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## Environment and Infrastructure

**Director: Brian Davidson, BSc., CEng., M.I.C.E..**

### Infrastructure

4th Floor, Burns House, Burns Statue Square, Ayr KA7 1UT

Tel: (01292) 616372

Fax: (01292) 616367

Email: [graeme.dodds@south-ayrshire.gov.uk](mailto:graeme.dodds@south-ayrshire.gov.uk)

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If phoning or calling please ask for: Mr Graeme Dodds



For the attention of Tony Cruickshank  
TWA Consultation  
Transport Strategy and Legislation Division  
2D-Dockside  
Scottish Executive  
Victoria Quay  
EDINBURGH  
EH6 6QQ

Dear Sirs

### **PROPOSALS FOR A NEW APPROACH TO DELIVERING PUBLIC TRANSPORT INFRASTRUCTURE DEVELOPMENTS**

Thank you for your letter of 24<sup>th</sup> February 2006 inviting us to take part in the consultation on the above proposals.

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 would be preferable to have all major transportation infrastructure projects subject to the same process. In this respect, we concur with spirit of paragraph 4.8 in terms of maintaining the orders process under the Roads (Scotland) Act 1984 but subjecting it to final parliamentary approval. We agree that bringing nationally significant harbour developments into the same process should be a goal, but not at the expense of delaying the implementation of this process. The other major area to be considered would be air transport infrastructure. We recognise that much of the legal regulation of this sector is a reserved matter, however it would be preferable to have the implementation of major schemes to be subject to this process. As with harbours however, we would not be in favour of delaying the implementation of the overall process to achieve this at day one. These issues could perhaps be brought into the process at a later date.

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?

The length of time for the publicity/Order stage needs to be considered in relation to the objection time period. We consider that the pre-application period should be where the majority of work supporting the scheme is carried out, with the benefit of input from the stakeholders informed through the publicising of initial proposals. It is therefore clear that this



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period needs to be long enough to ensure that this is the case, and that promoters do not feel time constrained to the point where large parts of the scheme development are carried out prior to the scheme being put into the public domain. If scheme development takes place too early, then there may be little opportunity to design the scheme in light of consultations, leading to a greater number of objections at that stage. We therefore consider that the current 6 month minimum period is a pragmatic and realistic position. We would not support the shortening of this period, but would not object to a lengthening of it if that was a consensus view.

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

We consider that the key issues in relation to this will be at what point this access right should be applicable in the process, what rights will be conferred, who shall confer those rights and what status the information or data gathered will have. We consider that the right to access should be able to be conferred prior to the publicising of initial proposals to allow the adequate development of these. The rights to be conferred should be adequately detailed, such as invasive or non-invasive surveys, and times of access should be subject to consultation with the landowner. In terms of who shall confer these rights, it is our view that these should be subject to authorisation by both the Scottish Ministers and the Local Planning Authority to provide adequate balance in the case where either is acting in the role of promoter. We would also note that the information and data gained during this process should be subject to restrictions in terms of its use. It should only be used by the promoter for the design and promotion of the scheme that is the subject of the Order. The promoter should not be able to pass, sell or otherwise dispose of this data to a third party, without the agreement of the landowner.

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 list in section 4.22 we believe is good basis. We would consider that the promoter should also specifically be required to produce a STAG Part 1 and Part 2 assessment to support the Order.

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

As noted in our answer to Question 2, consideration of the time required for the objection period needs to be considered in tandem with the minimum period between initial consultation and lodging of the Order. Although consultations are likely to have taken place, the first time that the detailed implications of the scheme will be in the public domain are at the time of submission of the draft order to Ministers. Having had a significant period to design the scheme, there does appear to be an imbalance in the time permitted to objectors. In considering what this time period should be, we have considered that the core functions that an objector will require to carry out are to (i) study the order, (ii) obtain rebuttal information and (iii) formulate and submit their objection. Given that many objectors are likely to be undertaking this on a part-time basis, we do not consider that the proposed reduction in the objection period to 42 days is appropriate. We would also note that there may be a case for lengthening the 60 day period, but we consider it to be adequate.

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

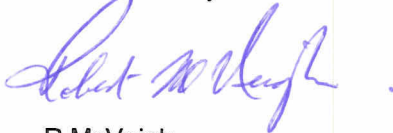
application should be considered by the Scottish Parliament prior to a public examination of the objections?

It will be important to distinguish between the roles of the Scottish Ministers and the Scottish Parliament. In this respect, we consider that the Scottish Ministers should be able to initiate the detailed consideration stage once they have determined that all the necessary procedural steps have been taken. We would note however that there should be a formal requirement to report this to the Scottish Parliament.

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 other transport related projects not in the NPF for Parliamentary consideration should they see fit?

We consider that it is essential that the Scottish Ministers are able to designate non-NPF transport projects for parliamentary consideration. The NPF does not at present give sufficient detail at a project level to restrict the parliamentary process to matters given consideration in this document. In addition, the process should be responsive to need and not be subject to restrictions based on another process.

Yours faithfully



R McVeigh  
TRANSPORTATION MANAGER