

Draft Determination Representations

WSH.DD.CE.9

Drainage and Wastewater Management
Plans (DWMPs)

30 August 2019

1. Summary

In our Business Plan we included enhancement expenditure of £13.6 million for the preparation of Drainage and Wastewater Management Plans (DWMPs).

The Draft Determination has removed this enhancement expenditure, considering it to be covered under the base expenditure allowance.

In our revised Business Plan we have retained the £13.6 million of enhancement expenditure for DWMPs, including it as a 'special cost claim'. In this section we set out the case as to why we believe this is appropriate, particularly for a company subject to Welsh Government policy and guidelines. In summary, we believe that DWMPs qualify as enhancement expenditure because:

- -They constitute a new statutory obligation (see section 2 below).
- -They will entail a significant increase in costs over previous AMPs (see section 3).
- -The costs will be particularly high in Wales because of the additional expectations and duties arising from Welsh Government policy and legislation, which will result in significant "public value" creation for NRW, councils and customers in the long-term (see section 4).
- The costs that we are putting forward are robust and efficient (see section 5).

2. DWMPs as a new legal obligation

On 23rd July 2019, the UK Government (Defra) announced that "The government intends to proceed with the proposal to place Drainage and Wastewater Management Plans on a statutory footing, produced on a 5-year cycle." It indicated that "... it is intended that the timing for the introduction of statutory plans will dovetail with the timing for non-statutory plans, due to be completed in late 2022."

The Welsh Government has been advocating the preparation of DWMPs since 2015 when it published its Water Strategy for Wales. Like Defra, it intends to make them statutory. In correspondence in April this year, the Welsh Government told us that they "... have agreed in principle to put DWMPs on a statutory footing via the proposed UK Government Bill, and for Welsh Ministers to take equivalent powers to regulate the Welsh companies" (Email from Welsh Government to Welsh Water - 9th April 2019).

We assume that it will be for the Welsh Ministers to approve our draft DWMPs when they become statutory. They will expect us to use our DWMPs to support the delivery of Welsh Government policy and legislation, particularly when the second cycle of the DWMP commences at the end of 2022. We must therefore build our DWMP process to reflect and deliver the Welsh Government's overarching agenda.

In light of this clear intention from both governments to place DWMPs on a statutory footing – certainly within the AMP7 period - we must make adequate financial provision to develop plans that meet both governments' expectations. This is a significant step up from current expectations and statutory requirements.

3. DWMPs as a significant increase in expenditure

During AMP5 and AMP6 Dŵr Cymru has been developing Sewerage Drainage Plans (SDPs). These focus on our sewerage networks and provide assessments (at the level of individual wastewater treatment works catchments) of how we need to manage assets to deal with current and future sewer flooding risk, and ensure our assets are resilient to the impacts of climate change (against a single, medium scenario), urban creep and growth.

DWMPs represent a significant increase in our obligations to understand our drainage and wastewater assets as well as the third party systems that interact with them, such as surface water and highways drainage systems. DWMPs must be developed at much greater resolution and depth than SDPs to develop a holistic view of the sewerage network (foul, combined and surface), interconnecting drainage systems, and treatment. Unlike SDPs they must consider the impact of multiple climate change scenarios, growth, urban creep and a range of other interdependent infrastructure failure scenarios (“systems thinking”).

DWMPs will require a step change in our partnership working as compared with current wastewater planning. There will, for example, need to be a much greater focus on data sharing across a range of stakeholders and co-creation of solutions. We will therefore need a sound knowledge of our interconnections with and the capacity of partners’ networks – far greater than we, or they, have needed up to now.

Taking the principle that enhancement expenditure is “expenditure for the purpose of enhancing the capacity or quality of service beyond current levels” (Ofwat IN18/11), we maintain that the costs required to establish and embed DWMPs should be allowed for as an enhancement. We accept that, once established, the cost of maintaining DWMPs should generally be allocated to base expenditure and rebased each AMP.

4. Particular requirements in Wales

As an undertaker subject to Welsh Government policy and legislation, there is a particularly strong case for an enhancement expenditure allowance to cover the additional costs that Welsh Water will face in developing DWMPs that explicitly embed the Welsh Government’s distinct agenda.

Unlike most companies, our DWMPs will be subject to approval by the Welsh Government with input from its environmental regulator, Natural Resources Wales. We expect that the Welsh Government will view this new approval process as an important lever for the delivery of its overarching policy agenda. It follows that we will need to go beyond the anticipated minimum statutory requirements of DWMPs – with the additional costs that implies - in order to meet the expectations and distinct legal backdrop arising from Welsh Government policy and legislation.

To summarise briefly some relevant items:

The Flood and Water Management Act 2010, Schedule 3 - in a landmark move which clearly distinguishes Wales from England, the Welsh Government has commenced Schedule 3 of the 2010 Act. As of January 2019, SUDS must be provided at most new developments in Wales, with local authorities having oversight through their new statutory SUDS Approving Bodies (SAB) role. Our experience thus far confirms that local authorities need support to deliver their important new drainage obligations. For example, some SABs seem reluctant to accept

surface water into their own assets, such as highway drains, even where these have much more spare hydraulic capacity compared to our infrastructure. The DWMP process offers a very timely mechanism for encouraging greater join-up between the relevant agencies. If we can deliver the ambitious level of engagement and co-delivery we are aiming for, DWMPs can equip SABs with a much greater understanding of the capacity of local networks, so enabling them to make a success of this high-profile Welsh Government policy – with the associated benefits to our customers and the environment.

The Flood and Water Management Act 2010, section 12 – this places Dŵr Cymru under a statutory duty “to act in a manner which is consistent with the national strategy and guidance” so we must ensure that our DWMPs closely align with the Welsh Ministers’ National Strategy for Flood and Coastal Erosion Risk Management. The Welsh Government has recently published for consultation a refreshed statutory strategy¹ which signals a further departure from policy in England, not least as it has been produced through the lens of the Well-being of Future Generations (Wales) Act 2015. Of particular relevance are its expanded set of objectives. In view of our section 12(1) duty, Welsh Water will have distinct obligations that will apply to our DWMPs, and which we will have to incorporate as we refine our DWMP methodology and approach in Wales.

The Well-being of Future Generations (Wales) Act 2015 – as part of the statutory DWMP approval process, we anticipate that the Welsh Ministers will expect us to demonstrate how we have supported the delivery of this flagship Act. While Welsh Water is not a public body for the purposes of the Act, the success of our DWMPs will depend on our collaborating closely with public bodies (notably Natural Resources Wales and local authorities) on whom the Act does apply, so we must adapt our approach accordingly. For example, we want to tailor our DWMPs so that they are a vehicle for the delivery of the statutory Well-being Goals, such as by supporting Wales’ prosperity; the resilience of its communities, including to the threats posed by climate change; and the safety of Wales’ communities. Our DWMPs should become an exemplar of the Act’s ‘Five Ways of Working’ (Long term; Integration; Involvement; Collaboration; and Prevention), which the Welsh Government would undoubtedly expect.

Environment (Wales) Act 2016 – through the Act, the Welsh Government has emphasised the advantages of harnessing nature-based solutions as well as the place-based approach. The Welsh Ministers’ statutory National Resources Policy² (produced under section 9 of the Act) says, for example, “In taking forward our action on water and flood, we will...Improve the outdated drainage systems across Wales, with an emphasis on sustainable, nature-based drainage in our urban areas.” This policy steer should be implemented locally (under section 11) through the place-based Area Statements currently being finalised by Natural Resources Wales. We anticipate that both the Welsh Ministers and Natural Resources Wales will see our DWMPs as offering an important new mechanism to deliver these aspirations on the ground, so our plans will have to be tailored accordingly. We will also have to look for ways to use our DWMPs to meet the strengthened biodiversity duty we are under in the exercise of our functions (see section 6 of the Act).

The distinctive policy and legislative context in Wales mean that we will have to meet more ambitious expectations and thus incur higher costs in the delivery of DWMPs in Wales. These

¹ <https://gov.wales/national-strategy-flood-and-coastal-erosion-risk-management>

² <https://gov.wales/natural-resources-policy>

costs will be associated in particular with undertaking more extensive and detailed research and data gathering than has been needed in the past. For Welsh Water, we will need to explore how our DWMPs can be adapted to align with relevant Welsh Government policies, both through practical measures on the ground and through the ways of working that we adopt in preparing our plans.

5. Robustness of costs and value for customers

In our original Business Plan we proposed to adopt DWMPs in high risk catchments only, giving a coverage of some 90% of population served, at a total cost of £13.6 million. Subsequently, when the DWMP framework was launched in September 2018, it was agreed that the DWMP will need to cover all catchments but that we will focus resources on catchments at greatest risk. The proposed cost remains unchanged at £13.6 million.

This cost is informed by the costs of delivering earlier sewerage planning processes. Professional service providers were procured through an open tender process and the three successful framework companies are required to provide “mini-bids” for each package of work. This commercial process has been extended to the end of 2022 to ensure the smooth delivery of Cycle 1 of the DWMP and services will be re-procured for delivery of Cycle 2 of the DWMP - taking account of any new obligations introduced by legislation.

The costs are based on the optimum combination of in-house and consultancy service providers which balances the costs of employing a new DCWW team solely to deliver the DWMPs and the innovative approaches that external consultants can bring to the process, including on how best we can reflect the distinct policy and legislation that applies in Wales. We have not included in the investment proposal the costs associated with continuing with processes that we are already undertaking under the SDPs approach, as these are legitimately covered under base expenditure.