

## **SUBMISSION TO THE DEPARTMENT FOR HOUSING LOCAL GOVERNMENT AND HERITAGE**

### **STAGE 1 PUBLIC CONSULTATION PAPER ON THE FOURTH REVIEW OF IRELAND'S NITRATES ACTION PROGRAMME**

15 January 2021

#### **Introduction to An Fóram Uisce**

An Fóram Uisce | The Water Forum (hereafter, An Fóram) was established in June 2018 in accordance with the provisions of Part 5 of the Water Services Act 2017. An Fóram is the only statutory body representative of all stakeholders with an interest in the quality of Ireland's water bodies. An Fóram consists of 28 members including representatives from a wide range of organisations with direct connections to issues relating to water quality and also public water consumers. Approximately 50 different organisations were involved in the nomination of members.

#### **1. Submission Overview**

1. An Fóram Uisce welcomes the opportunity to respond to the Stage 1 Public Consultation Paper on the Fourth Review of Ireland's Nitrates Action Programme – hereafter the NAP public consultation.
2. An Fóram Uisce recognises the scope of work undertaken by the Department of Housing, Local Government and Heritage (hereafter, the DHLGH) to develop the NAP public consultation document; as well as the challenges in delivering a public consultation during the current COVID pandemic.
3. The items included in this submission are those to which members of An Fóram Uisce have identified as priority issues and which are within the remit of An Fóram Uisce. These do not preclude the importance of items contained within the NAP public consultation to which An Fóram Uisce has not responded.
4. It is recognised that this is the Phase 1 of the NAP public consultation process and An Fóram Uisce looks forward to formally responding to the greater detail to be provided in the subsequent consultation events.

#### **2. Specific Submission Items**

##### **2.1 Policy Coherence**

Strong policy coherence is required to deliver the NAP to allay the continued and worsening nutrient pollution of Ireland's waters, as outlined by recent EPA reports<sup>1,2,3</sup>. Overarching governance and an

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<sup>1</sup> EPA (2019). Water quality in Ireland 2013-2018. Environmental Protection Agency, Wexford. Available online: [Water Quality :: Environmental Protection Agency, Ireland \(epa.ie\)](https://www.epa.ie/water/water_quality/water_quality_in_ireland_2013_2018/)

integrated and collaborative approach to managing Ireland's catchments, freshwaters and transitional, coastal and marine waters is necessary. While the NAP public consultation paper states that greater policy alignment is required between different environmental protection at National and European Level, there is no outline or proposal as to how this can be achieved. Therefore, it is not possible for An Fóram Uisce to provide a formal response to the proposed policy alignment.

Ireland is legally required to implement the EU Water Framework Directive (WFD) and the Nitrates Directive in full in accordance with the accompanying national legislative instruments. The primary focus of the revised NAP must ensure full compliance with the WFD and Nitrates Directive.

In particular, An Fóram Uisce requests that the linkages between the NAP and the 3<sup>rd</sup> River Basin management Plan are clearly articulated, with cross-cutting measures identified, time bound and appropriately funded.

## 2.2 Public Consultation

Very little detail is provided within the overall context of the submission, for example with regard to better policy alignment, climate action measures, biodiversity measures and the nitrates derogation, as well as the specific issues under consideration. A public consultation must provide sufficient detail for non-expert individuals and groups to provide comment.

The NAP public consultation period was very short, was delivered over the festive period and the period is concurrent with several other water-related open public consultations, including Irish Water's National Water Resources Plan; the Commission for the Regulation of Utilities consultation on Financial Incentives Contained in RC(3); and 'Review to Renew' – the review of the National Development Plan. While it is recognised that initial plans to deliver the NAP public consultation were impacted by both COVID and the extended public consultation on the draft RBMP, improvements in public consultation processes are necessary.

In 2020, An Fóram Uisce released a briefing note on 'Public Engagement in Managing Ireland's Waters'<sup>4</sup>, based on research commissioned by An Fóram Uisce<sup>5</sup>. Key components regarding public engagement include addressing inequity and power imbalances; incorporating various forms of knowledge and expertise; and addressing issues of scale. The NAP public consultation process should address these key components to ensure equitable public engagement. Given the expertise required to respond to this Phase 1 NAP public consultation process; and the lack of scientific evidence provided in the consultation (both of which create power imbalance among stakeholders), An Fóram

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<sup>2</sup> EPA (2020). Ireland's environment – An integrated assessment 2020. Environmental Protection Agency, Wexford. Available online: [State of the Environment Report :: Environmental Protection Agency, Ireland \(epa.ie\)](https://www.epa.ie/publications/state-of-the-environment-report-2020)

<sup>3</sup> EPA (2020). Urban wastewater treatment in 2019. Environmental Protection Agency, Wexford. Available online: [Urban Waste Water Treatment :: Environmental Protection Agency, Ireland \(epa.ie\)](https://www.epa.ie/publications/urban-wastewater-treatment-2019)

<sup>4</sup> An Fóram Uisce (2020). Briefing note on public engagement in managing Ireland's waters. Available online: [Water-Forum Briefing-Note Public-Engagement.pdf \(thewaterforum.ie\)](https://www.thewaterforum.ie/app/uploads/2020/03/Water-Forum_Public-Engagement.pdf)

<sup>5</sup> Bresnihan, P., and Hesse, A. (2019). Public engagement in water governance. Report to An Fóram Uisce. Available online: [https://thewaterforum.ie/app/uploads/2020/03/Water-Forum\\_Public-Participation\\_Bresnihan-and-Hesse\\_2019.pdf](https://thewaterforum.ie/app/uploads/2020/03/Water-Forum_Public-Participation_Bresnihan-and-Hesse_2019.pdf)

Uisce urges DHLGH to ensure that the subsequent NAP public consultation phases address these issues.

The lack of detail provided under each component of the 'Current Requirements' table on page 5 and the 'Potential Additional Requirements' table on page 7 of the NAP public consultation document creates significant issues for the development of submissions. These issues include:

- A complete lack of supporting scientific information and resources which outline the scientific rigour for the current requirements and the issues provided for consultation. It is not possible to provide a detailed response without provision of the science supporting the data (as a minimum, links to the scientific literature should be provided). This public consultation document should be underpinned by a supporting document which outlines the scientific evidence base for each of the issues to be considered.
- The brevity of information provided under each component in the tables on pages 5 and 7 makes it exceptionally difficult to provide a detailed submission without significant prior knowledge across all of the components listed.
- This lack of detail creates inequity in the public consultation process as not all individuals and groups are able to provide detailed submissions based on the content provided.
- Consequently, this creates a power imbalance among stakeholders as only those with detailed knowledge can provide detailed submissions to influence the progression of the NAP development.

### **2.2.1 Timelines**

An Fóram Uisce expresses strong concerns regarding the NAP Review Timetable, particularly regarding the short timeframes to analyse submissions made under each of the public consultation events. Each submission must be thoroughly analysed, collated, and incorporated into the NAP review planning process to inform the decision-making processes. This review and assessment of all submissions must be made transparently, and An Fóram Uisce advocates that a summary document is made publicly available which outlines the content of submissions, and how each submission was incorporated, or not, into the decision-making process. Yet only a maximum of 8 weeks has been assigned to achieve this review and assessment of all submissions received.

There are also exceptionally short timeframes for agreeing proposed amendments to the NAP at EU level (to be completed in November 2021) prior to publishing the new legislative instrument.

### **2.3 Transparency of Decision Making**

Transparency of decision making in development of proposed NAP measures is imperative.

The NAP public consultation document states that *"In addition to this public consultation, the Nitrates Expert Group will be informed by the results of environmental and agricultural research relevant to water quality. These include reports of the Agricultural Catchments Programme, the EPA's most up-to-date reports on water quality and any environmental assessments of DHLGH or DAFM water-related policies"*.

While it is recognised that some of the research reports mentioned above are in the public domain, the Stage 1 NAP public consultation document should provide the linkages to all the publicly available documentation and scientific research to enable fully informed submissions. It is time consuming and resource intense for individuals and organisations to undertake their own searches and collation of documents to be able to make such fully informed submissions. The provision of such linkages would be of enormous public benefit, would increase transparency of decision making; and increase equitable access to information and address power imbalances among stakeholders.

In order to help achieve this transparency and equity of the engagement and decision-making processes, AFU proposes that a specific research team be assembled within the DHLGH to develop a synthesis of the science supporting the decision-making process. Subsequently, a publicly available document which outlines the science supporting decisions and measures should accompany the Stage 2 NAP public consultation process.

**End**

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