

**Environment, Marine & Fisheries  
Group**  
Marine & Fisheries Division



Department of  
**Agriculture, Environment  
and Rural Affairs**

An Roinn

**Talmhaíochta, Comhshaoil  
agus Gnóthaí Tuaithe**

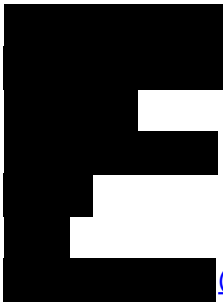
Department o'

**Fairmin, Environment  
an' Kintra Matthers**

[www.daera-ni.gov.uk](http://www.daera-ni.gov.uk)

Your reference: **Copies of the 2 PDFs (Project Plan and Bid) shown in the Phase 1 Agreement at Section 3, and copies of the 2 PDFs (Project Plan and Phase 2 application) shown in the Phase 2 Agreement at Section 3.**

Our reference: **DAERA/26-243**



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28<sup>th</sup> April 2026

Dear [redacted]

### **Environmental Information Regulations 2004**

I refer to your request for information received by the Department on 6<sup>th</sup> April 2026 that sought the following information:

Copies of the 2 PDFs (Project Plan and Bid) shown in the Phase 1 Agreement at Section 3, and copies of the 2 PDFs (Project Plan and Phase 2 application) shown in the Phase 2 Agreement at Section 3.

I can advise that the Department has completed its search and can confirm that it holds the information you requested.

The information held, which has been redacted, accompanies this letter.

The Department has decided to withhold the information requested under Environmental Information Regulation **12(5)(d)** which states:

*a public authority may refuse to disclose information to the extent that its disclosure would adversely affect –*

If you are deaf or have a hearing difficulty you can contact the Department via the Next Generation Text Relay Service by dialling 18001 + telephone number.

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We invest in people Standard

*(d) the confidentiality of the proceedings of that or any other public authority where such confidentiality is provided by law;*

The confidentiality of proceedings applies to this request, as the project plan and bid forms part of an ongoing tender process where confidentiality is required by law to ensure fairness and integrity.

The Department has decided to withhold the information requested under Environmental Information Regulation **12(5)(e)** which states:

*a public authority may refuse to disclose information to the extent that its disclosure would adversely affect the confidentiality of commercial or industrial information where such confidentiality is provided by law to protect a legitimate economic interest.*

Commercial confidentiality is engaged because disclosure would harm legitimate economic interests by revealing sensitive technical and pricing details that could distort competition in future procurement exercises.

The Department has decided to withhold the information requested under Environmental Information Regulation **12(5)(c)** which states:

*a public authority may refuse to disclose information to the extent that its disclosure would adversely affect—  
(c) intellectual property rights*

Intellectual property rights are engaged because the proposal describes innovative, patented technologies and proprietary methodologies. Disclosure would risk infringement of intellectual property rights and could compromise the protection of proprietary designs, technical methods, and trade secrets.

The Department has decided to withhold the information requested under Environmental Information Regulation **12(5)(f)** relating to the protection of the interests of a third party is engaged as Clear Water Systems provided the information voluntarily, without any legal obligation to do so and they have provided information but have requested a broad redaction.

The Department has conducted a Public Interest Test which explains this further and is attached at **Annex 1**.

If you require any clarification, believe that any part of your request has been overlooked, misunderstood or misinterpreted, please contact me in the first instance to see if it is a matter that can be resolved.

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If you are unhappy with the manner in which your request for information has been handled or the decision to release/withhold information, you have the right to request a formal review by the Department. If you wish to do so, please contact The Review Section either by e-mailing [daera.informationmanager@daera-ni.gov.uk](mailto:daera.informationmanager@daera-ni.gov.uk) or by post at The Department of Agriculture, Environment and Rural Affairs, Data Protection & Information Management Branch, Floor 2, Jubilee House, 111 Ballykelly Road, Ballykelly, Limavady BT49 9HP, within two months from the date of this letter.

If after such an internal review you are still unhappy with the response, you have the right to appeal to the Information Commissioner at Wycliffe House, Water Lane, Wilmslow, CHESHIRE SK9 5AF, who will undertake an independent review of the Department's decision.

Yours sincerely,



**Marine and Fisheries Division**

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**DAERA/26-243 Public Interest Test (PIT)**

**Assessment of EIR request from Requester Joseph Milstein**

**Subject of public interest test**

The Requester has sought copies of the 2 PDFs (Project Plan and Bid) shown in the Phase 1 Agreement at Section 3, and copies of the 2 PDFs (Project Plan and Phase 2 application) shown in the Phase 2 Agreement at Section 3. These were embedded documents in contract agreements and part of the proposal originally filed by Clear Water Systems Limited for the SBRI that addresses finding solutions to treat and reduce Blue-Green Algae in Lough Neagh.

**Exceptions being considered**

**Environmental Information Regulation 12(5)(d)** states:

*a public authority may refuse to disclose information to the extent that its disclosure would adversely affect –*

*(d) the confidentiality of the proceedings of that or any other public authority where such confidentiality is provided by law;*

The confidentiality of proceedings applies to this request, as the project plan and bid forms part of an ongoing tender process where confidentiality is required by law to ensure fairness and integrity.

**Environmental Information Regulation 12(5)(e)** states:

*a public authority may refuse to disclose information to the extent that its disclosure would adversely affect the confidentiality of commercial or industrial information where such confidentiality is provided by law to protect a legitimate economic interest.*

Commercial confidentiality is engaged because disclosure would harm legitimate economic interests by revealing sensitive technical and pricing details that could distort competition in future procurement exercises.

**Environmental Information Regulation 12(5)(c)** states:

*a public authority may refuse to disclose information to the extent that its disclosure would adversely affect—*

*(c) intellectual property rights*

Intellectual property rights is engaged because the proposal describes innovative, patented technologies and proprietary methodologies. Disclosure would risk infringement of intellectual property rights and could compromise the protection of proprietary designs, technical methods, and trade secrets.

**Environmental Information Regulation 12(5)(f)** relating to the protection of the interests of a third party is engaged as Clear Water Systems provided the information voluntarily, without any legal obligation to do so, and they have provided information but have requested a broad redaction.

**Reasons for Disclosure:**

- i. The right of the public to have access to information;
- ii. The need for the public to be better informed and more competent to comment on public affairs;

**Reasons against Disclosure:**

- i. Releasing this information could prejudice future public decision-making, procurement processes and potentially harm the third-party interests of Clear Water Systems.
- ii. The proposal contains detailed commercial information, including technical solutions, pricing, project plans, and commercial strategies. Disclosure of this information would adversely affect the legitimate economic interests of the parties involved.
- iii. Releasing this information could undermine the competitive position of Clear Water Systems Limited and its partners.
- iv. Disclosure would risk infringement of intellectual property rights and could compromise the protection of proprietary designs, technical methods, and trade secrets, as explicitly referenced in the “Current State of the Art & IP” and “Innovation” sections.
- v. The proposal forms part of an ongoing tender and evaluation process, which is subject to legal and procedural confidentiality. Disclosure at this stage would breach the confidentiality of the proceedings, potentially affecting the integrity of the procurement process and the fair treatment of all bidders.
- vi. Clear Water Systems Limited has sought to provide a clear, structured proposal in relation to this matter and in doing so, enable DAERA to make an informed decision on its procurement process. However, Clear Water Systems was not under any legal obligation to supply the information and did without any legal obligation to do so and they have provided the information but have requested a broad redaction.
- vii. Research and Development Sensitivities - the information requested is part of a competitive research and development in phases project carried out by the Authority under the Pre-Commercial Procurement principles. Research and development projects can attract higher sensitivity under EIR disclosures

compared to purely commercial projects and the Lough Neagh project is contentious, attracting significant media attention and public scrutiny.

- viii. R&D projects often involve intellectual property, experimental data, and proprietary methodologies, which can strengthen arguments under Regulation 12(5)(e) (commercial confidentiality) and Regulation 12(5)(c) (intellectual property rights). For R&D, the risk of competitive harm is often greater than for routine commercial tenders.
- ix. Under the Defence and Security Public Contracts Regulations (DSPCR) and now the Procurement Act 2023, R&D contracts can be exempt from standard procurement rules because of their experimental nature and IP sensitivity. This reinforces the principle that R&D is treated differently in procurement law, which can influence EIR considerations.
- x. The project proposal submitted by Clear Water Systems Ltd forms part of the contractual documentation between the Department of Agriculture, Environment and Rural Affairs (DAERA) and Clear Water Systems Ltd. The contract contains explicit confidentiality provisions that are directly relevant to the handling of such information. Clause 9: Confidentiality – The contract defines “Confidential Information” to include all confidential information disclosed by a party or its representatives to the other party in connection with the agreement. Clause on FOIA/EIR Compliance - While the contract acknowledges the Authority’s obligations under the FOIA and the EIR, it also provides that the Authority is responsible for determining whether information is exempt from disclosure, particularly where it is confidential or commercially sensitive. Under Regulation 12(5)(e) of the Environmental Information Regulations 2004, information may be withheld if its disclosure would adversely affect the confidentiality of commercial or industrial information where such confidentiality is provided by law to protect a legitimate economic interest.
- xi. The project proposal submitted by Clear Water Systems Ltd is considered confidential and commercially sensitive information under Clause 9 of the contract between DAERA and Clear Water Systems Ltd. Disclosure of this proposal would adversely affect the legitimate economic interests of the contractor, as it contains detailed technical, commercial, and strategic information not otherwise in the public domain. The contract requires such information to be kept strictly confidential and not disclosed to third parties without prior written consent.

### **Conclusion:**

In considering the Public Interest Test in relation to the use of these exceptions, it is considered that the balance is **against** the release of the proposal originally filed by Clear Water Systems Limited for the SBRI that addresses finding solutions to treat and reduce Blue-Green Algae in Lough Neagh. However, redacted versions can be released for all four documents i.e. 2 PDFs (Project Plan and Bid) shown in the Phase

1 Agreement at Section 3, and copies of the 2 PDFs (Project Plan and Phase 2 application) shown in the Phase 2 Agreement at Section 3.

Name [REDACTED]  
DAERA, Marine and Fisheries Division