



SLIGO COUNTY COUNCIL

**Directorate for Planning, Heritage,
Community and Economic Development**

Statement of Case – IROPI

Statement of Case in support of planning consent to be given for Imperative Reasons of Overriding Public Interest (IROPI)

8 March 2019

Irish Water has submitted a planning application to upgrade the existing water treatment plant (WTP) at Gortersluin, near Lough Talt in County Sligo, and to continue to use the upgraded plant for a period of 10 years - reference PL 18/210.

It is Sligo County Council's view that the development proposed as part of this application should be given consent for Imperative Reasons of Overriding Public Interest (IROPI), subject to appropriate conditions.

The purpose of this Statement of Case for Imperative Reasons of Overriding Public Interest (IROPI) is:

- to introduce the background and context to the proposed development;
- to provide the conclusions of the Appropriate Assessment process to date (Stages 1 to 3);
- to present the views of the Planning Authority and the determination regarding the potential effects of the proposed development on the integrity of European Sites;
- to describe the IROPI for the pursuit of the proposed development;
- to provide information on the compensatory habitat measures proposed.

1. Background to the project

1.1 Purpose of the application

Irish Water is seeking planning permission to upgrade the existing water treatment plant (WTP) at Gortersluin, near Lough Talt in County Sligo, and to continue to use the upgraded plant for a period of 10 years. The stated purpose of the application is “to meet the immediate needs of over 13,000 people for safe, clean water”.

The existing treatment of water abstracted from Lough Talt consists of chlorination only. This is insufficient to protect against cryptosporidium. The treatment does not remove the potentially carcinogenic trihalomethanes (THM) to the standard required by the European Union (Drinking Water Regulations 2014 (S.I. 122 of 2014)).

A Boil Water Notice has been in place from the 5th February to the 25th October 2018 and the WTP has been included in the EPA Remedial Action List for treatment upgrade. The Boil Water Notice has been re-issued on the 11th January 2019 and remains in place to date.

The proposed upgrade will ensure a supply of treated drinking water that complies with the European Union (Drinking Water) Regulations 2014 (S.I. 122 of 2014). It is not proposed to increase the existing level of abstraction from Lough Talt. No works are proposed to the lake intake pipeline.

The upgraded WTP is expected to operate for 10 years. At the end of this period, IW proposes to decommission the plant and cease abstraction of raw water from the lake, because a replacement source is expected to be in place.

1.2 Site location and description

The application site is located on the northern side of the regional road R-294, approximately 12 km west of Tobercurry.

The current structures on site consist of operations buildings, holding tanks and boundary walls. The existing water treatment plant includes a plant house building, a microstrainer building, a chlorine contact tank, underground chambers and external chemical storage tanks.

The site is surrounded by forestry. The adjoining R-294 regional road is a designated scenic route in the Sligo County Development Plan 2017-2023.

Lough Talt is approximately 400 m north-west of the site (straight line). The lake is included in the Lough Hoe Bog Special Area of Conservation (SAC) (Site Code: 000633).

Lough Hoe Bog SAC is designated for the Annex I habitats including [3110] oligotrophic waters containing very few minerals of sandy plains (*Littorelletalia uniflorae*), [7130] Blanket bogs (*if active only), [1013] whorl snail (*Vertigo geyeri*) and [1092] White clawed crayfish (*Austropotamobius pallipes*).

1.3 Water abstraction from Lough Talt

Sligo County Council commenced the preparation of a Water Abstraction Order for Lough Talt in 2010, in order to regularise the abstraction that has been ongoing from the lake for over 70 years.

Due to the environmental sensitivity of Lough Talt, which is designated as part of Lough Hoe Bog Special Area of Conservation (SAC) and is proximal to the River Moy SAC (Site Code: 002298), detailed hydrogeological investigations were carried out over the period of 2012–2016 to assess the potential

impact of the existing abstraction on the integrity of the European sites in view of the conservation objectives for those sites.

The hydrogeological investigations concluded that during periods of extended dry weather or drought, the lake abstraction operation contributes to the lake level dropping to a level which has an impact on the artesian conditions within the fen, which are the supporting conditions for the habitat of the *Vertigo geyeri* whorl snail, which is listed under Annex II of the Habitats Directive (92/43/EEC) and a species of qualifying interest of Lough Hoe Bog SAC.

As result of the survey data, it was concluded that it would be necessary for the abstraction to be reduced by approximately 50% (to less than 4 MLD) during a significant portion of the year (95 days on average) to avoid this impact. This would not be sufficient to supply the existing scheme population of over 13,000 and a supplementary water supply would be required.

The Lough Talt Regional Water Supply Scheme (RWSS) is an isolated water supply network. The nearest potential large-scale water resources are Lough Conn, 30 kilometres to the west of the existing WTP, and Lough Gill, 40 kilometres to the north of the treatment plant.

It is likely to take up to 10 years to establish a new water source to supply 13,663 people with treated drinking water. Identifying and developing an alternative source will involve major abstractions, treatment systems and long distance pipelines, with all of the statutory processes, technical, procurement and budget challenges that such major projects entail.

The reduction of the abstraction to this level is therefore not possible as there is no other nearby source to supply the deficit in the short term.

The ecological and hydrogeological investigations have demonstrated that continued abstraction from Lough Talt is not sustainable in the long term and therefore Irish Water intends to progress establishing a replacement water source.

The provision of Regulatory Framework for Water Abstractions Legislation proposed under the River Basin Management Plan for Ireland (2018-2021) (currently under preparation) will be reviewed for the existing source and a temporary authorisation will be sought by Irish Water, if required.

1.4 Appropriate Assessment stages

Extensive environmental assessments have been completed and submitted to Sligo County Council as part of the planning application for the proposed Lough Talt RWSS WTP upgrade.

A *Screening for Appropriate Assessment* (AA) and a *Natura Impact Statement* (NIS) have been undertaken by qualified scientists employed as consultants by Irish Water, including Ireland's top expert on the mollusc *Vertigo geyeri*, Ms Evelyn Moorkens, PhD.

The submitted reports comprise the scientific examination of the effects of the project on European sites. The reports identify and characterise any possible implications of the project individually, or in combination with other plans or projects, in view of the conservation objectives of the sites.

This substantial body of scientific work has informed the Appropriate Assessment undertaken under Article 6(3) of the Habitats Directive by the Planning Authority, Sligo County Council.

The scientific assessments found that it was not possible to reduce impacts of the project on the qualifying interests of Lough Hoe Bog SAC to acceptable, non-significant levels by avoidance and/or mitigation. Therefore it could not be concluded beyond reasonable doubt that the operation of the Lough Talt WTP would not have significant adverse effects on the conservation objectives of Lough Hoe Bog SAC, in particular on *V. geyeri*.

Therefore, Stage 3 of the Article 6 assessments was undertaken in order to establish whether alternative solutions exist by which the objectives of the project can be achieved. A review of alternative sources to augment or replace the Lough Talt supply was undertaken. The assessment concluded that there is no alternative supply sources for the area that can be developed within the required timescales, as each of the sustainable options identified require a minimum 7-10 years to develop and implement.

2. Planning Authority's Article 6(3) determination

It is the determination of the Planning Authority that the proposed development is likely to adversely affect the integrity of Lough Hoe SAC.

Reasons for the determination

On the basis of the information submitted by Irish Water in association with the application, including the Further Information response, and having regard to the comments made by the DAU (DCHG) in the submission dated 30 January 2019, and by the Heritage Officer in her report of 26 February 2019, it can be concluded that the operation of the Lough Talt WTP upgrade is likely to have significant adverse effects on the conservation objectives, in particular *V. geyeri*, of Lough Hoe Bog SAC.

3. Alternative options examined

As part of Stage 3 of the Appropriate Assessment process, Irish Water's specialist consultants carried out a detailed assessment of six alternative options to the proposed project.

The following options (including the proposed development) were considered:

- Option A: Do Nothing – Zero Option
- Option B: Do nothing until a replacement source in place
- Option C: Cease abstraction until a replacement source in place
- **Option D: Upgrade WTP and use temporarily until a replacement source in place**
- Option E: Upgrade WTP and supplement Lough Talt supply with bulk import to WTP via tankering until a replacement source in place
- Option F: Upgrade WTP and progressively reduce Lough Talt supply as replacement sources became available
- Option G: Upgrade WTP and supplement Lough Talt supply with groundwater source during drought periods.

After an evaluation of the above options, the experts came to the following conclusion:

There is no available solution that meets Irish Water's objective (as informed by national policy & EPA direction and drinking water compliance) to ensure a safe and treated water supply to the local population in the short to medium term (1-2 to 7-10 years) which does not have a potential impact on the conservation objectives of Lough Hoe Bog SAC or Turloughmore SAC. [...]

The only available option in the immediate short term is to proceed with Option D and provide upgraded treatment at the existing Lough Talt WTP site to improve the treatment barrier against cryptosporidium and provide secondary disinfection by means of chloro-amination to reduce the THMs within the distribution network.

The Planning Authority concurs with the conclusion of the evaluation of alternative options. It is the view of the Planning Authority that there are no suitable alternative solutions to the proposed development (this includes the “do nothing” option in the event that consent is not given). The only available option in the immediate to short term is to upgrade the Lough Talt Water Treatment Plant, in order to ensure a safe water supply to a population of over 13,000 residents of County Sligo.

4. Conclusion of the Appropriate Assessment stages 1 to 3

The evaluation of the alternative options confirmed that there is no available solution that can be implemented in the short-term (1-2 years) that does not have a potential impact on the conservation objectives of Lough Hoe Bog SAC or Turloughmore SAC.

Furthermore, no replacement supply sources exist that can be developed within the required timescales, as each of the sustainable options identified require a minimum 7-10 years to develop and implement.

The lack of a safe and reliable drinking water supply would clearly have serious impacts on homes, businesses, schools and healthcare facilities.

As the competent authority, Sligo County Council considers that the failure to remove cryptosporidium and trihalomethanes from the drinking water supplied to a population of over 13,000 persons in County Sligo represents an ongoing risk and danger to public health.

5. Imperative Reasons of Overriding Public Interest

The Lough Talt Regional Water Supply Scheme is of strategic importance as a public water supply in County Sligo, serving a population of 13,663.

At present, the water treatment plant at Gortersluin is not achieving the water quality standards to provide safe and reliable drinking water supply and there is no immediately available replacement source.

The current water treatment is basic, consisting only of chlorination and fluoridation, which do not address the existing water quality deficiencies. The present water treatment is inadequate and cannot provide drinking water which is in compliance with the Drinking Water Regulations.

The above-mentioned non-compliance issues relate to Trihalomethane (THM) exceedances. Furthermore, the current level of treatment provides no barrier against cryptosporidium.

A Boil Water Notice was put in place from the 5th February to the 25th October 2018 for the Lough Talt Regional Water Supply Scheme, following a routine test that detected cryptosporidium in the treated

water coming from the plant at Gortersluin. The Boil Water Notice has been re-issued on the 11th January 2019 and remains in place to date.

Both the presence of cryptosporidium and the exceedances in Trihalomethanes are important public health risks. Cryptosporidium can cause severe gastroenteritis and in extreme situations can seriously endanger people whose health is already poor.

The current water treatment facilities at Lough Talt RWSS do not provide a barrier for cryptosporidium, nor are they effective to address THM exceedances. Should the water treatment facilities for the RWSS remain unchanged, there is an ongoing serious risk to human health risk affecting the population served by the RWSS.

It is the Planning Authority's view that the ongoing risk and danger to the health of over 13,000 residents of County Sligo, as a result of the Lough Talt WTP's failure to provide safe and reliable drinking water in compliance with the Drinking Water Regulations, constitutes an Imperative Reason of Overriding Public Interest (IROPI) for the upgrading of the Lough Talt Water Treatment Plant.

6. Proposed compensatory measures

Irish Water's expert consultants have proposed a number of measures designed to compensate for potential delays in restoring favourable conservation status for the *Vertigo geyeri* population at Lough Hoe Bog SAC, as a consequence of the continued water abstraction from Lough Talt. The compensatory measures are set out in full in Appendix E (Volume 3) of the documentation accompanying the planning application.

The stated objectives of the proposed compensation plan are:

- To reintroduce *V. geyeri* in order to compensate for historical loss due to abstraction pressures.
- To monitor *V. geyeri* and the associated mollusc community within the fen during the period of continued lake abstraction (7 - 10 years).

The ecological restoration measures are to be implemented over four years as follows:

Year 1

- 1) Test of water drip irrigation system
- 2) Set triggers for operation of irrigation system
- 3) Roll out of drip irrigation system
- 4) Monitoring of irrigation system function
- 5) Investigations into micro-habitat conditions
- 6) Monitoring of water levels

Year 2

- 1) Translocation 1 - Less sensitive mollusc species
- 2) Monitoring of mollusc species
- 3) Monitoring of micro-habitat conditions
- 4) Monitoring of irrigation system function
- 5) Monitoring of water levels

6) Workshop review and consultation with NPWS on licensing and timing of *V. geyeri* translocation

Year 3

- 1) Translocation 2 – *Vertigo geyeri* (if appropriate)
- 2) Monitoring of mollusc species
- 3) Monitoring of micro-habitat conditions
- 4) Monitoring of irrigation system function
- 5) Monitoring of water levels
- 6) Workshop - Review of programme for Year 4

Year 4 onwards – From Year 4 it is expected that a reduced monitoring regime may suffice. However, it must be sufficient to ensure the safe management of the irrigation programme and to determine the level of establishment of the translocated snail communities.

Sligo County Council intends to attach conditions to the grant of planning permission for the proposed development. One of these conditions will require the full implementation of the above compensatory measures.

7. Legislative provisions

In accordance with the provisions of Sections 177AA and 177AB of the Planning and Development Act 2000 (as amended), Sligo County Council is forwarding this Statement of Case to the Minister for Housing, Planning and Local Government, who should request the views of the Minister for Culture, Heritage and the Gaeltacht regarding the adequacy of the compensatory measures proposed by Irish Water.

Sligo County Council will be available for consultations with the two Departments and the applicant, if such consultations are deemed necessary.

Please note that Sligo County Council must issue a decision regarding this application by 26 March 2019, as required by Section 34(8)(c) of the Planning Act.