



Rialtas na hÉireann  
Government of Ireland

# **General Scheme of the Water Environment (Abstractions) Bill 2018**

## **Public Consultation Submissions K-W**



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## **SUBMISSION FROM KERRY COUNTY COUNCIL TO THE WATER ENVIRONMENT (Abstractions ) Bill 2018**

Herewith are set out some points which may be of assistance in considering the final detail of the Act :

- Will any duties associated with the registration of Privately Sourced Group Water Schemes fall to the Local Authority?
- Abstractions below 25cu.m. per day are to be exempted but should there be some attempt to set standards for the drilling of wells even below this rate as any bored well that is not properly sealed is a potential contamination risk to groundwater
- Unregulated Temporary Abstractions during drought periods could divert water away from essential uses or compromise depleted watercourses and this matter needs to be considered in finalising the Act .
- Presumably this legislation is to include the impact of quarrying or mining on ground water and on base flow in adjacent rivers and streams. Dewatering of Quarries and Mines can completely alter the long term hydrology of a wide area and create pollution pathways and should be controlled to a high standard and not treated in the same way as dewatering for construction for example.
- There is reference to some Irish Water Proposals requiring approval of An Bord Pleanála. Will some abstraction proposals be adjudicated on by the EPA and some by an Bord Pleanála? If this is the case, how will situations be addressed where a higher rate of abstraction from a drinking water source is proposed for the purposed of supplying a Hydro Scheme?
- Given the penalties mentioned as €15,000,000 and/or imprisonment of up to ten years on conviction on indictment it would be useful to know whether there is an intention to prosecute individuals or corporate bodies? This would be of importance in relation to actions taken for example to maintain supply in drought conditions.
- Head 20 says that “While the method of abstraction and quantity of water taken will remain as prior to the commencement of the new regime, this can be varied by any future licence issued by the Agency.” Does this imply that the EPA can cut back existing Abstractions or will his simply apply to future abstractions .

**Public Consultation on the General Scheme of the Water Environment  
(Abstractions) Bill 2018**

**Submission from Meath County Council, Buvinda House, Dublin Rd, Navan,  
Co. Meath, C15 Y2291**

11/10/2018

This submission is prepared by Meath County Council Environment Section.

Referring to the document “Consultation Paper - General Scheme of the Water Environment (Abstractions) Bill 2018”, available to view as part of the public consultation process at [www.housing.gov.ie](http://www.housing.gov.ie) <sup>(1)</sup>

Referring to Head 5 – General Binding Rules (1)(g):

(g) an abstraction of 25 or more cubic metres in any 24 hour period must be registered in accordance with Head 6.

Meath County Council submits that the requirement for registration of abstractions should apply to all abstractions of **10 or more cubic metres** in any 24 hour period.

Meath County Council notes the content of the Explanatory Note on this proposed Head 5 and in particular the rationale put forward for setting 25m<sup>3</sup>/day as the threshold for the requirement to register abstractions ( excerpt reproduced below ):

**“Explanatory Note:**

While the Water Framework Directive requires controls over the abstraction of surface water and groundwater, including a register of abstractions, a Member State can exempt from those controls abstractions which have no significant impact on water status. Accordingly, it is proposed to exempt from registration or licensing abstractions of less than 25 cubic metres per day. This approach mirrors that taken in Scotland and Wales, where abstractions of a relatively small quantity of water (10 cubic metres in those jurisdictions) are exempted from the requirement to either be registered or licensed. The proposed daily limit of 25 cubic metres here is chosen for consistency as regulations made under section 9 of the Local Government (Water Pollution) Act 1977 set 25 cubic metres as the threshold below which an abstraction would be exempt from registration by a local authority.”

Meath County Council notes that the abstractions registration process is intended to address the requirements of Art.11(3)(e) of the Water Framework Directive (2000/60EC) – i.e. controls on water abstractions and registration of abstractions as part of Basic Measures to be implemented in the Programme of Measures of River Basin Management Plans. Art. 11(3)(e) stipulates that Member States can exempt from these controls abstractions which have no significant impact on water status.

(e) controls over the abstraction of fresh surface water and groundwater, and impoundment of fresh surface water, including a register or registers of water abstractions and a requirement of prior authorisation for abstraction and impoundment. These controls shall be periodically reviewed and, where necessary, updated. **Member States can exempt from these controls, abstractions or impoundments which have no significant impact on water status;**

Meath County Council submits that the rationale put forward for the 25m<sup>3</sup>/day registration threshold does not appear to be based on the criteria in Art 11(3)(e). Rather the figure of 25m<sup>3</sup>/day is proposed on the basis that this is consistent with the threshold applied to Section 9(2) of the Local Government (Water Pollution) Act 1977, as amended. Given that this section of the Local Government (Water Pollution) Act is to be revoked, the concern that the new provisions must remain consistent with the 1977 Act appears questionable and somewhat unusual. The proposal appears to be at some considerable variance with thresholds quoted as being used in Scotland and Wales, an approach cited as mirroring the approach to be taken in Ireland.

For additional comparison purposes, abstractions above 10m<sup>3</sup>/day in Northern Ireland are required to apply for authorisation under the Water Abstraction and Impoundment (Licensing) Regulations (Northern Ireland).

The proposed threshold of 25m<sup>3</sup>/day does not appear to be based on a technical assessment to establish what threshold can be taken as the threshold for abstractions which have no significant impact on water status. If such an assessment has been carried out, it has not been provided as part of the consultation process in justification of the 25m<sup>3</sup>/day threshold.

The process of abstraction registration is proposed to be free of charge, and to be fulfilled by a relatively straight-forward on-line registration process. It will therefore place little financial or administrative burden on the abstractors.

Given:

the potential for cumulative effects from multiple independent abstractions from the one waterbody,

the significant reductions in rainfall, in waterbody recharge, and in surface water flows predicted for summer conditions for eastern Ireland in climate change models

the absence of a technical assessment presented to justify the 25m<sup>3</sup>/day threshold for “no significant impact”

the precautionary principle

the very modest burden that registration is anticipated to place on abstractors

it appears ill-advised that the state would wish not to know of abstractions below 25m<sup>3</sup>/day, and would choose to remain blind to this potentially significant pressure on water status.

The legislation provides a valuable opportunity for the state to obtain, with minimal regulatory or sectoral burden, useful data which can support improved characterisation of water bodies, of pressures and impacts on status, and which ultimately can be used so that sound evidence-based measures can be taken where appropriate to protect and improve water status in accordance with obligations under the Water Framework Directive.

In this context, Meath County Council submits that the threshold proposed for registration under Head 5(1)(g) should be changed from 25m<sup>3</sup>/day down to 10m<sup>3</sup>/day.

## References

- 1) [https://www.housing.gov.ie/sites/default/files/public-consultation/files/consultation\\_paper\\_-\\_general\\_scheme\\_of\\_the\\_water\\_environment\\_abstractions\\_bill\\_2018.pdf](https://www.housing.gov.ie/sites/default/files/public-consultation/files/consultation_paper_-_general_scheme_of_the_water_environment_abstractions_bill_2018.pdf)

Appendix: reproduced from [www.housing.gov.ie](http://www.housing.gov.ie)

## **Public Consultation on the General Scheme of the Water Environment (Abstractions) Bill 2018**

The Minister for Housing, Planning and Local Government, Eoghan Murphy T.D., invites submissions, observations and comments on the General Scheme of the Water Environment (Abstractions) Bill 2018.

The objective of this public consultation process is to invite stakeholders to contribute their views in relation to the proposed legislation.

## **Why are we launching a Public Consultation?**

The proposed General Scheme will repeal the Water Supplies Act 1942 and part of the Local Government (Sanitary Services) Act 1964 and will replace them with a new stand-alone piece of primary legislation governing the abstraction of water. It is an obligation under the EU Water Framework Directive to introduce a control and registration system over the abstraction of water. As Ireland has not had to date a comprehensive control regime in this area, the Minister wishes to seek the views of the public and interested parties on the proposed policy changes.

## **How to get involved**

The Department is inviting any interested parties to make submissions to help inform the legislative process.

### **To get involved, please email your observations or comments to**

[waterquality@housing.gov.ie](mailto:waterquality@housing.gov.ie) by 12 October 2018. Your written submission or observations on the General Scheme should be in 'Word' format.

Alternatively, responses can be posted to: Water Quality Section, Department of Housing, Planning and Local Government, Government Buildings, Newtown Road, Wexford. Y35 AP90

To assist you, relevant documents may be accessed by clicking on the link below titled 'Documents':






Michael Reidy <[REDACTED]>

☐ WaterQuality

30/09/2018

## Re Abstractions Bill 2018 Public Consulation

 You forwarded this message on 01/10/2018 13:04.



Dear Sir/Madam,

I wish to make a submission regarding the above Bill.

In the light of the reduced dependency on hydroelectric power, it would be more appropriate to have water supply given more importance than electricity generation. That is the various electricity acts in the 1920's should be reviewed to give priority to water supply over electricity generation.

The recent drought could have been better provided for particularly in Dublin, if when the reservoir at Blessington/ Poulaphuca was full in March, it had been kept at or near full other than drawing it down on the expectation of additional rainfall which did not happen.

Michael Reidy



# National Federation of Group Water Schemes

Society Limited

24 Old Cross Square, Monaghan H18 NX30

Tel: 047 72766 Fax: 047 72788 Website: [www.nfgws.ie](http://www.nfgws.ie)

11<sup>th</sup> October 2018

**Department of Housing Planning and Local Government**

**Re: Consultation on the General Scheme of the Water Environment (Abstractions) Bill 2018**

**To whom it may concern:**

The National Federation of Group Water schemes (NFGWS) welcomes publication of the above consultation paper and the opportunity to submit our comments and observations on the same.

**Primary observations:**

It is clear there is a need to introduce (using a risk-based approach) controls on water abstraction to protect our national water resources and to comply with the objectives of the Water Framework Directive. However, in relation to the abstraction of water for drinking water purposes, the proposed Bill appears to only address Irish Water and makes no reference to the community-owned privately sourced group water scheme (GWS) sector that provides a drinking water service to over 70,000 households. We ask that wording be introduced to address this oversight.

Head 13 of the proposed Bill provides 'power for Irish Water to take a supply of water'. There is no provision in the Bill to provide a GWS with a similar power. Suitable wording, to ensure equitable status needs to be included, recognising schemes that abstract water for drinking water purposes and whose sole purpose is to provide an essential public service to their communities. Abstraction of water for the purposes of providing a 'public service' (whether by a GWS or Irish Water), is beyond the uses normally anticipated by such rights and should be so recognised. As with the Water Services Act, Water Services Authorities could be given a role to Act on behalf of GWS sector in this regard.

Similarly, the compensation process set out in Head 15 of the Bill for persons who are adversely impacted by any power provided to Irish Water to abstract water in the interest of the common good, should also be extended to the GWS sector. The privately sourced GWS sector may face similar challenges from individuals who may have suffered an unjust loss arising from a GWS abstraction. Similarly, GWSs themselves may be adversely impacted by individual or corporate abstractions in certain circumstances. Provision should be included in this Bill to address any such threats to a GWS supply.

The transitional arrangements specified in Head 20 should equally apply to the GWS sector.

**Other observations:**

We welcome the references to water conservation in Head 5 – General binding rules and we also welcome the references to controls on the standards on well construction and rehabilitation and its

recognition of the need for greater protection of our groundwater resources. This will, however, have implications for the cost of developing new boreholes or rehabilitating existing water sources or supplies.

Head 6 refers to the establishment of a register of abstractions. We understand that the 16<sup>th</sup> November has been set as the deadline for registering all abstractions >25m<sup>3</sup> per day. Given the relatively short timeframe for this process and the logistical challenges associated with registering all GWS sources, we would ask that some flexibility be provided around this date, if possible.

Head 7 refers to the requirement for a water abstraction licence and details the threshold levels. Any supply greater than 25m<sup>3</sup> per day must be registered. However, the Drinking Water Regulations specify a threshold level of 10m<sup>3</sup> (or less if there is public access to water from the supply) per day. Consideration should be given to aligning the abstractions registration threshold with the Drinking Water Regulation threshold. We are aware that the Department of Housing Planning and Local Government intends to introduce a registration system for private water suppliers in 2019. This will be administered by local authorities. Provision should be made to share information between both registration systems, where possible.

Under Head 8, the EPA is to assess the environmental impact of abstraction on the status of surface water and ground water bodies. Notwithstanding the importance of this assessment process, should it limit or prevent abstractions from particular sources upon which rural communities rely for their potable supply, it may deprive them of the best or only raw water source available as a potable supply. We would welcome any information on the criteria for the proposed assessments and would welcome the consideration of 'social' need as part of these.

Finally, we note that there is an intended administration fee as part of the licencing process and we ask that any fee to be kept to a minimum.

The NFGWS appreciates this opportunity to submit our observations and comments on the proposed Bill. We ask that they be seriously considered when drafting the final legislation. We would welcome the opportunity to discuss any of these items further with the Department.

**Yours Sincerely**

---

**Barry Deane**

**CEO, NFGWS**

Water Quality Section,  
Department of Housing, Planning and Local Government,  
Government Buildings,  
Newtown Road,  
Wexford.  
Y35 AP90  
By Post & Email [waterquality@housing.gov.ie](mailto:waterquality@housing.gov.ie)

12 October 2018

### **Observations on General Scheme of the Water Environment (Abstractions) Bill 2018**

Dear Sirs,

Nautilus Data Technologies welcomes the proposed introduction of primary legislation in Ireland for the regulation of water abstractions, and the risk-based approach to ensure that water bodies potentially subject to abstraction pressures are subject to an appropriate protection regime.

Nautilus Data Technologies has developed and patented a new data center design that meets industry performance standards at a lower cost with a significantly better environmental footprint. The data center can be located either in a building near the water or on a large barge at the shoreline, and is cooled using naturally cold water. Nautilus' data center design offers significant economic and environmental advantages over the status quo through an 80% more energy efficient cooling system with 30% lower associated CO2 emissions and air pollution. There is no consumption of public water supply, no hazardous water treatment chemicals or potent greenhouse gas refrigerants.

The Minister should consider including within the draft Bill a provision to allow the Minister to adopt Regulations providing for appropriate risk-based exemptions, and that the detailed requirements for such exemption should be set out in Guidelines to be published by the EPA.

In addition to the volume-based exclusion from the abstraction licensing regime proposed in the General Scheme, the Minister and the EPA should consider other risk-based exclusions which appropriately take account of the requirements of the EU Water Framework Directive, the Environmental Impact Assessment Directive and the Habitats Directive.

In particular, an exemption should be provided where the abstraction of >2,000 cubic metres per day is non-consumptive, and involves the return of the water to the same water body with no intervening industrial processing or discharge, and no material change in the quality or quantity of water returned to the receiving water body.

A person proposing to avail of this exemption would be required to demonstrate in the registration process that the activity involves:

- no consumption, evaporation, treatment, storage, processing, alteration or other material qualitative or quantitative change to the returning or receiving water
- limited circulation time (e.g. 3-5 minutes)
- no transfer between water bodies
- no fish entrainment or other risk to aquatic or ecological values
- no thermal increase above a certain degree centigrade (e.g. 2 or 3C)<sup>1</sup>

Nautilus looks forward to engaging with the Department and the EPA to provide further details in due course.

Thank you for your consideration of these views.

Regards,

David Glennane,

Nautilus Data Technologies Ireland Limited  
Director of Finance and Business Operations  
[REDACTED]

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<sup>1</sup> The temperature deltas currently licensed by the EPA for Industrial and Waste Licensed facilities, as posing no significant environmental risk, range 7 – 9 degrees centigrade

# A Response to a Call to Participate in the Consultative Process Regarding a Proposed Bill on Water Abstraction

## The River Shannon Protection Alliance

12-10-18

We write to you on behalf of The River Shannon Protection Alliance (RSPA), [www.shannonprotectionalliance.ie](http://www.shannonprotectionalliance.ie) regarding the proposed Water Abstraction Bill – Consultancy Process. We are a voluntary organization with three branches, located in Athlone, Dromineer (Lough Derg), and Limerick.

The avowed mission of the RSPA is the protection and preservation of Ireland's rivers, lakes and water bodies, and to oppose any actions, influences, policies etc. that might compromise such waters to an extent that would place at risk the integrity of such water courses.

Currently we are seriously concerned and focused on the potential adverse risks posed by Irish Water's stated proposal to abstract hundreds of millions of litres of water per day, from the River Shannon.

We have examined the submission process/requirements relating to the matter on your website, and have concluded that it is important that we should prepare a meaningful input to the deliberations. However, given the brief time available relative to October 12<sup>th</sup>, and the work and resources needed to prepare a professional submission, it is not possible to complete the task by the deadline of Oct. 12<sup>th</sup>.

We would propose alternatively that we be afforded an opportunity to make an input when 'Heads of Agreement' on the proposed bill are reached, and we would request that we be contacted at that time.

Separately, we would like to make you aware that the RSPA is a constituent member of the SWAN organization, and we hold a seat on the board of directors. We are aware that SWAN will be presenting a submission to you at this time, and we have detailed knowledge of its intended content. We wish to state that we fully support SWAN's position on the matter, which closely aligns with that of the RSPA.

Finally, we will be closely following the progress of the government proceedings re. the proposed new bill, and we look forward to making a positive and meaningful contribution at a future date, as outlined above.

We trust that this will be in order, and remain, yours sincerely,

Gerry Siney. Chairman, RSPA.

P.S. A hard copy of this email will be sent via surface post to the appropriate address.



Roadstone Ltd.,  
Fortunestown,  
Tallaght, Dublin  
24.

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12 October 2018

Administrative Officer  
Water Quality Section  
Department of Housing, Planning and Local Government  
Government Buildings  
Newtown Road  
Wexford  
Y35 AP90

**BY POST & EMAIL:** [waterquality@housing.gov.ie](mailto:waterquality@housing.gov.ie)

**Re: Public Consultation – General Scheme of the Water Environment (Abstractions) Bill 2018**

Dear Sir or Madam,

Roadstone wish to support the submission which the Irish Concrete Federation has made regarding the General Scheme of the Water Environment (Abstractions) Bill 2018.

There are a number of points we wish to emphasise as follows:

- A) The proposed legislation appears to have entirely disregarded the planning process that has been engaged at great cost and effort to get the required permissions for quarry dewatering by means of planning permission and trade discharge licence. There is even the prospect of a permitted activity (Permitted following assessment of an application for planning permission, with Environmental Impact Assessment and trade discharge licence application) now being stopped by the Environmental Protection Agency following the refusal of an abstraction licence application.
- B) The permitted abstraction activities should remain in place up to when a review of the trade discharge licence is required or when a new planning permission is sought. It is difficult to imagine how some other development types could be asked to undergo another planning process for a permitted development that would have the risk of their business being stopped by this new planning legislation.

- C) The only means of appealing such a decision is by Judicial Review. Judicial Reviews are a challenge to the way in which a decision has been made, rather than the rights and wrongs of the conclusion reached. Judicial Reviews are not really concerned with the conclusions of that process and whether they were 'right', as long as the right procedures have been followed. The Courts will not substitute what it thinks is the 'right' decision.
- D) There is also nothing in this proposed legislation to prevent the EPA from seeking extensive and costly analysis, such as hydrogeological assessments etc, that has possibly already been carried out over a different time frame regarding a site which is already permitted by planning permission and regulated by a trade discharge licence.
- E) There is little in the way of transitional arrangements set up within this proposed legislation to allow what could be a costly and time consuming process.
- F) Any water discharge activities that are governed by a waste licence should be treated in a similar way to IPPC licenced activities. IPPC licenced activities are referenced throughout the heads but waste licences are only referenced in the insert to the Planning bill.
- G) We believe that insufficient consultation has occurred with the extraction industry given the adverse impact that this proposed legislation could have on the industry. Over the last 15 years the industry has had to address the requirements of Section 261 and Section 261A of the various Planning Acts. Even within that legislation there was some relief for quarrying activities that already had planning permissions and / or carried out environmental impact assessment. There is no recognition given for permitted water abstraction activities within the proposed legislation.
- H) Extraction of material from quarries which requires de-watering for the process of extraction to take place is a temporary development. Such de-watering results in the transition of water from one water body to another and therefore, such abstraction should be dealt with outside of the proposed Abstraction Licensing arrangements, for instance as is catered for under Head 5.

Yours Sincerely,  
John Glynn

**John Glynn**  
Operations Manager



Roadstone Ltd.

m: +3

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Directors: J.O. Mahon, Chairman, L. Byrne Managing, M. Buckley, T. Healy, S. Lynch, D.Rigney, N. Murphy,  
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Peter Glanville [REDACTED]

☐ WaterQuality

12/10/2018

## SLR Consulting - Submission



Mr. Murphy,

Please see our comment below regarding the Abstractions Bill.

The register of licenced abstractions should be available via the EPA website to third parties. Currently the IEL and IPPC licence details are available online via the EPA website, and any abstractions included under such a licencing regime would also be visible / available to view.

Kind Regards,

Peter.



Peter Glanville

Principal - Hydrology & Hydrogeology



SLR Consulting Ireland



# **Sustainable Water Network (SWAN)**

## **General Scheme of the Water Environment (Abstractions) Bill**

### **- Response to Public Consultation -**



**October 2018**

Sustainable Water Network (SWAN)

9 Upper Mount Street,

Dublin 2

[info@swanireland.ie](mailto:info@swanireland.ie)

(01) 642 55 83

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## 1. INTRODUCTION TO SWAN

The Sustainable Water Network (SWAN) is an umbrella network of 24 of Ireland's leading environmental NGOs, national and regional, working together to protect and enhance Ireland's aquatic resources through coordinated participation in the implementation of the Water Framework Directive (WFD), Floods Directive, Marine Strategy Framework Directive (MSFD) and other water-related policy and legislation. SWAN member groups are listed in Appendix I. SWAN has been actively engaged in Water Framework Directive (WFD) and other water policy implementation at both national and River Basin District (RBD) level since 2004, responding to water-related public consultations and representing the environmental sector on the Irish Water Stakeholder Forum, the National Rural Water Services Committee and the National Water Forum. SWAN will shortly be publishing the research report, *'Water Abstraction: Interactions with the Water Framework Directive & Groundwater Directive and Implications for the Status of Ireland's Waters'*.

## 2. BACKGROUND & CONTEXT TO SWAN SUBMISSION

SWAN's welcomes the opportunity to comment on the 'General Scheme of the Water Environment (Abstractions) Bill 2018'. SWAN notes that a system of registration and prior authorisation for water abstraction has been required by the WFD since 2012 and to date is almost 6 years late. We therefore welcome the introduction of a bill to address this lacuna. This response is based on the SWAN commissioned report, *'Water Abstraction: Interactions with the Water Framework Directive & Groundwater Directive and Implications for the Status of Ireland's Waters'* and on the outputs of a SWAN member workshop, also based on this research. The recommendations in the current document are drawn directly from this research. However, we also submit the research report in full as part of the SWAN response to this consultation (Appendix I).

## 3. REQUIREMENTS OF THE WFD

The requirements of the WFD are well rehearsed elsewhere but include the attainment of 'good' status for all surface and groundwater bodies and the prevention of their deterioration (unless exemptions, under strict criteria, are applied). Any assessment or critical analysis of the proposed bill, therefore, must

be conducted against those overarching requirements. Specifically in relation to abstraction, the Water Framework Directive requires:

- *“Estimation and identification of significant water abstraction for urban, industrial, agricultural and other uses, including seasonal variations and total annual demand ...”*;
- The identification of all waterbodies abstracted for human consumption<sup>1</sup> (Art. 7); and
- The establishment of *“controls over the abstraction of fresh surface water and groundwater, and impoundment of fresh surface water, including a register or registers of water abstractions and a requirement of prior authorisation for abstraction...”* (Art. 11.3(e))<sup>2</sup>

In addition, Article 4(1) requires that *“Member States shall .. ensure a balance between abstraction and recharge of groundwater,”*

The approach adopted by the Directive is not therefore not to prohibit or regard abstraction as inherently undesirable (unlike the introduction of pollutants) but rather as engaging the terms of the Directive only once an abstraction has environmental consequences prohibited by the Directive. It is this approach which underpins the central abstraction ‘tool’ in the Directive – the obligation to measure and collate abstractions in the central register.

While Member States are entitled to exempt abstractions which *“have no significant impact on water quality”*, an exemption presupposes, in our view, that such an abstraction is at least measured and assessed in the first instance before an exemption could be granted. The latitude in the directive does not provide justification for the exclusion of the majority of abstractions in the State from registration and licensing.

Furthermore, the language of Article 11.3(e) is of significant interest. Member States must (‘shall’) introduce ‘controls’, including but not limited to the licencing and register. The wording of the Directive therefore makes it clear that those two obligations are inclusive but not exhaustive of mechanisms which a Member State must introduce. i.e. even if satisfactorily in place, those two elements do not exhaust the Member State’s obligations to ensure, for example, a balance between abstraction and groundwater recharge rate.

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<sup>1</sup> providing more than 10 m<sup>3</sup>/day as an average or serving more than 50 people, and those bodies of water intended for such use

<sup>2</sup> Member States ‘can exempt from these controls, abstractions or impoundments which have no significant impact on water status’.

## 4. IMPACTS OF ABSTRACTION

A comprehensive review of the potential impacts of abstraction on a full range of hydrological and ecological parameters are set out in the attached research report (Appendix I). Pressure of water abstraction can have wide-ranging impacts on the hydrological, hydrogeological and ecological parameters of surface and groundwater bodies and GDWDEs. There are complex interactions between water abstraction and its aquatic environment and the impacts of these depend on a range of factors that include: the volume of water abstracted; the time and duration of abstraction and return to a water body; the hydrology and morphology of water bodies; and the degree of connectivity between different components of the hydrological cycle. Abstraction resulting in the lowering of groundwater levels can negatively impact GDWDEs. The impacts of water abstraction are largely dependent on the relative rate of abstraction and discharge. The impacts of abstraction are generally only experienced when localised discharge is lower than abstraction, yielding reduced baseflows in rivers, lakes and groundwater bodies. These reduced flow volumes (and related velocities), and lower flow levels will be particularly exacerbated during periods of natural low flow.

This has hydrological, hydrogeological, morphological, and ecological implications for water bodies. With regards to hydrology, reduced flow in rivers decreases peak flows and floodplain inundation and yields fluctuating lake water levels, with direct impacts to aquatic biota. Flow variation can alter water quality with changes to turbidity, and dissolved and suspended material. The ability of water bodies to dilute contaminants is also reduced. Within hydrogeology, unsustainable water abstraction lowers groundwater levels. This affects connected surface water bodies, soil surface layers and connected GDWDEs. In its most extreme, it can result in the drying out of wetlands. The lowering of groundwater levels can also result in inflow of saline or surface waters, altering the chemistry of the GWB, and reducing its ability to dilute contaminants. Poorly maintained abstraction wells can also provide a conduit for contaminants to GWBs. Morphological changes include changes to the width and depth of water body, altering flow dynamics, sediment transport and aquatic habitats (e.g. riffles and pools, riparian, littoral).

All of the above changes can have a major impact on the biota of the water body, and dependant habitats. Aquatic flora, invertebrate fauna and fish fauna can all be altered by changes to the hydrology, hydrogeology and morphology of aquatic habitats. Physical changes to the environment can reduce the habitat available to organisms and reproductive and behavioural changes can alter species assemblages.

Negative alteration of the biological, hydromorphological and chemical elements for status classification will result in the downgrading of a water body, resulting in a breach of the WFD. Abstraction controls are

required where abstraction is assessed to pose a risk to any of these classifying elements which would result in the water body being classified either at less than good status, or (if within-status trends indicate) are At Risk of deterioration to a lower status.

Areas with low groundwater recharge rates will be more susceptible to water abstraction.

SWAN acknowledges that water abstraction has not been identified as a highly significant issue nationwide by the characterisation and risk assessment process and that it is an issue in only 4% of at risk waterbodies, (3% of rivers (98), 9% of lakes (73) and 4% of groundwater bodies (23)). The SWAN report supports this, stating that *'In Ireland, given the high precipitation levels that are experienced, the risk of abstraction impacts on a national scale<sup>3</sup> is considered by the authors to be low.'*

However, the SWAN research also shows that the impacts of abstraction vary widely temporally and spatially and have significant potential to pose a risk locally and in the catchments of sensitive waterbodies and associated groundwater dependent terrestrial ecosystems (GWDTEs), especially in combination with other abstractions. This is especially pertinent given that the occurrence of multiple stressors to a water body (e.g. nutrient enrichment combined with abstraction) has been shown to have a larger impact than each stress individually (See Section **Error! Reference source not found.** of research report). Of the 513 designated GWBs in Ireland, 223 are designated either "At risk" or "Probably at risk" (for all factors, not just abstraction). Within these GWBs, 185 intersect with regions of low recharge rate (<50mm / yr.), with 130 being "At risk", and 55 "Probably at risk". It is these regions that could be most acutely affected by the impacts of abstraction as water bodies are already experiencing risk of downgrading in status, and recharge rate is low.

Similarly, SACs could be more sensitive to water abstraction in regions of low GWB recharge rate. 251 of 498 SACs (50%) intersect with regions of low recharge rate (<50mm / yr.). Again, in these regions, water abstraction is likely to have increased impact on the environment and increased levels of protection could be beneficial.<sup>4</sup> There can also be significant cumulative and upstream impacts of abstractions, especially on the re-charge implications which may see feeder streams run dry. These may be vital

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<sup>3</sup> SWAN's emphasis

<sup>4</sup> Craven, K. Emerson, H., Kenny, J., McLoughlin, N., O'Reilly, C. (draft report) Water Abstractions Interactions with the Water Framework Directive & Groundwater Directive and Implications for the Status of Ireland's Waters. Prepared under contract for SWAN.

habitats, spawning grounds, etc.<sup>5</sup> Water abstractions are also causing significant pressures on waters within the Eastern River Basin District, due to the population density of the major urban areas in the East.<sup>6</sup>

There are also examples of extractive industries having impact on the groundwater levels of adjacent GWBs. Where quarries abstract large amounts of groundwater from a quarry sump, the water is typically discharged to a receiving watercourse down gradient of the quarry, to avoid recirculation. If the invoked radius of influence extends to the watercourse as it flows adjacent to the quarry, or to sections of the watercourse up gradient of the quarry, then there is a risk of reducing surface water flows to negligible rates. Examples of this include: Bettystown GWB in Co. Louth, which is considered to be 'at risk' due to quarry dewatering; and Midleton GWB, considered 'at risk' by having failed the water balance test due to groundwater abstractions (>80% recharge; with the actual ratio being 95%)<sup>7</sup> and the potential for saline intrusion from quarry dewatering along the south coast.

## **INADEQUATE INFORMATION TO ASSESS IMPACTS**

While there are specific examples in the scientific literature and local authority reports of impacts occurring to water bodies (See above and research report, Appendix I), according to the authors of the SWAN report, there is currently not adequate information on existing abstraction points to make fully informed and quantified assessments on the impacts of abstraction on a local scale. In fact, this has been recently highlighted, with researchers unable to reliably screen abstraction pressures due to inadequate baseline conditions and lack of data on abstraction.<sup>8</sup>

The existing register of abstractions in Ireland is very limited. While it includes most public and group water schemes and licensed industrial schemes (and provides an abstraction rate of 575,000 m<sup>3</sup>/day), it is SWAN's understanding that it does not include unregulated abstractions such as the up to 200,000 private domestic wells,<sup>9</sup> >150,000 unregulated agricultural groundwater abstractions<sup>10</sup>, hotels, hospitals and schools. Due to the data gaps, the register is almost certainly underestimating the total number of

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<sup>5</sup> Eamonn Moore, angler, pers. comm.

<sup>6</sup> ERBD (2009) Abstraction Pressures – National POM/Standards Study. The Assessment of Abstraction Pressures in Rivers in Ireland

<sup>7</sup> CDM (2009). Groundwater Abstraction Pressure Assessment - Final Report. 39325/PP/DG 43-S, pp102

<sup>8</sup> Webster K.E., Tedd K., Coxon C. & Donohue, I. (2017). Environmental flow assessment for Irish rivers. Environmental Protection Agency Research Report 2014-W-DS-21.

<sup>9</sup> Wright, G. 1999. How many wells are there in Ireland? The GSI Groundwater Newsletter, Vol. 35.

<sup>10</sup> Webster K.E., Tedd K., Coxon C. & Donohue, I. (2017). *Environmental flow assessment for Irish rivers*. Environmental Protection Agency Research Report 2014-W-DS-21. p55.



abstraction schemes or points across the country, and as a result, the total abstraction volumes is likely to be under-represented. According to the authors of the SWAN research report, *'This makes it impossible to accurately assess the impacts of abstraction in Ireland.'*

It is SWAN's understanding that this most recent database of abstractions, which fed into the EPA characterisation and risk assessment is the National Abstraction and Discharge Database developed by RPS Engineers Ltd in 2016. There have been various iterations of the register, which are covered comprehensively in the SWAN research report, but while the register was due to be updated in 2016, the updated register is not publicly available and appears to still rely on previous (incomplete) datasets. Apart from capturing significant new data from the National Federation of Group Water Schemes (NFGWS), and undertaking field surveying of some 791 of these abstraction points, it is not apparent from the RPS report that the lacunae identified from 2005 and 2009 have been substantially addressed. This is borne out by a comparison of the number of abstraction points identified in the RPS report with those used in the earlier reports. Overall numbers have crept up from approximately 2000 (in the earlier reports) to approximately 2,600 in the RPS report of April 2016<sup>11</sup>.

A good insight into the deficiencies in the primary data is provided by the example of the IPC regime. RPS noted that they were required under the scope of the project to review abstractions associated with IPC/IE licenced installations/facilities. However, *"Of the existing 709 IPC/IE licences, RPS concentrated their review of abstraction information to the 328 sites, which are located within the Tier 1 "At Risk" catchments and was only able to assess information on abstractions from 114 IPC/IE installations/facilities.* and, as outlined in detail in the research report, questions remain over the comprehensiveness of the current abstraction database (Section **Error! Reference source not found.** of report) and thus this could be an underestimate of water bodies that are At Risk.

SWAN would therefore respectfully contend that RPS was not in fact in a position to conclude *"With the information collated from Irish Water together with abstraction information received from the GSI, EPA and Local Authorities, RPS was able to develop a national abstraction database."* While RPS clearly did valuable work in compiling metadata from disparate sources, engaging in validation of some of that data and building a technology solution for an overall national abstraction database, significant concerns remain around the quality and comprehensive nature of that data.

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<sup>11</sup> RPS (2016). Catchment science desk studies and field based assessments - Development of a national abstraction database and a national discharge database. RPS Consulting Engineers for Environmental Protection Agency.

There are significant implications from this lack of information since the EPA's assessment of abstraction amounts used for the risk assessment are *"based on best available information of known abstractions from a recently collated EPA abstractions database"*<sup>12</sup> by which is meant the above incomplete RPS developed National Register. SWAN has serious concerns that this could well mean that the EPA risk assessment for abstraction is not accurate.

It is in this context that we strongly believe that the registration scheme being proposed is wholly inadequate (see below) in order to inform an effective control system for water abstraction.

## 5. REGISTER OF ABSTRACTIONS

An absolute baseline for an abstraction management system must be an understanding of the location and volumes of abstractions over time, i.e. where, when and how much. The draft River Basin Management Plan 2018 – 2021<sup>13</sup> acknowledged this, saying, *"a comprehensive and maintained national register of water abstractions is essential in order to assess and manage the potential risk of over-abstraction"*. This is especially the case for a pressure such as abstraction which has the potential to cause cumulative impacts, especially in sensitive and/or high status catchments. However, the proposed Bill provides for a register under which the substantial majority of abstractions in the State will remain unaccounted for, due to the fact that the proposed threshold for registration under regulations is far too high at 25 cubic metres per day. SWAN strongly disagrees with this approach and recommends the establishment of a coherent National Abstraction Register as follows:

- The Register should be publicly available to permit analysis of abstraction impacts by interested parties. While there is not a WFD requirement to register all abstractions (exempting ones that have *"no significant impact on water status"*), there is an inherent need to assess all abstractions to decide which ones are significant. This should form the basis of a registering process which encompasses all abstraction points.
- All abstractions points, regardless of volume, are included on the register.

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<sup>12</sup> DoHPLG (2018) River Basin Management Plan for Ireland 2018-2021. Department of Housing, Planning, Community and Local Government.

<sup>13</sup> DoHPCLG (2017) Public consultation on the river basin management plan for Ireland 2018-2021. Department of Housing, Planning, Community and Local Government.

- The agency in charge of the register needs to be resourced and empowered to collate extant abstraction data from inter alia local authorities, the IPC regime administered by the EPA, Geological Survey and NFGWS;
- That agency needs to be resourced to investigate non-declared or currently unknown abstraction pressures and to require the compilation of data from those abstraction points in a format agreeable to it;
- That agency needs to be given enforcement powers and a right of entry to private property in relation to its abstraction and licencing function;
- Small abstractions of less than 10 m3/day are included on the register, but do not need licensing. Instead, similar to Scotland, users must comply to general binding rules to minimise impacts’
- Small abstractions of less than 10 m3/day are metered to provide information on extent and duration of abstractions. This information is made available to the agency in charge of the register so that cumulative impacts from these can be assessed; and
- The database must be made publicly available.

## 6. LICENSING OF ABSTRACTIONS

SWAN strongly disagrees with the 2000m<sup>3</sup> exemption threshold for abstraction licensing. A coherent licensing regime provides the framework for flexible, targeted and effective management of abstractions causing an impact. It facilitates the accurate measurement of abstraction volumes, full assessment of the impacts of abstraction to water bodies, and a structure through which to introduce measures where and when necessary to address impacts. This needs to be risk-based (based on comprehensive and accurate data) sufficiently flexible and responsive to the particular situation, and take into account cumulative impacts, periodicity, and requirements for responsiveness to rapid change within the water system. It also needs to address legacy issues through the review of existing abstractions. The licensing system proposed appears to provide for few of these things and in SWAN’s view will not be an effective tool in managing the impacts of abstraction. While we acknowledge that some of these shortcomings may be addressed in regulations arising once the Bill is enacted, we believe that, as minimum, the threshold should be reduced significantly in the Bill.

To be effective, all abstractions likely to pose a risk to water environments must be captured within the licencing regime. For this, SWAN reiterates the recommendations of the research report: That all

abstractions over 10m<sup>3</sup>/day should be included within the licencing regime, alongside abstractions identified within a vulnerable water body where risks of abstraction pressure have been identified. According to the authors, *'This de minimis level of 10 m<sup>3</sup>/day is chosen in the absence of adequate scientific data that can provide a rigorous threshold of safe values, but should capture most significant points of abstraction .... and is in keeping with thresholds for countries with a similar climate to Ireland (Scotland and N Ireland).'*' This level should change based on the information gathered from abstraction points and technical assessments of licensees must show that both groundwater and surface water abstractions, in terms of both their overall rates and abstraction regimes, do not compromise environmental flows and levels in water bodies. This relies on further work to develop ecology-flow relationships. Priority should be given to high-status sites, and sites on the threshold between good and moderate status, as well as those for which the qualifying interests may be sensitive to hydrological change. Significant work has been done by the Geological Survey in estimating recharge rates across a range of hydrogeological settings and this work is ongoing. These studies will enhance our understanding of the sustainability of specific abstractions.

Given most small abstractions discharge to the same water body as abstractions occur SWAN believes, based on the research report, that it is impractical and onerous to licence less than 10 m<sup>3</sup>/day, with the exception of vulnerable water bodies or sensitive areas,.

For this licencing regime, the following is recommended. SWAN acknowledges that some of the detail may be included in later regulations but wish to put forward the recommendations formally as part of this consultation process.

- Licensing is introduced on a phased basis with the aim of protecting water bodies, and is based on accurate information.
- This regime should be predicated on bi-annual renewals allowing regular oversight of the abstraction and licencing pressure on any given water body.
- All abstractions greater than 10 m<sup>3</sup>/day (or subsequent risk-based threshold value) should be licensed. A means of demonstrating compliance or exemption from this threshold is required (i.e. metering).
- Proposed abstractions over 100 m<sup>3</sup>/day should be further reviewed by a competent agency (e.g. local authority/EPA). This should include assessment of potential impact on groundwater flows and levels, surface water flows and levels, and an Ecological Impact Assessment.

- Information on location of abstraction point and rate of extraction (daily, or at a minimum, monthly rates are required) must be provided, including existing abstraction points.
- In order to address spatial and temporal variability regarding abstraction impacts, this licensing regime should be flexible to permit greater scrutiny where impacts of abstraction are likely to be greatest, particularly: in water bodies identified as “At Risk” from water abstraction; in areas close to GWDTEs; in regions of low precipitation and low GW recharge rate; and in regions due to cumulative impacts from abstraction or where knowledge of impacts are unknown. Where required, this would include abstractions below 10m<sup>3</sup>/day in these areas. The following is specifically recommended:
  - A flexible licensing regime must be in place for abstractions below 10 m<sup>3</sup>/day in vulnerable water bodies, sensitive areas, or where cumulative impacts are likely.
  - Abstractions from designated protected areas should be liable for further technical assessment. SACs and SPAs should be subject to an Appropriate Assessment regardless of volume extracted and abstractions from NHAs should also be subject to an Ecological Impact Assessment.
  - Abstractions greater than 10 m<sup>3</sup>/day and less than 100 m from a GWDTE would require further technical assessment to determine specific impact on water body and any mitigating measures necessary with input from NPWS or independent ecologist.
- All water bottling plants should be licensed and included on a national register regardless of the abstracted volume.
- Finally, it is recommended that the licensing authority have the power to designate particular water bodies or catchment areas as areas of significant concern and prescribe bespoke conditions for those areas, even for de minimis levels of abstraction until ‘good status’ had been restored.

## 7. MANAGING ABSTRACTIONS: MEASURES TO ADDRESS ABSTRACTIONS IMPACTING ON THE ENVIRONMENT

As stated in the consultation document, the purpose of the proposed Bill is to *'provide for the introduction of a regime for the control of the abstraction of water..'* Fundamental to a system of control, are management measures or actions to control the activities of abstractors, including limiting abstraction levels if necessary in order to mitigate /prevent the environmental impact of the abstraction.

In preparatory work for the first RBMP cycle, it was proposed that following a review process, any waterbodies that are determined to still be at risk of failing to meet WFD objectives due to abstractive pressures may require supplementary measures to manage the abstraction.<sup>14</sup> However, supplementary measures are not definitively provided for in the proposed Bill. The explanatory note for Head 9 describes it as providing *'..for the detail of the licensing process to be set out in regulations.'* and it does include a welcome proposal that includes concrete management measures, in particular:

- the setting of a limit on the amount of water which a licensee can abstract or the termination of an abstraction,
- conditions to be set in line with RBMP objectives and
- the need to prevent deterioration in water status

However, SWAN notes that regulations under this Head only 'may' include these provisions. We recommend changing the wording so that these very necessary management measures are definitely and unequivocally provided for.

## 8. SPECIFIC RESPONSES TO CONSULTATION DOCUMENT

### 8.1 Head 2 – Interpretation

SWAN welcomes the clause which includes the 'in combination' impacts of an abstraction in the definition of a "significant abstraction". However, the definition appears to focus on a waterbody failing

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<sup>14</sup> CDM (2009). Groundwater Abstraction Pressure Assessment - Final Report. 39325/PP/DG 43-S, pp102

or likely to fail good status or potential. The definition should also include abstractions which cause or are likely to cause a waterbody to deteriorate in status (e.g. from high status to good status)

## **8.2 Head 5 – General Binding Rules**

While it is unclear how the general binding rules will be enforced, SWAN particularly welcomes the requirement that *'there must be a means of measuring the rate of the abstraction'*. This would appear to mean that all abstractions must be metered which SWAN fully endorses.

SWAN very strongly disagrees with the proposal in the consultation document that only abstractions of *'25 or more cubic metres in any 24 hours..'* be registered and strongly challenge the assertion in the consultation document that what is proposed provides for *'..a regime for the control of the abstraction..'* given that the majority of abstractions would not be registered and so will likely remain unknown, unrecorded and so not *'controlled'*.

SWAN recommends that ALL abstractions in the state should be registered in order to form the basis of an effective control system. Please refer back to Section 5 for our detailed response, including recommendations, regarding abstraction registration.

SWAN takes issue with the statement in the consultation document that because *'a Member State can exempt from those controls abstractions which have no significant impact on water status'*, it is accordingly *'..proposed to exempt from registration or licensing abstractions of less than 25 cubic metres per day.'* SWAN would argue that one most definitely does not follow from the other and that in order to assess the significance of an abstraction, it is necessary to know where it is, how much is abstracted in relation to the flow rate or recharge rate of the source waterbody, taking into account the in-combination effect of other abstractions from the waterbody.

SWAN further believes that it is wholly inappropriate to choose a threshold *'for consistency'* with *'regulations made under Section 9 of the Local Government (Water Pollution) Act 1977'*. The WFD requires an entirely new, integrated and ecologically focused system of water management, whereas the Water Pollution Act is part of a legacy of fragmented and narrowly focused water-related legislation. It must be the aim of the government to modernise water legislation in line with the requirements of the WFD rather than tying new legislation to laws from the last century.

Finally, it is not factually correct to state that the approach being proposed '*mirrors that taken in Scotland and Wales*'. In those jurisdictions, only abstractions below 10m<sup>3</sup> are exempted. What is being proposed in Ireland is 250% higher than this threshold.

### **8.3 Head 6 – Register of Abstractions**

The explanatory note for Head 6 states that the establishment of the register of abstractions (over 25m<sup>3</sup>) was '*to allow the Agency to build up a nationwide picture of the extent and size of current abstractions in order to better manage abstractions in areas of high risk in future.*' SWAN strongly disputes the contention that the register will provide such a nationwide picture. In fact, it will provide an extremely limited picture of only ~3,000 of the largest abstractions in the country and will fall very far short of providing information on the '*extent and size of current abstractions*'. Furthermore its use as a management tool will be extremely limited, given that abstractive pressures are likely to mostly be local and possibly due to cumulative impacts in conditions of low flow / recharge and may very well not be captured by the register.

### **8.4 Head 7 – Requirement for a License to Abstract; Head 9 – Licensing of existing abstractions and Head 10 – Licensing of abstraction commencing after the prescribed date**

It is SWAN's position, based on independently commissioned research that the threshold of 2,000m<sup>3</sup> for the requirement of a license is far too high and that the licensing regime as proposed does not constitute an effective an effective mechanism to manage abstractions in the State but rather an administrative exercise.

While we note that abstraction over between 250m<sup>3</sup> and 2000m<sup>3</sup> will be licensed if they have been '*..deemed to be a significant abstraction by the Agency..*', SWAN has serious concerns that the EPA risk assessment of abstractions was based on a very incomplete abstraction register, which does not include up to 200,000 private domestic wells,<sup>15</sup> >150,000 unregulated agricultural groundwater abstractions,<sup>16</sup>

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<sup>15</sup> Wright, G. 1999. How many wells are there in Ireland? The GSI Groundwater Newsletter, Vol. 35.

<sup>16</sup> Webster K.E., Tedd K., Coxon C. & Donohue, I. (2017). Environmental flow assessment for Irish rivers. Environmental Protection Agency Research Report 2014-W-DS-21. p55.



and 420 golf courses, which the CDM 2009 groundwater abstraction report<sup>17</sup> estimates range in abstractive rates from 10 m<sup>3</sup>/day up to 1,000 m<sup>3</sup>/day. (Please refer to Section 6 for SWAN's more detailed input on this.) This raises concerns regarding the procedure by which the EPA will assess whether an abstraction is 'significant'. Indeed, the presence may be unknown if it falls below the registration threshold and thus the mechanism for detecting and assessing it seems flawed, or at least, unclear.

### ***8.5 Head 8 – Impact of Abstractions on the status of surface water and groundwater***

The provisions of this head as set out and as described in the Explanatory Note of the consultation paper are unclear. In particular the distinction is unclear in terms of treatment of existing abstractions as compared to future abstractions.

SWAN is concerned that this head appears to provides for, and could result in, an incomplete and inadequate assessment of abstractions by the EPA. This is because it the EPA to undertake a review of the environmental impact of existing abstractions on water *status* '*..using the register of abstractions established [under Head 6 of the Bill], and shall identify all significant abstractions in a catchment.*' The weakness in this proposal is that because the register will be extremely limited, restricted to abstractions over 25m<sup>3</sup>/day, it is likely that any assessment of environmental impact or risk assessment will similarly be incomplete. Furthermore, it is not clear to SWAN how the EPA is to '*..identify all significant abstractions in a catchment..*' if the majority are not required to register and thus may well be unrecorded.

While SWAN welcomes public consultation on the matter, we are concerned that this head appears to provide for a final definitive list of significant abstractions to be developed by the EPA '*..which thereafter will provide the basis for the estimation of abstraction pressures on the quantitative status of waters and the development of programmes of measures..*' The SWAN report, supported unanimously by stakeholders interviewed as part of the research, recommended a flexible and iterative approach to abstraction management, which is responsive to spatial and temporal conditions and changes. A final definitive list, as proposed, represents the opposite to a flexible responsive regime and ties the EPA to a register of abstractions that will be incomplete and could very quickly prove to be out of date.

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<sup>17</sup> CDM (2009a). Groundwater Abstraction Pressure Assessment - Final Report. 39325/PP/DG 43-S, pp102.

SWAN does not agree with the approach being proposed, if we understand it correctly, whereby the environmental impact of an existing abstraction on water status is only to be reviewed if it is included in the register, and thus only over 25m<sup>3</sup>. This completely discounts the cumulative impacts of multiple abstractions on a vulnerable waterbody e.g. a groundwater body with a low recharge rate and associated designated Groundwater Dependent Terrestrial Ecosystem (GWDTE) and, we would contend, does not fit with the integrated catchment management approach being developed and delivered by the EPA for other pressures.

SWAN does not understand what is being proposed for new abstractions; in particular whether these too will only be subject to assessment if they are over 25m<sup>3</sup>. Clearly SWAN does not agree that an abstraction can only be deemed to be significant if it is over this level.

### ***8.6 Head 13 - Power of Irish Water to take a supply of water***

While the explanatory note states that this Head ensures that any Irish Water abstraction '*is in accordance with sustainable .. water use...*', SWAN is concerned that there is no specific provision setting conditions on any Irish Water abstraction to ensure sustainability and a balance between abstraction and recharge / flow. We would recommend that this be addressed.

**APPENDICES**



## APPENDIX I

See accompanying document, research report 'Water Abstraction: Interactions with the Water Framework Directive & Groundwater Directive and Implications for the Status of Ireland's Waters'.

## APPENDIX II

### SWAN Member Organisations

SWAN National Groups		SWAN Regional & Local Groups	
1.	An Taisce	14.	Carra Mask Corrib Water Protection Group
2.	Bat Conservation Ireland		
3.	Birdwatch Ireland	15.	Cavan Leitrim Environmental Awareness Network
4.	Coastwatch Europe Network		
5.	Coomhola Salmon Trust Ltd.	16.	Celebrate Water
6.	Eco-UNESCO	17.	Cork Environmental Forum
7.	Friends of the Earth	18.	Dodder Action
8.	Friends of the Irish Environment		
9.	Irish Peatland Conservation Council	19.	Longford Environmental Alliance
10.	Irish Seal Sanctuary	20.	Macroom District Environmental Group
11.	Irish Whale and Dolphin Group	21.	River Shannon Protection Alliance
12.	Irish Wildlife Trust	22.	Save The Swilly
13.	Voice Of Irish Concern for the Environment (VOICE)	23.	Slaney River Trust

## APPENDIX III

### SWAN Board of Directors

SWAN Board of Directors:	
Mark Boyden, Chair	Coomhola Salmon Trust
Mindy O'Brien, Vice Chair; Co. Secretary	VOICE
Tim Clabon	Irish Wildlife Trust
Karin Dubsky	Coastwatch
David Healy, Director	Friends of the Irish Environment
David Lee, Director	Cork Environmental Forum
Elaine McGoff, Director	An Taisce

Our Ref: DL165/2018



Ms. Deirdre Fanning  
Dept. of Housing Planning and Local Government

15<sup>th</sup> October 2018

Dear Deirdre

As promised please find an interim response to the Department of Housing, Planning and Local Government consultation on the General Scheme of Water Environment (Abstractions) Bill 2018 further to our meeting on the 8th October.

Waterways Ireland is the navigation authority responsible for approximately 1,000 km of navigable waterways. Our statutory function is to manage, maintain, promote, develop and restore specified inland navigable waterways, principally for recreational purposes.

At an operational level, we have responsibility for navigation channels, embankments, culverts, aqueducts, towpaths, adjoining lands, harbours, jetties, fishing stands, bridges, locks, weirs, sluices, lock houses, along with buildings and archives. Our work programmes are critical to providing a safe and high quality recreational environment for our customers, whilst also preserving the industrial and environmental heritage of the waterways for future generations.

I attach an extract from our succession of title for the canal network part of which is registered with the Property Registration Authority, and sets out how title and legislative authority has passed from the navigation authorities, Coras Iompair Éireann, Commissioners for Public Works, Ministers eventually to Waterways Ireland as a result of the British-Irish Agreement Act 1999.

As discussed on Monday we are requesting that Waterways Ireland is included in Schedule 2 of the draft Water Environment (Abstractions) Bill 2018 as an exempt body for all existing abstractions for navigation. Any new or increased abstraction would be subject to the Abstraction Bill. The most recent legislative basis for the navigation's water supply is the 1986 Canals Act, of particular reference is Section 6 set out below.

#### Powers of Commissioners

6 – The Commissioners shall have all powers as are necessary for the performance of their functions under this Act and shall without prejudice to the generality of the foregoing, have power to undertake the care, management, control maintenance, repair, improvement and development of the canals and other canal property and to –

- (a) Draw any water necessary for the purposes of the canals from any source whatsoever from which the Board was entitled to draw such water before the vesting day, whether by virtue of any enactment or otherwise;

2 Bóthar Shligigh  
Inis Ceithleann  
Contae Fhear Manach  
BT74 7JY

2 Sligo Road  
Enniskillen  
Co Fermanagh  
BT74 7JY

2 Sligo Road  
Enniskillen  
County Fermanagh  
BT74 7JY

- (a) Dredge, widen, deepen, alter the course of or otherwise improve the canals or improve the supply of water for the canals and for that purpose to dredge, widen or deepen any stream, river, drain or channel carrying any such water supply and replace or repair any pipe carrying any such supply;
- (b) Construct, alter, underpin or improve any lock, quay, harbour, drydock, weir, fishpass, slipway, pumping station, building, towpath, bridge, aqueduct, embankment, culvert or road (other than a public road within the meaning of Local Government (Roads and Motorways) Act, 1974) on, over or beside the canals;
- (c) Acquire and dispose of any land or any easement or other right over land and may, if necessary, in accordance with the *Second Schedule*. Acquire compulsorily any land or any easement or other right over land;
- (d) Alter the water levels of the canals without prejudice to the right of the Board or any other person to receive water from the canals;
- (e) Close to navigation any part of a canal not required for navigation and reopen and declare navigable any part of a canal previously closed to navigation
- (f) Lease or let to any person canal property and license the use of the canals and canal water by any person.

Regarding proposals made at Head 16 of the Bill, Protection of Navigable Rivers and Canals - we suggest for this to work effectively any person seeking a license to abstract water from a navigation or a navigation water supply source should be obliged to carry out such assessments as may be necessary to confirm that the abstraction will not have a detrimental effect on the water available to the navigation.

These assessments should be forwarded to the navigation authority (Waterways Ireland) 90 days in advance of the determination to grant a licence to allow time to consider the evidence and respond.

Given the historic nature of Waterways Ireland's water supplies for navigation, these are not mapped nor are the volumes recorded as we discussed on Monday. The volume of water required varies by season by availability of water in a supply, demand depends on volume of traffic, weather, etc. and is an area we need to consider how best to progress.

Could you confirm what is the basis for supply of water to the canals in various countries in Europe regarding abstraction legislation.

We will commission work to set out the legislative basis for water abstractions on the navigations and revert.

Thank you for considering our preliminary observations and we look forward to working with you going forward.

Yours sincerely



Dawn Livingstone  
Chief Executive



[gov.ie/housing](https://gov.ie/housing)

