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**Response to Scottish Executive Consultation Paper
“Connecting to the System – Consultation on Paying for
Connections to the Water and Sewerage Networks”**

1. Homes for Scotland represents the home building and residential development industry in Scotland and our 90 member companies build some 95% of all new homes in Scotland. Homes for Scotland therefore has a major and direct interest in the proposals in the consultation paper.
2. The consultation paper sets out proposals for revised arrangements for Scottish Water to meet or contribute to the cost of new connections to its water and sewerage networks. Equally important, however, the consultation paper represents a further step in the action being taken by the Scottish Executive to address the serious and growing problem of constraints on new development arising from capacity constraints within Scottish Water's networks.
3. The latter point is crucial, not simply because of the widespread and damaging nature of the development constraints problem but because the policy priority given to the matter by Ministers. Homes for Scotland welcomes that priority and the stated commitment of Ministers to eradicate the capacity constraints that are impeding new housing and other forms of development throughout Scotland.

Strategic Capacity

4. We have considerable reservations, however, about the extent to which the proposals in the consultation paper will achieve this and we argue that the proposals do not conform with stated Ministerial objectives and directions to Scottish Water.
5. Our objections centre on the definition of "strategic capacity" within the networks. Ministers have repeatedly stated publicly and in correspondence that Scottish Water will be fully funded to provide all of the "strategic capacity" needed to remove development constraints by 2014 and that Scottish Water is to make this the highest priority for capital expenditure. But we do not believe that this is reflected in the consultation paper and it is necessary to explore this further before commenting on the specific questions posed in the consultation paper.
6. The consultation paper is premised on a division of Scottish Water's infrastructure into four Parts, with different funding responsibilities for Scottish Water and for developers applying to each. It is proposed that Part 1 (on-site connections) should be fully funded by developers and Part 4 ("strategic assets") should be funded by Scottish Water. Parts 2 and 3 would be primarily developer-funded with contributions from Scottish Water based on a formula to determine the "reasonable cost" that the legislation provides for.

7. Here, however, contradiction begins to arise. The consultation paper itself, at paragraph 2.7 defines Part 3 work as “local strategic infrastructure”, a definition that Homes for Scotland accepts. This being so, we would have certainly have expected that this work would be encompassed in the Minister’s category of “strategic capacity” that would be funded by Scottish Water.
8. But this is not so. By Question 1 at paragraph 4.6 the description of Part 3 work has become simply “local infrastructure” and funding responsibility is deemed to fall to developers. This is neither logical nor acceptable.
9. It should be emphasised that the issue is not simply semantics. By any standard the type of work covered within Part 3 (such as trunk sewers and trunk water mains) is strategic and potentially extremely costly. To look to the development industry to provide this type of additional network capacity as a matter of course is quite unrealistic and contrary to logic and to the spirit and intent of the legislative obligations on Scottish Water.
10. This objection to the core assumptions in the consultation paper will underpin the responses of Homes for Scotland to the specific questions posed in the consultation paper.

11. **Responses to Questions**

Q1: 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 and Scottish Water funding strategic capacity? If not, what approach would you support and why?

No. Scottish Water’s contribution should be to Part 2 only, with developers funding Part 1 and Scottish Water funding Parts 3 and 4.

Q2: Should the Regulations define Scottish Water’s contribution towards (a) domestic properties only, or (b) domestic and non-domestic properties

(b).

Q3: If the Regulations were to define reasonable cost for non-domestic properties, what method do you suggest should be used?

No comment.

Q4: 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? If not, what approach would you support and why?

Yes, subject to comments at paras 4 – 10 above.

Q5: Do you have any comments on the proposed basis for calculating Scottish Water's reasonable cost contribution?

The formula seems unduly complicated. The rationale of the formula cannot be accepted without further consultation with Homes for Scotland. There is no evident reason simply to mirror the basis of calculation in England and Wales.

Q6: What factors should be taken into account in setting the variables *n* and *c*, and why?

The rationale for setting *n* at 12 years and *c* at 4.25% in the example shown is not clear. The example shown may prove to be misleading. There must be annual consultation and agreement with the development industry on the setting of these variables. There is at present no evidence of incentive to Scottish Water to operate more effectively – indeed the opposite – and this must be built in to the process.

Q7: Do you agree that connections for new properties and existing properties should be treated equally? If not, what approach would you support and why?

Yes.

Q8: Do you have any comments on the implications of the draft Regulations on development constraints?

Whilst the Ministerial commitment to the removal of development constraints is recognised it cannot be assumed that the proposals in the consultation paper, and the draft Regulations will necessarily secure this. Our concern set out above regarding the apparently flexible definition of "strategic capacity" is highly germane in this regard. There is a clear sense of a shifting of the expenditure burden away from Scottish Water which will have implications for the ability and willingness of the industry to invest, and for the cost and affordability of new homes.

But there are other factors that will also come into play, not least the ability of Scottish Water to improve its operating efficiency and to manage and deliver an agreed programme of works which is yet to be discussed, far less agreed.

Q9: What, if any, provision on reserving capacity would you support and why?

New statutory provisions, not simply loose agreements, are required that will remove all doubts about the legality of Scottish Water reserving capacity funded by developers ahead of need. This is increasingly integral to the forward planning of developments and it is in the public interest that it should happen. It would be quite unacceptable for Scottish Water to negotiate private investment in infrastructure to support future private development and then release that capacity to a third party without (a) recovering the cost of the initial investment from the third party and (b) reinstating the capacity to allow the original development proposal to proceed.

The consultation paper suggests, at para 5.7 a maximum reservation period of one year. This is quite inadequate, especially on very large developments where the build-out period can be lengthy and for many of the developments undertaken by smaller builders who work with limited budgets and need certainty of future capacity availability. A minimum period of at least 10 years is required.

12. Other Comments

- 12.1 The consultation paper makes reference at paras 2.9 – 2.11 to an “infrastructure charge” in the region of £500 per new home, but more information is needed about why this is felt to be needed and how it would be applied.
- 12.2 There is continuing concern in the industry at Scottish Water’s poor knowledge of its own network capacity. It is inappropriate for developers to be expected to pay for studies to provide data that Scottish Water should already have available to it. At the very least the cost of any such studies and of drainage impact assessments should be reimbursed by Scottish Water.

Edinburgh - November 2005