

<b>To:</b> Each Director	<b>Date:</b> 15 October 2020
<b>From:</b> Ann Marie Donlon, Inspector, Environmental Licensing Programme	
<b>Subject:</b> Request for a Technical Amendment to the Waste Water Discharge Licence for the Midleton agglomeration, Register Number D0056-01	
<b>Approved for Board by:</b> Marie O'Connor, Programme Manager	
<b>Cross Office Implications:</b> Yes	

**Recommendation:** The Board of the Agency is asked to APPROVE the refusal of the requested technical amendment.

## Introduction

A waste water discharge licence (WDDL) was granted on the 06/01/2011 (Reg No. D0056-01) authorising the discharges by Irish Water from the waste water works serving the Midleton agglomeration. The waste waters from the agglomeration are collected and treated at an urban waste water treatment plant (UWWTP) in Midleton. Industrial waste water from Irish Distillers (P0440-02) is also conveyed and discharged at the primary discharge point by Irish Water. Irish Distillers treats its waste water at source.

The licence also specifies controls for four storm water overflows within the agglomeration. The receiving waters for discharges are the Owenacurra Estuary (storm water overflows) and the North Channel (primary discharge).

On 14/09/2020, under Regulation 33, Irish Water requested to amend Condition 1.2 of the WDDL D0056-01 to include within the boundary of the agglomeration a 14 km pipeline from Mogeely to Rathcoursey. This pipeline is to convey and discharge treated waste water from the Dairygold Co-Operative Society Ltd and TINE Ireland Ltd (P01103-01) (Dairygold TINE) installation at Mogeely.

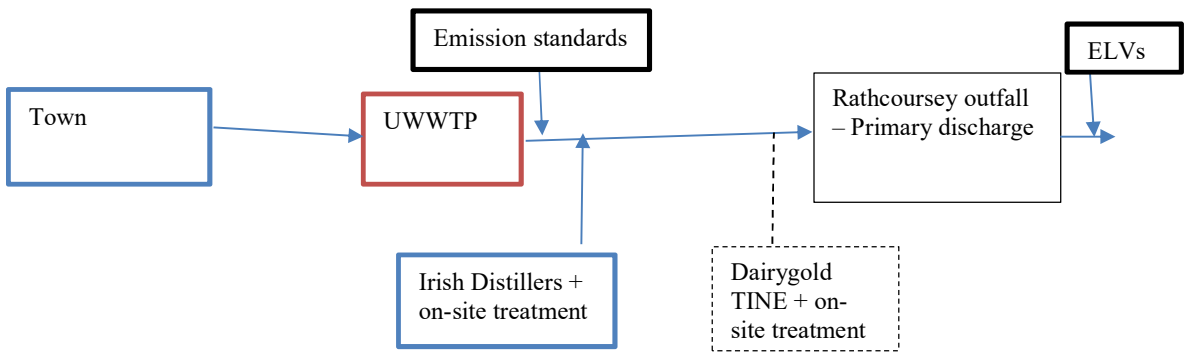


Figure 1: Schematic of Midleton waste water works

Both Irish Distillers and Dairygold TINE are IE installations and subject to IE licences. Irish Water granted consent for emissions to sewer under Section 99E of the EPA Act 1992 as amended regarding the IE installations and the requirements are included in the two IE licences.

## **Consultation with the Office of Environmental Enforcement (OEE)**

I have consulted with the OEE Inspectors, Noel Byrne and Brian Coffey, in relation to this technical amendment request. The OEE confirmed that the proposed change to the agglomeration cannot be accommodated under the existing licence. The OEE has confirmed that there are no legal proceedings in train in respect of this licence.

## **Inspector Assessment**

In advance of a decision on a request for a proposed amendment to a WWDL condition, the Agency must consider the following:

1. Check whether the original licence application documentation made any consideration for future additions to the discharge.
2. Carry out a full consideration of whether the amendment (and the resulting addition of the discharge from the Dairygold TINE site) will alter any of the conditions in the licence.
3. Depending on the answer to the above questions, subsequent consideration of screening for AA/EIA may be required.

### **Point 1: Did the original WWDL application make considerations for future discharges?**

The original application considered future development and at the time, it was proposed to increase the capacity of the UWWTP to 15,000 PE. These upgrade works have since been completed.

The original application also considered the contribution from Irish Distillers based on licensed limits which overestimated the actual contribution from this installation to the discharges. The Agency considered discharges with a total mass loading of 211 kg/day BOD to waters from Midleton urban WWTP and Irish Distillers, at the time of licensing. The actual discharge load to the receiving water is reported as 24 kg/day (based on 2019 Annual Environmental Report data). Irish Distillers licence has been revised since and the licensed load limit of 125 kg/day has not changed in respect of emissions to sewer.

The proposed mass loading from Dairygold TINE is 100 kg/day BOD. Although the proposed emission combined with actual discharges (100+24 kg/day) remains within the original licence assessment level of 211 kg/day BOD, Irish Distillers licence allows them to discharge up to 125 kg/day. If they were to use it, then the combined discharges are outside what was contemplated at the time of licensing. Please note that BOD is used for demonstration purposes.

In summary, the original application did make considerations for future discharges. However, the proposed discharges from Dairygold TINE are new and were not contemplated at the time of licensing.

It is noted that Regulation 5(1A) of the Waste Water Discharge (Authorisation) Regulations 2007 to 2020 requires Irish Water to make an application for a review of a licence where any change results in the waste water works serving an agglomeration with a higher PE than the PE for which a licence was granted.

**Point 2** Will it alter the conditions of the Licence?

**Condition 1.2**

WWD Licence condition 1.2.

1.2 The agglomeration is the area outlined in red on Drawing No. Y7 334/PR/002, revision B of the application. Any reference in this licence to agglomeration shall mean the area thus outlined in red.

Condition 1.2 and the definition of agglomeration<sup>1</sup> refers to an area.

Amending Condition 1.2 will not alter other conditions of the licence especially those for the protection of the environment.

**Addition of the discharge**

The Dairygold TINE emission, its impact on the receiving waters and Irish Water consent conditions were considered during the IE licensing and planning permission processes. The overall effect of the Dairygold TINE emission is that it is not likely to be detrimental to the environment but the consideration of this additional discharge has not been made under the waste water discharge licence.

**Point 3:** Is the Agency required to conduct EIA and / or AA?

Where the Agency is required to conduct an Appropriate Assessment (AA) and /or Environmental Impact Assessment (EIA) then the proposed amendment must be refused as per the *EPA Guidance for Irish Water on Requests for Alterations to a Waste Water Discharge Licence or Certificate of Authorisation*. Public participation is a key part of AA and EIA. Carrying out AA and EIA, as appropriate, are requirements of the Waste Water Discharge (Authorisation) Regulations 2007 to 2020.

**Appropriate Assessment**

Screening for AA is required for all consents. The Great Island SAC and Cork Harbour SPA are located near the primary discharge. It is likely in this instance that an AA would be required as the additional discharges from Dairygold TINE are in excess of what was previously considered and licensed under the WWDL if Irish Distillers use their full licensed allocation. The Habitats Directive requires public participation which cannot be accommodated by the technical amendment process.

**Environmental Impact Assessment**

The development associated with the proposed amendment (pipeline and discharges) was subject to EIA by the planning authority / An Bord Pleanála under Dairygold TINE planning application. I have concluded from a preliminary examination (in accordance with regulation 18 (6)) that there is significant and realistic doubt in regard to the likelihood of significant effects on the environment arising from the proposed development.

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<sup>1</sup> "agglomeration" means an area where the population or economic activities or both are sufficiently concentrated for a waste water works to have been put in place

In conclusion, I consider that the proposed amendment and the resulting additional discharges from Dairygold TINE may require the Agency to conduct AA and EIA. These procedures cannot be accommodated by a technical amendment.

### Overall Conclusion

The proposed amendment will result in the discharges from the waste water works serving the agglomeration of Midleton ceasing to satisfy the requirements of the Waste Water Discharge (Authorisation) Regulations 2007 to 2020, namely;

- The additional discharges have not been considered under the waste water discharge licence D0056-01.
- It appears that the proposed amendment is likely to require the Agency to conduct an AA and EIA with respect to the waste water discharge authorisation for Midleton D0056-01.

### **Recommendations**

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I recommend that the requested amendment is not accommodated by a Technical Amendment of Licence D0056-01.



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Ann Marie Donlon  
Inspector