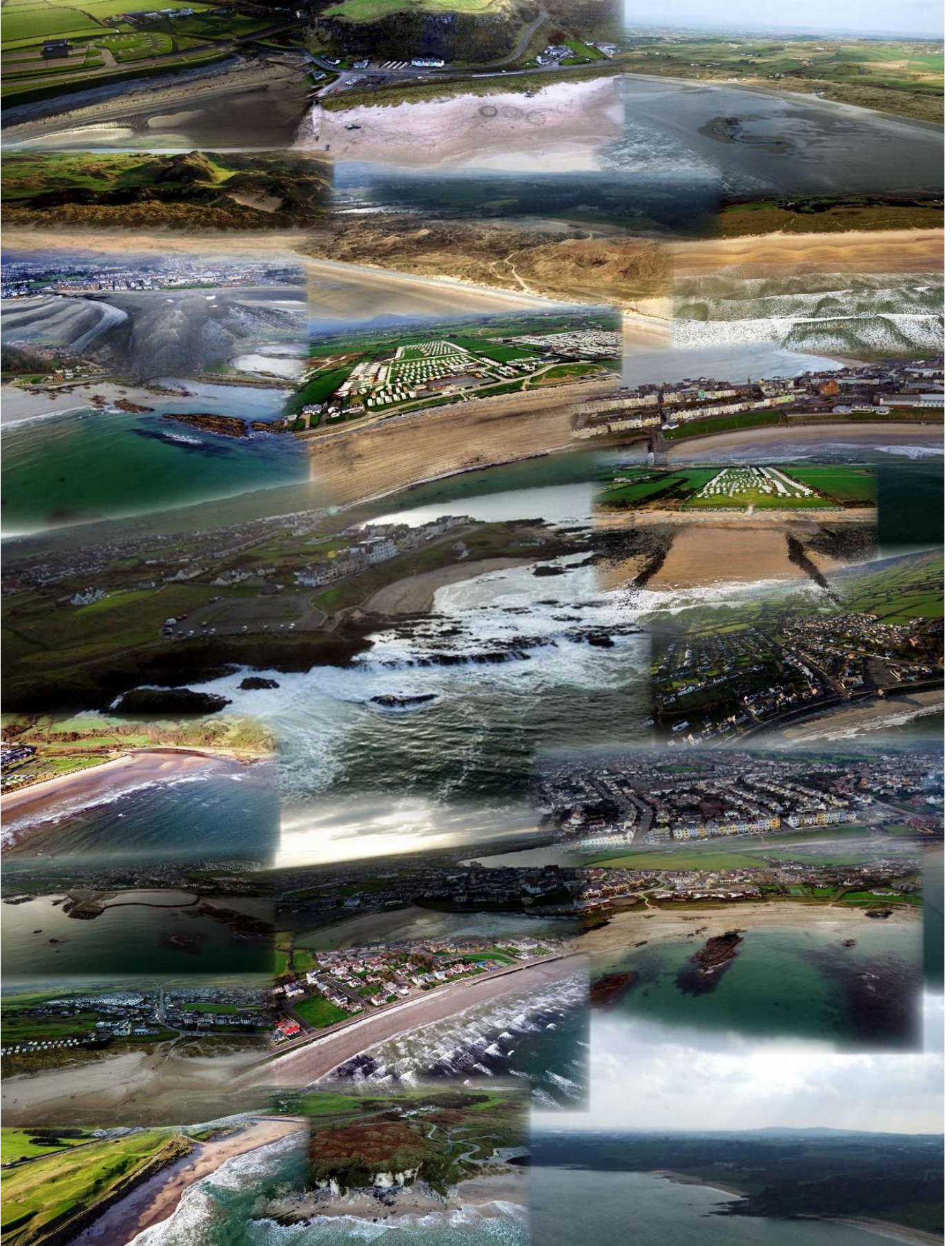




Department of the
Environment
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Review of and consultation on the Identification of Bathing Waters in Northern Ireland June 2011



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A list of the consultees that we have contacted for this exercise is attached at Annex E. This list is not exhaustive and we welcome views from all interested parties.

(ii) Freedom of Information Act 2000 - confidentiality of consultations

The Department will publish a summary of responses following completion of the consultation process. Your response and all other responses to the consultation may be disclosed on request. The Department can only refuse to disclose information in exceptional circumstances. **Before** you submit your response, please read the paragraphs below with respect to the confidentiality of consultations, as they will give you guidance on the legal position about any information given by you in response to this consultation.

The Freedom of Information Act gives the public a right of access to any information held by a public authority, namely, the Department in this case. This right of access to information includes information provided in response to a consultation. The Department cannot automatically consider as confidential information supplied to it in response to a consultation. However, it does have the responsibility to decide whether information provided by you in response to this consultation, including information about your identity, should be made public or treated as confidential.

This means that information provided by you in response to the consultation is unlikely to be treated as confidential except in very particular circumstances. The Lord Chancellor's Code of Practice on the Freedom of Information Act provides that:-

- The Department should only accept information from third parties in confidence if it is necessary to obtain information in connection with the exercise of any of the Department's functions and it would not be otherwise provided;
- The Department should not agree to hold information received from third parties 'in confidence' which is not confidential in nature; and
- Acceptance by the Department of confidentiality provisions must be for good reasons, capable of being justified to the Information Commissioner.

For further information about confidentiality of responses please contact the Information Commissioner's Office or see the website at:

www.informationcommissioner.gov.uk

1. Introduction

Bathing waters are an important asset for everyone in the North of Ireland, valuable both for the recreational potential that they provide and for tourism. However, the monitoring of bathing water quality is essential not only for bathers because of public health concerns, but it is also a strong indication to the overall health of our coastal zones and inland water bodies. Therefore it is important that bathing waters are given the protection they deserve and which is required under the European Union's current and revised Bathing Water Directives. The Directives aim to preserve, protect and improve the quality of the environment and to protect human health and the provisions of the Directives require that water quality at all designated bathing waters is assessed against stringent microbiological standards in order to inform those who choose to bathe there.

The purpose of this consultation paper is to invite views on a review by the Department of the identification of bathing waters in Northern Ireland and, in particular, on the options put forward by the Department with regards to possible changes to the list of identified bathing waters in Northern Ireland as a result of this review.

The Department is also looking to the future and seeking views on how frequently formal reviews of bathing water identification should be carried out in Northern Ireland.

This review of bathing water identification is one element of the overall framework of water protection policy in Northern Ireland. The European Union (EU) Water Framework Directive (2000/60/EC) (WFD) aims to establish an integrated framework for the protection of surface waters and groundwaters, with the overall aim of achieving 'Good' status by 2015. River Basin Management Plans for Northern Ireland were published in December 2009 containing Programmes of Measures to achieve the WFD objectives¹. Bathing waters are protected areas under the WFD and compliance with other EU legislation, such as the Bathing Water Directive, is a basic measure within the Programmes of Measures.

1 www.doe.gov.uk/niea/water-home/wfd.htm

2. Revised Bathing Water Directive

Protection of water resources is one of the primary elements of European water policy. Following the introduction of a number of Directives impacting upon the management of water resources, the quality of bathing water in Northern Ireland has improved significantly since monitoring in accordance with the first EU Bathing Water Directive (76/160/EEC) began. The revised Bathing Water Directive (2006/7/EC) (rBWD²) was adopted by the European Parliament and the Council of the European Union in February 2006 and transposed in Northern Ireland through The Quality of Bathing Water Regulations (Northern Ireland) 2008 (The Bathing Water Regulations³).

In summary, the rBWD requires the Department to:

- annually identify bathing waters and provide a list of identified bathing waters to the European Commission;
- monitor, assess and classify bathing water quality at identified bathing waters;
- develop a system of bathing water profiles as a means of understanding risks to bathing water quality, which can then be used as a basis for the management of bathing waters; and
- encourage public participation in the implementation of the Directive, particularly in relation reviewing and updating of the list of identified bathing waters.

In addition, the rBWD requires both the Department and bathing water operators to:

- undertake management measures in the event of specified pollution incidents; and
- provide appropriate, timely and standardised information to the public on bathing water quality

In accordance with the transposition of the rBWD throughout the UK, the provisions of The Bathing Water Regulations are being introduced in phases and will be fully implemented in Northern Ireland by October 2015. The earlier Bathing Water

² The revised Bathing Water Directive (2006/7/EC) can be accessed at:
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:064:0037:01:EN:HTML>

Directive and the relevant elements of transposing legislation will remain applicable to Northern Ireland until such time as all measures to comply with the rBWD are in place. For example, the parameters monitored under the earlier Directive will continue to apply until such time as monitoring under the rBWD is in place.

The key changes still to be implemented in relation to the rBWD are as follows:

From 24 March 2012:

- the Northern Ireland Environment Agency (NIEA), as an agency within the Department, must apply amended monitoring criteria to assess the levels of intestinal enterococci, Escherichia coli, and (where a bathing water profile indicates a tendency for proliferation) cyanobacteria, macro-algae and/or marine phytoplankton, at bathing waters;
- bathing water operators must provide and maintain signage at the bathing water site giving specific information to the public, including: a general description of the bathing water; whether the bathing water is likely to be affected by any short term pollution events; whether any advice against bathing has been introduced at the site; information on the nature and expected duration of abnormal situations at the bathing water and an indication of the sources of more complete information published by the Department;
- NIEA must provide information on its website, including bathing water profiles and the results of any monitoring carried out since the beginning of the current bathing season;
- management measures must be introduced by the bathing water operator and NIEA at sites subject to pollution incidents; and
- NIEA may serve enforcement notices on the bathing water operator where they have failed to comply with their duties.

From 24 March 2015:

- NIEA must adopt new assessment and classification methodologies for bathing waters; and
- management measures must be introduced by the bathing water operator and NIEA at bathing waters which have been classified as

3 http://www.doeni.gov.uk/index/protect_the_environment/water/bathing_water.htm

“poor” under the new classifications following the 2015 bathing season.

From 30 September 2015:

- during the bathing season, bathing water operators must provide information on the bathing waters’ current classification.

3. Review of Identified Bathing Waters

It has been, and remains, the Department's practice to review and consult publicly on Northern Ireland's list of identified bathing waters and, in this regard, the Department issued a consultation document in 2006 entitled “Review of Identification of Northern Ireland Bathing Waters 2006” (the 2006 Review). After consideration of responses to that consultation, the Department increased the number of identified bathing waters in Northern Ireland from 16 to 23. Following both district council and public representations, Portballintrae (Salmon Rock) was additionally identified as a bathing water in June 2008. A list of the 24 currently identified bathing waters is contained at Annex C.

The 2006 review contained an undertaking that the next review would take place in 2011. In order to prepare for this, the Department wrote to local councils and environmental stakeholder groups in 2009, to advise them of the forthcoming review and seek nominations for candidate new bathing waters. In response, the Department received nominations for the following 15 sites as candidate bathing waters:

- Ballyhornan, Irish Sea Coast, County Down
- Ballyronan, Lough Neagh, County Londonderry/Derry
- Cloughey Beach, Irish Sea Coast, County Down
- Coleraine Marina, River Bann, County Londonderry/Derry
- Drains Bay, East Coast, County Antrim
- Drumaheglis, Lower River Bann, County Antrim
- Kinnego, Lough Neagh, County Armagh
- Minerstown, Irish Sea Coast, County Down
- Muckross Bay, Lower Lough Erne, County Fermanagh
- Newferry, Lower River Bann, County Londonderry/Derry
- Portmuck, Island Magee, County Antrim

- Portballintrae (Runkerry Strand), North Coast, County Londonderry/Derry
- Rossglass, Irish Sea Coast, County Down
- The Cutts, Lower River Bann, County Londonderry/Derry
- The Battery, Lough Neagh, County Tyrone

The Department is happy to receive further nominations for candidate new bathing waters (subject to the nomination meeting the criteria outlined in Annex A). However, to ensure equity when comparing usage, it will only be possible for the Department to consider the candidate sites in the above list during the current review, as they have been subject to usage surveys over two bathing seasons. **Therefore the Department is not seeking further nominations for candidate new bathing waters as part of this consultation exercise.**

4 Criteria for Identification and De-identification of Bathing Waters

A key aspect of the rBWD is the requirement for Member States to annually identify all bathing waters and to subsequently provide the European Commission annually, before the start of every bathing season, with a list of all identified bathing waters and to highlight the reasons for any change in the list from the preceding years. In particular the rBWD requires member states to encourage and ensure public participation in the process of establishing, reviewing and updating the list of bathing waters.

Member States are required to identify bathing waters where bathing is explicitly authorised by the competent authorities, or bathing is not prohibited and is traditionally practised by a “large number of bathers”. A large number of bathers is defined in the rBWD as “a number that the competent authority considers to be large having regard, in particular, to past trends or to infrastructure or facilities provided, or measures taken, to promote bathing”.

Hence, while the number of bathers frequenting a site is the primary consideration, the Department also takes into account other factors when considering bathing waters for identification or de-identification. Such factors include the facilities at a site, plans to update or remove facilities at a site, provision of lifeguards, beach

management plans and past trends for visitor numbers. If a site has been recommended for identification on the basis of usage numbers, the Department will enter into discussions with the bathing water operator in order to establish the extent to which other facilities are in place at the site and, if appropriate, how the other criteria (outlined in Annex A) can be best achieved.

Prior to the 2006 Review, the Department undertook opinion surveys at beaches across Northern Ireland to ascertain public usage behaviour at beaches and bathing waters. From these surveys it was derived that 45% of beach users would intend to enter the water on all or most visits. The Department also considered the approach taken in other parts of the UK (for example, Scotland consider 150 beach users as a “large number” in relation to bathing waters) to help quantify what a large number of bathers and beach users might be in a Northern Ireland context. Bearing in mind the Northern Ireland population and climate, the Department determined 100 beach users to be a substantial number when considering sites for identification. Thus a "large number" of bathers has been set at around 45 people in Northern Ireland (i.e. 45% of 100 beach users). Note, however, that the derived figure of beach users may be viewed as a lesser standard than actual bathers and a survey may coincide with for example a community event that has many beach users present but does not involve bathing.

In the 2006 Review, the Department also considered less than 50 beach users as a cut off guide value for proposing to de-identify bathing waters. Therefore, in this review, based on the approach of the 2006 Review and the fact that the rBWD requires Member States to take into consideration past trends at bathing waters when considering sites for identification and de-identification, the Department considers it appropriate to apply different criteria for de-identifying sites where there has been a tradition of bathing and high usage, as opposed to identifying candidate sites where the Department has no previous evidence of usage levels other than that obtained from the 2009 and 2010 usage surveys.

In terms of **identified** waters then there are two thresholds to consider:

- how many occasions a site attracts >45 bathers; and
- how many occasions a site attracts >50 beach users.

In terms of **candidate** sites there are two thresholds to consider;

- how many occasions a site attracts >45 bathers; and
- how many occasions a site attracts >100 beach users.

However, the 2006 Review did not propose that a single trigger of a threshold would be considered evidence of regular usage (or lack of usage), nor did it propose the number of survey occasions it deemed appropriate to consider usage over. Rather, the Department considered it appropriate to seek views on identification criteria in terms of bather numbers and beach user thresholds and to use the evidence from the 2006 Review and this further review to inform a more specific and consistent approach towards bathing water identification in Northern Ireland.

The Department has a responsibility to target resources effectively and efficiently. It is, therefore, important and appropriate to only consider identifying sites at which, in the words of the rBWD, the competent authority “expects a large number of people to bathe” and where the bathing water operator is actively encouraging bathing through provision of adequate facilities for a large number of users. Taking this responsibility into consideration and drawing on the experience of the 2006 Review, the Department has identified two possible options in terms of proposing sites for identification and two options for de-identification based on how many times threshold values are met (or not met) during surveys. These options are detailed below and the rationale for these options is explained further on in section 6.

Following this consultation the Department proposes to proceed with preferred options as the approach that will be taken going forward in relation to this and future reviews with regards to the identification and de-identification of bathing waters in Northern Ireland. The Department also proposes that, for future reviews, the usage criteria set out in the preferred option should be assessed during a maximum of eight survey dates in up to two bathing seasons.

Options for de-identification criteria of identified bathing waters

To prevent de-identification it should be demonstrated that a site has:

Option (a) > 50 beach users on at least two occasions;

Option (b) > 45 bathers on at least one occasion; or >50 beach users on at least two occasions

Options for identification criteria for candidate bathing waters

To achieve identification it should be demonstrated that a site has:

Option (a) >45 bathers on at least one occasion;

Option (b) >45 bathers on at least one occasion or >100 beach users on at least two occasions

5. Northern Ireland Bathing Water Surveys 2009 and 2010

In order to inform the 2011 review, the Department made arrangements for the 24 identified bathing waters and 15 candidate sites to be surveyed for usage during the 2009 and 2010 bathing seasons.

The focus of the rBWD is on bathing waters and ensuring bathers in those waters are properly informed of any risk of ill health due to the quality of the water. The aim of the surveys, therefore, was to assess usage levels based on the number of beach users and number of bathers in the water across all sites. The issue of extending the scope of the rBWD to include those people engaged in “contact water sports” was debated by European Ministers during the negotiations in its development and it was agreed that the focus of the Directive should remain on bathers alone. Therefore the number of people engaged in recreational activities such as jet-skiing, canoeing, wakeboarding, rowing and surfing are not considered for the purpose of identification or de-identification.

In 2009 and 2010 bather/beach usage counts were recorded during weekends and predicted peak usage times over the bathing season. In Northern Ireland the bathing season is defined as running from 1 June to 15 September (to coincide with the summer weather and school holidays). Counts were only completed when the weather forecast was predicted to be favourable i.e. conditions when it was likely that peak numbers could be determined.

The 2009 survey was completed during the period 18 July 2009 to 12 September 2009 inclusive. 24 identified bathing waters were surveyed on four occasions while 15 candidate bathing waters were surveyed on five occasions (where possible). Table 1 of Annex D summarises the 2009 bathing water usage survey results. Results show that usage across the sites was highly variable and, as expected, busy days coincided with good weather.

Portstewart, Portrush (Mill) West, Portrush (Curran) East and Portrush (Whiterocks) had 100 beach users or more across all four survey dates in 2009. For this reason the Department did not consider it necessary to perform further surveys on these sites during the 2010 bathing season to verify usage levels. As these sites were only surveyed in 2009 and had high usage across all survey dates in that year, the Department does not view it as necessary or appropriate to consider any of these four bathing waters for de-identification under de-identification Options (a) and (b). The remaining 20 identified sites and the 15 candidate sites were surveyed on four occasions during the 2010 bathing season. The 2010 survey was completed during the period 17 July 2010 to 28 August 2010 inclusive. Table 2 of Annex D summarises the 2010 bathing water usage survey results.

It should be noted that, while the Department has proposed for future reviews that a maximum of eight survey dates will be considered for usage criteria to be assessed, the candidate sites in the current review were surveyed on nine dates over two bathing seasons. As the survey work had already been completed before this proposal was formulated, the Department will consider the results for all nine survey occasions for this review.

Table 1 displays an analysis of the number of times, across the 2009 and 2010 bathing seasons, identified bathing waters met the two main thresholds for identified sites. Thirteen of the sites had more than 45 bathers on at least one occasion across the two bathing seasons while more than 50 beach users were recorded on at least two occasions across the two bathing seasons at 23 of the 24 identified sites.

As can be seen from Table 2, Muckross Bay was the only candidate site which had more than 45 bathers on any occasion across the two bathing seasons. One of the candidate sites (Portballintrae (Runkerry Strand)) had more than 100 beach users on at least two occasions across the two bathing seasons.

Using the figures recorded across all of the survey dates, the Department performed further analysis calculating the average number of bathers/beach users and the maximum number of bathers/beach users at each of the sites. These figures enable an overall assessment of the usage levels of each of the sites to be made. Table 3 of Annex D contains a summary of this information in relation to all sites.

Table 1: Number of occasions Identified Bathing Waters met thresholds (across 2009 and 2010 bathing seasons)

| Name | Total Number of Survey Dates | Bathers > 45 | Beach Users >50 |
|---------------------------------------|-------------------------------------|------------------------|---------------------------|
| Ballycastle | 8 | 1 | 5 |
| Ballygally | 8 | 0 | 2 |
| Ballyholme | 8 | 0 | 3 |
| Ballywalter | 8 | 0 | 3 |
| Brown's Bay | 8 | 2 | 5 |
| Carnlough | 8 | 1 | 1 |
| Castlerock | 8 | 1 | 4 |
| Cranfield | 8 | 2 | 4 |
| Cranfield (Nicholson's Strand) | 8 | 0 | 2 |
| Crawfordsburn | 8 | 0 | 4 |
| Groomsport | 8 | 0 | 3 |
| Helen's Bay | 8 | 1 | 2 |
| Magilligan (Benone) | 8 | 2 | 8 |
| Magilligan (Downhill) | 8 | 1 | 5 |
| Millisle | 8 | 0 | 2 |
| Murlough Co. Down | 8 | 2 | 6 |
| Newcastle Co. Down | 8 | 1 | 8 |
| Portballintrae (Salmon Rock) | 8 | 1 | 5 |
| Portrush (Curran) East | 4 | 1 | 4 |
| Portrush (Mill) West | 4 | 0 | 4 |
| Portrush (Whiterocks) | 4 | 0 | 4 |
| Portstewart | 4 | 1 | 4 |
| Tyrella | 8 | 0 | 3 |
| Waterfoot | 8 | 0 | 2 |

Table 2: Number of occasions Candidate Sites met thresholds (across 2009 and 2010 bathing seasons)

| Name | Total Number of Survey Dates | Bathers >45 | Beach Users >100 |
|---|-------------------------------------|-----------------------|----------------------------|
| Ballyhornan | 9 | 0 | 1 |
| Ballyronan | 9 | 0 | 0 |
| Cloughey Beach | 9 | 0 | 0 |
| Coleraine Marina | 9 | 0 | 0 |
| Drains Bay | 8 | 0 | 0 |
| Drumaheglis | 9 | 0 | 0 |
| Kinnego | 9 | 0 | 1 |
| Minerstown | 9 | 0 | 1 |
| Muckross Bay | 9 | 1 | 1 |
| Newferry | 9 | 0 | 0 |
| Portballintrae (Runkerry Strand) | 8 | 0 | 2 |
| Portmuck | 9 | 0 | 1 |
| Rossglass | 9 | 0 | 0 |
| The Battery | 9 | 0 | 0 |
| The Cutts | 9 | 0 | 0 |

6. Outcomes of Options for Identification and De-identification of Bathing Waters

Based on the results of the 2009 and 2010 usage surveys, the varying criteria for identification and de-identification of bathing waters outlined in section 4 would produce different outcomes in terms of the number and location of identified bathing waters in Northern Ireland. These are summarised in Tables 3A and 3B.

Table 3A: Outcome of application of options for de-identification criteria to results of usage surveys

| | | |
|--|---|--|
| De-identification Criteria (required to prevent de-identification) | (a) > 50 beach users on at least two occasions | (b) > 45 bathers on at least one occasion; or >50 beach users on at least two occasions |
| Outcome | One site de-identified (Carnlough). | No sites de-identified. |

Table 3B: Outcome of application of options for identification criteria to results of usage surveys

| | | |
|--|---|--|
| Identification Criteria (required to achieve identification) | (a) >45 bathers on at least one occasion | (b) >45 bathers on at least one occasion; or >100 beach users on at least two occasions |
| Outcome | One site identified (Muckross Bay). | Two candidate sites being identified (Muckross Bay and Portballintrae (Runkerry Strand)). |

Options for De-identification Criteria

De-identification Options (a) and (b) are largely based on the approach proposed by the Department in the 2006 Review with regard to de-identification, i.e. identified bathing waters at which the number of beach users was consistently less than 50 across the survey dates would be proposed for de-identification. While, in considering current bathing waters for de-identification, the Department has a responsibility to take into account past trends of large numbers of people bathing at the site, it also has a responsibility to target resources effectively and efficiently. In particular when considering the number of beach users at a site, as opposed to bathers, it could be argued that a one-off event resulting in a large number of beach users on only one occasion is not sufficient evidence of a large number of bathers frequenting a site regularly. Therefore in the options put forward for the de-identification of bathing waters, the Department considers it appropriate to seek

evidence either that a site attracts a large number of bathers on at least one occasion across a survey period or a large number of beach users on more than one occasion across a survey period. Thus, if a bathing water retains its formal status on the basis of the presence of a large number of beach users on more than one occasion, there is evidence that a site regularly attracts a significant number of beach users and potential bathers.

Based on past research and usage trends observed by the Department, it is a reasonable expectation that identified bathing waters should attract greater than 50 beach users on at least 2 occasions out of a survey period of 8 survey dates. The Department also considers a recording of a large number of bathers (45) at a site across a survey period on any occasion to be sufficient evidence that a site is frequented regularly by bathers. Thus the Department has derived two options for de-identification based on these conclusions (Table 3A).

Under de-identification Option (a), identified bathing waters are assessed against meeting the desired criteria in terms of beach users alone. Any site which did not attract greater than 50 beach users on at least two occasions would be de-identified. As a result of this option, Carnlough would be de-identified.

Under de-identification Option (b), identified bathing waters are assessed against meeting the desired criteria in terms of beach users and bathers. Any site which did not attract greater than 50 beach users on at least two occasions or attract greater than 45 bathers on one occasion across the survey period would be de-identified. As a result of this option no current bathing waters would be de-identified.

Preferred Option for De-identification

The main difference between de-identification Options (a) and (b) is that Option (b) assesses the usage levels at identified bathing waters against criteria in terms of both beach users and bathers. Therefore if there is evidence that an identified site has been frequented by a large number of bathers on at least one occasion across a survey period, it will retain its status. For de-identification it provides more protection than Option (a) for the status of previously identified sites as a site can meet the criteria either in terms of number of bathers or the number of beach users.

The Department therefore favours de-identification **Option (b)** on the basis that the criteria outlined in this option strikes a reasonable balance between protecting the

status of currently identified bathing waters and targeting resources effectively and efficiently.

Options for Identification Criteria

Identification Options (a) and (b) are largely based on the approach proposed by the Department in the 2006 Review with regard to identification, i.e. candidate bathing waters at which the number of beach users was regularly greater than 100 or the number of bathers greater than 45 across the survey dates would be proposed for identification. As previously alluded to, because the Department has no evidence of past trends or a history of bathing at the candidate sites, the criteria in terms of the beach users threshold (100 rather than 50) is different to that used when considering sites for de-identification. As is the case when considering current bathing waters for de-identification, the Department considers it appropriate to seek evidence either that a candidate site attracts a large number of bathers on at least one occasion across a survey period or a large number of beach users on more than one occasion across a survey period. Thus, if a bathing water is formally identified on the basis of the presence of a large number of beach users on more than one occasion, there is evidence that a site regularly attracts a significant number of beach users and potential bathers.

Based on past research and usage trends observed by the Department, it is a reasonable expectation that candidate bathing waters should attract greater than 100 beach users on more than one occasion in a survey period (in this case 2 occasions out of 8 or 9 survey dates). The Department also considers a recording of a large number of bathers (45) at a candidate site across a survey period on any occasion to be sufficient evidence that the site is frequented regularly by bathers. Thus the Department has derived two options for identification based on these conclusions (Table 3B).

Under identification Option (a), candidate bathing waters are assessed against meeting the desired criteria in terms of number of bathers alone. Any site which attracted a large number of bathers (45) on at least one occasion would be identified. As a result of this option, Muckross Bay would be recommended for formal identification as an EU Bathing water.

Under identification Option (b), candidate bathing waters are assessed against

meeting the desired criteria in terms of beach users and bathers. Any site which attracted greater than 100 beach users on at least two occasions or attracted greater than 45 bathers on one occasion would be identified. As a result of this option Muckross Bay and Portballintrae (Runkerry Strand) would be recommended for formal identification as EU Bathing waters.

Preferred Option for Identification

While it could be argued that identification Option (a), in focusing solely on the number of people bathing at sites, stays true to the spirit of the rBWD, the Department does not favour this option for a number of reasons. The option doesn't take into account that 2009 and 2010 were relatively poor summers in terms of sunshine and temperature and though there were large numbers of beach users recorded at some sites on occasions, the bathing numbers were most likely affected by the overriding weather conditions. Identification Option (b) assesses the usage levels at candidate bathing waters against criteria in terms of both beach users and bathers. Therefore if there is evidence that a candidate site has been frequented by a large number of beach users on at least two occasions across a survey period, it will be formally identified. For candidate sites it provides more scope than Option (a) to achieve formal identification.

The Department therefore favours identification **Option (b)** on the basis that the criteria outlined in this option strikes a reasonable balance between ensuring that candidate bathing waters which are frequented regularly by a large number of people are formally identified while also targeting resources effectively and efficiently.

Overall, the adoption of the preferred options for identification and de-identification criteria (both Options (b)) would result in no current sites being de-identified and two new sites, Muckross Bay (Lower Lough Erne) and Portballintrae (Runkerry Strand), being recommended for formal identification as EU bathing waters.

7. Frequency of Review

The rBWD requires Member States to annually identify all bathing waters and to encourage public participation in the process of reviewing and updating the list of bathing waters. The rBWD, however, does not place any statutory requirement on Member States to perform formal reviews in relation to bathing water identification. It was proposed in the 2006 Review that a full review would be conducted in 2011 (the basis of this consultation document) and every four years thereafter, in keeping with the review periods under the Urban Waste Water Treatment and Nitrates Directives. The Department is minded, however, to reconsider how frequently formal reviews should be carried out and is seeking views on this issue.

Bathing water usage is unlikely to change significantly from one year to the next in Northern Ireland and, therefore, there is unlikely to be any value in conducting formal reviews too frequently. Considering that the provisions and standards of the rBWD and the Bathing Water Regulations will only fully be in effect from the 2016 bathing season onwards, the Department's view is that the most appropriate time for the next formal review of identified bathing waters in Northern Ireland would be 2017. At this time it should be possible to assess whether the new public information measures and monitoring of new standards being applied at bathing waters have had any impact in terms of usage levels. It is also the Department's view that the length of time between formal reviews should be extended to six years. **The Department is therefore proposing that the next formal review of identified bathing waters will take place in 2017 and every six years thereafter.**

This does not preclude interested parties from nominating a site for formal identification as a bathing water at any other time, subject to the nomination meeting the criteria outlined in Annex A. However, due to the expense incurred by the Department in performing surveys to assess usage and the most recent experience of very low usage observed at candidate waters it is necessary that the nominating body provides some initial evidence of usage at the site. Also, while nominations may be submitted at any time, it is not possible to add a site to the list of identified bathing waters during a bathing season nor until such time as the Department has verified the information received. **The Department is proposing that, if further sites are nominated by interested parties for identification as bathing waters, the information provided will be considered during the next review of bathing waters identification in Northern Ireland.**

This process should provide the nominating body with adequate time in which to gather evidence of usage at a site across bathing seasons and to ensure that appropriate facilities (see Annex A) are in place at the candidate site. It will also enable the Department to make changes to the list of identified bathing waters on a cyclical and consistent basis.

8. Summary of Consultation Proposals

In summary, the Department is proposing:

- to apply the selection criteria outlined in both Options (b) for identification and de-identification of bathing waters in Northern Ireland to the results of the usage surveys discussed in this review and going forward, with respect to future reviews of identification of bathing waters. Thus the Department will
 - recommend identification of a site (provided that bathing is explicitly authorised and not prohibited) as a bathing water where more than 45 bathers on at least one occasion or more than 100 beach users on at least two occasions have been recorded during a maximum of eight survey dates in up to two bathing seasons and
 - de-identify any bathing water which fails to attract more than 50 beach users on at least two occasions or more than 45 bathers on at least one occasion during a maximum of eight survey dates in up to two bathing seasons.

- in line with the above approach, to recommend formal identification of **Muckross Bay** and **Portballintrae (Runkerry Strand)** as EU Bathing waters, which would increase the number of bathing waters in Northern Ireland to 26.

- to alter the frequency at which future reviews and updating of the list of bathing waters in Northern Ireland takes place, with the next such review being carried out in 2017 and subsequent reviews taking place every 6 years thereafter.

Please note the Department is not seeking nominations for candidate new bathing waters in this consultation document.

The Department welcomes your views on these proposals

9. Mandatory Consultation Requirements

Human Rights Compatibility Statement

The Human Rights Act 1998 implements the European Convention on Human Rights. The 1998 Act makes it unlawful for any public authority to act in a way that is incompatible with these rights. Since the implementation of the Human Rights Act 1998, all legislation must be checked to ensure compliance with the European Convention Rights.

The Department considers that any amendments to the list of existing bathing waters as a result of this consultation are compatible with the Human Rights Act 1998.

Equality Impact Assessment

Section 75 of the Northern Ireland Act 1998 requires that public authorities have due regard to equality issues in carrying out functions relating to Northern Ireland. An equality impact screening of the proposals in this consultation paper to amend the list of bathing waters has been carried out; it has been concluded that there is no adverse impact for any of the 9 categories listed under section 75. Therefore, the Department does not consider a full Equality Impact Assessment to be necessary.

| | |
|-----------------|---|
| Question | Is there any evidence of higher or lower participation or uptake by different groups? |
| Answer | No. |
| Question | Is there any evidence that different groups have different needs, experiences, issues and priorities in relation to the particular policy? |
| Answer | No. |
| Question | Is there an opportunity to better promote equality of opportunity or better community relations by altering the policy or working with others in government of the community at large? |
| Answer | No. |
| Question | Have consultations with relevant groups, organisations or individuals indicated that particular policies create problems that are specific to them? |
| Answer | No. |

The Equality Commission will receive copies of this consultation document as part of

the consultation exercise. We will take into account any comments that the Commission might have.

Rural Proofing Statement

Rural proofing is a process to ensure that all relevant Government policies are examined carefully and objectively to determine whether or not they have a different impact in rural areas from that elsewhere, because of the particular characteristics of rural areas; and where necessary, what policy adjustments might be made to reflect rural needs and in particular to ensure that, as far as possible, public services are accessible on a fair basis to the rural community.

This paper contains the Department's proposal to review identification of Northern Ireland bathing waters under the rBWD, with which the UK has a legal obligation to comply. The proposed policy regularises the process of identification of bathing waters. The Bathing Water Regulations and rBWD place responsibilities on the Department and bathing water operators to maintain or improve water quality in order to meet standards required by both the existing and rBWD. Good water quality is likely to lead to increased recreational use and support for tourism, which in turn encourages the use of the coastal countryside and enhances the viability of rural businesses. The indirect impacts of the policy are therefore likely to be positive on the rural community.

Following the 2006 Review of Bathing Waters in Northern Ireland, eight new bathing waters were identified. Responses to the 2006 consultation did not highlight any concerns regarding negative impacts on rural communities of the proposed identifications and the Department has not received any feedback from the public or bathing water operators indicating that such impacts have occurred.

As the Department is recommending the identification of two new bathing waters in this consultation paper (which would increase the number of identified bathing waters in Northern Ireland to 26) the policy may have a positive impact on the economies and environment in the neighbouring rural areas and communities to these sites. There is no evidence that the identification of bathing waters will have a negative, disproportionate and non-equitable effect on these communities. Identification is a formal recognition that large numbers of bathers are already using the bathing

waters.

The Department will, of course, take into consideration any points raised by respondents to this consultation with respect to the impact of any decisions on bathing water identification on rural communities

ANNEX A

Criteria for Candidate Bathing Waters

1. Bathing must not be prohibited or inadvisable for reasons of safety.

2. In line with the Department's preferred option for usage criteria, usage at the candidate site should exceed a guide value of 45 bathers (excluding those participating in water sports) on one occasion or 100 beach users on two occasions within a maximum of 8 survey dates in up to two bathing seasons (usage figures will be verified by the Department). This may be reviewed when the responses to the consultation have been considered. If a site has been recommended for identification on the basis of usage numbers, the Department will enter into discussions with the bathing water operator in order to establish the extent to which other facilities are in place at the site and, if appropriate, how the other criteria below can be best achieved.

3. The nominating body/individual or Bathing Water Operator to provide a Bathing Water Management Plan for the proposed site which should sufficiently cover the provisions of the revised Bathing Water Directive. The plan should provide details of facilities at the site such as the following:-
 - specification of proposed signage and information provisions for the public. These provisions should cover both beach and bathing water quality
 - litter collection;
 - visitor/public safety;
 - site access;
 - toilet facilities;
 - car parks;
 - life guards;
 - markers indicating bathing areas;
 - first-aid service;
 - kiosks and shops, including mobile kiosks and shops;
 - changing facilities;
 - promotional material (leaflets, signs or website);

- history of bathing at the site;
 - references to the site being good for bathing in guide books; and
 - evidence the relevant authority or management body is actively seeking to support and promote bathing.
4. The nominating body/individual or Bathing Water Operator to produce initial usage survey of candidate bathing waters. Usage evidence should include photographic evidence of numbers of beach/bathing water users.
 5. The nominating body/individual or Bathing Water Operator to produce details of public/customer expectations of level of facilities at candidate site and plans to meet those requirements.

Annex B

Partial Regulatory Impact Assessment

Review of and consultation on the Identification of Bathing Waters in Northern Ireland 2011

Contents

1. Title of Proposal
2. Purpose and Intended Effect of Measure
 - (i) The Objective
 - (ii) The Background
 - (iii) Risk Assessment
3. Options and Explanation of Options
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10. Monitoring and Review
11. Consultation
12. Summary and Recommendation

1. Title of Proposal

The Review of and consultation on the Identification of Bathing Waters in Northern Ireland 2011

2. Purpose and Intended Effect of Measure

(i) The Objective

The Review of and consultation on the Identification of Bathing Waters in Northern Ireland (the review), issued by the Department of the Environment (the Department), invites views on a number of issues concerning the identification of bathing waters in Northern Ireland. In particular, views are invited on the following proposals from the Department:

- to set selection criteria for current and future identification (and de-identification) of bathing waters;
- based on one of four options (a combination of two de-identification options and two identification options) for selection criteria, and the result of bathing water usage surveys in 2009 and 2010, to formally identify and de-identify a number of bathing waters; and
- to alter the frequency at which future reviews and updating of the list of identified bathing waters in Northern Ireland is carried out.

This partial Regulatory Impact Assessment (pRIA) focuses specifically on the outcomes in terms of the identification and de-identification of bathing waters depending on which option for selection criteria is applied to the results of the bathing water usage surveys. The costs to business and the environment of altering the frequency at which formal reviews of bathing waters are carried out are considered neutral and are not considered in this pRIA.

(ii) The Background

The revised Bathing Water Directive (2006/7/EC) (rBWD) aims to improve the quality of water and level of protection for bathers at bathing waters across all Member States by helping the public to make more informed choices through provision of more detailed information about where to bathe. It was adopted by the European Parliament and the Council of the European Union in February 2006 and transposed in Northern Ireland through The Quality of Bathing Water Regulations (Northern

Ireland) 2008 (The Bathing Water Regulations).

In summary, the rBWD requires the Department to:

- annually identify bathing waters and provide a list of identified bathing waters to the European Commission;
- monitor, assess and classify bathing water quality at identified bathing waters;
- develop a system of bathing water profiles as a means of understanding risks to bathing water quality, which can then be used as a basis for the management of bathing waters; and
- encourage public participation in the implementation of the Directive, particularly in relation to the review and updating of the list of identified bathing waters.

In addition, the rBWD requires both the Department and bathing water operators to:

- undertake management measures in the event of specified pollution incidents; and
- provide appropriate, timely and standardised information to the public on bathing water quality

Member States are required to identify bathing waters where bathing is explicitly authorised by the competent authorities, or bathing is not prohibited and is traditionally practised by a “large number of bathers”. A large number of bathers has been defined in the rBWD as “a number that the competent authority considers to be large having regard, in particular, to past trends or to infrastructure or facilities provided, or measures taken, to promote bathing”.

The Department undertook a consultation exercise in 2006 entitled “Review of Identification of Northern Ireland Bathing Waters 2006” (the 2006 Review) to assess usage levels at bathing areas in Northern Ireland, and it was determined that a large number in relation to usage of bathing areas in Northern Ireland is considered to be over 100 beach users (as a guide). In the 2006 Review the Department also considered less than 50 beach users as a cut off guide value for considering sites for de-identification. Research undertaken for the 2006 Review indicated that 45% of beach users enter the water on all or some of their visits, therefore a large number in relation to bathing is considered to be over 45 bathers.

In the 2006 Review the Department made a commitment to conduct another formal review of identified bathing waters in Northern Ireland in 2011. There are currently 24 identified bathing waters in Northern Ireland. In preparation for the 2011 review, the Department wrote to local councils and environmental stakeholder groups in 2009 to advise them of a proposed survey to determine the levels of beach/bathing water usage and to seek nominations for new candidate bathing waters. The Department received nominations for 15 sites (listed on page 8 of the consultation document) as candidate bathing waters and usage surveys were carried out during the 2009 and 2010 bathing seasons at identified sites and at the 15 candidate sites. The number of bathers and the number of beach users were recorded at all of the sites across the survey dates and these two values are compared to different selection criteria to determine whether a candidate site has sufficient usage to be considered for recommendation for identification or whether an identified site has insufficient usage and thus should be de-identified.

This pRIA looks at potential costs and benefits associated with the outcomes resulting from this review in terms of the possible identification and de-identification of sites based on different selection criteria being applied to the number of bathers and beach users recorded during the surveys.

(iii) Risk Assessment

The revised Bathing Water Directive (2006/7/EC) (rBWD) aims to improve the quality of water and level of protection for bathers at bathing waters across all Member States. As previously mentioned, the rBWD requires Member States to encourage and ensure public participation in the process of establishing, reviewing and updating the list of bathing waters.

Without the Department conducting and involving the public in formal reviews and the process of identification of bathing waters in Northern Ireland, there is a possibility that the European Commission may perceive Northern Ireland as being non-compliant with elements of the revised Bathing Water Directive.

Also, while nominations for new identified sites can be made outside of a formal review process, there is a possibility that people may be reluctant or not minded to do so. The formal review process focuses attention specifically on the identification of bathing waters and aims to ensure that sites where bathing is commonly practised are identified, thus guaranteeing that monitoring of the water will be performed and the public informed about the bathing water quality.

3. pRIA Options and Explanation of pRIA Options

Two options for de-identification criteria and two options for identification criteria have been determined as a result of the review of Northern Ireland’s bathing waters and, for the purposes of this pRIA, the four different combinations of these options are compared to the ‘business as usual’ or ‘do nothing’ option – Option 5 - i.e. do not amend the current list of EU Bathing waters in Northern Ireland. Details on the different proposed options for the de-identification and identification criteria are provided below and an outline of the four possible different combinations of criteria and outcomes of these combined overall options (pRIA Options 1 – 4) are provided in Table 1.

Options for de-identification criteria of identified bathing waters

To prevent de-identification it should be demonstrated that a site has:

Option (a) > 50 beach users on at least two occasions;

Option (b) > 45 bathers on at least one occasion; or >50 beach users on at least two occasions

Options for identification criteria for candidate bathing waters

To achieve identification it should be demonstrated that a site has:

Option (a) >45 bathers on at least one occasion;

Option (b) >45 bathers on at least one occasion or >100 beach users on at least two occasions

Table 1: Explanation of pRIA Options 1-4

| pRIA Option | 1 | 2 | 3 | 4 |
|---|--|---|---|---|
| De-identification Criteria applied | (a) > 50 beach users on at least 2 occasions | (a) > 50 beach users on at least 2 occasions | (b) > 45 bathers on at least 1 occasion; or >50 beach users on at least 2 occasions | (b) > 45 bathers on at least 1 occasion; or >50 beach users on at least 2 occasions |
| Identification Criteria applied | (a) >45 bathers on at least 1 occasion | (b) >45 bathers on at least 1 occasion; or >100 beach users on at least 2 occasions | (a) >45 bathers on at least 1 occasion | (b) >45 bathers on at least 1 occasion; or >100 beach users on at least 2 occasions |
| Outcome | <i>1 site (Carnlough) de-identified; 1 site (Muckross Bay) identified.</i> | <i>1 site (Carnlough) de-identified; 2 sites (Muckross Bay & PortBallintrae (Runkerry Strand)) identified</i> | <i>No sites de-identified; 1 site (Muckross Bay) identified</i> | <i>No sites de-identified; 2 sites (Muckross Bay & PortBallintrae (Runkerry Strand)) identified</i> |

4. Costs

pRIA Options 1 - 4

The purpose of the rBWD and the Bathing Water Regulations is to preserve, protect and improve the quality of the environment and to protect human health through helping the public to make more informed choices about where to bathe through provision of more detailed information about water quality at bathing waters. There will be a requirement and responsibility to try and ensure that water quality at any newly identified site meets the standards as set out in the rBWD. To help ensure that these standards are met it is necessary to minimise pollution entering the water at these sites. For example, it is essential that wastewater treatment works near to the sites are functioning effectively as well as ensuring that the impact of diffuse pollution on water quality is minimised. While the Department does not have any information regarding the current microbiological water quality (for bathing) at the candidate sites, potentially, there could be a responsibility on and associated costs for Northern Ireland Water (NI Water), agriculture and other industries to invest in infrastructure and implement improved working practices nearby to these sites in order to reduce the potential impact of pollution.

However, it is important to emphasise that while The Bathing Water Regulations require compliance with bacteriological standards by 2015, the Regulations do not set out the measures by which this shall be achieved. These are set by other existing Regulations - for example, The Urban Waste Water Treatment Regulations (Northern Ireland) 2007 (as amended) and the Nitrates Action Programme Regulations (Northern Ireland) 2010. This pRIA therefore makes no reference to the costs associated with the application of other regulatory measures. The Department also considers that the added impact of the Water Framework Directive should help to ensure that measures are in place to combat negative impacts on bathing waters. The Department has therefore not tried to estimate or quantify any potential costs falling on NI Water, agriculture or industry as a result of implementing pRIA Options 1-4 but welcomes any comments or information that consultees can provide in relation to these.

The specific groups/bodies that will incur costs in relation to pRIA Options 1 to 4 are very similar and will be considered together.

Bathing Water Operators at newly identified sites

A key aspect to the rBWD is the introduction of standardised information to the public on the quality of water at identified bathing waters. There will therefore be a requirement on the operators of new sites to ensure that bathers are informed about the quality of the bathing water, and for removing litter and other waste within the identified area. However, it is possible that systems in terms of the removal of waste are already in place at candidate sites and thus there may not be an additional burden on the operators of any newly identified bathing waters. Whilst the initial cost of signage may vary between identified bathing waters (and depend on the type of signage already in place), based on feedback from bathing water operators and the Department for Environment, Food and Rural Affairs (DEFRA), the Department estimates the potential maximum costs for the newly identified sites to be £2,000 each.

There will be a recurring cost associated with general “wear and tear” on signage, the cost ultimately being determined by the number of signs in place, the extent of their exposure to the elements and the type of material from which they are constructed. The costs will vary across the bathing water sites. There is also a specific public information requirement in the rBWD to provide information on the internet. The responsibility to do this falls to NIEA, therefore there will be no costs falling on the bathing water operators in this regard.

The Department estimates the overall costs for bathing water operators at newly identified sites to be £2,000 per site for new signage and additional annual running costs (wear and tear of signage and increased standards of litter removal) of £500.

Local Business

In terms of local businesses in areas where sites would be newly identified as bathing waters under pRIA Options 1-4, there could be potential costs (for example for farms and caravan parks) in relation to the possible need for investment in improved wastewater management systems and working practices, should it be proven that the current systems are impacting on the nearby bathing water. In particular, diffuse pollution can have a negative impact on the standard of nearby bathing waters and the impact and source of such pollution may be picked up during monitoring which would take place at any new identified bathing water. However, as noted previously, the Department does not have any data on the current microbiological water quality at the candidate bathing waters, therefore it is not clear

whether the candidate waters are being impacted on by the practices of local business and thus it has not tried to estimate these costs. Nonetheless it is important to recognise that there may in the future be some costs arising for local businesses as a result of a bathing water being identified.

Under pRIA Options 1 and 2, one bathing water (Carnlough) would lose its status as an identified EU bathing water. The water quality recorded at this site in the past two bathing seasons has generally been good to excellent. The Department therefore believes that regular local users of the site will continue to consistently use the site as there are no issues around water quality. The reason for the de-identification of the site would be solely based on the low numbers of users.

There is, however, a possibility that negative publicity in relation to the de-identification of the site (and subsequently an incorrect perception that this is in relation to the water quality at the site) could potentially dissuade some people from further away travelling to and frequenting the site and, instead, choosing to go to other identified EU waters. The Department is aware that the presence of identified bathing waters in an area may attract extra visitors and tourists. It is therefore possible that the loss of formal identification for a bathing water could impact negatively on local tourism in the area, particularly during the summer months. Studies in other parts of the UK on the benefits of beach awards have estimated that on average a person visiting a beach spends £3.33 per visit⁴. This figure does not take into consideration other potential increased revenue from persons holidaying in areas in the vicinity of the identified bathing water, so potentially the overall loss to the local area could be significant. However, as the Department does not have any available data or statistics to measure the impact in terms of reduced numbers of people visiting a bathing area and thus the subsequent cost to the local economy, it has not tried to quantify this cost. It is also important to emphasise again that the primary motivation and purpose of the rBWD and The Bathing Water Regulations is the protection of health of existing bathers, through improved provision of information and more stringent standards for classification, and not the economic costs or benefits in terms of tourism.

⁴ Keep Scotland Beautiful (2004) Beach Award Report

pRIA Option 5: *Do nothing*

Under this option there would be no additional cost to the public purse.

The specific quantifiable costs attributed to each option are summarised in table 2.

Table 2: Specific quantifiable Costs associated with pRIA Options 1-5

| pRIA Option | 1 | 2 | 3 | 4 | 5 |
|---|--|--|--|--|-----|
| Change in number of identified bathing waters (compared to current 24) | 0 | +1 | +1 | +2 | n/a |
| Costs | | | | | |
| Bathing Water Operators | No additional annual costs* | £500 per annum plus one off costs of £2,000 | £500 per annum plus one off costs of £2,000 | £1,000 per annum plus one off costs of £4,000* | n/a |
| Local Business | Potential costs to business not quantifiable | Potential costs to business not quantifiable | Potential costs to business not quantifiable | Potential costs to business not quantifiable | n/a |

5. Other costs

Costs to Government

Should the number of identified bathing waters in Northern Ireland be increased, additional costs in relation to the sampling and analysis of bathing waters will be incurred by the Northern Ireland Environment Agency (NIEA). The rBWD requires NIEA to monitor, assess and classify bathing waters under a range of different parameters and to compile a profile for each identified bathing water, which will inform the public about any potential risks to health. NIEA currently performs sampling at identified bathing sites on 20 occasions across the bathing season. Further costs of undertaking bathing water monitoring, laboratory analysis and dissemination of results in accordance with the requirements of the rBWD for additional sites on 20 occasions across the bathing season will, therefore, fall to NIEA.

The Department estimates the costs per additional site per year to be in the region of

£1,000 and has used this figure to estimate the costs to government of implementing pRIA Options 1-4 (Table 3). It should be noted, however, that if the number of bathing waters was to increase or decrease significantly at any future stage, the likely impact on the overall overheads for NIEA in operating the monitoring/analysis system could be significant.

There will also be additional one-off costs for NIEA, associated with establishing profiles and performing characterisation surveys at newly identified bathing waters. These one-off costs are estimated to be £2,000.

Table 3: Costs for Government

| pRIA Option | Cost to Government |
|--------------------|---|
| 1 | No additional annual costs. One off costs of £2,000 |
| 2 | £1,000 pa & one off costs of £4,000 |
| 3 | £1,000 pa & one off costs of £2,000 |
| 4 | £2,000 pa & one off costs of £4,000 |

With regard to pRIA Option 1 the number of overall bathing waters in Northern Ireland would remain the same. There will therefore be no additional annual costs for NIEA as a result of this pRIA option, however there will still be some one off costs associated with establishing the profile and performing characterisation surveys at the newly identified bathing water. As profiles have already been established for the 24 current bathing waters, there would not be a saving for NIEA in terms of costs associated with establishing the profiles for any current bathing waters which would be de-identified as a result of these pRIA options.

6. Benefits

pRIA Options 1 to 4

The benefits attributed to pRIA Options 1 to 4 are similar and will be considered together.

The main benefits attributed to pRIA Options 1 to 4 will be the potential benefits for the candidate sites becoming formally identified including those associated with the protection of human health of existing bathers, through increased provision of information about water quality at bathing waters and thus an ability to make more

informed choices of where and when to bathe, and the recreation and tourism benefits. Water quality at each of the newly identified sites will be monitored and, where appropriate and proportionate, measures put in place to ensure compliance with the rBWD standards. Information on the water quality at any newly identified site will be provided both at the site and on the internet. There will therefore be benefits from this information in terms of the protection of health for bathers at these bathing areas. It is difficult to quantify these benefits in monetary terms.

It is also possible that the impact of formal identification and improvements to water quality may have a positive effect on attracting more visitors to these areas which will have a knock-on effect on business and tourism in these areas. It must be remembered that the reason a beach is considered for formal identification is that there is already a presence of a large number of bathers during the bathing season. Nevertheless, evidence suggests that the presence of an award at a beach is a contributory factor towards its attractiveness as an area for people to visit. It is therefore likely that a person would be more inclined to visit an identified bathing water as opposed to a bathing water which has not been formally identified. Studies in other parts of the UK on the benefits of beach awards have estimated that on average a person visiting a beach spends £3.33 per visit⁵. However, it is very difficult to estimate how many extra people will visit an area due to a beach becoming formally identified. It is also likely to be the case that the impact in terms of increased visitor numbers will be greater at some sites than others. The spend per person figure does not take into consideration other potential benefits such as increased revenue from people holidaying in areas in the vicinity of identified bathing waters. As the Department does not have any available data or statistics to measure the impact in terms of increased numbers of people visiting a bathing water, it has not tried to quantify this benefit.

Both pRIA Options 1 and 2 would result in a current bathing water being de-identified due to low usage levels and so another perceived benefit of these options could be that public resources would be more appropriately targeted. NIEA would, therefore, be able to focus its resources on sites which are regularly used and would on average save £1,000 per year through not having to perform sampling and monitoring at the de-identified site.

Identified potential qualitative and economic benefits of pRIA Options 1 to 4 are

summarised in table 4.

Table 4: Summary of benefits

| Benefit Category | Nature of Benefits |
|--|--|
| Human health (all pRIA options) | Reduction in risk of exposure to potentially poor water quality at bathing sites |
| Biodiversity / ecosystem health (all pRIA options) | Protection and enhancement of biodiversity and ecosystem health at bathing waters and adjacent habitats. |
| Recreation and tourism (all pRIA options) | Improved water quality leading to greater use of recreational and tourist facilities with associated increased revenue in mainly rural areas |
| Appropriate use of public resources (pRIA Options 1 & 2) | Only sites which are regularly frequented by a large number of people will be monitored |

pRIA Option 5

There will be no increased benefits as a result of this pRIA option being adopted.

7. Business Sectors Affected

Business sectors identified as potentially affected by the proposals in pRIA Options 1- 4 are:

- Water Industry (Northern Ireland Water)
- Bathing water operators
- Local shops and businesses (in the vicinity of bathing water sites)
- Tourist accommodation

8. Small Firms Impact Test

A small business is defined as having fewer than 50 employees, and no more than 25% of the business owned by another enterprise (which is not a small business): and either less than £4.4 million annual turnover; or less than £3.18 million annual

balance sheet total.

There may be opportunities arising for small businesses in the areas surrounding any newly identified sites. It is possible that usage of the bathing areas will increase, leading to potential benefits for local small businesses such as shops, hotels, caravan sites, bed and breakfast establishments, cafes, restaurants, watersports activity and equipment hire companies. Conversely if the Department makes a decision to de-identify any bathing waters, then small businesses in the surrounding areas may suffer from decreasing revenue during the bathing season.

9. Enforcement and Sanctions

The Bathing Water Regulations make provision for circumstances in which NIEA (as the regulator) becomes aware that a bathing water operator has failed in its duty under the Regulations. NIEA is able to serve a notice on an operator requiring it to comply with its obligations, and can specify the date by which the measures must be taken. NIEA may also perform the measures that the bathing water operator was required to do and recover from the bathing water operator any costs or expenses that it incurs in doing so. The Bathing Water Regulations also make it an offence for any person to fail to comply with a notice served on them requiring them to provide the Department with information it requires in carrying out its functions under the Regulations.

10. Monitoring and Review

In the 2006 Review, it was proposed that formal reviews of identified bathing waters in Northern Ireland would take place every 4 years from 2011. However, as part of the review of and consultation on the identification of bathing waters in Northern Ireland 2011, the Department has proposed to lengthen the period of time between reviews to six years, with the next review being in 2017. The Department will consider responses from the public in relation to the frequency of reviews before making a final decision on when the next review should take place.

11. Consultation

This partial RIA forms part of the Department’s formal consultation process with key stakeholders and the general public on the implications of the proposed amendments to the formal list of identified bathing waters in Northern Ireland.

12. Summary and Recommendation

The total estimated costs, for the bathing water operators and government, associated with these pRIA options are summarised in Table 5. As highlighted previously, the costs and benefits in terms of increased tourism have not been estimated for the options.

Table 5: Costs associated with all the pRIA Options

| Description of Costs | Costs |
|----------------------------------|---|
| pRIA Option 1 | |
| Costs to Bathing Water Operators | No additional costs |
| Costs to Government | No additional annual costs & one-off costs of £2,000 |
| pRIA Option 2 | |
| Costs to Bathing Water Operators | £500 per year & one-off costs of £2,000 |
| Costs to Government | £1,000 per year & one-off costs of £4,000 |
| pRIA Option 3 | |
| Costs to Bathing Water Operators | £500 per year & one-off costs of £2,000 |
| Costs to Government | £1,000 per year & one-off costs of £2,000 |
| pRIA Option 4 | |
| Costs to Bathing Water Operators | £1,000 per year & one-off costs of £4,000 |
| Costs to Government | £2,000 per year One-off costs of £4,000 |
| pRIA Option 5 | |
| Costs to Bathing Water Operators | n/a |
| Costs to Government | n/a |

Table 6 summarises the Total Net Present Costs over 10 years, using a 3.5% discount rate.

Table 6: Total Net Present Costs associated with pRIA Options 1-4

| pRIA Option | Estimated NPC* |
|-------------|----------------|
| 1 | £2,000 |
| 2 | £18,912 |
| 3 | £16,912 |
| 4 | £33,823 |

pRIA Option 5: *Do nothing or business as usual scenario*

pRIA Option 5 would retain the status quo in terms of the current list of identified bathing waters in Northern Ireland and thus would not result in any additional sampling/monitoring costs for NIEA. However, having undertaken the usage surveys in 2009 and 2010 at both candidate sites and identified sites, the Department has identified four pRIA options in terms of analysing the results and does not consider ‘do nothing’ as a viable option. The do-nothing approach could only have been considered logical if the results in terms of bather/beach user numbers recorded at **all** of the identified bathing waters were significantly higher than the results recorded at **all** of the candidate sites. This was not the case.

For these reasons, pRIA Option 5 is not recommended.

pRIA Options 1 and 2

pRIA Options 1 and 2 would result in one identified bathing water (Carnlough) being recommended for de-identification, on the basis that it did not meet the threshold for beach users on more than one occasion across the survey period. However Carnlough did meet the bathing threshold, which past trends have shown to be the more difficult threshold to achieve, on one occasion across the survey period. While the Department does not intend to formally retain or identify sites where the number of bathers/beach users is very low, it will take into consideration past trends showing a history of bathing and the facilities and infrastructure in place to encourage bathing at sites. Under both pRIA options a bathing water where there is a tradition of bathing and where the operator has put in place such facilities would be de-identified. While this may save money in terms of the associated monitoring and sampling of this site, there are both potential monetary and environmental costs for

Carnlough, and potentially other sites in future reviews, associated with implementing either pRIA option. While it has not been possible to quantify such costs the Department considers that the negative impact of both pRIA options could be significant. The Department proposes to retain the formal status of any site, at which there has been evidence of a large number of people bathing in the water on at least one occasion across a survey period. For this reason pRIA Options 1 and 2 are not favoured by the Department.

pRIA Options 3 and 4

pRIA Options 1 and 2 have not been favoured by the Department on the basis that they do not retain the status for identified bathing waters where there has been evidence of a large number of people bathing. The Department considers that pRIA Options 3 and 4, which both apply the same approach to de-identification, do retain the status of previously identified sites as a site can meet the criteria either in terms of number of bathers or the number of beach users. This approach to de-identification strikes a reasonable balance between retaining the status of currently identified bathing waters and targeting resources effectively and efficiently.

In terms of identifying candidate sites as bathing waters, pRIA Options 3 and 4 apply slightly different approaches and thus have different outcomes. While it could be argued that pRIA Option 3, in focusing solely on the number of people bathing when considering sites for identification, stays true to the spirit of the rBWD, the Department does not favour this pRIA option. pRIA Option 3 does not take into account that 2009 and 2010 were relatively poor summers in terms of sunshine and high temperatures and though there were large numbers of beach users recorded at some sites on occasions, the bathing numbers were most likely affected by the overriding weather conditions. pRIA Option 4 assesses the usage levels at candidate bathing waters against criteria in terms of both beach users and bathers. Therefore if there is evidence that a candidate site has been frequented by a large number of beach users on at least two occasions across a survey period, it will be recommended for formal identification. For candidate sites it provides more scope than pRIA Option 3 to achieve formal identification. While the costs for pRIA Option 4 are slightly higher than that for the other pRIA options, the Department believes that the increased environmental and health benefits for users of two new identified sites and the added protection for current identified bathing waters, where there has previously been evidence of bathing being traditionally practised, outweigh the costs.

Having considered all of the pRIA options, the Department therefore considers **pRIA Option 4** to be the most effective and fair approach. The criteria outlined in this option for both de-identification and identification strikes a reasonable balance between ensuring that candidate bathing waters which are frequented regularly by a large number of people are formally identified while also targeting resources effectively and efficiently at bathing waters which are used consistently by the public. **pRIA Option 4 is therefore the Department's preferred option.**

Public Views

The Departments welcome any views on this partial Regulatory Impact Assessment during this consultation phase. In particular:

- 1. Do you agree with the Departments' assessment of possible pRIA options and recommendation?*
- 2. Can you provide evidence to support any alternative view or provide further data in order to gain an estimate of potential costs and/or benefits of amending the list of bathing waters?*
- 3. The Departments welcome any views on the Small Firms Impact Test during this consultation process.*

ANNEX C

Current List of Identified Bathing Waters

- Ballycastle
- Ballygally
- Ballyholme
- Ballywalter
- Browns Bay
- Carnlough
- Castlerock
- Cranfield Bay
- Cranfield (Nicholson's Strand)
- Crawfordsburn
- Groomsport
- Helen's Bay
- Magilligan (Benone)
- Magilligan (Downhill)
- Millisle
- Murlough
- Newcastle Co. Down
- Portballintrae (Salmon Rock)
- Portrush (Curran) East
- Portrush (Mill)
- Portrush (Whiterocks)
- Portstewart
- Tyrella
- Waterfoot

ANNEX D - Summary of 2009/2010 Usage Survey Results

Table 1: Bathing Water Usage Results- 2009 (DNS = Did not survey)

| 2009 Results | | | | | | | | | | |
|----------------------------------|---------------|----------------|---------------|----------------|---------------|----------------|---------------|----------------|---------------|----------------|
| | 18-Jul | | 25-Jul | | 08-Aug | | 16-Aug | | 12-Sep | |
| | No of bathers | Total on Beach | No of bathers | Total on Beach | No of bathers | Total on Beach | No of bathers | Total on Beach | No of bathers | Total on Beach |
| Identified Sites | | | | | | | | | | |
| Ballycastle | DNS | DNS | 105 | 120 | 17 | 98 | 2 | 19 | 5 | 65 |
| Ballygally | DNS | DNS | 4 | 22 | 16 | 33 | 3 | 4 | 21 | 51 |
| Ballyholme | 0 | 28 | 2 | 62 | DNS | DNS | 10 | 270 | 2 | 41 |
| Ballywalter | 0 | 20 | 12 | 89 | DNS | DNS | 4 | 32 | 9 | 53 |
| Brown's Bay | 5 | 76 | 25 | 155 | DNS | DNS | 9 | 85 | 56 | 206+ |
| Carnlough | DNS | DNS | 0 | 15 | 4 | 10 | 0 | 4 | 8 | 21 |
| Castlerock | 9 | 69 | 41 | 239 | DNS | DNS | 2 | 46 | 2 | 58 |
| Cranfield | 8 | 54 | >130 | >150 | DNS | DNS | 0 | 28 | 45+ | 145+ |
| Cranfield (Nicholson's Strand) | 31 | 34 | 36 | 43 | DNS | DNS | 0 | 6 | 11 | 111+ |
| Crawfordsburn | 0 | 10 | 0 | 102 | DNS | DNS | 10 | 270 | 5 | 87 |
| Groomspoint | 3 | 19 | 14 | 87 | DNS | DNS | 0 | >100 | 0 | 20 |
| Helen's Bay | 0 | 5 | 0 | 35 | DNS | DNS | 20 | 120 | 4 | 0 |
| Magilligan (Benone) | 6 | 145 | 79 | 771 | DNS | DNS | 12 | 119 | 0 | 18 |
| Magilligan (Downhill) | 1 | 64 | 28 | >228 | DNS | DNS | 5 | 54 | 0 | 13 |
| Millisle | 3 | 20 | 31 | 116 | DNS | DNS | 8 | 45 | 7 | 78 |
| Murlough Co. Down | 0 | 9 | 3 | 40 | DNS | DNS | 0 | 61 | 45+ | 145+ |
| Newcastle Co. Down | 5 | 72 | 0 | 62 | DNS | DNS | 2 | 60 | 45+ | 145+ |
| Portballintrae (Salmon Rock) | DNS | DNS | 9 | 149 | 20 | 68 | 0 | 7 | 10 | 80 |
| Portrush (Curran Strand) | 10 | 134 | 27 | 194 | DNS | DNS | 10 | 125 | 56 | 196 |
| Portrush (Mill West) | 10 | 155 | 19 | 195 | DNS | DNS | 6 | 100 | 23 | 153 |
| Portrush (Whiterocks) | 12 | 110 | 19 | 137 | DNS | DNS | 9 | 138 | 23 | 103 |
| Portstewart | 4 | 216 | 52 | >552 | DNS | DNS | 15 | 223 | 10 | 160+ |
| Tyrella | 0 | 7 | 12 | 90 | DNS | DNS | 0 | 8 | 0 | 12 |
| Waterfoot | DNS | DNS | 0 | 17 | 1 | 18 | 0 | 8 | 34 | 71 |
| Candidate Sites | | | | | | | | | | |
| Ballyhornan | 0 | 5 | 0 | 6 | 0 | 7 | 0 | 3 | 0 | 14 |
| Ballyronan | 0 | 0 | 0 | 0 | 0 | 15 | 0 | 22 | 4 | 9 |
| Cloughey Beach | 0 | 0 | 15 | 57 | 2 | 19 | 3 | 24 | 5 | 58 |
| Coleraine Marina | 0 | 0 | 0 | 0 | 1 | 2 | 0 | 0 | 0 | 0 |
| Drains Bay | DNS | DNS | 0 | 11 | 4 | 10 | 0 | 3 | 4 | 15 |
| Drumaheglis | 0 | 0 | 0 | 0 | 6 | 23 | 0 | 0 | 0 | 0 |
| Kinnego | 0 | 5 | 0 | 0 | 0 | 8 | 0 | 11 | 0 | 21 |
| Minerstown | 0 | 7 | 0 | 10 | 0 | 4 | 0 | 2 | 0 | 15 |
| Muckross Bay | 0 | 6 | 5 | 25 | 5 | 11 | 3 | 11 | 8 | 49 |
| Newferry | 0 | 0 | 0 | 0 | 0 | 8 | 0 | 0 | 0 | 0 |
| Portballintrae (Runkerry Strand) | DNS | DNS | 20 | 142 | 5 | 42 | 2 | 8 | 2 | 27 |
| Portmuck | 0 | 9 | 18 | 58 | 6 | 7 | 0 | 55 | 7 | 30 |
| Rossglass | 0 | 3 | 0 | 1 | 0 | 0 | 0 | 5 | 0 | 8 |
| The Battery | 0 | 0 | 0 | 0 | 0 | 3 | 0 | 0 | 0 | 0 |
| The Cutts | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |

Table 2: Bathing Water Usage Results 2010

| 2010 Results | | | | | | | | |
|----------------------------------|----------------------|-----------------------|----------------------|-----------------------|----------------------|-----------------------|----------------------|-----------------------|
| | 17-Jul | | 01-Aug | | 15-Aug | | 28-Aug | |
| | No of bathers | Total on Beach | No of bathers | Total on Beach | No of bathers | Total on Beach | No of bathers | Total on Beach |
| Identified Sites | | | | | | | | |
| Ballycastle | 11 | 82 | 5 | 46 | 13 | 122 | 0 | 6 |
| Ballygally | 3 | 10 | 0 | 36 | 19 | 51 | 0 | 1 |
| Ballyholme | 3 | 36 | 0 | 13 | 16 | 125 | 0 | 31 |
| Ballywalter | 0 | 13 | 5 | 28 | 14 | 62 | 0 | 9 |
| Brown's Bay | 0 | 2 | 3 | 10 | 108 | 538 | 0 | 6 |
| Carnlough | 0 | 3 | 50 | >250 | 18 | 49 | 0 | 1 |
| Castlerock | 0 | 22 | 4 | 62 | 116 | 416+ | 0 | 15 |
| Cranfield | 6 | 41 | 2 | 19 | 30 | 152 | 0 | 27 |
| Cranfield (Nicholson's Strand) | 2 | 8 | 1 | 8 | 32 | 160 | 7 | 42 |
| Crawfordsburn | 0 | 34 | 7 | 37 | 98 | 436 | 4 | 17 |
| Groomsport | 4 | 22 | 6 | 30 | 11 | 101 | 6 | 23 |
| Helen's Bay | 0 | 7 | 7 | 27 | 68 | 331 | 0 | 7 |
| Magilligan (Benone) | 22 | 78 | 18 | 126 | 100+ | 450+ | 0 | 28 |
| Magilligan (Downhill) | 0 | 17 | 5 | 111 | 90+ | 340+ | 0 | 9 |
| Millisle | 0 | 13 | 0 | 12 | 3 | 8 | 0 | 8 |
| Murlough Co. Down | 15 | 77 | 18 | 64 | 90 | 1040 | 5 | 76 |
| Newcastle Co. Down | 18 | 76 | 11 | 50 | 30 | 220 | 7 | 73 |
| Portballintrae (Salmon Rock) | 28 | 103 | 4 | 36 | 58 | 160 | 0 | 2 |
| Tyrella | 4 | 22 | 6 | 25 | 38 | 173 | 7 | 50 |
| Waterfoot | 1 | 33 | 0 | 41 | 18 | 120 | 0 | 6 |
| Candidate Sites | | | | | | | | |
| Ballyhornan | 0 | 11 | 0 | 25 | 25 | 102 | 2 | 14 |
| Ballyronan | 0 | 16 | 1 | 9 | 5 | 67 | 0 | 45 |
| Cloughey Beach | 0 | 5 | 0 | 2 | 12 | 71 | 0 | 6 |
| Coleraine Marina | 0 | 8 | 0 | 0 | 0 | 0 | 0 | 0 |
| Drains Bay | 0 | 12 | 0 | 6 | 9 | 45 | 0 | 2 |
| Drumaheglis | 0 | 0 | 0 | 0 | 0 | 28 | 0 | 10 |
| Kinnego | 0 | 0 | 0 | 0 | 2 | >102 | 0 | 14 |
| Minerstown | 0 | 15 | 0 | 17 | 35 | 120 | 0 | 4 |
| Muckcross Bay | 7 | 28 | 43 | 85 | 77 | 182 | 2 | 40 |
| Newferry | 0 | 0 | 0 | 0 | 1 | 15 | 0 | 10 |
| Portballintrae (Runkerry Strand) | 6 | 43 | 0 | 26 | 21 | 124 | 0 | 65 |
| Portmuck | 0 | 0 | 1 | 7 | 28 | 160 | 0 | 4 |
| Rossglass | 0 | 0 | 0 | 14 | 8 | 30 | 0 | 7 |
| The Battery | 0 | 0 | 0 | 0 | 11 | 68 | 0 | 9 |
| The Cutts | 0 | 28 | 0 | 8 | 2 | 51 | 0 | 0 |

Table 3: Summary Information for all of the sites 2009/2010

| Name | Average Bathers | Maximum Bathers | Average Beach Users | Max Beach Users |
|----------------------------------|-----------------|-----------------|---------------------|-----------------|
| Identified Sites | | | | |
| Ballycastle | 20 | 105 | 70 | 122 |
| Ballygally | 8 | 21 | 26 | 51 |
| Ballyholme | 4 | 16 | 76 | 270 |
| Ballywalter | 6 | 14 | 38 | 89 |
| Brown's Bay | 26 | 108 | 135 | 206 |
| Carnlough | 10 | 50 | 44 | 250 |
| Castlerock | 22 | 116 | 116 | 416 |
| Cranfield | 28 | 130 | 77 | 152 |
| Cranfield (Nicholson's Strand) | 15 | 36 | 63 | 160 |
| Crawfordsburn | 16 | 98 | 124 | 436 |
| Groomsport | 6 | 14 | 50 | 101 |
| Helen's Bay | 12 | 68 | 98 | 370 |
| Magilligan (Benone) | 30 | 100 | 217 | 771 |
| Magilligan (Downhill) | 16 | 90 | 105 | 340 |
| Millisle | 7 | 31 | 38 | 116 |
| Murlough Co. Down | 22 | 90 | 189 | 1040 |
| Newcastle Co. Down | 15 | 45 | 95 | 220 |
| Portballintrae (Salmon Rock) | 16 | 58 | 76 | 160 |
| Portrush (Curran) East | 26 | 56 | 162 | 196 |
| Portrush (Mill) West | 15 | 23 | 151 | 195 |
| Portrush (Whiterocks) | 16 | 23 | 122 | 138 |
| Portstewart | 20 | 52 | 288 | 552 |
| Tyrella | 8 | 38 | 48 | 173 |
| Waterfoot | 7 | 34 | 39 | 120 |
| Candidate Sites | | | | |
| Ballyhornan | 3 | 25 | 21 | 102 |
| Ballyronan | 1 | 5 | 20 | 67 |
| Cloughey Beach | 4 | 15 | 27 | 71 |
| Coleraine Marina | 0 | 1 | 1 | 8 |
| Drains Bay | 2 | 9 | 13 | 45 |
| Drumaheglis | 1 | 6 | 7 | 28 |
| Kinnego | 0 | 2 | 18 | 102 |
| Minerstown | 4 | 35 | 22 | 120 |
| Muckross Bay | 17 | 77 | 49 | 182 |
| Newferry | 0 | 1 | 4 | 15 |
| Portballintrae (Runkerry Strand) | 7 | 21 | 60 | 124 |
| Portmuck | 7 | 28 | 37 | 160 |
| Rossglass | 1 | 8 | 8 | 30 |
| The Battery | 1 | 11 | 9 | 68 |
| The Cutts | 0 | 2 | 10 | 51 |

Annex E

List of Consultees

| | |
|---|---|
| Activities Ireland Attorney General Belfast Solicitors Association British Library Bryson Charitable Group Catholic Bishops of NI Chartered Institute of Environmental Health NI Children's Law Centre Civil Law Reform Division Community Places Community Relations Council Confederation of British Industry NI Council for Nature Conservation and the Countryside Countryside Alliance Cranfield Caravan Park Disability Action District Councils District Judge – Magistrates' Court Education and Library Boards Environment Committee of the NI Assembly Environment and Planning Law Association of NI Environmental Health Groups Equality Commission for NI Equality Forum NI Executive Council of the Inn of Court of NI Federation of Small Businesses NI Friends of the Earth HM Council of County Court Judges Human Rights Commission Law Centre NI Law Society of NI MLAs | Mourne Heritage Trust National Library of Ireland National Trust Newcastle Harbour Regeneration Association NIC/ICTU NIPSA NI Amenity Council NI Chamber of Commerce and Industry NI Chief Environmental Health Officers' Group (CEHOG) NI Council for Voluntary Action NI Court Service NI Environment Link NI Judicial Appointments Commission NI Law Commission NI Local Government Association (NILGA) NI MEPs NI MPs NI Ombudsman NI Political Parties NI Tourist Board The Outdoor Swimming Society Participation and the Practice of Rights Project Queens University Belfast, School of Law Royal National Institute for Deaf People Royal National Institute of Blind People SixMile Water Trust Society of Local Authority Chief Executives (SOLACE) Surfers Against Sewage Swim Ulster Ltd Tidy Northern Ireland Ulster Wildlife Trust University of Ulster, School of Law Woodland Trust NI Youthnet |
|---|---|