



# Abolition of the Infrastructure Planning Commission - What now for the rail industry?

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As widely expected, the Coalition Government has announced that they are to abolish the Infrastructure Planning Commission (IPC), set-up by the previous Government last year.



## Major Infrastructure Planning Unit

Full details of the Government's proposals are not yet available, but what they have confirmed is that a dedicated system to consider large scale infrastructure projects will be retained through the creation of a Major Infrastructure Planning Unit (MIPU). Whereas the IPC is an independent standalone body, the MIPU is to be a specialist unit within the Planning Inspectorate. The Government have also confirmed that the MIPU will not have the power to determine applications, and will only be able to consider and make recommendations to the Secretary of State. This change is to address concerns over the lack of democratic accountability within the IPC system.

The National Planning Statements (NPS) are also to be retained. The NPS's set out the planning basis for various types of development and are the tool used by the IPC to

assess applications. The Coalition Government have confirmed that the draft energy and ports NPSs, on which consultation has already taken place, will now be subject to scrutiny in both Houses of Parliament rather than simply being signed off by the relevant minister. The NPS on National Networks (which covers road and rail) was due to be published in early 2010 but was delayed by the general election. No indication of when the draft NPS will be available has been provided as yet by the new Government. The Government has, however, confirmed that it is to produce a National Planning Framework consolidating planning policy at a national level.

## Rail Schemes

One of the key benefits of the IPC is that it provides a "one stop shop", enabling applicants to obtain all the consents required for a scheme, such as compulsory purchase orders, stopping up of highways and planning permission, within a single Development Consent Order. This is particularly useful for schemes that involve a number of different consents, such as rail freight developments. The previous Government's aspiration was that all rail projects would be consented under the IPC process. Before the election the Conservatives stated that their preference was for major linear transportation projects to be dealt with by way of a Parliamentary Hybrid bill, as was done with Crossrail. It was proposed by the Conservatives that a Hybrid Bill could be used as the mechanism for delivering HS2. However, it is not clear if that approach is to be limited to schemes of the scale of HS2, or if it is seen as having a wider role. Whilst Hybrid Bills may be acceptable for the very large schemes, they are unlikely to be suitable for smaller schemes that involve a number of different uses.

The one stop shop approach under the IPC (which was previously available for transport projects under the

Transport & Works Act regime) is widely regarded as a key benefit of the new system as it simplifies and speeds-up the consenting process. The indications are that the MIPU will retain this power and it should be hoped that that is the position. However, this will clearly depend on the view ultimately taken by the new Government.

### Timetable for change

The Coalition Government have confirmed that primary legislation will be used to abolish the IPC and establish the Major Infrastructure Planning Unit. The timetable for this has not been made public although it is expected to happen within the next 12 to 18 months. In the meantime, the IPC will continue to operate as normal and accept applications. It appears likely that 40 applications will be received in the next 12 months, though very few are expected to be rail.

Any change in the consenting regime will always produce concerns over delays and unnecessary expense in having to repeat work to ensure compliance with the new regime. The Government have sought to reassure applicants by confirming that transitional arrangements will be put in place to ensure that applications under active consideration by the IPC at the time it is abolished will continue through to the MIPU without having to restart the process. Whilst the Government is keen to minimise the effect of its changes, developers thinking of bringing forward rail freight schemes will need to be live to the issues as they emerge and ensure their applications are future proofed so as to avoid delays and additional work.

### Burges Salmon

Burges Salmon are currently advising on a range of IPC applications as well as providing advice to developers on the implications of the new regime. We would be happy to discuss any aspects of the Government's proposals and what they mean in practice.

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