

Strategic Consultation – Works on Scottish Roads – Respondent list

	Respondent	Response
27	South Ayrshire Council	Published
29	Transport for London	Published
30	Falkirk Council	Published
31	COSLA	Published
32	Renfrewshire Council	Published
33	Perth and Kinross Council	Published
34	South West Water	Published
35	Vodafone UK	Published
36	North Lanarkshire Council	Published
37	BT Openreach	Published
38	National Joint Utilities Group	Published

SOUTH AYRSHIRE COUNCIL
RESPONSE
TO THE
STRATEGIC CONSULTATION ON WORKS ON SCOTTISH ROADS

**STRATEGIC CONSULTATION ON WORKS ON SCOTTISH ROADS
SOUTH AYRSHIRE COUNCIL RESPONSE**

Views Sought	
01	What contribution do you consider should be introduced? What are your reasons for coming to this view?
	<p>The 17% / £76 m² annual contribution should be introduced.</p> <p>In the most recent report by TRL the service life of a road is reduced by 17% where the road has been affected by Utility excavations.</p>

Views Sought	
02	Do you think the period of restriction following resurfacing should be changed? Please can you explain your answer?
	<p>Yes - The current statutory period of restriction following resurfacing work under S117 of the New Roads and Street Works Act 1991 is only one year. There is however a voluntary agreement through the Roads Authorities and Utilities Committee (Scotland) that this period is extended to three years for carriageways which has worked well over many years.</p> <p>Increasing the statutory restriction period to three years for both carriageways and footways would meet the aspirations of the public about roads authorities and utilities working together to ensure better planning and co-ordinating their road works.</p>

Views Sought	
03	What is an appropriate level of inspection for utility company road works where a fee can be charged by the roads authority? Please can you explain your answer?
	<p>An appropriate level of inspection for utility company road works where a fee can be charged is 50% which would give a better and wider coverage of inspections to achieve improved compliance with the Codes of Practice and Reinstatement Specification.</p> <p>There should also be a duty on utility companies to inspection the remaining 50% of their works.</p>

**STRATEGIC CONSULTATION ON WORKS ON SCOTTISH ROADS
SOUTH AYRSHIRE COUNCIL RESPONSE**

04	Should the arrangements for inspection fees be changed, and could this include a performance element?
	Yes, if inspections for a specific utility company show poor performance say more than a 10% failure rate in a quarterly inspection period then the number of chargeable inspections should be increased in a sliding scale depending on the failure rate up to a maximum of 3 times the chargeable inspections.

Views Sought	
05	Do you agree that such increased periods be introduced? What are your reasons for coming to this view?
	<p>Yes, the current guarantee periods of 2 years and 3 years should be increased to 5 years and 6 years (for deep excavations).</p> <p>TRL report PPPR651 notes that reinstatements on heavier trafficked roads and roads with high traffic loadings will require maintenance after approximately 6 - 7 years in service. The report also indicates that poor reinstatement joint construction was widespread with 84% of the sites surveyed within Edinburgh showing joint defects.</p> <p>The types of reinstatement failures indicated in the TRL can be addressed and resolves if Utilities have adequate supervision and testing procedures in place for their reinstatement works.</p>

Views Sought	
06	Scottish Ministers would welcome views on the introduction of a charge for occupation where work is unreasonably prolonged.
	<p>The introduction of a charge for road occupation where work is unreasonably prolonged should be considered based on the undernoted criteria</p> <ul style="list-style-type: none"> • Road Hierarchy • Type of Project • Traffic Management • Impact of works on the surrounding road network.

**STRATEGIC CONSULTATION ON WORKS ON SCOTTISH ROADS
SOUTH AYRSHIRE COUNCIL RESPONSE**

Views Sought	
07	Scottish Ministers would welcome views on the introduction of permit schemes.
	As road works within Scotland are managed and co-ordinated through the Scottish Road Works Register (SRWR) under the New Roads and Street Works Act legislation, there is no need to introduce a permit scheme similar to that which operates in parts of England.

Views Sought	
08	Scottish Ministers would welcome views on the introduction of lane rental schemes.
	<p>South Ayrshire Council are a semi rural roads authority and the majority of our road network does not carry the volume of traffic which would merit the introduction of a lane rental scheme.</p> <p>Lane rental schemes for utility works would be more suited to the city centre arterial routes in Glasgow, Edinburgh, Dundee and Aberdeen and also the trunk road network.</p>

Views Sought	
09	Should there be an extension of existing summary offences dischargeable by fixed penalty notice? Please can you explain your answer?
	<p>As there has been no summary prosecutions under S110, S124 or S130 of the New Roads and Street Works Act 1991 to date it would therefore make sense that offences under S110 and S124 of the Act are in the future dischargeable by fixed penalty notice.</p> <p>If offences under S130 are to be discharged by fixed penalty notice this would put an additional burden on roads works authorities to carry out material testing of utility reinstatements to ensure compliance with the Specification for the Reinstatement of Openings in Roads. The duty should be with Utilities and not the Road Works Authorities to ensure that their reinstatements comply with the specification and supplemented by the National Coring Exercise.</p>

**STRATEGIC CONSULTATION ON WORKS ON SCOTTISH ROADS
SOUTH AYRSHIRE COUNCIL RESPONSE**

Views Sought	
10	Should we create the proposed new summary offences with a view to introducing fixed penalty notices? Please state the reasons for your view.
	<p>New summary offences for not noticing “actual start dates”, failure to rectify a defective reinstatement and failure to rectify defective utility apparatus would be welcome to enhance co-ordination and management of road works. There would require to be a clear definition of the words “within a reasonable period” and “within a reasonable timescale” for both road authorities and utilities.</p> <p>However it may be difficult for road works authorities to prove that utility works have been deliberately misclassified to circumvent longer noticing period.</p>

Views Sought	
11	Do you agree that the current fixed penalty notice amounts should be increased in line with inflation e.g. consumer price index?
	Yes. Consideration should be given to increasing the fixed penalty notice amount on an annual basis in line with the retail price index or consumer price index.

Views Sought	
12	What maximum level of penalty do you consider is required to ensure that it can influence the behaviour of utility companies and roads authorities which do not comply with their duties? Should this be increased in line with inflation e.g. consumer price index?
	<p>With local authority budgets reducing year on year the proposed increase in the maximum level of penalty to £200,000 could have a much greater impact on roads authorities than utility companies and possibly impact on service delivery.</p> <p>The maximum level of penalty should therefore remain at £ 50,000 and be increased on an annual basis in line with the retail price index.</p>

**STRATEGIC CONSULTATION ON WORKS ON SCOTTISH ROADS
SOUTH AYRSHIRE COUNCIL RESPONSE**

Views Sought	
13	Do you agree that the definitions of co-operate and co-ordinate in sections 118 and 119 be revised as proposed? Please provide the reasons for your view.
	No. The proposed revisals to S118 and S119 give the Scottish Road Works Commissioner excessive powers in relation to the co-ordination of road works.

Views Sought	
14	Do you agree that the Code of Practice for Safety at Street Works and Road Works should become mandatory for roads authorities? Please provide the reasons for your view.
	Yes - The safety of operatives and all road users is paramount at road works sites. Complying with Safety at Street Works and Road Works Code of Practice is already a standard requirement within our Road Works Contract Specification for our In House Contractor and External Contractors working in South Ayrshire.

Views Sought	
15	Do you agree that it should be made mandatory for all utility companies and roads authorities to hold digital records of their apparatus in roads and to provide such digital records for use on the SRWR? Please provide the reasons for your view.
	Yes. In principle the mandatory requirement for roads authorities and utility companies to hold digital records of their apparatus in roads would be welcome. The collection of data is already part of the ongoing SCOTS Roads Asset Management project. South Ayrshire Council currently have bridges / structures data in SRWR. However with budgets and resources reducing year on year within local authorities it would be a major challenge for South Ayrshire Council to identify and capture apparatus such as road gullies, road drainage systems and street lighting in digital format for use in SRWR.

STRATEGIC CONSULTATION ON WORKS ON SCOTTISH ROADS SOUTH AYRSHIRE COUNCIL RESPONSE

Questions	
16	Do you agree that section 61 of the Roads (Scotland) Act 1984 be repealed and section 109(2) of NRSWA revised to provide more clarity as to where responsibility for record keeping of apparatus should lie? Please provide the reasons for your view.
	No. The owner of the apparatus and not the roads authority should be responsible for keeping records of their apparatus and providing a record of the apparatus in a suitable digital format for uploading to the Scottish Road Works Register.

Views Sought	
17	Do you agree that the designation of "major road managers" be created? Please provide the reasons for your view.
	Yes. The designation of "major road managers" for operators of airports and seaport which have within roads within their boundaries which are open to the public would be beneficial. It would assist utility companies identify the owners of roads which are not public roads maintained by the local authority or the Scottish Ministers (Trunk Roads).

Views Sought	
18	What are your views on the 3 month advance notice period for major works?
	<p>The 3 month advance notice period of major works is very important to enable roads authorities and utilities to co-ordinate the planning of their works.</p> <p>Roads authorities can however sometimes encounter problems meeting the requirements for the 3 month noticing period for example</p> <ul style="list-style-type: none"> • additional funding is made available at short notice to be spent before the end of the financial year. • damage to the road network following a prolonged spell of severe winter weather requires structural maintenance repairs at short notice.

**STRATEGIC CONSULTATION ON WORKS ON SCOTTISH ROADS
SOUTH AYRSHIRE COUNCIL RESPONSE**

19	Do you consider that the requirement to provide advance notice for works on non traffic sensitive roads should be removed? If you do, what benefits do you consider this would bring?
	No. Advance for works non traffic sensitive roads should continue to be a requirement for the co-ordination and management. Works on non traffic sensitive road being carried out under road closures or positive traffic may have an effect on the surrounding road network including traffic sensitive roads.

Views Sought	
20	Should the early start procedure be a statutory requirement?
	Yes. The early start procedure generally works well at the moment allowing roads authorities and utilities flexibility in planning of their works and promotes good co-ordination practice. For example South Ayrshire Council has granted utilities early starts for works in a road in advance of our carriageway / footway surfacing works in the same road.

Views Sought	
21	What are your views on making noon the following day a statutory requirement for commencing urgent works?
	This proposal would be acceptable. It gives clarity to the importance of starting genuine urgent works within a fixed timescale.

Views Sought	
22	Should legislation be introduced to ensure that roads authorities are required to provide the same information as utility companies and to the same timescales?
	Yes. Since the introduction of the Transport (Scotland) Act 2005 and the Code of Practice for the Co-ordination of Road Works South Ayrshire Council has complied with both the statutory and non statutory minimum noticing periods for its road works on traffic sensitive and non traffic sensitive roads. As roads authority road works are not subject to the Utility Works guarantee periods, roads authorities should only be required to close their completed works in the Scottish Road Works Register and not register the works as well.

**STRATEGIC CONSULTATION ON WORKS ON SCOTTISH ROADS
SOUTH AYRSHIRE COUNCIL RESPONSE**

Views Sought	
23	Should regulations be introduced to allow roads authorities the flexibility around placing notices for works involving no or minimal excavation on non-traffic sensitive roads?
	Yes.

Views Sought	
24	Should regulations be introduced to require roads authorities and utility companies to enter actual start notices on to the Scottish Road Works Register?
	Yes.

Views Sought	
25	Is the current requirement for actual start notices to be lodged by noon the following day for all works in roads, including traffic sensitive routes, acceptable? Please can you explain your answer.
	Yes. The current requirement for actual start notices to be lodged by 12 noon the following day has generally worked well over the years and is reasonable.

Views Sought	
26	Is the current requirement for works closed notices to be lodged by the end of the next working day a reasonable period? What alternative period would you propose for traffic sensitive roads and what are the advantages or disadvantages?
	Yes, the current requirement for closing works notices by the end of the next working day is reasonable and works well.

**STRATEGIC CONSULTATION ON WORKS ON SCOTTISH ROADS
SOUTH AYRSHIRE COUNCIL RESPONSE**

Views Sought	
27	Should we reduce the validity period to a maximum of 2 days and should it apply to both utility companies and roads authorities alike? If you consider that a different validity period would be appropriate, please state the period and provide the reasons for your view.
	Yes.

Views Sought	
28	Should roads authorities be provided with statutory powers to impose maximum durations for works on utility companies?
	Yes.

Views Sought	
29	Should roads authorities be given statutory powers to impose embargoes on works for reasons other than traffic disruption?
	Yes. In South Ayrshire the current voluntary embargo in Ayr Town Centre at the christmas / new year period and for race meetings at Ayr race course has worked well over many years.

Views Sought	
30	Do you agree with the definition of a working day given above?
	Yes. While it is appreciated that many organisations no longer recognise local public holidays within Scotland, our local authority still does. For example our offices are closed between Christmas and New Year which causes problems for managing works notices in the Scottish Road Works Register during this period.

**STRATEGIC CONSULTATION ON WORKS ON SCOTTISH ROADS
SOUTH AYRSHIRE COUNCIL RESPONSE**

Views Sought	
31	Please identify any further issues which should be addressed that you think could contribute towards improving the way in which works in roads are managed and undertaken.
	<p>Several of the national Utility companies now employ external contractors to manage and undertake road works on their behalf.</p> <p>This type of contract management setup can lead to Utilities abdicating their the duties under road works legislation resulting in works noticing problems, poor site supervision and inadequate site traffic management.</p>

Views Sought	
32	Please identify any potential innovations which you think could contribute towards improving the way in which works in roads are managed and undertaken.
	<p>In Ayrshire the 3 Councils meet together with Scottish Water every three months outwith the cycle of local RAUC meetings to discuss road works issues. This meeting is beneficial to both the roads authorities and Scottish Water. Holding similar meetings with the other major utility companies would be beneficial to managing road works in South Ayrshire.</p>

Views Sought	
33	Please outline the potential impact of any additional costs.
	<p>It is not possible at this stage to identify the potential impact of any additional costs as a result of changes to primary or secondary road works legislation which may occur following this Consultation exercise.</p>

STRATEGIC CONSULTATION ON WORKS ON SCOTTISH ROADS

RESPONDENT INFORMATION FORM

Please Note this form **must** be returned with your response to ensure that we handle your response appropriately

1. Name/Organisation

Organisation Name

South Ayrshire Council

Title Mr ☒ Ms ☐ Mrs ☐ Miss ☐ Dr ☐ Please tick as appropriate

Surname

Braidwood

Forename

Kevin

2. Postal Address

Burns House 16 Burns Statue Square Ayr

Postcode KA7 1UT

Phone 01292 616114

Email

kevin.braidwood@south-ayrshire.gov.uk

3. Permissions - I am responding as...

Individual

☐

Group/Organisation

☒

Please tick as appropriate

- (a) Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government web site)?

Please tick as appropriate ☐ Yes ☐ No

- (b) Where confidentiality is not requested, we will make your responses available to the public on the following basis

Please tick ONE of the following boxes

Yes, make my response, name and address all available ☐

or

Yes, make my response available, but not my name and address ☐

or

Yes, make my response and name available, but not my address ☐

- (c) The name and address of your organisation **will be** made available to the public (in the Scottish Government library and/or on the Scottish Government web site).

Are you content for your **response** to be made available?

Please tick as appropriate ☒ Yes ☐ No

- (d) We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Please tick as appropriate

☒ Yes

☐ No

Bus and Local Transport Policy
Transport Policy

Victoria Quay, Edinburgh EH6 6QQ
T: 0131-244 7057
Joanne.gray@transportscotland.gsi.gov.uk



29

Roads Authorities and Utility Companies
operating in Scotland and other interested parties

Your ref:

Our ref:

5 April 2013

Dear Sir/Madam

STRATEGIC CONSULTATION ON WORKS IN ROADS

Responding to this consultation paper

We are inviting written responses to this consultation paper by Friday 5 July 2013

Please send your response with the completed Respondent Information Form (see "Handling your Response" below) to:

WorksonRoads@transportscotland.gsi.gov.uk

or

Strategic Consultation on Works on Scottish Roads
Transport Scotland
Area 2D North
Victoria Quay
Edinburgh
EH6 6QQ

If you have any queries contact Raymond Elliot in the Scottish Road Works Commissioner's office on 0131 244 9938.

We would be grateful if could clearly indicate in your response which questions or parts of the consultation paper you are responding to as this will aid our analysis of the responses received.

Handling your response

We need to know how you wish your response to be handled and, in particular, whether you are happy for your response to be made public. Please complete and return the **Respondent Information Form** attached to this letter as this will ensure that we treat your response



appropriately. If you ask for your response not to be published we will regard it as confidential, and we will treat it accordingly.

All respondents should be aware that the Scottish Government are subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any request made to it under the Act for information relating to responses made to this consultation exercise.

Next steps in the process

Where respondents have given permission for their response to be made public and after we have checked that they contain no potentially defamatory material, responses will be made available on the Transport Scotland web site.

What happens next ?

Following the closing date, all responses will be analysed and considered along with any other available evidence to help us reach various decision. We aim to issue a report on this consultation process within 3 months after the closing date for the consultation.

Comments and complaints

If you have any comments about how this consultation exercise has been conducted, please send them to:

Name: Joanne Gray

Address: Transport Scotland, Area 2D North, Victoria Quay, Edinburgh, EH6 6QQ

E-mail: WorksonRoads@transportscotland.gsi.gov.uk

Yours faithfully

Joanne Gray



STRATEGIC CONSULTATION ON WORKS ON SCOTTISH ROADS

Response Sheet

Views Sought	
01	<p>What contribution do you consider should be introduced? What are your reasons for coming to this view?</p>
	<p>TfL consider that a contribution scheme to making good long-term damage to roads causing by utility excavations is a sensible option and one it would consider appropriate not only for roads in Scotland but across all of the country.</p> <p>There is significant evidence both within the Scottish study on the long-term damage and a similar study undertaken by TfL, see attached document, to demonstrate that utility activity does reduce the long-term life of road.</p> <p>Based on the evidence provided in both reports TfL would consider that a contribution of at least 17% would be appropriate to reflect the TRL report figure of a 17% reduction in the service life of roads.</p>

Views Sought	
02	<p>Do you think the period of restriction following resurfacing should be changed? Please can you explain your answer?</p>
	<p>TfL considers that the current voluntary adopted period of 3 years should be introduced as a minimum.</p>

Views Sought	
03	<p>What is an appropriate level of inspection for utility company road works where a fee can be charged by the roads authority? Please can you explain your answer?</p>
	<p>The current accepted level of inspections rate is 10% per inspection category and TfL considers that this is set at an appropriate level.</p> <p>With the introduction of permit schemes within London TfL considered that there is a case that as the permit scheme introduces additional controls on works promoters that the levels for 'in progress inspections' should be increased. This would greatly assist in ensuring that promoters comply to the permit conditions.</p>



04	Should the arrangements for inspection fees be changed, and could this include a performance element?
	<p>TfL considers that the current fee structure is adequate for the sample inspections regime.</p> <p>However TfL does consider that street and permit authorities should be able to recover their cost in undertaking routine inspections. Whilst historically these are considered to be part of the street or permit authority's daily activities and as such are considered as non-chargeable, these inspections do require the authority to provide a resource to undertake and process the inspections.</p> <p>Whilst 10% is considered to be a viable level for providing a reasonable measurement of promoter performance TfL would agree that the ability to increase this level depending on performance would be welcome. In addition the ability to penalise poor performance would be welcome and would assist in encouraging promoters to maintain a high level of compliance.</p>

Views Sought	
05	Do you agree that such increased periods be introduced? What are your reasons for coming to this view?
	<p>TfL would agree that longer guarantee periods would be welcome, as the life expectancy of roads are much longer than the current guarantee periods of 2-3 years.</p> <p>However for this proposal to be effective the ability to correctly identify reinstatements within the road must be considered. It is our experience that it is very difficult to identify reinstatements following a numbers of year particularly in urban areas where the road surface is more likely to have been excavated a number of times. Therefore TfL would encourage that new requirements for the registration of reinstatement are also examined.</p>

Views Sought	
06	Scottish Ministers would welcome views on the introduction of a charge for occupation where work is unreasonably prolonged.
	<p>TfL, along with all English and Welsh authorities, operate a scheme under S74 of the NRSWA which applies to utility promoters works on their networks.</p> <p>It is our experience that such a scheme needs to be based upon</p>



evidence from the actual situation on site rather than on the data held within a streetworks register. Most authorities will monitor their network to identify where works are over-running through site inspection. The ability to challenge promoters estimated works duration is also found to be a useful tool in managing and co-ordinating works on the network. In addition the S74 scheme is considered to greatly assist authorities in minimising works durations which contributes to the overall aim of minimising disruption from roadworks.



Views Sought	
07	<p>Scottish Ministers would welcome views on the introduction of permit schemes.</p>
	<p>TfL have operated a permit scheme since Jan 2010 and the operation of the scheme has provided some significant successes in that period.</p> <p>The numbers of days of disruption saved through collaborative works recorded by TfL have increased by 250% between 2009-10 and 2012-13.</p> <p>The levels of serious and severe disruption recorded by TfL has decreased by 53% in the same period</p> <p>The ability to refuse permit applications for co-ordination reasons along with the ability to apply permit conditions on works have both contributed to these successes.</p> <p>TfL would recommend that the commissioner introduce the permit schemes with Scotland.</p>

Views Sought	
08	<p>Scottish Ministers would welcome views on the introduction of lane rental schemes.</p>
	<p>TfL introduced the first targeted and avoidable Lane Rental Scheme in June 2012. The scheme was designed to encourage behaviour change within the all works promoters and early indications are that works promoters are changed the way in which they plan and undertake work.</p> <p>Following the implementation of the TLRS 99% of Transport for London (TfL) works and 92% of utility works avoided incurring a TLRS charge. However it should be noted that there were some instances where TLRS fees were waived or where works were exempt from charges due to transitional arrangements and therefore the full effect of the scheme may not yet have been felt.</p> <p>Serious and severe disruption associated with road works decreased by 36% in TLRS segments year on year between June 2011 to March 2012 compared to June 2012 to March 2013.</p> <p>In TLRS segments journey times improved by 3.2% in the AM peak</p>



and 2.6% in the PM peak during this time. This is over and above the expected journey time reduction of 0.61% across the road network in London.

Whilst it is still early days for the TfL scheme, TfL would recommend that Scottish Ministers consider where a similar scheme would be likely to bring most benefit to targeted Scottish roads.

Views Sought

09 Should there be an extension of existing summary offences dischargeable by fixed penalty notice? Please can you explain your answer?

TfL strongly support the extension of the of the existing summary offence dischargeable by fixed penalty notice to the three sections identified within the consultation.

The current arrangements for authorities to take action to deal with breaches of these offences are very cumbersome, with the authority being required to take the matter to the magistrates court. The effort involved in taking these matters to court is very time consuming and costly to the authority. Indeed it considered to act as a deterrent to many authorities from taking action.

In addition it not considered to be an effective use of the courts time. The extension of the existing FPN scheme to allow these matters to be progressed is considered a more simple and effective method of managing the breaches.



Views Sought	
10	<p>Should we create the proposed new summary offences with a view to introducing fixed penalty notices? Please state the reasons for your view.</p>
	<p>There is a concern within street authorities on the bullet points raised under 3.10 of the consultation, particularly around their lack of ability to manage non-compliance of the issues and the resultant lack of ability to change promoters behaviour.</p> <p>Therefore TfL would welcome the introduction of the new summary offences as set out in the consultation.</p>

Views Sought	
11	<p>Do you agree that the current fixed penalty notice amounts should be increased in line with inflation e.g. consumer price index?</p>
	<p>The current levels of FPN were set in 2008 and TfL does not consider that the current levels are sufficient to change behaviour. It is commonplace for promoters to accept FPNs which they then pass the cost on to their contractor. The contractor often sees the FPN as simply another cost to their operation and absorb the cost. Therefore there is no incentive to change their behaviour, as it is cheaper to pay the FPN.</p> <p>TfL would encourage that the current level of FPN are reviewed and a mechanism is put in place to allow the levels to reviewed on a bi-annual basis.</p>

Views Sought	
12	<p>What maximum level of penalty do you consider is required to ensure that it can influence the behaviour of utility companies and roads authorities which do not comply with their duties? Should this be increased in line with inflation e.g. consumer price index?</p>
	<p>The concept of Commissioner penalties does not exist with the current legislation under which TfL operates so TfL does not consider it can respond to this question.</p>



Views Sought	
13	Do you agree that the definitions of co-operate and co-ordinate in sections 118 and 119 be revised as proposed? Please provide the reasons for your view.
	The concept of Commissioner penalties does not exist with the current legislation under which TfL operates so TfL does not consider it can respond to this question.

Views Sought	
14	Do you agree that the Code of Practice for Safety at Street Works and Road Works should become mandatory for roads authorities? Please provide the reasons for your view.
	TfL agrees with this proposal as both utility and authorities should be required to work to the same standards.

Views Sought	
15	Do you agree that it should be made mandatory for all utility companies and roads authorities to hold digital records of their apparatus in roads and to provide such digital records for use on the SRWR? Please provide the reasons for your view.
	TfL does not consider it appropriate for it to provide a response to this question.

Questions	
16	Do you agree that section 61 of the Roads (Scotland) Act 1984 be repealed and section 109(2) of NRSWA revised to provide more clarity as to where responsibility for record keeping of apparatus should lie? Please provide the reasons for your view.
	TfL does not consider it appropriate for it to provide a response to this question.



Views Sought	
17	Do you agree that the designation of “major road managers” be created? Please provide the reasons for your view.
	TfL does not consider it appropriate for it to provide a response to this question.

Views Sought	
18	What are your views on the 3 month advance notice period for major works?
	TfL consider that promoters should be able to provide long-term plans for major works and that a 3 month lead-in period for these works is not unreasonable. It is considered that these lead-in periods are effective in providing ample time to effectively plan the works and also allow opportunities for collaborative works.



19	Do you consider that the requirement to provide advance notice for works on non traffic sensitive roads should be removed? If you do, what benefits do you consider this would bring?
	Tfl considers that the requirements should remain.

Views Sought	
20	Should the early start procedure be a statutory requirement?
	TfL does not consider it appropriate for it to provide a response to this question.

Views Sought	
21	What are your views on making noon the following day a statutory requirement for commencing urgent works?
	TfL does not consider it appropriate for it to provide a response to this question.



Views Sought	
22	Should legislation be introduced to ensure that roads authorities are required to provide the same information as utility companies and to the same timescales?
	TfL does not consider it appropriate for it to provide a response to this question as the legislation.

Views Sought	
23	Should regulations be introduced to allow roads authorities the flexibility around placing notices for works involving no or minimal excavation on non-traffic sensitive roads?
	TfL does not consider it appropriate for it to provide a response to this question as the legislation.

Views Sought	
24	Should regulations be introduced to require roads authorities and utility companies to enter actual start notices on to the Scottish Road Works Register?
	TfL does not consider it appropriate for it to provide a response to this question as the legislation.

25	Is the current requirement for actual start notices to be lodged by noon the following day for all works in roads, including traffic sensitive routes, acceptable? Please can you explain your answer.
	TfL does not consider it appropriate for it to provide a response to this question.

Views Sought	
26	Is the current requirement for works closed notices to be lodged by the end of the next working day a reasonable period? What alternative period would you propose for traffic sensitive roads and



	what are the advantages or disadvantages?
	TfL does not consider it appropriate for it to provide a response to this question.

Views Sought	
27	Should we reduce the validity period to a maximum of 2 days and should it apply to both utility companies and roads authorities alike? If you consider that a different validity period would be appropriate, please state the period and provide the reasons for your view.
	TfL does not consider it appropriate for it to provide a response to this question.



Views Sought	
28	Should roads authorities be provided with statutory powers to impose maximum durations for works on utility companies?
	TfL does not consider it appropriate for it to provide a response to this question.

Views Sought	
29	Should roads authorities be given statutory powers to impose embargoes on works for reasons other than traffic disruption?
	TfL considers that the current arrangements for voluntary embargoes operates well provided that the responsible authority consults all parties, including strategic authorities, in good time.

Views Sought	
30	Do you agree with the definition of a working day given above?
	TfL does not consider it appropriate for it to provide a response to this question.



Views Sought	
31	Please identify any further issues which should be addressed that you think could contribute towards improving the way in which works in roads are managed and undertaken.
	N/A

Views Sought	
32	Please identify any potential innovations which you think could contribute towards improving the way in which works in roads are managed and undertaken.
	N/A

Views Sought	
33	Please outline the potential impact of any additional costs.
	N/A



STRATEGIC CONSULTATION ON WORKS ON SCOTTISH ROADS

RESPONDENT INFORMATION FORM

Please Note this form **must** be returned with your response to ensure that we handle your response appropriately

1. Name/Organisation

Organisation Name

Transport for London

Title Mr ☒ Ms ☐ Mrs ☐ Miss ☐ Dr ☐ Please tick as appropriate

Surname

Beasley

Forename

Mark

2. Postal Address

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Phone 020 3054 2419

Email

MarkBeasley@tfl.gov.uk

3. Permissions - I am responding as...

Individual



Group/Organisation



Please tick as appropriate

- (a) Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government web site)?

Please tick as appropriate ☐ Yes ☐ No

- (b) Where confidentiality is not requested, we will make your responses available to the public on the following basis

Please tick ONE of the following boxes

Yes, make my response, name and address all available ☐

or

Yes, make my response available, but not my name and address ☐

or

Yes, make my response and name available, but not my address ☐

- (c) The name and address of your organisation will be made available to the public (in the Scottish Government library and/or on the Scottish Government web site).

Are you content for your response to be made available?

Please tick as appropriate ☐ Yes ☐ No

- (d) We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Please tick as appropriate

☐ Yes

☐ No





Falkirk Council Response to the

STRATEGIC CONSULTATION ON WORKS ON SCOTTISH ROADS

April 2013

STRATEGIC CONSULTATION ON WORKS ON SCOTTISH ROADS

Response Sheet

Views Sought	
01	What contribution do you consider should be introduced? What are your reasons for coming to this view?
	Research and our own experience has proven that utility reinstatement has caused and will continue to cause damage to the Road Authority network. We would consider a 10% contribution as fair and reasonable.

Views Sought	
02	Do you think the period of restriction following resurfacing should be changed? Please can you explain your answer?
	We believe that the current voluntary 3 year agreement should be adopted into legislation. Any measure that can reduce excavations on newly resurfaced roads is welcome.

Views Sought	
03	What is an appropriate level of inspection for utility company road works where a fee can be charged by the roads authority? Please can you explain your answer?
	The current system is adequate as a performance measure for the relevant utility. We believe however that more inspections should be carried out in the last 3 months of the warranty at the category 'C' stage. From the stats available and using the current system it is clear that a large number of defects will not be detected before the warranty expires and will therefore be passed for maintenance to the Road Authority. We would propose that 100% of reinstatements are inspected prior to the end of the warranty period and that these inspections are rechargeable
04	Should the arrangements for inspection fees be changed, and could this include a performance element?
	As per our response to item 3 we believe that all reinstatements should be inspected prior to the end of the warranty period. If this is not adopted then a system where the number of inspections was increased for failing utilities should be introduced.

Views Sought	
05	Do you agree that such increased periods be introduced? What are your reasons for coming to this view?
	Yes any increase in the warranty period would be welcome. In our response to the SROR consultation we identified that 50% of reinstatements that had received a sample C pass had failed a later inspection with the burden of repair now falling on the Road Authority.

Views Sought	
06	Scottish Ministers would welcome views on the introduction of a charge for occupation where work is unreasonably prolonged.
	The burdens placed on the Road Authority would outweigh any potential benefits.

Views Sought	
07	Scottish Ministers would welcome views on the introduction of permit schemes.
	We do not believe that these would be of any great benefit and would rather work continued to improve the current system.

Views Sought	
08	Scottish Ministers would welcome views on the introduction of lane rental schemes.
	Can see no real benefits in introducing these schemes.

Views Sought	
09	Should there be an extension of existing summary offences dischargeable by fixed penalty notice? Please can you explain your answer?
	<p>Yes.</p> <p>Section 110 – this would resolve the issue of penalising third parties who carry out road works without applying for the relevant authorisation.</p> <p>Section 124 – any penalty imposed which can lead to the improvement of site safety is welcome.</p> <p>Section 130 - this penalty would help maintain the focus on the</p>

	quality of the permanent reinstatement and can only be a positive.
Views Sought	
10	Should we create the proposed new summary offences with a view to introducing fixed penalty notices? Please state the reasons for your view.
	<ul style="list-style-type: none"> • 'Misclassification of works as urgent or emergency to circumvent longer planned work notice Periods.' – No, can already be pursued through section 114 breach when identified. • 'Not noticing actual start notices by the due time' – Yes, actual start notices should become a legal requirement with failure to issue the relevant notice an FPN offence. • 'Failure to rectify a defective reinstatement within a reasonable period' – Yes, statistics show that this is an area where improvement is required. Failure to attend to reinstatement defects can lead to safety issues and therefore we would welcome the introduction of an FPN for this issue. The reasonable timescale should be in line with legislation. • 'Failure to rectify defective utility company apparatus within a reasonable timescale' – Yes, statistics show that this is an area where improvement is required. Failure to attend to apparatus defects can lead to safety issues and therefore we would welcome the introduction of an FPN for this issue. The reasonable timescale should be in line with legislation. • Work Extensions – we would also like to see an FPN offence created for late work extension requests.

Views Sought	
11	Do you agree that the current fixed penalty notice amounts should be increased in line with inflation e.g. consumer price index?
	Yes.

Views Sought	
12	What maximum level of penalty do you consider is required to ensure that it can influence the behaviour of utility companies and roads authorities which do not comply with their duties? Should this be increased in line with inflation e.g. consumer price index?
	Increased to £ 100,000 and then rising with inflation thereafter.

Views Sought	
13	Do you agree that the definitions of co-operate and co-ordinate in sections 118 and 119 be revised as proposed? Please provide the reasons for your view.
	Yes – the proposals would provide clarity.

Views Sought	
14	Do you agree that the Code of Practice for Safety at Street Works and Road Works should become mandatory for roads authorities? Please provide the reasons for your view.
	No the Code of Practice is more suited to utility works of an isolated nature and does not lend itself to Road Authority works such as resurfacing and reconstruction. Road Authorities are subject to compliance with chapter 8.

Views Sought	
15	Do you agree that it should be made mandatory for all utility companies and roads authorities to hold digital records of their apparatus in roads and to provide such digital records for use on the SRWR? Please provide the reasons for your view.
	Yes – realistic timescales would have to be agreed to deal with the level of historical data which requires to be recorded

Questions	
16	Do you agree that section 61 of the Roads (Scotland) Act 1984 be repealed and section 109(2) of NRSWA revised to provide more clarity as to where responsibility for record keeping of apparatus should lie? Please provide the reasons for your view.
	<p>Yes, we agree that section 61 should be repealed. This will remove the confusion between this and section 109 of NRSWA which cover similar circumstances.</p> <p>The issue regarding the ability to request a bond from developers under section 109 would have to be resolved prior to section 61 being repealed.</p>

Views Sought	
17	Do you agree that the designation of “major road managers” be

	created? Please provide the reasons for your view.
	We have no problems with this proposal. Anything that improves co-ordination of works is welcome.

Views Sought	
18	What are your views on the 3 month advance notice period for major works?
	In principle we are in agreement with the 3 month advance notice. However we feel that the definition of major works should be reviewed to try and eliminate works that can be of a minor nature but may extend beyond 10 days.

19	Do you consider that the requirement to provide advance notice for works on non traffic sensitive roads should be removed? If you do, what benefits do you consider this would bring?
	No. There are a number of situations on non traffic sensitive routes that can cause substantial disruption and therefore the advance notice should be retained.

Views Sought	
20	Should the early start procedure be a statutory requirement?
	Yes.

Views Sought	
21	What are your views on making noon the following day a statutory requirement for commencing urgent works?
	No - status quo should be retained. Noticing within 2 hours of works starting gives the Road Authority more chance to co-ordinate works.

Views Sought	
22	Should legislation be introduced to ensure that roads authorities are required to provide the same information as utility companies and to the same timescales?
	No. Road Authorities are required to enter the details of their works for co-ordination purposes. Utility companies are required to provide details of their works to the Road Authority including their reinstatement details to allow the Road Authority to carry out inspections and any other checks deemed necessary. There is no need to extend this requirement to the Road Authority as the road network is a Road Authority asset.

Views Sought	
23	Should regulations be introduced to allow roads authorities the flexibility around placing notices for works involving no or minimal excavation on non-traffic sensitive roads?
	Yes.

Views Sought	
24	Should regulations be introduced to require roads authorities and utility companies to enter actual start notices on to the Scottish Road Works Register?
	Yes.

25	Is the current requirement for actual start notices to be lodged by noon the following day for all works in roads, including traffic sensitive routes, acceptable? Please can you explain your answer.
	Yes – the current requirements are acceptable.

Views Sought	
26	Is the current requirement for works closed notices to be lodged by the end of the next working day a reasonable period? What alternative period would you propose for traffic sensitive roads and what are the advantages or disadvantages?
	Yes – this is a reasonable period.

Views Sought	
27	Should we reduce the validity period to a maximum of 2 days and should it apply to both utility companies and roads authorities alike? If you consider that a different validity period would be appropriate, please state the period and provide the reasons for your view.
	No. the current validity period allows a degree of flexibility to deal with unforeseen problems.

Views Sought	
28	Should roads authorities be provided with statutory powers to impose maximum durations for works on utility companies?
	No. Any issues are currently resolved through negotiation and we see no reason to change this.

Views Sought	
29	Should roads authorities be given statutory powers to impose embargoes on works for reasons other than traffic disruption?
	Yes. Special events throughout the year could be disrupted by significant utility works and the ability to apply an embargo in these situations would be advantageous.

Views Sought	
30	Do you agree with the definition of a working day given above?
	Yes.

Views Sought	
31	Please identify any further issues which should be addressed that you think could contribute towards improving the way in which works in roads are managed and undertaken.
	All Road Authority follow up DA2 inspections carried out when a utility has failed to repair their defective apparatus within the agreed timescales should be rechargeable to the utility.

Views Sought	
32	Please identify any potential innovations which you think could contribute towards improving the way in which works in roads are managed and undertaken.
	Implementation of responses to consultation document

Views Sought	
33	Please outline the potential impact of any additional costs.
	No comment

STRATEGIC CONSULTATION ON WORKS ON SCOTTISH ROADS

RESPONDENT INFORMATION FORM

Please Note this form **must** be returned with your response to ensure that we handle your response appropriately

1. Name/Organisation

Organisation Name

Falkirk Council

Title Mr ☒ Ms ☐ Mrs ☐ Miss ☐ Dr ☐ Please tick as appropriate

Surname

Thomson

Forename

Paul

2. Postal Address

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Phone 01324 504610

Email: paul.thomson@falkirk.gov.uk

3. Permissions - I am responding as...

Individual

☐

Group/Organisation

☒

Please tick as appropriate

- (a) Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government web site)?

Please tick as appropriate ☐ Yes ☐ No

- (b) Where confidentiality is not requested, we will make your responses available to the public on the following basis

Please tick ONE of the following boxes

Yes, make my response, name and address all available ☐

or

Yes, make my response available, but not my name and address ☐

or

Yes, make my response and name available, but not my address ☐

- (c) The name and address of your organisation **will be** made available to the public (in the Scottish Government library and/or on the Scottish Government web site).

Are you content for your **response** to be made available?

Please tick as appropriate ☒ Yes ☐ No

- (d) We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Please tick as appropriate

☒ Yes

☐ No

31



04 July 2013

Keith Brown MSP
Minister for Transport and Veteran Affairs
St. Andrew's House
Regent Road
Edinburgh
EH1 3DG

Dear *Keith*

I write to outline COSLA's response to the current consultation proposals for addressing the long-term damage to Scotland's road network caused by utility company excavations and safely improving the undertaking and co-ordination of roadworks.

The COSLA Development, Economy and Sustainability Executive Group at its May meeting agreed that the proposals for utility company contributions to repair long-term road asset damage were needed. They also welcomed the recognition in the consultation of the existing backlog of damage to roads caused by utility provider's excavations and that currently the cost of repairing this damage was shouldered by council budgets in terms of the need for earlier than intended repair work.

However, members rejected the proposed ringfencing mechanism for potential compensation payments. Members took the view that these payments are compensation for sums already spent by councils on the local road and highway assets, therefore the money should be distributed to councils in an equitable and transparent formula, but free of ringfencing for the sole purpose of expenditure on specific sections of roads.

Members felt that the current strategic asset management context provided by councils Road Asset Management Plans demonstrated an existing level of transparency and that further administration of any scheme would only divert further funds away from the renewal of the local road asset. Given the move to a strategic asset management approach to managing road condition, members felt that this preventative agenda to driving efficiencies could be significantly affected by a requirement to reactively spend on certain parts of the local road network.

The Executive Group also agreed that the transparent and externally accessible performance management information provided for roads maintenance via the work by SCOTS on the Scottish Roads Condition Survey and SOLACE/Improvement Service on the Local Government benchmarking project with four specific road maintenance indicators demonstrated a clear and transparent public commitment from all 32 councils to improve the delivery of roads maintenance outcomes and efficiencies.

Members also highlighted the linkage between this contributory proposal and their consideration at their last meeting of the recent Audit Scotland update/progress report on Roads Maintenance Review outcomes and resourcing, which lead them to agree that any compensation should generally be on the basis of full cost recovery, once further research identifies the appropriate level, to the lifespan reduction of the whole highway given the significant amount of monies spent annually by councils on maintaining local roads. However, members did recognise the links between some works which lead to wider subsidised local outcomes e.g. local surface water management and the provision of high speed broadband, where any charges could result in simply recycling the cost to roads authorities through other charges and on this basis perhaps exceptions might need to be considered in some cases.

On the issue of chargeable inspections in line with Better Regulation evidence-led principles and guarantees of utility company reinstatements, member councils felt that greater flexibility to use such preventative measures to address issues before they demand resources for significant maintenance could significantly increase efficiencies regarding highway asset lifespan. Introducing longer guarantee periods would at least align with a preventative spending argument for ensuring that where work needs to be done it is long lasting and of a quality that does not significantly impact on future road conditions and require numerous subsequent interventions to maintain road condition. This would be especially relevant if the final proposals are for retrospective contributions for damage are less than full-cost recovery for the excavations impact on the long term asset life of the highway.

As mentioned in my previous letter of 22 May 2013, members also agreed with a suggestion that some of the monies from the proposed fines for roadworks overrunning, could be used to promote a fund to support small scale cycling initiatives in support of Cycling Action Plan for Scotland (CAPS) objectives or other active travel outcomes.

The consultation document also includes a proposal for revision of legislation to enable the Scottish Road Works Commissioner (SWRC) to penalise non-co-ordination of works on the basis of practice the SWRC does not view as desirable. The existing two criteria used to assess failure to comply have a clear statutory basis. However, the potential for subjectivity by any Commissioner decision in exercising the proposed third criteria does not appear to COSLA to provide the outcome of greater certainty and clarity to all parties within the process without further guidance to outline what would be broadly deemed desirable.

Generally members felt that in terms of local road conditions, as you are well aware, communities are interested in results, they focus on outcomes rather than inputs. So whether road conditions are improved by greater cost recovery for excavations or longer guarantee/inspections periods, they want to see road conditions improved. They recognise some works are necessary but that these works should be of a required standard to protect the structure of roads, minimise inconvenience and promote safety.

I look forward to a further discussion on this and other matters when we meet after recess.

Kind Regards

Stephen,

**Cllr Stephen Hagan
COSLA Spokesperson
Development, Economy & Sustainability**

STRATEGIC CONSULTATION ON WORKS ON SCOTTISH ROADS

Response Sheet: Renfrewshire Council

Views Sought	
01	<p>What contribution do you consider should be introduced? What are your reasons for coming to this view?</p> <p>Research has confirmed that excavation and reinstatement does cause long term damage to roads, even if the reinstatement is carried out properly. At present, the additional costs arising from this are borne by roads authorities. The introduction of a utility company contribution towards this cost would represent a transfer of part of the cost to the organisation causing the damage. However, it would not represent an increase in the total cost to society as a whole.</p> <p>The advantage of transferring part of the cost to the organisation causing the damage is that it would give an incentive for behaviour change that could reduce the total cost to society as a whole. There is considerable scope to reduce the amount of excavation necessary for utility company works. Greater use of ducts and access chambers would allow apparatus to be replaced without excavation. Innovative techniques such as the "microsurgery" excavation procedure being pioneered by SGN can increase precision, allowing repairs or connections to be made using a small core hole in the right place. Transferring some of the long term damage costs from the roads authorities to the utility companies would give a strong economic incentive for more widespread and rapid introduction of such innovations, to the benefit of society as a whole.</p> <p>Although on strictly economic grounds, the transfer of the entire cost of long term road damage to the utility companies would be the best strategy to ensure that costs were minimised for society as a whole, a more gradual approach may be preferable to reduce the risk of unintended side effects. A contribution of £38 per square metre of carriageway would represent half the estimated cost of the long term damage and could be regarded as a reasonable first step. This should be sufficient to start driving behaviour change but should be more manageable for the utility companies than the transfer of the entire cost in one go.</p> <p>Further research would be required to establish suitable contribution rates for long term damage caused by excavations in the footway and in the verge. The issues for footways are similar to those for carriageways, but a lower contribution rate would probably be appropriate. A lot of apparatus in rural roads is located in the verge, and although this practice reduces the damage and disruption arising from works, the reduction in lateral support following an excavation in the verge can still cause long term damage to the adjacent carriageway. As with footways, a lower contribution rate would probably be appropriate.</p>

Views Sought	
02	Do you think the period of restriction following resurfacing should be changed? Please can you explain your answer?
	<p>The current voluntary three year period of restriction adopted by the road works community in Scotland appears to be working reasonably well. Whilst adopting this into legislation would probably make little difference in practice, it would be desirable to do so in order to remove the current inconsistency between the legislation and the code of practice.</p>

Views Sought	
03	What is an appropriate level of inspection for utility company road works where a fee can be charged by the roads authority? Please can you explain your answer?
	<p>There are two distinct reasons for the inspection of utility company road works by roads authorities.</p> <p>The inspections during the works and within 6 months of reinstatement will provide early feedback on whether utility companies are meeting their obligations with respect to working practices and reinstatement standards. The beneficial outcome should be early intervention to identify and rectify any shortcomings.</p> <p>The inspections within three months of the end of the guarantee period provide confirmation that a reinstatement meets the required standard when responsibility passes from the utility company to the roads authority. The beneficial outcome is that defects are identified and rectified by those responsible rather than being passed on as liabilities to the roads authority at the end of the guarantee period.</p> <p>The wide variation of failure rates at the end of the guarantee period is of particular concern, varying from 1.9% to 29.2% among the major utility companies. Under the present inspection regime, where 10% of reinstatements are sampled at this stage this would suggest that over 26% of reinstatements are being passed on to the roads authority in a defective state at the end of the guarantee period by the worst performing utility company. This is not acceptable.</p> <p>Renfrewshire Council would support an increase in the number of sample inspections where a fee can be charged but as discussed in question 4 there should be a performance element involved.</p>

04	Should the arrangements for inspection fees be changed, and could this include a performance element?
	As noted in the response to question 3 above, there is a case for considering an increase in the sample for which an inspection fee can be charged at the end of the guarantee period. Bearing in mind the wide range of failure rates at this stage, varying from 1.9% to 29.2% for the major utility companies, a performance element may be appropriate. A pass rate of 90% is regarded as the minimum standard below which an improvement notice should be considered. It is, therefore, suggested that any utility company with a failure rate greater than 10% at this inspection stage in a full inspection year should be required to pay for an increased level of inspections at this stage in the following inspection year.

Views Sought	
05	Do you agree that such increased periods be introduced? What are your reasons for coming to this view?
	Reinstatements should have a service life of 20 years or more, so an increase from the current levels of 2 years and 3 years for deep excavations to 5 years and 6 years for deep excavations would not be unreasonable. However, there is limited evidence that many reinstatements fail during the three years following the end of the current guarantee period. It may be that most reinstatements either fail fairly quickly or stoke up long term damage problems that emerge years later.

Views Sought	
06	Scottish Ministers would welcome views on the introduction of a charge for occupation where work is unreasonably prolonged.
	<p>The problem with the introduction of a charge for occupation of the road where work is unreasonably prolonged is that the administration costs of such a scheme are likely to be considerable. The long standing scheme in England appears to involve substantial administrative burdens and has led to numerous intractable disputes which have resulted in further additional costs for both highway authorities and utility companies.</p> <p>If it were possible to develop a process with a light touch administratively, then a scheme of this nature might help to reduce disruption by speeding up works. However, the experience from England is not promising and it is suggested that other measures might be more cost effective in improving performance. The wider use of section 125 notices might give the Commissioner the opportunity to consider issuing a penalty against an undertaker with a consistently poor performance in completing works within a reasonable time. This could be achieved within existing legislation with minimal additional administrative costs.</p>

Views Sought	
07	Scottish Ministers would welcome views on the introduction of permit schemes.
	Permit schemes would have the potential to impose considerable additional administrative costs on the road works community as a whole. There is no obvious need for such a scheme in Scotland at present.

Views Sought	
08	Scottish Ministers would welcome views on the introduction of lane rental schemes.
	Lane rental schemes would have the potential to impose considerable additional administrative costs on the road works community as a whole. There is no obvious need for such a scheme in Scotland at present.

Views Sought	
09	Should there be an extension of existing summary offences dischargeable by fixed penalty notice? Please can you explain your answer?
	<p>While Renfrewshire Council does not currently issue fixed penalty notices we have an interest in ensuring that the tools are in place to allow us to deal with any performance issues that might arise in the future and comment accordingly.</p> <p>The current scope of the fixed penalty scheme leaves a bit of a gap in the enforcement regime. Fixed penalties are generally available for the lowest level of offence, whilst prosecution is a viable option for the highest level of offence. This leaves many offences in the middle that are outwith the scope of the current fixed penalty scheme but not sufficiently serious to justify the cost of a prosecution. An extension of the fixed penalty system would help to address this.</p> <p>As an example, if a third party applies for and is granted permission to place apparatus in the road but fails to give the correct notice of start date, they can be issued with a fixed penalty notice under Section 114. However, if they do not bother to apply in the first place and just go ahead without permission, then they cannot be issued with a fixed penalty as their offence comes under Section 110 which is outwith the fixed penalty scheme. There are many other examples, and a comprehensive review of possible extensions to the scheme would be worthwhile.</p> <p>Specific comments in relation to the three potential fixed penalty offences listed in the consultation are as follows:</p> <ul style="list-style-type: none"> • Section 110 – This would meet all the requirements for a new fixed penalty offence and address the current anomaly described above. • Section 124 – Although there would be occasions when it would be beneficial for a fixed penalty to be issued by a roads authority for a minor signing, lighting and guarding offence by a utility company, a possible complication is that this would prevent subsequent prosecution by the police or the Health and Safety Executive if the

	<p>offence were to have serious consequences.</p> <ul style="list-style-type: none"> • Section 130 – When the provisions of the New Roads and Street Works Act were first introduced, it was agreed by both roads authorities and utility companies that defect inspections should be charged at double the rate for other inspections. Subsequent reviews reduced this to the same rate as for other inspections. The introduction of a fixed penalty for not reinstating excavations in accordance with the specification would reinstate the original intention of a disincentive for poor reinstatement performance.
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Views Sought	
10	<p>Should we create the proposed new summary offences with a view to introducing fixed penalty notices? Please state the reasons for your view.</p>
	<p>Comments on the proposed new summary offences are as follows:</p> <ul style="list-style-type: none"> • <i>Misclassification of works as urgent or emergency to circumvent longer planned work notice periods.</i> This would already be a fixed penalty offence under section 114 as it would involve starting work without giving the prescribed notice. There would, therefore, appear to be little purpose in creating a new offence. • <i>Not noticing "actual start" notices by the due time (should actual start notices become a legal requirement.</i> If actual start notices were to become a legal requirement then it would be consistent with comparable existing requirements if failure to issue the notice by the due time were to be a fixed penalty offence. • <i>Failure to rectify a defective reinstatement within a reasonable period.</i> This is a particular area where stronger enforcement powers would assist roads authorities. It is in the public interest for defects to be rectified promptly and under the present regime roads authorities sometimes have difficulty in getting utility companies to respond within a reasonable time. The introduction of a new fixed penalty would, therefore, be welcomed. • <i>Failure to rectify defective utility company apparatus within a reasonable timescale.</i> This is another particular area where stronger enforcement powers would assist roads authorities. It is in the public interest for defects to be rectified promptly and under the present regime roads authorities sometimes have difficulty in getting utility companies to respond within a reasonable time. The introduction of a new fixed penalty would, therefore, be welcomed.

Views Sought	
11	<p>Do you agree that the current fixed penalty notice amounts should be increased in line with inflation e.g. consumer price index?</p>
	<p>A fixed penalty is an alternative to a prosecution. If it is to retain the same deterrent effect, it would be logical for the fixed penalty level to be linked to the maximum fine for a summary offence. It is, therefore, suggested that</p>

	whenever the scale of maximum penalties for summary offences is reviewed, fixed penalty levels should be increased or reduced by a comparable proportion.
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Views Sought	
12	What maximum level of penalty do you consider is required to ensure that it can influence the behaviour of utility companies and roads authorities which do not comply with their duties? Should this be increased in line with inflation e.g. consumer price index?
	Most large utility companies and roads authorities would probably regard the reputational damage of receiving a penalty from the Scottish Road Works Commissioner as more serious than the financial loss. However, it is agreed that an increase in the current maximum of £50,000 might be useful as a potential escalation if an organisation were to be seen to ignore an initial penalty. The Commissioner's recommendation of an increase in the maximum penalty to £200,000 would appear to be reasonable.

Views Sought	
13	Do you agree that the definitions of co-operate and co-ordinate in sections 118 and 119 be revised as proposed? Please provide the reasons for your view.
	<p>The commissioner's proposal is that the definitions should be revised as follows:</p> <p><i>"Failure to comply with</i></p> <ul style="list-style-type: none"> <i>any duty under NRSWA and supporting regulations; or</i> <i>any requirement in a statutory code of practice; or</i> <i>such practice as appears to the Scottish Road Works Commissioner to be desirable</i> <p><i>shall be deemed to be a failure to comply with sections 118 and 119 of the NRSWA."</i></p> <p>The first two provisions would undoubtedly remove any doubt about the extent of the Commissioner's powers to deal with failures to comply with statutory requirements. However, although it is accepted that the credibility of the Commissioner depends on being seen to act reasonably, the third provision may be seen as too open ended to be brought into legislation. There are certainly occasions where problems are caused by organisations refusing to comply with voluntary arrangements agreed by both sides of RAUCS. However, these could be argued to fall within the everyday meaning of co-operation and so it should be possible for the Commissioner to deal with them within the existing legislation.</p>

Views Sought	
14	<p>Do you agree that the Code of Practice for Safety at Street Works and Road Works should become mandatory for roads authorities? Please provide the reasons for your view.</p>
	<p>The Code of Practice for Safety at Street Works and Road Works is equally applicable to utility company works and roads authority works. Making it a statutory code for roads authority works would remove the current anomaly whereby utility companies can be prosecuted for a minor breach under the New Roads and Street Works Act whereas roads authorities can only be prosecuted under the much more Draconian provisions of the Health and Safety at Work Act.</p>

Views Sought	
15	<p>Do you agree that it should be made mandatory for all utility companies and roads authorities to hold digital records of their apparatus in roads and to provide such digital records for use on the SRWR? Please provide the reasons for your view.</p>
	<p>There would certainly be an overall public benefit in reducing the risk of damage if all utility companies and roads authorities were to hold digital records of their underground apparatus and make these available to the roads and utilities community through the SRWR. For an organisation already holding digital records, there is little additional cost incurred in providing them to the SRWR through the VAULT system. It is, therefore, recommended that this should be made mandatory in the short term.</p> <p>Creating digital records where they do not currently exist is a much more onerous task. Whilst it might be desirable to make this mandatory over the longer term, a transition period of around five years would be necessary to give organisations time to digitise their records.</p>

Questions	
16	<p>Do you agree that section 61 of the Roads (Scotland) Act 1984 be repealed and section 109(2) of NRSWA revised to provide more clarity as to where responsibility for record keeping of apparatus should lie? Please provide the reasons for your view.</p>
	<p>Section 61 of the Roads (Scotland) Act 1984 and section 109 of the New Roads and Street Works Act 1991 cover virtually the same circumstances and have operated in parallel for over twenty years. The existence of two alternative ways for roads authorities to give permission for apparatus in the road is unnecessary and confusing. It is, therefore, agreed that section 61 of the Roads (Scotland) Act should be repealed with respect to new permissions although it should remain in force for existing permissions.</p>

Views Sought	
17	Do you agree that the designation of “major road managers” be created? Please provide the reasons for your view.
	It is agreed that organisations such as major airport and seaport operators managing significant lengths of road open to the public should be designated as “major road managers” and required to place notices of their works on the SRWR. This would assist in the overall co-ordination of works.

Views Sought	
18	What are your views on the 3 month advance notice period for major works?
	<p>In principle, it is beneficial for details of the location of planned major works to be placed on the register as early as possible in order to maximise the opportunity for co-ordination. The three month advance notice period is generally helpful in achieving this. However, the following issues can cause problems:</p> <ul style="list-style-type: none"> • The advance notice should be placed before the works have been firmly scheduled in order to allow flexibility to co-ordinate with any other major works at the same location. An advance notice should not, therefore, have a restricted validity period. • The current definition of “major works” is rather wide and can include some works that are rather minor in nature. A revision to narrow the criteria might be beneficial.

19	Do you consider that the requirement to provide advance notice for works on non traffic sensitive roads should be removed? If you do, what benefits do you consider this would bring?
	Roads may only be designated as “traffic sensitive” if they carry particularly high traffic flows. Works on such roads have the potential to cause substantial disruption and so it is appropriate that advance notice should be required. However, substantial disruption can also be caused on roads that do not qualify as “traffic sensitive” if they involve a closure with a lengthy diversion route. It is, therefore, appropriate to retain the advance notice requirement to cover such cases.

Views Sought	
20	Should the early start procedure be a statutory requirement?
	The current voluntary early start procedure has been working well so it would be appropriate to place it on a statutory footing.

Views Sought	
21	What are your views on making noon the following day a statutory requirement for commencing urgent works?
	<p>As a general principle, works should be noticed on the SRWR as soon as it is known that they are required. Urgent works are those that should be undertaken at the earliest opportunity. However, where specialist resources are required, the earliest opportunity might not be straight away. The proposed new mandatory requirement to start urgent works by noon the day after placing the notice would give a perverse incentive to hold back on placing the notice for known urgent works until the start date. This would undermine the potential for co-ordination and so it is not recommended.</p> <p>Experience suggests that abuse of the "urgent" classification is most likely to occur if a works promoter fails to issue the prescribed notice of start date and seeks to avoid a breach of noticing requirements by misclassifying standard works as urgent. The new requirement would do nothing to tackle this problem as such works would invariably start by noon the following day. A more effective new measure might be the introduction of a mandatory requirement to state the reason for works qualifying as urgent on the notice. This could be by selection from a pick list of the prescribed valid reasons.</p>

Views Sought	
22	Should legislation be introduced to ensure that roads authorities are required to provide the same information as utility companies and to the same timescales?
	There are two reasons for requiring information on works to be placed on the SRWR. One is to facilitate the co-ordination of works and the other is to provide roads authorities with information on excavations and reinstatements in roads by utility companies. Where information relates to co-ordination, for example timing and location of works, then roads authorities and utility companies should be required to place the same information on the register and to the same timescale. Where information relates to excavations and reinstatements, for example areas locations and dates of reinstatements then it should only be required from the utility companies.

Views Sought	
23	Should regulations be introduced to allow roads authorities the flexibility around placing notices for works involving no or minimal excavation on non-traffic sensitive roads?
	It is agreed that regulations should be introduced to bring a statutory footing to the current advisory arrangements giving roads authorities the same flexibility as utility companies around the placing of notices for works involving no or minimal excavation on non traffic sensitive roads.

Views Sought	
24	Should regulations be introduced to require roads authorities and utility companies to enter actual start notices on to the Scottish Road Works Register?
	Actual start dates on the SRWR provide a number of benefits including a full audit trail of the dates of road occupations and it is agreed that regulations should be introduced requiring them to be entered.

25	Is the current requirement for actual start notices to be lodged by noon the following day for all works in roads, including traffic sensitive routes, acceptable? Please can you explain your answer.
	The current requirement is adequate for most purposes. However, there could be a benefit in requiring a higher level of precision in information relating to the most disruptive works. This might involve earlier registration of the actual start but an alternative might be a notice of proposed start to be placed the previous day.

Views Sought	
26	Is the current requirement for works closed notices to be lodged by the end of the next working day a reasonable period? What alternative period would you propose for traffic sensitive roads and what are the advantages or disadvantages?
	The current requirement is adequate for most purposes. However, there could be a benefit in requiring a higher level of precision in information relating to the most disruptive works. Registering "works closed", i.e. road open, on the day of completion of such works might be appropriate.

Views Sought	
27	<p>Should we reduce the validity period to a maximum of 2 days and should it apply to both utility companies and roads authorities alike? If you consider that a different validity period would be appropriate, please state the period and provide the reasons for your view.</p>
	<p>Roads authorities and utility companies both require a degree of flexibility in scheduling works in order to deploy their resources effectively. Works involving investigating and correcting a problem are often unpredictable in duration and some works are weather dependent. The current validity periods allow for this flexibility and should be retained for most works. However, there could be a benefit in requiring a higher level of precision for the most disruptive works. As noted in the answer to question 25 above, this could take the form of a requirement to input a firm start date one day in advance of the works.</p>

Views Sought	
28	<p>Should roads authorities be provided with statutory powers to impose maximum durations for works on utility companies?</p>
	<p>It is agreed that there might be merit in giving roads authorities the power to issue a direction to a utility company on the maximum duration of works. However, very few directions have been issued under current powers relating to the timing of works, so it is likely that such matters will continue to be resolved by agreement in most cases.</p>

Views Sought	
29	<p>Should roads authorities be given statutory powers to impose embargoes on works for reasons other than traffic disruption?</p>
	<p>It would be difficult to set down in statute a definitive list of circumstances where embargoes on works would be appropriate. The present voluntary system gives more flexibility than would be practicable with a statutory system and so it is not considered that any new regulations are required.</p>

Views Sought	
30	<p>Do you agree with the definition of a working day given above?</p>
	<p>The definition of a "working day" agreed by the road works community in Scotland reflects Scottish circumstances and the regulations should be revised accordingly.</p>

Views Sought	
31	Please identify any further issues which should be addressed that you think could contribute towards improving the way in which works in roads are managed and undertaken.
	The current consultation is very comprehensive and no further issues have been identified.

Views Sought	
32	Please identify any potential innovations which you think could contribute towards improving the way in which works in roads are managed and undertaken.
	The durability of joints in reinstatements is a recurring problem and the use of stepped joints in pavement layers should be considered. Alternatively the use of a chamfered joint rather than the current single vertical joint would produce a tighter joint that was easier to paint with emulsion prior to surfacing.

Views Sought	
33	Please outline the potential impact of any additional costs.
	The main cost implication arising from the proposals would be the transfer of some of the cost of the long term damage to roads arising from utility excavations. Transferring this from the roads authorities to the utility companies should give an economic benefit to society as a whole as it would drive the innovations necessary to reduce the need for future excavations.

STRATEGIC CONSULTATION ON WORKS ON SCOTTISH ROADS

RESPONDENT INFORMATION FORM

Please Note this form **must** be returned with your response to ensure that we handle your response appropriately

1. Name/Organisation

Organisation Name

Renfrewshire Council

Title Mr ☒ Ms ☐ Mrs ☐ Miss ☐ Dr ☐ Please tick as appropriate

Surname

Allan

Forename

Scott

2. Postal Address

Renfrewshire House, Cotton Street, Paisley

Postcode PA1 1BR

Phone 0141 618 7932

Email

scott.allan@renfrewshire.gov.uk

3. Permissions - I am responding as...

Individual

☐

Group/Organisation

☒

Please tick as appropriate

- (a) Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government web site)?

Please tick as appropriate ☐ Yes ☐ No

- (b) Where confidentiality is not requested, we will make your responses available to the public on the following basis

Please tick ONE of the following boxes

Yes, make my response, name and address all available ☐

or

Yes, make my response available, but not my name and address ☐

or

Yes, make my response and name available, but not my address ☐

- (c) The name and address of your organisation **will be** made available to the public (in the Scottish Government library and/or on the Scottish Government web site).

Are you content for your **response** to be made available?

Please tick as appropriate ☒ Yes ☐ No

- (d) We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Please tick as appropriate

☒ Yes

☐ No

33

PERTH AND KINROSS COUNCIL

THE ENVIRONMENT SERVICE

Service Management Team

Strategic Consultation on Works on Scottish Roads

ABSTRACT

Transport Scotland has launched the first major consultation on road works since 2003 and identifies where improvements could be made to the planning, co-ordination and quality of road works in Scotland. The consultation sets out five broad themes and asks 33 separate questions, the responses to which are submitted for approval by the Environment Service Management Team (SMT).

1. RECOMMENDATIONS

It is recommended that the SMT approves the proposed response to the Strategic Consultation on Works on Scottish Roads as contained in Appendix 1 of this report.

2. BACKGROUND

2.1 Transport Scotland launched a public consultation on 5 April 2013. This exercise is the first major consultation on road works since 2003 and identifies where improvements could be made to the planning, co-ordination and quality of road works in Scotland. The consultation sets out five broad themes and asks 33 separate questions. A full copy of the consultation documents may be found at

www.transportscotland.gov.uk/strategy-and...and.../j266615-00.htm

2.2 The consultation documents make reference to the URS Scott Wilson Report on Long Term Damage to Roads Due to Reinstated Trenches - Final Report. This report may be accessed on the Scottish Road Works Commissioner's website www.roadworksscotland.gov.uk.

2.3 Responses to the consultation are to be returned to Transport Scotland by 5 July 2013.

3. DETAILS

3.1 The last major consultation into road works was held in 2003 when the focus was mainly on the regulation of utility company works. There have been significant changes since then including:

- The appointment in 2007 of a Scottish Road Works Commissioner (the Commissioner) to monitor works in roads and to promote good practice;
- Further development of the Scottish Road Works Register (SRWR) internet database to become one of the best works co-ordination systems in the world; and
- The development of a range of Indicators which provide information regarding the performance of both roads authorities and utility companies in relation to the management of works in roads.

3.2 The Commissioner has been monitoring activity for the last 4 years and has been working with the Scottish Road Works Policy Development Group to identify areas where further improvement could be made to the planning, co-ordination and quality of works in roads in Scotland. This consultation not only identifies issues but also presents proposals which could support the further improvement sought.

3.3 In addition the consultation sets out specific issues which the Minister for Transport and Veterans tasked the Commissioner to consider as part of the National Roads Maintenance Review.

3.4 The aims of the consultation proposals are to:

- Improve the safety of those who use or work on roads;
- Minimise the disruption and inconvenience caused by works; and
- Protect the structure of roads and the integrity of the pipes and cables under them.

3.5 As part of the consultation document, there is recognition of the importance of the road as an asset to the wider community and that the installation of utility apparatus in the road network, even when in compliance with all specification requirements, results in long term damage to this asset. The TRL report suggests a 17% reduction in the resultant service life of such roads.

3.6 The proposal is to develop a contribution model whereby the utilities companies contribute to the financial impact of this damage. Such a proposal is very innovative although provision is already made within the New Roads and Street Works Act 1991, albeit without the required prescriptive regulations, and is likely to be welcomed by Roads Authorities but not so by utility companies.

3.7 It is proposed that an initial contribution rate be set of between 5% and 10%.

3.8 The consultation consists of 33 questions including any areas that responders wish to raise. The proposed responses have been drafted and are included in Appendix 1 for the SMT approval.

4. FINANCIAL IMPLICATIONS

4.1 There are no financial implications arising directly as a result of the recommendations contained in this report.

4.2 If there was a decision to require utility companies to make a contribution to the costs of making good long term damage resulting from their works then such contribution would be a potential income to the council. This income may well be subject to a number of conditions as set out in the consultation document.

4.3 Depending on the outcome of decisions on the other elements of the consultation, there may be an increased administrative burden on the council in regard to the noticing of works under the New Roads and Street Works Act 1991 and/or its enforcement.

5. CONSULTATION

The Deputy Roads Maintenance Partnership Manager has been consulted in the preparation of this report.

6. CONCLUSION

The report details the first major consultation on road works since 2003. The consultation sets out five broad themes and asks 33 separate questions, the proposed responses to which are submitted for members approval.

Report prepared by
Chic Haggart
Roads Service Manager

Proposed Perth and Kinross Council Response to Strategic Consultation on Works on Scottish Roads

01 What contribution do you consider should be introduced? What are your reasons for coming to this view?

The contribution level will need to be acceptable to both Road Authorities and Utilities but also needs to recognise the damage already done to the network, as Road Authorities would most likely prefer 10% but need to recognise impact on utilities and we would be content with a five year plan stating at 5% and rising annually to 10% by 1% per year.

02 Do you think the period of restriction following resurfacing should be changed? Please can you explain your answer?

Yes – Councils are resurfacing infrequently and plan/ programme works over 1 to 3 years. Utilities need to do likewise, although there needs to be more dialogue on future schemes to allow this. Our customers (utilities as well as councils) have a very negative view when they see new surfaces being dug up by utilities. Excavation leads to long term damage and any disincentive to excavate a new surface is to be supported. We would recognise that some unplanned/ emergency/ customer demand excavations may be inevitable and would seek a redress such as a requirement for whole width resurfacing by the utility. In some case utilities merely defer their works by 12 - 18 months to save full width reinstatement requirements.

03 What is an appropriate level of inspection for utility company road works where a fee can be charged by the roads authority? Please can you explain your answer?

The 10% of inspections during the works is insufficient. Other survey results such as the coring of reinstatements have repeatedly shown that utilities are unable to adequately perform/ manage their contractors. When the number of inspections during actual works is considered, taking into account where sites are not found, not working at the time of inspection etc the 10% supervision by the owner of the asset is far too low. This should be increased to at least 30%.

The inspection 6 months after reinstatement remains useful in identifying immediate defects and is at an acceptable level at 10%.

The inspections within 3 months of the guarantee period should be treated as the end of the warranty. Roads Authorities inspect all works undertaken by their own contractor or developers at the end of warranty and we consider this should be applicable to all utility works and would seek a 100% inspection ratio. We believe that this would focus utility companies on the impact that their works have on the community asset of the road network. The utilities should remain responsible for the costs of these inspections.

04 Should the arrangements for inspection fees be changed, and could this include a performance element?

No – but we consider when utilities are shown to be failing to perform (noting that the level of performance is only 90%) on a number of repeated periods we consider that the number of inspections at each stage shall be correspondingly increased.

05 Do you agree that such increased periods be introduced? What are your reasons for coming to this view?

Yes we agree. Our experience is of a large number of reinstatements fail outwith the guarantee period but within the residual life of the carriageway requiring public money to be used to carry out often significant repairs. We believe that an extended guarantee will focus utility companies on ensuring adequate durable repairs.

06 Scottish Ministers would welcome views on the introduction of a charge for occupation where work is unreasonably prolonged.

Our experience is that over running utility works are usually as a result of unforeseen or unpredicted circumstances and therefore would not likely attract any charge. We consider such a scheme would require considerable Road Authority resources to administer.

However we do have some concerns when utilities allow/ require others to undertake works which is then subject to inspection by the utilities. We understand that these works are part of market competition for works but such schemes often result in extended delays with works over runs.

07 Scottish Ministers would welcome views on the introduction of permit schemes.

We do not support the use of permits. A permit scheme would only work if there was a substantial penalty for failing to comply and there is seldom a problem of accessing the road network. We consider a permit system would add to the administrative burden of the council.

08 Scottish Ministers would welcome views on the introduction of lane rental schemes.

As such schemes would only be likely to provide benefits on schemes in the major Scottish cities, we have no comments.

09 Should there be an extension of existing summary offences dischargeable by fixed penalty notice? Please can you explain your answer?

Perth and Kinross Council has not established a fixed penalty notice (FPN) process on the basis that the funding would not be sufficient to support the administrative burden placed on the council as a result. Whilst the addition of further opportunities to issue a FPN may make the financial costs of administration more beneficial we consider that our working relationship with utilities is normally sufficient to ensure compliance. However if inspections were increased (as per question 3) we see the issuing of FPNs under Section 130 of the Act as a positive option for improving reinstatement quality.

10 Should we create the proposed new summary offences with a view to introducing fixed penalty notices? Please state the reasons for your view.

As per 9) above

11 Do you agree that the current fixed penalty notice amounts should be increased in line with inflation e.g. consumer price index?

Irrespective of the council's position on FPN's we agree that FPN's be increased in line with inflation to cover the increasing costs in administering the system.

12 What maximum level of penalty do you consider is required to ensure that it can influence the behaviour of utility companies and roads authorities which do not comply with their duties? Should this be increased in line with inflation e.g. consumer price index?

We agree that the current level of fines, given the turnover of utility companies is too low, the level of fines should be increased and any fines should be increased in time in line with inflation.

13 Do you agree that the definitions of co-operate and co-ordinate in sections 118 and 119 be revised as proposed? Please provide the reasons for your view.

Clarity, as suggested, would be welcomed.

14 Do you agree that the Code of Practice for Safety at Street Works and Road Works should become mandatory for roads authorities? Please provide the reasons for your view.

No - Road Authorities are also subject to compliance with Chapter 8 of the Traffic Signs Manual, whilst it is a guidance document, which continues to conflict with the Code of Practice for Safety at Street Works. Furthermore the Code of Practice is directed at works of an isolated excavation nature; it does not cover the type of work such as resurfacing/ reconstruction of roads (particularly in residential area) and therefore is insufficient in respect to road works in general.

15 Do you agree that it should be made mandatory for all utility companies and roads authorities to hold digital records of their apparatus in roads and to provide such digital records for use on the Scottish Road Works Register (SRWR)? Please provide reasons for your view.

The voluntary approach to holding digital records in the Scottish Community Apparatus Data Vault (VAULT) has been the correct way to introduce digital records. Like most Roads Authorities, Perth and Kinross Council has limited records (in any format) of some of its assets. However, moving forward for VAULT to become a useable system within the community its use will have to become mandatory. At this stage we believe it is too early for this to be covered by legislation and suggest consideration for mandatory compliance of a timescale of at least 3-5 years.

The council does not hold records of all its apparatus, particularly drainage, and therefore can not provide digitalized records without incurring considerable financial pressures on increasingly limited resources. We cannot therefore support the mandatory requirement to hold digital records of all our apparatus in the road. We agree that this is desirable moving forwards.

16 Do you agree that section 61 of the Roads (Scotland) Act 1984 be repealed and section 109(2) of New Roads and Street Works Act (NRSWA) revised to provide more clarity as to where responsibility for record keeping of apparatus should lie? Please provide the reason for your view.

Yes – Section 61 of the Roads (Scotland) Act 1984 should be repealed to avoid the ongoing confusion between this and Section 109 of NRSWA.

17 Do you agree that the designation of “major road managers” be created? Please provide the reasons for your view.

No comment.

18 What are your views on the 3 month advance notice period for major works?

The requirement for 3 months advance notice for works of duration in excess of 10 days may be appropriate on the main arterial routes within our major cities but would seem to be excessive even on the most heavily trafficked routes within rural areas. Whilst the 3 months notice may be appropriate for routes such as the A977, we believe that for even some of the busier of our rural roads such as the A94 and A91, the 3 month notice for works which may only last 10 days is excessive and leads to unnecessary bureaucracy and notice failures with difficulties of predicting actual start dates for works at a time when contractual arrangements have not been finalised and weather conditions can not be predicted. We believe a 4-6 week period to be adequate for such works.

19 Do you consider that the requirement to provide advance notice for works on non traffic sensitive roads should be removed? If you do, what benefits do you consider this would bring?

We do not agree with the relaxation of notices for non-traffic sensitive routes as these works are often critical in the coordination role undertaken by councils, particularly in avoidance of works being undertaken by one organisation on the diversion route for other works.

20 Should the early start procedure be a statutory requirement?

No – we believe the voluntary use of the non-statutory advice note to be adequate and consider that the process of agreeing early starts is a good example of the Roads Authority/ utility companies co-operating to co-ordinate road works.

21 What are your views on making noon the following day a statutory requirement for commencing urgent works?

We would not agree that urgent works should be entered into the SRWR by noon the following day. At present urgent works must be ‘registered’ within 2 hours of starting whilst noon the following day would mean that there may be significant works and traffic management on going without the Roads Authorities knowledge.

22 Should legislation be introduced to ensure that roads authorities are required to provide the same information as utility companies and to the same timescales.

Road Authorities and Utilities should not have to operate in the same way on the Scottish Roads Work Register. Utilities are able to plan works or respond to urgent works for their individual customers, whilst Road Authorities are tasked with maintaining the public asset and ensuring public safety whilst using the road network. This includes fixing many thousands of

potholes every year, alongside minor drainage works. Requiring roads authorities to enter such information would be bureaucratically burdensome for roads authorities.

23 Should regulations be introduced to allow roads authorities the flexibility around placing notices for works involving no or minimal excavation on non-traffic sensitive roads?

Yes although works involving no excavation can cause disruption if it requires traffic management. The existing guidance on this matter is adequate and flexible.

24 Should regulations be introduced to require roads authorities and utility companies to enter actual start notices on to the Scottish Road Works Register?

Yes.

25 Is the current requirement for actual start notices to be lodged by noon the following day for all works in roads, including traffic sensitive routes, acceptable? Please can you explain your answer?

Yes – the current requirements are working satisfactorily.

26 Is the current requirement for works closed notices to be lodged by the end of the next working day as reasonable period? What alternative period would you propose for traffic sensitive roads and what are the advantages or disadvantages?

No – the period is too short and does not allow for peripatetic supervisors to carry out their duties efficiently or effectively. A period of 2 working days is a more realistic requirement.

27 Should we reduce the validity period to a maximum of 2 days and should it apply to both utility companies and roads authorities alike? If you consider that a different validity period would be appropriate, please state the period and provide the reasons for your view.

No – contractors are often moving from one job to the next and therefore a delay in the first scheme can result in a delay to the next. Add to this the weather conditions, particularly snow in the winter, resulting quickly in notices becoming problematic. Cost effective processes are now being used extensively to extend the life of a road surface (surface dressing/impactcrete etc) and these are heavily weather dependant – reducing validity periods will cause additional noticing problems.

28 Should roads authorities be provided with statutory powers to impose maximum durations for works on utility companies?

No – Roads Authorities can not determine the actual time required for utility works and this may lead to health and safety issues, working longer hours, overnight working etc which would go against the principle of coordination and accountability.

29 Should roads authorities be given statutory powers to impose embargoes on works for reasons other than traffic disruption?

Yes – major sporting events, visits by VIPs, long planned charity events, etc have the potential to be seriously disrupted by utility works. Such events also use the road asset and are an important part for the communities that we serve.

30 Do you agree with the definition of working day given above?

We do not understand the significance of 16:30? Many organisations will work up to and beyond 17:00 and in order to reach 16:30 peripatetic supervisors may lose valuable site time by returning to the office early. Working day should extend to say 19:00 hours.

31 Please identify any further issues which should be addressed that you think could contribute towards improving the way in which works in roads are managed and undertaken.

Band sealing and step all joints would improve the longevity of utility reinstatements.

32 Please identify any potential innovations which you think could contribute towards improving the way in which works in roads are managed and undertaken.

We consider the proposals under Section 1 of this consultation to be very innovative, continuing the approach of the Scottish roads and utilities community in leading the way for others to follow. The principle of 'polluter pays' is now well established in other aspects of Scottish business (landfill tax, SEPA enforcement etc) and the idea that those causing damage to the public road network be responsible for that damage is a logical progression. We believe that the introduction of such charges will not only see an improvement in the re-investment into the Scottish road network, enabling economic growth in Scotland, but also be the catalyst for more innovative methods of working by utilities as they seek to undertake less excavation/ reinstatement of the road network.

33 Please outline the potential impact of any additional costs.

No comment

Bus and Local Transport Policy
Transport Policy

Victoria Quay, Edinburgh EH6 6QQ
T: 0131-244 7057
Joanne.gray@transportscotland.gsi.gov.uk



34

Roads Authorities and Utility Companies
operating in Scotland and other interested parties

Your ref:

Our ref:

5 April 2013

Dear Sir/Madam

STRATEGIC CONSULTATION ON WORKS IN ROADS

Responding to this consultation paper

We are inviting written responses to this consultation paper by Friday 5 July 2013

Please send your response with the completed Respondent Information Form (see "Handling your Response" below) to:

WorksonRoads@transportscotland.gsi.gov.uk

or

Strategic Consultation on Works on Scottish Roads
Transport Scotland
Area 2D North
Victoria Quay
Edinburgh
EH6 6QQ

If you have any queries contact Raymond Elliot in the Scottish Road Works Commissioner's office on 0131 244 9938.

We would be grateful if could clearly indicate in your response which questions or parts of the consultation paper you are responding to as this will aid our analysis of the responses received.

Handling your response

We need to know how you wish your response to be handled and, in particular, whether you are happy for your response to be made public. Please complete and return the **Respondent Information Form** attached to this letter as this will ensure that we treat your response



appropriately. If you ask for your response not to be published we will regard it as confidential, and we will treat it accordingly.

All respondents should be aware that the Scottish Government are subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any request made to it under the Act for information relating to responses made to this consultation exercise.

Next steps in the process

Where respondents have given permission for their response to be made public and after we have checked that they contain no potentially defamatory material, responses will be made available on the Transport Scotland web site.

What happens next ?

Following the closing date, all responses will be analysed and considered along with any other available evidence to help us reach various decision. We aim to issue a report on this consultation process within 3 months after the closing date for the consultation.

Comments and complaints

If you have any comments about how this consultation exercise has been conducted, please send them to:

Name: Joanne Gray

Address: Transport Scotland, Area 2D North, Victoria Quay, Edinburgh, EH6 6QQ

E-mail: WorksonRoads@transportscotland.gsi.gov.uk

Yours faithfully

Joanne Gray



STRATEGIC CONSULTATION ON WORKS ON SCOTTISH ROADS

Response Sheet

Views Sought	
01	What contribution do you consider should be introduced? What are your reasons for coming to this view?
	None. Whilst South West Water does not operate within Scotland, we are Members of the National Joint Utilities Group (NJUG). Our response to this Consultation is based on the view of NJUG that the proposals within this Consultation could, should they be enacted, affect the current New Roads and Street Works Act 1991 legislation in England.

Views Sought	
02	Do you think the period of restriction following resurfacing should be changed? Please can you explain your answer?
	Please see the response of NJUG.

Views Sought	
03	What is an appropriate level of inspection for utility company road works where a fee can be charged by the roads authority? Please can you explain your answer?
	Please see the response of NJUG.



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04	Should the arrangements for inspection fees be changed, and could this include a performance element?
	Please see the response of NJUG.

Views Sought	
05	Do you agree that such increased periods be introduced? What are your reasons for coming to this view?
	Please see the response of NJUG.

Views Sought	
06	Scottish Ministers would welcome views on the introduction of a charge for occupation where work is unreasonably prolonged.
	Please see the response of NJUG.



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Views Sought	
07	Scottish Ministers would welcome views on the introduction of permit schemes.
	Please see the response of NJUG.

Views Sought	
08	Scottish Ministers would welcome views on the introduction of lane rental schemes.
	Please see the response of NJUG.

Views Sought	
09	Should there be an extension of existing summary offences dischargeable by fixed penalty notice? Please can you explain your answer?
	Please see the response of NJUG.



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Views Sought	
10	Should we create the proposed new summary offences with a view to introducing fixed penalty notices? Please state the reasons for your view.
	Please see the response of NJUG.

Views Sought	
11	Do you agree that the current fixed penalty notice amounts should be increased in line with inflation e.g. consumer price index?
	Please see the response of NJUG.

Views Sought	
12	What maximum level of penalty do you consider is required to ensure that it can influence the behaviour of utility companies and roads authorities which do not comply with their duties? Should this be increased in line with inflation e.g. consumer price index?
	Please see the response of NJUG.



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Views Sought	
13	Do you agree that the definitions of co-operate and co-ordinate in sections 118 and 119 be revised as proposed? Please provide the reasons for your view.
	Please see the response of NJUG.

Views Sought	
14	Do you agree that the Code of Practice for Safety at Street Works and Road Works should become mandatory for roads authorities? Please provide the reasons for your view.
	Please see the response of NJUG.



Views Sought	
15	Do you agree that it should be made mandatory for all utility companies and roads authorities to hold digital records of their apparatus in roads and to provide such digital records for use on the SRWR? Please provide the reasons for your view.
	Please see the response of NJUG.

Questions	
16	Do you agree that section 61 of the Roads (Scotland) Act 1984 be repealed and section 109(2) of NRSWA revised to provide more clarity as to where responsibility for record keeping of apparatus should lie? Please provide the reasons for your view.
	Please see the response of NJUG.

Views Sought	
17	Do you agree that the designation of “major road managers” be created? Please provide the reasons for your view.
	Please see the response of NJUG.



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Views Sought	
18	What are your views on the 3 month advance notice period for major works?
	Please see the response of NJUG.

19	Do you consider that the requirement to provide advance notice for works on non traffic sensitive roads should be removed? If you do, what benefits do you consider this would bring?
	Please see the response of NJUG.

Views Sought	
20	Should the early start procedure be a statutory requirement?
	Please see the response of NJUG.



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Views Sought	
21	What are your views on making noon the following day a statutory requirement for commencing urgent works?
	Please see the response of NJUG.

Views Sought	
22	Should legislation be introduced to ensure that roads authorities are required to provide the same information as utility companies and to the same timescales?
	Please see the response of NJUG.

Views Sought	
23	Should regulations be introduced to allow roads authorities the flexibility around placing notices for works involving no or minimal excavation on non-traffic sensitive roads?
	Please see the response of NJUG.



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Views Sought	
24	Should regulations be introduced to require roads authorities and utility companies to enter actual start notices on to the Scottish Road Works Register?
	Please see the response of NJUG.

25	Is the current requirement for actual start notices to be lodged by noon the following day for all works in roads, including traffic sensitive routes, acceptable? Please can you explain your answer.
	Please see the response of NJUG.



Views Sought	
26	Is the current requirement for works closed notices to be lodged by the end of the next working day a reasonable period? What alternative period would you propose for traffic sensitive roads and what are the advantages or disadvantages?
	Please see the response of NJUG.

Views Sought	
27	Should we reduce the validity period to a maximum of 2 days and should it apply to both utility companies and roads authorities alike? If you consider that a different validity period would be appropriate, please state the period and provide the reasons for your view.
	Please see the response of NJUG.



Views Sought	
28	Should roads authorities be provided with statutory powers to impose maximum durations for works on utility companies?
	Please see the response of NJUG.

Views Sought	
29	Should roads authorities be given statutory powers to impose embargoes on works for reasons other than traffic disruption?
	Please see the response of NJUG.

Views Sought	
30	Do you agree with the definition of a working day given above?
	Please see the response of NJUG.



Views Sought	
31	Please identify any further issues which should be addressed that you think could contribute towards improving the way in which works in roads are managed and undertaken.
	Please see the response of NJUG.

Views Sought	
32	Please identify any potential innovations which you think could contribute towards improving the way in which works in roads are managed and undertaken.
	Please see the response of NJUG.

Views Sought	
33	Please outline the potential impact of any additional costs.
	Please see the response of NJUG.



STRATEGIC CONSULTATION ON WORKS ON SCOTTISH ROADS

RESPONDENT INFORMATION FORM

Please Note this form **must** be returned with your response to ensure that we handle your response appropriately

1. Name/Organisation

Organisation Name

South West Water

Title Mr ☐ Ms ☐ Mrs ☒ Miss ☐ Dr ☐ Please tick as appropriate

Surname

Melluish

Forename

Linda

2. Postal Address

Peninsula House Rydon Lane Exeter

Postcode EX2 7HR

Phone 01392 443573

Email

lmelluis@southwestwater.co.uk

Z

3. Permissions - I am responding as...

Individual



/

Group/Organisation



Please tick as appropriate

- (a) Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government web site)?

Please tick as appropriate ☒ Yes ☐ No

- (b) Where confidentiality is not requested, we will make your responses available to the public on the following basis

Please tick **ONE** of the following boxes

Yes, make my response, name and address all available ☒

or

Yes, make my response available, but not my name and address ☐

or

Yes, make my response and name available, but not my address ☐

- (c) The name and address of your organisation **will be** made available to the public (in the Scottish Government library and/or on the Scottish Government web site).

Are you content for your **response** to be made available?

Please tick as appropriate ☒ Yes ☐ No

- (d) We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Please tick as appropriate

☒ Yes

☐ No



35

Vodafone Response to:

STRATEGIC CONSULTATION ON WORKS ON SCOTTISH ROADS

Spring 2013

Response to Consultation Questions based on the five broad themes as set out by Transport Scotland

1. THE ROAD NETWORK AS AN ASSET

Q1: What contribution do you consider should be introduced? What are your reasons for coming to this view?

Vodafone does not believe a contribution for long-term damage is in any form acceptable. If that was the case, it would undermine the existing RAUC(S) Specification for the Reinstatement of Openings in Roads (SROR), a document that has been agreed with Roadworks Community to reinstate undertakers' works to specification necessary to protect the road authority asset. Furthermore, the SROR is used for small works and reinstatements by the Road Authorities for their own works for road purposes.

Within the SROR there are performance criteria the Road Authority can use to ensure that undertaker's works comply or brought back to the appropriate standard.

If a long term damage contribution was imposed, the quality of the reinstatement would be at risk – undertakers would be paying per metre of trench rather than for quality reinstatement as there would be less incentive to build in quality, so in essence the action to raise a charge may have the reverse result.

The URS-Scott Wilson Report which supports this proposal is out dated. The research has been taken on reinstatements 7 to 10 years old which allegedly have deteriorated. However, the data includes reinstatements where cracks and edge depressions that were clearly within tolerance under the SROR S2 Performance Requirement & S12 Remedial Works. These should have been discounted from the research and therefore our view is that the Report is subjective with a view to show the state of reinstatements is far below compliance.

RAUC(S) Community has been working as one over recent years on a National Coring Programme (NCP) to ensure compliance with the SROR, but the URS-Scott Wilson Report suggests by inference that compliant reinstatements are causing road deterioration. Reasons for road degradation include the original quality of road, weather conditions, type and volume of traffic that passes over the road, materials used, and the quality and level of road maintenance, as well as quality and quantity of road works. Within the NCP, we are collectively working on results and data to make sure working methods such as compaction, layer thickness and material working temperatures are observed. The URS Report does not consider the work in the area these factors in its recommendations.

There has been no new evidence to support this assessment, merely a review of existing reports and therefore if the Scottish Government believes the SROR is not fit for purpose then a more robust

research programme needs to be considered with Specialists from both undertakers and Road Authorities to understand and decide what to replace it with.

Enacting Section 137 of NRSWA would add to the costs of service for Vodafone customers by approximately 90-100% uplift in civils costs. Our network is funded by Vodafone itself and therefore assessing the costs of improving its ability to serve and give the right service and connectivity will be more of a challenge in future years and may contradict with Scottish Government's aim of economic growth.

Finally, the Vodafone data (Cable & Wireless UK) produced from the Scottish Road Works Register (SRWR) has not been a concern to the Scottish Roadworks Commissioner within last year's performance figures.

Road Restrictions

Q2: Do you think the period of restriction following resurfacing should be changed? Please can you explain your answer?

Yes as RAUC(S) already agrees within the Co-ordination Code that certain types of works are voluntarily extended. Vodafone would support a change in regulations, subject to the restriction period be exemption for new service connections, urgent and emergency works as in the present Code.

Road Works Inspections

Q3: What is an appropriate level of inspection for utility company road works where a fee can be charged by the roads authority? Please can you explain your answer?

Vodafone does not believe that the inspection fee should increase. The Code of Practice for Inspections sets out the current 30% inspection level and by any other industry standard would be seen an excessive rate of sampling to inspect or audit quality. However, setting the aims and objectives high with regards to the quality of reinstatement, the RAUC(S) Community has accepted this level of inspection to safeguard the public purse. With present compliance rates throughout undertakers' works at 91.1%, we do not see the need to change this.

Equally, the Inspections Code has improvement plans for targeted inspections if poor performance is detected.

Q4: Should the arrangements for inspection fees be changed, and could this include a performance element?

No, we see the existing arrangements adequate and effective, as Question 3 define.

Guarantee Periods

Q5: Do you agree that such increased periods be introduced? What are your reasons for coming to this view?

No, the original premise for the guarantee period was to ensure after 2 or 3 years, if the reinstatement was in an acceptable and compliant condition, there would be no reason that it then failed in subsequent years. It was agreed within the HAUC(UK)/RAUC(S) Community the Inspection Procedure produced a level comfort and certainty for Road Authorities. However, regardless of whether a reinstatement passes at guarantee end, Case Law has set a precedent under Section 71 (in England & Wales); if a non-compliance with Specification is subsequently found through investigation, it is the promoter's responsibility as a continuing offence - (BT v Nottinghamshire CC) to put this right

Therefore there is no benefit to increase the guarantee and in reality, contractors will increase their costs associated with civil works to cover the extra years of retention funds, held back by undertakers for just such an incidence. The cost of undertakers' services would inevitably have to increase to compensate for this, leaving consumer yet again to fund.

The extra duration of the guarantee period would also lead to disputes on the history and ownership of reinstatement failure as there would be more opportunity for other promoters to excavate in an area over the extended time period.

2. TIME TAKEN TO COMPLETE WORKS

Charge for Occupation Where Work is Unreasonably Prolonged

Q6: Scottish Ministers would welcome views on the introduction of a charge for occupation where work is unreasonably prolonged.

Vodafone performance under Section 125 shows no instances of delay in works for the last 12 months period. With your assertion that only 2.0% of works around the country actually over-running is it clear that the notice periods showing the SRWR and working onsite is minimal. 98% have worked within the agreed notice periods and therefore that the RAUC(S) Community from all sides works together for the benefit of Scotland's economy. Therefore we would challenge the rationale behind an introduction of over-run charges.

Vodafone and all other undertakers do not want to be on roads longer than necessary to maintain apparatus or to serve new customers. On the contrary the more time spent of the road costs our business. We work with Roads Authorities where necessary to optimise notice periods to reduce duration along with providing quality reinstatements. On occasion, we have to work outside normal working hours, to fit in with traffic management requirements, avoid events, other conflicts and other aspects of environment issues which shows a willingness to adapt for the good of the Community.

Permit Schemes

Q7: Scottish Ministers would welcome views on the introduction of permit schemes.

Vodafone is of the opinion existing that Scottish Road Works Register and the Community culture to Roadworks in Scotland is able manage works effectively without resorting to Permit Schemes.

Our experience in England shows there is little reduction in disruption as a result of Permit Schemes but create more administration from both authority and undertakers staff. Permit Conditions imposed by some Authorities have meant that the works duration is longer potentially causing longer disruption. Works still have to take place, whether a Permit Scheme is there or not and the Permit Fees associated are unfortunately passed to our customers.

Is it hard to see the logic of setting up a small industry of administrators to send and receive, view and refuse or grant Permits Applications, with no real evidence this adds value and supports economic growth.

Lane Rental Schemes

Q8: Scottish Ministers would welcome views on the introduction of lane rental schemes.

Vodafone would not want to see Lane Rental Schemes (LRS) introduced as we must pass the associated charges on to our customers. In England, LRS Schemes only have approval from the DfT after Permit Schemes have run without the desired results for at least two years. As the Roadworks Commissioner does not recommend Permit Schemes then neither should Lane Rental Schemes be considered before a full and detailed report on the existing schemes has been published, showing the benefits to the wider community.

If then scheme was to be introduced, it must with parity for all promoters. Your reference in paragraph 2.17 suggests that only a "utility" would be charged for road works, so it would hard to justify the additional costs with a LRS Scheme when only half the disruption force is actually funding a scheme. As almost 50% of activities on the network are by Road Authorities works causing disruption, we would be very keen to have a level playing field with all promoters, if in need, your intention was genuinely to lessen that disruption.

Furthermore, we would like to see any workable scheme is based on pinch points on the network where charges may apply but offer alternative times/days when no charges apply and work can proceed with agreement from Environment Officers or other interest parties. Our experience in London is that Vodafone works were forced to be completed in the High Band Charge Category within the street, as Environment Health & Officers refused our application to work outside of normal working hours. Clearly there is conflict between different parts councils' services and functions which equally would apply UK wide.

Forcing promoters to works at night to avoid LRS charges not only effects neighbourhoods with noise and disruption but also extends the duration due by reduce working slots available when work can be

done outside the charge category times. From the Health & Safety aspect, workforce injuries and accidents increase when working at night and therefore we are opposed putting pressure and risks to our contractors where this is not essential.

Vodafone suggests that the existing powers should be used to control any disruption and delay in road works.

3. COMPLIANCE AND ENFORCEMENT

Offences under NRSWA

Q9: Should there be an extension of existing summary offences dischargeable by fixed penalty notice? Please can you explain your answer?

Vodafone does not support extension of summary offences dischargeable by fixed penalty notices. The culture in Scotland is one of working together for the Community and an extension the range of FPN's will devalue this. There are various powers and duties currently under NRSWA to curtail misclassification, the abuse of start notices and to rectify reinstatement & apparatus without the need for additional FPN's. The ultimate sanction rests, rightly so with Commissioner for those poor performers where a Road Authority is struggling to see improvement in standards.

New Offences Dischargeable by Fixed Penalties

Q10: Should we create the proposed new summary offences with a view to introducing fixed penalty notices? Please state the reasons for your view.

Vodafone comments as Question 9

Fixed Penalty Amounts

Q11: Do you agree that the current fixed penalty notice amounts should be increased in line with inflation e.g. consumer price index?

Vodafone does not support the increase – with low FPN's served on Vodafone it is not appropriate to increase at this time.

Q12: What maximum level of penalty do you consider is required to ensure that it can influence the behaviour of utility companies and roads authorities which do not comply with their duties? Should this be increased in line with inflation e.g. customer price index?

Vodafone believes the present penalty is sufficient and does not support an increase even to keep in line with inflation. With low FPN's served on Vodafone it is not appropriate to increase at this time.

Definitions of Co-operate and Co-ordinate

Q13: Do you agree that the definition of co-operate and co-ordinate in sections 118 and 119 be revised as proposed? Please provide the reasons for your view.

Vodafone believes the definitions of "co-operate" and "co-ordinate" are appropriate and does not support a revision to NRSWA. Sections 118 & 119 refer to the Co-ordination Code where matters of guidance for both definitions are given and we believe where it must stay.

Any proposed amended of the Code should be agreed with RAUC(S) and the Commissioner for proactive co-ordination and co-operation.

4. REVIEW OF CURRENT AND PROPOSED LEGISLATION

Safety at Road Works

Q14: Do you agree that the Code of Practice for Safety at Street Works and Road Works should become mandatory for road authorities? Please provide the reasons.

Vodafone believes that one Safety Code standard throughout the UK is vital for both undertakers and authorities. Whether the works are for Road Maintenance, Street Lighting, Water or Communications, we all use the same contractors and much the same equipment to complete our work. These works must be conducted safely through common standard to protect both the road users and the workforce implementing it.

Apparatus Records

Q15: Do you agree that it should be made mandatory for all utility companies and roads authorities to hold digital records of their apparatus in roads and to provide such digital records for use on the SRWR? Please provide the reasons for your view.

Vodafone believes all undertakers and roads authorities should hold digital records on the SRWR, as with more remote access available, operatives would have up to date information on site for their safety and to avoid damage to other services. The same service would be a useful tool to avoid conflict with other apparatus when planning new connection, mains renewal or road construction. We believe however there are some concerns over confidentiality to protect sensitive apparatus, so we would want to work with the SRWR Team to mitigate the risk to our business.

Section 109 Permissions

Q16: Do you agree that section 61 of the Roads (Scotland) Act 1984 be repealed and section 109(2) of NRSWA revised to provide more clarity as to where responsibility for record keeping of apparatus should lie. Please provide reasons for your view.

Vodafone is in agreement with repealing of the Roads (Scotland) Act 1984 Section 61 and revising Section 109(2) of NRSWA 1991. We believe a central register of Road Works, owned by Commissioner is vitally important to record ownership apparatus in the roads and not dissipated in various record formats within each Road Authority, so that the Roads Community has access to.

Road Managers

Question 17: Do you agree that the designation of "major road managers" be created? Please provide the reasons for your view.

Vodafone supports this proposal as it would assist with the communication and co-ordination of works between to those unusual road managers which are presently not given access to the SRWR.

5. CO-ORDINATION OF WORKS

Advance Notice Periods

Q18: What are your views on the 3 month advance notice period for major works?

Vodafone appreciates that to deliver effective co-ordination, authorities need as much notice of all works as possible, especially of major works and works on Traffic Sensitive Roads. In these cases 3 months' notice or longer is particular important and to delay bringing forward schemes, may have a serious impact on the road network. For customer connections, however, Vodafone sometimes needs to react with swiftness to bring a service on line. Ultimately our service is just one part which feeds the economic wealth of the region. Therefore we need to work with the Roads Authorities to agree early starts where this is necessary, even though the connection may be considerable in duration and classified and major works.

Q19: Do you consider that the requirement to provide advance notice for works on non-traffic-sensitive roads should be removed? If you do, what benefits do you consider this would bring?

Vodafone believes that advance notice of such works on non-traffic-sensitive roads should continue to be applied. However with the nature of these roads being less important for likely disruption, we would like to reduce the notice period from 3 to 1 month for major works in these circumstances. We realise that Road Authorities still have to co-ordinate major planned works and need to be aware of lesser scale works that may conflict but ultimately the risks to the road network are less. Should there be a disruption or safety issue for proposed works, Road Authorities can use Section 115 to direct works appropriately.

Early Start Procedures

Q20: Should the early start procedure be a statutory requirement?

Vodafone supports the statutory requirement for early-start on the basis of the RAUC(S) Advice Note already in use within the Community.

Urgent Works

Q21: What are your views on making noon the following day a statutory requirement for commencing urgent works?

Vodafone needs to retain the existing definition of urgent works necessary, for example to repair a network fault affecting our ability to serve our customers. However it is important to communicate with the Roads Authority on safety and operational requirements to avoid any further disruption following commencement of urgent works. We would like to see no changes to the current notice procedure.

Roads Authority Noticing Obligations

Q22: Should legislation be introduced to ensure that roads authorities are required to provide the same information as utility companies and to the same timescales?

Vodafone believes it is part and parcel of good co-ordination to have the best data to hand to influence and avoid disruption when road works commence. Therefore Roads Authorities should be under the same obligations as their undertakers' colleagues to inform of their own works, in the same manner and timescales.

Minor Works Involving No or Minimal Excavation

Q23: Should regulations be introduced to allow roads authorities the flexibility around placing notices for works involving no or minimal excavation on non-traffic sensitive roads?

Vodafone believes that flexibility for works with minimal excavation and non-traffic sensitive roads, means that the administrative focus will be on more disruptive works and therefore Road Authorities can take steps to mitigate. Vodafone supports the introduction of such regulations subject to parity with undertakers' works.

Actual Start Notices

Q24: Should regulations be introduced to require roads authorities and utility companies to enter actual start notices on the Scottish Road Works Register?

Vodafone believes that the regulations to require Roads Authorities and undertakers to enter actual start notices on the Register will add value to the co-ordination process. It will provide clarity on current works on the network and assist with avoiding disruption with nearby by works which may be affected or have an impact elsewhere.

Q25: Is the current requirement for actual start notices to be lodged by noon the following day for all works in the road, including traffic-sensitive routes, acceptable? Please can you explain your answer.

Vodafone believes the "noon the next day" is appropriate and gives add certainty that the information is correct before it is record on the SRWR. However, on traffic sensitive roads, we encourage timely notices as soon as possible, once the situation on site is confirmed, without regulation being imposed. This will provide clarity on current works on the network and assist with avoiding disruption with nearby by works, which may be affected or have an impact elsewhere.

Works Closed Notices

Q26: Is the current requirement for works closed notices to be lodged by the end of the next working day a reasonable period? What alternative period would you propose for traffic-sensitive roads and what are the advantages or disadvantages?

Vodafone believes that the existing requirement for works closed notices to be received by the end of the following day is acceptable and does not need amendment for traffic-sensitive roads. However, where the network is busy and other promoters are waiting for space to commence their works, it is recognised that a works closed notice as soon as practicable would aid co-ordination.

Validity Periods

Q27: Should we reduce the validity period to a maximum of 2 days and should it apply to both utility companies and roads authorities alike? If you consider that a different validity period would be appropriate, please state the period and provide the reasons for your view?

Vodafone does not believe that the validity period should be reduced however, we realise the frustration of leaving extra days on the SRWR with no work going on, subject to a confirmation notice being served. Where this becomes a problem for an Authority due to other works, either proposed or in progress, communication is appropriate between the parties involved to confirm their intentions.

Duration of Works

Q28: Should roads authorities be provided with statutory powers to impose maximum durations for works on utility companies?

Vodafone and our contractors understand our business and therefore should be able determine work durations to ensure prompt delivery of service and to ensure reinstatement quality. Pressures from Road Authorities to reduce durations may will affect quality and result in remedial works visits at a later date. However, early discussions with our construction teams are encouraged where works are likely to be more disruptive, to find ways of work to lessen that risk.

We believe that Road Authorities should be not given extra powers for duration challenges.

Embargos

Q29: Should roads authorities be given statutory powers to impose embargos on works for reasons other than traffic disruption?

Vodafone believes that statutory embargos, other than for traffic disruption or security measures are not needed and should not be given Road Authorities. Our customers are also Scottish Government customers and where there need our service, this adds benefit to the economic wealth to the region. The RAUC(S) Community already uses voluntary embargos at certain times of the year or for special events and which undertakers observe for the benefit the general public. Therefore we believe Road Authorities have enough powers under Section 115 if they have to restrict our works outside an embargo, using the notice system or through direct communication.

Definition of "working day"

Q30: Do you agree with the definition of a working day given above?

Vodafone believes that the "working day" as defined section 157(2) of NRSWA should be maintained as existing. Although many supermarkets, commercial businesses and shops open their businesses on Sundays the deep tradition in the UK is to adhere to normal Bank Holidays including where local traditions apply.

ISSUES NOT COVERED

Issues not covered in the Foregoing

Q31: Please identify any further issues which should be addressed that you think could contribute towards improving the way in which works in roads are managed and undertaken.

Vodafone believes the collaborative approach under RAUC(S) does improve standards of notice administration and work out on site. Any new legislation may impact on economic growth of the region due to increases to consumers bills passed on by undertakers.

Innovation

Q32: Please identify any potential innovations which you think could contribute towards improving the way in which works in roads are managed and undertaken.

Vodafone believes that collaboration between the undertakers and Road Authorities is the key to management of the network.

Close communication between undertakers and authorities, their acceptance of each other's needs to maintain networks and give service, is of the utmost of importance to keep efficient traffic movement on the roads and keeps commerce thriving.

Where appropriate, working together in partnership where schemes conflict, sends a message to the wider public that the Road Community is not just an industry on its own, but provides a service to all.

Q33: Please outline the potential impact of any additional costs.

Vodafone believes there are wide options for Transport Scotland to implement schemes and regulations and therefore additional costs are unknown and variable. We urge the Scottish Government to consider the present legislation gives enough power and duties to manage Road Works effectively without the burden of added costs which ultimately, consumers will pay for.



STRATEGIC CONSULTATION ON WORKS ON SCOTTISH ROADS

RESPONDENT INFORMATION FORM

Please Note this form **must** be returned with your response to ensure that we handle your response appropriately

1. Name/Organisation

Organisation Name

Vodafone

Title Mr ☒ Ms ☐ Mrs ☐ Miss ☐ Dr ☐ *Please tick as appropriate*

Surname

Nesbitt

Forename

Christopher

2. Postal Address

Unit 55-57 Gravelly Industrial Park, Jarvis Way, off Tyburn Road Birmingham		
Postcode B24 8TQ	Phone + 44 (0) 7776 151505	Email christopher.nesbitt@vodafone.com

3. Permissions - I am responding as...

Individual	/	Group/Organisation
<input type="checkbox"/>	Please tick as appropriate	<input checked="" type="checkbox"/>

<p>(a) Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government web site)?</p> <p>Please tick as appropriate <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>(b) Where confidentiality is not requested, we will make your responses available to the public on the following basis</p> <p>Please tick ONE of the following boxes</p> <p>Yes, make my response, name and address all available <input type="checkbox"/></p> <p>or</p> <p>Yes, make my response available, but not my name and address <input type="checkbox"/></p> <p>or</p> <p>Yes, make my response and name available, but not my address <input type="checkbox"/></p>	<p>(c) The name and address of your organisation <i>will</i> be made available to the public (in the Scottish Government library and/or on the Scottish Government web site).</p> <p>Are you content for your <i>response</i> to be made available?</p> <p>Please tick as appropriate <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>
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<p>(d) We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?</p> <p>Please tick as appropriate <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>
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Bus and Local Transport Policy
Transport Policy

Victoria Quay, Edinburgh EH6 6QQ
T: 0131-244 7057
Joanne.gray@transportscotland.gsi.gov.uk



36

Roads Authorities and Utility Companies
operating in Scotland and other interested parties

Your ref:

Our ref:

5 April 2013

Dear Sir/Madam

STRATEGIC CONSULTATION ON WORKS IN ROADS

Responding to this consultation paper

We are inviting written responses to this consultation paper by Friday 5 July 2013

Please send your response with the completed Respondent Information Form (see "Handling your Response" below) to:

WorksonRoads@transportscotland.gsi.gov.uk

or

Strategic Consultation on Works on Scottish Roads
Transport Scotland
Area 2D North
Victoria Quay
Edinburgh
EH6 6QQ

If you have any queries contact Raymond Elliot in the Scottish Road Works Commissioner's office on 0131 244 9938.

We would be grateful if could clearly indicate in your response which questions or parts of the consultation paper you are responding to as this will aid our analysis of the responses received.

Handling your response

We need to know how you wish your response to be handled and, in particular, whether you are happy for your response to be made public. Please complete and return the **Respondent Information Form** attached to this letter as this will ensure that we treat your response



appropriately. If you ask for your response not to be published we will regard it as confidential, and we will treat it accordingly.

All respondents should be aware that the Scottish Government are subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any request made to it under the Act for information relating to responses made to this consultation exercise.

Next steps in the process

Where respondents have given permission for their response to be made public and after we have checked that they contain no potentially defamatory material, responses will be made available on the Transport Scotland web site.

What happens next ?

Following the closing date, all responses will be analysed and considered along with any other available evidence to help us reach various decision. We aim to issue a report on this consultation process within 3 months after the closing date for the consultation.

Comments and complaints

If you have any comments about how this consultation exercise has been conducted, please send them to:

Name: Joanne Gray

Address: Transport Scotland, Area 2D North, Victoria Quay, Edinburgh, EH6 6QQ

E-mail: WorksonRoads@transportscotland.gsi.gov.uk

Yours faithfully

Joanne Gray



STRATEGIC CONSULTATION ON WORKS ON SCOTTISH ROADS

Response Sheet

Views Sought	
01	<p>What contribution do you consider should be introduced? What are your reasons for coming to this view?</p>
	<p>Based on the Scott Wilson report we agree that 10% contribution would be realistic starting point, with potential to increase this level if research such as that undertaken by TRL indicates a greater service life reduction is evident.</p> <p>Utility companies themselves require a road and footway network in order to protect their assets. It seems reasonable that they should contribute to the costs of maintaining the road networks if their legitimate works are contributing to the deterioration.</p> <p>There is also the running argument of a road works authority being responsible by way of periodic inspections for highlighting defective apparatus to the owner where that apparatus is unsafe or falls beneath national standards. This cost (and risk) is almost entirely borne by the Roads Authority.</p>

Views Sought	
02	<p>Do you think the period of restriction following resurfacing should be changed? Please can you explain your answer?</p>
	<p>Yes; agree that the legislation should be changed to extend the period of restriction to 3 years. This would encourage better planning of public utility works and road works for roads matters but must be backed up by appropriate legislation.</p> <p>There is currently ample opportunity for utility companies to come to a view as to whether they require planned replacements or upgrades of their apparatus when notice is given by RAs of their programmes of improvement works.</p>

Views Sought	
03	<p>What is an appropriate level of inspection for utility company road works where a fee can be charged by the roads authority? Please can you explain your answer?</p>
	<p>If the number of inspections which pass is at a satisfactory level, a random sample of 30% (10% of each phase) seems reasonable.</p>

04	<p>Should the arrangements for inspection fees be changed, and could</p>
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	this include a performance element?
	A performance element would be of benefit given the figures in the consultation document i.e. a variation of between 1% and 40% fail rate. It may be right to target individual utilities but this could be cumbersome. It may be a consideration that RAs, after agreeing the sample inspection numbers at the start of each year, can then undertake as many inspections as it takes to achieve a "pass" on each phase of works pertaining to the agreed numbers. For example if a utility had 30 sample inspections to be done in the year (10 for each phase), the authority would do as many as it took until 10 "passes" were recorded in each phase. The utility would then be liable for all inspections undertaken, including the failures up to the point that the ten passes were achieved.

Views Sought	
05	Do you agree that such increased periods be introduced? What are your reasons for coming to this view?
	Increasing the guarantee period would be beneficial from a RA perspective however the practicalities of such extended guarantees may be challenged as road conditions / construction may not meet current reinstatement standards and could be subject to failure themselves within the guarantee period.

Views Sought	
06	Scottish Ministers would welcome views on the introduction of a charge for occupation where work is unreasonably prolonged.
	It is often very difficult to assess what a reasonable timescale will be for works. And to give directions under section 125 is a very onerous thing for both the RAs and utility company. Road charging could inevitably lead to longer Notices in order to prevent over runs. Perhaps in the first instance a mechanism to charge or fine utilities for inadequate requests for extensions to works. These are almost never undertaken in accordance with the RAUCS advice note 17 governing early and late starts and extensions to works.

Views Sought	
07	Scottish Ministers would welcome views on the introduction of permit schemes.
	This authority would not be in favour of this option. It is considered another layer of administration. There is a reasonable working model within the SRWR; introduction of permits system could lead to resource problems; it is considered that current legislation is



	adequate.
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Views Sought	
08	Scottish Ministers would welcome views on the introduction of lane rental schemes.
	Not in favour. As in the previous response, this could be resource intensive and it could be considered that the current legislation is adequate.

Views Sought	
09	Should there be an extension of existing summary offences dischargeable by fixed penalty notice? Please can you explain your answer?
	<p>Agree there should be an extension of summary offences with certain provisions:</p> <p>Section 110 - This can be covered by reference to unattributable works and associated FPN's generated. Further, if such works were undertaken by a statutory undertaker without relevant notice on SRWR, then the RA can impose FPN by way of section 114 (Notice of starting date of works). This would be most appropriate to FPNs relating to contravention of Road (Scotland) Act or S109 and would be entirely similar to FPNs given to non Statutory Undertakers. There is little benefit however as the fine is not much more than most current application fees for S56 or for a S109.</p> <p>Section 124 – the imposition of an FPN for failures of SLG would improve safety for all road users and operatives alike.</p> <p>Section 130 - Currently if a failure is recorded upon inspection then the undertaker is required to undertake remedial works to the reinstatement. This may be viewed as being sufficient penalty without the imposition of an FPN. Reinstatements that have not been carried out in accordance with the specification are not always identified. The national coring programme is the means by which most of this type of failure is recorded. However, as RAs only have 91 days after any offence is committed to issue an FPN, this means is no longer available. Further, current legislation allows for joint inspections for failures where RAs can then charge for that joint meeting (D1) and then inspect and charge a sample inspection fee every 17 working days thereafter (D2) until a repair is carried out. Not in favour of changing this for single FPN.</p>



Views Sought	
10	<p>Should we create the proposed new summary offences with a view to introducing fixed penalty notices? Please state the reasons for your view.</p> <p>Misclassification - May be beneficial, however the counter side is that it may be difficult to establish or challenge this. In addition we are often made aware of "urgent" works, for instance to deal with water bursts, in advance and are hence given the opportunity to seek timings to avoid undue traffic delays. This is of course not compliant with the Act but it is helpful to both RA and utilities. This would stop immediately if this became subject to FPN.</p> <p>Actual Starts - This should be an offence subject to FPN. Further it should be considered an offence if an actual start date is recorded on the SRWR without works having started. Many instances of utilities recording actual starts to comply with Noticing requirements of the SRWR but not reflecting what is actually happening on the network.</p> <p>Failure to rectify defect - As noted in earlier response, RAs can currently charge for a D2 failure every 17 working days that a defective reinstatement is not repaired. Not in favour of changing this for single FPN</p> <p>Defective apparatus - Should be subject to FPN. Example many discussions with Scottish Water in particular re this at all levels. Needs legislative backing.</p>

Views Sought	
11	<p>Do you agree that the current fixed penalty notice amounts should be increased in line with inflation e.g. consumer price index?</p> <p>Agree that fee should be increased in line with annual inflationary rises. RAs currently absorb increased costs in undertaking inspections.</p>

Views Sought	
12	<p>What maximum level of penalty do you consider is required to ensure that it can influence the behaviour of utility companies and roads authorities which do not comply with their duties? Should this be increased in line with inflation e.g. consumer price index?</p> <p>Reputational damage is a more potent means of ensuring compliance and it may be that the limit of penalties could be escalated for continuation of a penalty imposed.</p>



Views Sought	
13	Do you agree that the definitions of co-operate and co-ordinate in sections 118 and 119 be revised as proposed? Please provide the reasons for your view.
	Agree that these sections should be reviewed and revised for the sake of clarity. Clarification on the first two sections noted would deal with doubt over the Commissioner's powers; however the ability to move to legislate for what appears to be desirable to the Commissioner may be more difficult to achieve. Where there are problems associated with failure to comply with the current arrangements, where these relate to cooperation these could be dealt with utilising current legislation.

Views Sought	
14	Do you agree that the Code of Practice for Safety at Street Works and Road Works should become mandatory for roads authorities? Please provide the reasons for your view.
	The Code of Practice for Safety at Street Works and Road Works is equally applicable to utility company works and roads authority works. Giving the CoP statutory status for roads authority works would remove the current anomaly whereby utility companies can be prosecuted for a minor breach under the New Roads and Street Works Act whereas roads authorities can only be prosecuted under the Health and Safety at Work Act. There is concern however that the Code of Practice is primarily directed at works of an isolated excavation nature and therefore is insufficient in respect to road works in general.

Views Sought	
15	Do you agree that it should be made mandatory for all utility companies and roads authorities to hold digital records of their apparatus in roads and to provide such digital records for use on the SRWR? Please provide the reasons for your view.
	The current voluntary approach to provision of digitised records utilised in VAULT is the most reasonable means of introducing these records. Where these records are already held there would be little or no additional resource requirement; however most RAs do not hold digital records of their apparatus, particularly drainage records and as such cannot provide these without significant financial commitment. Whilst the use of the VAULT system may lead ultimately to a mandatory requirement for records, we cannot support that position at this present time.



Questions	
16	Do you agree that section 61 of the Roads (Scotland) Act 1984 be repealed and section 109(2) of NRSWA revised to provide more clarity as to where responsibility for record keeping of apparatus should lie? Please provide the reasons for your view.
	Yes, section 61 of the Roads (Scotland) Act should be repealed to avoid confusion between this and section 109 of NRSWA.

Views Sought	
17	Do you agree that the designation of "major road managers" be created? Please provide the reasons for your view.
	No views on this proposal.

Views Sought	
18	What are your views on the 3 month advance notice period for major works?
	It is believed that the 3 months notice period is appropriate. Early starts can and are given to aid coordination. Local roads have a major effect on those living within the area and the three month notice allows RA and utilities to discuss local issues, letter drops etc. Coordination of major works would be unworkable if allowed by way of a seven day notice (the only other currently available option).

19	Do you consider that the requirement to provide advance notice for works on non traffic sensitive roads should be removed? If you do, what benefits do you consider this would bring?
	Non traffic sensitive roads are very sensitive for the community they serve. There would be no benefit in removing the need to notice major works well in advance.

Views Sought	
20	Should the early start procedure be a statutory requirement?
	No – we believe the voluntary use of the non-statutory advice note to be adequate and consider that the process of agreeing early starts is a good example of the Roads Authority/ utility companies' cooperation to coordinate road works.



Views Sought	
21	What are your views on making noon the following day a statutory requirement for commencing urgent works?
	We would not agree that works be entered into the SRWR by noon the following day. At present urgent works must be registered within 2 hours of starting on site. Moving to a noon deadline could result in works on the network without RA knowledge of their existence.

Views Sought	
22	Should legislation be introduced to ensure that roads authorities are required to provide the same information as utility companies and to the same timescales?
	The obligations on RAs and utilities are different and whilst utilities can programme works and respond to their customers, RAs have a duty to maintain the road asset and ensure public safety. The numbers of notices required would be overly cumbersome and resource hungry in its operation.

Views Sought	
23	Should regulations be introduced to allow roads authorities the flexibility around placing notices for works involving no or minimal excavation on non-traffic sensitive roads?
	Yes, agree that regulations be introduced to provide the same flexibility to RAs that are currently afforded to utility companies.

Views Sought	
24	Should regulations be introduced to require roads authorities and utility companies to enter actual start notices on to the Scottish Road Works Register?
	Yes. It should also be considered that users should be penalised if a start notice is issued without works starting. There has been evidence of this occurring in order to comply with regulation and SRWR - see comment on question 10 (Actual Starts).

25	Is the current requirement for actual start notices to be lodged by noon the following day for all works in roads, including traffic
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	sensitive routes, acceptable? Please can you explain your answer?
	Yes, for reasons of coordination. Current requirements are working satisfactorily.

Views Sought	
26	Is the current requirement for works closed notices to be lodged by the end of the next working day a reasonable period? What alternative period would you propose for traffic sensitive roads and what are the advantages or disadvantages?
	Yes. We believe that it is a reasonable period for works closed to be lodged by the end of the next working day. This procedure appears to be working adequately.

Views Sought	
27	Should we reduce the validity period to a maximum of 2 days and should it apply to both utility companies and roads authorities alike? If you consider that a different validity period would be appropriate, please state the period and provide the reasons for your view.
	Validity period should remain as is. Many factors can have an affect in the timing of works and some leeway should be given. RAs must take account of contractor programmes and weather conditions. Reduced validity period will increase late starts, cancelled notices, new notices with requests for early starts. Resource intensive. Massively outweighs any benefit.

Views Sought	
28	Should roads authorities be provided with statutory powers to impose maximum durations for works on utility companies?
	No – RAs cannot determine time required for utility operations on the network and could result in issues over Health and Safety, additional costs, lengthened work periods etc for utilities. Concerns over coordination and accountability conflicts.

Views Sought	
29	Should roads authorities be given statutory powers to impose embargoes on works for reasons other than traffic disruption?
	This issue is complex in that the current voluntary system works well and is flexible enough to allow it to work. Major sporting events, community and charity events all have the potential to be



	impacted by utility works. These events have a strong community influence and must be considered as appropriate. Legislative imposition of a definitive list of embargo circumstances may be too prescriptive.
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Views Sought	
30	Do you agree with the definition of a working day given above?
	No. This has been raised at various RAUCS forums on a number of occasions and in a number of ways. It affects the statistics for compliance of noticing if a notice is late because of public holidays etc. There should be the capacity within the SRWR to input the local holidays of each organisation, or at least have the failures caused by such events removed from the statistics.

Views Sought	
31	Please identify any further issues which should be addressed that you think could contribute towards improving the way in which works in roads are managed and undertaken.
	<p>Change the timescale for giving direction under section 115. Current timings are too short.</p> <p>Recent experience had utilities recording major works on to the SRWR, however when contacted to arrange meeting to discuss, the RA was advised that there were no details yet and that the utility was simply getting the proposed works in to the system and booking road space. By the time the details become available and a meeting was held the ten day window available to give direction had passed.</p>

Views Sought	
32	Please identify any potential innovations which you think could contribute towards improving the way in which works in roads are managed and undertaken.

Views Sought	
33	Please outline the potential impact of any additional costs.
	Cost implications in the transfer of some of the cost of long term damage to roads to the utility companies would undoubtedly drive



	innovation by these companies to the benefit of the user community and to Scotland as a whole.





TRANSPORT
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STRATEGIC CONSULTATION ON WORKS ON SCOTTISH ROADS

RESPONDENT INFORMATION FORM

Please Note this form **must** be returned with your response to ensure that we handle your response appropriately

1. Name/Organisation

Organisation Name

North Lanarkshire Council

Title Mr ☒ Ms ☐ Mrs ☐ Miss ☐ Dr ☐ Please tick as appropriate

Surname

Smart

Forename

David

2. Postal Address

Regeneration and Environment, Fleming House, Tryst Road, Cumbernauld

Postcode G67 1JW

Phone 01236 632756

Email

smartd@northlan.gov.uk

3. Permissions - I am responding as...

Individual



Group/Organisation



Please tick as appropriate

- (a) Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government web site)?

Please tick as appropriate ☐ Yes ☐ No

- (b) Where confidentiality is not requested, we will make your responses available to the public on the following basis

Please tick ONE of the following boxes

Yes, make my response, name and address all available ☐

or

Yes, make my response available, but not my name and address ☐

or

Yes, make my response and name available, but not my address ☐

- (c) The name and address of your organisation **will** be made available to the public (in the Scottish Government library and/or on the Scottish Government web site)

Are you content for your **response** to be made available?

Please tick as appropriate ☒ Yes ☐ No

- (d) We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Please tick as appropriate

☒ Yes

☐ No



OPENREACH RESPONSE TO THE STRATEGIC CONSULTATION ON WORKS ON SCOTTISH ROADS

Question 1: What contribution do you consider should be introduced? What are your reasons for coming to this view?

None – Openreach firmly believe that a utility contribution towards long-term damage of any kind is not necessary or warranted for a number of reasons. Openreach believes that the commissioned desk-top report does not present any new evidence or provide additional conclusions, but serves merely as a literature review of previously published reports and old outdated research. We also believe that some of the reports reviewed in the URS Wilson Report and specifically the evidence on long-term damage is fundamentally flawed.

Openreach therefore, does not feel that assumptions can be made on the impact of utility reinstatements on Scottish roads based on the existing evidence, and does not accept the findings laid out in the URS Scott Wilson report.

Additionally, these Scottish Government's proposals would have a significant impact on the Openreach BDUK capital investment programmes.

One of the Scottish Government's key priorities (and the UK, Welsh and Northern Irish governments), is the need to stimulate growth in the economy. We believe that the introduction of a long term damage contribution will negatively impact on measures to drive economic growth, such as 'Broadband Britain' being hindered by escalating costs. This will lead to less investment in utility networks to deliver the secure and reliable services that underpin the Scottish and UK economies. We therefore urge the Scottish Government to not implement these proposals.

Road Restrictions

Question 2: Do you think the period of restriction following resurfacing should be changed? Please can you explain your answer?

Yes. We agree that there is a need to review the period of restriction following resurfacing works. The Scottish road works community already acknowledges that a 1 year restriction period is too short and a 3 year voluntary period has already been adopted. These measures would merely transpose what is done already into legislation. We currently support and cooperate on a voluntary basis, therefore we would support this transposition to a legislative basis on the understanding that any new restriction period should be subject to certain exemptions for things such as new service connections, urgent and emergency works.

Road Works Inspections

Question 3: What is an appropriate level of inspection for utility company road works where a fee can be charged by the roads authority? Please can you explain your answer?

We do not believe that the inspection levels for utility works that road authorities can charge for should increase. The current 30% inspection level is a high sample which gives an extremely strong indication of quality.

The consultation paper supports the view that the measures already in place has led to a 91.1% compliance rate nationally. Where there are variations, and the reasons for these variations have been understood, we would advocate a more focused and targeted approach tailored to the needs of each individual utility or Roads Authority.

The existing Inspections Code of Practice which was agreed by RAUC (Scotland) included the provision of Improvement Plans, with utilities and road authorities working together to drive up standards.

Question 4: Should the arrangements for inspection fees be changed, and could this include a performance element?

Yes, incentives for good performance should be encouraged, therefore Openreach believes that the current arrangements for inspection fees should be changed and incorporated into a new Inspections Code. We would suggest a reduction in the level of inspections and therefore fees for high performers and in turn, incorporate additional inspections for those identified as poor performers.

Guarantee Periods

Question 5: Do you agree that such increased periods be introduced? What are your reasons for coming to this view?

No - Openreach does agree that any increase in the guarantee period after its works are completed should be introduced. There is no evidence available to suggest that any compliant reinstatement that has not failed after 2 or 3 years is likely to fail after 5 years or beyond. Even though the likelihood of any failure after 2 and 3 years, or 5 years, is small, openreach and our contractors will be forced to plan, and therefore hold funds for these liabilities regardless. Any increase in the guarantee period for our works would therefore see a significant increase in costs to companies for no justifiable reason. Ultimately if we decide to pass on the liability to contractors, as is likely to happen, this will in turn be reflected in increased contractor prices and regrettably lead to consumer prices going up.

TIME TAKEN TO COMPLETE WORKS

Charge for Occupation Where Work is Unreasonably Prolonged

Question 6: Scottish Ministers would welcome views on the introduction of a charge for occupation where work is unreasonably prolonged.

Openreach sees no requirement for the introduction of Section 133 of NRSWA, given that Paragraph 2.3 of the consultation suggests that unreasonably prolonged utility works have been '*a limited problem*' with only 111 formal notices having been issued under section 125 in the last 12 month period. Paragraph 2.7 of the consultation recognises that only around 2% of over-running utility works have been recorded in the last 12 months.

We already regularly undertake works on an extended hours basis, for example working 7 days a week on busier streets, in agreement with road authorities and taking into account environmental considerations, safety, and operational and practical requirements. We would point out that utilities and roads authorities do already agree the duration of works in advance of them taking place we have the knowledge and expertise to know the length of time a job will take, but should be expected to justify that to authorities.

No consideration in the proposals has been given to the administration burden placed on the Roads Authorities or ourselves if this legislation were to be introduced. In our experience these costs can outweigh the benefits of the intent and also lead to unhealthy dialogue and a reduction on relationships between utilities and the Scottish Community.

Openreach suggests that the Roads Authorities need to use the current regulated option, Section 125, should utility companies' persist in taking excessive time to complete works.

Permit Schemes

Question 7: Scottish Ministers would welcome views on the introduction of permit schemes.

We currently operate in all the permit schemes in England, and would note that to date, there has been no review (as acknowledged in Paragraphs 2.15) of permit schemes to assess how effective they are. Thus, we wholly support the Commissioner's decision not to recommend the introduction of permit schemes at this time (Paragraphs 2.15). However, if at a subsequent date the Scottish government did decide to introduce permit schemes, openreach would welcome and commend the recently published DFT guidance which emphasises the need to focus on the busiest streets to reduce the costs and impact on ourselves and roads authorities (given that permit schemes must apply equally to both utility and authority works), it being imperative to support the government's economic growth initiatives, including broadband rollout and economic regeneration, such as housing, retail and industrial development.

Lane Rental Schemes

Question 8: Scottish Ministers would welcome views on the introduction of lane rental schemes.

We are yet to be convinced that lane rental will deliver substantial additional benefits over and above the myriad of existing legislation, regulation, codes and advice notes and voluntary initiatives already available to manage street works. Our view is that greater consistency and effectiveness in implementing existing legislative, regulatory and voluntary measures would deliver the same objectives at much less cost to utilities, roads authorities and their customers.

However, if lane rental were to be introduced, openreach would be committed to continuing to work constructively with the Scottish Government Ministers and officials to seek to develop and implement a scheme that is fair, robust, workable and minimises the burden on ourselves and our customers.

COMPLIANCE AND ENFORCEMENT

Offences under NRSWA

Question 9: Should there be an extension of existing summary offences dischargeable by fixed penalty notice? Please can you explain your answer?

No – Openreach does not support the proposals to extend the range of summary offences dischargeable by fixed penalty notices (FPNs). We believe that there are already suitable existing measures that roads authorities can use to address non-compliance:

Section 110 – prohibition of unauthorised road works – allows roads authorities the ability to prosecute utilities who do not notify authorities of their works.

Section 124 – signing, lighting and guarding failure – allows road authorities to prosecute utilities for signing, lighting and guarding non-compliances, and we believe that once the revised Safety Code of Practice is finalised, its launch could provide a real catalyst for re-emphasising the importance of correct signing, lighting and guarding through RAUC(Scotland).

Section 130 – Not reinstating excavation in accordance with the specification – allows roads authorities to tackle poorly reinstated excavations, and indeed the Scottish Road Works Commissioner and RAUC(Scotland) already have in place effective Improvement Plans which are delivering year on year improvements in the quality of reinstatement, with higher percentage targets set each year.

We therefore believe there is little added value in introducing FPNs for these offences, and experience across Great Britain has shown that some authorities use FPNs to supplement income, leading to numerous challenges and negotiations over spurious FPNs. Extending the range of offences will simply exacerbate the problem, and could detract from the pragmatic, positive and collaborative approach between roads authorities and utilities

fostered under the guidance of the Scottish Road Works Commissioner and RAUC(Scotland).

New Offences Dischargeable by Fixed Penalties

Question 10 – Should we create the proposed new summary offences with a view to introducing fixed penalty notices? Please state the reasons for your view.

Misclassification of works as urgent or emergency to circumvent longer planned work notice periods – No – We do not believe this to be a substantial problem and would welcome sight of data where there is a suggestion that openreach are misclassifying works as urgent or emergency to get around the notice periods for major works.

Not Noticing “actual start” notices by the due time (should actual start notices become a legal requirement) none -Openreach have no view on these proposals

Failure to rectify a defective reinstatement within a reasonable period– No – roads authorities already have measures to which they have recourse, including rectifying the defective reinstatement themselves and charging openreach.

Failure to rectify defective utility company apparatus within a reasonable time – No – roads authorities already have measures to which they have recourse to encourage openreach to rectify its defective apparatus. Equally, it is not in our interest to leave apparatus defective for any length of time.
We do wish to point out that there is a need to educate the Community in the determination of what defective apparatus encompasses.

Fixed Penalty Amounts

Question 11: Do you agree that the current fixed penalty notice amounts should be increased in line with inflation e.g. consumer price index?

No – We do not support the increase of the FPN levels. National Utilities own performance figures indicate that only 2% of the total number of Notices has attracted an FPN which is subsequently paid. Therefore, the quality and timeliness of Noticing at 98% compliance, does not justify any increase in the FPN level.

Question 12: What maximum level of penalty do you consider is required to ensure that it can influence the behaviour of utility companies and roads authorities which do not comply with their duties? Should this be increased in line with inflation e.g. customer price index?

No – Openreach does not support the increase in the penalty that can be imposed by the Commissioner to £200,000. This is clearly disproportionate given the nature of the possible transgressions.

Definitions of Co-operate and Co-ordinate

Question 13: Do you agree that the definition of co-operate and co-ordinate in sections 118 and 119 be revised as proposed? Please provide the reasons for your view.

No – The Commissioner has recently demonstrated that the current definition is sufficient to allow her to impose a penalty under section 119 of NRSWA.

We believe that the existing definitions of “co-operate” and “co-ordinate”, if used effectively, are right and appropriate. The suggested amendment is very open-ended and could be used inappropriately without suitable safeguards.

REVIEW OF CURRENT AND PROPOSED LEGISLATION

Safety at Road Works

Question 14: Do you agree that the Code of Practice for Safety at Street Works and Road Works should become mandatory for road authorities? Please provide the reasons.

Yes - Openreach strongly believes that there should be one safety standard across the UK applying to all those working on the road. The general public are disinterested in who undertakes the work in the road, they just want works completed safely, efficiently and at lowest feasible cost to the ‘council tax payer’ or consumer.

We also believe that parity of treatment for all those undertaking works in the road would lead to a considerable improvement in the safety and quality of works.

Apparatus Records

Question 15: Do you agree that it should be made mandatory for all utility companies and roads authorities to hold digital records of their apparatus in roads and to provide such digital records for use on the SRWR? Please provide the reasons for your view.

Yes - We agree that it should be made mandatory for all utility companies and roads authorities to hold digital records, as this would enhance the safety of operatives and the public and assist in speeding up the planning of works. However, we believe that a move towards digital records should be undertaken on a phased basis, both in order to minimise additional costs and to work with National companies where they have to deal with the English regulations as well.

Section 109 Permissions

Question 16: Do you agree that section 61 of the Roads (Scotland) Act 1984 be repealed and section 109(2) of NRSWA revised to provide more clarity as to where responsibility for record keeping of apparatus should lie. Please provide reasons for your view.

Yes - Openreach agrees with repealing S61 and revising S109(2), as we believe that it is extremely important that as much relevant data as possible on utility and authority apparatus is held on a central register, irrespective of who has carried out the works.

Road Managers

Question 17: Do you agree that the designation of "major road managers" be created? Please provide the reasons for your view.

Yes – We support the proposal to establish a designation of "major road managers", but believe that '*major road managers*' should relate to roads where a minimum number of works are undertaken e.g. 30 works undertaken in a calendar year is a suggested level which then justifies the '*major road manager*' having access to the Scottish Road Works Register (SRWR)

CO-ORDINATION OF WORKS

Advance Notice Periods

Question 18: What are your views on the 3 month advance notice period for major works?

Openreach recognises that to deliver effective co-ordination, roads authorities appreciate as much notice of all works as possible, especially of major works. Sometimes the requirement to give 3 months' advanced notice for certain types of customer-driven works, like commercial connections, presents difficulties for us when we are regulated and required to connect customers or enhance their services within specified time limits.

Openreach believes that an informal and pragmatic approach earlier in the process should be explored to allow for meaningful co-ordination by road authorities and flexing of works by utilities to allow for joint occupation or sequential working, thereby reducing the overall duration of works.

Question 19: Do you consider that the requirement to provide advance notice for works on non-traffic-sensitive roads should be removed? If you do, what benefits do you consider this would bring?

Yes - building on a co-operation and co-ordination approach the Roads Authority can be made aware of potential smaller scale works which although could still have an impact on the surrounding community, but still fulfils the co-ordination, co-operation and regulatory approach, whilst still fulfilling customer requirements and expectations.

Openreach therefore recommends a return to one month of notice of major works on non-traffic-sensitive roads, as this would still allow local coordination without being overly burdensome on utilities and road authorities.

Early Start Procedures

Question 20: Should the early start procedure be a statutory requirement?

Yes - Provided this it is based upon an agreed RAUC(Scotland) Advice note, we would support the early start procedure being a statutory requirement.

Urgent Works

Question 21: What are your views on making noon the following day a statutory requirement for commencing urgent works?

No – We suggest that the existing definition is retained. Openreach agrees that by definition, there should be a degree of urgency to commence any works defined as “urgent”. We would prefer to retain the existing definition of urgent works necessary to repair a primary network failure. There are times when temporary fixes may be necessary to enable specialist materials to be obtained, where they are not readily available. This does not mean that the works are not urgent, but that any further phase may be delayed until the permanent solution can take place and be completed without delay

Roads Authority Noticing Obligations

Question 22: Should legislation be introduced to ensure that roads authorities are required to provide the same information as utility companies and to the same timescales?

Yes – Any proposed legislation would greatly aid co-ordination, enhance co-operation and enable much better data analysis to assess both existing and future legislation and voluntary initiatives.

It would make sense for all works to be required to provide the same information to the same timescales. The more information the road works community has at its disposal, the better informed the Commissioner will be in formulating any future road works policy, legislation or direction.

Minor Works Involving No or Minimal Excavation

Question 23: Should regulations be introduced to allow roads authorities the flexibility around placing notices for works involving no or minimal excavation on non-traffic sensitive roads?

Yes - The flexibility to not notice works involving no or minimal excavation on non traffic-sensitive roads is valuable for both utilities and roads authorities, reducing the administrative burden for both. We supported the approach taken in the Commissioner Advice Note, and so we agree that any regulation should provide flexibility whilst ensuring parity of treatment for road authorities and utilities.

Actual Start Notices

Question 24: Should regulations be introduced to require roads authorities and utility companies to enter actual start notices on the Scottish Road Works Register?

Yes – Openreach supports the introduction of regulations to require roads authorities and utilities to enter actual start notices on the SRWR, as this will greatly aid co-ordination of works by roads authorities and management of their road networks, as well as providing greater certainty to utilities when planning to work or are working currently on these roads.

Question 25: Is the current requirement for actual start notices to be lodged by noon the following day for all works in the road, including traffic-sensitive routes, acceptable? Please can you explain your answer.

Yes – Openreach believes that the existing requirement for actual start notices to be lodged by noon the following day for all works, achieves a sensible balance between ensuring certainty that the works have commenced, and making sure information on the SRWR is as up to date as possible. All works promoters should aim to confirm the actual start of works as soon as possible.

Works Closed Notices

Question 26: Is the current requirement for works closed notices to be lodged by the end of the next working day a reasonable period? What alternative period would you propose for traffic-sensitive roads and what are the advantages or disadvantages?

Yes – Openreach believes that the existing requirement for works closed notices to be lodged by the end of the following day, achieves a sensible balance between ensuring certainties that the works have finished, and making sure information on the SRWR is as up to date as possible. All works promoters should aim to confirm that works have closed as soon as possible.

Current technology should be explored to encourage the use of hand-held devices to enable notification of works by the operatives / supervisors on site. The closure of works could potentially be expedited more quickly, mitigating disputes within other sections of NRSWA.

Validity Periods

Question 27 – Should we reduce the validity period to a maximum of 2 days and should it apply to both utility companies and roads authorities alike? If you consider that a different validity period would be appropriate, please state the period and provide the reasons for your view?

Yes – We believe that the validity period should be reduced to a maximum period of two days. If an authority is trying to co-ordinate a number of different works from different works promoters over a period of time and everyone required 7 days delay to their works it would be very difficult to achieve.

Duration of Works

Question 28: Should roads authorities be provided with statutory powers to impose maximum durations for works on utility companies?

No – Openreach believes that Roads Authorities have sufficient powers under section 125 of NRSWA. We believe utilities are best placed to determine the duration of works on their networks in order to perform them safely and efficiently and taking into account network and engineering requirements, combined with regulatory and commercial constraints. Openreach are also of the opinion that undue pressure to reduce durations to an unacceptable level with the imposition from roads authorities of 'maximum periods within which the works must be completed' could potentially lead to decreased quality and the need to return at a later date. Utility and roads authorities should seek to agree reasonable duration to minimise unnecessary occupation of the carriageway.

Embargoes

Question 29: Should roads authorities be given statutory powers to impose embargoes on works for reasons other than traffic disruption?

No – Openreach firmly believes roads authorities should not be given statutory powers to impose embargoes on works for reasons other than traffic disruption. We undertake road works for four main reasons – safety, security of supply, connecting new customers, enhancing existing customer services or delivering new infrastructure, such as broadband. We are investing billions of pounds to deliver safe and secure utility services which underpin the UK economy. We are therefore a major contributor to economic growth in our own right through providing essential broadband services for new houses and businesses. Therefore, giving statutory powers to authorities to impose embargoes on our works could have very significant and regulatory consequences.

Definition of "working day"

Question 30: Do you agree with the definition of a working day given above?

No - Openreach strongly believes that the definition of "working day" in section 157(2) of NRSWA should stand as it is, with a definition for bank holiday exclusions

ISSUES NOT COVERED

Issues not Covered In The Foregoing

Question 31: Please identify any further issues which should be addressed that you think could contribute towards improving the way in which works in roads are managed and undertaken.

Openreach believe there is a need to review the Code of Practice for Dispute Resolution and Appeals as neither the straightforward procedure (first stage) nor the escalation procedure (second stage) results in concluding the dispute or appeal.

Openreach also feel there is an opportunity to review Advice Note 18, (procedure for the conduct of hearings under NRSWA 1991 and The Roads (Scotland) Act 1984) as the procedure is heavily influenced by the hearing body, which is wholly made up of authority representatives, and gives no rights to appeal.

Innovation

Question 32: Please identify any potential innovations which you think could contribute towards improving the way in which works in roads are managed and undertaken.

Openreach have no comments.

Financial Implications

Question 33: Please outline the potential impact of any costs.

Openreach believes that the introduction of NRSWA section 133 will place additional financial and administration burden on both utilities and authorities. This is an unnecessary burden when existing legislation under NRSWA section 125 should be used by the Authorities.

We are also of the opinion that any increase in FPN offences will place additional financial implications for Authorities and utilities alike, increasing the hearings and undermining the pragmatic approach that has been a success in Scotland for many years.



The National Joint Utilities Group

38

STRATEGIC CONSULTATION ON WORKS ON SCOTTISH ROADS

National Joint Utilities Group Ltd. Response – July 2013

1. Introduction

The National Joint Utilities Group Ltd. (NJUG) is the UK's only trade association representing utilities and their contractors solely on street works matters.

Our focus is on driving up standards to improve the safety and quality of works and establishing constructive two-way relationships with governments and other relevant stakeholders. We do this by promoting best practice and voluntary initiatives such as the NJUG Vision for Street Works and the HAUC(UK) and RAUC(Scotland) Codes of Conduct. We are also the utility arm of the national Highway Authorities and Utilities Committee (HAUC(UK)), which brings together local authorities and utilities from across the UK, together with the English, Scottish, Welsh and Northern Ireland governments, to raise standards of road and street works. Through Mark Ostheimer (NJUG's Operations Director and Joint Chair of HAUC(UK)) we also contribute to the Road Works Policy and Development Group and RAUC(Scotland) to support the Scottish government; the Scottish Road Works Commissioner and the Industry in continuing to drive up standards and reduce disruption in Scotland. We are therefore very pleased to have the opportunity to comment on this consultation, and our comments are provided against this continuing commitment.

2. Executive Summary

2.1 Utilities' Major contribution to Economic Growth

Utilities are a major contributor towards economic growth, investing billions of pounds each year to ensure safe and secure essential utility services, which underpin the Scottish and local economy, providing gas, water, electricity and telecommunications to local businesses and local governments across Scotland and the UK.

This investment helps to drive growth e.g. broadband roll-out; housing and major retail developments and the wider construction industry, as well as essential services for high street and other commercial businesses.

Nevertheless NJUG, utilities and their contractors regret the unfortunate disruption that sometimes arises when these essential works take place, and are working hard to reduce it.

2.2 Long-Term Damage

Consultation Supporting Evidence / Report

NJUG has fundamental concerns over the validity of the commissioned URS Scott Wilson report which underpins the proposals contained within the consultation, as it:

- Does not present any new evidence or provide additional conclusions but serves merely as a literary desk-top review of previously published reports and old outdated research.



The National Joint Utilities Group

- NJUG believes the many of the previously published reports and outdated research reviewed by the URS Scott Wilson Report are fundamentally flawed, particularly in respect of long-term damage.
- In particular, the TRL PPR386 Report made recommendations on long-term damage based on a sample of only 38 sites across the UK, which NJUG robustly challenged at time, and continues to challenge (further detail is provided in our response to specific questions.)

NJUG calls on the Scottish government to undertake a full investigation into all the reasons for road degradation, similar to the Highways Maintenance Efficiency Programme – a copy of its first report is included:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/3995/pothole-review.pdf.

NJUG also calls on the Scottish government to undertake independent research into all the reasons for congestion, and percentage attributed to all those reasons e.g. volume of traffic; accidents and incidents; road works authority works and utility road works.

Given our concerns over the URS Scott Wilson Report, NJUG would therefore welcome sight of the data used by the Scottish government in devising its proposals.

Impact on Consumers

In particular, NJUG believes that the introduction of a utility contribution to long term damage would also have a direct and unavoidable impact on consumer costs, with one of our utility members estimating a 40% increase in the cost of a consumer connection, which will have a direct negative impact on economic growth.

2.3 Road Works Inspections

NJUG believes that the current arrangements for inspection fees should be changed to incorporate a targeted approach, with a reduction in the number of inspections and fees for high performers, but with additional inspections for those identified as poor performers.

2.4 Guarantee Periods

Reinstatement design life has remained at 20 years since the Specification for Reinstatement of Roads (SROR) First Edition (1992). During the Third Edition Consultation on the SROR there was a call for evidence to be provided in support of an extension to the current 2 / 3 year period, but to NJUG's knowledge there is no evidence available to suggest that any reinstatement that has not failed after 2 or 3 years is likely to fail after 5 years or beyond. Therefore, NJUG does not agree that increased guarantee periods should be introduced, and such a move would simply increase utility costs through additional inspections for a longer period, without delivering any corresponding improvement in reinstatements.

2.5 S133 Overstay Charging

NJUG believes that introducing a Section 133 overstay charge is unnecessary on that basis that:



The National Joint Utilities Group

- NJUG has seen no evidence that there has been any cause for concern in terms of durations exceeding the agreed allocated times in the last ten years.
- Nationally, only 2% of utility works have overrun.
- Utilities and road works authorities already agree the duration of works in advance of them taking place.
- There are no up to date baseline congestion figures which quantify the level of congestion and its causes i.e. there is no data to show the proportion of congestion attributable to utility and road works authority road works.
- Existing mechanisms could be used more widely to control the duration of works (e.g. S125 (Avoidance of unnecessary delay or obstruction – see Scottish Road Works Commissioner Advice Paper No. 5 – October 2010.)
- NJUG believes that the utilisation of this Advice Note and an assessment of its outcome should be undertaken before recourse to any additional regulation.
- NJUG also recommends that further analysis is undertaken and that RAUC(Scotland) works with the Scottish Road Works Commissioner to use the outputs to identify further ways of reducing occupation of the road that do not involve regulation.
- NJUG's Annual Awards have included a number of positive case studies <http://www.njug.org.uk/good-practice-guidance/good-practice-case-studies/> showing how authorities' have been incentivised to reduce overall occupation of the highway through proactive co-ordination of works, in co-operation with utilities e.g. Staffordshire County Council Kinver Project; London Borough High Street; Dudley Council Co-ordinated Town Centre Works Programme.

2.6 Permit Schemes

NJUG supports the Scottish Road Works Commissioner's decision not to recommend the introduction of permit schemes at this time, as we believe that the existing Noticing provisions in Scotland, coupled with the cohesive and constructive approach to undertaking road works co-ordinated through RAUC(Scotland), provide sufficient powers and co-operation to manage both road authority and utility works.

2.7 Lane Rental

NJUG is yet to be convinced that lane rental will deliver substantial additional benefits over and above the myriad of existing legislation, regulation and voluntary initiatives already available to manage road works. Lane Rental, through restricted working hours, increases works durations along with the environmental concerns associated with out of hours working

NJUG believes that Scottish Ministers should only consider the introduction of lane rental in Scotland after a full cost benefit analysis is undertaken on the schemes that are being operated in London (TfL) and Kent, with whom NJUG and utility members are working closely.

2.8 Safety

Utilities have statutory duties to maintain safe, secure, efficient and reliable networks and utility services, as well as connecting new, or enhancing existing customers. Utilities are required to respond to emergencies or to connect new customers within specified timescales. In addition, the gas and water industries have specific statutory duties to replace mains, as directed by regulators e.g. HSE requirement to replace all cast iron mains within



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30 metres of buildings, and water mains replacement and repairs to deliver water quality and leakage standards.

NJUG and its members believe safety is the number one priority and NJUG strongly believes that there should be one safety standard across the UK. The revised Safety at Street Works and Road Works Code of Practice, being completed by the DfT Steering Group (which includes NJUG, JAG(UK) and the HSE), is due out shortly and should apply equally to road works authorities as well as undertakers, as will also be the case in England. The general public do not care who undertakes the work in the road, but just want them done safely, efficiently (including quickly) and at lowest feasible cost to the *'council tax payer and the utility bill payer'*.

2.8 Maximum Durations

NJUG does not believe road works authorities should have statutory powers to impose maximum durations for works, as utility companies are best placed to determine the duration of works on their networks in order to perform them safely and efficiently, and taking into account network and engineering requirements, commercial constraints and the impact on the public, including seeking to minimise disruption from works. Maximum durations will not reduce site time but merely increase the number of phases required to complete works.

If a road works authority had the power to impose maximum durations on a utility undertaking planned works, this could affect their way of working, and could potentially make the road works authority a "Designer" (under the Construction and Design Management Regulations 2007), which would lead to them taking on wide-ranging extra responsibilities and needing additional resources.

However, as now, road works authorities and utilities should agree durations and timings of works, and should focus on minimising the disruption of all works. On occasions utilities are faced with unexpected challenges which unavoidably extend durations, and need to request an extension from the road works authority. In all cases, NJUG continues to encourage utilities and road works authorities to agree reasonable durations and to work together to seek to minimise the impact on the public.



The National Joint Utilities Group

STRATEGIC CONSULTATION ON WORKS ON SCOTTISH ROADS

National Joint Utilities Group Ltd. Detailed Response to the

Consultation Questions – May 2013

Introduction

This detailed NJUG response gives our views on the questions posed by the Consultation, and should be read in conjunction with NJUG's Executive Summary and Covering Letter.

THE ROAD NETWORK AS AN ASSET

Question 1: What contribution do you consider should be introduced? What are your reasons for coming to this view?

None - NJUG does not believe that a utility contribution towards long-term damage of any kind is warranted. This is for a number of reasons. Firstly, NJUG questions the validity of the URS Scott Wilson report, which has been used as the basis for some of the proposals in the consultation. **NJUG believes that this commissioned desk-top report does not present any new evidence or provide additional conclusions, but serves merely as a literature review of previously published reports and old outdated research.**

NJUG also believes that some of the reports reviewed in the URS Wilson Report and specifically the evidence on long-term damage is fundamentally flawed.

NJUG therefore, does not feel that assumptions can be made on the impact of utility reinstatements on Scottish roads based on the existing evidence, and does not accept many of the findings laid out in the URS Scott Wilson report.

With this in mind, **NJUG seeks greater clarity and understanding of all the reasons for road degradation, and would welcome sight of the data used by the Scottish government in devising its proposals.** There are many factors that can contribute to road degradation including extreme weather conditions, volume and type of traffic that passes over the road, the original quality of road construction and materials used, and the quality and level of road maintenance, as well as quality and quantity of road works. NJUG does not feel that all of these factors have been appropriately considered. NJUG is willing to cooperate in any study looking into the reasons for road degradation, as it has done in the past.

NJUG would also point out that a considerable portion of works on Scottish roads are completed by Scottish Water. Therefore, any charge incurred by Scottish Water would ultimately be a cost incurred by the Scottish taxpayer, given that Scottish Water is a statutory corporation and accountable to the public through the Scottish government, rather than a privatised utility.

NJUG believes that the introduction of a utility contribution to long term damage would also have a direct and unavoidable impact on consumer costs, with one of our utility members estimating a 40% increase in the cost of consumer connections.

Additionally, Scottish government's proposals would have a significant impact on utility companies' capital investment programmes. The economic regulators have a statutory duty to protect the consumer and therefore balance the amount of money they allow utilities to



The National Joint Utilities Group

recover through utility bills for capital investment programmes and operational expenditure, with the cost to consumer bills.

A utility contribution based on any of the ranges proposed would have a dramatic effect on either a) the need to significantly increase the amount of money allowed for each company to spend on asset investment activity, with the resultant increase in utility bills, or, more likely, b) the regulatory settlements would not increase substantially (if at all), but, as the unit costs of each works would increase, there would be a decrease in the number of works each utility would be able to complete. This will have a direct impact on the construction industry, leading to a reduction in the number of jobs within the sector, which contradicts the Scottish and UK governments' primary goal of driving economic growth and creating jobs.

With reference to Paragraph 1.16 of the Consultation document, the Scottish government states that the national failure rate of 6 month reinstatement inspections is 8.9%, meaning that 91.1% of inspections were found to be fully compliant. Accepting that failure rates can sometimes vary depending on the road and authority area and coring analysis interpretation, NJUG questions the necessity and effectiveness of a blanket charge across all works, and would strongly advocate that if the Scottish government insist on introducing a contribution to long-term damage, that they look at a targeted approach, focusing on those areas that widely deviate from the national average and those utilities whose reinstatement record is not as good as the average.

However, voluntary initiatives that have been agreed through RAUC(Scotland) with higher targets each year, have delivered a real improvement in reinstatement quality, with Improvement Plans in place to deliver further improvements. NJUG strongly believes this current approach should be continued in preference to any further regulatory measures.

In summary, placing additional costs on the general public during such difficult economic times, however unpalatable, will become inescapable for utilities, if these measures are pursued.

One of the Scottish government's key priorities (and the English, Welsh and Northern Irish governments), is the need to stimulate growth in the economy. **NJUG believes that the introduction of a long term damage contribution will negatively impact on measures to drive economic growth.** This would result in the cost of connections for new housing developments and commercial developments rising; initiatives such as the roll-out of high-speed broadband being hindered by escalating costs; and less investment in utility networks to deliver the safe, secure and reliable services that underpin the Scottish and UK economies. We therefore strongly urge the Scottish government to not implement these proposals.

Detailed Comments on the Data and Assumptions Used for Long-Term Damage

In addition to the high level points above, NJUG would like to make the following specific detailed comments on the assumptions made in the Transport Scotland Consultation document and the referenced Technical Reports.

The Transport Research Laboratory (TRL) PPR386 Report, reported a 17% service life reduction based on findings in only 38 sites (across the UK), using information from an earlier TRL Report [No. 573 (c.2003)], which reviewed reinstatements completed circa.1994.



The National Joint Utilities Group

An approximate method to calculate 'reduction in service life' was adopted under the TRL 573 Report, which was derived using the Falling Weight Deflectometer (FWD) readings within the Highways Agency's Deflectograph interpretation method.

Utilities expressed reservations at the time, over relying on just 38 sites as a basis of moving forward proposals for long term damage. This was formalised in a Paper from Virgin Media's Alan Rainford presented to the HAUC(UK) National Conference of 2008. Points set out in this Paper substantially remain to be debated by the road works industry:

- This Transport Scotland Consultation has used the 17% service life reduction figure, implying that 17% of annual road maintenance spend is used to repair utility reinstatements. NJUG wishes to challenge this assumption on the basis that a) the original figure, based only on 38 sites, is highly questionable, and b) road works authorities can require utilities to put right any defective works at their own cost, and should therefore not need to use their road maintenance budgets to repair any defective utility reinstatements.
- In respect of the URS Scott Wilson Report which underpins this consultation, NJUG would make the following comments:
 1. URS Scott Wilson consulted stakeholders to augment their desk-top review, however, no utilities were invited to participate.
 2. The Report concludes there is only limited evidence linking reduction in service life to trench reinstatements, and NJUG would question the applicability of International reports, where there are many different factors affecting road longevity and the general environment is very different.
 3. The Report also highlighted that all data in TRL Reports is for England only and therefore not necessarily relevant to Scotland.
 4. The Report Identified joint sealing as a key weakness, but the SROR is in place to review / strengthen this [see also footnote below]).
 5. The Report recommended further research.
- The TRL PPR651 Report (McHale) for the Scottish Road Works Commissioner:
 1. The methodology used in the Report adopted roads maintenance inspection criteria without apparent cross-reference to SROR compliance parameters – examples:
 - (i) Joint cracking (permissible crack widths – *the SROR accepts cracks up to 2.5mm before remedials are required [see also footnote below]*).
 - (ii) Step depression -NJUG questions whether the measurement was outside the SROR Intervention limits?
 - (iii) Crowning / depression - NJUG questions whether these were outside of SROR Intervention limits?
 2. NJUG suggests that the Inspection Panel marking may therefore be unrepresentative of the standards expected under the SROR.
 3. Zone of Influence – issues:
 - (i) The only discernible visual measurement used to identify the effects of any weakness / movement in the surrounding zone of influence was a recording of cracking in the carriageway.
 - (ii) Approximately 1 in 6 sites were recorded as having some evidence of cracking in the surrounding carriageway - this low number appears to undermine the principle of a zone of influence, used under TRL PPR386 to 'inflate' the overall square metreage costs of long-term damage.



The National Joint Utilities Group

4. TRL established an Inspection Panel – this was independent of utilities, which is regrettable (although NJUG did have some degree of representation in all TRL reports in England).
5. The Report identified joint sealing as a key weakness - as above, the SROR is place to review / strengthen this [see also footnote below].
6. Findings:
 - (i) The Report draws out that urban and city areas appeared worse than rural and semi-urban (should the Scottish government insist on pursuing a long-term damage contribution, this would need to be reflected, rather than a blanket approach, although NJUG continues to strongly believe that no utility contribution towards long-term damage is warranted).
 - (ii) The Report suggests all reinstatements continue to deteriorate over time. This is not proven in the trial work. All that is shown is a snapshot of the range of reinstatement conditions for reinstatements of different ages.
 - (iii) The general condition of the existing surround carriageways remote from the reinstatements is not captured. NJUG's experience is that the quality of the surrounding roads is often poorer than the utility reinstatement, and would therefore suggest that:
 - (a) An assessment at the time of visiting the sites would have been useful, in order to gauge whether general road maintenance was required.
 - (b) This is a key plank of the SROR, in that utilities are not expected to exceed the condition of the general surrounds, at the end of the Guarantee Period, as, in essence it is a function of betterment.
7. Additional Comments:
 - (i) There is no reflection in either the URS Scott Wilson Report or this consultation, that acknowledges Audit Scotland's Reports regarding the Road Authorities preparing Asset Management Plans, i.e. utilities really do not know how well, or not, the Road Authorities are generally maintaining their assets, in order to scale the 17% figure.
 - (ii) Yet the Maintaining Scotland's Roads (Audit Scotland, 2011) Report highlighted that the overall maintenance backlog on roads in Scotland is £2.25 billion, of which £1.54 billion relates to roads in local Road Authority control. No indication was given of the timeframe over which this might be expected to be recovered, but the backlog figures were compared with those reported for England and Wales by way of the annual ALARM Reports - issued by the Asphalt Industry Alliance (AIA). This comparison showed the headline backlog cost per kilometre in Scotland to be circa 40% greater than that reported for 2010 in England and Wales. Therefore, in essence, the baseline condition of roads in Scotland appears to be poorer than that in England and Wales.
 - (iii) Additional earlier reporting also supports the long-term existence of a road maintenance backlog:
 - (a) Scottish Road Maintenance Condition Survey (SRMCS) reports from 2002.
 - (b) State of the Scottish Road Network Report of 2009 issued by the Society of Chief Officers for Transport in Scotland (SCOTS).

Footnotes:

1. Joint issues / cracks and related failures predominate. However, S12 of the SROR has excellent, yet under-used repair techniques. NJUG believes that these could be



The National Joint Utilities Group

considered (potentially at 5 years) as a medium offer from Utilities (*i.e. NJUG would much prefer to set up a scheme where utilities return after 5 years and undertake joint repairs, rather than:*

- a. Make wholesale surface course repairs, or*
 - b. Make the payments noted in the Consultation.*
2. Highway and Road Authorities have previously prevented utilities using overbanding on their reinstatements. Irrespective of skidding issues, utilities have been generally prevented from applying early-life edge protection, which TRL advocated in previous reinstatement-related research. Resolving this issue may help reduce the risk of future reinstatements failing.

Road Restrictions

Question 2: Do you think the period of restriction following resurfacing should be changed? Please can you explain your answer?

Yes. NJUG agrees that the period of restriction following resurfacing should be changed. The Scottish road works community already acknowledges that a 1 year restriction period is too short and a 3 year voluntary period has therefore been adopted. These measures would merely transpose what is done already into legislation. As currently operated on a voluntary basis, NJUG would support this transposition to a legislative basis on the understanding that any new restriction period should be subject to certain exemptions for things such as new service connections, urgent and emergency works.

Road Works Inspections

Question 3: What is an appropriate level of inspection for utility company road works where a fee can be charged by the road works authority? Please can you explain your answer?

NJUG does not believe that there should be any general increase in the inspection levels for utility works that road authorities can charge. The current 30% inspection level is a high sample which gives an extremely strong indication of quality.

Additionally, road works authorities already have the ability to inspect all parts of road works if they feel it necessary but can only charge for those detailed.

As previously highlighted, effective voluntary measures are already in place which has led to a sustained improvement up to a current level of a 91.1% compliance rate nationally. Where there are variations, and the reasons for these variations have been understood, NJUG advocates a more focussed and targeted approach tailored to the needs of each individual case. Utilities are already committed to a voluntary target of 90% compliance for the current coring programme, and support the targeted additional inspections that apply to utilities issued with an Improvement Plan. However, NJUG believes that conversely, consideration should be given to reducing inspections on high performing utilities (see Q4).

NJUG would also like to highlight that the inspections proposals within this consultation document ignore the current performance-based Inspections Code of Practice, which was agreed by RAUC(Scotland), and also fails to recognise the Improvement Plans currently in place for poor performers, with utilities and road authorities working together to drive up standards, including utilities paying for additional inspections.



The National Joint Utilities Group

Question 4: Should the arrangements for inspection fees be changed, and could this include a performance element?

Yes. As highlighted in Q3 above, NJUG believes that the current arrangements for inspection fees should be changed and incorporate a reduction in the level of inspections and therefore fees for high performers, and in turn, incorporate additional inspections for those identified as poor performers. Improvement Plans and an Inspections Code of Practice are already in place to promote and foster good performance amongst utilities and road authorities.

NJUG strongly believes that additional regulation is unnecessary, particularly when voluntary measures already in place are proving so effective, but that a change to the existing regulation (as suggested above) could deliver even greater improvements, further incentivising good performance.

Guarantee Periods

Question 5: Do you agree that such increased periods be introduced? What are your reasons for coming to this view?

No. NJUG does not believe that any increase in the Guarantee Period should be introduced. **There is no evidence available to suggest that any reinstatement that has not failed after 2 or 3 years is likely to fail after 5 years or beyond.** Even though the likelihood of any failure after 2 and 3 years, or 5 years is very small, utilities and contractors will be forced to plan, and therefore hold funds for these liabilities regardless. Any increase in the Guarantee Period for utility works would therefore see a significant increase in costs to utility companies for no justifiable reason. In addition, if utility companies decide to pass on the liability to contractors, as is likely to happen, this will in turn be reflected in increased contractor prices and regrettably lead to consumer prices going up.

Alongside the financial liability that would be incurred by utilities, NJUG also has concerns regarding the increased guarantee period and accountability. With different companies and authorities digging up the road at different time, overly complex 5 and 6 year guarantee periods will lead to questions being raised over who is actually liable in the event of a failure.

In addition to the above high-level comments, NJUG would like to make the following detailed points on the 5 Year Guarantee Period:

- 1 Reinstatement design life has remained at 20-years since SROR 1st Edition (1992).
- 2 The SROR 3rd Edition Consultation called for evidence to be provided in support of an extension to the current 2 / 3 year period.
- 3 NJUG asks what evidence was received in the SROR Consultation responses, and could it be made available?
- 4 General Comments:
 1. The Department for Transport (DfT), by way of the SROH 3rd Edition (England) Consultation, similarly sought supporting data to justify an increase in the Guarantee Period to 5 years. A small number of responses were received, but there was no overwhelming body of evidence to justify the increase.
 2. NJUG asks whether there is any supporting data that shows the rate of deterioration of reinstatements between end-year 2 and end-year 5, as NJUG



The National Joint Utilities Group

members' experience is that there is no deterioration of compliant reinstatements between 2 and 5 years.

3. NJUG asks whether the Inspections Code of Practice will be amended?
4. NJUG also asks whether the annualised Sample Inspection payments to Road Authorities will be re-evaluated over the first 5 year period – i.e. a 'loss' in income to Road Authorities, through cash flow adjustments as a result of Stage C Sample Inspections (and payments) delayed to year 5. This was a key reason English Highway Authorities were against the 5 year Guarantee Period, similarly proposed under the SROH 3rd Edition (England) Consultation questions in 2009.
5. In 2009, NJUG made a number of key points regarding the proposal for a 5 year Guarantee Period. The majority of points remain substantially unchanged and are yet to be debated by the road works industry (no new data forthcoming from Roads or Highways Authorities). Key points:
 - (i) Impact upon commercial liability - the simple question here is "if any Employer of Contractors asks for an increase to the Guarantee Period, will that affect the contracted rates?"

Accepting that sub-Contractor operating models predominate across the construction industry (roads and utilities), one 'link' in the cost-chain will bear the cost of increased contract liability arising from an increased Guarantee Period. Most probably it will be the first sub-Contractor working for the utility's main, or Tier 1, Contractor. An increase in the Guarantee Period will merely escalate costs for council tax and utility bill payers, and further impact the construction industry. Whilst an increase of the Guarantee Period may well instigate a review of working practices, there is no evidence that it would bring about any improvements, or that such improvements would outweigh the additional costs to the industry.
 - (ii) Expected improvements driven by an increased Guarantee Period.

TIME TAKEN TO COMPLETE WORKS

Charge for Occupation Where Work is Unreasonably Prolonged

Question 6: Scottish Ministers would welcome views on the introduction of a charge for occupation where work is unreasonably prolonged.

NJUG requests sight of the data that led to the conclusion that Section 133 of the NRSWA is needed, given that Paragraph 2.3 of the consultation suggests that unreasonably prolonged utility works have been 'a limited problem' with only 11 formal notices having been issued under Section 125 in the last 12 month period. Indeed, NJUG data shows that 99% of works across the whole of the UK were completed on time during 2012. The statement in 2.4 that, "the Commissioner considers that works are often not undertaken with all such dispatch as is reasonably practicable" needs qualification, supported by data. Utilities are already incentivised, either through their regulatory settlements or customer demand / competition, to work efficiently. Contractors are also under commercial pressure to complete works in a safe manner but as quickly as possible.

Therefore, NJUG would question the justification and value of introducing a Section 133 overstay charge when Paragraph 2.7 of the consultation recognises that only around 2% of over-running utility works in Scotland have been recorded in the last 12 months.



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Utilities already regularly undertake works on an extended hours basis, for example working 7 days a week on busier streets, in agreement with road authorities and taking into account environmental considerations, safety, and operational and practical requirements.

Additionally, NJUG would point out that utilities and road works authorities do already agree the duration of works in advance of them taking place, and utilities have the knowledge and expertise to know the length of time a job will take, but should be expected to justify that to authorities.

Permit Schemes

Question 7: Scottish Ministers would welcome views on the introduction of permit schemes.

NJUG believes that the existing NRSWA 1991 noticing provisions in Scotland coupled with the cohesive and constructive approach to undertaking road works co-ordinated through RAUC(Scotland), provide sufficient powers and co-operation to manage both road authorities and utility works.

From NJUG's experience of permit schemes in England there is no current evidence of significantly reduced disruption caused by road works or improved co-ordination of works (as referenced in Paragraphs 2.10 & 2.12). Yet, permit schemes have resulted in considerably increased costs (millions) to utilities in paying the permit fees. These costs are passed on to consumers, either through direct connection quotes, or allowed by the economic regulators, as permit fees become a normal cost of undertaking road works. In some cases, in particular within London, there is a significant reduction in productivity and efficiency due to onerous conditions placed on utilities. For example, the London Borough of Kensington and Chelsea has imposed limits on the length of gas or water pipes that can be inserted inside old pipes, resulting in the need for extra excavations, which increases the disruption, extends the total duration of the project and increases the environmental impact – leading to a 30%+ reduction in productivity.

Other permit conditions, by definition, prolong the duration of works. As well as increasing disruption, they also increase utility costs, which are ultimately passed through to the consumer, who allow a level of efficiently incurred costs incurred as a result of a change in legislation.

To date, there has been no English Government review (as acknowledged in Paragraphs 2.15) of permit schemes to assess how effective they are. Thus, NJUG supports the Commissioner's decision not to recommend the introduction of permit schemes at this time (Paragraphs 2.15). However, if at a subsequent date the Scottish government did decide to introduce permit schemes, NJUG commends the recently published Department for Transport (DfT) guidance, which now emphasises the need to focus on only the busiest traffic-sensitive strategic roads, and goes some way to reduce the costs and impact on utilities and authorities (given that permit schemes must apply equally to both utility and authority works), it being imperative to support the government's economic growth initiatives, including broadband rollout and economic regeneration, such as housing, retail and industrial development.

Lane Rental Schemes



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Question 8: Scottish Ministers would welcome views on the introduction of lane rental schemes.

NJUG is yet to be convinced that lane rental will deliver substantial additional benefits over and above the myriad of existing legislation, regulation and voluntary initiatives already available to manage street works. NJUG's view is that greater consistency and effectiveness in implementing the myriad of existing legislative, regulatory and voluntary measures would deliver the same objectives at much less cost to utilities, road works authorities and their customers.

Road works authorities under NRSWA 1991 sections 121, 122 and 123, along with associated regulations and section 115, already have the power to restrict working hours and durations during traffic-sensitive periods on strategic roads.

However, if lane rental were to be introduced, NJUG would be committed to continuing to work constructively with Scottish government Ministers and officials to seek to develop and implement a scheme that is fair, robust, workable and minimises the burden on utilities and their customers. Through our experience working DfT, Transport for London and Kent County Council in developing and implementing the two trial schemes in England, NJUG believes that any lane rental scheme should be:

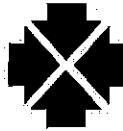
- **Fair and equitable:** Paragraph 2.17 states that 'a lane rental scheme would require utility companies to a daily charge for the duration of their works'. The schemes adopted and currently operating by TfL and Kent County Council ensure that both utilities and local authorities pay any lane rental charge, not just utility companies as is suggested in this consultation.

Whilst NJUG remains unconvinced that lane rental will deliver significant additional benefits over the myriad of legislation already available for road works authorities to manage road works, we believe that if the Scottish government chooses to use lane rental as an additional tool to reduce disruption, then inclusion of road authority works must be a mandatory requirement. Given that road works authority works currently registered on the Scottish Road Works Register (SRWR) account for approximately 27% of works in the street, managing them is equally important¹. The actual volume of works carried out is believed to be nearer 50% of all road works (similar to elsewhere within the UK) but not all authorities currently register all registerable works.

Targeted: As has been highlighted in Paragraph 2.17, NJUG believes that any new lane rental scheme needs to be focused on only the very busiest roads, where the volumes of traffic per hour is greater than that justifying a road as "traffic-sensitive", and any works would cause very significant congestion – and - only applied to cities / towns where there a significant number of those roads.

Operated on an incentivised and avoidable basis – NJUG advocates that any lane rental scheme must incentivise all works promoters to seek to avoid the lane rental charge by avoiding the busiest times by either working out of hours or outside the busiest seasons or times (such as school term times) or returning the road to service during the busiest times by

¹ The fifth Annual Report of the Scottish Road Works Commissioner 2011-2012



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use of innovative techniques such as plating, where safe, practical and operationally possible to do so. However, it should be noted that the Transport for London (TfL) lane rental scheme originally acknowledged that there is a doubling of the risk of operative fatalities when working at night. NJUG therefore suggests that if lane rental is progressed in Scotland, a more robust and appropriately applied traffic-sensitivity declaration, that includes added flexibility over the time of year works take place e.g. outside school term time; in the run-up to Christmas; and outside summer holidays (such as the Kent Lane Rental Scheme (KLRS)), is preferable to a scheme that just incentivises a wholesale move to out of hours working. The existing legislation already allows this.

- **About avoiding disruption - not generating revenue** – If the roads subject to lane rental are carefully selected, and small in number, a successful outcome would be that the lane rental scheme generates no or minimal revenue because it would have delivered a change in behaviour so that works promoters don't work during the busiest times. However, any revenue raised should be ring-fenced and invested into the development of new approaches that reduce disruption (as is the case in the TfL and KLRS schemes).

The whole premise of making charges avoidable, as the Scottish Government acknowledges in Paragraph 2.17, is that road works can be moved from the busiest times to evenings or overnight. However, as well as safety considerations, the potential for Environmental Health Officers (EHOs) to prevent or restrict out of hours working due to noise constraints could significantly hamper this objective and have a major impact on operational efficiency, extending durations and increasing costs e.g. in London, EHOs have prevented work in some roads after 11pm and yet in order to avoid the lane rental charge, works promoters have to only commence works after 8pm – leaving only a 3 hour window for works, which can extend the duration by up to 3 times or more, causing less disruption for the travelling motorist but greater inconvenience for those living or running businesses in the surrounding area.

Finally, **NJUG** believes that more effective and consistent use of the range of existing legislation / regulation and voluntary measures by road works authorities and utilities will deliver the same or greater benefits at much less cost to the utility consumer and council tax payer.

We therefore urge Scottish Ministers to delay considering any introduction of lane rental schemes in Scotland until a full cost benefit analysis is undertaken on the trial lane rental schemes that are being operated in London (TfL) and Kent.

NJUG believes that a lane rental scheme should not even be contemplated until everyone has a full understanding of the trial schemes' strengths and weaknesses and whether it delivers any additional benefits over existing legislation, and at what cost. Additionally, in England, local authorities are only permitted to operate a lane rental scheme once they've demonstrated evidence that a permit scheme has not produced the desired results i.e. local authorities must have been operating a permit scheme for at least 2 years. Considering the Scottish Road Works Commissioner does not recommend the introduction of permit schemes at this time (Paragraph 2.15), NJUG believes that lane rental should not be considered in Scotland at this time.

COMPLIANCE AND ENFORCEMENT

Offences under NRSWA



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Question 9: Should there be an extension of existing summary offences dischargeable by fixed penalty notice? Please can you explain your answer?

No. NJUG does not support the proposal to extend the range of summary offences dischargeable by fixed penalty notices (FPNs). In respect of the suggested areas to which FPNs could be extended, NJUG believes that there are already suitable existing measures that road works authorities can use to address non-compliance:

Section 110 – prohibition of unauthorised road works – provides road works authorities with the ability to prosecute utilities who do not notify authorities of their works.

Section 124 – signing, lighting and guarding failure – allows road works authorities to prosecute utilities for signing, lighting and guarding non-compliances, and NJUG believes that once the revised Safety Code of Practice is finalised, its launch could provide a real catalyst for re-emphasising the importance of correct signing, lighting and guarding through RAUC(Scotland).

Section 130 – Not reinstating excavation in accordance with the specification – allows road works authorities to tackle poorly reinstated excavations, and indeed the Scottish Road Works Commissioner and RAUC(Scotland) already have in place effective Improvement Plans that are delivering year on year improvements in the quality of reinstatement, with higher percentage targets set each year.

NJUG therefore believes there is no value in introducing FPNs for these offences, and experience across Great Britain has shown that some authorities use FPNs to supplement income, leading to numerous challenges and negotiations over spurious FPNs. Extending the range of offences will simply exacerbate this problem, and could detract from the very positive and collaborative approach between road works authorities and utilities fostered under the guidance of the Scottish Road Works Commissioner and RAUC(Scotland).

To prove a latent defect, a road works authority must produce evidence of wrong doing. The cost associated with this is reimbursable and significant in magnitude, and therefore NJUG does not believe that an FPN is the right mechanism for such an issue.

New Offences Dischargeable by Fixed Penalties

Question 10 – Should we create the proposed new summary offences with a view to introducing fixed penalty notices? Please state the reasons for your view.

No. NJUG's views on the specific offences suggested are similar to our views in Question 9:

Misclassification of works as urgent or emergency to circumvent longer planned work notice periods – No. NJUG does not believe this to be a substantial problem and would welcome sight of any data on whether this is a widely adopted approach by works promoters i.e. the proportion of Notices where works promoters misclassify works as urgent or emergency to get around the notice periods for major works as a percentage of total works, and split by road works authority and utility road works.



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However, if there are individual cases with a particular works promoter, then the individual work promoter and road works authority(ies) should seek to resolve, if necessary with support from the Commissioner.

In respect of "Not Noticing "actual start" notices by the due time (should actual start notices become a legal requirement)", NJUG would highlight that this is already a legal requirement in England and Wales and offences rarely occur. NJUG therefore has no objection to the addition of mandatory Actual Start Notices.

Failure to rectify a defective reinstatement within a reasonable period – No. Road works authorities already have adequate measures under NRSWA 1991 to which they have recourse, including the road works authority rectifying the defective reinstatement themselves and charging the utility if they haven't put it right within a reasonable period. **NJUG suggests that any persistent problems can be dealt with by RAUC(Scotland) under the Inspections Code of Practice**

Failure to rectify defective utility company apparatus within a reasonable time – No. Road works authorities already have adequate NRSWA 1991 measures to which they have recourse to encourage utilities to rectify defective utility company apparatus. Equally, it is not in a utility's interest to leave its apparatus defective for any length of time.

As is generally the case within Scotland, NJUG believes the emphasis should be on road works authorities and utilities communicating with each other and working together to drive up standards, and rectify any quality issues or non-compliances as effectively and quickly as possible.

Fixed Penalty Amounts

Question 11: Do you agree that the current fixed penalty notice amounts should be increased in line with inflation e.g. consumer price index?

No. NJUG does not support any increase in FPN levels. NJUG's own performance figures indicate that only 2% of the total number of Notices has attracted an FPN which is subsequently paid. The current level of charges is acting as an effective deterrent, as, the quality and timeliness of Noticing is at 98% compliance. There is therefore no justification for any increase in the FPN level, as the current level is driving a high level of performance.

Question 12: What maximum level of penalty do you consider is required to ensure that it can influence the behaviour of utility companies and road works authorities which do not comply with their duties? Should this be increased in line with inflation e.g. customer price index?

As above, given the high level of utility compliance in terms of timeliness and quality of Noticing (98% compliance) NJUG does not believe that any increase in the level of penalty is warranted.

Definitions of Co-operate and Co-ordinate

Question 13: Do you agree that the definition of co-operate and co-ordinate in sections 118 and 119 be revised as proposed? Please provide the reasons for your view.



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No. NJUG believes that the existing definitions of “co-operate” and “co-ordinate”, if used effectively, are right and appropriate. The suggested amendment is very open-ended and could be used inappropriately without suitable safeguards.

NJUG believes that any proposed change should be agreed with and through RAUC(Scotland), and ideally discussed within HAUC(UK). But in preference, NJUG believes that the Scottish Road Works Commissioner and RAUC(Scotland) could deliver even greater results through raising the level of proactive co-ordination and co-operation by:

- Incentivising road works authority managers to reduce disruption through each authority agreeing individual targets for reducing the number of days overall occupation of the road (such as in Staffordshire County Council where the Traffic Manager has a target each year).
- Continuing to promote earlier Advance Planning, through the sharing of utility and road works authority plans up to two years in advance, thereby allowing easier flexing of works to facilitate joint occupation or sequential working.

REVIEW OF CURRENT AND PROPOSED LEGISLATION

Safety at Road Works

Question 14: Do you agree that the Code of Practice for Safety at Street Works and Road Works should become mandatory for road authorities? Please provide the reasons.

Yes. NJUG strongly believes that there should be one safety standard across the UK applying to all those working on the road. The general public do not care who undertakes the work in the road, they just want works completed safely, efficiently (including as quickly as possible) and at lowest feasible cost to the council tax payer or utility consumer.

NJUG also believes that given that 27% of registered works in the road and overall around 50% of activities are completed by road works authorities, parity of treatment for all those undertaking works in the street would lead to a considerable improvement in the safety and quality of works, and reduced disruption.

Apparatus Records

Question 15: Do you agree that it should be made mandatory for all utility companies and road works authorities to hold digital records of their apparatus in roads and to provide such digital records for use on the SRWR? Please provide the reasons for your view.

Yes. NJUG agrees that it should be made mandatory for all utility companies and road works authorities to hold digital records, as this would enhance the safety of operatives and the public, as well as aiding the planning of works. However, NJUG believes that a move towards digital records should be undertaken on a long-term phased basis, in order to minimise additional costs for utilities and road works authorities. With VAULT already in operation in Scotland, the road works sector should work together to use it to move towards digital records over an agreed period of time.



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Section 109 Permissions

Question 16: Do you agree that section 61 of the Roads (Scotland) Act 1984 be repealed and section 109(2) of NRSWA revised to provide more clarity as to where responsibility for record keeping of apparatus should lie. Please provide reasons for your view.

Yes. NJUG agrees with repealing S61 and revising S109(2), as we believe that it is extremely important that as much relevant data as possible on utility and authority apparatus is held on a central register, irrespective of who has carried out the works. The Scottish Road Works Commissioner and RAUC(Scotland) are currently investigating this issue. Record keeping is of vital importance to both utilities and road works authorities, in particular in respect of safety, effective planning and efficient undertaking of works..

Road Managers

Question 17: Do you agree that the designation of "major road managers" be created? Please provide the reasons for your view.

Yes. NJUG supports the proposal to establish a designation of "major road managers", but believes that 'major road managers' should relate to roads where a minimum number of works are undertaken e.g. number of works undertaken in a calendar year is above a level which then justifies the 'major road manager' having access to the Scottish Road Works Register (SRWR).

CO-ORDINATION OF WORKS

Advance Notice Periods

Question 18: What are your views on the 3 month advance notice period for major works?

As currently defined, those undertaking major works have to give 3 months' notice. NJUG recognises that to deliver effective co-ordination, road works authorities appreciate as much notice of all works as possible, and especially of major works. However, sometimes the requirement to give 3 months' notice for certain types of customer-driven works, like commercial connections, presents difficulties for utilities who are required to connect customers or enhance their services within specified time limits. Utilities often have little advance notice themselves of the customer service contract to supply a new service. Therefore, a more broad-ranging option is proposed of one month for certain types of customer-driven work and three months for long-term planned works.

For several years, NJUG has been encouraging utilities and authorities to informally share plans for major gas, water mains and electricity cable replacements and for all major road resurfacing or maintenance programmes, up to two years in advance. **NJUG believes that this informal approach earlier in the process allows for meaningful co-ordination by road authorities and flexing of works by utilities to allow for joint occupation or sequential working, thereby reducing the overall duration of works.**



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Question 19: Do you consider that the requirement to provide advance notice for works on non-traffic-sensitive roads should be removed? If you do, what benefits do you consider this would bring?

No. In order for road works authorities to co-ordinate major planned works and be aware of smaller scale works which could still have an impact on the surrounding community, and which may necessitate the postponement of works on other roads to avoid unnecessary disruption, NJUG does not believe that advance notice of such works on non traffic-sensitive roads should be removed.

However, NJUG does recommend a return to one month of notice of major works on non traffic-sensitive roads, as this would still allow local coordination without being overly burdensome on utilities and road works authorities.

Early Start Procedures

Question 20: Should the early start procedure be a statutory requirement?

Yes. Provided this it is based upon an agreed RAUC(Scotland) Advice note, NJUG supports the early start procedure being a statutory requirement.

Urgent Works

Question 21: What are your views on making noon the following day a statutory requirement for commencing urgent works?

No. Whilst NJUG agrees that by definition, there should be a degree of urgency to commence any works defined as "urgent", NJUG would prefer to retain the existing definition of urgent works necessary to repair a primary network failure or restore / prevent a loss of service to customers. There are times when temporary fixes may be required (to ensure safety of the network and the public e.g. venting of gas escapes or other temporary measures particularly on traffic-sensitive roads), which are necessary to return the road to service, whilst securing the necessary specialist apparatus or materials to effect a permanent repair or reinstatement. This does not mean that the works are not urgent, but that the excavation phase may be delayed until the permanent works can take place and be completed without delay i.e. it may not be beneficial for a gas escape to be fully excavated if the necessary replacement apparatus or repair could not be completed without specialist materials or equipment, which is not always immediately available due to the age of some gas (and water) mains.

For consistency, NJUG suggests that the existing definition is retained but that the importance of communicating to the road works authority when actual excavation works are due to start is stressed to all works promoters, and agreement is reached with them on the appropriate course of action (taking into account the impact on safety, practical, operational and disruption).

Road Works Authority Noticing Obligations

Question 22: Should legislation be introduced to ensure that road works authorities are required to provide the same information as utility companies and to the same timescales?



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Yes. This legislation would greatly aid co-ordination, enhance co-operation and enable much better data analysis to assess the effectiveness of both existing and future legislation and voluntary initiatives.

Indeed, the general public do not differentiate between road authority and utility works, and so it would make sense for all works to be required to provide the same information to the same timescales. The more rigorous information the road works community has at its disposal, the better informed the Scottish government and the Commissioner will be in formulating any future road works policy, legislation or voluntary initiatives through RAUC(Scotland).

Minor Works Involving No or Minimal Excavation

Question 23: Should regulations be introduced to allow road works authorities the flexibility around placing notices for works involving no or minimal excavation on non-traffic sensitive roads?

Yes. The flexibility to not notice works involving no or minimal excavation on non traffic-sensitive roads is valuable for both utilities and road works authorities, reducing the administrative burden for both. NJUG supports the approach taken in the February 2010 Road Works Commissioner Advice Note, and so NJUG agrees that any regulation should provide flexibility whilst ensuring parity of treatment for road authorities and utilities.

Actual Start Notices

Question 24: Should regulations be introduced to require road works authorities and utility companies to enter actual start notices on the Scottish Road Works Register?

Yes. NJUG supports the introduction of regulations to require road works authorities and utilities to enter actual start notices on the Scottish Road Works Register (SRWR), as this will greatly aid co-ordination of works by road works authorities and management of their road networks, as well as providing greater certainty to utilities of who else is working on or in the vicinity of the road(s) on which they are planning to work or are currently working.

Question 25: Is the current requirement for actual start notices to be lodged by noon the following day for all works in the road, including traffic-sensitive routes, acceptable? Please can you explain your answer.

Yes. NJUG believes that the existing requirement for actual start notices to be lodged by noon the following day for all works, achieves a sensible balance between ensuring certainty that the works have commenced, and making sure information on the SRWR is as up to date as possible. Of course, the noon next day deadline should act as a backstop and wherever possible all works promoters should aim to confirm the actual start of works as soon as possible, and where they are working in particularly busy roads unexpectedly we would urge them to telephone the road works authority to alert them of their works before submitting the formal actual start notice.

Works Closed Notices



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Question 26: *Is the current requirement for works closed notices to be lodged by the end of the next working day a reasonable period? What alternative period would you propose for traffic-sensitive roads and what are the advantages or disadvantages?*

Yes. NJUG believes that the existing requirement for works closed notices to be lodged by the end of the next working day, achieves a sensible balance between ensuring certainty that the works have finished, and making sure information on the SRWR is as up to date as possible. Of course, the close of play next day deadline should act as a backstop, and, wherever possible, all works promoters should aim to confirm that works have closed as soon as possible.

Validity Periods

Question 27 – *Should we reduce the validity period to a maximum of 2 days and should it apply to both utility companies and road works authorities alike? If you consider that a different validity period would be appropriate, please state the period and provide the reasons for your view?*

No. NJUG does not believe that the validity period should be reduced to a maximum period of two days at this time, because there are many reasons which may delay the actual start of works by a few days such as emergency or urgent works, plant failure, reinstatement material availability in the event of unexpected works, parked vehicles and difficult site conditions, all of which can unexpectedly delay programmed completions.

Durations should be mutually agreed and wherever possible bespoke noticing should be utilised, i.e. the work elements should drive the job duration – these include complexity, length involved, road category etc. Driving every individual job would create an enormous administrative burden with requests for extensions continually being sought. Some utility companies use algorithms to determine durations, based on a range of factors. These include emergency or urgent works, plant failure, reinstatement material availability and difficult site conditions, all of which can unexpectedly delay programmed completions. The validity period allows utilities (and road works authorities) to rearrange work schedules at short notice which is the reality of carrying out road works, and some flexibility is necessary to allow for slippage, without which there would be a need to issue new notices, which would be administratively onerous and potentially confusing for road works authorities receiving them.

Duration of Works

Question 28: *Should road works authorities be provided with statutory powers to impose maximum durations for works on utility companies?*

No. Utilities are best placed to determine the duration of works on their networks in order to perform them safely and efficiently and taking into account network and engineering requirements and commercial constraints. Undue pressure to reduce durations to an unsustainable level with the imposition from road works authorities of 'maximum periods within which works must be completed' (Paragraph 5.25) could potentially lead to decreased safety and quality and the need to return at a later date, effectively increasing overall works durations (as we have seen occur in some cases within permit and lane rental schemes in England). However, utility and road works authorities should seek to agree reasonable duration to minimise unnecessary occupation of the carriageway.



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Maximum durations will not reduce site time but merely increase the number of phases required to complete works

Embargoes

Question 29: *Should road works authorities be given statutory powers to impose embargoes on works for reasons other than traffic disruption?*

No. NJUG does not believe road works authorities should be given statutory powers to impose embargoes on works for reasons other than traffic disruption. Utilities undertake road works for four main reasons – safety, security of supply, connecting new customers or enhancing existing customers' supplies, or diverting apparatus for major transport or urban regeneration projects. Utilities are investing billions of pounds to deliver safe and secure utility services which underpin the UK economy. They are therefore a major contributor to economic growth in their own right and through providing essential utility services for new houses and businesses. Therefore, having statutory powers to impose embargoes on utility works could have very significant negative consequences.

NJUG's strong preference would be for road works authorities and utilities to continue to, or start to share plans of major works and upcoming events in order to facilitate planned voluntary embargoes on roads when necessary. The road works community has a long and proud track record in managing the flexing of works, and complying with voluntary embargoes, including during pre-Xmas and New Year periods and major events, such as the Commonwealth Games and Edinburgh festival. NJUG believes that this should continue without the need for embargoes to be placed on statutory footing.

Definition of "working day"

Question 30: *Do you agree with the definition of a working day given above?*

No. NJUG strongly believes that the definition of "working day" in section 157(2) of NRSWA should remain as it is, with a definition for bank holiday exclusions. NJUG is not sure whether the statement that '*many organisations now do not take bank holidays*' (Paragraph 5.27) refers to all businesses or is referring to utilities / road works contractors, and so we would welcome sight of the evidence that supports this statement.

ISSUES NOT COVERED

Issues not Covered In The Foregoing

Question 31: *Please identify any further issues which should be addressed that you think could contribute towards improving the way in which works in roads are managed and undertaken.*

NJUG's firm view is that the greatest benefits in terms of driving up standards and reducing disruption can be achieved by road works authorities and utilities working together to co-ordinate works and thereby reduce the number of overall days occupation, as well as continuing the very positive collaborative approach under RAUC(Scotland), working with the Commissioner, to drive up standards e.g. Improvement Plans for reinstatement.



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This, coupled with more effective and consistent use of the myriad of existing legislation and regulation, will deliver the Scottish government's objectives of improved standards and reduced disruption, without impacting on growth or unnecessarily pushing up utility consumers' bills or prices for connection.

Given that around 50% of activities on the road are undertaken by road works authorities themselves (albeit not all road works authority works are yet recorded), NJUG believes that applying existing legislation and regulations to road authority works will deliver a considerable benefit, and bring parity of treatment, which will further enhance the collaborative approach of RAUC(Scotland).

The HAUC(UK) and RAUC(Scotland) Codes of Conduct for road and street works are excellent vehicles for enhancing road works in Scotland.

Innovation

Question 32: Please identify any potential innovations which you think could contribute towards improving the way in which works in roads are managed and undertaken.

One of the ways in which NJUG encourages its members to demonstrate new innovations within the industry is through its annual NJUG Awards. The Awards attract submissions across 6 categories and entries are judged by an expert independent panel, and represent best industry practice revolving around the NJUG Vision for Street Works:

1. Safety is the number one priority
2. Utilities deliver consistent high quality
3. Utilities work together and in partnership with local authorities and contractors to minimise disruption
4. Utilities keep the public informed on all aspects of works
5. Utilities maximise the use of sustainable methods and materials
6. Damage to the underground assets is avoided

All of the Award winning case studies can be found on the NJUG website as examples of the road works sector delivering innovative practice in the ways road works are managed and undertaken.

Examples of award-winning case studies leading to improved coordination and reduced duration, include:

Dudley Town Centre

South Staffordshire Water, National Grid Gas and Western Power Distribution worked together in partnership with Dudley Council to carry out a co-ordinated, 18 month programme of combined utility works for approximately 40 streets within the town centre.

The Kinver Project (Staffordshire)

A major collaboration between numerous promoters resulted in six individual sets of works taking place at the same time reducing an estimated 20 week project to only 7 weeks of co-ordinated works. This was delivered against a backdrop of Staffordshire's Traffic Manager being incentivised to reduce occupation of the road by 365 days over the year when the works took place.



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Borough High Street

Collaborative working in Borough High Street, Southwark, London saved more than a whole year in work days, compared with the estimated total time required for carrying out the gas, water and electricity projects separately.

Examples of award-winning innovations increasing safety and quality include:

Scottish Community Apparatus Data Vault (VAULT)

VAULT - the system in Scotland that stores records of both road authority and utility electronic underground apparatus on the Scottish Road Works Register (SRWR) and makes it available to those organisations which require access to this information, thus increasing safety when digging in the road.

Laing O'Rourke Mobile Works Management System

Photo-driven hand held devices allow real time transparency of site activities, resulting in improved record keeping, increased 2-way communication with site, and web portal access to client, customer and highways. The works management system has seen a 15% increase in on-site productivity, a 70% reduction in Section 74 overstay charges and 85% reduction in Fixed Penalty Notices pro-rata.

Other elements could include better ways of working (Core and Vacuum Machines), but NJUG believes that legislation needs to be more easily relaxed or implemented flexibly to allow change – the SROR does not allow swift change to use new coring methods or changing specifications (rapid cure concrete), thus innovation can be stifled through red tape.

Other NJUG Innovation Initiatives

NJUG is also promoting innovation from suppliers who provide goods, services, materials or equipment that support one or more of the NJUG Vision for Street Works, by the creation of NJUG Affiliates. Affiliates can present innovations at Regional NJUG Street Works Fora held around Great Britain, and at NJUG Good Practice Workshops, the most recent of which was held at Balfour Beatty Utility Solutions Ltd.'s training centre in Nottingham, bringing together utilities, contractors, traffic management suppliers, authorities and training experts to share best and poor practice on traffic management. A summary of the event and the lessons learnt can be found [\[here\]](#).

Financial Implications

Question 33: Please outline the potential impact of any costs.

NJUG is unable to accurately quantify the costs of many of the proposals included in this consultation, as the costs would vary widely depending on the scope and scale of the eventual proposals and the way in which they are implemented.

For instance, permit schemes that apply to all works and all roads result in a far greater increase in utility and authority costs than those that have focused on just the busiest roads. Equally, those permit schemes with onerous conditions have increased costs and reduced productivity / efficiently, much more than those schemes which have fewer and less onerous conditions e.g. limiting the length of new gas or water pipes being inserted within old pipes



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without an excavation to 50 metres instead of the normal 100 metres (to limit the amount of car parking suspended at any one time) has reduced efficiency by 30+%.

Equally, the approach in which any lane rental scheme is developed will greatly vary the costs to all works promoters. A scheme which incentivises a wholesale move towards out of hours working will have higher costs than a scheme which also incorporates variations in seasons / times of year. For out of hours working utilities are typically seeing a 25% uplift in labour costs, which they would have to pay in order to avoid the lane rental charge if a lane rental scheme is so designed.

Equally, without environmental health officers engagement in the development of any schemes, works promoters have seen the number of hours available for work each day reduced dramatically e.g. to avoid a lane rental charge in London a works promoter must not work before 8pm in the evening and yet some EHOs are preventing works after 11pm, which leaves only 3 hours to do works. This increases the duration of works exponentially.

As explained earlier in our submission, any introduction of a contribution towards long-term damage would not only increase the unit cost of works dramatically, but would reduce the volume of asset investment works utilities (gas, water, and electricity) would be able to undertake within their regulatory settlements), the cost of implementing Scottish government initiatives such as high-speed broadband, and the cost of new connections for businesses and domestic customers. This will have a significant negative impact on growth, jobs and the Scottish economy.

Overall, NJUG believes that the existing myriad of legislation, coupled with the constructive and collaborative working of the road works community under RAUC(Scotland) and the Commissioner, and the NJUG and RAUC(Scotland) voluntary initiatives provide road works authorities with all the powers they need to manage their own and utility road works.

Before introducing any further measures NJUG urges the Scottish government to undertake a robust cost benefit analysis of any areas they wish to consider further, including with input from utilities and roads authorities, as well as working with the Scottish Road Works Commissioner and RAUC(Scotland) in continuing the already in place programme of improvement.

