

Digital Scotland Superfast Broadband

**To further extend coverage of
Superfast Broadband across
Scotland**

State Aid Public Consultation



10th May 2016

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1. Introduction

The Scottish Government has set ambitious policy objectives aimed at delivering world class digital infrastructure across Scotland by 2020.

As a key first step, the Scottish Government, Highlands and Islands Enterprise (HIE), local authority partners and the private sector are investing over £410 million in the Digital Scotland Superfast Broadband (DSSB) programme that is extending fibre broadband infrastructure into non-commercial areas.

Alongside commercial rollout, the DSSB programme will extend access to fibre broadband to 85% of premises by 2015/16 and at least 95% of premises across Scotland by 2017/18.

The DSSB programme is being delivered through two regional projects – one covering the Highlands and Islands; the other covering the Rest of Scotland. Procurement of the Highlands and Islands project was led by HIE. The process started in June 2011, before the BDUK Framework was in place, so the project was tendered through an open procurement process, which went through an Official Journal of the European Union (OJEU) Competitive Dialogue procedure. A State Aid Public Consultation was concluded in August 2012, and the procurement contract was awarded to BT in March 2013.

The Rest of Scotland project procurement was led by the Scottish Government using the BDUK framework. An Open Market Review (OMR) was completed in July 2012, with a State Aid Public Consultation

finalised in March 2013. BT was awarded the contract in July 2013 with State aid approved public funding of £270m .

This consultation refers only to the Rest of Scotland project. A consultation for the Highlands and Islands project was issued on the 23rd March 2016 by Highlands and Islands Enterprise.

The contracts with BT included provisions to ensure that the full amount of the public funding is deployed, and that in the event that take-up of superfast broadband services exceeds forecasts in the contracts, then the amount of public subsidy required would subsequently be reduced to reflect this. Any funds released are then available to be reinvested into further coverage of Superfast Broadband under the terms of the contracts.

In August 2015, BT announced that take-up across the UK was likely to exceed the forecast level of 20%. To date, BT has made available up to £129m across the UK to meet the contractual obligations outlined above. **The Rest of Scotland project has received an initial allocation of £15.6m and intends to reinvest this in further coverage as part of the current contracts – the so-called “Gainshare”.**

Purpose

The purpose of this public consultation is to confirm the areas which do not have Next Generation Access (NGA) broadband infrastructure delivering at least 30Mbps, or where there are no plans to provide such infrastructure over the next three years. These are described as “white NGA areas”. This is to enable all interested stakeholders - the public, businesses and telecommunications providers - to comment on the proposed white NGA areas **before the use of this £15.6m Gainshare funding is committed.**

The Scottish Government will then submit its final proposals for the NGA white area, taking account of the outcome of the public consultation, to BDUK’s National Competence Centre for clearance.

2. Timescales

This State Aid public consultation will be open and run until 17:00 on 10th June 2016.

Once the State aid public consultation is complete and the white NGA areas have been finalised by DSSB, a change will be agreed by the Scottish Ministers and BT to deliver the extended Superfast Broadband coverage.

3. NGA mapping

This section provides a brief overview of NGA mapping for the purpose of informing responses to this State Aid public consultation. NGA maps for the Rest of Scotland project can be found at Annex A of this document.

The European Union State Aid rules are designed to ensure that any use of public funding ('State Aid') is targeted at areas of market failure and produces positive market outcomes while minimising any distortion to competition.

The State Aid rules require public interventions to be targeted so as to limit the risk of crowding-out or disincentivising existing and/or concrete planned private sector investments that would otherwise meet the desired policy objectives. In the context of broadband, the 2012 State Aid Decision permits the use of public funding only to extend broadband coverage in geographic areas where there is no provision of Superfast Broadband and it is unlikely to be developed in the near future (within the next three years).

The '*EU Guidelines for the application of State aid rules in relation to the rapid deployment of broadband networks*' (2013/C 25/01) can be found at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2013:025:0001:0026:EN:PDF>.

The objective of the further investment is to provide access to NGA infrastructure which is capable of delivering access line speeds of at least 30Mbps.

The objective of this intervention is to target the reinvestment funding at areas that were designated as white NGA areas through the previous public consultation DSSB completed in March 2013 and where there have subsequently been no plans to deploy as part of the existing contract between the Scottish Government and BT. New postcodes created after this public consultation have been targeted for reinvestment funding.

These areas are identified as 'in scope' for gainshare funding on the map at Annex A to this document.

The DSSB Programme has changed its definition of NGA white areas from that used in its previous consultation of March 2013. In Annex A, areas with speeds below 30Mbps are identified as "NGA white areas", whereas they had previously only been identified as NGA white areas where they had speeds below 24Mbps.

Nevertheless, the area that is the target of this intervention is identified as NGA white under both approaches.

4. Responding to this State Aid Public Consultation

The information requested is specified in the following section (Section 5). When responding to this request, the Scottish Government would be grateful if you could provide the following:

- Your organisation's name
- Your organisation's address
- Your name
- Position
- Contact telephone number
- Email address
- Publishing preference
- Permission to contact

We also request confirmation from an authorised signatory that the information provided is suitably accurate and up-to-date.

Please send your response to arrive no later than 17:00 on 10th June 2016 to:

Via email to SuperfastPMO@gov.scot (marked "DSSB Public Consultation Response").

Or by post to:
Digital Scotland Superfast Broadband
Public Consultation Response
7th Floor
5 Atlantic Quay
150 Broomielaw
Glasgow G2 8LU

Please note that any information you provide in your response will be treated as commercially confidential to your organisation. However, it may be necessary to share some or all of your response with our professional advisors and/or DCMS/BDUK, Ofcom, the National Competence Centre, and the European Commission, in the course of seeking State Aid approval. The DSSB Programme is also subject to certain legal obligations to disclose information in certain other limited circumstances.

It should also be noted that it is a State Aid requirement to utilise the information provided in response to this consultation to refine our State Aid maps to define White/Grey/Black areas for NGA and Basic Broadband. However, the published maps will show the aggregated White/Grey/Black NGA and Basic Broadband areas, not the data provided on a per-operator basis.

If you have any questions about this State Aid public consultation process, please contact the DSSB Team by email at: SuperfastPMO@gov.scot (marked "DSSB Public Consultation")

5. Information Requested

If you are a telecommunications provider, this section specifies the information you are requested to provide in response to this State Aid public consultation.

The DSSB Programme is requesting information on, and supporting evidence for, any current broadband infrastructure or planned investment (within the next 3 years) in Scotland, where these may not already be included within the proposed NGA and Basic Broadband Intervention Area maps attached. An Excel spreadsheet has been made available which lists all the 'in scope' postcodes coloured white on the map.

For the avoidance of doubt, if you are content with our proposed State Aid Intervention Areas, no further response is required.

For any current or planned coverage not included within the proposed State Aid Intervention Areas shown on the attached maps, the DSSB Programme is requesting information on the premises covered (or planned to be covered) by your broadband infrastructure investment.

The DSSB Programme is asking for information on coverage of Basic Broadband and NGA Broadband coverage separately (to enable us to map the Basic Broadband and NGA White/Grey/Black maps required for State Aid purposes). By 'covered' (or 'passed') the DSSB Programme means that fixed network infrastructure is or will be available to the premises, potentially subject to a final drop connection, or that the premises are able to receive a suitable quality radio signal over the air interface (in the case of wireless or satellite coverage), potentially subject to the installation of a suitable antenna. Where an operator is responding with current or planned coverage for NGA, it must respond to confirm those premises that it is able to provide a broadband service with an access line speed (or equivalent) of at least 30Mbps.

Any information provided in response to this State Aid public consultation should include, but need not be limited to:

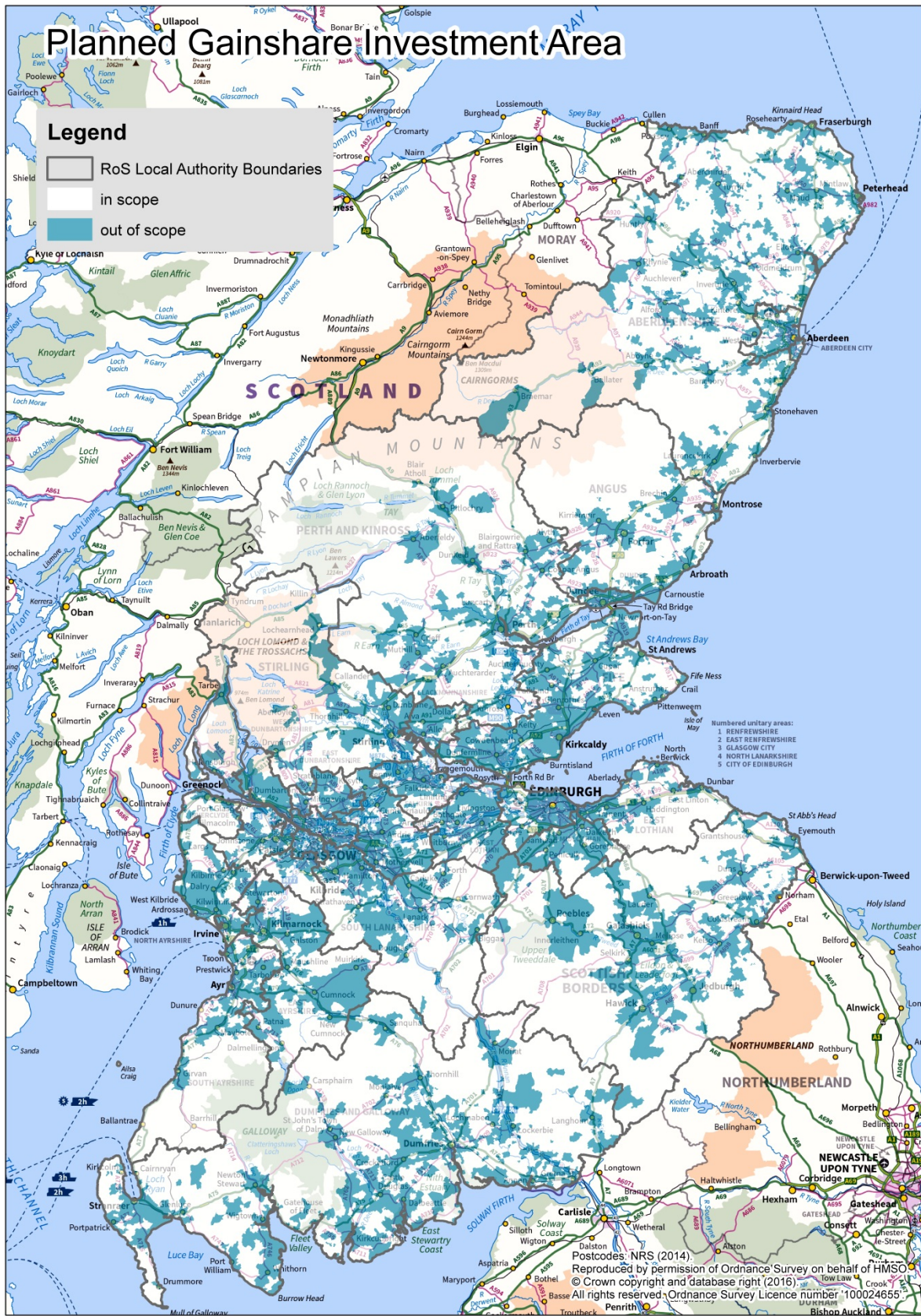
- Detailed maps for NGA and Basic Broadband showing the existing coverage, and separately maps detailing the planned investment in NGA and Basic Broadband for at least the next 3 years.
- Details of the actual premises covered or passed within postcodes (at 7-digit postcode level), and confirmation that fixed network infrastructure is available to the premises, potentially subject to a final drop connection, or that the premises are able to receive a suitable quality radio signal over the air interface (in the case of wireless or satellite coverage), potentially subject to the installation of a suitable antenna.
- A detailed description of the technology solution(s) deployed (or to be deployed) in your broadband infrastructure, and where these claim to be NGA, demonstrate how they meet the minimum standards as set out in the BDUK NGA Technology Guidelines¹.
- A description of the services/products currently offered, and separately those services/products to be offered within the next 3 years.
- Installation, annual/monthly subscription, and additional volume or per-service tariffs for those services/products (identifying whether such tariffs are inclusive or exclusive of VAT).

¹ <https://www.gov.uk/government/publications/state-aid-guidance-technology-guidelines>

- Upload and download speeds typically experienced by end-users, and how these may vary by factors such as distance, increased take-up or demand, contention, etc.
- Appropriate indicators of the quality of services (e.g. contention ratios, bandwidth allocation per user, etc), including any characteristics (e.g. latency, jitter) that are required to support advanced services such as video conferencing or HD video streaming.
- Evidence to substantiate actual or planned coverage claims, including business cases and evidence of available funding to enable plans to be fulfilled.
- Details and planned timing of roll-out of any future investments, including further investments required to cope with future increases in take-up and demand.

Please supplement the required information above with any supporting evidence as you consider appropriate (e.g. links to public websites, etc).

Annex A





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