



## **Guide to our discretionary advice service for development planning and marine advice**

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1.1	June 2017	Added links to T&C's, webforms and DNS guidance
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1.5	April 2018	Addition of marine information

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## Purpose

This guide provides an overview of the service that Natural Resources Wales (NRW) can provide during the development planning process. It is aimed at developers and other customers who are in the process of preparing an application for consent for the following types of development, and want advice from NRW before submitting the application to the appropriate authority:

- Flood consequence assessments
- Land contamination;
- Groundwater protection;
- Developments of National Significance
- Nationally Significant Infrastructure Projects
- Marine developments

The guide sets out what types of advice are available free of charge and which can be obtained for a fee. It also explains how the process of requesting advice works in practice and the terms and conditions under which we offer our services.

This guide should be used alongside other topic based guidance notes on our role in the development planning system, which can be accessed through our website.

Please note: This document focusses on the advice we provide as part of our role as an adviser in the development planning system. NRW also has a role as a regulator, which is not covered in this document. More information and guidance on our regulatory service can also be found on our website: <https://naturalresources.wales/about-us/what-we-do/how-we-regulate-you/?lang=en>

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## 1. Overview

Natural Resources Wales (NRW) is a statutory consultee in the development planning and marine licensing process. In this capacity, we advise both applicants and planning and consenting authorities on the potential impact of development proposals on Wales' environment and natural resources. We also advise on the potential consequences of hazards, such as flood risk, to and from development.

We value the importance of engagement with developers throughout the development planning process as this can result in better environmental outcomes and can help to minimise costly delays for our customers. For these reasons, we encourage you to talk to us throughout the process of developing your planning application.

This document explains the level of service that you can expect to receive from us. Certain aspects of our service fall under our statutory duties in the development planning system and are provided for free, whereas others are optional and available for a fee.

For the purpose of this document, pre-application advice is defined as any advice you may request from NRW before submitting an application to the relevant planning or consenting authority. This includes advice in relation to planning applications (e.g. full, outline, reserved matters and variations of conditions- applications), or other types of application such as a marine licensing application, as well as advice related to requests for the discharging of conditions.

## 2. When to consult us

Our involvement in the development planning process is triggered by a number of factors, including the scale and impact of the development, the requirement for an Environmental Impact Assessment, and the location of the development. We have produced a priority checklist list which explains the types of cases we respond to. This list can be accessed here: <https://naturalresources.wales/media/5271/150302-natural-resources-wales-and-planning-consultations-final-eng.pdf>

The services set out in this guide are available for all development proposals, provided these meet at least one of the criteria on the checklist.

## 3. Our service at the pre-application stage

Most of our duties and responsibilities in the development planning process are towards the relevant planning or consenting authority. Our duties towards you, as a developer, are more limited and are set out in legislation. For certain types of development proposals, you are required to consult us and, as part of our statutory duties, we are required to provide a substantive response to those consultations. This process is explained further in section 6.

As we value the importance of engagement throughout the planning process, we can provide you with additional advice on a discretionary basis, which includes the following:

1. A free preliminary opinion
2. The charged Discretionary Advice Service (DAS)

There is no obligation on you to use any of these discretionary services, but these are offered as an option to allow you access to more detailed advice throughout the project planning process.

[Table 1](#) on the next page shows which aspects of our service are available for free and for which there is a charge. It also shows the scope of our statutory duties. Section 4-6 explain in more detail what is provided at each stage and describe the process for requesting the different types of advice that NRW offers.

When deciding what level of service your development would benefit from, it is worth considering that our statutory duties to provide a response to you as a developer apply at a stage where your application will already be developed in some detail. If you require input from us at an earlier stage which goes beyond our free preliminary opinion you have the option of making use of our charged DAS.

**Table 1. NRW's Services**

Preliminary opinion (free)	Discretionary planning advice service (charged)	Our statutory advice (free)
<p>We will aim to provide a preliminary opinion for all developments which meet one or more of the criteria on our priority checklist for engagement (see section 2)</p> <p>The preliminary opinion will consist of the following:</p> <ul style="list-style-type: none"> <li>- An indicative view on which environmental considerations need to be taken into account as part of your application.</li> <li>- An outline of the assessments that may be required to support your application</li> </ul> <p><b>For more information: see section 4</b></p>	<p>If you would like any advice which is in addition to that which is provided as part of the preliminary opinion, or our statutory advice, you can request this through our Discretionary Planning Advice (DPA) Service. There is a fee associated with the use of this service.</p> <p>The DPA service is currently limited to the following advice topics:</p> <ul style="list-style-type: none"> <li>• Land contamination</li> <li>• Ground water protection</li> <li>• Flood consequence assessments</li> <li>• Advice in relation to NSIPs</li> <li>• Advice in relation to DNSs</li> <li>• Advice in relation to marine developments</li> </ul> <p><b>For more information: see section 5</b></p>	<p>For Developments of National Significance (DNS) and Major Developments only, you have to consult us if your development meets certain criteria. This is set out in legislation and is explained further in section 6 of this document. In return we have a duty to provide you with a substantive response.</p> <p>We will only provide one substantive response per application. If you require any additional pre-application advice from NRW, we will refer you to the Discretionary Advice Service. For Nationally Significant Infrastructure Projects (NSIP) only, we will provide a Planning Act 2008 Section 42 consultation response</p> <p>In addition, for NSIPs, which are accompanied by an Environmental Statement, you can also request information under Regulation 9 of the Infrastructure Planning (Environmental Impact Assessment Regulations) 2009</p> <p>For Town and County Planning developments that require an Environmental Statement, information can be requested for free under Regulation 16 of the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017</p> <p><b>For more information on requesting a substantive response: see section 6</b></p>

## 4. Preliminary opinion

We offer a free preliminary opinion for all development proposals which meet at least one of the criteria on NRW's checklist for engagement. As part of this we will aim to provide you with the following:

- An indicative view on which environmental considerations listed on our Checklist need to be taken into account as part of your application. You can find this checklist here: <https://naturalresources.wales/media/5271/150302-natural-resources-wales-and-planning-consultations-final-eng.pdf>
- An outline of the assessments that may be required to support your application

You can only request the preliminary opinion **once** for each development that you are involved with.

### 4.1 How to request a preliminary opinion

We have a form which you can use to request a preliminary opinion. This can be accessed here:

<https://naturalresources.wales/media/681463/request-form-for-preliminary-advice-english.docx>

The form explains what information we would like you to supply as part of your request. We will ask you to provide us with certain information about your proposed development, such as the development type, the site location and how you intend to address any potential environmental impacts that have been identified.

You should send this form, and all associated information, to the relevant development planning team in NRW. Annex 1 shows the contact details for each of these teams. We will aim to provide you with a preliminary opinion within **21 calendar days** of receiving the form and associated information.

### 4.2 Important note for applicants of preliminary opinions

We will try to provide you with as much clarity as possible. However, you should be aware that the preliminary opinion is based on a high-level assessment of environmental constraints which considers the information that was made available to us at the time of the request. It should also be noted that any advice or assistance we provide is advisory only and will not be binding, or in any way restrict NRW in performing its statutory functions.

Advice that we provide at this stage should also be considered alongside the guidance that is available on our website. We will not seek to duplicate this guidance in our advice to you, so it is worth familiarising yourself with it to ensure your proposal is in line with it.

You will only be able to request the preliminary opinion once for each proposed development. If you require any advice in addition to that, you have the option of making use of our charged DAS.



## 5. The Discretionary Advice Service (DAS)

You can use the charged DAS if you wish to access more extensive advice than we can provide as part of either our statutory advice (section 6) or preliminary opinion (section 4).

The service is currently limited to advice on a small number of topics and development types. Over time we intend to roll out this service to cover other areas which are relevant to our role within the planning system. Section 5.1 provides more detail about what is covered by the DAS.

The DPA service only covers advice we provide in our advisory capacity, not our decision-making roles.

It does not cover NRW Permitting Service process advice. If you require advice that is related to an NRW permit or license, this can be requested separately by following this link:

<https://naturalresources.wales/permits-and-permissions/?lang=en>

All work undertaken as part of the DAS will be of an advisory nature only. For example, we can provide advice on the contents of a Flood Consequence Assessment, but it will be up to you to prepare the report and undertake the assessments.

### 5.1 Scope of the DAS

The following types of advice can currently be provided as part of the DAS service:

#### 5.1.1 Advice related to land contamination

As part of the DAS we can:

- Evaluate preliminary risk assessments and interpretive site investigation reports
- Evaluate detailed quantitative risk assessments (DQRA)
- Evaluate piling risk assessment reports
- Evaluate remediation options appraisal, remediation strategy, and verification reports

#### 5.1.2 Ground water protection

As part of the DAS we can:

- Provide advice on requirements to meet our groundwater protection position statements.
- Evaluate submitted groundwater risk assessments

#### 5.1.3 Flood consequence assessments

As part of the DAS we can:

- Review the Flood Consequence Assessment (FCA)
- Review the hydrology report
- Review of the hydraulic river/ tidal models used in the FCA

#### 5.1.4 Advice relating to NSIPs and DNSs

In addition to the above, we can provide advice on a number of additional topics for NSIPs and DNSs. Examples of the advice we can provide as part of the charged DAS for these cases include advice on Environmental Impact Assessments, Habitat Regulations Assessments, and species surveys.

#### 5.1.5 Advice relating to marine developments

As with advice for NSIPs and DNSs, we can provide advice on several additional topics for marine developments. This can include advice on Environmental Impact Assessments, Habitats Regulations Assessments, pre-applications survey requirements and advice on monitoring specifications where these are relevant.

### 5.2 Charges

There is a charge associated with the use of the DAS, which has been set at £125 per hour. VAT will be charged in addition to this, where applicable.

While we will generally charge for our advice by the hour, in some cases we may offer you the option of paying for dedicated staff. We can use this option if you require extensive input from NRW, which equates to at least three months- worth of advice. In cases where this is relevant, we will discuss this option with you, to establish if it is an appropriate option for you.

The DAS is an optional, discretionary service, and there is no obligation on you to make use of this service.

### 5.3 How to request discretionary planning advice

We have put together a form to request the charged service, which can be found here:

<https://naturalresources.wales/media/681461/request-form-for-charged-service-english.docx>

This form will ask you to set out what advice you want to request from us and your preferred timescale for delivery. **Please allow at least 30 days for the work to start, from the date on which you return the form.** You should return the form and all documents associated with it to the relevant team. Annex 1 sets out the contact details for each of the teams.

Please note that if your request is for a meeting, you should also supply copies of any documents that are relevant to this meeting. To enable a meaningful discussion, NRW may need to review these documents prior to the meeting and where this is the case, we will reflect this in our cost estimate.

Based on the information provided, we will respond to you in one of the following ways:

- If we have received all the information required and are able to provide the service, we will put together a quotation for the work. This will set out the scope of the work that we will undertake for you and an estimate of the time required to do this, as well as the costs associated with the work.

- If we are unable to provide the advice as part of the DAS, or require further information from you, we will notify you.

In either case, we will aim to provide you with a response within 21 calendar days of receiving the form.

If you decide to make use of our DAS, you should return a signed copy of the quotation to the NRW case manager, after which work can commence.

#### **5.4 Using the DAS for advice on NSIPs, DNSs and other complex developments**

If you are working on a particularly large or complex development, such as an NSIP, DNS or certain types of marine development, we may need to hold more extensive discussions with you to agree the scope of the work that you want us to deliver. As part of this, we may ask you to draw up a detailed programme of work, which we will use to assess if we have sufficient capacity to provide the requested service. Generally, we will not charge for any meetings that may be required to negotiate a charging agreement.

For large and complex developments, it can take significantly longer than 21 days to provide you with an estimate of costs. If you are considering using the DAS for such a project, we would recommend you start discussions with us as early as possible, to avoid delays during later stages of the planning process.

#### **5.5 Important note for applicants of the DAS**

The use of the DAS will be on a contractual basis. You can access a copy of the full Terms and Conditions under which the scheme is offered here:

<https://naturalresources.wales/media/681669/standard-terms-and-conditions-nrw-as-statutory-consultee.pdf>

The DAS is a *discretionary service*. While we will aim to meet demand for the service, there may be times where our capacity to do so is limited. In those instances, we reserve the right to not offer the service.

For similar reasons, we cannot guarantee that we can always meet the suggested timescales for delivery in your request form. We will keep the delivery of the service under review to minimise the risk of either situation occurring.

It should be noted that any advice or assistance that we provide is advisory only and will not be binding, or in any way restrict NRW in performing its statutory functions. All advice provided by NRW will be based on the information that has been made available to us, and policies that are in place at that time.

## 6. Our statutory advice

In addition to discretionary advice, we also provide advice and information under our statutory duties and responsibilities in the development planning system. We provide this free of charge, but please note that we are able to recover the costs for the provision of certain types of information and may seek to do so in the future. [Table 1. NRW's Services](#) shows what is included as part of this statutory advice.

For Major Development and Developments of National Significance, you have a duty to consult us before submitting your application to the relevant planning or consenting authority if your proposal meets one or more of the criteria set out in legislation. In return, we will provide you with a “substantive response”. Annex 2 explains what this covers.

We will only provide one substantive response per application. If you require any additional advice from NRW, we will refer you to the discretionary advice service.

The process for requesting a substantive response has been set out in legislation. This also sets out what information needs to be submitted alongside the request. We are only required to provide a substantive response to consultations that have been submitted in accordance with this legislation and this section provides more information on what this involves.

### 6.1 Requesting a substantive response for Major developments

If your development falls within the criteria of a Major Development, you will need to consult us during the pre-application stage if your proposal meets one or more of the criteria set out in the in The Town and Country Planning (Development Management Procedure) (Wales) (Amendment) Order 2016 Schedule 2 for consulting NRW.

To undertake the statutory pre-application consultation, you should use the notice set out in schedule 1C of the order, or an equivalent form.

The notice and all supporting information should be sent to the relevant Development Planning Advice Team in NRW. You can find the contact details in Annex 1. For major developments, we will provide a substantive response within 28 days, or other such time as agreed between you and NRW.

### 6.2 Requesting a substantive response for Developments of National Significance

For Developments of National Significance, we have produced guidance which explains when and how to consult us during the statutory pre-application stage. This can be accessed here:

<https://naturalresources.wales/guidance-and-advice/business-sectors/planning-and-development/advice-for-developers/developments-of-national-significance/?lang=en>

## 7. Feedback on our service

To inform the development of our service, we may ask you to fill out a short online survey on your experience of using our DAS.

If you experience any problems with the service, these can be raised with the designated NRW's case lead or the Senior NRW representative. You can find the contact details for the relevant staff on the quotation that we will provide you with, if you are using the charged service.

We will always aim to resolve issues amicably. The terms and conditions for the DAS, which are available from our website , provide more information about the process that NRW will follow if issues cannot be resolved in this way.

## Annex 1: How to contact us

Table 2. NRW contact details

Area	Relevant NRW Planning Contact Details
For projects in: <ul style="list-style-type: none"> <li>• Pembrokeshire,</li> <li>• Pembrokeshire Coast National Park,</li> <li>• Carmarthenshire,</li> <li>• Swansea,</li> <li>• Neath Port Talbot</li> <li>• Bridgend</li> </ul>	<p><b>E-mail:</b>  <a href="mailto:swplanning@cyfoethnaturiolcymru.gov.uk">swplanning@cyfoethnaturiolcymru.gov.uk</a></p> <p><b>Postal address:</b>            Maes Newydd            Llandarcy            Neath Port Talbot            SA10 6JQ</p>
For projects in: <ul style="list-style-type: none"> <li>• Cardiff,</li> <li>• Newport,</li> <li>• Vale of Glamorgan,</li> <li>• Rhondda Cynon Taf,</li> <li>• Torfaen,</li> <li>• Monmouthshire,</li> <li>• Brecon Beacons National Park,</li> <li>• Blaenau Gwent,</li> <li>• Caerphilly,</li> <li>• Merthyr Tydfil</li> </ul>	<p><b>E-mail:</b>  <a href="mailto:southeastplanning@cyfoethnaturiolcymru.gov.uk">southeastplanning@cyfoethnaturiolcymru.gov.uk</a></p> <p><b>Postal address:</b>            Rivers House            St Mellons Business Park            St Mellons            Cardiff            CF3 0EY</p>
For projects in: <ul style="list-style-type: none"> <li>• Gwynedd,</li> <li>• Anglesey,</li> <li>• Conwy,</li> <li>• Denbighshire,</li> <li>• Flintshire,</li> <li>• Wrexham,</li> <li>• Snowdonia National Park</li> </ul>	<p><b>E-mail:</b>  <a href="mailto:northplanning@cyfoethnaturiolcymru.gov.uk">northplanning@cyfoethnaturiolcymru.gov.uk</a></p> <p><b>Postal address:</b>            Maes y Ffynnon            Penrhosgarnedd            Bangor            Gwynedd            LL57 2DW</p>
For projects in: <ul style="list-style-type: none"> <li>• Powys</li> <li>• Ceredigion</li> </ul>	<p><b>E-mail:</b>  <a href="mailto:northplanning@cyfoethnaturiolcymru.gov.uk">northplanning@cyfoethnaturiolcymru.gov.uk</a></p> <p><b>Postal address:</b>            Welsh Government Building            Rhodfa Padarn            Llanbadarn Fawr            Aberystwyth            Ceredigion            SY23 3UR</p>

For marine developments, please send requests to the most relevant Planning inbox(es)

## Annex 2: Definition of a Substantive response

The definition of a substantive response is set out in legislation, where it is defined as a response which either:

- (a) states that the specialist consultee has no comment to make;
- (b) states that the specialist consultee has no objection to the proposed development and refers the applicant to current standing advice by the specialist consultee on the subject of the consultation;
- (c) advises the applicant of any concerns identified in relation to the proposed development and how those concerns can be addressed; or
- (d) advises the applicant that the specialist consultee has concerns and that it 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

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