

Issue Specific Hearing 15
Written Summary of Oral Submissions on behalf of
Northumbrian Water Limited
[Agenda Items 2 and 5]

1. This written summary of oral submissions on behalf of Northumbrian Water Limited (“NWL”) deals with 4 issues:
 - 1.1. Slippage of the Water Industry National Environment Programme (“WINEP”) modelling;
 - 1.2. NWL’s position on the Protective Provisions (“PPs”) to be incorporated in Schedule 18 of the DCO;
 - 1.3. NWL’s position on the Applicant’s (“SZC”) written submissions on the operation of the Water Industry Act 1991 (“WIA”) [Appendix 1 of REP 8-125];
 - 1.4. NWL’s position on a point made on behalf of SZC, just before the close of ISH 15, in relation to a question asked by ExA concerning the statutory regime and the construction phase.

WINEP modelling

2. As explained at ISH 15, the timing set out at ISH 11 by which Wood Consultants were expected to have finished their modelling work and provided a final report to NWL and the Environment Agency (“EA”), has slipped to 14 October 2021.
3. The EA’s position is that it then needs c.2 weeks to provide likely indicative new annual licensed quantities for NWL’s abstraction licences. As Mr Robinson explained at ISH 11, once NWL has the report from Wood Consultants, it will also undertake additional modelling work to confirm the impact on deployable output.
4. Providing the EA agree with the output of the report from Wood Consultants, NWL expects that, within 2 weeks of the Wood Report being received by NWL (by the end of October 2021), it will have reached a position on whether there will be sufficient capacity to supply SZC.

5. If the EA does not agree with the proposed annual licence numbers, then further work will be required and NWL will not be able to confirm its position. Therefore, subject to the EA's conclusion, the further modelling work currently being undertaken will enable NWL to know the likely impact on the supply surplus in the Northern Central Water Resource Zone ("NCWRZ") and whether SZC will be able to be provided with the required water supply, without having to deliver new supply.
6. As previously explained in NWL's written submissions on ISH 11 and 14 at paragraphs 4-7 (REP 8-167), if there is sufficient water supply in the NCWRZ then it is common ground with SZC that the Current Proposed Infrastructure Solution ("CPIS") would be adequate to meet the needs of the Plant, without compromising the ability of NWL to meet its other statutory obligations; the existing headroom under the existing licences (after other customer demands are met) should be sufficient to meet all probable future obligations on NWL under the WIA, and would therefore enable the necessary supply to the Plant (hence the CPIS).
7. However, if the water resource in the NCWRZ is inadequate, NWL would need to carry out an options appraisal of demand management and potential capital projects such as (for instance) a desalination plant, or sewerage effluent re-use plant, to meet anticipated future demand. Any such project would require appraisal and then approval by the EA, Ofwat and Defra (as part of NWL's PR24 (Price Review 24) Business Plan and the Water Resource Management Plan ("WRMP") 2024 process). This regulatory approval process is unlikely to complete until Spring 2024. Once funding for a capital project has been approved, NWL would undertake detailed feasibility of scheme(s), including matters such as the need to acquire land and obtain planning permission etc (see also the final version of the Statement of Common Ground ("SoCG") between NWL and SZC (at 2.1-2.3 [REP 9-015])).
8. The SoCG and PPs (attached to the SoCG at Appendix B) set out what will happen in both scenarios; NWL's commitment to delivery of SZC's long-term water supply is therefore set out in the PPs.

NWL's Position on the Protective Provisions

9. As set out above, the SoCG [REP 9-015] includes the agreed PPs. At ISH 15, the ExA informed the parties that it had some drafting and procedural points on the PPs which would be set out in writing (and are included in the ExA's Rule 17 request for further information, dated 6 October 2021).
10. NWL and SZC have reviewed and considered the ExA's comments and agreed the suggested amendments to the text of the PPs (as attached to these submissions).
11. Therefore, as set out in the SoCG [REP 9-015], subject to the PPs, as agreed with SZC, being incorporated in Schedule 18, NWL withdraws its objection to the DCO.

NWL's Position on SZC's written submissions (post ISH 11) on the operation of the relevant statutory provisions of the WIA [Appendix 1 of REP 8-125]

12. NWL stated in their written submissions post ISH 11 [REP 8-167 para 18] that SZC's explanation of the statutory regime (offered to be provided in writing during ISH 11) ought to be uncontentious and that once the written submissions were made available, NWL would confirm its agreement, or set out any material disagreement.
13. NWL considers the SZC ISH 11 legal submissions on the WIA [REP 8-125] uncontentious, bar two paragraphs (1.1.35 and 1.1.38) relating to SZC's argument that a Grampian condition/restriction would be objectionable. As to that difference of position, the ExA has NWL's submissions (as set in correspondence from Essex & Suffolk Water ("ESW") and Walker Morris and the submissions (oral and written) at ISH 11 and 14) as to why such a condition/restriction was justified.
14. In any event, there is no need to take up further time on the matter because it has become academic – as set out above, subject to the agreed PPs being incorporated in the DCO, NWL withdraws its objection.

NWL's position on a point made on behalf of SZC, just before the close of ISH 15, in relation to a question asked by ExA concerning the statutory regime and the construction phase

15. Just prior to the close of ISH 15, the ExA asked SZC about reliance on the statutory regime of the WIA for long term water supply, when the regime had not been used to secure a water supply for the construction phase. A response from SZC is to be provided in writing. However, Mr Philpot QC on behalf of SZC also commented to the effect that SZC had been asking to be included in the WRMP 2019 for several years.
16. As set out at paragraph 12 of NWL's ISH 11 & 14 written submissions [REP 8-167], NWL has consistently made clear to SZC that any water supply available to the project would be subject to the ongoing WINEP process. SZC has been aware throughout of the risks which water supply may pose to the successful delivery of the project.
17. NWL's WRMP 2019 confirmed that NWL could not provide a mains water supply to the SZC site from the local Blyth Water Resources Zone ("BWRZ"). This was because NWL's groundwater abstraction licences had already been identified by the EA as being potentially unsustainable. Consequently, all NWL's abstraction licences were included in its part of the EA's WINEP, with a requirement to undertake abstraction sustainability investigations between 2020-2022.
18. The EA adopts the precautionary principle while the WINEP investigations are undertaken which required NWL (and other water companies) to maintain abstraction below a "Recent Actual" baseline, to minimise the risk of deterioration of the environment. Providing SZC with a mains water supply would have increased abstraction *above* Recent Actual levels. As such, NWL committed to investigating a mains supply sourced from the NCWRZ, but this was also subject to the outcome of WINEP investigations.
19. When NWL forecast a supply deficit, it undertakes a WRMP Options Appraisal and develops a final plan which includes demand management and supply options to restore supply headroom (see above). However, NWL was unable to do that in WRMP 2019, as the regulatory process required the WINEP investigations to be completed first. As the

WINEP investigations are only now concluding, any new supply scheme(s) that may be required will be considered in NWL's WRMP 2024.

NWL

12 October 2021.