This Briefing is in two distinct parts. Part 1 provides a brief outline of the Private Bill process. Part 2 provides background information on the Stirling-Alloa-Kincardine Railway, including a brief history of the route. It also examines why the construction of a railway requires an Act of the Scottish Parliament, the rationale behind the proposed route reopening and how these proposals relate to the planning system.

Part 2 also outlines the detailed proposals in the Bill, highlights the alternative routes considered by the promoters, Clackmannanshire Council, and the consultation undertaken prior to the introduction of the Bill and finally summarises the outstanding objections.
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PART 1: PRIVATE BILLS

Part 1 of this briefing considers Private Bills in general, outlining the differences between Private and Public Bills and providing a brief summary of the stages involved in the passage of a Private Bill. Detailed guidance on the procedures and requirements for the processing of a Private Bill through the Scottish Parliament (upon which this briefing is based) has been produced by the Non-Executive Bills Unit (NEBU) of the Scottish Parliament – Guidance on Private Bills (2002). NEBU has also produced a leaflet aimed specifically at those who wish to object to a Private Bill – Information for Objectors to Private Bills (2001). The actual rules for Private Bill procedure within the Scottish Parliament are set out in Chapter 9A of the Standing Orders of the Scottish Parliament (2002).

WHAT IS A PRIVATE BILL?

Rule 9A.1.1 of the Standing Orders describes a Private Bill as:

“a Bill introduced by an individual person, a body corporate or an unincorporated association of persons (referred to as ‘the promoter’) for the purpose of obtaining for the promoter particular powers or benefits in excess of or in conflict with the general law, and includes a Bill relating to the estate, property, status or style, or otherwise relating to the personal affairs, of the promoter.”

A Private Bill differs from a Public Bill in a number of respects:

- **The purpose and effect of the Bill:** Public Bills deal with matters of general law and public policy. Private Bills involve measures sought in the private interests of the promoter.
- **Who is able to introduce the Bill:** Ministers of the Scottish Executive, individual MSPs or committee conveners may introduce Public Bills. As noted above, Private Bills may be introduced by any persons seeking particular powers or benefits.
- **The procedures involved in the passage of the Bill:** although the role of the Scottish Parliament in relation to both Public and Private Bills is to legislate, the procedures differ as the Parliament, in relation to Private Bills, has a role in arbitrating between competing private interests. The Procedures Committee Report on Private Legislation in the Scottish Parliament (2000) noted that this means that the parliamentary process for Private Bills is not only legislative but also in part judicial:

  “…in that it involves a balancing of private rights between the new rights being sought by the promoter and the rights of others which may be adversely affected.”
PRIVATE BILL PROCESS

The following provides a brief outline of the parliamentary stages of the Private Bill process.

(a) Introduction of a Private Bill: Standing Orders provide that a Private Bill must, on introduction, be accompanied by a statement by the Presiding Officer on legislative competence together with the following documents prepared by the promoter of the Bill:

- Explanatory Notes
- Promoter’s Memorandum setting out the policy objectives of the Bill, any alternative approaches considered and details of any consultation undertaken
- Promoter’s Statement detailing the arrangements made by the promoter in relation to notification, discussion or consultation, advertising and distribution of the Bill and accompanying documents
- Assignation of copyright/licensing by the promoter in favour of the SPCB in relation to the Bill and accompanying documents.

In addition, the promoter of a Private Bill which seeks to authorise the construction of, or alteration to, certain classes of works or the compulsory acquisition or use of any lands or buildings must be accompanied by:

- Estimate of Expense and Funding Statement detailing the costs of the proposed project and the sources of funding
- Maps, plans, etc. of proposed works or details of those who may be affected by any compulsory acquisition, etc. should be sufficient to allow for the proper consideration of the proposal
- Environmental Statement should include all the information currently set out in Schedule 4 to the Environmental Impact Assessment (Scotland) Regulations 1999

(b) Lodging of objections: Standing Orders provide that any person, body corporate or unincorporated association may lodge an objection to a Private Bill that would adversely affect their interests. An objection may be concerned with the principle or detail of the Bill. Objections should be lodged with the Clerk during the 60-day period following the Bill being introduced, although the relevant Private Bill Committee has the discretion to allow late objections where it is satisfied that the objector had a good reason for not lodging the objection in time.

(c) Private Bill Committees: A Private Bill Committee is, following the introduction of a Private Bill, established to consider and report on that Bill. The Committee is normally established for the duration of the Bill (i.e. until the Bill has received Royal Assent, falls or is withdrawn).

There are various constraints on who can serve as a member of a Private Bill Committee. As with other committees of the Parliament, regard must be had to the balance of political parties within the Parliament and the qualifications and experience of any member who expressed an

1 See Guidance on Private Bills paragraphs 2.12 to 2.28.
2 See Guidance on Private Bills Annex K and includes such works as canals, docks, piers and tramways.
3 See Guidance on Private Bills paragraphs 2.29 to 2.33. A map has been produced to accompany The National Galleries of Scotland Bill which is available to view in the Information Centre
4 Guidance on Private Bills (paragraph 4.2) notes that there may be occasions when it is appropriate to establish a single committee to deal with two or more closely related Bills introduced at around the same time.
5 The fact that Private Bills do not normally raise issues of a party political nature may justify some departure from a strict reflection of party strength in deciding upon membership of a Private Bill Committee.
interest in serving on the Committee. However, in addition to these constraints, the quasi-judicial nature of Private Bill Committees has led to the following rules designed to ensure that members of a Private Bill Committee are seen as neutral and impartial.\(^6\)

An MSP may not be appointed to a Private Bill Committee:

- if he or she resides in an area which would be affected by the Private Bill
- if the constituency or region which he or she represents, or any part of it, corresponds with the area affected by the Private Bill.

Regard shall be had to the interests of an MSP, as registered in the Register of Members’ Interests, when deciding upon membership of a Private Bill Committee.

\textbf{(d) Parliamentary Stages of a Private Bill:} Private Bills are subject to a three stage process:

- Preliminary Stage
- Consideration Stage
- Final Stage

\textbf{Preliminary Stage:} the Private Bill Committee considers the general principles of the Bill and whether the Bill should proceed as a Private Bill. The Committee also gives preliminary consideration to any objections. This is limited to the Committee satisfying itself that each objection is based on a reasonable claim that the Bill would adversely affect the objector’s interests.

The Committee prepares a report to the Parliament, setting out its recommendations on whether the general principles of the Bill should be agreed to and whether the Bill should proceed as a Private Bill. The report also sets out the result of the Committee’s preliminary consideration of objections. The Preliminary Stage concludes with a debate in plenary. The Bill will proceed if parliament agrees to its general principles and to the fact that the Bill should proceed as a private Bill.

\textbf{Consideration Stage:} if the Bill is approved by the Parliament at the Preliminary Stage debate, it is referred back to the Private Bill Committee for consideration of the detail of the Bill. This involves two phases: (i) the Committee meeting in a quasi-judicial capacity to hear evidence on the Bill and on objections to it; and (ii) the Committee meeting in a legislative capacity to consider and dispose of amendments.

The role of the Committee during the first phase is to act as arbiter between the promoter and objectors. This involves allowing differences between the parties to be resolved by negotiation and, where that is not possible, by choosing between them. Before it can do so, the Committee must ensure that each party has had a fair opportunity to present its own case and question the opposing case. This may involve the leading of evidence (by both the promoter of the Bill and those who have lodged objections), and the cross-examination of witnesses and their evidence (by the promoter, objectors and Committee members).\(^7\) It should be noted that submitting an objection does not guarantee an objector the right to be invited to present evidence and cross-examine witnesses before the Committee. Objections that are the same or similar are grouped, with one or more objectors being selected by the Committee to lead evidence on behalf of the group.\(^8\)

\(^6\) See Standing Orders, Rules 9A.5.3 and 9A.5.4 and Guidance on Private Bills, paragraphs 4.7 to 4.8.

\(^7\) The leading of evidence and cross-examination of witnesses may be undertaken by legal representatives.

\(^8\) See Standing Orders, Rule 9A.9.4.
This first phase concludes with the Committee preparing a report giving its decisions on the objections considered. The report may also indicate any areas where the Committee expects the Bill to be amended during the second phase of the Consideration Stage.

During the second phase, the Committee considers any amendments to the Bill lodged by members of the Committee. Such amendments may have been prepared by the promoter in order to give effect to any recommendations contained in the Committee’s first phase Report. The Committee may prepare a further report explaining why particular amendments were made or drawing the Parliament’s attention to provisions of the Bill where, although it could not agree on any particular amendments, it agrees that some amendment is required.

**Final Stage:** plenary debate on the Bill as amended during the Consideration Stage, including consideration of any further proposed amendments (lodged by any MSP).⁹

Where there has been further amendment of the Bill, the Final Stage may, on the motion of the Convener of the Private Bill Committee, be adjourned to a later date. The purpose of this is to: (i) give the promoter an opportunity to consider the implications of any significant Final Stage amendments that have been agreed to, and/or (ii) allow commitments given on behalf of the promoter to be met. The promoter of the Bill may feel that amendments, which have already been agreed to during the Final Stage, give rise to the need for further amendment to the Bill. In addition, the promoter may have asked the Convener of the Private Bill Committee to make various commitments during the Final Stage. These reasons for adjournment give rise to two possible grounds for additional amendment, namely, for the purpose of “clarifying uncertainties or giving effect to commitments given on behalf of the promoter at the earlier proceedings at the Final Stage”.¹⁰ Such amendments are lodged by the Convener of the Committee on behalf of the promoter of the Bill.

It may become apparent that the limited scope for further amendment allowed during the above adjournment is not sufficient to resolve outstanding difficulties with a Private Bill. In such circumstances, the Convener of the Private Bill Committee may move that the Bill be referred back to the Committee for further consideration (and possible amendment) of specified parts of the Bill as part of the extended Consideration Stage. This must be done prior to any motion to pass the Bill.

Following the consideration of proposed amendments and any adjournment or further Consideration Stage, the Parliament finally decides whether or not to pass the Bill.

A Private Bill, once passed by the Parliament will generally proceed to Royal Assent following a period to allow for any legal challenge under sections 33 or 35 of the Scotland Act 1998. The Parliament may, where there has been such a legal challenge, decide to reconsider the Bill. The Bill may, as part of such reconsideration, be amended for the purpose of resolving the issues giving rise to the legal challenge.

**(e) Costs involved in the Private Bill process:** Guidance on Private Bills (at paragraphs 2.41 to 2.43 and Annexes J and P) sets out guidance on the fees/costs that a promoter of a Private Bill will have to pay/refund to the Scottish Parliament. Annex J provides for a fee of £5,000

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⁹ It should be noted that if the provisions of the Bill would affect the prerogative or interests of the Crown and Crown Consent has not been signified at the Preliminary Stage (or if relevant provision has since been inserted by amendment), it is signified during the Final Stage debate by a member of the Scottish Executive.

¹⁰ Standing Orders, Rule 9A.10.5.
(reduced to £1,250 in certain cases) payable on introduction of the Bill. Annex P provides guidance on the level of costs that a promoter will have to refund to the Parliament.

Annex J to Guidance on Private Bills also states that the fee payable by an objector on lodging an objection is £20. The fee is payable for each objection lodged. More than one person may join together to lodge a single objection – thus paying only a single fee.

PART 2: BACKGROUND

The Stirling-Alloa-Kincardine Railway and Linked Improvements Bill was originally introduced in the first session of the Scottish Parliament on 21 March 2003. The Bill was reintroduced on 15 May 2003, following the general election on 1 May 2003.

The Bill grants Clackmannanshire Council, the promoter of the Bill, a number of powers required for the reconstruction of the railway between Stirling and Kincardine and other works related to the reopening of the route. It is important to note that, although Clackmannanshire Council are the promoters of the Bill, they have been working in partnership with Fife and Stirling Councils, as well as the Scottish Executive, Scottish Enterprise Forth Valley, the Strategic Rail Authority (SRA) and other railway bodies and interested parties.

In particular, the Bill grants compulsory purchase powers to Clackmannanshire Council which will allow it to acquire the land, or access rights to land that are required for the reconstruction and/or construction of:

- a railway along the former railway route from Stirling to Kincardine via Alloa (this is referred to as “the railway works”). This includes land for a new railway station in Alloa
- a new link road to allow access to eastern Alloa for cross town traffic following the closure of Hilton Road level crossing in Alloa, which is required for the successful operation of the railway (this is referred to as “the major road works”).

The Bill also contains powers allowing Clackmannanshire Council to undertake several developments related to, but not directly concerned with, the creation of a viable operational railway, referred to as “the ancillary works”, which are:

- the closure of six of the 12 level crossings along the route, i.e. Causewayhead (private crossing), Abbeycraig, New Mills, Grange Road, Balfour Road, Hilton Road and Hilton Manor Farm (private crossing). The remaining six level crossings will be upgraded
- the stopping up of eight roads and footpaths where they cross the railway. This number includes the closure of the four public level crossings identified above
- the construction of two new footbridges across the railway in Alloa.

In addition to the works proposed in the Bill, the reopening of the railway will require other additional works to be carried out to existing operational railway infrastructure, known as “linked improvements”, which will take two main forms:

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11 The powers awarded by the Bill are granted to an ‘authorised undertaker’, which in the first instance is Clackmannanshire Council. The Bill allows Clackmannanshire Council to transfer any of these powers to another organisation. This is to allow the transfer of the railway powers to Network Rail, which will assume responsibility for the operation of the railway infrastructure once it becomes operational.

12 'Stopping-up' is the technical term for the closure of a road to traffic and the termination of public rights of way over it.
• **signalling**: the signalling system for the reopened route must operate as part of the existing signalling systems to which it will connect at either end of the line. In order to achieve this, modifications are required to the existing signalling equipment at Stirling Station, Kincardine and Longannet

• **track improvements**: track upgrades between Kincardine and Longannet will be required to allow freight traffic to take full advantage of the reopened route.

These works will be carried out by Network Rail under existing powers and are not specified in the Bill. However, the Bill contains provisions, particularly relating to compulsory purchase of land, which will facilitate these works which are essential to the operation of the railway.

**THE ROUTE**

The proposed Stirling-Alloa-Kincardine railway leaves the current operational railway at the northern end of the viaduct across the Forth on the northern outskirts of Stirling, which also carries the operational railway between Stirling and Bridge of Allan, and follows the route of the disused railway through Cambus, Alloa and Clackmannan. It re-joins the operational railway at the former Longannet power station. The total route length is 17,835m of single track line with passing loops, plus a further 487m siding leading to the new Alloa station. A [map](#) of the route is available on the promoter’s website.

**HISTORY OF THE ROUTE**

The proposed Stirling-Alloa-Kincardine railway consists of two separate railway developments. The majority of the line, i.e. the section between Stirling and Kincardine Junction to the east of Alloa, was developed by the Stirling and Dunfermline Railway Company during the late 1840’s. The following table provides a brief chronology of major events in the development of the section of that line which will form part of the Stirling-Alloa-Kincardine railway.

<table>
<thead>
<tr>
<th>Date</th>
<th>Event</th>
</tr>
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<tbody>
<tr>
<td>1850</td>
<td>The Stirling and Dunfermline Railway opened to passenger services between Alloa and Dunfermline, also known as Alloa-Kincardine Junction-Charlestown Junction via Elbowbend railway (wrongly identified as the Charleston Junction-Elbowend railway in the Promoter’s Memorandum), a branch continued to Alloa Harbour where passengers could continue their journey onwards to Stirling via boat across the Forth and join trains at Alloa South</td>
</tr>
<tr>
<td>1852</td>
<td>The Stirling and Dunfermline Railway opened to passenger services between Stirling and Alloa (also known as Stirling Middle Junction to Alloa railway), via a bridge across the Forth</td>
</tr>
<tr>
<td>1968</td>
<td>The Stirling and Dunfermline Railway closed to passenger services</td>
</tr>
<tr>
<td>1977</td>
<td>Alloa Harbour branch closed to all rail services</td>
</tr>
<tr>
<td>1983</td>
<td>Alloa to Kincardine Junction closed to all rail services</td>
</tr>
<tr>
<td>Late 1980’s</td>
<td>Cambus to Alloa closed to all rail services</td>
</tr>
<tr>
<td>1993</td>
<td>Stirling to Cambus rail services cease, railway maintained as operational but used only on a ‘yard working’ basis</td>
</tr>
</tbody>
</table>
The remaining section of the proposed Stirling-Alloa-Kincardine railway, which runs between Kincardine Junction and Kincardine Power Station, was developed by the North British Railway at the end of the 19th century. The Kincardine Line is currently closed between Kincardine Junction and the former Kincardine Power station, although the remainder of the line, between the former Kincardine power station and Dunfermline remains open to freight traffic. A brief chronology of events for this line is provided below:

Table 2: Brief Chronology of the Kincardine Line

<table>
<thead>
<tr>
<th>Date</th>
<th>Event</th>
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<tbody>
<tr>
<td>1893</td>
<td>Kincardine Junction to Kincardine opened</td>
</tr>
<tr>
<td>1906</td>
<td>Kincardine to Elbowbend Junction opened – linking the line to Dunfermline</td>
</tr>
<tr>
<td>1930</td>
<td>Kincardine Junction to Dunfermline closed to passenger services</td>
</tr>
<tr>
<td>1983</td>
<td>Kincardine Junction to Longannet closed to all rail services</td>
</tr>
<tr>
<td>1996</td>
<td>Longannet to Kincardine section reopened</td>
</tr>
</tbody>
</table>

**WHY REOPEN THE LINE?**

The promoter’s memorandum which accompanies the Bill states:

13. The scheme is being promoted as the best way to achieve the following objectives:

- to improve public transport access from Alloa, especially to Stirling, Glasgow and Edinburgh;
- to provide an alternative, shorter, more efficient route for coal traffic from Hunterston and open cast mines in Ayrshire to Longannet Power Station in Fife thus reducing congestion on both the road and rail networks; and
- to remove coal trains from the Forth Bridge thereby providing scope for additional passenger services from Fife to Edinburgh and improved reliability for existing passenger services.

14. Following consideration of the ways these objectives might be met it has become apparent that the scheme proposed in the Bill is the only means of achieving all these objectives.

The reasons for introducing the Bill outlined by the promoters are supported by the Scottish Executive. During a recent debate (Scottish Parliament 2003) on public transport Nicol Stephen MSP, Minister for Transport, stated:

The Parliament has before it a bill to re-open the Stirling-Alloa-Kincardine line, which would reconnect Alloa to the rail network; provide a more efficient route for coal from Ayrshire to Longannet; and benefit the rail network as a whole by taking freight trains away from the Forth Bridge, which would pave the way for additional rail services between Fife and Edinburgh. I want not only to support the principles of the project, but to help to develop it.
WHY DOES THE RECONSTRUCTION OF THE STIRLING-ALLOA-KINCARDINE RAILWAY REQUIRE A PRIVATE BILL?

Prior to the establishment of the Scottish Parliament the construction of new railways in Scotland was authorised under procedures specified in the Private Legislation Procedure (Scotland) Act 1936, which conferred the necessary powers on the Secretary of State for Scotland and the UK Parliament. However, these functions were devolved to the Scottish Parliament under Scotland Act 1998 (Modifications of Schedule 5) Order 2002, meaning that the 1936 Act no longer applied.

Following these changes, the authority for the construction of a railway entirely within Scotland, and for the compulsory acquisition of land required for such construction, must be contained in a private Act of the Scottish Parliament obtained by the promoter of the railway, in this instance Clackmannanshire Council. Strictly speaking there is no need for an Act allowing the construction of a railway which does not interfere with any public or private right, meaning landowners could construct a railway on their own land as long as they obtained planning permission.

However, the Stirling-Alloa-Kincardine railway will interfere with both public and private rights, e.g. the closure of public and private level crossings. It will also require the temporary use and permanent compulsory purchase of land for the construction and operation of the railway. The Bill will grant Clackmannanshire Council the necessary powers for the construction of the railway, stopping up of roads and level crossings and the temporary occupation or compulsory purchase of land required for the construction and operation of the railway.

This Bill, if passed, would be classed as a “special Act” which is the name for any Act authorising the construction of a railway which incorporates the Railway Clauses Consolidation (Scotland) Act 1845. The 1845 Act, along with the Land Clauses Consolidation (Scotland) Act 1845 and the Railway Clauses Act 1963, sets out a series of standard clauses outlining the fine detail of the compulsory purchase scheme associated with the construction of a railway. This reduces the size of the present Bill considerably and ensures consistency with other railway developments.

HOW DOES THE BILL RELATE TO THE PLANNING SYSTEM?

There is no need for the promoters of the Bill to seek planning permission for the reconstruction of the railway and the development of the associated works outlined in the Bill. This is because most developments authorised by a private Act are considered to be permitted development\(^{13}\) under powers contained in the Town and Country Planning (General Permitted Development) (Scotland) Order 1992. However, the deemed permission is only ‘outline permission’, which means that the promoters of the Bill, prior to beginning construction, must consult the planning authority to ensure that the detailed design of any buildings or structures are acceptable prior to beginning construction.

The Bill would also grant an exemption from the need to obtain listed building consent for changes to listed buildings directly related to the construction of the railway.

\(^{13}\) The General Permitted Development (Scotland) Order 1992 lists 25 categories of development where planning permission is automatically deemed to have been granted, subject to them meeting certain conditions
In addition to these statutory requirements, Rule 9A.2.3(c) of the *Standing Orders of the Scottish Parliament* requires the promoter of a private Bill that authorises the construction or alteration of a railway to provide such maps, plans, sections and books of references as the Presiding Officer may determine to the Parliament. The Bill must also be accompanied by an Environmental Statement that sets out the anticipated environmental impact of the proposals. An Environmental Statement would need to accompany any major planning application to a local authority. The Presiding Officer has determined that any such Environmental Statement must contain all the information currently required under Schedule 4 of the *Environmental Impact Assessment (Scotland) Regulations 1999*, as would be required of an Environmental Statement submitted to a local authority.

In addition to the requirement to submit an Environmental Statement, the Private Bill procedure also provides an opportunity for members of the public to lodge objections to the Bill during a 60 day consultation period, which follows the introduction of the Bill to Parliament. These objections will then be considered by Committee Members during the Preliminary Stage of their consideration of the Bill. This mirrors the consideration given to objections by a local authority in its consideration of a normal planning application.

**WHAT DOES THE BILL PROPOSE?**

The Bill is made up of 4 Parts and 10 Schedules, which are examined in more detail below:

**PART 1 - WORKS ETC:** This Part grants the authorised undertaker, in the first instance Clackmannanshire Council, the power to carry out three different forms of ‘works’:

- **The Railways Works:** Defined in Schedule 1, the railway works cover eight specific developments including the reconstruction of the railway itself, the construction of new access roads which are necessitated by the closure of level crossings and public roads, and the construction of two footbridges in Alloa town.

- **The Major Road Works:** Defined in Schedule 2, the major road works cover five specific developments including the Alloa Eastern Link Road, including a bridge over the railway, to allow continued access to Eastern Alloa following the closure of the Hilton Road level crossing, new access routes to two farms and the realignment of the A907.

- **The Ancillary Works:** Defined in Schedule 3, the ancillary works include such diverse things as railways stations, bridges, drainage, underpinning and landscaping. In effect any other work not defined in Schedule 1 and 2 that is required for the creation of a viable operational railway.

Part 1 also sets a limit on the deviation of the works set out in Schedules 1 to 3 as outlined in the plans submitted along with the Bill. It also makes provision for minor road alterations to allow access to the railway, the construction of new roads, and the imposition of a 12 month liability for the maintenance of such roads on the authorised undertaker.

In addition Part 1 grants the authorised undertaker the necessary powers to construct and operate public level crossings and regulate the operation of existing private level crossings. Finally, Part 1 grants the authorised undertaker the power to temporarily or permanently stop up roads and ensure that the works authorised by Part 1 can be adequately drained.

**PART 2 - LAND:** Part 2 deals principally with compulsory purchase. It grants the authorised undertaker the power to compulsorily purchase land as specified in Schedule 7 of the Bill, and...
outlined in more detail in the book of reference\textsuperscript{14}, for the purpose of constructing the railway. It also allows the authorised undertaker to purchase a right in land, which is less than outright purchase, to allow the laying of pipes, electricity cables etc. underground or the running of cables via pylons over land.

Where a road or public place is included in land that may be compulsorily purchased, the statutory undertaker does not have to purchase that land where it only intends to undertake work over or under the road or public place, nor does it have to notify the roads authority or local authority of its intention to undertake such work.

Part 2 also gives the statutory undertaker the power to temporarily possess land for activities directly linked to the construction of the railway, e.g. for the creation of site offices. This power includes the right to construct access roads, temporary buildings and remove buildings and vegetation. Land that has been temporarily acquired for these purposes can be held by the authorised undertaker for the duration of the construction work and a period of up to one year after the completion of that work. On giving up the land, the statutory undertaker is required to restore the land to the reasonable satisfaction of the owner, although it is not required to reinstate any demolished buildings "on the basis that the character of the land has fundamentally changed as a result of the temporary use" (Explanatory Notes). Part 2 also allows the statutory undertaker to pay compensation for the temporary occupation of land to cover any loss the owner and/or occupier suffer as a result of that possession. Part 2 also deals with compensation for the compulsory purchase of land, although much of the detail of the system is contained in:

- Railway Clauses Consolidation (Scotland) Act 1845
- Land Clauses Consolidation (Scotland) Act 1845
- Railway Clauses Act 1963

These Acts form the basis of the statutory compensation system for compulsory purchase of land for railway schemes.

However, the Bill includes several important deviations from these rules, aimed at bringing the system up to date. These include:

- Ensure landowners do not artificially increase the value of their land, or buildings on that land, with a view to increasing the amount of compensation they will receive through compulsory purchase
- Ensure that those entitled to compensation under the powers in the Bill are not be able to claim compensation under any other legislation
- Ensure that landowners cannot be forced to sell only part of their land or property where they are willing to sell it in its entirety, with the exceptions where the partial acquisition of a building will not be of material detriment to the rest of the property, or the partial acquisition of a garden or park will not seriously affect the amenity and convenience of a house on that land.

Part 2 also includes provisions allowing the authorised undertaker access to land for surveys, which is to be compulsorily purchased.

PART 3 – MISCELLANEOUS AND GENERAL: Part 3 contains various unrelated provisions. Principally it:

\textsuperscript{14} A 'Book of Reference' lists the owners, lessees and occupiers of all lands which may be subject to compulsory purchase or temporary occupation or may have rights in any land or water terminated .

\textit{providing research and information services to the Scottish Parliament}
• gives the authorised undertaker the power to fell or lop any tree or shrub on, or near, the railway development that would interfere with its operation
• gives the authorised undertaker the power to transfer any of the powers granted to it by the Bill to a third party. This will allow Clackmannanshire Council to hand over the ownership of the completed railway to Network Rail, which is responsible for the operation of the national rail network
• allows gas, water, sewerage, electricity and telecommunication companies the right to maintain their services during and after the reopening of the railway, including the payment of compensation to such companies for costs incurred in moving or adapting equipment to allow the operation of the railway
• grants specific exemptions to the authorised works from the need to obtain listed building consent
• requires development to begin within 10 years from the Act coming into force
• regulates existing enactments relating to the railway.

PART 4 – SUPPLEMENTARY: Part 4 provides for the incorporation of the compulsory purchase provisions of the Acts specified above into the Bill and confirms the short title of the Bill.

ARE THERE ANY ALTERNATIVE ROUTES?

In developing the proposals for the railway Clackmannanshire Council employed consultants (Babtie Group 2002, 2003) to carry out appraisals of three possible diversions to the route proposed in the Bill. These were:

- **Clackmannan Bypass**: a bypass around Clackmannan village leaving the proposed route at Helensfield and rejoining it at Meadowend
- **Kincardine Bypass**: a bypass around Kincardine village leaving the proposed route at Kincardine Power Station and rejoining it at Station Road in Kincardine village
- **Bogside Alignment**: a major change in the route proposed in the Bill, which would leave the proposed route at Kincardine Junction and follow the alignment of the former Stirling and Dunfermline Railway to Bogside and then turn south, following a new route which rejoins the proposed line at Longannet power station

These appraisals were carried out using the Scottish Executive’s (2003) Scottish Transport Appraisal Guidance (STAG). A STAG Stage 1 environmental assessment was carried out for each of the proposals. In all cases the proposed alternative routes were rejected on both financial and environmental grounds when compared with the route proposed in the Bill.

WHAT SERVICES WILL OPERATE ON THE REOPENED LINE?

The promoters anticipate that both freight and passenger services will operate on the reopened line, details are as follows:

**Passenger**: An hourly passenger service from Glasgow to Alloa, via Stirling, will operate between 0600 and 2300. The service will be provided by two or three car Diesel Multiple Units, operating up to a maximum speed of 70 mph.
Freight: Up to 15 freight trains per day will run along the line in each direction. It is likely that the service will be provided by General Motors Class 66 Diesel Electric Locomotives pulling HTA 102 tonne bogie wagons, operating up to a maximum speed of 60 mile per hour.

HOW MUCH WILL THE PROJECT COST?

The predicted cost of the entire project, as outlined in the explanatory notes is £37.15m. The promoters anticipate the following organisations to provide funding as indicated:

Scottish Executive (Public Transport Fund) £6.50 m
Scottish Executive (Integrated Transport Fund) £23.50 m
Strategic Rail Authority £3.00 m
English, Welsh & Scottish Railway Ltd £0.25 m
Local public sector partnership contribution £3.90 m

It is likely that the passenger services will require a public subsidy, which has not been quantified, which will form part of the Scottish Executive payment to the operator of the Scottish passenger railway franchise, currently operated by Scotrail.

CONSULTATION

Clackmannanshire Council employed private consultants to undertake the consultation on the proposals in the Bill. In effect two separate consultations were undertaken, as described below:

Technical consultation: The promoter has undertaken detailed consultation on the design and operation of the railway with the relevant regulatory and industry bodies, including Network Rail, Her Majesty's Railway Inspectorate, Stirling, Clackmannanshire and Fife Councils, British Telecom, ScottishPower, Scottish Water, Transco, ScotRail, English Welsh and Scottish Railway Ltd and Freightliner.

Public Consultation: A series of public exhibitions and presentations on the proposals in the Bill were held, as follows:

<table>
<thead>
<tr>
<th>Town/Village</th>
<th>Exhibition</th>
<th>Presentation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alloa</td>
<td>16 &amp; 17 September 2002</td>
<td>16 September, 7pm</td>
</tr>
<tr>
<td>Clackmannan</td>
<td>18 &amp; 19 September 2002</td>
<td>18 September, 7pm</td>
</tr>
<tr>
<td>Kincardine</td>
<td>23 &amp; 24 September 2002</td>
<td>23 September, 7pm</td>
</tr>
<tr>
<td>Stirling</td>
<td>25 &amp; 26 September 2002</td>
<td>25 September, 7pm</td>
</tr>
</tbody>
</table>

Details of these exhibitions and presentations were advertised in the following local newspapers:

- Stirling Observer
- Alloa and Hillfoots Advertiser
- Stirling News
- Wee County News
Leaflets advertising the exhibitions and presentations were delivered to approximately 350 adjacent properties along the route of the proposed railway. These also contained contact details for the project’s consultation manager.

Prior to the public exhibitions and presentations, briefings were held for local Councillors, MSPs and MPs. National and local groups, who the promoters identified as potentially having an interest in the proposals were also made aware of the proposals and asked to comment on them, including the Rail Freight Group, First Bus and the Rail Passenger Council. In addition, a static display has been installed at Stirling Railway Station outlining details of the project.

OUTSTANDING OBJECTIONS

At 24 September 2003 there were 55 objections to the Bill still outstanding. These can be grouped under three categories:

Residents, and residents groups, affected by the proposals: These make up 44 of the 55 objections, accounting for 80% of the total outstanding objections. Most of these objectors raise the same concerns, namely:

- Noise pollution
- Vibration and its possible effect on structures
- Dust from coal trains and its possible implications for health
- Concerns over rail safety/possibility of derailment and danger to properties near the line
- Concerns over children’s safety
- Lack of consultation by Clackmannanshire Council
- Potential for vandalism
- Potential breach of ECHR (Council of Europe 2003), particularly in relation to Article 8 – Right to respect for private and family life
- Reduction in the value of property

Businesses affected by the proposals: These make up 8 of 55 objections, accounting for 14.54% of total objections. Business objections tend to focus on the effect that the route reopening will have on the operation of their businesses, particularly with regards access to their sites and the effect that compulsory purchase of land may have on the viability of operations. There is a particular emphasis on the financial impact of the proposals.

Statutory Undertakers and regulatory bodies: These make up 3 of the 55 objections, 5.46% of the total and deal specifically with land ownership, the impact of railway on the electricity distribution network and regulatory measures related to the closure and operation of level crossings.

It is important to remember that Clackmannanshire Council and their representatives are in dialogue with many of the objectors, who may withdraw their objections, with a view to agreeing suitable remedies to the concerns they have raised.
REFERENCES


Railscot [online]. Available at: http://www.railscot.co.uk


StirlingAlloaKincardine [online]. Available at: http://www.sakrailway.co.uk