An Bord Pleanála

Inspector's Report ABP310900-21

Development	Construction of a Wastewater Treatment Plant in the townland of Tirroddy and the construction of pumping stations and rising mains from Rathmullen, Milford, Ramelton to Tirroddy WWTP and new gravity outfall to Lough Swilly.
Location	Ramelton, Milford, Rathmullen and Tirroddy.
Planning Authority	Donegal County Council.
Planning Authority Reg. Ref.	2051157.
Applicant	Irish Water.
Type of Application	Permission.
Planning Authority Decision	Grant.
Type of Appeal	Third Party -v- Grant.
Appellant	Ray Action Group.
Observer	Cllr. Ian McGarvey.
Date of Site Inspection	7th October, 2021.
Inspector	Paul Caprani.

Contents

1.0 Introduction

ABP310900-21 relates to a third party appeal against the decision of Donegal County Council to grant planning permission to Irish Water for the construction of sewerage infrastructure including the construction of a wastewater treatment plant to serve the settlements of Ramelton, Milford and Rathmullen in County Donegal. The grounds of appeal that the proposed development will not serve the community in which it is located, will give rise to residential amenity issues and will adversely impact on the ecology and biodiversity of the area.

2.0 Site Location and Description

2.1. The proposed wastewater treatment plant is located in an area known as Ray, a dispersed settlement located on the R247 which is roughly 5 kilometres north of Ramelton and 4 kilometres south of Rathmullen. Ray is also approximately 7 kilometres east of Milford. The R247 runs along the western banks of Lough Swilly.

2.2. The proposed development will involve carrying out works within the towns of Ramelton, Milford and Rathmullen. The works to be undertaken within the agglomerations referred to primarily relate to the construction of pumping stations which will pump effluent to a new wastewater treatment plant to be constructed within the rural community of Ray, where the wastewater will be treated and discharged via an outfall pipe into Lough Swilly. The proposal in summary will comprise of the following components.

- Milford to wastewater treatment plant rising main. This rising main would be located exclusively in public roads from the existing Milford Wastewater Treatment Plant on the southern outskirts of the village to the proposed wastewater treatment plant site at Tirroddy, Ray. The rising main would be routed through a small residential street (Moyle Road) and then would be constructed along the R245 and the L-1392 and would terminate at the wastewater treatment plant c.7 kilometres away. The R245 is a two lane regional route and a main road linking Milford to Letterkenny to the south. The proposed rising main will run for a distance of approximately 3.3 kilometres

along the R245 before linking up with the L-1392 a single lane local road which runs eastwards towards the wastewater treatment plant approximately 3 kilometres away.

- The rising main between Rathmullen and the wastewater treatment plant. Rathmullen is located approximately 4 kilometres north of the proposed wastewater treatment plant. Again, this rising main would be located mainly in public roads with the exception of a short section linking pumping station no. 2 to Main Street, Rathmullen and Ballyboe Bridge, and approximately 15 metres along a section of the R247 and the L-5422-1 junction. The rising main will run along Main Street Rathmullen before continuing on the R247 regional route (Rathmullen to Ramelton Road). Again, this regional road is a two-way carriageway. The rising main will travel southwards a distance of approximately 4.2 kilometres before turning westwards along the L-1392 towards the wastewater treatment plant. The junction between the R247 and the L-1392 is located to the immediate south of Ray Bridge on the shores of Lough Swilly. The rising main will continue along the L-1392 for a distance of approximately 2 kilometres before terminating at the wastewater treatment plant.
- The Ramelton rising main between Ramelton and the Wastewater Treatment Plant. This rising main would be laid from the site of the proposed pumping station on Castle Street in the northern environs of the town where it would be placed on the bed of the Leannan Estuary before running across some open agricultural lands and scrubland and then northwards along the R247 for a distance of approximately 400 metres to the junction with the L-5672-1, a narrow third class local road which runs directly northwards for a distance of approximately 2.5 kilometres where the rising main will link up with the Milford rising main and will run eastwards along the L-1392 to the wastewater treatment plant.
- Wastewater Treatment Plant All three rising mains will meet at the site of the proposed wastewater treatment plant in the townland of Tirroddy, a heavily forested area on the L-1392 approximately 1.7 kilometre south-west of Ray Bridge and the shores of Lough Swilly. The site comprises of a rectangular plot of land located to the south-east of the junction of the L-1392-2 and the L-

5672-1. The wastewater treatment plant occupies a gross area of approximately 3.3 hectares. The actual lands in which the wastewater treatment plant is to be located is smaller amounting to c.1 hectare. The site comprises of dense woodland with the L-1392 running along the northern boundary of the site and the L-5672 running along the western boundary. Access to the proposed wastewater treatment plant is to be provided via an existing Coillte access road into the forestry lands located at the south-western corner of the site. There are no dwellinghouses in the vicinity of the site. There is one dwellinghouse to the south on the L-5672-1 which is located c.350 metres from the southern boundary of the site. The nearest dwellinghouse along the L-1392, the road that runs along the northern boundary of the site, is located approximately 530 metres to the east of the site. The nearest dwellinghouse to the west of the site is located as the crow flies c.800 metres away. Brownknowe National School which is located on the R247 is located (as the crow flies) approximately 550 metres from the entrance to the site.

- In terms of Natura 2000 sites, the following sites are located within the vicinity. The Lough Swilly SPA (Site Code: 004075) and the Lough Swilly SAC (Site Code: 002287) hug the coastline and extend as far as the R247 between Rathmullen and Ray Bridge. At certain points along the route, the SAC traverses the regional route and extends to lands on the western side of the road. The Lough Swilly SPA and SAC also extends down to the estuarine area where the River Leannan (which forms part of separate SAC) meets Lough Swilly. There are no Natura 2000 sites along the rising main route between Milford and the proposed wastewater treatment plant.
- The proposed Outfall. The treated effluent from the wastewater treatment plant will be discharged via an outfall which will run southwards from the wastewater treatment lant along the L-5672-1 before meeting up with the R247 where it will run south-westwards for a distance of approximately 100 metres before traversing agricultural lands for a distance of approximately 600 metres. The outfall pipe will extend beyond the shoreline and discharge

treated effluent into Lough Swilly, near Tiroddy Point. The outfall will be located c. 160 m from the shoreline at c-2.9m AOD[1].

2.2.1. In general terms the overall site can be described as being one which is predominantly agricultural in nature comprising mainly of pastural and forestry lands. The density of housing in the wider area and along the roadways where it is intended to lay the rising mains is on the whole low density and sporadic. There are no dwellinghouses in the immediate vicinity of the wastewater treatment plant. The nearest house being approximately 350 metres to the south of the proposed entrance to the wastewater treatment plant.

3.0 **Project Description**

3.1. The proposed project is set out in more detail below.

- Milford to wastewater treatment plant rising main. It is proposed to provide a rising main pipeline which would consist of the construction of approximately 6.8 kilometres of 200 mm (outer diameter) HPPE pipe from the main pumping station at the existing Milford Wastewater Treatment Plant to the proposed new wastewater treatment plant at Tirroddy. The pipeline would generally be constructed at a minimum depth of 1.2 metres below ground level and would involve crossing over or under existing culverts. It would be laid exclusively in the public road by means of a conventional open trench construction or by trenchless technology. One 7.6 metre high ventilation stack would be erected. The ventilation stack would be connected to air valves which are designed to release small volumes of trapped air in the rising main at an intermittent basis. The location of the vent stack is not indicated in the information submitted but it would be located so as to avoid impacting on significant areas of wood and vegetation/trees. Upon the completion of the works the roads would be reinstated in accordance with statutory guidelines.

  Rathmullen rising main to wastewater treatment plant. Again, this would involve the construction of approximately 6.6 kilometres of 200 mm (outer

[1] The 95%ile tide level is estimated to be -1.9m OD, 50%ile levels is -0.4m OD with the high water mark being 1.4 AOD.

diameter) HPPE rising main from the proposed main pumping station to the wastewater treatment plant at Tirroddy. In addition, the route would incorporate approximately 435 metres of 125 millimetre HPPE rising main linking Rathmullen Pumping Station No. 1 with Pumping Station No. 2 within the town. The pipeline will generally be constructed at a minimum depth of 1.2 metres below ground level and would cross over or under existing rivers and culverts depending on the location. The pipeline would be laid almost exclusively on the public road be means of a conventional open trench construction or by trenchless technology. Exceptions would occur at Ballyboe Bridge crossing within the town on the western outskirts of the town and at the junction of the R247 and L-5422-1. At these locations the pipeline would enter the verge to the north of the crossing. Also at Ballyboe Bridge the proposed rising main would be partially constructed on private lands. A letter of consent has been obtained from the landowner in this regard.

A total of four 7.6 metre high ventilation stacks would be erected which again would be connected to air valves designed to release small volumes of trapped air. The vent stacks would be positioned to avoid impacting on significant areas of woody vegetation and trees and would only be located on footpath or grassed areas.

- The Ramelton to the L-1392 rising main would involve the construction of approximately 3.35 kilometres of rising main from the proposed pumping station at Castle Street to the junction of L-5672-1 and L-1392-2 junction. A further 1.69 kilometres of 200 metre HPPE pipe would be constructed in parallel with the Milford rising main on the L-1392 towards the wastewater treatment plant. The route of the Ramelton rising main will cross under the Leannan Estuary which forms part of the Lough Swilly SAC and SPA. The route then passes westwards through agricultural lands resulting in a total off-road section of approximately 680 metres in length. This section would be constructed with a permanent wayleave 20 metres wide for the estuary crossing and 6 metres wide for the wayleave on the agricultural lands. A number of temporary working areas would also be located adjacent to the wayleave. The remainder of the pipeline would be constructed within the carriageway of the roads in question at a depth of 1.2 metres below ground

level. It would again be constructed by means of conventional open trench construction or trenchless technology. The crossing of the Leannan Estuary would be completed by trenchless technology, if possible. Trenchless technology is the preferred method of construction. However, if this methodology fails due to ground conditions, then the construction of the crossing will be by open cut. Again, one 7.6 metre high ventilation stack would be erected on a suitable footpath or grassed area.

- Wastewater Treatment Plant
- The proposed wastewater treatment plant would treat the incoming flows from the three agglomerations referred to secondary standard using a conventional activated sludge treatment process. The wastewater treatment plant would be designed for a treatment capacity of 5,500 PE based on the 10-year design[2] horizon. The wastewater treatment plant will comprise of the following components.
- A proposed inlet works located in the north-western corner of the facility which will include flow equalisation tank, inlet screening containing manual screens and grit removal and an emergency bypass. The inlet works would be housed within a small building c.2.4 metres above ground level and will incorporate a separate odour control unit having a maximum height of approximately 5 metres above ground level. The order control unit will be located contiguous to the building.
- The effluent will then be passed into pre-aeration tank located to the immediate south of the inlet building where the raw sewage will be aerated in order to increase dissolved oxygen concentrations in the sewage. This relatively small tank would again be housed within a structure in order to reduce odour emissions. The maximum height of the pre-aeration tank would be approximately 3.9 metres above ground level. A chemical dosing unit will be located adjacent to the tank where a sodium/iron/nitrate solution can be administered to the tank in order to increase dissolved oxygen levels.

[2] 7,100PE over a 30 year horizon.

- The effluent will then be transferred to two larger aeration tanks which will house deactivated sludge process. The wastewater will be further aerated by injecting oxygen into the mixed liquor wastewater. These tanks would be constructed partially below ground with the maximum height of the structure being approximately 3.9 metres above ground level. Treated effluent from the aeration tanks will be transported to two separate circular clarifiers for settlement.
- The settled sludge will be drawn from the bottom of the tanks, and either will be returned to the aeration tanks as reactivated sludge or will be transferred to a picket fence thickener for further dewatering. The maximum height of the two circular clarifiers at the eastern end of the layout will be 3.7 metres in height. The picket fence thickener will be constructed above ground and will have a maximum height of approximately 6 metres. Sludge from the picket fence thickener will be stored in a sludge storage tank prior to final dewatering. The sludge storage tank will comprise of a covered circular structure with a maximum height of 5.3 metres above ground level. A separate odour control unit would also be provided with an associated fence stack.
- An administration building will be located adjacent to the access road and will be situated at the main entrance at the western side of the site.
- Treated effluent from the wastewater treatment plant will be pumped via an outfall pumping station on site to the outfall in Lough Swilly. The capacity of the WWTP is set out below:

Capacity	10 Year Horizon	30 Year Horizon
Population Equivalent (PE)	5,500 PE	7,100 PE
Dry Weather Flow (DWF)	14.32 l/s	18.49 l/s
Average Daily Flow (1.6 x DWF)	22.91 l/s	29.58 l/s

Wastewater will be treated in the plant to the following standards:

Discharge Standards	
BOD	25 mg/l
Suspended Solids	35 mg/l
Ortho Phosphorous	8 mg/l
Dissolved Inorganic Nitrogen	15 mg
Total Ammonia NH_3	7 mg/l
E Coli	100,000 cfu 100mm
Intestinal Enterococci (IE)	20,000 cfu 100ml

- A c.120 metre long internal access road will link the wastewater treatment plant to the existing Coillte access road to the south of the site and onto the local road L-5672-1. The wastewater treatment plant will be surrounded by a 2.4 metre high palisade fence which in turn will be surrounded by a woodland buffer zone between the footprint of the wastewater treatment plant and the site boundary. Four car parking spaces are to be provided in the north-western corner of the site. The proposal will also involve the upgrading and widening of the entrance to the wastewater treatment plant and the L-5612-11.
- Pumping Stations; A new pumping station is to be provided at a 1.2 hectare vacant site on the eastern side of Castle Street adjacent to the northern quay at Ramelton Road. The existing vacant single storey structure at the northern end of the site is to be demolished as part of the proposal. The pumping station will comprise of a single storey pitched roof pumphouse c.5.2 metres in height with an internal odour control unit, chemical storage and dosing unit. It is also proposed to provide a storm water storage tank with a maximum storage capacity of 210 cubic metres. The pumping station will also include an ESB substation, paved areas, separate vehicular and pedestrian access gates and a perimeter stone wall. The existing wall along the roadside boundary (western boundary) is in poor condition and will be reconstructed.

- Rathmullen Pumping Station No. 1 which is located on the western environs of the town on a rectangular area of open space to the south of Main Street and to the immediate north of the shoreline. The works to be undertaken include the decommissioning of the existing subterranean septic tank on site and the construction of a new storm water storage tank with a capacity of c.90 cubic metres incorporating pump sump chambers and pump valve chambers. It is also proposed to incorporate a ventilation stack with a maximum height of 7.6 metres. A vehicular access gate is proposed and an existing rubble stone wall along Main Street c.1 metre in height will be retained. The proposal will also involve the relocation and upgrade of the existing storm drain on the western side of the site.
- Further east and to the north of Main Street it is proposed to provide a larger pumping station no. 2. Works involved include the demolition of the existing subterranean municipal septic tank and the provision of a single storey pitched roof pumphouse with a maximum height of 5.5 metres above ground level together with an internal odour control unit, chemical storage area and dosing unit. The pumping station will also incorporate a subterranean storm water tank with a maximum storage capacity of 97 cubic metres together with pump sump chambers, pump valve chambers underneath the pumphouse building. An ESB substation will also be provided as well as paved areas, underground pipework and two vehicular access gates. A new turning hammerhead at the end of the existing turning circle at Abbey View Estate to the north will also be provided.
- Wastewater Treatment Plant Outfall: The wastewater treatment plant outfall pipe will involve the construction of approximately 1.6 kilometres of 355 mm HPPE pipe from the proposed wastewater treatment plant at Tirroddy to the diffuser located in the Swilly Estuary. The pipeline would have an 840 metre long rising main and a 750 metre long gravity flow section including a 160 metre long marine component beyond the shoreline located in Lough Swilly. The pipeline will be constructed at a minimum depth of 1.2 metres below ground level and will be laid within the public road and the agricultural lands by way of a conventional open trench construction.

3.1.1. The documentation submitted with the application indicate that the wastewater treatment plant and associated infrastructure including pipes, pumping stations etc. will be built on the basis of a design build and operate model (DBO) therefore detailed design aspects associated with the proposal could be subject to change by the contractor in implementing the Scheme.

4.0 Planning Authority's Decision

Donegal County Council issued notification to grant planning permission subject to 20 conditions.

4.1. Documentation Submitted with the Planning Application

4.1.1. The documentation submitted with the planning application included the following:

- A covering letter prepared on behalf of Irish Water by Jennings O'Donovan Consulting Engineers.
- Letters of consent from various landowners where works are intended to be carried out on third party lands.
- A separate report detailing the planning fees associated with the development.
- A Planning Report was submitted it sets out details of the proposed development, the consultation undertaken, planning policy relating to the site and finally assesses the proposal in the context of the proper planning and sustainable development of the area.
- A screening for Appropriate Assessment. The report concludes that there is potential for significant effects on the environment in the absence of mitigation measures.
- Separate traffic and transport statements for each of the pumping stations and for the wastewater treatment plant are assessed. The impact in terms of traffic generation is not deemed to be significant.
- A Flood Risk Assessment. The findings of this assessment concludes that the proposal does not pose a flooding threat to adjacent lands or property but will

in fact decrease the risk from storm water overflow flooding on the existing gravity network in Ramelton and will remove the risk of flooding from non-compliant and uncontrolled stormwater overflows.

- A series of archaeological assessments were also submitted assessing the archaeological impact from the proposed pumping stations, rising mains and wastewater treatment plants. These reports note that no monuments or archaeological features will be directly impacted upon as a result of the proposed development. Nevertheless, it is proposed that all ground disturbance including any site investigation work along the route of the proposed development is archaeologically monitored. This work should be undertaken by a suitably qualified archaeologist and a report on the findings should be forwarded to all relevant authorities and should include any recommendations as how best to proceed in relation to any archaeology uncovered.
- A separate report was submitted in relation to an archaeological impact assessment on the foreshore sections of the scheme. It notes that there are no recorded archaeological features or shipwrecks located in the immediate vicinity of the proposed development area. There is however lots of evidence for intensive use of the surrounding area from the prehistoric period up to the present. A field inspection highlighted the presence of two vessels on the mudflats just outside the pipeline corridor at Ramelton. These appear to have been 19th century cargo vessels abandoned on the mudflats. A series of mitigation measures are set out should any finds be encountered during the excavation works.
- A separate underwater archaeological impact assessment carried out by Mizen Archaeology examines the maritime archaeological context of the underwater components of the Ramelton, Milford and Rathmullen Sewage Scheme. It notes in relation to the proposed outfall that no features or finds of archaeological significance were identified during the walkover and dive surveys at the outfall site. However, borehole data indicates an organic silty layer of between 0.6 and 11.8 metres thick is present. This layer has the potential to preserve archaeological remains. It is possible that excavations

associated with the laying of the outfall pipe may have a negative effect on these unrecorded archaeological remains.

- With regard to the estuary crossing at Ramelton no new previously unrecorded archaeological sites were identified during the proposed crossing during the dive and intertidal surveys. However, the estuary crossing is located within close proximity to the town which operated as a busy port between the 17th and 19th century. The remains of two wooden hulls are exposed in the intertidal zone. This demonstrates that there is a significant potential that submerged unknown archaeological features and artefacts are contained within the estuary. Archaeological monitoring is proposed as a mitigation measure.
- A separate Construction and Environmental Management Plan was submitted which sets out health and safety working hours, training, awareness and emergency planning and response plans. Also included in the report are environmental control and mitigation measures are set out for ecology, waste, archaeology, post construction works reinstatement, noise and vibration, air and odour and traffic management.
- A separate report was also submitted setting out details of the horizontal directional drilling methodology to be employed for the Ramelton Estuary crossing.
- An Environmental Impact Screening report was submitted which notes that under Schedule 5, Part 2 Wastewater Treatment Plants with a capacity greater than 10,000 PE require mandatory EIA. The population equivalent served by the proposed development is 5,500 PE which is significantly below this threshold. The screening report sets out the characteristics of the proposed development, the location of the proposed development and the type and characteristics of potential impacts. It concludes that the proposed infrastructure will improve the level of treatment afforded to wastewater in the area and that the nature and characteristics of the proposed development are not considered to have significant effects on the environment but will have a positive impact on the wider area by contributing an upgrade to the existing

sewage treatment network. On this basis it is concluded that there is no requirement for environmental impact assessment.

- Finally, a Natura Impact Statement[3] was submitted with the application. It notes the potential impacts which could arise from the proposal and sets out a suite of mitigation measures to ensure that no adverse impact arises.

4.2. Initial Assessment by Planning Authority

- A report from Inland Fisheries Ireland stated that the construction environmental management plan must be fully adhered to and should specifically be made reference to in any grant of planning permission. The mitigation measures set out in the NIS must be fully adhered to.
- A number of letters of objection have been submitted the contents of which have been read and noted.

4.3. Initial Planning Report

- The initial planning report dated 14th October, 2020 sets out details of the proposed development and the various objections relating to same.
- It notes that the principle of the development is acceptable and is necessary in order to comply with the Urban Wastewater Treatment Directive and the requirements of the EPA in relation to wastewater discharge. The visual impact of the proposed development is also deemed to be acceptable. However, further information is required in relation to the dispersion of effluent at the outfall. Concern is also expressed that no visibility splays have been provided at the access point to the wastewater treatment plant. The report notes that the Senior Executive Engineer has no objection to the proposed development subject to traffic management conditions. The planner's report notes the various reports submitted with the application and generally considers that issues relating to ecology, archaeology and evasive alien species can be dealt with by way of condition.

[3] An Ecological Impact Assessment was also submitted, however despite requesting this document from the Planning Authority, no such document was forwarded to the Board.

4.3.1. The initial planner's report requests further information in relation to the following:

- The applicant to submit revised proposals for Pumping Station No. 2 at Rathmullen.
- The applicant to submit details of the exact height of fencing to the perimeter of the wastewater treatment plant at Tirroddy.
- Further details in relation to the discharge pipe and diffuser.
- Further details in relation to bird surveys.
- Further details in relation to the dates of which the archaeological impact assessments were undertaken.
- Further details in relation to sightlines at the proposed entrance.

4.4. **Further Information Response**

4.4.1. Further information was received by Donegal County Council on 15th February, 2021.

- In relation to the Pumping Station No. 2 at Rathmullen Donegal County Council requested only one access from the Abbey View housing estate. Irish Water stated that this request was carefully considered. However, it was not adopted due to the restricted access for service vehicles needing to access the site from the narrow laneway. It is stated that there was associated health and safety risks to pedestrians that use the laneway from the service vehicles reversing in and out of the proposed alternative entrance.
- Further details are submitted in relation to the proposed fencing to the perimeter of the wastewater treatment plant (details not contained on file).
- Further details are submitted in relation to the discharge pipe and diffuser relative to ground levels (details are not contained on file).
- Further details in relation to bird surveys and clarification of dates of archaeological impact assessments including underwater archaeological impact assessments are also submitted.

- Details of sightlines at the proposed entrance of the wastewater treatment plant are also submitted.
- Also submitted is a copy of the Irish Water response to the Development Applications Unit in relation to the planning application.

4.5. **Further Planning Report dated 9th April, 2021.**

- The further planning report notes that the information submitted generally addresses in a satisfactory manner all the issues raised by Donegal County Council. The Planning Authority have also been in touch with the Department of Tourism, Culture, Arts and the Gaeltacht, Sports and Media and the Department have also indicted that any concerns in respect of the mitigation measures as set out in the NIS have been generally satisfactorily addressed. It is however considered that the revisions merit a readvertisement as per the provisions of Article 35 of the Planning and Development Regulations 2001.
- Donegal County Council therefore requested that the applicant readvertise the development.
- Further notices were submitted to Donegal County Council on 16th April, 2021 and again on the 6th/7th May, 2021.
- A final planner's report dated 22nd June, 2021 considered the proposed development to be satisfactory having considered all the main planning considerations relating to the principle of development, its siting and design and amenity implications, all traffic safety, public health and environmental considerations.

Donegal County Council therefore issued notification to grant planning permission subject to 20 conditions.

5.0 Planning History

5.1. No appeal files are attached.

5.2. Section 7 of the original planner's report makes reference to a number of planning applications adjacent to the proposed pumping station at Ramelton Quay and abutting the application site in Milford. Under Reg. Ref. 17/50462 planning

permission was granted for a 10-year permission for a development consisting of the upgrading of the existing wastewater treatment plant at Milford the construction of a new wastewater pump station building, new stormwater storage tank, underground chambers, inlet works, site roads and associated site works. It is noted that the activity will require an EPA Wastewater Discharge Licence also. The planner's report also notes that there is significant planning history along the route of the proposed pipework.

6.0 Grounds of Appeal

6.1. The decision of Donegal County Council to grant planning permission was the subject of a third party appeal by Ray Action Group of Drumherrive, Ramelton, Donegal. The objections raised in the grounds of appeal are set out below.

- The appeal argues that the proposed wastewater treatment plant which is to serve the towns of Milford, Ramelton and Rathmullen will have no benefit to the people of the wider Ray community. The local community must construct and service and pay for their own septic tank and treatment of their own sewage. The local community in the vicinity of the wastewater treatment plant must bear the risks and impacts associated with having such a plant. And this plant will provide no benefit to the people in the vicinity of it.
- Concerns are expressed that the proposed development will negatively impact on property prices in the area. Ray is a strong community which has seen a lot of growth over the past decade particularly having regard to its rural location. A lot of family have moved into the area in recent years and concern is expressed that this trend may reverse should this development go ahead. It is argued that the proposed plant could have a catastrophic effect on the growth of the community over the coming years. The burden of the plant has been placed upon the rural community who will not benefit from the plant's existence.
- Concerns are expressed that the secondary wastewater treatment plant which will include open air tanks will impact on the amenity of the closest dwellings. There are two dwellings with full-time residents within 430 metres of the proposed development. There are well-founded and researched concerns

about air quality for people living within 500 metres radius of such a development. Airborne pathogens can travel such distances and give rise to gastrointestinal ailments.

- The proposal will be majorly disruptive to residents with heavy plant traffic operating in the area during construction phase and this disruption will continue afterwards during the ordinary operation of the proposed plant.
- Concerns are expressed that the outfall pipe which will involve boring into mudflats could impact on bird populations. Many of these birds are protected under EU Habitats Directive and the proposal could result in the deterioration or destruction of breeding sites and resting sites for migratory birds. The proposed development, specifically the construction of the outfall pipe would be in contravention of this Directive. The period of construction of the wastewater treatment plant for both the plant and the outfall pipe has not been specified and it could have devastating impacts on the local environment particularly migratory birds during the winter. It is also stated that there is an incomplete survey of wild fowl at the proposed site of the outfall pipe. Many of the surveys carried out in March and April were not completed due to the Covid-19 pandemic. As such, the survey is incomplete and any concrete conclusions on the impact of the proposal on wild fowl cannot be determined.
- The underwater archaeology survey states that there are remnants of a formerly important Quay in the area which serves the Ray and Ramelton areas. There is no commitment under the current proposal to excavate an examine the site and fully document the archaeology and history of the area. As such, the proposal is in contravention of Section 3 of the National Monuments (Amendment) Act 1987.
- Concerns are expressed that the proposed outfall pipe will discharge partially treated and sometimes raw sewage in time of extreme stress on the system into Lough Swilly. Concerns are also expressed that the proposed wastewater treatment plant will be located within 500 metres of a national school (Brownknowe National School). There are grave concerns over the impact on air quality and the health of staff and students. It is suggested that such proximity to the wastewater treatment plant could affect the enrolment of the

school and could even lead to the closure of the school - one of the oldest in Ireland. The impact of the proposal on the long-term sustainability of the school needs to be highlighted. It would result in a disproportionate burden placed on a small minority school.

- It is also stated that there is potential for flooding of the wastewater treatment plant. While the flood risk assessment concludes that there is no risk of flooding at this location, it does not take into consideration the impact of the removal of trees and it is noted that rainfall is set to increase by 5 to 19% per annum. There are no planned mitigation measures to address this.
- Concerns are expressed that the proposed development would impact on local road infrastructure in the area. Consistent roadworks and construction work on the road will remove a crucial part of local infrastructure and will exacerbate traffic hazard and road safety issues. Concerns are expressed in relation to the increase in traffic on both the R247 and L-1392. Both roads are considered to be dangerous due to their narrowness and particularly in relation to the L-1392 the substandard surface condition of the road.
- Finally, it is stated that this planning application garnered 15 submissions from the local community all opposed to the development. The strong feeling in the community is evident by the high number of submissions from a small rural community.

7.0 Appeal Responses

7.1. Planning Authority's Response to the Grounds of Appeal

7.1.1. It states that the majority of the matters raised in the third-party appeal have been adequately assessed in the planner's report.

7.1.2. Notwithstanding this matter the following points are made:

- An overarching consideration in determining the application must be the achievement of the most appropriate outcome for the greatest numbers of people while enabling expansion and settlement of the three agglomerations served. Having regard to the visual screening and mitigation measures to be

incorporated, the Planning Authority considers that no material impact on the surrounding area will result from the proposal. The Planning Authority considers that the location of the treatment plant away from the coastal location with a relatively short discharge to the outfall and where a good water standards can be achieved constitutes sustainable development. It is not considered that the proposal will have any impact on the national school in the vicinity.

- Ray is a rural area and national policy supports the growth of settlements in rural areas on a “need” basis only. The wastewater treatment plant is located in a stronger rural area and therefore rigid policies apply in relation to future rural housing growth.
- The design, operation and regulation of the proposed development will be controlled by the EPA to acceptable standards.
- Environmental impacts and associated mitigation is well detailed in the NIS submitted with the application and the NPWS have confirmed the acceptability of the proposed development.
- It is argued that there is sufficient bird data available from October to March which are considered to be key survey dates. It is noted that bird data on foraging and roosting correlates with findings of previous bird counts. It is considered that the bird surveys undertaken were both adequate and relevant to inform the planning decision.
- Consideration of the impact of the development on the ecology and the environment generally, have been detailed in the documentation submitted with the application.

7.1.3. It is stated that not to permit the proposed development will result in:

- The continuation of discharge of untreated wastewater to the Leannan Estuary at Ramelton.
- The continuation of use of the non-compliant and overloaded wastewater treatment plant at Milford and the continuation of untreated wastewater into the Swilly Estuary at Rathmullen.

7.1.4. On this basis it is recommended that An Bord Pleanála uphold the decision of the Planning Authority and grant planning permission for the proposed development.

7.2. Applicant's Response to the Grounds of Appeal

- The rationale and need for the proposed development is set out in Irish Water's response. It is stated that a robust site selection process was undertaken to identify a preferred site for the wastewater treatment plant. It is noted that in general, the wastewater treatment plant and pipeline route selection are influenced by multiple factors including access to discharge points, topography, environmental sensitivities, flooding, connectivity to existing assets and construction/operational constraints. This is especially the case where multiple locations are to be served by a single wastewater treatment plant. It is also noted that Irish Water is required by law to design and operate wastewater treatment plants in accordance with relevant legislation and to avoid causing nuisance through odour and noise. The distance between the location served by the wastewater treatment plant limits the environmental and economic costs of additional pumping that would be required and reduces the risk of septicity occurring in the rising mains.
- The subject site has many strategic advantages in that it will treat wastewater from the three communities of Ramelton, Milford and Rathmullen at a single location. The distance between the nearest open tank, a secondary clarifier within the wastewater treatment plant, to the nearest dwelling is approximately 420 metres and the centre of the wastewater treatment plant from the primary school is approximately 750 metres. The wastewater treatment plant has been designed to ensure that there will be no odour or noise nuisance beyond the boundary of the site and therefore the proposal will not have a negative impact on the character of the area or the amenities of pupils or residents in the area. Measures to mitigate against any potential construction related noise, vibration and dust are set out in the construction and environmental management plan.
- In relation to the potential impact on ecosystems and Lough Swilly, a Stage 2 Appropriate Assessment was prepared and submitted. The NIS includes a detailed assessment of potential impacts on Natura 2000 sites, and it is stated

that the proposed development would not be in breach of the Habitats Directive.

- The wintering bird surveys for the project extended from October to mid-March and in line with the timings of the surveys undertaken to inform the NPWS Conservation Objectives for the site. The field and desk data provide a robust and representative data set on which to assess the impacts. It is stated that additional end of season surveys in late March or early April would not have altered the assessment, conclusions or mitigation. It is further noted that the NPWS did not raise any concerns with regard to bird surveys or data in the submission.
- With regard to loss of sites of archaeological value, it is stated that an underwater archaeological impact assessment was undertaken for all areas of the foreshore, intertidal and subtidal areas. The assessment did not identify any sites of archaeological significance in proximity to the proposed outfall at Tirroddy. The two historic shipwrecks identified in the Ramelton Estuary will be protected and a series of mitigation measures have been agreed with the Underwater Archaeological Unit of the National Monuments Service. These mitigation measures have been adequately covered in Condition No. 6 issued by Donegal County Council.
- The area referred to by the applicant known as the “Ramper” is approximately 1 kilometre upstream from the outfall. It is further stated that there will no untreated or partially treated wastewater washed up on the shoreline in close proximity to the national school as suggested in the grounds of appeal. Stormwater tanks will be provided at each of the main pumping stations in Ramelton, Milford and Rathmullen for the treatment of stormwater.
- It is reiterated that the wastewater treatment plant has been designed to ensure that there will be no odour or noise nuisance beyond the boundary of the wastewater treatment plant and therefore will not impact on the school.
- In terms of potential flooding, it is noted that 80% of the site will be covered with existing trees and the paved areas have been designed to drain towards the north of the site following the natural topography. The surface water run-off from the site will discharge to an oil interceptor into a surface water

retention pond before overflowing and discharging into an existing watercourse. It is not considered that the provision of additional areas of hardstanding will in anyway affect the existing flooding characteristics of this watercourse. It was concluded from a Stage 2 Initial Flood Risk Assessment that the proposed wastewater treatment site is not at risk of flooding and does not pose a risk of flooding to adjacent land or properties. While 2.4 hectares of recently planted conifer trees will be removed to construct the wastewater treatment plant and access road, 1.3 hectares of this area to the east and south of the wastewater treatment plant will be replanted with native species. It is argued that there will be no impact from the removal of trees on surface water run-off characteristics.

- In terms of construction traffic impacts, it is stated that access to the site both during construction and operational phase will be via the L-1392 and part of the L-5612. The entrance to the wastewater treatment plant will be widened to 4 metres and one 5 metre wide passing bay along the access road leading to the site will also be provided. The peak volume of HGVs during the construction phase will be 15 vehicles per day. No abnormal loads are anticipated to arise. During the operational phase, there will be approximately 8 car/van movements per day and 4 HGV movements per week associated with sludge removal. An additional 2 HGV movements per quarter will arise for chemical deliveries. While it is acknowledged there will be some impact to local traffic and pedestrians during the construction phase, this impact will be short-term and will not extend to the operational phase. The issue of construction traffic is also addressed in Condition 2(a) of the Planning Authority's grant of planning permission.
- Finally, An Bord Pleanála are requested to consider the requirements of Condition No. 14 attached to the Planning Authority's grant of permission. This requires the full width of all effective public roads shall be resurfaced/reinstated to the written satisfaction of the Executive Engineer. It is considered the wording of this condition is ambiguous. It is requested that An Bord Pleanála confirm that the reinstatement of individual public roads can be determined by Donegal County Council as a Roads Authority in compliance

with Guidelines for Managing Openings in Public Roads Second Edition (April 2017) via the former road opening licence process.

8.0 Observations

8.1. An observation was submitted by Cllr. Ian McGarvey.

8.2. It states that the raw sewage from Ramelton has been allowed into the river at Ramelton for years and this is one of the best salmon rivers in Europe. This should never have been allowed to take place because of the everchanging bird life in the area as well as the presence of otters and oyster and mussel beds. Also, Ramelton is a heritage/historical town and many important people were born in Ramelton. The observation suggests that it is inappropriate that wastewater is being pumped from Rathmullen and Milford a distance of 18 kilometres to Ramelton and then sent back to Rathmullen again.

9.0 Planning Policy Context

9.1. National Planning Policy and Guidelines

9.1.1. The National Planning Framework sets out the planning and infrastructure priorities for Ireland to the year 2040. Section 9.4 of the document sets out strategic priorities in relation to water and wastewater. Specifically, in relation to wastewater, the document notes that the EPA consider urban wastewater to be one of the principal pressures on water quality in Ireland and the treatment and disposal of wastewater in an environmentally sound manner is critical for human health. This implies the need to ensure adequate treatment and capacity, stormwater overflows operating correctly and that we avoid direct discharges of untreated wastewater.

9.1.2. Urban wastewater plant compliance and remedial actions are therefore a short-term key priority. In the longer term, capacity issues will need to be resolved to meet the growing demand to 2040 and beyond.

9.1.3. National Policy Objective 63 seeks to ensure the efficient and sustainable use and development of water resources and water services infrastructure in order to manage and conserve water resources in a manner that supports a healthy society, economic development requirements and a cleaner environment.

9.1.4. In terms of local planning policy the subject site is governed by the policies and provisions contained in the Donegal County Development Plan 2018 – 2024. The following objectives and policies are relevant.

- WES-O-1 to support Irish Water in the implementation of strategic objectives outlined in the "*Water Services Strategic Plan (2015)*" for the delivery of water services over the next 25 years up to 2040.
- WES-O-2 to work closely with Irish Water to identify and facilitate the timely delivery of water services required to realise the development objectives of this plan in accordance with the core strategy and settlement structure of this plan.
- WES-O-3 to support and facilitate Irish Water to ensure a satisfactory level of service through sustainable systems in respect of
  - Wastewater providing adequate treatment for all wastewater entering the public collection system in accordance with the relevant wastewater discharge licence issued by the EPA.
  - Adequate wastewater treatment capacity for priority urban areas identified in the core strategy and settlement structure.
- WES-P-3 it is the policy of the Council to support and facilitate Irish Water to ensure the continued provision of wastewater infrastructure and also to ensure the upgrading of wastewater infrastructure to meet the anticipated wastewater requirements of the County.
- NH-P-1 it is the policy of the Council to ensure that development proposals do not damage or destroy any sites of international or national importance, designated for the wildlife/habitat significance in accordance with the European and national legislation including SACs, special SPAs, NHAs, Ramsar sites and statutory nature reserves.
- NH-P-2 it is the policy of the Council to protect the habitats of species listed for protection through the prevention and management of the spread of invasive plant and animal species in the county in accordance with European and national legislation.

- Policy MRCM-O-2 to safeguard and improve the health of our marine eco system by
    - Protecting the qualifying habitats and species of Natura 2000 sites through appropriate assessment of development proposals.
    - Maintaining and improving water quality in our estuaries and seas by implementing river basin management plans and any future programmes under the Marine Strategy Framework Directive.

9.2. **Natural Heritage Designations**

9.2.1. Parts of the pipework associated with the subject site are located within and adjacent to a number of Natura 2000 sites and these are summarised below.

The Lough Swilly SPA (Site Code: 004075) and SAC (Site Code: 002287) runs along the southern side of the R247 between Rathmullen and Ray Bridge. The proposed outfall pipe protrudes into both the Lough Swilly SPA and SAC. Furthermore the proposed pipework is to traverse the Leannan Estuary from the Ramelton Pumping Station also traverses the Lough Swilly SAC and SPA.

9.3. **EIAR Screening Determination**

9.3.1. An Environmental Impact Assessment Screening Report was submitted with the application and I have had regard to the provisions of the same.

9.3.2. Class (11)(c) of Schedule 5, Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required for the following class of development.

- Wastewater treatment plants with a capacity greater than 10,000 population equivalent as defined in Article 2, Point 6 of Directive 91/271/EEC not included in Part 1 of this Schedule.
- In this instance it is proposed to construct a wastewater treatment plant with a population equivalent of 5,500. This is considerably below the 10,000 population equivalent threshold noted above. It is noted that the site is not designated for the protection of the landscape or cultural heritage and whether or not the proposed development is likely to have a significant effect on any European site is discussed under a separate assessment entitled

Appropriate Assessment below. The proposed development would result in wastewater being treated to a higher standard than that currently operating in the three agglomerations this will have consequential beneficial impacts on wate quality in Lough Swilly. The proposed development would not give rise to excessive levels of waste pollution or nuisances over and above that associated with the existing agglomerations. The proposal would not give rise to any risk of major accidents or risk to human health. Therefore, having regard to:

- The nature and scale of the proposed development which is under the mandatory threshold in respect of Class 11(c).
- The location of the waste water treatment plant within existing woodland a generous distance away from surrounding sensitive receptors.
- The guidance set out in Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding sub-threshold development issued by the Department of the Environment, Heritage and Local Government in 2003 and
- The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended),

- I have concluded that by reason of the nature and scale of the proposed development on the subject site the development would not be likely to have significant effects on the environment and that on preliminary examination and environmental impact assessment report for the proposed development is not necessary in this case.

10.0 **Planning Assessment**

I have read the entire contents of the file, visited the subject site and its surroundings including the alignments for rising mains from the three agglomerations to the wastewater treatment plant. I have also had regard to the issues raised in the grounds of appeal, the observations submitted and the Planning Authority's and the applicant's response to the issues raised. I consider the critical issues in determining the current application and appeal are as follows:

- Principle of the Proposed Development
- Suitability of the Location of the Proposed Wastewater Treatment Plant
- Impact on Future Community Growth
- Proximity to Dwellings/Impact on Local National School
- Impact on Sites of Archaeological Value
- Flooding Issues
- Traffic Issues
- Lack of Bird Surveys

Each of these issues will be assessed under separate headings set out below.

10.1. **Principle of the Proposed Development**

10.1.1. The need for new wastewater infrastructure to serve the agglomerations of Ramelton, Rathmullen and Milford is not in doubt. Presently, the agglomeration of Ramelton discharges untreated wastewater into the Leannan Estuary which is both an SPA and an SAC. It is also apparent that the existing wastewater treatment plant in the southern environs of Milford Town is at over capacity, and this is giving rise to amenity problems for the population of Milford where numerous houses and social infrastructure such as recreational and amenity areas, the public library etc. are located in close proximity to the existing wastewater treatment plant.[4]

10.1.2. In the case of Rathmullen untreated wastewater is being discharged into the Swilly Estuary (also part of the SPA and SAC) via two septic tanks and separate discharge outfalls within the village. Furthermore, there is a legal requirement for Irish Water to comply with the overarching objective of the Water Framework Directive which seeks to improve water quality in Ireland's rivers, lakes and transitional waters with the objective of ensuring that all waters achieve good status by 2027.

10.1.3. There is also a legal requirement to comply with the provisions of the Urban Wastewater Treatment Regulations. These regulations require member states to ensure that urban wastewater entering the collection systems shall be subject to secondary treatment or equivalent prior to discharge. The Board will note that

[4] I refer the Board to an article which appeared in the Donegal Daily (October 13th, 2021) which reported complaints in relation to malodour being experienced by the residents of Milford.

currently in the case of Ramelton and Rathmullen no secondary treatment occurs prior to discharge. There can be little doubt that the provision of a new wastewater treatment plant incorporating treatment to ensure that wastewater is biologically treated to a secondary standard will bring significant environmental and residential amenity benefits over the current separate systems which are in operation at present in each of the agglomerations.

10.1.4. I would also refer the Board to the National Planning Framework which refers in Section 9 to the key national environmental challenges facing the State. Specific reference is made to addressing health risks to drinking water, treating urban wastewater and protecting important and vulnerable habitats. Section 9.4 of the report notes that the EPA considers urban wastewater to be one of the principal pressures of water quality in Ireland and the treatment and disposal of wastewater in an environmentally sound manner is critical for a good quality environment. It goes on to note that urban wastewater treatment is a key short-term priority within the Plan.

10.1.5. The Irish Water National Services Policy Statement (2018 – 2025) states that at a minimum, wastewater discharge should comply with standards set out in the EU Wastewater Treatment Directive so that wastewater can be collected and treated to an acceptable standard before being discharged back into the environment.

10.1.6. The standards to be adhered to are set out in the European Communities Environmental Objectives (Surface Water) Regulations 2009 SI 272 of 2009[5]. I refer the Board to the Hydraulic Modelling exercise in Appendix XII of the NIS. Section 4 of this Appendix provides details of calculations and model simulation results. The model simulations were run for both the 10 year and 30 year design horizons. The model indicates that the parameters for transitional waters (DIN, MRP[6] and BOD) will all be met.

10.1.7. With regard to the designated shellfish waters at Auginish Island c 0.75 km down stream of the outfall, estimated bacterial concentrations both under the 10 year and 30 year modelling scenario would be substantially below the standards set out in the Regulations.

[5] See Schedule 5 – Criteria for calculation surface water ecological status and ecological potential.

[6] Referred to in the modelling report as PO4

10.1.8. The nearest designated bathing waters at Rathmullan, according to the modelling undertaken will not in anyway be affected by the discharge at the proposed outfall, even at the maximum ebb excursion.

10.1.9. I am satisfied therefore that the modelling undertaken has demonstrated that the any discharge from the WWTP will comply with standards set out in the various water quality regulations referred to.

10.1.10. In terms of local planning policy, I would refer the Board to the various policy objectives referred to in the pervious section of the report above. In particular, Donegal County Council identifies the need to work closely with Irish Water to identify and facilitate the timely delivery of water services required to realise the development objectives of this plan in accordance with the core strategy and settlement structure of the plan. In relation to the core strategy, I note that the town of Ramelton is categorised as a Layer 2B town and the development plan notes that it is included in the EPA's list of sites with no wastewater treatment. The development plan notes that a project is underway to provide a common wastewater treatment plant serving Rathmullen, Ramelton and Milford.

10.1.11. Policy WES-O-3 seeks to support and facilitate Irish Water to ensure a satisfactory level of service in respect of providing adequate treatment for all wastewater entering a public collection system in accordance with the relevant wastewater discharge licence issued by the EPA. Adequate wastewater treatment capacity will also be provided for priority urban areas identified in the core strategy and settlement structure. Policy WES-P-3 states that it is policy of the Council to support and facilitate Irish Water to ensure the continued provision of wastewater infrastructure and also to ensure that the upgrading of wastewater infrastructure to meet the anticipated wastewater requirements of the County.

10.1.12. It is clear therefore that the provision of new wastewater infrastructure to serve the three agglomerations referred to, is fully in accordance with the policy objectives contained in the County Development Plan and fully accords with the core strategy in respect of enabling the settlements above, to facilitate and achieve the population targets referred to in the core strategy of the development plan.

10.1.13. In conclusion therefore I would consider that the issue of providing and improving wastewater infrastructure to serve the agglomerations in question is

unequivocal. It is a requirement under European law that provision of wastewater treatment infrastructure to at least a secondary level is a statutory requirement. And this overarching objective is supported by specific policy objectives and statements contained in the County Development Plan. The provision of a wastewater treatment plant to serve the towns in question and to replace the overloaded or untreated wastewater arrangements which currently serve the agglomerations in question will be of immense benefit in terms of the improvement of water quality which will have consequential beneficial impact in terms of health, environment and biodiversity.

10.1.14. The question before the Board is whether or not the location of the proposed wastewater treatment plant is appropriate in this instance and this issue is dealt with under the separate headings below.

10.2. **Suitability of the Location of the Proposed Wastewater Treatment Plant**

10.2.1. Concerns are expressed that the proposed wastewater treatment plant will be located within a community which will not be served by the proposed plant. It is clear from Table 2A.4 of the County Development Plan which sets out the strategic status of water services for 1 and 2A settlements within the county, that it is an objective to provide a common wastewater treatment plant to serve the Rathmullen, Ramelton and Milford settlements. It is therefore development plan policy to provide one wastewater treatment plant for the three agglomerations. It is my considered opinion that it is preferable to provide one larger wastewater treatment plant at an optimal location rather than the provision of three separate wastewater treatment plants to serve each of the smaller agglomerations as this would result in the duplication of much infrastructure. The location of the subject site can be considered optimal from a geographic perspective being equidistant between all three agglomerations. Furthermore, it is located within a densely wooded area which is well screened and is located a considerable distance from surrounding residential development which will minimise, if not eliminate, any potential adverse impact on surrounding residential amenity in terms of visual impact, noise and odour.

10.2.2. A major contention raised in the third-party appeal is the proposition that the wastewater treatment plant will not serve the community in which it is located. In response to this issue, I would argue that the optimal location of the wastewater treatment plant site to service the three larger agglomerations serves the wider

common good and is in accordance with the provisions of the development plan. Furthermore, the wastewater treatment plant could also be available to serve the local community should future members decide to avail of the public infrastructure rather than rely on the proliferation of private wastewater treatment plants which can pose a threat to underlying groundwater.

10.3. **Impact on Future Community Growth**

10.3.1. Any further housing demands requirements will be assessed by the Planning Authority (or An Bord Pleanála) based on their merits, and in accordance with the provisions and policies contained in the development plan. The location of the proposed wastewater treatment plant at Tirroddy is a sufficient distance from existing houses to ensure that impact on surrounding residential amenity is minimised. The lands fronting onto the roadway in the immediate vicinity of the subject site currently comprise of dense woodland for a distance of 400 to 500 metres in each direction from the wastewater treatment plant. It is unlikely therefore that housing will be proposed or constructed in proximity to the wastewater treatment plant in the short to medium term and any one-off housing deemed appropriate for the area will be built on lands located a consideration distance away from the wastewater treatment plant. It cannot be reasonably argued in my opinion having regard to the land uses immediately surrounding the proposed wastewater treatment plant, that the provision of a wastewater treatment plant at this location will adversely affect future housing provision in the wider Ray community. Any future applications for one-off housing will be assessed on its merits including housing need criteria. And, as the planning authority point out, the surrounding area comprises of a ‘stronger rural area, in terms of rural housing criteria and therefore rigid policies apply in relation to future rural housing growth

10.4. **Proximity to Dwellings/Impact on Local National School**

10.4.1. Concerns are expressed in the grounds of appeal that the proposed wastewater treatment plant will give rise to excessive emissions particularly in relation to noise and odour. The Board will note that the nearest permanently occupied dwellings are in excess of 400 metres from the subject site. The separation distance will be such that odour from the wastewater treatment plant would be significantly dispersed and diluted before reaching any receptor.

10.4.2. The greatest sources of odour emanating from the wastewater treatment plant are associated with the raw sewage in the early stages of processing and treatment. These primarily relate to the inlet works and primary settlement tanks. The wastewater treatment plant in this instance is relatively large for a rural area with a maximum treatment of 5,500 PE. The inlet works incorporating mechanical screening and a buffering/balance tanks would be incorporated into a covered structure to facilitate odour control. Furthermore, it is proposed to incorporate a separate odour control unit where odour emissions generated from the screening process would be treated prior to discharge to the atmosphere. The pre-aeration tank process where the incoming raw sewage is aerated will likewise be located within a covered structure in order to facilitate odour control and any emissions would be put through the same odour control stack serving the inlet works. It is not altogether clear whether the aeration concrete tanks which will incorporate deactivated sludge process will be covered from the documentation submitted. However, the activated sludge process and subsequent settlement in the clarification tanks constitute the latter stages of treatment where odour is generally much less of an issue. Sludge handling and treatment will also be undertaken within enclosed covered structures which will minimise the potential for odour emissions.

10.4.3. On the basis of the above I am satisfied that odour emissions emanating from the wastewater treatment plant particularly a wastewater treatment plant that is not operating at over capacity will be adequately treated and will not give rise to odour and amenity problems in the wider area particularly having regard to the separation distances between the wastewater treatment plant and the nearest sensitive receptors.

10.4.4. The separation distances together with the screening will ensure that noise levels will not present a significant or material issue in terms of impacting on surrounding residential amenity. As mentioned above, much of the preliminary treatment will take place within enclosed buildings and this will minimise the potential for noise as with the case of odour. While some noise emissions can be expected from deactivated sludge process the mechanical noise generated from the aeration and agitation of the mixed liquor will not be significant and is highly unlikely to be audible from distances of up to 400 metres away.

10.4.5. Issues in relation to emissions are ultimately a matter for the EPA in issuing any waste discharge authorisation licence. The Board must merely be satisfied that the proposed development will not have such an adverse environmental impact to warrant a refusal of planning permission in the first instance when assessing the proposal before it. I am satisfied having regard to the separation distance between the wastewater treatment plant and surrounding sensitive receptors that the proposed wastewater treatment plant and any noise and odour issues emanating from it would not be such to warrant a refusal of planning permission on the basis of adverse impacts arising on residential amenity. Finally, in relation to this matter I note that the proposed wastewater treatment plant (and wastewater treatment pumping stations) will be constructed on the basis of a design build and operate model and will be required to be constructed in accordance with the requirements of the European Communities (Wastewater Treatment) (Prevention of Odours and Noise) Regulations 2005. Mitigation measures in relation to noise and odour are also set out in CEMP submitted with the application.

10.4.6. With regard to the impact on the local school, the school in question, as the crow flies is located approximately 750 metres from the inlet works associated with the wastewater treatment plant.

10.4.7. Having regard to the arguments set out above, and the fact that the school incorporates a separation distance of c. 0.75 kilometres from the proposed wastewater treatment plant, it is considered that any potential impact on the national school would be less than that associated with any other sensitive receptors, namely dwellings and I have already concluded above that the impact of the wastewater treatment plant on the nearest surrounding dwellings would in itself be negligible. It is not accepted that the proposed wastewater treatment plant in this regard will have any disproportionate burden on the small minority national school as suggested in the grounds of the third-party appeal. It is not accepted that the site for the wastewater treatment plant was predicated or influenced by the fact that it is located in the vicinity of a minority national school. I have argued above that the wastewater treatment plant in question is located in an extensively wooded area equidistant from the agglomerations it is intended to serve, and it incorporates appropriate separation distances between it and nearest sensitive receptors.

10.5. **Impact on Sites of Archaeological Value**

10.5.1. The grounds of appeal note that the underwater archaeological survey states that there are remnants of a formerly important Quay in the area and that there is no commitment under Irish Water's proposal to excavate and examine the site nor to fully document the archaeology and history of the area. It is also stated that the outfall's pipe location is in close proximity to an old dyke known locally as "the Ramper". The Board will note that numerous separate archaeological assessments were submitted with the documentation to the Planning Authority. The study methodology in conducting the archaeological assessments including desktop surveys, intertidal surveys, diving investigation and geotechnical site investigations. I consider the methodology undertaken therefore to be comprehensive and robust. It noted that two historic shipwrecks (referred to in the documentation as wreck 1 and wreck 2) were located on the southern bank of the estuary in the vicinity of the proposed works area. Both however were located outside the works area (6.5 metres, and 38 metres from the proposed works area respectively). Nothing of archaeological interest was found at the Tirroddy outfall. It is stated however that all excavation work associated with the outfall pipe at Tirroddy and the crossing at Ramelton Estuary will be archaeologically monitored by an experience licenced underwater archaeologist. This is a requirement of Donegal County Council's notification to grant planning permission and should in my opinion also be a requirement by way of condition should the Board consider it appropriate to grant planning permission. This condition will ensure that any artefacts uncovered during the works will be fully documented as suggested in the grounds of appeal.

10.5.2. With specific reference to "the Ramper" I would reiterate that the underwater survey undertaken discovered no archaeological or marine artefacts. The applicant in the response to the grounds of appeal suggest that the Ramper is located approximately 1 kilometre upstream of the outfall and therefore not in the vicinity of the outfall.

10.6. **Flooding Issues**

10.6.1. The grounds of appeal suggest that there is potential for flooding at the site of the proposed wastewater treatment plant. It is also suggested that the flood risk assessment undertaken does not take into account the impact of the removal of trees in terms of exacerbating flood potential. The site of the wastewater treatment plant is not located in an area which is liable to flooding. It is clear from the OPW Flood Risk Assessment Maps that lands to the north of the site and to the north of

the road which runs along the northern boundary of the site, are liable to flood however the site itself is not liable to flooding according to the flood maps. The flooding appears to be fluvial associated with the Ballasallagh Burn River which runs in a north-easterly direction towards Ray Bridge c.150 metres to the north of the site. The flood risk assessment notes that with the construction of the wastewater treatment plant there will be an increase in surface water run-off as approximately 20% of the surface area will be converted into paved or gravel hardstanding. However, it is noted that approximately 80% of the existing surrounding soil and subsoil will continue to provide rainfall attenuation. The paved areas will be designed to drain northwards towards Ballasallagh Burn following the natural topography of the area.

10.6.2. I would agree with the conclusions set out in the flood risk assessment that the additional paved areas will be minimal and would not exacerbate flooding in this rural area to any material extent. As the applicant points out in the grounds of appeal, the nett area of trees that will be permanently removed directly under the footprint of the site is approximately 1.1 hectares. I note that the wooded area surrounding the subject site extends to some 40 hectares. It is reasonable to conclude therefore that the proposed wastewater treatment plant is not at risk of exacerbating flooding in the area and does not pose a risk of displacing flood waters to adjacent land or properties.

10.7. **Traffic Issues**

10.7.1. Concerns are expressed that traffic using the local roads in the vicinity (the L-5612-1, the R247 and the L-1392) will impact on people in the locality using these roads. It is also considered that the increase in traffic will exacerbate road safety issues as the roads in question are considered to be narrow and dangerous. The Board will note from my site inspection and from the maps attached that the roadways in the vicinity of the site are relatively straight and therefore offer adequate forward vision for both vehicular traffic and pedestrians using the road. Furthermore, having regard to the rural nature of the wastewater treatment plant at Tirroddy, traffic levels on the existing roads are relatively light. The traffic and transport statement submitted (Form TTS2) with the application indicates that 8 car/van movements per day will be generated at the wastewater treatment plant. Furthermore, four additional HGV movements per week for sludge handling will also be generated by the proposed

development. This equates to c.1 to 1.5 round trips per hour generated by the proposed wastewater treatment plant. While it is possible that the 8 car/van movements per day may be generated during the morning hour peak and afternoon peak, the level of trip generation will in no way result in an unacceptable level of traffic movements on the surrounding road network and will be negligible in terms of its overall impact. The proposal therefore will be acceptable from a traffic safety and traffic congestion point of view.

10.7.2. Finally, in relation to traffic and road issues, I note the concern Irish Water have in respect of Condition No. 14 which requires that the full width of all affected public roads shall be resurfaced and reinstated to the written satisfaction of the Executive Engineer (Roads). I consider that the Board can address this issue by attaching a general condition requiring Irish Water to comply with the requirements of Donegal County Council requirements in accordance with Guidelines for Managing Openings in Public Roads by way of a separate formal road opening licence process.

10.8. **Lack of Bird Surveys**

10.8.1. It is argued in the grounds of appeal, that due to the non-completion of bird surveys carried out as a result of the Covid pandemic, that the overall survey process undertaken was incomplete and this is entirely inappropriate in an area that is designated as an SPA.

10.8.2. Potential impacts on the Lough Swilly SPA are robustly assessed under a separate below entitled Appropriate Assessment, nevertheless it is sufficient at this juncture to note that numerous bird surveys were carried out both during the summer period (June/July 2019) and during the winter period (mid-October to mid-March 2019/2020). The surveys were undertaken by an experienced ornithologist on a bi-monthly date during the winter months. See Section 4.2.2 and Appendix VIII of the NIS. It is clear from the information contained in the NIS that the bird surveys were undertaken in accordance with appropriate methodologies and the surveys align with the timings of the surveys undertaken by the NPWS to enable the conservation objectives for the site to be established. This all suggests that a robust and comprehensive baseline study was undertaken to inform dependable conclusions. If the Board come to a different conclusion with regard to the veracity of the surveys undertaken it is recommended that it commission further bird surveys prior to

determining the application rather than refuse planning permission outright for the proposal on the basis that the need for improved wastewater treatment infrastructure for the agglomerations discharging into Lough Swilly is unequivocal.

11.0 Appropriate Assessment

11.1. Appropriate Assessment – Stage 1

11.1.1. The Habitats Directive requires competent authorities to carry out a screening for appropriate assessment of plans and projects that, alone or in combination with other plans and projects may be likely to have significant effects on European sites (Natura 2000 sites) in view of best scientific knowledge and the site's conservation objectives.

11.1.2. The screening for appropriate assessment was undertaken with reference to guidance documents including:

- Appropriate Assessment of Plans or Projects in Ireland – Guidelines for Planning Authorities (DEHLG).
- Assessment of Plans and Projects Significantly Affecting Natura 2000 Sites – Methodological Guidance of the Provisions of Article 6(3) and (4) of the Habitats Directive 92/43/EEC (European Commission – 2001).
- Managing Natura 2000 Sites – The Provisions of Article 6 of the Habitats Directive 92/43/EEC (European Commission – 2018).

11.1.3. In the Appropriate Assessment Screening Report submitted with the application, it is noted that there are 13 sites within a 15 kilometre radius of the windfarm. It is further noted that there are no sites outside this 15 kilometre zone that are hydrologically, hydrogeologically or otherwise connected with the proposed development. All other sites, (as well as some of the sites within the 15 kilometre radius) are in different hydrological and hydrogeological catchment areas where there is no potential to impact on these sites. Two sites are of particular importance the Lough Swilly SAC (Site Code: 002287) and the Lough Swilly SPA (Site Code: 004075). As the works to be undertaken as part of the proposed development in some cases adjoin and in other cases are directly located within the boundaries of these European sites, the potential of the proposed development to impact on Natura 2000 sites within the

zone of influence are outlined in the table below. The criteria as to whether or not the proposed project could impact on the integrity of the European sites are assessed in terms of hydrological impacts (pollution) in terms of noise (disturbance to species), the mobilities of species of conservation interest and these primary relate to the SPAs (the ability of mobile species of conservation interests namely birds to frequent the project site for foraging, breeding or nesting purposes etc.).

11.1.4. **Table 3: AA Screening**

Natura 2000 Site (SAC's)	**Location**	**Potential Impacts/connections**	**Screen in?**
Lough Swilly SAC [002287]	Parts of the SAC traverses the Rathmullan to Tirroddy rising main and the Ramelton to Tirroddy rising main and the outfall pipe will entre the Lough Swilly SAC at Brownknowe Strand.	Yes, there is direct potential to impact on this SAC, due to the proximity of the site and the carrying out of works within the SAC	Yes
Leannan River SAC [002176]	At its closest point this SAC is c.0.675 km from the pipeline that traverses the Leannan Estuary	Yes, there is a potential to impact on the SAC as there is a direct hydrological connection pipe route traversing the estuary and the SAC	Yes
The Mulroy Bay SAC	1.5 Km North of the Milford WWTP	No Hydrological or other connection with the site, this SAC is up-catchment of the WWTP and there are no	No

		identifiable S-P-R links between the SAC and the works to be carried out at Milford.	
Ballyarr Wood SAC	4.5 Km W of the Remelton rising main and pumping station	No Hydrological or other connection with the site. The only qualifying interest of this SAC is Old sessile Oakwoods, the separation distance and the lack of S-P-R links between the works and the SAC are such that no impacts could possibly occur.	No
Cloghernagore Bog and Glenveagh National Park SAC [002047]	C7.7km west of Milford WWTP	The Cloghernagore Bog and Glenveagh National Park SAC is in a different hydrological catchment area than the subject site. No Hydrological or other connection with the site. No mobile species of qualifying interest that could frequent the site. There is no potential therefore to impact on habitats or species associated with this Natura 2000 Site.	No
Sheephaven SAC [001190]	11 km northwest of Milford WWTP	No Hydrological or other connection with the site as this site lies in a different catchment area to the works to be undertaken. There are no species listed as qualifying interests. All qualifying interests relate to habitats only which are	No

		far removed from the site.	
North Inishowen Coast SAC [002112]	11.8 Km to the south	There is some theorical potential to impact on this SAC. As the Inishowen Coast is connected to the subject site via Lough Swilly. However, the distance between the development and the SAC in question results in an extremely low impact potential.	No (NIS suggests yes).
Natura 2000 Site SPA's			
Lough Swilly SPA [004075]	Parts of the SPA traverses the Rathmullan to Tirroddy rising main and the Ramelton to Tirroddy rising main and the outfall pipe will enter the Lough Swilly SAC at Brownknowe Strand.	Yes, there is direct potential to impact on this SAC, due to the proximity of the site and the carrying out of works within the SAC	Yes
Lough Fern SPA [004060]	1.5 km to the south of the Milford WWTP and c.3.8 west of proposed rising main	Yes, some theoretical potential as the Milford WWTP is located in proximity to the' Maggie's Burn' River which flows into the SPA	Yes

Horn Head to Fanad SPA [004194]	10.3 km north of the Rathmullan proposed pumping station	Yes, some theoretical potential as the Rathmullan pumping station connected with the SPA via Lough Swilly	Yes
Derryveagh and Glenowan Mountains SPA [004039]	8.5km to the West of the Milford WWTP	The AA screening report notes that the SPA accommodates protected bird species which could forage within Lough Swilly SAC /SPA.	Yes
Greers Isle SPA [004082]	13.5 km North of Milford SPA	The AA screening report notes that the SPA accommodates protected bird species which could forage within Lough Swilly SAC /SPA.	Yes
Derryveagh and Glendowan Mountains SPA [004039]	8.5 km west of Milford WWTP	The AA screening report notes that the SPA accommodates protected bird species which could forage within Lough Swilly SAC /SPA.	Yes

11.1.5. Having inspected the site and the location of the European sites in the vicinity together with the qualifying interests of the European sites in question I consider that the AA Screening Report submitted with the application has correctly identified all the European sites in the zone of influence that could be potentially affected by the proposed development.

11.1.6. The AA Screening Assessment concluded that the proposed development could potentially impact on the above European sites either during the construction and operational phase. The potential impact on each of the European sites in question are set out in more detail below.

11.2. **Appropriate Assessment – Stage 2**

11.2.1. The following section of this report assesses the potential impact of the proposal on the designated Natura 2000 Sites which were screened in for the purposes of a stage two AA. It also assesses the mitigation measures and whether or not such mitigation measures will be successful in maintaining the integrity of Natura 2000 sites in question, as concluded in the NIS.

Lough Swilly SAC [002287]

- *Estuaries [1130]*
- *Coastal lagoons [1150]*
- *Atlantic salt meadows (Glauco-Puccinellietalia maritimae) [1330]*
- *Molinia meadows on calcareous, peaty or clayey-silt-laden soils (Molinion caeruleae) [6410]*
- *Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0]*
- *Lutra lutra (Otter) [1355]*

This site is of conservation importance as it contains good examples of at least five habitats listed on Annex I of the E.U. Habitats Directive (estuaries, lagoons, Atlantic salt meadows, *Molinia* meadows, old oak woods) and supports a population of Otter. In addition, it is of high ornithological importance for wintering waterfowl, with 16 species occurring regularly in numbers of national importance, plus three species occurring within the site and on adjacent polders in numbers of international importance. Ecological communities present in the intertidal sediments at Lough Swilly SAC include fine sand community complexes, intertidal mixed sediment communities with polychaetes, subtidal mixed sediment communities with polychaetes and bivalves, muddy fine sand communities with *Thyasira flexuosa*, muddy community complexes and *Ostrea edulis* dominated communities. Bivalves and polychaete worms are well represented in the macro-invertebrate fauna, with species such as Cockles (*Cerastoderma edule*), Mussels (*Mytilus edulis*), Baltic Tellin (*Macoma balthica*), Ragworm (*Nereis diversicolor*) and Sand Mason (*Lanice conchilega*) being common.

The Potential Impacts include arising from the development include the following:
Estuaries: during construction, direct habitat analysis, site inundation, pollution and habitat disturbance including trampling. In addition, there is potential for adverse water quality impacts which could result in eutrophication.
Coastal Lagoons: The coastal lagoon areas are located on the eastern side of Lough Swilly, Therefore the potential for adverse impacts are limited.
Atlantic Salt Meadows: Potential impacts include direct habitat loss, and the potential for pollution through excessive siltation, chemical spills or hydrocarbon leaks during construction.

Molina Meadows: This habitat is in no way connected with the works to be undertaken on the subject site.
Old Sessile Woodland: An area of this woodland is located at Rathmullan woods c.2km south of Rathmullan on the west side of the R247. All works to be carried out in the rising main from Rathmullan to Tirroddy will be carried out outside the woodland in question.
Lutra Lutra (Otter) there is a potential for indirect impacts on the otter via disturbance and pollution during the construction and operation phases of the scheme. This could potentially affect habitat availability, prey availability, and potentially otter resting sites.
Conclusion: it is considered that this scheme has the potential to have significant adverse effects upon the Lough Swilly SAC in the absence of mitigation.

Leannan River SAC [Site Code 002176]

- *Oligotrophic waters containing very few minerals of sandy plains (Littorelletalia uniflorae) [3110]*
- *Oligotrophic to mesotrophic standing waters with vegetation of the Littorelletea uniflorae and/or Isoeto-Nanojuncetea [3130]*
- *Margaritifera margaritifera (Freshwater Pearl Mussel) [1029]*
- *Salmo salar (Salmon) [1106]*
- *Lutra lutra (Otter) [1355]*
- *Najas flexilis (Slender Naiad) [1833]*

Oligotrophic and Mesotrophic Waters These designated waters are all located a considerable distance up stream of the pipeline crossing at the Leannan estuary where the pipeline north of Ramelton is to cross. The proposed works will in no way affect the status of these waters. If at all, the reduction in organic loads from discharges as a result of the WWTP will improve the overall oligotrophic status of water in the vicinity.

The Freshwater Pearl Mussel, Otter, Slamon and Slender Naiad are all located a considerable distance upstream of the proposed works at Ramelton Harbour / Leannan Estuary. The laying of the pipeline will in no way effect these qualifying interests. If at all, the reduction in organic loads from discharges as a result of the WWTP will improve the overall oligotrophic status of water in the vicinity.

North Inishowen Coast SAC [002012]

- *Mudflats and sandflats not covered by seawater at low tide [1140]*
- *Perennial vegetation of stony banks [1220]*
- *Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]*
- *Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]*
- *Machairs (* in Ireland) [21A0]*
- *European dry heaths [4030]*
- *Vertigo angustior (Narrow-mouthed Whorl Snail) [1014]*
- *Lutra lutra (Otter) [1355]*

This SAC at its closest point (Crummies Bay) is located c11km from the Rathmullan pumping station. The SAC essentially incorporates the coastal area around the north of Malin Head.

Thus, the habitats referred to above will in no way be affected by the works to be undertaken as part of the proposed development. Out of an abundance of caution the NIS submitted with the application suggests that there is theoretically a potential impact on the otter population and sand and mud flats through water pollution that may occurs as a result of the proposal. Having regard to the expanse of water

between the works and the qualifying interests I consider that any potential impact can in fact be discounted for the purposes of Appropriate Assessment.

Lough Swilly SPA [004075]

- *Great Crested Grebe (Podiceps cristatus) [A005]*
- *Grey Heron (Ardea cinerea) [A028]*
- *Whooper Swan (Cygnus cygnus) [A038]*
- *Greylag Goose (Anser anser) [A043]*
- *Shelduck (Tadorna tadorna) [A048]*
- *Wigeon (Anas penelope) [A050]*
- *Teal (Anas crecca) [A052]*
- *Mallard (Anas platyrhynchos) [A053]*
- *Shoveler (Anas clypeata) [A056]*
- *Scaup (Aythya marila) [A062]*
- *Goldeneye (Bucephala clangula) [A067]*
- *Red-breasted Merganser (Mergus serrator) [A069]*
- *Coot (Fulica atra) [A125]*
- *Oystercatcher (Haematopus ostralegus) [A130]*
- *Knot (Calidris canutus) [A143]*
- *Dunlin (Calidris alpina) [A149]*
- *Curlew (Numenius arquata) [A160]*
- *Redshank (Tringa totanus) [A162]*
- *Greenshank (Tringa nebularia) [A164]*
- *Black-headed Gull (Chroicocephalus ridibundus) [A179]*
- *Common Gull (Larus canus) [A182]*
- *Sandwich Tern (Sterna sandvicensis) [A191]*
- *Common Tern (Sterna hirundo) [A193]*
- *Greenland White-fronted Goose (Anser albifrons flavirostris) [A395]*
- *Wetland and Waterbirds [A999]*

There is potential notably through the proposed rising main, crossing the Ramelton estuary, the proposed outfall works, and the proposed rising main works between

Ray and Rathmullan Pumping Station could potentially significantly impact on the Lough Swilly SPA primarily through disturbance of wintering birds. The NIS points out that there are a number of particularly sensitive species to disturbance. These include Knot, red-breasted merganser, redshank, shelduck, teal, wigeon. The proposal will also result in direct impacts on foraging habitats through excavation works for the crossing at Ramelton and at the Outfall with the disturbance of mudflats. However, the NIS notes that due to the temporary nature of the works (which will take about one year to recover) and the availability of wider extensive areas of feeding habitat in the vicinity, it is not considered that this will impact adversely on the integrity of the SPA. The proposal is also not considered to result in an adverse impact on the integrity of the SPA with regard to its ecological structure and function in relation to breeding bird sites. The nearest breeding bird sites are at Inch Lough c 1.8 km away.

Although the hydraulic and organic loadings will be introduced through a new outfall between Brownknowe Inlet and Tirroddy Point, effluent will be treated to a secondary standard (BOD 25mg/l, Suspended Solids 35 mg/l P 2 mg/l and N 15mg/l). This standard is considerably higher than the concentrations contained in the untreated sewage being discharges from the separate three agglomerations presently. Modelling of simulated plumes from the outfall undertaken as part of the NIS (Appendix XII) indicated that elevated levels beyond the diffuser will be limited to 50 meters in the vicinity of the outfall. The reduction in concentrations of nutrients around the existing outfalls may affect foraging in these areas and this could have a localized influence. The NIS considers that localised changes in water quality will not result in any adverse impact on the integrity of the SPA with respect to its ecological structure and function.

Overall it is considered that the scheme has the potential to have significant adverse effects on the Lough Swilly SPA. These potential impacts, in the absence of mitigation measures could affect the integrity of the site. It is noted that the timing of the works has the potential to cause significant disturbance to wintering birds. On the other hand, the beneficial impacts on water quality arising from the proposal also has the potential to positively benefit water quality within the Lough Swilly Catchment SPA, and this will have positive benefits for bird habitats within the SPA.

Lough Fern SPA [004060]

- *Pochard (Aythya Ferna)*
- *Wetland and Water Birds*

The NIS notes that no pochard were recorded within the survey area in the surveys undertaken. It is considered that the wetland and water birds are likely to undergo positive benefits due to the improvement in water quality at the SPA site. As in the case of the Lough Swilly SPA, the reduction in concentrations of nutrients around the existing outfalls may affect foraging in these areas and this could have a localised influence. Overall improvements in water quality are considered likely to support the abundance and distribution of species in the SPA's in the vicinity of the site.

Horn Head to Fanad Head SPA [004194]

- *Fulmar (Fulmarus glacialis) [A009]*
- *Cormorant (Phalacrocorax carbo) [A017]*
- *Shag (Phalacrocorax aristotelis) [A018]*
- *Barnacle Goose (Branta leucopsis) [A045]*
- *Peregrine (Falco peregrinus) [A103]*
- *Kittiwake (Rissa tridactyla) [A188]*
- *Guillemot (Uria aalge) [A199]*
- *Razorbill (Alca torda) [A200]*
- *Chough (Pyrrhocorax pyrrhocorax) [A346]*
- *Greenland White-fronted Goose (Anser albifrons flavirostris) [A395]*

The NIS notes that none of the qualifying interests are species associated with this SPA were recorded in any significant numbers within the survey area of the proposed scheme, with the exception of the cormorant and to a lesser extent the shag. The SPA is c 10 km to the north of Rathmullan pumping station and greater than 10 kilometres from the discharge point off the WWTP outfall. It is considered that neither the cormorant or the shag will be affected by the works to be undertaken. The NIS concludes, notwithstanding the fact that the European Site was screened in

for the purposes of appropriate assessment but the proposal has no potential to impact on the integrity of this SPA.

Derryveagh and Glendowan Mountains SPA [004039]

- *Red-throated Diver (Gavia stellata) [A001]*
- *Merlin (Falco columbarius) [A098]*
- *Peregrine (Falco peregrinus) [A103]*
- *Golden Plover (Pluvialis apricaria) [A140]*
- *Dunlin (Calidris alpina schinzii) [A466]*

The NIS notes, that notwithstanding the fact the three of the species referred to above a water bird species, it is noted that these species generally feed within close proximity of their nesting sites. For this reason, it is not considered that the proposal has the potential to adversely affect the integrity of this SPA.

Greers Isle SPA [004082]

- *Black-headed Gull (Chroicocephalus ridibundus) [A179]*
- *Common Gull (Larus canus) [A182]*
- *Sandwich Tern (Sterna sandvicensis) [A191]*

This SPA is designated for the breeding interest of the three species listed above. These species have the potential to forage during the breeding season over a relatively wide area. However, in this instance the distance of the SPA at over 13 kilometers from the subject's site reduces the potential for suitable foraging habitat. Therefore, there is a very limited likelihood of any significant foraging in the area around the proposal during the breeding season. On this basis the NIS concludes that the proposal does not have the potential to adversely affect the integrity up the SPA question.

It is apparent from the assessment undertaken above, that the proposal does have the potential to impact on European sites within the area of the proposed development and to a lesser extent European sites in the wider area. European sites which could be potentially affected in the wider area primarily relate to SPA’s. NIS

submitted with the application sets out a suite of mitigation measures targeted at eliminating, or in a worst case scenario, reducing the impact to insignificant levels on the qualifying interests associated with the European sites. The NIS points out that the suite of mitigation measures proposed should be read in conjunction with

- The Ecological Impact Assessment
- The Construction and Environmental Management Plan
- The Invasive Alien Species Management Plan

Mitigation Measures

The Mitigation measures proposed in the NIS are set out below:

Mitigation measures have been set out within the NIS submitted and include standard best practice in relation to construction. Works within a delineated area will only be permitted. An Ecological Clerk of Works (ECoW) will be appointed to ensure that all mitigation measures are appropriately undertaken. The Clerk will be required to be notified 3-4 month prior to works being undertaken.

- Measures include the avoidance of any construction within 10 metres of any watercourse.
- Works are to be carried out during daylight hours only with the exception of the WWTP where lighting arrangements will be appropriately designed so as not to disturb wildlife.
- An NPWS derogation license will be applied for any vehicle tracking digging or vegetation clearance is required or within 150 meters of any active breeding otter holt.
- All site personnel will be fully briefed and trained with regard to the protection of sensitive habitats and species.
- Work at both the channel crossing and the outfall will only be taken in calm dry weather. Work would be required to take place over a range of different tide heights depending on the phase of the work. Trenching will only take place when the mudflat is driest.
- use of Benonite will be avoided as a drilling fluid. Clearbore will be used as an alternative.

- The use of silt fences, silt curtains, and interceptor drains will protect further watercourses and discharges will be to vegetated slopes. Silt busters will also be used as required.
- No refueling will take place within 50 meters of a watercourse and all machinery will have an onboard spill kit.
- Detailed turbidity monitoring will take place during marine works, the details of which are set out in the NIS p95.
- numerous mitigation measures are set out to avoid the spread of invasive alien species, this includes washing down all machinery and untracked plant after use.
- there will be no requirement for the removal of trees that form part of the qualifying interest associated SAC's (Old Sessile Oak Woodland). However measures will be put in place to protect the tree roots.

The NIS in my view reasonably establishes the conclusion that the proposed sewerage scheme we have no adverse impacts on SPA sites for breeding birds. However, it does acknowledge that the use of foraging habitat for such birds may be affected by a disturbance resulting from works being carried out as part of the proposed development. To address this, a number of mitigation measures are set out to minimise any potential impacts.

- During the winter, (mid-September to April) all terrestrial construction works, including site preparation works, and the removal of vegetation as required will only be undertaken during the winter time where it does not directly impact on the SPA. Where such vegetation clearance is required in close proximity to an SPA, this will be done using hand tools and under the supervision of an ecologist to ensure that no disturbance occurs to birds using the SPA.
- There would be no removal of mature trees or species rich hedgerow as part of the scheme.
- Site preparation shall occur at all locations requiring vegetation removal during the winter-time in order to ensure that tree stumps, scrub, no growing vegetation will removed prior to the nesting season (March to August inclusive).

- Where possible potential nesting vegetation such as scrub and long grass should be removed from the working corridor during September to March ahead of the works commencing on site. An ornithologist shall conduct a nesting bird check within the entire working corridor prior to works commencing.
- Works will occur within roads. No verges or sideline vegetation shall be removed. No materials would be stored along roadside verges. All equipment vehicles and materials must be kept on hardstanding.
- Where possible noise dampening techniques shall be used for vehicles and equipment.
- All works associated with the proposed crossing at Ramelton and the proposed outfall and will avoid the overwintering bird season from October to April inclusive in order to minimize the potential for disturbance too sensitive foraging and roosting birds.
- Works within 500 meters of Lough Swilly SPA will adhere strictly to the requirements of the CEMP, and will be supervised by an ornithologist.
- During September to April, no personnel will be permitted to interfere on lands adjacent to the scheme where there is a possibility that qualifying interest bird species may be foraging.
- In relation to works being carried out at the pumping stations, demolition works will be undertaken outside the main wintering bird season, between mid September and April inclusive. Any demolition and construction works will where appropriate incorporate acoustic and visual barriers.
- In relation to works to be undertaken along the roadways, it is stated that no works will be undertaken within 300 meters of a roost identified southwest of Rathmullan wood, two hours either side of high tide between mid September and the end of April.
- With regard to the outfall between the roadway and the high watermark, any works within 200 meters of tidal limits of Lough Swilly SPA will incorporate acoustic and visual barriers. Any works being undertaken between mid

September and the end of April will be supervised by an appropriately qualified ornithologist.

- With regard to works in the intertidal marine area associated with the outfall within the confines of the sea, no works would be permitted between October and April inclusive on this section of the outfall. Any works undertaken between mid-September and the end of September will be supervised by an appropriately qualified ornithologist and he/she will apply 'The Waterbirds Disturbance Mitigation Toolkit' (Cutts et al 2013).
- That Ramelton proposed estuary crossing will not be allowed to take place between October and April inclusive. If any of the works are to be undertaken by horizontal directional drilling, acoustic and visual barriers will be deployed on each side after drilling.
- Any works along the proposed outfall pipeline in proximity to an otter holt will require consent from the NPWS by applying a derogation license. Any piling or blasting works within 150 meters of and breeding otter holt will also require a derogation licence.
- A pre-construction otter survey will be carried out at least three to four months prior to work commencing in order to ascertain any otter activity in the area.
- All water discharged via surface water drains will be compliant with Inland Fisheries Ireland (IFI), Irish Water (IW) and EPA requirements.
- Any equipment likely to be used in stream will be totally cleaned prior to delivery to the worksites.
- All in-stream marine works will avoid heavy rain or flood conditions.
- Runoff from the site will be collected and appropriately disposed of in accordance with the Engineers requirement.
- During the course of the works being undertaken there will be no release of sediment or contaminated water into any water courses which are linked to Lough Swilly SPA and SAC. Appropriate silt controls including bunds/ silt fencing etc together with a pollution event response plan will be designed and agreed with the contractor prior to the commencement of works.

- All discharges of waters from the operation plant will comply with appropriate EPA limit / guidelines for bathing and shellfish waters. There shall be no refueling are cleaning of vehicles / equipment within 50 meters of water courses or the estuary. Refeuling shall only occur at pre agreed refueling / wash down areas as designated.
- In order to protect water quality during construction, appropriate temporary settlement ponds or settlement tanks will be used as required during construction to collect and settle silt rich waters. Details will be agreed with Inland Fisheries and the Planning Authority as part of the construction management plan.
- Appropriate permanent SUD's will be installed at the WWTP to ensure that no pollution or sediment rich water reaches the Lough Swilly SAC or SPA.
- Silt fencing will be erected downslope of all new build areas including the treatment plant and all pumping stations in order to prevent silt laden runoff to Lough Swilly.
- All excavations in any storage of spoil are to be placed within silt fences to prevent runoff during wet weather and spoil heaps will be kept at least 50 meters away from any water bodies or water courses.
- For the discharge of water from settlement ponds during the construction phase of the WWTP, a full time in stream turbidity meter will be installed where the on site discharge channel meets the drain in order to monitor turbidity levels in real time.
- Silt busters and silt bags Will be available as required at all proposed pumping stations during the construction phase.
- To prevent any pollution from hydrocarbons/ chemicals/ and cement, during the construction of the pumping stations, it is proposed to ensure that no refueling takes place within 50 meters of a watercourse.
- All machinery shall have an on-board spill kit.
- Hydrocarbon oil booms will be available at all times. All generators shall be placed on hydrocarbon mats.

- All chemicals will be stored away from aquatic environments within the site compound.
- No cement mixing or storage is to occur within 50 meters of any water course. The contractor will adhere to IFI guidelines.
- Dust control measures will also be put in place during the construction phase.
- The wastewater treatment plant will operate in accordance with the Irish Water Code of Practice for wastewater developments.
- Details of the mitigation measures set out in the Invasive Species Management plan will be strictly adhered to.

In combination effects are examined in section 8 of the NIS. It is noted that there are approximately 8km of pipeline proposed linking the various pumping stations with the WWTP. Inevitably there are numerous planning applications and developments along the vicinity of the route. These are listed in Appendix XI of the NIS. The fact that these developments have the benefit of planning permission, it follows that it was determined that these developments do not adversely affect Natura 2000 Sites in the vicinity. With the incorporation of mitigation measures proposed in the case the current application, I am satisfied that the proposed development will likewise not give rise to any adverse impacts on the Natura 2000 sites in the vicinity. Thus, it is reasonable to conclude that no in-combination impacts will arise. Ancillary works such as the incorporation of vent stacks, sewer upgrades and ESB ducting will be minor in nature and will not in themselves give rise to any adverse effects on the integrity of Natura 2000 in the vicinity. Therefore, no in-combination effects will arise.

Overall having regard to the foregoing, I consider that in-combination effects have been properly assessed and I consider that in conjunction with other permitted development in the area, significant in-combination effects are not likely to arise.

Conclusions in relation the Appropriate Assessment

I am satisfied on the basis all the information submitted in the NIS, that this document adequately explores and assesses in a detailed manner, the potential impacts that could arise in respect of the proposed wind farm on the qualifying interests of the Natura 2000 sites in the vicinity.

I am satisfied that it has been demonstrated through adequate research and surveys that the only potential adverse impact that could arise in the case of the surrounding SAC's, relates to potential impact on water quality primarily through the construction activities. The NIS has set forward a comprehensive suite of mitigation measures to ensure that the water quality will not be adversely affected as a result of the proposed development. During the operational phase the water quality of the Bay will improve. In the longer term the water quality and therefore the biodiversity of the environment of the Bay will improve on foot of the implementation of the proposed development.

Having regard to the detailed assessment carried out in the NIS together with my independent assessment in respect of the bird populations of special conservation interest and the otter foraging habitats associated with the SAC's in the vicinity, together with the longer term benefits in water quality that will accrue from the proposed Remelton, Milford, Rathmullan sewerage scheme, I consider that the conclusion reached in the NIS is reasonable. On the basis of the field survey results and the detailed analysis undertaken as part of the application and the NIS, it can be reasonably concluded, on the basis of best scientific knowledge and beyond all reasonable doubt, that the proposed development will not adversely affect any of the species of conservation interest associated with the SPA or the habitats/species associated with the SAC, either directly, indirectly or cumulatively.

11.2.2. On the basis of the information provided with the application, including the Natura Impact Statement, which I consider adequate in order to carry out a Stage 2 Appropriate Assessment, and the assessment carried out above, I am satisfied that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of the Lough Swilly SAC, Site Code 002287), Lough Swilly SPA, Leannan River SAC (Site Code: 002176), North Inishowen Coast SAC (Site Code: 002012), Lough Swilly SPA (Site Code (004075), Lough Fern SPA, (Site Code 004060), Horn Head to Fanad Head SPA (Site Code 004194), Derryveagh and Glendowan Mountains SPA (Site Code 004038), and the Greers Isle SPA (Site Code 004082).

12.0 **Conclusions and Recommendation**

Arising from my assessment above I consider the proposed development constitutes necessary infrastructure needed to address the problem of untreated sewage being discharged from three separate agglomerations into Lough Swilly which is contrary to the Urban Wastewater Treatment Directive – Council Directive 91/271/EEC, contrary to the Urban Wastewater Treatment Regulations (2001) (SI 254/2001) and contrary to the policies and provisions contained in the Donegal County Development Plan. I am further satisfied that the location of the wastewater treatment plant together with the associated rising mains, pumping stations and associated infrastructure from the towns of Ramelton, Milford and Rathmullen would not seriously injure the amenities of the area or property in the vicinity and would not adversely impact on the integrity of the qualifying interests associated with Natura 2000 sites in the vicinity. On this basis I recommend that An Bord Pleanála uphold the decision of Donegal County Council and grant planning permission for the proposed development.

13.0 **Reasons and Considerations**

The proposed development of a new wastewater treatment plant and associated infrastructure to serve the agglomerations of Ramelton, Milford and Rathmullen is required to address problems of untreated wastewater discharge from the above agglomerations and to improve the quality of effluent discharged into Lough Swilly. It is considered that the provision of a wastewater treatment plant with the associated infrastructure would result in a higher quality of effluent being discharged into Lough Swilly which would be beneficial to the receiving environment. Furthermore it is considered that the location of the wastewater treatment plant and the associated sewerage infrastructure would, subject to conditions below be generally acceptable in terms of traffic safety and convenience, would not seriously injure the amenity of the area, property in the vicinity and would not be prejudicial to public health. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

14.0 **Conditions**

1. The development shall be completed in accordance with the plans and particulars lodged with the application, as amended by the plans and particulars submitted to the planning authority on the 15th day of February, 2021 except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to the commencement of development and the development shall be carried out in accordance with the agreed particulars.

   Reason: In the interest of clarity.

2. (a) Prior to the commencement of development, the applicant shall agree in writing with the planning authority the implementation of a decommissioning, traffic, demolition and construction management plan which provides for

   (i) the location and details of any temporary construction access points to the site and temporary construction compounds,

   (ii) the phasing of decommissioning, demolition and construction works,

   (iii) details of locations for the disposal off-site of decommissioned, demolition/construction waste materials,

   (iv) the management of traffic flows on all related public roads during the various phases of on-site decommissioning, pipe laying and construction works,

   (v) restorative details of any temporary construction works including closure details for temporary construction access, and

   (vi) clarification of the proposed/intent decommissioning, demolition and construction period.

   (b) Development shall not commence without the written agreement of

the planning authority in accordance with this condition. Thereafter development shall proceed in strict conformity with the agreed decommissioning, traffic, demolition and construction management plan submitted with the application.

Reason: In the interest of traffic safety.

3. (a) Prior to the commencement of development, the applicant shall agree in writing with the planning authority a detailed method statement for dealing with incoming effluent during the transition/construction phase following the decommission of the existing wastewater treatment plant/septic tanks serving the existing agglomerations and prior to connecting to the operational wastewater treatment plant.

   (b) Development shall not commence without the written agreement of the planning authority in accordance with the above condition. Thereafter, the development shall proceed in strict conformity with the agreed method statement.

   Reason: To define the terms of the permission and in the interest of orderly development.

4. All works shall be completed in strict accordance with the invasive alien species management plan submitted with the application. Details of these measures shall be agreed in writing with the planning authority prior to the commencement of development.

   Reason: To control the spread of invasive species.

5. All mitigation measures contained in the Natura Impact Statement (NIS) received with the planning application on 25th day of August, 2020 shall be implemented in full. Details of the exact nature of all mitigation measures shall be agreed in writing with the planning authority prior to the commencement of development.

   Reason: To protect the integrity of Natura 2000 sites in the vicinity.

6. All mitigation measures contained in the Ecological Impact Assessment

(ECIA) received on 25th day of August, 2020 shall be implemented in full.

Reason: To protect the biodiversity of the area.

7. All mitigation measures contained in the Construction and Environmental Management Plan received on the 25th day of August, 2020 shall be implemented in full. Details of these measures shall be agreed in writing with the planning authority prior to the commencement of development.

   Reason: To protect the receiving environment.

8. All mitigation measures contained in the Flood Risk Assessment received on the 25th day of August, 2020 shall be implemented in full.

   Reason: To prevent flooding.

9. Site preparation and construction shall adhere to best practice and shall conform with the requirements of Inland Fisheries Ireland. Details of all works to be carried within 10 metres of the banks of any streams or watercourses shall be agreed in writing with Inland Fisheries Ireland prior to the commencement of development.

   Reason: To protect the aquatic environment.

10. All mitigation measures contained in the documentation submitted with the archaeological reports and the underwater archaeological impact assessment carried out by Mizen Archaeology submitted to the planning authority on the 25th day of August, 2020 shall be adhered to in full. Details of all mitigation measures shall be agreed in writing with the planning authority prior to the commencement of development.

    Reason: To protected the cultural heritage of the area.

11. An ecological clerk of works shall be engaged on site for the duration of the works to supervise, monitor and ensure the strict implementation of all mitigation measures set out in the documents referred to above.

    Reason: In the interest of the proper planning and sustainable development of the area and to ensure the preservation of the integrity of the qualifying interests associated with Natura 2000 sites in the vicinity.

12. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the "Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects", published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

    Reason: In the interest of sustainable waste management.

13. All tank containers located on all sites shall be structurally sound in order to prevent leaks. All tanks shall as a minimum be bunded locally to a volume of not less than 110% of the capacity of the largest tank within the bunded area.

    Reason: In the interest of public health.

14. Details of any artificial lighting proposed within the confines of the wastewater treatment plant shall be appropriately cowled and shall be agreed in writing with the planning authority prior to the commencement of development.

    Reason: In the interest of residential amenity.

15. Where chemicals are to be stored within the compound of the wastewater treatment plant such chemical shall be stored in bunded areas.

    Reason: In order to prevent pollution.

16. Water supply and drainage arrangements including the attenuation of surface water from the wastewater treatment plant shall be agreed in writing with the planning authority prior to the commencement of development. No surface water from any of the sites shall be permitted to

discharge to the public road.

Reason: In the interest of public health.

17. Prior to the commencement of development the applicant shall apply to Donegal County Council for a formal road opening licence. All road opening licences shall be in compliance with Guidelines for Managing Openings in Public Roads (Department of Transport, Tourism and Sport) (April 2017).

    Reason: In the interest of traffic safety and to avoid flooding.

18. Odour levels at the site boundary shall comply with an odour concentration limit of 3 odour units per cubic metre on a 98th percentile basis of hourly averages. Procedures for the purposes of determining compliance with this limit shall be submitted to, and agreed in writing with the planning authority prior to the commencement of development.

    Reason: To protect residential amenity of property in the vicinity.

19. During the operation of the wastewater treatment plant, the maximum noise level along the southern boundary of the site shall not exceed 50dB(A) (15 mins L_{Aeq}) at any time. Procedures for the purpose of determining compliance with this limit shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

    Reason: To protect residential amenities to the south of the subject site.

20. Throughout the duration of the construction phase the applicant shall incorporate adequate stocks of silt fences, silt bags, oil spillage equipment and absorbent sponges and pads int the event of accidental spillages of hydrocarbon, sediment or other hazardous substances on site. Full details of the nature of the stocks to be provided shall be submitted to the planning authority for agreement prior to the commencement of development.

    Reason: To protect watercourses in the vicinity.

21. A scheme indicating all landscaping around the proposed wastewater treatment plant shall be submitted to and agreed in writing with the planning authority prior to the commencement of development. The planting shall be carried out in accordance with the agreed scheme and

shall be completed within the first planting season following the commencement of construction works. Any plants which die or become seriously damaged or diseased shall be replaced within the next planting season with other trees of similar size and species unless otherwise agreed in writing with the planning authority.

Reason: In order to screen the development in the interest of visual amenity.

22. The applicant shall submit to the planning authority and to the Regional Office of Inland Fisheries Ireland formal written notification of the date of the commencement of construction works on site.

Reason: In the interest of clarity.

Paul Caprani,
Senior Planning Inspector.

20th December, 2021.