



Submission

Submitter:	Mr. Paul Barlow
Organisation Name:	Woodstown Bay Shellfish Limited
Submission Title:	Received by Post
Submission Reference No.:	S010495
Submission Received:	11 August 2022

Application

Applicant:	Irish Water
Reg. No.:	D0139-03

See below for Submission details.

Attachments are displayed on the following page(s).

Eve O'Sullivan

Subject: WBS Submission to Licence Review D0139-03
Attachments: WBS Submission to D0139-03.pdf; Screenshot of Upload fail.docx

From: Paul Barlow <paul@wbsglobal.com>
Sent: Thursday 11 August 2022 15:44
To: Licensing Staff <licensing@epa.ie>
Subject: WBS Submission to Licence Review D0139-03

Dear Sir / Madam ,

Please see attached our submission to the Youghal Wastewater Discharge Licence Review D1039-03 .

We tried to upload the submission to your website today, but the document would not upload , please see attached screenshot.

Can you please make sure this submission gets uploaded onto your website and if you could acknowledge receipt of this email that would be great.

Thank you,
Paul



Paul Barlow

-  +353 (0)51 385 405
-  +353 (0)87 256 5547
-  www.wbsglobal.com
-  The Harbour, Dunmore East,
Co. Waterford, Ireland. X91 FH0V



EPA,
Johnstown Castle,
Wexford,
Y35 W821.

10th July 2022

RE: Youghal Waste Water Discharge Licence Review D0139-03.

Dear Sirs,

We write to you in relation to the above mentioned WWD licence review application submitted to the Agency by Irish Water on the 18th June 2021.

Our family business operate a private shellfish fishery in Youghal under lease from the Duke of Devonshire's Lismore Estate the owner of the private foreshore and bed of the river Blackwater in Youghal Bay the subject of this application (exhibit 1). Its important to note that there is a significant historical background to Irish Water's applications for various permissions in respect of its activities in Youghal, which we feel are important to demonstrate to the agency in advance of our submissions in relation to this current application.

Historic timeline.

1. **13th June 2012** – The EPA issued a WWD licence to Irish Water for a proposed new outfall pipe at Ferrypoint in Youghal, without the knowledge of WBS who is the largest stakeholder of the Foreshore in question and without satisfying the requirements under planning law and EU law.
2. **December 2013**- WBS was just made aware of Irish Water's plans to discharge from its new WWTP. Through outfalls on WBS's private foreshore in Youghal Bay and the EPA's new licence that was issued to Irish Water for a proposed new outfall at Ferrypoint. This outfall is located within WBS's Youghal Mussel Fishery site. This notification was made to WBS by Bord Iascaigh Mhara and WBS immediately made submissions to the EPA, Irish Water/Cork County Council in this regard (exhibit 2&3).
3. **20-Jan-16** – Irish Water applied to the Circuit Court under Section 97 of the 2007 Water Services Act for a permanent way-leave on the foreshore privately owned by Lismore Estate and which is leased to WBS, this application was an attempt by Irish Water to obtain planning retrospectively for the construction/service/repair a new outfall sewer on the foreshore the subject of WBS's private shellfish fishery.
4. **18-Oct-16** – Despite the Circuit Court refusing to grant an order for Irish Water to carry out an inspection of WBS's fishery (within a Natura 2000 site). On the 18th October 2016 WBS

witnessed Irish Water after entering onto its private foreshore at Youghal and carrying out unauthorised surveying without any consent from the occupier/ lessee or prior environmental assessments to ensure their surveying would not impact the integrity of the EU protected site.

5. **6-April-17** - The Baker Judgement made clear that the Circuit Court was correct to refuse the inspection requested by Irish Water at WBS's private foreshore. Justice Baker stated in her judgement that the surveying done by Irish Water constituted a "*development*" and was in breach of the EU EIA/AA Directive.
6. **22nd May 2017**- The EPA issued a Technical Amendment to WWD licence D0139-01, while the above S97 proceedings with Judge Riordan were ongoing in the Cork Circuit Court. This Technical Amendment was issued by the EPA during the middle of the trial and ultimately relied on in Court by Irish Water's legal team (David Holland SC) to legitimise their unlawful discharges. This Technical Amendment was later challenged and found to be unlawful during Judicial Review proceedings taking by Environmentalist Peter Sweetman & Associates. This raises huge questions in relation to the EPA's involvement with justice in the above mentioned case. One would have to consider that the outcome of that case would more than likely have been different had the EPA not issued the Technical Amendment during the trial which was later found to be unlawful and ultimately removed.
7. Furthermore, to make matters worse, we feel it's important to notify the agency that Irish Water also relied heavily on an SFPA Authority Member Michael O'Mahony's evidence at the above mentioned S97 trial. However, WBS at that time had another set of proceedings ongoing in the High Court with the Minister for Marine/SFPA in relation to its Youghal based NDP Shellfish project. While questioned under oath by WBS's barrister SFPA Authority Member Michael O'Mahony who was directly appointed to his position within the SFPA by the Minister for Marine stated that he in fact "*volunteered*" to give evidence against WBS to support Irish Water's application for a wayleave at their S97 trial. I think it's fair to say the actions of the Minister for Marine, DAFM, the SFPA and the EPA were extremely questionable during the above mentioned trial and certainly interfered with justice and fair procedure in this case.
8. **July 2017** - Irish Water were unsuccessful in obtaining a wayleave on the foreshore of WBS's shellfish fishery, for the new outfall at Ferrypoint in the S97 Circuit Court case.
9. **15th February 2019**- The *Sweetman V EPA* judgement was delivered in Judicial Review proceedings stating that the EPA's decision to grant the above mentioned Technical Amendment for Dunn's Park in Youghal issued on 22nd May 2017 while the S97 trial was ongoing was "*ultra vires*".
10. **23rd March 2020**- WWD review application made by Irish Water D0139-02.
11. **17th June 2021** - WWD review application made by Irish Water D0139-02 withdrawn.
12. **18th June 2021**- WWD New Application D0139-03 submitted to the EPA (current application).

In respect of this current application (D0139-03) the Agency wrote to Irish Water on the 30th September 2021 (exhibit 5a) informing them that their documentation submitted as their application does not comply with Regulation 16 of the Waste Water Discharge Regulations 2007-2020 and went on to request further information be provided to the Agency. In reply to the agency's Regulation 18 (3)(b) request for information notice, Irish Water wrote to the EPA on the 10th November 2021 (exhibit 5b) claiming that the Dunn's Park outfall is an "*exempted development*". We forcefully reject this claim by Irish Water and state that all the existing outfalls at our private foreshore in Youghal (namely Dunn's

Park, Foxhole, Paxes Lane) do not qualify for the previously available exemption under section 4 of the Planning and Development act 1963 (later repealed). Lismore Estate is the undisputed owner of the Foreshore where this outfall (Dunn's Park) was originally erected without any of the required planning permission/wayleave/lease/foreshore licence.

By way of background WBS wrote to Cork County Council on 20th August 2014 raising its concerns in relation to the unlawful outfalls on its private foreshore namely Dunn's Park/Foxhole, Paxes Lane & the Strand outfalls (exhibit 3). Cork County Council replied to WBS's Solicitor dated the 26th August 2014 (exhibit 4), confirming their requirements for planning and foreshore licences and stated that *"there will be no progressing of works on any outfalls in Youghal, until a Foreshore Licence is granted by the Department of Environment"*. We submit that the Dunn's Park outfall the subject of this current application still to this day has no planning permission, foreshore licence, wayleave, or effluent licence, despite Cork County Council's letter back in 2014 stating that no works would commence on the proposed project until the necessary Foreshore Licences had been received from the Department of Environment. Cork County Council applied for foreshore licences to do refurbishment and upsizing works "development" on the existing outfalls in Youghal (Dunn's Park/Paxes Lane/ Foxhole/Strand) see application (exhibit 6), we submit that this application confirms the applicants observation that the existing outfalls require significant refurbishment and upsizing, which we submit clearly constitutes a "development" and therefore requires strict compliance with the necessary EU Directives, prior to any application to the agency (EPA) for a discharge licence. Furthermore, the EPA have not considered the ongoing harmful impacts of the unlawful discharges from this unlawful outfall sewer and the other unlawful sewers in Youghal (Foxhole/Paxes Lane) by the applicant in terms of Planning Law, the EIA Directive, the Habitats Directive, the Water Framework Directive and the Marine Strategy Framework Directive.

In conclusion its important for the Agency to note that the sewerage works on the Youghal WWT project to include the new WWTP have been ongoing since 2001. It appears that there have been several changes in position from Cork County Council and Irish Water in respect of this plan over the years and at all stages Irish Water have attempted to gain planning permission "retrospectively", despite Cork County Council's earlier assurances to our solicitor, that no works would commence until these outfalls had the required Foreshore Licences. We draw your attention to the High Court Judgement in IEHC 128 2020, where Justice Gareth Simmons states at paragraph 43 of his judgement.

"Directive 85/337 however states that it is necessary for the competent authority to take effects on the environment into account at the earliest possible stage in all technical planning and decision making processes, the objective being to prevent the creation of pollution or nuisances at source rather than subsequently trying to counteract their effects."

Furthermore Justice Simmons confirms there is a strict prohibition on retrospective planning where there have been breaches of the EU Birds & Habitats Directive, which we submit is the case in respect of the Youghal outfalls and that retrospective planning is in strict contravention of EU Law. Furthermore Irish Water have failed to engage with our family business in terms of permissions and at all stages have tried to forcibly gain a wayleave on our private foreshore through the Courts and intimidating means. In this regard we draw your attention to the High Court Judgement in the case of *Sweetman V An Bord Pleanala & Brandan Beo Teoranta* IEHC 16, where Justice Hyland emphasises the requirements on the applicants in terms of permission from the owners/occupiers of lands concerned in applications where the applicant is not the land owner.

"The applicant relies upon Article 22 (2)(g) of the PDR 2001 which requires that where the applicant is not the legal owner of the lands concerned, the written consent of the owner of the land concerned is necessary to make the application."

We submit that the applicant in this case has not obtained written consent from the owner/occupier of the private foreshore in Youghal nor have they obtained a wayleave in this regard.

Developments on the foreshore require planning permission in addition to a Foreshore lease/licence/permission. The outfalls at our private foreshore in Youghal Bay namely Dunn's Park, Paxes Lane and Foxhole, do not hold any of the following permissions, which are required by both Irish Law and European Law.

- Planning Permission.
- A legal interest in the foreshore from the landowner by way of permanent wayleave.
- Consent from the lessee and occupier.
- Foreshore Licence from the Minister of Environment.
- Environmental Impact Statement and Environmental Impact Assessment.
- Compliance with the EU Water Framework Directive.
- Compliance with the EU The Marine Strategy Framework Directive.
- Compliance with the EU Habitats Directive.

It is incomprehensible that Irish Water would operate in such an unlawful and environmentally harmful manner, especially given the fact that The Blackwater Estuary was listed on the Ramsar List of Wetlands of International Importance on 11 June 1996, the site is also a Special Protection Area (SPA) under the E.U. Birds Directive and a Special Area of Conservation SAC under the E.U Habitats Directive. The foreshore in question in Youghal is of significant international environmental importance and one which the agency MUST protect under EU Law.

We request that this application be dismissed by the Agency, until the applicant has satisfied all legal requirements for this development and discharge.

Yours Sincerely,



Paul Barlow

7th December 2015

Our Ref: BDH/LJ.LE.Y.4

Exhibit 1

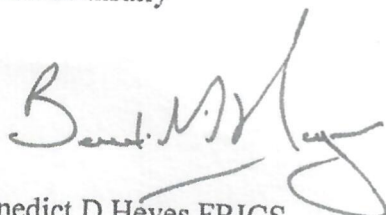
To whom it may concern

Woodstown Bay Shellfish Ltd

On behalf of the Lismore Estate I confirm our lessee Woodstown Bay Shellfish Ltd, may obtain from the Land Registry, copies of all documentation, to include maps, details of transfers etc relating to Folio CK1645.

I also confirm the Lismore Estate is the owner of the bed of Youghal Bay, including the river bed of the River Blackwater, up to the high water mark. It does not include the river banks or the water. The Estate's ownership of Youghal Bay extends to where the River Blackwater meets the sea, normally defined as a line across the mouth of the river from the Youghal Lighthouse.

Yours faithfully



Benedict D Heyes FRICS
Agent





Cultivating the World's Finest Shellfish is our Passion.

Mr Aiden Fahey,
WS Atkins Ireland Ltd,
Unit 2B,
2200 Cork Airport Business Park,
Co. Cork.

Exhibit 2

05th December 2013

RE: Our exclusion from the EIA regarding the proposed Youghal main drainage scheme.

Dear Mr Fahey,

Further to my telephone conversation with you yesterday I would like to formally put you on notice that our company Woodstown Bay Shellfish Ltd, has not been informed, notified or had any of our interests been included in any of the EIS or EIA's or any other assessments completed by any of the relevant bodies involved in this proposed scheme of its plans, namely WS Atkins Ireland Ltd, Cork County Council, Youghal Town Council, Department of Environment, Community and Local Government, Department of Agriculture, Food & Marine, SFPA, FSAI or BIM.

Woodstown Bay Shellfish Ltd is the exclusive stakeholder of the rights of the bottom of the said seabed in Youghal Bay, map of our exclusive title /rights licensed to us by the Duke of Devonshire/Lismore Estate is attached.

It has only been brought to our attention 24 hours ago, that Cork County Council has applied to the Department of Agriculture, Food and the Marine and subsequently the Department of Environment, Community & Local Government for a number of foreshore licenses for a number of outfall pipes relating to the Youghal main drainage and untreated sewerage scheme and has a plan to make significant construction of these outfall pipes directly on our mussel beds in Youghal Bay. We have been operating in Youghal Bay in 2004 and have been exclusively licensed by the Duke of Devonshire/Lismore Estate to cultivate shellfish on the bed of the river. We have a significant stock of mussels on the bed of the river at present.

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It was only yesterday that I was forwarded this information from BIM and was informed by them that our mussel production in Youghal has not been included in the EIA. This is very worrying from our point of view, as this project would have a detrimental effect on our mussel farm in Youghal Bay. I can see from the map that you prepared, that it is dated 28/08/2008 and can only wonder why I have not been notified about these plans before now especially when Woodstown Bay Shellfish Ltd is the largest stakeholder that would be hugely damaged by these proposed plans.

In 2003 Woodstown Bay Shellfish Ltd was authorized to develop a bottom mussel production in Youghal Bay and invested €3.5 million in building our vessel the 43m "Creadan Lady" purpose built for farming mussels in Youghal Bay. This development was hugely supported by the DAFM, BIM and the Minister for Marine and we were subsequently selected to receive grant aid under the NDP of €1.4 million in support of our 100% export seafood business in Youghal Bay.

Finally I would like to formally put you on notice that we completely object to the following applications for Foreshore Licenses for the proposed outfalls in Youghal Bay, namely Paxes Lane Outfall, Ferry Point Outfall, Dunnes Park Outfall and the Foxhole Outfall, in its entirety. If this plan were to go ahead it would have a detrimental effect on our mussel farm and would give rise to not only claims for the millions of Euros we have invested in this business but there would be claims of millions of Euros of lost earnings going forward.

I urgently await hearing from you.

Yours Truly,


Mr Paul Barlow

O'Shea, White & Co.

SOLICITORS

Old Market Lane,
Killarney,
Co. Kerry.

Tel: 064 6630908

Fax: 064 6637426

Email: info@osheawhite.ie

Web: www.osheawhite.ie

DX 51026 Killarney,

Date: 20th August 2014

Our Ref: B0014/NW/ROS

Your Ref:

By Email and Post: environ@corkcoco.ie

Department of Air, Noise &
Odour, Water or Waste Water
Pollution Issues,
Cork County Council,
Headquarters,
County Hall,
Carrigrohanan Road,
Cork.

Exhibit 3

Re: Our Client: Woodstown Bay Shellfish Limited, The Harbour, Dunmore East, Co. Waterford.

Dear Sir/Madam,

We confirm that we act on behalf of Woodstown Bay Shellfish Limited of The Harbour, Dunmore East, Co. Waterford.

We confirm that since 2004 our client has been operating a Private Aquaculture site for the cultivation of bottom mussels, Marine Institute Fish Health Authorisation Number, FHA 481 within its Private Fishery Licenced to them from Lismore Estate/Duke of Devonshire, in Youghal Bay, Co. Cork.

Our client instructs that it was first notified of your Applications for Foreshore Licences in respect of the outfall pipes referenced hereunder on the evening of the 4th December 2013. Our client immediately wrote to Mr. Aidan Fahy of WS Atkins Ireland Limited outlining its most serious concerns and objections to the project. In this regard we enclose you herewith a copy of our client's letter to Mr. Aidan Fahy dated the 5th of December 2013. We also enclose you herewith a copy of Mr. Fahy's reply and we confirm that the objections and concerns referred to therein were submitted to the Foreshore Section of the Department of The Environment, Community and Local Government as advised on the 5th December 2013 which was the last date for submissions/ objections. We note from the documentation received from our client that Bord Iascaigh Mhara (BIM) also submitted correspondence to the Foreshore Section of the Department of The Environment by email on the 5th of December 2013 outlining that there were significant aquaculture interests in Youghal Estuary and that they had a number of concerns about the proposed development in relation to the potential impact on aquaculture activity. BIM notified the Department that excavation of the

John P. O'Shea, Niamh White

sea bed for installation of the outfall pipes could interfere with commercially viable stocks and that ongoing discharges could also have an impact. BIM advised that it would be prudent to consult directly with any stakeholders and to consider their concerns with regard to stock levels and locations within the Estuary. We confirm that our client was not consulted at any level despite the fact any such development would have a serious and direct impact on his bottom mussel production business, within its Private Fishery.

Our client was authorised in 2003 to develop a bottom mussel production area in Youghal Bay. Our client invested in excess of €4 million in this development and was supported by the Department of Agriculture, Food & The Marine, by Bord Iascaigh Mhara (BIM) and by the Minister for the Marine.

We enclose you herewith a copy Map outlining the extent of the privately owned Foreshore in Youghal Bay. All fishing rights and ownership of the bed of the river from the open sea up to the high water mark are vested in the Lismore Estate/ Duke of Devonshire and these lands are currently the subject of a Licence to our client.

Our client has substantial mussel stocks on his private mussel cultivation site within its Private Fishery in Youghal at present and instructs that any attempt by the Minister/Department of Environment to issue Foreshore Licences on this privately owned Foreshore will result in an immediate application to the High Court for Judicial Review and or Injunctive Relief. Our client will also hold you responsible for any losses incurred as a result of your actions.

Please clarify if the existing outfall pipes, outlined below, hold Foreshore and Effluent Licenses and if so please forward a copy of the following documents to us by return:-

1. A copy of the current Foreshore Licence & Effluent Licence for the Foxhole Outfall Pipe.
2. A copy of the current Foreshore Licence & Effluent Licence for the Dunnes Park Outfall Pipe.
3. A copy of the current Foreshore Licence & Effluent Licence for the Paxes Lane Outfall Pipe.
4. A copy of the current Foreshore Licence & Effluent Licence for the Strand Outfall Pipe.

Please confirm by return that no works will commence at Youghal which will affect our client's bottom mussel production area.

We urgently await hearing from you and please note that the within letter will be produced in evidence to fix you with costs associated with any application that is made in the High Court with regard to Judicial Review Proceedings and or Injunctive Relief as a result of your encroachment on our client's bottom mussel production area within its Private Fishery Licenced to them from Lismore Estate/Duke of Devonshire. An application will also be made as part of any Proceedings issued for Damages as a result of any losses incurred by our client.

Yours truly,



Niamh White
O'Shea White & Co.,
niamh@osheawhite.ie
DX 51026 Killarney

114

Comhairle Chontae Chorcaí
Cork County Council

Water Services Capital Project Office,
Model Business Park,
Model Farm Road,
Cork
Tel No. (021) 4819425
E-Mail: shar



Niamh White,
O'Shea, White & Co Solicitors,
Old Market Lane,
Killarney,
Co. Kerry.

Exhibit 4

26th August 2014

**RE: Youghal Main Drainage Scheme WWTP - Foreshore Licence
Application**

Dear Ms White

We acknowledge receipt of your letters dated 20th & 22nd August 2014.

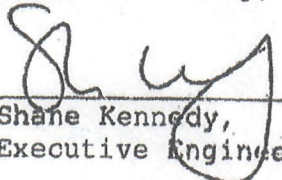
We note that your client, Woodstown Bay Shellfish Ltd has made an objection in connection with the Foreshore Licence application for the Youghal Main Drainage Scheme.

As from 1st January 2014 Irish Water are the water authority and will be the future benefactors of any foreshore licence granted for this scheme.

Therefore on behalf of Irish Water, I can confirm that there will be no progressing of the outfall works in Youghal until a Foreshore Licence is granted by the Department of Environment.

Going forward all future correspondence should be forwarded to Mr Michael Tinsley, Wastewater Capital Programme Lead, Irish Water, Colvill House, 24-26 Talbot Street, Dublin 1. Tel: +353 1 892 5115. Email: mtinsley@water.ie

Yours Sincerely,


Shane Kennedy,
Executive Engineer

Cc: Michael Tinsley, Irish Water

IWLicensingSouthern
Ken Conroy

Exhibit 5A

On Behalf of Irish Water

30 September 2021

Reg. No.: D0139-03

Re: Notice in accordance with Regulation 18(3)(b) of the Waste Water Discharge (Authorisation) Regulations 2007 to 2020

Dear Sir or Madam

I refer to your application for a review of the waste water discharge licence relating to agglomeration named Youghal, Reg. No. D0139-03.

Having examined the documentation submitted, I am to advise that the Agency is of the view that the documentation does not comply with Regulation 16 of the Waste Water Discharge (Authorisation) Regulations 2007 to 2020.

You are therefore required, in accordance with Regulation 18(3)(b) of the Regulations, to take steps to supply the information detailed below:

REGULATION 16 COMPLIANCE REQUIREMENTS

1. Clarify whether the Dunn's Park outfall infrastructure is or is not development, or is or is not exempted development, under the Planning and Development Act 2000. Clarify whether a grant of planning permission was/ is required for the Dunn's Park outfall infrastructure. Where the Dunn's Park outfall infrastructure is considered exempted development, provide confirmation by specific reference to the relevant legislation or by providing a declaration/ decision from the relevant planning authority/ An Bord Pleanála. You may wish to refer the matter to the planning authority/ An Bord Pleanála for a declaration/ decision under Section 5 of the 2000 Act.
2. Submit an Environmental Impact Assessment Report, in accordance with Regulation 17 of the European Union (Waste Water Discharge) Regulations 2007 to 2020.

Your reply to this notice should include a revised non-technical summary which reflects the information you supply in compliance with the notice, insofar as that information

impinges on the non-technical summary.

In the case where any drawings already submitted are subject to revision consequent on this request, a revised drawing should be prepared in each case. It is not sufficient to annotate the original drawing with a textual correction. Where such revised drawings are submitted, provide a list of drawing titles, drawing numbers and revision status, which correlates the revised drawings with the superseded versions.

Please supply the information by 27 October 2021. Please note that all maps/ drawings should not exceed A3 in size.

Your response to this request is to be submitted via EDEN. Guidance on how to use this portal is available on the EPA website at <https://www.epa.ie/publications/licensing--permitting/industrial/ipc/how-to-open-and-respond-to-an-epa-notice-issued-to-eden.php>

Please direct any queries that you may have in relation to the above to the Inspector Christine Murphy at 053-9160600.

Yours Faithfully,

Environmental Licensing Programme
Office of Environmental Sustainability

Environmental Licensing Programme
Office of Environmental Sustainability
Environmental Protection Agency
PO Box 3000
Johnstown Castle Estate
Wexford

Exhibit 5B

10/11/2021

IW ref: LT0529

Re: Youghal Waste Water Discharge Licence Application D0139-02

Colvill House
24-26 Talbot Street
Dublin 1
D01 NP86
Ireland

T: +353 1 89 25000
F: +353 1 89 25001
www.water.ie

Dear Inspector,

In response to the Regulation 18(3)(b) request for information notice dated 30th September 2021, please see below for relevant information.

Clarify whether the Dunn's Park outfall infrastructure is or is not development, or is or is not exempted development, under the Planning and Development Act 2000. Clarify whether a grant of planning permission was/ is required for the Dunn's Park outfall infrastructure. Where the Dunn's Park outfall infrastructure is considered exempted development, provide confirmation by specific reference to the relevant legislation or by providing a declaration/ decision from the relevant planning authority/ An Bord Pleanála. You may wish to refer the matter to the planning authority/ An Bord Pleanála for a declaration/ decision under Section 5 of the 2000 Act.

The Dunn's Park outfall infrastructure was constructed during the 1970's by, to the best of Irish Water's knowledge, Youghal Urban District Council. It was constructed at a time when planning permission was not required for local authority development, by virtue of the Local Government (Planning and Development) Act 1963 (the 1963 Act.) at a time when planning permission was not required for local authority development, by virtue of the Local Government (Planning and Development) Act 1963 (the 1963 Act).

Section 4 of the 1963 Act (which was subsequently amended and then repealed) originally stated:

"4.—(1) The following shall be exempted developments for the purposes of this Act:
(b) development by the council of a county in the county health district;
(c) development by the corporation of a county or other borough in such borough;
(d) development by the council of an urban district in such district; [...]"

Section 265(1)(a) of the Planning and Development Act 2000 (the PDA 2000) provides:
"Nothing in this Act shall affect the validity of anything done under the Local Government (Planning and Development) Acts, 1963 to 1999, or under any regulations made under those Acts."

Stiúrthóirí / Directors: Cathal Marley (Chairman), Niall Gleeson, Eamon Gallen, Yvonne Harris, Brendan Murphy, Maria O'Dwyer
Ofíóg Chláraithe / Registered Office: Teach Colvill, 24-26 Sráid Thalbóid, Baile Átha Cliath 1, D01 NP86 / Colvill House, 24-26 Talbot Street, Dublin 1, D01 NP86
Is cuideachta ghníomhaíochta ainmnithe atá faoi theorainn scaireanna é Uisce Éireann / Irish Water is a designated activity company, limited by shares.
Uimhir Chláraithe in Éirinn / Registered in Ireland No.: 530363

Furthermore, Article 11 of the Planning and Development Regulations of 2001 provides: "Development commenced prior to the coming into operation of this Part and which was exempted development for the purposes of the Act of 1963 or the 1994 Regulations, shall notwithstanding the repeal of that Act and the revocation of those Regulations, continue to be exempted development for the purposes of the Act."

As such, the construction of the Dunn's Park outfall infrastructure was, and remains, exempted development. No works have been carried out which would require a new grant of planning permission under the PDA 2000.

A new planning permission under the PDA 2000 for the continued use of the Dunn's Park outfall is also not required, as the outfall has been used to discharge effluent (both treated and untreated) from Youghal on a continuous basis since it was originally constructed in the 1970's. In this regard, Dunn's Park has been used as the primary discharge outfall for the Youghal WWTP since it commenced operation on or about 18 December 2017.

On the basis of the above, the construction of the Dunn's Park outfall infrastructure was, and remains, an "exempted development" and its continued use is authorised. No further grant of planning permission or declaration of exempted development is required.

Furthermore, the Wastewater Discharge Licence Review is not an application "that involves development or proposed development for which a grant of permission is required" within the meaning of Regulation 16(3A) or Regulation 18(3A) of the Waste Water Discharge Regulations 2007 to 2020.

If any future works or change of use is needed, Irish Water will seek the appropriate statutory consents (including planning permission, if required) for such development.

Submit an Environmental Impact Assessment Report, in accordance with Regulation 17 of the European Union (Waste Water Discharge) Regulations 2007 to 2020.

It is proposed that an EIAR Scoping Request will be submitted to the Agency by 3rd December at the latest requesting the Agency for an opinion in writing on the scope and level of detail of the information required to be included in the EIAR as per regulation 17C(1) of the Waste Water Discharge Regulations 2007 to 2020.

Yours sincerely,

Sheelagh Flanagan
 Sheelagh Flanagan
 Environmental Strategy

**APPLICATION FOR A LEASE/LICENCE/PERMISSION UNDER THE
FORESHORE ACT 1933 (AS AMENDED)***

(This form should NOT be used for Applications for Offshore Electricity Generating Stations)

Please read Guidance Notes before completing this form

USE BLOCK CAPITALS IN BLACK INK

For Office Use
Application Ref. No.
Date of receipt

Exhibit 6

1. A. Name of Applicant in full

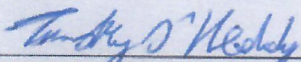
CORK COUNTY COUNCIL

B. Address of Applicant in full

WATER SERVICERS INVESTMENT PROGRAMME PROJECT OFFICE,
MODEL BUSINESS PARK,
MODEL FARM ROAD
CORK

Telephone	021 481 9400	Mobile	N/A
Fax	021 481 9433	E-mail	WSIP@CORKCOCO.IE
PPS No.	N/A	VAT No.	N/A

C. Signature of Applicant

 (TIMOTHY O'HERLIHY, EXECUTIVE ENGINEER) Date: 2/10/08

(where the signatory is an officer of a local authority or a company, the position held should be stated and the signatory's name should also be provided in block capitals).

D. Name of contact person if different from above

MR KEVIN MURRAY, ATKINS IRELAND,

Address	ATKINS UNIT 2B, 2200 CORK AIRPORT BUSINESS PARK, CORK		
Telephone	021 4290300	Mobile	N/A
Fax	021 4290360	E-mail	KEVIN.MURRAY@ATKINSGLOBAL.IE

* Legislation Applicable

Foreshore Act, 1933 (No. 12); Foreshore (Amendment) Act, 1992 (No.17); Fisheries and Foreshore (Amendment) Act, 1993 (No. 54), Fisheries (Amendment) Act, 2003 (No. 21); European Communities (Environmental Impact Assessment Regulations, 1989 to 1999; Foreshore (Environmental Impact Assessment) Regulations, 1990 (S.I. No. 220); Planning and Development Act 2000 (No. 30) Part XV

E. Name and Address of Applicant's Legal Advisors

(Applicants are strongly advised to seek legal assistance, prior to agreeing to accept an offer of a foreshore lease/licence/permission as all are legally binding documents. Where an offer is made of a Foreshore Lease/Licence/Permission it will be done through the Applicant's Legal Advisors)

MS. MARY ROCHE, COUNTY SOLICITOR, CORK COUNTY COUNCIL,
CORPORATE AFFAIRS & LEGAL DEPARTMENT, COUNTY HALL, CORK.

Telephone 021 428 5412 Fax 021 427 6321 E-mail MARY.ROCHE@CORKCOCO.IE

2. (A) A detailed description of the proposed works which are to be carried out on the foreshore. (Please feel free to use additional sheets, which should be signed and dated).

The works comprise of

- 1) Construction of an outfall in the vicinity of ferry point
- 2) Refurbishment of existing outfalls near foxhole, Dunnes Park, Paxes lane and the Strand

1) FERRY POINT OUTFALL

The works comprise of the construction of a new sea outfall as part of the Youghal Main Drainage Scheme Project. The outfall shall extend out to Youghal Harbour in the vicinity of Ferry Point as shown on Drawing No. 2794SK04. The outfall shall dispose of treated final effluent from the proposed Youghal Wastewater Treatment Plant.

The length of the outfall will be finalised at detailed design stage. The outfall is expected to extend into the harbour by no more than 400m. Construction of the outfall shall involve dredging of the sea bed to create a trench for the pipework. Following installation of the pipework, surround & armour, the trench shall be backfilled with dredged material as shown in the typical construction details are provided in Drawing No. RK2794SK03

2) REFURBISHMENT OF EXISTING OUTFALLS

Work shall involve the repair of existing outfalls in near foxhole, Dunnes Park, Paxes lane and the Strand as shown on Drawing No. 2794SK04. The extent of works required shall be determined after a dive survey of the outfalls is undertaken, but may involve:

- 1) Removal of sediment build-up around the outfalls
- 2) Installation or replacement of diffusers as per typical details shown in drawing no. 2794SK03
- 3) Replacement or upsizing of existing pipework.

(B) A statement of reason for the works

The existing sewer network serving Youghal largely comprises combined sewer systems. Wastewater from the town is currently discharged untreated to the Blackwater Estuary and the sea via three main outfalls, and several overflows.

The proposed works for the Youghal Main Drainage Scheme involves the augmentation of existing outfalls so as to only dispose of storm water directly to the Estuary and sea. Foul water will be directed to the proposed wastewater treatment plant. Final effluent will be disposed of via the proposed new outfall near Ferry Point. The wastewater treatment works and new outfall will lead to an improvement in harbour water quality. The Estuary has a tendency towards eutrophication and has been designated as a sensitive area. Due to current water quality issues the beach in Youghal has recently lost its blue flag status.

An EIS has been prepared for the development. A Digital copy of the non technical summary of the EIS is included with this application.

A digital copy of extracts of the preliminary report relevant to this application have also been included in this application. These extracts include,

Volume 1 - Executive Summary

Volume 2 – Wastewater Treatment Works (Details of discharge water included in Sections 5 & 6)

Volume 3 – Drainage Collection System

APPLICATIONS FOR PLANNING PERMISSION AND WASTEWATER DISCHARGE LICENSE ARE BEING APPLIED FOR CONCURRENTLY WITH THIS APPLICATION.

A statement of the disturbance to the foreshore, arising from these works, should be attached covering the impact on the marine environment including the impact on coastal erosion, navigation, fishing, fisheries (various species known to inhabit the area), pleasure boating and sailing, air navigation (if appropriate).

(C) Provide the following location details in respect of the area of foreshore for which the Lease/Licence/Permission is sought

(i) Bay YOUGHAL

(ii) County CORK

(iii) Geographic co-ordinates in degrees, minutes and seconds

FOXHOLE OUTFALL – 51°58'32" , -7°51'10"

DUNNES PARK OUTFALL – 51°57'27" , -7°50'59"

PROPOSED FERRY POINT – 51°57'16" , -7°50'48"

PAXES LANE OUTFALL- 51°56'55" , -7°50'29"

STRAND OUTFALL- 51°56'16" , -7°50'52"

(iv) OS Map No. 6253D, 6301-03, 6301-04, 6301-09, 6301-14, 6301-19 & 6301-24

(v) Size (hectares) 3.368 ha

(vi) Local Authority CORK COUNTY COUNCIL

3. RECORD OF DOCUMENTS ENCLOSED WITH THIS APPLICATION



An application for a lease or licence must be accompanied by 10 copies (15 copies if there is a possibility of significant impact on the marine environment, such as for sewerage schemes, dredging, marinas and any project requiring an EIS) of all relevant documents.

- (i) **Ordnance Survey Map (Scale of 1:10,560, ie a six inch map)**
Applicants must certify and date all maps submitted, stating the area of foreshore involved in metric measurements (i.e. hectares or square kilometres etc) with the area involved clearly delineated in red thereon.
- (ii) **British Admiralty Chart (largest available scale)**
- (iii) **Decision of planning authority or An Bord Pleanála under Planning Acts (Required)**
Developments on the foreshore require planning permission in addition to a Foreshore Lease/Licence/Permission. All Foreshore Leases, Licences and Permissions are without prejudice to the powers of the local planning authority. Applicants should, therefore, consult initially with the local planning authority regarding their proposal.
- (iv) **Copy of licence under Section 4 of Local Government Water Pollution Act, 1977**
- (v) **Environmental Impact Statement**
- (vi) **Drawings of the structures to be used and/or layout**
- (vii) **Copy of any correspondence with the Department of the Environment, Heritage and Local Government (Heritage and Planning Division)**
- (viii) **Certified copy of Company's Memorandum and Articles of Association (Only one copy is required)**
- (ix) **Certificate of Incorporation of a Limited Liability Company/ Rule Book/Constitution for a Club or Co-Operative Society as appropriate**
- (x) **Other (specify)___Extract of the Project Preliminary Report**

(Note:It may not be necessary to include all of the above documents please refer to the accompanying "Guidance Notes".

4. Details of any previous Leases/Licences/Permissions received by the applicant for this or any adjoining sites (if appropriate)

- (i) **Date of Lease/Licence/Permission** 19/10/1981
- (ii) **Reference number(s)** FILE REF: MS51/8/656
DEED NO. 691

- 5. Is all or any part of the Foreshore (the subject of this application) in private ownership?**
(This search should be carried out in the Registry of Deeds and Land Registry and copies of results, including where appropriate, folio maps should be included).

If yes, please provide details of ownership.

THE ESTATE OF THE DUKE OF DEVONSHIRE OWNS TITLE TO A SIGNIFICANT AREA OF THE BLACKWATER AT YOUGHAL ESTUARY, INCLUDING THE BEDDING AND FISHING RIGHTS TO THE EXTENT OF THE HIGH WATER MARK AT THE PROPOSED WORKS.

Have adjacent land owners, whose properties may be affected by these works been consulted?
Please provide details/permissions as appropriate.

INCLUDED IN THIS APPLICATION IS A LETTER FROM THE AGENT OF THE DUKE DEVONSHIRE SUPPORTING THE YOUGHAL MAIN DRAINAGE SCHEME PROJECT AND WORKS INVOLVED ON THE FORESHORE.

IT IS NOT ANTICIPATED THAT ANY OTHER NEIGHBOURING PROPERTIES WILL BE AFFECTED

6. Employment Implications (if any)

THE ESTIMATED COST OF THE COMPLETE SCHEME IS €21.9M, WITH ASSOCIATED CONSTRUCTION STAGE EMPLOYMENT.

THE SCHEME INCLUDES A NEW WASTEWATER TREATMENT PLANT WHICH WILL IMPROVE RESIDENTIAL AND INDUSTRIAL DEVELOPMENT POTENTIAL IN THE AREA.

THE SCHEME SHALL REDUCE THE LEVEL OF POLLUTANTS IN EFFLUENT DISCHARGED INTO YOUGHAL HARBOUR, IMPROVING THE WATER QUALITY IN THE HARBOUR AND ASSIST IN REGAINING YOUGHAL BEACH'S BLUE FLAG STATUS. THIS WOULD BE OF BENEFIT TO THE TOURISM INDUSTRY IN THE AREA.

7. Capital cost of proposed works (€ - Euro)

COMPLETE YOUGHAL MAIN DRAINAGE SCHEME €21.9 MILLION
OUTFALL ELEMENT €1.39 MILLION

- 8. Do the proposed works involve the draw down of European Union or State funding?**
YES

If "Yes" give details, including any time restrictions, etc. applying

DEPARTMENT OF THE ENVIRONMENT, HERITAGE AND LOCAL GOVERNMENT WATER SERVICES INVESTMENT PROGRAMME 2007 - 2009

9. Do the proposed works provide for public use, restricted use or strictly private use? (give details) _

THE YOUGHAL MAIN DRAINAGE SCHEME IS A PUBLIC SCHEME PROVIDED BY CORK COUNTY COUNCIL. PUBLIC ACCESS TO THE PROPOSED FORESHORE WORKS WILL NOT BE PERMITTED.

10. Are there public health/safety implications arising from the proposed works? (e.g. effluent disposal, removal of derelict or dangerous structures etc.)

EFFLUENT TREATED TO A SECONDARY TREATMENT STANDARD WILL BE DISCHARGED FROM THE PROPOSED FERRY POINT OUTFALL. THIS WILL SIGNIFICANTLY IMPROVE WATER QUALITY IN THE HAROUR.

THERE ARE NO SIGNIFICANT CONSTRUCTION RISKS. ANY RISKS ARE SHORT TERM AND ARE EASILY CONTROLLED, I.E. THE SEPARATION OF THE CONSTRUCTION WORKS FROM THE EXISTING HARBOUR ACTIVITIES.

ALL WORKS WILL BE COMPLETED IN ACCORDANCE WITH RELEVANT STANDARDS AND REGULATIONS.

10a. Are there public navigational safety implications arising from the proposed works?

YES,

1. What marine activity is there in the area?

RECREATION AND COMMERCIAL NAVIGATION ACTIVITY

2. How will the marine activity be affected by the proposed works?

WORKS WILL PROVIDE A NAVIGATIONAL HAZARD TO SEA CRAFT. ANY RISKS ARE SHORT TERM AND ARE EASILY CONTROLLED

3. What mitigating measures will be put in place?

AN EXCLUSION ZONE WILL BE PUT IN PLACE AROUND THE WORK AREA TO PREVENT CROSSING BY OTHER VESSELS.

11. Will the works involve the storage and/or disposal of waste?

NO. ANY MATERIAL EXCAVATED AS PART OF THE CONSTRUCTION OF THE NEW FERRY POINT OUTFALL WORKS WILL BE REPLACED INTO THE TRENCHES SO AS TO MAINTAIN THE PROFILE OF THE SEA BED.

ANY MATERIAL CLEARED FROM THE EXISTING OUTFALLS & DIFFUSERS WILL BE APPROPRIATELY DISPOSED OF.

If "Yes" please give details of the type of waste and the proposed method of storage and/or disposal (including location)

**Certain developments are subject to the European Communities (Environmental Impact Assessment) Regulations, 1989 to 1999. It is the responsibility of the applicant to consult and comply with these Regulations. Where the relevant threshold in the Regulations is exceeded an application for permission under the Foreshore Acts must include an Environmental Impact Statement (EIS). Applicants are encouraged to seek the Department's opinion at the scoping stage of the EIS.*

An appraisal of the environmental effects of a development below the threshold must be submitted by the applicant to allow the Minister to decide whether it is likely to have significant effects on the environment. Where the decision is "yes" an EIS is mandatory.

In the case of developments on foreshore for, by or on behalf of a Local Authority where an EIS is required, applications should be made to An Bord Pleanála under Part XV, Planning and Development Act, 2000. 10 copies of any applications made under this Act must be sent to this Department at the time of application to An Bord Pleanála.

Note: While every effort will be made to deal promptly with applications, priority will be given to dealing with applications involving public infrastructure, public health, public use and those having employment implications

Any additional Information

SEE ENCLOSED DOCUMENTS

Please send completed application form to:

Foreshore Section

Coastal Zone Management Division

Department of Communications, Marine and Natural Resources

Leeson Lane, Dublin 2

Tel: + 353 1 678 2000

LoCall: 1890 44 99 00

Fax: + 353 1 678 2159

E-mail: foreshore@dcmnr.gov.ie

Incorrectly completed or incomplete application forms cannot be processed and will be returned.



Submission Title: [WBS SUBMISSION 1] ^

The EPA will use the above e-mail address for all further correspondence. It is your responsibility to advise the EPA of any change to your contact e-mail address.

Your submission should be included as an attachment and it must state:

- The subject matter of the submission;
- The grounds for the submission and the reasons, consideration and arguments on which they are based.

Please do not include personal data in the body of your submission, (e.g., personal address, postcode, telephone number, email address).

The submission attachment you upload should relate to this licence application/review only.

To attach a Submission document, browse to the file on your PC, select the file and click the 'Upload a file' button. An attachment can be in PDF format only, with a maximum file size of 50MB. Please save any Microsoft Word, Excel or image files in PDF format prior to attaching. Please contact licensing@epa.ie if you wish to submit an alternative file type.

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