

State Aid

Public Consultation Report

November 2021

STATE AID PUBLIC CONSULTATION REPORT

Digital Scotland – Reaching 100% Programme

1. INTRODUCTION AND BACKGROUND

The Scottish Government issued a Public Consultation¹ into the eligible intervention area for investment of public funds into Next Generation Access (NGA) broadband infrastructure on 14th December 2020. The period of consultation closed on 24th January 2020. This report outlines the responses received and the subsequent actions taken as a result of the consultation.

The Reaching 100% Programme (R100) aims to extend the availability of NGA broadband infrastructure to meet the Scottish Government's commitment to deliver superfast broadband access to 100% of premises in Scotland. This commitment is captured in the documents 'Realising Scotland's full potential in a digital world: A Digital Strategy for Scotland'² and 'A changing nation: how Scotland will thrive in a digital world'³

To achieve this, the Scottish Government has procured coverage of NGA broadband infrastructure (capable of delivering download speeds of at least 30 Mbps) in areas where such broadband is not currently available. The procurement was split into three geographic lots, with Lot 1 (North) covering the north of Scotland and the islands, Lot 2 (Central) covering the central belt and Lot 3 (South) covering southern Scotland. All three lots have been awarded to BT plc. The Scottish Government has also introduced a demand-led intervention programme for eligible premises not included in those NGA contracts – the Scottish Broadband Voucher Scheme⁴. The Consultation was designed to confirm the status of remaining premises in Scotland to allow for the possible extension of existing contracts and eligibility for the demand-led scheme.

2. PURPOSE OF THIS STATE AID PUBLIC CONSULTATION REPORT

Under the European Commission's State Aid guidelines, public sector intervention in broadband infrastructure investment is limited to those areas where there is no current or planned (within the next 3 years) commercial deployments, to avoid distorting what might otherwise be/become a competitive market.

The Scottish Government previously carried out an Open Market Review (OMR) of all current and planned infrastructure within the scope area between

¹ <https://www.gov.scot/publications/r100-state-aid-public-consultation/>

² <http://www.gov.scot/Publications/2017/03/7843>

³ <https://www.gov.scot/publications/a-changing-nation-how-scotland-will-thrive-in-a-digital-world/>

⁴ <https://www.scotlandsuperfast.com/how-can-i-get-it/scottish-broadband-voucher-scheme/>

December 2016 and January 2017. The submitted data was used to produce a draft intervention area for a Public Consultation⁵, with subsequent amendments and the final intervention area documented via a State Aid Public Consultation Report⁶ and then used for the procurement of the three main R100 contracts. The report was later revised⁷ to take account of increased commercial activity identified by the Scottish Government's ongoing rolling OMR programme.

It is now more than three years since the original Public Consultation and as such, the Scottish Government consulted on the current intervention area to ensure continued compliance with State Aid. The primary purpose is to allow for possible extension/s to the existing contracts into eligible premises within the IA in accordance with the Public Contracts (Scotland) Regulations 2015 and EU Public Procurement Directives and the 2016 National Broadband Scheme (NBS 2016).

3. PUBLIC CONSULTATION RESPONSE

At the time of publication, the Scottish Government was working with ten NGA providers across Scotland, with all ten providing an update as part of the consultation process. A further three responses were received during the consultation period – two from providers and one from a member of the public. The table in Appendix A summarises the responses and the actions that the Scottish Government has taken as a result.

4. REVISED INTERVENTION AREA

As a result of the Public Consultation, the Scottish Government has revised the NGA broadband map (the basic broadband map remains unchanged, but is included for completeness). In line with the previously published Intervention Area, the Scottish Government has mapped areas as white, grey or black at a postcode level, using the following criteria:

For basic broadband (see Appendix B),

- The previous Public Consultation demonstrated that there were no white postcodes for basic broadband. This document is therefore focussed only on NGA broadband.

For NGA (see Appendix C),

⁵ <https://www.gov.scot/publications/digital-scotland-reaching-100-programme/>

⁶ <https://www.gov.scot/publications/digital-scotland-reaching-100-programme-public-consultation-report/>

⁷ <https://www.gov.scot/publications/digital-scotland-reaching-100-programme-public-consultation-report-revised/>

- A postcode is turned grey if there is only one broadband infrastructure operator providing NGA services (with speeds greater than 30Mbps) to that entire postcode
- A postcode is turned black if there are at least two broadband infrastructure operators providing NGA services (with speeds greater than 30Mbps) to that entire postcode
- All other postcodes remain white.

In addition, the intervention area includes a number of “Grey, under review” areas (coloured blue on the map). These areas have been indicated to have planned commercial coverage for NGA broadband (i.e. mapped as grey), but those plans have been reported through the process as being ‘at risk’ (or have otherwise been deemed by the Scottish Government as being ‘at risk’) of not being completed. These areas will be subject to continued monitoring and verification of supplier plans within the proposed delivery period by the Scottish Government and in the event that these commercial plans fall away, these premises will be reclassified as White NGA and form part of the proposed intervention area and therefore eligible for intervention via this aid measure.⁸

The mapping analysis of existing and evidenced planned coverage (within the next 3 years) has identified remaining ‘white NGA’ areas. The outcome of the Public Consultation is summarised in terms of NGA White, Grey, Black and ‘Grey, Under Review’ premises below and in reference to postcode mapping as described above:

⁸ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2013:025:0001:0026:en:PDF>
(paragraph 65)

	Number of Postcodes	Number of Black Premises	Number of Grey Premises	Number of White Premises	Number of Grey, Under Review Premises
White	29,970*	15,840	155,118	198,548	18,322
Grey	90,366	372,418	1,375,081	-	-
Black	29,289	571,767	-	-	-
'Grey, Under Review'⁹	4,474	11,098	66,717	-	23,426

**2,915 postcodes do not appear in the R100 AddressBase dataset however are included in the National Records of Scotland 2019, release 2 postcode boundaries dataset, these have been included in the count of NGA White.*

Note that the consultation focussed only on the white and grey, under review postcodes remaining once the contracted coverage had been removed. The Scottish Government retains an option to extend coverage to target the remaining 'white NGA' areas by amending existing contracts under the 2016 NBS (and in accordance with the Public Contracts (Scotland) Regulations 2015).

As noted above, if commercial plans fall away in the 'Grey, under review' areas then these will be considered as eligible for intervention and reclassified as 'White NGA' areas.

Where required, the Scottish Government will make coverage information available at a premises level within the identified white postcode areas to suppliers to ensure that any extended coverage can target those premises without NGA broadband coverage efficiently.

It should be noted that whilst this report includes mapping of basic broadband coverage, the contracts will not deploy basic broadband technologies. The intention was to provide suppliers with details of all the areas where there is basic broadband coverage so as to ensure, so far as possible, that these areas are only overbuilt by NGA compliant broadband infrastructure where the premises will receive over 30Mbps or at least a doubling of speeds, in accordance with the requirements of the 2016 National Broadband Scheme. Where doubling is not possible, the supplier is obliged to demonstrate that the

⁹ The premises in these postcodes will be subject to monitoring and review as explained above.

design is optimised to limit the overbuild of existing basic broadband networks with speeds that are below 30Mbps.

Note the city centres of Aberdeen, Edinburgh and Glasgow have been excluded from this exercise as they are not eligible for state funding in accordance with the 2016 National Broadband Scheme. A breakdown of the excluded premises is shown below:

City Centre	Total Premises	Premises <30Mbps
Aberdeen City	4,414	218
City of Edinburgh	12,883	3,876
Glasgow City	11,395	7,360
Total	28,692	11,454

5. FURTHER REVISIONS

Since the closure of the Public Consultation, the Scottish Government has continued its ongoing rolling OMR process with NGA suppliers in Scotland. In order to take account of the latest commercial developments, the overall intervention area has been further amended in line with the consultation baseline, resulting in the following breakdown:

	Number of Postcodes	Number of Black Premises	Number of Grey Premises	Number of White Premises	Number of Grey, Under Review Premises
White	29,265*	14,323	145,444	193,292	18,908
Grey	91,210	373,610	1,390,708	-	-
Black	29,365	573,311	-	-	-
'Grey, Under Review'¹⁰	4,259	13,811	62,197	-	22,731

¹⁰ The premises in these postcodes will be subject to monitoring and review as explained above.

6. NEXT STEPS

The Scottish Government has used this information to update the Intervention Area in order to submit an application for State Aid (now Subsidy Control) Approval to invest public funds into the deployment of NGA broadband infrastructure within Scotland in line with the 2016 NBS (and in accordance with the Public Contracts (Scotland) Regulations 2015).

The Scottish Government awarded the Central and South contracts to BT plc in December 2019 and the North contract to BT plc in December 2020.

Further details on the outcomes of the contracts, including a property-level checker, and the demand-led intervention programme are available at:
<https://www.scotlandsuperfast.com/>

7. FURTHER INFORMATION

Information about the R100 Programme can be found at:
<https://www.gov.scot/policies/digital/>

For further information on the project, please write to:

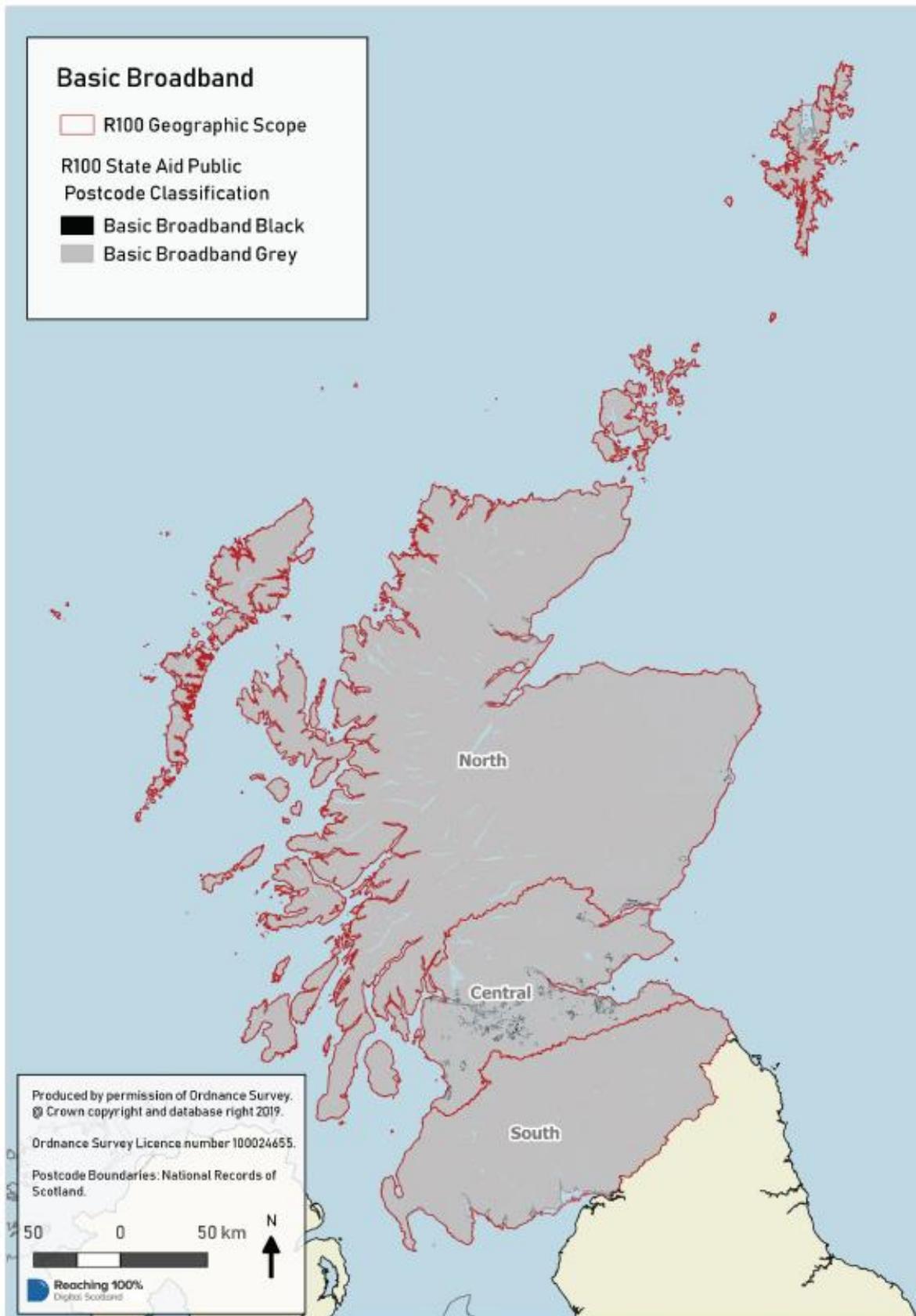
The R100 Programme Team
Digital Directorate
The Scottish Government
5 Atlantic Quay, 150 Broomielaw
Glasgow G2 8LU

Or by email: R100@gov.scot

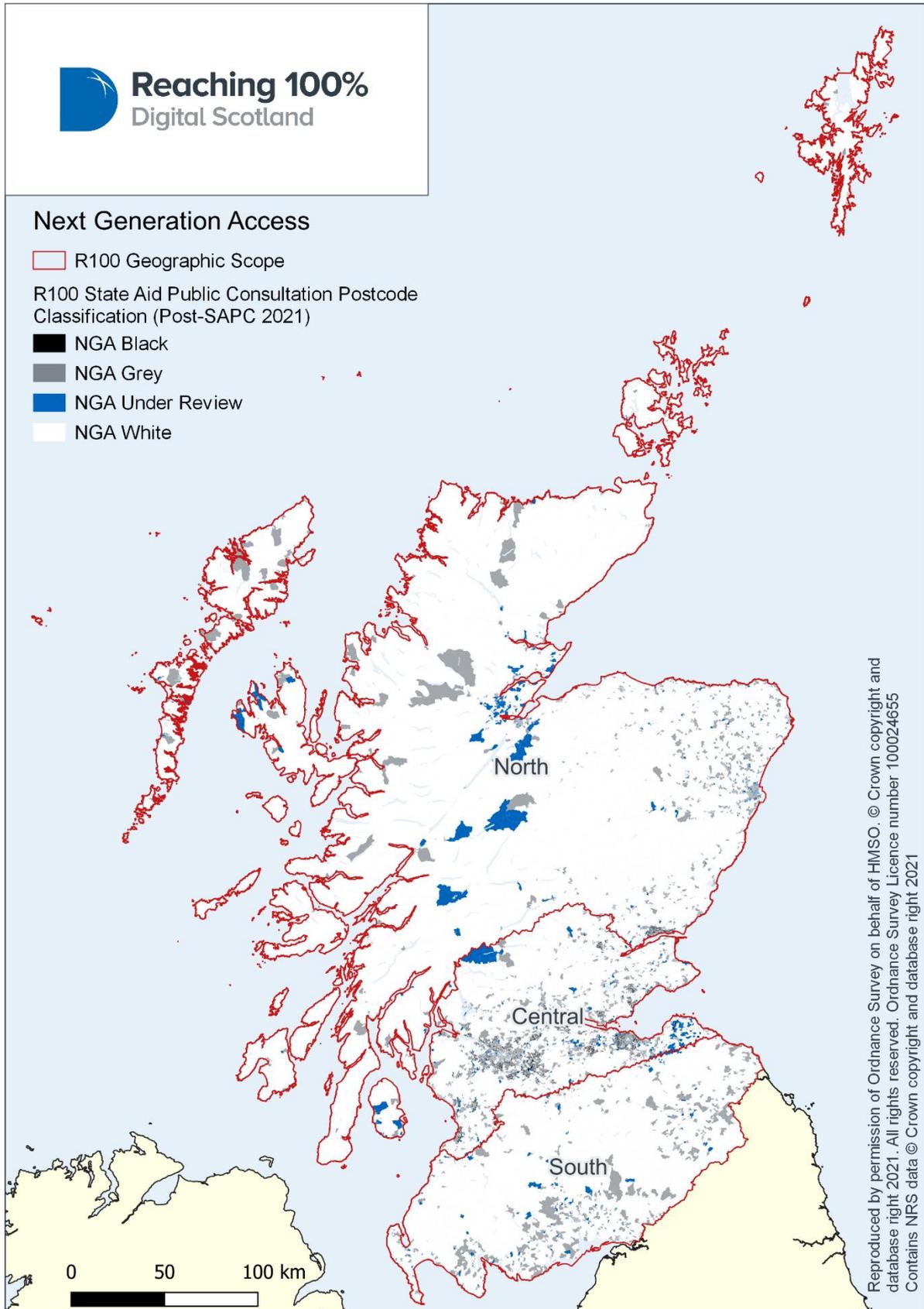
Appendix A – Public Consultation Response

Response	Responder	Comment	Resultant Action
1	Axione	Updated existing and planned NGA networks submitted	Intervention area updated to take account of existing and planned commercial coverage
2	Badenoch Broadband	Minor adjustment to existing coverage	Intervention area updated to take account of existing and planned commercial coverage
3	Balquhidder Community Broadband/Bogons Ltd	Confirmed no change to previously reported coverage	Intervention area already takes account of existing and planned commercial coverage
4	City Fibre	Confirmed no change to previously reported coverage	Intervention area already takes account of existing and planned commercial coverage
5	Cromarty Firth Wireless Network	Minor adjustment to existing coverage	Intervention area updated to take account of existing and planned commercial coverage
6	Locheilnet	Updated existing and planned NGA networks submitted	Intervention area updated to take account of existing and planned commercial coverage
7	Lothian Broadband	Updated existing and planned NGA networks submitted	Intervention area updated to take account of existing and planned commercial coverage
8	Openreach	Updated existing and planned NGA networks submitted	Intervention area updated to take account of existing and planned commercial coverage
9	Scotnet	Minor adjustment to existing coverage	Intervention area updated to take account of existing and planned commercial coverage
10	Virgin Media	Updated existing and planned NGA networks submitted	Intervention area updated to take account of existing and planned commercial coverage
11	Broadway Partners	New supplier submission	NGA assessment undertaken and intervention area updated to take account of existing and planned coverage
12	Highland Wireless	New supplier submission	NGA assessment undertaken and intervention area updated to take account of existing and planned coverage
13	Andre Jose Neves Santos	Response specific to a single premise	Advice provided – confirmed as within both the intervention area and the current planned build

Appendix B - Basic Broadband Map



Appendix C – NGA Broadband Map





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St Andrew's House
Edinburgh
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