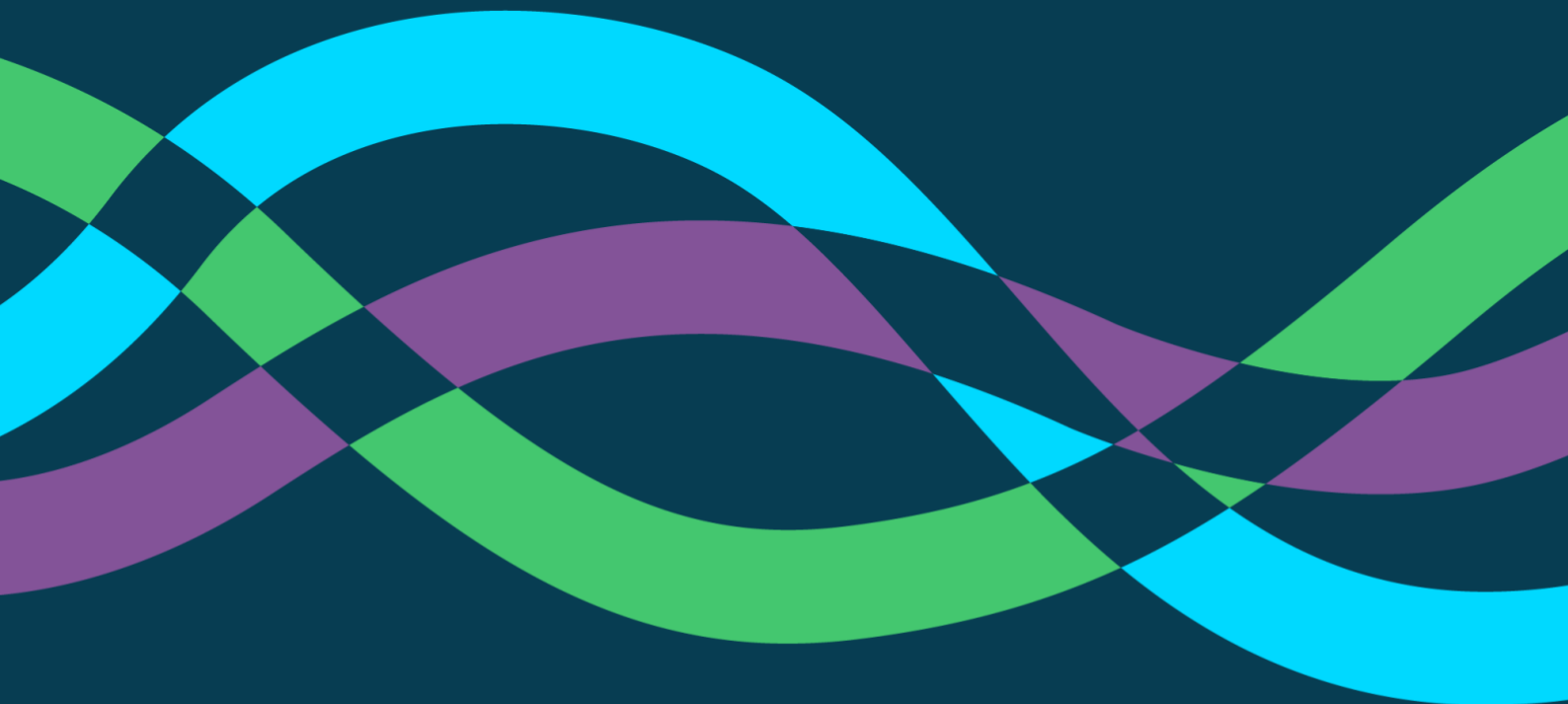




Grand Union  
Canal Transfer

# Section 35 Direction – Qualifying Request

*3 September 2024*



# Quality information

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Prepared for:

GUC Transfer Project Partners (Severn Trent, Affinity Water and Canal & River Trust)

Prepared by:

Mott MacDonald  
10 Livery Street  
Birmingham B3 2NU  
United Kingdom

T +44 (0)121 234 1500  
mottmac.com

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# Executive Summary

This document is a 'qualifying request' under section 35 of the Planning Act 2008 (PA2008) for the proposed Grand Union Canal Transfer Project ('the Project') to be treated as development for which development consent is required.

The Project is being jointly delivered by Affinity Water Limited (AfW) and Severn Trent Water Limited (ST) along with the Canal & River Trust (the Trust) charity. In respect of this section 35 qualifying request, the applicants are AfW, ST and the Trust.

The Project is a central component of both the Water Resources in the South East (WRSE) Regional Plan and AfW's revised draft Water Resources Management Plan 2024 (WRMP24) supplying water resilience for AfW customers in Hertfordshire and North West London. It is also part of the Regulators' Alliance for Progressing Infrastructure Development's (RAPID) programme of Strategic Resource Options (SROs) to help meet the water needs set out in the Environment Agency's National Framework<sup>1</sup>, that will benefit customers and wider society, and help to protect and enhance the environment.

The Project will transfer surplus water from ST's supply area via up to 131km length of canal across up to ten local authority areas to areas of water deficit in AfW's supply area. From a new Advanced Water Treatment Plant (AWTP) to the East of Birmingham, a new pipeline and existing canals will convey a source of raw water which will then be abstracted, stored and treated in Bedfordshire or Buckinghamshire, prior to its distribution to AfW customers.

The need to submit this request for a section 35 direction arises from the criterion that "the deployable output of the facility to be constructed as a result of the development will exceed 80 million litres per day" (section 28(1)(b)(i)). Whilst the peak operational output of the Project would exceed the threshold, and the scheme exceeds the threshold in terms of both Deployable Output as defined by the EA Water Resources Planning guidance (paragraph 5.3) and its ability to transfer water on an annual average basis, the scheme may not meet the annual average interpretation of the deployable output threshold of section 28 as it is not intended to be operated at an annual average of over 80MI/d.

The Project would have met the NSIP criteria other than deployable output in section 28, being carried out in England by two water undertakers (section 28(1)(a)), transferring water between the undertakers' areas (section 28(1)(c)(ii)), and the transfer not being drinking water (section 28(1)(d)). However, the Trust is not a water undertaker within the meaning of the PA2008 and, as the Trust intends to operate the element of the project located within the canal estate, it is appropriate that it has the ability to be one of the applicants for the DCO. This, however, results in section 28(1)(a) not being complied with as the development would not only be carried out by water undertakers.

Through this s35 request therefore, it is requested that the Secretary of State (SoS) directs that the application for development consent may seek powers for the Trust to construct, maintain and operate parts of the Project, namely the canals and associated assets. If the SoS is minded to direct this, it is requested the SoS directs that the Trust may be named as an applicant for the purposes of the PA2008 regime.

This qualifying request sets out the clear case for the Project being of national significance, in terms of the scale of development proposed and the geographic area it is located within, the urgent need for

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<sup>1</sup> <https://www.gov.uk/government/publications/meeting-our-future-water-needs-a-national-framework-for-water-resources>

the additional water resources and the economic and social benefits of securing resilient supplies for customers, including planned new housing development.

The Project would ensure water supply resilience for AfW's central region, supporting significant planned housing growth, enabling reductions in the amount of water taken from the environment and in particular reducing reliance on sensitive chalk groundwater sources that feed into chalk streams which are vulnerable to climate change. The Project will also have wider benefits, supporting the Water Resources in the East (WRE) region with their environmental ambition and the government in delivering their nationally significant growth proposals for Cambridge. The Project will allow AfW to take less water from Grafham reservoir in Cambridgeshire, enabling that water to support Cambridge's growth in the period to 2040.

The Project is complex and a substantial scheme, involving extensive infrastructure works across up to ten local authority areas and requiring multiple powers and consents (including multiple planning permissions, compulsory acquisition powers and potential street works). If the Project is required to be consented outside the PA2008 it is likely that the time taken to secure the necessary consents for the Project will risk delivery of the objectives of the WRSE Regional Plan and AfW WRMP, delaying the delivery of a resilient water supply for AfW's customers and the Government's planned significant growth for Cambridge, and result in inconsistent consents that prejudice delivery of the Project.

Furthermore, application of the Water Resources Infrastructure NPS to the Project, which is requested through this section 35 request, would confirm the need for the Project, as this would be fully established by paragraph 2.4.4 of the Water Resource Infrastructure NPS via the adoption of the Project within AfW's final WRMP24.

By progressing the proposed Project through the PA2008 development consent process, it would provide the certainty of a single, unified, consenting process for the whole project within fixed timescales. This certainty of timely delivery, within a clear national policy context of the Water Resources Infrastructure NPS, are considered to be critical to ensure that the Project is delivered and operational on programme by 2032 as identified by the Revised Draft WRSE Regional Plan and AfW's revised draft Water Resource Management Plan (WRMP24).

# 1. Introduction

- 1.1 This document is a 'qualifying request' under section 35 of the PA2008 for the 'principal' elements of the proposed Grand Union Canal Transfer Project ('the Project') to be treated as development for which development consent is required.
- 1.2 The Project is being jointly delivered by AfW and ST along with the Trust which looks after the canal network in England and Wales (collectively referred to as the GUC programme partners). In respect of this qualifying request, AfW, ST and the Trust are referred to as 'the Applicants'.
- 1.3 The Project will transfer surplus water from ST's supply area to areas of water deficit in AfW's supply area. From a new Advanced Water Treatment Plant (AWTP) in the vicinity of ST's Minworth Wastewater Recycling Centre (WwRC) to the East of Birmingham, a new pipeline and existing canals will convey a source of raw water which will then be abstracted, stored and treated in Bedfordshire or Buckinghamshire, prior to its distribution to AfW customers.
- 1.4 This qualifying request has been arranged over 7 sections, including this introduction, as follows:
  - Introduction – this section
  - Water resource context and the need for a section 35 direction
  - Project description and location
  - Regulator and stakeholder engagement
  - Qualifying request requirements
  - Case for national significance
  - Conclusion
- 1.5 A draft of the section 35 direction sought for the Project has been included at **Appendix A**.
- 1.6 A glossary of terms used through this request is included at **Appendix B**.

## 2. Water resources context and the need for a Section 35 Direction

### 2.1 National Context

- 2.1.1 AfW is the appointed water undertaker (for the purposes of the Water Industry Act 1991) for 3.8 million customers across the south east of England. AfW is the largest water-only supply company in the UK, owning and managing the water assets and network in an area of approximately 4,500km<sup>2</sup> across three supply regions as shown in Figure 1. The Project would deliver water to AfW's Lee and Stort catchments within the Central Region when the need for water is greatest, for example, during the summer and in times of drought. This will provide resilience to Hertfordshire and North West London and facilitate the reduction of less sustainable water abstraction, for example, from chalk streams. AfW would be the recipient of water from the Project.

**Figure 2.1: Map showing AfW's area and regions**



- 2.1.2 ST is the appointed water and sewerage undertaker (for the purposes of the Water Industry Act 1991) for 4.5 million homes and businesses covering central England from the Bristol Channel to the Humber and from Shropshire to the East Midlands. It is one of the largest of the 11 regulated water and wastewater companies in England and Wales. ST would provide water to AfW through the Project.
- 2.1.3 The Trust owns, operates and maintains the canal infrastructure which would be utilised as part of the project. Founded in 2012, the Trust is the UK's largest canal charity, caring for a 2,000-mile network of canals and navigable rivers. In relation to the canals included in this Project, the Trust has a role as landowner and navigation authority. The reasons the Trust is an Applicant under this request are explained in section 7, below.



- 2.1.4 The Environment Agency's "Meeting our future water needs: a national framework for water resources" (March 2020) (the 'National Framework')<sup>2</sup> plans for England's future water needs and sets out actions required to ensure resilient water supplies. It is also reported that if no action is taken between 2025 and 2050, approximately 3,435 million extra litres of water per day will be required in England to address future pressures. AfW, alongside many other water companies in England, has identified the need, through its current statutory WRMP 2019<sup>3</sup> and revised draft WRMP 2024<sup>4</sup> to invest in identifying and delivering new sources of water. Within this context, the scale of the future water resources required for AfW's catchment demands that it takes a strategic approach to planning for the future water supply to its customers.

## 2.2 RAPID and strategic resource option process

- 2.2.1 Ofwat has provided funding for water companies to investigate, then develop, Strategic Resource Options (SROs) to help meet the water needs set out in the National Framework, that will benefit customers and wider society, and help to protect and enhance the environment.
- 2.2.2 The development of these nationally important SROs is being overseen by the Regulators' Alliance for Progressing Infrastructure Development (RAPID), an alliance of regulators, including the Environment Agency, Ofwat and Drinking Water Inspectorate, formed to help accelerate the development of new water infrastructure.
- 2.2.3 AfW and ST are jointly developing two separate SROs, the GUC Transfer SRO and the Minworth SRO respectively, each of which is progressing through the RAPID gated process. For the purposes of the Project, and this S35 direction request, these two SROs would work in combination, with the Minworth SRO supplying the additional water that will then be transferred by the GUC Transfer SRO using the Trust infrastructure for the majority of the transfer. The Minworth SRO will facilitate a large volume of water for transfer that will assist in meeting future water demand, including during drought conditions. AfW<sup>5</sup> and ST<sup>6</sup> submitted their Gate 2 assessments to RAPID for the SROs in November 2022. The Gate 3 assessments are due to be submitted in December 2024.

## 2.3 Securing a resilient water supply

- 2.3.1 The need for and the timing of the SRO schemes is being considered and established through the company WRMP and regional water planning process. In the case of the Project, this has involved consideration through the WRSE Regional Plan as the recipient of water from the Project and Water Resources in the West (WRW) Regional Plan as the donor region for the Project, as well as the respective company WRMPs.
- 2.3.2 WRSE is an alliance of the six water companies which cover the South East of England – Affinity Water, Portsmouth Water, SES Water, South East Water, Southern Water and Thames Water. WRW spans the North West, the Midlands and cross border catchments between Wales and England with water companies members ST, United Utilities, South Staffs Water, Dwr Cymru (Welsh Water) and Hafren Dyfrdwy`.

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<sup>2</sup> Meeting our future water needs: a national framework for water resources, Environment Agency, March 2020

<sup>3</sup> Water Resource Management Plan 2020-2080, Affinity Water April 2020

<sup>4</sup> Revised Draft Water Resources Management Plan 2024, Affinity Water, 2023

<sup>5</sup> Gate Two Submission for Grand Union Canal Transfer SRO to RAPID, November 2022

<sup>6</sup> Gate Two Submission for Minworth SRO to RAPID, November 2022

- 2.3.3 Each regional group across England is preparing a strategic water resources plan for its region. The regional plans are currently non-statutory but provide key strategic inputs to individual company statutory WRMPs and have been prepared in parallel with the statutory WRMP process.
- 2.3.4 AfW's current statutory WRMP19 identified the need for and selected the GUC transfer as a solution to predicted supply-demand deficits. Subsequently, AfW was granted funding to investigate and progress the scheme as part its 2019 Price Review (PR19) Determination.
- 2.3.5 In the draft WRSE Regional Plan, published in November 2022, a first 50MI/d phase (50MI/d deployable output) of the GUC transfer was selected for delivery in the early 2030s, with a second 50MI/d phase required by 2040. Following consultation and further modelling, in the revised draft WRSE Regional Plan, published in August 2023, a single phase 100MI/d GUC transfer was selected as part of the process of developing a more robust and resilient plan.
- 2.3.6 AfW's revised draft WRMP24 (August 2023), which is currently being considered by the SoS, includes as a core component of its preferred solution, the development of the 100MI/d GUC transfer, taking forward the outcome of the WRSE regional planning.
- 2.3.7 The Minworth SRO would enable the GUC SRO by providing a resilient source of treated water from the Minworth WwRC to supply the GUC canal transfer. ST and AfW are granted funding through RAPID to investigate the Minworth SRO.

## 2.4 The Project

- 2.4.1 The Project will secure future water supplies, utilising the canal network to transfer water from the Midlands to the South East of England. This Project will deliver sustainable and reliable water supply for the future and reduce the reliance on water from other sources, including unique chalk stream habitats.

**Figure 2.2: Illustrative plan of the GUC Transfer project**



- 2.4.2 The Project will be designed to deliver 100MI/d of water as an Annual Average Deployable Output (ADO) benefit, and 112MI/d as a Peak Deployable Output (PDO) benefit. This will require that the transfer itself has a total capacity of 115MI/d to allow for standard treatment losses at the AfW Water Treatment Works. However, it is envisaged that the scheme will only be operated at its peak during the summer period when demand is greatest. A lower 'sweetening flow' would be transferred at other times, sufficient to maintain treatment works processes and pipeline transfers.
- 2.4.3 More detail about the Project is included in Section 3.

## 2.5 The need for a Section 35 Direction

- 2.5.1 The need to submit this request for a section 35 direction arises because:
- a) Whilst the peak operational output of the Project would exceed the threshold in section 28(1)(b)(i)) of the PA 2008 ("the deployable output of the facility to be constructed as a result of the development will exceed 80 million litres per day"), the scheme may not meet the annual average interpretation of the deployable output threshold of section 28; and
  - b) The Trust is not a water undertaker within the meaning of section 28(1)(a) of the PA2008.
- 2.5.2 In order to be an Nationally Significant Infrastructure Project (NSIP), a water transfer project must comply with the criterion that "the deployable output of the facility to be constructed as a result of the development will exceed 80 million litres per day" (section 28(1)(b)(i)). "Deployable output" means "in relation to a given facility, the annual average volume of water that can be produced per day from that facility under drought conditions" (section 235 PA2008). Drought conditions are defined as a 1 in 200-year drought.
- 2.5.3 Whilst the maximum output of the scheme is designed to be 112MI/d, and the scheme could transfer more than 80MI/d as an annual average if required, the predicted, annual average output under normal operating conditions is expected to be around 40MI/d. The "annual average" volume is therefore a difficult term to apply to the transfer; the peak volume would exceed 80 MI/d but the intended operational volume outside of the summer period would not and the resultant daily average would not.
- 2.5.4 The Applicants are aware of the section 35 directions made by the SoS for other water projects including the Teddington Direct River Abstraction and the Hampshire Water Transfer and Water Recycling Project. These directions indicated that it is the SoS's view that where peak volume exceeds the threshold this does not mean the scheme would meet the DO threshold in the PA2008.
- 2.5.5 The Project would have met the NSIP criteria other than deployable output in section 28, being carried out in England by two water undertakers (section 28(1)(a)), transferring water between the undertakers' areas (section 28(1)(c)(ii)), and the transfer not being drinking water (section 28(1)(d)).
- 2.5.6 However, the Trust is not a water undertaker within the meaning of the PA2008 and as the Trust intends to operate the element of the Project located within the canal estate, it is appropriate, as owner and operator of the canals, that it has the ability to be one of the applicants for the DCO. This, however, results in section 28(1)(a) not being complied with as the development would not only be carried out by water undertakers.

- 2.5.7 To support this section 35 direction request, this qualifying request sets out a clear case for the Project being of national significance, both in terms of the scale of development proposed and the geographic area it is located within, the urgent need for the additional water resources and the economic and social benefits of securing resilient supplies for customers, including planned new housing development. This is set out in full in section 6.
- 2.5.8 The Project is one of the core components of both the WRSE regional planning and AfW's emerging WRMP24, meeting a critical need for water and a more sustainable approach to meeting future need. The development and funding of the Project through the RAPID gated process underlines the importance of delivering of the Project and its national significance.
- 2.5.9 The Project itself is complex in consenting terms, spanning up to ten planning authority areas and requiring a range of statutory powers, permissions, consents and licences. The DCO regime provides clear benefits to delivering a complex linear infrastructure project of this nature and would support its timely delivery. Consideration through the DCO process would reduce uncertainty and risk of inconsistency in consenting this key infrastructure project. The timing and delivery of the scheme by 2032, as set out in the Gate 2 submission is based on the premise that the scheme would be consented through an application for a DCO as this "offers the greatest prospect of timely project delivery" (section 7.9, GUC Gate 2 Main Report). The Project is reliant on utilisation of the DCO process rather than multiple separate applications for consent, to meet the WRMP delivery timescales for the Project.

## 2.6 Project delivery

- 2.6.1 The development is being promoted by two water undertakers and the Trust, however parts of it may be delivered through 'Direct Procurement for Customers' (DPC), a competitive tendering process where a third party is appointed to design, build, finance, operate and maintain infrastructure (either all or many of these functions). AfW and ST are of the view that contractual delivery mechanism does not mean that the proposed development carried out on behalf of the water undertakers (which includes works to the canal), is not 'water undertaker' development as it is to serve their undertakings and is being progressed in compliance with their duties and obligations. AfW and ST consider that this is no different to the appointment of a Design Build Finance Operate (DBFO) contractor on strategic highways, the affected highways remain strategic highways within (in England) National Highways' statutory area of control and responsibility, the DBFO contract does not affect that status. However, given that the PA2008 refers to the development being 'carried out' 'by' one or more operators and at this stage it is considered that DPC may be used, it is drawn to the SoS's attention that all or part of the development may, in practice, be 'carried out' by another entity who is not a water undertaker.
- 2.6.2 As referred to above, it is also the case that the Canal & River Trust forms part of the Applicant team for the Project, alongside ST and AfW as Water Undertakers. For the reasons set out below, this s35 request seeks direction that powers of construction, operation and maintenance may be sought for the Trust through the application for development consent and that the Trust may be named as applicant for the purposes of the PA2008 regime.

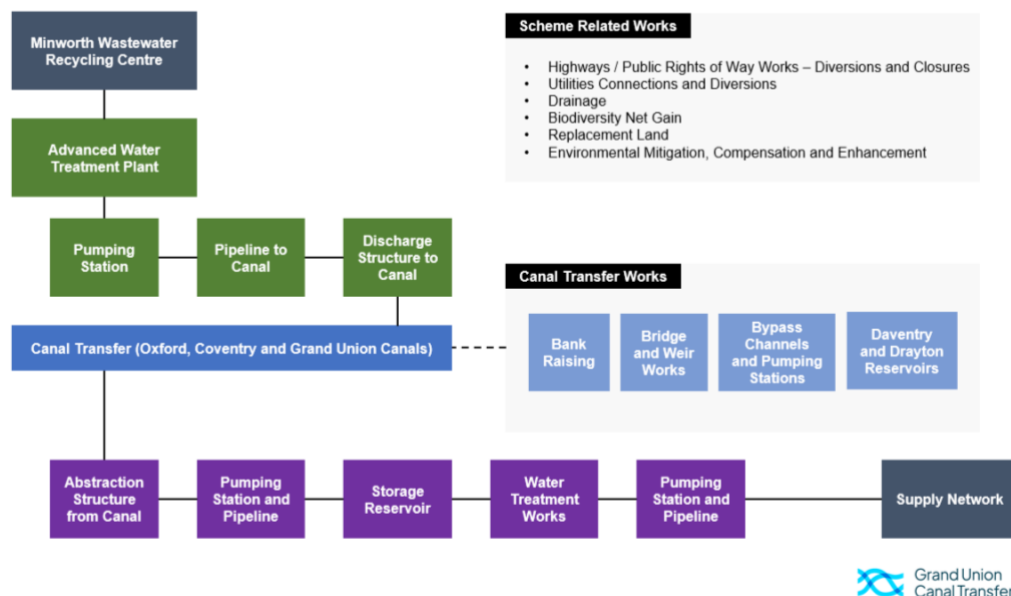
# 3 Project description and location

## 3.1 Overview

3.1.1 Starting at Minworth WwRC water will be treated in a new AWTP and then flow via a new pipeline into the Coventry Canal at Atherstone, where it will begin an up to 131-kilometre journey along the Coventry, Oxford and then the Grand Union Canal. The water from Minworth's WwRC is currently discharged into the River Tame. The proposed AWTP plant at Minworth WwRC will undertake further treatment to ensure that the water to be transported via the canals is right for the existing canal network. Water will be helped on its way by using the existing canal network. To manage flow velocities and level changes within the canal system resulting from the transferred water, a significant number of infrastructure works will be required including new pipes, bypasses, pumping stations, canal-widening, bank raising and improvements to existing equipment will be required. The water will then be abstracted and transferred into a new water treatment works (WTW) in Bedfordshire or Buckinghamshire. A raw water storage reservoir will also be developed, providing up to five days storage. Following treatment, the clean drinking water will then be transferred into AfW's supply for customers.

3.1.2 The elements that make up the proposed development, summarised in Figure 3.1, and their location are set out below.

**Figure 3.1: Overview of development required by the Project**



## 3.2 Minworth WwRC

3.2.1 Minworth WwRC is ST's largest WwRC with a capacity to treat wastewater produced by a population of 1.75 million people and serves the Birmingham area. Additionally, the WwRC also treats a high volume of imported sludge from industry and regional works. Minworth WwRC is located in Sutton Coldfield, north east of Birmingham, and between the villages of Minworth and Curdworth. The WwRC lies within the administrative boundary of Birmingham City Council but is close to the boundary with North Warwickshire Borough Council.

- 3.2.2 The AWTP will be developed within or in the vicinity of the existing Minworth WwRC site to treat flow diverted from the WwRC's current discharge into the River Tame. The design details of the proposed new treatment processes are being developed and designed to ensure that any substances that may cause any deterioration of the receiving waterbodies or create an impediment to achieving target Water Framework Directive (WFD) status will be removed.
- 3.2.3 The new AWTP will be designed to treat bulk organics, nutrients and priority contaminants. This will be based on an activated carbon treatment process, which will include flocculation, and sedimentation followed by ozone oxidation, biologically active carbon (BAC) filtration, and granular activated carbon (GAC) adsorption.
- 3.2.4 The additional works required to provide the new AWTP will include various plant and buildings to be developed either within or in the vicinity of Minworth WwRC. Location options are currently being reviewed by the project team.

### 3.3 Transfer from Minworth WwRC to discharge into the Coventry Canal

- 3.3.1 The treated water from Minworth WwRC will be delivered to the Coventry Canal by a new pumping station at Minworth WwRC and a new buried raw water pipeline which will run approximately due east from Minworth to a discharge point near Atherstone, Warwickshire. This section of the Project will be within the administrative area of North Warwickshire Borough Council.
- 3.3.2 The 1000mm diameter pipeline will be approximately 20km long and will include a level-controlled break tank. The treated water will be pumped as far as the break tank and then flow under gravity to the discharge location into the Coventry Canal.
- 3.3.3 A discharge structure will be required to release the treated water into the Coventry Canal in a controlled way at a sufficiently low velocity so as to avoid compromising canal users and wildlife.

### 3.4 Transfer of water through the Coventry, Oxford and Grand Union Canals

- 3.4.1 Approximately up to 131km of canal will be utilised to transfer water from Atherstone in Warwickshire south to Bedfordshire or Buckinghamshire. The water will travel through the Coventry Canal at Atherstone southwards into the Oxford Canal, through the Oxford Canal, and then into the Grand Union Canal to an abstraction point in Bedfordshire or Buckinghamshire. Subject to final design, this would incorporate the administrative areas of Birmingham City Council, North Warwickshire Borough Council, Nuneaton and Bedworth Borough Council, Coventry City Council, Rugby Borough Council, West Northamptonshire Council, Milton Keynes City Council, Buckinghamshire Council, Central Bedfordshire Council and Luton Borough Council.
- 3.4.2 To manage flow velocities and level changes within the canal system resulting from the transferred water, a range of new, small scale infrastructure developments, along with improvements to existing equipment will be required. At this stage of the design development process, this work is expected to include:



- Pumping stations and gravity bypasses, to detour around ‘uphill’ and ‘downhill’ locks along the route.
- The raising of canal banks and towpath levels where necessary as the transfer will lead to small increases in the volume of water along the canals, meaning in certain locations there is a potential for water levels to increase.
- The requirement for bypass pipes or canal widening to reduce the speed of water at narrow points along the canals, such as at bridges, to ensure that navigation and operations at locks are not impacted. The Project is designed to ensure that there will be no greater than 0.3M/s change in velocity of flow within the canal network.
- The adaptation of existing bridges to maintain sufficient head room for vessels
- The improvement of existing waste weirs to maintain a consistent water level. This is important to avoid wearing away the banks of a canal, causing washouts, and flooding buildings or adjacent properties.

3.4.3 From design work undertaken to date, it has been assessed that without the above infrastructure improvements, the canal network could only accommodate transfer flows of 50 MI/d or less.

3.4.4 The Trust’s existing Daventry and Drayton reservoirs store water and release it into the canal network to maintain flows. This will continue as part of the Project. At this stage of the project design, the Project include sending some water into the reservoirs, to use as storage for when there may be less water in the canal system from Minworth, but in addition to help create water movement in the existing reservoirs.

## 3.5 Abstraction, treatment and transfer of water to AfW customers

3.5.1 Water will be abstracted from the canal at a location (to be determined) in Bedfordshire or Buckinghamshire and will require the construction of an abstraction structure on the canal, which will include a pumping station and a series of screens.

3.5.2 To provide resilience should it not be possible to abstract from the canal, a raw water storage reservoir, with a volume currently sized as up to 575,000m<sup>3</sup> to provide up to five days storage, will be constructed. This volume of water to be stored is not of a size that itself would be an NSIP under section 27 of the PA2008 although the reservoir would be subject to controls under the Reservoirs Act 1975. The current design assumes a non-impounding embanked reservoir that will be filled with raw water via the abstraction from the canal.

3.5.3 The water abstracted from the canal would require treatment to potable (drinking) water standards. This will require the construction of a new WTW capable of removing pollutants and contaminants from water. This is currently proposed to involve a multi-stage treatment process, including tertiary treatment by ultra-violet treatment. This will require a site in excess of 10 hectares to accommodate the necessary plant and buildings.

3.5.4 From the WTW, water would be pumped through a new buried pipeline to an existing Water Supply Reservoir (WSR), located near Luton. At this stage of project design this is anticipated to require in the region of 15-20km of new buried pipeline.

3.5.5 The location and routeing of the new mains is currently under consideration by the project team but is likely to involve development within the administrative areas of Central Bedfordshire Council and Buckinghamshire Council and possibly Luton Borough Council depending upon the routeing of the main. Options for the location of the new WTW will be the subject of consultation in 2024, but there is the potential for the WTW to be sited within

the Green Belt, meaning that it will be necessary to demonstrate 'very special circumstances' to meet policy tests within the development plan, National Planning Policy Framework and the Water Supply Infrastructure National Policy Statement. The buried pipeline from the WTW to the existing WSR near Luton may need to be routed through the Chilterns National Landscape, requiring demonstration of accordance with the policy requirements for major development within National Landscapes.

## 3.6 Other Works

3.6.1 Other works will be required to support the construction and operation of the Project. At this stage of the Project design process, these could include, but not be limited to:

- Temporary works to support construction, including access, compounds, working areas;
- Permanent works to support operation and maintenance;
- Land drainage works;
- Access and utility connections including electrical sub-stations, telecoms, water and sewerage facilities; and
- Landscaping, environmental mitigation, enhancement, Biodiversity Net Gain and compensation measures.

## 3.7 Principal and Associated Development

3.7.1 The project approach to the definition of the Principal Development and Associated Development will be set out in detail within the eventual DCO application, following consideration of any representations thereon made in response to the Statutory Consultation documentation.

3.7.2 The draft section 35 direction (Appendix A) lists the items of development which it is expected would be included as Principal and Associated Development in the intended DCO application:

- a new underground transfer pipeline for partially treated water capable of transferring up to 115Ml/d at peak operation, from a connection point at Minworth, Birmingham to a new discharge structure to the Coventry Canal in Warwickshire, including related new pumping station, break pressure tank, valves and other pipeline infrastructure;
- works to the existing Coventry, Oxford and Grand Union Canals to ensure the transfer of water, including new or modified pumping stations, new gravity and pumped bypasses, bank raising, works to existing weirs and other related infrastructure works; and
- a new abstraction structure on the Grand Union Canal in Buckinghamshire or Bedfordshire, with related new pumping station, underground raw water transfer pipeline, valves and other pipeline infrastructure to a connection point in Buckinghamshire or Bedfordshire

(together, the 'Principal Development')

other associated development (within the meaning of section 115(1)(b) of the Planning Act) including, but not limited to: an Advanced Water Treatment Plant and a Water Treatment Plant, both capable of treating up to 115Ml/d of raw water at peak operation; a new raw water storage reservoir; works to modify existing raw water storage reservoirs; new buried treated water pipeline and related pumping station and other pipeline infrastructure; temporary and permanent works to the existing canal network and any related infrastructure which are associated with any impacts from the transfer of water, including works to bridges and other structures and mitigation and enhancement works; temporary and permanent accesses and works to highways and rights of way; temporary works to support construction; works to



support operation and maintenance; temporary and permanent utility connections; and landscaping, environmental mitigation, enhancement and compensation measures;

(together, the 'Associated Development')

and, ancillary matters ("the Ancillary Matters").

# 4 Regulator and Stakeholder Engagement

- 4.1 Stakeholder and regulatory engagement has already commenced on the Project as it has progressed through key stages of the WRW and WRSE Regional Plan and AfW and ST WRMP development, with further and more detailed consideration of the SROs under the RAPID Gated process.
- 4.2 Details of RAPID related SRO engagement is set out in Section 9 of the GUC Gate 2 Report and WRMP related engagement in Section 3 of the AfW revised draft WRMP24.
- 4.3 Engagement has been embedded within the work to develop the Project. This includes:
- meetings with regulators
  - the establishment of topic-specific technical working groups
  - one-to-one sessions, including with the NAU (Environment Agency, Natural England) and the GUC Canal Users Group
  - planning-led workshops, including local authorities, Historic England and National Highways
  - activity to support WRSE and wider WRMP engagement.
  - At the time of submitting this qualifying request, engagement on the Project is being widened with technical stakeholder briefings and establishment of discipline-led technical working groups, political engagement and publicising of the Project. Engagement has also commenced to identify land interests and to secure access for targeted environmental surveys and investigations.
  - There will be non-statutory consultation in September and October 2024, ahead of a planned statutory consultation (should a section 35 direction be given) in 2025.

# 5 Qualifying Request

- 5.1 Section 35(1) of the 2008 Act states that the SoS may give a direction for development to be treated as development for which development consent is required. The provisions of section 35 of particular relevance to the Project are:
- the development is or forms part of a project (or proposed project) in the field of energy, transport, water, wastewater<sup>7</sup>;
  - the development would (when completed) be wholly in England or waters adjacent to England up to seaward limits of the territorial sea<sup>8</sup>; and
  - the SoS thinks The Project (or proposed project) is of national significance, either by itself or when considered with one or more projects (or proposed projects) in the same field<sup>9</sup>.
- 5.2 In relation to the above, the development for which a section 35 direction is sought is a water transfer project. Section 14 'Nationally significant infrastructure projects: general' of the 2008 Act defines the types of development that, subject to sections 15 – 30A, automatically constitute a 'nationally significant infrastructure project' and therefore require development consent under section 31 ('When development consent is required'). The Project is a proposed project in the field of water and is therefore within the scope of section 35(2)(a)(i) of the 2008 Act.
- 5.3 The Project will enable the transfer of water resources between water undertakers' areas in England and does not directly relate to the transfer of drinking water. The Project also includes the treatment and transfer of recycled wastewater as well as an interface with, and increase in deployable output from, a reservoir. The Project is therefore within section 35(2)(b) and (3)(a).
- 5.4 Section 35ZA(1) states that the power in section 35(1) to give a direction in a case within section 35(2)(a)(i) is exercisable only in response to a qualifying request if no application for a consent or authorisation mentioned in section 33(1) or (2) has been made in relation to the development to which the request relates. AfW, ST and the Trust confirm that no application for consent or authorisation mentioned in section 33(1) or (2) has been made in relation to the principal elements of the Project to which this request under section 35 relates.
- 5.5 Section 35 ZA(11) defines a 'qualifying request' as meaning "a written request for a direction under section 35(1) that:
- a) specifies the development to which it relates, and
  - b) explains why the conditions in section 35(2)(a) and (b) are met in relation to the development".
- 5.6 This request represents a 'qualifying request' as it is made in writing and specifies the development to which it relates (see section 3 above). Furthermore, as confirmed in this section, the conditions in section 35(2)(a) and (b) are met.
- 5.7 Section 6 below explains why in the view of AfW, ST and the Trust the Project can be considered by the SoS to be a project of national significance, in accordance with section 35(2)(c)(i).

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<sup>7</sup> Section 35(2)(a)(i) of the Planning Act 2008

<sup>8</sup> Section 35(2)(b) and (3)(a) of the Planning Act 2008

<sup>9</sup> Section 35(2)(c)(i) of the Planning Act 2008

# 6 Case for national significance

## 6.1 Introduction

- 6.1.1 This section provides information to assist the SoS in determining whether the Project is of 'national significance', either by itself or when considered with one or more projects (or proposed projects) in the same field, as per section 35(2)(c)(i) of the 2008 Act.
- 6.1.2 It is the Applicants' view that the Project is of national significance by itself. It does not need to be considered with any other projects to be of national significance.

## 6.2 The Project is of national significance by virtue of its scale of development and its realised benefit

- 6.2.1 As described in Section 3, the Project is of significant scale of new infrastructure development across a large geographical area, proposing to transfer water between water undertakers with pipeline and canal water transfers crossing counties and regions. As noted in Section 2.5, the need to submit this request for a section 35 direction arises because:
- a) Whilst the peak operational output of the Project would exceed the threshold in section 28(1)(b)(i) of the PA 2008 ("the deployable output of the facility to be constructed as a result of the development will exceed 80 million litres per day"), the scheme may not meet the annual average interpretation of the deployable output threshold of section 28; and
  - b) The Trust is not a water undertaker within the meaning of section 28(1)(a) of the PA2008.
- 6.2.2 In respect of section 28(b), the deployable output of the facility to be constructed needs to exceed 80 MI/d (or provide an additional 80 MI/d). The calculation of deployable output needs to be based on the defined calculation set out in section 235 of the PA2008 as amended by the Infrastructure Planning (Water Resources) (England) Order 2019, which is "the annual average volume of water that can be produced per day from that facility under drought conditions" (drought conditions is defined as 1 in 200 year drought event). The Project is designed based on a 100MI/d annual average deployable output (ADO). This means that the scheme has the operational capacity to accommodate an increase in annual average demand of 100MI/d and is calculated in accordance with the Water Resources Planning Guideline<sup>10</sup>. As existing AfW resources have some spare capacity outside of the summer and early autumn periods, the Project will only operate at its full capacity during the summer, even under drought conditions. Therefore, whilst the Project is being designed to deliver 100MI/d ADO and could provide 100MI/d as an average output throughout the year, it is relatively expensive to operate so under normal operating conditions it would usually be expected to deliver less than 80MI/d output volume when calculated as an average over the year. Flows will need to be maintained above the minimum sweetening flow of 15MI/d required to maintain the operability of the WTW and pipelines.
- 6.2.3 There are no planning, consenting, environmental or engineering constraints that would prevent the scheme delivering above 80MI/d on a daily basis. Indeed, 80MI/d as an annual average output volume could be delivered constantly throughout the year. On this basis, it is confirmed, in line with the PA2008 as amended that "it is expected that the deployable

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<sup>10</sup> <https://www.gov.uk/government/publications/water-resources-planning-guideline/water-resources-planning-guideline>

output of the facility to be constructed will exceed 80MI/d” (defined as the annual volume of water per day that “can be produced from that facility” under 1 in 200 year drought conditions).

- 6.2.4 It is therefore notable that the Project is of a scale, and would give rise to benefits, that if water were to be transferred more consistently over a year, and not restricted to high demand periods, then it would clearly meet the deployable output thresholds, qualify as an NSIP and require a DCO.

## 6.3 Project is of national significance and needed urgently as recognised by Regional Plan and WRMP

- 6.3.1 WRSE’s revised draft Regional Plan identifies that the challenge faced by all water companies serving the South East will be to ensure sufficient water supply is achieved both now and, in the future, when balanced against three critical factors: climate change, population growth and the need for environmental improvement by reducing water abstraction. Alongside these a further critical objective will be to increase the resilience of supply by each water company during periods of drought. Challenging targets have been set, drawing on the provisions of the Government’s National Infrastructure Strategy, to achieve such resilience to severe drought conditions by 2040, whereby water companies should only need to use emergency measures once in every 500 years on average.
- 6.3.2 The revised draft WRSE Regional Plan (August 2023) identifies that without the proposals in the Regional plan, a deficit in supplies of 1,700 million litres of water a day would exist in the South East by 2040 and that this could increase to 2,700MI/d by 2075. Whilst demand management measures, including leakage reduction, will contribute more than half of this deficit, the revised draft Regional Plan makes clear that significant levels of new infrastructure need to be put in place in the period 2025 – 2075, with a large number of strategic resource options (including this Project) required early in the plan period.
- 6.3.3 As part of the planning for the Regional Plan, WRSE carried out a process of reconciliation with the other regional groups to identify opportunities to share water between regions and provide a more joined up national solution to the country’s future water needs. This identified the transfer from the WRW region into the South East using the existing canal network facilitated by this Project. Other regions indicated to WRSE through the regional reconciliation process that they were unlikely to be able to provide additional water, beyond what is required to meet their region’s needs. This Project is therefore significant, in that it offers the single largest opportunity for inter-regional transfer of water into the South East region.
- 6.3.4 The revised draft WRSE Regional Plan identifies the Project delivering from the outset a 100 MI/d Deployable Output, rather than the previously proposed delivery of two 50MI/d phases that formed part of the draft Regional Plan. The delivery of the single 100 MI/d Project is considered critical in the revised draft Regional Plan and has wider benefit to the region which is discussed further within this qualifying request.
- 6.3.5 AfW have identified a number of water resource challenges within its revised draft WRMP24 which include:
- A continued forecast of substantial population and housing growth, which will increase the demand for water within its region by around 10% by 2050.

- The need to tackle water leakage from its network so that it can make better use of the resources that it has.
- Having 10% of globally rare chalk streams in its area, which need to be protected to continue to provide a unique habitat for flora and fauna.
- A groundwater-dominated supply and abstraction that can have a damaging impact on ecologically sensitive areas (such as chalk streams) so it's important to minimise how much groundwater water is taken.
- Limited raw water storage of surface water in reservoirs – this means its supplies are vulnerable when there is high demand for water during summer months.
- The need to pace the scale of abstraction reductions to balance affordability for customers with environmental destination.

6.3.6 The Project is a core component of AfW's revised draft WRMP24, included within the Plan for delivery by 31st March 2032, providing 100MI/d deployable output to increase supply into AfW's central region during times of greatest need, for example during the summer. There is an urgent need to progress the consenting of the Project to secure the implementation of the proposals in the WRMP.

6.3.7 In providing resilience to this region, the progression of WRSE's Regional Plan and AfW's WRMP24 have highlighted the wider benefits that the Project will achieve. These are summarised below and discussed further in the proceeding sections.

- The Project supports the WRE region with its environmental ambition and the government in delivering its nationally significant growth proposals for Cambridge, with the Project allowing AfW to take less water from Grafham reservoir in Cambridgeshire to enable Anglian Water and Cambridge Water to use that water to support supplies to Cambridge until 2040;
- The Project enables reductions in the amount of water taken from the environment, reducing reliance on sensitive chalk groundwater sources in AfW's central region that feed into chalk streams which are vulnerable to climate change;
- The water transferred by the Project will supplement increased demand that will be generated through population growth within AfW's central region and thus will support significant planned housing growth;
- The Project assists in mitigating the risk that additional demand management measures that require government commitment fail to materialise;
- The delivery of the Project will enable AfW to have less reliance on drought orders and permits in the future;
- The Project will facilitate the delivery of environmental ambition by AfW earlier in relation to key chalk stream catchments than would otherwise be possible, responding to regulatory pressure and the WRMP consultation responses which support achieving this as early as possible.

6.3.8 The Project is one of a number of key strategic resource options identified in regional plans and company WRMPs for which there is an urgent need to progress with consenting and subsequent implementation. As a key long-term infrastructure solution, the Project needs to be consented and implemented by 2032 (water needs to be available for use by 31 March 2032) in order for the above benefits to be realised in line with WRMP requirements. Until the Project is implemented, there will not be sufficient water supply resilience in AfW's central region, meaning continued reliance on chalk groundwater sources and drought measures and increased pressure on resources within both the South East and East of England.

6.3.9 In giving AfW permission to publish its final WRMP, by letter dated 21<sup>st</sup> August 2024, Defra confirmed the critical strategic need for the Project, stating that:

*“As part of giving careful consideration to approve your final plan, the Secretary of State has concluded that the critical, strategic need for the transfer of water via the Grand Union Canal (being 50 Megalitres per day (Ml/d) to start with, going up to 100 Ml/d or 0.1 million cubic metres (MCM) transfer as described in section 7.32 of the WRMP) has been clearly demonstrated.”*

- 6.3.10 The Project is therefore of national significance by virtue of its role in providing resilience for AfW’s customers and wider regional benefits as recognised in both the revised draft WRSE Regional Plan and AfW’s revised draft WRMP24.

## 6.4 The Project is of national significance by virtue of its interface with its receiving environment and its contribution to the UK’s environmental objectives.

- 6.4.1 The UK Government’s National Infrastructure Strategy states that delivering vital infrastructure whilst protecting and improving the environment is a top government priority, including supporting environmental net gains wherever possible.
- 6.4.2 Paragraph 3.4.2 of the Water Resources Infrastructure NPS recognises that new water resources infrastructure projects have the potential to deliver significant benefit and enhancements resulting in wider environmental net gains, including biodiversity net gains and progressing towards national policy priorities such as improvements to water quality.
- 6.4.3 Delivery of the Project would realise a number of benefits in addition to its core purpose of the Project providing water supply resilience to AfW’s central region. The Project is a key component in AfW meeting its longer term Water Industry National Environment Programme (WINEP) commitments to improve the environment, which includes reducing or ceasing unsustainable abstractions. The Project, alongside the outcomes of AfW’s ‘Connect 2050’ programme<sup>11</sup> which assesses the capabilities of the AfW’s supply network against water resource challenges, will allow AfW to accelerate its abstraction reduction programme within the central region in those catchments that are of greatest concern. Those catchments include the Colne, Lee, Ivel and Cam which rely on sensitive chalk groundwater that feed into chalk streams which are vulnerable to climate change. The successful delivery of the Project will allow AfW to reduce its import of water from Anglian Water’s Grafham reservoir which supports the WRE region with its environmental ambition.
- 6.4.4 The provision of permanent on and off site environmental and amenity mitigation, whilst not yet fully developed at this stage of the design process, is also expected to benefit the receiving environment and local communities living in proximity to the Project, as well as those that use the canals. Through the design and development of the Project, options that would improve the connectivity of the canals with the natural environment, create habitats, making the canals more accessible for recreation, and renewable energy generation will be explored in line with NPS policy.

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<sup>11</sup> [Affinity Water Connect 2050](#)



## 6.5 The Project is of national significance by virtue of the social and economic consequences of not proceeding with The Project

- 6.5.1 Chapter 3 of the Government National Infrastructure Strategy<sup>12</sup> acknowledges the PR19 funding from Ofwat for water companies to progress strategic new water resource and transfer infrastructure and the role of RAPID to support their delivery by overcoming barriers which might hamper the development of strategic schemes.
- 6.5.2 The Project would involve a major investment and would secure resilient water supplies for the AfW's central region's communities and businesses, with less reliance on drought permits and licences when resources are stressed. Critically, the Project will assist in mitigating the risks of debilitating water restrictions for both businesses and households in drought conditions, with the consequential economic impacts that these would bring. Due to the integrated nature of the AfW network the actual benefits will be deployed across the central region (i.e. North West London, Hertfordshire and West Essex), so the Project is needed to prevent potentially widespread constraints on housing and economic growth across those areas. The Project will support planned growth within these areas supplied by AfW, which are projected to experience an increase in households from approximately 600,000 in 2024/5 to approximately 720,000 by 2040/1 and 785,000 by 2050/1<sup>13</sup>.
- 6.5.3 The Project will also have a pivotal role in addressing water scarcity in Greater Cambridge. A government paper published in March 2024 provides an update on proposed measures<sup>14</sup>. As part of the government's levelling up ambitions and commitments, it is considered that Cambridge represents a nationally significant growth opportunity. The Environment Agency have advised that any development must not increase abstraction and risk deterioration to water bodies in Greater Cambridgeshire, which include a number of rare chalk streams. The chalk aquifer that these streams emerge from, to the southeast of the city, is the main source of water for residents and businesses. To address deficits until the water companies can bring forward new major water supply infrastructure, the government is introducing a new water credits system to offset new demand for water. In terms of water supply infrastructure, two SROs are being progressed through the RAPID process – the Grafham Transfer by 2032 and Fens Reservoir by 2036. The Grafham Transfer involves the transfer of 26MI/d of water from Grafham Water into the Cambridge Water supply zone. However, the Grafham Transfer is itself entirely dependent on the Project being in place prior to it, freeing up water currently transferred to AfW and allowing AfW to reduce its existing transfer from Grafham Water. The Project therefore has a central role in delivering a nationally significant growth opportunity, supporting the delivery of many thousands of new homes in the Cambridge area in the period up to 2040, growth which is otherwise water constrained.
- 6.5.4 The National Infrastructure Commission, in its report Preparing for a drier future<sup>15</sup>, estimates that the costs of providing longer term water resilience infrastructure are significantly less than the cost of emergency response measures to maintain water supplies. This does not include the cost of subsequent emergency restrictions in the event water supplies cannot be maintained, such as restricting or even cutting off supplies to households and businesses, both of which it notes are unlikely to be publicly or politically acceptable. It highlights that

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<sup>12</sup> <https://www.gov.uk/government/publications/national-infrastructure-strategy>

<sup>13</sup> <https://affinitywater.uk/engagement/hq.com/wrmp>

<sup>14</sup> <https://www.gov.uk/government/publications/addressing-water-scarcity-in-greater-cambridge-update-on-government-measures/addressing-water-scarcity-in-greater-cambridge-update-on-government-measures>

<sup>15</sup> [Preparing for a drier future: England's water infrastructure needs, National Infrastructure Commission, 2018](#)



most options would incur very high costs and some would result in severe environmental damage and risks to public health.

- 6.5.5 The revised draft WRSE Regional Plan relies heavily on demand management measures to meet future water resource need. By 2050, achieving the level of demand reduction identified in the Plan would provide over half the additional water needed to address shortfalls in water supplies. With this strategy, there is an acknowledged risk that demand management measures, particularly those that are government-led and require changes to legislation and practice may not be realised nor be as effective in reducing demand as they need to be. Having the Project in place by the early 2030s, capable of delivering 100 MI/d of water at the outset, would assist in mitigating this risk and future proofing supplies in AfW's central region. Even if these risks don't materialise, the Project means that AfW would depend less on drought orders and permits in the future, which have both economic and social consequences.
- 6.5.6 Furthermore, the Project would create direct and indirect jobs itself, and there would be significant supply chain opportunities and support for national, regional, and local businesses, in addition to safeguarding and supporting economic growth for AfW's central region through securing resilient water supplies for domestic and business customers. The Project will also bring about improvements to the canal network, helping to secure the benefits of the canals for future generations.

## 6.6 The Project requires consenting by many regulators and across a number of different forms of consent that will best be secured through a single DCO

- 6.6.1 In the absence of a section 35 direction, it would be necessary to submit planning applications for the Project to up to ten of the LPAs in whose areas the Project would be sited as set out in section 3 and summarised in Table 6.1. There is currently no efficient procedure outside of the PA2008 to bring all of these applications into a single and coordinated consenting regime, and no fixed timescales for the determination of the planning applications including on any potential appeal or call-in.
- 6.6.2 A refusal of planning permission by one local authority, or a potential planning appeal or call-in inquiry, or any combination of these, could easily add considerable delay to the delivery schedule. Any significant delay to the Project could detrimentally impact on the delivery of the critically important resilient water supply benefits and environmental benefits that it is intended to achieve. These risks can be mitigated through the single procedure DCO regime, which a section 35 direction would unlock.

**Table 6.1: The Project Local Planning Authority interface**

Local Planning Authorities (draft list – subject to change)	Unitary	District
Birmingham City Council		
North Warwickshire Borough Council (Warwickshire County)		
Nuneaton and Bedworth Borough Council (Warwickshire County)		
Coventry City Council		
Rugby Borough Council (Warwickshire County)		
West Northamptonshire Council		
Milton Keynes City Council		
Buckinghamshire Council		
Central Bedfordshire Council		
Luton Council		

- 6.6.3 Should a section 35 direction not be issued, then delivering planning permission for the Project using the TCPA is considered to also increase the risk of not achieving timely project delivery through:
- the risk of delay to the Project through local planning authority processes not aligning, and delays with one application in one authority area impacting on the progress of other applications being considered by other authorities;
  - a lack of local plan allocation or support for infrastructure of this scale, cross-boundary geographic extent and type, increasing the potential for refusal of part of the Project, necessitating call-in or an appeal and consequential delay;
  - an absence of coherent Local Plan policy support for the provision of infrastructure of this type, also increasing the potential for refusal of part of the Project, necessitating call-in or an appeal and consequential delay; and
  - a risk of conflicting planning conditions and/or varying requirements (including section 106 planning obligations agreements) across the Project in relation to mitigation to address different local planning policy and planning authority requirements.
- 6.6.4 Mindful of the timescales to achieve these, it is considered that a single DCO application, supported by the WRSE Regional Plan and WRMP24 and able to draw upon the policy support of the Water Resource Infrastructure NPS, would address all of these concerns.
- 6.6.5 It would allow all stakeholders to contribute to a single process in which key information including Environmental Impact Assessment (EIA), Habitat Regulations Assessment (HRA) and Water Framework Directive (WFD) assessment issues, and related mitigation, could be considered efficiently and consistently across the entire Project. It would provide the necessary certainty of timely delivery, and a single process for conferring statutory powers (including compulsory acquisition powers) and the majority of the requisite consents, permissions and licences for construction and operation of the Project, as opposed to securing such authorisations and acquisitions individually under the TCPA and the Water Industry Act 1991, among others.

6.6.6 The PA2008 regime is also underpinned by the strong national planning policy context as set out in the Water Resources Infrastructure NPS for such a DCO application to be considered against. This is crucial in filling the policy gaps that exist at the local level for this scale of cross-boundary infrastructure provision. Application of the NPS to the Project, which is requested through this section 35 request, would confirm the need for the Project, as this would be fully established by paragraph 2.4.4 of the Water Resource Infrastructure NPS via the adoption of the Project within AfW's final WRMP24, as set out below:

2.4.4. As explained, if a nationally significant infrastructure project is included in a water resources management plan, the 'need' for that scheme will have been demonstrated in line with government policy and the applicable statutory requirements, and 'need' would not be revisited as part of the application for development consent.

6.6.7 The PA2008 regime enables a range of additional consents, permissions and licences to be delivered in a single DCO. This would be beneficial to the Project, as the Project will require a considerable number of secondary licences and consents covering such matters as highway orders, traffic regulation orders and powers to temporarily close/divert public rights of way during construction work.

6.6.8 If planning permission were to be sought under the TCPA, all of these additional consents, permissions and licences would need to be applied for and granted separately, introducing the risk of delay whilst all of the separate processes to obtain the necessary consents, permissions and licenses are completed. This would be mitigated by a section 35 direction, allowing most of these consents to be "wrapped up" into a single application for a DCO, involving a comprehensive and inclusive examination process that all interested parties could fully engage and participate in.

6.6.9 Generally, using the PA2008 regime would bring together multiple stakeholders (who would otherwise be the competent authorities for the various secondary consents and authorisations required) as part of the assessment of the DCO application. In turn, this would enable the SoS to determine, having regard to all elements of the Project on a comprehensive basis, an application for the granting of the necessary powers, permissions, consents and licences in a coordinated, comprehensive and coherent way with a predictable timeline to decision. This is considered crucial for delivery of the Project at the earliest opportunity to meet the urgent need and to meet AfW's obligations to deliver the regional plan and its own WRMP24.

6.6.10 The PA2008 process will also assist in the delivery of the Project with the contractor(s) appointed to construct the necessary infrastructure being 'handed' a single authorisation which would deal with the majority of consents and authorisations required, reducing the risk of delay and uncertainty.

## 6.7 The Project requires temporary and permanent rights over and acquisition of land under the control of others that will best be secured through a single DCO.

- 6.7.1 As set out in section 3, whilst aspects of the Project are proposed to be constructed on operational land owned by the water undertakers or on land owned by the Trust, the Project will require a number of permanent assets on land under the control of others, including discharge and abstraction structures, and the new AfW WTW and storage reservoir in Bedfordshire or Buckinghamshire. In addition, the pipelines associated with the Project will also pass beneath a considerable number of land ownerships and other land interests and rights. Whilst any land loss or other direct interface from the pipeline itself is expected to be minimal, it is anticipated that the Project could nevertheless interface with a considerable number of separate land interests and rights in this regard. Land referencing is commencing to seek negotiated access to land for surveys and the Project Partners are committed to negotiating voluntary purchase of the land and rights over land where that is required for the Project.
- 6.7.2 A DCO can include powers for compulsory acquisition of land and rights over land and can also provide for temporary possession of land (for example in relation to land required temporarily for pipe laying, or to facilitate diversions of existing utilities to facilitate delivery of the Project). The availability of temporary possession powers will help to reduce the impact of affected landowners and reduce the cost of and necessity for land acquisition.
- 6.7.3 If a section 35 direction is not forthcoming, then compulsory powers or orders would be required under the Water Industry Act 1991. Any objection would need to be heard at a public inquiry following securing the grant of planning permission from multiple authorities, and this could itself result in a separate inquiry process, which could run separately to the other consenting processes. There is clearly a risk in that regard in terms of programme and delivery of the Project. In contrast, the DCO regime would ensure that compulsory acquisition matters are considered alongside other consenting matters as part of one streamlined process.
- 6.7.4 The Project will also require utility connections and provisions for those connections could also (where necessary) be included within a DCO to ensure that all necessary supporting connections (including electricity supply) are delivered in a single consent.
- 6.7.5 The linear nature of the Project means that there will be a number of crossings of apparatus and land belonging to other statutory undertakers, including crossings of existing and proposed highways, railways and other significant utilities. These crossings would be dealt with more effectively in a DCO, in a single instrument containing the necessary enabling powers and related protective provisions. Outside of DCO these interfaces would all need to be separately negotiated outside of the PA2008 regime with each utility, adding potential delay and cost to the Project. Furthermore, the DCO process provides greater certainty in respect of timescales which supports earlier decisions on procurement and delivery.

# 7 Case for the Trust Options

## 7.1 Introduction

- 7.1.1 This section provides information to assist the SoS in their decision. If the Project is directed to be a project of national significance under section 35 of the PA2008, to direct that the Trust may seek powers through the DCO application process and maybe named as an applicant for the purposes of the PA2008 regime. The Applicants know of no reason why such a direction cannot be made.

## 7.2 The Trust: current status and powers

- 7.2.1 The Trust is a navigation authority with its principle duties arising from the Transport Act 1968 to maintain inland waterways for public use (s105). Most of the Trust's powers derive from the enabling acts, the acts which originally authorised the construction and maintenance of inland waterways in the 18th and 19th centuries. The purpose of the powers is to ensure the inland waterways are available for navigation. The Trust is not aware of any wider powers it has for maintaining the inland waterways for the purpose of water transfer.
- 7.2.2 The Trust owns the freehold to the majority of the land within the footprint of the Project, but some elements of the Project sit outside this land. It is anticipated that in maintaining the canals for water transfer as well as navigation purposes, access across third party land may be required.

## 7.3 The Trust: role in the Grand Union Transfer Project

- 7.3.1 AfW, ST and the Trust are currently working through the commercial structure of the Project to be put in place if it is consented. The Trust will continue to own and operate the canals and associated infrastructure for navigation purposes. It is well placed to maintain the canals for dual use: navigation and water transfer. If that is the role the Trust is to take in the Project then, to provide certainty for the water transfer scheme, it anticipates needing further powers to enable it to construct parts of the development as well as maintain and operate the canals for the two purposes. Several mechanisms to ensure this are currently being considered by the GUC Project partners. If the Project is to be directed to be a project of national significance under section 35 of the PA2008 one option is that the Trust is granted powers through the authorising consent. If that is the case, it may be necessary for the Trust to join as a named applicant for the purposes of seeking those powers through the consenting process.

## 7.4 s35 direction

- 7.4.1 If the SoS is to direct the project is a project for which development consent is required, it is requested that the s35 direction includes the option for the Trust to seek powers and join as applicant in the consenting process. Wording for this is suggested in the draft direction at Appendix A.

# 8 Conclusion

- 8.1 The Project would ensure water supply resilience for AfW's central region, enabling reductions in the amount of water taken from the environment and reducing reliance on sensitive chalk groundwater sources that feed into chalk streams which are vulnerable to climate change and supporting significant planned growth. The Project will also have wider benefits, supporting WRE with their environmental ambition and the government in delivering their nationally significant growth proposals for Cambridge in the period to 2040, with the Project allowing AfW to take less water from Grafham reservoir in Cambridgeshire, freeing up water for Anglian Water and Cambridge Water to supply to support growth in Cambridge which is otherwise water constrained. The Project is also expected to benefit the receiving environment and local communities living in proximity to the Project, delivering improvements to the connectivity of the canals with the natural environment and making the canals more accessible for recreation.
- 8.2 The Project is a significant infrastructure scheme of substantial size and complexity. The Project will comprise extensive and large-scale water supply infrastructure and pipelines, including modification and the introduction of new infrastructure adjacent to and within the canal network. It will interface with multiple land interests, designations, sites of ecological, landscape and historic interest and other major infrastructure, stretching across multiple local authority and decision-making boundaries and requiring an extensive range of consents, power, licences and permits, whilst potentially having a range of temporary and permanent effects.
- 8.3 Accordingly, the Project is considered to be a project of national significance, in accordance with section 35(2)(c)(i) of the PA2008, for the following reasons:
- 8.4 The Project is of national significance as recognised by the WRSE Revised Draft Regional Plan and AfW's revised draft WRMP24.
- The Project is of national significance by virtue of its scale of development and realised benefit.
  - The Project is of national significance by virtue of its interface with its receiving environment and its contribution to the UK's environmental objectives.
  - The Project is of national significance by virtue of the social and economic consequences of not proceeding with The Project.
  - The Project requires consenting by many organisations and across a number of different forms of consent that will best be secured through a single DCO.
  - The Project requires temporary and permanent rights over and acquisition of land under the control of others that will best be secured through a single DCO.
- 8.5 This request represents a 'qualifying request' under section 35 of the PA2008. The Project is within the field of water and would be located wholly within England. The information within this request explains why the conditions in section 35(2)(a) and (b) are met in relation to the development, and why The Project is considered to be of national significance. This request therefore meets the requirements for a 'qualifying request' within the meaning of section 35ZA(11) of the PA2008 to enable the SoS to give a direction for the Project under section 35(1).
- 8.6 It is also crucial that, should the SoS be minded to give one, a section 35 direction is given as soon as practicable. This will enable the Applicants to fulfil their pre-application obligations under the PA2008 regime to achieve the programmed milestones for submission of a DCO application in 2026 to deliver the scheme by 2032.

- 8.7 Consideration of the Project through the DCO consenting route and determined in accordance with the Water Resources Infrastructure NPS will minimise and manage planning and consenting risks that could otherwise result in significant potential delays to the consenting of the Project thereby delaying the delivery of a resilient water supply for AfW's customers and the Government's planned significant growth for Cambridge.
- 8.8 Fundamentally, the certainty of timely delivery and the largely single authorisation of consents enabled by the PA2008 regime, within a clear national policy context of the Water Resources Infrastructure NPS, are considered to be critical to ensure that the Project is delivered and operational on programme by 2032 as identified by the Revised Draft WRSE Regional Plan and AfW's revised draft WRMP24.
- 8.9 For all of these reasons, it is requested that the SoS directs under section 35 of the PA2008 that the Project requires development consent in the form of the draft at Appendix A to this request.



# Appendix A – Draft Direction

## GRAND UNION CANAL TRANSFER PROJECT

### DIRECTION GIVEN BY THE SECRETARY OF STATE UNDER SECTION 35(1) OF THE PLANNING ACT 2008 (AS AMENDED) RELATING TO THE GRAND UNION CANAL TRANSFER PROJECT

By a letter to the Secretary of State received on XXXX ("the Letter") Affinity Water Limited, Severn Trent Water Limited and the Canal & River Trust (together "the Applicants") formally requested the Secretary of State exercise the power under section 35(1) of the Planning Act 2008 ("the Planning Act") to direct that the Grand Union Canal Transfer Project referred to in the Letter ("the Project") be treated as development of national significance for which development consent is required.

The Secretary of State has made a decision within the deadline set out in section 35A(2) of the Planning Act and wishes to convey that decision.

Having considered the Applicants' request and the details of the Project, the Secretary of State is satisfied and has concluded that:

- the Project is, or is a part of, a project in the field of water;
- the proposed project is within England;
- no application for consent or authorisation mentioned in section 33(1) or (2) of the Planning Act has been made in relation to the Project; and
- the Letter therefore constitutes a "qualifying request" in accordance with section 35ZA(1) of the Planning Act.

In coming to these conclusions, the Secretary of State notes that the Project relates to the construction of new infrastructure for the purposes of water transfer and thus sits within one of the qualifying infrastructure fields listed in section 35(2)(a)(i) of the Planning Act, namely water.

The Secretary of State notes from the Letter that the Project comprises the following:

- a new buried partially treated water transfer pipeline capable of transferring up to 115Ml/d at peak operation, from a connection point at Minworth, Birmingham to a new discharge structure to the Coventry Canal in Warwickshire, including related new pumping station, break pressure tank, valves and other pipeline infrastructure;
- works to the existing Coventry, Oxford and Grand Union Canals to ensure the transfer of water, including new or modified pumping stations, new gravity and pumped bypasses, bank raising, works to existing weirs and other related infrastructure works; and
- a new abstraction structure on the Grand Union Canal in Buckinghamshire or Bedfordshire, with related new pumping station, buried raw water transfer pipeline, valves and other pipeline infrastructure to a connection point in Buckinghamshire or Bedfordshire

(together, the 'Principal Development')

other associated development (within the meaning of section 115(1)(b) of the Planning Act) including, but not limited to: an Advanced Water Treatment Plant and a Water Treatment Plant, both capable of treating up to 115Ml/d of raw water at peak operation; a new raw water storage reservoir; works to modify two existing raw water storage reservoirs; new buried treated water pipeline and related pumping station and other pipeline infrastructure; environmental and other mitigation and compensation measures necessary for the future operation of the project; temporary and permanent works to the existing canal network and any related infrastructure which are associated with any impacts from the transfer of water, including works to bridges



and other structures and mitigation and enhancement works; temporary and permanent accesses and works to highways and rights of way; temporary works to support construction; works to support operation and maintenance; temporary and permanent utility connections; and landscaping, environmental mitigation, enhancement and compensation measures;

(together, the 'Associated Development')

and, ancillary matters ("the Ancillary Matters").

The Project does not include the construction of any dwellings.

The Secretary of State is of the view that the Principal Development by itself is nationally significant for the reasons set out in the Annex below.

**THE SECRETARY OF STATE HEREBY DIRECTS** that the Principal Development, namely the main components of the Grand Union Canal Transfer Project, to be carried out in whole or part by the Applicants or DPC is development for which development consent is required. Any application for development consent for the Project may also include any matters that may properly be included in a development consent order (in accordance with section 120 of the Planning Act) including ancillary matters (section 120(3)) and associated development (within the meaning of section 115(2) of the Planning Act).

**THE SECRETARY OF STATE FURTHER DIRECTS** that the Project is also to be treated as development in relation to which the National Policy Statement for Water Resources Infrastructure has effect.

**THE SECRETARY OF STATE FURTHER DIRECTS** that the application for development consent for the Project can seek powers necessary for the Canal & River Trust to construct maintain and operate parts of the Project.

**THE SECRETARY OF STATE FUTHER DIRECTS** that the Canal & River Trust may, in relation to the Project, be an applicant in relation to the Project.

This direction is given without prejudice to the Secretary of State's consideration of any application for development consent which may be made in relation to all or part of the Project.

Signed by

[name of person signing]

[position or role of named person]

Authorised to sign on behalf of the Secretary of State

[date]

## **Annex A**

### **REASONS FOR THE DECISION TO ISSUE THE DIRECTION**

The Secretary of State is of the opinion that the Principal Development, namely the main components of the Grand Union Canal Transfer Project is nationally significant and therefore treated as a project for which development consent is required having in particular taken into account that the project would:

- be for a complex and substantial scheme, involving extensive infrastructure works and requiring multiple powers and consents (including multiple planning permissions, compulsory acquisition powers and highway orders), which should be seen as nationally significant development in its own right; and
- benefit from an application being determined in a timely and consistent manner by the Secretary of State, and by removing the need to apply and the uncertainty of applying for a large number of separate powers and consents.

Furthermore, the Project would:

- Provide water supply resilience to AfW's central region, part of the WRSE region, enabling a reduction in the amount of water taken from the environment, reducing reliance on sensitive chalk groundwater sources that feed into chalk streams which are vulnerable to climate change and supporting population growth;
- Support the WRE region with their environmental ambition and the government in delivering their nationally significant growth proposals for Cambridge.

# Appendix B – Glossary

Term	Definition
1 in 200 year (1:200)	A severe drought – the return period of a significant drought and which is the design drought year in WRMP19
Average Deployable Output (ADO)	The average output of a source of water
AWTP	Advanced Water Treatment Plant
DCO	Development Consent Order - a DCO is a statutory instrument that grants consent in accordance with the provisions in the Planning Act 2008 for Nationally Significant Infrastructure Projects or projects of national significance brought into the DCO regime by a section 35 direction. A DCO can combine consent to develop, operate and maintain a project, alongside a range of other approvals that would normally have to be obtained separately such as listed building consent, a marine licence and certain environmental consents. A DCO can also contain powers for the compulsory acquisition and temporary possession of land
Deployable output	The output of a commissioned source or group of sources assessed under drought conditions
Drought conditions	Conditions resulting from a shortage of precipitation that has a 0.5% chance of occurring within a 12 month period (defined in s235 of the 2008 Act).
Drought Order	An authorisation granted by the Secretary of State under drought conditions which imposes restrictions upon the use of water and/or allows for abstraction/impoundment outside the schedule of existing licences on a temporary basis
Drought Permit	An authorisation granted by the Environment Agency under drought conditions, which allows for abstraction / impoundment outside the schedule of existing licences on a temporary basis.
LPA	Local Planning Authority
National Landscape	Previously known as an Area of Outstanding Natural Beauty – an area of countryside which has been designated under the Countryside and Rights of Way Act 2000 to protect, conserve and enhance its natural beauty
NSIP	Nationally Significant Infrastructure Project
PA2008	Planning Act 2008
RAPID	Regulators' Alliance for Progressing Infrastructure Development - Made up of the three water regulators: Ofwat, the Environment Agency and the Drinking Water Inspectorate. Formed to help accelerate the development of new water infrastructure and design future regulatory frameworks
Raw Water	Water, typically from streams, rivers and the aquifer, that is not fit to drink until it has been through the purification process at the treatment works. Raw water is sometimes referred to as non-potable water
Section 35 Direction	Direction that a project is of national significance under section 35 of the PA2008
SoS	Secretary of State
Sweetening flow	A minimum level of flow through a treatment works or pipeline sufficient to maintain operability.
TCPA	Town and Country Planning Act 1990

WINEP	Water Industry National Environment Programme - a programme of investigations and actions for environmental improvement schemes to ensure that water companies meet their statutory environmental obligations (preceded by NEP)
WRE	Water Resources East – one of the five regional groups looking to provide strategic oversight and co-ordination of water resources matters across the river catchments of the East of England.
WRMP	Water Resources Management Plan – 25-year plan which water companies use to plan ahead and manage their water resources
WRMP19	Water Resources Management Plan 2019 – current statutory plans
WRMP24	Water Resources Management Plan 2024 – plans currently being considered by the SoS (not yet approved)
WRSE	Water Resources South East – one of the five regional groups looking to provide strategic oversight and co-ordination of water resources matters across the river catchments of the South of East of England.
WRW	Water Resources West - one of the five regional groups looking to provide strategic oversight and co-ordination of water resources matters across the river catchments of the West of England and the cross-border river systems with Wales.
WTW	Water Treatment Works
WwRC	Wastewater Recycling Centre