

## APPENDIX 1

**PROPOSED RESPONSE TO CONSULTATION QUESTIONS**

In responding to the following consultation questions, confirmation has been sought and received from the Scottish Executive that the proposals and draft regulations are not intended to apply to Roads Authorities seeking to connect surface water drains to sewers or combined surface/foul systems, and that these arrangements would continue to be dealt with under the Sewerage (Scotland) Act 1968 (Section 7) as amended.

**Question 1 – Do you agree that Scottish Water’s contribution should be targeted at all local infrastructure (Part 2 and Part 3), with developers funding immediate connections (Part 1) and Scottish Water funding strategic capacity (Part 4)?**

Response – In principle, yes, but it is also important that Scottish Water’s contribution adequately addresses local needs arising in small towns, villages and rural areas which may differ from larger urban areas. Affordability issues also arise including the scale of investment required and ongoing concerns in respect of development involving those on low incomes, charitable organisations etc. See also responses to Questions 8 and 9 which include discussion on developer contributions which in some cases may be sought to bring forward funding of strategic capacity.

**Question 2 – Should the Regulations define Scottish Water’s contribution towards (a) domestic properties only, or (b) domestic and non-domestic properties?**

Response – Subject to determining a method providing a clear basis for calculating reasonable cost for non-domestic property transparently and equitably, there would be advantages in including both domestic and non-domestic properties within the Regulations.

**Question 3 – If the Regulations were to define reasonable cost for non-domestic properties, what method do you suggest should be used?**

Response : The current approach based simply on the surface area of the development is flawed. The consultation paper makes some suggestions, for example, distinguishing between water consumption at a domestic scale and developments with much larger water consumption. Some estimate of anticipated water/drainage usage will probably be required for any meaningful method and this could include discussion/agreement between Scottish Water and developers which would also extend to speculative development.

**Question 4 – Do you agree that Scottish Water’s contribution should be limited to an amount based on future income from that connection and payable only when a development is well advanced?**

Response – The consultation paper proposes that instead of using the exact charge income for a particular property based on its Council tax band, an average water charge and an average sewerage charge would be used for each water and sewerage connection respectively. This approach removes any inequity in providing a larger contribution for higher banded properties, given that connection costs will not vary directly with Council tax band. This appears beneficial insofar as it should assist those who have least ability to pay, who might be expected to be the owners or buyers of the lowest banded properties. While the general principle appears reasonable, there continues to be a need to have full regard to the impact on particular interest groups and to make provision for increased contributions from Scottish Water where required to support wider community needs. The timing of Scottish Water’s contribution to a new connection may be phased in relation to the stage a development has reached having regard to the scale and type of development.

**Question 5 – Do you have any comments on the proposed basis for calculating Scottish Water’s reasonable cost contribution?**

Response – The approach proposed, as set out on pages 16 to 19 of the consultation paper, uses a formula involving the charge income from a property, the number of years that an asset provides a benefit for, and the cost of borrowing money. As recognised in the consultation paper, the formula although complex includes only a few variables. Insofar as the proposed approach has regard to determinable factors it appears a sound basis for calculating a base reasonable cost contribution. However, as indicated in response to Question 4 some provision is required for increased contributions from Scottish Water in appropriate cases.

**Question 6 – What factors should be taken into account in setting the variables “n” and “c”, and why?**

Response – The consultation paper formula defines “n” as the number of years income which should be allocated to the asset and “c” as the cost of borrowing money to provide the contribution at the outset. No comment is offered on behalf of the Council beyond recognising that the Water Industry Commission will have a central role in determining the figures for these variables.

**Question 7 – Do you agree that connections for new properties and existing properties should be treated equally?**

Response – Generally yes, subject to the future availability of further assistance such as through the Private Water Supplies Grant Regulations which could provide grant to meet the costs of connecting some properties to the public water supply in addition to Scottish Water’s reasonable cost contribution. This is particularly relevant in rural areas.

**Question 8 – Do you have any comments on the implications of the draft Regulations on development constraints?**

Response – Angus Council has previously provided COSLA and Scottish Water with detailed information on priorities for the remediation of development constraints via Scottish Waters Investment Programme 2006-2014 (Report No. 696/05 refers). It is of concern that even where a constraint is clearly a Part 4 strategic asset (e.g. Kirriemuir Wastewater Treatment Works) there is as yet no Scottish Water funded proposal pending publication of the Quality & Standards (Q & S) 3 Programme. Similarly, it is of concern that some significant network constraints in Angus (e.g. parts of Forfar and Carnoustie) may be classed as Part 3 local strategic infrastructure where broader reinforcement of the network may not be wholly funded by Scottish Water. In both cases the timing of future investment remains uncertain thereby frustrating development to meet local needs.

**Question 9 – What, if any, provision on reserving capacity would you support and why?**

Response – This is a matter of considerable importance and of significant interest to Angus Council, which has been the subject of previous legal advice commissioned by the Council in response to particular circumstances arising at Kirriemuir. A key concern of the Council is to ensure a co-ordinated approach to future investment which is based upon the scale and location of future development as agreed through the Statutory Development Plan process even if the investment is part funded by developers. In support of this a possible model incorporating relevant safeguards could include:-

- Scottish Water would normally be prepared to reserve capacity for sites which are allocated and adopted in finalised Local Plans or have a current planning permission.

- In the event that sites in the finalised Local Plan are not included in the subsequent adopted Local Plan, Scottish Water reserve the right to terminate the agreement to reserve capacity.
- If Scottish Water revoke the agreement, it shall repay the amount which it received from the developer (index linked).
- Scottish Water would invoke its right to terminate the agreement where:-
  - (i) the land/development for which capacity is reserved is not included in the adopted Local Plan and its continued reservation would delay/prevent developer sites included in the adopted Local Plan from being developed; and
  - (ii) a party who has land included in the adopted Local Plan or for which planning permission exists requests Scottish Water to make capacity available and undertakes to make payment for the purchase of the required capacity.