

August 2022

**Granting an appointment to ESP
Water Limited to allow it to provide
water and sewerage services to
Merchant's Wharf, Salford**

Ofwat has granted an appointment to ESP Water Limited to allow it to provide water and sewerage services to Merchant's Wharf, Salford

On 18 May 2022, Ofwat began a [consultation](#) on a proposal to grant an appointment to ESP Water Limited (“**ESP Water**”) to allow it to become the water and sewerage services provider for a development in United Utilities Water Limited's (“**United Utilities**”) water supply area and sewerage services area, called Merchant's Wharf, Salford (“**the Site**”). Details of the application and our assessment of it were set out in the consultation document.

The consultation ended on 16 June 2022. During the consultation period, we received representations from three organisations, which are summarised in Section 1 of this document.

We will only make a new appointment or variation (“**NAV**”) if our assessment concludes that the application meets the criterion it has been made under; that customers or future customers on the Site will be no worse off than if the Site had been served by the existing appointee; and if the applicant will be able to finance the proper carrying out of its functions as a water and/or sewerage company. As set out in our consultation we are satisfied this is the case. The responses we have received to the consultation have not changed that view.

Having assessed ESP Water's application, taken account of the responses we received to our consultation, and ESP having completed the market entry assurance process with the Market Operator Services Ltd (“**MOSL**”), we decided to grant an appointment to ESP Water to allow it to serve the Site for water and sewerage services. This appointment became effective on 27 July 2022.

The Site Maps for the appointment can be found in Section 2 of this document.

The instrument of appointment legally making this appointment can be found in Section 3 of this document and on our website [here](#).

1. Responses received to the consultation

We received responses to our consultation from three organisations: the Consumer Council for Water (“**CCW**”), Drinking Water Inspectorate (“**DWI**”) and Environment Agency. We considered these responses before making the decision to grant ESP Water's appointment.

The DWI had no comments to make with regard to this consultation and did not have any objections. Details of CCW's and the Environment Agency's responses are set out below.

CCW

CCW stated that in general it expects NAV appointees to match or ideally better the incumbent's prices, service levels and service guarantees. This is particularly true for developments that include domestic housing, as household customers do not currently have the ability to choose or switch supplier like business customers can.

CCW noted that ESP Water proposes to charge customers on the Site at the same basis as United Utilities and to match its charges for water and sewerage services. CCW states that it is disappointed that this means there is no formal financial benefit to customers from ESP Water serving the Site rather than United Utilities.

CCW recognise that ESP Water does not currently offer its financially vulnerable customers a social tariff in the way that United Utilities does. However, CCW recognised that ESP Water will offer the standard WaterSure tariff for qualifying customers. CCW considers that until ESP Water can provide a formal social tariff, it is appropriate that it tailors some of the services it provides. CCW expects ESP Water to offer appropriate flexible support to any individual in financial difficulty, who would otherwise benefit from a social tariff. It noted that this should not be at the expense of its other customers. CCW said that it recognises that by matching United Utilities' charges, ESP Water already benefits from the cross-subsidiary United Utilities' customers pay to support its social tariffs.

CCW also noted that ESP Water generally matches or exceeds the level of service and service standards of United Utilities. It noted that ESP proposes to match United Utilities' level of compensation for service failures if it exceeds the amount that ESP Water has set in its code of practice. Based on the above, overall CCW are supportive of this application and agree that through this arrangement customers will be no worse off in terms of the amount they pay or the services it will receive from ESP Water.

CCW noted we calculated that there will no increase on the water and sewerage bills of existing United Utilities' customers, with ESP Water serving the Site. CCW states whilst it appreciates this, it is unclear as to whether there will be any significant benefit arising from

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this arrangement for United Utilities' customers. CCW questions the value of a NAV regime it cannot deliver benefits for all customers.

Our response

One of our key policies when considering NAV applications, 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.

Vulnerable customers may not be aware of the social tariff that would be available to them if they were served by the incumbent rather than by the applicant. It is the responsibility of the applicant to identify and protect vulnerable customers on the Site. Although the applicant does not offer a social tariff, it should ensure customers will be no worse off.

The Environment Agency

The Environment Agency asked that ESP Water note the following:

- The Environment Agency expect water companies to follow the guidance as set out in The Building Regulations Approved Document G where per capita consumption standard for new dwellings is 125 litres/person/day of wholesome water or 110 litres/person/day where the optional requirement applies.

We shared the response with ESP Water and it confirmed that it was noted.

2. Next steps

Once the appointment is granted, ESP Water intends to apply to the Department for Environment, Food & Rural Affairs (“**Defra**”), to exit the business retail market. ESP Water can apply to Defra to exit the market once the appointment is granted and Defra will process its application in accordance with The Water and Sewerage Undertakers (Exit from Non-household Retail Market) Regulations 2016.

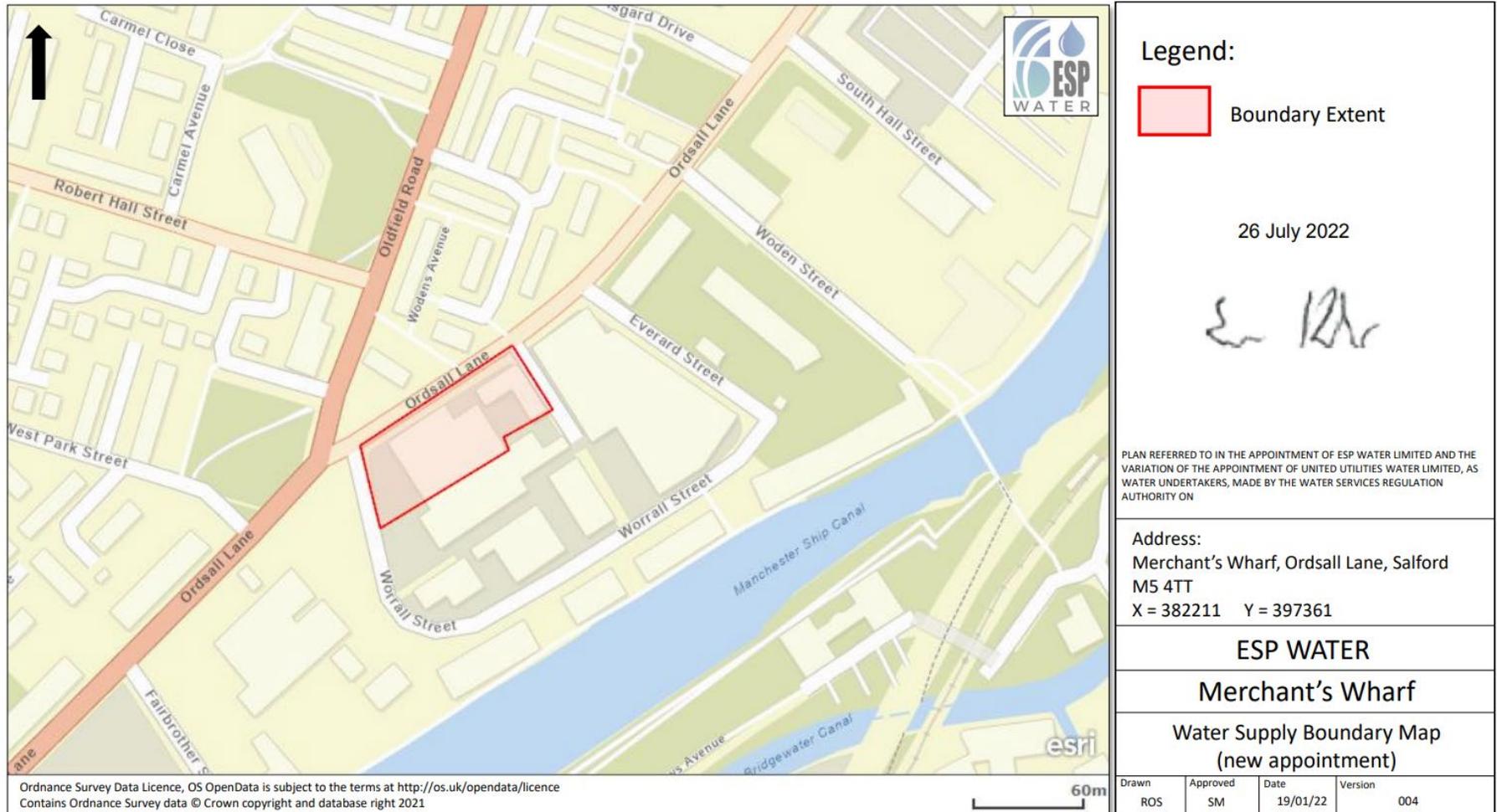
Prior to exiting the market ESP Water has an interim arrangement with Castle Water Limited (“**Castle Water**”), whereby Castle Water will serve its business customers until it exits the market. Once exited ESP Water will act as a wholesaler to household and business customers.

Business customers on any of ESP's future sites will be appointed a retailer in accordance with MOSL's gap site process and once appointed a retailer, all business customers will be able to move to retailers of their choice.

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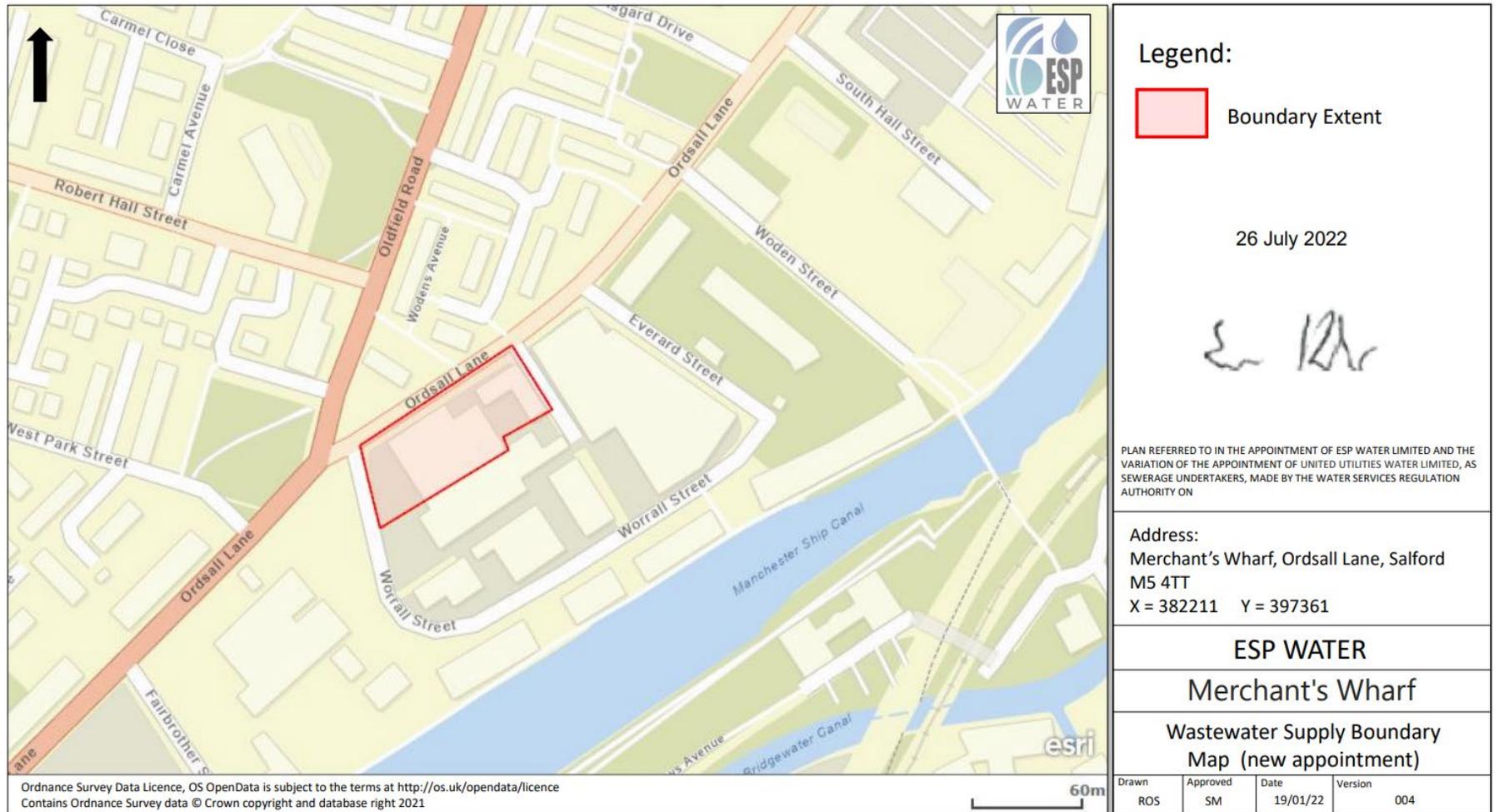
3. Site Maps

Water



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Sewerage



4. Instrument of appointment

THE APPOINTMENT

WATER SERVICES REGULATION AUTHORITY

WATER INDUSTRY ACT 1991, SECTIONS 6 TO 9 AND 11

Appointment of ESP Water Limited as a Water and Sewerage Undertaker and Variation of Appointment of United Utilities Water Limited as a Water and Sewerage Undertaker

Made on 26 July 2022

Coming into effect on 27 July 2022

1. ESP Water Limited ("ESP Water") has applied under section 6(1) and 7(4)(b) of the Water Industry Act 1991 ("the Act") to be appointed as the water and sewerage undertaker for a site at Merchant's Wharf, in Salford, that is currently in the Water Supply Area and Sewerage Services Area of United Utilities Water Limited ("United Utilities")¹.
2. On 27 June 1995, the Secretary of State for the Environment and the Secretary of State for Wales acting jointly and pursuant to sections 6(1) and 7(2) of the Act authorised the Director General of Water Services² to make variations such as those contained in paragraphs 3 and 5 below. After public consultation, as required by section 8 of the Act, the Water Services Regulation Authority has decided that it should grant ESP Water's application.
3. Therefore, as provided by sections 6(1) and 7(2) and 4(b) of the Act, the Water Services Regulation Authority **appoints** ESP Water ("**the Appointee**") to be the water and sewerage undertaker for the Water Supply Area and Sewerage Services Area described in Schedule 1.
4. The Appointment made in paragraph 3 ("**the Appointments**") is subject to the conditions set out in Schedule 2.
5. In consequence of the Appointments, the Water Services Regulation Authority **varies** the appointment of United Utilities as a Water and Sewerage Undertaker, so the area described in Schedule 1 is excluded from United Utilities' Water Supply Area and Sewerage Services Area.

Signed for and on behalf of the Water Services Regulation Authority

¹ United Utilities' original appointment as a water and sewerage undertaker was made by the Secretary of State for the Environment under sections 11 and 14 of the Water Act 1989, now replaced by sections 6 and 11 of the Water Industry Act 1991.

² With effect from 1 April 2006 the functions of the Director General of Water Services were transferred to the Water Services Regulation Authority in accordance with section 36 of, and Schedule 3 to, the Water Act 2003.

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A handwritten signature in black ink, appearing to read 'E. Kelso', is positioned on a light blue rectangular background.

Emma Kelso
Senior Director Markets, Enforcement and Customer Policy

**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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