



<b>To</b>	Acquiring Authorities
<b>Subject</b>	Guidance for Acquiring Authorities: How do I prepare and submit a Compulsory Purchase Order?
<b>Issued by</b>	Scottish Government: Planning and Architecture Division
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The Scottish Government considers powers to purchase land compulsorily to be an important tool for local authorities and other public bodies (collectively referred to as Acquiring Authorities) to use to acquire land needed to enable projects that are in the public interest to proceed, where this would otherwise not be possible.

In particular Ministers consider compulsory purchase powers to be important for helping to deliver housing, development and regeneration that create high quality places where people want to live, work and invest. Such projects will deliver social, economic and environmental improvement for the public benefit and, used properly, these powers can aid effective and efficient regeneration, the revitalisation of communities, and the promotion of inclusive economic growth.

Authorities are therefore encouraged to consider using their powers pro-actively when necessary and appropriate to ensure real gains are brought to communities without delay.

The Scottish Government vision for compulsory purchase is for:

*“A clear, accessible, consistent, effective and efficient system of legislation and policy which allows for the compulsory acquisition and purchase of legal interests in land and property for the public benefit. The provisions relating to any compensation should be fair and transparent and allow for timeous settlement.”*

This series of guidance notes are primarily aimed at Acquiring Authorities and are intended to provide information for those with no, or limited, experience of compulsory purchase. They comprise **both** good practice advice and guidance on the legal and procedural requirements that must be met at each stage of the Compulsory Purchase Order (CPO) process.

These notes draw from and are intended to complement Planning Circular 6/2011 (<https://beta.gov.scot/publications/scottish-planning-series-planning-circular-6-2011-compulsory-purchase-orders/>) which provides more detailed, technical advice on some aspects of the CPO process and which authorities may wish to continue to refer to.

These notes are intended to be read sequentially as follows:

- CPOGNAA/001 Can I use Compulsory Purchase?
- CPOGNAA/002 What should I do before developing a Compulsory Purchase Order?
- CPOGNAA/003 How do I prepare and submit a Compulsory Purchase Order?
- CPOGNAA/004 How do Scottish Ministers consider a Compulsory Purchase Order?
- CPOGNAA/005 Confirmed Orders – Next Steps.

This third note in the series is intended to help Acquiring Authorities who are intending to use compulsory purchase to draft a CPO and the documents that accompany it.

Whilst the general advice, guidance and principles contained in these notes are applicable to all bodies with compulsory purchase powers it should be noted that Compulsory Purchase Orders promoted by Scottish Ministers or their Agencies are processed under distinct procedures which, while broadly similar, may differ in some regards. Furthermore, certain bodies can be empowered to purchase land compulsorily through special Acts of Parliament, or via other processes (e.g. through Transport and Works Act Orders).

Where necessary this guidance identifies instances where aspects of the process vary, but it does not seek to be comprehensive. Separate guidance is available for these specialist processes – for example for compulsory purchase related to Trunk Road projects promoted by Transport Scotland ([www.transport.gov.scot/publication/road-projects-guidance-on-compulsory-purchase-process-and-compensation/](http://www.transport.gov.scot/publication/road-projects-guidance-on-compulsory-purchase-process-and-compensation/))

**This guidance is not intended to be either prescriptive or definitive. It is also not intended to replace specialist legal advice.**

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## **1. Introduction**

- 1.1. Acquiring Authorities should be satisfied that they have undertaken or considered the pre-action activities contained in guidance note CPOGNAA/002 prior to preparing a draft CPO.
- 1.2. The pre-action activities will greatly aid the Acquiring Authority to develop its arguments and rationale for the use of compulsory purchase to acquire land, and assist in mitigating or addressing the concerns of land owners and communities. This may, in turn, prevent objections being raised and will improve transparency and accountability in the decision making process.
- 1.3. As noted in previous guidance notes and section 7 below a technical check of a draft order is available on request from the Scottish Government. This comprises a review of the legal technicalities of the draft Order and supporting documents, with a view to identifying issues which may prevent the CPO from progressing at a later stage. A technical check may also allow early advance planning for any potential Hearing or Public Local Inquiry, should this be needed, by allowing advance notification to be given to DPEA to enable them to schedule consideration of the Order into forward work plans.
- 1.4. If a technical check is not requested, and a defect is later identified in the documentation, this will almost certainly cause delays and increase the period of uncertainty for people affected by the Order. Depending on the nature of the defect it may mean an Acquiring Authority would have to being the process again anew.

## **2. Justification**

- 2.1. Acquiring Authorities are required to clearly set out why a CPO is in the public interest and give the justification for interfering with the legal rights, such as those under the European Convention of Human Rights, of the people it will affect. The Acquiring Authority should also be satisfied that making a CPO will fulfil a clear objective and that the necessary funds are available and/or it has a reasonable prospect of securing finance to cover the full purchase and compensation costs associated with the CPO and to deliver the underlying project.
- 2.2. The enabling legislation under which the Acquiring Authority is pursuing the CPO will identify any specific requirements it will need to meet to justify the use of compulsory purchase. Typical examples are that the proposal will need to be included within a local development plan, housing plan or investment plan, or that any pre-requisites required by statute have been met (e.g. for listed buildings). Guidance note CPOGNAA/001 provides a list of the common Compulsory Purchase Order powers used by Acquiring Authorities.
- 2.3. Acquiring Authorities should aim to develop the strongest possible case drawn from evidence when demonstrating the public interest associated with the compulsory purchase proposal. This is to ensure that any objections or legal challenge by land owners or those impacted by the development, can be addressed and if necessary defended.

### **3. Considerations**

3.1. It is worth reiterating that the Acquiring Authority **must** be able to clearly set out why an order is in the public interest and that there is clear justification for interfering with the legal rights of those affected by an Order. Acquiring authorities should be able to explain why they consider that:

- (a) The purposes for which land is to be acquired are sufficiently important to justify the deprivation of property or interference with possession which the compulsory purchase entails;
- (b) All of the land in question is directly needed for the proper delivery of those purposes;
- (c) A less intrusive measure could not have been used for those purposes; and
- (d) A fair balance has been struck between the rights of the individuals affected and the interests of the community.

3.2. Authorities should be able to clearly evidence and justify the following when setting out the reasons for the compulsory purchase of land or property:

*a) Powers it intends to use*

- It should set out which powers for the compulsory purchase of the land it intends to use and why it is considered that those powers are the most appropriate in the circumstances.

*b) Public Benefit*

- It should set out the public benefit of the proposal versus what would happen if the project did not go ahead.
  - Any direct and immediate benefits to the population such as flood prevention, public health facilities (such as hospitals or doctor surgeries or new recreation facilities) new sewer systems, or provision of utilities;
  - Wider public benefits such as the increase in road capacity, alleviation of congestion, reduction in air pollution;
  - Economic benefits, such as job creation or promotion of sustainable economic growth;
  - New housing and the provision of any new infrastructure to support this, such as new education and healthcare facilities or services;
  - Provision of infrastructure to support area regeneration, including:
    - Improved access;
    - Environmental benefits, such as removal of dereliction;
    - General provision of land improvement and local amenity;
    - New railway facilities or network;
  - Social benefits, such as providing a public service or addressing social problems (for example, crime reduction or skills development and employment opportunities).

### *c) Priorities*

- The Acquiring Authority should set out clearly how the compulsory purchase will enable it to deliver its own and other organisations priorities, such as:
  - Projects and policies adopted in its development plan, housing plans and strategies (including Strategic Housing Investment Plans), locality plans, community plans or other strategic or planning documents, including supplementary planning guidance, master plans and design briefs and any extant planning permissions;
  - Directions issued by Scottish Ministers for any investment priorities, such as those given to Transport Scotland and Scottish Water;
  - Priorities in the strategic documents approved by the boards of urban regeneration companies or other bodies set up by Scottish Ministers to deliver regeneration and renewal;
  - Statutory plans of national bodies and agencies and regional bodies such as Regional Transport Partnerships;
  - Government priorities as outlined in any 'City Deal';
  - Priorities identified in a Community Empowerment Plan (see <http://www.gov.scot/Publications/2009/03/20155113/0> for details);
  - Links to wider Strategies or Development Plans:
    - If the Acquiring Authority intends to use powers relating to Planning legislation then the proposal should generally adhere to current planning policy and an adopted or approved Development Plan. Referring to the National Planning Framework or non-statutory planning guidance or a master plan that has been consulted upon and adopted for development management purposes may also assist. If it cannot provide any specific policy or proposal in a plan (for example, the proposal is intended to help the area adapt to changing circumstances or as part of a longer-term strategy) it will need to justify the case for acquisition in advance of resolving the uncertainties around the development;
    - If the Acquiring Authority intends to use housing legislation it should be satisfied of the need for additional housing as established through a Housing Need and Demand Assessment (HNDA) and reflected in the Local Housing Strategy and how the proposal will help meet that need.

### *d) Land Requirement*

- Full details of the land required, and justification for why all the land it seeks to acquire compulsorily will be necessary to deliver the public work/complete the scheme. Various factors, including safety, or final technical plans may mean that the footprint of the land that needs to be purchased may be bigger than that of the final development. Where this is known to be the case the Acquiring Authority should make this clear in its proposal.
- Where there is surplus land following the development which was acquired by, or under a threat of, compulsion then the former owners will, as a general principle, be given a first opportunity to repurchase the land previously in their ownership, provided that it has not been materially changed in character since acquisition. This is referred to as the Crichton Down rules. See <https://elb.beta.gov.scot/publications/compulsory-purchase-orders-introduction/> for more information.

#### *e) Financial Plans*

- The financial plan supporting the proposal should include details on:
  - How the Acquiring Authority intends to fund the purchase of the land and any relevant compensation claims within the statutory three year period;
  - How it is planned to develop the land acquired within a reasonable timescale;
  - How it has arrived at its estimations of the likely levels of compensation that it will need to pay; and
  - How it could make enough funding available immediately to cope with any acquisition resulting from a successful blight notice.

#### *f) Barriers*

- Whether or not there are any barriers likely to prevent it completing the development. These might include the programming of any infrastructure work or remedial work that may be required or any permission, consent or licence that will be needed;
- The Acquiring Authority should be satisfied (and be able to demonstrate) that there is a reasonable prospect of carrying out any work required or securing any such permission, consent or licence.

#### *g) Planning or Other Permissions*

- It is worth noting that a CPO can be justified and confirmed, even where full planning permission has yet to be granted for the project underpinning the scheme;
- However, in such circumstances, if planning or another permission would be required for the delivery of the scheme underlying the purchase and has not yet been secured, the Acquiring Authority will need to be able to explain why it believes that permission is likely to be granted (for example, by reference to a relevant Development Plan or Masterplan).

#### *h) Alternative Resolution and Engagement*

- The conclusions and evidence from its Alternative Resolution exercise (see CPOGNAA/002);
- The conclusions and the evidence from its engagement with those affected (see Section 4 of this guidance note).

## **4. Engaging with and Supporting Affected People**

4.1. As soon as possible after the Acquiring Authority has resolved to make a draft CPO it should re-contact those directly or indirectly affected. It should explain to people in plain and simple language:

- Why it needs to acquire their land and the powers that it is proposing to use;
- What the public benefits are expected to be;
- What alternative sites (if any) it has considered;
- How the compulsory purchase process works;
- What professional fees they are entitled to reclaim and how and when it will repay them; and
- The rights of those affected and where they can go for advice.

To aid authorities, the Scottish Government has produced an easy to read guide for land owners affected by Compulsory Purchase Orders. This should be shared with all affected parties at the earliest opportunity. This can be found at:

<https://elb.beta.gov.scot/publications/compulsory-purchase-orders-introduction/>

### ***Serving statutory notices and advertising the CPO***

- 4.2. At various stages of the process the Acquiring Authority must serve notices on people with an interest in the land and advertise the compulsory purchase.
- 4.3. The wording of these notices and adverts is prescribed and can be found in the Compulsory Purchase of Land (Scotland) Regulations 2003:  
[www.legislation.gov.uk/ssi/2003/446/pdfs/ssi\\_20030446\\_en.pdf](http://www.legislation.gov.uk/ssi/2003/446/pdfs/ssi_20030446_en.pdf)
- 4.4. When serving a notice, the Acquiring Authority should include a covering letter that explains as clearly and plainly as possible why it has sent the notice, what the notice means, what the person should do next and where they can go to get help and advice. In the case of acquisition of rights short of ownership, the Acquiring Authority should also set out if these are temporary or permanent and what, if any, mitigation measures are proposed.
- 4.5. The notice should also provide contact details for an individual in the Acquiring Authority who can be contacted for further information and/or to clarify the implications of the proposal.

### ***Accommodation works***

- 4.6. Whilst there is no statutory requirement on Acquiring Authorities to provide Accommodation Works it is considered good practice for such works to be provided for as part of the public work as it is usually cheaper and more time efficient for the Acquiring Authority to do so, than for the landowner to undertake the work and claim compensation thereafter. Installation of accommodation works is therefore commonly undertaken and paid for by the Acquiring Authority on the retained land, where part-only of a property is compulsorily acquired. Accommodation works can ameliorate the adverse effects of a project and, therefore, can reduce the amount of compensation payable. Examples of accommodation works include fencing, screening and the provision of new gates/access points.
- 4.7. Acquiring Authorities should therefore engage early with the affected landowner(s) to discuss the extent of the necessary works with the landowner(s) and their agent(s) and seek to formally agree a schedule of works to be undertaken. Poor engagement, information sharing and discussions between the Acquiring Authority, its contractors and landowners can lead to objections and grievances which might otherwise be avoided.
- 4.8. If acquiring only part of someone's land the Acquiring Authority should consider at an early stage the possible benefits of offering and agreeing compensation for any temporary activities, structures, or placement of equipment on the land in question.
- 4.9. To avoid misunderstandings or disputes any agreement about accommodation works should be fully specified in writing and shown on detailed maps.

4.10. The Acquiring Authority should ensure that their contractors know and understand what has been agreed and that the accommodation works are carried out properly and timeously to the agreed specifications.

### ***Agricultural or Business land***

4.11. When proposing to acquire agricultural or business land, due to the impact compulsory purchase will have on employment and livelihoods, the Acquiring Authority should seek as early as possible to fully assess the impact of the proposed compulsory purchase on any affected individual or business.

4.12. To achieve this, it should consider the value of consulting with or employing a suitably qualified and experienced land agent or chartered surveyor. It should also consider the benefits of ensuring that the officials who speak to land owners and occupiers have an awareness of farming and/or business issues. Equally, the Acquiring Authority should recommend to the affected landowner that they also take suitable professional advice.

4.13. If the Acquiring Authority is seeking to acquire only part of a property it should fully consider the effect of this on the future viability of the farm or business, including whether the proposal would lead to business extinguishment or the successful service of a Notice of Objection to Severance or a claim for material detriment, which could significantly increase costs. In some cases a slight change in the amount of land taken can dramatically lessen the impact and/or the need for expensive accommodation works. Farmers and landowners should be fully consulted on the proposals as they may be able to suggest changes to the scheme which would mitigate the impact and cost of compensation and/or the costs of construction.

4.14. If a business needs to relocate, the Acquiring Authority should do what it can to help find a suitable alternative location for the business.

4.15. Where applicable the Acquiring Authority should explain to the people affected how any construction works may affect them. It should listen to any concerns and alleviate the impact where possible.

### ***Residential properties***

4.16. When seeking to acquire someone's home the Acquiring Authority should do what it can to help the person find suitable alternative accommodation. Where a landowner, or any affected party will become homeless or be at risk of homelessness as a result of the compulsory purchase, and it is assessed by the local authority that this homelessness is unintentional, the local authority has a statutory duty to provide them with settled accommodation and advice and assistance. When considering accommodation, the local authority should ensure that any accommodation offered is both sustainable (e.g. will not cause any financial hardship) and appropriate to their needs.

### ***Advance purchase***

4.17. Rather than waiting until the end of the compulsory purchase process an owner might ask the Acquiring Authority to purchase the land earlier, on compulsory purchase terms<sup>1</sup>. Where possible, and particularly when acquiring residential land or property, the Acquiring Authority should grant such requests (See CPOGNAA/005 for more information).

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<sup>1</sup> Including, market value of land, home/farm loss payment, and reasonable professional costs

## **5. General Advice on Alternative Dispute Resolution**

- 5.1. Scottish Ministers have published information about the use of mediation in the planning system. Guidance can be found here: [www.gov.scot/Publications/2009/03/10154116/0](http://www.gov.scot/Publications/2009/03/10154116/0)
- 5.2. Ministers encourage Acquiring Authorities to consider the potential benefits of mediation or other forms of alternative dispute resolution at **all** stages of the compulsory purchase process, from planning and preparation through to agreeing compensation. However, this is particularly important before Scottish Ministers are asked to confirm an Order as this can save time and money for all parties, and help to reduce the period of uncertainty for the people affected.
- 5.3. In some cases the Acquiring Authority may wish to consider whether or not it might represent best value to pay for and facilitate mediation or other alternative dispute resolution techniques.

## **6. Drafting of a Compulsory Purchase Order**

- 6.1. **The Drafting of a Compulsory Purchase Order should always be carried out by a sufficiently qualified legal professional.**
- 6.2. Notes and forms for completing the CPO are set out in the Compulsory Purchase of Land (Scotland) Regulations 2003<sup>2</sup>. **This guidance does not restate these notes in detail.**
- 6.3. When preparing the Order the Acquiring Authority should:
- Give the Order a meaningful name which can easily be used to identify it;
  - Set out the enabling powers being used to compulsory purchase the land; and
  - Explain the purpose of the Order.
- 6.4. Where practicable, the Acquiring Authority can use the words of the enabling Act, but where those words are in general terms and cover a range of purposes it should state the particular purpose(s) for which the land is required.

### ***The Mining Code***

- 6.5. When preparing an Order, Acquiring Authorities should consider whether it requires the rights to any minerals deposited under the land.
- 6.6. When drafting an Order, Article 3 of the statutory form of Compulsory Purchase Order covers mineral rights. This is commonly known as ‘the mining code’. If the mining code is incorporated in an Order then the mineral rights are excluded from any purchase of the land. Normally, the compulsory purchase of land would exclude the mineral rights, unless mining these at a later date would compromise the integrity of any project on the surface.

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<sup>2</sup> [http://www.legislation.gov.uk/ssi/2003/446/pdfs/ssi\\_20030446\\_en.pdf](http://www.legislation.gov.uk/ssi/2003/446/pdfs/ssi_20030446_en.pdf)

6.7. Possible implications of the mining code on drafting of Compulsory Purchase Orders are as follows:

- If the Acquiring Authority **does not** incorporate the mining code into the draft Order, the minerals under the land will be included in the purchase and it may be required to pay compensation for their development value. This can increase costs unnecessarily;
- The Acquiring Authority will also have to justify the need to purchase the minerals.

6.8. Depending on whether mineral rights are required or not the Acquiring Authority can omit references to the mining code, or insert it with or without the reference to the sections which impose constraints on how the minerals can be worked. It may also indicate any modifications to the mining code that it requires to make to ensure that access to any mineral rights does not jeopardise the integrity of the end development.

### ***Real burdens or servitudes***

6.9. Real burdens run with the land, which means that they are perpetually enforceable against successor owners of the affected land. They typically restrict the use to which land can be put, or impose obligations for the maintenance of shared boundaries. Real Burdens are only contained in certain deeds registered in the Land Register of Scotland or the older Register of Sasines. Although the abolition of the feudal system on 28 November 2004 resulted in some feudal real burdens ceasing to be enforceable, there are often third party rights held by neighbouring proprietors which survived abolition. In addition, feudal burdens which relate to maintenance were automatically preserved, and in some limited cases others have been preserved using a legislative procedure.

6.10. Servitudes are usually rights of access over land in the ownership of a third party (e.g. for access, drainage and water).

6.11. Unless the Acquiring Authority explicitly specifies it in the Order under Article 5<sup>3</sup> then, unless the conveyance implementing the acquisition of the land provides otherwise, all real burdens and servitudes will be extinguished upon implementation of the CPO.

6.12. However, the Acquiring Authority may not want to extinguish all real burdens or servitudes, or certain rights to enforce them, or it may not want to dis-apply a development management scheme. It may also wish to vary some or all of the real burdens or servitudes that affect the land. In this situation the Acquiring Authority should specify what it proposes in the Schedule to the order and include Article 5 in appropriate form.

### ***Description of the land***

6.13. The Acquiring Authority should include all necessary land (including any new rights being created) as land can be added later **only** if all people with an interest in the land agree.

6.14. If the extent and boundaries can be readily ascertained without dispute the Acquiring Authority may not need to include the extent of the land. For example, for a flat or house with a postal address it need not usually include the extent. However, if there is any potential for dispute it should include the extent of the land in square metres, where possible.

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<sup>3</sup> Compulsory Purchase of Land(Scotland) Regulations 2003 <http://extwprlegs1.fao.org/docs/html/uk47641.htm>

6.15. In describing the land the Acquiring Authority should:

- Include the postal address of each plot. It should take particular care where street numbers do not follow a regular sequence, or where individual properties are known by more than one name or number, and the flat position. It should amplify the description as necessary to avoid any possibility of mistaken identity;
- Describe each plot in terms that can be readily understood by a layperson and in sufficient detail to tell the reader where the land is situated without the need to refer to the map. It should use simple descriptions in ordinary language. For example, where the land is agricultural it might describe it as 'pasture land' or 'arable land' and it might describe forested areas as 'woodland'. If necessary, it should relate the land to a well-known local landmark, for example 'situated to the north of Main Street and 1km east of Smithy Farm';
- If the land is registered in the Land Register of Scotland it should include the Title Number of the land. If the land is not yet registered it should refer to a deed recorded in the Register of Sasines that contains a full description of the land, where possible;
- Where the description includes a reference to Ordnance Survey field numbers it should also state the sheet numbers of the Ordnance Survey maps on which these field numbers appear. The Ordnance Survey map reference should quote the edition of the map.

### ***New rights short of ownership***

6.16. If the Acquiring Authority seeks to acquire any new rights short of ownership over the land, it should show the land over which it seeks each new right as a separate plot.

6.17. It should describe the nature and extent of each new right. Where it seeks to take new rights for the benefit of a plot or plots, it should say this in the description of the rights plots.

6.18. It should describe new rights immediately before or after any plot to which the rights relate. If this is not practicable it should show the rights in the Schedule and cross-refer as appropriate between the related plots.

### ***Owners, lessees and occupiers***

6.19. When completing the First Schedule of the Compulsory Purchase of Land (Scotland) Regulations 2003, the Acquiring Authority should try to identify as fully and accurately as possible all owners, lessees and occupiers of the land in question – drawing on the land referencing work it has undertaken (see guidance note CPOGNAA/002). Detailed advice on completing the schedule is provided in the regulations but Authorities should:

- Include the registered address of a corporate body where it is an owner, lessee or occupier;
- Show the names and addresses of the office bearer(s) where an owner, lessee or occupier is an unincorporated body (such as clubs, chapels and charities);
- Not include tenants who have resided in a property for a month or less;
- Include any person who the Acquiring Authority is clear that they are an owner, lessee or occupier but is uncertain which of these categories they fall into; and
- Put 'unknown' in the appropriate column where the Acquiring Authority is satisfied, after reasonable inquiry, that it is not practicable to ascertain the name or status of the owners, lessees and occupiers of any part of the land.

### ***Special categories of land***

- 6.20. It is not possible to include land that an Acquiring Authority already owns in a CPO. Where an Acquiring Authority wishes to acquire the interests of other parties in such land the Order should make it clear that the heritable interest of the Acquiring Authority is not being acquired, only the areas or interests in land which are not already owned by the Acquiring Authority.
- 6.21. Only in some circumstances can Crown land be compulsorily purchased. Therefore, if Crown owned land is sought to be acquired, careful consideration of the terms of the legislation under which the CPO is to be promoted will be necessary to ensure that adequate powers exist. Early discussions with the Crown Estate Scotland and relevant Scottish Government officials are also advised.
- 6.22. At the time an Order seeking to purchase Crown land is submitted for confirmation, Scottish Ministers will take cognisance of the proposals against their Crown Estate management functions in addition to their usual considerations.
- 6.23. Special categories of designated land (such as Sites of Special Scientific Interest or Scheduled Ancient Monuments) can normally be purchased compulsorily. However, due to additional requirements and consents necessary to use this land, Acquiring Authorities should make early contact with the appropriate authority responsible for protecting or maintaining the site to ascertain whether their proposals for the site are likely to be acceptable. For example, Scottish Natural Heritage for an SSSI or Historic Environment Scotland for Scheduled Ancient Monuments.

### ***The Order map(s)***

- 6.24. The map accompanying an Order should not generally be less than 1/2500 and, ideally, should be at 1/1250 scale. Where this is not possible (for example, where the land take is very large) the Acquiring Authority may, as a last resort, use an overview map at 1/10000 scale. Where the Order includes a number of small plots, it should consider using insets on a larger scale so that they can be accurately identified and understood. Maps should also show the orientation of the site by indicating which way is north.
- 6.25. Where an Acquiring Authority intends to submit a set of maps or a map which comprise of more than one separate plan or sheets, these **must** be correctly referred to in the Order. Failure to do so can cause delays and potentially invalidate the Order, or, if applicable, result in the Order being modified by Scottish Ministers.
- 6.26. The heading of the map(s) should be identical to the map headings used in the body of the order. The Acquiring Authority should include the words 'this is the map referred to in [order title]' on the map(s).
- 6.27. The Acquiring Authority must clearly identify the land. Where it uses colouring, the long-standing convention is that land to be acquired is shown delineated in red and coloured pink and land over which a new right would be created is delineated in red and coloured blue.
- 6.28. If it needs to use more than one map, it should bind the maps together and show on a key or master 'location plan' how the various sheets are related.

- 6.29. It should use a location plan only for the purpose of enabling speedy identification of the whereabouts of the area to which the Order relates. It should use the order maps, and not the location plan, to identify the boundaries of the land to be acquired. Therefore, while it should mark the order map 'this is the Map referred to in [name of order]', it should mark a location map 'This is the location plan for the Map referred to in [name of order]'. If the location plan is correctly included and referred to in the Order then it will be part of the Order but it will remain only a location map.
- 6.30. The Order map should show such details as are necessary to relate it to the description of each parcel of land in the order Schedule(s). If necessary, the Acquiring Authority should mark on the map the names of roads and places or local landmarks not otherwise shown. The boundaries between plots should be clearly delineated and each plot separately numbered to correspond with the order Schedule(s).
- 6.31. If the Acquiring Authority seeks to create new rights short of ownership over the land it should clearly distinguish between land over which new rights would remain in force, and any land which the Acquiring Authority seeks to acquire as part of its wider interests.
- 6.32. There should be no discrepancy between the order Schedule(s) and the map(s) and no room for doubt as to the precise areas of land included in the order. If the order, when read with the order map, fails to clearly identify the extent of the land to be acquired, Scottish Ministers may refuse to confirm the order, even if there have been no objections lodged to the order.

### ***Copies of maps***

- 6.33. The Acquiring Authority should produce and authenticate (or “certify as a true copy”) a hard copy of the order and map(s). A copy of the Compulsory Purchase Order and high resolution version of maps should also be sent electronically to the relevant Scottish Government Lead Officer when requesting a technical check.

### ***Newspaper Advertisements***

- 6.34. A draft newspaper advertisement notifying the public of the creation of the Order, providing information on where to find details of the Order, and where to send an objection to the Order, should also be prepared as well as any personal notices. These advertisements and notices should only be issued once a technical check has been carried out by the Scottish Government, and the Acquiring Authority has passed a resolution approving the Compulsory Purchase Order.

## **7. Technical Check**

- 7.1. Scottish Ministers strongly encourage Acquiring Authorities to utilise a free technical check available for any draft Order. It is a very useful process for Acquiring Authorities in the period **after** the CPO, the associated Statement of Reasons and draft advert have been prepared, and **prior** to it being signed off by the Acquiring Authority.
- 7.2. The technical check allows Scottish Government to carry out a broad ranging review of the technicalities of the draft CPO and supporting documents with a view to identifying potential legal and procedural issues which may adversely impact any submitted CPO.

7.3. The technical check does not look at the merits of a draft CPO or its justification. The technical check will be limited mainly to consideration of the CPO with reference to the relevant Acts, regulations and procedural matters.

7.4. Acquiring Authorities should ensure that the following is sent electronically to the relevant Lead Officer:

- The draft CPO, Schedules and Map(s);
- A statement as to the purpose for which the land is being acquired (also referred to as the statement of reasons); and
- Draft adverts and public notices.

If it has doubts about any particular technical points it may seek comments from the Scottish Government as to the position Ministers may take in relation to the particular issue.

7.5. The Acquiring Authority should provide:

- The details of how the proposal will be financed;
- Details of whether the proposal sits within the local development plan, relevant local strategy, investment plan or equivalent;
- Details of who will take forward the development, and what contracts are in place;
- The number of parties who are likely to be affected by the CPO, either directly, or indirectly; and
- The level of engagement the Acquiring Authority has had with landowners about the proposals.

7.6. It would also be useful for the Acquiring Authority to provide any initial position land owners (or those effected) have taken during the Acquiring Authorities engagement with them. This can greatly assist the Scottish Government Department for Planning and Environment Appeals plan resources for a potential Inquiry if the objections are maintained once the Order has been passed to Scottish Ministers for confirmation.

7.7. The Scottish Government will aim to provide comments on the Order and associated documents within one month of receipt provided **all** the information it requires has been supplied.

7.8. This technical examination and any comments that Ministers provide about technical points is without prejudice to their role in later considering the order for confirmation. Furthermore, completion of a technical check does not guarantee that errors or mistakes may not be identified at a later stage, for example, when the CPO is formally submitted for consideration.

7.9. On completion of the Technical Check, the Acquiring Authority should make any necessary corrections and take any additional steps identified before formally submitting the CPO to the Scottish Government for confirmation.

## **8. Making or Resolving the Order**

- 8.1. Depending on the Acquiring Authority, the terms “Making” or “Resolving “ of an Order is when the Acquiring Authority agrees to the use of a CPO.
- 8.2. Once the Order is made, Scottish Ministers should be informed as soon as practicably possible of this decision, and **always prior** to any public notices being issued. This is to ensure that Scottish Ministers are ready to receive any objections to the Order.
- 8.3. At this stage (as noted in paragraph 4.2) the Acquiring Authority must serve notices on all those affected by the CPO and advertise the making of the Order. The form that these notices and advertisements must take is prescribed in statute.
- 8.4. Once notices have been served and the CPO advertised it is ready for sending to Scottish Ministers for determination. Guidance note CPOGNA/004 provides details on how to do this and how they will go about making their decision.

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