FS007027

REPORT OF THE MARINE LICENCE VETTING COMMITTEE (MLVC)

On

FORESHORE LICENCE APPLICATION FOR THE CONSTRUCTION OF A WASTE WATER COLLECTION AND TREATMENT SYSTEM, FOR THE COMBINED VILLAGES OF WHITEGATE AND AGHADA, CO. CORK

APPLICANT: Irish Water/Uisce Éireann

March 2023

Assessment Report

This is the technical assessment for a Foreshore Licence application for elements of the proposed wastewater collection and treatment system for the combined villages of Whitegate and Aghada, Co. Cork

Proposal

The proposed development consists of the construction of a wastewater collection system and a wastewater treatment plant (wwtp) at Ballytigeen for the villages of Whitegate and Aghada, Co. Cork. Currently wastewater from the villages of Whitegate and Aghada is being discharged untreated directly into Cork Harbour. This is not in compliance with obligations of the Urban Wastewater Treatment Directive (UWWTD) 91/271/EEC. The proposed development will rectify this issue and facilitate the future development in the villages which is currently constrained by the lack of adequate wastewater treatment. The overall developments consists of a wastewater treatment plant, upgrade works to existing sewerage system, extensive new sewage system, 3 no. pump stations and an marine outfall to the sea at White Bay.

Location

Rostellan, Whitegate and White Bay, Glanagow, County Cork.

Outline of proposal

The following are the elements of the development that are on foreshore and require a consent under the foreshore act:

- Foreshore at Rostellan for part of proposed Pump Station and Rising Main.
- Foreshore at Whitegate for part of proposed Pump Station, Rising Main and Emergency Overflow
- Foreshore at White Bay, Glanaglow for Marine Outfall to the sea.

The treated effluent from the proposed Whitegate and Aghada wwtp is to be discharged to the sea at White Bay via a marine outfall. The proposed outfall will extend approximately 295m beyond the high water mark and approx. 190m beyond the low water mark discharging in a water of minimum depth of 4.3m at low water spring tide. The outfall has been designed as a 315mm OD HDPE pipe terminating at an 80mm diameter diffuser port. The construction works for the proposed development would also require temporary working areas to accommodate the required infrastructure within the foreshore.

Existing outfall pipelines are to be repurposed to serve as combined Emergency Overflow / Surface Water Overflows (EO/SWOs). Connections to these existing pipelines will be made on-shore and there will be no additional works within the foreshore area. However it is not apparent from the application as to the condition or status of these outfalls. Emergency overflows operate in the event of a pump failure or power outage at a pump station. In the event of an extended pump failure or power outage untreated wastewater could be discharged to surface waters, such events

would be very rare. However rare it is not acceptable that untreated wastewater be discharged to intertidal foreshore and so it is required that all EO/SWOs must discharge to below the line of Mean Low Water Springs to ensure maximum dilution is achieved and nuisance avoided. For visual and amenity reasons the pipeline must be buried below the natural shore, beach and foreshore level over its entire length with adequate cover to ensure it is not exposed or damaged during storm events.

Technical details and duration

There are several methods by which the marine sea outfall could be constructed and the Contractor's methodology would ultimately depend on their available plant and equipment as well as their previous experience with laying marine outfalls.

The Contractor will be responsible for determining which method would be most appropriate. The likely methods to construct the marine outfall are presented below, based on current practice and site constraints/characteristics:

- Horizontal directional drilling method;
- Float and flood method;
- Bottom-pull method.

Construction of the outfall would include works from both the land and sea. It is expected that several vessels might be required during the construction of the outfall and that diving support might be required. Since the construction of the marine section of the outfall would require relatively quiet sea conditions, normally experienced during the months of April to September. Estimated 16-month construction period.

Public Consultation Under Section 19 of the Foreshore Act 1933 (as amended)

The Foreshore Section of the DHLGH conducted the public consultation. All consultation was undertaken to conform to the requirements of the Section 19 of the Foreshore Act 1933 (as amended) and the European Directive 2003/35/EC (known as the Public Participation Directive or "PPD").

The application documents were available on the Department's website and to view at Midleton Garda Station, Oliver Plunkett Place, Midleton, Co. Cork and Cork County Council Office, Planning Department, Ground Floor, County Hall, Carrigrohane Road, Cork, for 30 days, from Wednesday, 7 April 2021 to Thursday, 6 May 2021

Public Notice of the application was given for the dates of Public Consultation in the Irish Examiner and Southern Star newspapers.

A number (2) of submissions were made by members of the public who raised similar objections relating to the location of the waste water treatment facility. The contents of submission are noted.

In response to the submissions they refer to development in the terrestrial environment in the main. It should be noted that the proposed terrestrial development (pumping station) will be positioned underground and is designed to intercept existing flows. The suggestion of locating the pumping station in the bay would have serious

implications for maintenance and the continued protection of European designated sites.

The purpose of the overall development is to improve public health and the quality of the waters that are discharged into. These are considered to be reasonable considerations that should inform any decision on this application.

Prescribed Bodies Consultation on Foreshore Licence Application

Foreshore Regulations 2011 (S.I. No. 353 of 2011) provides under Regulation 3 that when considering a foreshore application, as set out under section 18A (1) of the Act of 1933, the Minister may seek observations from a number of prescribed bodies. For this application, observations were requested from:

Department of Housing, Planning and Local Government (Marine Advisor)
Marine Institute
Marine Survey Office,
Inland Fisheries Ireland,
Environmental Protection Agency
Sea Fisheries Protection Authority
Underwater Archaeology
Natural Parks and Wildlife Services
Department of Agriculture Food and Marine.

There were no objections in principle to the proposed works. A number of the submissions from the Prescribed Bodies raised particular observations and put forward suggested conditions to be included in any licence that may be issued. The submissions made have been noted and the suggested conditions will be considered.

Public Consultation Under S42 of EC Birds and Natural Habitats Regulations 2011(as amended).

The Foreshore Section of the DHLGH conducted the public consultation on Appropriate Assessment. All consultation was undertaken to conform to the requirements of the Section S42 of EC Birds and Natural Habitats Regulations 2011(as amended).

The application documents were available on the Department's website and to view at:

Cork Co. Co. Planning Office, Planning Department, Ground Floor, County Hall, Carrigrohane Road, Cork
Midleton Garda Station, Oliver Plunkett Place, Midleton, Co. Cork, P25 Y439.

For 30 days, from 17 November 2022 and 16 December 2022.
Public Notice of the application was given for the dates of Public Consultation in the Irish Examiner and Southern Star newspapers.

Previous public submission authors were notifies and no further public submissions were received.

Prescribed Bodies Consultation for Appropriate Assessment
The Foreshore Section of the DHLGH conducted the Prescribed Body consultation on Appropriate Assessment. All consultation was undertaken to conform to the requirements of the Section S42 of EC Birds and Natural Habitats Regulations 2011(as amended).

For this Appropriate Assessment, observations were requested from:

Department of Housing, Local Government and Heritage (Marine Advisor - Environment)
Department of Housing, Planning and Local Government (Marine Advisor - Engineering)
Marine Institute
Marine Survey Office,
Inland Fisheries Ireland,
Environmental Protection Agency
Sea Fisheries Protection Authority
Underwater Archaeology
Natural Parks and Wildlife Services
Department of Agriculture Food and Marine.

There were no objections to the conclusions of the Appropriate Assessment.

Environmental Assessment

The Department has considered the potential ecological impacts of the proposed development which in view of its limited scale, duration and nature does not require an EIAR either from mandatorily or from a sub threshold point of view.

As part of the assessment of the foreshore licence application, Roughan & O'Donovan (ROD) were commissioned on 19th October 2021 as Independent Environmental Consultants (IEC) to conduct a Screening for Appropriate Assessment (stage 1 screening) and, if required, an Appropriate Assessment (stage 2), of the likelihood of significant impact on European sites from the application for a foreshore licence. The Independent Environmental Consultants completed the Screening for Appropriate Assessment report in March 2022, which concluded that likely significant effects could not be ruled out for a number of SACs that like within the Zone of Influence. Therefore, a stage 2 Appropriate Assessment is required. The Department's Marine Advisor (Environment) agreed with and accepted the Screening for Appropriate Assessment and its conclusions.

The Minister adopted the Screening for Appropriate Assessment report and determined that an appropriate assessment was required.

Following assessing the environmental information submitted as part of the appropriate assessment the IEC identified mitigation measures required to ensure that the proposed project, either individually or in combination with other plans or projects, will not adversely affect the integrity of any Europeans Site. The Marine advisor

(Environment) agreed with and accepted the IEC's Appropriate Assessment Report and its recommendations, which are adopted as part of this assessment report.

EU Habitats Directive: Risk Assessment for Annex IV Species

A Risk Assessment for Annex IV species likely to occur in Irish waters was carried out by the IEC. The Assessment determined that with strict adherence to the DAHG 2014 Guidance to manage the risk to marine mammals from man-made sound sources in Irish waters the works will not result in the committing of any offence under Article 12 of the Habitats Directive towards any of the species listed in Annex IV of the Habitats Directive that are likely to occur within the site.

The proposed which is the subject of this application has undergone significant considerations as to possible environmental implications. It is concluded that subject to condition that there will not be detrimental effects to protected areas or species.

Estate Management

All foreshore is presumed state owned unless proven otherwise. In this case there are no known established claims of private ownership of the foreshore at this location and no claims of private ownership were raised during the application and public consultation process therefore, the foreshore the subject of this application is state owned. Total area of foreshore the subject of the application: 2.01

National Marine Planning Framework (NMPF)

Section 74 of the Planning and Development (Amendment) Act 2018 sets out that "A public body shall adopt such measures as (a) are consistent with its functions, and (b) necessary to secure the objectives of the National Marine Planning Framework". In this context, "functions" includes the giving of any consent or approval, or the grant or issue of licences, certificates or other like documents, under any enactment for the purposes of any such development or activity, or any such proposed development or activity as well as the regulation of any such development or activity. The National Marine Planning Framework (NMPF) is a national plan for Ireland's marine area including the Foreshore. It sets out, over a 20-year horizon, how we want to use, protect and enjoy our marine area. The NMPF sits at the top of the hierarchy of plans and sectoral policies for the marine area and provides a coherent framework in which those sectoral policies and objectives can be realised. All decisions on individual applications determined under the Foreshore Act, must secure and be consistent with the objectives of the plan, similar to the way that terrestrial plans form part of the decision-making tool-kit in the on-land planning process. NMPF objectives are supported by specific policies that articulate factors that can form part of objective consideration.

Having reviewed and assessed this application against the objectives of the NMPF, it is considered that the proposed works do not act significantly against any objective within the NMPF or wider Government Policy including climate change legislation. Furthermore, the project is aligned and secures key sectoral/activity objectives set out in under the ports, harbours and shipping section of the NMPF.

Public Interest

Section 2 and 3 of the 1933 Foreshore Act (as amended), states that a lease or licence of state foreshore may be granted "If, in the opinion of the Minister, it is in the public interest". As foreshore is a finite and valuable national resource and public amenity, it is important that each plan and project is fully assessed to ensure, that if consented to, it is a sustainable and proper use of that finite and valuable resource.

The submitted documentation, reports and assessments have been considered. The proposed development is limited in scale and extent. As such it is considered to be appropriate and needed for maritime use and enjoyment. In view of this it is recommended that a licence for the proposed development is in the public interest.

Assessment & Conclusion

This application is to facilitate the upgrading of wastewater infrastructure. This is considered to be in the interests of improving public health and as noted in the submission is also required to be in compliance with European directives.

The location of the pumping facility is not directly the subject of this application but it is noted that its location is required to facilitate the efficient and effective collection of flows and to allow for their ultimate safe discharge. It is further noted that the pumping station will be located underground which will positively assist in maintaining visual amenity.

With respect to those elements in the foreshore they are considered to both necessary and required to effectively improve the wastewater treatment facilities in the general area. The proposed development has been assessed with respect its effects on the environment and it is concluded that there will not be detrimental effects. Indeed taking the project as a whole there will be positive effects on the environment arising from its completion.

Taking the totality of information on the file, which has been reflected in this assessment, it is recommended that the Minister, subject to conditions set out below, approve the proposed application.

Recommended Conditions

1. The licensee shall use that part of the foreshore, the subject matter of this licence for the purposes as outlined in the application and for no other purposes whatsoever.

2. The drawings titled: Foreshore Licence Map 1, Drg. No: IW-10015229-03-04-001, Rev: I2, Rev Date: 04/08/21, Foreshore Licence Map 2, Drg. No: IW-10015229-03-04-002, Rev: I2, Rev Date: 04/08/21 and Foreshore Licence Map 3, Drg. No: IW10015229-03-04-003, Rev: I2, Rev Date: 04/08/21 shall be attached to and referenced in the licence document.

3. The works shall be completed in accordance the application documents and drawings submitted by the licensee to the Department of Housing, Local Government and Heritage.

4. The licensee shall submit to the Department of Housing, Local Government and Heritage a detailed report on the existing outfall pipelines to be repurposed to serve as combined Emergency Overflows/Surface Water Overflows. The report shall include the location, detailed description and drawings, condition and licencing status etc. of the outfalls. Any short comings identified must be rectified to the satisfaction of the Department of Housing, Local Government and Heritage. Please note it is a requirement of this Department that Emergency Overflows/Surface Water Overflows shall discharge to below the line low water springs.

5. No works shall be undertaken from 1st May to 30th August at White Bay, to minimise disruption to the bathing season.

6. The licensee shall notify the Department of Housing, Local Government and Heritage at least 14 days in advance of the commencement of any works on the foreshore. This notification shall include an up to date Programme of Works for the completion of the project.

7. Strict adherence to the DAHG 2014 Guidance to manage the risk to marine mammals from man-made sound sources in Irish waters, when undertaking all geophysical and geotechnical surveys.

8. A survey to determine whether or not otter holts are present will be undertaken within a 300m radius of all intertidal works. This work should be undertaken by an otter specialist.

9. If otter holts or couches are located within 50m of the proposed works or a possible natal holt within 250m of the works, a licence to derogate from the Habitats Directive and disturb an otter resting or breeding place shall be obtained from NPWS before the initiation of any work.

10. Prior to commencement of the works dialogue between Irish Water and those projects identified in Section 4.4 of the Appropriate Assessment Report (Roughan & O'Donovan, February 2023) to be carried out, to ensure no likely significant in combination effects.

11. A Marine Notice shall be published detailing the nature of the works and any vessels, which may be engaged, prior to the commencement of construction.

12. To ensure the safety of navigation for all maritime users, the construction area within the tidal zone shall be clearly identifiable to al maritime users. Where deemed necessary temporary marker buoys shall be installed upon consultation with the harbour authority.

13. The applicant shall be obliged to inform the United Kingdom Hydrographic office (UKHO) detailing the nature and location of the works to ensure that relevant navigation charts and nautical publications are updated.

14. The applicant is required to apply to the commissioner of Irish Lights for sanction to established an outfall mark or buoy.

15. Should a pollution event occur, the SFPA Clonakilty Port office should contacted immediately so measures can be put in place to restrict potentially contaminated shellfish being placed on the market.

16. The applicant is required to engage the services of a suitably qualified archaeologist to monitor all areas the proposed works. It is recommended that the archaeologist be licensed under the National Monuments Acts 1930-2014 where a monitoring & testing strategy will be agreed by this office.

17. Should archaeological material, wreckage, timbers, or other artefacts be found during the course of monitoring the construction of the outfall pipe, the archaeologist shall have work on the site stopped, pending a decision as to how best to deal with the archaeology. The developer shall be advised by the Department of Housing, Local Government and Heritage with regard to any necessary mitigating action (e.g. preservation in situ, dive and/or geophysical survey or excavation). The applicant shall facilitate the archaeologist in recording any material found.

Colin Ryan Senior Adviser (Planning) BA (Hons) MsC MBA MIPI