

September 2021

# **Variation of Independent Water Networks Limited's appointment to include Nine Elms Square Phase 1, Wandsworth**

## About this document

# Variation of Independent Water Networks Limited's appointment to include Nine Elms Square Phase 1, Wandsworth

On 22 March 2021, Ofwat began a [consultation](#) on a proposal to vary Independent Water Networks Limited's ("**Independent Water Networks**") appointment to become the water and sewerage services provider for a development in Thames Water Utilities Limited's ("**Thames Water**") water supply and sewerage services area called Nine Elms Square Phase 1 in Wandsworth, London ("**the Site**").

The consultation ended on 28 April 2021. On 30 March 2021 Independent Water Networks notified us that, with its application, it had incorrectly submitted the boundary for Phase 1 and Phase 2 of the development on the Site. This application is for Phase 1 only. Independent Water Networks provided revised boundary maps and informed us that all other information submitted, including the property numbers, was correct. We revised the consultation notice and extended the deadline by seven days to 28 April 2021. We notified the Consumer Council for Water ("**CCW**"), the Drinking Water Inspectorate ("**DWI**"), the Environment Agency, Wandsworth Council and Thames Water of this change.

During the consultation period, we received representations from four organisations, which we considered in making our decision. On 10 September 2021, we granted Independent Water Networks a variation to its existing appointment to enable it to supply water and sewerage services to the Site.

This notice gives our reasons for making this variation.

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## 1. 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, Independent Water Networks applied to replace Thames Water to become the appointed water and 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 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.

## 2. The application

Independent Water Networks applied to be the water and sewerage services appointee for the Site under the unserved criterion set out in section 7(4)(b) of the Water Industry Act 1991 (“**WIA91**”). Independent Water Networks will serve the Site by way of bulk supply and discharge agreements with Thames Water.

### 2.1 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.

Thames Water provided a letter dated 2 December 2019, confirming that, in its view, the Site is unserved for water, but that it was unable to confirm whether the Site is served for sewerage. We queried this and Thames Water provided a letter, dated 1 March 2021, stating that Thames Water has no evidence that the Site is served for clean water or foul/surface sewage by Thames Water.

Having considered the facts of the Site and the letters from Thames Water, we are satisfied that this Site is unserved for water and sewerage services.

### 2.2 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 Independent Water Networks has satisfied us that it can finance its functions and that it is able to properly carry them out.

### 2.3 Assessment of ‘no worse off’

Independent Water Networks proposes to charge customers on the Site charges that are equivalent to the charges of Thames Water.

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

## **2.4 Effect of appointment on Thames Water'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 Thames 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 Thames 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 magnitude of this impact by comparing how much Thames 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 Independent Water Networks.

In this case, we have calculated that if we grant the Site to Independent Water Networks, there would be a potential annual increase of £0.002 on the sewerage bills and a potential £0.006 annual increase in the water bills of Thames 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.

## **2.5 Developer choice**

Where relevant, we take into consideration the choices of the site developer. In this case, the developer, R&F Property UK, said that it wanted Independent Water Networks to be the water and sewerage company for the Site.

### 3. Responses received to the consultation

We received four responses to our consultation, from Thames Water, the Drinking Water Inspectorate (“**DWI**”), the Environment Agency and the Consumer Council for Water (“**CCW**”).

The DWI had no comments or objections with regard to this consultation.

The points raised in the responses from CCW, Thames Water and the Environment Agency are set out below. We considered all responses before making the decision to vary Independent Water Networks' appointment.

#### 3.1 Thames Water

In an email dated 6 April 2021, Thames Water confirmed that the revised Site boundary matched the revised Site boundary submitted to Thames Water by Independent Water Networks. Thames Water informed us that Independent Water Networks wish the bulk connections from Thames Water to be designed to facilitate both Phase 1 and Phase 2 of the development, so no changes were required to the connection as a result of the revision of the Site boundary for this NAV application to include Phase 1 only.

#### 3.2 Environment Agency

The Environment Agency stated that it has no objection to the consultation but noted that the Nine Elms area has undergone an Integrated Water Management strategy that assessed the drainage capacity as being limiting to development. The Environment Agency stated that information provided by Independent Water Networks for dealing with the issue of drainage only seeks to engage on the removal of water from the Site via correct pipe sizing, and does not support the London Plan requirements of a drainage hierarchy for better protecting the limited drainage capacity of the network in this location.

The Environment Agency stated that it would expect Independent Water Networks to be active in working with developers to deliver the drainage hierarchy as set out in the London Plan.

We passed on these comments to Independent Water Networks and it confirmed in an email dated 28 April 2021 that it will do as the Environment Agency expects.

### 3.3 CCW

CCW states that in general it expects applicants for a new appointment and/or variation (“NAV”) to exceed or at least match the incumbent's prices, service levels and service guarantees. This is particularly true for developments that include domestic housing, as household customers cannot choose or switch supplier.

CCW is disappointed that there is no direct financial benefit to customers from having Independent Water Networks as their provider of water and sewerage services, as Independent Water Networks intends to match Thames Water's charges. However, CCW notes that Independent Water Networks offers discounts to those customers who are able to and opt to take up e-billing or pay by direct debit.

CCW considers that Independent Water Networks' service levels generally match or exceed Thames Water's, so overall CCW supports the application. For example, Independent Water Networks offers greater compensation for low water pressure or failing to read a meter once a year, offers a relocation allowance in the event of sewer flooding in some circumstances and offers a free leak repair service on customers' external supply pipes.

CCW notes that Independent Water Networks will not be able to offer a social tariff to financially vulnerable customers in the way Thames Water does, but will offer the standard WaterSure tariff for qualifying customers. CCW states that given its relatively small size and customer base, it may be appropriate for Independent Water Networks to tailor some of the services that it provides. CCW sets out its expectation that Independent Water Networks would offer appropriate, flexible support to any customer in financial difficulty who would otherwise have benefitted from a social tariff and that this should not be at the expense of its other customers. CCW expects Independent Water Networks to research the views of its customers on any proposed cross-subsidy before introducing any social tariffs.

CCW notes our conclusion that, as a result of the variation, Thames Water's existing customers would see a small increase of £0.006 in their annual water bills and a small increase of £0.002 on their annual sewerage bill. CCW recognises this increase is very low but questions the value of the NAV regime if it cannot deliver benefits to customers. It notes that there is no evidence of significant benefits from the arrangement for the existing customers of Thames Water.

#### **Our response**

One of our key policies is that customers should be no worse off if a NAV is granted. That is, an applicant must ensure its new customers are made no worse off in terms of charges and

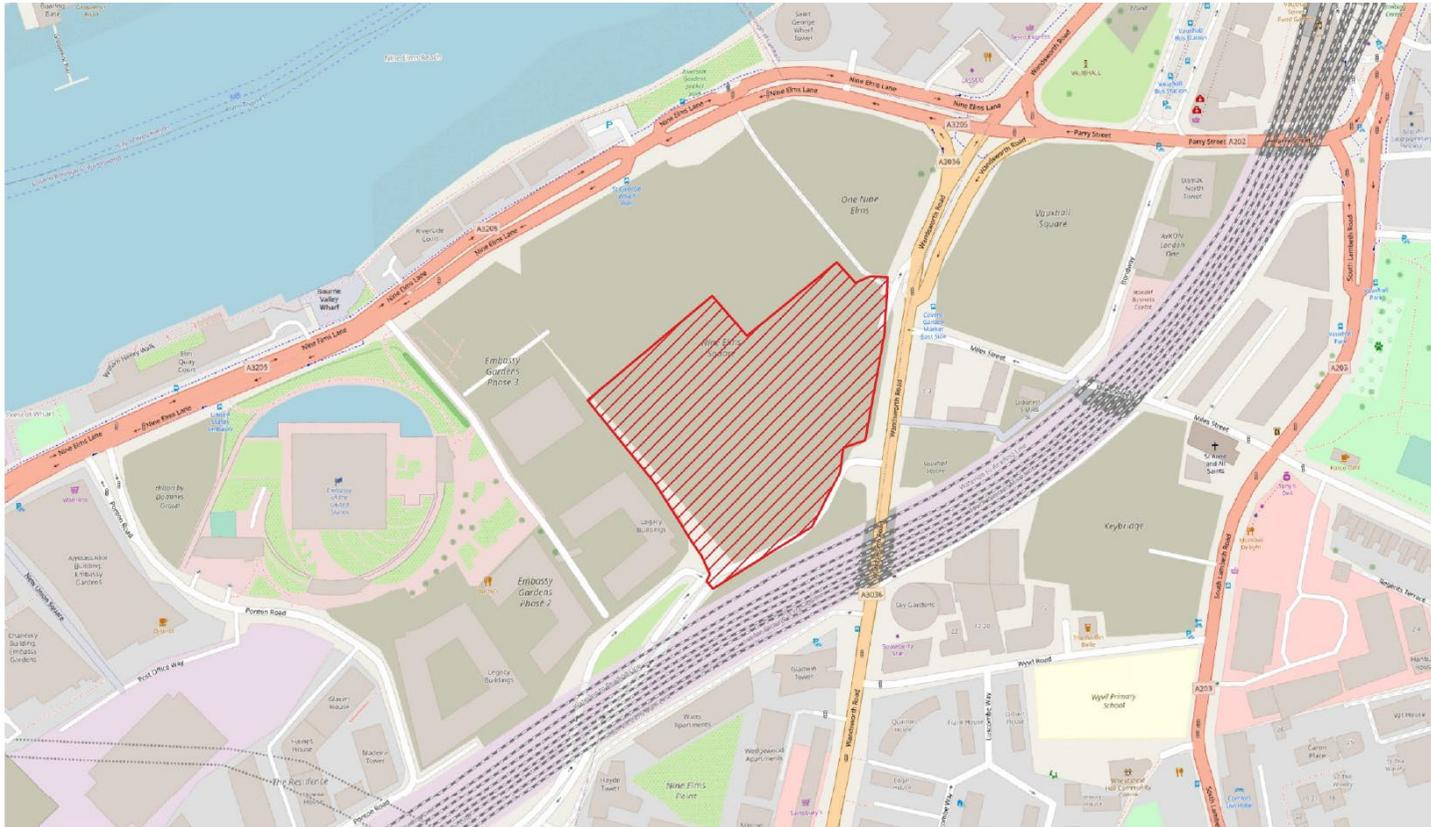
service than if they had been supplied by the previous appointee. We do not require applicants to better the service and price of previous incumbents.

## **4. Conclusion**

Having assessed Independent Water Networks' application, and having taken account of the responses we received to our consultation, we decided to grant a variation to Independent Water Networks' area of appointment to allow it to serve the Site for water and sewerage services. This appointment became effective on 13 September 2021.

# Appendix 1: Site Maps

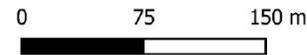
## Water



PLAN REFERRED TO IN THE VARIATIONS OF THE APPOINTMENTS OF INDEPENDENT WATER NETWORKS LIMITED AND THAMES WATER UTILITIES LIMITED, AS WATER UNDERTAKERS, MADE BY THE WATER SERVICES REGULATION AUTHORITY ON.....  
10 September 2021

ADDRESS: NINE ELMS SQUARE, PHASE 1, 97 WANDSWORTH ROAD, LONDON, SW8 5EL  
OS GRID REFERENCE: 530125, 177732

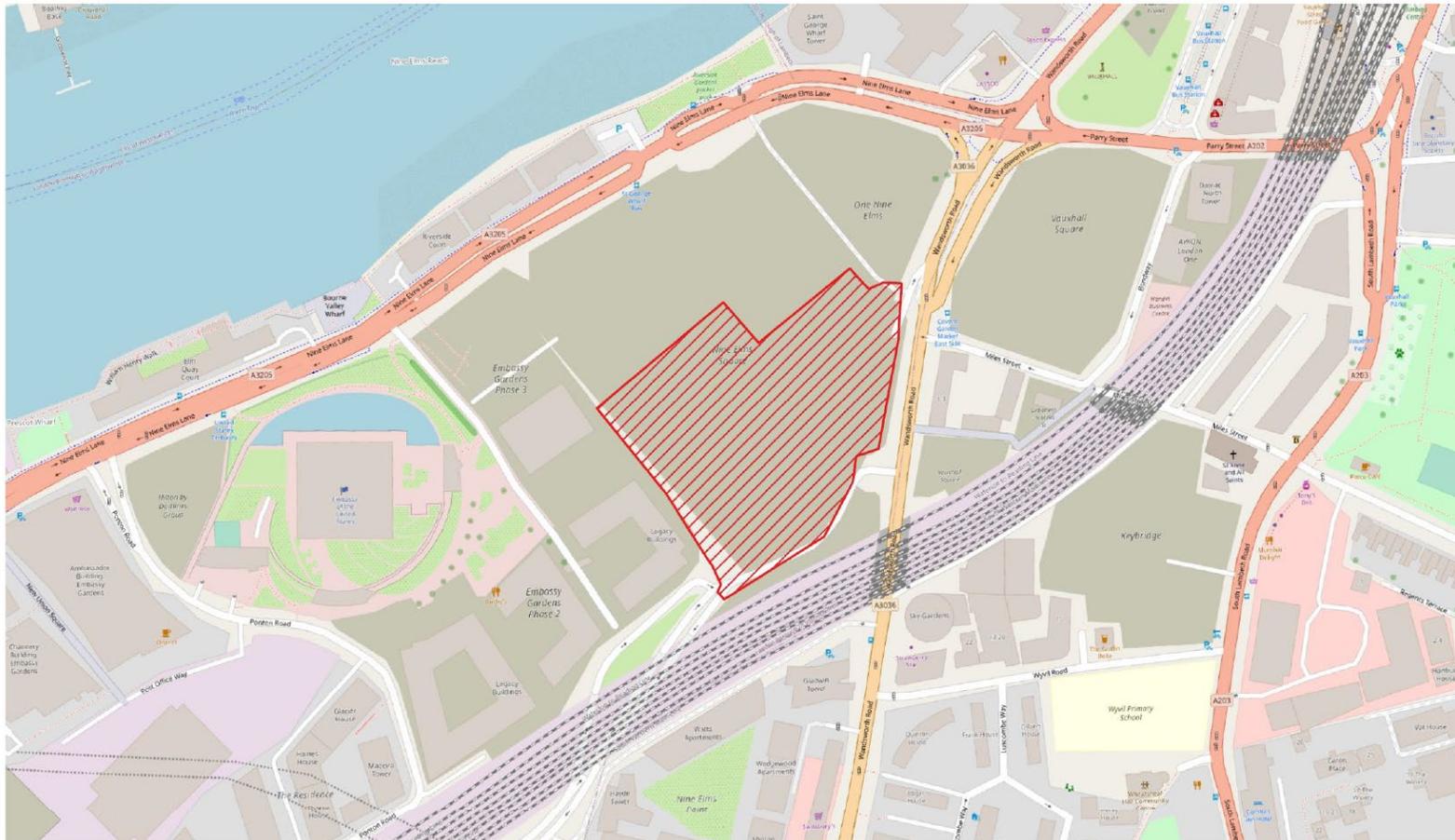
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DATE: 30/03/2021



NINE ELMS SQUARE PHASE 1 INSET WATER

MAP 1

Sewerage

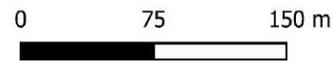


PLAN REFERRED TO IN THE VARIATIONS OF THE APPOINTMENTS OF INDEPENDENT WATER NETWORKS LIMITED AND THAMES WATER UTILITIES LIMITED, AS SEWERAGE UNDERTAKERS, MADE BY THE WATER SERVICES REGULATION AUTHORITY ON.....

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SCALE: 1:3000  
DRAWN BY: CS  
DATE: 30/03/2021



NINE ELMS SQUARE PHASE 1 INSET SEWERAGE

MAP 1

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

Ofwat  
Centre City Tower  
7 Hill Street  
Birmingham B5 4UA  
Phone: 0121 644 7500

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