

## Infrastructure 21, Network Rail

---

Senedd Cymru | Welsh Parliament

**Pwyllgor Newid Hinsawdd, yr Amgylchedd a Seilwaith | Climate Change, Environment, and Infrastructure Committee**

Bil Seilwaith (Cymru) | Infrastructure (Wales) Bill

Ymateb gan Network Rail | Evidence from Network Rail

---

### General principles

#### **What are your views on the general principles of the Bill, and is there a need for legislation to deliver the stated policy intention?**

---

Network Rail are generally supportive of the general principles of the Bill subject to certain provisions and inclusions to ensure that powers afforded to NR under other legislation, including but not limited to The Town and Country Planning (General Permitted Development) Order 1995 and Transport and Works Act 1992 are not undermined.

We welcome the opportunity for an Infrastructure Consent to deliver timely and effective delivery of major infrastructure and low carbon development with the simplified and efficient consenting procedures.

Network Rail is afforded powers under Part 11 and Part 17 of the Town and Country Planning (General Permitted Development) Order 1995 to carry out works to the railway, and routinely uses these powers to deliver infrastructure projects. It is imperative for the effective and efficient delivery of Rail projects that the implementation of an Infrastructure Consent does not undermine these powers, and we support the exemption afforded within the draft Bill the exempts work considered permitted development.

#### **What are your views on the Bill's provisions (set out according to parts below), in particular are they workable and will they deliver the stated policy intention?**

##### **Part 1 - Significant infrastructure projects**

---

This section of the Bill defines the meaning of a significant infrastructure projects and refers to the various infrastructure that would fall under this. Network Rail agree with the meaning of significant infrastructure projects. Of interest to

---

Network Rail is chapter 8, Transport, with specific reference to points 1(d) and 2(d) which refer to railways.

Network Rail have no comments with regards to the indicated SIP definitions for either the construction or alteration of an existing railway. However, it is fundamental that works considered permitted development, under either Part 11 or Part 17 of the GPDO, is a fundamental element for the timely and efficient delivery of rail projects.

Whilst this only applies to a railway entirely constructed within Wales, such works would be equal or equivalent to undergoing the DCO regime whereby Network Rail seek protection from the exercise of compulsory purchase powers over operational land, either for permanent or temporary purchases.

### **Part 2 - Requirement for infrastructure consent**

---

Part 2 under section 2b refers to development that may not be authorised by (b) an order under section 1 or 3 of the Transport and Works Act 1992 (c. 42) (orders as railways, tramways etc) to railways, tramways, inland waterways etc.) when infrastructure consent is required.

Network Rail would highlight that the IC process should not reduce the scope or efficiency of consenting in comparison to a TWAO.

Network Rail consider there is a risk regarding schemes that will not require IC due to the PD rights afforded, however Network Rail may still use consenting through TWAOs to cover other elements of a scheme. Network Rail would request that any implementation for the IC process does not undermine the opportunity to continue to use the TWAO process to secure consent for elements of a wider scheme, or schemes were a proportion of the wider scheme may not be considered permitted development.

### **Part 3 - Applying for infrastructure consent**

---

Network Rail have no comment to make on the procedural process outlined in the Bill.

Under section 37(1b), Network Rail will often seek protection from the exercise of compulsory purchase powers over operational land either for permanent or temporary purposes. Network Rail is prepared to discuss the inclusion of Network Rail land or rights over land subject to there being no impact on the operational railway, all regulatory and other required consents being in place and appropriate commercial and other terms having been agreed between the parties and approved by Network Rail's board.

---

#### **Part 4 - Examining applications**

---

Network Rail understands this section of the regulations to be regarding examining applications and their determination, and the procedure that will be followed with reference to inquiry and hearings. Network Rail have no comments to make on this section.

#### **Part 5 - Deciding applications for infrastructure consent**

---

Network Rail understands this section of regulations to refer to deciding of applications for infrastructure consent in accordance with Infrastructure Policy, the National Development Framework for Wales, and any Marine plan. This section of the Bill also refers to time frames for applications and the granting or refusal of infrastructure consent and the regulatory procedures that are to be followed. Network Rail have no comments to make on this section.

#### **Part 6 - Infrastructure consent orders**

---

Part 6 looks at the specific limitations and powers of the consent order and the provision in orders authorising compulsory acquisition.

Section 63 of the bill is in relation to an Infrastructure Consent order that includes provision of authorising the compulsory acquisition of land. Network rail has concerns regarding statutory land being included in the compulsory purchase and would look to protect our assets for railway interests.

Section 70 refers to Public Rights of way and the regulations the infrastructure consent order must follow for extinguishment. Network Rail usually pursues the route of PROW closure through a TWAO which is closed under the Highways Act. It is important that safety is included in the consideration of closure especially in relation to level crossing use.

Section 72 refers to the extinguishment of rights and removal of apparatus of statutory undertakers which paragraph 6 refers to as those deemed statutory for the purpose of any provision of part 11 of the Town and Country Planning Act 1990. This includes railway undertakers.

This would be of relevance to Network Rail when constructing a railway. The order includes the provision of the extinguishment of the relevant right or relevant restrictive covenant, or the removal of the relevant apparatus, only if the Welsh Ministers are satisfied that the extinguishment or removal is necessary for the purpose of carrying out the development to which the order relates. Network Rail wish to protect our undertaking and land interests and request Welsh

---

Government consider an appropriate mechanism in any subsequent legislation for the continued protection of railway statutory undertakers land and interests.

### **Part 7 - Enforcement**

---

This section of the regulations refers to offences and unauthorised development. Network Rail has no comments to make on this section of the Bill.

### **Part 8 - Supplementary functions**

---

This section of the bill refers to statutory consultees and the power to consult and duty to respond to consultation. This part of the Bill would apply for development that would affect Network Rail land or assets whereby Network Rail would provide a response within the statutory time frame specified by the regulations. Network Rail would request we are identified as a statutory consultee in the IC process for schemes where we are neighbouring land or for works that may impact on our assets which include but is not limited to, the change in use of level crossings, stations, and bridges and the railway.

### **Part 9 - General provisions**

---

This section of the Bill refers to General Provisions including general interpretation of terms and requirements in which Network Rail has no comments to make.

### **What are the potential barriers to the implementation of the Bill's provisions and how does the Bill take account of them?**

---

Network Rail has no comments.

### **How appropriate are the powers in the Bill for Welsh Ministers to make subordinate legislation (as set out in Chapter 5 of Part 1 of the Explanatory Memorandum)?**

---

Network Rail has no comments.

### **Are any unintended consequences likely to arise from the Bill?**

---

Network Rail would like to reiterate the importance of not undermining any powers afforded through the GPDO, or the separate use of TWAOs on schemes not considered SIPs, or schemes where a proportion of a project requires planning permission, while the wider scheme is exempt from IC due to permitted development rights.

### **What are your views on the Welsh Government's assessment of the financial implications of the Bill as set out in Part 2 of the Explanatory Memorandum?**

---

Network Rail has no comments.

**Are there any other issues that you would like to raise about the Bill and the accompanying Explanatory Memorandum or any related matters?**

---

Network Rail has no comments.

---