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**Natural  
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Wales

# Development Planning Advice Service: Annual Report to Welsh Ministers 2016-2017

5 July 2017 Rev No. 8

Natural Resources Wales Development Planning Service Annual Report to the Welsh Government: Specialist Consultee Performance Assessment		
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### Contact for queries and feedback

The primary document owner is with the Natural Resources Wales Evidence Planning and Permitting Team. Email. [EPP.Planning@naturalresourceswales.gov.uk](mailto:EPP.Planning@naturalresourceswales.gov.uk)

## Executive Summary

### **Our Vision proud to be leading the way to a better future for Wales by managing the environment and natural resources sustainably**

Natural Resources Wales (NRW) is a specialist consultee in the development management process. This means that applicants and authorities determining planning applications, should consult us on proposed schemes, which meet one or more of the criterion where we are identified as a specialist consultee. When consulted we are required to provide a substantive response within prescribed timescales.

As a specialist consultee, we are also required to provide an Annual Report to Welsh Ministers, which sets out our performance in providing a substantive response within statutory or agreed timescales. This Annual Report represents our first report to Welsh Ministers and it sets out our performance for the reporting period 1<sup>st</sup> April 2016 to 31<sup>st</sup> March 2017.

For this reporting period, we received 8093 planning consultations, and submitted a total of 7583 substantive responses, and 95% of these were submitted within prescribed deadlines.

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## Section 1.0 Introduction

### 1.1 Our Development Planning Service

We are a statutory or specialist consultee within the planning system, both during the development plan making process, and during the planning application process. Our main role is to provide advice on how planning policies and development proposals should; protect and enhance the environment, and allow for our natural resources to be sustainably maintained, enhanced and used.

This Annual Report provides information about our performance in providing a substantive response to all planning application consultations for the reporting period 1<sup>st</sup> April 2016 to 31<sup>st</sup> March 2017.

### 1.2 Development Management Annual Reporting requirements

As a specialist consultee, we are required to submit an Annual Report to Welsh Ministers by 1 July each year, which will Report on our performance in providing a substantive response to Development Management consultations within statutory and prescribed timescales.

Our Reporting requirements are set out in:

- The Town and Country Planning (Development Management Procedure) (Wales) Order 2012<sup>1</sup>; and,
- The Town and Country Planning Developments of National Significance (Procedure) (Wales) Order 2016<sup>2</sup>

In Annex 1, we provide further detail about reporting requirements as set out in these Orders.

We are also consulted for our advice on planning applications for schemes, which meet the criteria for which we are a specialist consultee under the above Orders. For example, we are consulted on schemes, which may have an effect on protected landscapes or statutorily protected species. We have developed a Development Management Prioritisation Checklist<sup>7</sup>, which sets out when we want to be consulted by planning authorities and applicants. Our Checklist reflects our duties as a specialist consultee, and also other statutory duties and responsibilities. Our role in the planning application process is explained further in Annex 1 of this Report.

### 1.3 Key issues in the reporting year

The reporting year coincided with significant changes to the planning system with new responsibilities identified for Natural Resources Wales (NRW) development planning advice service. This includes the introduction of a new application process for 'Developments of National Significance' where we are a specialist consultee, and in that capacity, we are required to provide a substantive response to consultations from applicants and Welsh Ministers as appropriate.

The reporting period has therefore coincided with a period where we needed to familiarise ourselves with these changes, whilst ensuring that we deliver on our responsibilities to customers. A difficulty encountered by ourselves was that the functionality our current ICT support systems would affect our ability to report on all criteria to be included in the Annual Report. This is explained further in Section 1.4 below.

In addition to our statutory duties, we have also provided advice to our customers in the form of discretionary advice at the pre-application stage. Whilst we recognise the benefits of this service, our ability to provide such advice has been affected by pressures on our Grant in Aid. We have therefore changed the way how we provide this advice. From April 2017 we have implemented a Discretionary Planning Advice Service where certain advice is available for a fee. This service is offered on a voluntary basis, which means that there is no obligation on customers to make use of the service.

### 1.4 Limitations

The information to be included in an Annual Report is set out in the relevant Development Management Order. However, our ability to report on all identified criteria is reliant on the current functionality of our ICT support systems. Our reporting is therefore influenced by the following factors:

- We are consulted for our advice on matters not listed in the Development Management Orders. These are not recorded separately on our ICT support system. This Annual Report therefore provides data on all Development Management consultations received, regardless of whether they meet the criteria for where we are a 'specialist consultee'.
- We do not currently distinguish between statutory and non-statutory pre-application consultations on our ICT support system. This Annual Report therefore provides data on all pre-application consultations received and submitted during the reporting period.
- We do not currently distinguish between consultations involving Major Development from consultations involving other forms of development on our supporting ICT system. This Annual Report therefore provides combined figures for such consultations (excluding Development of National Significance (DNS), which are reported separately).



- Consultations on a planning application that is submitted as a 'secondary consent' in association with a DNS are recorded as a DNS consultation.
- Our ICT system does not currently enable us to record the reason for a substantive response being submitted outside of a deadline. For this Annual Report, we have reviewed a sample of such responses and report on the main reasons provided.

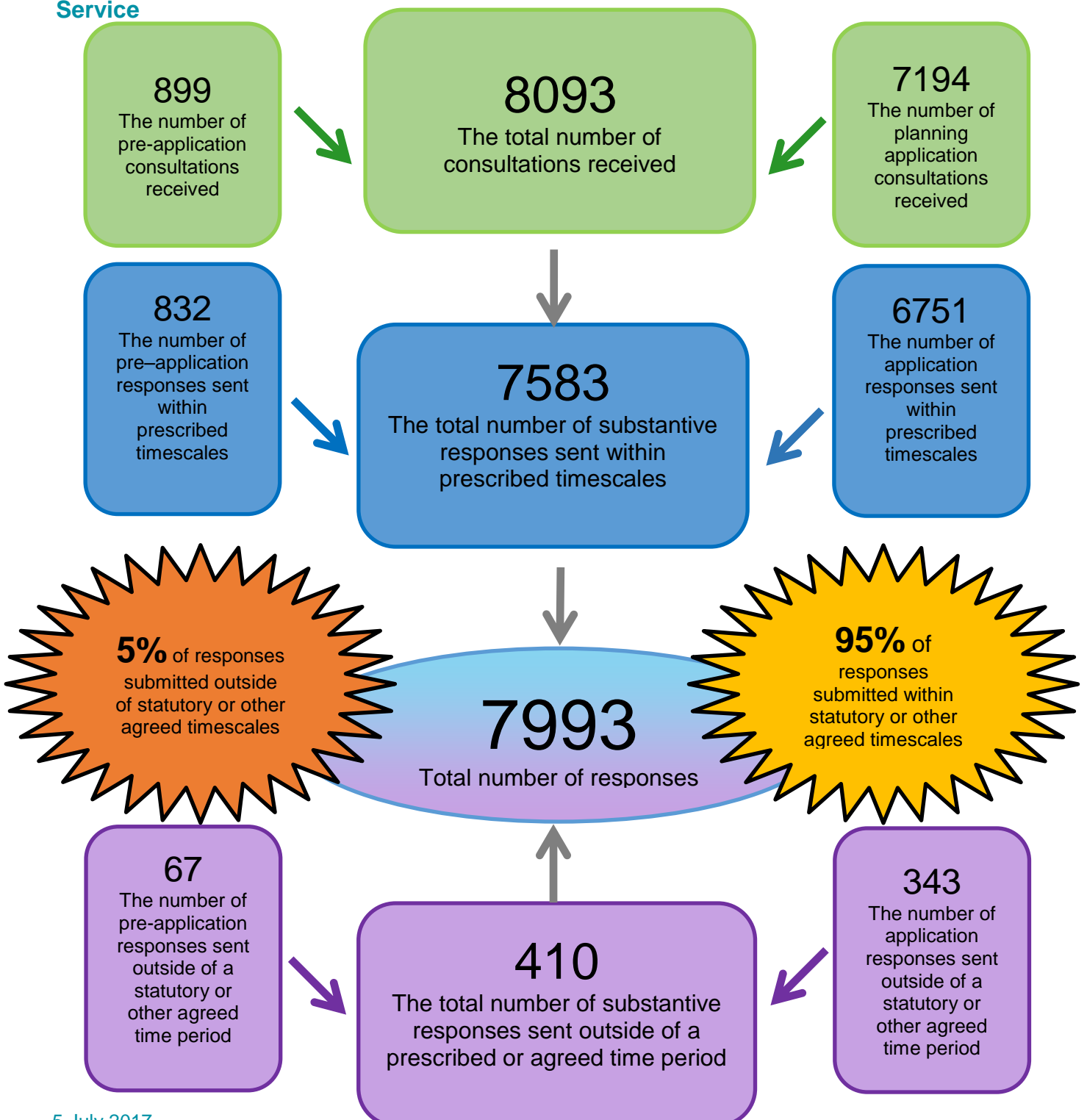
We have recently reviewed our ICT system to improve our recording functionality. We have indicated in this Report what additional data we will capture for future Annual Reports.

## Section 2.0 Our Assessment of Performance

### 2.1 Overview of performance

Our overall performance for this Reporting year 1<sup>st</sup> April 2016 – 31<sup>st</sup> March 2017 has been captured in Figure 1.

**Figure 1 Performance of Natural Resources Wales Development Planning Advice Service**



During the reporting period, we have received a total of 8,093 development management consultations. Of those, 899 were pre-application consultations, and 7,194 consultations were received from determining authorities before the grant of permission.

We responded to a total of 7,993 consultations. We submitted 7,583 substantive responses within statutory or other agreed deadline. 410 consultation responses were submitted outside of statutory or other agreed deadlines. Therefore, 95% of our consultation responses were submitted within statutory or other agreed deadlines.

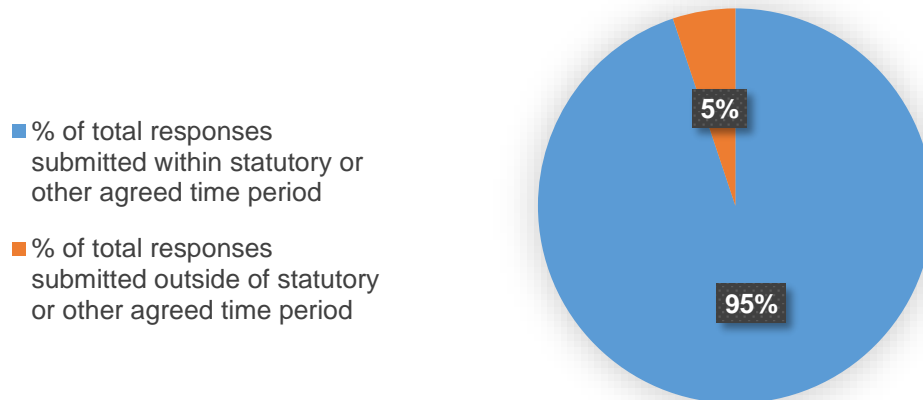
Please note that the difference between consultations received and responses submitted reflects work in progress where prescribed deadlines fall within the next reporting period.

## 2.2 The Town and Country Planning (Development Management Procedure) (Wales) Order 2012 (as amended)

### 2.2.1 Performance Overview

This Section sets out our performance in providing a response within prescribed deadlines for all planning applications (other than those involving a Development of National Significance). Tables 3 and 4 in Annex 3 of this Annual Report provides more information.

**Figure 2 Proportion of responses submitted within time period**



The proportion of substantive responses sent within prescribed timescales in line with the DMPW0 2012 are shown in Figure 2.

A total of 8,091 consultations were received, and we submitted 7,991 substantive responses. Of which 7,581 (95%) responses were responded within statutory or agreed time period. 410 consultation responses were submitted outside of these deadlines.

### 2.2.2 Annual Reporting requirements for pre-application consultation

We are required to report on the following measures for pre-application consultation;

- (a) The number of occasions on which we were consulted;
- (b) The number of occasions on which a substantive response was provided;
- (c) When the substantive response was provided;
- (d) The number of occasions on which we gave a substantive response outside of the prescribed period or as otherwise agreed. And,
- (e) A summary of the reasons for not responding within a prescribed time period.

We have a duty to provide a substantive response to a pre-application consultation for Major Development (as explained in Annex 1) within 28 days (beginning with the day on which the requisite notice is given) or such other period as agreed with the applicant.

We receive, and provide responses to, a wide range of pre-application consultations. These include pre-application consultations submitted under the DMPWO 2012 (as amended), as well as discretionary pre-application consultations. Given the functionality of our ICT systems, we do not currently distinguish statutory and non-statutory pre-application consultations when recording these consultations. This Annual Report therefore provides data on all pre-application consultations received and submitted during the reporting period, regardless of whether they are statutory or discretionary consultations.

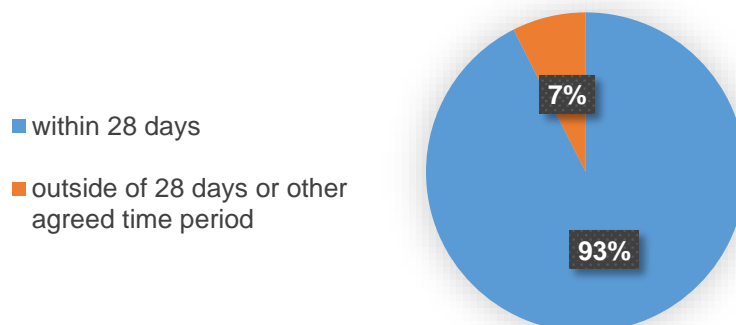
We have recently reviewed our ICT systems, and intend to provide specific data on statutory pre-application consultations in future Annual Reports.

### 2.2.3 The total number of pre-application consultations received

We received 898 pre-application consultations during the reporting period.

### 2.2.4 The total number of responses submitted to pre-application consultations

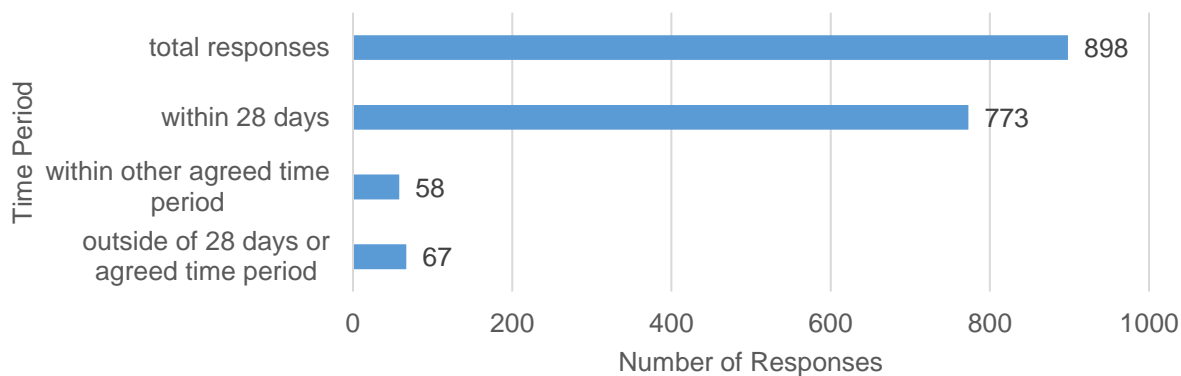
**Figure 3 Proportion of responses submitted within time period**



We submitted a total of 831 responses within a period of 28 days or such other period as agreed, which represents 93% of the total pre-application responses sent.

## 2.2.5 Timescales for providing a response to a pre-application consultation

**Figure 4 When the response was submitted**



### *The number of responses within 28 days*

We provided a response to 773 pre-application consultations (86%) within 28 days.

### *The number of responses submitted within an agreed extended time period*

We responded to 58 pre-application consultations (7%) within an agreed extended time period.

## 2.2.6 The number of responses submitted outside of the 28 days or other agreed time period

67 responses to pre-application consultations (7%) were submitted outside of 28 days or such other agreed period.

## 2.2.7 A summary of the reasons for submitting responses outside of a prescribed or other agreed time period

As part of our analysis, we have not assessed the reasons for not responding within prescribed deadlines for this reporting year. The functionality of our current ICT systems do not currently enable us to identify which pre-application consultations have been received under the statutory procedure from those which have been received under the discretionary procedure. However, following a review of our ICT support systems we intend to record the number of statutory pre-applications received in future Annual Reports.

## 2.3 Annual Reporting requirements for consultations from local planning authorities before the grant of planning permission

This Section sets out our performance in providing a response to local planning authorities within prescribed deadlines for planning applications.

We are required to Report on the following for consultations from local planning authorities;

- (a) The number of occasions we were consulted;
- (b) The number of occasions on which a substantive response was provided;
- (d) The number of occasions on which we gave a substantive response outside of a prescribed time period or as otherwise agreed. And,
- (e) A summary of the reasons for not responding within a prescribed time period.

The Development Management Order does not include the indicator 'when the substantive response was provided'.

We have a duty to provide a substantive response to a consultation from a local planning authority (LPA) within 21 days (beginning with the day on which the requisite notice is given) or earlier or such other period as agreed in writing with the consultor, that is, a local planning authority.

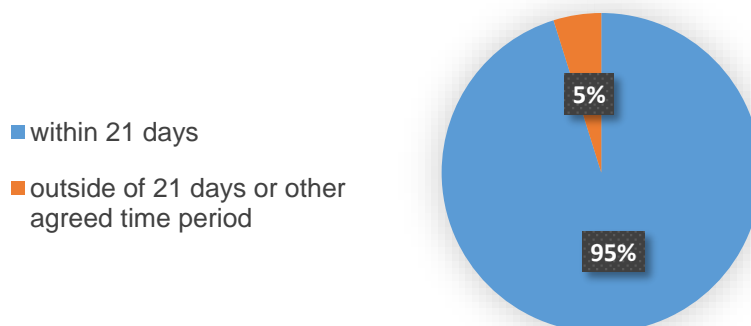
Due to the current functionality of our ICT systems, we do not currently distinguish between consultations involving Major Development from consultations involving other forms of development. This Section therefore provides combined figures for all planning applications from LPAs. However, as a result of a recent review of our ICT support systems, we intend to provide data on planning application consultations involving Major Development in future Annual Reports.

### 2.3.1 The total number of consultations received

We have received a total of 7,193 Development Management consultations from local planning authorities during the reporting period.

### 2.3.2 The total number of substantive responses submitted

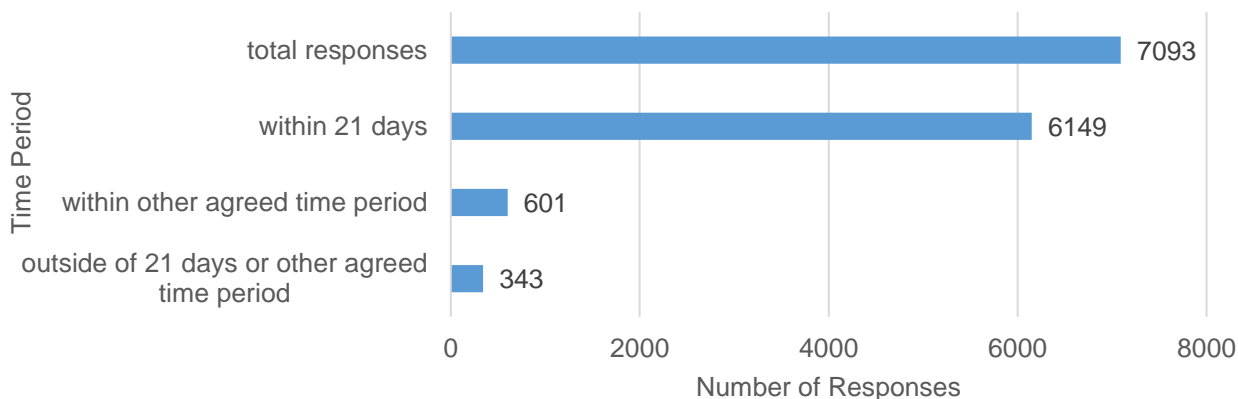
**Figure 5 Proportion of responses submitted within time period**



We submitted a total of 6,750 substantive responses within a statutory period of 21 days or such other period as agreed, which represents 95% of the total responses submitted by us.

### 2.3.3 When the substantive response was submitted to local planning authorities

**Figure 6 When the response was submitted**



#### *The number of responses submitted within 21 days*

We submitted 6,149 responses (87% of total responses) within a statutory period of 21 days.

#### *The number of responses submitted within an agreed extended time period*

We responded to 601 consultations (8% of total responses) within an agreed extended time period.

### 2.3.4 The number of responses submitted outside of the prescribed or other agreed time period.

343 responses (5% of the total number of responses) were submitted outside of the statutory period or agreed extended time period.

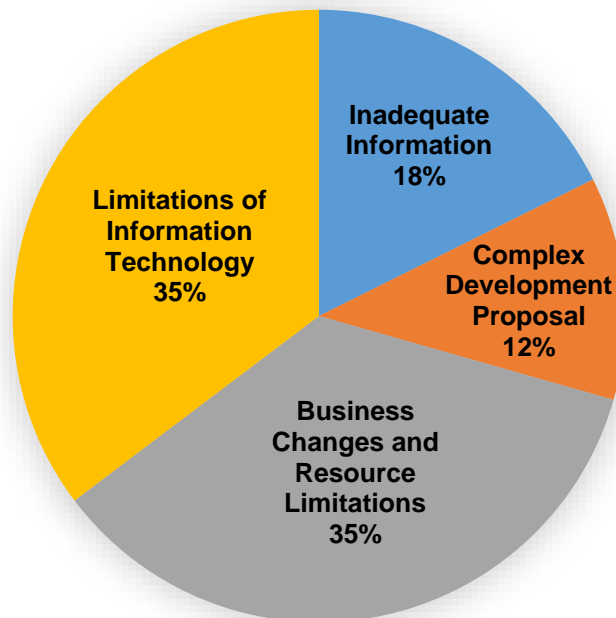
### 2.3.5 A summary of the reasons for submitting responses outside of a prescribed or other agreed time period

As part of our analysis, we have reviewed 34 substantive responses submitted outside of prescribed deadlines and identified those reasons for not responding within deadline. A summary of the main reasons are reported in Table 5. Annex 2 provides more detail on the identified categories.

**Table 5 Summary of reasons**

Reason for responding outside of prescribed time periods	Number of responses	Percentage of responses
Inadequate Information	6	18
Complex Development Proposal	4	12
Business Changes and Resource Limitations	12	35
Limitations of Information Technology	12	35
Total	34	100

**Figure 7 Reason for responding outside of prescribed or otherwise agreed time period**



Of the 34 cases reviewed:

- 35% were submitted outside of statutory or agreed deadlines as a result of ICT limitations, or our information had been incorrectly recorded.
- 35% were submitted outside of statutory or agreed deadlines due to internal resource pressures (e.g. availability of specialist staff to provide expert advice).
- 18% were submitted outside of statutory or agreed deadlines due to inadequate information being submitted in support of a consultation to enable us to respond fully.
- 12% were submitted outside of statutory or agreed deadlines due to the complexity of the scheme, which required detailed appraisal of potentially significant environmental risks.



## 2.4 The Town and Country Planning Developments of National Significance (Procedure) (Wales) Order 2016

This Section sets out our performance in providing a response within prescribed deadlines for planning applications involving Developments of National Significance (DNS). Summary tables of our assessment can be found in Annex 3.

### 2.4.1 Annual Reporting requirements for DNS pre-application consultations and consultations from Welsh Ministers before the grant of planning permission

We are required to Report on the following for both pre-application consultations and consultations submitted to us by Welsh Ministers for consultations before the grant of planning permission:

- (a) The number of occasions on which we were consulted;
- (b) The number of occasions on which a substantive response was provided;
- (c) When the substantive response was provided;
- (d) The number of occasions on which we gave a substantive response outside of the prescribed period or as otherwise agreed. And,
- (e) A summary of the reasons for not responding within a prescribed time period.

We have a duty to provide a substantive response to a DNS pre-application consultation within 42 days (beginning with the day on which the requisite notice is given) or such other period as agreed in writing with the consultor.

We also have a duty to provide a substantive response to a consultation from Welsh Ministers within 21 days (beginning with the day on which the requisite notice is given) or such other period as agreed in writing with the consultor.

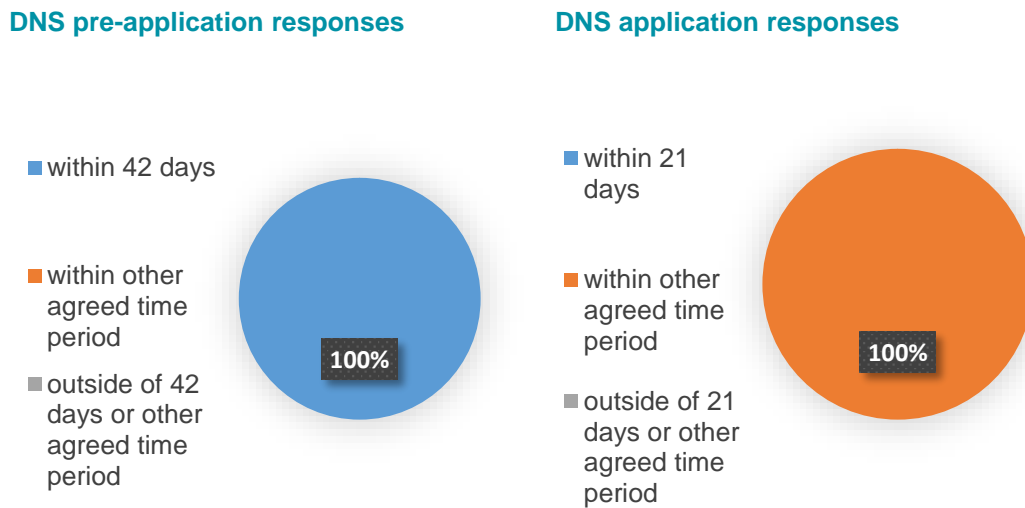
For this reporting year we have not recorded any secondary consent consultations because we have not received any formal applications.

### 2.4.2 The total number of consultations received

We received a total of 2 consultations involving Developments of National Significance. 1 consultation at the pre-application stage, and 1 consultation for the subsequent DNS application.

### 2.4.3 The total number of responses submitted

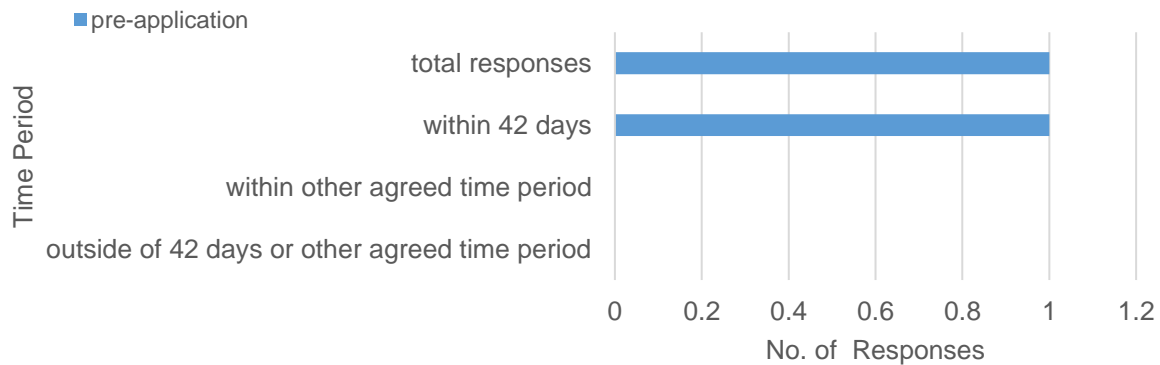
**Figure 8 Proportion of responses submitted within time period**

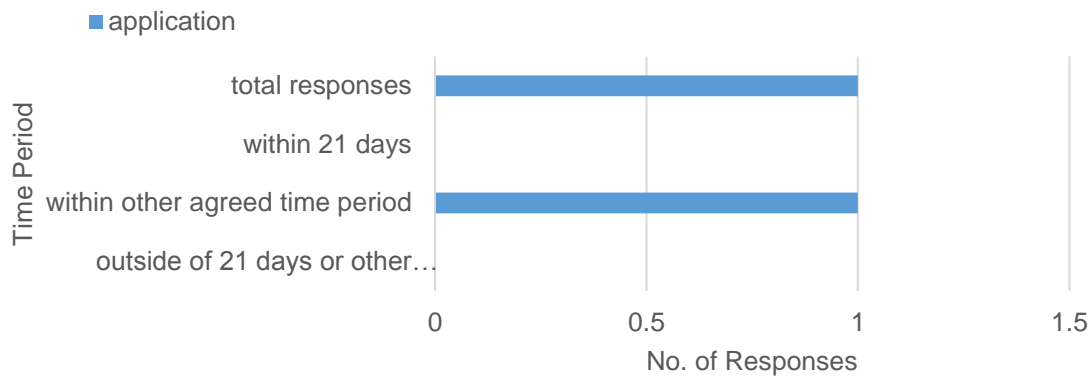


During the reporting period, we provided 1 substantive response at pre-application consultation stage and 1 substantive response to the determining authority.

### 2.4.4 When the response was submitted to the consultor

**Figure 9 When the response was submitted**





*The number of responses submitted to a pre-application consultation within a statutory period of 42 days or other agreed time period*

We provided a substantive response to 1 DNS pre-application consultation within the statutory period of 42 days. We submitted a response in May 2016.

*The number of substantive responses submitted to the determining authority within a statutory period of 21 days or other agreed time period*

We provided 1 substantive response to the determining authority within an agreed extended time period of 40 days. We submitted a response in February 2017.

*2.4.5 The number of responses submitted outside the prescribed or other agreed time period. And, a summary of the reasons for submitting responses outside of a time period*

This indicator is not appropriate because our substantive responses were submitted within a statutory or agreed extended time period.

## Section 3.0 Reflection

Natural Resources Wales is committed to continually improve its development planning advice service. We seek to ensure that our advice is evidence based, clear, unambiguous, and consistent to assist developers and determining authorities in making informed decisions. The views of our customers and partners are important to us as we work to improve our service.

NRW has undertaken a survey of Local Planning Authorities to gather their views on the development planning advice service we provide<sup>9</sup>. The first survey was undertaken in 2016 and the results of this work has been used to inform the improvement of our planning advice service.

Some of the key findings from the survey for development management purposes include:

- **General improvement:** 80% of respondents indicated that NRW's advice had contributed to the determining of a case they had dealt with in the past twelve months.
- **Value added by NRW advice:** 80% of respondents indicated that NRW's advice adds value to the process of determining planning applications by providing practical and clear advice that helps to avoid and/or minimise adverse effects.
- **Early engagement:** 15% of respondents indicated that engaging with NRW at the pre-application stage was not straightforward. 25 %of respondents were of the view that NRW's advice on the information required to support a planning application was not always clear.
- **Solutions based approach:** 60% of respondents were generally content that NRW adopts an approach, which is proportionate to the risks involved and it also performs well in terms of helping to reduce these risks. Only 20% of respondents indicated that NRW communications were not always clear.
- **Clarity of advice:** 70% of respondents indicated that NRW provides them with sufficient information to make a reasoned determination and over 60% of respondents indicated that NRW's advice is consistent across different stages of a scheme.
- **Transparency:** 60% of respondents indicated that they agree or strongly agree that reasons for NRW's judgements are logically set out. Over 70% of respondents were also confident that they could seek further clarification from NRW, if required.
- **Response times:** There is a disparity between our customers' perception of the timeliness of our responses and the real-time results. 42% of respondents were of the view that NRW did not meet statutory and/or agreed deadlines for consultation responses, however data collected separately by us on timeliness provides a more positive picture with over 90% of responses being provided within statutory deadlines.
- **Overall satisfaction:** 37% of respondents are either satisfied or 42% somewhat satisfied with the service NRW provides.

We have committed to a number of actions for improvement in light of respondent's views, these include:

- **Overall satisfaction, general improvement and early engagement:** NRW has identified a need to improve its input at pre-application stage. This year we have implemented a Discretionary Planning Advice Service, which allows us to recover costs for non-statutory advice.
- **Value added by NRW advice:** While the survey results are encouraging, we aim to gain a better understanding of our customers about where they consider we add most value. This detailed information will be part of future surveys and, if provided, could help inform where NRW focusses its efforts.
- **Solutions based approach:** We intend to improve the clarity of responses by making use of response categories to indicate more clearly where our concerns need to be addressed by an applicant or determining authority. We also intend to review these categories to check that they are having the preferred effect.
- **Clarity of advice:** We recognise the importance of having clarity in our advice to influence planning decisions whereby risks are reduced, adverse impacts are avoided or minimised, and opportunities are maximised to deliver sustainable development and places. NRW has put significant effort into improving the clarity of its advice by introducing response categories, which should help to minimise any ambiguity in how NRW's advice should be interpreted. We are also developing a series of Operational Guidance Notes to ensure that our advice is consistent and transparent.
- **Transparency:** NRW Development Planning Case Managers can be contacted directly by the local planning authorities or applicants to discuss development issues. This arrangement appears to be working well.
- **Response times:** To address the disparity of perceptions and real response times NRW guidance has been implemented to help our Development Planning Case Managers in recording, more accurately, those cases where a time extension to respond has been agreed.

A full copy of our report can be found here; [Natural Resources Wales' Development Planning Advice Service – Customer Survey 2016 \(9 January 2017\)](#)<sup>9</sup>.

We intend to undertake similar surveys on an annual basis, and hope to extend future surveys to developers who have used NRW's development planning advice service.

During this reporting period, a 'Joint Improvement Project' has been established with all local planning authorities in Wales, which is overseen by NRW and Planning Officers Society Wales (POSW) with support from the Welsh Government. The Project is being led by NRW and local planning authorities in North Wales and will identify areas for improved engagement between ourselves and those authorities. We will be working on identified topic areas during 2017/18 and subsequently solutions will be piloted before further implementation across Wales.

## Annex 1 Our role in Town and Country Planning

### Our Development Planning Service

Our [Development Planning Service Statement](#)<sup>1</sup> sets out the standards of service that our customers can expect from us when we respond to consultations for development planning and management purposes. Our Statement also outlines the type of information we would expect from planning authorities and developers to enable us to provide effective and timely responses. Where development proposals do not meet NRW priorities for consultation, we will rely on standard advice or work with local planning authorities (LPAs) in meeting their legal obligations. In the provision of our advice, we aim to facilitate better understanding of our role and remit.

### Planning Policy

We work with the Welsh Government to inform the implementation of the Planning Act (Wales) 2015<sup>4</sup>, where we may respond to consultations on guidance and legislation, which stem from the Act. For example, in the provision of our advice in the development of Wales' National Development Framework and planning processes to facilitate efficient and effective decision making. We will also provide advice on how planning policies can enable the successful delivery of sustainable development by the sustainable management of natural resources and by encouraging the delivery of a positive, enabling and resilient planning system for Wales.

### Strategic Planning

As set out in our [Service Statement](#), our aim is to be actively involved in the plan-making process which are at national, regional and local levels. We assist by the provision of;

- information and data we hold when requested; and
- Integrated, consistent and evidence based advice at relevant stages in the development plan process; and/or, in response to strategic consultations, including Strategic Environmental Assessment (SEA) and Habitats Regulations Assessment (HRA).

By engaging effectively in the plan-making process we can help guide development to the most appropriate locations. This should reduce the potential for future conflict at the individual application stage and improve the deliverability of development sites allocated in a Development Plan. We believe sound Development Plans are essential in delivering the right development in the right places.

### Development Management

#### Stages in the Development Management Process

For Development Management purposes, NRW is consulted throughout the process from early engagement to the discharge of conditions and the implementation of development.

In the provision of our advice will seek to minimise the harmful environmental effects from development and promote environmental opportunities, which have multiple benefits in order to deliver sustainable development. In our advisory role, we would also have regard to our wider duties and responsibilities when providing advice.

## **The Town and Country Planning (Development Management Procedure) (Wales) Order 2012 (as amended in 2015 and 2016)**

### **Pre-application consultation**

The Planning (Wales) Act 2015 introduced pre-application requirements into the Town and Country Planning 1990 Act<sup>5</sup>, which includes a new duty on applicants to carry out pre-application consultation with the specified consultees (Section 61Z (4) of the 1990 Act). (An applicant is 'a person making an application for planning permission within an area of the LPA in Wales' as defined in Section 61Z (1)(a) of the 1990 Act)

The requirement to undertake pre-application consultation is set out in part 1A of the DMPWO 2012 (as amended)<sup>1</sup> and applies to all planning applications for 'major' development, whether for full or outline permission and excluding those applications under section 73 or 73A of the 1990 Act, reserved matters, non-material and minor material amendments. A complex planning proposal is considered to be major development as defined in Article 2. Major Development is defined where one or more of the following criterion is met;

- a) the winning and working of minerals or the use of land for mineral-working deposits;
- b) waste development;
- c) the provision of dwelling houses where —
  - i. the number of dwelling houses 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.

### **Consultation before the grant of planning permission (application)**

Where a valid application for planning permission has been submitted, a local planning authority has a statutory obligation to consult Natural Resources Wales (NRW) for its views (in line with 15A of the DMPWO and 54(2) of the 2004 Act<sup>5</sup>).

### **When to consult NRW**

Appropriate bodies should be consulted in accordance with the development types described within the Table as set out in Schedule 2 (DMPWO 2012 as amended). (Please refer to Table 1 in this Annex)



This information informs our Prioritisation Checklist<sup>7</sup>, which prioritises those consultations we would expect to receive.

### NRW's duty to respond

#### *Pre-application consultation*

On receipt of the requisite notice specified by Article 2D of the DMPWO 2012 (as amended), as a specialist consultee, we have a duty to provide a 'substantive response' to the consultor within the prescribed 28 day period, or within such period that has been agreed in writing with the applicant (2E).

#### *Consultation before the grant of planning permission (application)*

On receipt of the requisite notice, as a specialist consultee, we have a duty to provide a 'substantive response' to the consultor within the prescribed 21 day period, or within such period that has been agreed in writing with the local planning authority (15A(2) of the DMPWO 2012 (as amended)).

### Substantive response requirements

A substantive response means either a substantive response sent to the consultor, including the local planning authority and/or applicant.

At the *pre-application consultation stage*, the 2012 DMPWO (as amended) asks us to provide a substantive response to the consultor (applicant) in line with one of the four categories listed. NRW will confirm if it has;

- a) no comments; or
- b) no objection to the proposed development and we would refer the applicant to our current standing advice on the subject of the consultation; or
- c) concerns in relation to the proposed development and we would identify how those concerns can be addressed; or
- d) concerns and we would object to an application for planning permission made in the same or substantially the same terms and sets out the reasons for those objections.

Subsequently, *where no pre-application consultation has taken place*, we would provide a substantive response to the local planning authority (determining body) about a planning application, to explain that NRW has;

- e) no comments; or
- f) no objection to the proposed development and we would refer the person consulting to current standing advice by the specialist consultee on the subject of the consultation; or
- g) concerns in relation to the proposed development and we would identify how those concerns can be addressed by the applicant; or
- h) concerns and we would object to an application for planning permission made in the same or substantially the same terms and sets out the reasons for those objections.



Or, [where pre-application consultation has taken place](#), we would apply a further two categories of substantive response to explain that as a specialist consultee;

- i) we have no further comments in respect of the proposed development and we would confirm that any comments made at the pre-application stage remain relevant; or
- j) we would advise the person consulting of any new concerns in relation to the proposed development and we would also provide our reasons for not identifying those concerns at the earlier pre-application consultation response stage. We will either;
  - 1) explain how those concerns can be addressed by the applicant; or
  - 2) confirm that we object to the proposed development and set out the reasons for our objection.

## **The Town and Country Planning Developments of National Significance (Procedure) (Wales) Order 2016 (DNSDMPWO 2016)**

### [Developments of National Significance](#)

For the purposes of 62D of the 1990 Act, a development is considered to be of national significance if Regulations 3-14 have been met (The Developments of National Significance (Specified Criteria and Prescribed Secondary Consents) (Wales) (2016 Regulations))<sup>7</sup>.

### [Secondary consents](#)

The 2016 Regulations also enable an applicant to apply for Secondary Consents as part of a Development of National Significance (DNS) application. In our substantive response, our comments on each secondary consent should be clearly identified and appended to the main substantive response to the DNS consultation.

### [When to consult NRW](#)

The DNSPWO 2016<sup>8</sup> contains a statutory requirement for us to be consulted on, and provide a substantive response to those consultations, which fall into one or more of the categories set out in Schedule 5 criteria of the DMPWO 2016 and where we are listed as a specialist consultee (please refer to Table 1 in this Annex).

### [NRW's duty to respond](#)

#### [Pre-application consultation](#)

On receipt of the requisite notice, as a specialist consultee, we have a duty to provide a 'substantive response' to the consultor within the prescribed 42 day period, or within such period that has been agreed in writing with the consultor (specified by Article 10 of the DNSPWO 2016).

### *Consultation before the grant of planning permission (application)*

On receipt of the requisite notice, as a specialist consultee, we have a duty to provide a 'substantive response' to the consultor within the prescribed 21 day period, or within such period that has been agreed in writing with the consultor (specified by Article 10 of the DNSPWO 2016).

### **Substantive response requirements**

A substantive response means either a substantive response to the consultor, including the local planning authority or the Welsh Ministers and/or an applicant.

At the **DNS pre-application consultation stage**, the DMPWO 2016 asks us to provide a substantive response to the consultor (applicant) in line with one of the four categories provided. NRW will confirm if it has;

- a) no comments; or
- b) no objection to the proposed development and we would refer the applicant to our current standing advice on the subject of the consultation; or
- c) concerns in relation to the proposed development and we would identify how those concerns can be addressed; or
- d) concerns and we would object to an application for planning permission made in the same or substantially the same terms and sets out the reasons for those objections.

Subsequently, **where no DNS pre-application consultation has taken place**, we can provide a substantive response to the consultor (Welsh Ministers) to explain that NRW has;

- a) no comments; or
- b) no objection to the proposed development and we would refer the Welsh Ministers to our current standing advice on the subject of the consultation; or
- c) concerns in relation to the proposed development and we would identify how those concerns can be addressed by the applicant; or
- d) concerns and we would object to an application for planning permission made in the same or substantially the same terms and sets out the reasons for those objections.

**Where DNS pre-application consultation has taken place**, a further two categories of substantive response are applied to explain that as a specialist consultee;

- e) we have no further comments in respect of the proposed development and we would confirm that any comments made at the pre-application stage remain relevant; or
- f) We would advise Welsh Ministers of any new concerns in relation to the proposed development and we would also provide our reasons for not identifying those concerns at the earlier pre-application consultation response stage. We will either;
  - 1) explain how those concerns can be addressed by the applicant; or
  - 2) confirm that we object to the proposed development and set out the reasons for our objection.

**Table 1 When to consult NRW**

Detailed consultation requirements for pre-application and valid planning applications are set out in the Development Procedure Wales Orders<sup>1,2</sup>. A consultor (an applicant or decision maker) has a duty to consult NRW for its views on types of development as specified and before making a planning decision. The types of development, which trigger consultation with us, at the pre-application stage and before the grant of planning permission, are shown in the below table.

DMPWO 2012 as amended, Schedule 2 Paragraph:	DNS PWO 2016 Schedule 5, Paragraph	Description of Development
K	G	Development involving or including mining operations
M	I	Development involving the carrying out of works or operations in the bed of or on the banks of a river or stream
N	J	Development for the purpose of refining or storing mineral oils and their derivatives
O	L	Development relating to the retention, treatment or disposal of sewage, trade-waste, slurry or sludge (other than the laying of sewers, the construction of pump houses in a line of sewers, the construction of septic tanks and cesspools serving single dwelling houses or single caravans or single buildings in which not more than ten people will normally reside, work or congregate, and works ancillary thereto)
P	M	Development relating to the use of land as a cemetery
Q	N	Development— (i) in or likely to affect a site of special scientific interest; or (ii) within an area which has been notified to the local planning authority/Welsh Ministers by the Natural Resources Body for Wales and which is within two kilometres, of a site of special scientific interest, of which notification has been given, or has effect as if given, to the local planning authority/ Welsh Ministers by the Natural Resources Body for Wales, in accordance with section 28 of the Wildlife and Countryside Act 1981 (sites of special scientific interest) as applied in Wales by section 27AA of that Act.
T	Q	Development within 250 metres of land which— (i) is or has, at any time in the 30 years before the relevant application, been used for the deposit of refuse or waste; and (ii) has been notified to the local planning authority by the Natural Resources Body for Wales for the purposes of this provision
W		Development— (i) involving the siting of new establishments; (ii) consisting of modifications to existing establishments covered by Article 11 of Directive 2012/18/EU; or

		(iii) which is new, including transport routes, locations of public use and residential areas in the vicinity of existing establishments, where the siting or development may be the source of or increase the risk or consequences of a major accident
X	-	Development – (i) on land designated as Flood Zone C2; (ii) Involving or including emergency services development or highly vulnerable development on land designated as Flood Zone C1 or on land that has been notified to the local planning authority by the Natural Resources Body for Wales for the purpose of this provision.

**Please Note:**

- in paragraph (w) “control of major accident hazards competent authority” means in relation to a relevant nuclear site, the Office of Nuclear Regulation and the Natural Resources Body for Wales, acting jointly; otherwise, the Health and Safety Executive and the Natural Resources Body for Wales acting jointly; and
- In paragraph (x);  
“Flood Zone C2” means an area of a floodplain without significant flood defence infrastructure;  
“Flood Zone C1 means an area of the floodplain which is developed and served by significant infrastructure, including flood defences; and,  
“Emergency services development” and “highly vulnerable development” have the same meaning as set out in The Town and Country Planning (Notification) (Wales) Direction 2012.

## Annex 2 Categories of reasons for responding outside of prescribed timescales

### Table 2 Categories

Where a substantive response has been given outside of a statutory or agreed extended time period or where no response has been provided then our reasons for a case have been captured in those categories described in Table 2, below.

Category	Explanation
<b>Inadequate Information</b>	The consultor has provided inadequate information to support a consultation and to enable NRW to respond fully.
<b>Complex Development Proposal</b>	Detailed appraisal of a complex major development proposal where there are significant environmental risks to be addressed. NRW Development Planning Case Managers are supported by their specialist teams. This may involve discussion and/or site visit with the consultor (a local planning authority or an applicant). Information is required prior to our response.
<b>Business Changes and Resource Limitations</b>	Consultations are managed using a risk based approach, whereby workload is prioritised to ensure that NRW efforts are focused on those consultations likely to have the greatest adverse environmental concern or greatest gain. Consultations are not progressed within timescales where there are changes to NRW business including employees' absences, unavailability of specialist teams to provide expertise, given resource limitations and priorities.
<b>Limitations of Information Technology</b>	Information and communication technology (ICT) difficulties where software is inadequate or failing to operate efficiently, or the information received is incorrectly processed or recorded.

## Annex 3 Assessment Summary Tables

**Table 3 Assessment summary table for pre-application consultation and responses (DMPWO 2012 Order (as amended))**

Development Order	Indicator ref.	Assessment Indicators	Number	% of total pre- application responses
DMPWO 2012 as amended pre-application consultation	1	The number of occasions on which the specialist consultee was consulted	898	-
	2	The number of occasions on which a substantive response was provided	898	100
	3	When the substantive response was provided, of which; were responded within statutory or other agreed period (28 days or other)	831	93
	4	were responded within statutory time period of 28 days (includes 21 day total)	773	86
	5	were responded within other agreed time period	58	7
	6	were responded in a statutory time period of 28 days	141	16
	7	The number of occasions on which the specialist consultee gave a substantive response outside of the prescribed period (28 days) or other agreed time period.	67	7
Reasons	8	Reasons for responding outside of a prescribed or other agreed time period: <i>Inadequate Information</i>	Please Note: Those reasons for not responding within a prescribed or other agreed time period for pre-application consultations (DMPWO 2012 as amended) have not been assessed for this reporting year.	
	9	<i>Complex Development Proposal</i>		
	10	<i>Business Changes and Resource Limitations</i>		
	11	<i>Limitations of Information Technology</i>		

**Table 4 Assessment summary table for consultations before the grant or planning permission and responses (DMPWO 2012 Order (as amended))**

Development Order	Indicator ref.	Assessment Indicators	Number	% of total application responses
DMPWO 2012 as amended Consultations before the grant of planning permission	12	The number of occasions on which the specialist consultee was consulted	7193	-
	13	The number of occasions on which a substantive response was provided <sup>a</sup>	7093	100
	14	When the substantive response was provided, of which; were responded within statutory or other agreed period (21 days or other)	6750	95
	15	were responded within statutory time period of 21 days	6149	87
	16	were responded within other agreed time period	601	9
	17	The number of occasions on which the specialist consultee gave a substantive response outside a prescribed period (21 days) or other agreed time period.	343	5
Reasons	18	Reasons for not responding within a prescribed or other agreed time period <sup>b</sup> : <i>Inadequate Information</i>	6	18
	19	<i>Complex Development Proposal</i>	4	12
	20	<i>Business Changes and Resource Limitations</i>	12	35
	21	<i>Limitations of Information Technology</i>	12	35
	22	<i>Total</i>	34	100

- a. Please note: we have received 100 application consultations which will be responded in the next reporting year 1 April 2017-31 March 2018
- b. A 10% sample responses have been assessed, which equates to 34 cases.

**Table 6 Assessment summary table for DNS pre-application consultations and responses (DNS DMPWO 2016)**

Development Order	Indicator ref.	Assessment Indicators	Number	% of total DNS pre-application responses
DNSPWO 2016 pre-application consultation	23	The number of occasions on which the specialist consultee was consulted	1	-
	24	The number of occasions on which a substantive response was provided	1	100
	25	When the substantive response was provided, of which; were responded within statutory (42 days) or other agreed time period	1	100
	26	were responded within statutory time period of 42 days	1	100
	27	were responded within other agreed time period	0	0
	28	were responded within statutory time period of 42 days	0	0
	29	The number of occasions on which the specialist consultee gave a substantive response outside of a prescribed or other agreed time period.	0	0
Reasons	30	Reasons for not responding within a prescribed or other agreed time period: <i>Inadequate Information</i>	Please note that this indicator is not appropriate for this reporting year because our responses were submitted within prescribed or otherwise agreed time period.	
	31	<i>Complex Development Proposal</i>		
	32	<i>Business Changes and Resource Limitations</i>		
	33	<i>Limitations of Information Technology</i>		



**Table 7 Assessment summary table for DNS application consultations and responses (DNS DMPWO 2016)**

Development Order	Indicator ref.	Assessment Indicators	Number	% of total DNS application responses
DNSPWO 2016 Consultation before the grant of planning permission	34	The number of occasions on which the specialist consultee was consulted	1	-
	35	The number of occasions on which a substantive response was provided	1	100
	36	When the substantive response was provided, of which; were responded within statutory (21 days) or other agreed period	0	0
	37	were responded within statutory time period of 21 days	0	0
	38	were responded within other agreed time period	1	100
	39	were responded within statutory time period of 21 days	0	0
	40	The number of occasions on which the specialist consultee gave a substantive response outside of the prescribed (21 days) or other agreed time period.	1	0
Reasons	41	Reasons for not responding within a prescribed or other agreed time period: <i>Inadequate Information</i>	Please note that this indicator is not appropriate for this reporting year because our responses were submitted within a statutory or otherwise agreed time period.	
	42	<i>Complex Development Proposal</i>		
	43	<i>Business Changes and Resource Limitations</i>		
	44	<i>Limitations of Information Technology</i>		

## Sources of information

1. SI No. 801 W10. The Town and Country Planning (Development Management Procedure) (Wales) Order 2012 (as amended in 2015 and 2016)
2. SI No.55 W.25. The Town and Country Planning Developments of National Significance (Procedure) (Wales) Order 2016
3. Development Planning Advice: Our Service Statement for Delivery: Our approach in supporting development planning in Wales Version 4.0 (15th September 2014)
4. The Planning (Wales) Act 2015 (Section 37)
5. Town and Country Planning 1990 Act (100A (2) and 100A (3))
6. The Town and Country Planning Compulsory Purchase Act 2004 (Section 54)
7. Natural Resources Wales and Planning Consultations (March 2015) (Development Management Prioritisation Checklist)
8. Developments of National Significance (Specified Criteria and Prescribed Secondary Consents) (Wales) Regulations 2016(DNS 2016 Regulations).
9. Natural Resources Wales' Development Planning Advice Service – Customer Survey 2016 (9 January 2017)

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Natural Resources Wales  
Cambria House  
29 Newport Road  
Cardiff  
CF24 0TP

0300 065 3000 (Mon-Fri, 8am - 6pm)

[enquiries@naturalresourceswales.gov.uk](mailto:enquiries@naturalresourceswales.gov.uk)  
[www.naturalresourceswales.gov.uk](http://www.naturalresourceswales.gov.uk)

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