

09 August 2017

Trust in water

# **Proposal to grant a variation of appointment to Independent Water Networks as a water company for Parklands, Weston-Super-Mare**

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## Contents

1. About this document	3
2. The Site	4
3. The applicant	4
4. The proposal	5
5. Our approach to the assessment of this application	6
6. The application	7
7. Conclusion and next steps	12
8. Site maps	13

## 1. About this document

Ofwat proposes varying the appointment of Independent Water Networks Limited (“**IWN**”) as a water company and making a consequential variation to the appointment of Bristol Water PLC (“**BRL**”) as a water company.

This notice is a consultation on this proposal under section 8(3) of the Water Industry Act 1991. The consultation period will last for 28 days from the date of publication of this notice. Having considered any representations submitted during the consultation period in response to the consultation, Ofwat will decide whether or not to grant the variations.

## 2. The Site

IWN has applied to be the water company for a new development at Parklands (“**the Site**”). The Site will comprise 1,600 domestic connections and 7 commercial non-household connections. The development is expected to be completed between 2028 and 2030.

The Site is within the water services area of BRL. IWN will supply the Site with water using a bulk supply from BRL. The Site is in the sewerage services area of Wessex Water, which will provide sewerage services to the Site.

### 3. The applicant

IWN currently provides water and sewerage services across a number of sites in England.

IWN is owned by BUUK Infrastructure Limited, which is involved in the design, construction, ownership, operation and maintenance of utility networks and associated site infrastructure, serving in excess of 20,000 new developments across Great Britain. It focuses primarily on the new build market and has approximately 1.2m utility connections constructed to date.

Gas Transportation Company Limited (“**GTC**”) is an asset management business with the BUUK Group. IWN will contract with GTC for asset management services for the Site. GTC will also provide operational services to end customers on the Site. IWN will own the assets.

## **4. The proposal**

Ofwat proposes to:

- grant a variation of appointment to IWN as a water company to include the Site in its water supply area; and
- vary the appointment of BRL as a water company to exclude the Site from its water supply area.

By means of the above, IWN will become the water supplier for the Site.

## 5. Our approach to the assessment of this application

The new appointment and variation mechanism, set out in primary legislation<sup>1</sup>, provides an opportunity for entry and expansion into the water and sewerage sectors by allowing one company to replace the existing appointee as the provider of water and / or sewerage services for a specific area. This mechanism can be used by new companies to enter the market and by existing appointees to expand their businesses.

When considering applications for new appointments and variations, Ofwat operates within the statutory framework set out by Parliament, including our statutory duty to protect consumers, wherever appropriate by promoting effective competition. In particular, in relation to unserved sites, we consider that we must ensure that the future customers on a site – who do not have a choice of supplier – are adequately protected. When assessing applications for new appointments and variations, the two key policy principles we apply are that:

- customers, or future customers, should be no worse off than if the site had been supplied by the existing appointee; and
- Ofwat must be satisfied that an applicant will be able to finance the proper carrying out of its functions as a water and/or sewerage company.

We clarified these two policy principles in February 2011 when we published our New appointments and variations – [policy](#) and [process](#) documents. In November 2012, we published our '[Statement on our approach for assessing financial viability of applications for new appointments and variations](#)'. This states that we will adopt a company-based assessment of financial viability, rather than a detailed site-based assessment, where it is appropriate to do so.

When we assess whether customers will be no worse off as a result of the appointment, we not only consider the customers on the site but also the generality of customers. These include not only the customers of the existing provider but also customers more generally across England and Wales, who in our view benefit from the effective operation of the new appointment and variation mechanism.

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<sup>1</sup> The legal framework for new appointments is set out in the Water Industry Act 1991 (WIA). Section 7 of the WIA sets out the criteria by which an appointment or variation may be made. Section 8 sets out the procedure for making that appointment or variation.

## 6. The application

IWN has applied to be the water company for the Site under the unserved criterion, set out in section 7(4)(b) Water Industry Act 1991 (“**WIA**”).

### 6.1 Unserved status of the Site

To qualify under the unserved criterion, an applicant must show that at the time the appointment is made, none of the premises in the proposed area of appointment is served by the existing appointee.

IWN provided us with an independent report confirming the Site is unserved. The Site predominantly comprises green-field land used for agricultural and recreational purposes. BRL has confirmed that it is satisfied that the Site is unserved. Having reviewed the facts, we are satisfied that the Site is unserved.

### 6.2 Protecting customers

Ofwat acts to protect consumers, especially those who are unable to choose their supplier. In assessing applications to supply new development sites, Ofwat acts on behalf of both existing customers as well as potential new customers who are not yet on site, to protect their interests. The fact that future customers on a site have not directly chosen their supplier is not a position unique to new appointments and variations – only business, charity and public sector customers in England and Wales are able to choose their supplier<sup>2</sup>.

Recognising this, our assessment of an applicant’s proposals includes analysis of its plans to ensure customers will be at least no worse off in terms of their annual bills and levels of service than if they had been supplied by the existing appointee in whose geographical area the relevant site sits. We will continue to protect customers on a site by regulating the new appointee's prices and service levels.

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<sup>2</sup> The majority of business, charity and public sector customers (“Business Customers”) who are in the area of an appointed company that operates wholly or mainly in England have been able, since 1 April 2017, to switch suppliers of water and sewerage. For companies operating wholly or mainly in Wales, only those Business Customers supplied with at least 50 MI per year, can switch suppliers but only in respect of water, not sewerage services.

### **6.3 Price**

IWN proposes to charge customers on the Site charges that are equivalent to the charges of BRL. It does not propose to offer customers a discount beyond those charges.

### **6.4 Levels of service**

Every appointee is required under conditions G, H and I of its conditions of appointment to publish Codes of Practice on debt and leakage and a Customer Code for its household customers. We have assessed IWN's proposed Codes of Practice and Customer Code, and our view is that these are of an appropriate standard. Our view is that customers on the Site would be no worse off in relation to the points covered by the above Codes of Practice and the Customer Code than they would be if BRL were to be the customers' water supplier.

### **6.5 Site owner choice**

IWN has the consent of the developer (Mead Realisations Ltd) to become the water services provider.

### **6.6 Environment Agency (EA) and Drinking Water Inspectorate (DWI)**

We take the views of these organisations into account before progressing to formal consultation on an application for a new appointment. Both the EA and DWI informed us that they are content for us to consult on this application<sup>3</sup>.

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<sup>3</sup> The Environment Agency and the Drinking Water Inspectorate are on the list of organisations which must be formally consulted as set out in section 8(4)(b) of WIA.

## **6.7 Consumer Council for Water (CCW)**

We took the views of this organisations into account before progressing to formal consultation on an application for a new appointment. CCW did raise concerns regarding customers at the site losing access to a single billing service. IWN has stated it will do everything possible to try and arrange for a single billing service to be in place.

## **6.8 Incumbent's existing customers**

In considering whether customers will be no worse off, we also considered the potential effects of this new appointment on the prices that BRL's existing customer base may face.

The calculation necessarily depends on a range of assumptions, and there are clearly difficulties involved in quantifying the effect. It is therefore necessary to use a simplified set of figures. We have expressed the effect in 'per bill' terms to try and quantify the possible effect in an easily understandable way.

We have assessed the potential magnitude of this impact by comparing how much BRL might have expected to receive in revenue from serving the Site directly, were it to serve the Site, with the revenues it might expect from the proposed arrangement with IWN.

We recently updated the approach we take to estimating the impact of granting a new appointment or variation on the annual bills of the incumbent's customers. We updated the approach to reflect the current price setting regime and the latest financial data we hold. Using this approach, we estimate a potential £0.04 annual increase on the water bills of existing BRL customers if we grant this variation to IWN. This is once the Site is fully built out.

This estimate does not take into account the potential spill-over benefits to customers arising from dynamic efficiencies achieved as a result of the competitive process to win sites.

Therefore we consider that granting this variation to IWN would have a very small financial impact on customers' bills and could have potential benefits for customers.

## **6.9 Ability to finance and properly carry out its functions**

We have a statutory duty to ensure that efficient appointees can finance the proper carrying out of their functions. When a company applies for a new appointment or variation, it must satisfy us that it is able to carry out all of the duties and obligations associated with being an appointed sewerage company.

Having considered the revenues and costs in relation to supplying water to this Site, we are satisfied the Site demonstrates sufficient financial viability.

IWN provided an unlimited undertaking from its owners BUUK Infrastructure Limited. This meets our policy requirements, in that it covers one year's annual operating costs required to supply the number of connections the business is projected to have in two years' time.

On this basis, our view is that the risk of this Site not being financially viable is small and as a result we are currently satisfied that the applicant would be able to finance its functions if the variation is granted.

## 7. Conclusion and next steps

In assessing IWN's application, we consider that our two key policy principles have been met, as customers would be no worse off, and there is a low risk of IWN not being able to finance, and carry out, its functions. We have also considered the effects of granting the variation on the existing customers of BRL.

We are currently minded to grant this variation under the unserved criterion. We are consulting on our proposal to do so.

### Where to send submissions

Any person who wishes to make representations or objections with respect to the application should do so in writing (which includes by email) to the Case Management Office at Centre City Tower, 7 Hill Street, Birmingham, B5 4UA or by email at [andrew.cheema@ofwat.gsi.gov.uk](mailto:andrew.cheema@ofwat.gsi.gov.uk).

Representations must be received by Ofwat no later than 17.00 hours on 06 September 2017. Further information about how to make representations or objections, including information on the treatment of confidential information, can be obtained from Ofwat at the above address or at <http://www.ofwat.gov.uk/foi/>

Ofwat will only use the information you have provided for the purpose of this consultation. We will retain your information in accordance with Ofwat's retention schedule and will not share with third parties unless we have a legal obligation to do so. For further information please see Ofwat's Privacy Policy in our [Publication Scheme](#).

## 8. Site maps

### Inset plan for potable water

