



**Proposals for a new approach to delivering public transport  
infrastructure developments.**

**Consultation Response**

**General Comments**

Given the intention to create a less convoluted mechanism for the approval of public transport schemes the proposed process still seems to be very time consuming and bureaucratic. However, the proposed amendments to the process suggested by the Procedures Committee of the Scottish Parliament do go some way toward alleviating this. It is important to strike a balance between public scrutiny and accountability and practicality to ensure that public transport schemes do not suffer from excessive bureaucracy in comparison to roads schemes. The removal of the requirement to promote a private bill is intended to streamline the approval process and this objective should not be lost sight of.

There is a potential for conflicts of interest to arise where the Scottish Ministers are acting as a promoter and as a regulatory body through the Scottish Parliament. The proposal to maintain the affirmative Order process in these instances does little to alleviate this problem. In the event that Scottish Ministers are acting as a promoter it is suggested that the Order should be subjected to a more rigorous appraisal than the amended Procedures Committee proposals which remove the requirement for consideration of a proposal by the Scottish Parliament in order to ascertain the acceptability of its principles. It is suggested that where the Scottish Ministers are acting as promoter that the Scottish Parliament should be involved at 2 distinct stages to consider both the principles of the scheme and when seeking approval for the Order. This more robust process will demonstrate openness and commitment to impartiality as well as affirming to the public that the Scottish Ministers are not acting with vested interests with consideration of what is in the public interest being genuinely incorporated into the process.

**Question 1: Are there any other transport works beyond rail, tram, guided busways and inland waterway developments that should be within scope and if so why?**

It is agreed that these transport works should be included within the scope of this legislation however definitions of each should be clearly established. In particular, it will be necessary to ensure that any technological developments are not precluded from this process by the manner in which the legislation is phrased. This may be an issue, for example, in the construction of a high-speed public transport route using maglev technology which would not be

regarded as a traditional heavy rail scheme and therefore may fall outwith the scope of the legislation.

The process for implementing roads and public transport schemes should be consistent so that decisions regarding what option should be constructed are not prejudiced by the administrative process the scheme has to go through to gain approval for construction. As such, if it is more straightforward to build a road than a railway then it is possible that a road may be favoured as a result of this which undermines policy aspirations set by the Scottish Executive. However, that is not to say that roads should be subjected to a more onerous approval process but that public transport schemes should be subjected to a process of equal rigour to roads.

**Question 2: What reasons exist for lengthening or indeed shortening the 6 month minimum designated statutory pre-application period between the promoter publicising initial proposals and presenting an application for an Order to the Scottish Ministers?**

Rather than defining a period between initial publication of proposals and applying for an Order it may be more appropriate to define a statutory period for reaction to the publication of initial proposals. As the intention of these proposals is to speed up the process for approving public transport schemes a set period of 6 months could potentially delay the application for an Order where a proposal receives no adverse reaction when initially publicised. This would need to be complemented by a defined period, perhaps 2 years from publication of initial proposals, within which an application for an Order must be laid before Scottish Ministers to ensure promoters do not attempt to conceal controversial schemes by delaying application for an Order and to ensure the public is aware of the most up to date proposals being taken forward.

**Question 3: What process should apply to enable a promoter, without statutory right, to enter land to conduct preliminary investigations?**

In granting this right there would be a need to ensure that it is not abused. The issuing of a certificate each time this has to be undertaken is likely to lead to duplication of work as, in practice, a relatively small number of parties are likely to require this right. As such, a more desirable resolution could involve the Scottish Executive maintaining a register of bodies without this statutory right which have demonstrated themselves to be suitable to enter land for this purpose. Organisations could then apply to be included upon this register with each organisation requiring to re-apply for membership after a given time period, perhaps 5 years, in order to ensure their continuing competency for this task.

**Question 4: What documentation should be supplied by the promoter in support of the application? Is there sufficient information contained within the proposals?**



The proposed documentation is appropriate. It would be desirable if templates were provided for this documentation in order to ensure consistency in their presentation and style.

**Question 5: What are the implications of reducing the time period for objections from 60 to 42 days?**

The implications of reducing the objection period from 60 to 42 days is that road and public transport schemes will be on an equal standing and therefore consistency of approach is achieved. Given that there are not deemed to be any problems with the objection period for roads schemes it seems appropriate that this period be adopted for public transport schemes as well.

**Question 6: Are there any reasons why, once the Scottish Ministers have determined that the application meets the procedural conditions and the specified criteria conditions, that the application should be considered by the Scottish Parliament prior to a public examination of the objections?**

It is agreed that consideration of a proposal by the Scottish Parliament at the preliminary stage is not necessary and could cause unnecessary delay to the process. It is felt that consideration and approval by the Scottish Ministers at this time is sufficient except in circumstances where the Scottish Ministers are acting as a promoter as detailed above. However, in the event that the conclusions of the Scottish Ministers and the promoter differ and a solution cannot be negotiated it may be appropriate to have the Scottish Parliament cast the deciding verdict to allow the scheme to be progressed, revised or dropped.

**Question 7: Are there any reasons for extending Parliamentary consideration and approval of projects beyond those contained within the NPF? Do you agree that it should also be possible for the Scottish Ministers to designate transport related projects not in the NPF for Parliamentary consideration should they see fit?**

It is slightly concerning that the National Planning Framework is to be the definitive document determining nationally significant transport schemes rather than the National Transport Strategy. However, if this is to be the case it is agreed that some schemes outwith the NPF will also need to be considered by the Scottish Parliament. In order to avoid confusion a procedure should be established that determines at what stage a scheme may be designated as requiring consideration by the Scottish Parliament so promoters are clear with regard to the process they have to undergo. This should be determined at the earliest possible stage, perhaps when a promoter lodges an application for an Order.

