



Forth Replacement Crossing

Consultation on Variable Speed Limits and Actively Managed Hard Shoulder Regulations Consultation Report

November 2012



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FORTH REPLACEMENT CROSSING**CONSULTATION ON VARIABLE SPEED LIMITS AND
ACTIVELY MANAGED HARD SHOULDER REGULATIONS****CONSULTATION REPORT****REVISION STATUS**

Revision	Date	Description	Author	Approved for Use
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FORTH REPLACEMENT CROSSING

**CONSULTATION ON VARIABLE SPEED LIMITS AND
ACTIVELY MANAGED HARD SHOULDER REGULATIONS**

CONSULTATION REPORT

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1. INTRODUCTION

1.1 BACKGROUND

- 1.1.1 Construction of the Forth Replacement Crossing project was authorised with the Bill for the Forth Crossing Act 2011 being passed by the Scottish Parliament on 15th December 2010 and subsequently receiving Royal Assent on 20th January 2011. The Policy Memorandum which was produced for the Bill advised that the project would include an Intelligent Transport System (ITS) and that the powers to operate the ITS would be pursued by means of existing legislation. The ITS will use technology and infrastructure provided as part of the project to manage the flow of traffic to reduce congestion and increase safety and will operate over the full length of the project from Halbeath to Newbridge.
- 1.1.2 Construction of the project is underway and the first parts to be completed include improvements to the M90 between Halbeath Junction and Admiralty Interchange and on the A823(M) and on the M9 Spur to the north of Kirkliston. Regulations covering the use of variable speed limits on parts of the M90, A823(M) and M9 Spur and an permitting use of the hard shoulder (an actively managed hard shoulder) on parts of the southbound carriageway of the M90 by specified buses were made in May 2012 and came into force on 1 September 2012.
- 1.1.3 The section of the project at the M9 between Winchburgh and Newbridge, including M9 Junction 1a is nearing completion and regulations are being promoted covering the use of variable speed limits on the eastbound M9 and permitting use of the hard shoulder (an actively managed hard shoulder) on the southbound carriageway of the M9 Spur from Kirkliston, continuing onto the hard shoulder of the eastbound M9 between M9 Junction 1a and Junction 1 Newbridge Roundabout.
- 1.1.4 Variable mandatory speed limits help keep traffic moving by controlling the flow of vehicles when a road is becoming congested. As traffic levels increase, lower speed limits reduce the build-up of traffic and resulting negative effects on traffic flow. Variable mandatory speed limits will be indicated by means of signing above the road provided on gantries or signing in the verge.

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- 1.1.5 It is intended that where applicable the hard shoulder on the southbound carriageway of the M9 Spur and eastbound carriageway of the M9 will be available for use by permitted buses unless overhead gantry signing indicates that the hard shoulder is closed. This will be indicated by means of a “red x” sign. The permitted buses are those that can carry more than 23 seated passengers.
- 1.1.6 Regulations made under section 17 of the Road Traffic Regulation Act 1984 are necessary to allow operation of the variable mandatory speed limits and the actively managed hard shoulder.

1.2 CONSULTATION ON THE REGULATIONS

- 1.2.1 It was necessary to carry out consultation in accordance with section 134(2) of the Road Traffic Regulation Act 1984.
- 1.2.2 A formal written consultation was undertaken with 40 relevant organisations. The consultation was also made available to the public on the Scottish Government and Transport Scotland websites. The consultation period was 12 weeks, commencing on 13 August 2012 and ending on 5 November 2012. The consultation information and list of organisations consulted is included in Appendix A of this report.
- 1.2.3 The consultation information included a summary of the variable mandatory speed limits and actively managed hard shoulder proposals. Comments were invited regarding the proposals in general. In addition, specific comments, with reference to safety considerations in support, were requested regarding the actively managed hard shoulder proposals.

2. CONSULTATION FEEDBACK

2.1 SUMMARY OF RESPONSES

2.1.1 Four responses were received to the consultation, all from organisations. All respondents indicated that their responses could be made available in the Scottish Government library and on their website and these were published on 3 December 2012. An analysis of the responses is included in Appendix B of this report.

2.1.2 The respondents included local authorities, the police and an airport operator.

2.2 DESCRIPTION OF INFORMATION AND VIEWS OBTAINED

2.2.1 The variable mandatory speed limits and actively managed hard shoulder proposals were generally welcomed. There were no concerns or objections made regarding the intention to implement variable mandatory speed limits.

2.2.2 The majority of comments received related to the actively managed hard shoulder. Three respondents made comment regarding the proposed actively managed hard shoulder with three respondents welcoming or supporting the proposal and one respondent recognising the desire to put the actively managed hard shoulder in place but noting that safety concerns needed to be taken into consideration.

2.2.3 Of the organisations who welcomed or supported the actively managed hard shoulder, two expressed concern that the proposed restriction on the size of buses permitted to use the actively managed hard shoulder as a bus lane should be amended or removed and it was commented that safety concerns need to be taken into consideration, with a number of aspects of the proposal queried.

2.3 COMMENT ON THE INFORMATION AND VIEWS OBTAINED AND DECISIONS TAKEN

2.3.1 All of the feedback received was considered and responses were issued by Transport Scotland.

2.3.2 The main concern regarding proposed restrictions to be included in the regulations concerned the proposed restriction on the size of buses permitted to use the actively managed hard shoulder as a bus lane. Comments had also been made regarding the proposed restriction in response to the earlier consultation on the M90 regulations

which had initially intended to set the restriction at buses that could carry more than 28 passengers. Transport Scotland considered the comments made at that time and amended the restriction in the earlier M90 regulations to permit use of the hard shoulder by buses that could carry more than 23 seated passengers.

- 2.3.3 It was explained in the consultation information at that time that the M90 actively managed hard shoulder scheme was the first of its kind in Scotland and the restriction would therefore control the number and type of buses that could use the actively managed hard shoulder and allow its operation as a bus lane to be monitored. A commitment was given to monitor the effectiveness of the operation of the actively managed hard shoulder and to make any necessary amendments to the regulations to cater for buses which can carry a different number of passengers, including all buses, if this was appropriate.
- 2.3.4 The amended proposal was in line with that sought by public transport organisations. The feedback from the public transport organisations was that this would better cater for buses within the public transport fleet.
- 2.3.5 Feedback on the recent consultation in the M9 regulations which sought to completely remove the restriction on the size of buses permitted to use the actively managed hard shoulder as a bus lane included the same comments made in response to the earlier consultation on the M90 regulations and included reference to safety on bus lanes on major roads in the area. As explained in paragraph 2.3.2 above, these comments were considered at that time and it was considered that the actively managed hard shoulder is sufficiently different from other bus lanes where wider use is permitted to justify the initial restriction. In particular, the proposals involve use of the actively managed hard shoulder as a bus lane as opposed to being a designated lane on an all-purpose road and the proposals. This was subject to safety review during the development of the project and the proposals were found to be acceptable with a key part of the implementation phase to be the initial restriction and subsequent monitoring of the actively managed hard shoulder before it could potentially be opened up to additional types of buses.
- 2.3.6 Transport Scotland has considered the responses further following the consultation on the M9 regulations and draws the same conclusions reached previously, as set out in paragraph 2.3.5 above. Therefore, the same restriction (i.e. buses which can

carry more than 23 seated passengers) is proposed to be applied to the southbound carriageway of the M9 Spur, continuing on the eastbound carriageway of the M9 between M9 Junction 1a and Junction 1 Newbridge Roundabout.

- 2.3.7 Where the respondents sought further information about the certain aspects of the the scheme, Transport Scotland responded with further explanation regarding the proposals. Some examples of the type of information requested included information regarding sight lines and forward visibility for buses using the actively managed hard shoulder, the extent of CCTV coverage, enforcement measures to ensure the actively managed hard shoulder is not abused and advance publicity of the actively managed hard shoulder measures..

3. NEXT STEPS

- 3.1.1 Having considered the comments received in response to the consultation, the Scottish Ministers intend to make the regulations and lay them before the Scottish Parliament in December 2012 with the regulations intended to come into force early in 2013.

APPENDIX A - CONSULTATION INFORMATION

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TRANSPORT
SCOTLAND

**CONSULTATION ON THE M9/A90/M90 TRUNK ROAD
(HUMBIE RAIL BRIDGE TO M9 JUNCTION 1A) (VARIABLE
SPEED LIMITS AND ACTIVELY MANAGED HARD SHOULDER)
REGULATIONS 2012 AND THE M9/A9 TRUNK ROAD
(NEWBRIDGE TO WINCHBURGH) (VARIABLE SPEED LIMITS
AND ACTIVELY MANAGED HARD SHOULDER)
REGULATIONS 2012**

Responding to this consultation paper

We are inviting written responses to this consultation paper by 5 November 2012. Please send your response with the completed Respondent Information Form (see "Handling your Response" below) to:

fcenquiries@transportscotland.gsi.gov.uk

or

Regulations Consultation
Transport Scotland
Forth Replacement Crossing
Principal Contract Project Office
King Malcolm Drive
Rosyth
KY11 2DY

If you have any queries contact Andrew Pope on 01383 421483.

This consultation, can be viewed online on the Transport Scotland website at www.transportscotland.gov.uk/strategy-and-research/publications-and-consultations/consultations

The Scottish Government (SG) has an email alert system for consultations, <http://register.scotland.gov.uk>. This allows stakeholder individuals and organisations to register and receive a weekly email containing details of all new consultations (including web links). It complements, but in no way replaces SG distribution lists, and is designed to allow stakeholders to keep up to date with all SG consultation activity, and therefore be alerted at the earliest opportunity to those of most interest. We would encourage you to register.

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 enclosed with this consultation paper 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 to the public in the Scottish Government Library (see the attached Respondent Information Form), by 5 November 2012. You can make arrangements to view responses by contacting the SG Library on 0131 244 4552. Responses can be copied and sent to you, but a charge may be made for this service.

What happens next ?

Following the closing date, all responses will be analysed and considered along with any other available evidence to help us reach a decision on these Regulations. We aim to issue a report on this consultation process and introduce Regulations in late 2012.

Comments and complaints

If you have any comments about how this consultation exercise has been conducted, please send them to the contact above.

Consultation on The M9/A90/M90 Trunk Road (Humbie Rail Bridge to M9 Junction 1a) (Variable Speed Limits and Actively Managed Hard Shoulder) Regulations 2012 and The M9/A9 Trunk Road (Newbridge to Winchburgh) (Variable Speed Limits and Actively Managed Hard Shoulder) Regulations 2012

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

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

Surname

Forename

2. Postal Address

Postcode	Phone	Email

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

CONSULTATION

The Scottish Ministers welcome comment on the proposal to make the Regulations and in particular in relation to the bus lane provisions, and would welcome any specific reference to safety considerations by consultees in support of their comments.

Comments

SUMMARY OF THE PROVISIONS TO BE INCLUDED IN THE M9/A90/M90 Trunk Road (Humbie Rail Bridge to M9 Junction 1a) (Variable Speed Limits and Actively Managed Hard Shoulder) Regulations 2012 and The M9/A9 Trunk Road (Newbridge to Winchburgh) (Variable Speed Limits and Actively Managed Hard Shoulder) Regulations 2012

Background to the Regulations

The proposed M9/A90/M90 Trunk Road (Humbie Rail Bridge to M9 Junction 1a) (Variable Speed Limits and Actively Managed Hard Shoulder) Regulations 2012 and M9/A9 Trunk Road (Newbridge to Winchburgh) (Variable Speed Limits and Actively Managed Hard Shoulder) Regulations 2012 ("the 2012 Regulations") will regulate the use of part of the M9 Spur and M9 which are being improved as part of the Forth Replacement Crossing project.

Construction of the Forth Replacement Crossing project was authorised with the Bill for the Forth Crossing Act 2011 being passed by the Scottish Parliament on 15th December 2010 and subsequently receiving Royal Assent on 20th January 2011. Consultation on the project was previously undertaken in 2009 as part of the consultations required for the Bill. The Policy Memorandum which was produced for the Bill advised that the project would include an Intelligent Transport System (ITS) and that the powers to operate the ITS would be pursued by means of existing legislation. Paragraphs 17 and 23 of the Policy Memorandum which was produced for the Bill are of particular relevance to the 2012 Regulations and are reproduced below for ease of reference.

17. To enable the proposed scheme to operate effectively, orders, such as traffic regulation orders in respect of the operation of the Intelligent Transport Systems and public transport links, will be required. These orders will be pursued by means of existing legislation.

23. In preference to increasing the extent of road construction and refurbishment, Intelligent Transport System (ITS) technology will be deployed along the route from the M90 Halbeath Junction over the crossing to the M9. This will improve traffic flow, reduce congestion and improve road safety. ITS can operate on roads under existing legislation through the application of traffic orders made by the Scottish Ministers and therefore the Bill only seeks to acquire the land and undertake the works necessary to provide the physical apparatus for the system. To facilitate the operation of ITS and provide for a single authority to maintain control over the full extent of road linking the M9 to the M90 the Bill provides for the transfer of local authority roads to the Scottish Ministers.

The 2012 Regulations will be the second of a series of Regulations to be put in place to give Ministers the powers to operate the ITS and are to be put in place using existing powers in the Road Traffic Regulation Act 1984

Regulations were previously made on 16 May 2012 covering variable speed limits and actively managed hard shoulder for sections of the M90, A823(M) and M9 Spur. Consultation on those regulations was undertaken from 18 January 2012 to 10 April 2012 and a separate consultation report was prepared. The report is available on the Transport Scotland website at <http://www.transportscotland.gov.uk/road/projects/forth-replacement-crossing/project-library/construction-plans-and-reports>⁺. All responses were considered in finalising the previous regulations.

Provisions to be included in the Regulations

Variable Speed Limits

Variable speed limits keep traffic moving by controlling the flow of vehicles when a road is congested. As traffic levels increase, lower speed limits reduce the build up of traffic and resulting negative effects on traffic flow. It is therefore intended that the Regulations will make provision for mandatory variable speed limits which will be indicated by means of signing above the road provided on gantries and signing in the verge. The variable speed limits will apply over the following sections of road:

- M9 Spur – on both the northbound and southbound carriageways between Humber Rail Bridge where the M9 Spur crosses the Falkirk to Fife Railway Line and M9 Junction 1a.
- M9 – on the southbound carriageway from Winchburgh to Newbridge Junction, including the southbound off-slip road at Newbridge Junction.

Traffic flow and speed on the M9 Spur and M9 will be monitored by detectors in the road and the data will be transmitted to the Traffic Scotland Control Centre to allow the speed limits to be changed if necessary. CCTV cameras will also be located at each gantry along the road to allow the operation of the road to be monitored by control centre personnel and support the operation of the mandatory variable speed limits.

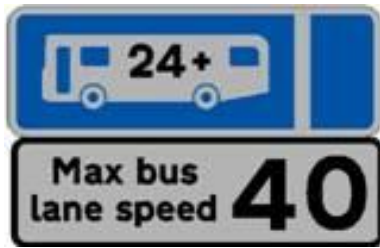
Failure to comply with those speed limits will be an offence as these Regulations are to be made under section 17 of the Road Traffic Regulation Act 1984, subsection (4) of which makes it an offence to fail to comply with Regulations made under that section.

It is possible that a lower speed limit may be set when vehicles are at or close to a gantry and that those vehicles may not be able to reduce their speed sufficiently to comply with the lower speed limit when passing the gantry. This issue was identified by the Department for Transport when they put similar Regulations in place in England and they addressed this in their Regulations by not applying the lower speed limit to a vehicle if that vehicle passed below the relevant gantry within ten seconds of the lower speed limit being applied. It is proposed to take the same approach to this issue in the 2012 Regulations.

Use of Actively Managed Hard Shoulder

The M9 Spur and M9 Motorways currently have hard shoulders. It is proposed that the 2012 Regulations will allow use of the hard shoulder on the southbound carriageway of the M9 Spur, continuing on to the hard shoulder of the southbound carriageway of the M9 to Newbridge Junction by specified buses, effectively turning part of the length of the hard shoulder into a bus lane. It is intended that the bus lane will be a full time, permanent bus lane. As is explained below the operation of the bus lane is such that it will be a bus lane provided on the hard shoulder of the road.

A schedule will be included in the 2012 Regulations to make clear the sections of the M9 Spur and M9 over which use of the hard shoulder by buses will be permitted. Signing, as shown below, will be provided adjacent to the road indicating that buses may use the bus lane and the signing will indicate to drivers the start and end of the lane.



Sign indicating start of bus lane



Sign indicating end of bus lane

The Motorways Traffic (Scotland) Regulations 1995 (“the 1995 Regulations”) regulate the use of all special roads which are motorways. They include general provisions regarding the use of hard shoulders on motorways. The 2012 Regulations will therefore require to adjust the application of the general provisions of the 1995 Regulations in relation to the sections of the road where buses are to be permitted to use the hard shoulder as a traffic lane.

It is intended that the hard shoulder will be available for use as a bus lane, by permitted buses, unless it is indicated by overhead gantry signing that use of the hard shoulder as a traffic lane is closed to through traffic. This will be indicated by means of a “red cross” sign. The aim is that the existing hard shoulder on the sections of the M9 Spur and M9 to which the 2012 Regulations will apply will become “an actively managed hard shoulder”, operating as a bus lane under normal circumstances but reverting to a hard shoulder if a “red cross” sign is displayed.

To support the continued use of hard shoulder as the bus lane, emergency refuge areas will be provided at discrete locations adjacent to the lane/hard shoulder. The 2012 Regulations will provide that wherever reasonably practicable, any traffic requiring to make use of the hard shoulder as a hard shoulder should be driven into an emergency refuge area. The emergency refuge areas will be indicated by signing.

This is part of the first scheme of its kind in Scotland and the development of the proposals has been subject to scrutiny by a Safety Management Steering Group which included officials from Transport Scotland’s safety, standards and network operations sections and representatives of the Forth Replacement Crossing project team. To support safe and effective use of the lane and as directed by the Safety Management Steering Group, the 2012 Regulations will restrict use of the hard shoulder as a traffic lane to buses which can carry 24 or more seated passengers. This will control the number and type of buses that can use the bus lane and allow the operation of the bus lane to be monitored to ensure that it is operating safely and in accordance with the design of the bus lane. The Scottish Ministers will monitor the effectiveness of the operation of the lane and commit to making any necessary amendments to the 2012 Regulations to cater for buses which can carry a different number of passengers, including all buses, if it can be demonstrated that it will be safe and effective to do so.

Other classes of traffic will continue to be permitted to use the hard shoulder when it is being used as a bus lane consistent with the provisions of regulation 14 of the 1995 Regulations. Regulation 14 already makes exceptions in terms of allowing certain traffic to use a hard shoulder. This includes, for example, use by emergency vehicles or by other traffic in emergencies, construction traffic involved in working adjacent to the motorway etc. It is not intended that the 2012 Regulations will restrict the usage permitted by regulation 14 of the 1995 Regulations in any way.

The Scottish Ministers welcome as part of this consultation comment on the proposal to make the Regulations and in particular in relation to the bus lane provisions, and would welcome any specific reference to safety considerations by consultees in support of their

comments. Consultation has been undertaken on previous variable speed limits and actively managed hard shoulder regulations for the M90, A823(M) and northern part of the M9 Spur and comments received during the consultation were considered when finalising those regulations. This is explained in the consultation report referred to previously. The Scottish Ministers are content if parties who provided a response to the consultation on the previous regulations provide similar feedback to the consultation on the 2012 Regulations. If parties intend to provide similar comments, although not necessary, the Scottish Ministers would be grateful if respondents could consider if there is any additional information that they can provide in support of their comments.

List of Consultees

All Scottish MSPs, MEPs and MPs
ACPOS
Confederation of Passenger Transport
COSLA
Fife Constabulary
Fife Council
Fife Fire and Rescue Service
First Bus
Forth Estuary Transport Authority
Freight Transport Association
Inverkeithing Community Council
Kirkliston Community Council
Lothian and Borders Fire and Rescue Service
Lothian and Borders Police
Lothian Buses
Newton Community Council
North Queensferry Community Council
Queensferry and District Community Council
Road Haulage Association
Rosyth Community Council
Scottish Ambulance Service
Scottish Citylink Coaches Ltd
Scottish Safety Camera Programme
Stagecoach
The Automobile Association
The City of Edinburgh Council
The RAC Foundation
The Royal Automobile Club
Transform Scotland
West Lothian Council

THE SCOTTISH GOVERNMENT CONSULTATION PROCESS

Consultation is an essential and important aspect of Scottish Government working methods. Given the wide-ranging areas of work of the Scottish Government, there are many varied types of consultation. However, in general, Scottish Government consultation exercises aim to provide opportunities for all those who wish to express their opinions on a proposed area of work to do so in ways which will inform and enhance that work.

The Scottish Government encourages consultation that is thorough, effective and appropriate to the issue under consideration and the nature of the target audience. Consultation exercises take account of a wide range of factors, and no two exercises are likely to be the same.

Typically Scottish Government consultations involve a written paper inviting answers to specific questions or more general views about the material presented. Written papers are distributed to organisations and individuals with an interest in the issue, and they are also placed on the Scottish Government web site enabling a wider audience to access the paper and submit their responses. Consultation exercises may also involve seeking views in a number of different ways, such as through public meetings, focus groups or questionnaire exercises. Copies of all the written responses received to a consultation exercise (except those where the individual or organisation requested confidentiality) are placed in the Scottish Government library at Saughton House, Edinburgh (K Spur, Saughton House, Broomhouse Drive, Edinburgh, EH11 3XD, telephone 0131 244 4565).

All Scottish Government consultation papers and related publications (eg, analysis of response reports) can be accessed at: [Scottish Government consultations \(http://www.scotland.gov.uk/consultations\)](http://www.scotland.gov.uk/consultations)

The views and suggestions detailed in consultation responses are analysed and used as part of the decision making process, along with a range of other available information and evidence. Depending on the nature of the consultation exercise the responses received may:

- indicate the need for policy development or review
- inform the development of a particular policy
- help decisions to be made between alternative policy proposals
- be used to finalise legislation before it is implemented

Final decisions on the issues under consideration will also take account of a range of other factors, including other available information and research evidence.

While details of particular circumstances described in a response to a consultation exercise may usefully inform the policy process, consultation exercises cannot address individual concerns and comments, which should be directed to the relevant public body.

Further copies of this document are available, on request, in audio and large print formats and in community languages (Urdu; Bengali; Gaelic; Hindi; Punjabi; Cantonese; Arabic; Polish).

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APPENDIX B - CONSULTATION ANALYSIS

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CONSULTATION ON THE M9/A90/M90 TRUNK ROAD (HUMBIE RAIL BRIDGE TO M9 JUNCTION 1A) (VARIABLE SPEED LIMITS AND ACTIVELY MANAGED HARD SHOULDER) REGULATIONS 2012 AND THE M9/A9 TRUNK ROAD (NEWBRIDGE TO WINCHBURGH) (VARIABLE SPEED LIMITS AND ACTIVELY MANAGED HARD SHOULDER) REGULATIONS 2012**CONSULTATION ANALYSIS****1. ACKNOWLEDGEMENTS**

The Scottish Ministers thank respondents and those who assisted with the consultation on the M9/A90/M90 Trunk Road (Humbie Rail Bridge to M9 Junction 1a) (Variable Speed Limits and Actively Managed Hard Shoulder) Regulations 2012 and the M9/A9 Trunk Road (Newbridge to Winchburgh) (Variable Speed Limits and Actively Managed Hard Shoulder) Regulations 2012.

2. INTRODUCTION

Construction of the Forth Replacement Crossing project was authorised with the Bill for the Forth Crossing Act 2011 being passed by the Scottish Parliament on 15th December 2010 and subsequently receiving Royal Assent on 20th January 2011. The Policy Memorandum which was produced for the Bill advised that the project would include an Intelligent Transport System (ITS) and that the powers to operate the ITS would be pursued by means of existing legislation. The ITS will use technology and infrastructure provided as part of the project to manage the flow of traffic to reduce congestion and increase safety and will operate over the full length of the project from Halbeath to Newbridge.

Construction works commenced in 2011 and the first sections of the project to be completed will come into operation in late 2012. This comprises improvements to the M90 between Halbeath Junction and Admiralty Interchange, including improvements to the A823(M) Pitreavie Spur, and also improvements to the M9 Spur north of Kirkliston. The various improvements include provision of an Intelligent Transport System with infrastructure capable of operating variable mandatory speed limits on the M90, A823(M) and M9 Spur and a bus lane on the hard shoulder (an actively managed hard shoulder) of the southbound M90 between Halbeath and Admiralty Interchanges. Regulations necessary to allow operation of the variable mandatory speed limits and the actively managed hard shoulder for these sections of the project were made in May 2012 and came into force on 1 September 2012.

The section of the project at the M9 between Winchburgh and Newbridge, including M9 Junction 1a is nearing completion and regulations are being promoted covering the use of variable speed limits on the eastbound M9 and permitting use of the hard shoulder (an actively managed hard shoulder) on the southbound carriageway of the M9 Spur from Kirkliston, continuing onto the hard shoulder of the eastbound M9 between M9 Junction 1a and Junction 1 Newbridge Roundabout.

Regulations are necessary to allow operation of the variable mandatory speed limits and the actively managed hard shoulder and consultation on the regulations is required in accordance with the Road Traffic Regulation Act 1984.

A formal written consultation was undertaken with 40 relevant organisations listed in Annex A. The consultation was also made available to the public on the Scottish Government and Transport Scotland websites. The consultation period was 12 weeks, commencing on 13 August 2012 and ending on 5 November 2012.

The consultation information included a summary of the variable mandatory speed limits and actively managed hard shoulder proposals. Comments were invited regarding the proposals in general. In addition, specific comments, with reference to safety considerations, were requested regarding the actively managed hard shoulder proposals.

The objectives of the consultation were to identify general support or opposition to the proposals; identify any specific concerns regarding the proposals; and to ensure compliance with the consultation requirements set out in the Road Traffic Regulation Act 1984.

3. RESPONSES

Four responses were received to the consultation. The list of respondents is provided in Annex B.

Out of the organisations who were issued the consultation information, four (10%) responded. All respondents indicated that their responses could be made available in the Scottish Government library and on the website and these were published on 3 December 2012.

The respondents included local authorities, the police and an airport operator. The detailed breakdown of respondents is shown in Figure 1.

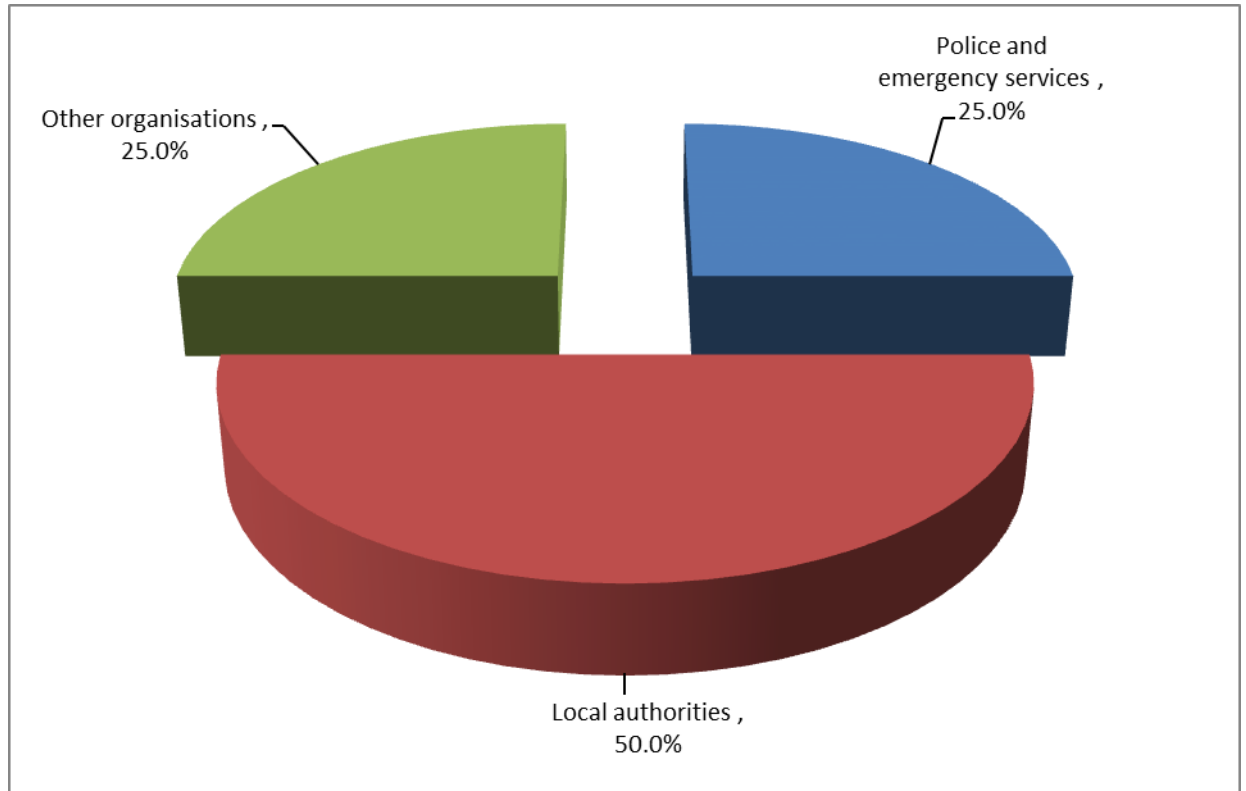


Figure 1 Breakdown of respondents by type

Transport Scotland recognises that the consultation was held on the earlier variable speed limits and actively managed hard shoulder regulations for the M90 and A823(M) and that this consultation generated a greater level of response. Transport Scotland considers that as the regulations for the M9 include the same provisions as those previously made for the M90 and A823(M) that this is likely to have contributed to the lower level of response to the consultation on the M9 regulations.

4. FINDINGS

The general response to the proposals was positive with the variable mandatory speed limits and actively managed hard shoulder proposals welcomed. The overall response to the consultation on the regulations is shown in Figure 2.

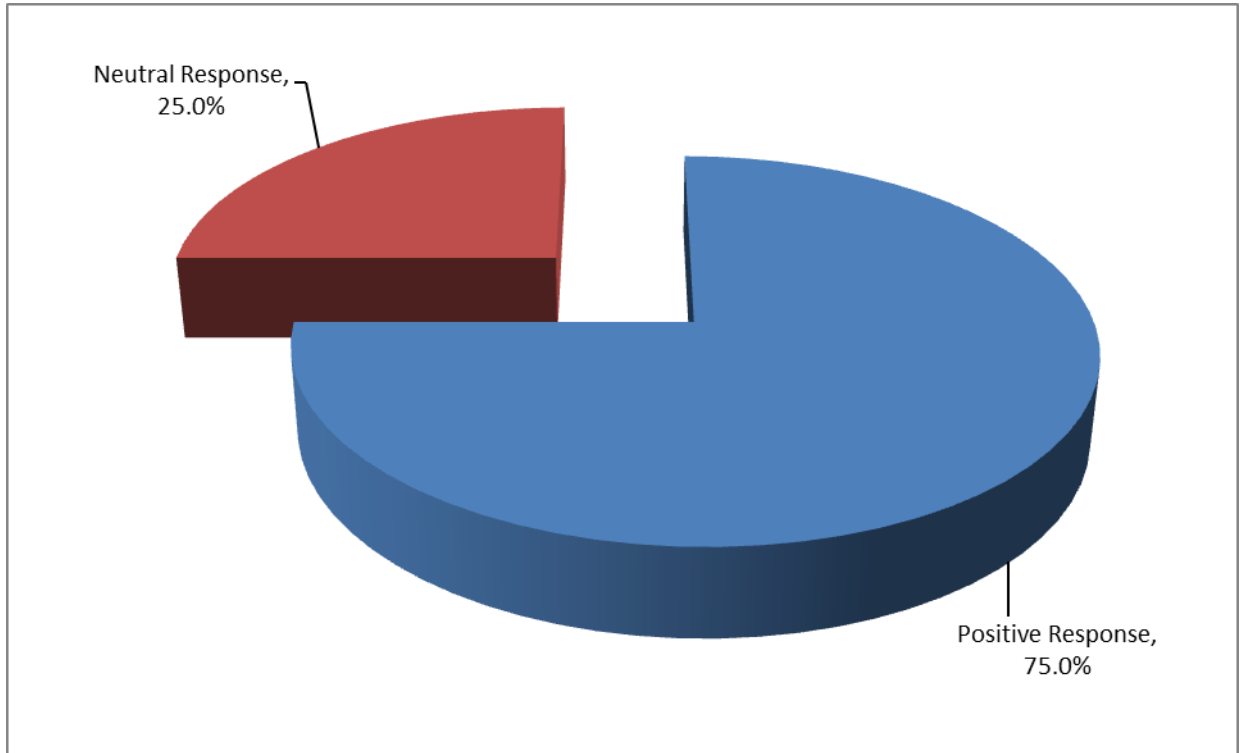


Figure 2 Overall responses received to the consultation

There were a range of comments made within the positive and neutral responses. Whilst the positive responses generally welcomed the proposed implementation of the variable mandatory speed limits and actively managed hard shoulder, the feedback sought a specific change to the proposals. The neutral response recognised the desire for the proposals but noted that safety concerns needed to be taken into consideration. The breakdown of responses to each of the specific proposals is provided in 4.1 to 4.4 below.

4.1 Response to Proposed Variable Mandatory Speed Limits

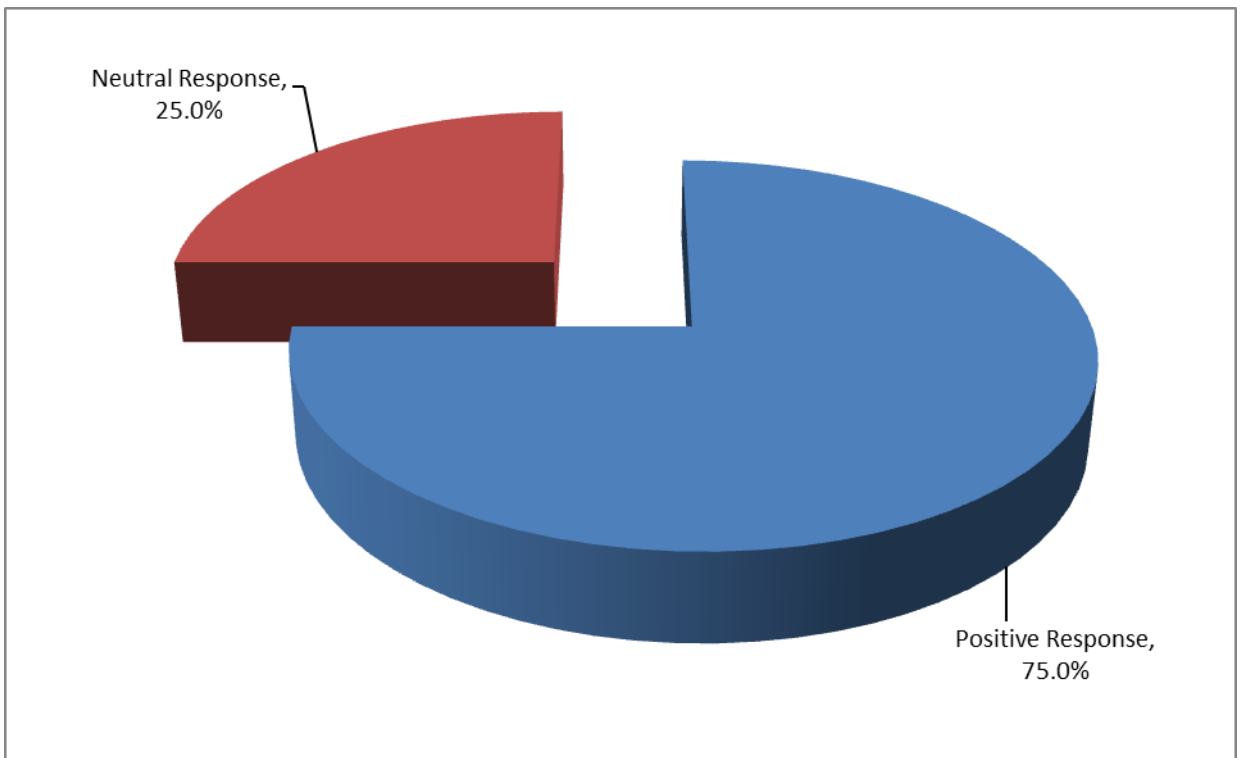


Figure 3 Response received regarding variable mandatory speed limits

No negative comments were received in relation to the proposed implementation of variable mandatory speed limits.

All responses included comments in relation to the proposed variable mandatory speed limits. The comments included statements of support and acknowledgement of the benefit of variable mandatory speed limits and sought clarification regarding the monitoring the traffic flows to support operation of the variable mandatory speed limits. Neither of these matters affects the regulations. Transport Scotland responded to the consultees in relation to the comments made.

4.2 Response to proposed actively managed hard shoulder

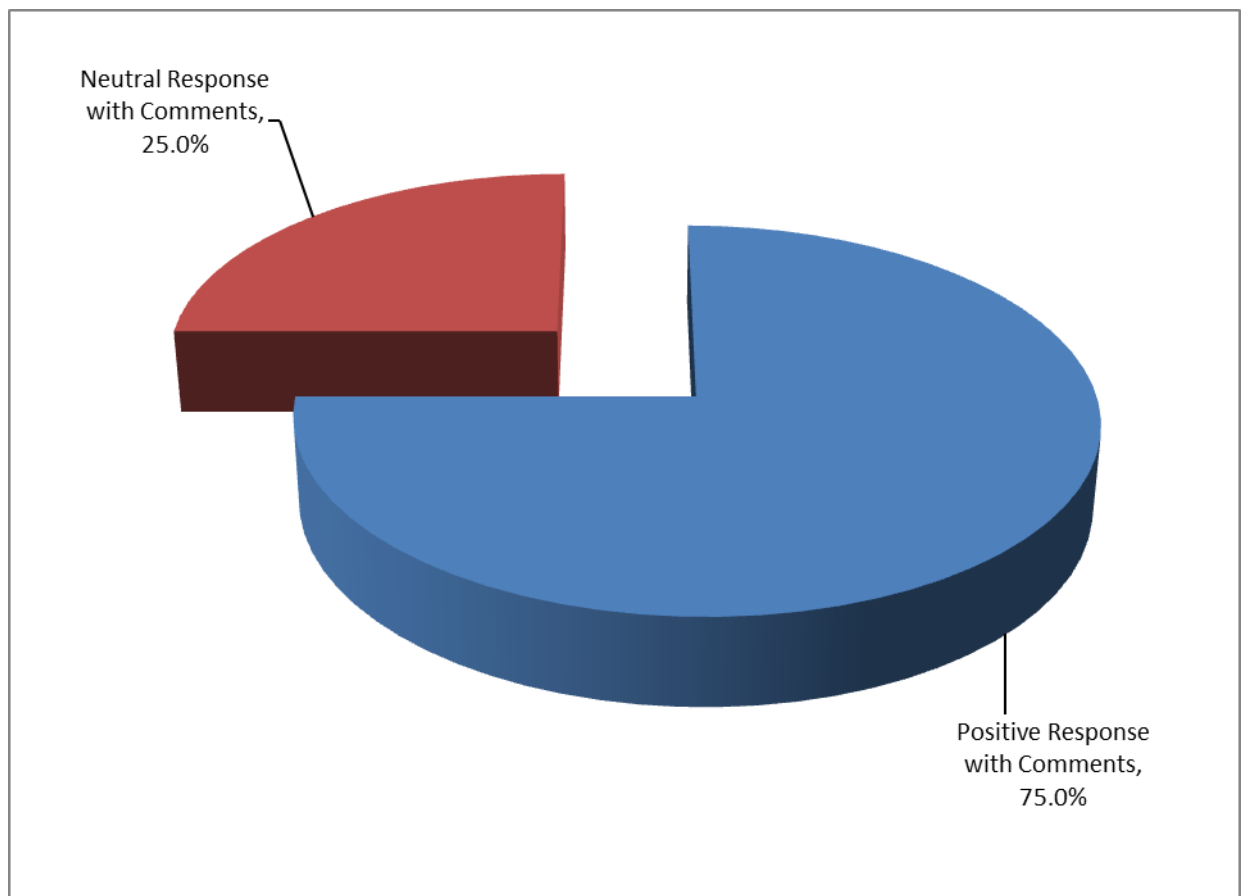


Figure 4 Responses received regarding the actively managed hard shoulder

The comments made by the neutral response and those who indicated that they welcome the proposed actively managed hard shoulder covered the following areas:

4.2 Comments welcoming or supporting the actively managed hard shoulder

- Supportive of the introduction of the actively managed hard shoulder for use by buses – 1 response (25%)
- Welcomes the introduction of the Intelligent Transport System – 1 response (25%)
- In agreement with the inclusion of more detailed proposals for bus priority in the Forth Replacement Crossing Refreshed Public Transport Strategy – 1 response (25%)
- In agreement with the hard shoulder running on the eastbound M9 being proposed as a permanent installation – 1 response (25%)

- Continues to be supportive of the permanent installation of the other southbound hard shoulder running bus priority measures – 1 response (25%)
- Welcomes any interventions which improve access to the airport by public transport and which take pressure off the wider road network in the area – 1 response (25%)

4.3 The restrictions on buses and other traffic permitted to use the actively managed hard shoulder

- Relaxation sought to the proposed restriction on buses permitted to use the actively managed hard shoulder as a bus lane from those that can carry more than 23 seated passengers to permit all buses to use the actively managed hard shoulder as a bus lane – 2 responses (50%)
- Concern that the use of the hard shoulder by buses will be alien to other road users who may feel threatened or intimidated if being undertaken if speed on the main carriageway is slow – 1 response (25%)

4.4 Operational and Safety considerations

- Clarification sought regarding operational matters, such as CCTV coverage and monitoring – 1 response (25%)
- Sight lines need to be considered to ensure adequate visibility of vehicles in the actively managed hard shoulder and for the case where buses may need to rejoin the main carriageway – 1 response (25%)
- Clarification sought regarding whether buses, once using the actively managed hard shoulder, would be required to remain in the lane except in an emergency situation, otherwise there could be the potential for conflict with traffic on the main carriageway – 1 response (25%)
- Concern that unauthorised vehicles will use the actively managed hard shoulder when congestion is present – 1 response (25%)
- Long-term publicity strategy should be put in place to educate road users regarding the actively managed hard shoulder – 1 response (25%)

5. CONCLUSIONS

The response to the consultation was not as great as the response to the earlier consultation on the M90 and A823(M) regulations and is attributed to the fact that the

regulations include the same provisions as included in the M90 and A823(M) regulations which were made in May 2012. All of those who responded provided comments regarding the proposals.

The general response to the proposals was positive with the variable mandatory speed limits and actively managed hard shoulder proposals welcomed, although some changes to the proposed regulations were sought.

Half of those who responded to the consultation sought a relaxation to the proposed restriction on the buses permitted to use the actively managed hard shoulder as a bus lane. The respondents preferred that the restriction be removed completely such that all buses would be permitted to use the actively managed hard shoulder.

Where comments were received in relation to the operation of the actively managed hard shoulder these were particularly related to safety and forward visibility for buses using the actively managed hard shoulder as a bus lane.

There was interest in a variety of operational matters, such as use of the actively managed hard shoulder by unauthorised vehicles; enforcement; CCTV coverage; and advance publicity.

ANNEX A – LIST OF CONSULTEES

All Scottish MSPs, MEPs and MPs

Amey

Association of Chief Police Officers in Scotland

BEAR (Scotland) Ltd

Bridge Replacement Interest Group (South)

The City of Edinburgh Council

Confederation of Passenger Transport

Convention of Scottish Local Authorities

Equal and Human Rights Commission

Fife Constabulary

Fife Council

Fife Fire and Rescue Service

First Bus

Forth Estuary Transport Authority

Freight Transport Association

Institute of Advanced Motorists

Inverkeithing Community Council

Kirkliston Community Council

Lothian and Borders Fire and Rescue Service

Lothian and Borders Police

Lothian Buses

Marine Scotland

Newton Community Council

North Queensferry Community Council

Queensferry and District Community Council

Road Haulage Association

Rosyth Community Council

South East Scotland Transport Partnership

Scotland Transerv

Scottish Ambulance Service

Scottish Citylink Coaches Ltd

Scottish Natural Heritage

Scottish Environment Protection Agency

Scottish Safety Camera Programme

Stagecoach Group plc

The Automobile Association

The City of Edinburgh Council

The RAC Foundation

The Royal Automobile Club

Transform Scotland

West Lothian Council

ANNEX B – LIST OF RESPONDENTS

Association of Chief Police Officers in Scotland

Edinburgh Airport

The City of Edinburgh Council

West Lothian Council