

Explanatory Memorandum to the Development Procedure (Consultees) (Wales) (Miscellaneous Amendments) Order 2025

This Explanatory Memorandum has been prepared by the Planning Directorate and is laid before Senedd Cymru in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

Cabinet Secretary's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Development Procedure (Consultees) (Wales) (Miscellaneous Amendments) Order 2025. I am satisfied that the benefits justify the likely costs.

Rebecca Evans MS

Cabinet Secretary for Economy, Energy and Planning

31 March 2025

PART 1

1. Description

- 1.1 The Town and Country Planning (Development Management Procedure) (Wales) Order 2012 (“DMPWO”) and the Developments of National Significance (Procedure) (Wales) Order 2016 (‘DNSPWO’) (referred to collectively as “the Procedure Orders”) place a statutory requirement on key bodies to be consulted at the pre-application and post-submission consultation stages of the consenting processes for planning applications and applications for Development of National Significance (DNS).
- 1.2 The Development Procedure (Consultees) (Wales) (Miscellaneous Amendments) Order 2025 (referred to as “the Order”), which is the subject of this explanatory memorandum, amends these Procedure Orders in order to update the criteria by which the ‘Natural Resources Body for Wales’ (Natural Resources Wales) is consulted on matters of flood risk.
- 1.3 The amendments are required as a result of a decision to replace the flood map used for planning purposes (the Development Advice Map) with a new map titled the Flood Map for Planning. The Procedure Orders as currently enacted ensure Natural Resources Wales (“NRW”) is consulted on any development proposed within Flood Zone C of the Development Advice Map. With the Development Advice Map being discontinued for planning purposes once the new mapping comes into effect, it is necessary to amend the DMPWO and DNSPWO to align the requirements to consult with NRW on developments in areas of flood risk with the flood zones set out in the Flood Map for Planning.

2. Matters of special interest to the Legislation, Justice and Constitution Committee

- 2.1 None.

3. Legislative background

- 3.1 The Welsh Ministers powers to make the Order derive from the powers conferred on the Secretary of State by sections 59(1), 2(b) and 3(a) and 74(1)(c) of the Town and Country Planning Act 1990 (TCPA 1990) (and are now exercisable by the Welsh Ministers), and in exercise of the powers conferred on them by sections 61Z(8) and (9), 62R and 333(5B) TCPA 90. Those can be summarised as follows.
- 3.2 Powers allowing the Welsh Ministers to make provision about pre-application consultation are found in section 61Z(8) and (9) of the TCPA 1990. Those provisions allow them to require developers to consult specified persons before they make a planning application for certain types of development. Those types of development must be specified in a development order.

- 3.3 The Welsh Ministers are able to make provision about post-application consultation using various provisions of the TCPA 1990. Section 59(1), (2)(b) and (3)(a) provide for the making of development orders dealing with the grant of planning permission by local authorities and the Welsh Ministers. Section 74(1)(c) provides that a development order may contain provision requiring local authorities to consult specified persons about a planning application before determining it. Section 62R of the TCPA 1990 allows a development order to make provision about consultation by the Welsh Ministers in relation to planning applications submitted to them.
- 3.4 Section 333(5B) of the TCPA 1990 provides that the procedure for a statutory instrument which contains a development order is subject to the negative resolution procedure.

Consultation under the DMPWO

- 3.5 Currently, the DMPWO requires that bodies listed in Schedule 4 to that Order be consulted by a developer prior to making a planning application (see articles 2(1), 2B and 2D) and by an LPA before it determines a planning application (see articles 14, 15 and 15ZA).
- 3.6 However, the pre-application consultation requirement only applies where an application is for development constituting “major development” which is defined in article 2 of the DMPWO as development involving one or more of the following—
- (a) the winning and working of minerals or the use of land for mineral-working deposits;
 - (b) waste development;
 - (c) the provision of dwellinghouses where—
 - (i) the number of dwellinghouses to be provided is 10 or more; or
 - (ii) the development is to be carried out on a site having an area of 0.5 hectares or more and it is not known whether the development falls within sub-paragraph (c)(i);
 - (d) the provision of a building or buildings where the floor space to be created by the development is 1,000 square metres or more; or
 - (e) development carried out on a site having an area of 1 hectare or more.
- 3.7 A body listed in Schedule 4 which is consulted at either pre-application stage or post-application stage must provide a substantive response (see articles 15A and 15B).
- 3.8 In addition, where a body listed in Schedule 4 is consulted by an LPA in relation to certain other types of application, it must provide a substantive response (see section 100A of the TCPA 1990 and articles 15C and 15D). The applications in respect of which this requirement applies are:
- applications for approval of reserved matters (within the meaning of section 92 of the TCPA 1990);

- applications for any consent, agreement or approval required by any condition or limitation subject to which planning permission has been granted; and
- applications for non-material changes to planning permission (made under section 96A of the TCPA 1990).

3.9 Bodies listed in Schedule 4 are also required to produce annual reports for the Welsh Ministers regarding their compliance with certain of their functions in relation to consultation under the Order (see article 15F).

Consultation under the DNSPWO

3.10 Similarly, the DNSPWO requires that a body listed in Schedule 5 to that Order be consulted by a developer prior to making a planning application (see articles 2, 7 and 9) and by the Welsh Ministers before they determine a planning application (see article 22).

3.11 A body listed in Schedule 5 which is consulted at either pre-application stage or post-application stage must provide a substantive response (see articles 10 and 23).

3.12 Bodies listed in Schedule 5 are also required to produce annual reports for the Welsh Ministers regarding their compliance with certain of their functions in relation to consultation under the Order (see article 24).

4. Purpose and intended effect of the legislation

4.1 New flood mapping to be used for planning purposes is required to more accurately illustrate areas of flood risk that are to be taken into account in planning decisions, by basing the mapping on up-to-date flood modelling and data. In this regard, the Flood Map for Planning also includes climate change allowances which shows flood risk both now and in the future. The Flood Map for Planning will apply in planning decision making in accordance with new national planning policy on flood risk (Technical Advice Note 15: Development, Flooding and Coastal Erosion) and it will take effect alongside the new policy on the 31 March 2025.

4.2 These amendments do not introduce new requirements on NRW or any other body. The nature of the consultation responses required from NRW is also unchanged as a result of the amendments.

4.3 The amendments made by the Order will ensure a continuation in the existing requirement for the Natural Resource Body for Wales (NRW) to provide advice on planning applications and DNS proposed in areas of flood risk (from rivers and the sea). They will ensure developers, LPAs and the Welsh Government continue to have a legal basis for consulting with NRW on planning applications and proposed DNS in areas of flood risk. Specifically, NRW will be consulted on developments in areas of flood risk shown on the Flood Map for Planning, as defined in the new

planning policy on flood risk contained in Technical Advice Note 15 (“TAN 15”) as follows:

Flood Map for Planning zone	Definition
Zone 3 (rivers and the sea)	Risk greater than 1:100 (rivers) / 1:200 (the sea) <i>plus</i> climate change
Zone 2 (rivers and the sea)	Risk between 1:100/1:200 <i>plus</i> climate change and 1:1000 <i>plus</i> climate change
TAN 15 Defended Zones	Areas in Zones 2 and 3 (rivers and the sea) where defences have a standard of protection of at least 1 in 100 <i>plus</i> climate change

Amendments to consultation requirements in respect of the Natural Resources Body for Wales

- 4.4 The amendments made by the Order in relation to flood risk and the Natural Resources Body for Wales are not subject to transitional arrangements. They will come into force on 21 April 2025 and will apply to pre-application consultation and post-application consultation from that date. They will apply as soon as possible after the new planning policy on flood risk and Flood Map for Planning will take effect.
- 4.5 The introduction of the Flood Map for Planning to replace the Development Advice Map can be regarded primarily as a procedural change. Both maps show areas at risk of flooding, but using zones with different definitions and names. An important element of continuity between the two maps is the principle that they are kept up to date. The Development Advice Map was updated every 6 months, and the Flood Map for Planning will maintain that arrangement. Users of the planning system are familiar with using a map that changes periodically without the use of transitional arrangements. The introduction of the Flood Map for Planning in place of the Development Advice Map is not considered to be a more significant change than an update of the same map is capable of being. The Flood Map for Planning to which the legislative updates make reference can be found here: [Natural Resources Wales / Flood map for planning / development advice map](#).

5. Consultation

- 5.1 The amendments made by the Order have not specifically and directly been subject to consultation. The introduction of the Flood Map for Planning, which necessitates the amendments, was subject to consultation as part of the wider consultation on a new TAN 15 between October 2019 and January 2020. The introduction of the new map was welcomed and recognised as an important step in bringing the overall advice on planning and flood risk up to date. A draft version of the Flood Map for Planning was made available on an informal consultation basis from November 2020-January 2021. This exercise further established the

legitimacy of introducing the Flood Map for Planning and replacing the Development Advice Map.

- 5.2 The consultation report and summary of responses is available at: [Technical Advice Note 15: Development, flooding and coastal erosion | GOV.WALES](#).
- 5.3 Further amendments to the TAN 15 were consulted between January 2023 and April 2023. This consultation did not directly consult on the Flood Map for Planning. The consultation report and summary of responses is available at: [Further amendments to Technical Advice Note \(TAN\) 15: Development, flooding and coastal erosion | GOV.WALES](#).
- 5.4 Because the amendments apply to requirements to consult with NRW on proposed developments in flood risk areas, Welsh Government Planning Officials have made NRW aware of the amendments to the Procedure Orders.

PART 2 – REGULATORY IMPACT ASSESSMENT

6. Consultation with Natural Resources Wales (NRW) in respect of planning applications and pre-application proposals for ‘major development’ where development is proposed in a flood risk area

Options

6.1 Two options have been considered:

- **Option 1** - Do nothing. This would mean to continue with the current arrangements where:
 - The Development Advice Map (DAM) determines areas of flood risk for planning purposes; and
 - NRW is consulted on planning applications and pre-application proposals for ‘major development’ where they fall within flood risk zones of the DAM as defined in *Schedule 4 of The Town and Country Planning (Development Management Procedure) (Wales) Order 2012* and *Schedule 5 of The Developments of National Significance (Procedure) (Wales) Order 2016* (referred to collectively as “the Procedure Orders”).
- **Option 2** - Introduce a new flood map for planning purposes (to be titled: Flood Map for Planning) to replace the current DAM. Consequentially, introduce an amending Order to ensure the legislation requires NRW to be consulted on planning applications and pre-application proposals for ‘major development’ where they fall within flood risk zones specified on the Flood Map for Planning. References to development types (e.g. “highly vulnerable development”) would be removed from the legislation in order to clarify requirements to consult with NRW that reflect current practice. It has become standard practice for local planning authorities (LPAs) and developers to consult NRW on development proposals beyond the scope of the current legislation where it is proposed to be located within a flood risk area.

Justification for 2 options

6.2 A third option is not proposed as it is considered that there is no other reasonable way of achieving the policy intention of ensuring NRW continue to be consulted on development where flood risk is likely to be a significant planning consideration.

Costs and Benefits

Option 1 – Do Nothing (i.e. continue with current arrangements where the Development Advice Map (DAM) determines areas of flood risk for planning purposes and Natural Resources Wales (NRW) is consulted on planning applications and pre-application proposals for ‘major

development' where they fall within flood risk zones of the DAM as defined in existing legislation).

Description

6.3 The current Development Advice Map (DAM) would remain in force for determining areas of flood risk for planning purposes. Consequentially, there would be no change to the current legislation for defining consultation with NRW (as defined in the legislation as 'The Natural Resources Body for Wales') on planning applications and pre-application proposals for 'major development' in areas of flood risk under this option. This would mean that any such proposals, including for 'Developments of National Significance' (DNS), which fall within Flood Zone C2 of the DAM, or for applications which can be categorised as 'emergency services development' or 'highly vulnerable development' which fall within Flood Zone C1 of the DAM, would continue to be consulted on with NRW. It would continue to allow NRW the opportunity to provide comments on those proposals where consideration of flood risk is triggered using the current DAM.

Costs

6.4 This is the baseline option and as such there are no additional costs or benefits with this option. The following provides a summary of the current situation.

6.5 To note that estimated costs to stakeholders per year have been rounded to the nearest £100.

Natural Resources Wales (NRW)

6.6 NRW would continue to provide comments on proposals in flood risk areas as defined by the Development Advice Map (DAM). The statutory duty requiring NRW to respond when consulted on proposals to be located in flood risk areas of the DAM is set out under the Procedure Orders.

Year	Number of planning application consultations on which NRW provided substantive responses, falling within the DAM Flood Risk Zones.
2023/2024	1,661
2022/2023	1,601
2021/2022	1,479
2020/2021	1,625
2019/2020	1,549
2018/2019	1,798
	<i>(Figures include applications within the DAM Flood Risk Zones that do not fall within the development types required under the</i>

	<i>current legislation to be consulted on with NRW, but which reflects current practice – see Table 6)</i>
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Table 1: Numbers of planning application consultations on which NRW provided substantive responses, falling within the Development Advice Map (DAM) Flood Risk Zones.

6.7 Data from NRW¹ evidences the volume of planning application consultations it provides substantive responses to that fall within the flood risk areas of the DAM (see Table 1 above). On average, for the period 2018/2019 to 2023/2024, 1,619² substantive responses per annum were provided by NRW to planning consultations for development proposals located in the DAM Flood Risk Zones. It is not considered necessary to evidence detailed costs to NRW for this option as there would not be a change in resources required by NRW to respond to planning consultations for development proposals located in flood risk areas under both options (also see costs to NRW under Option 2 below).

Local Planning Authorities (LPAs)

6.8 LPAs would continue to consult with NRW on planning applications in flood risk areas in accordance with the current legislative requirements where consultation is triggered by the DAM Flood Risk Zones.

6.9 The average cost to LPAs of consulting with NRW is estimated to be approximately £43 per application. This calculation is based on an estimated average of 30 minutes for an administrative officer (annual gross salary of £25,451³) to notify NRW, and 60 minutes for a senior planning officer (annual gross salary of £41,518⁴) to liaise with NRW and consider their response in informing the determination, plus inflation to take into account pay increases from 2021⁵. It is understood from correspondence with LPAs that consultation with statutory consultees or other public bodies are mostly conducted electronically for efficiency purposes; therefore, no postage/printing costs have been included.

Year	Number of substantive responses provided by NRW to LPAs where development falls within the DAM Flood Risk Zones.	Estimated annual costs to LPAs
2023/2024	1,617 <i>(Figures include applications within the DAM Flood Risk Zones that do</i>	£69,500 (£2,800 per LPA)

1 Data on NRW substantive responses to planning application consultations was provided by NRW to the Welsh Government on 28 February 2025.

2 Sum of data for 2018/2019 to 2023/2024 divided by 6.

3 Welsh average gross salary for the LPA role of 'Average Technical Assistant/Planning Support Officer' as identified in the supporting data to the Welsh Government report entitled: 'The Cost of Delivering a Development Management Service in Wales' (Arup, January 2021).

4 Welsh average gross salary for the LPA role of 'Average Senior Planning Officer' as identified in the supporting data to the Welsh Government report entitled: 'The Cost of Delivering a Development Management Service in Wales' (Arup, January 2021).

5 Applied inflation figure of 21.83% increase to £35 cost (and rounded to the nearest whole number) to account for uplift in gross hourly pay in the public sector from 2021. Source: [Earnings and hours worked, UK region by public and private sector: ASHE Table 25 - Office for National Statistics](#)

	<i>not fall within the development types required under the current legislation to be consulted on with NRW, but which reflects current practice – see Table 6).</i>	
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Table 2: Number of substantive responses provided by NRW to LPAs and estimated annual costs to LPAs of consulting on proposals within the Development Advice Map (DAM) Flood Risk Zones.⁶

To note: NRW has provided data on number of substantive responses provided to LPAs for applications proposing development within the DAM Flood Risk Zones for previous years at 1,529 for 2022/2023; 1,425 for 2021/2022; 1,588 for 2020/2021; 1,583 at 2019/2020; and 1,782 at 2018/2019. These numbers show the numbers of substantive responses provided to LPAs is approximately 1,600 per year, having regard to numbers for previous years.

Further, a substantive response can be anything from a one sentence reply to a detailed analysis. Therefore the numbers of applications where NRW provides substantive responses to a respondent is considered to be reflective of and broadly align with the numbers of applications consulted on by the respondent initially (in this case LPAs).

6.10 The number of cases where LPAs have consulted NRW on applications falling within the DAM Flood Risk Zones is estimated in Table 2 above. On this basis, when multiplied by the gross hourly rate of the relevant staff⁷ plus inflation to take into account pay increases from 2021⁸, it has been estimated that the total approximate annual cost to LPAs is £69,500 per year (£2,800 per LPA).

6.11 See Paragraphs 6.15 to 6.17 which sets out changes to determinations for infrastructure projects by LPAs where a new infrastructure consenting process will replace the current DNS regime in due course. The material change in terms of costs to LPAs evidenced under this option for consulting with NRW on applications within the DAM Flood Risk Zones as a result of a new consenting process rather than as DNS is expected to be de-minimis.

Welsh Government

6.12 Planning and Environment Decisions Wales (PEDW) process DNS applications on behalf of the Welsh Ministers. Under this option PEDW

⁶ Data provided by NRW on this is caveated as being median confidence as they were not able to extract exact stakeholder splits for where they have provided substantive responses to applications in the DAM Flood Risk Zones, but can indicatively report stakeholder breakdown where flood zone data has been checked in respect of a case they have handled. For the purposes of this RIA, these figures are therefore considered to represent the best available data to evidence numbers of responses to specific stakeholders where NRW have provided substantive responses to applications in the DAM Flood Risk Zones.

⁷ LPA Admin Officer:- £25,451 gross annual costs / 230 working days = £111 (cost per day) / 7.24 (hours per day) = £15 (cost per hour). LPA Senior Planning Officer:- £41,518 gross costs / 220 = £188 / 7.24 = £26 (cost per hour).

⁸ Applied inflation figure of 21.83% increase to £35 cost (and rounded to the nearest whole number) to account for uplift in gross hourly pay in the public sector from 2021. Source: [Earnings and hours worked, UK region by public and private sector: ASHE Table 25 - Office for National Statistics](#)

would continue to consult with NRW on DNS applications, and potentially some cases they may be required to determine under the call-in process, in flood risk areas in accordance with the current legislative requirements where consultation is triggered by the DAM Flood Risk Zones.

6.13 The total average costs to PEDW of consulting NRW is estimated to be £70.00 per application. This estimate is based on 30 minutes of PEDW administrative officer time (annual gross salary of £37,993) to notify and liaise with NRW and 60 minutes of PEDW inspector time (annual gross salary of £90,365) to interpret and summarise the response. All PEDW consultation with statutory consultees or other public bodies are conducted electronically; therefore, no postage/printing costs have been included.

Year	Number of substantive responses provided by NRW to PEDW where development falls within the DAM Flood Risk Zones.
2023/2024	14 <i>(Figures include applications within the DAM Flood Risk Zones that do not fall within the development types required under the current legislation to be consulted on with NRW, but which reflects current practice – see Table 6).</i>

Table 3: Number of substantive responses provided by NRW to PEDW where development falls within the DAM Flood Risk Zones.⁹

To note: NRW has provided data on number of substantive responses provided to PEDW for applications proposing development within the DAM Flood Risk Zones for previous years at 16 for 2022/2023; and 0 for 2021/2022; with no returns provided for previous years. Having regard to numbers of substantive responses provided to PEDW in previous years, it is considered reasonable to assume on average NRW provide approximately 15 responses to PEDW in any given year (and this could be seen as being at the high end of the scale, given zero responses for 2021/2022 which have been discounted from an average figure for the previous 2 years).

Further, a substantive response can be anything from a one sentence reply to a detailed analysis. Therefore the numbers of applications where NRW provides substantive responses to a respondent is considered to be reflective of and broadly align with the numbers of applications consulted on by the respondent initially (in this case PEDW).

6.14 For 2023/2024, the number of substantive responses provided by NRW to PEDW for proposals that fall within the DAM Flood Risk Zones was 14;

⁹ Data provided by NRW on this is caveated as being median confidence as they were not able to extract exact stakeholder splits for where they have provided substantive responses to applications in the DAM Flood Risk Zones, but can indicatively report stakeholder breakdown where flood zone data has been checked in respect of a case they have handled. For the purposes of this RIA, these figures are therefore considered to represent the best available data to evidence numbers of responses to specific stakeholders where NRW have provided substantive responses to applications in the DAM Flood Risk Zones.

however taking on board historic applications data it is considered reasonable to estimate that on average NRW would provide 15 responses to PEDW during a year (see Table 3 above). Therefore, administrative costs to PEDW of consulting with NRW on applications falling within the DAM Flood Risk Zones would be approximately £1,100 per year, based on an estimate of 15 DNS applications received per year and the gross hourly rates of the relevant staff¹⁰.

- 6.15 The DNS consenting regime will be replaced by a new consenting process for the determination of significant infrastructure projects by the Welsh Ministers as a result of the Infrastructure (Wales) Act 2024.
- 6.16 The new consenting process is not expected to change the general process for consultation. PEDW will remain responsible for administering the new consenting process and they are expected to consult NRW in a similar way on applications falling within the flood zones, with similar administrative input and inspector consideration of those comments received. Therefore the costs to the Welsh Government for consulting with NRW on infrastructure applications falling within the DAM Flood Risk Zones will remain the same as those set out for DNS.
- 6.17 The new consenting process is expected to result in a slightly lower amount of infrastructure applications being determined by the Welsh Ministers per year, due to some smaller scale applications being determined by LPAs rather than by Welsh Ministers. The Infrastructure (Wales) Act Regulatory Impact Assessment¹¹ evidences the total number of additional applications to be determined by LPAs under a new consenting process at 0.44 applications per year (or 4 applications over a 9-year period). Those 0.44 infrastructure applications to be determined by LPAs rather than the Welsh Ministers may also not fall within the flood zones, due to the nature of many infrastructure applications being proposed for development on higher land which would fall outside areas of flood risk; for example certain types of renewable energy projects. Therefore, it is considered this change in terms of who determines infrastructure projects under a new infrastructure consenting process would have minimal material effect in terms of costs to LPAs or the Welsh Government for consulting with NRW on applications falling within the DAM Flood Risk Zones under this option.

Development Industry

- 6.18 Consultation with NRW at the pre-application stage on major development proposals in flood risk areas is statutory for developers under the current legislative requirements where it is triggered by the DAM Flood Risk Zones.

¹⁰ PEDW Admin Officer:- £37,993.29 gross annual costs / 230 working days = £165 (cost per day) / 7.24 (hours per day) = £23 (cost per hour).
PEDW Inspector:- £90,364.86 gross annual costs / 230 working days = £393 (cost per day) / 7.24 (hours per day) = £54 (cost per hour). Figures provided by PEDW as of 19 February 2025.

¹¹ The Explanatory Memorandum (incorporating Regulatory Impact Assessment) to the Infrastructure (Wales) Act 2024 can be found here: [Infrastructure \(Wales\) Act 2024](#)

6.19 There is no standard cost for undertaking consultation by developers, as the costs of engagement between NRW and developers will vary depending on the complexity of the proposal and staff allocated to the exercise. Some development proposals may also require amendments to ensure they address concerns raised by NRW.

6.20 Developers will typically appoint planning consultants to undertake any pre-application consultation. Based on the average salary¹² of a planning consultant (£29 per hour) and an assumed average time estimate of 60 minutes per application to notify and liaise with NRW and consider and report their response in support of their application, it is estimated the cost to developers of consulting NRW on development proposals is £29 per application.

Year	Number of substantive responses provided by NRW to developers where development falls within the DAM Flood Risk Zones.
2023/2024	170 <i>(Figures include applications within the DAM Flood Risk Zones that do not fall within the development types required under the current legislation to be consulted on with NRW, but which reflects current practice – see Table 6)</i>

Table 4: Number of substantive responses provided by NRW to developers where development falls within the DAM Flood Risk Zones.¹³

To note: NRW has provided data on number of substantive responses provided to developers for applications proposing development within the DAM Flood Risk Zones for previous years at 170 for 2022/2023; 139 for 2021/2022; 192 for 2020/2021; 249 at 2019/2020; and 347 at 2018/2019.

Further, a substantive response can be anything from a one sentence reply to a detailed analysis. Therefore the numbers of applications where NRW provides substantive responses to a respondent is considered to be reflective of and broadly align with the numbers of applications consulted on by the respondent initially (in this case the development industry).

6.21 For 2023/2024, the number of substantive responses provided by NRW to developers for proposals that fall within the DAM Flood Risk Zones was 170; however for previous years from 2018/2019 to 2022/2023 in a number of instances the total number of planning application proposals

¹² Based on median figure of hourly pay, gross, of £28.87 (rounded to the nearest whole number) for 'Wales, Business and Financial Project Management Professionals' dated 2024, source ASHE data, Office for National Statistics.

¹³ Data provided by NRW on this is caveated as being median confidence as they were not able to extract exact stakeholder splits for where they have provided substantive responses to applications in the DAM Flood Risk Zones, but can indicatively report stakeholder breakdown where flood zone data has been checked in respect of a case they have handled. For the purposes of this RIA, these figures are therefore considered to represent the best available data to evidence numbers of responses to specific stakeholders where NRW have provided substantive responses to applications in the DAM Flood Risk Zones.

developers consulted on with NRW per annum has been higher (see Table 4 above). Therefore it is considered appropriate to take an average of the developer responses provided by NRW over the period 2018/2019 to 2022/2023 for the purposes of this RIA. This works out at on average NRW providing $(170 + 170 + 139 + 192 + 249 + 347 / 6)$ 211 substantive responses to developers per annum. This would result in a total cost to the development industry of approximately (211 multiplied by 29) £6,100 per year.

Benefits

Natural Resources Wales (NRW)

6.22 NRW would continue to be consulted on planning applications and pre-application proposals for 'major development' in flood risk areas as defined by the DAM. From a mapping perspective, NRW would continue to update the DAM every 6 months. These updates include a review of flood risk areas, which results in the appropriate types of proposals being consulted on with NRW in terms of enabling NRW to comment where there could be a flood risk.

6.23 It is not considered there would be any notable resource or procedural benefits for NRW by implementing either option. The proposed changes are more a tidying up of the mapping and existing terminology in order to reflect updated national planning policy on flood risk, as is explained below.

6.24 Currently, the terminology used for the DAM and the naming of the flood zones is not reflective of the need to ensure clarity and up-to-date use of language in accounting for areas of flood risk in the planning system. Further, it is not consistent with updated national planning policy on flood risk to be taken forward in a new Technical Advice Note 15 (TAN 15). For example, the new TAN updates the language on how areas that are defended from flood risk are to be defined by setting out a clearer definition that refers to them purely as 'defended zones'. By not being reflective of this new policy in the wording used for the flood risk mapping and accompanying consultation requirements, this could make it more difficult for NRW to formulate responses to development proposals that clearly align with both the mapping and policy wording.

6.25 With regards to terminology used in the current legislation, it defines certain development 'types' that should be consulted on with NRW for development in flood risk areas, referring to 'highly vulnerable development' in particular. This position does not reflect the current policy position and standard practice whereby the default position should be to at least make NRW aware of all types of development proposal in the highest flood risk areas.

6.26 Option 1 would therefore not reflect these wider planning policy changes in the flood risk mapping and consultation requirements as set out in the

legislation. Ultimately, by not updating the flood risk mapping and legislative terminology, it would fail to provide a comprehensive and transparent suite of up-to-date measures for all stakeholders on how flood risk should be considered in determining development proposals through the planning system.

Local Planning Authorities (LPAs), the Welsh Government and the Development Industry

6.27 LPAs, PEDW and the development industry would continue to be required to consult NRW on development proposals in flood risk areas as defined in the DAM.

6.28 For both LPAs and PEDW, it is not considered there would be any notable resource or procedural benefits by implementing either option over the other. The proposed changes to consultation requirements are a consequence of providing updated national planning policy on flood risk, as previously explained. Therefore, failing to align the mapping platform with updated flood risk national planning policy under this option would lead to ambiguity for stakeholders on how their proposals align, in totality, with the flood risk mapping, the requirements to consult with NRW and how they should be considered under the updated TAN 15 policy.

Option 2 – Introduce updates to flood risk flood mapping and consultation requirements that would:

- **Replace the current Development Advice Map with the Flood Map for Planning.**
- **Introduce an amending Order to ensure Natural Resources Wales (NRW) is consulted on planning applications and pre-application proposals for ‘major development’ where they fall within flood risk zones specified on the Flood Map for Planning.**

Description

6.29 This option would replace the existing Development Advice Map (DAM) and its flood zones with a new Flood Map for Planning and new flood zones that would determine areas of flood risk for planning purposes. The new Flood Map for Planning would align with up-to-date national planning policy on flood risk contained in a new TAN 15. The Flood Map for Planning would ensure the mapping style and content is consistent with, and reflects updates to, flood risk national planning policy. For example, it would clearly set out that existing areas defended from flood risk are ‘TAN 15 Defended Zones’, aligning with the TAN 15 policy position.

6.30 As a consequence of amending the flood mapping, an amending Order would be required in order to update requirements to consult on development proposals in flood risk areas with NRW.

- 6.31 The amending Order would require NRW to be consulted on planning applications and pre-application proposals for ‘major development’ where they fall within the zones of highest flood risk on the Flood Map for Planning, rather than the DAM. The zones of highest risk to be specified in the Flood Map for Planning are Zone 2, Zone 3 and the TAN 15 Defended Zones. These are areas at risk from flooding but benefit from a high standard of protection against flooding.
- 6.32 It has been decided that an amending Order should not specify particular development ‘types’ that should be consulted on in the highest risk zones, such as for ‘highly vulnerable development’ or ‘emergency services development’. It is apparent that LPAs and developers generally make NRW aware of any type of development proposal where it is proposed to be located within a flood risk area, not just those specifically required under current legislation.

Costs

Natural Resources Wales (NRW)

- 6.33 It is not considered this option would place any additional costs on NRW, as the resources used by NRW to provide substantive responses to planning applications would be similar to Option 1.
- 6.34 The changes to the legislation would ensure NRW is consulted on development in accordance with the highest risk flood zones set out as part of the new Flood Map for Planning, reflecting the most up-to-date flood risk data. The purpose of having a new Flood Map for Planning to replace the DAM is to ensure the mapping reflects up-to-date use of language on planning and flood risk in accordance with national planning policy flood risk updates to be set out in the new TAN 15. To note: the new Flood Map for Planning has already been developed by NRW. The costs associated with developing a new flood risk mapping tool for planning purposes to replace the DAM have therefore already been incurred and are ‘sunk costs’.
- 6.35 If retaining the current legislation and continuing with the current DAM, the DAM would continue to be updated periodically by NRW, i.e. every 6 months, to ensure it reflects the most up-to-date flood risk data¹⁴. By pursuing either mapping route, the zones showing the highest levels of flood risk for planning purposes would be similar over the longer term; therefore the numbers of applications for which NRW is required to provide substantive responses annually should not change between Options 1 and 2.

¹⁴ To note, the current DAM does not take into account climate change in planning for flood risk areas, whilst the new Flood Map for Planning would account for climate change in defining areas of flood risk. However, it is considered if the DAM were to be updated going forward that it would take into account this data, due to the topic being of extreme importance in the context of flooding and NRW now having the ability to incorporate it into the flood risk mapping for planning purposes. Therefore, this change to incorporate climate change as part of the new Flood Map for Planning is not considered to be a deviation from the position if the existing DAM were to be updated for planning purposes going forwards.

Existing Development Advice Map (DAM) Flood Zones, triggering development requirements to consult NRW.	Land (area) km ²	Proposed Flood Map for Planning Flood Zones.	Land (area) km ²
C1 (includes existing defences)	234	Defended Zones	273
C2	1814	Zone 2	168
		Zone 3	1902
Total land area for highest risk flood zones using existing DAM.	2048	Total land area for highest risk flood zones using the new Flood Map for Planning.	2343

Table 5: Differences in land area between current Development Advice Map (DAM) highest risk flood zones and new Flood Map for Planning highest risk flood zones.

6.36 NRW has provided data which shows the spatial impact of introducing the Flood Map for Planning at this point in time¹⁵. The data highlights the differences in land area between the highest risk flood zones for the DAM, where development is currently required to be consulted on with NRW, and the Flood Map for Planning Flood Zones (see Table 5 above). It evidences that if the Flood Map for Planning Flood Zones replaced the existing DAM Flood Risk Zones, it would result in a 14%¹⁶ increase in land area for the highest risk flood zones. This is a modest increase in the areas of highest flood risk, which may lead to a modest number of new proposals for which NRW has to provide a substantive response. The arrangements to update the flooding mapping would also be similar to arrangements under Option 1, given that the DAM and its flood risk areas would be updated on a 6-monthly cycle.

Year	2023/ 2024	2022/ 2023	2021/ 2022	2020/ 2021	2019/ 2020	2018/ 2019
Number of substantive responses provided by NRW to all recipients for development falling within the DAM highest flood risk zones where the type of development is not required to be consulted on under	369	376	293	332	326	362

¹⁵ This data was provided by NRW to the Welsh Government on the 27 February 2025.

¹⁶ (Proposed Flood Map for Planning Flood Risk Areas (2343) minus current DAM Flood Risk Zones (2048)) / Current DAM Flood Risk Zones (2048)

* 100.

current legislative requirements.						
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Table 6: Data evidencing where NRW has provided substantive responses to planning application consultations for development falling within the DAM highest flood risk zones, where the type of development¹⁷ is not required to be consulted on under current legislative requirements.

6.37 Removing reference to development ‘types’ under this option in order to ensure NRW is made aware of all types of development in the highest flood risk zones is not considered to place additional costs on NRW, as it would reflect current practice (see Table 6 above). The data shows that over the previous 6 years NRW has provided substantive responses to approximately 343¹⁸ consultations per annum that are not required to be consulted on under the current legislative requirements.

Local Planning Authorities (LPAs), the Welsh Government and the Development Industry

6.38 It is not considered there would be any direct additional costs to stakeholders requesting consultation responses from NRW under this option. The resource implications to consult with NRW would be similar, having regard to the types of planning proposals that would be required to be consulted on using the new Flood Map for Planning and its flood zones compared to Option 1. This is because under both scenarios, each flood map would be subject to 6-monthly updates to ensure they provide the most up-to-date flood risk data. This would mean the options available in this assessment would not be the direct cause of the definition of the highest flood risk areas which trigger consultation requirements with NRW.

6.39 The legislative changes under this option would ensure stakeholders consult with NRW on all development types proposed in the highest flood risk zones, rather than specifying development ‘types’ as is the case in the current legislation. This is considered to reflect what already occurs in practice.

Benefits

Natural Resources Wales (NRW)

6.40 NRW would be consulted on planning applications and pre-application proposals for ‘major development’ in flood risk areas in accordance with the Flood Map for Planning. The Flood Map for Planning would provide the most up-to-date flood risk data for planning purposes, though it is considered this would also be the case if the DAM were to be retained (Option 1) and updated periodically.

¹⁷ This type of development shows substantive responses provided to consultations falling outside of the current definition of ‘emergency services’ and ‘highly vulnerable’ development for DAM Zone C1. Data provided by NRW on the 28 February 2025.

¹⁸ Sum of data for 2018/2019 to 2023/2024 divided by 6.

- 6.41 Notwithstanding this, the proposed changes would ensure flood risk mapping and consultation requirements are clear in requiring applicants and decision makers to make NRW aware of all development proposals in areas of highest flood risk. This is currently standard practice but under this option it would be reflected in legislation (by removing development 'types' from the existing legislation).
- 6.42 The changes would further ensure the flood risk mapping for planning purposes and the accompanying legislation specifying requirements to consult with NRW align with updated national planning policy on flood risk contained in TAN 15. Ultimately, there would be no ambiguity between the flood risk policy, legislation and mapping, thus it would create certainty for NRW in ensuring it is consulted appropriately on development proposals in flood risk areas and it can formulate responses that fully align with the new flood risk national planning policy.

Local Planning Authorities (LPAs), the Welsh Government and the Development Industry

- 6.43 It is considered there would not be any notable resource or procedural benefits for LPAs, PEDW or the development industry for implementing either option over the other in the longer term. All stakeholders would continue to consult with NRW on planning proposals in the areas of highest flood risk, whether they are outlined in the current DAM or the new Flood Map for Planning.
- 6.44 Notwithstanding this, there are benefits with this option in aligning the flood risk mapping for planning purposes and consultation requirements with updated national planning policy on flood risk contained in the new TAN 15. These proposals should result in a comprehensive set of flood risk mapping, legislative and national planning policy requirements, ensuring there is a clearer understanding for all stakeholders on how flood risk should be considered in determining development proposals through the planning system.

Summary and Preferred Option

- 6.45 Option 2 is the preferred option.
- 6.46 Both options are considered not to impose significant costs or provide significant financial benefits to all stakeholders. Under Option 1, the existing Development Advice Map (DAM) would continue to be updated in order to show the most accurate data that would evidence areas of flood risk for planning purposes. However, Option 2 will also provide the most up-to-date information on areas of flood risk with a new Flood Map for Planning, but crucially terminology in the legislation will align with updated national planning policy on flood risk contained in the new TAN 15.

- 6.47 Implementing Option 2 will ensure that the consideration of development proposals in flood risk areas is fully aligned and clear to all stakeholders, in terms of the use of the mapping, requirements to consult with NRW and application of the updated planning policy.
- 6.48 An Integrated Impact Assessment or Competition Assessment has not been prepared for the proposed legislation due to the nature of the proposed changes not constituting a substantive change. Rather they are considered to be an exercise to align the legislative requirements to consult NRW with the new Flood Map for Planning, rather than the to-be-superseded DAM, and terminology contained in the updated TAN 15. This position is explained under the two options outlined.

7. Competition Assessment

- 7.1 A competition filter test has been applied to the proposed amendments. The proposals are not expected to impact on levels of competition in Wales or the competitiveness of Welsh business.

8. Post implementation review

- 8.1 The annual monitoring reports to be submitted by FRAs to the Welsh Government under Option 2 provide a means of monitoring the performance of FRAs in responding to consultation requests. These reports will be publicly available and assessed by the Welsh Government.
- 8.2 The performance of LPAs in consulting FRAs can feature in the Planning Services Annual Performance Report produced by the Welsh Government and form a topic of discussion between the Welsh Government and LPAs at the meetings of the Planning Officer Society for Wales.
- 8.3 Annual reports are provided by NRW to the Welsh Government as a means of monitoring the performance of NRW in responding to consultations. These reports are assessed by the Welsh Government and are made publicly available.
- 8.4 The performance of LPAs in granting planning permission for development in flood risk areas is a part of the Planning Services Annual Performance Report produced by the Welsh Government. It can also form a topic of discussion between the Welsh Government and LPAs at the meetings of the Planning Officer Society for Wales.
- 8.5 A new Notification Direction will be introduced alongside the new TAN 15, which will limit the possibility of decisions being taken in contravention of national policy for highly vulnerable developments in the highest flood risk areas. This provides a means of monitoring the nature of schemes on which NRW is consulted.