



An
Bord
Pleanála

Inspector's Report ABP-305749-19.

Type of application	Review of EIA Screening pursuant to S176C(2)(a)(i)
Question	Whether there is or is not a requirement for EIA for the proposed Moville Sewerage Scheme.
Location	Moville, Inishowen, Co. Donegal.
EIA Screening Application	
Planning Authority	Donegal County Council
Planning Authority Reg. Ref.	None
Applicant for Declaration	Irish Water.
Planning Authority Decision	None.
Referral	
Referred by	Irish Water.
Owner/ Occupier	Various – see schedule attached to application for review.
Observers	1. John Gore. 2. Liam Byrnes.
Date of Site Inspection	29 th November 2019.
Inspector	Mairead Kenny.

1.0 Introduction

- 1.1.1. The application is for review of an EIA screening determination in relation to the proposed Moville Sewerage Scheme.
- 1.1.2. The requested review relates to the submitted EIA screening determination application made by Irish Water to Donegal County Council. The planning authority did not decide the matter within the allocated timeframe and the screening request was not registered.
- 1.1.3. In the absence of a decision by the planning authority on the matter, Irish Water submitted the matter for review by the Board pursuant to section 176C(2)(a)(i).
- 1.1.4. In 2011 the Board granted permission for a scheme described as Moville / Greencastle Sewerage Scheme. The referrer indicates that the Moville section of the former scheme is to be pursued.

2.0 The Question

- 2.1.1. The referrer seeks a screening determination regarding a requirement for EIA for the proposed Moville Sewerage Scheme. In brief, the scheme comprises:
 - A wastewater treatment plant of population equivalent (PE) of 3,500 with outfall pipe discharging to Lough Foyle, a pumping station with dual function overflow discharging to the Bredagh River and a collection network.

3.0 Site Location

- 3.1.1. Moville is positioned close to the northern-eastern end of the Inishowen peninsula and adjacent Lough Foyle. Lough Foyle is a large shallow sea lough which is the estuary of the Foyle and other rivers and which separates the jurisdictions of Northern Ireland and the Republic. The lough has an overall length of about 26km and extends to approximately 16km in width. At its southern end is Derry city. At its northern end it narrows and there is only 1km between Greencastle in Donegal and Magilligan Point in Northern Ireland. There is a longstanding dispute regarding the ownership of the lough.

- 3.1.2. Lough Foyle hosts a range of features of interest including resources which are of inherent ecological and economic value and which are important amenities valued by residents and visitors. Attachment 4 of the application documentation shows the location of Merville in the context of Lough Foyle and of shellfish water protection areas, bathing water areas, European sites and other areas of ecological interest. Information available on the Sea-Fisheries Protection Authority website shows that the coastal area adjacent the west of Lough Foyle appears to have been classified in 2013 as a production area for live bivalve molluscs. The closest designated commercial shellfish area is Ball's Point, which is a few kilometers south of Merville. The location of European sites in the area are described elsewhere in this report.
- 3.1.3. Attachment 2 of the referrer's submission contains maps showing the location of the main elements of the proposed scheme. The proposed wastewater treatment plant would be located at a site to the north-east of Merville. The identified site is to the east of a minor public road. The land slopes downwards from north to south. The northern boundary adjoins a coniferous forest. The topography together with the forest provides a backdrop for the proposed wastewater treatment plant. To the south and south-west of the site and separated by a distance of over 200m are a number of individual dwelling houses. The outfall pipeline from the plant would follow what is largely a north-south trajectory within the public road, crossing the R241 and joining the coast at a location close to a dwellinghouse.
- 3.1.4. The main streets in Merville are the coastal route the R241 and the inland R238. Within close proximity to each other are services and infrastructure such as schools, shops and other commercial facilities and the main pier. Amongst the commercial activities in this area shellfish is noteworthy feature. At the time of inspection, I noted that the landing and basic processing / sorting of shellfish including oysters was taking place at the harbour.
- 3.1.5. The Bredagh River enters the sea at a location close to the pier, which is at the west of the town. At this general location also is the proposed River Row pumping station.
- 3.1.6. As part of the scheme gravity foul sewer networks will be extended as shown on the submitted drawings. The new connections will serve a number of one-off houses and agricultural lands. The rising main to the proposed new wastewater treatment plant will follow the line of the county road.

3.1.7. Photographs which were taken by me at the time of inspection are attached.

4.0 Proposed Development

4.1.1. The proposed scheme is described as follows in the Schedule 7A information:

- A new wastewater treatment plant of 3,500 PE.
- The likely WwTP components are oxidation ditches, clarifiers, a picket fence thickener, inlet works, a storm tank, a sludge dewatering building, a tertiary treatment system including UV disinfection and tertiary filtration and an administration building.
- The layout provide by the referrer shows that the various components of the WwTP plant would be located close to the northern end of the site and provision made for boundary landscaping.
- An outfall pipeline from the WwTP would be 880m long with a marine outfall of 260m length and 10m depth.
- A pumping station at River Row with pumps and a storm tank providing for dual function overflow to provide for storm overflow or emergency situations.
- A 225mm rising main from the pumping station along Main Street / Greencastle Road to the WwTP.
- Additional gravity foul sewer in the Movice catchment.
- Sludge is to be removed off site to another facility with appropriate consents.

4.1.2. The total area of the works is 2.77 hectares of which 1.03 hectares is stated to be in a built-up area.

5.0 Planning History

5.1.1. **Under YA0007** the Board granted permission on 12th of August 2011 for a scheme described as the Movice / Greencastle Sewerage Scheme. The subject development was to have a design capacity of 8,800 PE. The outfall location at Movice is as proposed under the current scheme.

- 5.1.2. The application was accompanied by an Environmental Impact Statement (EIS). A Compulsory Purchase Order (CPO) was confirmed in relation to the above scheme under case reference XA0002.
- 5.1.3. **Under JD0006** the Board on 2nd of January 2008 directed the local authority to prepare an EIS to accompany an application for the proposed Movice / Greencastle Sewerage Scheme. The Board's order referred to:
- Nature and scale of proposed development.
 - The criteria set out in Schedule 7 of the PDR.
 - Departmental guidance related to sub-threshold development.
 - The environmental sensitivity of the site and surrounding area and particularly the sensitivity of the waters into which the effluent would be discharged.
 - The trans-frontier nature of potential impacts.
 - Therefore, the proposed development would be likely to have significant effects on the environment.

6.0 Relevant Legislation and Guidelines

6.1. Planning and Development Act, 2000 as amended.

Section 172(1) states that an EIA shall be carried out in respect of certain applications for consent for proposed development. This includes applications for 'sub threshold' developments namely those which are of a Class specified in Part 2 of Schedule 5 of the Planning and Development Regulations 2001 but do not exceed the relevant quantity, area or other limit specified and the competent authority determines that the proposed development would be likely to have significant effects on the environment.

Section 172A(1) states that a screening determination for environmental impact assessment means a determination

- (a) as to whether a proposed development would be likely to have significant effects on the environment, and

(b) if the development would be likely to have such effects, that an environmental impact assessment is required.

Section 172A(2)(a) relates to applications to the planning authority for screening for environmental impact assessment.

Section 176C relates to review of screening determination for EIA.

Section 176C(2) states that, where an application was made under section 176A and no screening determination for environmental impact assessment has been issued by a planning authority within the appropriate period of time then

(a) the person who made the application may... refer the application in question to the Board (which act is in this section referred to as an 'application referral') for determination.

Section 176C(4) states that the Board shall carry out screening for appropriate assessment at the same time as making a determination under this section.

Section 176C(5) states that before making a determination under this section, the Board shall –

(a) consider the criteria for determining whether a development would or would not be likely to have significant effects on the environment, as set out in Schedule 7 to the Planning and Development Regulations 2001,

(b) take into account –

- (i) the information provided pursuant to section 176A (3)(d), and
- (ii) the available results, where relevant, of preliminary verifications or assessments of the effects on the environment carried out pursuant to European Union legislation other than the Environmental Impact Assessment Directive, and

(c) have regard to any description, information, views or submission received.

6.2. **Planning and Development Regulations 2001 (as amended)**

A92 - 'sub-threshold development' means development of a type set out in Part 2 of Schedule 5 which does not equal or exceed, as the case may be, quantity, area or other limit specified in that Schedule in respect of the relevant class of development.

Schedule 5 – Development for the purposes of Part 10.

Part 1 – Development classes subject to EIA.

Class 12 (b) works for the transfer of water resources between river basins, where the multi-annual average flow of the basin of abstraction exceeds 2,000 million cubic metres per year and where the amount of water transferred exceeds 5 per cent of this flow.

Class 13 Wastewater treatment plants with a capacity exceeding 150,000 population equivalent.

Part 2 – Development classes subject to EIA where they exceed a certain threshold in terms of scale or where the development would give rise to significant effects on the environment.

Class 10(b)(iv): Urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere.

Class 10(m) works for the transfer of water resources between river basins not included in Part 1 of the Schedule where the annual volume of water abstracted or recharged would exceed 2,000,000 cubic metres.

Class 11(c) wastewater treatment plants with a capacity greater than 10,000 population equivalent and not included in Part 1 of the Schedule.

Class 11(d) sludge depositions sites where the expected annual deposition is 5000 tons of sludge (wet).

Class 15: Any project listed in this Part which does not exceed a quantity, area or other limit specified in this Part in respect of the relevant class of development but which would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7.

Schedule 7 – Criteria for determining whether a development would or would not be likely to have significant effects on the environment under three headings–

- (a) Characteristics of the Proposed Development.
- (b) Location of the Proposed Development.
- (c) Characteristics of Potential Impacts.

Schedule 7A relates to the information to be provided by the applicant in the case of subthreshold developments and shall include relevant information on the characteristics of the proposed development and its likely significant effects on the environment.

6.3. **EIA Directive 2014/52/EU**

EU Directive 2014/52/EU of 16th April 2014, amending Directive 2011/92/EU (the EIA Directive) on the Assessment of the Effects of Certain Public and Private Projects on the Environment, entered into force on 15th May 2014. The EIA Directive 2014/52/EU reaffirms that ‘Annex I projects’ shall be subject to EIA and that for ‘Annex II projects’, Member States shall determine whether the project should be subject to EIA on a case-by-case basis or subject to thresholds or other criteria set by the Member State. The screening determination must be based on the information provided by the developer and if mitigation measures are influential to a screening determination, these must be stated by An Bord Pleanála, as the competent authority, in a screening determination.

Annex III of the 2014 EIA Directive sets out the revised criteria for determining whether projects should be subject to an EIA, under three headings as follows:

Characteristics of the Proposed Development.

Location of the Proposed Development.

Characteristics of Potential Impacts.

6.4. **Relevant Guidance**

Guidance document ‘EIA of Projects - Guidance on Screening’ (2017) and other documents were prepared on behalf of the European Commission to assist competent authorities, developers and others. ‘Guidance on Screening’ outlines a stepped approach to the screening process for competent authorities.

‘Guidelines for Planning Authorities and An Bord Pleanála on carrying out Environmental Impact Assessment’ (2018) by the Department of Housing, Planning and Local Government. This refers to the submission by the applicant of information in accordance with Schedule 7A for the purposes of a formal screening

determination. The basis of information on which the screening determination process is made will include features of the project and / or mitigation measures envisaged to avoid or prevent what might otherwise be significant adverse effects on the environment. Compensation measures are not considered in the screening determination process. The information provided may be only of a preliminary nature. The screening determination will be considered in light of the precautionary principle and criteria in Schedule 7 and Annex III of the 2014 Directive are relevant.

The ‘Environmental Impact Assessment Guidance for Consent Authorities regarding Sub-threshold Development’ (2003) of Department of the Environment, Heritage and Local Government, provides guidance on the criteria relevant when deciding whether or not a proposed development is likely to have significant effects on the environment.

Guidance on the Application of the Environmental Impact Assessment Procedure for Large-scale Transboundary Projects (2013) by the European Commission. This guidance refers to large scale transboundary projects which are defined as being implemented in at least two Member States and which are likely to cause significant effects on the environment or significant adverse transboundary impact. The guidance could be applied to other transboundary projects in general it is stated. The guidance deals largely with EIA procedures. Regarding Annex II projects and the matter of determining an activity’s environmental significance the precautionary principle and prevention principles should be taken into account. If there is any doubt as to the absence of significant environmental effects an EIA must be carried out.

Interpretation of Definitions of Project Categories of Annex I and II of EIA Directive (2015) by the European Commission. The definition of urban development is discussed. In relation to project location, an urban development project should be seen as a project that is urban in nature regardless of its location. Interpretation of this project category could include projects to which the terms ‘urban’ and ‘infrastructure’ can relate, such as the construction of sewerage and water supply networks.

7.0 Policy

7.1. Donegal County Development Plan 2018-2024

Map 15.19 of the development plan shows the settlement boundary of Moville. The site of the proposed wastewater treatment plant is located about 400m to the north-east of the eastern edge of the town, outside the settlement boundary.

The site of the proposed wastewater treatment plant is within a landscape designated as a **High Scenic Amenity Area (HSA)** which is the middle of three tiers in the development plan. These areas have the capacity to absorb sensitively located development of scale, design and use that will enable assimilation into the receiving environment and that does not detract from the quality of the landscape. The coastal environs are designated as **Especially High Scenic Amenity (EHSA)** which have extremely limited capacity to assimilate additional development.

Moville is identified as a **strategic town** due to its special economic function.

Table 2A.4 refers to the strategic status of water services. In relation to wastewater treatment the table refers to 'project underway to provide a new WWTP ultimately serving Moville and Greencastle'. It is noted that Moville is included on the EPA's list of sites with no wastewater treatment.

Moville WwTP is listed in table 2A.7 in relation to planned investment in water services by Irish Water 2017-2021.

Moville is identified as a Heritage Town. Protected structures include the coastguard and customs houses and the coastguard station as well as residential buildings and a church. None of the protected structures is in the immediate vicinity of the site of the proposed wastewater treatment plant or close to the pumping station.

A potential Greenway is identified along the coast.

7.2. Natural Heritage Designations

Lough Foyle SPA within the Republic of Ireland (Site code 004087) is located at the south-west side of Lough Foyle.

Lough Foyle SPA within Northern Ireland (Site code UK9020031) is along the east of Lough Foyle.

Overlapping with part of Lough Foyle SPA within Northern Ireland is **Magilligan SAC (also known as Lough Foyle SAC) (Site Code UK0016613)** which is at the northern and western sides of Magilligan Point, 4 km to the east of Moville.

The northern end of Inishowen is designated as the **North Inishowen Coast SAC (Site code 0002012)**.

Portions of Lough Foyle within Northern Ireland are also designated as an **Area of Special Scientific Interest and a Ramsar site**.

8.0 Submissions

8.1. Referrer's case

The referrer Irish Water states that the following classes are potentially applicable:

Part 1, Schedule 5 of the Planning Regulations.

- Class 13.

Part 2, Schedule 5 of the Planning Regulations.

- Class 11(c).
- Class 10(b)(iv).
- Class 11(d).
- Class 12(b).

The referrer notes that the scale of the proposed development is well below the thresholds of the classes listed. Therefore, it is considered that the proposed development can be considered a 'sub-threshold development' as defined in Article 92 of the Planning Regulations.

Having regard to -

- the criteria set out in Schedule 7 of the Planning Regulations

- the Environmental Impact Assessment Guidance for Consent Authorities regarding Sub-threshold Development (Department of the Environment, Heritage and Local Government 2003) and
- Environmental Impact Assessment of Projects, Guidance on Screening (European Union, 2017)

the referrer considers that the development is unlikely to give rise to significant effects on the environment.

In order to definitively ascertain whether the proposal should be subject to EIA or not the application for a screening determination pursuant to Section 176(2)(a) of the Planning Acts is made.

The information provided in accordance with the requirements includes:

- Details of the applicant and details of landowners (Attachment 1).
- Location map, including rising main, outfall and gravity sewer locations as well as the possible general layout of the River Row pump station and the wastewater treatment plant (Attachment 2).
- A description of the nature and extent of the proposed development, its characteristics, its likely significant effects on the environment including the information specified in Schedule 7A of the PDR (Attachment 3).

Furthermore, as set down in section 176A(3A) the applicant has taken the opportunity to provide a description of the features which are envisaged to avoid or prevent what might otherwise have been significant adverse effects on the environment. These are identified as:

- A high standard of tertiary treatment to ensure that the specific effluent discharge limits will be established to take full account of biodiversity, shellfish and bathing water sensitivities.
- Avoidance of environmentally sensitive areas insofar as feasible in scheme layout and design.
- Maintenance of buffer zones around sensitive receptors.
- Provision of visual screening.

- Ensuring noise from pumping station and wastewater treatment plant is within acceptable levels through arrangement of layout, selection of low noise plant items and noise attenuation measures.
- Incorporation of odour control measures.
- Archaeological monitoring to ensure impacts are avoided or minimised.

The referrer notes that the development will be subject to individual assessment of specific potential environmental impacts. If the development is deemed not likely to have significant effects on the environment these reports would be submitted as supplementary environmental reports accompanying a planning application. If it is determined that the proposed development is likely to have significant effects on the environment the assessments will be carried out as part of the EIA process.

8.2. Landowner Submissions

8.2.1. John Gore

The submission on behalf of John Gore includes the following points:

- Class 11(c) - wastewater treatment plants with a capacity equal to or greater than 10,000 population equivalent are subject to mandatory EIA. If any part of the development (including the network or the plant) has a capacity greater than or equal to 10,000 population equivalent, it requires a mandatory EIA for the purposes of the Directive.
- Class 10(b)(iv) – the proposed development is within the business district and is clearly an urban development. Part of the development cannot be split from the rest. The aggregate of lands of 2.7 hectares significantly exceeds the threshold. Much of that land is within the central business district of the town. On the basis of the location and extent of the proposed development and its characteristics it exceeds the threshold specified in relation to this class.
- Class 11 (d) - the generation of sludge is acknowledged but the quantity of sludge is not identified. On the basis of the 5,000-tonne threshold a mandatory EIA may be required. Tertiary treatment is proposed.

- Class 10(m) and Class 12(b) relating to the transfer of water resources between river basins is referenced in the submission. We cannot see precisely how these classes would arise in the circumstances.
- Under a few classes, a mandatory EIA is triggered. The precautionary principle should be applied.
- It does not matter whether effects are positive or negative.
- Lough Foyle is large, shallow and almost fully enclosed.
- The responsibilities of the Loughs Agency and the international level of jurisdiction in respect of these lands requires further description under Schedule 7.
- The extent of the jurisdiction of the United Kingdom may extend to the mean high-water mark on the Donegal shore. There are UK and European environmental designations, which have not been specified.
- There is an express obligation in both the EIA Directive in section 174 of the Act to consider transboundary impacts. The level of complexity and uncertainty are factors in the consideration of the statutory requirements of Schedule 7
- It is not possible to determine that there will be an improvement in water quality. If the discharge, as is likely, occurs within or will affect waters under the jurisdiction of the UK, the EPA may not have a role in monitoring.
- The information which is required in Schedule 7A of the Planning Regulations has not been provided. It is not possible to determine capacity or location or expected residues and waste and dispersion pattern.
- The location of the development with regard to the environmental sensitivity of the geographic areas is not defined. Information relating to the seabed and on biodiversity is lacking as is information on how the available results of other relevant assessments have been taken into account.
- The submission acknowledges the sensitivity of Lough Foyle particularly with regard to shellfish activities, bathing use and ecological designations. The 4 km distance from the proposed discharge outlet to the eastern side of the

Lough is noted but this submission fails to identify the point of discharge and rate of discharge. The land, construction impact, tidal movement and dispersion patterns had not been identified.

- The proposed development is also likely to have significant effects on the local population and terrestrial environment given the scale and extent of the proposal in an urban environment including large-scale opening up of streets and odour. These impacts introduce a level of significance to justify EIA.
- The proposed development contemplates discharges into freshwater it would appear and provision for an overflow/stormwater discharge which contemplates, on occasion the discharge of untreated effluent into local rivers and in particular into freshwater rivers draining into Lough Foyle. It is submitted that these events are of themselves significant effects.
- In conclusion the submission does not contain sufficient level of detail required under the planning regulations. Even from what has been submitted the proposed development requires a mandatory EIA.
- In the alternative Irish Water has acknowledged significant effects on the environment, which is in itself an acknowledgement that an EIA is required.
- The Board is requested to particularly notice the acknowledgement that an AA will be required (which raises the impact of the proposed development to above the level of significant effects) and that Irish Water itself acknowledges that the proposed development will give rise to significant effects which is sufficient of itself to require an EIA even on a subthreshold development.

8.2.2. **Liam Byrnes**

The submission of Liam Byrnes is as follows:

- The scheme comprises a scaled down version of the 2009 scheme which included Greencastle and it is assumed that the plant now proposed would have the capacity to cater in future for the wider area. Therefore, the environmental impact of such a larger scheme must be considered at this stage, particularly in relation to the treatment plant and outflow pipe.
- The Board's Inspector having considered further submissions recommended against permission for reasons including lack of information relating to

proposals to reduce coliform and ground conditions in the area of the treatment plant and pumping stations including River Row. In granting permission, the Board commented that the development of a scheme for Merville alone, which was suggested by the Inspector was unacceptable.

- The Board referred also to the overall benefits that the originally planned system would bring during normal operation. I have concern relating to the capacity of the scheme to cope with catastrophic events. Such catastrophic events are likely to be periodic rather than rare.

8.2.3. **Minister for Agriculture, Food and the Marine**

Acknowledgement of consultation.

8.2.4. **Minister for Housing, Planning and Local Government.**

Acknowledgement of consultation.

8.3. **Further Responses**

8.4. None.

8.5. **Planning Authority Reports**

- 8.5.1. On receipt of this referral it was circulated to the planning authority by the Board. No response was received. It was considered necessary to invoke section 132 to seek the views of the planning authority in relation to the referral. No response was received as a result of this request. Thus, there is no planning or other report on file in connection with the EIA screening request by Irish Water to the planning authority, or the referral to the Board.

8.6. **Prescribed Bodies**

The legislation provides that the Board may request comments of prescribed bodies, which has not been deemed necessary.

Some of the government departments are landowners and were circulated in that context.

9.0 Assessment

I propose to assess the relevant issues under the following headings.

- Whether the development falls under Part 1 or Part 2 of Schedule 5.
- Whether the development comprises 'sub threshold development' and consideration of Schedule 7 Criteria
- Other matters.

In the foregoing I will address all possible classes including those identified in the referrer's application submission.

9.1. Part 1 of Schedule 5

- 9.1.1. **Class 12(b) of Part 1** relates to **works for the transfer of water resources between river basins**. I agree with the landowner's submission that this is a not relevant class.
- 9.1.2. **Class 13 of Part 1** relates to **wastewater treatment plants of 150,000 population equivalent**. This is greatly in excess of the subject proposal which would have a population equivalent of 3,500.
- 9.1.3. I am satisfied that there is no requirement for a mandatory EIA in this case having regard to the Classes listed under Part 1 of Schedule 5.

9.2. Part 2 of Schedule 5

- 9.2.1. **Class 10(b)(iv) of Part 2** relates to **urban development which would involve an area greater than 2 hectares in the case of a business district** The subject site is 2.77 hectares in area overall of which Irish Water describes 1.03 hectares as being in a built-up area.
- 9.2.2. I refer to the European Commission 'Interpretation of Definitions' guidance document as a relevant source in deciding whether the project might be described as 'urban development'. This should be read in the context of the consideration of Annex II(10)(b) on page 51 of that document, which states that 'Member States may decide in their national environmental impact assessment systems that some projects fall within other Annex II project categorises'.

- 9.2.3. In setting out specific provisions under Class 13 of Part 1 and 11(c) of Part 2, I consider that it is reasonable to conclude that the provision of a standalone sewerage scheme to serve a town is covered by those particular classes, which specifically refer to wastewater treatment plants. I accept that other sewerage schemes to be developed as part of a major urban development scheme for example might fall within the definition of 'urban development'. In my opinion the proposed development is not 'urban development'.
- 9.2.4. Class 10(b)(iv) of Part 2 is not a relevant class.
- 9.2.5. **Class 10(m) of Part 2 relates to works for the transfer of water resources** between river basis. I agree with a landowner's submission that this is a not relevant class.
- 9.2.6. **Class 11(c)** which relates to **wastewater treatment plants** is a class of development which is clearly relevant to the proposed scheme. The threshold of 10,000 population equivalent is not met. A landowner refers to the failure to set out sufficient information to demonstrate that the capacity will not exceed 10,000 population equivalent and further states that if any part of the scheme has such capacity then it requires a mandatory EIA. I refer the Board to the history of planning for a joint scheme to serve Merville and Greencastle and to the fact that the current development plan refers to a 'project underway to provide a new WwTP ultimately serving Merville and Greencastle'. A landowner states that the Board should consider the environmental impact of such a larger scheme in relation to requirement for EIA.
- 9.2.7. The case before the Board relates to a proposed 3,500 population equivalent facility. It is strictly restricted to that limit by the capacity of the treatment plant, not by the width of sewers or capacity of the pumping station or any other infrastructure. Therefore, the 10,000-population threshold is not met.
- 9.2.8. The development is of a type which falls under this class but the relevant threshold is not met and there is no mandatory requirement for EIA under class 11(c).
- 9.2.9. **Class 11(d) relates to sludge deposition sites**, in relation to which a 5,000-tonne threshold is set. The referrer has clarified that the proposed development will not include any deposition of sludge and that it will be removed off site to a facility which has been subject to relevant consent procedures including EIA requirements. I note that a landowner objects to the information provided relating to the quantity of waste.

I consider that the information presented is sufficient and that the material consideration is the proposal to dispose sludge elsewhere. I also consider that it is immaterial that the facility is not named. I am satisfied that there is no mandatory requirement for EIA under this class.

- 9.2.10. In conclusion none of the thresholds or limits set out under Part 2 of Schedule 5 are met and there is no mandatory requirement under any of the classes of Part 2.

9.3. **Subthreshold**

- 9.3.1. Under A92 subthreshold development is development of a type set out under Part 2 of Schedule 5, which does not equal or exceed the quantity, area or other limit specified in respect of that class. I have concluded above that the provisions of Class 11(c) are relevant in this respect. Therefore, the screening determination falls to be assessed as a 'sub-threshold' development for EIA.

1. Characteristics of proposed development

The size and design of the whole of the proposed development.

- 9.3.2. The question presented to the Board relates to the treatment plant and associated infrastructure for Merville. It is the capacity of the proposed wastewater treatment plant and its design as well as the location and length of the marine outfall that will be the significant factors in terms of the likely significant effects. Overflow to the Bredagh river will occur on occasion, in the context of stormwater overflows. The scale of the proposed pumping station together with the length of sewers are not in themselves significant in terms of the likelihood of significant effects resulting.
- 9.3.3. In terms of population equivalent of the proposed treatment plant, at 3,500 this is significantly below the mandatory threshold of 10,000.
- 9.3.4. The design of the wastewater treatment plant will provide for a tertiary treatment system including UV disinfection and tertiary filtration, which is a high standard for such facilities. The proposed development is to comply with the standards set under the Urban Wastewater Treatment Directive and other legislation relevant to the protection of bathing waters and shellfish waters. A marine outfall pipeline for a length of 260m at a depth of approximately 10m is proposed.

9.3.5. The future connection of Greencastle is a development plan objective but is not part of the development subject of this referral. Possible future expansion of the proposed development is not a material consideration in determining whether the subject scheme would be likely to have significant effects on the environment. The scale and design of the development is as presented. Any further expansion would require that the matter of EIA be re-visited.

9.3.6. In conclusion the development is not of large scale or large capacity and the outline design of the proposed development, providing for tertiary treatment is of high standard, meeting legislative requirements for bathing waters, shellfish and for urban wastewater discharge.

Cumulation with other existing and/or approved projects.

9.3.7. There are no existing or approved projects which would give rise to significant cumulative effects.

The nature of any associated demolition works.

9.3.8. There is no planned demolition associated with the proposed development. Only groundworks and works in the public road are involved.

The use of natural resources, in particular land, soil, water and biodiversity.

9.3.9. Due to the small scale of the works construction of the proposed development would not give rise to significant use of natural resources. The use of natural resources is primarily restricted to permanent use of relatively small plots of improved agricultural grassland at the wastewater treatment plant site and of amenity grassland at the site of the pumping station. These plots are of limited biodiversity value. The subject development would involve removal of soil from productive value.

9.3.10. Large volumes of construction material or energy use would not be needed in the construction phase. Energy usage during operation would not be a significant draw on available supply.

9.3.11. In the marine environment a small area of the seabed and biodiversity will be impacted along the outfall pipeline route.

The production of waste.

- 9.3.12. The production of waste in the case of the proposed development is mainly related to construction phase waste from general construction activities and from digging of trenches in the public road and through other lands and foreshore. The nature of the waste produced would not give rise to complexities in disposal or treatment and volumes would not be significant.
- 9.3.13. The scheme involves treatment of wastewater and will result in the generation of sludge which will be subject to suitable disposal off-site.

Pollution and nuisances.

- 9.3.14. The proposed development gives rise to possible impacts associated with a possibility of storm overflows, emergency overflows, odour and noise. Treated wastewater will discharge to the marine environment. Storm overflows to the river and into the lough will occur.
- 9.3.15. The continual discharge of raw sewage to the river and lough would cease.

Risk of major accidents, and/or disasters, including those caused by climate change.

- 9.3.16. The most significant risk of accident would be from sewage overflow in the event of malfunction, which would not be classified as a major accident in terms of relevant legislation.
- 9.3.17. In relation to flood risk the site of the proposed wastewater treatment plant is not at risk of flooding. The remainder of the project elements would not be vulnerable to flooding.

Risks to human health

- 9.3.18. There is a significant likelihood of improvements in water quality due to the cessation of discharges of raw sewage. This would result in indirect impacts on human health by minimising risks associated with consumption of shellfish and bathing waters.
- 9.3.19. No significant adverse health impacts related to odour or other air emissions or noise or water quality effect are likely.

2. Location of proposed development.

Existing and approved land use.

- 9.3.20. The proposed development would result in alternative use of agricultural and amenity grasslands at the site of the wastewater treatment plant and pumping station respectively. The site of the wastewater treatment plant is outside the settlement boundary of the town and in an area of High Scenic Amenity. Adjacent forestry to the north would not be affected.
- 9.3.21. The coastal zone, which is the site of the pumping station is designated as an Extremely High Scenic Amenity Area.
- 9.3.22. The outfall pipe and the foul sewers would temporarily impact on private land, public roads and the foreshore, mainly within the designated town boundary.
- 9.3.23. The location of the development does not contain lands designated for ecological value. The scheme would be in the vicinity of protected structures. The location of the outfall pipeline is of archaeological potential.

Relative abundance, availability, quality and regenerative capacity of natural resources (including soil, land, water and biodiversity) in the area and its underground.

- 9.3.24. None of the land resources affected are lacking in abundance.
- 9.3.25. The main natural resource of importance within 2km of the outfall are shellfish beds (notably oysters and mussels), which would be mainly in Northern Ireland and include a shellfish protected area to the south-west of the outfall. The formal classification of the waters within the Republic for shellfish appears to be lapsed but the industry is active in Moville.
- 9.3.26. There are bathing water areas close to Moville and within Northern Ireland. These would include waters which are not formally classified as bathing waters. Formally designated bathing waters and European sites are all about 4km away from Moville, on both sides of the international waters.
- 9.3.27. The area of the seabed which would be directly and permanently impacted is small, is not within any area designated for its shellfish, bathing water or ecological value.

The absorption capacity of the natural environment

- 9.3.28. The elimination of the current practice of ongoing discharges of untreated sewage the river and lough will increase the assimilative capacity of these waters on both sides of Lough Foyle. The lough is a large water body, which would have considerable capacity to take highly treated effluent discharged from the proposed small-scale plant. This input relative to the contribution from Derry city and environs is not likely to be significant in terms of the overall waters.
- 9.3.29. The proposed detailed dispersion modelling will inform the detailed design of the scheme with a view to meeting the relevant water quality standards to which the applicant has committed. The natural environment has functioned in a context where there are failures to meet the environmental quality standards laid down in legislation of the European Union. The scheme would set the basis for improvements.
- 9.3.30. Regarding designated Natura 2000 sites the relevant sites are on both sides of the lough and would be sensitive to a range of factors in the construction and operational phases, which are likely to warrant assessment under the Habitats Directive.
- 9.3.31. On a broader level in terms of the possibility of significant direct, indirect or cumulative impacts on the biodiversity of the area, the scheme would not directly impact on rare species or habitats in the area and individuals of species displaced could be accommodated in the wider environment.
- 9.3.32. Due to the nature of the impacts and the low density of population in the area it would be considered capable of absorbing a development of this nature and scale without significant effects on human beings.
- 9.3.33. The landscape would be likely to have sufficient capacity to assimilate a development of the nature and scale proposed. The wastewater treatment plant site has a backdrop of coniferous forestry and is of ample size.

3. Types and characteristics of potential impacts

The magnitude and spatial extent of the impact (for example, geographical area and size of the population likely to be affected) and the nature of the impact.

- 9.3.34. Certain potential impacts associated with the proposed development would mainly be associated with the immediate environs of Moville.

- 9.3.35. Impacts related to the construction phase would affect only the immediate locality of works, notably at the proposed marine outfall and at the pumping station and wastewater treatment plant sites. There would also be short-term traffic related impacts in the town and along the regional road. There is potential for water quality impacts and impacts on human beings and biodiversity as a result of noise and dust emissions, general disturbance and working in the foreshore
- 9.3.36. Potential cultural heritage impacts would be related to works in the foreshore, specifically possible impacts on underwater archaeology, within the limited area defined for the marine outfall pipeline.
- 9.3.37. During operation, any direct or cumulative impacts related to human beings arising from noise and odour associated with the wastewater treatment plant and the pumping station would have a very restricted spatial extent and be likely to affect residents of a small number of houses.
- 9.3.38. The potential for positive impacts related to water quality is identified in the applicant submission. Positive impacts on water quality would be anticipated in the immediate area of Moville in particular, where the influence of dispersion is likely to be limited and where the negative impacts associated with the existing situation would be most relevant. The spatial extent of any water quality related impacts would include land resources and biodiversity at Northern Ireland and designated bathing areas along the north Inishowen coastline.
- 9.3.39. The construction of the outfall pipeline has potential to give rise to increased sedimentation due to dredging and pollution in the event of spillage or accident related to vessels. The discharge of treated wastewater in the operational phase may give rise to small increases in relevant parameters in the immediate vicinity of the point of diffusion, which impacts would be likely to rapidly diminish with distance. The nature of the impacts particularly in respect of releases of coliforms is such that they could have consequences for bathing water quality, shellfish areas and indirectly for human health.
- 9.3.40. The nature and scale of the wastewater treatment plant, to be positioned in a rural area could give rise to significant visual impacts. The magnitude of the impact would be reduced by the backdrop of forestry and the limited scale of the development and

its location away from the coast. Other elements of the scheme are very small or and would have very limited visibility and visual impacts would not be significant.

The transboundary nature of the impact.

9.3.41. The potential transboundary impact is significant due to the location of the proposed development in terms of its proximity to an international border. Magilligan point at the northern end of Lough Foyle is a strategic entry point to the entire area of international waters and to the port of Derry and the eastern side of Lough Foyle, which is within the UK jurisdiction. This narrow strait also has importance as a passageway for biodiversity including salmon and lamprey.

9.3.42. Construction phase impacts on the marine environment, while of short duration, could give rise to significant effects on navigation and/or biodiversity and shellfish as well as potentially impacting European sites within the UK. The zone of influence in terms of the marine environment encompasses productive shellfish waters within 2 kilometers of the proposed outfall and European sites 4 kilometers away.

9.3.43. Lough Foyle is a sensitive environment and the development would be situated in an area of considerable significance for Northern Ireland in terms of navigation, economic activity and biodiversity. The position of Moville at the upper end of the lough, relatively close to the narrow entry point is noted. The nature of the development is such that it has potential to impact the resources of Northern Ireland in both construction and operation phases. The trans-frontier nature of potential impacts associated with a development of this nature and at this particular location is significant.

The intensity and complexity of the impact.

9.3.44. I consider that the intensity of the impacts would not be described as intense, either in the construction or operational phases. Due to the scale and nature of the proposed development the impacts arising would be described as reasonably well understood, straightforward, lacking complexity and generally capable of mitigation and monitoring with proven technology.

The probability of the impact.

9.3.45. I consider that the probability of impacts on human beings and on underwater archaeology is high.

9.3.46. There is also a high probability of water quality impacts.

The expected onset, duration, frequency and reversibility of the impact.

9.3.47. The duration of impacts on human beings would be short-term as they would largely be related to the construction phase. Permanent long-term indirect positive impacts on human beings related to water quality improvements can also be anticipated.

9.3.48. The most significant impact is likely to be the long-term effects in terms of water quality. Short-term water quality effects are likely to result in reversible impacts and to be of short duration.

9.3.49. Any impacts on underwater archaeology would be permanent.

9.3.50. Impacts on biodiversity are likely to be short-term. Appropriate assessment is separately addressed.

The cumulation of the impact with the impact of other existing and/or development the subject of a consent for proposed development.

9.3.51. There appears to be no potential for significant cumulative impacts.

The possibility of effectively reducing the impact.

9.3.52. The possibility of regulation of the scheme under EPA licence will be the overarching means of minimising water quality effects. Whilst the detailed design is not set out it is stated that the high standard of tertiary treatment and the specific effluent discharges which will be set under the licence will be met. Detailed dispersion modelling in parallel with the appropriate treatment plant standard and design and location of the outfall is stated to ensure that appropriate criteria would be satisfied in relation to biodiversity, shellfish and bathing waters.

9.3.53. Regarding the potential for malfunction, which could give rise to accidental release of sewage, the employment of proven measures to ameliorate potential effects is referenced in the applicant's documentation. I am satisfied that the employment of standard procedure in modern plants would reduce the likelihood of accidents.

9.3.54. Storm overflows during periods of high rainfall will continue occasionally and cannot reasonably be mitigated. However, the frequency of events can be reduced by

appropriate sizing of infrastructure. The significance of these events in terms of their environmental impact is reduced by high dilution.

- 9.3.55. The engagement of measures to minimise noise effects and odour would also be considered to constitute employment of proven measures, which would be successful in ameliorating potential effects in a modern treatment plant.
- 9.3.56. Impacts on human beings during the construction phase including in relation to air pollution, traffic congestion and general nuisance are amenable to mitigation and are not likely to be significant.
- 9.3.57. While the water quality impacts associated with the proposed development in the operational stage may be slightly positive, it is nevertheless appropriate that the international context be given due weight. In this respect it is appropriate that the trans-frontier nature of impacts on commercial fisheries, navigation and biodiversity resources be given considerable weight. I consider that in view of the enclosed and shallow nature of Lough Foyle, likely significant effects cannot be discounted.
- 9.3.58. The acknowledgement by the referrer that Appropriate Assessment will be required provides a means of assessing effects on all relevant European sites. Other impacts which would arise as a result of water quality changes and the protection of shellfish would be subject of assessment by the EPA in order to achieve the required standards for such areas and resources.
- 9.3.59. I consider that having regard to the nature and scale of the proposed 3,500 population equivalent wastewater treatment plant, it would in other circumstances not be likely to give rise to significant effects. The locational context however brings to the fore other considerations. In particular, I would refer to the trans-frontier nature of impacts, the shellfish industry and the enclosed nature of the lough. I also consider that it is appropriate that positive effects be taken into account.
- 9.3.60. I have noted the development plan objective regarding a larger plant to serve Greencastle and Moville, but I have discounted this in the consideration of this case as it is not part of the subject development, which relates solely to Moville.
- 9.3.61. Therefore, taking a precautionary approach, which is recommended in guidance in respect of decisions relating to screening for EIA, my conclusion is that there is a likelihood of impacts which would be deemed to be significant in a trans-frontier context. Therefore, a determination that EIA is warranted is appropriate.

10.0 Appropriate Assessment

10.1.1. Under section 176C(4) of the Act there is a requirement that the Board carry out screening for appropriate assessment at the same time as making a determination under section 176C.

STAGE 1 - Screening

10.1.2. Stage 1 of the appropriate assessment process is the screening stage whereby it is determined whether the project is likely to have a significant effect, either individually or in combination with other plans and projects on European sites in view of the sites' conservation objectives.

10.1.3. In this case the referrer Irish Water indicates that Stage 2 Appropriate Assessment will be required.

10.1.4. I refer the Board to the description of the development earlier in this report. In brief it comprises the following elements:

- WwTP of capacity of 3,500 population equivalent with tertiary treatment.
- Marine outfall of 270m.
- River Row pumping station and storm tank.
- Extensions to sewerage in town.
- Rising main.

10.1.5. The receiving environment includes the European sites on both sides of the international border. In the table below I have set out the European sites and their conservation objectives, which I consider are within the zone of influence of the proposed development. I have defined an indicative zone of influence based on a 15km radius of the site. Having regard to the enclosed nature of Lough Foyle any European site adjacent the lough is also relevant for inclusion in this assessment.

10.2. Conservation Objectives, Location and Pathways

Site Name and Site Code	Conservation Objectives and Qualifying Interests (Habitats and Species)	Location / distance to European site
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		and Potential Pathway Types
Lough Foyle SPA (Site code UK9020031)	<p>Conservation Objectives</p> <p>To maintain each feature in favourable condition as defined by a series of attributes and measures.</p> <p>of the qualifying interests defined by a series of targets.</p> <p>Features – all refer to wintering populations</p> <p>Bewick's Swan</p> <p>Whooper Swan</p> <p>Golden plover</p> <p>Bar tailed godwit</p> <p>Light bellied Brent Goose</p> <p>Great crested Grebe</p> <p>Cormorant</p> <p>Greylag Goose</p> <p>Shelduck</p> <p>Widgeon</p> <p>Teal</p> <p>Mallard</p> <p>Eider</p> <p>Red breasted Merganser</p> <p>Oystercatcher</p> <p>Lapwing</p> <p>Knot</p> <p>Dunlin</p> <p>Curlew</p> <p>Redshank</p> <p>Waterfowl assemblage</p> <p>Habitat</p> <p>Roost sites</p>	<p>This is to the east and south of the proposed development.</p> <p>Hydrological.</p> <p>Noise/disturbance.</p> <p>Loss of habitat.</p>
Lough Foyle SPA	<p>Conservation Objectives</p> <p>To maintain the favourable conservation condition of the</p>	<p>Extends the full eastern side of</p>

<p>(Site code IE004087)</p>	<p>waterbird population and wetland habitat of the SPA, which is defined by a list of attributes and targets.</p> <p>Qualifying interests</p> <p>Red-throated Diver Great Crested Grebe Bewick's Swan Whooper Swan Greylag Goose Brent Goose Shelduck Wigeon Teal Mallard Eider Red-breasted Merganser Oystercatcher Golden Plover Lapwing Knot Dunlin Bar-tailed Godwit Curlew Redshank Black-headed Gull Common Gull Herring Gull Wetlands</p>	<p>Lough Foyle and along the south.</p> <p>Between 5 and 20km from the proposed development.</p> <p>Hydrological.</p> <p>Noise/disturbance.</p> <p>Loss of habitat.</p>
<p>Magilligan SAC (Lough Foyle SAC)</p> <p>(Site code UK0016613)</p>	<p>Conservation Objectives</p> <p>To maintain or restore the SAC features to favourable condition.</p> <p>Features</p> <p>Dunes</p> <p>Embryonic shifting dunes</p>	<p>5km to the east of the proposed development.</p> <p>No likely pathway due to distance</p>

	<p>Fixed dunes with herbaceous vegetation (grey dunes)</p> <p>Humid dune slacks</p> <p>Shifting dunes along the shoreline</p> <p>Marsh Fritillary</p> <p>Petalwort</p>	<p>combined with slightly elevated location of habitat and species above water level.</p>
<p>North Inishowen Coast SAC (site code IE0002012)</p>	<p>Conservation Objectives</p> <p>To maintain or restore the favourable conservation condition of the qualifying interests defined by a list of attributes and targets.</p> <p>Qualifying interests</p> <p>Mudflats and sandflats not covered by seawater at low tide</p> <p>Perennial vegetation of stony banks</p> <p>Vegetated sea cliffs of the Atlantic and Baltic coasts</p> <p>Fixed coastal dunes with herbaceous vegetation (grey dunes)*</p> <p>Machairs*</p> <p>European Dry Heaths</p> <p>Vertigo angustior</p> <p>Otter</p>	<p>Closest point is 5km north of the proposed development.</p> <p>Hydrological.</p>
<p>Magheradrumman Bog SAC (site code IE0000168)</p>	<p>Conservation Objectives</p> <p>To restore the favourable conservation condition of the qualifying interests which is defined by a list of attributes and targets.</p> <p>Qualifying interests</p> <p>Northern Atlantic wet heaths</p> <p>Blanket bogs</p>	<p>Upland site west of the proposed development.</p> <p>No pathway.</p>
<p>River Roe and Tributaries SAC (Site code UK 000206)</p>	<p>Conservation Objectives</p> <p>To maintain or restore the favourable condition of the qualifying interests.</p> <p>Qualifying interests</p>	<p>11km east of proposed development.</p>

	<p>Atlantic salmon</p> <p>Watercourses of plain to montane levels with <i>Ranunculus fluitans</i> and <i>Callitriche-Batrachion</i> vegetation</p> <p>Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles</p> <p>Otter</p> <p>Sea lamprey</p> <p>Brook / river lamprey</p>	Hydrological.
<p>Binevenagh SAC (Site code UK0030089)</p>	<p>Conservation Objectives</p> <p>To maintain or restore the favourable conservation condition of the site features, which is defined by a list of attributes and targets.</p> <p>Features</p> <p>Calcareous rocky slopes with chasmophytic vegetation</p> <p>Species-rich <i>Nardus</i> grassland, on siliceous substrates in mountain areas (and submountain areas in continental Europe)</p> <p>Calcareous and calcshist screes of the montane to alpine levels (<i>Thlaspietea rotundifolii</i>)</p>	<p>11km east of proposed development</p> <p>This Site is inland and elevated and there is no potential pathway.</p>

This screening assessment is based on information taken from public sources in the absence of a screening report or similar details being available. I consider that for the purposes of this case and in the context of the applicant's acknowledgement that any future application would require submission of an NIS, the level of information available is adequate.

As recorded above I consider that there is no potential pathway in relation to the following

- Magilligan SAC (Site code UK0016613)
- Binevenagh SAC (Site code UK0030089)
- Magheradrumman Bog SAC (Site code IE0000168)

which can be ruled out from further consideration.

I consider that **Lough Foyle SPA (Site code UK9020031)** and **Lough Foyle SPA (Site code IE004087)** can be considered jointly. The waters of the lough provide a direct hydrological pathway for contaminants in the construction and operation phases, which could have a direct impact on bird feeding and available habitat. Noise and disturbance for the short duration of works involved in the laying of the outfall pipeline could also impact use of the lough by birds, resulting in possible short-term loss of habitat. These are some of the potential impacts which could be relevant to these two SPAs.

I consider that there is potential for significant effects on three of the qualifying interests of **North Inishowen Coast SAC (site code IE0002012)**, namely Mudflats and sandflats not covered by seawater at low tide and otter. The habitat and species could both be present at the location close to the northern end of Lough Foyle and without further information it cannot be conclusively stated that there would be no likelihood of significant effects. Further consideration of sea spray effects including on Machair may be warranted.

I consider that there is potential for significant effects on some of the qualifying interests of the **River Roe and Tributaries SAC (Site code UK 000206)**. The site is relevant due to presence of Atlantic salmon and all three species of lamprey. Possible construction phase impacts related to construction of the outfall pipeline in particular could give rise to water quality effects which could affect fish passing through from the open sea into the river system. Impacts on fish could indirectly affect otter through reducing available food. Potential effects on Watercourses of plain to montane levels with *Ranunculus fluitans* and *Callitriche-Batrachion* vegetation cannot be ruled out. Having regard to the available information it cannot be conclusively stated that there would be no likelihood of significant effects on this SAC.

Stage 1 - Screening Conclusion

It is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on the European Sites:

- Magilligan SAC (Site code UK0016613)

- Binevenagh SAC (Site code UK0030089)
- Magheradrumman Bog SAC (Site code IE0000168)

in view of the sites' conservation objectives, a Stage 2 Appropriate Assessment is not therefore required in respect of these sites.

I consider that potential for significant effects on the features of interest of the following European sites, having regard to their conservation objectives, cannot be ruled out in respect of the following European sites:

- Lough Foyle SPA (Site code UK9020031)
- Lough Foyle SPA (Site code IE004087)
- North Inishowen Coast SAC (site code IE0002012)
- River Roe and Tributaries SAC (Site code UK 000206).

Accordingly, a Stage 2 Appropriate Assessment is required to determine the potential of the proposed development to adversely affect the integrity of the said European Sites.

11.0 Recommendation

I consider that having regard to the nature of the development, the sensitivity of the receiving environment and the trans-frontier nature of impacts, the proposal is likely to have significant effects on the environment and an environmental impact assessment is required in relation to the making of any future applications.

I recommend that the Board determine that there is a requirement for EIA and for Stage 2 Appropriate Assessment for the proposed Merville Sewerage Scheme for the reasons and considerations below, which I have set out in the form of a draft Direction.

Draft Direction

Having regard to:

- (i) the submissions of the prospective applicant and landowners;

- (ii) Annex III of EU Directive 2014/52/EU, amending Directive 2011/92/EU (the EIA Directive) on the Assessment of the Effects of Certain Public and Private Projects on the Environment;
- (iii) the document 'EIA of Projects - Guidance on Screening' (2017), issued by the European Commission;
- (iv) the document 'Guidelines for Planning Authorities and An Bord Pleanála on carrying out Environmental Impact Assessment' (2018);
- (v) the document 'Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-Threshold Development', issued by the Department of Environment, Heritage and Local Government in August 2003;
- (vi) the location of the proposed development in an enclosed waterbody and proximity to Northern Ireland;
- (vii) the ecological sensitivity of the receiving environment, including the commercial shellfish resources, bathing waters and biodiversity;
- (viii) the nature and characteristics of the potential environmental impacts on these natural resources;
- (ix) the potential for trans-frontier effects;
- (x) the report and recommendation of the Board's Inspector.

it is considered that the potential for significant adverse effects on the environment arising from the proposed Merville Sewerage Scheme cannot be ruled out and accordingly, that the preparation of an Environmental Impact Assessment Report is required.

In completing the screening for Appropriate Assessment, the Board accepted and adopted the screening assessment and conclusion carried out in the Inspector's report in respect of the identification of the European sites which could potentially be affected.

The Board concluded that that based on the available information the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on the European Sites:

- Magilligan SAC (Site code UK0016613)
- Binevenagh SAC (Site code UK0030089)
- Magheradrumman Bog SAC (Site code IE0000168)

in view of the sites' conservation objectives, a Stage 2 Appropriate Assessment is not therefore required in respect of these sites.

The Board concluded that based on the available information the proposed development, individually or in combination with other plans or projects may have a significant effect on the European Sites:

- Lough Foyle SPA (Site code UK9020031)
- Lough Foyle SPA (Site code IE004087)
- North Inishowen Coast SAC (site code IE0002012)
- River Roe and Tributaries SAC (Site code UK 000206)

and considered in view of the sites' conservation objectives, a Stage 2 Appropriate Assessment is therefore required in respect of these sites.

Mairead Kenny
Senior Planning Inspector

2nd September 2020