

18 January 2019

Trust in water

## **Variation of Icosa Water Services Limited's appointment to include West Durrington, West Sussex**

## 1. About this document

### Variation of Icosa Water Services Limited's appointment to include West Durrington

On 29 November 2018, Ofwat began a consultation on a proposal to vary Icosa Water Services Limited's ("**Icosa**") appointment to become the sewerage services provider for a development in Southern Water Services Limited's ("**SRN**") sewerage services area called West Durrington in West Sussex ("**the Site**").

The consultation ended on 04 January, 2019. During the consultation period, we received representations from four organisations, which we considered in making our decision. On 10 January 2019, we granted Icosa Water Services Limited a variation to its existing appointment to enable it to supply sewerage services to the Site.

This notice gives our reasons for making this variation.

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## 2. Introduction

The new appointment and variation (“**NAV**”) mechanism, specified by Parliament and set out in primary legislation, allows one company to replace the current company as the provider of sewerage services for a specific area. This mechanism can be used by new companies to enter the market and by existing companies to expand into areas where they are not the appointed company. In this case, Icosa applied to replace SRN to become the appointed sewerage company for the Site.

A company may apply for a new appointment (or a variation of its existing appointment to serve an additional site) if any of the following three criteria are met:

- None of the premises in the proposed area of appointment is served by the existing appointed company at the time the appointment is made (the “**unserved criterion**”);
- Each premises is likely to be supplied with at least 50 mega litres per year (in England) or at least 250 mega litres per year (in Wales) and the customer in relation to each premises consents (“**the large user criterion**”);
- The existing water and sewerage supplier in the area consents to the appointment (“**the consent criterion**”).

When considering applications for new appointments and variations, Ofwat operates within the statutory framework set out by Parliament, including our duty to protect consumers wherever appropriate, by promoting effective competition. In particular, in relation to unserved sites, we seek to ensure that the future customers on the 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:

1. Customers, or future customers, should be no worse off than if they had been supplied by the existing appointee; and
2. We 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.

Entry and expansion (and even the threat of such by potential competitors) can lead to benefits for different customers (such as household and business customers and developers of new housing sites). Benefits can include price discounts, better

services, environmental improvements and innovation in the way services are delivered.

Benefits can also accrue to customers who remain with the existing appointee, because when the existing appointee faces a challenge to its business, that challenge can act as a spur for it to improve its services. We believe the wider benefits of competition through the new appointments and variations mechanism can offset any potential disbenefits for existing customers that might arise. We consider these potential disbenefits in more detail below.

### **3. The application**

Icosa applied to be the sewerage services appointee for the Site under the unserved criterion set out in section 7(4)(b) of the Water Industry Act 1991 (“**WIA91**”). Icosa will serve the Site by way of a bulk discharge agreement with SRN.

#### **3.1 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.

Icosa commissioned an independent adviser's site status report, from Creoda Consulting. The independent report concluded that the area covered by the application is clear of properties connected to the existing sewerage and surface water networks. We have a letter from SRN confirming its agreement with the independent report, and the view that the Site is unserved. Having reviewed the facts, we consider the Site to be unserved .

#### **3.2 Financial viability of the proposal**

We will only make an appointment if we are satisfied that the proposal poses a low risk of being financially non-viable. We assess the risk of financial viability on a site-by-site basis and also consider the financial position of the company as a whole.

Based on the information available to us, we concluded the site demonstrates sufficient financial viability, and Icosa has satisfied us that it can finance its functions and that it is able to properly carry them out.

#### **3.3 Assessment of ‘no worse off’**

Icosa proposes to match the charges to customers on the Site of SRN, namely, that it will not offer a discount.

With regard to service levels, we have reviewed Icosa's Codes of Practice and its proposed service levels and compared these to the Codes of Practice and the performance commitments of SRN. Based on this review, we are satisfied that customers will be offered an appropriate level of service by Icosa and that overall customers will be ‘no worse off’ being served by Icosa instead of by SRN.

### **3.4 Effect of appointment on SRN's customers**

In considering whether customers will be no worse off, we also looked at the potential effects of this variation on the price that SRN'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 on customers of SRN. 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. Broadly, we have assessed the potential magnitude of this impact by comparing how much SRN might have expected to receive in revenue from serving the Site directly, were they to serve the Site, with the revenues they might expect from the proposed arrangement with Icosa.

In this case, we have calculated that if we grant the Site to Icosa, there may be a potential impact on the bills of SRN's existing customers of £0.002 on sewerage bills.

This impact 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 new sites.

### **3.5 Developer choice**

Where relevant, we take into consideration the choices of the site developer. In this case, the developers - Persimmon Homes Thames Valley, Bovis Homes Limited, and Taylor Wimpey Southern Counties - said that they wanted Icosa to be the sewerage company for the Site.

## **4. Responses received to the consultation**

We received four responses to our consultation; from the Consumer Council for Water (CCWater) and the Environment Agency (EA), Southern Water Services Limited (SRN) and the Drinking Water Inspectorate (DWI).

We considered these responses before making the decision to vary Icosa's appointment. The points raised in the response are set out below.

## **4.1 CCWater**

In its response, CCWater stated it was disappointed that there are no direct financial benefits to customers from being served by Icosa rather than Southern Water for sewerage services, as Icosa proposes to charge its customers the same rate as Southern Water. It noted that Icosa does not offer a social tariff, which Southern Water does. However, it also noted that Icosa proposes to match or exceed many of the service standards currently provided by Southern Water, notably more generous compensation in the event of service failures or following sewer flooding. For this reason, CCWater supports our proposal and agrees with our assessment that customers will be no worse off.

## **4.2 Our response**

One of Ofwat's key new appointment and variation ("**NAV**") policies is that customers should be 'no worse off' if a NAV is granted. In other words, an applicant must ensure its new customers are made no worse off in terms of price and service than if they had been supplied by the previous incumbent. This requirement has been met by Icosa in its proposal to improve the levels of service and match the pricing set by Southern Water. We do not require applicants to better the service and price of the previous incumbent.

## **4.3 Other responses**

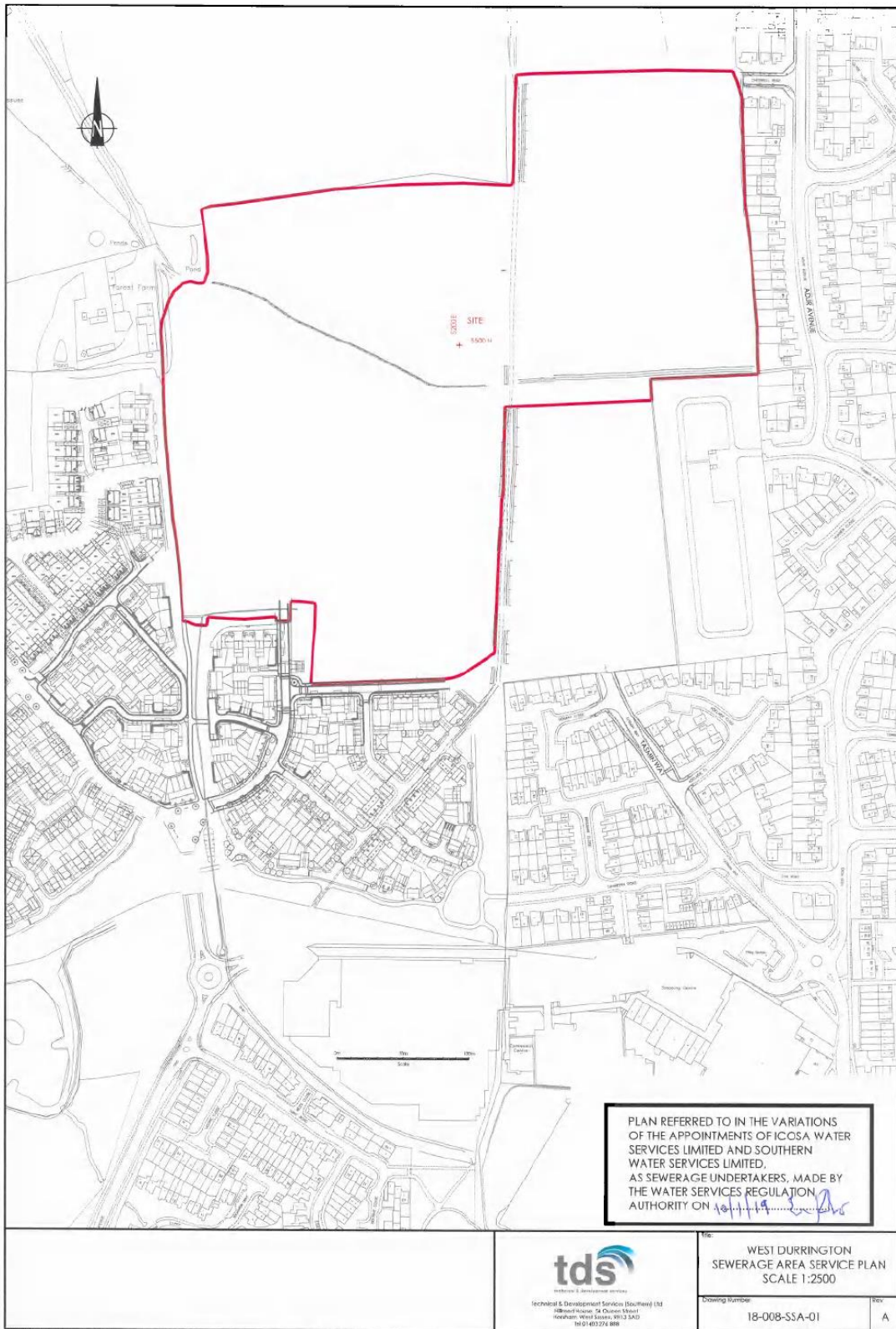
SRN, the DWI, and the EA responded to our consultation with no further comments or representations.



## **5. Conclusion**

Having assessed Icosa's application, and having taken account of the responses we received to our consultation, we decided to grant a variation to Icosa's area of appointment to allow it to serve the Site for sewerage services. This appointment became effective on 11 January 2019.

## Appendix 1: Site Map



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 Technical & Development Services (Southern) Ltd Hillwood House, 54 Queen Street Hove, Brighton, East Sussex, BN1 3 3AG Tel: 01423 276 888	SCALE 1:5000	
	Drawing Number: 18-003-SSA/01	Rev: C

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