

Cross Pavement EV Charging

Scottish Collaboration of Transportation Specialists
Guidance

Initial Guidance for Local Roads Authorities in Scotland

May 2026

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A Message from SCOTS

The move to decarbonise our transport system is second only to the decarbonisation of our building stock for the public sector across Scotland.

As the custodians of the local road, street and footway networks that serve communities across Scotland, the 32 local Roads Authorities are very aware of the role that EV vehicles and their supporting infrastructure will play in achieving a low carbon transport system. We have therefore used the collaborative network of SCOTS to work with colleagues at Transport Scotland and COSLA to develop this initial Guidance.

It represents a start point for teams within the Roads Authorities so as to ensure that we can keep the public safe and protect our core infrastructure. We have included an example of a draft policy statement that each Authority could use when introducing or updating their own policy to set out their approach. It will also allow the public to see the basis of decisions that impact on the footways and roads they use as well as their own properties.

We have carried out engagement with some key stakeholders to inform this guidance and would recommend that in developing your own positions you engage and consult with local accessibility groups and through the SCOTS network.

I hope you find this note of benefit in this important area of work

A handwritten signature in black ink that reads "Ewan Wallace". The signature is written in a cursive, slightly slanted style.

Ewan Wallace – Chair of Scottish Collaboration of Transport Specialists (SCOTS)

Foreword



This document is designed to help local authorities (LAs) develop policy around cross-pavement vehicle charging.

The picture we have used on this page is representative of the scenario that we need to avoid happening across our networks.

This guidance note offers an overview of considerations associated with implementing cross-pavement charging infrastructure for residents who lack access to off-street parking.

As Scotland works towards its goals of wider electric vehicle (EV) adoption and a sustainable transport network, cross-pavement charging presents unique opportunities and challenges, especially for enhancing accessibility and equity.

Commented [RM2]: hi- that photo is an accessibility, equalities and trip liability, " legal red flag " Did anyone consult any disabled charities such as the RNIB ? if not can see grounds challenge to this and see further comments - is a cable gully going to take the charging lead under the pavement ?

This document has been made available to SCOTS member authorities and partnerships by providing an informed starting point for the formation of policy and practices at a local level, offering a foundation to help understand the complexities involved while allowing flexibility for locally tailored solutions.

It provides two different models that can be followed, where the site is deemed suitable. These are:-

1. Installed by the Roads Authority with an annual license fee for inspection. In this case the authority is using its own powers to excavate in the road to place and maintain the charging apparatus and has entered into a direct agreement with the apparatus owner to undertake that function.
2. A Section 109 Agreement under the New Roads and Street Works Act 1991. This is a standard agreement from primary legislation which allows a person without existing rights to dig up the road and place apparatus in it to have those rights at a named location.

This document has an intentionally narrow focus on 'cable gullies' within the adopted footway given the issues associated with them. It also provides Annexes to assist Authorities in developing their local Policy and Guidance.

A **cable gully** is a durable channel installed beneath the footway that allows charging cables to cross safely without obstructing pedestrian paths. This solution is for properties without driveways, enabling residents to charge their EV from their own domestic power while maintaining public safety. The following glossary is to assist in reading this document

Term	Definition
Cable gully	A channel built into the footway that allows EV charging cables to safely cross the footway while in use.
EV charger electrical check	A confirmation from a registered EV charger installer that your home EV charger meets the technical and physical requirements for safe installation.
EV charger emergency access	Providing sufficient space to install an EV charger outside with 24hr access in case of emergency.
EV charger permission	Permission from the owner of the property to install an EV charger.
Off-street parking	An area where you can park your car that is not part of the public road, such as a driveway, garage, car port or parking court.
Public Footway	Roads Authority maintained right of passage for pedestrians, which runs parallel to a carriageway.
Public Carriageway	Any way (other than a waterway) over which there is a public right of passage and is maintained by the Roads Authority.
Public Footpath	A way over which the public have a right of passage on foot, which does not have an associated carriageway.
S109 Permission	Permission granted by a Roads Authority under Section 109 of the New Roads and Street Works Act 1991.
Approved Contractor	A person approved by the local roads authority as competent to carry out excavation work and traffic management on public roads.
LA	Local Authority
RA	Roads Authority

Table 1.1 – Glossary of Terms

Section 1 Considerations for Roads Authorities

Overview

The installation of cross pavement EV charging apparatus may seem straightforward to householders but there are multiple considerations that the responsible authority has to work through. SCOTS members will be very familiar with most of them and they are flagged below.

Roads Authorities (RAs) have a statutory obligation to maintain the roads they are responsible for. This obligation is mandated under Section 1 of Roads (Scotland) Act 1984, which requires roads authorities to maintain public roads.

Additionally, the Public Sector Equality Duty outlined in Section 149 of the Equality Act 2010 reinforces this responsibility by requiring public authorities to consider the needs of individuals with protected characteristics, ensuring safe and accessible road use for all. Merely referencing this duty is not sufficient when you are developing your policy position. You will require to consult on your own policy and reflect that work through an Equality Impact Assessment.

Commented [RM3]: its not enough just to mention the duties. Has there been any consultation around this- i appreciate each authorities own policy will need an EIA

Section 59 of the Roads (Scotland) Act 1984 prohibits placing or depositing anything in a public road that causes an obstruction without written consent from the Roads Authority, and empowers authorities or police to enforce removal and recover costs in cases of non-compliance or emergency

Local Authorities are responsible for ensuring that installations comply with local and national planning policies, especially in conservation areas or near listed buildings, where special permission may be required.

Ultimately the Roads Authority is responsible for ensuring that any digging work meets the required standards and is carried out with their formal permission.

Legal Restrictions, Offences and Enforcement

- No person may place or deposit anything in a public road that causes an obstruction without written consent from the roads authority.
- The roads authority may attach reasonable conditions to any consent granted.
- Contravening the restriction is an offence.
- A person may be required by the Roads Authority or a uniformed constable to remove the obstruction immediately.
- Failure to comply with such a request constitutes a further offence.

Powers to Remove Obstructions

- If the obstruction is not removed, or the responsible person cannot be traced, or in emergencies, the roads authority or a constable may remove it.
- The authority or constable may recover reasonable expenses from the person responsible.

Section 1 Considerations for Roads Authorities

Exceptions

Section 59 of Roads (Scotland) Act does not apply to:

- Builders' skips (Sections 85 and 86).
- Abandoned vehicles (Refuse Disposal (Amenity) Act 1978).
- Works governed by the New Roads and Street Works Act 1991.

Under Section 109 of the New Roads and Street Works Act 1991, Roads Authorities in Scotland may grant written permission to individuals or organisations (not being statutory undertakers) to place, retain, and maintain apparatus in a public road, and to carry out associated works such as breaking up or boring under the road. Core to this guidance is that this exception does not allow cables on top of the pavement as they could be classified as an obstruction.

The issue of a permit for the installation of private apparatus is a discretionary power of the relevant RA alone.

Key Provisions of S.109

- Permissions could include installation, inspection, maintenance, adjustment, repair, alteration, renewal, repositioning, or removal of apparatus.
- Authorities may impose reasonable conditions including fees, indemnities, and withdrawal clauses.
- At least 10 working days' notice must be given to relevant bodies such as Scottish Water, transport authorities, bridge authorities, and other affected parties.
- Permission does not override other required consents or licenses, including those from the Secretary of State.

Commented [RM4]: This cover the legal power to install the charging station but if you then have a cable snaking over the pavement who is taking responsibility for any trip hazard? Is the cable an obstruction?

Safety and Accessibility

There are emerging insurance options which seek to address risks specific to at-home charging infrastructure passing across public pathways, protecting homeowners from claims related to potential hazards like tripping on cables.

It is recommended that in setting your policy position proof of this insurance is provided prior to the granting of any installation.

To this end, Table 1.2 on Page 9, outlines the suitability of various scenarios as a guide. This list is not exhaustive, and each Authority should determine the merits of each application on a case-by-case basis.

It's essential that cross-pavement charging installations uphold accessibility standards to maintain safe public spaces for all. RAs should refer to overarching guidelines such as "[Roads for All](#)" for preventing obstruction for pedestrians, particularly those using mobility aids, and other relevant guidance. As per earlier sections of this guidance, engagement and consultation with your local mobility and access groups/panels should be a core part of developing your policy.

The Highway Code is clear ([Rule 239](#)) that you should avoid creating a trip hazard, and should highlight the presence of cables.

Additional Considerations

The parking provision on the road adjacent to the footway will determine whether the location is suitable to locate apparatus. As with the marking of a 'disabled bay', the installation of an EV Charging Gully does not confer a right to park next to the apparatus or override any other parking or waiting restrictions in place.

For example, where a road is subject to a TRO preventing parking of any kind, and the road is suitably lined with the correct signage, the placement of an EV Charging Gully would not confer a right to park, unless the order for the road was amended specifically to allow it. In setting your policy it is recommended that there should be a presumption against the removal TROs in favour of widescale on street EV installations. Such removals would of course require to follow the statutory TRO processes.

RA's should also develop a procedure to allow for scenarios where no waiting or other traffic control features are considered for introduction at a future date, and so could be in conflict with an existing charging gully.

Commented [RM5]: Please see my comments above as regards accessibility. This document is dated 2018- does not have regard to ev charging so does it need updating. It also appendix A sets out guidance on on EIA assessment and has that been applied to this policy/guidance

Location/Property Type	Permission Status	Additional Notes/Requirements
Off-Street Private Driveway	Not applicable	Off-street parking doesn't require a cable gully.
On-Street Public Footway (No Grass Verge)	Potentially Suitable	Pavement widths and parking demand would have to be factored into any decision, e.g. most suited to pavements at least 2 metres wide, and streets with low parking demand.
On-Street Public Footway (with Grass Verge)	Potentially suitable if service strip	As well as the above considerations, grass verges may block installation due to lack of stability. If a grass verge is a service strip between a footway and carriageway, then it may be suitable.
Public Road (No Footway)	Not Permitted	Cables cannot stretch over public roads without proper installation.
Properties with Trees on Footway	Potentially Suitable	Tree roots and canopies interfere with safe installation.
On-Street Public Footway (with Parking Restrictions)	Not Permitted, though opportunity for provision for DPPP	Double yellow lines or other restrictions make installation ineligible.
On-Street Parking (Restricted Parking Zone)	Not Permitted	Temporary restrictions may allow installation if accessible.
Flats, Apartments, Tenements (No Private Space)	Needs Permission	Permission from building management required for installation (where the parking area is privately owned or managed). Parking demand would also have to be factored into any decision.
Listed Buildings or Conservation Areas	Needs Special Permission	Additional planning permission required, subject to location rules.
Parking Courts/Garage Blocks (Private Land)	Not Allowed	Not suitable for public gully installations, use private installations instead.
Bus Stop or High Pedestrian Traffic Area	Not Allowed	High-traffic areas are not safe for cross-pavement installations. Local conditions assessment will be required.

Table 1.2 – Suitability Scenarios

Section 2 Installation Routes

In order to assist RAs this section sets out some of the critical issues associated with 2 routes by which cross pavement EV charging infrastructure may be installed.

- 1. Installed by the Roads Authority with an annual license fee for inspection. In this case the authority is using its own powers to excavate in the road to place and maintain the charging apparatus and has entered into a direct agreement with the apparatus owner to undertake that function.**
- 2. A Section 109 Agreement under the New Roads and Street Works Act 1991. This is a standard agreement from primary legislation which allows a person without existing rights to dig up the road and place apparatus in it to have those rights at a named location.**

	1. RA-installed with Licence	2. S109 Agreement (Resident or Third Party)
Legal Basis	Roads (Scotland) Act 1984	NRSWA 1991
Ownership	RA	Resident or third party
Liability	Resident (via licence terms)	Installer/resident
Installation	RA or approved contractor	Contractor
Utility Implications	RA coordinates with utilities	Installer must coordinate
Maintenance	RA inspects; resident maintains	Resident responsible
Repair	RA may repair; costs may be recharged	Resident responsible
Pros	Clear control; consistent standards	Established legal route; scalable
Cons	Administrative burden	Complex for LAs to manage; variable standards

Table 2.1 – Installation Routes

Section 2 Installation Routes

Roads Authority Ownership with License

In this potential model, the RA could look to retain ownership of the charging channel while granting residents a licence to use it. This could be in the form of an exclusive license for a resident or an instance where a cable gully is laid with the interface of the property boundary to allow for shared use. Some English Authorities have utilised this approach but Scottish authorities may wish to seek further assurance before adopting this as their model.

The licence pack, which would be provided by the RA, shall outline the resident's responsibility for the installation.

This includes ensuring the charging channel is used correctly, cleaning it, and adhering to all electrical safety standards.

Under the terms of a licence, users may be liable for any accidents that occur due to improper use of the charging cable or installation. This could include tripping hazards related to the cable and damage caused to the surrounding pavement.

Residents must also adhere to electrical safety standards for their chargers to prevent faults or hazards and ensure they have insurance cover to address any public liability risks.

Roads Authorities can introduce an inspection fee as part of any license fee.

Resident/Installing Body Owned and Installed

Applicants must obtain permission from the Roads Authority (RA) before installing apparatus in a public road. This permission is granted under a Section 109 agreement of the New Roads and Street Works Act 1991, which allows non-statutory undertakers to carry out road works involving apparatus placement.

Under Section 109(4), permission may only be granted to persons as prescribed by regulations. These typically include individuals, property owners, tenants (with consent), or third-party organisations acting on behalf of eligible users.

Additional Requirements:

- Tenants must provide written consent from the property owner. The RA may request proof of ownership or tenancy as part of the application.
- Local Authority Policies may vary:
 - Some Councils may restrict applications to property owners only.
 - Others allow applications from tenants, householders, or third-party installers.
 - These variations are similar to variations seen in policies around skip permits.

Section 2 Installation Routes

Examples of Eligible Applicants:

- A property owner applying directly.
- A third-party installer contracted by the resident.
- An organisation such as Motability, applying on behalf of a disabled user / disabled users.

All applicants must comply with the RA's conditions, including coordination with utilities, reinstatement standards, and liability for maintenance and repair

Additionally, some councils may have specific local policies dictating who can apply for such permits, defining eligibility terms such as the "installing body," "property owner," or "householder."

Scottish Road Works Register (SRWR)

Care should be taken in how the installations of cable gullies are dealt with through the various sections of the New Roads and Street Works Act 1991. Whilst such installations could be seen as falling within the definition of '*special engineering difficulty*' it is the Scottish Roadworks Commissioner's view that cable gullies would not fall under the terms of SED as defined in coordination code/S122 NRSWA. There would be a requirement to add them to Vault as apparatus and RAs should take this into account in their processes

S109s need to be correctly notified within the SRWR and converted to works. This is in order to comply with legislative requirements of the act. It should be noted that the SRWR is not intended to be used for the purposes of providing an ongoing record of permissions.

Section 3 Considerations for Applicants

Warranty

While those who install these could benefit from a warranty offered by some companies on the charging channel installation, it should be noted that it is still the responsibility of the applicant to ensure any issues are rectified as warranty may not cover all issues.

Each RA should also assure itself that their in house corporate risk and insurance teams are content with all aspects of the installation of cable gullies.

However, after this period, the resident becomes responsible for the cost of any necessary repairs to the channel. This ensures that the installation remains operational and safe beyond the warranty period.

In terms of any reinstatement in the footway (or carriageway) the national guarantee period is six years.

Ongoing Liability

The Applicant shall indemnify the Council, until such time as the Private Apparatus may be adopted or removed, against any and all claims arising out of the placing of the Private Apparatus in the Public Road, or as a consequence of any malfunction in the Private Apparatus, for public liability, or as a consequence of any damage caused by a malfunction in the Private Apparatus, or as a consequence of any work carried out in, upon, under, over, across or along the Public Road in inspecting, maintaining, adjusting, repairing, altering, renewing or removing the Private Apparatus, in the Public Road or any damage caused by the malfunction of the Private Apparatus.

Should the Private Apparatus come into disuse for any reason, the Applicant must notify the Roads Authority and, if requested by the Council at that stage to do so, remove the Private Apparatus from in or under the Public Road.

The Permission is granted to the Applicant but cannot be assigned to any other party without the consent in writing of the Council. Such consent will not be unreasonably withheld or delayed, provided that:

- i) the assignee can provide, to the Council's reasonable satisfaction, evidence of sufficient cover to meet the indemnification obligations above and ;
- ii) contact details are provided.

RAs may add in reasonable conditions to any S109 permission which they grant. This can include the provision of as-built drawings, insurance to cover any indemnity, additional contact requirements for future maintenance, or to outline the action the RA is required to take in the case of the installation failing or becoming dangerous.

RAs may also consider seeking legal advice should they wish to include specific dated requirements for potential apparatus installers.

Planning Permission

If the applicant lives in a conservation area or listed building, additional planning permission may be required. In developing your policy you would of course involve your Development Management and LDP teams. It would be expected that guidance and policy on EV Infrastructure provision would be supporting information to your LDP

***** Please Note that it may be that planning rules could change with regard to permitted development and under regulations Electrical Safety Assessments may therefore have to be built into this (Cross Pavement Application) process.***** The following link takes you to the guidance as at December 2025 [Works that are allowed through permitted development - mygov.scot](https://mygov.scot/works-that-are-allowed-through-permitted-development)

Funding

Transport Scotland, through the Energy Savings Trust, have launched (May 2026) a cross-pavement charging grant scheme to assist householder with the costs associated with the cost of installation. Details of this fund can be found here: [Cross-pavement charging grant - Energy Saving Trust](#) and a process flowchart is included overleaf.

This is flagged in this initial version of the guidance for information only and it should be noted that funding provision is likely to change over time. It is recommended that RA officers should keep up to date on current opportunities through professional networks such as SCOTS.

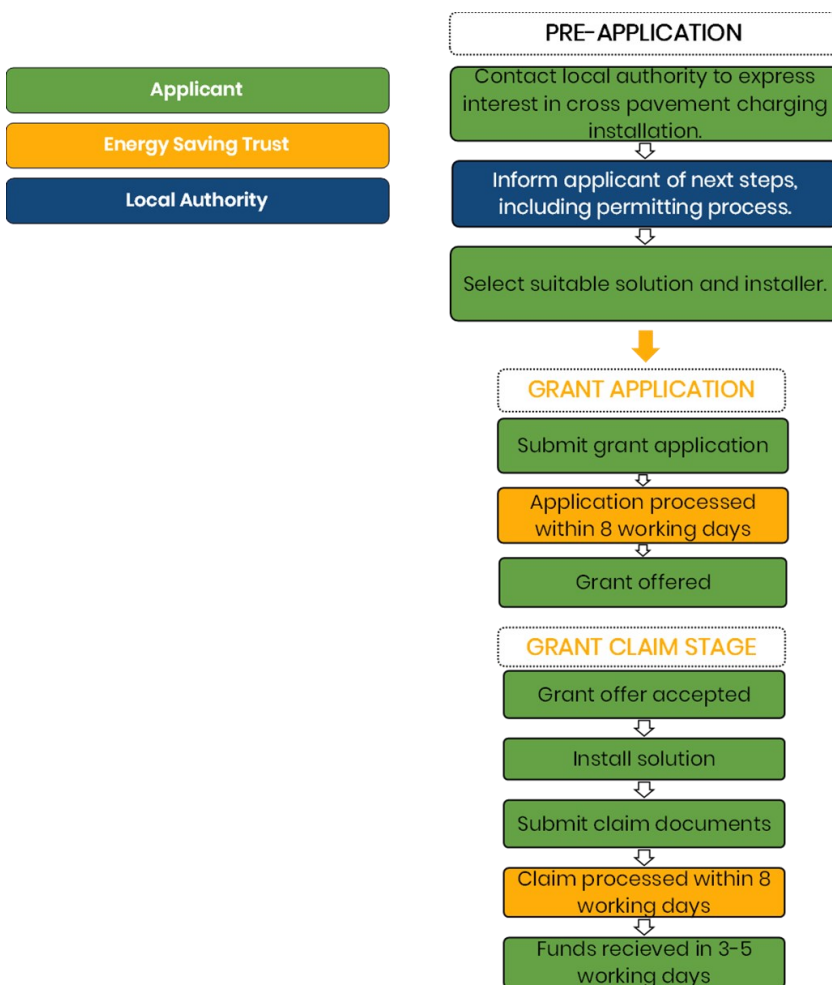


Figure 3.1 – Example of a Cross Pavement EV Charging Infrastructure Process Flowchart

This is an example as at May 2026 that can be used to assist each RA in setting out the likely process involved.

Annex 1 – Sample Checklist for Applicants

How to apply for a home EV charger and EV Charging Gully

It is suggested that Residents looking to install a home EV charger and EV Charging Gully should follow these general steps to ensure a smooth process:

Check eligibility: Before seeking to install cross pavement EV infrastructure it is recommended that applicants ensure their property is suitable for an EV charger installation. If you live in a conservation area or listed building, planning permission will be required.

Obtain permissions:

- **Homeowners:** Apply for planning permission if required, especially for new driveways (where appropriate) or homes in conservation areas.
- Obtain S109 permission from the local roads authority or, if they undertake the work, arrange for the RA to undertake the work and obtain license
- **Tenants:** Contact your landlord or the council to obtain approval for installation.
- **Housing Association:** Contact your housing association to obtain approval for installation.
- ******if road unadopted, speak to landowner******
- **Obtain insurance cover to cover the indemnities been granted and for public liability**

Apply for government grants:

- Residents may be eligible for a government grant to cover part of the installation cost

Hire a qualified installer for your charge point:

- All installations must be carried out by a certified electrician who meets the necessary safety standards (BS7671). Your installer will ensure compliance with local regulations and help you choose the most appropriate charger.

Engage a qualified contractor:

Some chargers require an excavation to be created to be installed. When a Roads Authority has granted the appropriate permission to create the excavation in the public footway or carriageway, a standard condition of permit is that you engage a contractor which meets their

Annex 1 – Sample Checklist for Applicants

standards for competence. This will normally require a contractor with the relevant public liability insurance and with operatives and supervisors who hold the prescribed qualification for road works.

Eligibility criteria for cable gully installation:

- Off-street vs. on-street parking
- Permission from property owners for EV charger installation
- Technical specifications for chargers and cables
- Site suitability checklist (pavement width, parking proximity)

Planning permission:

- Understand the considerations for conservation areas and listed buildings

Contact the Roads Authority

- **Applicant's role:** Reach out to your RA to express interest in a cross-pavement charging gully installation. Include details like location and property type.
- **RA's role:** Review the application for feasibility and consult relevant departments (such as planning and roads) to ensure the gully installation aligns with safety and planning standards.

Obtain Required Permissions and Permits

- RA installation with a license or Section109

Identify and Choose a EV Charging System / Supplier

- **Applicant's role:** Choose an EV Charging System

Register and Maintain the Installation

- **Applicant's role:** Register the completed installation with the RA and ensure ongoing maintenance.
- **RA's role:** Perform periodic checks to confirm the installation remains compliant and safe for public use

Annex 2- Sample Section 109 Conditions

SECTION 1: APPLICANT

- 1.1 The applicant must be the owner or responsible person of the apparatus that will monitor and maintain furthermore or until such time the statutory undertaker takes on responsibility.
- 1.2 Granting permission under Section 109 (S109) is not relevant to the bodies which are Statutory Undertakers (SUs) or Public Utilities (PUs) or otherwise empowered by a license to act directly as an undertaker in accordance with the New Roads & Street Works Act 1991 (NRSWA). Herin, all such bodies are covered by the acronym 'PU.'
[Such bodies are required to provide work notification etc. via the Scottish Road Works Register (SRWR).]
- 1.3 Granting permission under S109 is not relevant to bodies acting as agent to anybody included in Paragraph 1.2. Neither does it apply to a contractor working on behalf of such a body or agent.
[Agents should have access to the SRWR and contractors should have the relevant notices etc. placed in the SRWR by the client undertaker or agent.]
- 1.4 Granting permission under S109 to the Utility Connections Providers (UCPs) is not relevant under this agreement.
[Separate agreement document exists for such a purpose]
- 1.5 Applications may be refused where applicants are identified as having outstanding documentation or remedial works from previous permits issued by the Roads Authority

SECTION 2: LOCATION

- 2.1 Please note that if the road in which the works are proposed to be carried out is not a public road, (i.e., not the responsibility of the Roads Authority for maintenance purposes) then permission will be required from the road manager or the persons responsible for that road.
- 2.2 Please be as precise as possible giving road name and route number (if known) including town or village name and adjacent house names or numbers. In the case of new roads give as much information as possible about adjacent or nearby roads or eastings and northings.
- 2.3 Please indicate whether excavations will affect the verge, service strip, footway, footpath, carriageway, or a combination of these.
- 2.4 Please include an overview location plan.

Annex 2- Sample Section 109 Conditions

SECTION 3: DETAILS OF PROPOSED WORKS

- 3.1 Please indicate the purpose of the proposed works and provide a detailed description of the works to be undertaken.
- 3.2 State each individual utility service provider directly affected by the works.
- 3.3 Where there is not a statutory undertaker adopting the apparatus, early engagement should be made with the Roads Authority as approval may not be granted or a minute of agreement may be required.
- 3.4 Since the Roads Authority has a duty to record the location of any apparatus laid in or under the road pursuant to S109, you must provide plans to support the application ideally in an electronic format (eg CAD/GIS). The drawing must accurately detail where the apparatus will be laid in relation to the existing road layout and road features and clearly indicate its purpose, material types, including pipe dimensions and anticipated depth to be laid. Failure to provide accurate and sufficient information will result in a delay in processing your application until all information is received.
- 3.5 Under the terms of the New Roads and Street Works Act 1991 Part IV Section 109(6), the Roads Authority has a duty to give notice to any other Authority or person who may be responsible for a structure in the road, or have plant or equipment in or under the road that could be affected by your proposed works. In consideration of this and the time required to process your application, please ensure that you comply with noticing timeframes to your application, excluding public holidays. Typically this type of installation will be covered by requirements for minor works. However where traffic management is required the following gives an indication of timeframes.

* A working day is defined as a day other than a Saturday, Sunday, Christmas Day, Boxing Day, New Years Day, 2nd of January and Public Holidays.

Annex 2- Sample Section 109 Conditions

NON-TRAFFIC SENSITIVE	TRAFFIC MANAGEMENT			
CATEGORY	No TM Permit Req	Temp Traffic Lights	TTRN	TTRO
Works taking between 1 and 10 days	4 weeks	4 weeks	4 weeks	6 weeks

TRAFFIC SENSITIVE	TRAFFIC MANAGEMENT			
CATEGORY	No TM Permit Req	Temp Traffic Lights	TTRN	TTRO
Works taking between 1 and 10 days)	6 weeks	6 weeks	6 weeks	6 weeks

- 3.6 Where a delay is anticipated to be more than 2 working days, permission to extend works must be sought from the Roads Authority. The applicant must notify the Roads Authority to inform them the site is clear. The works shall require inspection and approval by the Roads Authority.
- 3.7 The applicant is responsible for contacting the Roads Authority to confirm the commencement of your works within 2 hours of starting. Additionally, you must notify the Roads Authority again within this timeframe once the works are complete to ensure compliance with the Co-Ordination Code.
- 3.8 If work does not commence within the 7 working day period an amendment will be required to the application and a fee will be applied, please refer to Section 6.

SECTION 4: CONTRACTORS DETAILS

- 4.1 Under the terms of Section 126 of NRSWA 1991, the applicant must ensure, except as otherwise prescribed, that the road works involving excavation, or boring under, a road are supervised by a person having a prescribed qualification as a supervisor, and that there is on site at all times, when the works are in progress, at least one person having a prescribed qualification as a trained operative.

Annex 2- Sample Section 109 Conditions

SECTION 5: INTERIM SITES

- 5.1 An interim site requires the orderly placement and proper compaction of reinstatement layers to finished surface level, including any temporary materials.
- 5.2 The status of the 'works clear' provides a point where the applicant can declare that all information about the works has been supplied, and the works are now complete. This indicates that the interim reinstatement where necessary has been done and all sites have been cleared.
- 5.3 Any interim reinstatement must be made permanent as soon as reasonably practicable and in any event within 6 months from the date on which it was completed. Failure to comply with Section 129 of NRSWA 1991 without an agreement with the Roads Authority is an offence and is liable on summary of conviction to a fine not exceeding level 3 (£1,000) on the standard scale.
- 5.4 Please indicate your anticipated return date to make your reinstatement permanent. Permission must be sought from the Roads Authority prior to returning to the site and carrying out any works. Failure to comply with Section 144 of NRSWA 1991 is an offence and is liable on summary of conviction to a fine not exceeding level 3 (£1,000) on the standard scale.
- 5.5 The applicant must complete and return details of their interim reinstatement on the reinstatement form provided within one day of making the reinstatement.

SECTION 6: FINANCIAL DETAILS AND FEES

- 6.1 Under the terms of Section 107 and 134 of the Act, the Roads Authority has the right to charge for inspections of the works which have been given permission under Section 109. Inspections can be done as defined stages of the work.
- 6.2 The initial sum payable to the Roads Authority will comprise a basic processing fee and inspection fee cover the following:
 - 1) PRE-APPROVAL Inspection of site undertaken prior to approval of application.
 - 2) SAMPLE A Inspection undertaken during the process of the works.
 - 3) SAMPLE B Inspection undertaken within 6 months upon completion of the works.
- 6.3 The basic inspection fee authorised by the NRSWA in respect of the basic three inspections is set at the rate by the Regulation current at the time of the application. The fee, or any part thereof, is non-refundable once works have commenced where permission has been granted or if permission is refused. Inspections not undertaken will be refunded in full.

Annex 2- Sample Section 109 Conditions

- 6.4 The Roads Authority is required to post a set of notices on the Scottish Road Works register in respect of each unique street reference number (USRN) for each independent service. Generally, there is only one USRN per street but there may be more on longer streets or where works will be undertaken on multiple streets. A set comprises of recording, maintaining, and registering of each site. Where more than one set is required, an additional fee will be applied for each USRN.
- 6.5 Where the applicant wishes to commence work earlier than the prescribed noticing timeframes detailed, an early start fee will be applied.
- 6.6 Where there is a delay caused to the completion of works that require the initial In Progress works to be extended, an extension fee will be charged. The extension period shall not exceed the duration of the initial application. Requests should be submitted to the relative Roads Authority

SECTION 7: DECLARATION

- 7.1 The applicant must enclose all requested documentation.
- 7.2 The applicant must have signed and accepted the terms of declaration contained within the application form and accept the standard conditions and additional conditions assigned to their application.

Annex 2- Sample Section 109 Conditions

STANDARD CONDITIONS

General

1. If the application is approved and permission granted, such permission will be subject to various conditions set by the Roads Authority. The conditions will be standard but may include specific requirements in relation to the Road Works Permission being sought.
2. A holder of a Section 109 permission under NRSWA is defined as an undertaker for the purposes of the legislation and therefore is under a duty to co-operate with other undertakers and the road works authority that granted permission.
3. The applicant shall indemnify the Roads Authority from and against all actions, claims, demands, costs, charges, damages, losses and expenses of whatever kind or nature which may be brought or made against them or incurred by them in respect of the negligence, omission or default of the holder of the consent or those for whom the holder is responsible arising in respect of any operation authorised by his/her consent unless due to the negligence or other breach of legal duty on the part of the Roads Authority or of any person for whom the Roads Authority is responsible.
4. Consent can be withdrawn by the Roads Authority at any time.
5. Granting permission under S109 does not extend to other ancillary activities such as depositing a skip, erecting a scaffold, occupying the road, or carrying out minor civil engineering in the road such as a vehicle crossing. Further advice and permission must be sought from the Roads Authority.
6. Permission under S109 of the Act does not exempt the applicant from obtaining any other permission which may be required e.g. Planning Permission, permission to connect to sewage drainage / water systems etc.
7. Works shall be carried out in accordance with the New Roads and Street Works Act 1991, related regulations, and the following (where applicable) including amendments.
 - a) Code of Practice for the Co-ordination of Works in Roads.
 - b) Measures necessary where apparatus is affected by the major works (Diversionary Works) - a Code of Practice.
 - c) Specification for the Reinstatements of Openings in Roads – a Code of Practice.
 - d) Code of Practice for Inspections.
 - e) Safety at Street Works and Road Works – a Code of Practice.
 - f) Any other Act, Regulation or Code of Practice, which is introduced by reference in any of the above. (Where applicable). These documents are available from the website of the Office of the Scottish Roadworks Commissioner <https://roadworks.scot> under Legislation and Guidance.

Annex 2- Sample Section 109 Conditions

8. Under the terms of Section 124 of NRSWA 1991, the applicant must ensure that all excavations or obstructions in the road are adequately guarded and lit and that such traffic signs are placed, maintained, and where necessary operated, as are reasonably required for the guidance or direction of road users in accordance with Section 120 of the Roads (Scotland) Act 1984 (duty to have regard to the needs of people with a disability). Failure to comply with Section 124 of the NRSWA 1991 is an offence and is liable on summary conviction to a fine not exceeding level 3 (£1,000) on the standard scale.

If the applicant fails to comply with these requirements, the Roads Authority may take any steps as necessary and recover reasonable costs from the applicant.

Legal requirements in relation to Safety, Signing, Lighting and Guarding are contained in "Safety at Street Works and Road Works – A Code of Practice"

9. Under the terms of Section 125 of NRSWA 1991, the applicant must ensure that all works involving excavation in, or boring under, a road are completed with all such dispatch as is reasonably practicable. Failure to do so is an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
10. Where the applicant creates an obstruction in a road to a greater extent or for a longer period than is reasonably necessary, the Roads Authority may by notice require them to mitigate or remove the obstruction. If the applicant fails to comply with such a notice within 24 hours of receiving it, or such longer period as the Roads Authority may specify, the Roads Authority may take reasonable steps to mitigate or remove the obstruction and recover the costs from the applicant.
11. Under the terms of Section 128 of NRSWA 1991, the applicant must take all reasonably practicable steps to give any undertaker, who may have apparatus in the road likely to be affected by the road works, reasonable facility for monitoring the execution of the works and the applicant must comply with any requirement made by the undertaker which is necessary for protecting or securing the apparatus. Failure to comply is an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Applicants must, therefore, take all reasonable steps to establish if apparatus will be affected by the road works and where such apparatus is likely to be positioned in the road. You must do this by telephoning "Dial before you dig" call center (08000 231 251) where your enquiry details will be passed on to the various Undertakers who, in turn, will furnish you with the necessary information.

Annex 2- Sample Section 109 Conditions

12. Under the terms of Section 129(4) of NRSWA 1991, the applicant must begin the reinstatement with all dispatch. Before the end of the next working day after the day on which the reinstatement is completed (whether interim or permanent) the applicant must inform the Roads Authority on the Reinstatement form provided within one day of making the reinstatement.
13. Under the terms of Section 130 of NRSWA 1991, the applicant must comply with the specification of materials to be used and the standards of workmanship to be observed. The applicant will be responsible for maintaining the reinstatement, whether interim or permanent.

The guarantee period for the permanent reinstatement will be determined by the Specification for The Reinstatement of Openings in Roads, published by the Scottish Executive at the time of reinstatement. Failure to comply with Section 130 is an offence and is liable on summary conviction to a fine not exceeding level 3 (£ 1,000) on the standard scale.

14. Under the terms of Section 131 of NRSWA 1991, the Roads Authority may carry out such Investigatory works as appear to be necessary to ascertain whether an applicant has complied with their duties under Part IV of the NRSWA 1991. If such a failure is disclosed, the applicant shall bear the cost of the Investigatory works, if no failure is disclosed the Roads Authority shall bear the cost of the investigatory works. Where the applicant has failed to comply with their duties in relation to reinstatement, they shall bear the cost of
 - a) an inspection by the Roads Authority to be undertaken within 3 months preceding the end of the guarantee period
 - b) a joint inspection to determine the nature of the failure and what remedial work is required
 - c) an inspection by the Roads Authority to monitor the condition of a failed inspection at a repeat cycle of 17 working days until a permanent repair has been made.
 - d) an inspection by the Roads Authority of the remedial work in progress
 - e) an inspection by the Roads Authority when remedial works have been completed

These additional inspections are set at the rate by the Regulation current at the time when undertaken. The applicant will be invoiced for any such additional fee(s). The cost of any Investigatory works will be the Roads Authorities reasonable costs to undertake such things as coring or trial-holes etc. These reasonable costs will be invoiced to the applicant and will include general staff costs and overheads.

Annex 2- Sample Section 109 Conditions

Also, under the terms of Section 131 of the Act, should the agreed remedial works not be undertaken within a reasonable timescale as defined by the Roads Authority, and indicated on a "Notice of Failure", then the Roads Authority may carry out the necessary works and recover the costs reasonably incurred in doing so from the applicant.

Similarly, the reasonable costs incurred by the Roads Authority in attending to dangers associated with the works may be recovered from the applicant. In exceptional circumstances, this can be done without giving notice of intent to the applicant, agent or contractor and could extend to instructing the contractor to leave the site.

15. When a carriageway or footway is disturbed unless the Roads Authority is notified in writing of any paving defects, including any kerb defects, before the excavation is carried out, it will be assumed that the same is in good order and the holder of the consent shall be held responsible for any defects found after the restoration of the opening.
16. Where the applicant has failed to comply with their duties under the Act, the Roads Authority may serve Notice requiring remedial works to be undertaken within such a reasonable period as may be specified in the Notice. If the applicant fails to comply with the Notice, the Roads Authority may carry out the necessary work and recover costs from the applicant. If it appears to the Roads Authority that the reinstatement is causing a danger to road users and the applicant, agent, or contractor cannot be contacted or fails to offset the danger immediately, then the Authority may carry out works without notice to the applicant and may recover costs from the applicant.
17. Under the terms of the "Code of Practice for the Co-ordination of Works in Roads", the Roads Authority is responsible for holding records of apparatus laid which is not subsequently adopted by a Statutory Undertaker e.g. gas, water, electricity etc. Where such apparatus is subsequently adopted by a Statutory Undertaker, then that Statutory Undertaker will be responsible for holding records of the apparatus from the date of adoption.

The applicant must provide the Roads Authority with an "as built" drawing of the apparatus as laid showing detailed information of its depth, location, purpose etc. This information should be provided in an electronic Geographical Information System (GIS) format and is required within 2 weeks of an interim/permanent reinstatement, whichever comes first. If the apparatus was installed as per the proposed drawing, an email confirming this will be accepted providing the drawing reference is stated within the context of the email and the drawing is included.

Annex 2- Sample Section 109 Conditions

18. The applicant must bear in mind the special needs of people with disabilities when undertaking the works in relation to safe passage/access. Special precautions are required to cater for people with impaired vision or mobility. Legal requirements can be found in "Safety at Street Works and Road Works - a Code of Practice".
19. Whenever possible, apparatus should be laid in accordance with Streetworks UK guidance available from their website - <http://www.njug.org.uk>.
20. Work shall be in accordance with all documents submitted with the application and as subsequently agreed with the Roads Authority.
21. No existing apparatus e.g. culverts, pipes, drains, ducts, cables, roadside ditches, road gullies, manholes, catch pits or other chambers or other property shall be altered without the consent of the proprietor or authority concerned.
22. In no case shall surface boxes, chambers or other fittings be placed within the road pavement layers, footway or footpath construction layers or roadside verge without the consent of the Roads Authority.

It is the responsibility of the applicant to determine from the Roads Authority all relevant details of the road(s) to be worked on including traffic sensitivity, reinstatement category, special designations and to build this information into his plans and works specifications

Annex 3 Sample Policy Statement

EV Charging Infrastructure Policy Statement – Option 1

Purpose and Legislative Position

The Council recognises the importance of enabling residents to charge electric vehicles (EVs) from their homes, particularly where off-street parking is unavailable. This supports Scotland's wider goals for EV adoption and sustainable transport. Under Section 1 of the Roads (Scotland) Act 1984, Roads Authorities have a statutory duty to maintain public roads. Section 59 of the same Act prohibits placing anything in a public road that causes obstruction without written consent. This policy allows the Roads Authority to install and maintain EV charging infrastructure using its own powers, while issuing licences to residents for safe and regulated use.

Policy Statement A: Roads Authority Installed Infrastructure with Licence

- The Council will permit the installation of cross-pavement EV charging infrastructure where the Roads Authority (RA) retains ownership of the apparatus and grants a licence to the resident for its use.
- The RA will install and maintain the cable gully using its statutory powers under the General Powers of the Roads (Scotland) Act 1984.
- Residents will be issued a licence outlining their responsibilities for safe use, cleaning, and adherence to electrical safety standards.
- The RA will coordinate with utilities and carry out inspections, with costs recovered through an annual licence fee.
- Residents will be liable for any misuse or damage caused by the installation and must maintain appropriate insurance cover.

EV Charging Infrastructure Policy Statement – Option 2

Purpose and Legislative Position

To support equitable access to EV charging for residents without off-street parking, the Council permits installations that cross public footways under strict conditions. This ensures public safety and compliance with legal standards. Section 109 of the New Roads and Street Works Act 1991 allows Roads Authorities to grant permission to individuals or organisations to place and maintain apparatus in public roads. This policy enables residents or approved third parties to install EV charging infrastructure via a Section 109 Agreement, subject to inspection, liability, and coordination with utilities.

- This model ensures consistent standards, clear governance, and equitable access, while minimising administrative complexity for residents.

Policy Statement B: Resident or Third-Party Installed Infrastructure via Section 109 Agreement

- The Council will permit residents or approved third parties to install cross-pavement EV charging infrastructure under a Section 109 Agreement of the New Roads and Street Works Act 1991.
- Applicants must obtain written permission from the RA to place and maintain apparatus in the public road.
- The applicant assumes full responsibility for installation, coordination with utilities, ongoing maintenance, and liability.
- Installations must be carried out by qualified contractors and comply with all safety, accessibility, and reinstatement standards.
- The RA may impose reasonable conditions including inspection fees, indemnities, and requirements for as-built drawings.
- All installations must be registered in the Scottish Road Works Register and comply with the VAULT process for apparatus.