Response to HM Treasury National Infrastructure Commission: Consultation Cm9182

The Association for Consultancy and Engineering (ACE), the Civil Engineering Contractors Association (CECA), the Construction Products Association (CPA), the Institution of Civil Engineers (ICE), the Institution of Engineering and Technology (IET) and the Institution of Mechanical Engineers (IMechE) welcomes the opportunity to respond to the above named consultation.

Together, we provide the voice for those professionals and companies large and small that create, improve and maintain the UK’s vital transport, energy, digital infrastructure and utility networks.

We welcomed the news in October 2015 that Chancellor George Osborne would establish an independent National Infrastructure Commission to help Government plan for the long-term. This is a policy change our organisations have been calling for since 2013.

In addition to our detailed answers to the consultation questions below, there are four key areas we want to emphasise in this submission:

1. The long term assessment of the UK’s infrastructure needs and strategic vision for the UK’s infrastructure networks up to 2050 is the most essential area of work for the Commission and where it can provide the most value to Government and the wider public. The long term strategy should underpin any shorter term recommendations or reviews the Commission will also make.

2. The credibility of the Commission, and its potential to build confidence in the long-term future of the UK’s infrastructure planning, will be strongly linked to how the Government of the day responds to any advice that it provides. It is therefore important that in the event the Commission’s advice is not accepted or acted upon by the Government, the reasons are clearly transparent and such decision is made accountable to Parliament.

3. The long term strategy must then be translated and reflected into an effective delivery plan. The National Infrastructure Delivery Plan (NIDP) should take its steer from the NIA to ensure the long term strategy is implemented and its delivery can be monitored.
4. In addition to producing National Infrastructure Assessments once every Parliament, we suggest that the Commission also prepares an annual report of its activities. This will help provide additional transparency to those involved in delivering and investing in infrastructure projects with a life cycle of between 5 – 20 years. We recommend that this report provides a detailed overview of the advice that has been provided to government and whether such advice has been adopted.

If the Commission achieves the above, it will help increase confidence that the political risk to UK infrastructure is low, resulting in a lower cost of capital and greater infrastructure investments.

We have responded below to the questions where we feel we can add the most value. We trust that you will find our comments helpful and that they will be taken into consideration. We would welcome any opportunity to provide further insight at subsequent stages.

Yours sincerely,

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1. **Do you agree that the National Infrastructure Commission should be established as a non-departmental public body via primary legislation?**

We are strongly supportive of the establishment of the National Infrastructure Commission. It is important that once fully established, it stands as a truly independent and credible body.

To this end, we would suggest that the Commission is governed in a similar manner to the Office for Budget Responsibility (OBR) which is an advisory non-departmental public body established by the UK government to provide independent economic forecasts and analysis of public finances ahead of the annual Budget. The OBR is one of a growing number of official independent fiscal institutions that advise governments around the world and in just five years has developed a reputation for transparency and for independence from the Treasury, which is now widely acknowledged.

However, we would go further than the OBR’s governance structure when setting up the National Infrastructure Commission. We believe that the Commission should be able to choose its own staff, resources and be in receipt of sufficient funding to deliver its work stream. The Commission should be completely transparent and answerable to Parliament.

There is a risk that the National Infrastructure Commission’s work duplicates or contradicts that of Whitehall departments. It is important that there is clarity of remit and relationship with departments.

2. **Do you agree that the commission’s National Infrastructure Assessments should be laid before Parliament and that the government must respond within a specific timeframe? What would an appropriate timeframe be?**

We believe that the Commission’s National Infrastructure Assessments must be laid before Parliament. This will ensure that the Commission’s work and recommendations are made available in the most transparent and democratic way.

We would suggest that to maintain a commitment to transparency and democracy and in line with existing practices, Government must respond as robustly as possible no later than six months after the Commission’s Assessment is laid before Parliament. This would offer a realistic timeframe for various Government departments to consider the proposals carefully.

The Commission should also prepare an annual report of its activities which provides a detailed overview of the advice that has been provided to government and whether such advice has been adopted. For example, the report could include a RAG rating of whether that advice has been implemented in part or in full to allow for transparency on whether the Commission’s advice has been taken up. This is important not only for transparency, but also for communicating consistency of intent to investors and hence lowering costs by reducing the risk of investment.
3. **Do you agree that it should not be mandatory for the government to lay the recommendations from specific studies before Parliament, but that the government should have discretion to do so where necessary?**

We agree that it should not be mandatory for the government to lay recommendations from specific studies before Parliament. While we believe the Commission must maintain an open and transparent record of its work other similar organisations such as the OBR have discretion to look at specific requests from Government which do not have to be reported to Parliament.

We do, however, believe that there should be cross party buy in for such requests at the beginning of the process. This will help maintain transparency while also allowing for a degree of discretion.

The Commission’s National Infrastructure Assessments must always be laid before Parliament.

4. **Do you agree that economic regulators should ‘have regard’ to Endorsed Recommendations?**

We agree that economic regulators should have regard to endorsed recommendations. We understand that this would not be an overriding duty, and will be balanced against regulators’ other duties and interests, and we support this recommendation.

However, it is vital that the Commission has the ability to advise and give guidance on a change in regulation – in particular for pricing - or the removal of regulatory barriers to ensure that its recommendations can be implemented. Most infrastructure is financed by the private sector and therefore Government policy and regulatory frameworks are very important in supporting finance and funding. This measure would allow the Commission to take a proactive, forward-looking approach to ensure its recommendations can be delivered.

5. **Do you agree that government should legislate to oblige the commission to produce National Infrastructure Assessments once in every Parliament?**

We agree that government should legislate to oblige the commission to produce a National Infrastructure Assessment **at least** once in every Parliament.

We believe there is scope to have more than one National Infrastructure Assessment in a Parliament as it may need to be updated or revised following external events or technological advancements.

We would go further and suggest that the government should legislate to ensure a National Infrastructure Assessment is produced in the first six months of a new Parliament following a General Election (assuming the Fixed Parliament Act remains). The reason being that it is important a long term strategy is set out – or updated – at the start of a new Parliament so that there is enough time to deliver on its recommendations before the next General Election and a change in government.
6. **Do you agree that the precise timing of reports and interim publications should be a matter for the commission in consultation with relevant departments?**

We believe that the Commission must not be bound by legislation on the precise timing of reports, but instead that these will be agreed on a rolling basis by the government of the day, relevant departments and ideally with cross-party support.

We anticipate that the Commission will be a strategic partner to Government departments and will have a productive and beneficial working relationship with them. This is similar to how the OBR operates.

7. **Do you agree that a GDP envelope would provide the most effective fiscal remit for the commission?**

We agree that a GDP envelope would provide an effective fiscal remit.

Over the last 15 years, public investment in infrastructure as a percentage of GDP has remained behind many of our principal competitors including France, Germany, Japan and the United States.\(^1\) It is vital that the UK increases its public investment in infrastructure as a percentage of GDP. For each £1 billion increase in infrastructure investment, UK-wide GDP increases by a total of £1.299 billion\(^2\), confirming the importance of infrastructure development in both lean and more abundant times.

The Commission should be provided with a threshold level of investment in infrastructure that the Government sees as the baseline level of investment required to ensure that the UK maintains its current position relative to other major economies. This threshold should be set at a level that is at minimum, an average of the equivalent levels of investment as a percentage of GDP in other G7 nations.\(^3\)

Beyond this, the Government should identify a number of scenarios under which this percentage would be increased, either to respond to a need to stimulate the economy, or to close the gap in terms of the quality of our infrastructure relative to other leading economies.

Furthermore, we note in the consultation document that the Commission will not be able to advise beyond a 10 year economic cycle. We believe it is important the Commission is able to advise on a longer economic cycle, such as at least 25 years. Otherwise it will prevent the Commission from fulfilling its long term remit effectively.

8. **Do you agree that a transparency requirement should be placed on the commission with regard to its economic remit?**

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\(^1\) *ICE State of the Nation: Infrastructure 2014*, page 10

\(^2\) *CECA Securing our Economy: The Case for Infrastructure 2013*, page 6

We believe a transparency requirement should be placed on the Commission with regard to its economic remit.

9. Do you think that any additional constraints are necessary to deliver the commission’s anticipated benefits to consumers?

Affordability of infrastructure services and the user experience is a major factor in the provision of infrastructure. The Commission must consider affordability issues and revenue streams for infrastructure assets and services when it undertakes its long term assessment.

We would suggest that as part of its work, the Commission highlights the benefits of any proposed project in the long-term, not only in terms of cost, but in terms of GDP increase, job creation, improved living environment etc.

When assessing consumer benefits it is important that they are calculated not solely for one-off projects, but that a holistic approach is taken, to allow a portfolio of activities to be planned that achieves the greatest consumer benefit for a given level of investment. In many case this will be for upgrades to existing infrastructure rather than new major projects.

The Commission should also recognise the limitations of central planning, taking explicit steps to accommodate local concerns and facilitate grassroots innovation.

10. Do you agree that the remit should be set by a letter from the Chancellor, on behalf of the government?

We agree that the remit should be set by the Chancellor of the Exchequer similar to the function of the OBR.

11. Do you agree that the commission’s working assumption should be to only review those areas of infrastructure that are the responsibility of the UK government?

Government decision makers within each of the devolved nations must recognise the high degree of inter-dependence of infrastructure on a technical and strategic level. This is not just an inter-regional issue but a cross-sectorial one. We agree with the Commission's working assumption that its duties will only relate to areas of infrastructure that are the UK Government's responsibility. However, devolution within the UK is multi-layered and constantly evolving.

For example, in Scotland, energy policy at a national level is the preserve of the UK Government but planning considerations at a local level have considerable influence. Planning is a devolved matter and planning powers are distinct in Scotland. In effect, energy is a shared area of responsibility with generation and nuclear regulation, reserved matters and planning, aspects of energy efficiency and renewable energy, matters which are devolved.

In Northern Ireland the energy situation is even more complex as since 2007 the Single Electricity Market in Ireland means that the Northern Ireland grid operates in conjunction with that of the Irish Republic. Thus, policies such as the drive in Scotland for 100% of electricity consumption to be derived from
renewables or the proposed massive investment in nuclear power in England and Wales can never be viewed in isolation.

In Wales, energy is mainly a UK responsibility but the Welsh Government has strong sustainable energy aspirations and for more powers to be devolved.

The Commission must also account for the ongoing devolution of infrastructure decision making within England. We have already seen and welcomed collaboration between the Commission and Transport for the North. All infrastructure delivery plans, whether owned at the national, devolved or regional level, should derive from the NIA.

12. **Do you agree that the decision of whether to accept or reject the commission’s recommendations should rest with the responsible government?**

Within these complex patterns as mentioned above, planning for infrastructure needs must take into account the interdependence of various types of infrastructure. For instance, water and transport (both primarily devolved matters) both interact with the UK electricity infrastructure and its design. Resilience needs to be built into the system at all levels to ensure that there is no domino effect when the failure of one asset impacts on the performance of other systems.

The nature and depth of this interdependency mean that early consultation with the devolved nations on any major infrastructure plans are vital. Input is necessary at initial stages to ensure that strategic plans are aligned at early on and that planned maintenance is carried out, to ensure that the devolved nations and the UK as a whole have the high quality, resilient, infrastructure that we all need.

In the event that any devolved or regional Infrastructure Commission be established – or any such similar organisation – it is imperative that it works in conjunction and coordinates with the National Infrastructure Commission.

It is also important that devolution within England is also considered. With increasingly new regional bodies being introduced – especially for transport – across England, it is important these new bodies similarly works with the Commission and are able to deliver its recommendations.

13. **Should departments be obliged to accede to the commission’s requests for analysis?**

Departments must work in conjunction with the Commission and provide analysis when reasonably required.

14. **Do you agree that the legislation used to create the commission should place obligations on the relevant regulators and public bodies to share information with the commission?**
We agree that the legislation used to create the Commission should place obligations on the relevant regulators and public bodies to share information.

15. Should legislation also place obligations on the relevant regulators and public bodies to provide analysis for the commission?

We fully support these recommendations on data sharing and close working which will guarantee transparency between regulators, public bodies and the Commission. In addition we are supportive of recommendations for the relevant regulators and public bodies to provide analysis for the Commission as and when appropriate.

16. Do you agree that the government should specify a timetable to review or replace a National Policy Statement when endorsing recommendations?

We are supportive of proposals for Government to specify a timetable to review or replace a National Policy Statement when reviewing recommendations. While such a decision must never be taken lightly, it will ensure that the Commission's recommendations are carried out in the spirit in which they are intended.

17. Do you agree that, while additional consultation may be necessary, consultation undertaken by the commission should not be repeated by the Secretary of State when preparing a National Policy Statement?

Duplication of consultation will be a waste of public resources. However, we support the proposal that the Secretary of State will have the discretion to undertake any additional consultation as they see fit. This will ensure that the Government of the day remains accountable to Parliament and the electorate.