SUBMISSION FROM SCOTTISH NATURAL HERITAGE

I am writing to advise the Glasgow Airport Rail Link Private Bill Committee of Scottish Natural Heritage’s (SNH) position regarding this Bill.

1. **SNH has no objection to the proposed Glasgow Airport Rail Link.**

2. **SNH Mandatory Consultation Statement:**

   In accordance with Rule 9A.6A of the Standing Orders of the Scottish Parliament, I hereby lodge the following statement on behalf of SNH:

   SNH considers that the proposal has the potential for beneficial impacts to the natural heritage through the reduction of road vehicle usage with consequent reduction in emissions. However there will be some adverse impacts particularly to landscape and visual amenity, between Paisley St James station and the Airport, to nature conservation at Paisley LNR and to access facilities. Some of these impacts will be short-term during construction but others will be longer term. We note that it was not possible to carry out a full survey of the route between Glasgow Central station and Paisley St James station.

   SNH would have preferred the fuel farm not to be located immediately adjacent to Paisley Moss Local Nature Reserve and we have suggested to the developers that an alternative site is used. These discussions are ongoing.

   However none of these concerns are sufficient for SNH to consider objecting due to significant adverse impacts on the natural heritage. That is not to say that the proposal could not be improved further to reduce impacts.

   Therefore if the proposal is approved then SNH suggests that the developers should consider the following:-

   The aim should be a high quality design for all the built structures, particularly the bridge, viaduct and station, because it is not possible to mitigate these structures.

   There should be an integrated design for all the built elements of the proposal.

   At St James’ Park the landscape mitigation measures should be of an appropriate nature, scale and location in order to minimise the likely impacts of the proposed scheme.

   Landscape and other mitigation proposals should take account of all stages of the development – construction, ancillary works (e.g. site compounds) and management/maintenance works on completion.

   Prior to work commencing the whole route corridor (including any buildings to be demolished) should be surveyed for protected mammals, and mitigation plans, incorporating best practice, should be drawn up as necessary for otter, bat species,
water vole and badger. Any mature trees to be felled should be checked for bat roosts and a contingency plan drawn up prior to felling.

If any European Protected Species are likely to be affected by the development reference should be made to the legislative requirements detailed in Appendix 1.

The developers should pay regard to the provisions of the Conservation (Natural Habitat, &c.) Regulations 1994, the Conservation (Natural Habitats &c.) Amendment (Scotland) Regulations 2004, the Wildlife and Countryside Act 1981 (as amended), the Land Reform (Scotland) Act 2003, the Nature Conservation (Scotland) Act 2004 and the Protection of Badgers Act 1992.

There will be impacts from the fuel farm on Paisley Moss LNR. A detailed mitigation plan should be produced in consultation with the LNR Management Committee in order to reduce the temporary impacts during construction and any longer term impacts after construction. Opportunities should also be investigated for any positive management of the LNR as compensation for any residual adverse impacts.

The LNR is not only important for nature conservation but also for recreation and education and is thus an important local community resource. Therefore the mitigation plan should take account of impacts on users of the LNR and their experience both during and after construction.

The mitigation plans for Paisley Moss LNR should integrate the requirements for nature conservation, landscape and access / recreation.

There will be impacts on the cycle way, footpath and trim trail during construction and possibly afterwards. Wider informal outdoor access (the right of responsible access to most land and inland water) was conferred to everybody in Scotland under Part 1 of the Land Reform (Scotland) Act 2003. Therefore prior to the commencement of works a detailed access plan should be produced to include any exclusion areas, any replacement access during construction, any diversions and access after construction.
EUROPEAN PROTECTED SPECIES: LEGAL POSITION

The Wildlife and Countryside Act 1981 (as amended) and The Nature Conservation (Scotland) Act 2004 provides full protection for certain animal and plant species. Some of these species are further protected as ‘European Protected Species’ under Regulations 39 and 43 of The Conservation (Natural Habitats &c.) Regulations 1994 and Regulations 10 and 13 of The Conservation (Natural Habitats &c.) Amendment (Scotland) Regulations 2004. The species identified above are European Protected Species.

This means it is illegal to:

- Deliberately or recklessly kill, injure, disturb or capture/take European Protected Species of animal or deliberately or recklessly harass any cetacean
- Damage or destroy the breeding sites or resting places of such animals
- Deliberately or recklessly pick, collect, cut, uproot or destroy European Protected Species of wild plant

Where it is proposed to carry out works which will affect European Protected Species or their shelter/breeding places, whether or not they are present in these refuges, a licence is required from the licensing authority (in this case likely to be Scottish Executive). It is strongly advised that you refer to the Scottish Executive information on the current interim licensing arrangements, which can be found in the document *European Protected Species, Development Sites and the Planning System: Interim Guidance for Local Authorities on Licensing Arrangements*, (October 2001) before applying for a licence. Copies of this are available at [http://www.scotland.gov.uk/library3/environment/epsg-00.asp](http://www.scotland.gov.uk/library3/environment/epsg-00.asp) or by writing to the Species Licensing Team, Countryside & Natural Heritage Unit, 1 H South, Victoria Quay, Leith Edinburgh, EH6 6QQ or by telephoning 0131 244 7381.

As highlighted in the Interim Guidance, three tests must be satisfied before the licensing authority can issue a licence under Regulation 44(2) of the Conservation (Natural Habitats &c.) Regulations 1994 or Regulation 14 of The Conservation (Natural Habitats &c.) Amendment (Scotland) Regulations 2004 to permit otherwise prohibited acts. An application for a licence will fail unless all of the three tests are satisfied. The three tests involve the following considerations:

Test 1 - The licence application must demonstrably relate to one of the purposes specified in Regulation 44(2) or Amendment Regulation 14. For development proposals, the relevant purpose is likely to be Regulation 44(2)(e) for which Scottish Executive is currently the licensing authority. This regulation states that licences may be granted by Scottish Executive only for the purpose of “preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment.”
Test 2 - Regulation 44(3)(a) states that a licence may not be granted unless Scottish Executive is satisfied “that there is no satisfactory alternative”.

Test 3 - Regulation 44(3)(b) states that a licence cannot be issued unless Scottish Executive is satisfied that the action proposed “will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range” (Scottish Executive will, however, seek the expert advice of Scottish Natural Heritage on this matter).