

Sustainable Water Network (SWAN)

- Response to Pre-consultation -

Draft Significant Water Management Issues Report



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Table of Contents

1. INTRODUCTION TO SWAN	2
2. INTRODUCTION TO THIS SUBMISSION	2
3. OVERARCHING ISSUES FOR SWAN	3
3.1. Lack of legal context	3
3.2. Lack of context from the first River Basin Management Planning / WFD implementation cycle	3
3.3. Excessively low ambition level and inappropriate pre-emptive discussion on affordability & prioritisation	3
3.4. Lack of clear statement of significant pressures and associated sectors	4
3.5. Inadequate & inaccurate water status reporting	4
3.6. Excessively positive presentation of the current situation and misleading minimisation of pressures	5
3.7. Vague and speculative language	5
3.8. Public consultation, participation & engagement	6
3.9. Implementation & integrated governance	7
3.10. High Status Sites	7
3.11. Coastal and Transitional Waters	7
3.12. Economic analysis	7
4. CONCLUSION & RECOMMENDATION	8
APPENDICES	9
Appendix I: SWAN Member Organisations & Board of Directors	10

1. INTRODUCTION TO SWAN

The Sustainable Water Network (SWAN) is an umbrella network of 26 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), the 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 WFD River Basin District (RBD) Advisory Councils, the South Eastern RBD Management Group, The Irish Water Stakeholder Forum and other water policy-related fora. SWAN has been committed to participation in WFD implementation for 10 years and has made 13 formal submissions specifically in that regard during that time¹.

2. INTRODUCTION TO THIS SUBMISSION

SWAN warmly welcomes the opportunity to comment in this pre-consultation on the draft significant water management issues (SWMI) report. This opportunity to input early is an extremely positive development and contrasts with the process during the first WFD cycle when this opportunity was not afforded.

It is also extremely welcome that it was clearly stated throughout the SWMI seminar by both DECLG and the EPA that the draft as presented was just a first draft to stimulate discussion and in order that delegates and consultees could '*fling mud*' at it. In this context, one of the key assumptions of this SWAN submission is based on that invitation and the implication that the authors are willing to make substantive changes to the document on foot of the feedback from the seminar and this consultation.

Indeed, SWAN does believe that significant changes are needed to the document and network members wish for it be clearly stated at the outset of this response that they are extremely concerned and unhappy with the draft SWMI as presented and that the low level of ambition and lack of clarity/information regarding *inter alia* legal context, key sectoral pressure sources and progress during/since the last cycle, is an extremely unsatisfactory and poor start to the second cycle of WFD planning and implementation in Ireland.

In the context of retention of capacity and social learning, it is immeasurably preferable that WFD implementation is led by public authority personnel. However, although it is not clear what resources were employed in the delivery of the report as it stands, it would appear that a small team were tasked to deliver it in a short space of time. If this is the case, it is a missed opportunity and does not do justice to the amount of work and funding that a) went into the first cycle and b) is currently being done by the excellent EPA WFD team; very little of which is reflected in this draft.

¹ First cycle WFD: Article 5 Characterisation; Work Programme & Timetable; Monitoring Programme; Draft Plan first submission; Draft Plan, second submission;

Second cycle WFD: Work Programme & Timetable

Other: Public Awareness Campaign on Water Blueprint; Surface water regulations; Joint recommendations with NI Freshwater Taskforce on All-Ireland WFD implementation; Recommendations on Advisory Councils; Water governance proposal; 3-Tier Public Participation Proposal; Water governance proposal, refined (submitted to consultation on establishment of new structures for water services).

It is the SWAN position, based on the rationale set out below, that the draft report should be significantly and substantially re-written in order clearly provide the necessary information to inform the next 6 months of SWMI engagement and participation in river basin planning after that.

We would also like to acknowledge in advance that this submission is not up to the usual SWAN standard. SWAN submissions would usually go through a thorough proofing and editorial process. Unfortunately, this hasn't been possible due to the tight timeline and pressing commitments in the 8 days since the seminar. We would like to apologise in advance for the unadorned language and typos and hope it does not take away from the core content, which we hope will be of use in re-drafting the report.

3. OVERARCHING ISSUES FOR SWAN

3.1. Lack of legal context

It is SWAN's view that a fundamental weakness in the draft SWMI is the lack of legal context and underpinning. The SWMI must be informed by Ireland's WFD obligations but this is almost missing from the report, which does not even set out the basic legal requirements of the WFD and other extremely relevant legislation e.g. Urban Waste Water Treatment Directive. Neither does it even mention the 2-year overdue WFD legal requirement to put in place a system of prior authorisation for abstraction and physical modifications under the relevant section. Neither does it report on current water status with reference to WFD baseline requirements (See section 3.5). This is a key shortcoming and a glaring one to even a peripheral observer of WFD implementation, as was evidenced from the feedback at the SWMI seminar.

3.2. Lack of context from the first River Basin Management Planning / WFD implementation cycle

The report lacks context in terms of the first WFD river basin planning cycle: What significant water management issues were identified in the first cycle? What measures were implemented to address these and how successful or otherwise have they been? What progress was made and lessons learned?

3.3. Excessively low ambition level and inappropriate pre-emptive discussion on affordability & prioritisation

The ambition level of the report is excessively low and of serious concern to SWAN. There is a highly inappropriate discussion of affordability and the resultant need for prioritisation from early on under 'Issue 1'. It is wholly unacceptable that the report should include in the introduction, the idea that '*actions and measures*' will be selected '*within the constraints of available resources*'. The issue of exemptions from meeting WFD targets is a matter to be decided after a significant pressures / issues have been identified, and it has been demonstrated through a strict justification process (set out in Article 4 of the directive) that all measures are disproportionately costly or technically unfeasible and this has to be done for each water body. Prioritisation can only be undertaken for each waterbody, after strict exemption criteria have been applied. General pre-emptive arguments around affordability and financial constraints are not acceptable. This is compounded by the lack of reference to the mandatory economic analysis required by the WFD, which we understand has yet to be done.

3.4. Lack of clear statement of significant pressures and associated sectors

Reading this document as it is presented, it is unclear what the actual significant water management issues / sources of pressures are. This should be the core goal of this document. The reader has to drill down into the text under each impact-based '*environmental issue*' section to determine the sector-based pressures and even then significant pressures may not be mentioned. For example, neither forestry nor aquaculture is mentioned as pressures under '*Nutrient Enrichment of Waters*'. Pressures should be listed clearly and then presented with supporting text. We recommend the approach taken by SEPA in the Scottish SWMI Report where they present the pressure type and then each key sector under that. Even a quick overview of the table of contents of the Scottish SWMI provides a clear indication of the issues in that RBD. E.g.

- Point Source Pollution
 - Collection and treatment of sewage
 - Aquaculture
 - Manufacturing
 - Refuse disposal
 - Mining and Quarrying

There is also inadequate identification of pressures. For example, and these are just examples:

- There is only one mention of aquaculture under Figure 3.
- There is no mention of quarrying;
- There are only 3 mentions of mining embedded in the text. It is not listed as SWMI;
- There is only one mention of industrial discharges (as a legacy issue) and it is not listed as a SWMI;
- DWWTSs are not identified as a SWMI and are only mentioned in the human health section – Not in terms of their environmental impact.

3.5. Inadequate & inaccurate water status reporting

Lack reference to WFD requirements/baseline

Current water status should be presented against an absolute baseline of WFD compliance rather than as a relative trend as it is in Part 2: Current Condition of Our Waters. It is of course of interest that P levels have '*stabilised*'. However what is far more relevant in terms of assessing progress towards WFD targets is whether absolute P levels are consistent with Good Status or better. Trends are mostly relevant in terms of ensuring water body status is not deteriorating (according to the so-called '*no deterioration*' clause). This section, including graphics, should be re-drafted with the emphasis changed to represent clearly which water bodies have met WFD standards for, for example, N and P. More information on the biological status in this regard would also be interesting.

Inaccurate status reporting

The current water status is also reported inaccurately, where it is stated that "*The water status assessment for 2010-2012 shows that 48% of rivers, 57% of lakes, 55% of estuaries and 4% coastal waters (by area) assessed were impacted*". This is in fact incorrect since these figures are for waters failing WFD standards. In the first instance, reporting the waters as '*impacted*' is vague and avoids a clear statement that these figures represent a failure to meet WFD legal requirements (permitted exemptions notwithstanding). This failure should be clearly stated. In the second instance, even waters that are at good status, and thus not reflected in these figures, are clearly impacted, since they are defined as demonstrating a deviation from reference conditions. This may appear to be 'nit-picking' but this is an example of a systemic problem throughout this report of loose use of language in order to, it would appear, emphasise the positive and obfuscate the negative. (See next section)

3.6. Excessively positive presentation of the current situation and misleading minimisation of pressures

This issue is of the gravest concern to SWAN members and the network's misgivings regarding this shortcoming in the draft report cannot be overstated. Whilst it is important not to omit progress, the role of this document is provide a clear, objective, evidence-based presentation of the issues that have been identified as presenting a pressure on the aquatic environment. There has been substantial work on this during the last phase of WFD and by the EPA as part of its water quality monitoring and reporting and this should be reflected.

But instead the report omits a number of significant water management issues or barely mentions them and over-emphasises progress and puts a misleadingly positive 'spin' on the current situation throughout the document. If we start the second WFD cycle underplaying the pressures presented by key sectors in order not to alienate them and exaggerating progress, it does the process a disservice and does not motivate official and NGO stakeholders to engage in necessary measures.

This misleading minimisation is particularly the case in relation to agriculture. For example it is stated that *"Future risks which may threaten the modest improvements seen in recent years include the planned expansion in the agricultural sector under Food Harvest 2020"* (SWAN's underlining). This statement is inconsistent with the EPA's own assessment of the threat posed by FH2020 production targets in other reports e.g. the SE Integrated Water Quality report, for example which identified FH2020 as a significant risk to water quality.

The summary to the same section, Part 2: 'Condition of our Waters' is a further case in point. It starts with a statement which minimises the issues facing Ireland by comparing us with other Members States with a legacy of the industrial revolution: *"Irish water quality is good in comparison with other European countries"* This is followed by vague statement hinting at some work left to be done: *"but improvements are still necessary as we are not achieving all the standards that we should"*. And then, having minimised the issues, it endeavours to motivate the public to participate in the required *"significant work across society"*. This is not a logical approach if civil society is to have a true understanding of the challenges and be motivated to engage. In fact, SWAN would submit it is counter-productive.

3.7. Vague and speculative language

The language in the report is excessively loose and circumspect and statements are not made with reference to WFD requirements or assessments. This does not do justice the amount of monitoring and risk assessment work that was conducted as part of the first cycle. Examples of this are as follows:

- In the Introduction, it is stated that *'The river basin management plans will describe the main pressures and activities affecting water status...'* (SWAN's underlining) and that in the SWMI *"We [the authors] have prepared a list of the water management issues which we believe are the most significant"* Regarding the former, surely all pressures must be addressed in the Plans, not just the 'main' ones and in relation to the latter, again SWAN would submit that the role of the SWMI report is to clearly set out all significant water management issues, not just the ones the authors deem to be the 'most significant'. Whether intentional or not, this gives the impression that authorities are making a judgement and omitting issues before the consultation and discussions have even begun.

- In *'Water and Health'* it is stated that the quality of shellfish in designated shellfish-growing waters is *"reasonably good"*. This is subjective language and does not give the reader any real indication of current status or efficacy of current measures.
- In *Part 2: Condition of our Waters*, levels of N and P are reported as being *"mostly"* stable or decreasing and this *"...most likely due to improved farming practises..."* This is speculative and not robust;
- Under the Sections *'What is being done'* general overarching national policies are often mentioned without any identification of the specific role they are playing or their demonstrable efficacy in contributing to achievement of WFD objectives. This is misleading. The following are examples:
 - Under *'What is being done?'* for *'Nutrient Enrichment of Waters'* it is stated that *"Agri-food businesses are working with farmers to increase the sustainability of their farming practices"*. This is a broad statement that tells us nothing about exactly how this is contributing to meeting WFD targets. SWAN members have gone so far as to suggest that it reads like promotional material from DAFM;
 - Under *'What is being done?'* for *'Biodiversity Management and Water'* it's stated that the CAP *".. now includes greening requirements in respect of Pillar I."* It is well known that these contain very few measures relevant in Ireland due to our 'permanent pasture' exemption and it has yet to be demonstrated how the requirements will benefit watercourses on arable farms. The uncertainty regarding the benefits of these requirements is ignored and this is misleading;
 - Also under *Biodiversity Management and Water'* it is stated that Ireland has *'designed areas for protection of these sensitive species.'* This however ignores the shortcomings of N2000 implementation, the fact a significant number of aquatic SACs are at unfavourable conservation status and the FWPM catchment plans have never been implemented.
- In the section *Issue 9: Water and Health* it is stated that *"Microbial contamination may affect our drinking water supplies"*. This is incorrect. Microbial contamination has and does affect our drinking water supplies and there are still currently high profile examples of this. The work 'may' should be removed.

3.8. Public consultation, participation & engagement

In terms of the immediate consultation on the SWMI, it is unclear who the document is aimed at. It has too much detail for a member of the general public and not enough for an engaged/ 'expert' sectoral stakeholder. The questions are much too complex for ordinary members of the public to answer and it is unrealistic to expect them to respond. SWAN proposed two documents. A robust SWMI with sufficient detail, as proposed in this submission, to facilitate the engagement of informed sectoral stakeholder representatives and a second document aimed at the general public.

A key weakness is the fact that there is no strategic, co-ordinated approach to public participation outlined. Neither is a dedicated public awareness campaign specifically committed to. SWAN believes that a well-resourced citizen engagement initiative led by suitably qualified professionals is central to the delivery of sustainable water management and it is regrettable that such a strategy is not included, or at least committed to. Discussion on the key elements of successful public participation / engagement is beyond the scope of this submission, but these are well rehearsed in the literature and have been set out by SWAN in various submissions to the Department of Environment². In summary they should include:

² Sustainable Water Network (SWAN), 2012. SWAN Recommendations for Public Participation Mechanisms in the Department of Environment Community & Local Government (DECLG) 4-Tier Water Governance Proposal. Submission to DECLG and

- early engagement, that is well-planned & designed and has been well publicised in advance;
- appropriate mechanisms, structures & processes, that *genuinely* facilitates the participation of those affected (stakeholders), and enables them to influence the outcome(s);
- adequate resources to conduct effective public participation, and to enable stakeholders to fully realise the potential of each engagement opportunity;
- evaluation of operation and outcomes, to inform improvements in how engagement continues;
- specially qualified & trained professionals.

It is SWAN's view that the draft SWMI should have a dedicated section devoted to public participation, setting out a strategy for engaging with the public over the second WFD cycle. If it is too soon to have developed such a strategy then this should be stated and identified as a priority.

3.9. Implementation & integrated governance

The identification of '*Organisational Coordination*' as Issue 3 is to be welcomed, as is the information regarding new structures. However, given the consensus assessment that the failure of the first cycle was due to lack of implementation as a result of fragmented ineffective governance, there should be a dedicated 'implementation' section where it is set out how the new system will address those shortcomings.

3.10. High Status Sites

It is to be welcomed that the importance of protecting these sites is recognised in the *Biodiversity and Water* section but more emphasis needs to be placed on the management of high status sites in the context of their dramatic decline by almost 50% between 1987 and 2009. This needs to be clearly identified and set out in a dedicated section as a SWMI, will an indication of measures that have been put in place or at least an intention to do so. This may be one of the greatest challenges of the next cycle and its importance should be clearly stated.

3.11. Coastal and Transitional Waters

There is little mention of coastal/transitional water issues or the need to integrate the implementation of the Marine Strategy Framework Directive with the WFD.

3.12. Economic analysis

There is little mention of the economic analysis required under Article 5 of the WFD and now nearly 10 years overdue. This is especially pressing given the emphasis on exemptions and affordability in the report.

4. CONCLUSION & RECOMMENDATION

We believe the report needs to be fully re-written, providing a full list of all sectoral pressures; including the legal and RBM planning context and implementation progress to date; stating clearly current water status in terms of compliance or failure to meet WFD standards and altering the tone to present an objective view of the full suite of pressures facing Ireland's water and removing the over-arching message which exaggerates the positive and minimises the impacts of sectors. The necessary progress with key sectors will not be made by minimising their impact at this early stage in order not to antagonise them. This is to do a disservice to the process. Constructive facilitated participation is the process by which challenging sectors can be engaged.

Whilst we have not reviewed it in detail, SWAN recommends following the model of the Scottish RBD SWMI as an example of better practise.

APPENDICES

Appendix I: SWAN Member Organisations & Board of Directors

SWAN National Groups		SWAN Regional & Local Groups	
1.	An Taisce	16.	Carra Mask Corrib Water Protection Group
2.	Bat Conservation Ireland		
3.	Birdwatch Ireland	17.	Cavan Leitrim Environmental Awareness Network
4.	Coastwatch Europe Network		
5.	Coomhola Salmon Trust Ltd.	18.	Celebrate Water
6.	Eco-UNESCO	19.	Cork Environmental Forum
7.	Friends of the Earth	20.	Longford Environmental Alliance
8.	Friends of the Irish Environment		
9.	Irish Doctor's Environmental Association	21.	Macroom District Environmental Group
10.	Irish Peatland Conservation Council	22.	Save Our Lough Derg
11.	Irish Seal Sanctuary	23.	Save Our Lough Ree
12.	Irish Water and Fish Preservation Society	24.	Save The Swilly
13.	Irish Whale and Dolphin Group		
14.	Irish Wildlife Trust	25.	Shannon Whale & Dolphin Foundation
15.	Voice Of Irish Concern for the Environment (VOICE)	26.	Slaney River Trust

SWAN Board of Directors:	
Mark Boyden, Chair	Coomhola Salmon Trust
Mindy O'Brien, Company Secretary	Voice of Irish Concern for the Environment (VOICE)
Geoff Cooper, Director	Irish Water and Fish Preservation Society
Karin Dubsy, Director	Coastwatch Europe
David Healy, Director	Friends of the Irish Environment
David Lee, Director	Cork Environmental Forum
Elaine Nevin, Director	ecoUNESCO
Joachim Schaefer, Director	Cavan Leitrim Environmental Awareness Network