

February 2021

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

## 1. About this document

### Variation of Icosa Water Services Limited's appointment to include Minerva Heights, Chichester, West Sussex

On 3 September 2020, Ofwat began a [consultation on a proposal](#) to vary Icosa Water Services Limited's ("**Icosa Water**") appointment to become the sewerage services provider for a development in Southern Water Services Limited's ("**Southern Water**") sewerage services area called Minerva Heights, Chichester, West Sussex ("**the Site**").

The consultation ended on 30 September 2020. During the consultation period, we received responses from five organisations: the Consumer Council for Water ("**CCW**"), the Environment Agency, the Drinking Water Inspectorate ("**DWI**"), Chichester District Council and Southern Water.

On 7 January 2021, we granted Icosa Water 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 mechanism, specified by Parliament and set out in primary legislation, allows one company to replace the current company 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 companies to expand into areas where they are not the appointed company. In this case Icosa Water have applied to be the sewerage services provider to 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 Water 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 Water will serve the Site by way of a bulk discharge agreement with Southern Water. We received a copy of the bulk discharge agreement from Icosa Water on 5 November 2020.

#### **3.1 Unserved status of the Site**

Icosa Water applied for this variation based on the unserved criterion. To qualify under the unserved criterion, an applicant must show that at the time the appointment or variation is made, the site must have no premises connected and served by the incumbent sewerage supplier.

Icosa Water had stated in its application that in the centre of the Site there are a few properties which are barns and that these will be demolished as the development progresses. The barns do not receive any sewerage services and do not affect the status of the Site.

We received a letter from Southern Water dated 26 May 2020 confirming that the Site is unserved and that it consents to Icosa Water taking over the Site from it. We are therefore satisfied that the application meets the unserved criterion.

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

We will only make an appointment or variation if we are satisfied that the proposal poses a low risk of being financially non-viable.

Based on the information available to us, we concluded that the Site demonstrates sufficient financial viability. Icosa Water has also 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’**

In its application Icosa Water proposes to charge customers for services on the same basis as Southern Water and will not offer a discount.

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

### **3.4 Effect of variation on Southern Water's customers**

In considering whether customers will be no worse off, we also looked at the potential effects of this variation on the charges that Southern Water'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 Southern Water. 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 impact by comparing how much Southern Water 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 Icosa Water.

In this case, we estimate that if we grant the Site to Icosa Water, there will be no impact on the sewerage bills of Southern Water's existing customers.

This impact does not take into account the potential spillover 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, Miller Homes Limited and Linden Homes Limited, said that they wanted Icosa Water to be the sewerage company for the Site.

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

We received five responses to our consultation: from the Environment Agency, the DWI, the CCW, Southern Water and Chichester District Council. Details of the responses are set out below.

The DWI and Chichester District Council advised that they had no comments to make on the consultation.

### **4.1 CCW**

CCW expects new appointees to provide consumers with prices, levels of service and service guarantees that match or, ideally, better those of the incumbent. CCW was disappointed that there was no direct financial benefit to customers from having Icosa Water as their provider of sewerage services, however, it noted that generally Icosa Water exceed Southern Water's service standards and for this reason, CCW said that it supported this application. For example, CCW noted that Icosa Water will offer greater compensation if it fails to respond to written complaints within 10 working days, providing an automatic disturbance allowance, up to £100, to customers who need to use temporary accommodation as a result of sewer flooding.

CCW notes that Icosa Water will not be able to offer its financially vulnerable customers a social tariff in the way that Southern Water can, although it will offer the standard WaterSure tariff. It stated that given Icosa Water's small size it may be appropriate for it to tailor some of the services that it provides. Until it can provide a formal social tariff, CCW expects Icosa Water to offer appropriate flexible support to any individual in financial difficulty who would otherwise benefit from a social tariff. This should not be at the expense of its other customers. CCW expects Icosa Water to research the views of its customers on any proposed cross-subsidy before introducing any social tariffs.

CCW noted that there would be no costs to the incumbent's existing customers as a result of the variation. However CCW was unclear as to whether there will be any significant benefits arising from this arrangement for the incumbent's customers.

### **4.2 Environment Agency**

The Environment Agency's consultation response asked when the start date will be for Icosa Water's bulk discharge agreement with Southern Water. Icosa



Water confirmed it is assuming this would be in 2022.

The Environment Agency also asked about the plans for discharging the Site's sewage while the houses are still being built. It noted that it is aware that Southern Water has capacity to accommodate the Site when a new sewer is built. The Environment Agency asked what assurances Icosa Water could provide in the interim that the Site's housing will not be occupied until there is adequate sewerage removal from the Site, and what storage facilities and management processes were in place to deal with the sewage storage and removal so that there are not any illegal discharges to the environment.

Icosa Water responded that if new sewer Southern Water is to construct was not completed ahead of the Site being occupied, sewage will be kept in temporary storage and will be tankered away by the Site's developer. Icosa Water confirmed and provided evidence that the developer has planning permission for temporary sewage storage for 160 units and the right to tanker away from the Site.

The Environment Agency has since confirmed that it was satisfied with the responses from Icosa Water and did not require any further information.

### **4.3 Southern Water**

Southern Water's consultation response noted that the proposed Site boundary for the variation has a number of properties carved out of the boundary. Southern Water raised concerns that the growing number of sites with carved out areas within NAV boundaries has the potential to create operational complications and customer issues in the future.

Southern Water did not provide evidence of any practical or operational difficulties which could arise from the carved out properties on this Site. However, Southern Water noted that it had experience of operational and billing issues impacting customers, which are caused by complicated boundary arrangements.

Following Southern Water's response, we contacted Icosa Water for further details about the carved out properties on the Site. Icosa Water confirmed that it had provided the proposed boundary plan and location details of the project to Southern Water during the application process and had engaged with the developer about the infrastructure for the Site. Icosa Water confirmed that the internal boundary includes six properties that all can be easily accessed via Newlands Lane.

Icosa Water confirmed that it does not anticipate any operational difficulties or customer impact arising from these six properties being carved out of its boundary area. Icosa Water clarified that it believes the properties currently discharge to a septic tank and surface water discharges to an existing ditch in front of the premises. In addition, Icosa Water confirmed that it has customer and operational contact protocols in place with Southern Water to set out how parties must collaborate in dealing with any customer contacts and operation issues.

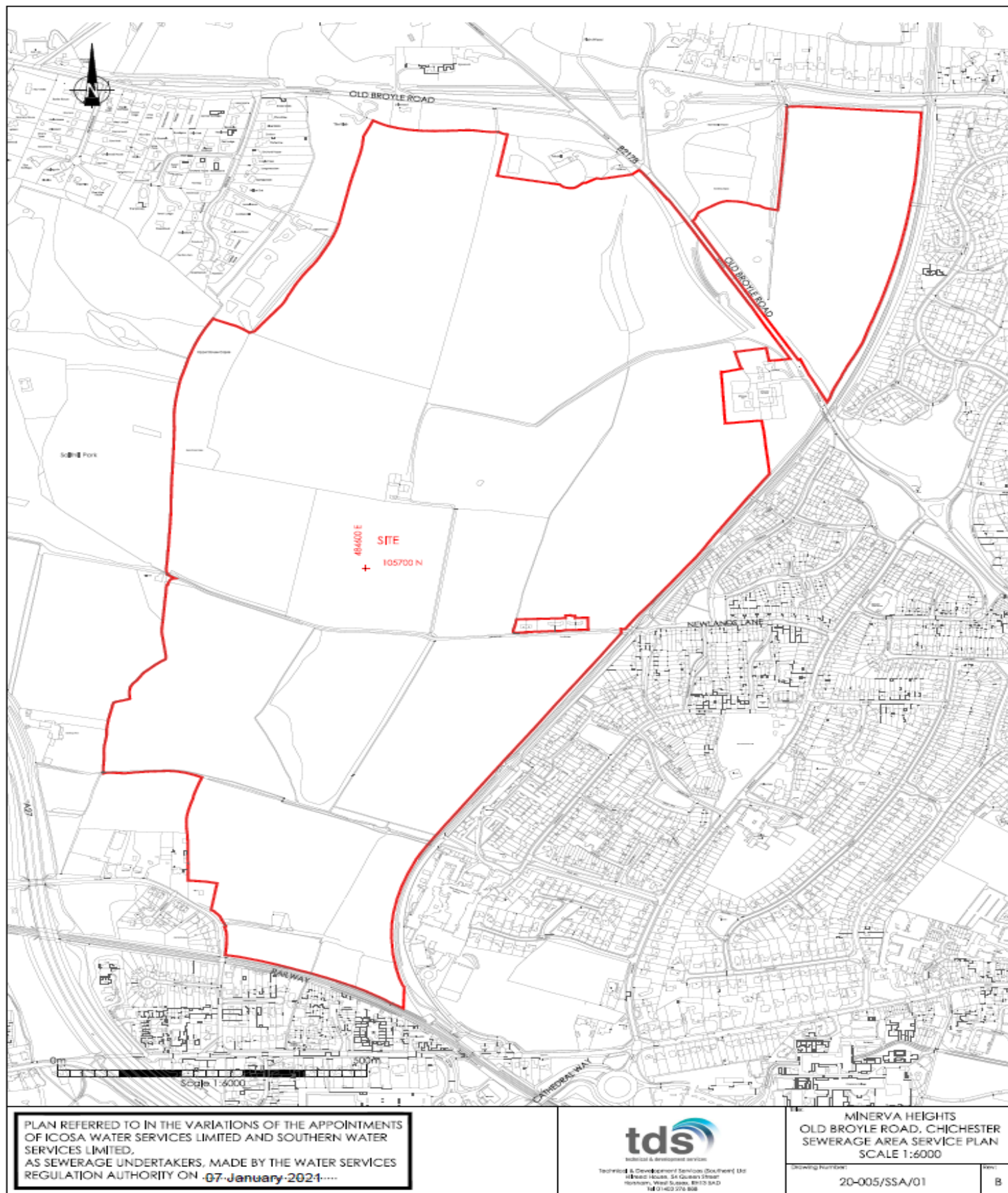
We have considered the comments made by Southern Water and the further information provided by Icosa Water. The Site has clear demarcation and the internal boundary provides a clear and identifiable area that can continue to be served without operational difficulties. We consider that the customers on the Site and in the carved out area will be no worse off as a result of being carved out of the area served by Icosa Water.

We will continue to adopt a pragmatic approach that deals with each site on its own merits. We will not allow carve out of areas of a site if that gives rise to practical or operational difficulties. Having considered the information provided by Icosa Water and Southern Water, we do not consider there are any issues outstanding in relation to the carved out premises on this Site.

## 5. Conclusion

Having assessed Icosa Water's application, and having taken account of the responses we received to our consultation, we decided to grant a variation to Icosa Water's area of appointment to allow it to serve the Site for sewerage services. This variation became effective on 8 January 2021.

## Appendix 1: Site Map



**Ofwat (The Water Services Regulation Authority)  
is a non-ministerial government department.  
We regulate the water sector in England and Wales.**

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