1. **Purpose and scope**

1.1 SEPA engages with the land use planning system to enable good development and protect the environment. We engage both with the preparation of the development plan for an area and through consultation on planning applications (development management). We also engage with development proposals regulated not by land use planning but by a range of other regulatory processes such as the Energy Act. For the purposes of this note, our approach to all such processes will be covered by the term "development management" unless there are specific individual requirements. The purpose of this note is to provide general guidance on how we engage with development management to identify at an early stage opportunities, constraints and solutions.

1.2 This note seeks to ensure pro-active interaction amongst SEPA, planning authorities, other key agencies and developers during the pre-application, application and post-application stages. Our role as a key agency in development planning (ie responding to consultations on strategic development plans and local development plans) is the subject of separate guidance. In a regime of up to date development plans which reflect our environment objectives our role in relation to development management may well reduce.

1.3 This note does not include the day-to-day processing of applications which are contained within the Planning Casework System Business Procedures.

2. **Role of development management**

2.1 *Scottish Planning Policy* (SPP, Paragraph 3) states: “Planning guides the future development and use of land. Planning is about where development should happen, where it should not and how it interacts with its surroundings. This involves promoting and facilitating development while protecting and enhancing the natural and built environment in which we live, work and spend our leisure time”.

2.2 SPP, Paragraph 4 continues: "The Scottish Government believes that a properly functioning planning system is essential to achieving its central purpose of increasing sustainable economic growth." The Government, in *Delivering Planning Reform* (October 2008), has stated "Sustainable economic growth means building a dynamic and growing economy but, at the same time, safeguarding our environment for future generations and ensuring our communities can enjoy a better quality of life. A reformed planning system is essential to increasing sustainable economic growth in Scotland."

2.3 Development management is a key function of the planning system. Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 require that planning decisions are made in accordance with the development plan unless material considerations dictate otherwise. Advice on which material considerations we advise on is provided in Section 5 below. We have an important role in formulating these development plans as detailed in *SEPA Guidance Note GU11: Guidance on SEPA engagement with the development plan process*.

3. **Our role as a consultee**

3.1 Our role as a consultee on development management applications differs from our role as a regulatory authority. It is therefore essential that we consider if the development is environmentally acceptable relevant to our remit in a planning context and respond accordingly. It is the role of planning authorities to weigh up all material considerations in making planning decisions.

3.2 Our responses to development management casework should have regard to the up to date development plan for the area, the Government’s wider policy framework on planning matters as set out in Scottish Planning Policy, Circulars and PANS; case law where it provides clarity about the interpretation of national policy; and our own policy framework which routinely conforms to our duty to exercise our powers in a way that has regard to costs and benefits of our actions. We should not try to weigh up economic and environmental costs and benefits when responding to individual planning consultations. Advice on the interaction of the planning system and regulation can be found in SEPA Guidance Note LUPS-GU15 How to respond to planning consultations in relation to SEPA-regulated sites and processes.

3.3 Our role is one of working in partnership with and complementing the work of the planning authority. We can also seek to achieve our environmental objectives by raising environmental concerns which are appropriate material planning considerations and identifying measures to address these concerns. We should seek to fulfil our responsibilities as a consultee by responding with clear and helpful advice within the prescribed deadline.

3.4 In considering our role as a consultee, it is important to recognise that we should not do the following.

a) Word responses as if we determine planning applications - only the planning authority can do this.

b) Unreasonably obstruct development. Where there are environmental concerns we should, wherever possible, suggest how they may be overcome.

c) Require conditions within a planning consent to be carried out to the satisfaction of SEPA as the planning authority can attach only planning conditions which it alone can enforce, seeking advice from others as required. The phrase "to the satisfaction of the planning authority in consultation with SEPA" is acceptable.

d) Seek conditions or seek information which will be addressed through other regulations.
e) Provide detailed advice which should have been provided from another source but has not been, or attempt to take on the role of another organisation even if there is a perception that the organisation is not fulfilling its role.

f) Identify issues or concerns with a planning application unless these are significant and go to the principle of development, and when these issues or concerns are raised we should maintain our position until they are addressed.

3.5 Where Environmental Impact Assessment (EIA) is required, guidance should be sought from Scottish Planning Series Planning Circular 8-2007: The Environmental Impact Assessment (Scotland) Regulations 1999 and its addendum.

4. When will we be consulted?

4.1 SEPA Guidance Note LUPS-GU09 Advice on how and when to consult SEPA sets out in detail which planning consultations we wish to receive. For all other small scale development consultations we provide planning authorities with SEPA Guidance Note LUPS-GU08 SEPA standing advice for planning authorities on small scale local developments.

4.2 Planning authorities should be encouraged to use the Scottish Government’s e-planning consultation template which was agreed by agencies, Government and representative planning authorities. We have also developed a useful checklist for planning authorities to use to identify why they are consulting us.

4.3 Planning authorities also consult us on applications made under the Planning (Hazardous Substances) (Scotland) Act 1997 and related regulations.

4.4 In addition to consultations from planning authorities, we receive other consultations including:

a) Forestry planting or felling proposals over 10 hectares and Forest Plans;

b) Rural Priorities full schemes falling within agreed consultation types;

c) Applications under the Section 34 of the Coastal Protection Act 1949;

d) Applications under the Food and Environment Protection Act 1985 (FEPA) Part II (Deposits in the sea) (as amended);

e) All applications subject to The Environmental Impact Assessment (Scotland) Regulations 1999 (as amended) and other EIA Regulations;

f) Applications under the Electricity Act 1989 Section 36 for power generation and Section 37 transmission line applications subject to Environmental Impact Assessment;

g) All Harbour Orders under the Harbours Act 1964;
h) The Offshore Petroleum Production and Pipe-lines (Assessment of Environmental Effects) Regulations 1999 (as amended);

i) Roads (Scotland) Act 1984 (road consultations) and Transport & Works (Scotland) Act 2007 (rail, tramline, canal consultations), (for further guidance on Roads Orders see appendix 2);

j) Flood Prevention Orders;

k) Works licence consultations from Orkney Islands Council and Shetland Islands Council.

Further guidance in relation to these consultations, and thresholds for consultation, will be developed.

4.5 We may be involved at all stages of these applications including pre-application, screening (to a lesser extent) and scoping for applications subject to EIA, application consultation and post-application stages (eg discharge of planning conditions). It is important that we engage as early as possible to ensure the interests relevant to our remit are considered from the outset. We should seek pre-application discussions with developers to minimise the need for objections and development modifications later at planning application stage.

4.6 Third parties concerned about an application often seek to increase our involvement in issues which they raise. We should treat these concerns with respect and consider any pertinent new information that is relevant to our remit with an open mind, whilst ensuring that all parties to the planning process are dealt with fairly. Responses to third parties should be copied to the planning authority, with third party identity omitted where it is not clear if they wish to have their identity passed on. Where third parties request a meeting with us to discuss an application that we are being consulted on, we should have at least one meeting with them. This is important in order to ensure that we keep all interested parties, including third party objectors, informed of our comments and position in relation to planning consultations.

5. Consultation hierarchy

5.1 Our current consultation arrangements are based upon the modern planning hierarchy, whereby we wish to have the opportunity to provide bespoke advice on major applications and the more significant local applications. We have set a threshold for consultation on local applications at half the scale of major applications. However, occasionally a consultation is received for an application that is on the face of it below threshold. If such a consultation is received that raises significant environmental issues that requires a bespoke response (ie is not covered by current standing advice) then clearly we need to provide advice.

5.2 If it is uncommon and involves significant environmental risk, then it needs to be elevated to above threshold with the reason noted in the PCS as audit trail. In order to monitor this, each case needs to be approved by the Planning Service
Manager following discussion with the Planning Unit Manager. If the same type of case comes up several times then we will amend our standing advice.

6. **What material considerations do we comment on?**

6.1 The range of considerations which might be material in planning terms is very wide and can include Scottish Planning Policy, Scotland’s Zero Waste Plan, and the advice from statutory consultees. We provide advice on the following material considerations.

a) Protection of people, property and infrastructure from flood risk.

b) Promotion of sustainable waste management.

c) Protection of the water environment (both surface water and ground water).

d) Risks to the environment or human health arising from development on or near radioactively contaminated land and on or near a designated Part IIA Special Site.

e) Protection of the marine environment.

f) Good air quality.

g) Noise and odour in relation to processes regulated by SEPA (protection of residential amenity, sensitive receptors).

h) Potential consentability under SEPA’s regulatory regimes (only where an issue affects the principle of the development going ahead in a planning context).

6.2 Guidance will be produced for each of these material considerations; that which has been produced can be found on Q-Pulse. Other agencies also play an important role in the development process and therefore we should provide planning advice on only the above matters rather than duplicate the role of other agencies. We are currently considering our role in relation to important issues such as climate change and energy and hence the above list may be amended in time.

6.3 It should be noted that the principle of development in an NPF2 project should not be revisited.

7. **How do we assess consultations?**

7.1 Our role is to assess acceptability of the development as a land use relevant to our remit as listed in Section 6.1 above. This should include:

a) The acceptability of the location, layout and design of the development relevant to our remit and the development plan.
b) An indication of those matters which will be regulated by SEPA and therefore will not need to be controlled by planning conditions.

c) Planning conditions which are essential to the acceptability of the development, and those which may be required to complement the regulatory control. Further information on this can be found in SEPA Guidance Note LUPS GU15 How to respond to planning consultations in relation to SEPA-regulated sites and processes.

7.2 For many consultations we will need to seek internal specialist advice in accordance with SEPA Guidance Note LUPS GU14 Guidance for internal consultees on how to respond to Planning Service consultations (and for planners on how and when to consult). All applications should also be checked against our GIS information which will help flag up issues relevant to our remit.

8. How we provide our advice at the different application stages

8.1 Pre-application. Discussion at an early stage may help to identify and resolve problems before planning applications are submitted and should ensure that our response time is minimised during the formal consultation process. Pre-application discussions with the planning authority and the developers are therefore to be encouraged. We may receive pre-application consultations or meeting requests through the pre-application consultation (PAC) or Proposal of Application Notice (PAN) process or informal requests from developers. It is important to engage with these consultations and meetings in order to ensure issues relevant to our remit are addressed from the outset. Where a developer approaches us on a development which we would not normally be consulted on in accordance with SEPA Guidance Note LUPS-GU09 Advice on how and when to consult SEPA we should provide them with SEPA Guidance Note LUPS-GU08 SEPA standing advice for planning authorities on small scale local developments and refer them to our website for best practice and regulatory advice.

8.2 Processing agreements. Planning authorities may request that we enter into processing agreements for national and major development proposals. These agreements between developers, planning authorities and consultees are intended as a project management tool, and will establish timescales for engagement and providing our responses. Given our commitment to pre-application engagement and the modernised planning agenda, we should make every effort to accommodate reasonable timeframes within processing agreements and approach them positively.

8.3 Screening of applications subject to EIA. It is at the planning authority’s discretion (or in some cases the Scottish Ministers) as to whether or not an EIA is required in respect of an Annex 2 project. All developments falling under Schedule 2 development must be screened by the planning authority. The planning authority will decide on a case by case basis whether the proposal is likely to have significant environmental effects taking into account the selection criteria in Schedule 3 to The Environmental Impact Assessment (Scotland) Regulations 1999. In deciding whether or not a development requires EIA the planning authority should have regard to the cumulative effects of the proposal,
see circular 8/07 (50). As stated in paragraph 61 of Planning Circular 8/07: The Environmental Impact Assessment (Scotland) Regulations 1999:

“Very exceptionally, authorities may also wish to seek advice from one or more of the consultation bodies or non-statutory bodies.”

On the rare occasion when we are consulted on a “Screening Opinion” we should ensure our comments relate only to those matters relevant to SEPA. At this stage we need to advise, from the information provided (which can be very limited), if in our view formal EIA is required due to the likely significance of any potential environmental effects, or sensitivities of the location. Where we are aware of any fundamental difficulties with the proposal, or major issues that will need to be addressed, we should raise these at this early stage. We should stress in our response the importance of the subsequent scoping exercise and our willingness to engage in that process. If there are key issues which are identified at this early stage, we may advise that whether or not EIA is required, those key issues will need to be addressed as part of the submissions in support of the application. Where we consider that an EIA is not required but still wish to provide site specific advice on the planning application we should state this in the response. In cases where we feel that an EIA would not be required and the application would otherwise fall into local below we should direct the applicant to the appropriate advice on our website. Screening Opinions for proposals which would otherwise be classed as a local below should be categorised as a local above (as they could give rise to significant environmental effects if the planning authority has consulted us for advice). If we are subsequently consulted on a local below development which had previously gone through the screening process and it is deemed not to require EIA we should deal with it as a local below consultation. For the EIA screening process of any other scale of developments they should be categorised as per the hierarchy.

8.4 **Scoping of applications subject to EIA.** Where the Planning Authority is of the opinion that an EIA is required, and the applicant asks the planning authority for a scoping opinion the planning authority under regulation 10 (4) of the environmental impact assessment (Scotland) regulations 1999 must consult the consultation bodies before adopting a scoping opinion. Whether or not we thought that an EIA was required at the screening stage we should provide a proportionate bespoke response at the scoping stage even if this is to say that the proposal would not affect any matters under SEPA’s remit. We need to advise on the issues which are important in this specific location and for this specific form of development and which hence need to be assessed as part of the EIA process. We should assist applicants by identifying (where they exist) minimum information requirements and the scope for reducing the need for assessment of some issues. The aim should be for a focused ES addressing only the key issues in detail and with a justification for scoping down or scoping out less significant issues. Schedule 2 developments which require EIA will have been screened as likely to have significant effects on the environment therefore we should class EIA developments which fall into the local below category as local above.

8.5 **Environmental Statements.** On receipt of an environmental statement the Planning Authority is required under regulation 14 of the environmental impact assessment (Scotland) regulations 1999 to consult the statutory consultees. If we
were consulted at the scoping stage our response should concentrate on the issues which were raised at this stage and should not normally introduce new issues. However, it maybe appropriate to introduce new issues where new legislation or guidance has been introduced since the scoping response. If on the rare occasion we consider that consultation on the ES is not required, we are required to inform the planning authority in writing.

8.6 Application stage. In the modern planning regime there are three types of planning application: application for full planning permission, application for planning permission in principle and application for the approval of matters specified by condition (AMSC).

8.6.1 Application for full planning permission establishes the principle of development, full design details and any necessary planning conditions within one application. Full details of the proposals need to be submitted with the application. However, we can request that certain details are dealt with by planning condition such as method statements as set out in section 8.5.5 below. It is important that we comment on all issues of interest to us and request all necessary conditions at this stage as further planning conditions cannot be added once the development has progressed past this stage. We are likely to be consulted on the discharge of these conditions as the development progresses eg approval of a submitted method statement.

8.6.2 Applications for planning permission in principle (similar to the previous ‘outline’ consent) establish the principle of a development for a site but not detailed design matters. Instead, these detailed matters still to be agreed are specified in a number of conditions. Each of these conditions is then subject to an application for ‘approval of matters specified by condition’ or AMSC. We will initially be consulted on the application for planning permission in principle and then we will be consulted on each application for approval of matters specified by condition. It is important that we comment on all the issues of interest to us at the planning permission in principle stage so that any issues which go to the principle of development are highlighted at this stage and any matters which require further detail are listed in the matters specified by condition. For example, flood risk needs to be resolved at this stage to ensure that the proposals can be accommodated on site without risk of flooding.

8.6.3 Application for approval of matters specified by condition (similar to the previous ‘reserved matters’ stage) may deal with a variety of matters eg detailed layout or SUDS design. We deal with these applications just as we would for full planning applications and therefore we can object or seek further planning conditions as detailed in section 8.5.5 below.

8.6.4 When responding to planning authorities and applicants on the above planning application consultations, we should highlight environmental concerns early in the process and assist applicants to identify measures to overcome these. The planning service is responsible for making these responses and all dialogue with the planning authority must be coordinated through the planning service. Guidance is provided below on our six basic options for responding, and the general principles underlying the preparation of a response. It is possible within
the same response to support a development in principle but object to a site specific element which requires to be addressed.

a) **Option 1: Support**

We would use this option in specific cases where, based on the information provided, we are supportive of the development because it particularly assists with delivery of our objectives. For example, we might support a waste management project which contributes to the objectives of the Scotland’s Zero Waste Plan or a waste water facility which is a key element of waste water infrastructure.

b) **Option 2: No objection**

We would use this option where we have no objection relevant to our remit. We do not use this option if we are seeking any conditions or modifications. We may also refer the applicant to the regulatory and best practice advice on our website.

c) **Option 3a: Condition(s) to be attached. Representation to be considered as an objection if any of these will not be applied**

We would use this option where we have concerns about a development proposal and a planning condition is required to make the development acceptable, eg a condition requiring connection to the public sewer. A condition can be applied to any type of planning permission. Where a condition is requested, the reasons for the request should be clearly stated. Conditions should address those matters which are essential to making the development acceptable. Conditions must meet the seven tests within Circular 4/1998 *The use of conditions in planning permissions* and its addendum. Note that conditions are not appropriate where information fundamental to assessing the environmental impacts of the application is required before the planning application is determined. In such circumstances the issue must be resolved prior to the application being determined.

d) **Option 3b: Object unless modification to the development**

We would use this option where we require the development to be modified to make it acceptable, eg a change in layout to avoid development within the flood plain. We should provide clear advice as to the modification we require to ensure both the planning authority and developer are clear on what needs to be done.

e) **Option 4: Objection due to lack of information**

We would use this option where inadequate information (quality or omission) has been submitted to assess the acceptability of the development, eg where a flood risk assessment is required. We need to be clear about exactly what information we still require to ensure the applicant can provide the information promptly without further consultation. If internal consultee advice on what information is required is not clear then you must seek further clarification from them. A distinction needs to be made between information required prior to determination (an objection should be lodged seeking this information), information that can be submitted later (in which case an objection unless condition should be lodged) and information that falls into the "nice to know" category (which we should not be asking for).

f) **Option 6: Objection in principle**
We occasionally use this option where, having explored all avenues, the impact from a development proposal cannot be mitigated and where it poses an unacceptable risk to the environment. If we raise an objection in principle we must be prepared to appear at a public local inquiry to defend our position. It is therefore essential that the advice provided is soundly based and can be sustained on appeal.

8.7 Planning authorities look for clear, concise consultation responses. Raising an objection is a powerful and accepted planning mechanism for bringing concerns that we may have to the attention of the planning authority. Any concern raised must be a consideration material to the planning process and must make use of one of the options detailed above. This is required in order to ensure that the planning authority can give our advice the required weight when taking all material considerations into account when determining the planning application.

8.8 **Post-application.** Where we have raised concerns or requested further information in a response, the formal response may be supplemented by further discussions between the planning authority, the applicant and ourselves. It is important that we fully engage in these discussions to try to resolve any outstanding issues. Where a planning authority is minded to grant planning permission for development proposals against our advice, they should be advised to contact us before the decision is made to enable further discussion. We should request that planning authorities supply copies of decision notices for those planning applications we have been consulted upon, particularly where objections have been raised, so that implementation of our comments can be assessed.

8.9 **Ratification of objections.** Staff must follow the [SEPA Governance procedure](#) when lodging an objection. The guidance is contained within the *Operations Guidance and Constitution of RRT*. Referrals to a Regional Review Team (RRT) should be approved by a Planning Unit Manager; given short timescales usually available for consultation responses, the RRT may consider the objection through its urgent referral e-mail process, copying in the national Planning Service Manager who will advise on national consistency. Appendix 1 contains email wording which should be used when seeking RRT comment prior to the process being incorporated within the electronic PCS.

8.10 **Public local inquiries and appeals.** There are several processes, including public local inquiries, local reviews, hearings, appeal by written statement, and public examinations with which we may need to engage (see *Circular 6 2009: Planning Appeals*, *Circular 7 2009: Schemes of Delegation and Local Reviews* and *Circular 1/2000 Code of practice for planning appeals and other planning cases determined by written submissions*).

8.11 We may become involved in one of these processes where one of the following situations arises.

a) An objection raised by us is included as a reason for refusal.

b) We may not have objected to an application but are asked to appear or provide a submission as an expert witness.
c) An objection raised by us was not included as a reason for refusal, but we decide to follow up our objection as a third party.

d) A condition requested by us and imposed by the planning authority is appealed by the applicant.

e) We need to provide technical input to a submission from a partner agency such as Scottish Natural Heritage.

8.12 As legal support is usually deployed by other parties to these processes, it is essential that our own legal support is engaged in the process. Depending upon the nature of the appeal, it may be appropriate for the planner to pull together a project team including internal specialists and legal support, and to project plan the process.

8.13 Training should be sought from Planning Unit Managers by all parties giving evidence on our behalf at public local inquiries.

9. **General principles when providing consultation responses**

9.1 We should provide clear and helpful advice to planning authorities, other consultation authorities and developers. SEPA Guidance Note [LUPS-GU10 Guidance on response letter layout and style](#) provides advice on the style and layout that should adopted.

9.2 There are some general principles which apply when responding to consultations.

   a) We must provide a clear, concise and balanced response, indicating the issues relevant to our remit which are of environmental concern if the development goes ahead, and which are material considerations to the planning authority's decision on the planning application.

   b) We should seek information and comments from internal consultees and our GIS system wherever required;

   c) Only valid environmental objections which can be sustained by sound science and logical reasoning should be lodged.

   d) Only relevant comments which are material considerations to the planning decision should be included in the response. Lengthy background information or extensive comments are likely to confuse the issue and may be better directed to the applicant or included as an annex to the response. The letter templates within [SEPA Guidance Note LUPS-GU10 Guidance on response letter layout and style](#) provide space for background information to the applicant.

   e) A response which includes disproportionately more information on one particular issue may arise because more input has been forthcoming on this aspect. This imbalance should be avoided unless the detail reflects our concerns.
f) Questions or requests for further information or clarification should not be posed where we do not intend to audit the information to be received. There must be a clear decision-making purpose to any additional information sought.

g) Fundamental problems or significant objections with the development should be highlighted at the beginning of the response as per the letters templates within SEPA Guidance Note LUPS-GU10 Guidance on response letter layout and style.

h) Responses should be prepared in accordance with relevant guidance, incorporating site-specific and standard comments as required. Effective responses are usually concise and should only contain relevant details.

10. Advice to the applicant

10.1 We are also provided with the opportunity to influence the applicant, in line with our general Environment Act 1995 duties, to encourage good practice to protect and improve the environment as well as contributing to sustainable development. If we wish to adopt a proactive approach, advice is better targeted at the developer rather than at the planning authority.

10.2 Our letter templates within SEPA Guidance Note LUPS-GU10 Guidance on response letter layout and style contains a section for detailed advice to the applicant to distinguish it from advice directed to the planning authority. This section can contain good practice advice and any detailed background information which may assist the applicant.

10.3 The letter templates also contain a regulatory advice section which is there to highlight any regulatory requirements applicants should be aware of. However, in most cases, this can be dealt with by referring applicants to the relevant part of our planning website.
Appendix 1 : Urgent Regional Review Team (RRT) Referral Email Wording

All,

In accordance with Governance procedure, and following discussion with the Planning Unit Manager, I am seeking ratification from Urgent RRT (which includes the national Planning Service Manager for planning referrals) in relation to an objection to [Insert development description and location]. RRT input is sought because [Set out the reason for RRT referral as listed in Section 8.9 of this guidance note]

Our response deadline is [insert deadline date] so a response is urgently sought through the Urgent RRT process by [insert date].

The procedure requires three responses, one of which should be from Legal and one of which should be from the national Planning Service Manager to provide advice on national consistency. When you respond, please copy in all other members of Urgent RRT and the PUM so that everyone is aware of issues being raised and progress in dealing with an urgent referral. The full RRT will be informed of the referral in the normal monthly report.

In turn, Planning will send a copy of the despatched letter to all members of Urgent RRT and the PUM so that again everyone is aware of progress.

A copy will also be sent to “SEPA Public Relations” so that they are forewarned prior to any media enquiries.

Regards

[Name of Officer]
Appendix 2

Roads Order Consultations

We receive a number of roads proposals under the following legislation; Roads(Scotland) Act 1984, Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947, Land Compensation (Scotland) Act 1963, Land Compensation (Scotland) Act 1973, Road Traffic Regulation Act 1984 and The Environmental Impact Assessment (Scotland) Regulations 2006. These consultations come directly from Transport Scotland or from consultancies acting as their agents. Common examples of Orders which we might receive are side road, detrunking, prohibition of specified turns, trunk road, improvement orders. In the past Roads Order consultations haven’t always come directly to the Planning Service especially at the early stages in the process. These consultations should now come direct to the Planning Service who should ensure that the relevant functions such as the local regulatory team and flood risk hydrology are engaged in the process. Issues which would typically require internal consultation are flood risk, waste management, watercourse crossings and other works requiring CAR authorisation, impact on the water environment.

Steps in Scheme Preparation

There is usually one of three ways in which road schemes get into Transport Scotland's design programme, namely through known network problems, route action plans, and Ministerial policy. Once a problem is identified Scottish Transport Appraisal Guidance (STAG) provides a framework to assess evidence based transport problems and opportunities and identify potential transport interventions. Only options which emerge from a STAG study will be considered for Government funding, support or approval is required for changes to the transport system. The completion of a STAG study and production of the STAG Report should precede any application for planning consent.

As with other consultations we would encourage early consultation to ensure any issues relevant to our remit are considered in preparing the planning application. Ideally we would be consulted at the first stage in the design process where alternative options are considered. A separate authorisation protocol to streamline the Roads Order process and the process of obtaining authorisation under The Water Environment (Controlled Activities) (Scotland) Regulations 2005 is being drawn up by our Operations Regulatory teams. However, as with other types of consultation we encourage applicants to twin-track applications for planning and environmental regulation, refer to LUPS-GU15 for further details.

The principal design guidance for roads projects is found in The Department for Transport's Design Manual for Roads and Bridges (DMRB) and any departures from this guidance are subject to an independent internal procedure. There are three stages in the design process. DMRB stage 1 considers various options. Stage 2 develops viable options and assesses them, an EIA is started during this stage and a preferred option is defined at the end of stage 2. The final stage 3 develops the preferred option into a conceptual design and defines the land required; a draft order/compulsory purchase order is then published. Once an Order is published in draft additional land cannot be added to it. The legal requirement to incorporate SUDS or provide compensatory storage for flood management will often require to be considered in determining land take. It is important that we engage in the early stages of roads schemes to ensure these matters are given appropriate consideration. An Environmental Statement is produced alongside the draft order/compulsory purchase order. Section 8 of this guidance provides advice on responding at the various stages of the EIA process. There is a period for comments and objections on draft orders/CPOs once this is over the orders and CPO must be made. There is no objection period to made orders but there is a 6 week period during which aggrieved parties may challenge the orders in the Court of Session.

The key stages in the Roads Order process are shown below.
Notice of Diversion of, or works in relation to, waters

We will occasionally receive Notice of Diversion of, or works in relation to, waters under the powers conferred by section 78 of the Roads (Scotland) Act 1984. Section 78 of the Roads (Scotland) Act 1984 gives the roads authority power to divert waters when constructing or improving public roads however authorisation under the Water Environment (Controlled Activities) (Scotland) Regulations 2005 (as amended) will still be required. We would expect the details of the diversion works to have been covered in the Environmental Statement for the overall road project. At this stage our response should note that the works are taking place and advise that authorisation under the Water Environment (Controlled Activities) (Scotland) Regulations 2005 (as amended) will be required.