 25 formalises a process for statutory bodies and local authorities to recharge for their advice and input at the pre-application stage, during an inquiry (where relevant) and post consent stages of a Highway Act 1980 Order, which will ensure they are sufficiently resourced to expedite the consenting process. Clause 29 introduces powers to temporarily possess and use land (for example for construction purposes) which allows a more proportionate approach to land access leading to a more reasonable and efficient approach along with better value for the scheme promoter. Both of these clauses are therefore considered beneficial for the consenting of projects that fall outside the Infrastructure (Wales) Act 2024.
66. Regarding clause 28 specifically, this clause as currently drafted requires a legislative consent memorandum to be laid as it makes provision in relation to Wales with regard to highways, and is within the legislative competence of the Senedd. The intention of the clause is that it should apply to England only, on the basis that once amendments are made to the Highways Act 1980 under the proposed Legislation (Procedure, Publication and Repeals) (Wales) Bill currently being scrutinised by the Senedd, it should be clear that this is the case. However, engagement with UK Government is taking place to explore whether the drafting of this

clause can be improved or clarified to provide assurances that it has an England-only application.

Clauses 30 to 38 and 41 – Amendments to the Transport and Works Act 1992

67. The changes will, amongst other things; clarify and simplify the law, provide for cost recovery mechanisms to enable those who participate in the process the ability to recover their costs, and ensure a level playing field to ensure that users of the system are not disadvantaged in Wales. These all ensure projects that remain below the new threshold set in the Infrastructure (Wales) Act 2024 are consented using a more modern framework.

68. While I am supportive of the provision to deem a marine licence under clause 38, I am seeking reassurance from UK Government there is no unintended consequence in the offshore region.

Clause 42 – Fees for applications for harbour orders

69. The proposals are considered acceptable as they would provide the Welsh Ministers with the power to set flexible and proportionate fee schedules for harbour order applications. Importantly, commencement provisions in the Bill allow the Welsh Ministers to retain existing powers to charge fees under the Harbours Act 1964 until new fee regulations are made.

Clauses 83 to 87 and 89 to 92 - Compulsory Purchase Power

70. Clauses 83 to 87 and 89 to 92 relating to compulsory purchase are considered to be acceptable to help speed up the delivery of affordable housing, infrastructure and development for the public good.

Financial implications

71. The financial assessment of the Bill is yet to be completed by the UK Government and will be published during the Bill's passage through Parliament.

Conclusion

72. It is the view of the Welsh Government that it is appropriate to deal with the majority of these provisions, as drafted on introduction, in this UK Bill. They will help to streamline and simplify the processes associated with the delivery of infrastructure and development, including housing, in Wales.

73. Whilst generally supportive of these provisions, I am seeking further engagement with UK Government on the following provisions before I am able to recommend the Senedd gives consent to them:

- Clause 24 (Use of forestry estate for renewable electricity);
- Clause 28 (Procedure for certain orders and schemes); and
- Clause 38 (Deemed consent under marine licence).

74. Engagement will continue with UK Government on these clauses to ensure a positive outcome is reached.
75. I will update the Senedd as appropriate once further discussions have taken place with the UK Government.

Rebecca Evans MS
Cabinet Secretary for Economy, Energy and Planning
26 March 2025

Annex 1 – Powers to make subordinate legislation

Clause	Description	Exercisable by	Procedure
24 - Use of forestry estate for renewable electricity	Allows Regulations to be made: - requiring Ministerial consent to be given before new powers are exercised; - setting out the consent process; - providing that consent may be conditional.	Appropriate national authority – Secretary of State in relation to Forestry Commissioners in England, Welsh Ministers in relation to NRW	Subject to annulment in pursuance of a resolution of Senedd Cymru.
25 - Fees for certain services	Amendment to the Highways Act 1980. Regulation making powers to stipulate the public bodies who are allowed to charge for their services in connection with order and schemes for road projects.	Appropriate national authority – England the Secretary of State and Wales the Welsh Ministers	Subject to annulment in pursuance of a resolution of Senedd Cymru.
34 – Deadline for decisions	Amendments to the Transport and Works Act 1992. Regulations to set the rules to set time limits for undertaking actions and making decisions for cases involving applications under section 6 of the TWA 1992.	Secretary of State or the Welsh Ministers in individual cases. If they apply to Wales, they can only be made with agreement of the Welsh Ministers.	Subject to annulment in pursuance of a resolution of either House of Parliament.
36 – Fees for certain services	Amendments to the Transport and Works Act 1992. Regulation	Appropriate national authority – England and cross-border	Subject to annulment in pursuance of a

	making powers to stipulate the public bodies who are allowed to charge for services in connection schemes within the TWA application process.	orders the Secretary of State and Wales (not cross border) orders the Welsh Ministers	resolution of Senedd Cymru.
41 – Power to make consequential amendments	Amendments to the Transport and Works Act 1992 to enable regulations to make consequential amendments to ensure associated provisions work.	Secretary of State	SI relying on subsection (2) amending an Act or an Act of Parliament or Measure Senedd Cymru may not be made unless a draft of the statutory instrument containing them has been laid before, and approved by a resolution of, each House of Parliament. Other SIs under this clause are subject to annulment in pursuance of a resolution of either House of Parliament.
42 – Fees for applications for harbour orders	Amendments to the Harbours Act 1964. Regulations to set fees and associated processes to the payment of fees in relation to Harbour Revision Order applications.	Secretary of State and Welsh Ministers in accordance with s.17(2C) of the Harbours Act 1964.	Subject to annulment in pursuance of a resolution of either House of Parliament. Subject to annulment in pursuance of a resolution of Senedd Cymru.

89 – Home loss payments: exclusions	Amendments to the Land Compensation Act 1973. Power to make amendments to the list of relevant notices and orders by regulation.	Appropriate national authority – England the Secretary of State and Wales the Welsh Ministers	Subject to annulment in pursuance of a resolution of either House of Parliament. Subject to annulment in pursuance of a resolution of Senedd Cymru.
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