

Proposal to grant a variation of appointment to ESP Water Limited to include New Garden Square,
Birmingham

	Details
Applicant	ESP Water Limited (“ ESP Water ”)
Site Details	New Garden Square, Birmingham (“ the Site ”)
Services	Water and Sewerage
Current water and sewerage appointee	Water and sewerage appointee: Severn Trent Water Limited (“ Severn Trent Water ”)
Proposed supply arrangements	Bulk supply and discharge agreements with Severn Trent Water
Criterion	Unserved
Household Customer	398
Business Customers	1
Developer	Winvic Construction Limited
Estimated Site completion date	12/2025
Summary of consultation	<p>A statutory consultation made under section 8(3) of the Water Industry Act 1991 (“WIA91”) to grant ESP Water a variation to its appointment as a water and sewerage company.</p> <p>To also vary the appointment of Severn Trent Water as a water and sewerage company.</p> <p>Consequently, ESP Water will become the water and sewerage company for the Site.</p>
Deadline for submissions	<p>Representations or objections to this consultation should be sent by email to Licensing@ofwat.gov.uk or in writing and sent to the NAV licensing team, Centre City Tower, 7 Hill Street, Birmingham, B5 4UA.</p> <p>Reponses must be received by Ofwat no later than 17.00 hours on 21 March 2023.</p>
<p>Further information about how to make representations or objections, including information on the treatment of confidential information, can be obtained from Ofwat at the above address or at http://www.ofwat.gov.uk/foi/.</p> <p>Ofwat will only use the information you have provided for the purpose of this consultation. We will retain your information in accordance with Ofwat’s retention schedule and will not share with third parties unless we have a legal obligation to do so. For further information please see Ofwat’s Privacy Policy in our Publication Scheme.</p>	

1. ESP Water

ESP Water was set up in April 2021 by ESP Utilities Group ("**ESP Utilities**") to operate in the New Appointment and Variation ("**NAV**") market. ESP Water is a wholly owned subsidiary of ESP Utilities. ESP Utilities owns companies that operate in other utility markets, such as gas and electricity, with over 650,000 customers connected on a variety of networks.

ESP Water intends to operate as an undertaker providing water and sewerage services to household customers. ESP Water will offer water only or water and sewerage services to household customers, as part of a multi utility offering. ESP Water will enter into bulk supply and discharge agreements with incumbent companies and does not plan to use its own resources. ESP Water does not have any acquisition plans; it plans to grow organically via its existing contacts. Self-Lay Providers ("**SLPs**") will construct the networks on site and ESP Water will not undertake installation work but will acquire completed connections.

ESP Water has not previously operated in the sector, and ESP's first application was for a site in United Utilities Water Limited's area, Merchant's Wharf – the consultation document for this site can be viewed [here](#). We granted ESP Water its appointment on 26 July 2022 for this site.

ESP Water has applied to provide water and sewerage or water only services to 18 other sites. We are currently processing the assessment for each site, and we will consult on these accordingly.

2. Our assessment of this application

Our approach

The new appointment and variation mechanism set out in primary legislation¹, provides an opportunity for entry and expansion into the water and sewerage sectors by allowing one company to replace the existing appointee 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 appointees to expand their businesses.

You can find further details of our approach to assessing applications for New Appointments and Variations ("**NAVs**") [here](#).

¹ The legal framework for new appointments and variations is set out in the WIA91. Section 7 of the WIA91 sets out the criteria by which an appointment or variation may be made. Section 8 sets out the procedure for making that appointment or variation.

The unserved status of the Site

To qualify under the unserved criterion, an applicant must show that at the time the variation is made, none of the premises in the proposed area of variation is served by the existing appointee.

Severn Trent Water has provided a letter dated, 6 June 2022, confirming that in its view, it considers the Site to be unserved.

The Site is brownfield and aerial maps do not show any existing building within the Site boundary.

Given the information provided by the ESP Water and Severn Trent Water, we are satisfied that the Site may be considered unserved.

Price

ESP Water proposes to match the charges to customers on the Site to those of Severn Trent Water, it will not offer a discount.

Levels of service

Every appointee is required under its licence conditions to publish and make available the Core Customer Information for its household customers. We have assessed ESP Water's proposed Customer Code of Practice, and our view is that it is of an appropriate standard. Our view is that customers on the Site would be no worse off in relation to the scope of ESP Water's proposed Customer Code of Practice than they would be if Severn Trent Water were to be the customers' water and sewerage company.

Stakeholder engagement

We take the view of the Environment Agency, the Drinking Water Inspectorate ("**DWI**"), and the Consumer Council for Water ("**CCW**") into account before progressing to formal consultation on an application. The Environment Agency and CCW informed us that they are content for us to consult on this application².

The Drinking Water Inspectorate is satisfied that ESP Water understand the obligations under the Water Industry Act 1991 (as amended), the Water Supply (Water Quality) Regulations 2016

² The Environment Agency and the Drinking Water Inspectorate will also be formally consulted on the proposals, as they are on the list of organisations which must be formally consulted as set out in section 8(4)(b) of WIA91.

(as amended) and the Water Industry (Suppliers' Information) Direction 2021. The Drinking Water Inspectorate therefore raise no comments or objections to Ofwat proceeding to consultation and decision for applications submitted by ESP Water,

Impact on existing customers

In considering whether customers will be no worse off, we also considered the potential effects of this variation on the prices that Severn Trent 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. It is therefore necessary to use a simplified set of figures. We have expressed the effect in 'per bill' terms to try to quantify the possible effect in an easily understandable way.

We have assessed the potential magnitude of this impact by comparing how much Severn Trent 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 ESP Water.

We estimate no increase on the annual water and sewerage bills of existing Severn Trent Water customers if we grant this variation to ESP Water. This is once the Site is fully built out.

This estimate does not take into account the potential spill-over benefits to customers arising from dynamic efficiencies achieved as a result of the competitive process to win sites.

Therefore, we consider that granting this variation to ESP Water would have no financial impact on customers' bills and could have potential benefits for customers.

Ability to finance and properly carry out its functions

We have a statutory duty to ensure that efficient appointees can finance the proper carrying out of their functions. When a company applies for a new appointment or variation, it must satisfy us that it is able to carry out all of the duties and obligations associated with being an appointed water or sewerage company. We specifically look at the operational and financial viability of the company.

Our assessment of operational viability requires the company to demonstrate to us that it is technically and operationally able to fulfil the duties of an undertaker. The key considerations we look at are listed in our published guidance [here](#), in section 5.7 (page 40).

In carrying out our assessment of this application we have noted that ESP Water intends to use subcontracted arrangements to operate its sites; Ofwat has considered whether this could impact on ESP Water's ability to perform its functions. ESP Water has provided

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sufficient evidence to demonstrate that it has the necessary processes and expertise in place to be able to comply with its obligations as a water and sewerage undertaker.

ESP Water has entered into a subcontracted arrangement with Castle Water Limited ("**Castle Water**"), whereby Castle Water will serve its business customers until ESP Water exits the business retail market. We have reviewed ESP Water's intended arrangement with Castle Water and found that this interim arrangement will not negatively impact ESP Water's business customers. If this appointment is granted, ESP Water's business customers will be added to Castle Water's billing system as new customers and all customer and billing services will be handled by Castle Water.

In addition to its arrangement with Castle Water for business customers, ESP Water has several other subcontracted arrangements in place with other water and sewerage companies and third-party providers. ESP Water intends to rely on these arrangements and support from incumbent companies to be able to perform its statutory and regulatory duties. These arrangements cover provisions such as emergency mains repairs and the supply of bottled water. ESP Water has provided information on its assessment process of appointing subcontractors, how the arrangements will work in practice and the contingency plans it has in place should arrangements not work as intended. Further, ESP Water has provided details of the assurance processes it has in place to ensure any infrastructure or assets it adopts meets the industry standard required.

Having reviewed the above, we are satisfied that it has the necessary operational viability to perform the duties of an undertaker.

We have considered the revenues and costs of the Site relating to the provision of water and sewerage services should the relevant variation be granted. Following our review, we are satisfied that the Site demonstrates sufficient financial viability under our standard assessment. We are satisfied that the financial security ESP Water has in place meets our minimum requirements.

ESP Water has an unlimited Keepwell Agreement with its parent company, ESP Utilities Group Limited ("**ESP Utilities**"). ESP Water have confirmed that this agreement will be finalised and will cover this proposed new Site. ESP Utilities holds an investment grade credit rating with Moody's. We have also noted that ESP Water intends to grow quickly as a business, and we will continue to monitor its arrangements for financial security as it grows.

On this basis, our view is that the risk of this Site not being financially viable is small and as a result we are satisfied that ESP Water would be able to finance its functions if the variation is granted.

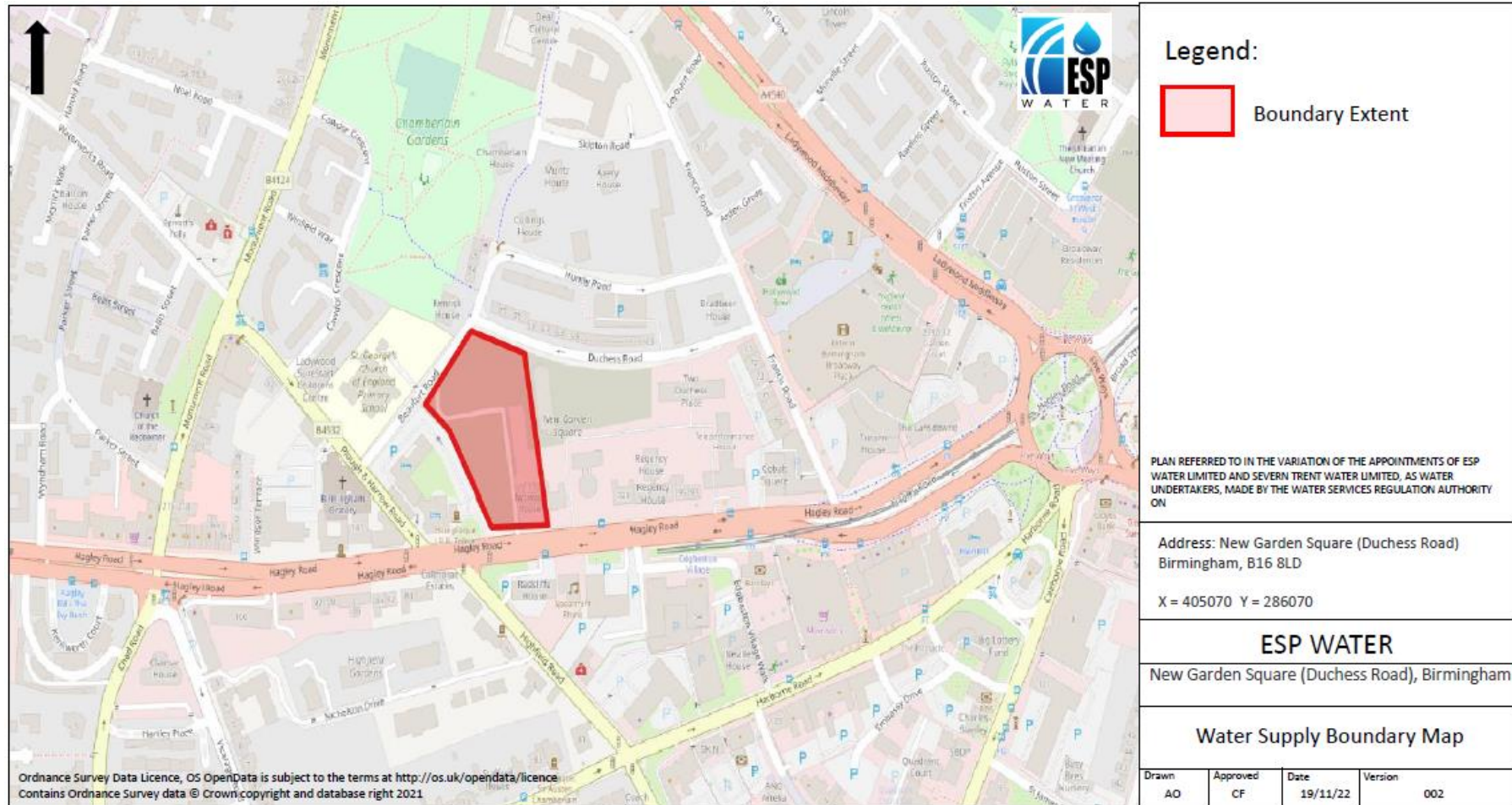
3. Conclusion and next steps

In assessing ESP Water's application, we have considered the general benefits of new appointments and variations. Our view is that our two key policy principles would be met in this case, as customers would be no worse off, and ESP Water would be able to finance, and carry out, its functions. We have also considered the effects of granting the proposed variation on the existing customers of Severn Trent Water.

We are currently minded to grant the variation under the unserved criterion. Subject to considering any representations submitted during the consultation period in response to this consultation notice, Ofwat will decide whether or not to grant the variation of appointment set out above.

4. Site maps

Water



Sewerage

