

25th August 2023

Ms Julie Harrison
Permanent Secretary
Department for Infrastructure
Clarence Court
10-18 Adelaide Street
Belfast
BT2 8GB

89 Loopland Drive
Belfast BT6 9DW
Northern Ireland

T 028 9045 5770

info@nienvironmentlink.org
www.nienvironmentlink.org

Ref: Dfi budget 2023/24

Dear Permanent Secretary,

Northern Ireland Environment Link (NIEL) is the networking and forum body for non-statutory organisations concerned with the natural and built environment of Northern Ireland. Its 66 Full Members represent 190,000 individuals, 262 subsidiary groups, have an annual turnover of £70 million and manage over 314,000 acres of land. Members are involved in environmental issues of all types and at all levels from the local community to the global environment. I am writing on behalf of NIEL to express our opposition to the proposal in the Department of Infrastructure (Dfi) Equality Impact Assessment Budget 2023/2024¹ to reduce or cease wastewater treatment in order to save an estimated £35 million out of the proposed cuts in the overall Dfi budget of £167 million.

Northern Ireland has a range of legal obligations to maintain good water quality under, amongst other things, the Water (NI) Order 1999², the Water Environment (Water Framework Directive) Regulations (Northern Ireland) 2017³ and the Water (Amendment) (Northern Ireland) (EU Exit) Regulations 2019⁴. Under the Water (NI) Order 1999, for example, the Northern Ireland Environment Agency (NIEA) is responsible for maintaining appropriate control on wastewater treatment. It has been reported that NIEA said it was not informed about the proposal to reduce or cease wastewater treatment but has said it “will take appropriate enforcement action for any non-compliance”⁵. Should any NI Water (NIW) action(s) be in breach of the Water (NI) Order 1999, NIW could be prosecuted for each breach and could have its licence revoked by the Utility Regulator.

Northern Ireland also has a range of legal obligations to protect the environment under, amongst other things, the Wildlife and Natural Environment Act⁶ and the Northern Ireland (Miscellaneous Provisions) Act 2006⁷. According to paragraph 1 of the Wildlife and Natural Environment (WANE) Act,

“It is the duty of every public body, in exercising any functions, to further the conservation of biodiversity so far as is consistent with the proper exercise of those functions.”



According to paragraph 25 the Northern Ireland (Miscellaneous Provisions) Act 2006,

“A public authority must, in exercising its functions, act in the way it considers best calculated to contribute to the achievement of sustainable development in Northern Ireland, except to the extent that it considers that any such action is not reasonably practicable in all the circumstances of the case.”

NI also has specific legal obligations under the Environment (Northern Ireland) Order 2002⁸ to protect our Areas of Special Scientific Interest (ASSIs)⁹. For example, paragraph 38 of the Environment (Northern Ireland) Order 2002, places a duty on public bodies

“to take reasonable steps, consistent with the proper exercise of the body's functions, to further the conservation and enhancement of the flora, fauna or geological, physiographical or other features by reason of which the ASSI is of special scientific interest.”

Paragraph 39 of that 2002 order requires public bodies to notify DAERA of any operations likely to damage any of the ASSI features before that operation is carried out. DAERA can refuse permission for a proposed operation and it would be an offence to proceed with an operation that is likely to damage any of the ASSIs features without DAERA's permission. There are other, more stringent legal obligations relating to the protection of our RAMSAR sites¹⁰, Special Protection Areas (SPAs)¹¹ and Special Areas of Conservation (SACs)¹² and the habitats and species they support.

There can be no doubt that allowing an unspecified number of our rivers, lakes and protected areas to become contaminated with an unspecified quantity of inadequately and/or untreated wastewater on an ongoing basis would not be compatible with those various legal obligations. For example, the Lough Neagh catchment drains 43% of the land area of Northern Ireland, as well as some border areas in the Republic of Ireland¹³ and supplies around 40% of the population of NI with drinking water¹⁴. Lough Neagh is also an Area of Special Scientific Interest (ASSI), a RAMSAR site and a Special Protection Area (SPA) and contains a numbers of National Nature Reserves (NNRs)¹⁵, making it one of the most designated and important areas for nature conservation in NI. An increase in contamination from inadequately treated wastewater would inevitably affect Lough Neagh and so constitute a breach of our legal responsibilities in relation to protecting biodiversity, managing our protected areas and our drinking water. Despite all of those designations Lough Neagh is already under pressure and so is less able to cope with any additional pressures that may arise from increased pollution. Any contamination of rivers and lakes with inadequately treated wastewater could have a severe and long term impact on the freshwater food chain from which it may take years to recover. The timing of any such pollution will be a major factor in determining the scale of the impact. However, it is possible that for species like Atlantic salmon, if a sufficiently large and serious pollution incident were to occur as the salmon were returning to spawn, this would risk the local extinction of that species.

The proposal to contaminate our freshwater systems with inadequately treated wastewater could also have implications for the Republic of Ireland³⁵ particularly in relation to our international river basins and shared seas.

The potential for the proposed reduction in wastewater treatment to illegally compromise freshwater and coastal and marine ecosystems across Northern Ireland was confirmed by the DfI in the Section 75 Equality of Opportunity Screening Analysis Form which said (on page 5)¹⁶

“The cessation of wastewater treatment would result in the discharge of screened raw sewage at coastal wastewater treatment works (WwTW). In that scenario, NI Water estimates that the percentage of the population served by compliant WwTW would significantly reduce from the 2022 outturn of 99.23% to something in the order of 25% - in short most of the population would not be served for wastewater services by legally compliant treatment. Pollution would certainly increase in rivers and coastal waters and sensitive rivers throughout the North would almost certainly be affected. This would breach discharge consents resulting in prosecutions against NI Water and the imposition of fines.”

An increase in nutrient input from inadequately treated wastewater would likely result in an increase in algal growth, including toxic blue green algae, in our freshwater environments and along our shores. The presence of blue green algal blooms has already led to stretches of the NI coast being closed off to swimmers, surfers and other users in the summer of 2023^{17,18,19}. More than half of all NI’s biodiversity is in our seas²⁰ and those seas also provide a range of ecosystem services including food provision, carbon sequestration, leisure and tourism and there are potentially serious implications for all of those sectors and functions from any potential increase in the occurrence of algal blooms, especially toxic algal blooms. For example, the potential economic impacts were illustrated by the recent reports that a watersports centre near Coleraine had to close, with ten people losing their jobs, because of the recent blue green algal blooms which prevented people from getting in to the water²¹

In conclusion, any proposal to reduce the levels of wastewater treatment in NI risks breaching a number of laws, thereby exposing the department and NI Water to legal challenge, fines and associated reputational damage, as well as posing an increased risk to biodiversity, animal and human health, leisure, tourism and the economy. NIEL is therefore seeking assurance from the department that this proposed ‘option’ will be ruled out completely and not taken any further. NIEL would be happy to meet representatives from DfI to discuss this matter further.

Yours faithfully,



Stephen Aston, Chair NIEL

¹ <https://www.infrastructure-ni.gov.uk/sites/default/files/consultations/infrastructure/eqia-consultation-document-budget-2023-24.pdf>

² <https://www.legislation.gov.uk/nisi/1999/662/contents/made>

³ <https://www.legislation.gov.uk/nisr/2017/81/contents/made>

⁴ <https://www.legislation.gov.uk/uksi/2019/112/contents/made>

⁵ <https://www.belfastlive.co.uk/news/northern-ireland/environment-agency-not-advised-proposed-27198237>

⁶ <https://www.legislation.gov.uk/nia/2011/15/contents>

⁷ <https://www.legislation.gov.uk/ukpga/2006/33/contents>

⁸ <https://www.legislation.gov.uk/nisi/2002/3153/contents>

⁹ <https://www.daera-ni.gov.uk/topics/land-and-landscapes/areas-special-scientific-interest>

¹⁰ <https://www.daera-ni.gov.uk/topics/land-and-landscapes/ramsar-sites>

¹¹ <https://www.daera-ni.gov.uk/articles/special-protection-areas>

¹² <https://www.daera-ni.gov.uk/landing-pages/protected-areas>

¹³ <https://www.infrastructure-ni.gov.uk/articles/lough-neagh-levels>

¹⁴ <http://www.oxfordisland.com/wp-content/uploads/2021/01/025886-ABC-Lough-Neagh-Facts-Flyer-04-from-email-11-12-20.pdf>

¹⁵ <http://www.oxfordisland.com/wp-content/uploads/2021/01/025886-ABC-Lough-Neagh-Facts-Flyer-04-from-email-11-12-20.pdf>

¹⁶ <https://www.infrastructure-ni.gov.uk/sites/default/files/publications/infrastructure/s75-screening-cessation-of-wastewater-treatment-final-22-may-23.pdf>

¹⁷ <https://www.bbc.co.uk/news/uk-northern-ireland-66462125>

¹⁸ <https://www.bbc.co.uk/news/uk-northern-ireland-66148033>

¹⁹ <https://www.bbc.co.uk/news/uk-northern-ireland-66135494>

²⁰ <https://www.afbini.gov.uk/sites/afbini.gov.uk/files/publications/%5Bcurrent-domain%3Amachine-name%5D/marine%20biodiversity.pdf>

²¹ <https://www.bbc.co.uk/news/uk-northern-ireland-66542045>