

**Re: Submission on Ireland's Draft Forest Strategy Implementation Plan and associated SEA Report and AA Natura Impact Report**

A Chara,

I am grateful for the opportunity to make a submission on Ireland's Draft Forest Strategy Plan.

As a founding member of Friends of Ardee Bog — a community-led environmental group dedicated to protecting and preserving Ardee Bog, Ireland's most easterly raised bog located just outside the town of Ardee in County Louth — I have a deep love of our unique peatlands on the island of Ireland. Not many trees there, you might say, but I am also a tree lover! As a visual artist I have dedicated the last two decades to researching our relationship with trees.

A love of our shared landscape, culture & history unites people on the island of Ireland. We must do everything that we can to enjoy, conserve, and protect the precious ecosystem on our doorsteps for future generations. I believe this means enshrining the Rights of Nature into the Irish Constitution. We must embrace our native trees and remember our long-lost forests. Above all, we need to relearn what a “forest” actually is. Forests are living ecosystems, healthy habitats of trees, birds, and creatures. Plantations of monocrops to be harvested are *not* forests.

Ireland was once covered in broadleaf trees, forested from coast to coast. Today, as we live through the sixth mass extinction event in Earth's history (caused by humans), it is imperative that we remember our forested past and embrace the love and respect for the land that used to be integral to who we are as a people. Our Brehon Laws enshrined the value of trees in law.

I am inspired by the Citizens' Assembly's recent vote to recommend enshrining the Rights of Nature into the Constitution. Their 120 recommendations reflect the urgency of the situation. We must address the Climate and Biodiversity crisis: immediately and effectively.

The Rights of Nature movement offers possibilities to change everything. People need to understand that *we are nature*. Giving rights *to* nature affectively gives rights to ourselves! By protecting trees and forests, we are protecting ourselves. We need policy that will protect all of us: trees and forests, humans and non-humans. We need each other to thrive.

Thank you for considering my submission.

Sincerely,



Katie Holten

## Irish Trees & Bogs

“As treeless as Portugal we’ll be soon, says John Wyse, or Heligoland with its one tree if something is not done to reforest the land.” (*Ulysses* by James Joyce, 12.1256).

*Ulysses* was published 100 years ago. Joyce wrote of his concern for deforestation in Ireland and saw it for what it was, a result of colonization. Ireland was the first experiment in colonization and we are still living with that legacy. We have yet to fully come to terms with what it means for us as a people, a community sharing a landmass, and living together with other beings.

Ireland is the least forested country in Europe. If we continue chopping/killing trees at the current rate, there will be none left. What will we do when there are no trees?

Sitka Spruce trees are not native to Ireland. For decades they have been planted in rural Ireland as monocrops to be harvested for cash, the land left for dead. These are “plantations” *not* forests. We need to be clear about what we are doing and not hide behind lies and twisted language.

We need to call things by their true names. A forest is a forest. A plantation is an agricultural estate specialising in cash crops. We need to cherish and protect what little forest we have and act with the utmost urgency because the damage already caused by our species is devastating.

Irish forests are precious, unique habitats. When humans arrived in Ireland around 9,000 years ago the island was covered in woodland and bogs were forming. As a culture we need to embrace our forests and learn to love them. I mentioned that I am a bog lover. You could say that bogs are Ireland’s rainforest! Irish peatlands represent the largest store of carbon in the Irish landscape. They hold 75% of the soil’s organic carbon — that’s more carbon than is stored by forestry and agriculture, combined! This means that our bogs play a vital role in mitigating the effects of climate change. We are in a Climate Crisis. Peatlands, like trees and forests, can help us — they sequester and store atmospheric carbon for thousands of years. A forest strategy must work together with a peatland strategy. We must do all that we can to protect, preserve and rewild our remaining bogs *and* forests. This includes rewetting and restoring habitats so that they capture carbon, rather than emit it. And — of course — we must not plant trees in peatlands.

Peatlands and wetlands are home to Irish breeding Curlews. But due to how we live on the land, we have pushed these iconic birds of the Irish countryside to the brink of extinction. Only a few breeding pairs remain in Ireland. We can hear the Curlew singing in Ardee Bog, but for how much longer? What will we do when there are no more birds singing and bees pollinating?

Due to the climatic and natural history of Ireland, 50% of the intact European Raised Bog resource is present here, giving us an international obligation to conserve and protect our bogs.

We cannot — and must not — plant trees on peatlands.

The international geographic range of Raised Bog has shrunk so much that the European Union has ANNEXED them under the European Habitats and Species Directive, meaning that they are a protected habitat which member states have to designate, monitor and report on the ecological status of. If deemed that the designated site is failing to meet its conservation targets then the member state faces legal ramifications. Yes, Ireland is failing and recent news reports suggest that Ireland will be brought before the International Court of Justice for failing to respect her bogs.

### **Rights of Nature in Ireland**

The term *biodiversity* is used to describe the variety of all life on Earth, including all plants and animals, and the ecosystems which sustain them. Ireland sustains a rich and unique range of habitats and species. Unique means that they exist nowhere else in the universe except here!

I love what Sabrina Joyce-Kemper wrote recently: “For hundreds of thousands of years our species believed that the Sun and the planets revolved around the Earth, that we were the centre of the solar system. It was less than 500 years ago that Copernicus published his theory that in fact the Sun was the centre of our solar system. A theory that took another 100 years to be accepted. We do not have 100 years. This is our Copernicus moment. Nature does not need us, *we need Nature*. We must accept that we are just one of millions of species on this planet and that we need this living web of biodiversity to survive and thrive. For too long we have elevated our species rights above others and in doing so have eroded our own habitat and environment to the point of being non-sustaining.”

At the National Biodiversity Conference in February 2019 President Michael D. Higgins aptly described the global biodiversity collapse:

“If we were coal miners, we would be up to our knees in dead canaries”

Ireland needs to establish a new relationship with nature as we face the sixth mass extinction in this planet's history. This extinction event is caused by humans. Forests and peatlands are

essential to mitigate against climate change, but climate change is irrevocably damaging those same systems and species. It's simple: the protection of our biodiversity is a cost effective and logical way to mitigate against the impacts of climate change.

Failure to protect our forests, peatlands and all the biodiversity within them and the ongoing mass extinction will inevitably lead to an ecological tipping point, whereby our natural systems will no longer function as a mitigant for climate change, and we will have lost our main means of combating our rising carbon levels. It is imperative that we protect our tiny, precious remaining forests and peatlands and urgently restore them to their former glory.

## **RIGHTS OF NATURE**

Rights of Nature is a way of re-thinking our relationship with nature — from one of dominance to one of sharing, caring, respect and interdependency. It can also act as a catalyst to shift our thinking from an extractive economy towards a regenerative economy. The idea of nature having rights is not new. Nature *has* rights. What is new is how we can intervene using a rights of nature lens to protect nature and to recognise the intrinsic rights of ecosystems and species to evolve, flourish, and regenerate. Humans are a part of nature, so rights for nature are also human rights.

### **What if trees and forests had rights?**

A forest is a living ecosystem — one that provides us with a huge carbon store. Forests, like peatlands, play a vital role in our water cycle and create natural flood protection. What if forests (and peatlands) had the right to exist, to be restored, to evolve, to thrive? Ecuador was the first country in the world to write the Rights of Nature into its constitution and its people are already using the concept to stand up for their forests. In December 2021 the country's highest court ruled that copper and gold mining in the protected cloud forest Los Cedros was unconstitutional and violated the Rights of Nature. Ireland's forests, as a living ecosystem, have the right not to be destroyed!

### **Rights of Nature across the world & on the island of Ireland**

On 3rd April 2021 the community of Greencastle, Co. Tyrone asserted the rights of community and rights of nature in the face of a mining threat and associated government abandonment of the ancient Green Road. 'People, nature and eco-systems are all part of our community including mountains, hills, rivers, streams, bogs, trees and all living therein.' The assertion was a powerful message of community empowerment and solidarity with nature.

Taking inspiration from Blue Mountains County Council in Australia, Derry City and Strabane District Council became the first local council on the island of Ireland to declare a motion on the Rights of Nature. Others have followed, including Fermanagh & Omagh, Belfast, Newry, Mourne and Down, and Donegal County Council; the latter being the first Council south of the border to do so. After these historic declarations, the job remains of finding a pathway to embedding the Rights of Nature in local law, policy, planning and practices.

Already countries such as Ecuador, Bolivia, Uganda and the state of Oaxaca, Mexico have written Rights of Nature into their constitutions. Nature now has those who will speak for her if threats arise. The international community has also recognised rights of nature and the Rights of Nature movement is sweeping the globe. Organisations such as Centre for Democratic and Environmental Rights (CDER) and the Global Alliance for Rights of Nature (GARN) are helping communities, councils and states take a stand for nature. The United Nations are also taking steps forward — in 2009 the General Assembly adopted its first resolution on 'Harmony with Nature'. There are also advances in the global call to make Ecocide an international crime.

Our ancient Irish ancestors had an intuitive understanding of the inherent value of Nature and the place of humans within it. Ireland's indigenous Brehon Law system that survived until it was replaced by the English common law in the 17th century, showed some concern for the environment. For example, long before modern laws on Nature conservation, the eighth century Bretha Comaithchesa “judgments of neighbourhood” contained a list of twenty-eight trees and shrubs and the various penalties that would be incurred by anyone who damaged them. Furthermore, the seventh-century Bechbretha “bee-judgments” demonstrated an awareness that trees are more likely to develop rot or disease if a cut is made during periods of growth by imposing a heavier fine for damage to a tree during its growing season.

I urge you to listen to the Citizens' Assembly and their heartfelt recommendations to embrace the Rights of Nature on the island of Ireland, plant the right tree in the right place, and create a healthy environment for all. Mono-crop plantations of non-native trees are a blight on the land. We should be ashamed of ourselves for having allowed this exploitation of the land and rural communities to happen in our lifetimes.

Community engagement is key and declarations at a local level, to changes in laws, policy or even constitutions by local and national governments, but also extending to the development of an international Rights of Nature movement which transcends borders.

# WHAT IF FORESTS HAD RIGHTS?

## RIGHTS OF NATURE

'Rights of Nature' is a concept, or way of thinking about how we can redefine our relationship with the natural world. By building on this relationship with reciprocity and care, we can learn (or remember) how to live in harmony with nature.

## WHO WILL SPEAK FOR THE TREES?

A forest is a living ecosystem - one that provides us with the air we breathe. Forests also play a vital role in our water cycle. **What if forests had the right to exist, to be restored, to evolve, to thrive?** Ecuador was the first country in the world to write the Rights of Nature into its constitution and its people are already using the concept to stand up for their forests. In December 2021 the country's highest court ruled that copper and gold mining in the protected cloud forest Los Cedros was unconstitutional and violated the Rights of Nature. **The forest, as a living ecosystem, has the right not to be destroyed!**

## WILL WE?

We have precious little ancient woodland left on the island of Ireland, and what remains is under threat. Forests such as Prehen Ancient Woodland, Co. Derry and the beautiful forests near Rostrevor, Co. Down are threatened by damaging development. In some places, problems are caused by the farming of non-native trees - such as Sitka Spruce plantations in Co. Leitrim. All of these issues are a consequence of systemic failure of planning and environmental regulation systems across the island of Ireland and the effects on our environment have been catastrophic. Nature and communities have no say. What if Prehen and our other forests had the right to exist and to thrive? **What if we could stand up in court and speak for the trees?**



Poster produced by the Environmental Justice Network Ireland (EJNI). I am proud to campaign for the Rights of Nature on the island of Ireland with others including members of Friends of the Earth Northern Ireland, EcoJustice Ireland, The Gathering, Rostrevor Rare, Communities Against the Injustice of Mining (CAIM), Futureproof Clare, and others.

## CONCLUSIONS

Trees and forests offer our communities many ecosystem services including clean air, carbon capture and flood protection. Irish forests and rare Irish Atlantic Rainforests are unique habitats. It is our inherent duty to respect and protect them and all the creatures who live within them.

### Constitutional Right to a Safe Environment

I agree with An Táisce. There is a need for a constitutional recognition of a right to a safe environment, which would naturally include biodiversity protection and rights of nature. This has been successfully done in other countries around the world and would represent a fundamental shift in how we view nature. It would give nature a legal footing and rights. To achieve that, a referendum would be required, but a large-scale and effective education campaign would be necessary to educate the public at large and significantly increase awareness about why biodiversity matters, and why they should care and want it enshrined in the Irish Constitution. Such a referendum and awareness raising campaign could hugely improve ecological literacy among the Irish population, and create the necessary political pressure to take more bold action in protecting it.

### What would Ireland be without trees?

I would like to express my gratitude to the members of the Citizen's Assembly. I trust that the Irish government will embrace their recommendations and create a beautiful new guidemap to how we can all live and thrive together.



I created an Irish Tree Alphabet so people can learn the A-Z of Irish Trees.

<https://www.katieholten.com/irish-tree-alphabet-visual-carlow-ireland/>

More here: <https://emergencemagazine.org/essay/deciphering-words-in-the-woods/>

## ADDENDUM

I would like to include with my submission two items:

1. The petition that I signed to Minister Pippa Hackett.
2. Submission from Neil Foulkes which includes technical details that I am not qualified to speak to.

### **1. Our Say On The National Forest Strategy. [Petition](#)**

To Pippa Hackett, Minister for State:

We want forests primarily for nature and for the public good. Ireland has the most unnatural forests in Europe and to reverse this The National Forest Strategy must:

Give priority to wild bird, pollinator and habitat conservation and substantially less weight to fast growing tree Sitka Spruce based plantations.

Ensure that afforestation is geographically regionally balanced, reversing the concentration of single species crop trees like Sitka Spruce in parts of Ireland.

Change Coillte's primary commercial mandate from growing trees for profit to making sure it prioritises the delivery of climate change commitments and the protection of biodiversity.

Commit to a new National Biodiversity Act that mandates the state to restore and protect biodiversity.

The National Forest Strategy must be consistent with efforts to protect endangered birds and fish such as the Hen Harriers and Curlew as well Atlantic Salmon, Freshwater Pearl Mussel.

Designate ancient woodlands as National Heritage Areas. No NHAs have been announced since 1996.

End clear-felling of forests based on the justification of purely economic interests. Protect against corporations buying up land for afforestation and instead support farmers, landowners and communities to avail of supports and grants. The full life cycle emission/pollution costs of clear felling projects should be assessed and reported.

Only consider afforestation of peatlands where there is overriding environmental, climate and biodiversity justification.

End the use of dangerous pesticide and herbicide including glyphosate in managed woodlands and forestry and full transparency on all chemicals used during the lifecycle of planted crops.

Commit to improving access to information and transparency, as well as making access to justice easier in relation to how decisions are made about forestry and reducing cost of appeals.



## 2. Submission from Neil Foulkes:

### **Submission on the Consultation on the draft Implementation Plan for the Forest Strategy and associated SEA Environmental Report and AA Natura Impact Report**

November 2022

#### **Abbreviations**

Irish Forest Strategy Implementation Plan (IFSIP)  
AA Natura Impact Report (NIR)

- **Recommendations are bulleted in emboldened text.**

#### **Chronology**

There are simultaneous public consultations running for the consultation on the draft Forest Strategy and the draft IFSIP and associated SEA Environmental Report and AA Natura Impact Report.

In carrying out an SEA and NIR on the Draft IFSIP there is a suspicion that the Forestry Division has little or no intention of taking on board the responses to the public consultation on the draft Forest Strategy.

It would strike me that until the public consultation on the draft Irish Forest Strategy has been concluded and due consideration has been taken of the public feedback then any Implementation Plan, SEA Environment Report and /or Appropriate Assessment of the IFSIP are premature. Changes made to the Forest Strategy may impact on how the Plan can and will be implemented making that Plan and the current SEA Environment Report and Natura Impact Report obsolete.

- **The IFSIP and the associated SEA and NIR must be based on the final adopted Forest Strategy, not the draft Forest Strategy.**

#### **Objectives**

The new Forestry Programme, which is part of the IFSIP, will be funded by taxpayers' money; it should therefore reflect the wishes of the taxpayer.

#### **The Right Tree in the Right Place for the Right Reasons**

As things stand this is a mantra which means all things to all people. There needs to be an agreed understanding of what this expression means in practice.

I offer Aldo Leopold's quote as a basis for any agreed interpretation of what is 'right'

*'Examine each question in terms of what is ethically and aesthetically right, as well as what is economically expedient. A thing is right when it tends to preserve the integrity, stability, and beauty of the biotic community. It is wrong when it tends otherwise.'*

Sitka Spruce based plantations seldom preserve the integrity, stability and beauty of the biotic community. They should have little part to play in any new Forestry Programme.

The Irish public has indicated in surveys conducted by DAFM that it wants to see more forests, but it has also been very clear about the type of forests that it wants to see - forests primarily for climate benefits and for nature and for the public good – not primarily forests for timber production - this is not reflected in the IFSIP which is weighted in favour of commercial production.

- **The IFSIP should adopt Recommendation 50 of the Joint Committee on Environment and Climate Action in their Report on Biodiversity (November 2022)**

*“50. The Committee recommends Ireland’s next Forestry Programme puts wild bird, pollinator and habitat conservation at its core by identifying and protecting their habitats and avoiding all afforestation on high nature value grasslands and peat habitats and ensuring that forestry activities are wholly in line with EU environmental law.”*

The draft IFSIP is structured predominantly around forests for timber production with climate and biodiversity benefits more as incidental outcomes rather than as core values.

This alternative weighting, directly in favour of the protection of biodiversity values, has not been considered as an alternative scenario in the SEA Report.

As far as DAFM is primarily concerned, the degradation of nature is something that is mitigated against in forest planning and design rather than forests being planned and designed with the enhancement of biodiversity as a core value.

The Committee also called for a review of outdated legislation;

*“62. The Committee recommends that legislation around wildlife and biodiversity should be reformed and that consideration should be given to a Biodiversity Act that would provide for action plans and management of biodiversity restoration. As a matter of priority, out-of-date legislation such as the Arterial Drainage Act 1945 should be updated to align with Ireland’s climate and biodiversity ambitions.”*

One such immediate target must be the 1988 Forestry Act which established Coillte with a commercial mandate to grow trees for profit on the national forest estate. This legislation is out-of-date as it presents the largest land owner in the country (approx. 7% of the land) with a commercial imperative rather than at least a balanced mandate which would also require climate and biodiversity outcomes to be objectives.

About half of Coillte’s existing estate is on deep peat / blanket bog with a current target to only restore a fraction of this. A climate and biodiversity focus in the IFSIP would put much more ambitious targets for the restoration these degraded lands.

- **A review and amendment of the 1988 Forestry Act must form a part of the Irish Forest Strategy Implementation Plan.**

The Programme for Government actually includes a commitment to *“Ensure that Coillte’s remit supports the delivery of climate change commitments and the protection of*

*biodiversity*". This has not adequately been reflected in the Forestry Strategy or consequently the IFSIP.

## **Context**

### **EU Forest Strategy 2030**

The IFSIP is not aligned with the EU Forest Strategy 2030 which calls for an end to the clear-felling of forests based on economic justification.

*"Conversely, some other practices should be approached with caution\*, notably these which affect above ground biodiversity, and cause the loss of carbon in the roots and part of the carbon in the soil. These silvicultural practices include clear-cutting, for which environmental and ecosystem concerns, including the needs of certain species, should be increasingly taken into account. These practices should be used only in duly justified cases.*

**\*These should be used only in duly justified cases, for example when proven necessary for environmental or ecosystem health reasons."**

The Standards for Felling and Reforestation currently permit clear-fell coupes of 25 ha (c. 63.5 acres) (and more in certain circumstances). Clearly a perpetuation of this figure for newly planted forests is not even close to being consistent with the EU Forest Strategy. Even for existing forests it is a very high figure given that landscape and environmental impacts increase with increased coupe size. On the continent felling clear-felling coupes (where clear-felling is even permitted) are often limited to 5 ha or less.

- **The IFSIP must align with the EU Forest Strategy 2030 and only permit clear-felling in duly justified cases.**
- **New afforestation under the IFSIP must not be intended for clear-felling and all applications for commercial afforestation should include a plan for how clear-felling will be avoided as a future management option.**

There is no commitment in the IFSIP to align Irish Forestry with the Birds Directive as is also required. Currently Irish forestry activities are exempt from the requirements of Section 22 and Section 40 of the Wildlife Act. The provisions of Section 9 (5) of the Wildlife Acts do not compensate fully for this deficiency as forestry licences do not expressly permit anything that is contrary to the Birds Directive; however by failing to explicitly preclude activities which must reasonably be considered to result in the damage or destruction of the nests and eggs of wild birds (e.g. clear-felling in the nesting season) forestry licencing is not aligned with Article 5 of the Birds Directive.

If forests support biodiversity, including nesting birds, then how can forestry works during the period of breeding and rearing be justified? If works during the breeding season are permitted because forests do not support nesting birds and the nests and eggs of wild birds will not be destroyed then how can forests be considered to be sustainable?

How does the Forestry Division and the forest industry as a whole square this circle?

- **The IFSIP must align with the EU Forest Strategy 2030 which states that carrying out logging during bird-nesting period must comply with the Birds Directive.**

**There must be a clear period of restriction or a requirement for site by site ornithological assessment and monitoring during the bird breeding season.**

- **Forest works during the period of breeding and rearing must be considered to be derogation from Article 5 of the Birds Directive and the provisions of Article 9 applied.**

## **Balance**

The IFSIP is not balanced in its objectives or in terms of its regional implications.

The draft Irish Forest Strategy Implementation Plan (IFSIP) makes no distinction between Forests and Woodlands.

The indicated Forestry Programme has the potential for 73.1% of the area of the 8000 ha per year afforestation target to be predominantly of Forest Types which are effectively commercial plantations based on conifers. This is unacceptable.

Ireland already has the most unnatural forests in Europe and the Plan will exacerbate this situation converting more and more of the biomass of the country to a single exotic species.

The proportion of exotic (non-native) tree species in Ireland is already more than **6 times greater than the average exotic tree proportion in Europe**. I refer to the States of Europe's Forests Report 2020 ([https://foresteurope.org/wp-content/uploads/2016/08/SoEF\\_2020.pdf](https://foresteurope.org/wp-content/uploads/2016/08/SoEF_2020.pdf))

Introduced tree species cover in Ireland - **63%** (refer to page 122 of the 2020 report). **This is the highest percentage figure in Europe.**

Average Introduced tree species in Europe - **9.6%** (refer to Figure 4.41 on page 123 of the 2020 Report - the average figure has been calculated from the data provided).

There is no consideration of regional balance in the afforestation target. The plan does not preclude all of the conifer plantations being targeted at the West (where there are already high concentrations in many areas) with the broadleaf Forest Types going to the East.

The Plan needs to have annual afforestation targets which represent supporting Forest Types which have climate and biodiversity as their principle objectives. This will require a significant re-balancing of the figures.

- **Annual afforestation targets under the new Forestry Programme need to reflect the wishes of the public and the figures in the IFSIP need to be rebalanced to put much greater emphasis on Forest Types which create benefits for climate AND biodiversity.**
- **The IFSIP must contain provisions which ensure a balanced geographic distribution of Forest Types under the new Forestry Programme.**

The annual figure for Emergent Woodland of 50ha is derisory and the proposed premiums for the different Forest Types offer a perverse incentive to landowners to remove existing emergent woodland in order to apply for a Forest Type yielding higher premiums.

- **The premiums for Emergent Woodlands (FT5) need to be substantially increased to avoid creating a perverse incentive.**
- **The annual target for Emergent Woodland (FT5) needs to be revised substantially upwards (at the expense of FT12).**

The funding rates under the new Forestry Programme create a situation which favours the buyout of land by Corporations and Investors. The premiums on offer mean that the taxpayer could be subsidising the purchase of lands. This is pushing up land prices beyond the reach of most local landowners / farmers. The premiums offered are resulting in an anti-competitive situation as regards land mobility.

- **Forestry premiums should only be available to farmers / landowners looking to plant and retain their own lands. Taxpayers' money should not be used to support Corporations, Investors or carbon offsetting. There is no justification for this in terms of the rules for State Aid.**

### **Environmental Impact Assessment (EIA)**

The Forestry Divisions screening procedures for Environmental Impact Assessment are seriously deficient and result in a blanket elimination of any sub-threshold project from the need for an EIA.

The Forestry Division does not have a Standard Operating Procedure for its Inspectors in carting out EIA Screening. The only consistency that seems assured is a tick in the box that says EIA is not required.

- **As a matter of priority the Forestry Division must review and update its EIA Screening process**

The SEA Environment Report is seriously deficient in its failure to properly scrutinise the Forestry Divisions's EIA Screening process for Afforestation and for Forest Roads.

### **Climate Considerations**

Currently carbon figures presented are based on the gross sequestration that results from growing trees and the potential for carbon to be stored in timber products. The impact of forestry on carbon needs to be based on net figures, not gross figures.

The Forestry Division has carried out no life-cycle assessment of carbon implications of the predominant clear-fell forestry model. In the absence of such an assessment any claims regarding the mitigation of greenhouse gas emissions from forestry cannot be substantiated accurately, if at all.

- **Prior to the implementation of any new Forestry Programme the Forestry Division should carry out, or commission, full life-cycle carbon accounting for the predominant clear-fell forestry model – to include emissions that result from establishment, soils at clear-fell, materials (including fencing), Forest Road Works (including materials), the operation of harvesting and forwarding machinery, timber haulage, processing and redistribution of timber products, etc.**

The sequestration potential of lands planned for afforestation must be made as part of the licence assessment process. Sequestration from afforestation does not occur on a blank

canvas. Many HNV sites (especially on organic soils) are likely to be sequestering carbon to some degree already.

None of the emission sources indicated above apply to Emergent Woodland / Rewilding and many do not apply to other Forest Types. Lack of full life-cycle carbon accounting is distorting the carbon implications of the different Forest Types in favour of commercial forestry with exotic species.

Afforestation should only be considered if full life-cycle carbon accounting can evidence a net gain.

Forest Road Works are responsible for significant GHG emissions but currently the Forestry Division does not require applications for Forest Road Works to contain any details of the emissions that will result from the project.

This is a serious emission which is contrary to the requirements of the EIA Directive and is a major lacuna in the SEA Report.

- **Applications for Forest Road Works must contain details of the GHG emissions that will result from the project and the Forestry Division must take these emissions into account when assessing the project (including cumulative impact).**

### **Protection of peat lands**

Peat lands are not actually subject to a single definition by the Forestry Division. It is difficult to see how they can be adequately and consistently protected in the absence of an agreed definition.

A significant proportion (probably over half) of the current forestry estate is on peat based soils; much is on deep peat / blanket bog. Many of these plantation forests have failed or have only produced a crop as a result of fertilisation, with consequent issues for water quality.

It is an absolute no-brainer that all low yielding forests on peat lands are not-re-stocked at clear fell and landowners should be supported in restoring the carbon sequestration and habitat value of the lands. This would be in line with the proposed new EU Nature Restoration Regulations. This would be consistent with a forestry plan with climate and biodiversity as core values.

Forest on peat soils / blanket bog / former or potential Annex I habitat should not be re-stocked at clear-fell and the lands should be rehabilitated to support carbon sequestration and biodiversity functions.

- **The IFSIP should define peat lands**
- **The IFSIP should only consider the afforestation of peatlands where there is overriding environmental justification in terms of climate change and biodiversity protection and enhancement.**
- **The IFSIP should require that forests on peat lands or potential Annex I habitat should not be re-stocked at clear-fell and that the lands should be rehabilitated to support carbon sequestration and biodiversity functions.**

### **Reduced / Delayed Harvesting**

The IFSIP is structured around the demands of the Forest Industry in terms of projected output. Current indications are that Irish forestry is a net carbon source and will continue to be so for the duration of the new Forestry Programme. This is because trees are being harvested at a rate faster than new afforestation and re-stocking can compensate for. In this scenario the IFSIP must consider an annual cap on the amount of timber harvested to ensure that Irish Forestry stays in the black carbon-wise.

Currently DAFM is issuing clear-felling licences to plantations as young as 22 years.

- **The IFSIP must place an annual cap on the volume of timber that DAFM licences for harvesting commensurate with rates of net carbon sequestration within the sector.**

The actual figure will be dependent on the achieved rates of planting not on target rates. Low afforestation rates must result in reduced licencing output (volume) for felling.

## **Ecological Issues**

### **Hen Harrier**

There is a legal requirement that Ireland produces a Threat Response Plan for Hen Harrier. This species is known to have been negatively impacted by levels of afforestation in key areas and by disturbance from forestry activities.

There are unexpired and unexercised felling licences which have the potential to impact negatively on Hen Harrier by permitting works in the month of March contrary to best scientific advice. The Minister has the capacity to modify these licences to increase protection but has refused to do this.

The forestry licencing process does not take adequate assessment of winter roost sites of Hen Harrier.

The Green Zone / Red Zone (High Likelihood Nesting Area) applied by the Forestry Division does not apply the precautionary principle and is thus not consistent with the requirements of Article 6 (3) of the Habitats Directive as it does not exclude the possibility of disturbance. This is a significant weakness in the SEA Environmental Report and particularly the NIR.

- **The new Forestry Programme should not be implemented in respect of project sites which could impact Hen Harrier until the adoption of a Hen Harrier Threat Response Plan.**
- **As part of the IFSIP the Minister must address legacy licencing issues which permit forestry operations which may disturb Hen Harriers during the month of March.**
- **Forestry Division must re-assess its procedures and protocols for the protection of Hen Harrier.**

Similar comments apply to Merlin where the standard mitigation does not have sufficient scientific basis to pass the stringent test of Article 6 (3).

## **Curlew**

The Curlew remains critically endangered as a breeding species in Ireland. Inappropriate afforestation has contributed to the catastrophic decline in species number. A Curlew Task Force was established in late 2016 by the Department of Culture, Heritage and the Gaeltacht (DCHG) with the objective of reversing the decline of the Curlew as a breeding species in Ireland. The Curlew Task Force made recommendations in May 2019 regarding increasing the mitigation for the negative consequence of forestry activity. The Forestry Division has failed to implement those recommendations.

- **The IFSIP must adopt and apply all of the forestry recommendations of the Curlew Task Force.**

## **Freshwater Pearl Mussel**

Current Forestry and Freshwater Pearl Mussel Requirements date to 2000 and are no longer fit for purpose. A public consultation was launched in July 2018 on a *Draft Plan for Forests and Freshwater Pearl Mussel in Ireland* and an accompanying Strategic Environmental Assessment (SEA) Environmental Report.

A number of high level submissions were made in response to the consultation including from An Taisce, EPA, NIEA, Department of Culture, Heritage and the Gaeltacht, SWAN, Woodlands of Ireland and FPM experts. To date a Plan for Forests and Freshwater Pearl Mussel in Ireland has yet to be published.

- **The IFSIP must preclude any licensed activity which could impact FPM populations until a completed Plan for Forests and Freshwater Pearl Mussel in Ireland has been adopted**

## **High Nature Value Farmland (HNVF) & Species Rich Grasslands**

The Forestry Division has operated a whole Forestry Programme with no working definition of HNVF despite this term appearing in the conditions of the State Aid Decision.

Significant areas of HNVF and Species-Rich Grassland have been afforested under the current and previous Forestry Programmes. Enough is enough.

- **As a precursor to the implementation of the new Forestry Programme, the Forestry Division must produce, with the participation and agreement of relevant stakeholders, a definition of HNVF and Species Rich Grassland.**
- **The IFSIP must require a full field-based habitat survey for any new afforestation. Afforestation with exotic / non-native species should not be permitted which will impact negatively on identified HNVF or Species Rich Grasslands. This can include impacts which are external to project sites.**
- **Afforestation of HNVF or Species Rich Grasslands with native species must be based on evidenced justification of overall benefits in terms of the integrity, stability and beauty of the biotic community.**



## Water Quality

According to EPA data forestry is third in the table of sectors in terms of placing a significant pressure on water quality.

One can only assume that this is the case because of a combination of the following;

- a) Poor design of forests
- b) Ineffective or inadequate mitigation conditions in licences (based on Standards & Guidelines)
- c) Failure by forestry operators to implement mitigation measures.
- d) Failure of the Forestry Division to monitor and enforce mitigation measures
- e) Failure of the Forestry Division to specify and ensure appropriate remediation of issues impacting on water quality.

In the absence of a definitive assessment a precautionary approach must be adopted.

The fact that DAFM has initiated the HydroSED project would point to a least a partial acceptance of b) as one of the objectives of the project is to assess the “*efficacy and performance of commonly adopted sediment control measures in forests*”. If this were known there would be no reason to carry out research.

- **The IFSIP should commission an independent assessment as to why forestry ranks third in the sectors placing a significant pressure on water quality. Until the outcome of the assessment a precautionary approach must be applied which addresses all possible causation factors.**

### Waterbodies with a water quality status not derived from testing under the Water Framework Directive (WFD)

The EPA has applied a (legally) dubious method of applying a water quality status to waterbodies which have not been assigned a status by means of the strict monitoring procedure of Annex 5 of the WFD.

Since any impact on the status of the water quality of these water bodies cannot be validated by reference to existing test data it is difficult to see how DAFM can grant consent to any projects which may impact on the water quality of these waterbodies.

- **The judgment in High Court case 2018/740JR (Sweetman) must be respected pending the outcome of the referral questions put to the ECJ. No development consent should be issued to projects which may impact on waterbodies which have not been assigned a water quality status as a result of the strict monitoring criteria of Annex 5 of the WFD.**

If a forestry project was accused of being accountable for the deterioration of a water quality status derived by expert opinion or extrapolation to a lower status derived from future strict monitoring there would be an argument made that the non-tested status was not a valid benchmark.

The potential negative impacts of conifer plantations on the physical, chemical and biological quality of receiving waters has long been known, particularly on Atlantic salmon populations. Research indicates that a solution lies in the reduction in forest cover in relevant catchments.

- **The IFSIP should prohibit the planting or re-planting of conifers in acid sensitive peaty catchments containing Atlantic salmon populations.**

### **Landscape protection**

Over the last 30 plus years forestry has had a dramatic impact on the landscape of many areas.

The IFSIP, indeed the Forestry Division in general, is extremely weak on matters of landscape protection. DAFM's Forestry and Landscape Guidelines date to July 2000 and pre-dates the Florence Convention on the Landscape.

The authority on matters of the landscape lies within the remit of planning authorities and not the Forestry Division.

- **The Forestry Division must ensure that any licencing decisions it makes do not result in material contravention of the relevant County Development Plan.**
- **The IFSIP should require the Forestry Division to defer to the judgement or recommendation of the local authority on landscape issues.**

### **Human Health**

The IFSIP appears to consider that the only impacts on human health occur as a result of the recreational value of forests and woodlands. It has failed to take account of the potential negative consequences of the Plan on human health, including mental health.

The predominant commercial monoculture model creates risk to water quality through sedimentation and through pesticide use; these plantations create direct and indirect risks from fire. There is a threat to life from serious forest fires near to property and even at a distance such fires will impact negatively on air quality.

Risks to public health and safety from significantly increased volumes of forestry traffic on often unsuitable rural roads are another factor which has not been adequately considered in the Plan. The Forestry Inspectorate regularly over-ride the concerns of the local roads authority when issuing consent for new forestry entrances on to public roads.

- **The IFSIP needs to take proper account of the negative implications for human health of the Plan.**

### **Pesticides**

The threat to public and environmental health from inappropriate pesticide use has not been adequately considered.

Pine weevil has the potential to wipe out a crop at the replanting stage.

There is no standard licensing requirement placed on uncertified private forest owners to provide details of pesticide use in terms of the timing, location, volume and product type. The potential for cumulative impact must be considered in the context of;

a) The predicted significant increase in the clear-felling of private forests during the period of the IFSIP with the consequent increased risk of pine weevil attack and spread.

b) The acknowledged shortage of trained, skilled and experienced workers in the forestry sector\*.

c) The acknowledged knowledge gap with many private forest owners\*

\*Reference Teagasc Pine Weevil Conference – presentation by John Casey, Teagasc

AA's routinely fail to consider that much planting stock (afforestation and reforestation) has been pre-dipped in pesticide which is being imported in to the project area. Pre-dipped plants are permitted to be planted in areas where top-up spraying is not permitted due to environmental setbacks. The SEA Environmental Report and the NIR do not include any scientific evidence that this practice excludes the possibility of an effect on water quality or on Natura 2000 sites.

How will crops be protected on sites with a high percentage of environmental setbacks where spraying is not permitted? There will be temptations to spray for pine weevil in areas on project sites with environmental sensitivities in order to protect the value of the future crop. There is a commercial incentive to spray where spraying should not be done. The Forestry Division does not have adequate protocols in place to monitor and enforce licence conditions related to pesticide use.

- **The IFSIP must include a requirement for the Forestry Division to develop and implement a monitoring and enforcement protocol regarding the use chemicals in forests.**

## **Governance**

### **Quality Control**

Evidence of the decisions of the Forestry Appeals Committee consistently indicate that approximately two thirds of all forestry licences which are subject to appeal involve serious or a series of errors sufficient to require either modification, or the setting back, of the licence. This indicates a serious issue with quality control in the Forestry Divisions processes. Although the number of appeals has halved since the 200 euro fee which was introduced in October 2020 the proportion of successful appeals has remained around the same.

This raises very serious concerns regarding the number of deficient licences which may well be passing through the system unchallenged. A factor which has not been considered in the SEA Environmental Report.

Until the issue of licence quality is addressed

- **The implementation of the IFSIP should be delayed until a full review has been carried out of the quality control procedures employed by the Forestry Division which are resulting in such high rates of successful appeals.**

The Forestry Division's almost obsessive focus on achieving licencing output is a huge obstacle to quality control.

- **The Forestry Division must prioritise licence quality over licencing output.**

## **Standards**

The IFSIP continues to rely on DAFM's poorly constructed and written, out-of-date and un-validated series of Standards, Recommendations and Guidelines to ensure adequate mitigation to protect the environment. This is clearly a deficiency in the Plan.

Forests should not require mitigation to protect environmental values; environmental protection should be inherent in forests.

Strategic Action 3.3 of the Strategic Environmental Assessment of DAFM's Forest Policy Review (2013) states:

*DAFM in collaboration with the main sector stakeholders to update the complete set of environmental guidelines with priority given to guidelines that address water quality, fertilisation and biodiversity. In the revision consideration should be given to structuring the guidelines so they can be used either at forest developmental stages (establishment, thinning, harvesting) or thematically to deal with water, biodiversity etc.*  
*The revised guidelines should be comprehensive, provide clarity regarding requirements and permitting procedures and facilitate compliance of forestry activities with the overall environmental regulatory framework.*

This Action remains largely incomplete as evidenced by the reference to so many documents dating back to 2000 in Appendix 3 of the IFSIP.

- **Prior to the commencement of the new Forestry Programme the Forestry Division should complete Strategic Action 3.3 of the Strategic Environmental Assessment of DAFM's Forest Policy Review (2013). This will require consultation with eNGO's.**

## **Mitigation**

There is so much work to be done before the new Forestry Programme, which is part of the IFSIP, will be remotely close to compliance with the full regulatory framework. The SEA Environmental Report and the NIR have not considered the practical timescales required for having everything necessary in place mitigation wise and how failure to have them done in time could impact on the environment in general and Natura 2000 sites in particular.

DAFM currently has a request for tender RFT 226243 for provision of services to carry out a peer review of certain forest licence mitigation measures and carry out an AA/SEA process on these measures.

In the first instance this tender is deficient in that it indicates that the consultants should carry out an Appropriate Assessment (AA) of the mitigations. External consultants are not a competent authority to carry out an AA. It is the Minister's responsibility to carry out an AA of any standard mitigations on which the Forestry Division intends to rely.

- **The Implementation of the IFSIP should be delayed until the completion of the process for RFT 226243 and the Minister has carried out an Appropriate Assessment under Article 6 (3) of the Habitats Directive.**

## **Certification**

Existing certification options are industry led and not sufficiently balanced in their Standards setting procedures. Any Standards must result from consensus across all Stakeholder groupings, including eNGO's – absence of consensus should mean that no certification Standard can result.

Currently Certificate Holders are Clients of Certification Assessment Bodies. Conflicts of interest must be removed from the auditing process to ensure public confidence.

### **Monitoring and Enforcement**

There is an urgent need for an independent Compliance Unit in the Forestry Division dealing with Monitoring and Enforcement. This Unit needs to develop a procedure for monitoring the significant number of projects which are subject to an AA under Article 6 (3) of the Habitats Directive. All of these projects should undergo in project and post project inspection.

Approximately 80% of forestry licences are required to undergo an Appropriate Assessment (AA) under Article 6 (3) of the Habitats Directive. There is very little evidence that the Forestry Division monitors the implementation or efficacy of the mitigation which results from the AA. The Forestry Division does not even have a Standard Operating procedure for carrying out assessments of projects which have been subject to an AA.

- **The Forestry Division needs to establish an independent Compliance Unit to oversee the implementation of the Forestry Programme.**
- **The IFSIP must include a provision for the development of a Standard Operating Procedure which ensures the monitoring and enforcement of licence conditions, in particular the mitigations which result from Appropriate Assessments under the Habitats Directive.**

The independent Compliance Unit also needs to have a Quality Control Section dealing with assessment of all aspects of Quality Control within the Division. This would include licence applications, assessments, Standards and Guidelines.

### **Compliance with the Aarhus Convention**

The Forestry Division's commitment to the principles of the Aarhus Convention is seriously lacking.

- **The IFSIP needs to be fully reviewed in the context of the provisions of the Aarhus Convention, the AIE Directive and the implementing AIE Regulations.**
- **The IFSIP must include defined objectives and targets in terms of conformance with the Aarhus Convention**

### **Access to Environmental Information**

The Plan is very weak on how all relevant information will be made available to the public in a timely manner.

The current main vehicle, the Forest Licence Viewer, remains unfit for purpose.

- **The IFSIP must include provision for a review and upgrading of the Forest Licence Viewer. This must involve a public consultation process.**

Currently DAFM routinely fails to process AIE requests made for records related to licences that are subject to appeal within the timeframe of the appeal. I.e. the appeal window is closed before the requested information is provided. This impairs the ability to construct appeals and compromises access to justice.

- **Under the IFSIP, DAFM must guarantee to make available to the public all relevant information on licence decisions in a timely manner.**

Realistically the only way that this will be achieved simply is by extending the window for appealing licences to the FAC to a minimum of one month. Alternatively a change is required to Section 14 B (4) of the Forestry (Miscellaneous Provisions) Act 2020 which will permit grounds of appeal and supporting information to be provided after an appeal is lodged (as is the case with other appeals processes).

Other than licencing information the Forestry Division makes very little environmental information available as a result of active dissemination. Information is available for the public to source providing that the public is already aware that there is information to be sourced. The Forestry Division does not actively make the public aware of the product; it merely has it in stock on the shelves should someone look for it (providing they are aware that it even exists).

- **Under the IFSIP the Forestry Division should commit to actively disseminating a wide range of environmental information that it currently holds but does not disseminate. This would be consistent with its duties under the AIE Regulations.**

The Forestry Division currently does not offer the possibility for the public to examine environmental information *in situ*. This situation should be rectified

- **Under the IFSIP the Forestry Division should ensure that it has a regional network of venues where environmental information can be examine *in situ***

### **Public Participation**

Overall there is lack of public awareness of processes, procedures and Public Participation opportunities related to forestry. For all of its surveys DAFM has failed to carry out any surveys related to Public Participation in the forestry licencing process. This is a significant lacuna in the work of Project Woodland.

### **Fees acting as deterrent to public participation**

It is clear from data on the number of submissions made on licence applications that the imposition of a €20 fee per submission is acting as a deterrent to public participation in the forestry licencing process. The sheer number (and geographic concentration) of licences issued makes it prohibitively expensive for some people to engage in the consultation process. Project splitting by Coillte should also be curtailed

- **The IFSIP needs to address obstacles to public participation**

### Bulk applications over-loading the system

Coillte (and certain other corporate operators) routinely submits significant batches of applications (up to 1864 in a single day (many result from project splitting)) which are all subject to the same 30 day public consultation process. This not only presents a resource challenges for DAFM it will impact on the consultation process including for referral bodies such as the NPWS, Inland Fisheries Ireland and the local Authorities who will also come under pressure to meet the DAFM imposed referral deadlines

- **Under the IFSIP, the Forestry Division must ensure that applications that are made available for consultation are done so in a manner that does not serve to act contrary to the principle of maximising public engagement.**

### Additional Information and Modification of projects

Where the Forestry Division requests further information from an applicant in respect of an application there is no extension to, or re-opening of, a closed consultation window. Even though the Forestry Division must consider that there is insufficient information to assess a project the public and referral bodies are not afforded any opportunity to comment on additional information provided.

Where projects are materially altered during the application stage the application is not re-opened for public consultation relating to the changes.

The Forestry Division continues to accept and process applications that are not legally compliant with the Forestry Regulations (2017). These applications are then subject to public consultation with the deficient information. Amendments may be made to project documentation (e.g. revised BioMap) but the public are not guaranteed an opportunity to comment on this.

The Forestry Division fails to directly notify interested parties of additional information or additional consultation opportunities. This includes on applications which are subject to an Appropriate assessment under the Habitats Directive.

- **The IFSIP should require the Forestry Division to re-open the consultation process where additional /modified project information is provided or projects themselves are modified.**

### Inadequate public notification for projects subject to felling licences

In view of the comments of the Court of Appeal in McCaffrey,(McCaffrey v Minister for Agriculture Food and Marine [2017] IECA 247) there is significant doubt as to whether the site notice requirements for felling under the Forestry Regulations are sufficient to constitute effective public notice in accordance with Article 6 of the Aarhus Convention. The public is only informed of a felling licence by Site Notice after the licence decision has been made by DAFM and the possibility of appeal to the FAC has passed. The Site Notice merely informs the public that a felling licence has been issued by DAFM for the works taking place; it confers no opportunity to participate in the process.

- **The IFSIP should require the introduction of a requirement for a Site Notice (as for Afforestation and Forest Road Works) to be erected to inform local**

**stakeholders that an application has been made for a felling licence and of their opportunity to participate in the process.**

It is a core principle of the Aarhus Convention that increased public participation leads to better environmental outcomes. The Forestry Division is repeatedly acting in a manner that is deterring public participation in the licencing process and as a consequence the best environmental outcomes are not being achieved. The lack of detailed assessment of public participation opportunities represents a serious weakness in the SEA Report.

**Access to Justice**

In issuing a decision on a licence application the Forestry Division generally fails to provide any reasoning for its decision in the context of any submissions made by the public or referral bodies.

- **The IFSIP should require a forestry licence decision to provide an explanation of how submissions have been considered and the rationale if a suggestion or recommendation has not been adopted or applied.**

The Regulatory Review of the licencing system carried out by Philip Lee & Co. was very light on its assessment of the system in the context of the Aarhus Convention.

The introduction of fees to appeal licence decision must be legally reviewed as the current provision creates a revolving door system which has no theoretical limit to the cost of access to justice. This would be contrary to the requirement for access to justice to not be prohibitively expensive.

- **The IFSIP needs to include a detailed independent review of Forestry Division Regulations and procedures to determine if they are consistent with the Aarhus Convention.**

Access to justice must be timely but the Forestry Division's process offers an absolute maximum of 14 days from the date of issue of the licence for a completed appeal to be made. Since details of the licence are rarely published on the day of issue and an appeal realistically needs to be lodged by post (hand delivery being unrealistic and email not accepted) this window is practically narrower than 14 days.

Decisions issued on a Friday and published on a Monday means that a further 3 days of the 14 day appeal window are automatically lost.

Decisions issued on a Monday (even if published on that day) lose at least two days of the appeal window as appeals cannot be posted on the Saturday or Sunday preceding the date of the 14 day deadline as there is no postal service on those dates.

The appeals window takes no account of public holidays where there is no postal service.

The system is inherently unfair because the available window for appeal varies dependent on the day of the week the licence is issued.

Notwithstanding the above, the maximum window of 14 days to make an appeal (reduced from 28 days in 2021) is inadequate to ensure proper access to justice.