

# **Highlands and Islands Enterprise Community Broadband Scotland**

**STATE AID PUBLIC CONSULTATION**

**HebNet Elgol, Isle of Skye**

**21/04/2017**

## **New procurements to further extend coverage of Next Generation Access (NGA) Broadband across Community Broadband Projects within Scotland.**

### **1. INTRODUCTION AND BACKGROUND**

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

As a key first step, over £400m is being invested in the Digital Scotland Superfast Broadband (DSSB) programme that is extending next generation broadband infrastructure into non-commercial areas. Alongside commercial rollout, the DSSB programme will extend access to next generation 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. Both projects were procured in 2013, by Highlands and Islands Enterprise and the Scottish Government respectively, with BT the successful bidder for both.

The Scottish Government has also established Community Broadband Scotland (CBS), to support the development of community-led schemes in those areas least likely to have a Next Generation Access solution delivered by the DSSB programme. The Scottish Government has committed £7.5 million to CBS to March 2018. In addition, £9 million has been allocated from the 2014-20 Scottish Rural Development Programme (SRDP) to support broadband delivery in the most rural communities.

CBS is working with a number of communities that are unlikely to benefit from the main programme, and assisting them as they move towards formal procurement of broadband solutions. This is likely to result in a number of new regional procurement opportunities, as the reach of the main DSSB programme becomes clear. These projects will be taken forward, utilising existing CBS resources and the £9 million from the SRDP.

A State Aid Public Consultation process is not a specific requirement for De Minimis projects, but is regarded as good practice to help inform the definition of the intervention area. The objective of the Community Broadband Project in scope of this State aid Public Consultation is to deliver a step change in available broadband speeds to all parts of the community, within the limitations of the intervention area.

## 2. MARKET ENGAGEMENT AND ANALYSIS OF EXISTING COVERAGE

The base mapping for the project has been developed through consultation/review of the target area with the Scottish Government. This concludes that the in-scope postcodes/and all premises within the postcodes will remain unable to receive an NGA service.

This information has been used to define the proposed intervention area for a forthcoming extension of the existing HebNet community broadband network. Please see Annex 1 for detailed NGA state aid maps as currently defined. This State aid public consultation sets out the proposed intervention area, so as to enable all interested stakeholders (including the public, businesses, internet service providers and broadband infrastructure operators) to comment on the proposals. In particular, this provides an opportunity for broadband infrastructure operators to review CBS's mapping.

Upon completion of this State aid public consultation and review of all comments received, a final intervention area will be defined. The State aid requirements which guide the determination of an intervention area for the purpose of public sector intervention in the delivery of broadband infrastructure are provided in section 3 below.

All responses to the public consultation will be carefully considered and where necessary will be incorporated into the final map of the intervention area. The final intervention area map and a summary report confirming details of the changes made to the proposed intervention area will be published on the CBS website shortly after the close of the consultation period. Where responses to the consultation are received, CBS will respond to these and provide an explanation of how the information submitted has been treated.

## 3. STATE AID FRAMEWORK AND RULES

This section provides a brief introduction to the State Aid Framework for the purpose of informing responses to the public consultation. Respondents may wish to obtain their own professional/legal advice on the application of the State Aid Framework and rules that relate to this proposal.

The European Commission has published '*EU Guidelines for the application of State aid rules in relation to the rapid deployment of broadband networks*' (2013/C 25/01)<sup>1</sup>. These guidelines summarise the principles of the Commission's policy in applying the State aid rules of the Treaty to measures that support the deployment of broadband networks, and seek to ensure that State aid schemes for broadband are well-designed so that they target market failures and minimise negative effects on competition.

The guidelines require public interventions to be targeted so as to limit the risk of crowding out private investments, of altering commercial investment incentives and ultimately of distorting competition.

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<sup>1</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2013:025:0001:0026:en:PDF>

The Commission's guidelines distinguish between two types of broadband networks, namely basic broadband and NGA networks.

Basic broadband networks are generally those based on currently widely-deployed technologies such as fixed wired telephony networks (using ADSL/ADSL2+ technologies), non-enhanced cable TV networks (e.g. DOCSIS 2.0), mobile networks (2G/3G (UMTS)), some fixed wireless access (FWA) networks, and satellite networks.

NGA networks rely wholly or partly on optical elements (optical fibre) and are capable of delivering an enhanced broadband capability compared to existing basic broadband networks. Current qualifying NGA technologies are fibre-based networks (FTTx), advanced upgraded cable networks (DOCSIS 3.0) and certain advanced wireless access networks capable of delivering reliable high speeds.

Guidance on the characteristics of qualifying NGA technologies is available from BDUK.<sup>2</sup>

The Commission's guidelines also require that public intervention should be able to ensure a 'step change' in broadband availability. This is demonstrated by:

- Significant new investments in the broadband network;
- The new infrastructure brings significant new capabilities to the market in terms of broadband service availability and capacity, speeds and competition<sup>3</sup>;

The 'step change' in broadband availability shall be compared to that of existing as well as concretely planned networks.

The Commission's guidelines also distinguish between geographic areas on the basis of their existing or planned broadband infrastructure:

- 'White' areas are those in which there is no qualifying broadband infrastructure and none is likely to be developed within 3 years;
- 'Grey' areas are those where only one network operator is present or is to be deployed within the coming 3 years; and
- 'Black' areas are those where at least two networks of different operators exist or will be deployed in the coming 3 years.

This geographic mapping of White/Grey/Black areas is carried out separately in relation to basic broadband and NGA networks. NGA networks are mapped on the basis that, amongst other things, they have substantially higher upload speeds (compared to basic broadband networks)<sup>4</sup> and are able to deliver broadband services at an access (download) speeds of at least 30Mbps. Basic broadband for the purposes of the geographic mapping is based on the delivery of broadband services (download) speeds of more than 2Mbps and less than 30 Mbps.

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<sup>2</sup> <https://www.gov.uk/government/publications/2016-nbs-tech-guidelines>

<sup>3</sup> See Footnote 66 of the Commission's Guidelines - this sets out that the subsidised network should be pro-competitive (i.e. allow for effective access at different levels of the infrastructure).

<sup>4</sup> Substantially higher upload speeds means at least a doubling of the maximum upload speed available on current generation access network(s) for given 'up to' packages available on basic broadband networks in the relevant intervention area.

## 4. PROPOSED INTERVENTION

The Community Broadband Project in scope of this State aid Public Consultation compromise a total of **46** premises spread across two postcodes as identified from AddressBase Plus, from Ordnance Survey taken at October 2016. Table 1 provides a breakdown of the postcodes and number of premises in scope of these areas.

Appendix 2 provides a list of the premises in each postcode that are in scope of this State aid Public Consultation.

Area	Postcode	Residential Premises	Non residential Premises	Total Premises
Elgol (West)	IV49 9BJ	11	2	13
Elgol (South)	IV49 9BL	30	3	33
<b>Totals</b>		<b>41</b>	<b>5</b>	<b>46</b>

*Table 1: Community Broadband Projects in-scope Areas*

### **CBS Funding**

CBS intend to provide a de minimis grant of aid to HebNet CIC to provide NGA services to the in-scope postcodes/premises.

CBS will provide support to the HebNet CIC with a view to processing a capital grant application totalling around £45,000.

### **Timescales**

This consultation will be open until 19/05/2017

Once the State aid public consultation is complete and the intervention area of the Community Broadband Project have been formalised by CBS, a grant aid application will be progressed by HebNet CIC. The intention is to enable the necessary works be undertaken in mid to late 2017.

## 5. STATE AID PUBLIC CONSULTATION

A State Aid Public Consultation process is not a specific requirement for De Minimis projects, but is regarded as good practice to help inform the definition of the intervention area.

The EU Guidelines (at paragraph 78) and the 2016 NBS set out the requirements to hold a public consultation in order to validate the intervention area mapping by allowing all interested stakeholders an opportunity to comment on the planned aid measure.

The purpose of this document is to fulfil those requirements by publishing a description of the proposed aid measure, and seeking feedback from all interested stakeholders. The mapping for NGA broadband is shown in the attached maps (Appendix 1).

The attached map of the NGA broadband intervention area relies on the definitions of white, grey and black areas, as set out in the EU Guidelines (and as summarised above in section 3).

This State aid public consultation and the proposed NGA broadband intervention area maps are available to all stakeholders on the CBS website at <http://www.hie.co.uk/community-support/community-broadband-scotland/updates/state-aid.html> and will also be available via BDUK's website at [BDUK Table of local broadband projects](#).

The final public consultation report will be published on the CBS website as detailed above.

## **6. RESPONDING TO THIS STATE AID PUBLIC CONSULTATION**

CBS is requesting information and supporting evidence in relation to the presence of NGA broadband infrastructure within the intervention area and wish to hear from all relevant stakeholders (including residents, businesses as well as broadband infrastructure operators), particularly in relation to areas to be targeted as part of the NGA intervention area shown in Appendix 1.

Note: For the avoidance of doubt, there is no need to respond to this public consultation if you have no comment to make.

For residents and businesses, where this relates to the ability to receive an NGA service, any information provided in response to this State aid public consultation should as a minimum include (but need not be limited to) the address of the property or area that the submission relates to and the nature of the concern.

If the response is from an infrastructure provider and comments on the white, grey and/or black classifications within the attached maps or data, or on the wholesale products to be offered via the subsidised network, then the submission should also include the specific information set out in Section 8.

**A full Public Consultation response template incorporating a spreadsheet with all of the premises within the proposed area will be released to providers once the attached Ordnance Survey One Scotland Mapping Agreement (OSMA) End User/ Contractor licence has been signed and returned.**

This is a requirement of the HIE license with Ordnance Survey in order to share the base data with suppliers. Please ensure that the relevant company details are provided where highlighted in the Contractor license document before returning.

For all submissions, CBS would be grateful if you could confirm in your submission the following:

- Your organisation's name (if applicable)
- Your organisation's address (if applicable)
- Your name
- Position
- Contact telephone number
- Email Address

CBS also requests 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 5pm on 19/04/2017 to:**

By email: [cbs-enquiries@hient.co.uk](mailto:cbs-enquiries@hient.co.uk) (marked "HIE Community Broadband Projects Consultation Response").

Or by post:

Highlands & Islands Enterprise  
Community Broadband Scotland  
An Lòchran,  
10 Inverness Campus,  
Inverness  
IV2 5NA

Please note that the data you provide in your response will be treated as commercially confidential to your organisation. However, it may be necessary to share/some all of your response data with our professional advisers and/or DCMS/BDUK, Ofcom, the BDUK National Competence Centre and the European Commission.

It should also be noted that it is a State aid requirement to use this information to produce State aid maps to define White, Grey and Black areas for basic and NGA broadband. However, the published maps will show the aggregated White, Grey and Black NGA and Basic Broadband areas, not the data provided on a per-operator basis. The final maps that will be used for procurement purposes will be published shortly after the conclusion of this State aid public consultation.

If you have any questions about any of the above, please contact the CBS team by email at: [cbs-enquiries@hient.co.uk](mailto:cbs-enquiries@hient.co.uk)

## **7. INFORMATION REQUESTED**

This section specifies the information you are requested to provide in response to this State aid public consultation in relation to the presence of broadband infrastructure.

CBS is requesting information on, and supporting evidence for, any current or planned (within the next 3 years) investment in broadband infrastructure in the proposed

broadband projects intervention area, where this may not be already included within the proposed NGA intervention area maps attached.

For any current or planned coverage not included within the proposed State aid intervention areas shown on the attached map, CBS is requesting information on the postcodes, and the number of premises within each postcode, covered (or planned to be covered) by your broadband infrastructure investment. By 'covered' (or 'passed') CBS 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, potentially subject to the installation of a suitable antenna.

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

- Detailed maps for NGA broadband showing existing coverage and, separately, planned coverage, for at least the next 3 years;
- Details of premises covered or passed to individual premises level to appropriately define the footprint of operator's coverage or intended coverage (please refer to the Public Consultation Response Template). Confirmation should be provided 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, demonstrating how they meet the minimum standards as set out in the BDUK NGA Technology Guidelines<sup>5</sup>;
- 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);
- 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;

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<sup>5</sup> <https://www.gov.uk/government/publications/2016-nbs-tech-guidelines>

- Details and planned timing of roll-out of any future investments, including further investments required to cope with future increases in take-up or demand.

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

CBS would also be interested to hear the view from operators as to the types of wholesale access products they would like to see offered on any newly created subsidised NGA network infrastructure resulting from any public intervention in the future. CBS believes that this could be a useful market research exercise and the information may inform the intervention design. Please note that Community Groups are not obliged to include for these products to be included in the invitations to tender, unless the access product is already required under any State aid Decision<sup>6</sup>. This does not negate the need to allow the access seeker to request new forms of access product through the formal general access provisions under the terms of a future State aid Decision in relation to the provision of subsidised broadband infrastructure.

## 8. NEXT STEPS

CBS plans to publish the final intervention area maps shortly after the close of the consultation period.

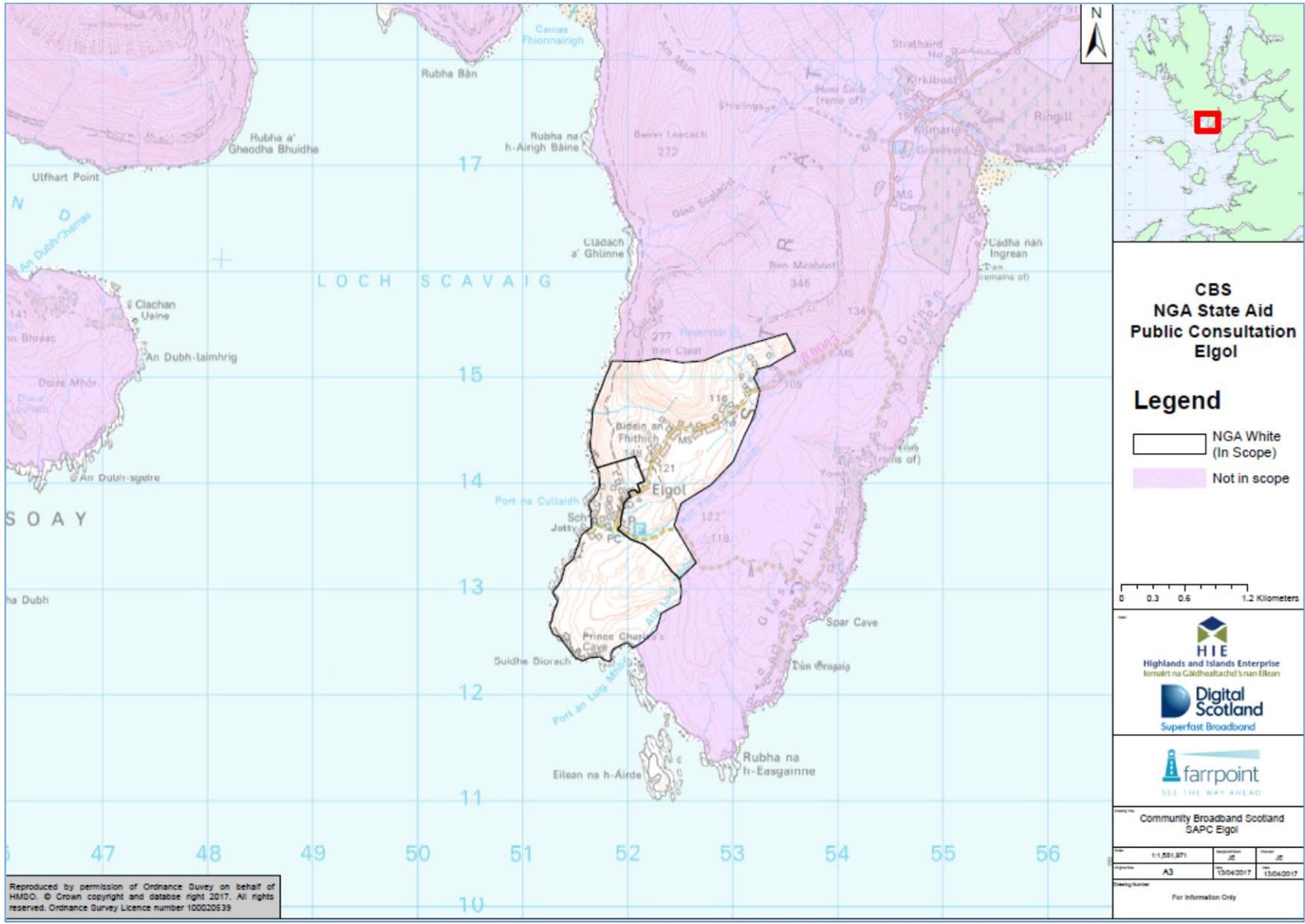
Information about CBS can be found at <http://www.hie.co.uk/community-support/community-broadband-scotland/>

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<sup>6</sup> Operators will still be able to request new forms of access products on the subsidised NGA network infrastructure through the formal general access provisions under the terms of a future State aid Decision.

**Appendix 1: (follow on pages):**

NGA map for in-scope postcodes.



## **Appendix 2:**

[Postcode/ premises lists of Community Broadband Projects intervention area]

**A full Public Consultation response template incorporating a spreadsheet with all of the premises within the proposed area will be released to providers once the attached Ordnance Survey One Scotland Mapping Agreement (OSMA) End User License contained in Appendix 3 has been signed and returned.**

## Appendix 3:

### Ordnance Survey One Scotland Mapping Agreement (OSMA) End User licence.



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**Please insert Organisation name and address in item 2, print, sign and witness and return two copies to:**

**Heather Smith  
Data Analyst  
Highlands and Islands Enterprise  
An Lòchran  
10 Inverness Campus  
Inverness  
IV2 5NA**

This is a requirement of the HIE license with Ordnance Survey in order to share the base data with suppliers. Please ensure that the relevant company details are provided in the Contractor license document before returning.

Organisations that have completed an Ordnance Survey One Scotland Mapping Agreement (OSMA) End User licence on a previous occasion should email CBS at [cbs-enquiries@hient.co.uk](mailto:cbs-enquiries@hient.co.uk) confirming a license is in place and requesting the base data. If contacting CBS by email or post please include the following in the subject field/ letter head: SAPC Elgol.

When returning the document or contacting CBS, please confirm the following:

- Your organisation's name (if applicable)
- Your organisation's address (if applicable)
- Your name
- Position
- Contact telephone number
- Email Address

This information will enable the prompt transmission of the Postcode/ premises lists for the proposed Community Broadband Project intervention area.