



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

28/09/2022

IW ref: LT0614

Dear Inspector,

Uisce Éireann
Teach Colvill
24-26 Sráid Thalbóid
Baile Átha Cliath 1
D01 NP86
Éire

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

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

Re: Castletownshend Waste Water Discharge Licence Application D0468-02

In response to the Regulation 18(3)(b) request for information notice dated 20th September 2022, please see below for relevant information.

Provide a copy of a grant of planning permission comprising or for the purposes of the waste water discharge to which the application relates and the accompanying planner's report. Include confirmation in writing from the planning authority or An Bord Pleanála that an Environmental Impact Assessment was not required by or under the Act of 2000.

Further to notice dated 28/10/2021 Cork County Council granted Planning Permission 30/11/2021.

A copy of the planning permission and the planners report is reproduced in Appendix A.

The planners report detailed that sub threshold EIA is not required for the proposed development.

Further information in relation to the planning application and determination can be accessed at the following link <http://planning.corkcoco.ie/ePlan/AppFileRefDetails/21264/0>

Update the application form with respect to the status of the Foreshore Act licence application.

Notice to determine the Foreshore Licence FS007258 Castletownshend, Cork – IW was issued on the 28th June 2022.

A copy of the determined Foreshore Licence and a copy of the Report of The Marine Licence Vetting Committee (MLVC) is reproduced in Appendix 2.

Further information in relation to the Foreshore Licence application and determination can be accessed at the following link <https://www.gov.ie/en/foreshore-notice/1ff82-fs007258-castletownsend-cork-iw/>

Describe the existing or proposed measures to prevent unintended discharges into the water environment

Unintended Discharges

An emergency procedures plan will be developed as part of the process of the design and construction of the new WWTP to ensure unintended waste water discharges and potential impacts on the environment are kept to a minimum.

WwTP & Network Pump station

- The WwTP will be fully automated with alarms / telemetry.
- Critical spares including pumps will be available at the WwTP and network pump station.
- The network PS and the WWTP will have capability for mobile generator connections in the event of a power failure.
- At the WWTP, a stormwater tank is being provided to capture all flows in excess of full flow to treatment. The tank incorporates return duty / standby pumps.
- Stormwater storage of 88.3m³ (minimum) is provided at the Castle Pumping Station (PS) on the network in accordance with Irish Water standards.
- The network PS will be interlocked via Radio links and PLCs to maximise the storm storage volumes within the agglomeration and PS storm tank.
- Chambers, V-notch weirs and ultrasonic flowmeters shall be included at the PS overflows to measure any spills.
- Monitoring instrumentation is also being provided at the WWTP to log any storm overflows.
- A petrol interceptor will be in place at the WWTP site.

Yours sincerely,

Sheelagh Flanagan

Sheelagh Flanagan
Wastewater Strategy



Appendix 1: Grant of Planning Permission and Planning Report dated 1/11/2021

CORK COUNTY COUNCIL
Planning & Development Acts 2000 – 2010 as amended

Uisce Eireann - Irish Water
c/o Kieran Thornton
Byrne Looby
Building 2100
Cork Airport Business Park
Kinsale Road, Cork

Planning Register No: 21/00264

Application by: Uisce Eireann- Irish Water

Of: c/o Kieran Thornton, Byrne Looby, Building 2100, Cork Airport Business Park, Kinsale Road, Cork

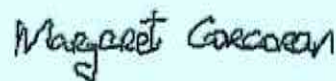
On: 26/04/2021, as amended on 05/10/2021

For: 1. The Castle pumping station (PS), a proposed underground pumping station and associated infrastructure within the curtilage of the Castle B&B (The Castle, a protected structure), including an underground pump sump, underground stormwater storage tank, vent pipe, kiosks and surge vessel. 2. Proposed extension to the existing culvert outfall adjacent to the slipway to below low tide extent. 3. A proposed rising main and gravity sewer to convey flows from the Castle pump station to the Waste Water Treatment Plant (WWTP) site. The route extends along the lane from Main Street to the entrance of St. Barrahanes Church to the fields to the north. 4. A proposed WWTP with associated ancillary development works including inlet works, tanks, kiosks, pumping station, entrance, hardstanding and perimeter boundary fencing. 5. A proposed outfall pipe to convey treated effluent and storm flows to Castle Haven Bay. 6. All associated ancillary site development works above and below ground.

At: Castletownshend, Co. Cork

Further to Notice dated the 28/10/2021 Cork County Council hereby conveys a grant of **Permission** for the application described above subject to the conditions set out in the schedule attached to the said Notice dated 28/10/2021 of its intention to grant **Permission**

Signed on behalf of Cork County Council



Margaret Corcoran

DATE: 30/11/2021

NOTE FOR GUIDANCE OF DEVELOPERS

A grant of Planning Permission or Permission Consequent on the grant of Outline Permission does NOT of itself empower a person to carry out a development unless that person is otherwise legally entitled to do so. Unless otherwise stated or unless it is revoked a Permission or Permission Consequent on the Grant of Outline Permission is valid for a period of five years.

Any development which takes place prior to the payment of a financial contribution required by any of the conditions attached to a Permission or Permission Consequent on the grant of Outline Permission will be unauthorized until compliance with the condition or conditions.

Please note that there is an onus on developers to ensure that there is no danger to the public as a result of the proposed development.

The enclosed grant of permission may not automatically entitle you to commence the authorised development. This is because many permissions contain “Conditions Precedent” i.e. conditions which must be complied with before development commences. (Such conditions usually contain the phrase ‘before development commences’ and may require further details to be submitted to and agreed with the Planning Authority). If there are such conditions on your permission please read on.

1) Early Submission Of Details

Where compliance proposals are required by condition you should make them as far in advance of your anticipated commencement date as possible. This is to enable adequate time for the Planning Authority to consider and, when satisfactory, agree the details. Such proposals may need to be revised before agreement can be reached or, in the absence of agreement, may need to be referred to An Bord Pleanala. These potential delays to starting a development can be mitigated by early submission of proposals in the first instance.

There is no statutory timeframe for responding to such compliance proposals and on an ongoing basis the Planning Authority will be dealing with other priorities including current Planning Applications with statutory decision deadlines. **Therefore, submit as early as possible and do not commence development until agreement of the Planning Authority has issued in writing.**

2) Development Commenced In Advance of Compliance Proposals/Agreements

Any development commenced in advance of full compliance with such conditions (including conditions requiring financial contributions, bonds, securities) is unauthorised and leaves a developer liable to **enforcement proceeding and heavy penalties**. Simply submitting a proposal may not in itself be sufficient compliance if the condition also requires the Agreement/Approval of the Planning Authority. This will also apply where the Planning Authority becomes aware that a development is about to start (e.g. Commencement Notice) and conditions precedent have not been complied with.

3) Submission Should Be Addressed As Follows:

Compliance with Conditions
Planning Department West, Norton House, Skibbereen, Co. Cork.

The above information is intended for your assistance and guidance in avoiding a situation of unauthorised development and the Planning Authority wishes you every success with the development.

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APPLICATION NO.	00264/21
APPLICANT	Uisce Eireann- Irish Water
DESCRIPTION	1. The Castle pumping station (PS), a proposed underground pumping station and associated infrastructure within the curtilage of the Castle B&B (The Castle, a protected structure), including an underground pump sump, underground stormwater storage tank, vent pipe, kiosks and surge vessel. 2. Proposed extension to the existing culvert outfall adjacent to the slipway to below low tide extent. 3. A proposed rising main and gravity sewer to convey flows from the Castle pump station to the Waste Water Treatment Plant (WWTP) site. The route extends along the lane from Main Street to the entrance of St. Barrahan's Church to the fields to the north. 4. A proposed WWTP with associated ancillary development works including inlet works, tanks, kiosks, pumping station, entrance, hardstanding and perimeter boundary fencing. 5. A proposed outfall pipe to convey treated effluent and storm flows to Castle Haven Bay. 6. All associated ancillary site development works above and below ground.
LOCATION	Castletownshend Co. Cork
DUE DATE	01/11/2021

Sub-threshold EIA

The following Table outlines the criteria for evaluating the significance of Environmental effects in accordance with the guidance for consent authorities as outlined above.

A question arises as to whether sub-threshold EIA is necessary, having regard to Schedule 7 of the P & D Regulations, and, the Department's Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development (August 2003).

Questions to be considered	Consideration given
1. Will there be a large change in environmental conditions?	Not anticipated as the proposal will improve environmental conditions locally.
2. Will new features be out-of-scale with the existing environment?	No. The proposed development is compatible with the form and scale of existing development located in the area.
3. Will the effect be particularly complex?	No
4. Will the effect extend over a large area?	No
5. Will there be any potential for transfrontier impact?	N/A.
6. Will many people be affected?	The nearest dwellings are 60 -80 m away. construction works will potentially cause temporary impact for local residents e.g. noise and dust disturbance.
7. Will many receptors of other types (fauna and	The site is located within any Natura 2000 Site for Castletownshend. Any significant impacts have been screened out..

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flora, businesses, facilities) be affected?	
8. Will valuable or scarce features or resources be affected?	No.
9. Is there a risk that environmental standards will be breached?	No
10. Is there a risk that protected sites, areas, features will be affected?	Archaeology issues have been addressed.
11. Is there a high probability of the effect occurring?	No
12. Will the effect continue for a long time?	No
13. Will the effect be permanent rather than temporary?	No
14. Will the impact be continuous rather than intermittent?	No
15. If it is intermittent will it be frequent rather than rare?	No
16. Will the impact be irreversible?	No
17. Will it be difficult to avoid, or reduce or repair or compensate for the effect?	No

Criteria for determining whether a development would or would not be likely to have significant effects on the environment.

1. Characteristics of Proposed Development	
The size of the proposed development,	The building is < 40sqm in area.

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The cumulation with other proposed development,	No other development proposed apart from the above.
The use of natural resources,	No.
The production of waste,	N/A
Pollution and nuisances,	Proposal will improve water quality in the area
The risk of accidents, having regard to substances or technologies used.	Normal health and safety issues associated with this type of activity.
2. Location of Proposed Development The environmental sensitivity of geographical areas likely to be affected by proposed development, having regard in particular to:	
The existing land use,	This is a green field site partially within the development boundary of Castletownshend
The relative abundance, quality and regenerative capacity of natural resources in the area.	The site is not identified as being of ecologically importance.
The absorption capacity of the natural environment, paying particular attention to the following areas: (a) wetlands, (b) coastal zones, (c) mountain and forest areas, (d) nature reserves and parks, (e) areas classified or protected under legislation, including special protection areas designated pursuant to Directives 79/409/EEC and 92/43/EEC, (f) areas in which the environmental quality standards laid down in legislation of the EU have already been exceeded, (g) densely populated areas, (h) landscapes of historical, cultural or archaeological significance.	The development is removed from any of the sensitive areas outlined in this section. Site is coastal but will improve the water quality of the area.
3. Characteristics of Potential Impacts The potential significant effects of proposed development in relation to criteria set out under paragraphs 1 and 2 above and having particular regard to:	
The extent of the impact (geographical area and size of the affected population),	Small scale proposal

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The transfrontier nature of the impact,	No cross border implications are apparent.
The magnitude and complexity of the impact,	Main impact on local flora fauna populations located downstream in the SAC from contaminated surface water on site. Noise disturbance during the construction phase which is seen as transient with a short term impact.
The probability of the impact,	Minor in nature.
The duration, frequency and reversibility of the impact.	Temporary frequency.
Recommendation and Conclusion	
Having regard to the above it is generally considered that the proposed development may not require a sub threshold EIA. .	

The applicant were deferred for the following further information.

1. The applicant is requested to adequately demonstrate that there is a sufficient header for discharge of storm water to the bay after proposed works.
2. Clarify how the proposed outfall and the extension to the existing outfall is to be constructed and what measures will be put in place to safeguard the surrounding waters and its associated ecology. The preliminary Construction Environmental Management Plan should be updated to include any further specified mitigation measures.
3. Clarify how the development has been designed to minimise the impact on as many trees as possible. You are further requested to submit an appropriately scaled map, identifying which trees will be required to be removed/lost, and which trees will be retained relative to the proposed development site layout. It should also be possible to link trees shown on this drawing to trees described in the Tree Survey Report. The Tree Survey Report should be updated to include further information which indicates whether trees listed will be retained or are proposed to be removed. Furthermore, Root Protection Zones of trees to be retained should also be shown on these maps. Where works are required within the driplines of trees which are to be retained, please clarify the methods by which these trees are to be protected. The plan will reflect the principle of no

- net loss of native trees and as such planting of native trees to offset the removal of trees will be required.
4. Submit a Landscaping plan in respect of the proposed wastewater treatment plant and pump station. The Landscape plan shall also provide details of the proposed tree, hedgerow and shrubbery species type and mix for all planting on site. All planting shall comprise of native species only which are local to the area.
 5. It is noted that there appears to be a discrepancy in regard to the line tested by the archaeologist for sections of the rising water main line from the proposed waste water treatment plant to the village. Please clarify this discrepancy and submit revised documents, if necessary.

The Applicant has responded to the further information request. All items have been addressed in satisfactory manner. All issues relating to the Engineering and Archaeological aspects have now been approved and the landscaping plan has been submitted.

I therefore recommend permission.

Conclusion

Grant Application

Conditions/Reasons

No.	Condition	Reason
1	The proposed development shall be carried out in accordance with plans and particulars lodged with the Planning Authority on 26/04/2021 and on 5/10/2021 save where amended by the terms and conditions herein.	In the interests of clarity.
2	All solid waste arising on the site including; construction waste, demolition waste, site clearance waste, rock, waste oil, etc. shall be recycled as far as possible. Any materials exported from the site for recovery, recycling or disposal shall be managed at an approved licensed waste facility. Adequate on site arrangements shall be made to the satisfaction of the planning Authority for the storage of recyclable materials prior to	To protect the local environment.

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	collection.	
3	<p>Any hazardous or contaminated wastes arising on the site including any asbestos shall be recycled as far as possible or disposed. Materials exported from the site for recovery, recycling or disposal shall be managed at an approved facility. Adequate on site arrangements shall be made to the satisfaction of the Planning Authority for the storage of recyclable materials prior to collection.</p>	To protect the environment
4	<p>The applicant is required to engage the services of a suitably qualified archaeologist (licensed under the National Monuments Acts 1930–2004) to carry out archaeological testing as outlined in the FI response lodged on 5/10/2021 in advance of the commencement of the development. The testing plan shall be submitted to the Local Authority Archaeologist for approval prior to submitting for a licence. No sub-surface work shall be undertaken in the absence of the archaeologist without his/her express consent. Where archaeological material is shown to be present, avoidance, preservation in situ, preservation by record (excavation) and/or monitoring may be required and the Planning Authority and National Monuments Service of (DCH&G) will advise the Applicant/Developer with regard to these matters. Having completed the work, the archaeologist shall submit a written report to the Planning Authority and to the National Monuments Service (DCH&G) for consideration. No site preparation or construction work shall be carried out until after the archaeologist's report has been submitted and permission to proceed has been received in writing from the Planning Authority in consultation with National Monuments Service (DCH&G) .</p>	In interest of preserving items of archaeological interest
5	A buffer zone of 10m unless	To preserve items of archaeological

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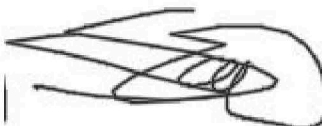
	<p>otherwise agreed with the Planning Authority shall be established within the development site around the Fulacht fiadh (identified during the archaeological testing) in advance of the development by a suitably qualified archaeologist. Prior to the commencement of the development the the buffer zone shall be delimited using appropriate temporary boundary fencing and signage and the appointed archaeologist shall submit a site layout plan showing the location of the buffer zone supported by photographic evidence in advance of the development. No construction works, stockpiling of topsoil etc, or any development, or landscaping and/or planting should take place within the designated buffer zone. No trees, plants etc shall be removed from this buffer zone. Subsequent to the completion of the development the buffer zone shall remain around the Archaeological Monument. Planting within this buffer zone shall be limited to shallow-rooted plants and/or grass.</p>	importance
6	<p>Any damage to the adjoining public road by construction traffic during development works shall be made good by the Council at the expense of the developer.</p>	In the interest of road safety.
7	<p>No alterations shall be made to the footpath or public road, without consultation with the Area Engineer. Complete sections of footpath to form part of reinstatement where trench work has taken place.</p>	In the interests of Public Safety.
8	<p>The Developer shall apply for a road opening licence and in doing so adhere to the relevant conditions contained within including providing a detailed Temporary Traffic Management Plan as per Chapter 8</p>	In the interests of Health & Safety
9	<p>Prior to commencement of the works trench reinstatement will be agreed with the Area Engineer. Please note full road width</p>	To ensure quality of trench material used and smooth connectivity to existing surface

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	reinstatement is required within the village.	
10	Any damage caused to the adjoining public road by development traffic during construction works shall be made good by the Council at the expense of the developer and shall comply with Guidelines for Managing Openings in Public Roads. (Purple Book)	In the interests of road safety.
11	Existing road drainage shall not be obstructed and any the new entrance shall be designed and constructed to ensure the uninterrupted flow of road surface run-off.	To maintain proper roadside drainage and to prevent the flooding of the public road.
12	Existing inlets or drains taking surface water from the public road into the sites shall be preserved and maintained.	To prevent flooding of the public road.
13	The site shall be landscaped in accordance with the details submitted to the Planning Authority on the 5/10/2021.	In the interests of visual amenity.
14	Any cutting of trees, hedgerows and vegetation should only be undertaken outside of the bird breeding season. The Bird breeding season takes place between March 1st and August 31st.	To minimise risks to breeding birds.
15	No stockpiling shall take place within 10m of any watercourse or drain.	In the interests of ensuring the protection of water quality in the receiving environment.
16	Construction activities shall be carried out in accordance with good practise as set out in CIRIA Guidelines Control of Water Pollution from Construction Sites – Guide to Good Practise.	To ensure no surface water impacts on the receiving environment.
17	Prior to the commencement of the development the applicant shall submit a revised Landscape Plan for the Pump Station detailing the utilization of native species only. The Plan shall be in agreement with Cork County Council prior to the commencement of works.	To ensure the protection of biodiversity generally.
18	A final CEMP shall be submitted for approval by the Planning Authority prior to the commencement of development. The CEMP shall be	In the interests of ensuring the protection of water quality in the receiving environment.

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	<p>based on the draft CEMP submitted with the planning documentation and shall include details of all measures to be implemented on site to provide for the protection of water quality. The plan shall include programmes for environmental and ecological monitoring and supervision, as appropriate to the site. The plan shall be prepared to accord with recognized standard best practice - CIRIA Guidance No C532 - Control of Water Pollution from Construction Sites. All works on site shall be implemented in accordance with the final agreed plan.</p>	
19	<p>All works shall be implemented in accordance with mitigation measures specified in Section 6.4.3.5 & Section 6.9.4 of the Planning Report received by the Planning Authority on 26/04/21 and as updated by conditions of planning herein.</p>	<p>To ensure there will be no environmental impacts on the surrounding area during the construction and operational phases of development.</p>
20	<p>There shall be no interference with bridging, draining, or culverting of any inland watercourse, its banks or bankside vegetation without the prior written approval of Inland Fisheries. The proposed pumping station shall be designed to ensure that there is no overflow discharge to any inland waterways.</p>	<p>To protect the local habitats.</p>



Sean Taylor
27/10/2021

PLANNER'S REPORT
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Appendix 2: Grant of Foreshore Licence and Report of The Marine Licence Vetting Committee (MLVC)

Dated the day of 2022

MINISTER FOR HOUSING, LOCAL GOVERNMENT AND HERITAGE

“the Licensor”

One part

AND

IRISH WATER

“the Licensee”

Other part

FORESHORE LICENCE

Chief State Solicitor’s Office
Osmond House
Ship Street Little
Dublin 8
File ref.: 2022/00580

LICENCE AGREEMENT made the day of 2022

BETWEEN THE MINISTER FOR HOUSING, LOCAL GOVERNMENT AND HERITAGE, of Custom House in the city of Dublin, D01 W6X0 (hereinafter called “the Licensor” which expression shall include his successors or assigns where the context so requires or admits) of the one part; and **IRISH WATER** having its registered office at Colvill House, 24/26 Talbot Street, Dublin 1, D01 NP86 (hereinafter called “the Licensee”) of the other part.

INTRODUCTION

- A. The Licensee applied to the Licensor for a Foreshore Licence to enter onto, use and occupy the Licensed Area to construct, install, operate, repair and maintain the Facilities being an outfall pipeline for a proposed waste water treatment plant and a pump station overflow pipe at the Licensed Area as specified in the Plans.
- B. The Licensor in exercise of the power conferred on him by section 3(1) of the Foreshore Act, 1933 as amended has agreed to grant a Foreshore Licence to the Licensee on the terms and conditions set out in this deed.

IT IS HEREBY AGREED AS FOLLOWS:

1 DEFINITIONS AND INTERPRETATION

In this Licence, the following words and expressions have the following meanings:

- 1.1 “**Adjoining Property**” means any Foreshore, land and/or buildings adjoining or neighbouring the Licensed Area owned by the Licensor;
- 1.2 “**Business Day**” means a day that is not a Saturday, Sunday or a bank or public holiday in a place where an act is to be performed or a payment is to be made;
- 1.3 “**Confirmation Statement**” means the document issued by the State Claims Agency which sets out the details and applicability of State Indemnity;
- 1.4 “**Commencement Date**” has the meaning in clause 4.1;

- 1.5 “**Control**” has the same meaning as in section 432 of the *Taxes Consolidation Act 1997*;
- 1.6 “**Cure Notice**” has the meaning set out in clause 11.1;
- 1.7 “**Dispute**” means a difference or dispute of whatsoever nature arising between all or any of the parties under or in connection with this Licence;
- 1.8 “**Dispute Notice**” has the meaning set out in clause 20.2;
- 1.9 “**Dispute Resolution Procedure**” means the procedure outlined in clause 20;
- 1.10 “**Encumber**” means the placing of a charge, mortgage, lien or other burden on all or part of the Licensed Area to include lodging this Licence with anyone as security;
- 1.11 “**Environment**” includes any Foreshore, reclaimed Foreshore, land (including without limitation soil, surface land and subsurface strata, sea bed or river bed and any natural or man-made structures), any sea water, inland waters, surface waters, ground waters and water in pipes, drains or other conduits and air (including without limitation air within buildings and other natural or man-made structures above or below ground);
- 1.12 “**Environmental Law**” means all laws (whether criminal, civil or administrative) including common law, statutes, regulations, statutory instruments, directives, bye-laws, orders, codes and judgements having the force of law in Ireland concerning Environmental Matters and protection of the Environment including without limitation the Air Pollution Act, 1987, the Dangerous Substances Act, 1972, the Dumping at Sea Act, 1996, as amended, the Litter Act, 1982, the Planning and Development Acts, 2000 to 2020 as amended, the Waste Management Act, 1996, as amended, the Environmental Protection Agency Act 1992, as amended, the Protection of the Environment Act, 2003, the Waste Water Discharge (Authorisation) Regulations, 2007, as amended, the European Communities (Birds and Natural Habitats) Regulations, 2011 and all other regulations, bye-laws, orders and codes made thereunder;

- 1.13 “**Environmental Licences**” means any permit, licence, approval, consent, registration or other authorisation required by or pursuant to any applicable Environmental Law or relating to Environmental Matters;
- 1.14 “**Environmental Matters**” means any matter arising out of, relating to or resulting from pollution, contamination, protection of the Environment, human health or safety, health and safety of animal and plant life, sanitation and any matters relating to emissions, discharges, releases or threatened releases of hazardous materials into the Environment;
- 1.15 “**Euro**” means the single currency of participating member states of the European Union or such replacement equivalent currency thereof;
- 1.16 “**Facilities**” means the construction, installation, operation, repair and maintenance of an outfall pipeline for a proposed waste water treatment plant and a pump station overflow pipe at the Licensed Area for the Permitted Use and as specified in the Plans.
- 1.17 “**Force Majeure**” means an event or circumstance or a combination of events and/or circumstances not within the reasonable control of a party which has the effect of delaying or preventing that party from complying with its obligations under this Licence including:
- (a) acts of terrorists or protesters;
 - (b) war declared or undeclared, blockade, revolution, riot, insurrection, civil commotion, invasion or armed conflict;
 - (c) sabotage, acts of vandalism, criminal damage or the threat of such acts;
 - (d) extreme weather or environmental conditions including lightning, fire, landslide, accumulation of snow or ice, meteorites or volcanic eruption or other natural disasters, measured by reference to local meteorological records published by Met Eireann over the previous ten years;
 - (e) the occurrence of radioactive or chemical contamination or ionizing radiation, explosion including nuclear explosion, pressure waves caused

by aircraft or other aerial devices travelling at supersonic speeds and impact by aircraft or other vehicles;

- (f) any strike or other industrial action which is part of a labour dispute of a national or industry wide character occurring in Ireland;
- (g) the act or omission of any contractor or supplier of a party, provided that the act or omission was due to an event which would have been an event of Force Majeure had the contractor or supplier been a party to this Licence;
- (h) the unavailability of essential infrastructure or services required to comply with obligations pursuant to this Licence, other than due to an act or omission of the Licensee;
- (i) mechanical or electrical breakdown or failure of machinery, Plant or other facilities owned, installed or utilized by any party, which breakdown or failure was outside the control of the party acting in accordance with Environmental Law or the Law;

provided that Force Majeure shall not include:

- (a) lack of funds and/or the inability of a party to pay;
- (b) mechanical or electrical breakdown or failure of Plant or other facilities owned or utilized by any party other than as a result of the circumstances identified in clauses 1.17(a) to 1.17(i), above; or
- (c) any strike or industrial action not falling within clause 1.17(f) above;

1.18 “**Foreshore**” has the same meaning as in section 1 of the Foreshore Act as amended by section 60 of the Maritime Safety Act, 2005;

1.19 “**Foreshore Act**” means the Foreshore Act 1933 as amended;

1.20 “**Foreshore Licence**” means a licence granted by the Licensor pursuant to section 3(1) of the Foreshore Act;

- 1.21 “**Insured Risks**” means any or all of the following risks: fire (including subterranean fire), storm, tempest, flood, earthquake, lightning, explosion, impact, riot, civil commotion, aircraft, labour disturbance and malicious damage, bursting or overflowing of water tanks, apparatus or pipes and such other risks as the Licensor may in his absolute discretion from time to time determine;
- 1.22 “**Law**” means any Act of the Oireachtas, regulation, statutory instrument, European Community obligation, direction of a regulatory or other competent authority, condition of any consent, authorization, licence or other permission granted by any regulatory or other competent authority and any decision of a court of competent jurisdiction, but does not include this Licence;
- 1.23 “**Licence**” means this deed and any schedule to it, as may be amended by supplemental indenture from time to time or which is entered into pursuant to or in accordance with the terms hereof;
- 1.24 “**Licensee**” means Irish Water Designated Activity Company of Colvill House, 24/26 Talbot Street, Dublin 1, D01 NP86, (Companies Registration Office number: 530363)
- 1.25 “**Licensor**” means the Minister for Housing, Local Government and Heritage and which expression shall include his successors or assigns where the context so requires or admits ;
- 1.26 “**License Fee**” has the meaning set out in Clause 5.1;
- 1.27 “**Licensed Area**” means that part of the Foreshore more particularly described in the First Schedule;
- 1.28 “**Outgoings**” means all rates, taxes and charges (including emergency service charges) of any description (whether or not of a capital or non-recurring nature) which may at any time during the Term be payable in respect of the Licensed Area and the Utilities enjoyed in connection therewith including any insurance excesses or other sums not recoverable by the Licensee (unless due to its own neglect or default);

- 1.29 **“Permitted Use”** means the use of the Licensed Area for the purpose of:
- (1) constructing, installing and locating the Facilities;
 - (2) operating, maintaining, inspecting, testing, repairing or replacing all or any of the Facilities; and
 - (3) carrying out works which are necessary or incidental to the activities described in clauses (1) and (2).
- 1.30 **“Plans”** means the plans and drawings in the custody of and approved by the Licensor.
- 1.31 **“Plant”** means any lifts, lift machinery, central heating and air conditioning systems, sprinkler system, boilers, and other electrical and mechanical machinery, equipment, and apparatus of whatsoever nature or kind located in the Licensed Area;
- 1.32 **“Representations and Warranties”** mean the representations and warranties given by the Licensee to the Licensor pursuant to clause 15.1;
- 1.33 **“Specific Conditions”** mean the specifications set out in the Second Schedule, as may be amended from time to time pursuant to clause 8.2;
- 1.34 **“State Indemnity”** means indemnity that is given to third parties or individuals by the State, to compensate them for any losses that they incur as a result of the activities of the State (or a State Body) and in a situation where the State has been negligent in some way. Although State Indemnity is not analogous to a commercial insurance policy it will cover such loss where relevant and is unlimited in amount;
- 1.35 **“Term”** has the meaning set out in clause 4;
- 1.36 **“Utilities”** mean water, soil, steam, air, gas, electricity, radio, television, telegraphic, telephonic, computer linking, electronic and other communications, oil and heating fuels and other services of whatsoever nature.

2 INTERPRETATION

- 2.1 Where two or more persons are included in the expression “the Licensor” or “the Licensee”, such expressions include all or either or any of such persons and the covenants which are expressed to be made by the Licensor, or the Licensee shall be deemed to be made by or with such persons jointly and severally.
- 2.2 Unless the context otherwise requires:
- 2.2.1 words importing a person include any unincorporated association or corporate body and vice versa;
- 2.2.2 any reference to the masculine gender includes reference to the feminine gender and any reference to the neuter gender includes the masculine and feminine genders;
- 2.2.3 any reference to the singular includes reference to the plural.
- 2.3 Any covenant in the Licence by the Licensee not to do any act or thing includes an obligation not to permit or suffer such act or thing to be done and to use best endeavours to prevent such act or thing being done by another person.
- 2.4 References to any right of the Licensor to have access to or entry upon the Licensed Area shall be construed as extending to all persons lawfully authorised by the Licensor including agents, professional advisers, prospective purchasers of any interest of the Licensor in the Licensed Area or in the adjoining property or Foreshore, contractors, workmen and others provided that such persons have given reasonable notice (except in the case of an emergency) and have sufficient reason to require access.
- 2.5 Any reference to a statute (whether specifically named or not) or to any sections or sub-sections therein includes any amendments or re-enactments thereof for the time being in force and all statutory instruments, orders, notices, regulations, directions, bye-laws, certificates, permissions and plans for the time being made, issued or given there-under or deriving validity there-from.
- 2.6 Headings are inserted for convenience only and do not affect the construction or interpretation of this Licence.

- 2.7 Any reference to a clause, sub-clause or schedule means a clause, sub-clause or schedule of this Licence.
- 2.8 If any term or provision in this Licence is held to be illegal or unenforceable in whole or in part, such term shall be deemed not to form part of this Licence but the enforceability of the remainder of this Licence is not affected.
- 2.9 References in this Licence to any rights granted to the Licensee shall be construed as being granted to the Licensee and all persons authorised by the Licensee to exercise such rights.
- 2.10 Rights excepted to the Licensor or reserved to any indemnities to the Licensor are to benefit also any other licensor and if necessary and appropriate the occupiers of the remainder of the Licensed Area, any occupier of adjoining or neighbouring property or Foreshore and any other person authorised by the Licensor or having similar rights.
- 2.11 Any right or privilege conferred on the Licensor under this Licence shall be deemed to be exercisable by the Licensor during the Term.
- 2.12 References to “month” or “months” mean a calendar month or months.
- 2.13 The Term shall extend to and include the term set out herein and if properly determined prior to the expiry of the Term, the Term shall mean the Term up to the date of such determination and expression such as the last year of the Term shall be construed accordingly.

3 GRANT OF LICENCE

- 3.1 The Licensor in exercise of the powers vested in him by section 3(1) of the Foreshore Act, 1933 hereby grants to the Licensee a licence to enter onto, use and occupy the Licensed Area on the terms and conditions set out in this Licence and in particular the Specific Conditions set out in the Second Schedule for the purpose of the Permitted Use.
- 3.2 Unless otherwise permitted by Law and with the written consent of the Licensor, the Licensee shall not use the Licensed Area for any other purpose other than the Permitted Use.

3.3 For the avoidance of all doubt, this Licence does not include the right to get and take any minerals within the meaning of section 3 (8) of the Foreshore Act.

4 **TERM**

4.1 This Licence shall commence on the 1st day of May 2022.

4.2 Subject to clause 12, this Licence shall remain in force for a period of 35 (Thirty five) years from the Commencement Date.

5 **LICENCE FEE**

5.1 In consideration of the grant of this Licence, the Licensee shall pay to the Licensor the sum of:

(i) [REDACTED] on the execution of this Licence; and

(ii) € [REDACTED] per annum, if demanded, on or before each anniversary of the Commencement Date.

6 **COMMENCEMENT OF OPERATIONS**

6.1 The Licensee shall not commence any works associated with the Facilities in the Licensed Area, without the prior written consent of the Licensor.

6.2 The Licensor is not obliged to grant consent pursuant to clause 6.1 unless and until the Licensee has obtained and provided to the Licensor in respect of the relevant works, activities or operations copies of all the necessary permits, licences, approvals, consents, registrations, permissions and authorisations.

6.3 The Licensee shall notify the Licensor in writing at least 14 (fourteen) Business Days in advance of the commencement of works associated with the Facilities in the Licensed Area.

7 **COMPLIANCE WITH APPLICABLE LAWS**

7.1 The Licensee shall at all times comply with all applicable Law and Environmental Law.

7.2 Without prejudice to the generality of clause 7.1, the Licensee shall at all times hold all necessary permits, licences, approvals, consents, permissions, registrations or authorisations associated with any activities of the Licensee in connection with the Licensed Area (to include Plant and equipment utilised therein).

8 SPECIFIC CONDITIONS

8.1 Unless the prior written approval of the Licensor is obtained, which approval may be granted subject to conditions, the Licensee shall ensure that:

- (1) all Facilities are constructed and/or installed in accordance with the Specific Conditions and such Facilities at all times comply with the Specific Conditions which are applicable at the date that such Facilities were constructed and /or installed; and
- (2) no development, work, construction or installation is undertaken in the Licensed Area that does not comply with the Specific Conditions.

8.2 The Specific Conditions may be amended from time to time:

8.2.1 by agreement between the parties;

8.2.2 by the Licensor by notice in writing to the Licensee if the Licensor reasonably considers it necessary to do so for reasons of public safety or protection of the environment.

8.3 If at any stage the Licensee becomes aware that any Facilities or works do not comply with the Specific Conditions that were applicable at the date that such Facilities were constructed and/or installed or such works were performed (whether as a result of notification by the Licensor or other competent authority or otherwise), the Licensee shall immediately:

- (1) notify the Licensor, unless the Licensee was notified by the Licensor;
- (2) unless the Licensor otherwise agrees in writing, take all reasonable steps to ensure that:
 - (a) such Facilities or works comply with the Specific Conditions that were

applicable at the date that such Facilities were constructed and/or installed or such works were performed, as the case may be; and

- (b) any adverse consequence arising out of the fact that the Facilities were not constructed and/or installed in accordance with the Specific Conditions or works were not performed in accordance with the Specific Conditions, as the case may be, are rectified to the satisfaction of the Licensor as soon as is reasonably practicable.

9 OPERATIONS IN CONNECTION WITH THIS LICENCE

9.1 The Licensee may, from time to time, with the prior written consent of the Licensor, occupy and use so much of the adjacent Foreshore as is reasonably required by the Licensee to exercise its rights pursuant to clause 3.1 and shall restore the said Foreshore to its proper condition to the satisfaction of the Licensor after such occupation and use.

9.2 Without prejudice to any other rights and obligations under this Licence, or at Law or Environmental Law, in exercising any of the rights or performing any obligations in connection with this Licence, the Licensee shall:

- (1) not use the Licensed Area or permit the same to be used otherwise than for the Permitted Use and for no other purpose or purposes whatsoever;
- (2) comply with the Specific Conditions described in the Second Schedule hereto at all times;
- (3) ensure that all Facilities, Plant, works or structures in the Licensed Area (if any) are at all times maintained in a good and proper state of repair and condition to the satisfaction of the Licensor, ensuring that they do not constitute a public health hazard or danger to persons, animals, marine life or the Environment, nor be injurious to navigation, the adjacent lands and/or Foreshore or the public interest;
- (4) not Encumber this Licence or any part of the Facilities without the prior written consent of the Licensor;

- (5) at all times maintain appropriate resources to ensure the proper exercise of all rights and the performance of all obligations in connection with this Licence including:
 - (a) ensuring that all necessary competent persons are engaged to carry out any works, activities, or operations pursuant to this Licence;
 - (b) using suitable Plant, machinery and equipment which is in good repair and condition and maintained to proper safety standards;
- (6) use all reasonable endeavours to minimize damage and disturbance to the Environment, fisheries and all other maritime activities and restore any damage which does occur, to the satisfaction of the Licensor;
- (7) not commit or suffer any waste, spoil or destruction on the Foreshore, other than waste, spoil or destruction:
 - (a) which is reasonably necessary as a consequence of the exercise of rights and performance of obligations pursuant to this Licence; and
 - (b) in respect of which the Licensee holds all necessary permits, consents, licences, permissions, authorisations or registrations required by Law or Environmental Law;
- (8) carry out an analysis and monitoring of the Licensed Area and the waters within the immediate vicinity to the satisfaction of the Licensor or to pay to the Licensor all expenses incurred by the Licensor or a person duly authorised by him, to carry out such analysis and monitoring;
- (9) unless otherwise permitted by Law, not undertake any works, activities or operations, other than navigation, outside the Licensed Area without the prior written consent of the Licensor and, where appropriate, any occupiers of such sea-bed;
- (10) not, without the prior written consent of the Licensor, carry out any works, activities or operations which, in the reasonable opinion of the Licensor, are

injurious to or interfere unreasonably with fishing, navigation, adjacent lands and/or Foreshore, approved scientific research or the public interest;

- (11) ensure that adequate warning notices, fencing or other appropriate security and safety measures are in place at all works and structures during construction or otherwise and, where necessary, for the duration of this Licence;
- (12) permit the Licensor and any persons duly authorised by him at any time to remove from the Licensed Area and abate all buildings, works or materials which may have become dilapidated or abandoned or which may have been constructed without the consent required under this Licence or which may in the opinion of the Licensor be injurious to navigation, the adjacent lands and/or Foreshore, or the public interest and to restore the Licensed Area to its former or proper condition and to erect or construct any building or works which in the opinion of the Licensor may be required for the purposes of navigation, the adjacent lands and/or Foreshore or the public interest. The Licensee shall compensate the Licensor for all costs associated with the aforesaid removal or abatement.

9.3 Without prejudice to any other remedy under this Licence, at Law or Environmental Law, if the Licensor is of the view that the Licensee is in breach of any obligation pursuant to clause 9.2, the Licensor may, by notice in writing, require that the Licensee rectify such breach within such reasonable time period as is specified by the Licensor.

9.4 The Licensee shall comply with any direction of the Licensor under clause 9.3 within the time specified in the notice.

10 INVESTIGATIONS, INSPECTIONS AND ENQUIRIES

10.1 The Licensor may conduct or cause to be conducted such investigations, inspections and enquiries in connection with this Licence as he sees fit.

10.2 The Licensee shall use all reasonable endeavours to co-operate fully and provide all reasonable assistance in relation to any investigation, inspection or enquiry conducted pursuant to clause 10.1.

10.3 The Licensee acknowledges and agrees that, unless the contrary intention is expressed, any investigation, inspection or enquiry undertaken pursuant to this Licence:

(1) is without prejudice to the Licensee's rights and obligations under this Licence, at Law or Environmental Law and does not amount to a waiver of any such rights or relieve the Licensee from any such obligations; and

(2) does not amount to an acknowledgement by the Licensor, or any officer, servant or agent of the Licensor, that the Licensee has complied with this Licence, Law or Environmental Law in relation to any matters to which the investigation, inspection or enquiry relates.

11 STEP IN RIGHTS

11.1 If at any time any obligation of the Licensee under this Licence is not performed, the Licensor may give written notice to the Licensee (hereinafter referred to as a "**Cure Notice**") describing the obligation which is not performed and requiring such failure to be remedied within the period specified in the Cure Notice (which period must be reasonable having regard to the nature of the obligation which was not performed).

11.2 If the failure to perform the obligation referred to in the Cure Notice is not remedied within the period specified in such Cure Notice, the Licensor shall be entitled to engage any personnel, execute any works and to provide and install any equipment which in the opinion of the Licensor may be necessary to secure the performance of the relevant obligations.

11.3 The Licensor may recover the costs and expenses of exercising all rights under clause 11.2 from the Licensee as a civil debt in any court of competent jurisdiction.

11.4 The rights under this clause 11 are without prejudice to any other remedies available to the Licensor under this Licence, at Law or Environmental Law.

12 TERMINATION

12.1 The Licensor may, without prejudice to any other remedies available under this Licence, applicable Law or Environmental Law, terminate this Licence, by notice in writing to the Licensee upon the occurrence of the following events without payment

of any compensation or refund by the Licensor to the Licensee and without prejudice to any claim by the Licensor in respect of any antecedent breach of any covenant or condition herein contained or without prejudice to any obligation or liability on the part of the Licensee arising under any applicable Law or Environmental Law pursuant to this Licence (including any accrued rights or obligations which exist at the date of termination or expiry of this Licence):

- (i) Where, in respect of the application for this Licence, information has been withheld from the Licensor or information provided to the Licensor is false or misleading in any particular;
- (ii) if any moneys payable by the Licensee under this Licence are not paid by the due date for payment and such failure is not remedied within 21 days after receipt by the Licensee of a notice from the Licensor requiring such breach or non-observance or non-performance to be remedied and stating that this Licence may be terminated pursuant to clause 12.1(ii) if such breach or non-observance or non-performance is not remedied;
- (iii) any breach, non-performance, or non-observance by the Licensee of any covenant on the Licensee's part, condition or agreement contained in this Licence, applicable Law or Environmental Law, which is capable of being remedied and which is not remedied within 21 days after receipt by the Licensee of a notice from the Licensor requiring such breach, non-performance or non-observance to be remedied and stating that this Licence may be terminated pursuant to clause 12.1(iii) if such breach or non-performance or non-observance is not remedied;
- (iv) any breach, non-observance or non-performance by the Licensee of any covenant on the Licensee's part (including a covenant for payment of rent, royalty or other money), condition or agreement contained in this Licence, applicable Law or Environmental Law;
- (v) repeated breach, non-observance or non-performance by the Licensee of any provision of this Licence, at Law and/or Environmental Law which has been notified to the Licensee by the Licensor and which has not been disputed in good faith, whether or not they are remedied, which are reasonably determined by the

Licensor to constitute a breach and which continue after receipt by the Licensee of a notice from the Licensor stating that the Licence may be terminated if such repeated breach, non-observance or non-performance continues;

- (vi) in the event that the Licensee fails to construct and/or install the Facilities in accordance with the Plans approved by the Licensor to the satisfaction of the Licensor;
- (vii) the Licensor is of the view that the capability of the Licensee to discharge fully its obligations under this Licence is materially impaired, including by reason of:
 - (1) the occurrence of the insolvency/liquidation (other than a voluntary liquidation for the purposes of reconstruction or amalgamation) of the Licensee; or
 - (2) any other adverse change in the managerial, technical or financial competence of the Licensee;
- (viii) the Licensee is listed as dissolved or struck off the Register in the Companies Registration Office in the Republic of Ireland; or
- (ix) the Licensee otherwise ceases to exist.

12.2 Without prejudice to Clause 12.1, this Licence may be determined at any time by the Licensor giving three months notice in writing, expiring on any day, to the Licensee, and upon the termination of such notice the Licence and permission hereby granted shall be deemed to be revoked and withdrawn without payment of any compensation or refund by the Licensor to the Licensee and without prejudice to any claim by the Licensor in respect of any antecedent breach of any covenant or condition herein contained or without prejudice to any obligation or liability on the part of the Licensee arising under any applicable Law, Environmental Law or pursuant to this Licence (including any accrued rights or obligations which exist at the date of termination or expiry of this Licence).

13 RIGHTS AND OBLIGATIONS ON TERMINATION OR EXPIRY

13.1 On the termination or expiry of this Licence:

- (1) All rights and powers exercisable by the Licensee pursuant to this Licence shall cease and determine, but without prejudice to any obligation or liability arising under any applicable Law, Environmental Law or pursuant to this Licence (including any accrued rights or obligations which exist at the date of termination or expiry of this Licence) or without prejudice to any claim by the Licensor in respect of any antecedent breach of any covenant or condition herein contained.
- (2) All Facilities belonging to the Licensee shall be removed by the Licensee on the termination or expiry of this Licence at its own expense to the satisfaction of the Licensor and the Licensee shall make good any damage caused by such removal and shall restore the **Licensed Area to its former condition to the satisfaction of the Licensor.**

In the event that the Facilities shall not be removed in agreement with the Licensor on the termination or expiry of this Licence, the Licensor may cause the Facilities to be removed and the Licensee shall pay to the Licensor all reasonable costs, expenses and outgoings incurred in so removing the Facilities, restoring the Licensed Area to its former condition and making good any damage thereby occasioned.

- (3) The Licensor may recover the costs and expenses of exercising all rights under clause 13.1 (2) from the Licensee as a civil debt in any court of competent jurisdiction.
- (4) Any moneys paid to the Licensor under the terms of this Licence shall not be re-paid.

14 PAYMENT AND INVOICING

14.1 All payments by the Licensee in connection with this Licence:

- (1) shall be made by electronic funds transfer delivered on or before the due date for payment, to the Licensor's account which shall be notified to the Licensee by the Licensor in writing and;
- (2) shall be paid in full, without deduction or set off in respect of any amounts in dispute or any other amounts whatsoever.

14.2 If any amount which is payable under this Licence has not been paid on or before the date that payment is due:

- (1) the party to whom payment is due may institute proceedings for recovery from the other party; and
- (2) in addition to any other remedies under this Licence, the party to whom payment is due is to be paid interest on the outstanding amount at Euribor + 1%, such interest to be calculated from the date that payment was due until the date of actual repayment.

15 REPRESENTATION AND WARRANTIES

15.1 The Licensee represents and warrants to the Licensor that:-

- (1) The Licensee is duly incorporated and organised under the laws of its place of incorporation;
- (2) The Licensee has the corporate capacity and authorisation (internal and external) to enter into and perform the terms of the Licence;
- (3) The representative signing this Licence on behalf of the Licensee is duly authorised in that behalf.

15.2 This Licence expressly excludes any warranty, condition or other undertaking implied at law or by custom and supersedes all previous agreements and understandings between the parties with respect to the subject matter hereof, other than as expressly provided for in this Licence.

16 ASSIGNMENT AND CHANGE OF CONTROL

- 16.1 The benefit of this Licence is personal to the Licensee and not assignable and the rights given hereunder may only be exercised by the Licensee.
- 16.2 For the purposes of this clause, assignment includes any change in Control of the Licensee.

17 INDEMNITIES

- 17.1 To keep the Licensor, the State, and their officers, servants, visitors, agents and employees fully indemnified, whether by State Indemnity or otherwise (during the Term of the Licence as well as after the expiration of the Term by effluxion of time or otherwise and including any extension or renewal of this Licence) from and against all or any actions, proceedings, claims, demands, losses, costs, fees, expenses, damages, penalties and other liabilities arising directly or indirectly from:

17.1.1 breach by the Licensee of any of the provisions of this Licence;

17.1.2 the state of repair or condition of the Licensed Area;

17.1.3 the existence of any additions, articles or alterations in, on or to the Licensed Area or from the state of repair or condition of any such additions, articles or alterations;

17.1.4 the use or enjoyment of the Licensed Area;

17.1.5 any work carried out or in the course of being carried out to the Licensed Area (to include work undertaken from the Adjoining Property) by the Licensee, his servants, agents or any other person with its actual or implied authority or from anything now or hereafter attached to or projecting from the Licensed Area;

17.1.6 any act, neglect or default of the Licensee or any person on the Licensed Area with his actual or implied authority or consent;

17.1.7 the execution of any works or the provision or maintenance of any arrangements

so directed or required by any Law;

17.1.8 any contravention of the Planning Acts, the Building Control Acts, Construction Regulations, Environmental Laws and/or the Public Health Acts and from any applications for planning permission, commencement notices, fire safety certificates, Environmental Licences and works and actions taken in pursuance thereof;

17.1.9 any contravention of the Local Government (Water Pollution) Act, 1977 as amended;

17.1.10 any other cause whatsoever arising out of the Facilities and/or Licensed Area;

and to make good all loss sustained by the Licensor in consequence of any breach by the Licensee of any covenants or conditions herein.

17.2 whenever required to do so by the Licensor, to produce to the Licensor for inspection the Confirmation Statement and to comply with all conditions pertaining to State Indemnity.

18 JOINT AND SEVERAL LIABILITY (IF MORE THAN ONE LICENSEE)

Save where otherwise specified, any obligations of the Licensee under this Licence are joint and several obligations.

19 FORCE MAJEURE

19.1 Except as otherwise provided by this Licence, where any party or parties are rendered wholly or partially incapable of performing all or any of their obligations under this Licence by reason of Force Majeure:

- (1) as soon as is reasonably practicable, the party affected by Force Majeure shall notify the other parties, identifying the nature of the event, its expected duration and the particular obligations affected and shall furnish reports at such intervals reasonably requested by the other party during the period of Force Majeure;

- (2) this Licence shall remain in effect but that party's obligations, except for an obligation to make payment of money, and the corresponding obligations of the other party, shall be suspended, provided that the suspension shall be of no greater scope and no longer duration than is required by the Force Majeure;
- (3) subject to full compliance with this clause 19.1, during suspension of any obligation pursuant to clause 19.1(2), the relevant party or parties shall not be treated as being in breach of that obligation;
- (4) the party affected by the Force Majeure shall use all reasonable efforts to remedy its inability to perform all or any of its obligations under this Licence by reason of Force Majeure and to resume full performance of its obligations under this Licence as soon as is reasonably practicable;
- (5) as soon as is reasonably practicable after notification of the Force Majeure, each party shall use all reasonable endeavours to consult with the other party as to how best to give effect to their obligations under this Licence so far as is reasonably practicable during the period of the Force Majeure;
- (6) upon cessation of a party's inability to perform all or any of its obligations under this Licence by reason of Force Majeure, that party shall notify the other party; and
- (7) insofar as is possible, any party affected by an event of Force Majeure shall do all things reasonably practicable to mitigate the consequences of the Force Majeure.

19.2 Clause 19.1(4) shall not require the settlement of any strike, walk-out, lock-out or other labour dispute on terms which, in the sole judgement of the party involved in the dispute, are contrary to its interests.

20 DISPUTE RESOLUTION

20.1 Subject to clause 20.10, no party may commence proceedings in relation to any Dispute in connection with this Licence without first complying with the provisions of clause 20.

- 20.2 Any party may notify the other party of the occurrence or discovery of any item or event which the notifying party acting in good faith considers to be a Dispute under or in connection with this Licence (hereinafter referred to as a “**Dispute Notice**”).
- 20.3 A Dispute Notice shall:
- (1) set out the particulars of the issues in dispute in sufficient detail and be accompanied by sufficient supporting documentation (if relevant) to enable the recipient or recipients of the notice to fully understand the Dispute; and
 - (2) identify an individual to represent that party in discussions in relation to the Dispute, such individual to have:
 - (a) expertise or experience in the subject matter of the Dispute; and
 - (b) authority to negotiate in relation to the Dispute.
- 20.4 The recipient of a Dispute Notice shall, within 10 Business Days after the date of the Dispute Notice:
- (1) appoint an individual to represent that recipient in discussions in relation to the Dispute, such individual to have:
 - (a) expertise or experience in the subject matter of the Dispute; and
 - (b) authority to negotiate in relation to the Dispute; and
 - (2) notify the details of that individual to the sender of the Dispute Notice.
- 20.5 The nominated representatives shall meet as soon as practicable, but in any event not more than 20 Business Days after the date of the Dispute Notice, to attempt in good faith using all reasonable endeavours to resolve the Dispute satisfactorily.
- 20.6 If a Dispute is not resolved to any party’s satisfaction by the nominated representatives under clause 20.5 within 30 Business Days after the date of the Dispute Notice, the Dispute may, by notice in writing by any party to the other party to the Dispute, be referred to arbitration for determination by a single arbitrator appointed by agreement between the parties.

- 20.7 Failing agreement on the appointment of an arbitrator within the time frame set out in clause 20.6, the arbitrator shall be appointed at the request of any party, after giving notice in writing to the other party to the Dispute, by the President for the time being of the Law Society of Ireland.
- 20.8 The provisions of the Arbitration Acts 1954 to 2010 and any amendments thereto shall apply to the arbitration.
- 20.9 Performance of obligations under this Licence shall continue during any Dispute Resolution Procedure pursuant to this clause 20.
- 20.10 Nothing in this clause 20 prevents any party from seeking urgent declaratory injunctive or other interlocutory relief.

21 COMPLIANCE WITH PLANNING

- 21.1 The Licensee shall obtain all planning permissions, fire safety certificates, Environmental Licences, permissions and other consents required for the construction, installation and operation of the Facilities and comply at its own cost therewith and any local authority requirements. On the completion of the construction and installation of the Facilities, the Licensee shall furnish the Licensor with its architect's certificate of compliance in respect of such permissions.
- 21.2 The Licensee shall not implement any planning permission before it and all required fire safety certificates and Environmental Licences have been produced to the Licensor.
- 21.3 In the event of the Licensed area or the Facilities or the construction and installation thereof not conforming to the planning permission, fire safety certificate or Environmental Licences procured in respect thereof, the Licensee shall carry out such alterations or amendments as shall be necessary to comply therewith. However in the event of it becoming impossible to comply with the planning permission, fire safety certificate or Environmental Licences procured, to restore the Licensed Area to its former condition and to the satisfaction of the Licensor.
- 21.4 The Licensee shall not do anything on or in connection with the Licensed Area, Plant and equipment the doing or omission of which shall be a contravention of the Planning and Development Acts, 2000 to 2020 as amended, the Building Control Acts 1990 to

2014, as amended and the Safety, Health and Welfare at Work Act 1989 and 2005, as amended or of any notices, orders, licenses, consents, permissions and conditions (if any) served, made, granted or imposed thereunder. In the event of permission or approval from any local authority under the Planning and Development Acts 2000 to 2020, as amended, or the Building Control Acts 1990 to 2014, as amended, or the Local Government (Sanitary Services) Act, 1878, as amended or the Public Health Acts 1878 to 2001, as amended, and any statutory modification or re-enactment thereof for the time being in force and regulations or order made thereunder being necessary for any addition, alteration or change in or to the Licensed Area for the change of use thereof, to apply, at its own cost to the relevant local authority for all approvals, certificates, consents and permissions which may be required in connection therewith and to give notice to the Licensor of the grant or refusal (as the case may be) together with copies of all such approvals, certificates, consents and permissions forthwith on receipt thereof and to comply with all conditions, regulations, bye-laws and other matters prescribed by any competent authority whether generally or specifically in respect thereof and to carry out such works at the Licensee's own expense in a good and workmanlike manner to the satisfaction of the Licensor. The Licensee shall produce to the Licensor on demand all plans, documents and other evidence as the Licensor may reasonably require in order to satisfy himself that the provisions of this Licence have been complied with in all respects.

21.5 The Licensee shall give notice forthwith to the Licensor of any notice, order or proposal for a notice under the Planning and Development Acts, 2000 to 2020 as amended or the Building Control Acts 1990 to 2014 as amended, or the Local Government (Sanitary Services) Act, 1878, as amended, or the Public Health Acts, 1878 to 2001, as amended and comply at its own cost therewith.

21.6 The Licensee shall at the request of the Licensor, but at its own cost, make or join in making such objections or representations in respect of any proposal the Licensor may require to be made.

22 OUTGOINGS

22.1 The Licensee shall pay and discharge:

- (i) All rates, taxes, duties, charges, assessments, impositions and outgoings whatsoever charged, levied, assessed, imposed upon or payable in respect of the Licensed Area.
- (ii) All costs associated with the construction and installation of the Facilities and the continued operation and use thereof including the cost of any work which the Licensor may have to do to facilitate any act or thing hereby authorised.

23 EXERCISE OF RIGHTS

23.1 To exercise the Licence hereby granted in such a manner as to cause no damage or injury to the Licensed Area, the Licensor, the occupants of the Licensed Area and any adjoining property or Foreshore and to forthwith from time to time with due diligence repair and make compensation for any such damage or injury that may be so caused.

24 INSURANCE/STATE INDEMNITY

Without prejudice to the Licensee’s liability to indemnify the Licensor (and others as specified in clause 17) in accordance with the provisions of Clause 17:-

24.1 to insure and keep insured, in an insurance office licensed to operate in the State or which has received authorisation to operate in the State in accordance with Article 14 of Directive 2009/138EC in the joint names of the Licensor and the Licensee in the full reinstatement cost thereof (to be determined from time to time by the Licensor or his surveyor and including an inflationary factor) the Licensed Area and all buildings thereon and the fixtures and fittings therein (if any) against loss or damage by the Insured Risks, including demolition and site clearance expenses, architects’ and other fees and taxes in relation to the reinstatement of the Licensed Area, such policy to include a non- invalidation clause acceptable to the Licensor.

24.2 to effect and keep in force a public liability insurance policy of indemnity in the joint names of the Licensor and Licensee in an insurance office licensed to operate in the State with a limit of [REDACTED] [REDACTED] (or such increased amount as the Licensor may from time to time

determine) in respect of any one claim or a series of claims arising out of a single occurrence for any damage, loss or injury which may occur to any property (not being the property of the Licensor or the Licensee) or to any person by or arising out of the admission of any person to the Licensed Area, and to extend such policy so that the Licensor is indemnified by the insurers in the same manner as the Licensee or to provide the Confirmation Statement referred to at 24.5 below. This policy should include an indemnity to principles clause with a specific indemnity to the Licensor.

24.3 to effect and keep in force an employer's liability insurance policy of indemnity in the joint names of the Licensor and Licensee in an insurance office licensed to operate in the State with a limit of [REDACTED] (or such increased amount as the Licensor may from time to time determine) for any one claim or a series of claims arising out of a single occurrence and to extend such policy so that the Licensor is indemnified by the insurers in the same manner as the Licensee in respect of all actions, costs, proceedings, losses, damages, or claims for personal injuries by employees of the Licensee or to provide the Confirmation Statement referred to at 24.5 below. This policy should include an indemnity to principles clause with a specific indemnity to the Licensor.

24.4 in the event that the Licensed Area or the Facilities or any part thereof, shall be destroyed or damaged by fire or any of the Insured Risks, then and as often as shall happen, to lay out all monies received in respect of such insurance as aforesaid as soon as practicable in or upon rebuilding, repairing or reinstating the Licensed Area in a good and substantial manner and in the event that such monies shall be insufficient for the said purpose, to make good the deficiency.

24.5 whenever required to do so by the Licensor, to produce to the Licensor for inspection the said policy or policies together with the latest receipt of the premium paid for renewal of the said policy or policies together with evidence of waiver of subrogation rights against the Licensor by the Licensee's insurers, and to comply with all conditions pertaining to any such policy or policies or where State Indemnity is relied on whenever required to do so by the Licensor,

to produce to the Licensor for inspection the Confirmation Statement.

- 24.6 such joint policy or policies, if required, to contain a non-vitiating clause whereby subject to the terms, conditions, limitations of the policy or policies, any non-disclosure, mistake or misrepresentation of a material fact by the Licensee gives sufficient reason for the insurer to prove the insurance policy to be void, the Licensor will not be denied the protection of the policy.
- 24.7 not to do or omit to do anything which might cause any policy of insurance (if required) relating to the Licensed Area or any Adjoining Property owned by the Licensor to become void or voidable, wholly or in part, nor (unless the Licensee has previously notified the Licensor and the Licensee has agreed to pay the increased premium) to do anything whereby any abnormal or loaded premium may become payable.
- 24.8 to immediately notify the Licensor in writing of the making of any claim under any policy of insurance or State Indemnity and to provide the Licensor with all information in relation to any such claim.
- 24.9 to ensure that any contractors, servants, agents, invitees or visitors of the Licensee engaged in connection with activities in the Licensed Area or otherwise in connection with this Licence have appropriate insurance and that all copies of such insurance policies shall be provided to the Licensor as soon as is reasonably practicable.

25. NOTICES

- 25.1 Save where otherwise provided, any demand or notice to be made, given, or served on foot of this Licence may be given in writing by sending same by pre-paid post to (i) the registered office of the Licensee at Colvill House, 24/26 Talbot Street, Dublin 1, D01 NP86, or such other address as shall be notified by the Licensee to the Licensor, in writing, or (ii) the office of the Licensor being Custom House, Dublin, D01 W6X0 or such other address as shall be notified to the Licensee, in writing.

25.2 Any such demand or notice shall be deemed to have been made, given or served when posted at the expiration of three working days after the envelope containing the same and properly addressed was put in the post.

26. VARIATION

26.1 No amendment to this Licence shall be effective unless it is in the form of a supplemental instrument executed by the parties.

26.2 The Licensor reserves the right to review and amend by way of supplemental instrument any of the terms of this License.

27. RELATIONSHIP OF THE PARTIES

27.1 Nothing in this Licence may be interpreted or construed as creating any landlord and tenant relationship, any tenancy in or right to possession of or any right of easement over or in respect of the Licensed Area or adjoining property/Foreshore of the Licensor, or any agency, association, joint venture or partnership between the Licensor and the Licensee.

27.2 Except as is expressly provided for in this Licence, nothing in this Licence grants any right, power or authority to any party to enter into any agreement or undertaking for, act on behalf of or otherwise bind any other party.

27.3 It is hereby certified for the purposes of Section 238 of the Companies Act 2014 that the Licensor is not a director or a person connected with a director of the Licensee.

28. SEVERABILITY

28.1 If any provision of this Licence is or becomes or is declared invalid, unenforceable or illegal by the courts of any jurisdiction to which it is subject or by order of the relevant body of the European Union, that provision shall be severed and the remainder of this Licence shall remain in full force and effect.

28.2 The parties shall comply with this Licence as amended in accordance with this clause 28.

29. STAMP DUTY

To stamp (if applicable) this Licence and counterpart thereof as soon as practicable after the execution of same and to furnish the counterpart duly stamped to the Chief State Solicitor on behalf of the Licensee within three months of the date of execution of the Licence.

30. GOVERNING LAW

30.1 The Licence shall be governed and construed in accordance with the laws of Ireland.

30.2 Subject to clause 20, the parties hereby submit irrevocably to the non-exclusive jurisdiction of the courts of Ireland.

FIRST SCHEDULE

“LICENSED AREA”

ALL THAT AND THOSE that part of the Foreshore comprising 0.0129 hectares or thereabouts metric measure together with any works or other structures thereon or to be hereafter constructed thereon, situate at Castletownshend, County Cork more particularly shown outlined in red and specified as “Area A 0.0129Ha.” on DRAWING TITLE FORESHORE LICENCE MAP SHEET 1, Drg. No: IW10015228-03-04-001 attached hereto and including, without prejudice to the generality of the foregoing, the Plans.

AND

ALL THAT AND THOSE that part of the Foreshore comprising 0.0041 hectares or thereabouts metric measure together with any works or other structures thereon or to be hereafter constructed thereon, situate at Castletownshend, County Cork more particularly shown outlined in red and specified as “Area B 0.0041Ha.” on DRAWING TITLE FORESHORE LICENCE MAP SHEET 2, Drg. No: IW10015228-03-04-002 attached hereto and including, without prejudice to the generality of the foregoing, the Plans.

SECOND SCHEDULE

“SPECIFIC CONDITIONS”

31. The Licensee shall throughout the Term:

- 31.1 Ensure that the Facilities and works shall be conducted in accordance with documents and drawings submitted by the Licensee.
- 31.2 Ensure that a marine mammal observer (MMO) be engaged for the duration of the Facilities and works when any pile driving is taken place and that the MMO operates according to the relevant guidelines of NPWS.
- 31.3 Ensure that the services of a suitably qualified and suitably experienced underwater archaeologist (experienced in the archaeological monitoring of marine works) should be engaged to monitor all Facilities and works for the proposed outfall pipeline. The archaeological monitoring to include the following:
 - i. The strategy for archaeological monitoring will need to ensure sufficient archaeological personnel are on site to monitor all plant and machinery at work and to carry out the monitoring fully. This to include being on board any Plant and or plant/machinery (e.g. barge setup, etc.) that is being used.
 - ii. A communications system between the monitoring archaeologist(s) should also be detailed to ensure Facilities and works can be suspended if potential underwater cultural heritage is identified. All Facilities and works in that area should then remain suspended pending full resolution of the potential UCH. The Licensee and Facilities and works contractor will be prepared to be advised by the National Monuments Service in this regard.
 - iii. All dredged spoil if being removed off site from the Licensed Area to be subject to archaeological assessment, via spreading and metal detection survey. This too should form part of the monitoring strategy drafted by the licensed archaeologist.
 - iv. The archaeological monitoring is to be licensed by the National Monuments Service and a detailed method statement should accompany the application that informs on the monitoring strategy.
 - v. A detailed monitoring report should be forwarded to the National Monuments Service upon completion of all Facilities and works.
 - vi. Should underwater cultural heritage be encountered during the course of the archaeological monitoring, the National Monuments Service should be contacted immediately to ensure there are no undue delays to Facilities and works.

- 31.4 Ensure that in order for charts and nautical publications to be updated the British Admiralty Hydrographic Office at Taunton, UK, is to be informed of the location and nature of the Licensed Area and site.
- 31.5 The Licensee is required to apply to the Commissioners of Irish Lights (email: info@irishlights.ie) for sanction to establish any lights and marks that maybe required.
- 31.6 Prior to the carrying out of Facilities and works the Licensee shall liaise with the Irish coastguard to ascertain and co-ordinate their (coastguard) operational needs and requirements during the construction phase of the Facilities.
- 31.7 Prior to the carrying out of Facilities and works the Licensee shall take measures to inform recreational anglers of restrictions due to the Facilities and construction.
- 31.8 A valid Waste Water Discharge Licence shall be in place prior to commissioning of the Facilities and outfalls and a copy of same shall be submitted to the Foreshore Unit of the Department of Housing, Local Government and Heritage or their successor in title if applicable.
- 31.9 The Licensee shall submit to the Foreshore Unit of the Department of Housing, Local Government and Heritage, or their successor in title if applicable, a detailed report on any existing outfall pipelines to be decommissioned upon commissioning of the Facilities and proposed waste water treatment plant, collection system and marine outfalls. The report shall include the location and detailed description of all defunct outfalls and proposals for their removal and the remediation of the Foreshore.
- 31.10 The Licensee shall liaise with the IFI to put in place a construction method statement prior to the commencement of the Facilities and works, to ensure any risk of pollution to the aquatic environment is addressed, and this shall include:
- i. Measures to be taken during all aspects of construction of the Facilities to ensure that no concrete is allowed to enter intertidal waters whether from pouring or mixing of cementitious material.
 - ii. All refuelling of Plant, machines and equipment must take place well away from the shoreline. Any fuels, lubricants and hydraulic fluids that are stored on site shall be kept in secure bunded areas away from the shoreline. The bunded area shall accommodate 110% of the total capacity of the containers within it.
 - iii. A clear spillage control procedure shall be put in place and all site staff properly briefed on it.
 - iv. Any waste oils or hydraulic fluids shall be collected, stored in appropriate containers and disposed of offsite in an appropriate manner. Spill kits, with an appropriate capacity for the contaminants used on site.
 - v. A clear methodology based on best practice shall be established and monitored to ensure minimal silt and suspended solids are released into the water as these

could have an impact on the shellfish and commercial fishery located nearby.

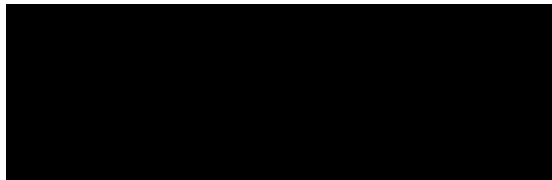
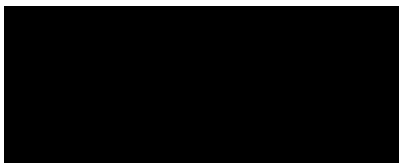
- vi. The inclusion of IFI in an Emergency Response Plan as a notifiable body in the event of water pollution occurring during the Facilities and construction works. Particular attention to activities likely to generate suspended solids and/or other pollutants and the proposals to prevent these pollutants shall be specified, where appropriate.

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

IN WITNESS whereof a person so authorised by the Licensor under Section 15(1) of the Ministers and Secretaries Act 1924 has hereunto subscribed his name and the Licensor and Licensee has hereunto affixed his seal the day and year first herein WRITTEN.

PRESENT when the Official Seal of the
**MINISTER FOR HOUSING, LOCAL GOVERNMENT
AND HERITAGE**

was affixed hereto and was authenticated by the
signature of:-



A person authorised by Section 15(1)
of the Ministers and Secretaries Act, 1924
to authenticate the Seal of the said Minister

Witness to print

Full name: 

Position held: EXECUTIVE OFFICER

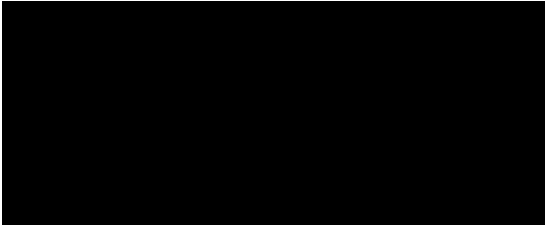
Address: CUSTOM HOUSE

DUBLIN 1

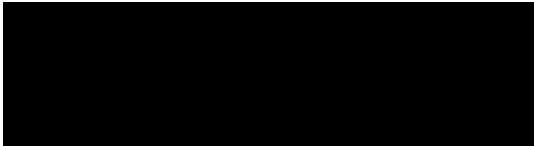


Given under the common seal of **IRISH WATER**

which was affixed hereto:-



Director



Director/Secretary



Dated day of 2022

MINISTER FOR HOUSING, LOCAL GOVERNMENT AND HERITAGE

“the Licensor”

One part

-AND-

IRISH WATER

“the Licensee”

Other Part

FORESHORE LICENCE

Chief State Solicitor’s Office
Osmond House
Ship Street Little
Dublin 8
Ref: File ref.: 2022/00580

FS007258

REPORT OF THE MARINE LICENCE VETTING COMMITTEE (MLVC)

On

**FORESHORE LICENCE APPLICATION FOR UPGRADE TO THE WASTE WATER COLLECTION
AND TREATMENT SYSTEM AT CASTLETOWNSHEND, CO. CORK.**

APPLICANT: IRISH WATER

The marine licence vetting committee (MLVC)

The MLVC is a non-statutory multi-disciplinary committee which is convened, as required, for the purposes of undertaking a technical, including environmental, assessment of an application under the Foreshore Act 1933, as amended. Members undertake to participate in each instance voluntarily, as representatives of their individual organisations.

On the 22/12/2020 the Foreshore Section of the Department of Housing, Local Government and Heritage (DHLGH) requested the MLVC to undertake the technical assessment detailed below.

MLVC Report

1. Project Overview

Irish Water has submitted an application the Department of Housing, Local Government and Heritage for a foreshore licence to upgrade the Waste Water Collection and Treatment System at Castletownshend, Co. Cork.

Castletownshend is located within Castlehaven Bay, Co. Cork. Castlehaven Bay is a relatively narrow bay, approx. 450-500m wide at the proposed project location, widening out to no more than 600m at the mouth of the Bay at Reen Point. .

The developer proposes to (1) construct an outfall for a proposed wastewater treatment plant which will extend from the shore into the foreshore beyond the low water level and (2) Create an extension to an existing outfall from the quay wall into the foreshore beyond the low water level. This outfall will serve as the storm water overflow outfall and emergency overflow for a proposed pumping station.

A separate but interdependent project for the construction and operation of a Wastewater Treatment Plant (WwTP) (Cork Co. Co. Planning reference: 21264) is the subject of a separate review process. However, the documentation related to that project was also examined as part of the review of this project.

Location: Castletownshend, Co. Cork

2. Brief Description of Proposed Development

The wastewater treatment plant outfall pipe will be a 250mm external diameter, HDPE pipe which will extend approx. 125m beyond the low water level terminating in 2no. 80mm diameter diffuser. The diffusers will discharge with a water depth of approx. 4.6m at low tide. The outfall pipe will be a permanent fixture.

Two possible construction options are proposed for the wastewater treatment plant outfall pipe. Option 1 consists of the installation of piles and trenching of the seabed. Option 2 consists of trenching alone.

An existing stone culvert will be used as the proposed pumping station overflow. The stone culvert currently discharges into Castlehaven Bay adjacent to a slipway and is generally visible above the water level. It is proposed to add a backdrop manhole to this culvert so that it can be extended into the foreshore below the low tide level. An overflow weir will be provided to allow for spill logging. The pipe will be a 600mm external diameter, HDPE pipe which will extend approx. 19m beyond the low water level (approx. 41m total length). The pipeline from the backdrop manhole will be constructed in the same manner as the wastewater treatment plant outfall pipeline. The same option used for the wastewater treatment plant outfall will be used to extend the existing stone culvert beyond the low water level.

The works described in this application are interdependent on a separate project, the Castletownshend sewerage scheme (Cork Co. Co. Planning reference: 21264), which will include a wastewater treatment plant, pumping station and associated pipework and mechanical kit.

Estimated duration of works is 4 months.

3. Relevant Statutory Consents and Government Policies/Programmes

4. Public Participation

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

The upgrade to the WWTP at Castletownshend was open for public consultation from 22nd July 2021 to 20th August 2021. Zero (0) submissions were made from the public

Public Consultation Submissions and Assessment: N/a

No public submissions were received during the consultation period.

5. Prescribed Bodies Consultation

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

- Department of Housing, Local Government and Heritage (Water and Marine Advisor)
- Department of Housing, Local Government and Heritage (Nature Conservation)
- Department of Housing, Local Government and Heritage (Underwater Archaeology)
- Department of Agriculture Food and the Marine (Aquaculture)
- Marine Institute
- Inland Fisheries Ireland
- Marine Survey Office
- EPA
- Sea Fisheries Protection Authority

Prescribed Bodies Submissions and Assessment: Observations on the application were received from:

- Department of Housing, Local Government and Heritage (Water and Marine Advisor)
- Department of Housing, Local Government and Heritage (Nature Conservation)
- Department of Housing, Local Government and Heritage (Underwater Archaeology)
- Marine Institute
- Inland Fisheries Ireland
- Marine Survey Office
- EPA
- Sea Fisheries Protection Authority

There were no objections in principle to the proposed works. A number of the submissions from the Prescribed Bodies raised particular observations and put forward suggested conditions to be included in any licence issued. These have been considered as part of this assessment process and have informed attached draft conditions.

Environmental considerations

Four Natura 2000 sites lie within 15km of the proposed works. The proposed new outfall location is within 200m of Castletownshend SAC [IE001547] and 5km of Myross Wood SAC [IE001070]. Lough Hyne Nature Reserve and Environs SAC [IE000097] is at a distance of approximately 12km by sea from the works site while Sheep's Head to Toe Head SPA [IE004156] is 5km from the works site.

The environmental effects of the proposed development were considered by independent environmental experts, in view of the scale and complexity of the environmental assessment required, and taking account of the available resources within the Department.

Their expert recommendations form the basis for conclusions in respect of appropriate assessment screening.

AA screening

The expert advice received in relation to this particular development proposal is that it would not be likely to have a significant effect individually, or in-combination with other plans and projects, on the Natura 2000 network and appropriate assessment is not therefore required. In view of the work and conclusions of the expert advices received this conclusion is supported and adopted and it is concluded that an appropriate assessment is not required.

EIA Directive

The proposed project is not of a type/class that is included in Annex I and II of the EIA Directive (Schedule 5 to the Planning & Development Regulations). However a non-statutory environmental assessment was undertaken by expert advisers and forms part of the assessment of the proposed development, including draft conditions. This will be further considered as part of the overall assessment of the proposal.

Technical and Environmental assessment

6. Estate Management

All foreshore is presumed state owned unless proven otherwise. In this case there are no known established claims of private ownership of the foreshore at this location and no claims of private ownership were raised during the application and public consultation process therefore, the foreshore the subject of this application is state owned. It is considered appropriate to issue a foreshore licence for the proposed development.

Conclusions and Recommendation

7. Public Interest

In this case the proposed development is in the public interest in that it is required to provide an updated and improved waste water treatment network which is needed to meet environmental, operational and sanitary/ public health standards.

8. MLVC Considerations

The following documentation were considered:

- Application form, dated 03/03/2020
- Screening for Appropriate Assessment

Drawings/Maps as follows:

- Foreshore Licence Map; Sheet 1 Drg. No. IW-10015228-03-04-001, Rev: F1, Rev Date 03/03/20
- Foreshore Licence Map; Sheet 2 Drg. No. IW-10015228-03-04-002, Rev: F1, Rev Date 03/03/20
- Site Location Map. Planning Report, dated December
- Written submissions received under the Prescribed Bodies Consultation and recommendations
- The applicant's written responses to the Prescribed Bodies submissions
- Appropriate Assessment Screening and Environmental Report prepared by MERC Consultants

9. MLVC Conclusions and Recommendation

The proposals comprises of needed improvements to the sanitary services network. The proposal comprehensively environmentally assessed and found to have no adverse effects on protected habitats. With respect to the EIA directive the proposed development is sub threshold, however in view of possible effects on protected mobile aquatic species, it is considered prudent to have a marine mammal observer (MMO) be engaged for the duration of the project when any pile driving is taken place and that the MMO operates according to the guidelines of NPWS. Construction methodology statements which shall include measures to protect aquatic life shall be established prior to commencement of the works. In view of the location of the proposed development proximate to an active slipway used by the coastguard the applicant/ developer shall liaise with this agency to ascertain their operational needs. Archaeological monitoring is also required to be carried out, based on the observations of the underwater archeology unit.

However, having considered all submissions, the proposed application details and having assessed the environmental implications it is considered that the proposed development is in the interests of public health, residential amenity and is considered both appropriate, needed and is recommended for a grant of appropriate license, subject to the proposed conditions, below.

Proposed conditions

- The Drawing Titled Foreshore Licence Map,; Sheet 1 Drg. No. IW-10015228-03-04-001, Rev: F1, Rev Date 03/03/20 and foreshore Licence Map; Sheet 2 Drg. No. IW-10015228-03-04-002, Rev: F1, Rev Date 03/03/20 shall be attached to and referenced in the licence document.
- The works shall be conducted in accordance with documents and drawings submitted by the applicant.
- A marine mammal observer (MMO) be engaged for the duration of the project when any pile driving is taken place and that the MMO operates according to the relevant guidelines of NPWS.
- The services of a suitably qualified and suitably experienced underwater archaeologist (experienced in the archaeological monitoring of marine works) should be engaged to monitor all works for the proposed outfall pipeline. The archaeological monitoring to include the following:

The strategy for archaeological monitoring will need to ensure sufficient archaeological personnel are on site to monitor all plant and machinery at work and to carry out the monitoring fully. This to include being on board any plant/machinery (e.g. barge setup, etc.) that is being use.

A communications system between the monitoring archaeologist(s) should also be detailed to ensure works can be suspended if potential underwater cultural heritage is identified. All works in that area should then remain suspended pending full resolution of the potential UCH. The applicant and works contractor will be prepared to be advised by the National Monuments Service in this regard

All dredged spoil if being removed off site to be subject to archaeological assessment, via spreading and metal detection survey. This too should form part of the monitoring strategy drafted by the licensed archaeologist.

The archaeological monitoring is to be licensed by the National Monuments Service and a detailed method statement should accompany the application that informs on the monitoring strategy.

A detailed monitoring report should be forwarded to the National Monuments Service upon completion of all works.

Should underwater cultural heritage be encountered during the course of the archaeological monitoring, the National Monuments Service should be contacted immediately to ensure there are no undue delays to works.

- In order for charts and nautical publications to be updated the British Admiralty Hydrographic Office at Taunton, UK, is to be informed of the location and nature of the site.
- The applicant/ developer is required to apply to the Commissioners of Irish Lights (email: info@irishlights.ie) for sanction to establish any lights and marks that maybe required.
- As the slip way is frequently used by the Irish Coast Guard for the launch and recovery of both a 4.9m D- Class and 8.0m Delta Rib the applicant to clarify with the marine survey office the exact distance the termination of the outfall pipe and associated marker buoy will be from the slipway.
- Prior to the carrying out of works the applicant shall liaise with the Irish coastguard to ascertain and co-ordinate their (coastguard) operational needs and requirements during the construction phase

- Prior to the carrying out of works the applicant shall take measures to inform recreational users of restrictions due to construction.
- A valid Waste Water Discharge Licence shall be in place prior to commissioning of the outfalls and a copy of same shall be submitted to the Foreshore Unit of the Department of Housing, Local Government and Heritage.
- The licensee shall submit to the Foreshore Unit of the Department of Housing, Local Government and Heritage a detailed report on any existing outfall pipelines to be decommissioned upon commissioning of the proposed waste water treatment plant, collection system and marine outfalls. The report shall include the location and detailed description of all defunct outfalls and proposals for their removal and the remediation of the foreshore.
- The applicant shall liaise with the IFI to put in place a construction method statement prior to the commencement of works, to ensure any risk of pollution to the aquatic environment is addressed this shall include:
 - Measures to be taken during all aspects of construction to ensure that no concrete is allowed to enter intertidal waters whether from pouring or mixing of cementitious material.
 - All refuelling of machines and equipment must take place well away from the shoreline. Any fuels, lubricants and hydraulic fluids that are stored on site shall be kept in secure bunded areas away from the shoreline. The bunded area shall accommodate 110% of the total capacity of the containers within it.
 - A clear spillage control procedure shall be put in place and all site staff properly briefed on it.
 - Any waste oils or hydraulic fluids shall be collected, stored in appropriate containers and disposed of offsite in an appropriate manner. Spill kits, with an appropriate capacity for the contaminants used on site.
 - A clear methodology based on best practice shall be established and monitored to ensure minimal silt and suspended solids are released into the water as these could have an impact on the shellfish and commercial fishery located nearby.
 - The inclusion of IFI in an Emergency Response Plan as a notifiable body in the event of water pollution occurring during construction works. Particular attention to activities likely to generate suspended solids and/or other pollutants and the proposals to prevent these pollutants shall be specified, where appropriate.
- The licensee shall notify the Foreshore Unit of the Department of Housing, Local Government and Heritage at least 14 days in advance of the commencement of any works on the foreshore. This notification shall include an up to date Programme of Works for the completion of the project.


 Senior Planning Adviser- BA (Hons), MSc, MBA, MIPI

6/1/22