This document relates to the Waverley Railway (Scotland) Bill (SP Bill 8) as introduced in the Scottish Parliament on 11 September 2003

WAVERLEY RAILWAY (SCOTLAND) BILL

PROMOTER’S MEMORANDUM

INTRODUCTION

1. This document relates to the Waverley Railway (Scotland) Bill introduced in the Scottish Parliament on 11 September 2003. It has been prepared by the promoter, Scottish Borders Council, to satisfy Rule 9A.2.3(b) of the Parliament’s Standing Orders. The contents are entirely the responsibility of the promoter and have not been endorsed by the Parliament.

2. Explanatory Notes and other accompanying documents published by the Parliament are available separately as SP Bill 8–EN. That document contains details of the accompanying documents published by the promoter, and where those documents may be inspected or purchased.

OBJECTIVES OF THE BILL

3. The principal objective of the Bill is to give the promoter statutory authority to construct a railway between a point in Midlothian immediately south of Newcraighall and Tweedbank in the Scottish Borders, largely along the route of the former Waverley railway. In connection with these works the Bill also provides for the closure of some roads and footpaths that cross the route and the construction of various ancillary works along the route as necessary to accommodate the railway. Provision is also included for the compulsory acquisition of land for the scheme, including land for new stations at Shawfair, Eskbank, Newtownrange, Gorebridge, Galashiels and Tweedbank which will be constructed as part of the scheme.

BACKGROUND

4. Scottish Borders Council does not have the necessary statutory powers to construct the railway line.

5. The construction of new rail infrastructure projects requires specific statutory authorisation. (This is needed so as to give statutory sanction to what could otherwise be a public or private nuisance and as the only means of authorising compulsory purchase of the land required for the railway.) Before devolution, railways in Scotland were authorised by means of provisional Orders made under the Private Legislation Procedure (Scotland) Act 1936 (c.52) but the 1936 Act no longer applies to “the promotion and construction of railways which start, end and remain in Scotland”\(^1\). The Parliament has not prescribed any special procedure for

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\(^1\) The Scotland Act 1998 (Modifications of Schedule 5) Order 2002 (SI 2002/1629 (S.5)), article 2(a).
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authorising such railways and so they must now be authorised by a private Bill in the Scottish Parliament.

6. The major part of the former Waverley railway was originally constructed pursuant to the Edinburgh and Hawick Railway Act 1845. There are a further approximately 72 private Acts affecting some aspect of the former railway. These Acts authorised the Edinburgh and Hawick Railway Company and other companies to construct, maintain and alter the former railway and also contained compulsory purchase powers, rights of access, and similar details of and powers. The railway having been closed in 1969, it has legally ceased to exist and (although not specifically repealed) none of the authorising Acts still has effect.

7. The Bill, when passed, will effectively grant outline planning permission for the works it authorises. The legal basis for this is contained in article 3 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (S.I. 1992/223) which grants planning permission for the classes of development specified in Schedule 1 to the Order. Class 29 in Part 11 specifies development authorised by (among other legislative instruments) an Act of the Scottish Parliament. The extent of the permission granted is restricted in the ways described in class 29 and the permission given by article 3 is subject to the requirement for environmental assessment.

8. The procedure leading to the passing of the Private Act ensures that there is a full environmental impact assessment of the proposals, that there is a public consultation exercise before the Bill is submitted to the Parliament, that there is an opportunity for interested or affected members of the public to make representations to the Parliament for and against the proposals, and that all these issues are examined and properly adjudicated upon by Members of the Scottish Parliament (MSPS).

9. To further understand the reasons for promoting the Waverley railway, which in turn necessitates the Bill, it will be helpful to explain the nature of the scheme and the rationale for the development.

THE RAILWAY SCHEME

10. The Waverley railway route re-opening scheme lies within the local government areas of Midlothian and Scottish Borders. The scheme will provide a railway approximately 49.2km in length between a point in Midlothian just south of Newcraighall and Tweedbank in Scottish Borders. It will reintroduce a major feature of the railway network in that area that disappeared as the result of the Beeching closures in the 1960s.

11. The new railway will provide a passenger service. It will restore a public transport link that has been lacking since the railway was closed. Buses have not provided an alternative to a railway service with the result that access to the area is difficult. This has left the area cut off from sources of employment. Meanwhile, Edinburgh continues to call on the labour market. The scheme is intended to provide a public transport link from the Borders, through Midlothian to Edinburgh and beyond, serving settlements along the route

12. The scheme is being promoted as the best way to achieve the following objectives:
to enable ready access to Edinburgh’s buoyant labour market for workers living in the area to be served by the railway;

• to provide an incentive to inward investment in the area;

• assisting the City of Edinburgh to manage its demand for housing by spreading commuter pressure southwards – the railway is essential to prevent such movement resulting in longer car commuting journeys;

• helping to improve accessibility of the Borders as a "connected place", thereby increasing the attractiveness of the area as a location for business investment;

• to increase the potential for future commuter trips to Edinburgh to be made by public transport rather than by car and therefore reducing the projected increase in congestion, particularly in the southern approaches to Edinburgh;

• the promoting of accessibility to and from the Borders and Midlothian to the capital (including the airport) and the Central Belt;

• stimulating new housing development and assisting in the growth of Borders population including the reversal of the ageing trend of the present population;

• increasing local spend in the Borders to increase the vibrancy and sustainability of the community; and

• assisting with the retention of population in the Borders by providing efficient transportation, allowing for commuting, to remove the need for those affected by job losses relocating outwith the area to obtain new employment.

The scheme proposed in the Bill is the only means of achieving all these objectives.

13. Scottish Borders Council is promoting the Bill as a member of the Waverley Railway Partnership which comprises representatives of Scottish Borders Council, Midlothian Council, City of Edinburgh Council, and Scottish Enterprise, who all fully support the Bill. The Partnership is advised by Network Rail and Scotrail, who also support the scheme.

FIT WITH NATIONAL AND LOCAL TRANSPORT POLICY

14. The Scottish Executive’s Transport Delivery Report (TDR) published in March 2002 sets out the Executive’s vision for transport delivery stretching over the next 10 years. It highlights the challenges facing transport in Scotland (particularly the predicted 27% rise in road traffic over the next 20 years) and action to face those challenges and stabilise road traffic at 2001 levels by 2021. The TDR highlights the Executive’s policy of providing a package of alternatives to the private car and to road-borne freight.

15. The TDR sets out 10 priorities for delivery including the reinstatement of the rail link between Edinburgh and the Borders as part of a package of rail improvements to increase capacity and services on the rail network in Scotland. The new railway would offer new opportunities for residents in Midlothian and Scottish Borders to commute by rail to Edinburgh and would open up the area to inward investment. Linked with Edinburgh’s vacancy rate,
unemployment rates in Midlothian and Scottish Borders make this especially desirable. In addition, traffic congestion will be reduced.

16. These dual objectives have been stressed by the promoter and each of the two supporting councils in published policies. These are summarised in paragraphs 17 to 27 below.

**Edinburgh and the Lothians Structure Plan 2015**

17. The finalised Structure Plan defines the long-term vision for the development of land in Edinburgh and the Lothians for the period to 2015, focusing on a need to integrate land use and transport.

18. The Lothian councils have joined with five neighbouring councils to form SESTRAN, a regional transport partnership for south east Scotland. The City of Edinburgh Council, working with the Scottish Executive and SESTRAN, has developed a transport investment package involving major improvements to public transport. This is reflected in the key transport investment proposals set out in table 5.1 of the Structure Plan. The Waverley rail route is identified as a safeguarded key transport investment proposal in this table and under policy TRAN1. This is in accordance with the developing regional integrated transport strategy being developed by SESTRAN which will include the Waverley railway project. Both the development strategy of the Structure Plan and the action plan that accompanies it, highlight the importance of the Waverley route. The development strategy identifies the A7/A68/Waverley line as a core development area on the basis of the potential for enhanced accessibility, including the re-opening of the rail line. A new settlement is to be considered to the west of Gorebridge but is dependent upon a funding commitment to the Waverley rail line project. The aims of the 2015 Structure Plan will be implemented through a review of the Midlothian and Shawfair local plans. The Waverley line will form the focus of the site selection of housing and economic sites to meet the Structure Plan development strategy requirements, as a means to reduce out-commuting by Midlothian residents. The development strategy cannot go ahead unless key transport projects including the Waverley line are delivered.

**The City of Edinburgh Council Local Transport Strategy**

19. The City of Edinburgh Council’s Local Transport Strategy sets out an overall vision for Edinburgh’s transport for the next 20 years, and details the Council’s policies and proposals for transport in and around Edinburgh between 2001 and 2004. The main aims are to:

- improve safety for all road and transport users;
- reduce the environmental impacts of travel;
- support the local economy;
- promote better health and fitness;
- enhance social inclusion; and
- maximise the role of streets areas where people can meet, and shop and, in appropriate circumstances, children can play.
20. The Council aims to create a public transport system of the highest quality with affordable fares, comfortable vehicles, high quality, bus stops stations and interchanges, competitive journey times, integrated ticketing, and comprehensive information for travellers. A better public transport system is fundamental to the Council’s Local Transport Strategy. This includes the following long term public transport improvements:

- the building of a light rapid transport system for the city;
- improvements to the rail system, including increased frequencies on local services, the re-opening of the south suburban railway line, and the Waverley line to the Borders; and
- improved bus service frequencies with more buses at off-peak times, including evenings and weekends.

**Local Transport Strategy for Midlothian 2001-2004**

21. The Local Transport Strategy defines the aims and objectives of the Council for the future of travel in Midlothian and identifies the proposals that will contribute towards the long term vision for Midlothian covering the period up to 2020. The vision for transport in Midlothian is based upon a number of key principles, including a rail service linking both the principle towns of Dalkeith and Penicuik with Edinburgh. This to include the extension of this rail service to meet the needs of such towns as Gorebridge, Loanhead and Newtongrange and park and ride facilities offering quality interchanges for Midlothian residents and those travelling through the area to Edinburgh.

22. In view of these principles, and in accordance with other statutory policies, the Local Transport Strategy sets out the following proposals:

- the Council transport strategy proposal tsp5 is committed to the provision of quality public transport at frequencies likely to increase patronage and to the provision of cost effective public transport information for all. Integrating ticketing will form a key objective;
- the Council transport strategy proposal tsp6 supports the re-opening of rail services within and outwith Midlothian, where these can be shown to benefit the community;
- the Council transport strategy proposal tsp7 is committed to recognising the needs of the car user and providing for them suitable interchange facilities to encourage modal shift to more sustainable transport;
- the Council transport strategy proposal tsp11 supports initiatives aimed at reducing traffic and, in this context, will explore the provision of park and ride facilities to achieve this in association with SESTRAN and neighbouring authorities.

**Scottish Borders Structure Plan 2001-2011**

23. The Scottish Borders Structure Plan approved September 2002 is primarily concerned with strategic land use and transportation issues. Together with the accompanying local plans, it forms a strategy to guide the location of development and land use patterns based on a series of policies and recognised opportunities. The Structure Plan has been written to take cognisance of the Council’s “New Ways” economic development strategy (which underpins the community
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planning process enacted in the Local Government in Scotland Act 2003 (asp 1), the reopening of the Waverley line and the influence of a dynamic economy and property market in Edinburgh.

24. The Structure Plan has been prepared in parallel with the Local Transport Strategy and key transport-related policies include:

- policy I2 – rail services: the Council supports the principle of re-establishing rail links between the Scottish Borders and the national rail network, and will work towards:
  - the development of passenger and freight services between Edinburgh and the Central Borders; and
  - the development of a similar connection from Carlisle in the south, initially for the movement of timber from the south Roxburgh forest area using the Kielder branch, with a view to the long-term restoration of a through route;

- policy I3 – protection of former railway routes: wherever practicable and appropriate, the Council will seek to safeguard the routes of former railway lines for future transport or recreational use;

- policy I4 – public transport provision: development will be guided to areas that will support the strategic public transport network and are, or could be, well served by it. The Council will continue to support the maintenance of a strategic network of public transport provision and, where possible, secondary services through a range of providers.

25. In addition, the development strategy outlined in the plan favours new development to be guided to existing towns or to planned locations that are readily accessible to the principle public transport corridors. The main focus for development will be the Central Borders, with the secondary foci to the eastern and western hubs. Longer-term substantial developments will be supported in the Newton St Boswells/St Boswells area, the Galashiels/Selkirk axis and the Peebles/Innerleithen/Central Borders axis, dependent on the progress on the railway.

Scottish Borders Council Local Transport Strategy


27. The Scottish Borders is one of the most sparsely populated areas in the United Kingdom. It currently lacks a railhead and is almost entirely reliant on roads, many of which are suffering surface deterioration in the form of cracking and potholes, and increased roughness. The strategy concludes that the area faces a bleak economic future unless certain objectives are met. The key elements of the strategy are as follows:

- private transport: Scottish Borders Council seeks to improve performance in relation to a number of key areas. These include:
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- increased road safety through adherence to national policy, audits, working with the police and through engineering works;
- with regard to the road network, the Council aims to undertake an east-west links study, town centre studies (in Galashiels, relating to the implementation of the Waverley line), and shall argue the case for increased funding for rural area improvements;
- encouraging the use of powered two-wheel vehicles as a means of reducing congestion and air pollution;
- maintaining the existing road and bridge network to a standard that is equal to the available budget allocation; and
- producing parking strategies in all of the major towns throughout the Borders.

- public transport: the Council will give priority to the maintenance of a strategic network of bus services that provide for inter-urban, trans-regional and work journey services. A secondary bus service will also be supported within the Council’s means. The Council aims to promote the reintroduction of the Waverley Line to the Central Borders and the North of England. The line of former Waverley route and branch lines will be protected from prejudicial development. The provision of a local train service between Edinburgh and Berwick Upon Tweed is supported, as is the reopening of the station at Reston through the re-negotiation of the Scotrail passenger train franchise. The Council will also improve the rail-link bus services between Berwick upon Tweed and Carlisle.

- sustainable transport: the Council aims to support local regulated taxi services. The recommendations of NPPG 17³ and PAN57⁴ will be incorporated where possible to encourage walking and cycling. The authority will also ensure that cycling is fully integrated with public transport to facilitate cycle use as part of longer journeys. Both the Council itself and other major employers will be encouraged to introduce green transport plans.

- freight transport: in promoting the re-introduction of the Waverley rail link, the Council aims to encourage the modal shift of freight transportation from road to rail on southern sections of this route. The existing road network will be maintained and enhanced where appropriate to allow the adequate transportation of freight. Designated advisory routes for freight will also be investigated.

- environmental considerations: the Council will promote environmental impact assessments for all appropriate developments and encourage sustainability in the form of walking, cycling and public transport.

ALTERNATIVE APPROACHES

28. Whilst there are alternative approaches that could meet some of the objectives listed at paragraph 12 there are no alternatives that could achieve all of these objectives.

³ National Planning Policy Guideline : NPPG 17, Scottish Office Transport and Planning April 1999
⁴ Planning Advice Notes: Pan 57, Scottish Office Transport and Planning April 1999
29. Alternative local alignment options were considered in a route option study commissioned by the promoter and its partners and completed in autumn 2002. Copies of this report are available in the Scottish Parliament Information Centre. The report concluded that the option most effective in achieving the scheme’s objectives and representing the best value for money was a passenger railway which would allow a half hourly passenger service between Waverley Station, Edinburgh and Tweedbank.

30. Following consultation, alternative alignments were considered for the railway in many areas such as Falahill and Glenfield Road East and West, to assess whether the proposed alignment or an alternative alignment resulted in the most favourable impact on the environment as well as considering the operational and financial consequences of a realignment. The alignments proposed in the Bill have sought to keep the environmental impact of the project to a minimum throughout the route. The existing alignment also has operational and financial benefits but the prime reason for choosing that alignment is its more favourable environmental impact.

31. Purchasing all the land necessary for the proposed railway from the individual proprietors of the ground on which it will rest is not a practical proposition. Like all local authorities, Scottish Borders Council has statutory powers to make compulsory purchase orders, but only for certain specific purposes. These do not include purchase for the purpose of constructing a railway. As a result, without the compulsory purchase powers sought in the Bill acquisition could only be by contractual negotiation. This would not provide any certainty that the land could be acquired. Without the compulsory purchase powers in the Bill, the scheme could not proceed.

CONSULTATION

Public consultation

32. The public consultation process involved an initial public launch of the project through public roadshows followed by a series of community relations and public meetings.

33. The consultation process was designed to provide:

- a direct source of information to all audiences with an interest in the project;
- an opportunity for audiences to enter into communication with the Waverley Railway Partnership with their views on the project; and
- a regularly updated flow of factual information to all associated groups with an interest in the project.

The project was launched to all key audiences in January 2002 through a series of briefings and briefing sheets to all Scottish MPs, MSPs, local councillors, national media and the key regional and local newspapers along the route. A number of groups with an interest such as Campaign for Borders Rail, Borders Transport Futures, Sustrans, rail action groups and the Scottish Parliament Cross Party Group on Border Rail were also briefed.

34. The launch included the opening of the public information hotline and the website which provided regular updated information on the progress of the scheme. Since its launch in January
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2002 it has provided a structured method of communication with all audience groups. An e-mail facility allows the public to register their viewpoints and ask for further information – both general and specific - on the scheme. The website has been used by all audiences throughout the consultation process.

35. The public information telephone line was manned between 9am and 5.30pm every weekday and provided all audiences with an opportunity to talk to a member of the Waverley railway project communications team about matters of personal interest.

36. The consultation process included a number of key public meetings and in addition accepted all other offers to attend public meetings in relation to the project. These meetings provided an opportunity for the Partnership to explain the plans for re-establishing rail links between Edinburgh and the central Scottish Borders while also providing community audiences with the opportunity to register their own views. These views were then considered and put forward to the partnership for consideration prior to final Bill submission. All affected community groups were involved in this process, as were MPs and MSPs.

37. The public consultation roadshow involved a two-month period of display boards being exhibited at manned stands across Edinburgh, Midlothian and the Scottish Borders and public consultation roadshow advertisements were placed to inform the public of the consultation phase.

38. A wide range of information materials relating to the public consultation process was produced. These included: information leaflets; response cards; provisional route plans; outline station location plans; exhibition boards; and posters.

39. Key results of responses showed that 94% of respondents indicated that they were “in favour of passenger rail services being re-established between Edinburgh and the central Scottish Borders” and 90% of respondents indicated that “they would expect to use the rail service”.

40. The public were also given the opportunity to comment on the proposals and whether changes should be made to the project, the proposed route, or station locations etc. The majority felt strongly that the line should be reinstated all the way to Carlisle or at the very least Hawick. Responses were sought from people living near the line on access and safety issues. In addition, matters relating to disabled access, cycle storage and car parking were also seen as important matters.

41. A concerted effort was made to keep the project in the media in order to reach as many people as possible. In particular, The Scotsman, The Herald, Daily Record, Scottish Business Insider and the local papers along the route corridor – The Southern Reporter, The Borders Telegraph, Midlothian Advertiser and Edinburgh Evening News have covered the matter extensively. There has also been significant coverage in local and national radio and television.
Landowner consultation

42. Consultation with landowners that will be affected by the Waverley railway project has taken place throughout the consultation process. Landowners have included both agricultural, commercial and residential parties. The nature of the Waverley railway has meant that the majority of the consultations with landowners have taken place with those whose property is within rural areas. The majority of the rural landowners are directly involved in operational farms.

43. The main access and operational issues have been identified and have been discussed with the relevant landowner. These issues have been taken account of in the proposed route and the ancillary works necessary to accommodate it. In general, the landowners affected recognise the potential benefits of the Waverley railway and are seeking to ensure they are properly compensated for any disruption to their use of the land they own. The consultation process has sought to identify and discuss with landowners the nature of any impact. Consultation will continue throughout the Bill process.

44. The promoter has sought to identify those property owners that would be affected by the Waverley railway. This exercise identified households along the full length of the line. Once the households were identified a letter was sent to all, setting out information on the Waverley Railway Project, information on the Parliamentary process and information on compulsory purchase and compensation. In addition to this information, a telephone contact number was provided to ensure that all those who received the letter could obtain further detailed information pertaining to their individual property.

45. Where an affected party requested further information, this was provided. The consultation manager and representatives of either Midlothian Council or Scottish Borders Council visited or held meetings with in excess of 60 households. The results of such meetings provided useful input to the process and in certain instances have resulted in major alterations to the track layout.

46. The final major consultation exercise took place in February of 2003 when letters were hand delivered to all residents of properties within the proposed limits of land to be acquired or used. In general this land will only be used during the construction period or indefinitely to provide access to a specific part of the railway for maintenance purposes.

CONCLUSION

47. This memorandum has explained the objectives of the Bill, the lack of any viable alternatives to the promotion of the Bill, and the consultations carried out by the promoter in advance of the instruction of the Bill.

48. This Bill is one of the first rail proposals to come before the Scottish Parliament. It represents the next step in grasping a significant opportunity for the Promoter and its partners to bring about a step change in public transport provision for the Central Scottish Borders and Midlothian and improve the flexibility of the Scottish rail network with benefits that extend well beyond the areas of the promoter and the two supporting councils. The project is seen as a major
component of central and local government policy and its objectives to increase social inclusion, reduce road based traffic, stimulate economic regeneration and increase sustainable passenger rail travel.
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Promoter’s Memorandum

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