

## Variation of ESP Water Limited's appointment to include Burdon Lane, Sunderland

On 5 October 2022, Ofwat began a [consultation](#) on a proposal to vary ESP Water Limited's ("ESP Water") appointment to become the water and sewerage services provider for a development in Northumbrian Water Limited ("Northumbrian Water") water supply area and sewerage services area called Burdon Lane, Sunderland ("the Site"). Details of the application and our assessment of it were set out in the consultation document.

The consultation ended on 3 November 2022. During the consultation period, we received representations from two organisations, which are summarised in Section 1 of this document.

After the consultation period closed ESP Water provided clearer versions of the maps for the Site which show a minor amendment to the Site's boundary. The number of properties being served and, therefore our financial assessment of this application remains unchanged. The updated maps can be viewed in Section 2 of this document.

We will only make an appointment or variation 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 and having taken account of the responses we received to our consultation, we decided to grant a variation to ESP Water's area of appointment to allow it to serve the Site for water and sewerage services. This appointment became effective on 18 November 2022.

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

The Variation Notice legally making the variation can be found in Section 3 of this document.

## 1. Responses received to the consultation

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

The Drinking Water Inspectorate had no comments to make with regard to this consultation and did not have any objections. Details of CCW's response 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 on the same basis as Northumbrian Water 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 Northumbrian Water. However, CCW notes that customers will be no worse off in terms of the amount paid for their bills.

CCW recognises that ESP Water does not currently offer its financially vulnerable customers a social tariff in the way that Northumbrian Water 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 Northumbrian Water's charges, ESP Water already benefits from the cross-subsidy Northumbrian Water's customers pay to support its social tariff.

CCW also noted that ESP Water generally matches or exceeds the level of service and service standards of Northumbrian Water. It noted that ESP Water commits to consider matching an incumbent's level of compensation for service failures if it exceeds the amount that ESP Water has set in its code of practice. CCW noted that it would like to see ESP Water guarantee to match, at least any higher level of compensation as this will help to ensure customers are no worse off. Based on the above, overall CCW agreed that through this arrangement customers are likely to be no worse off in terms of the amount they pay or the services they will receive from ESP Water than if they were to be served by Northumbrian Water.

CCW noted we calculated that as a result of the variation there will be an increase of £0.02 on the annual water bills and an increase of £0.04 on the annual sewerage bills of existing Northumbrian Water customers. CCW states that whilst it appreciates this is a negligible cost, it is unclear as to whether there will be any significant benefits arising from the arrangement for Northumbrian Water's customers. CCW questions the value of a NAV regime if it cannot deliver benefits for all customers.

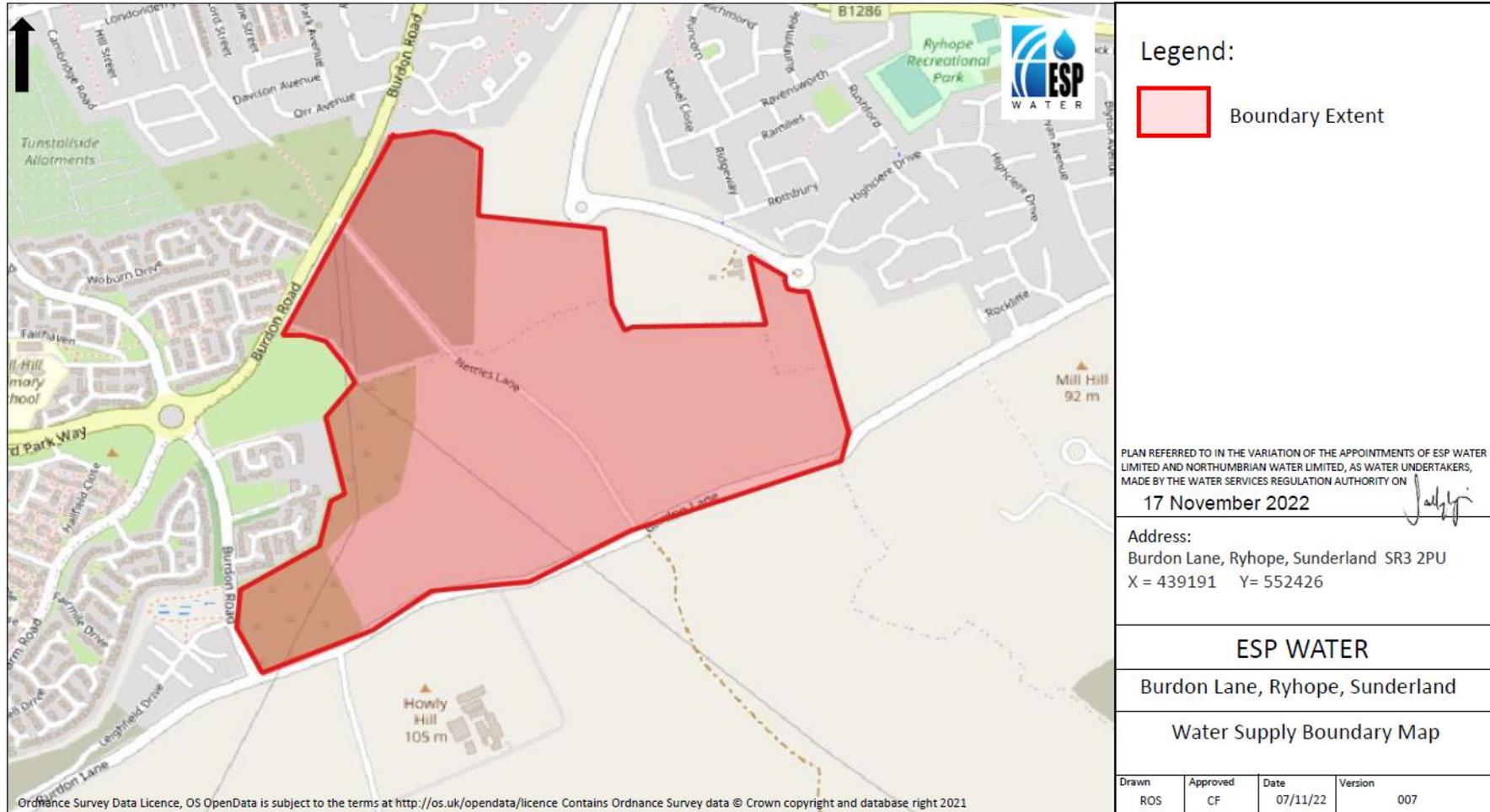
### **Our response**

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.

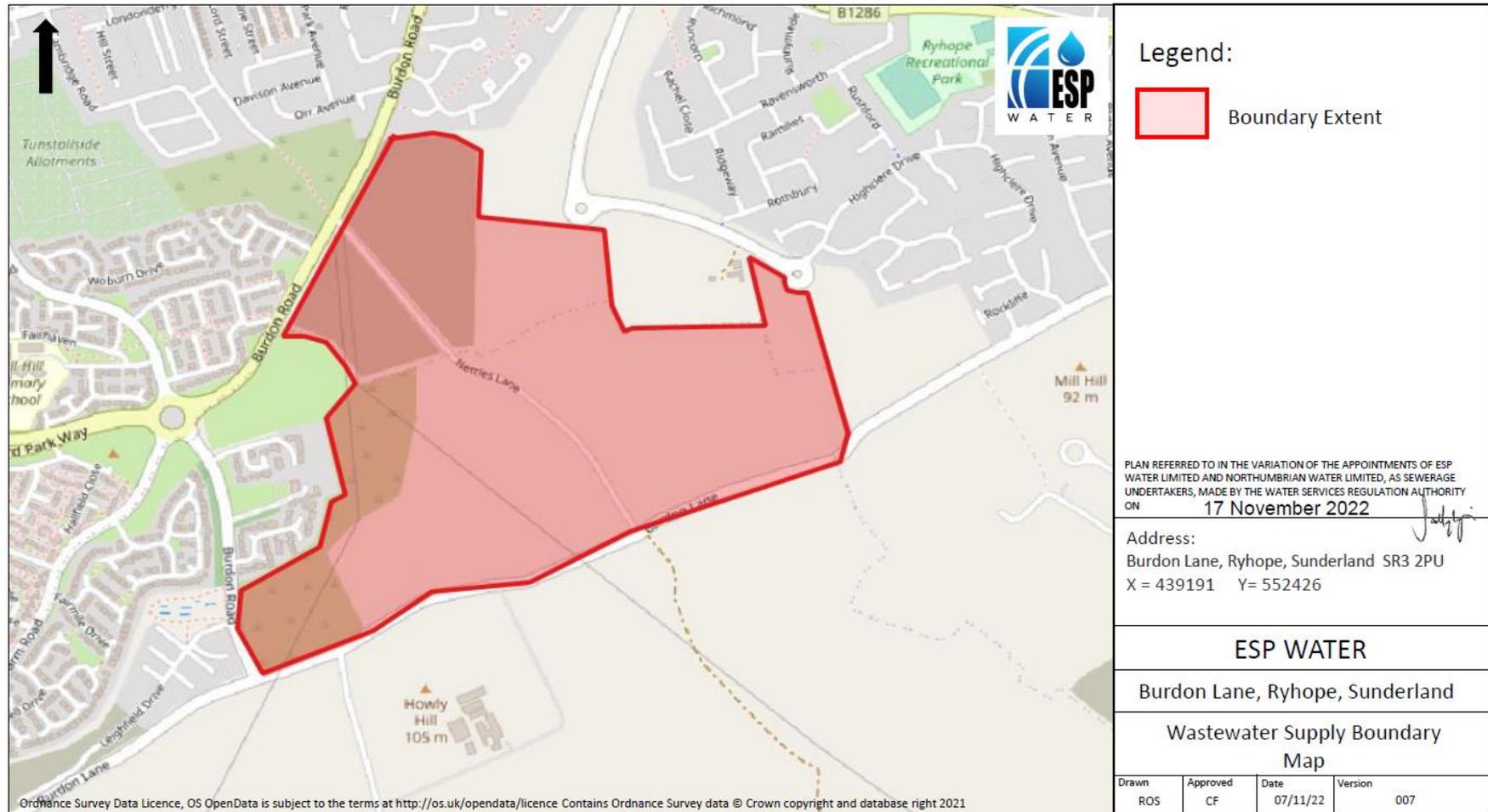
## 2. Site Maps

Water:



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Sewerage:



### 3. Variation Notice

**WATER SERVICES REGULATION AUTHORITY**  
**WATER INDUSTRY ACT 1991, SECTIONS 6 TO 9**

**Variation of the Appointments of ESP Water Limited, and Northumbrian Water Limited as  
Water and Sewerage Undertakers**

Made on 17 November 2022

Coming into effect on 18 November 2022

1. ESP Water Limited ("ESP Water"), and Northumbrian Water Limited ("Northumbrian Water") hold Appointments as water and sewerage undertakers for their respective areas ("the Appointments").<sup>1</sup> The areas to which the Appointments of ESP Water and Northumbrian Water as water and sewerage undertakers relate ("Water Supply Area" and "Sewerage Services Area") are set out in their Instruments of Appointment.
2. The site called Burdon Lane, Sunderland, which is shown edged in red on the plan attached to this variation, ("the Site") is within Northumbrian Water's Water Supply Area and Sewerage Services Area. The Site is being developed by Taylor Wimpey UK Limited.
3. ESP Water has applied under section 7(4)(b) of the Water Industry Act 1991 ("the Act") for a variation of its Appointment as a water and sewerage undertaker to include the Site and for a consequential variation of Northumbrian Water's appointment to exclude the Site.
4. 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 Services<sup>2</sup> to make variations such as those contained in paragraph 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.
5. Therefore, as provided by sections 7(2) and 7(4)(b) of the Act, and with the agreement of Taylor Wimpey UK Limited, the Water Services Regulation Authority **varies**–

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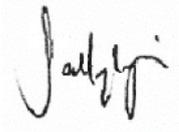
<sup>1</sup> Northumbrian Water's original Appointment as a water and sewerage undertaker was made by the Secretary of State for the Environment under sections 11 and 14 of the Water Act 1989, now replaced by sections 6 and 11 of the Water Industry Act 1991. ESP Water's original Appointment was made by the Water Services Regulation Authority under sections 6 and 11 of the Water Industry Act 1991.

<sup>2</sup> 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) the Appointment of ESP Water as a water and sewerage undertaker so that the Site is included in ESP Water's Water Supply Area and Sewerage Services Area; and
- (b) the Appointment of Northumbrian Water as a water and sewerage undertaker so that the Site is excluded from Northumbrian Water's Water Supply Area and Sewerage Services Area.

**Signed for and on behalf of the Water Services Regulation Authority**

A handwritten signature in black ink, appearing to read 'Sally Irgin', is positioned above the printed name and title.

**Sally Irgin  
Director of Enforcement**