

# **An Bord Pleanála Oral Hearing**

**Irish Water**

**Greater Dublin Drainage**

**Brief of Evidence**

**Planning**

**Lara Gough**

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**Qualifications and Role on the Proposed Project**

- 1 My name is Lara Gough, and I am employed by AOS Planning, a specialist planning consultancy dealing with infrastructure and industrial projects.
- 2 I hold a Masters degree in Town and Regional Planning and have over 25 years' professional experience working in strategic, policy, and development management planning roles across the state, public and private sector, both internationally and within Ireland. I am a corporate member of the Irish Planning Institute and also sit on their Education and Training Sub-committee.
- 3 My role in the Proposed Project involved providing planning advice to the project team, in respect of process and content of the application, establishing the planning policy context, and undertaking the land use planning policy appraisal of the Proposed Project. I prepared the Planning Report, submitted with the application for permission, to An Bord Pleanála.

**The Planning Report**

- 4 The Planning Report outlines and establishes the strategic and planning context, at Sections 1.6, 1.7 and Chapters 3 and 4, for the development and implementation of the Greater Dublin Drainage Project (hereafter referred to as the Proposed Project). The Planning Report identifies and considers the existing policy support for the Proposed Project in the context of relevant national, regional and local planning strategy, plans and policy documents, and provides an assessment of the potential impact of the Proposed Project in respect of relevant planning policies and objectives.
- 5 The Proposed Project is necessary to meet the Urban Wastewater Directive (91/271/EEC), the Water Framework Directive (WFD) (91/271/EEC) requirements, and other relevant EU Directives and National Regulations related to water quality, by ensuring a higher quality wastewater discharge. It will also assist in ensuring the continued sustainable growth and development of communities and businesses within greater Dublin. In this regard, the Proposed Project will:
  - safeguard public health;
  - improve and protect the environment; and
  - facilitate employment, social progress & economic growth in the wider Dublin region.
- 6 As is highlighted in Planning Report, significant national, regional and local policies and objectives support the Proposed Project. It is particularly notable that the Proposed Project 'sits' within a whole raft of, and is strongly supported by, policies and objectives at National, Regional and local level, and also in respect of adherence to Ireland's obligations under a number of EU Directives.
- 7 Such relevant policy documents which fall for consideration by the Board in this context include:
  - The National Planning Framework (Ireland 2040) and associated National Development Plan (2018-2027)
  - River Basin Management Plan for Ireland 2018-2021
  - Irish Water's Water Services Strategic Plan (2014-2021) – A Plan for the Future of Water Services (WSP)
  - National Wastewater Sludge Management Plan (2016)
  - Regional Planning Guidelines for the Greater Dublin Area 2010-2022

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- Fingal County Development Plan 2017-2023
  - Dublin City Development Plan.
- 8 The Proposed Project is also acknowledged by the four Dublin local authorities as critical infrastructure that is required to meet the identified need for additional sustainable wastewater treatment in the Greater Dublin area. This is a strategic need identified in national, regional and local strategic planning policy documents, and is supported and underpinned by such policy. This need is comprehensively addressed in the initial Greater Dublin Drainage Study (GDDS) and the subsequent Irish Water Greater Dublin Drainage Strategy, which reviewed the conclusions of, and inputs to, the GDDS.
- 9 In addition to addressing responses made, ABP has requested that the witness statement also address:
- An update of the Planning Report
  - Any planning requirements relevant to the Marine Strategy Framework Directive and the UNESCO Biosphere
  - The greenbelt policy and GB zoning objective; and
  - Planning issues raised by observers, planning authority and prescribed bodies
- 10 It should be noted that the issue referenced by ABP relating to greenbelt policy and GB zoning objectives is responded to in the context of addressing the submissions made, although I have also provided further comment in respect of any pertinent planning considerations relevant to the matter of development contributions, as highlighted in the Chief Executive's report submission made by Fingal County Council.

**Update of the Planning Report**

- 11 In the intervening period between submission of the application for permission to ABP and the convening of the oral hearing, it should be noted that the Draft Regional Spatial and Economic Strategies (RSES) have published. However, as these RSES have not yet been adopted, the Regional Planning Guidelines remain in force.
- 12 For the avoidance of doubt, the Draft RSES of relevance in the consideration of the Proposed Project is that of the Eastern and Midland Region. Whilst this update does not fully assess all likely relevant provisions/ policies of the RSES as they may pertain to the Proposed Project, it is worth noting that, as with other policy documents already identified, the Draft RSES E&MR also contains specific supporting provisions, policies and objectives specific to the Proposed Project. These are identified and listed as follows:

*“Section 5.5 Enabling Infrastructure: A number of water and wastewater projects are ongoing to deliver capacity at a large scale to the metropolitan area...These include...The Greater Dublin Drainage Project...”*

*Regional Policy Objective Enabling Infrastructure: RPO5.1: Support continued collaboration between infrastructure providers, state agencies and Local Authorities in the metropolitan area to inform cross sectoral investment plans and capital spending plans to accelerate the development of strategic development areas and secure the best use of public lands in the Dublin metropolitan area.*

*Section 7.3 Water Quality: Pollution from urban waste water is one of the key threats to water quality, due to inadequate urban waste water treatment...*

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*Section 10.2 Regional context: A key priority for the Region is to ensure that the water supply and waste water needs are met by new national projects to enhance the water supply and increase waste water treatment capacity for the Region.*

*Urban Waste Water Treatment: The Greater Dublin Drainage Project aims to provide drainage infrastructure to support the continued development of the Greater Dublin Area. The project aims to provide long term sustainable wastewater drainage and treatment, The Regional Policy Objective associated with this topic is RPO 10.6: EMRA supports the delivery of the waste water infrastructure set out in Table 10,2 (wherein the Greater Dublin Drainage Project is listed), subject to appropriate environmental assessment and the planning process.*

**Marine Strategy Framework Directive and UNESCO Biosphere**

- 13 The Marine Strategy Framework Directive (MSFD) requires Member States to reach good environmental status (GES) in the marine environment by the year 2020 at the latest. Good environmental status in the marine environment means that the seas are clean, healthy and productive and that human use of the marine environment is kept at a sustainable level.
- 14 Under the MSFD, marine waters must be assessed against an agreed set of standards across a number of important environmental areas (e.g. biodiversity, fish stocks, and contaminants). Based on the assessment, appropriate environmental targets and indicators must be set out and programmes of measures put in place to reach GES. The Programme of Measures to achieve GES has been established.
- 15 Responsibility for the implementation of the MSFD rests with the Department of Housing, Planning and Local Government, which is also the competent authority in respect of fulfilling Ireland's obligations under the MSFD.
- 16 The Marine Strategy Framework Directive Programme of Measures Summary Report states:  
  
*'Marine planning and licensing measures are in place to ensure sustainable development with respect to the environment. The main marine planning / licensing measures that will make a positive contribution towards the achievement of GES include the foreshore consent process, the Environmental Impact Assessment (EIA) and Strategic Environmental Assessment (SEA) Directives and associated national regulations as set out in the Planning and Development Acts and Regulations. Furthermore, under the Habitat's Directive, Appropriate Assessment is required to be conducted for any project or plan that the potential to significantly affect the Conservation Objectives of designated Natura 2000 sites. The permitting process, leading to appropriate controls or developments occurring within the marine environment, will positively contribute toward the achievement of GES.'*
- 17 Therefore, on the basis of the assessments undertaken in respect of the Proposed Project, including as part of the application for permission, it is not considered that there are any additional current planning requirements relevant to the Marine Strategy Framework Directive, that have not been considered and assessed. All relevant consents and assessments forming part of this consent process, have and will consider the objectives of the MSFD.
- 18 Matters relating to the UNESCO Biosphere are largely dealt with in Chapter 11 (Biodiversity) of the EIAR. However, it should be noted that Chapter 4.1.1 of the Planning report notes that the FCDP highlights a number of environmental challenges for Fingal, with one of these comprising:

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*“Protecting the ecological integrity of European (Natura 2000) sites, the Special Amenity Areas and the Dublin Bay Biosphere Reserve, while allowing for ongoing growth and development.”*

19 Moreover, the Planning Report ‘Project Response’ also highlights the fact that:

*“The operational phase of the proposed Project, will reduce the extent of overflows from existing sewer networks to local water networks and courses, through the provision of additional waste water treatment capacity and diversion of a proportion of the wastewater loadings from a number of existing WwTPs into the new WwTP, and therefore improve the water quality of these. Assessments and modelling undertaken as part of the proposed Project design, demonstrate that the discharge will still allow receiving waters to achieve their environmental objectives due to the level of treatment being applied to the waste waters. It will also assist Ireland in meeting its obligations under the Urban Wastewater Directive (91/271/EEC) and the Water Framework Directive (WFD) (91/271/EEC, the Sewage Sludge Directive (86/278/EEC), the Waste Framework Directive (2008/98/EC), and the Wastewater Discharge (Authorisation) Regulations 2007.”*

20 In addition, in the event that permission is granted, the delivery of the Proposed Project will represent the provision of key growth enabling infrastructure for one of the country’s primary development centres, and support the sustainability and quality of life for those living in the wider hinterland. It is not considered that there are any further land-use planning requirements relevant to the UNESCO Biosphere.

**Response to Issues Raised in Submissions**

21 In preparing this witness statement, I have considered the main land-use planning related issues raised in submissions and observations made to An Bord Pleanála during the statutory consultation phase.

22 The substance of the five submissions/ observations, which are outlined in Section 2 in Irish Water’s Response to Submissions January 2019 document, relate to:

- Whether the Proposed Project is a Strategic Infrastructure Development (SID);
- Whether the Proposed Project is contrary to the National Spatial Strategy 2002-2020 and the Fingal County Development Plan 2017-2023;
- Whether the location of the proposed Wastewater Treatment Plant (WwTP) takes cognisance of the pattern of development in the area (hotels), and the Proposed Project represents a material contravention of the Fingal County Development Plan’s zoning policy *“to a compellingly material degree not alone by the extent of the site, the nature of the use and the scale of the facility but also through the paucity of the mitigation measures proposed to try properly integrating the facility into the Greenbelt landscape.”*;
- Whether the Proposed Project policy assessment is deficient and ignores the provision of the Greenbelt zoning objective (SS09) that development must also protect and promote permanency of the Greenbelt and the open and rural character of the area;
- Whether, given the local context, the scale and nature of the proposed WwTP, is such that it will give rise to undue negative impacts on the immediate area; and

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- Whether sufficient consideration of alternative sites has been undertaken in respect of the proposed WwTP.

**Responses**

(1) Whether the Proposed Project Constitutes Strategic Infrastructure

23 As set out in the Planning Report, Irish Water entered into pre-application consultations with An Bord Pleanála in relation to the Proposed Project (ref. no. PL06F.PC0152) as provided for under section 37B of the Act . As is also stated in the Planning Report in Section 1.1, An Bord Pleanála issued a Direction on 16 May 2018, confirming that the proposed development constitutes strategic infrastructure and would, if carried out, fall within the following paragraphs of section 37A(2)(a)(b) and/or (c) of the Act:

- The development would be of strategic economic or social importance to the State or the region in which it would be situate;
- The development would contribute substantially to the fulfilment of any of the objectives in the National Spatial Strategy or in any regional spatial and economic strategy<sup>2</sup> in force in respect of the area or areas in which it would be situate; and
- The development would have a significant effect on the area of more than one planning authority.

24 In circumstances where that opinion formed by the Board, that the proposed development is strategic infrastructure, was not challenged, the opinion is valid and subsisting and, accordingly, Irish Water was required to make the application for permission directly to the Board, which it duly did on 20 June 2018 (under ref. no. ABP-301908).

(2) [National Spatial Strategy 2002-2020 and the Fingal County Development Plan 2017-2023](#)

25 The National Spatial Strategy has been superseded by the National Planning Framework (NPF) and the National Development Plan (NDP). Both of these policy documents are strongly supportive of the Proposed Project, and as noted in Section 3.2.3 of the Planning Report, the NPF identifies key growth enablers for Dublin, including “*Ensuring that water supply and wastewater needs are met by new national projects to enhance Dublin’s water supply and increase waste water treatment capacity*”.

26 This statement is further supported in the NPF through a specifically stated National Strategic Outcome which seeks to “*Implement the Greater Dublin Strategic Drainage Study, through enlarging capacity at existing wastewater treatment plants (Ringsend) and providing a new treatment plant in North County Dublin – known as the Greater Dublin Drainage Project (GDD Project)*”.

27 The NDP outlines government investment priorities that will support the NPF to be implemented. In this regard, it provides further explicit support for the Proposed Project by identifying the Greater Dublin Drainage Project as one of the major national infrastructure projects considered to comprise a Strategic Investment Priority.

28 The Planning Report addresses, in detail, the rationale, context and framework of the Proposed Project, in respect of these relevant and most recent Government policies and strategies which includes the National Planning Framework and the National Development Plan, as well as the Fingal Development Plan 2017-2023 and its subsidiary Local Area Plans – refer to Sections 1.1, 1.6, 1.7, and Chapters 3 and 4 of the Planning Report. The

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Fingal Development Plan 2017-2023 has also been considered in depth in the Planning Report, and considerations relating to the Proposed Projects compliance with these and the proper planning and sustainable development of the area, are contained in Chapter 3 and 4 of the Planning Report.

- 29 The policy assessment demonstrates that the Proposed Project is in accordance with the provisions of EU Directives, and is supported by, and in accordance with the specific provisions, policies, and objectives, across the full hierarchy of plans and strategies. The Proposed Project thus fully accords with the overall development principles set out in the identified relevant planning and sectoral policy documents.
- 30 It is noted that the need and policy compliance of the Proposed Project is also acknowledged and highlighted in both the Fingal County Council, and Dublin City Council, Chief Executive's Reports which were submitted to the Board.

(3) [Pattern of Development, Location Context and Greenbelt Policy/GB Zoning](#)

- 31 As is noted in Section 2.1.1 of the Planning Report, the Proposed Project will be located in generally open agricultural land. As is also acknowledged and identified in the January 2019 Response to Submissions document, there are a number of hotels in the overall area, all located approximately equidistant from the M1/M50 interchange, which largely exist to service Dublin Airport. As such the 'tourism' offer which they service is generally related to brief, overnight stays arising either due to early morning departures, and late night arrivals from the airport.
- 32 Also, as identified and clarified in the Response document, and as regards the location context, aside from the existing Clayton Hotel Dublin Airport, and in respect of the 'hotel use' planning applications identified in the submission made, these do not in fact relate to any valid or extant permissions for additional hotels in the immediate location/ area in the vicinity of the Clayton Hotel Dublin Airport. As such the existence of this hotel as a use within the area, does not in itself establish a pattern or character for the area, although it is a specific use which occurs in an area characterised by a variety of uses.
- 33 Section 4.1.10 of the Planning Report sets out in detail the zoning context of the Proposed Project. This accords with Section 2 of the Fingal County Council Chief Executive Report. For clarity, the following provision is highlighted below:
- "Uses which are neither 'Permitted in Principle' nor 'Not Permitted' will be assessed in terms of their contribution towards the achievement of the Zoning Objective and Vision and their compliance and consistency with the policies and objectives of the Development Plan."*
- 34 In respect of the relevant policies and objectives of the Fingal County Development Plan, the position of Fingal County Council is set out in the Chief Executive's submission (Section 7.1 Planning Policy Context), that *"the proposal complies with the zoning policy and would contribute to the vision of protecting Green Belt Lands from development pressure through facilitating development in the region within appropriately zoned lands"*.
- 35 In addition to the above, Section 4.1.10.1 (Project Response) of the Planning Report notes that *"The primary objective of the Greenbelt zoning is to demarcate urban and rural areas in order to curb unrestricted sprawl into the countryside. The development of the proposed WwTP and sludge hub centre, on these lands will not serve to undermine this objective. The specific nature of the development, which is essential public infrastructure, will not set a*

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*precedent for additional industrial, commercial or residential development within the Greenbelt”.*

- 36 As stated, and provided for, in Section 4.1.10.1 of the Planning Report, in the event that An Bord Pleanála consider any aspect of the Proposed Project to materially contravene any of the provisions or zoning objectives of the Fingal County Development Plan (2017-2023), it is requested that An Bord Pleanála consider the application under the provisions of subsection 37G(6) of the Act.
- 37 Importantly, in the instance of SID applications, such as the application for permission in respect of the Proposed Project, under the provisions of subsection 37G(6), the Board is not restricted by statute in relation to the circumstances in which it may decide to grant a permission for the proposed development, or any part thereof, even if the proposed development or part thereof contravenes materially the development plan relating to the area.
- 38 In relation to the Proposed Project, it is considered that, in circumstances where the Proposed Project delivers on so many National, Regional and local policies and objectives, it will assist the State in meeting its obligations with respect to the EU Directives noted in the Planning Report at section 1.1 and Chapter 3, and paragraph 19 of this brief.
- 39 In relation to the nature and scale of the Proposed Project, these are also considered and dealt with in both the Planning Report and the Environmental Impact Assessment Report (EIAR). Chapter 12 Landscape and Visual, in Volume 3 Part A of the EIAR, outlines and assesses landscape and visual aspects relating to the Proposed Project. Section 4.1.7 (Project Response) of the Planning Report highlights that the proposed WwTP buildings are proposed to be low-rise, and the site is also proposed to be well landscaped to ensure consistency with the existing landscape, and a ‘campus-style’ landscape as requested in consultation with Fingal County Council, which reflects the provisions required of development in High Technology zoned lands. Section 4.1.8 also notes *that “with regard to the WwTP and Sludge Hub Centre site, as the primary focus ... that represents the most visible permanent aspect of the Proposed Project, the project response has been to seek to blend and buffer the site within its surroundings - providing hedgerows within the WwTP site and extensive planting around the perimeter”.*
- 40 On the basis of the above and foregoing, it is therefore considered that the Proposed Project will not give rise to undue negative impacts on the immediate area, nor result in any material detrimental impacts on the operation of an established hotel.

(4) [Insufficient Consideration of Alternative WwTP Sites and Functional Need](#)

- 41 Given the scale and complexity of the Proposed Project as public infrastructure provision, evolution of the proposal has, by necessity, occurred over a number of years, with design amendments being incorporated through the consultation process and stakeholder engagement. Notwithstanding, the location and policy context of the Proposed Project has not materially or considerably altered since 2013 (as noted in the response submission lodged), save for an increasing need for the Proposed Project.
- 42 Various sections of the Planning Report highlight some of the functional and technical factors which were considered (and which are further outlined in the rigorous four phase Alternative Site Assessment (ASA) process), and subsequent review in 2017, including the

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requirement for 'buffers' (Section 3.4.1 and 4.1.2 of the Planning Report). The provisions of the ASA (and its review in 2017) have been summarised and included in the EIAR. This context, and the established buffer, has not been altered by any changes in the area, since publication of the ASA in 2013.

- 43 Section 4.1.10.1 (Project Response) of the Planning Report, notes some of the additional considerations relevant in respect of the nature of large public infrastructure projects (of a linear nature), and identifies for comparison purposes the route of the proposed Metro Link and East-West distributor road projects, both of which also extend through Greenbelt zoned lands.
- 44 Section 4.1.10.1 of the Planning Report also highlights the additional considerations, of which there are a number of factors, that were taken into account in assessing the three shortlisted sites that arose out of the ASA process, and upon which basis the proposed Clonshagh site was considered 'more favourable'. It will be noted that, the cost of the option/ alternative, was just one of these factors.
- 45 Contrary to the statement made in submissions, it is thus clearly demonstrated that the proposed WwTP site identification was not solely on the basis that "*it would be less expensive*".

(5) [Development Contributions](#)

- 46 As is noted in Section 4.3.2 of the Planning Report, Irish Water's statutory role and core function, is that of a water services authority. The Proposed Project provides 'public infrastructure and facilities which will benefit development in the area of County Fingal', and which will be provided by Irish Water – it is therefore not anticipated that any grant of permission which may be forthcoming from ABP would be subject to a development contribution obligation to Fingal County Council.
- 47 In this regard, the provision of 'public infrastructure and facilities' is covered within the meaning of same, in section 48 of the Planning and Development Act 2000 (as amended), and includes at (c) "*the provision of roads, car parks, car parking places, sewers, waste water and waste water treatment facilities, service connections, watermains and flood relief work*".
- 48 As an observation with specific reference to the provisions of section 48, and the Fingal County Development Contribution Scheme itself, it is noted that the Fingal County Council Development Contribution Scheme is stated to be applicable to the following classes of development: 'residential class and industrial/ commercial' class. The Proposed Project is not considered to come within any of these classes of development. The recommendation for the imposition of a development contribution by Fingal County Council (at 13. Recommended Conditions – Condition number 19), in the FCC Chief Executive's Report to ABP, dated 17 September 2018), is therefore not considered to be applicable to the Proposed Project. The recommendation to impose a development contribution "in accordance with Section 48(2) of the Planning and Development Act 2000 (as amended)", is thus believed to comprise an incorrect application of the scheme.
- 49 Also at 13 Recommended Conditions specific to the Regional Biosolids Storage Facility, the FCC recommended condition 7, is noted, which requires a:
- "special contribution of €202,950 (two hundred and two thousand, nine hundred and fifty euros), under Section 48(2)(c) of the Planning and Development Act 2000 (as amended)

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in respect of the upgrade and signalisation of the R135 and the N2 North Bound Slip priority junction.

Reason: To provide a contribution to ensure the provision of necessary infrastructure in accordance with Section 48(2)(c) of the Planning Development Act 2000 (as amended)."

- 50 Government Circular (Ref. Circular Letter PD 5/2007), dated 9<sup>th</sup> May 2007, refers specifically to sections 48 and 49 of the Planning and Development Act 2000, as amended. In this regard the circular explicitly states that "***It is essential that all stakeholders are provided with good quality information on the levels of charges, and the means by which such charges are calculated. It is equally important that clear linkages be demonstrated between the charges levied and infrastructure provided***". This clarification and guidance is made in support of the provisions of Section 48(2)(c). It should be noted in this regard, that FCC have not outlined such specifics and the basis of their recommendation of the special development contribution.
- 51 The above-mentioned circular also raises the issue of 'Double charging', and notes that this "*is inconsistent with both the primary objective of levying development contributions and with the spirit of capturing "planning gain" in an equitable manner.*" In reality the Proposed Project comprises essential public infrastructure without which development could not proceed. It is public infrastructure provision and does not constitute private development. In effect, the proposed condition 7 seeks to levy one arm of the state (Irish Water), which has a key role in providing public infrastructure in the form of water services, to enable another arm of the state, Fingal County Council, to provide public infrastructure other than water services.
- 52 Notwithstanding the above, and in the event that ABP is minded to attach a special development contribution in accordance with Section 48(2)(c), the provisions of Section 7.1.3 of the *Draft Water Services Guidelines for Planning Authorities* (published by the Dept. of Housing, Planning and Local Government in January 2018), which states:
- "In the making of Development Contributions Schemes under Section 48 and Section 49 of the Act, planning authorities should consider including a special provision in respect of water sector developments to limit the extent of the contribution. In this regard, contributions could be applied based on the area of administrative buildings and excluding site or plant areas, as such areas can be very extensive and may give rise to contributions that outweigh the impact of the development on local infrastructure and amenities".*
- 53 On the basis of the above therefore, and as has been stated in the Response to ABP, whilst the Applicant accepts the principle of the condition, it is requested that the final sum for the special contribution be agreed between the Applicant and FCC, and the standard wording of any such condition provide that, in default of any agreement, the matter be referred to ABP.

**Conclusion**

- 54 In conclusion, the planning and environmental appraisals contained in the application documentation have given full and proper consideration to the planning and environmental matters relevant to the area and the subject of the Proposed Project.
- 55 The Proposed Project is in compliance with planning policies and objectives and will not have an unduly negative impact on the environment, character or amenity of the area, and will ensure the proper planning and sustainable development of appropriately zoned lands. I

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therefore consider that the Project is in accordance with the proper planning and sustainable development of the area.