

# The Institution of Environmental Sciences

The professional body for environmental scientists  
President: His Grace the Duke of Westminster OBE TD DL



PO Box 16  
BOURNE  
PE10 9FB

Telephone & Fax: +44 (0) 1778 394846  
E-mail: [ies-uk@breathemail.net](mailto:ies-uk@breathemail.net)  
Web site: <http://www.ies-uk.org>

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## CONSULTATION PAPER

### NEW PROCEDURES FOR PROCESSING MAJOR INFRASTRUCTURE PROJECTS

#### COMMENTS FROM THE INSTITUTION OF ENVIRONMENTAL SCIENCES

##### Introduction

1. This note contains the comments of the Institution of Environmental Sciences on the above Consultation Paper issued by the Department of Transport, Local Government and the Regions (DTLR) in December 2001.
2. We welcome the invitation to contribute on the issues raised by the proposals for processing major infrastructure projects. This is a significant issue. It raises issues of local democratic rights and matters of national economic well-being. We support the emphasis on minimising delay and reducing uncertainty, as long as accountability and democratic principles are ensured. It is vital that this proposal is considered carefully.
3. The structure of our note follows the ordering of the Consultation Paper. As relevant we have referred to the paragraph numbers in the Consultation Paper, and in general we have only commented upon key issues.

##### Scope

4. We support the principle that the Secretary of State for DTLR (or equivalent) should have the discretionary power to decide that a major infrastructure project be subject to the proposed new Parliamentary procedures (para 10). The alternative may require a more mechanistic approach that, on the one hand, may slow down the process by including 'inappropriate' projects, or, on the other hand, fails to pick-up projects that may fall outside a specified list of infrastructure projects.

5. In terms of the approach in support of this discretionary power (para 11), we believe that the Secretary of State should have the ability to designate from an agreed list of project types – along the lines of those specified in Annex C of the Consultation Paper, and on which we have commented previously. Consistent with our support for the principle of discretionary power raised in point 4 above, it is important that the ability exists to amend the scope of the list if future circumstances dictate.

### **Designating a Project**

6. The proposal to repeal section 9 of the Transport and Works Act (1992) appear sensible, if these powers are to be incorporated into the new Procedures. We therefore have no objection to this proposal.
7. We would support the proposal that a formal process of applying to the Secretary of State for designation of projects should **not** be developed (para 17). There should be sufficient mechanisms for identifying potential projects that should be designated.
8. We would, in principle, support the proposal that the Secretary of State should not be required to consult on the exercising of the powers under this new procedure (para 18). However, it is important that mechanisms exist for ensuring that the selection of projects accords with the range of discretionary powers that the Secretary of State has. These matters should be clarified at the outset of any proposal to exercise the new procedural powers in order to prevent judicial reviews or equivalent at a later stage, which would create the types of delay the procedures are intended to prevent.

### **Terms of Reference**

9. It is right and proper that Parliament approval for a project is in principle only – rather than approval of planning permission (para 20). We would also accept that the final decision on approving the project, following the public inquiry, rests with the Secretary of State. We would recommend that the Secretary of State be required to give reasons for approval or rejection of a project.

### **New Parliamentary procedures**

10. We accept that it will be a matter for each House to decide on arrangements for examining projects (para 25 and 30). However, we would strongly support the use of specialist cross-party committees to scrutinise the proposals in detail and then report matters to the House. We would also strongly advocate that decisions on the projects should be on the basis of an open vote in the House.

11. The ability of individuals and organisations to make representations on projects subject to the new procedures is vital (para 27). We have no objections to the mechanisms laid out in the Consultation Paper for achieving this. We would recommend, however, that representations to Parliament (via the Secretary of State or other route) should be permissible by **all** individuals and organisations, rather than 'those affected' by the proposal. The definition of 'those affected' can prevent those with a genuine interest and concern from being represented, and by their very nature the projects under consideration are likely to be of national significance and thus affect all people. This level of representation should not be extended to the public inquiry, which should follow the revised procedures laid out elsewhere.
  
12. The ability of the Secretary of State to prescribe a timetable for the subsequent public inquiry on a project is likely to be a helpful mechanism (para 32). However, although paragraph 22 of the Consultation Paper indicates that the Secretary of State would "make his decision as quickly as possible", we believe the Secretary of State should also be subject to a timescale for issuing a decision following the public inquiry. We recommend that a decision by the Secretary of State should be issued within 120 days of receipt of the Inspectors Report.