



The Scottish
Parliament

Procedures Committee

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Dear Mr Cruickshank

Consultation: Proposals for a New Approach to Delivering Public Transport Infrastructure Developments

I refer to the above consultation published on 24 February and to which I am responding on behalf of the Procedures Committee, following discussion at the Committee's meeting today.

As you know, the proposed Transport and Works Bill is intended to give effect to the main recommendation of the Committee's 4th Report, 2005, *Private Legislation*, for a new statutory system for handling applications for private legislation. The Committee recommended as a model for the Bill what we described as "TWA-plus" – i.e. based on the system provided for England and Wales by the Transport and Works Act 1992, but with additional parliamentary scrutiny and oversight.

In the consultation paper, the Executive argues for some departures from the model proposed by the Committee, particularly in relation to the Parliament's role. Specifically, the consultation paper argues:

- that the 4th step in the process outlined in the Committee's report, "initial Parliamentary consideration" should be dropped – on the grounds that requiring Parliamentary approval before an application can proceed to a full public inquiry would duplicate work and create delay (paragraph 4.39);
- that the 6th step in the process, "final Parliamentary approval", should be the same for orders promoted by the Executive itself as for orders promoted by third parties – i.e. that it should involve the normal affirmative resolution procedure and not the "super-affirmative" procedure proposed by the Committee (paragraph 4.53); and

- more generally, that only applications for projects of “national strategic importance” would require formal Parliamentary approval either at step 4 or step 6 of the process (paragraph 5.2).

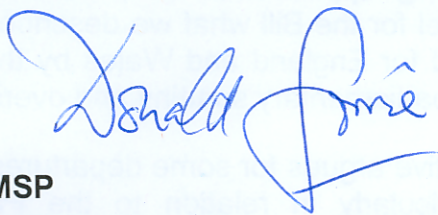
We consider that, taken together, these amount to a substantial reduction in democratic oversight in the proposed process, moving it back from the “TWA-plus” model that we recommended towards the model of the 1992 Act (the “TWA” model). We do not see how this will fulfil Ministers’ own expectations, as expressed to the Committee in February last year, for a process involving “parliamentary scrutiny and approval at key points” (cols 792, 795).

So far as initial Parliamentary consideration is concerned, we recognise that some major transport projects might already have been subject to Parliamentary scrutiny in principle within the context of the National Planning Framework to be established by the Planning etc. (Scotland) Bill. However, we do not consider this an adequate substitute for the requirement for formal Parliamentary approval, on a Ministerial motion, recommended in our preferred model.

On the question of final Parliamentary approval, we note that the then Minister for Transport, in evidence to the Committee, recognised as one of two main benefits of Parliamentary involvement that it provided “an element of independence from the Executive in terms of scrutiny of proposals, particularly if a scheme is promoted and largely funded by the Executive” (col 794). We agree that such independence is important, and we are therefore puzzled as to why the Executive does not support the additional safeguards proposed in the model for cases where the Executive is acting as promoter.

I trust these views will be fed into the consultation process and will be taken into account before the Bill is finalised for introduction.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Donald Gorrie', with a stylized flourish at the end.

Donald Gorrie MSP
Convener