

‘You can’t legislate for a culture change’  
Obstacles to change in the planning inquiry process

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The research project; M4CAN Inquiry

Well-being of Future Generations Act 2015

Obstacles to change

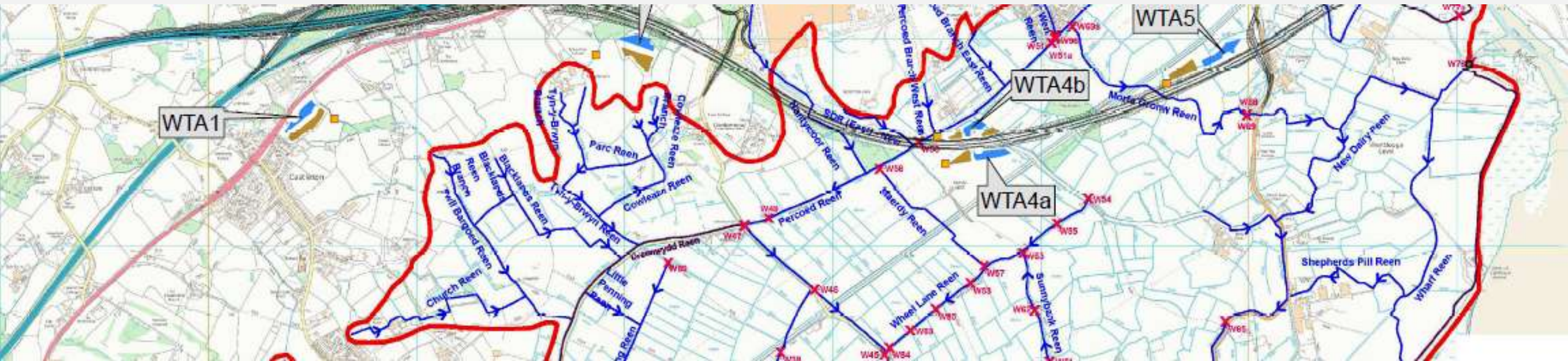
Obstacles in the Act

Obstacles in the process

Obstacles at the inquiry

# The M4CAN inquiry

- Major infrastructure project – estimated to cost between £1.27 and £2 billion
- Cut through four Sites of Special Scientific Interest (SSSIs) in the Gwent Levels
- Commenced in February 2017, closed in March 2018
- Welsh Government team led by Queen’s Counsel; presented evidence from 23 expert witnesses
- 47 other parties gave evidence - range of residents, interested parties, supporters and objectors
- Key objectors: Association of British Ports (ABP), Gwent Wildlife Trust (GWT), Natural Resources Wales (NRW)
- Highways inquiry, covered by the Highways (Inquiries Procedure) Rules 1994
- The inspector reported their recommendations to the First Minister, who made the decision.



# Well-being of Future Generations Act 2015

We hope that what Wales does today, the world will do tomorrow. Action, more than words, is the hope for our current and future generations.

Nikhil Seth, head of sustainable development, United Nations Development Programme

## *Influence beyond Wales*

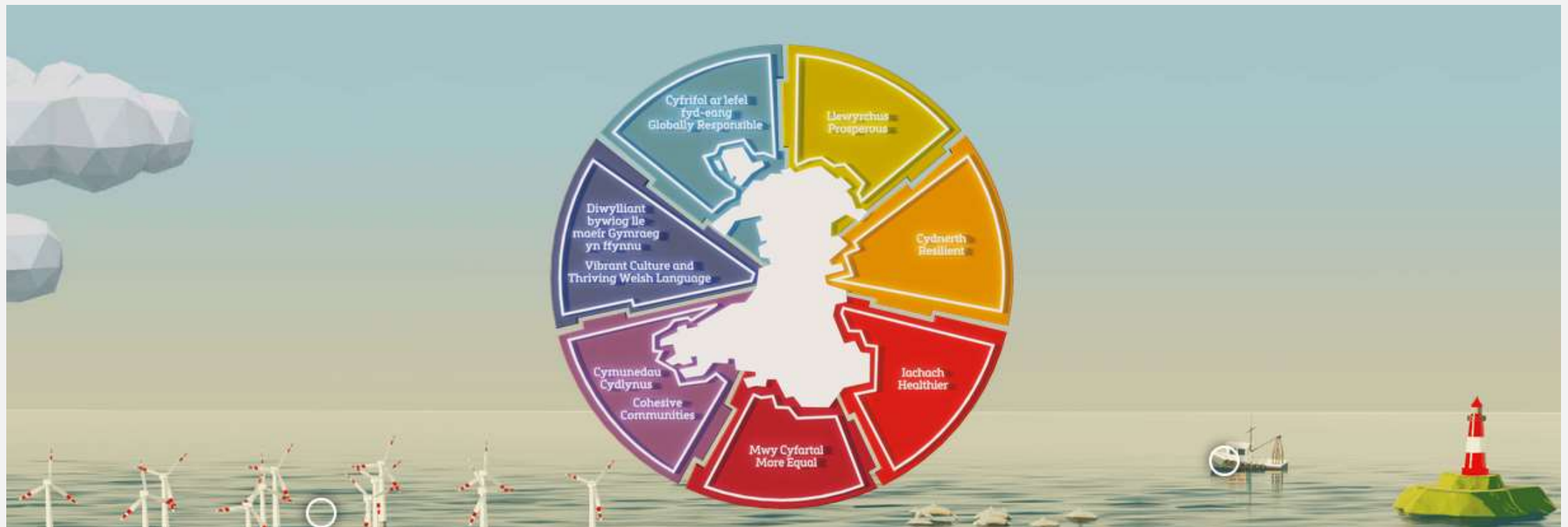
- UK Private Members Bill, being introduced by Caroline Lucas MP and Lord Bird
- Gibraltar, Sustainable Development and Future Generations Commissioner appointed in 2018
- September 2021, Scotland announced it was appointing a Future Generations Commissioner
- September 2021, UNSG endorsed a proposal for a Special Envoy for Future Generations
- United Arab Emirates, Well-being of Current and Future Generations Act under negotiation



We will: Exchange learning on progress towards implementation of the Sustainable Development Goals, including on legislating for sustainable development from Wales' 2015 Wellbeing for Future Generations Act and the development of indicators to measure sustainability and wellbeing.

‘Ireland-Wales shared statement and joint action plan 2021 to 2025’, March 2021

An Act of the National Assembly for Wales to make provision requiring public bodies to do things in pursuit of the economic, social, environmental and cultural well-being of Wales in a way that accords with the sustainable development principle; to require public bodies to report on such action; to establish a Commissioner for Future Generations to advise and assist public bodies in doing things in accordance with this Act...



# Obstacles to change in the Act

Because all this primary legislation that we were still working with requires us to advise very specifically, that's what we were focused on ... and that sort of wider consideration, because it's new legislation, those Welsh Government requirements haven't really been tested, and I guess this was a test ... [T]hat sort of wider ecosystem consideration – I had something in my evidence about that, but I was nervous of getting questioned on it.

NRW Coordinator, 8 November 2018

[The Act is] 'high-level soft law regulation', and there is as yet little clarity about how, if at all, this is intended to affect the decision making of so-called 'street-level bureaucrats', and how relevant these new duties on public bodies are to the work of most lawyers in Wales

Lewis 2017, in S Nason and H Pritchard, 'Administrative Justice in Wales' (2020) 47(2) JLS 262, 269

The Member has asked me about the Well-being of Future Generations legislation. I want to make it clear, Llywydd, that I read very carefully the evidence that was given by the Commissioner, and I read very carefully the way in which the QC, on behalf of the Welsh Government, responded to her interpretation of the Act. My own view is that it was not a reading of the Act that I heard expressed on the floor of this Assembly that proposals for development have to satisfy all seven goals and all well-being objectives, and that they have to do so equally across all the goals and the objectives. *It does seem to me inevitable that, in any plan for development, there will be some balancing between the different goals and the objectives that the Act introduces. I did not dissent from the view of the Inspector, therefore, that the requirements of the Act had been fairly represented by the Welsh Government* in the way that it presented its evidence on the Act to the Inspector.

04 June 2019 Mark Drakeford AM, First Minister of Wales (speech to Senedd on M4CAN decision)



# Obstacles to change in the process

- Act arrived late in the scheme timeline
- Planning process slow to change?



# Obstacles to change in the inquiry



**A Resilient Wales:** A nation which maintains and enhances a biodiverse natural environment with healthy functioning ecosystems that support social, economic and ecological resilience and the capacity to adapt to change.

‘The Act does not require that we put all life on hold...’



Thank you  
Go raibh maith agat  
Diolch yn fawr

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