

# Cllr. Marcia D'Alton

Mobile: 085-7333852 • Email: [info@marciadalton.net](mailto:info@marciadalton.net)

Website: [www.marciadalton.net](http://www.marciadalton.net)

Facebook: [www.facebook.com/cllrmarciadalton](http://www.facebook.com/cllrmarciadalton) • Twitter: [@marciadalton](https://twitter.com/marciadalton)



22 Hillcrest,  
Pembroke Wood,  
Passage West,  
Co. Cork.

An Bord Pleanála,  
64 Marlborough Street,  
Dublin 1.

2<sup>nd</sup> March, 2020.

---

**RE: ABP-304860-19**

**Planning authority: Cork County Council**

**Applicant: IDA Ireland**

**Planning application: 18/6038 for construction of a below ground foul pumping station incorporating a below ground emergency storage tank, a below ground storm water pumping station, a 3.1m high control building and ESB substation, a 2.65m high chemical dosing unit, provision of a 2.15m high standby generator with acoustic barrier, a 1.5m high air handling unit with acoustic barrier, a 4m high mobile lifting gantry and a 2.4m high security fence along with indigenous plant screening. Pipework associated with the development includes a foul rising main along the R613, local roads and green fields from the foul pumping station to the Shanbally wwtp as well as 3 no. short sections of pipeline associated with the storm water and foul pumping station. Also installation of 2 no. new reinforced concrete manhole chambers on existing pipelines, associated site work, site excavation works above and below ground and the demolition of a derelict bungalow.**

---

Dear Sir/Madam,

Cork County Council granted planning permission to IDA Ireland for the above proposed development. An appeal against the proposed grant of planning was lodged with An Bord Pleanála by Martin & Maria Finnan on 8<sup>th</sup> July 2019. I submitted an observation on that appeal to the Board on 29<sup>th</sup> July 2019. My observation outlined my concerns in relation to the proposed development. The Board concurred that a likely significant effect on water quality in the Cork Harbour Special Protection Area (SPA) could not be ruled out by at screening stage and requested that the applicant would prepare a Natura Impact Statement.

I find the NIS prepared on foot of the Board's request to be woefully inadequate in its detail and preparation and to in no way reassure that the proposed development will have no impact on the Cork Harbour SPA.

It is worth recapping in plain English what is proposed here. The planning application seeks approval to build two pumping stations, one for wastewater and one for stormwater, a storage tank for wastewater, a building to house controls, an ESB substation and mobile lifting gantry. It also seeks approval to provide a chemical dosing unit, a standby generator, an air handling unit placed behind an acoustic barrier and to install two new concrete manholes on an existing pipeline. It seeks approval to lay new pipelines from these pumping stations through fields and along roads from Loughbeg to the Shanbally wastewater treatment plant for a distance of some 3 km. The pumping stations will serve 75 ha of industrially zoned land, as yet undeveloped. Wastewater of unknown composition from an unknown process is to discharge to the underground storage tank from industrial development of as yet unknown characteristics. All going well, it is to be pumped to a wastewater treatment plant some 3 km away, although the wastewater treatment plant does as yet not have the capacity to accept industrial loading. All not going according to plan, the wastewater will be pumped into Loughbeg. Stormwater with as yet unknown characteristics from car parks and process areas of the as yet unknown industries will flow to the stormwater pumping station in as yet unknown quantities to be pumped into Loughbeg. Loughbeg is an integral part of the Cork Harbour SPA which supports wintering waterfowl in numbers of national and international importance.

- **The NIS fails to assess the nature and impact of future discharges from the proposed development on Loughbeg, part of the Cork Harbour SPA**

What is critical here is that stormwater and wastewater are to be discharged to Loughbeg. Their nature and volume may have an impact on the Loughbeg designated site. As the purpose of the proposed development is to serve a significant area of industrially zoned land, both the stormwater and the wastewater received by the proposed development would be industrial in nature. Yet all the NIS refers to is nutrients. Section 7.3 states that “*The proposed development is predicted, during operation, to affect the integrity of Cork Harbour SPA via nutrient inputs from foul and stormwater pollution*”. It should not be necessary to point out that nutrients are often the least challenging constituents of industrial wastewater. Whilst wastewater streams vary widely from process to process and from plant to plant, process water from industries typical of the Cork Harbour area can contain such compounds as benzene, chloroform, phenols and more. It can contain resins, pesticides and plastics. Some of these may be captured in a BOD measurement. However BOD will not capture the presence of heavy metals present in most wastewater. Their concentration may or may not be reduced by upstream treatment but will rarely be eliminated.

Storm water from industrial developments generally does not constitute simply rain falling on car parks. It also contains surface run-off from production areas. Generally it is best practice to have online monitors checking the quality of run-off from production areas before direct discharge to surface water sewer and it is similarly best practice to have upstream mitigation measures designed to prevent egress of run-off that does not meet required standards. There are no mitigation measures for surface water run-off included for the proposed development at all, nor is there any estimate of the volume of surface water that may be directly discharged at the head of Loughbeg.

In C(2018) 7621 final, the European Commission [2] is clear that AA is about “*demonstrating the absence of adverse effects rather than their presence*”. In working to achieve that aim, the AA must include a “*comprehensive identification of all the potential effects of the plan or project likely to be significant on the [designated] site*”. In failing to explore any detail pertaining to the critical pollutant, i.e. discharges of wastewater and surface run-off, the NIS submitted by the applicant for this proposed development fails to meet these requirements.

In fact, the NIS appears blind to the potential effects of industrial discharge on the Cork Harbour SPA generally. Section 6.1.1.2 contains the most extraordinary statement: “*The Proposed Development does*

not constitute an activity which falls under the high or medium level of known threats to Cork Harbour. Pollution from any source is not listed as either a threat or positive impact (under management) for the Cork Harbour SPA". What sort of nonsense is this? E02 is listed in the Natura Standard Data Form as posing a threat of high importance and any reasonable, meaningful and objective appraisal of Cork Harbour would recognise that in this instance, E02 is representative of all aspects of industrial development, including waste and surface water discharges. Indeed in its site synopsis of the Cork Harbour SPA, the NPWS [9] considers that as it is "adjacent to a major urban centre and a major industrial centre, water quality [in Cork Harbour] is variable ...". There is no doubt as to the potential impact of industrial discharge.

Mindful that the applicant's stated purpose in this NIS is to address the possible impacts of the operation of the proposed pumping stations on the SPA, it is frankly frightening that the only reference to water quality in the NIS is contained in Section 6.5 in six sentences over seven lines of text. Water quality is very clearly a critical contributor to Loughbeg's supporting the Cork Harbour SPA. Can Section 6.5 seriously be aligned with the European Commission's requirement for AA of "full consideration of all elements contributing to site integrity both in defining baseline conditions and in the stages leading to identification of potential impacts ..." [2]?

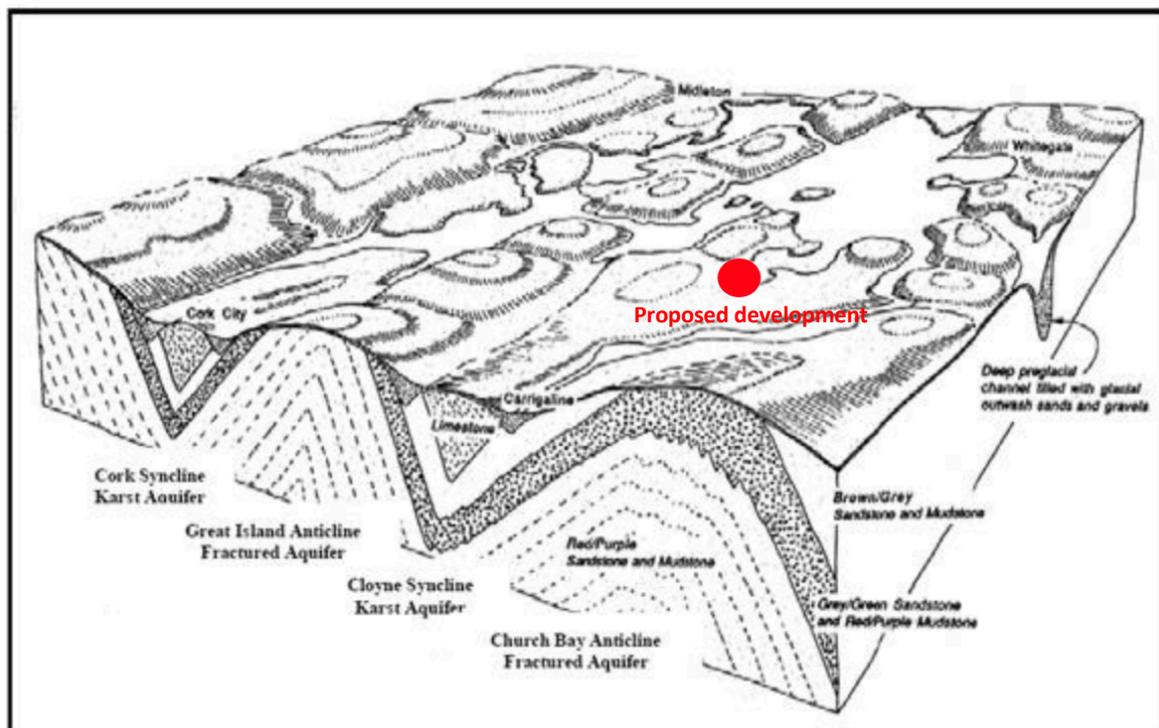
- **The NIS fails totally to consider hydrogeological connections between the proposed development and Loughbeg, part of the Cork Harbour SPA**

Three sentences in the EIS pertain to groundwater. Yet part of the site of the proposed development is currently flooded. Is this from a super-high water table? Is it saline, indicating ingress from the sea? The Board will note from the photograph below (taken on 26<sup>th</sup> February, 2020) that although the area of flooding is considerable, the tide is out. Aquifers in the Lee Valley are well known for saline intrusion. Nowhere in this planning application nor in the NIS is there an investigation of groundwater and its connection to Loughbeg, a key part of the Cork Harbour SPA. Considering that the proposed development includes an underground foul effluent storage tank, this is a gaping omission.



Loughbeg lies low between two small ridges, one behind Ringaskiddy and the other running through Coolmore/Currabinny.

The European Commission [2] requires AA to use the best of scientific knowledge in its assessment of the potential impacts of a development on a designated site. Dr. Alastair Allen of University College Cork has spent a professional lifetime studying the geology of Cork Harbour and its environs. He advises that the topography of the Cork Harbour region is largely controlled by the geological structure, with the anticlines forming upland areas and the synclines occupied by valleys. There are at least four and possibly five buried valleys in the Cork Harbour area. These buried valleys have intensely karstified limestones at their core. When the last glaciation receded, it left deposits of glacial gravels and boulder clay within the synclinal lowlands and most of this karstified limestone became buried [4]. However both the karst and the gravel contain aquifers which, in Dr. Allen’s opinion, are extremely vulnerable to pollution [10].

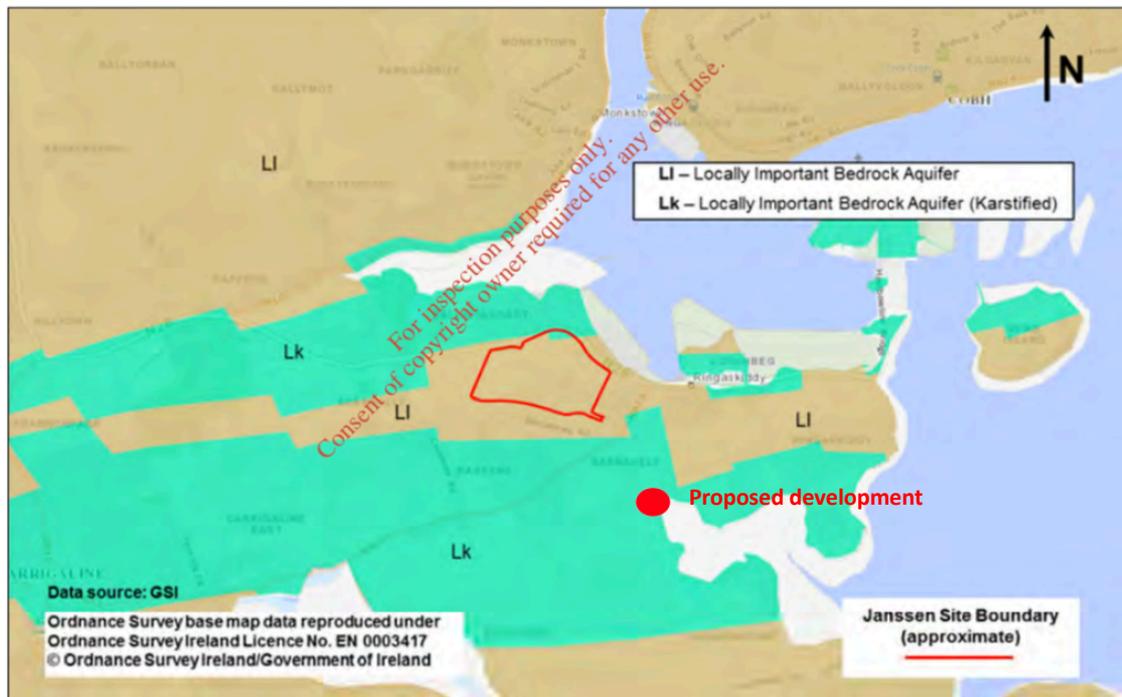


Dr. Allen provides the above diagram of the geological highs and lows of Cork Harbour [4], indicating that the proposed development appears to lie very close to the Cloyne Syncline.

That Loughbeg may be very vulnerable hydrogeologically is suggested by Arup [1] who, in its IPPC Licence Application for the Whitegate Independent Power Plant, notes that “limestone outcrops on part of the shore show that [Loughbeg] is in the syncline or valley between the two main sandstone ridges on which Cork Airport and Ballymartle are situated”. It is also suggested by PM [6] in the diagram overleaf which is included in the Environmental Impact Statement prepared for an expansion of Janssen in 2017. Again, I have marked the site of the proposed development. It appears to lie in a region of karstified locally important bedrock aquifer. Figure 7.6 in that same document shows that the site of the proposed development is situated in an area where the underlying aquifer is of high vulnerability.

Saline intrusion is a recognised characteristic of the Cork Harbour area. The salt water of the harbour continually interfaces with the underground aquifers. Dr. Allen remarks that the Cork-Midleton Syncline and the Cloyne Syncline (that on which the proposed development appears to be situated) are particularly vulnerable to salt water intrusion [10]. He notes that the tidal influence of the River Lee extends so far that groundwater under Cork City exhibits a cyclic water level variation of 2-3 metres in

response to tidal fluctuations within the River Lee under normal tidal conditions. Whilst he does not comment on the Cloyne Syncline in this regard, there is a clear suggestion that the fluctuating behaviour of groundwater in both synclines is at least somewhat comparable.



It seems indisputable that there is a significant and direct connection between groundwater in the vicinity of the proposed development and the saline water of Loughbeg, part of the Cork Harbour SPA. It may be that the current flooding on the site is indeed groundwater. If this is the case, the applicant is essentially proposing to install a foul underground storage tank below the water table in an area of karstified limestone.

The European Commission instructs that AA should “*guarantee full consideration of all elements*” contributing to the integrity of a designated site. That hydrogeology has not been addressed at all means that the NIS has failed to assess the implications of the proposed development for Loughbeg, an integral part of the Cork Harbour SPA .

- **The NIS fails to adequately consider cumulative impacts on Loughbeg, part of the Cork Harbour SPA**

In my previous observation to the Board, I illustrated existing industrial point loading to Loughbeg, commented on the potential for diffuse nutrient loading from agriculture and pointed out that the very purpose of the proposed development is to serve an industrially zoned landbank of 70+ hectares. Enabling works on this industrially zoned landbank were granted planning permission under Planning Reg. Ref. 16/5658. These works are already completed. The Cork County Council planning report on 16/5658 describes these enabling works as intending to “*facilitate the quick delivery of industrial development in the future and to overcome time constraints associated with the existing site topography*”. That consideration of all these impacts as an essential part of AA is indisputable. European Commission [2] guidance is clear that the “*in-combination provision concerns other plans or projects which have already been completed, approved but uncompleted or actually proposed*”. It further states that AA should take into account “*cumulative and other effects likely to arise as a result of the*

*combined action of the plan or project under assessment with other plans or projects*". It is extraordinary that the applicant has not taken the opportunity of the NIS to address what was a gaping omission in screening for the proposed development.

The applicant has conducted a search on local planning applications to see which could "*act in-combination with the proposed works to impact European sites*". It does not describe what the potential impacts of any of those planning applications might be individually and consequentially makes no attempt to discuss the in-combination impacts, if any. It simply concludes that there are none. It does note that Planning Ref. 16/6365 was to have occupied 13 of the 75 ha of industrial landbank the proposed development is to serve and has been accounted for within calculations for the proposed development. This was in fact a Biopark development proposed by GE. It will not be going ahead. If necessary, I respectfully suggest that the Board might consider confirming this with the Cork County Council executive.

For some reason, Section 7.3.4.2 includes mention of the Glanmire Road Improvements and Sustainable Transport Works. This project will clearly have little impact on Loughbeg. It fails to mention Indaver's proposed incinerator development which is situated very close to Loughbeg. In Section 7.3.4.3, it comments on the M28 development and Objective TM 5-2 of the Cork County Development Plan. It notes this objective as "*outlining that appropriate road transport capability is available the Port development*" [sic]. In fact, Objective TM 5-2 says the complete opposite: that the road network serving the Port needs to be enhanced, hence the need for the proposed M28.

That same section contains the most extraordinarily misquoted reference from the Ballincollig-Carrigaline Municipal District Local Area Plan: "*The LAP indicates that most industries have their own on-site treatment sites which are treated before discharge to the IDA outfall however there is no secondary treatment system causing, at time, effluent to discharge through the outfall*" [sic]. The IDA outfall discharges at the head of Loughbeg and, in combination with existing Loughbeg-based industries and industrial discharges from the proposed development, could indeed have potential to tip the carrying capacity of the Loughbeg habitat beyond that which makes it such a valuable designated site. That is of course neither mentioned or discussed by the applicant. In its *Waddenzee* ruling [3], the European Court of Justice emphasised the importance of using best scientific knowledge when carrying out AA. It is sadly all too clear that this NIS deviates very significantly from the recommendations of that judgement.

The European Commission expects potential cumulative impacts to be assessed using "*sound baseline data*", not relying only on qualitative criteria. This NIS appears to neither contain baseline data nor qualitative criteria. The European Commission requires cumulative impact assessment to be an integral part of the overall assessment, "*not treated merely as an 'afterthought' at the end of the assessment process*". This is where the cumulative impact assessment sits in the NIS for this proposed development. The European Commission requires the appraisal of effects to be based on objective and, if possible, quantifiable criteria with any potential impacts being predicted and recorded, including an explanation of the degree of certainty in the prediction. All that Section 7.3.4.4 contains is a statement concluding that because each of the identified projects and plans have been assessed individually for their potential impacts and because any impacts have been mitigated against, there is no cumulative impact effect in-combination with the proposed pumping stations. This is a nonsense and abjectly devoid of any of the detail and consideration that is the purpose of AA.

I would expect consideration of in-combination effects in this location to provide, at a minimum:

- 1) A list of industries discharging into/close to Loughbeg
- 2) Detailed examination of their emission discharge limits and any reoccurring non-compliances in that regard
- 3) Calculation of the total load of organic and inorganic parameters regularly discharging into Loughbeg from defined point sources

- 4) Seasonal water quality sampling within Loughbeg at various states of tide
- 5) Consideration of the potential for dispersion of the combined load, particularly given that the proposed discharge at the very head of Loughbeg
- 6) Consideration/calculation of the remaining capacity (if any) within Loughbeg for a range of organic and inorganic parameters and the upstream implications (if any) for the lands the proposed development is designed to serve
- 7) Consideration of the impacts of exceeding that remaining capacity on the designated site.

Water quality in Loughbeg is a critical factor in the Loughbeg habitat. It cannot be allowed to deteriorate. The stepwise approach outlined above is the kind of measured assessment that is necessary if the discharge element of the proposed development is to have no detrimental effect on water quality either on its own or in combination with other developments in the Loughbeg area. Absolutely no meaningful attempt has been made towards this in this NIS.

- **The NIS does not acknowledge that the conservation objectives for Cork Harbour are currently not being achieved**

The designated site of Cork Harbour is in trouble. The conservation objectives are not being achieved. I referenced this in my observation to the Board of July 2019. The seriousness of this situation is neither reflected nor acknowledged in the NIS.

Table 3 in the NIS examines SCI bird counts only during the 2012/13 to 2015/16 period. A trend cannot be established in four years. This table is titled as reflecting bird counts in the Cork Harbour SPA but in fact the numbers refer to Loughbeg only. Trends over the longer period are far more worrying and, again as described in my observation to the Board, are less favourable than national trends.

Table 4 of the NIS describes the conservation status for nearly all SCIs in the Cork Harbour SPA as either “Good” or “Excellent”. That this is wholly misrepresentative of the actual situation is clear from the following table, taken from the Cork Harbour I-Webs Summary for 2018/19 [11].

**Table 6. Comparison of long-term changes in the populations of Special Conservation Interests of the Cork Harbour SPA with changes in their All-Ireland population estimates.**

Species	Cork Harbour mean annual peaks		% changes	
	1994/95-1996/97	2011/12-2015/16	Cork Harbour	All-Ireland
Shelduck	2195	1141	-48%	-30%
Wigeon	2347	1370	-42%	-38%
Teal	1093	1222	+12%	-22%
Pintail	51	20	-61%	-5%
Shoveler	70	22	-69%	-33%
Red-breasted Merganser	129	66	-49%	-34%
Cormorant	634	335	-47%	-16%
Grey Heron	91	81	-11%	-5%
Little Grebe	62	74	+19%	-16%
Great Crested Grebe	300	109	-64%	-43%
Oystercatcher	1741*	1659	-5%	-8%
Golden Plover	4503	4067	-10%	-44%
Grey Plover	100	30	-70%	-54%
Lapwing	12528	1917	-85%	-67%
Curlew	1597*	1552	-3%	-42%
Black-tailed Godwit	1181*	2951	+150%	+45%
Bar-tailed Godwit	435	300	-31%	+7%
Dunlin	11971	4342	-64%	-62%
Greenshank	34	98	+188%	+12%
Redshank	1896	1595	-16%	-19%

All-Ireland % changes are the changes in population estimates between 1994/95-1998/99 and 2011/12-2015/16 as reported by Burke et al. (2018). The Cork Harbour mean annual peaks marked with an asterisk are likely to be significant underestimates due to poor autumn coverage during the 1994/95-1996/97 baseline period.

The condition of the designated Cork Harbour site supporting the SCIs was detailed by the NPWS in 2014. This is presented in the table overleaf. Little has changed on the ground in the interim and it is not unreasonable to assume that for many of the SCIs, it is as unfavourable now as the NPWS indicated six years ago.

The Habitats Directive requires that the integrity of a designated site is maintained such that the site can meet its conservation objectives. In the case of the Cork Harbour SPA, those conservation objectives are to maintain the favourable conservation condition of its SCIs. In this regard, favourable conservation condition includes 1) a stable or increasing long-term population trend and 2) no significant decrease in the useful areas available to SCIs. Achieving these standards is a legal requirement. To deny that we are not achieving these standards is doing no favours for anyone, least of all the SPA which the NIS purports to protect.

**Table 4.4 SCI species of Cork Harbour SPA – Current Site Conservation Condition**

Special Conservation Interests	BoCCI Category <sup>a</sup>	Site Population Trend <sup>b</sup>	Site Conservation Condition	Current all-Ireland Trend <sup>c</sup>	Current International Trend <sup>d</sup>
Shelduck	Amber	- 39	Unfavourable	Stable	Increasing
Wigeon	Red	- 27	Unfavourable	Declining	Stable
Teal	Amber	- 1	(Intermediate) Unfavourable	Stable	Increasing
Pintail	Red	- 65	Highly Unfavourable	Increasing	Increasing
Shoveler	Red	- 75	Highly Unfavourable	Increasing	Increasing
Red-breasted Merganser	Green	- 51	Highly Unfavourable	Stable	n/c
Little Grebe	Amber	+ 16	Favourable	Stable	Increasing
Great Crested Grebe	Amber	- 46	Unfavourable	Declining	Declining?
Cormorant	Amber	- 50	Highly Unfavourable	Stable	Increasing
Grey Heron	Green	- 15	(Intermediate) Unfavourable	Stable	Increasing
Oystercatcher	Amber	- 20	(Intermediate) Unfavourable	Stable	Declining
Golden Plover	Red	+ 21	Favourable	Declining	Declining
Grey Plover	Amber	- 68	Highly Unfavourable	Declining	Declining?
Lapwing	Red	- 68	Highly Unfavourable	Declining	Stable
Dunlin	Red	- 49	Unfavourable	Declining	Stable
Black-tailed Godwit	Amber	+ 16	Favourable	Increasing	Increasing
Bar-tailed Godwit	Amber	+ 41	Favourable	Stable	Increasing
Curlew	Red	-44	Unfavourable	Declining	Declining
Redshank	Red	-29	Unfavourable	Stable	Stable/Increasing?
Black-headed Gull	Red	- 53	Highly Unfavourable	n/c	n/c
Common Gull	Amber	- 89	Highly Unfavourable	n/c	n/c
Lesser Black-backed Gull	Amber	- 83	Highly Unfavourable	n/c	n/c

<sup>a</sup>After Colhoun & Cummins, 2013; <sup>b</sup> Site population trend analysis; see Table 4.3; <sup>c</sup>all-Ireland trend - where a species is deemed to be increasing or declining if the annual rate of change is equal to or greater than 1.2% (after Crowe & Holt, 2013); <sup>d</sup> current international trend after Wetlands International (2012).

- **The NIS does not consider the risks to Loughbeg, part of the Cork Harbour SPA, arising from construction of the proposed development**

The NIS focusses solely on the potential for the operation of the proposed development to impact the Cork Harbour SPA via discharges from storm and foul water. Section 1 states that “*all other impact pathways were deemed to pose no likely significant effect*”.

However the Ecological Impact Assessment submitted with the planning application acknowledges that “*siltation or pollution during construction could lead to impacts on aquatic biota within the Marsh or in the adjoining mudflats of Lough Beg*”. Similarly, the Habitats Directive Screening Report notes that “*while there is a potential for an increase in water sediment load and subsequent settlement during construction of the pipe laying and the manhole chambers, design measures are integral to the proposal to minimise these risks*”.

But the European Commission [2] is very clear. In determining the likelihood of significant impacts and hence the need for an appropriate assessment, mitigation measures cannot be taken into account. In this regard, the aforementioned design measures to control siltation are indeed mitigation. Sedimentation budgets of intertidal mudflats like Loughbeg are sensitive. Information colloquially is that the area into which the manholes are to be installed is made ground of unknown origin. The applicant has not undertaken any analysis of the quality of the soil from the construction site that may be entrained in runoff. To have omitted construction activities from the NIS is a significant flaw.

- **Mitigation measures proposed in the NIS are either inadequate or absent and are devoid of assessment as to their effectiveness in protecting Loughbeg, part of the Cork Harbour SPA**

The NIS predicts that without mitigation, pollution incidences from the proposed development have the potential to have a longer-term impact on the quality of foraging habitat for 16 SCIs (Species of Conservation Interest). In the shorter-term, they have potential to negatively impact the habitat of Loughbeg for all 21 SCIs identified.

The NIS does not define what “*pollution incidences*” are. The only pollution referred to is, as previously discussed above, nutrient input. Section 7.3.2 considers that storm water pollution would be “*minimal*” as any storm water “*flooding*” would be from existing lands. This is patently not the case; the whole purpose of the proposed development is to service new industry on a zoned landbank. This development would collect vast volumes of run-off that heretofore have never been directed in a point load to Loughbeg, although they may possibly have ultimately found their way there diffusely.

No mitigation measures are proposed for storm water. Section 8.1.1 lists a range of design features purportedly designed to protect the Cork Harbour SPA from foul water discharge: standby pumps, a standby generator, alarms, an overflow storage tank and a solids screen. It cannot, of course, suggest how often, if ever, the system will fail. Nor can it, not knowing what flows it may receive from where, predict what their impact may be.

Without acknowledging the other more potentially deleterious constituents of industrial wastewater (as previously discussed), the NIS dismisses any negative impact arising from additional nutrient loading of Loughbeg. It bases this conclusion on discrete quotes from a selection of references which appear to indicate a positive correlation between sewage and coastal waterbird numbers.

To lift references like this and apply their conclusions to Loughbeg without fieldwork to justify the comparability is of course a nonsense. Without doubt, nutrient loading can “*increase infaunal biomass*”, increase invertebrate biodiversity and contribute to the growth of algal mats. These are all references provided in the NIS. For the same reason, seagulls congregate around sewage outfalls. MacDonald (2006) as referenced in the NIS carried out his work on behalf of the RSPB [7]. The quotations provided

in Section 7.3.1 are a shockingly poor reflection of his findings, more accurately summarised by this paragraph from the Executive Summary of the RSPB report:

*“Increased nutrient concentrations in aquatic habitats can increase the size of populations of some birds but almost always damage other parts of wetland ecosystems and often compromise the habitat and food requirements of specialist birds such as bittern.”*

Nutrients provide food. Where it goes wrong is when nutrient overloading leads to eutrophication. As the applicant has made no attempt whatsoever to investigate what existing nutrients loads in the waters of Loughbeg are, what nutrients are already influent into Loughbeg from both point and diffuse sources and what potentially the nutrient loading from the proposed development might be, the NIS absolutely cannot conclude no effect from the proposed development on the Cork Harbour SPA.

The European Commission [2] states that *“mitigation measures must be directly linked to the likely impacts that have been defined in the AA and can only be defined once these impacts have been fully assessed and described in the AA”*. This NIS contains no additional *“mitigation measures”* over and above those proposed in the planning application. They were included in the project design long before preparation of the NIS ever began.

Moreover, the Commission states clearly that *“each mitigation measure must be described in detail, with an explanation based on scientific evidence of how it will eliminate or reduce the adverse impacts which have been identified. Information should also be provided of how, when and by whom they will be implemented, and what arrangements will be put in place to monitor their effectiveness and take corrective measures if necessary”*. The NIS has included none of this detail. We have no details of whether the proposed development would be intermittently or continuously manned and/or by whom, how frequently the backup pumps and standby generator would be serviced and tested, where the alarms would connect to, etc. Consequently it is not possible for the Board as the competent authority to decide whether the proposed measures are sufficient to remove any potential adverse effects of the proposed development on Loughbeg.

- **Conclusion**

Paragraph 3.7.1 of C-127/02 states that the competent national authorities can approve a plan or project only after they have made certain that, in the light of the conclusions of an appropriate assessment into the implications of that plan or project for a Natura 2000 site, that plan or project will not adversely affect the integrity of the site. No reasonable scientific doubt must remain as to the absence of adverse affects.

I respectfully request that the Board would agree that the NIS for this proposed development fails absolutely to prove that beyond reasonable scientific doubt, this proposed development would have no adverse impact on Loughbeg, an integral part of the Cork Harbour SPA.

In accordance with EC guidance, it follows that the Board must therefore refuse authorisation for the proposed development.

Yours faithfully,



---

Marcia D'Alton  
Independent Member, Cork County Council

## **References:**

1. Arup Consulting Engineers (2007). Whitegate Independent Power Plant: Environmental Impact Statement. On behalf of Bord Gáis Éireann.
2. European Commission (2018). *Managing Natura 2000 Sites: The provisions of Article 6 of the Habitats Directive*. C(2018) 7621 final.
3. European Court of Justice (2014). Waddenzee ruling (C-127/02). At: [https://ec.europa.eu/environment/nature/info/pubs/docs/others/ECJ\\_rulings%20Art\\_%206%20-%20Final%20Sept%202014-2.pdf](https://ec.europa.eu/environment/nature/info/pubs/docs/others/ECJ_rulings%20Art_%206%20-%20Final%20Sept%202014-2.pdf).
4. Allen, A. et al. (2012). "Hydrogeology and resource potential of intergranular buried valley ribbon aquifers of the Cork Area, SW Ireland". At: [http://en.cgs.gov.cn/achievements/201601/t20160112\\_35414.html](http://en.cgs.gov.cn/achievements/201601/t20160112_35414.html).
5. Arup (2007). Whitegate Independent Power Plant – IPPC Licence Application.
6. PM (2017). Environmental Impact Assessment Report. Undertaken on behalf of Janssen.
7. RSPB (2006). *Force-Feeding the Countryside: the impacts of nutrients on birds and other biodiversity*. Evidence review. MacDonald, M.A., Densham, Davis and Armstrong-Brown.
8. NPWS (2014). Cork Harbour Special Protection Area. Conservation Objectives Supporting Document.
9. NPWS (2004). Site Synopsis – Cork Harbour Special Protection Area.
10. Allen, A. and Milenic, D. (2007). "Groundwater vulnerability assessment of the Cork Harbour area, SW Ireland". In *Environmental Geology*. At <https://link.springer.com/article/10.1007/s00254-007-0670-5>.
11. Gittings, T. (2019). Cork Harbour I-Webs Counts: Summary Report for the Winter of 2018/2019.