

Government Response: The Infrastructure Consent (Pre-Application and Application Procedure and Transitional Provisions) (Wales) Regulations 2025

Technical Scrutiny point 1: The Welsh Government is grateful to the Committee for identifying this point. Section 132(2) of the Infrastructure (Wales) Act 2024 (“the 2024 Act”) has been included in the preamble in error. Section 132(2) provides a power to ‘modify or exclude any enactment’ relating to Crown applications. There are no provisions in the regulations which rely on section 132(2), therefore, the inclusion of section 132(2) is an error, and the regulations are subject to the negative procedure.

Technical Scrutiny point 2 and 3: The Welsh Government notes the point made. The SI will be corrected to use the defined terms by an amending instrument prior to the coming into force of the instrument on 15 December 2025.

Technical Scrutiny point 4: The Welsh Government notes the point made. The definition of “significant infrastructure project” in section 143 of the 2024 Act as “having the meaning given by Part 1”. These regulations take the same approach and therefore it is not considered further clarification is necessary.

Technical Scrutiny point 5: The Welsh Government notes the point raised by the Committee. Regulation 10 applies in relation to proposed applications for development in the Welsh marine area. The reason for allowing discretion to the applicant about which planning authority, community council, Member of the Senedd and Member of the House of Commons should be notified as considered appropriate by the applicant, is because in the marine area there will not be an associated body/person. Depending on the development, there may be an impact on land, and it will be for the applicant to identify where the impact may fall, and who should be notified.

Technical Scrutiny point 6: The Welsh Government accepts the point. The SI will be amended to clarify this point by an amending instrument prior to the coming into force of the instrument on 15 December 2025.

Technical Scrutiny points 7-11: The Welsh Government notes the points. The SI will be amended to correct the Welsh text and remove the superfluous words by an amending instrument prior to the coming into force of the instrument on 15 December 2025.

Technical Scrutiny point 12: The Welsh Government notes the point and agrees that regulation 26(3) could be clearer. The SI will be amended to provide additional clarification by an amending instrument prior to the coming into force of the instrument on 15 December 2025.

Technical Scrutiny points 13-20: The Welsh Government accepts the points and will amend the SI to ensure consistency in the English and Welsh texts, and to correct the relevant cross references by an amending instrument prior to the coming into force of the instrument on 15 December 2025.

Technical Scrutiny point 21: The Welsh Government notes the point. Further consideration will be given as to whether there is a benefit to amending the definitions to take a consistent approach.

Technical Scrutiny point 22: The Welsh Government accepts the point and will amend the SI to correct the Welsh text by an amending instrument prior to the coming into force of the instrument on 15 December 2025.