

## About this document

# Variation of Icosa Water Services Limited's appointment to include Plumstead, London

On 26 August 2021, Ofwat began a [consultation on a proposal](#) to vary Icosa Water Services Limited's ("**Icosa Water**") appointment to become the water supply and sewerage services provider for a development in Thames Water Utilities Limited's ("**Thames Water**") water supply area and sewerage services area called Plumstead in London ("**the Site**").

The consultation ended on 30 September 2021. During the consultation period, we received representations from three organisations, which we considered in making our decision. On 27 October 2022, we granted Icosa Water 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, Icosa Water 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

Icosa Water applied to be the water supply 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”). Icosa Water 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 or variation is made, none of the premises in the proposed area of appointment is served by the existing appointee.

The Site is brownfield, a redevelopment of land previously used as a prison.

Thames Water provided a letter, dated 15 October 2021, confirming that the water main feeding the Site has been abandoned, making any remaining connections redundant. Thames Water also confirmed that it was satisfied with the evidence provided to it of the cutting and capping of the foul and surface water drainage connections. Thames Water stated that it can find no active billing accounts under the Site postcode and is therefore satisfied that all accounts have been deregistered on the MOSL platform. Thames Water supports Icosa Water in progressing this application under the unserved criterion.

Thames Water confirmed in a letter, dated 10 August 2022, that the Site remains unserved.

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 or variation 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 Water 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'

Icosa Water 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 Icosa Water's 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 Icosa Water and that overall customers will be 'no worse off' being served by Icosa Water instead of by Thames Water.

## 2.4 Effect of variation 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 Icosa Water.

In this case, we have calculated that if we grant the Site to Icosa Water, there may be a potential increase of £0.03 on the annual water bills and £0.01 on the annual sewerage 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, Berkeley Homes (East Thames) Limited, said that it wanted Icosa Water to be the water and sewerage company for the Site.

### 3. Responses received to the consultation

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

The DWI and Environment Agency had no comments or objections with regard to this consultation. The points raised in the response from CCW are set out below.

#### 3.1 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 Icosa Water as their provider of water and sewerage services, as Icosa Water intends to match Thames Water's charges. However, CCW considers that Icosa Water's service levels generally match or exceed Thames Water's, so overall CCW supports the application. For example, Icosa Water will offer greater compensation in many instances of service failure, such as failing to respond to written complaints within 10 working days.

CCW notes that Icosa Water 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 the relatively small size of its customer base, it may be appropriate for Icosa Water to tailor some of the services that it provides. CCW sets out its expectation that Icosa Water 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 Icosa Water 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 £0.03 in their annual water bills and a small increase of £0.01 on their annual sewerage bill. CCW recognises this increase is minimal 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 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.

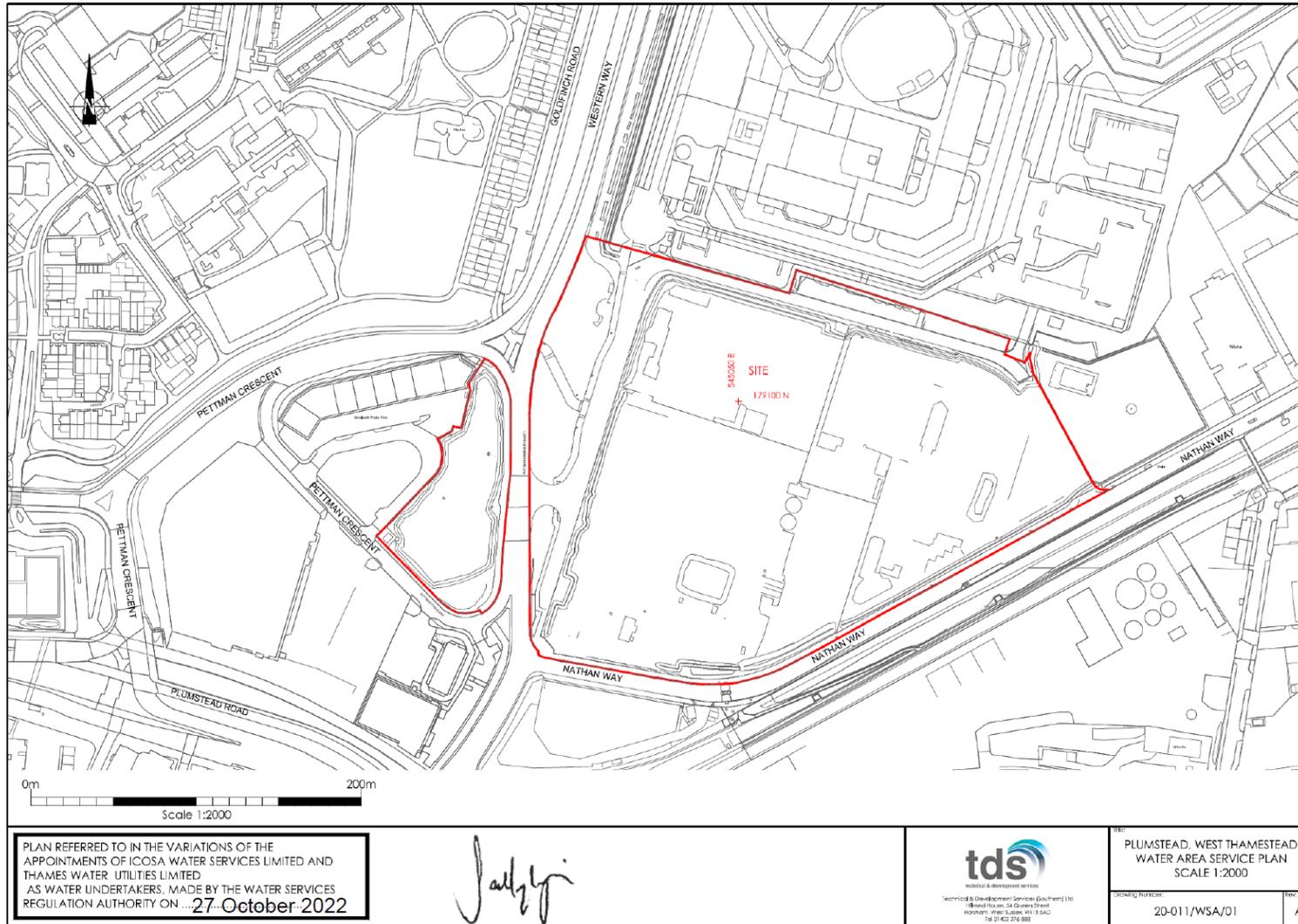
Vulnerable customers may not be aware of the social tariff that would be available to them if they were served by the incumbent rather than by the applicant. It is the responsibility of the applicant to identify and protect vulnerable customers on the Site. Although the applicant does not offer a social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

## 4. 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 water and sewerage services. This variation became effective on 28 October 2022.

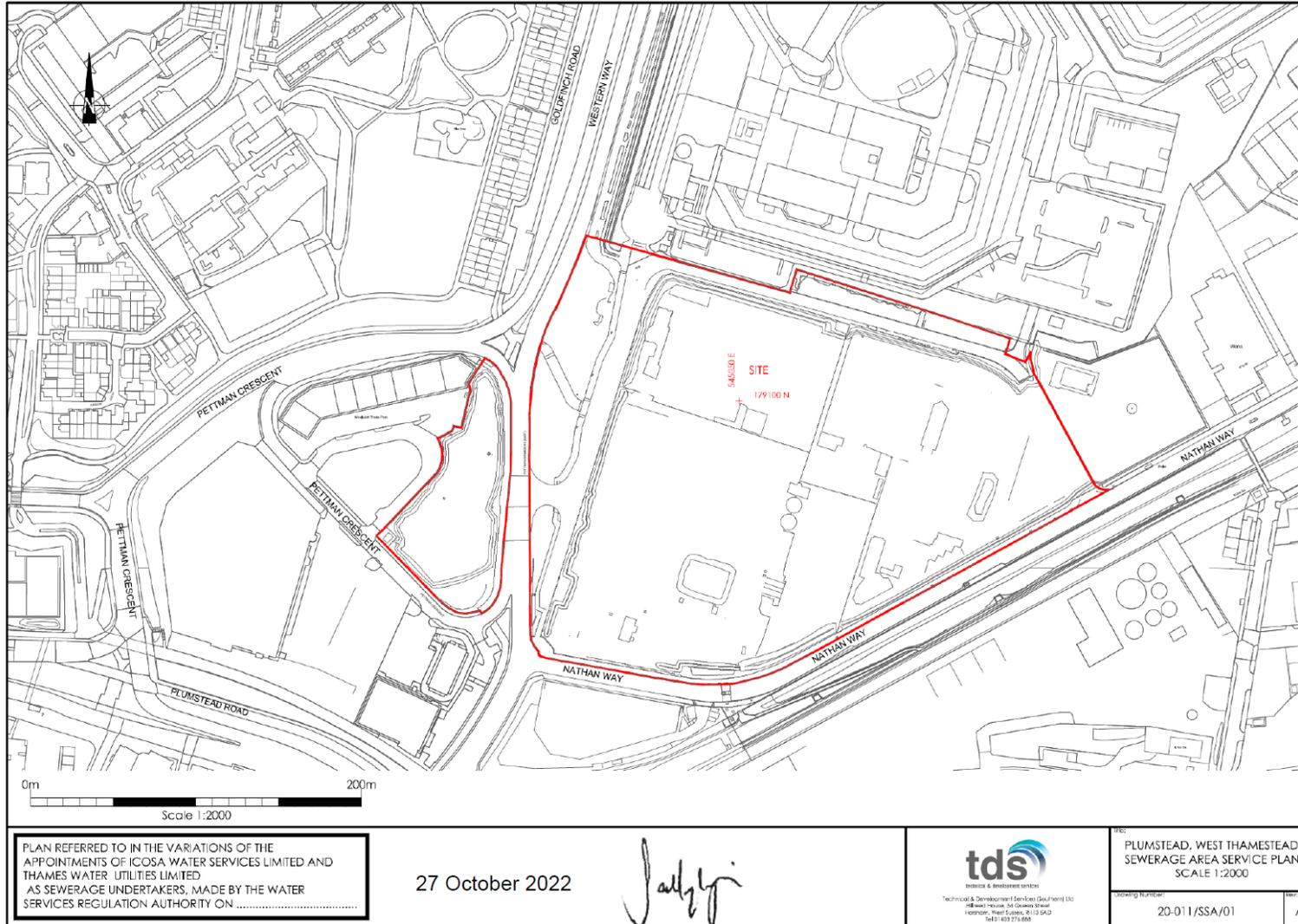
# Appendix 1: Site Maps

## Water



W:\20-011 Plumstead, Wood Lane\TDS Drawings\Drawings\20-011-WSA\01.dwg TDS-work 11/08/2020 13:47:48

Sewerage



## Appendix 2: Variation Notice

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

**Variation of the Appointments of Icosa Water Services Limited and Thames Water Utilities Limited as Water and Sewerage Undertakers**

Made on 27 October 2022

Coming into effect on 28 October 2022

1. Icosa Water Services Limited ("Icosa Water") and Thames Water Utilities Limited ("Thames Water") hold Appointments as water and sewerage undertakers for their respective areas ("the Appointments").<sup>1</sup> The areas to which the Appointments of Icosa Water and Thames 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 Plumstead, London, which is shown edged in red on the plan attached to this variation, ("the Site") is within Thames Water's Water Supply Area and Sewerage Services Area. The Site is being developed by Berkeley Homes (East Thames) Limited.
3. Icosa 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 Thames 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 Icosa Water's application.
5. Therefore, as provided by sections 7(2) and 7(4)(b) of the Act, and with the agreement of Berkeley Homes (East Thames) Limited, the Water Services Regulation Authority **varies**–

<sup>1</sup> Thames 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. Icosa Water's original Appointment as a water and sewerage undertaker 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.

- (a) the Appointment of Icosa Water as a water and sewerage undertaker so that the Site is included in Icosa Water's Water Supply Area and Sewerage Services Area; and
- (b) the Appointment of Thames Water as a water and sewerage undertaker so that the Site is excluded from Thames Water's Water Supply Area and Sewerage Services Area.

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



**Sally Irgin**  
**Director of Enforcement**