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Re: EPA Submission on the draft River Basin Management Plan 2022-2027

SCP210403.2

Dear Feargal

The EPA welcomes the opportunity to make a submission on the draft River Basin Management Plan 2022-2027.

Clean and well protected water is vital for our health and well-being, as well as supporting many important economic activities such as agriculture, manufacturing and tourism. The quality of Ireland’s surface water resource is under significant pressure from human activities with just over half (53%) of surface waters in good or better ecological health. This means that just under half (47%) are failing to meet their environmental objectives. The scale of the challenge to bring all waterbodies to good or better ecological health by 2027, as required by the Water Framework Directive is, therefore, significant. The EPA’s view is that this environmental objective will not be met by 2027 even with the measures outlined in the draft Plan.

While the EPA welcomes the commitment to a higher level of ambition, this ambition needs to be clearly articulated in the final Plan. There needs to be clarity about what will be achieved by 2027, and more specificity is required on the proposed measures, the timeframes for delivery and the expected improvements in water quality.

It is essential that the measures in the final Plan are fully resourced and implemented and that the Plan is monitored, tracked and adapted if necessary. Currently, there is a lack of data on measures being implemented, particularly agricultural measures. These data need to be collected and shared between public bodies. This will allow a better refinement of our understanding of the activities causing water quality declines, the measures that are working, and inform improved targeting of measures.

The EPA has identified six priority areas to focus our comments and observations which are outlined below. More detailed comments related to other aspects of the Plan are included in Appendix 1 and specific comments in relation to the Strategic Environmental Assessment are provided in Appendix 2.

EPA Priorities for 3rd Cycle River Basin Management Plan

The EPA has focused our comments and observations on six priority areas:

- Agriculture
- Hydromorphology
- Urban wastewater
- Climate
- Governance and Implementation
- Monitoring and Reporting

Agriculture

Agriculture is the most significant pressure on water quality impacting 1,000 waterbodies. This is an increase of 200 waterbodies compared with the 2nd cycle River Basin Management Plan. There is also increasing evidence of the adverse impacts of land drainage for agricultural purposes on water quality. It is essential that these adverse trends are reversed and that urgent action is taken to reduce the impact of agricultural activities on water quality.

The Department of Agriculture, Food and the Marine (DAFM) and Teagasc must take a lead on this and provide coherent policy, programmes, advice, incentives and resources to prevent further declines in water quality and reverse the adverse trends. Specifically, compliance levels with the Good Agriculture Practice (GAP) Regulations must improve which will require the full range of tools to be used from compliance promotion to enforcement. We acknowledge recent developments in the 5th Nitrates Action Programme and the forthcoming GAP Regulations in relation to strengthened enforcement however this needs to be resourced. Clarity is required on how the regulatory work of Local Authorities in undertaking inspections under the GAP Regulations interacts with the voluntary approach taken by advisory services such as the Agricultural Sustainability Support and Advice Programme (ASSAP) programme. Advisory services must not preclude or replace a robust regulatory approach and enforcement of legislation.

The commitment to increase the focus on sustainability across the farm advisory services (both Teagasc and private advisory services) is welcome however it is not clear what this entails. More detail is required on the specific measures that will be implemented as part of this increased focus on sustainability. The EPA recommends the inclusion of a comprehensive programme to train and upskill all agricultural advisors, inspectors and local authority staff involved in inspections on the measures and practices needed to avoid negative impacts on water bodies. In addition, it is still not clear whether the ASSAP is delivering water quality outcomes. The tracking of agricultural measures and sharing of data is essential to relate the actions taken to water quality outcomes and to further refine the measures and programmes as necessary.

Hydromorphology

Overall, hydromorphology is the second most significant pressure on water quality. In this regard, the EPA welcomes the proposed new regulatory regime – the Controlled Activities for the Protection

of Waters – to address the management of risk and impacts associated with activities on or in water. The establishment of an expert group to inform the development of a regulatory regime in what is a complex area is welcome and the EPA looks forward to participating on this.

However, the development of a regulatory regime will take several years and is unlikely to deliver water quality improvements by 2027. It is important that measures are developed and implemented now to address hydromorphological pressures. Public authorities, including the Office of Public Works and Local Authorities, must lead by example in terms of best practice for any works on or near rivers. This should be supported by a firm commitment in the Plan to improve the implementation of mitigation measures and the oversight of works undertaken by public authorities. In addition, a review of best practice of any works on or near rivers should be undertaken. The awareness, implementation and enforcement of the EIA Land Drainage Regulations by DAFM also needs to improve.

The EPA welcomes the introduction of a river restoration scheme in the draft Plan to mitigate the negative impact of barriers in water bodies. This will support the achievement of the Green Deal biodiversity targets for free-flowing rivers as well as improving water quality and fish status. It is essential that the impacts of these measures are measured and assessed as part of the implementation of the final Plan.

The EPA wants to see the Abstractions Bill progressed and implemented without further delay. As part of this, and in order to support the development of a robust regulatory approach, we will continue to develop the evidence base, tools and models to support the abstractions, and hydromorphology, regulatory regimes.

Urban Wastewater

Sustained investment in water services infrastructure is required to eliminate wastewater as a significant pressure on water quality.

The reduction in the number of water bodies impacted by wastewater is welcome. However, the current EPA Priority Action List identifies 97 wastewater treatment works which require improvement; 42 of these are significant pressures. Irish Water's next investment plan (2025-2029) will be critical to progress the much-needed infrastructure to improve wastewater treatment. The EPA welcomes the commitment in the draft Plan to direct investment towards the EPA's Priority Action List over the period 2022 to 2027 and Irish Water's investment cycles.

However, Irish Water does not have a clear plan and timeframe to resolve the risk of pollution associated with 29 of the 42 significant pressures and these need to be addressed as a priority. The final Plan should specify the plants and networks associated with significant pressures which require infrastructural work, which will be completed or commenced during the period of the plan. This will require coordination and cooperation between the EPA, Irish Water, Department of Housing, Local Government and Heritage and the Commission for the Regulation of Utilities. Furthermore, clarity is

required in the final Plan on the dates for achieving Water Framework Directive objectives and the use of exemptions under the Directive to underpin a robust licensing regime. Irish Water must achieve compliance with both Urban Waste Water Treatment Directive requirements and EPA licence conditions – the final Plan should be explicit on this.

In terms of legislation, there are significant difficulties with the practical application of the European Union (Waste Water Discharge) Regulations. Specifically, the EPA would welcome a commitment in the Plan to review the requirement for 6-yearly reviews of waste water discharge authorisations.

Climate

The integration of climate considerations should be significantly strengthened to better reflect the interconnected nature of the pressures on water quality and the drivers of greenhouse gas emissions. There is significant potential to achieve water quality outcomes through the targeting of climate measures. These linkages should be identified and actioned in the Plan. For example, our evidence shows that well designed, sited and managed diverse forests can improve water quality and also provide multiple environmental benefits for carbon capture, flood mitigation and biodiversity. There is also a need for better integration of nature-based solutions into flood risk management.

The most recent IPCC assessment highlights the impacts of climate change on water bodies, water quality and ecosystems and emphasises that the impact of climate change on almost all receptors is underestimated. The most immediate risks to Ireland that can be influenced by climate change are predominantly those associated with changes in extremes, including floods, droughts and storms. For Ireland, climate change impacts are projected to increase in the coming decades and many are directly relevant to this Plan including:

- sea level rise;
- more intense storms and rainfall events;
- increased likelihood and magnitude of river and coastal flooding;
- water shortages in summer;
- increased risk of new pests and diseases
- adverse impacts on water quality; and
- changes in distribution and phenology (the timing of lifecycle events) of plant and animal species on land, in rivers and lakes and in the oceans.

The Plan should reference the forthcoming review of the National Adaptation Framework, as it will seek to address some of these impacts. A thorough and robust review of the Water Quality and Infrastructure Services Adaptation Strategy 2019 is also required.

The EPA is currently reviewing the national Water Framework Monitoring Programme and this will include consideration of how the programme can assess and evaluate the impacts of climate change

on Ireland's aquatic environment. The EPA's research programme will also continue to provide knowledge and evidence which supports the achievement of national water and climate ambitions.

Governance and implementation

The EPA welcomes the acknowledgement in the Plan of the need for integration and collaboration across a complex policy landscape and supports the commitment to achieving multiple benefits for the environment. The integration and targeting of measures across all national policies and plans has significant potential to deliver for water quality, air, nature, climate and health, to support the achievement of good environmental outcomes, and to make the best use of funding and resources. The Plan needs to be explicit about where these linkages and multiple benefits can be achieved and what structures or measures are required to ensure they are delivered. In particular, it is essential that the opportunities posed by measures in the Climate Action Plan and the National Biodiversity Plan are harnessed to maximise water quality benefits.

The work of LAWPRO and ASSAP plays a critical role in delivering on Ireland's water quality objectives and the EPA welcomes the reviews undertaken. The role and future direction of both Programmes and the respective roles and responsibilities of Local Authorities should be reviewed and clarified to ensure they are optimised to deliver water quality outcomes. The development of strategic plans for both LAWPRO and ASSAP would be useful in this regard.

In relation to Local Authorities, the EPA welcomes the review of Local Authority resources for their water functions particularly in the context of additional actions such as the management of Integrated Catchment Management Plans and County Level Implementation Plans. It is essential that Local Authorities prioritise their water functions and have the necessary skills to undertake this work. The EPA, through our oversight role of Local Authorities and through the NIECE network, will continue to ensure that compliance and enforcement actions are prioritised and implemented for agricultural activities, domestic waste water treatment systems and other discharges to water.

The EPA notes that a large number of the actions in the draft Plan do not have an assigned owner. Clarity on roles and responsibility and the ownership of each action is essential to ensure effective implementation and tracking of progress. We ask that the EPA is given the opportunity to review the final Plan prior to publication to ensure that all actions accurately reflect our statutory roles and functions.

Monitoring and reporting

The final 3rd cycle River Basin Management Plan (RBMP) requires a comprehensive monitoring programme to track the measures and outcomes for water quality. This will ensure that the Plan delivers its objectives and that the link between actions and outcomes can be critically assessed and demonstrated. The monitoring programme should be aligned with the monitoring required under the SEA legislation and should be outcome focussed.

The EPA supports the recommendation in the SEA Environmental Report that a mid-term review of the overall progress on implementation of the Plan be undertaken. This would enable the evaluation of progress towards implementing the programme of measures and achieving the objectives in the Water Framework Directive.

The EPA is committed to working constructively and collaboratively with the Department of Housing, Local Government and Heritage and all stakeholders to protect and restore Ireland's natural environment. We look forward to continued engagement as the River Basin Management Plan is finalised and implemented.

Yours sincerely



Dr Eimear Cotter
Director, Office of Evidence and Assessment

Appendix 1 - Specific comments on the Plan and the measures

Catchment Management Plans

The EPA welcomes the move to Integrated Catchment Management Plans albeit that the ambition and overall aim of these plans is not yet clear. As well as improving transparency, these plans have the potential to increase public engagement in water quality at a more local level. It is essential that the roll out and development of these plans is supported and resourced and that there is clarity about their role, ownership and oversight.

Areas for Action

The EPA welcomes the evolution of the Areas for Action to be more extensive and to include both protect and restoration areas involving multiple agencies and catchment projects. Given the short cycle and impacts of the Covid pandemic it is not yet clear what measures are, or are not, working in the Priority Areas for Action and what actions have been closed out. It is essential that this is addressed in the final Plan.

Public participation

Significant progress has been made in recent years in improving public participation in water related matters including the work of LAWPRO community officers and the establishment of An Forám Uisce. Overall the EPA welcomes the actions set out in the Plan in relation to public participation.

The EPA welcomes the proposed action on development of a National Citizen Science Programme. An overarching strategy on citizen science for water quality would be helpful to map out the tools available and ensure they meet the goals of citizen science in terms of data gathering and engagement and awareness. This in turn could support decisions on funding citizen science projects, for example through the Community Water Fund. The EPA is developing a Citizen Science Strategy this year and we would welcome the opportunity to discuss opportunities of mutual interest.

High status waterbodies

The EPA welcomes the commencement of the Waters of LIFE programme and notes the actions in relation to the Blue Dots Programme. It is essential that the Blue Dots Programme aligns with and learns from the Water of LIFE and is sufficiently resourced to deliver on its goal to protect and restore high status waters which have suffered such substantial declines in recent years. A review of the programme and the measures required should be undertaken during the cycle to ensure that progress is being made and that any measures or changes required in national policies or programmes can be implemented rapidly.

Drinking Water Source Protection

In general, more emphasis is needed in this cycle on measures to address protected areas and to ensure suitable measures and standards are in place and achieved to protect public health.

The recast Drinking Water Directive offers a significant opportunity to enhance drinking water source protection and water quality generally, and to integrate drinking water safety planning with the Integrated Catchment Management approach. It will be important for ensuring best use of the public resource that the agreed approach integrates seamlessly with other existing WFD assessments and processes, such as characterisation and monitoring, and that it is implementable and enforceable in practice by the relevant authorities. The EPA will continue to work as part of the Expert Group to support the transposition and implementation of the directive.

We need to continue to build our knowledge and evidence base in relation to public health aspects of water protection in areas such as VTEC, anti-microbial resistance, and the combined effects of chemicals.

Domestic WW

The report on the National Inspection Plan highlights that a large percentage of Domestic Waste Water Treatment Systems fail on inspection and that progress on remedying issues is slow. More action is needed to ensure that householders fix systems that fail inspections and to improve overall public awareness to encourage good practice. An action on this should be considered for the final Plan. In addition, a specific action to regularise unlicensed wastewater discharges should also be included.

Urban run-off

The EPA welcomes the recently published urban nature-based solutions guidance and notes progress in this area. There needs to be a commitment to incorporate the guidance into all county development plans, and to finance such solutions.

Chemicals

The EPA welcomes the actions under the draft Plan and the work proposed for the National Aquatic Environmental Chemistry Group, however the Plan should be more ambitious and should include specific measures to prevent hazardous substances entering our waters.

While overall Ireland has low levels of chemical pollution of our waterbodies, pesticides are being detected in over half of rivers monitored and 33 drinking water supplies have pesticide exceedances. While the National Pesticides and Drinking Water Action Group has an important role in addressing pesticides in drinking water the issue with pesticides is wider than this group's remit. The number of waterbodies severely impacted by sheep dip has increased in recent years and is a particular problem in Donegal. The National Hazardous Waste Management Plan (NHWMP) 2021-2027 includes an action to establish a national cross-agency forum to focus on the appropriate management of spent sheep dip to prevent environmental pollution. The NHWMP also calls for the introduction of a nationwide collection system for farm hazardous wastes, including unused veterinary products and a national collection system for surplus / out-of-date medicines from household waste. The final RBMP should aim to leverage these proposed measures to deliver water quality improvements.

It would also be beneficial to strengthen links between the Plan and Ireland's National Implementation Plan on Persistent Organic Pollutants which aims to reduce and eliminate persistent organic pollutants under the European Union (Persistent Organic Pollutants) Regulations 2020 (SI No. 146 of 2020).

Forestry

The EPA acknowledges the progress made by the Forestry Services in addressing the impacts on water quality from forestry operations. However, operations particularly in legacy sites remain a risk and continue to impact on water quality. The action in relation to addressing incidents should be strengthened in the final Plan to focus on prevention of incidents through closer supervision and oversight of operations particularly in highly sensitive areas by DAFM.

Peat

The EPA notes that significant progress is being made at national level to restore and rehabilitate peatlands and welcomes the projects set out in the Plan. It is important that all these schemes are monitored and evaluated at an appropriate level, and that lessons are learned and implemented on a wider scale. These programmes offer significant opportunities to deliver multiple benefits for water, climate and biodiversity and efforts should be made to ensure these opportunities are realised.

Land use planning

Land use measures present significant opportunities for water quality and the final Plan should highlight the need to link to this work. In particular, a national land use evidence review, led by the EPA, is being progressed under the national Climate Action Plan.

The publication of the guidelines for the incorporation of the Water Framework Directive (WFD) into the planning system, an outstanding task from the current RBMP, will be important in integrating WFD considerations into the planning system. The guidelines should be finalised and rolled out as soon as possible. Extensive training and awareness for planners and developers will be required to ensure it is fully implemented.

Furthermore, the impact of developments on water quality should be integrated into all regulatory planning and development frameworks, for example, for forestry, aquaculture, foreshore and marine planning.

Aquaculture

The EPA welcomes the actions identified and in particular the much-needed legislation and management framework for shellfish including the establishment of a national expert group to consider standards for microbiological monitoring.

The impact of aquaculture is often not seen at waterbody scale however effective regulation at site level is needed to prevent pollution and avoid any adverse impacts. The EPA welcomes the proposed measures in the Plan to improve the overall transparency of the regulatory regime and to strengthen its alignment with WFD objectives however the level of commitment by DAFM to implementing these actions needs to be stronger in the final Plan.

Nutrient Sensitive Areas

The EPA completed its review of Nutrient Sensitive Areas in 2020 as required by the Urban Waste Water Treatment Directive and these need to be designated in legislation to allow their consideration in licensing decisions. It is important that the action to update the designations is completed without delay.

Appendix 2 - specific comments on the SEA

The EPA is designated as a statutory environmental authority under the Strategic Environmental Assessment (SEA) Regulations. In our role as a SEA environmental authority, we focus on promoting the full and transparent integration of the findings of the SEA into the River Basin Management Plan and advocating that the key environmental challenges for Ireland as set out in the EPA's State of the Environment Report (2020) are addressed where relevant and appropriate to the Plan. Our functions as a SEA environmental authority do not include approving or enforcing SEAs or plans.

The SEA Environmental Report discusses all of the relevant issues extensively. However, the extent of the report in some instances makes it difficult to pull out the key issues. For example, there may be merit in identifying the key relevant policies and plans in the main text of the document and including the other relevant plans as an appendix to the report. This would enable the Environmental Report to identify which policies and plans are likely to have significant impacts and so which proposed mitigation measures are the most important measures with respect to the Plan.

Integration of SEA into the RBMP

The integration of the SEA process should reflect the overall objective of the SEA Directive “to provide for a high level of protection of the environment and to contribute to the integration of environmental considerations into the preparation and adoption of plans and programmes”.

A key aspect that needs to be addressed relates to the level of integration of the findings and recommendations of the SEA into the Plan. In our SEA scoping submission, it was stated that the SEA Environmental Report should include a chapter outlining how the recommendations and mitigations measures from the SEA have been incorporated into the Plan. We note the inclusion of Section 2.6 of the draft Plan addressing the environmental assessments (SEA and appropriate assessment). We note also the numerous references throughout the SEA Environmental Report to how the environmental assessment processes have informed the development of the Plan. However, the section should also clearly address how the findings of the SEA Environmental Report have been integrated in the Plan.

The SEA Environmental Report recommends (under several mitigation measures) that a mid-term review of the overall progress on implementation of the Plan measures be undertaken. This recommendation would be a key means of evaluating the progress towards implementing the programme of measures and achieving the objectives in the Water Framework Directive.

Alignment with Plans & Programmes

The Plan should align with key relevant higher-level plans and programmes and be consistent with the relevant objectives and policy commitments contained therein. In order to demonstrate this both the SEA Environmental Report and the Plan would benefit from the inclusion of a schematic showing the hierarchy and inter relationships of the other relevant plans and programmes, e.g. Nitrates Action Programme, Irish Water plans, etc.

There should be alignment and consistency between the objectives of the National Planning Framework (in particular National Policy Objectives 50, 52 and 571), the three Regional Spatial and Economic Strategies and the River Basin Management Plan. This should be reflected in the SEA Environmental Report. Such consistency and interlinkages across environmental plans and policies will contribute to ensuring accountability that the plans are being implemented in the right way.

SEA Objectives

We welcome the inclusion of the SEA objectives in tabular form which clearly shows how the objectives are linked to each of the SEA topics as well as the UN Sustainable Development Goals. There is merit in also considering SDG Goal 3: Good Health and Wellbeing and the relevant links with the Plan.

Relevant Aspects of the Current State of the Environment

The baseline data presented in the SEA Environmental Report provides a comprehensive overview of the significant issues related to the current state of the environment with respect to the SEA topics. We welcome the links in the baseline information to the EPA State of the Environment Report (SOER) 2020, which outlines the key environmental issues and challenges for Ireland's environment.

The baseline information could, however, be strengthened through references to the baseline information from the previous two river basin management cycles. The use of data from the previous cycles would present a clearer picture of trends for key environmental receptors.

Land and Soils

The baseline should be updated with reference to the new EU Soils Strategy and its relevant objectives which has been published in the interim since the public consultation commenced.

Alternatives

The SEA Environmental Report includes a detailed assessment of the alternatives for the implementation of the Plan. The analysis of the alternatives would benefit from referring to the alternatives considered under the environmental assessment of the second cycle RBMP and how they differ to those considered under the current proposed iteration so that the learnings from previous cycles can be applied.

Mitigation

Chapter 8 of the SEA Environmental Report includes an extensive list of detailed mitigation measures. As discussed above, it is important that the recommendations of the SEA Environmental Report are fully integrated into the Plan, or if not the case, an explanation provided as to the reasons for not including them. This is particularly important given that the Plan is the key mechanism for implementing the Water Framework Directive in Ireland. Likewise, the mitigation measures from the appropriate assessment should be integrated into the Plan.

¹ Objective 50 relates to cross border cooperation on transboundary issues of environmental management; objective 52 relates to the responsiveness of the planning system to environmental management; objective 57 relates to enhancing water quality and resource management.

The Plan should also provide a clear indication of how these mitigation measures will be implemented. This would show how the assessment processes have informed the development of the Plan. It would also demonstrate that the plan making process was fully integrated with the assessment processes rather than as separate processes.

A number of mitigation measures refer to the requirement for further plans (e.g. Rural Waters Strategic Plan, Integrated Catchment Management Plans, Water Services Strategic Plan) to undertake SEA and appropriate assessment screening. It is important that DHLGH and relevant plan making authority(ies) consider the requirements of the SEA Regulations (S.I. 435 of 2004, as amended) and the Habitats Directive, early, in the plan-preparation process. This will provide the basis for a high level of protection for the wider environment and contribute to the integration of environmental considerations into the preparation and adoption of these plans, with a view to achieving the objectives of the Water Framework Directive. The EPA are happy to engage with the relevant organisation in respect of this process.

Monitoring

The Monitoring Programme should be flexible to take account of specific environmental issues and unforeseen adverse impacts should they arise during implementation. It should consider and address the possibility of cumulative effects. Monitoring of both positive and negative effects should be considered. The monitoring programme should set out the various data sources, monitoring frequencies, responsibilities and reporting. Some of the parameters included in the SEA Environmental Report for monitoring do not have data sources, e.g. peat, soils. This should be addressed before a final monitoring programme is agreed.

If the monitoring identifies adverse impacts during the implementation of the Plan, DHLGH should ensure that suitable and effective remedial action is taken.

The implementation of the Plan should include provisions for annual reporting on implementation of the Programme of Measures. The Plan implementation, monitoring and reporting should be aligned with the environmental monitoring and reporting required under the SEA legislation. This will assist in evaluating the environmental performance of the Plan.

Guidance on SEA-related monitoring is available on the EPA website at <https://www.epa.ie/publications/research/environmental-technologies/research-306-guidance.php>. The guidance refers to the EirGrid Grid 25 Implementation Programme (Page 17) which may be a useful example in deciding indicators, sources of data and monitoring frequencies.

Future Amendments to the RBMP

Any future amendments to the Plan should be screened for likely significant effects, using the same method of assessment applied in the “environmental assessment” of the Plan.

SEA Statement – “Information on the Decision”

Once the Plan is adopted, an SEA Statement should be prepared that summarises:

- How environmental considerations have been integrated into the Plan;
- How the Environmental Report, submissions, observations and consultations have been taken into account during the preparation of the Plan;
- The reasons for choosing the Plan adopted in the light of other reasonable alternatives dealt with; and,
- The measures decided upon to monitor the significant environmental effects of implementation of the Plan.
- A copy of the SEA Statement with the above information should be sent to any environmental authority consulted during the SEA process.

Guidance on preparing SEA Statements is available on the EPA website at the following link:

<https://www.epa.ie/publications/research/environmental-technologies/research-306-guidance.php>

Environmental Authorities

In accordance with the SEA Regulations, the following authorities should be consulted with:

- Environmental Protection Agency;
- Minister for Housing, Local Government and Heritage;
- Minister for Environment, Climate and Communications; and,
- Minister for Agriculture, Food and the Marine.