Environmental Pillar

2022

Environmental Pillar (2022) Ireland's Forest Strategy (2022 – 2030) Draft for public consultation

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Environmental Pillar

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Contents

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Introduction

This is a submission on behalf of the Environmental Pillar in response to the public consultation on Ireland's Forest Strategy (2022 – 2030) and the associated implementation plans, and the Strategic Environmental Assessment and Appropriate Assessment obligations pertaining. The Environmental Pillar is an organisation that works to represent the views of over thirty of Ireland's leading environmental NGOs. We work to promote environmental sustainability and the protection of our natural environment. Our submission is informed by the decades of experience of our members who are actively involved in woodland conservation, sustainable forestry management, regulation of the forestry sector and wider environmental conservation.

For many years we have advocated that **The right tree, in the right place, under the right management** can benefit climate, biodiversity and water quality while also generating space for recreation and reflection and supporting sustainable employment. However, the opposite also holds true, with poorly planned afforestation resulting in greenhouse gas emissions, biodiversity loss, pollution and negative socio-economic impacts on affected communities. Our own vision is closely aligned on paper to the newly adopted Forest Strategy Vision of "*right trees in the right places for the right reasons with the right management*." However, there remains significant differences in our vision of what is 'right' and what the sector believes is 'right.'

We are supportive in principle of the stated objectives of the forest strategy to 2030 i.e. "*radically and urgently expand the national forest estate on both public and private land in a manner that will deliver lasting benefits for climate change, biodiversity, wood production, economic development, employment and quality of life*." We also strongly agree that "*Forests can provide multiple benefits to our environment by contributing to air, soil and water quality and through the provision of timber as a valuable renewable resource*." However, "*Poorly sited, inappropriately designed and badly managed forests, though, can also be bad for the environment, particularly for water quality, habitats and species*." We have not seen these positions reflected in the draft.

Through a range of public and stakeholder consultations the Irish people have clearly stated their desire for a new forestry and land use model that protects and enhances our native woodlands, peatlands, wetlands and semi-natural grasslands. They have stated their desire for a more sustainable model of forestry which is based on the principle of Sustainable Forest Management, aligned with the EU Biodiversity Strategy, including the urgent expansion of Close to Nature Silviculture and Continuous Cover Forestry. **People have repeatedly expressed their concern around the deeply flawed forestry licencing regime and the ongoing failure of the sector to address serious legacy issues such as the inappropriate afforestation of peatlands and threatened habitats. We have all stated that we need a new forestry and land use model that is part of the solution to the dual biodiversity and climate emergency rather than being part of the problem.**

Unfortunately, it is our conclusion that the presented vision for Irish forestry is not a new one but a repackaged version of a model that is no longer fit for purpose. We would like to see the IFSIP fundamentally changed to reflect the wishes of the Irish

people, and one which is consistent with an appropriate response to the interdependent nature of the climate and biodiversity crises as highlighted by the Intergovernmental Panel on Climate Changes most recent assessment report in 2022. Instead of what we see here in this proposal as a forestry strategy which serves neither crisis, and which raises the gravest of concerns in respect of impacts on the natural environment, including and not limited to water, flora, fauna and habitats.

According to Ireland's Forest Strategy "*it is clear that there is a strong public appetite for more trees and forests in Ireland and a very strong appreciation of the positive impact that trees and forests can have to help combat climate change and to restore nature – addressing two of the greatest global challenges of our time*." This it claims is supported by a range of public and stakeholder consultations. The views of the public are correctly summarised in the vision for forests of the future which is that "*diverse and mixed forests become the dominant feature along with a greater presence of agroforestry, continuous cover forests, native forests and urban forests*". However, we can find little evidence that the scale of change needed to deliver this vision is being proposed. It appears to us that lip service is being paid to the wishes of the Irish people while business as usual is being proposed with some tokenistic changes. While we are supportive with some of the proposed measures such as Continuous Cover Forestry (CCF), Native Forests and Broadleaf planting the scale of ambition for these measures is tokenistic. DAFMs true vision for the future of the sector is reflected on page 62 of the Draft IFSIP Implementation Plan within Fig 1.

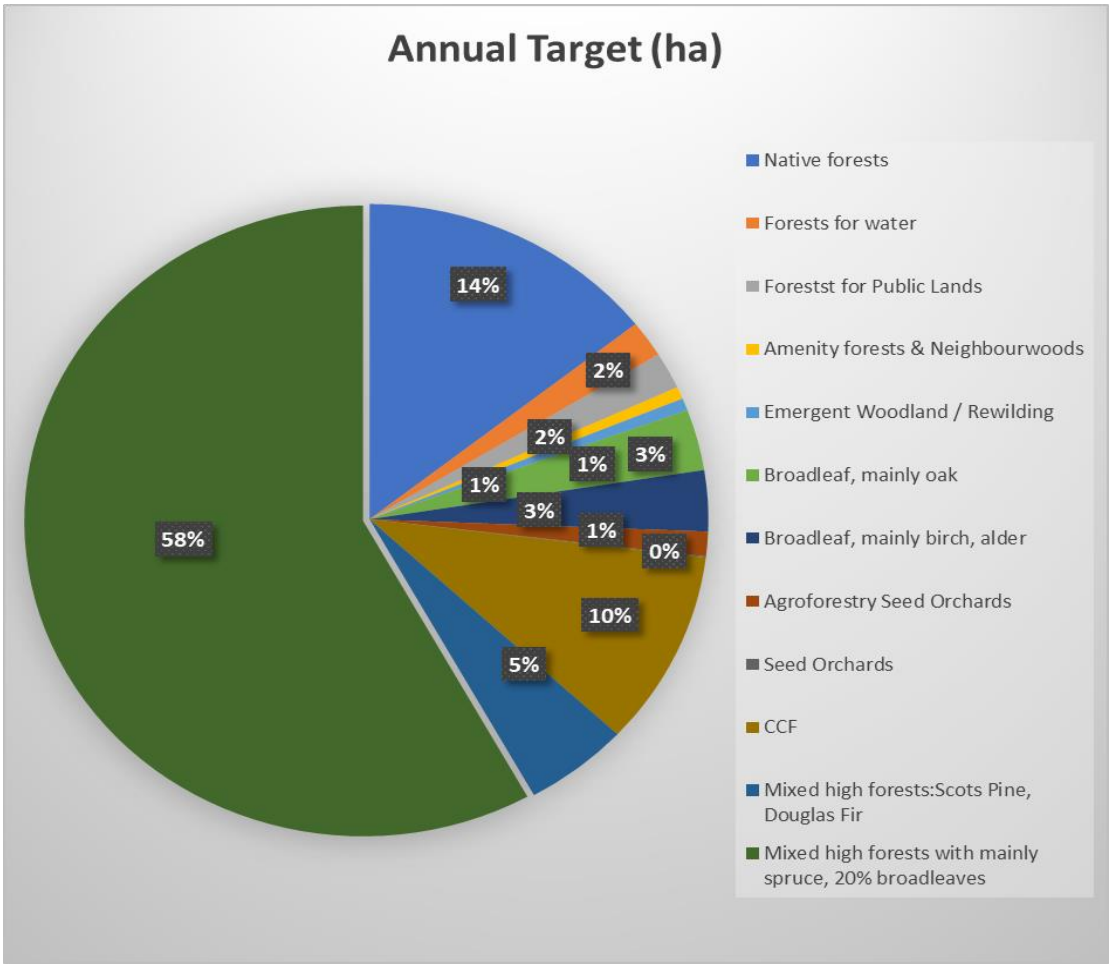

Figure 1. 8,000ha annual afforestation target broken down by Forest Type

It is clear from these figures that the dominant forestry model of clearcut monocultures of non-native conifers will continue to dominate policy with circa 58% of the overall allocation being dominated by mono-cultures of Sitka Spruce surrounded by a small border of broadleaf species. is clearly not in line with the wishes of the Irish people or with the stated objectives for nature and the environment, climate action or people and communities. We would like to see the IFSIP fundamentally changed to reflect the wishes of the Irish people. In particular we would like to see the recommendations from this submission reflected in the final plan.

Future Afforestation

As outlined in this submission there are serious ongoing issues with how afforestation is being conducted in Ireland resulting in negative impacts on nature, water, climate and people. We are supportive of the principles of the Right Tree, in the Right Place, under the Right Management. What is 'Right' should be based on strong environmental criteria not just forestry criteria. We believe that the stated targets for afforestation proposed by DAFM and the Climate Change Advisory Council, rising to 20,000ha per annum in 2028 and continuing thereafter up to 2050, are totally unfeasible, mainly due to resistance from the public and landowners to Ireland's predominant forestry model, namely non-native conifer plantations, managed intensively using practices involving pesticides and clear-felling. This resistance is reflected in falling afforestation rates and strong community opposition in parts of the country where forestry has emerged as a dominant land use. Even the target of 8,000ha per annum will be extremely challenging without significant changes to how the sector operates.

Further, there has been no objective and proper land-use assessment to assess the feasibility of such targets with associated environmental assessment. This reality is reflected by the departments acceptance that "*the system of procedures they had in place to screen environmental impacts on protected habitats and species was non-compliant with European law*" and this necessitated change in the Appropriate Assessment Procedure (AAP)- according to statements made by Minister Creed, Minister Doyle and Minister Calleary in Dáil Eireann. These failures have resulted in the crisis within the forestry licensing system. Rather than addressing these issues with ambitious root and branch reform we have observed the sector rallying to drive deregulation and undermine public participation and transparency through the Forestry (Miscellaneous Provisions) Act 2020 and new regulations introduced in 2020 on foot of that Act and the Forestry Act 2014, and the Animal Health and Welfare and Forestry (Miscellaneous Provisions) Act 2022. Our concerns,recommendations and calls in respect of these are set out in a specific section further below entitled "Governance, Aarhus and specific legislative issues". These issues have been compounded by ongoing serious issues of non-compliance with EU Environmental Law Requirements, including in respect of SPA's for threatened species such as Hen Harrier. The credibility of this Government's and the Department's commitment to the "right tree in the right place" has rung out as a hollow mantra in the face of the focus which they have brought to perpetuating the current unsustainable forestry model, and the delayed approach to advancing a new programme and strategy, without any proper landuse planning to inform it, and with the priority still being on non-native forestry, and as we write - entirely unclear proposals in respect of the approach to be taken to a new proposal for unlicensed forestry.

The pace with which the existing unsustainable forestry model is being perpetuated, compounded by poor and bad implementation of wider legal requirements - is of the gravest concern when compared with the glacial pace in advancing a sustainable forestry strategy - now long outstanding. The admission by successive Ministers that the State has been grossly negligent in ensuring successive forestry programmes were compliant with Ireland's legal requirements does not appear to have shifted the mentality of key actors within the sector. The regulatory review recently finalised by Phillip Lee should

provide another opportunity for introspection and change. **Continuing to ignore the law or "red tape" as some may call it is simply not an option when legal compliance with the State Aid Decision underpins almost €200 million, in public funding (2014-2020) and access to important certification-dependent markets.**

To avoid a lose – lose scenario for the sector, society and the environment we believe that root and branch reform is needed. **The predominant forestry model which is focused on intensive production, a narrow market focus and poor environmental credentials must be replaced by a new vision for forestry and woodlands as an ecologically and socially coherent sustainable land use that protects and enhances our environment, diversifies our rural economy, while creating spaces for work and recreation that enhance the quality of life for rural communities.** For this to happen, however, there first must be acceptance from the sector that **deep and meaningful change is needed.**

It is our view that the current Forestry Programme is not compliant with the conditions laid down within the state-aid decision and the internal market; in particular the twelve environmental safeguards within the state-aid decision. It is critically important that there is a dramatic shift in the sector's attitude to the environment. It is in all our interests, not least the sector itself that is dependent on hundreds of millions of euros in public funding and access to important certification dependent markets.

SUPPORTING PEOPLE AND COMMUNITIES

It is clear from these projected breakdowns of annual afforestation by Forest Type that the dominant forestry model of clear-cut monocultures of non-native conifers will continue to dominate policy. This is clearly not in line with the wishes of the Irish people. If the IFSIP wants to transition to a new vision for Irish forestry which supports people and communities then it should reflect the wishes and needs of those people. The consultations and polls supposedly underpinning the IFSIP are further expanded within Section 4 A Shared National Vision for the Future. The public's views are summarised as "*There is a **broad preference for more mixed forests** in the landscape and a wish to see **more native and broadleaf trees** established. There is also a level of interest in **more community involvement in forest planning and management.** There is support for considering an **alternative approach to forest planning**, one that is plan led and based at a catchment, landscape, local authority or county level*." Again, we believe that these views are not reflected in the detail of the IFSIP.

We would like to see the IFSIP fundamentally changed to reflect the wishes of the Irish people. In particular we would like to see the following recommendations reflected in the final plan.

Public Attitudes Survey on Forestry

Chapter Five – Focus on Trees

Across all regions a majority of people showed a preference for 'mainly broadleaf deciduous tress' over 'mainly conifer trees'. In total 72% of respondents showed a preference to a shift towards mixed forestry. When comparing preferences 'mainly broadleaf deciduous tress' and 'mainly conifer trees' in isolation 61% favoured woodlands dominated by broadleaves.

Note: The survey questions themselves were flawed in that they did not ask the public's opinion on Sitka Spruce monocultures, native woodlands, Continuous Cover Forestry or Close to Nature Silviculture.

Chapter Six – Benefits to the community

The survey on the benefits of forests for communities showed an overwhelming preference for the non-commercial benefits of forests, including climate change, mental health, air quality, recreation and biodiversity. In terms of the most important qualities of forests biodiversity was joint third on the list. Clearly the public value the benefits forests bring to the environment and their own lives over commercial value. Improving the sustainability and accessibility of forests should therefore be a top priority of the Forest Strategy.

Irish Rural Link Assessment of Attitudes by Communities and Interested Parties on Forestry and Woodlands

The Irish Rural Link report on the attitudes of rural communities to forestry built upon the study by Ní Dhubháin, A. (2019) "The Socio-Economic Impact of Forestry in Co. Leitrim" which assessed the social impacts of forestry in Co. Leitrim including the attitudes to forestry of people living there. Mixed views were expressed as to the contribution forestry makes to supporting rural life. There was a mixture of views within the study but one viewpoint commonly expressed was that forestry makes rural life more difficult. The use of farmland for forestry makes it difficult to expand existing farms or start a new generation of farmers. Also, where forestry has replaced abandoned houses, they cannot be taken back by people making it harder for people to return or move to the county. The prevalent Sitka spruce plantations in the region did not coincide with the vision local people have for their community and without public consultation conflicts with Government goals for local areas.

Irish Rural Link made the following relevant recommendations based on an analysis of the survey and Focus Groups which should be considered for the 'Shared National Vision' for forests, woodland and trees to develop a new Forest Strategy for Ireland.

5. Key Performance Indicators (KPIs) to prevent excessive plantation of Sitka Spruce - We recommend a series of KPI's be established through consultation to monitor the density of plantations of Sitka Spruce and Conifers at county or regional level. Many communities are concerned that excessive forest plantation of Sitka Spruce may have an impact on their community in terms of farmland, water systems and general biodiversity systems or development of other sectors. These KPI's would serve as a guarantor for any adverse effects that may impact on communities as a result of excessive plantations of conifers and are managed by the relevant stakeholders.

6. Mixed Tree Plantation – We are recommending that the policy of mix tree plantation should be adopted by all stakeholders. While local farmers and foresters must plant a percentage of broadleaves and native woodland trees as part of their plantation, some participants of the survey and focus groups were of the opinion that this was not the case for public and large private investment companies. There was a strong belief from participants of the study that these public and private investors could plant one type of tree in one part of the country and a native or broadleaf in another part and that this is what has led to excessive, dense plantations of Sitka Spruce and monoculture plantation in some parts of the country. All forest plantation sites, irrespective of public, private investments, or local farmers, foresters should plant a mix of trees. The principle of planting and growing "the right tree in the right place and for the right purpose" should be applied in the new Forestry Strategy and future forestry policy.

7. Payments for Native Woodlands and Biodiversity – A comprehensive review of payments for native woodlands and biodiversity should take place. Payments to plant broadleaves and native woodlands must increase to encourage greater plantation of these

type of trees. The review should explore making an annual payment for the plantation of native woodlands so that those who would like to plant more than the required amount and also those who are protecting local biodiversity and wildlife are properly compensated.

8. Licencing and Clear Felling – There is a perception among respondents to the survey that there are significant delays in licencing for clear-felling. This is particularly difficult for small 10 holders. This study recommends that a study on feasible alternatives to clear-felling be carried out. It is important that measures are put in place to address the delays in issuing these licencing. In relation to Clear-Felling, the aesthetics can be off-putting and does not look very appealing for a local area, especially for people living close by or if the community is trying to develop the area for tourism.

9. Engagement with Communities – We are proposing that a comprehensive community engagement process be established in each local community affected by plantation proposals. Where there is planning for plantations by large private companies and public forests and woodlands, communities should have a right to transparent and meaningful engagement. This would allow for a conversation to take place on any concerns the community might have for example, community benefit from the forest, ensuring a mix of trees can be planted that are suitable for the soil type and how the forest and/or woodland can be integrated into the community and can the forest be used as a local amenity, by local schools etc. Engaging with communities can also help remove and avoid misinformation on forestry and different tree types that communities may have

11. Align our Forestry Policies with International Best Practice - We recommend further examination of International Best Practice of sustainable forestry management practices. This should include how forests are managed, how they are perceived by local communities and if or how they are integrated into local communities.

12. Community Ownership – We recommend a further exploration of community ownership of forestry. A concerted effort should be made under a cooperative structure to invest in forestry at a local level. This would give communities a say in what type of trees are to be planted as well as its development as a local amenity and possible tourist attraction.

Report of the Foróige Youth Dialogue - Working Towards Ireland's Shared Vision for Forestry and a New Forest Strategy

The Report of the Foróige Youth Dialogue reflects the views of the youth in Ireland and their aspirations for a sustainable forestry sector, a biodiverse landscape and a stable climate.

Recommendation 1: Barriers to accessing forests and woodland areas should be considered and mitigated, including but not limited to the lack of public transport links, the needs of people with particular accessibility needs, and the need for proper forest management.

Recommendation 2: A range of schemes, initiatives and activities should be developed to enable greater awareness and opportunities to engage with nature.

Recommendation 3: The benefits of trees and forests must be more widely promoted, to support greater recognition and understanding of the importance of trees and forests to many aspects of our lives.

Recommendation 4: Native species should be protected and promoted, in particular broadleaf and hardwood tree species.

Recommendation 5: Tree planting should be done to mimic natural growth patterns.

Recommendation 6: Forests and woodland areas should be properly managed to support overall forest health and maintain accessibility for visitors.

Recommendation 7: Forest cover in Ireland should be expanded to meet the global average of 30.6% of land area at a minimum.

Recommendation 8: Commercial activity should be tempered by the need to ensure environmental sustainability and ecosystem health, and must be subject to robust monitoring.

Recommendation 9: Educational opportunities to learn about trees and forests should be rolled out comprehensively and expanded, both through formal and non-formal education, as well as the provision of dedicated outreach staff.

Recommendation 10: Urban environments should be a key part of Ireland's forest strategy and vision.

Joint Committee on Environment and Climate Action - Report on Biodiversity November 2022

While not in direct response to the IFSIP, the Joint Committee on Environment and Climate Action recently published a report on Biodiversity which is highly relevant to the development of future forestry programmes. We would like to highlight some of its recommendations.

Agriculture and land use

19. The Committee recommends that greater effort should be made to ensure that human activities such as the intensification of agriculture and afforestation do not further contribute to biodiversity decline.

22. The Committee recommends that protection and restoration of biodiversity should be reflected in all Government land-use policies and decisions, including land use policies in respect of climate action.

23. The Committee recommends the identification and use of appropriate public land for the creation of new Statutory Nature reserves.

29. The Committee recommends that remaining old oak forests in the State should be designated as special areas of conservation.

Peatlands and Forestry

47. The Committee notes the many benefits of forestry which include biodiversity, carbon sequestration, water quality and recreation, and notes that these benefits are often not incorporated into the mainstream forestry model in Ireland. **The Committee recommends that priority be given to implementing the Continuous Cover Forestry, CCF system on a broader basis for greater sustainable forest management, with the development of a best practice guide for CCF and specific targets for CCF. It is also important that appropriate environmental assessment of afforestation locations takes place to ensure new forestry is not planted on high nature value lands such as wetlands and peatlands that was a practice in the past. The Committee is also of the view that**

greater public awareness of CCF is needed to encourage private landowners to deliver and prioritise this system.

48. The Committee recommends transitioning away from the practice of monocultural forestry and pursuing a policy of forestry diversification instead to increase the resilience of our forests and improve biodiversity.

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.

51. The Committee notes the negative impact which failure to properly apply EU environmental assessment tools such as Environmental Impact Assessment and Appropriate Assessment has had on forestry and recommends a shift towards earlier and better use of these tools.

DAFM (2022) Summary report of the results of the Public Consultation

There are a number of recommendations within the DAFM summary report of the results of the Public Consultation.

The right reasons – Forests for People

2. Continued access to public forests is vital to maintain the benefits of forests to people. There is a general divergence in preference for access to publicly or privately-owned forests.

4. Not all communities experience the multi-benefits of forests equally and some have had negative impacts. These experiences need to be acknowledged and understood and the learning outcomes used to expand the benefits of trees and forests in a way that is more inclusive and integrated.

The right reasons – Forests for Nature

1. Supporting and protecting nature and biodiversity are key drivers for increasing forest cover and planning and managing existing forests.

2. There is a preference for expanding, enhancing and restoring native woodland habitats.

3. Establishing non-native conifer forests on sensitive peatland habitats is a key concern. The existing biodiversity and climate mitigation value of candidate afforestation sites should be an important consideration in this regard.

PROTECTING NATURE AND THE ENVIRONMENT

Ireland's unnatural and industrial model of forestry is arguably the least sustainable in Europe. For example, Ireland has the highest share of forest area dominated by introduced tree species and the third highest level of plantation forestry in Europe. This is in stark

contrast to Europe as a whole where 87% of forest area is semi-natural[3]. Ireland's forest cover is dominated by plantation forestry with 61.3% of the national forest estate composed of non-native conifers, with 44.6% of forestry in Ireland being made up of just one species, Sitka spruce (*Picea sitchensis*)[1]. This is in stark contrast to Europe as a whole where the forest area is dominated by semi-natural forest cover (Fig. 2)[2]. The sector remains dominated by low diversity plantations which are clear-cut. Commercial forestry is a leading threat and pressure on protected habitats and species in Ireland[3]. Forestry is reported as having a negative effect on a wide range of species, including fish, molluscs, terrestrial mammals and vascular plants because of the wide sphere of influence of some activities for example through water quality impacts. The habitats which have been most negatively impacted by forestry are peatlands, wetlands and grasslands[4].

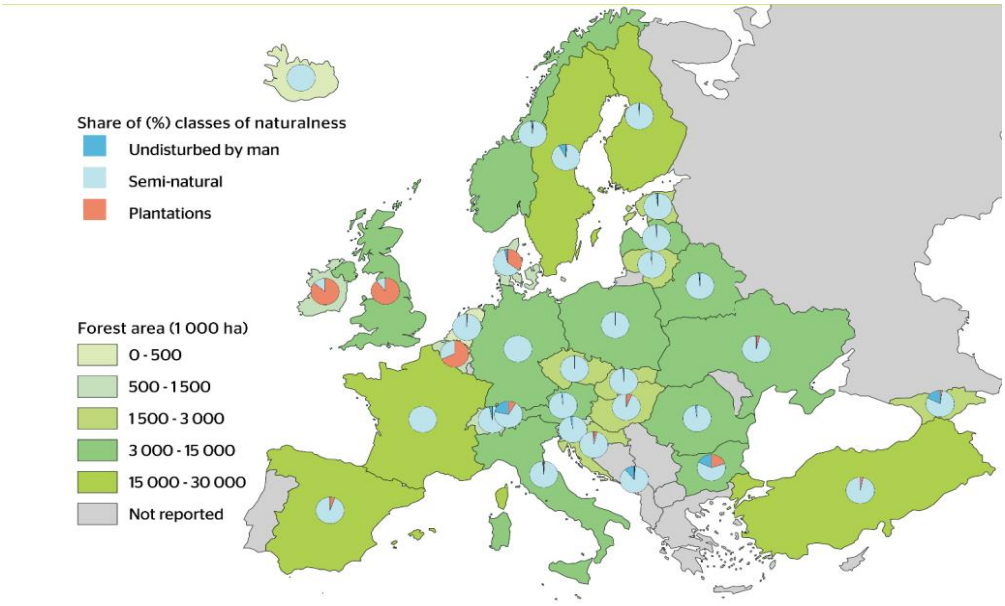

Figure 2. Forest area by classes of naturalness, by country, 2020 (Source: Forest Europe, 2020).

Commercial forestry is also a significant pressure on water quality (Fig. 3) and freshwater biodiversity at a national level and is a critical pressure nationally impacting on ecologically important water bodies[5]. Poor regulation of the sector has resulted in a situation where 450,940 ha of peatlands in Ireland have been inappropriately afforested[6], 60% of which is State owned[7]. These legacy issues include protected sites such as the six Special Protection Areas designated for Hen harrier (a protected bird of prey reliant on open upland and extensive farming habitats), in which forest cover has reached 53%[8]. Forestry has been the main driver of habitat loss within these sites which have seen a 25% breeding population

[1] DAFM (2021) Forest Statistics Ireland 2021 https://www.gov.ie/pdf/?file=https://assets.gov.ie/138951/ff44164f-1137-4482-90ae-371994a8dd97.pdf#page=null
[2] Forest Europe (2020): State of Europe's Forests 2020.
[3] NPWS (2019). The Status of EU Protected Habitats and Species in Ireland. Volume 1: Summary Overview. Unpublished NPWS report.
[4] ibid
[5] Department of Housing, Planning, Community and Local Government (2017) Draft River Basin Management Plan for Ireland (2018-2021), Dublin: Department of Environment, Heritage and Local Government
[6] Duffy, P., Black, K., Fahey, D., Hyde, B., Kehoe, J., Murphy, B., Quirke, B., Ryan, A.M. and Ponzi, J., 2020. Ireland's National Inventory Report 2020. Greenhouse Gas Emissions 1990-2018 Reported to the United Nations Framework Convention on Climate Change. Environmental Protection Agency, Johnstown Castle, Ireland.
[7] NPWS (2015) National Peatlands Strategy
https://www.npws.ie/sites/default/files/publications/pdf/NationalPeatlandsStrategy2015EnglishVers.pdf
[8] Moran, P. & Wilson-Parr, R. (2015) Hen Harrier Special Protection Area (SPA) Habitat Mapping Project 2014. Irish Wildlife Manuals, No. 83. National Parks and Wildlife Service, Department of Arts, Heritage and the Gaeltacht, Ireland.

decline between 2005[9]. The population within these protected sites is not self-sustaining[10]. The failure of the State to address these legacy issues or act to protect 'High Nature Value' farmland even within protected areas is a serious ongoing issue and is indicative of the influence industry has over the government. The IFSIP acknowledges that these legacy issues exist stating that "*many of our planted forests were established at a time when largely only unproductive agricultural land was available for afforestation. Consequently, some of our forests are poorly sited by today's standards*" but there is no proposal provided on how these legacies should be addressed.

The risks posed by forestry expansion to biodiversity loss are well described in the Land Use Planning and Community Support section of the Irish Forestry Strategy:

"*Furthermore, habitat loss is one of the key drivers of the current biodiversity crisis and the challenge of protecting Ireland's habitats and species are more important than ever…New forest projects must be cognisant that the creation of new forests may have the potential to negatively impact biodiversity and can be a cause for concern for people in some communities. Planning for the future expansion of our forests at the catchment, landscape or local authority/ regional level can provide opportunities for greater cooperation, trust and collaboration between local landowners, communities and other stakeholders and delivering multiple benefits for society, the environment and the economy*." However, **no solutions are proposed and the ongoing legacy issues around forestry on deep peat are completely ignored**. Concrete actions are needed to address these issues.

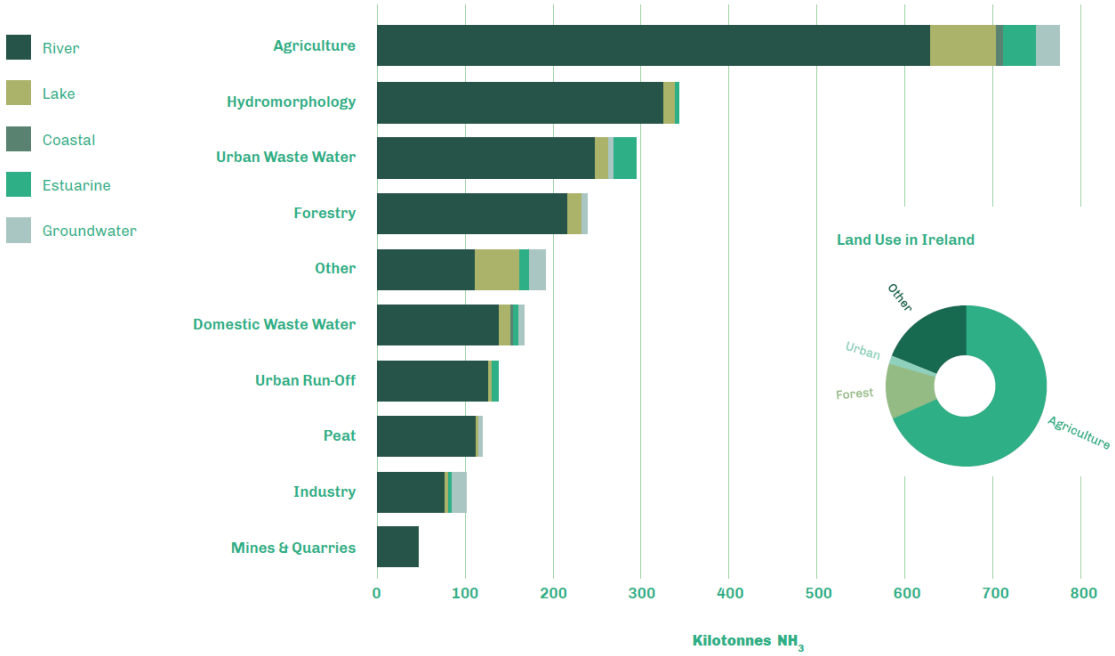

Figure 3. Significant pressures on Ireland's aquatic environment (Source: EPA, 2020)

In the Environmental Pillars (2019) Greening Irish Forestry – Recommendations for Nature Friendly Forestry, we highlighted some key recommendations to deliver a transition to a

[9] Ruddock, M., Mee, A., Lusby, J., Nagle, A., O'Neill, S. & O'Toole, L. (2016). The 2015 National Survey of Breeding Hen Harrier in Ireland. Irish Wildlife Manuals, No. 93. National Parks and Wildlife Service

[10] Hen Harrier Programme (2021) Hen Harrier Monitoring 2021 http://www.henharrierproject.ie/HHP_HH_Monitoring_2021.pdf

sustainable forestry and nature friendly forestry sector in Ireland. Specific recommendations that should be integrated into Coillte strategic vision are:

Forestry must enhance biodiversity at a community and regional level by delivering:

- New native woodland establishment while also enhancing and connecting existing woodlands.
- Ambitious targets for the planting of broadleaves.
- Ambitious targets to diversify the species mix within Irish forestry by capping the percentage of non-native tree species that can be planted regionally through afforestation and reforestation.
- Forestry that is compatible with the delivery of ecosystem services such as carbon sequestration, flood attenuation, pollination and water quality protection.

Forestry must ensure the protection of our environment through:

- The full implementation of Irish and European environmental law.
- Working with partners such as environmental NGO's and government bodies to develop tools to ensure the conservation of habitats and species at a landscape level.
- Ensuring that the afforestation and forestry management is not in conflict with the conservation of High Nature Value farmland and threatened habitats and species.
- The adoption of Close to Nature Silviculture and Continuous Cover Forestry, prioritising the conversion of plantations within environmentally sensitive sites.
- In keeping with the recommendations in the Hydrofor report, there should be a cessation of afforestation with conifers on peat soils in acid-sensitive headwater catchments. Reforestation in such catchments, should be conditional on site-specific mitigation measures such as aquatic buffer zones and sediment traps, which can demonstrate empirically that site-specific impacts on water quality and aquatic biodiversity can be mitigated throughout the forest management cycle.
- Addressing the spread of exotic tree species into protected habitats and on to private land e.g. Rhododendron ponticum.
- Ending the use of damaging pesticides across all Coillte land holdings and adopting where necessary Integrated Pest Management (IPM) and of alternative approaches or techniques, such as non-chemical alternatives to pesticides in line the Commission's proposal on the Sustainable Use of Pesticides. Adopting CNS and CCF will reduce the sector's dependence on pesticides.
- Ensuring that native woodland buffers are used where appropriate to protect water quality.
- Ensuring the proper training and safeguards are in place to protect biodiversity.

Forestry must contribute to the viability and quality of life within rural communities by:

- Establishing regional thresholds for forest cover where environmental and social conflicts are evident.
- Ensuring that forestry licensing is transparent, unbiased and open to public participation.

The Environmental Pillar 10 Point Action Plan to Fix Forestry in Ireland

Many points within the Environmental Pillar's 10 Point Action Plan to fix Forestry in Ireland are directly applicable to reform of Coillte's remit.

1. Change the current timber production narrow focused forestry model and transition to a three-strand forestry strategy, for 1. Timber production, 2 Biodiversity/Ecological services/water protection and long term Carbon storage, and 3. Community Woodland

Social/Recreational to ensure a balance of the 3 Pillars of Sustainable Forest Management (SFM), Ecological, Social, and Economic, based on the 1992 Rio Forest Principles for Sustainable Forest Management and subsequent EU Ministerial Conferences on the Protection of Forests treaties for SFM as well as the legally binding UN Convention on Biological Diversity relating to native woodlands and broadleaves to increase biodiversity.

2. Move to a close to nature, continuous cover management model with a focus on native broadleaves aspen, birch, oak, cherry, holly, and other valuable high-end broadleaves, such as walnut, maple and spanish chestnut, including more use of our native conifer, scots pine to grow better quality softwoods, and non-native conifers such as cedar, douglas fir, european larch, promote natural regeneration, ecological corridors for nature connectivity and traditional coppice management of suitable native and other species.

3. Phase out the damaging practices of clear felling and chemical dependency, as forest management tools. Include compensation for forestry contractors using the just transition model developed for closure of peat burning power stations and introduce training in small scale close to nature SFM to develop ecologically minded foresters.

4.Ensure that wildlife is protected from afforestation and forestry management in line with the requirements of Irish and EU law. Develop as a priority tools such as sensitivity mapping and implement species specific guidelines to support ecological assessment of applications for afforestation
and felling.

5. Reform, Refocus and Repurpose Coillte, the Irish Forestry Board, legislation via the1988 Forestry Act, which is not fit for purpose and repurpose Coillte to deliver the multiple known benefits of a new 21st century Irish forestry model, which creates higher quality timber, meaningful employment and contributes to our Climate and Biodiversity action/mitigation plans, while ensuring that Communities benefit.

6. Embrace a broad-based agroforestry model that includes sustainable hedgerow management and conservation with less onerous rules for establishing small groves of native and useful broadleaves/ native conifer. Reward farmers for measured ecosystem, Water, Soil protection, and Carbon sequestration services.

7. Assist the development of small scale local Combined Heat and Power (CHP) systems in Public and other buildings utilising locally produced tree thinning's and other sustainably produced biomass/firewood including from farm hedgerows in tandem with the development of a national certified small-scale Sustainable Forest Management standard.

8.Introduce Community Woodland legislation to allow public and community co-operatives access to funding and support to buy unproductive Coillte and other public lands to develop long term native community woodlands[11]. A Forestry Commission model for this exists in the UK, developed for Scotland who have approximately 200 Community woodlands some on ex Forestry Commission sites[12].

9. Establish a broad multi stakeholder forestry-land-water-soil management use Forum, with cross departmental inputs to oversee all new afforestation and guide the forestry strategy implementation, to ensure Joined up thinking so that new woodlands and forestry plantations are sited in an ecologically sound way, with the right tree in the right place, utilising the existing River Basin management plans combined with existing satellite digital data mapping systems as an overarching framework for planning the siting of trees.

[11] https://forestryandland.gov.scot/what-we-do/communities/community-asset-transfer-scheme
[12] https://rbg-web2.rbge.org.uk/ethnobotany/ntfp/communitywoods.htm

10. Ensure that full lifecycle carbon accounting is an integral component of all schemes within the forestry programme and riparian etc woodlands/agroforestry if it is funded under CAP or state eco schemes.

EU Forest Strategy 2030

According to the IFSIP Ireland is fully committed to the European Union's Biodiversity Strategy for 2030 which sets out a vision for European forests to be wholly compatible and supportive of nature and the environment while also providing economic and social benefits to communities.

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****."*

The emphasis within the EU Biodiversity Strategy is that clearfelling should only be used in exceptional circumstances where the reasoning has been fully justified. This is clearly not the case in Ireland where clearfelling is widely adopted on purely economic grounds despite the well accepted water quality, biodiversity and climate impacts of clear-fell.

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 these standards for newly planted sites 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 clear-felling coupes (where clear-felling is even permitted) are often limited to 5 ha or less. Serious questions need to be asked on how future afforestation constitutes 58% of Mixed high forest with mainly spruce and the 14% Mixed high forest with mainly Scots Pine, Douglas Fir (Fig. 1) will be managed; or how will replanting on peat soils be managed, particularly in acid-sensitive catchments.

- **The IFSIP must align with the EU Forest Strategy 2030 and establish a regulatory system which ensures that clear-felling only takes place in exceptional circumstances where there is a clear and transparent justification.**

- **New afforestation under the IFSIP must not be designed 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.**

- **Legacy issues associated with the afforestation of peatlands must be addressed through an ambitious programme of measures to convert plantations to Close to Nature Silviculture, Continuous Cover Forestry, Native Woodland or restored habitat. Priority should be given to Natura 2000 sites, sites adjoining waterbodies with a High-Status objective under the Water Framework Directive and acid sensitive catchments.**

EU Biodiversity Strategy 2030 and the Nature Restoration Law

The Irish Forest Strategy should also align its objectives under 'Forests for Nature' with EU policy and particularly initiatives linked to the EU Biodiversity Strategy 2030 and the proposal of a new Nature Restoration Law. This could include targets for improving the biodiversity value of forests by improving the status of the following indicators: (a) standing deadwood; (b) lying deadwood; (c) share of forests with uneven-aged structure; (d) forest connectivity; (e) common forest bird index; (f) stock of organic carbon.

One simple targeted action across the forest estate would make a huge difference for water quality, soil protection, and biodiversity, would be to **introduce permanent continuous cover riparian native woodland buffers along water courses, with a setback of at least 20 metres.** As well as the buffering effect and bank stabilisation, one other very important issue is also addressed, that is ecological connectivity and forestry fragmentation. The Environmental Pillar recommends this action is implemented immediately to start addressing the continuing downward trend in water quality and associated soil erosion issues.

Image 1: Knocksink Woods, Co. Wicklow (Fintan Kelly)

A new mandate: Public lands managed in the public interest

According to the IFSIP Ireland is fully committed to the European Union's Biodiversity Strategy for 2030. One of the key commitments of the EU Biodiversity Strategy is to protect (at least) 30% of land and sea for nature by 2030. This will necessitate the protection of woodland and non-woodland habitats within the existing forest state. Key to delivering on this target will be the protection of habitat on public land and in particular on Coillte and Bord Na Mona properties.

Coillte is the largest landowner in the Irish State, managing a landholding of 440,000 ha or 7% of Ireland's land area. It controls the vast majority of the 50.8% of Irish forestry which is

in public ownership. Coillte owns 232,500 ha of peatlands making them the largest owner of peatland habitat in Ireland. Tens of thousands of hectares of rare raised bog and blanket bog habitat have been drained and afforested in past decades. Coillte also owns a significant area of approx. 96,000 ha of Special Protection Areas (SPA) and Special Areas of Conservation (SAC), Natural Heritage Areas (NHA) and proposed Natural Heritage Areas (pNHA). According to Coilltes' own assessment, their landholdings support a number of Rare, Threatened or Endangered, which is equivalent to the IUCN conservation status of "*critically endangered, endangered or vulnerable*".

As a public authority and leader in Irish forestry, Coillte has the ability and the responsibility to lead the Irish forestry sector towards a more sustainable model of forestry and land use.

Coillte also has significant expertise when it comes to habitat restoration. Given the amount of internationally and nationally important areas for biodiversity within Coillte landholding and the importance of peatlands, wetlands and forests in Ireland's efforts to tackle climate change, Coillte clearly has the expertise and an obligation to play a leading role in acting on Biodiversity loss and climate change. Coillte reported revenue earned of €422m with an operating profit of €124m in 2021.

Bord na Móna owns a landholding of approximately 80,000 ha, which would formerly have supported an incredible array of wildlife across a mosaic of raised bog, blanket bog, wetlands, grasslands, woodlands and freshwater habitats. Though much has been lost since Bord Na Mona was established in the 1940s, the potential for rehabilitating both remnant habitats and degraded habitats is incredible. Cutaway bog (post production bogs) areas account for up to 30% of the total Bord na Móna bog area, while areas still in active production which are destined to become cutaway bog account for up to 55% by area. Cutaway bog supports a range of pioneer habitats such as wetlands, species rich grasslands, scrub and emergent bog woodlands; to more complex poor fen and rich fen habitats and established bog woodland. Already these sites support internationally important wintering Whooper Swans and breeding Lapwing and a range of waterfowl.

Bog remnants account for 12% of the bog area and largely comprises areas of degraded raised bog, patches of active raised bog (a priority habitat under the Habitats Directive). These remnants support threatened species such as Curlew and Sphagnum pulchrum, Marsh Fritillary butterfly. Drained raised bogs account for <3% of total bog area which have the potential to be restored and have a high conservation value. Some of these bogs still retained active raised bog habitat and all showed good potential for restoration of active and degraded raised bog habitat. Such is the conservation value of these sites that they have already or may be afforded national or EU protection. Bord na Móna has reported a near-trebling in its operating profit, which was €78.9m in 2022. **Bord na Mona can and must restore peatlands and wetlands in response to the biodiversity and climate emergency and given their position as a public body.**

The untapped potential of Coillte and Bord Na Mona's land holding for biodiversity is unprecedented in the history of the Irish State. We have the opportunity to restore public lands at scale for nature, public amenity and sustainable development. This is public land and the Irish people should have a greater say in how it is utilised. Coillte and Bord Na Mona need new mandates which empower the state to utilise public lands in the public interest. Coillte and Bord Na Mona's legal mandates must be reviewed and brought in line with societal expectations and the stark realities of the biodiversity and climate emergency. The review should be informed by input from the public. The Programme for Government commits to "*Ensure that Coillte's remit supports the delivery of climate change commitments and the protection of biodiversity. We are fully committed to the retention of the commercial forests of Coillte in public ownership*." To deliver on this commitment and to expand it to

include Bord Na Mona it will be necessary to amend both public bodies legal mandates to prioritise the delivery of biodiversity conservation and climate change commitments.

- **Coillte and Bord Na Mona's legal mandates must be reviewed and brought in line with societal expectations and the stark realities of the biodiversity and climate emergency.**
- **Coillte should develop and publish a Biodiversity Action Plan which commits to ambitious targets for habitat restoration by 2030.**
- **Bord na Mona should develop and publish an updated Biodiversity Action Plan which commits to the rehabilitation of all cut-over bog and priority and Annex habitat within its landholding.**

SUPPORTING CLIMATE ACTION

We welcome the IFSIPs stated commitment the Paris Agreement and the European Green Deal, namely to become a climate-neutral country by 2050 and protect our natural heritage and biodiversity at the same time. However, this commitment is not reflected in a radical change in direction which is necessitated by the urgent need for climate action and adaptation within the forestry sector or the need to address the biodiversity crisis. **It is critically important that forestry sector embraces the need for change, otherwise it may be perceived that the draft forestry strategy is a cynical attempt to cherry-pick actions which suit the sectors own business interests.** Climate change should not be used as an excuse to accelerate afforestation while failing to address serious legacy issues and maintaining a business as usual approach to forest management.
Afforestation should not be viewed as an alternative to sustained cuts in emissions within the agricultural and land use sectors. As outlined by the Intergovernmental Panel on Climate Change, such land sequestration is impermanent (relative to the thousands of years of mitigation required), highly uncertain, and subject to carbon cycle rebound effects that seriously reduce their value.

Ireland has declared both a climate and a biodiversity emergency. The biodiversity crisis should be equally prioritised. Proposed solutions that may exacerbate the biodiversity crisis should not be countenanced. There is a need for win-win land use options that protect and restore biodiversity while enhancing the carbon sequestration and storage capacity of habitats such as peatlands, wetlands, grasslands and native woodlands. This should apply to all existing forestry and not just to new afforestation.

The need for climate change adaptation

The IFSIP highlights the need for increased resilience of the national forest estate to the effects of climate change through climate adaptation stating that "*the changing climate will also impact the health and productivity of our forests. This may include, the frequency and intensity of forest fires, drought, extreme storms, as well as phenology (seasonal timing of biological activity), and the distribution and abundance of invasive species and pests. This has the potential to reduce the adaptability of trees to climate change, and may consequently affect the range of social, economic and environmental services that forests provide, including the ability to sequester carbon. Therefore, our forests need to be resilient to cope with, or even take advantage of, future growing conditions that a changing climate may bring."* We strongly agree however; this statement unfortunately is not reflected within the actual detail of the strategy. The ongoing commitment a forestry model predominantly focused on mono-culture plantations of non-native conifers that will be manufactured into short-lived wood products is not in line with the need for climate adaptation.

Plantations of even aged stands of monocultures that are harvested using clear-cuts are particularly vulnerable to the projected increase in climate driven biotic and abiotic pressures such as disease, pests, wind throw and fire[13]. We have already seen the impact that tree diseases such as Phytophthora ramorum and Ash Dieback (*Hymenoscyphus fraxineus*), wind throw and forest fires have had on Irish forestry in recent decades. Internationally new approaches are being adopted to transition plantation forestry to forests that are more resilient to the effects of a changing climate. These changes in forest management also present new opportunities to improve biodiversity values within existing and new plantation forests. Increasing species diversity within forests is one common approach to improving the biodiversity value and climate change reliance of commercial forestry[14].

Research in the UK has concluded that 'business as usual' forest management will become unsuitable under the two warmest and driest climate variants, marginal under four variants, and borderline suitable under the remaining five variants. To safeguard the ability of forestry to continue to deliver forest products and a wide range of ecosystem services some adaptation measures to climatic impacts are needed, such as transformation to more diverse species forests managed using low-impact silviculture systems[15]. With careful design and proper management, mixed-species plantations can be more productive and have more advantages in biodiversity, economy and forest health over monocultures[16]. Resilience and sustainability can be achieved if policies control standing stock, age class distribution and the use of diverse species mixes[17].

Close-to-nature silviculture (CNS) has been widely advocated as being the best approach for managing forests to cope with future climate change[18]. Many attributes of CNS can increase the adaptive capacity of European temperate forests to climate change. CNS promotes structural diversity and tree resistance to stressors, and growing stocks can be kept at low levels.
Research has identified six principles for enhancing the adaptive capacity of European temperate forests in a changing climate[19]:
(1) increase tree species richness, (2) increase structural diversity, (3) maintain and increase genetic variation within tree species, (4) increase resistance of individual trees to biotic and abiotic stress, (5) replace high-risk stands and (6) keep average growing stocks low.

The IFSIP should set ambitious targets to transition towards Close-to-Nature Silviculture (CNS) and Continuous Cover Forestry (CCF). The Programme for Government has committed to the promotion of "*close to nature-continuous cover forestry systems to ultimately create permanent biodiverse forests containing trees of all ages*." Coillte in particular as a public body and the largest forest owner in the state is well placed to lead this national movement towards a new regime of forestry management that has the capacity to deliver ongoing ecosystem and forest services under various climate change

[13] Watt, M. S., Kirschbaum, M. U., Moore, J. R., Pearce, H. G., Bulman, L. S., Brockerhoff, E. G., & Melia, N. (2019). Assessment of multiple climate change effects on plantation forests in New Zealand. Forestry: An International Journal of Forest Research, 92(1), 1-15.
[14] Pawson, S. M., Brin, A., Brockerhoff, E. G., Lamb, D., Payn, T. W., Paquette, A., & Parrotta, J. A. (2013). Plantation forests, climate change and biodiversity. Biodiversity and Conservation, 22(5), 1203-1227.
[15] Ray, D., Bathgate, S., Moseley, D., Taylor, P., Nicoll, B., Pizzirani, S., & Gardiner, B. (2015). Comparing the provision of ecosystem services in plantation forests under alternative climate change adaptation management options in Wales. Regional Environmental Change, 15(8), 1501-1513.
[16] Liu, C. L. C., Kuchma, O., & Krutovsky, K. V. (2018). Mixed-species versus monocultures in plantation forestry: Development, benefits, ecosystem services and perspectives for the future. Global Ecology and Conservation, 15, e00419.
[17] Freer-Smith, P. H., Muys, B., Bozzano, M., Drössler, L., Farrelly, N., Jactel, H., ... & Orazio, C. (2019). Plantation forests in Europe: challenges and opportunities (Vol. 9, pp. 1-52). Joensuu, Finland: European Forest Institute.
[18] Gömöry, D., Krajmerová, D., Hrivnák, M., & Longauer, R. (2020). Assisted migration vs. close-to-nature forestry: what are the prospects for tree populations under climate change?. Lesnicky Casopis, 66(2), 63-70.
[19] Brang, P., Spathelf, P., Larsen, J. B., Bauhus, J., Boncčina, A., Chauvin, C., ... & Svoboda, M. (2014). Suitability of close-to-nature silviculture for adapting temperate European forests to climate change. Forestry: An International Journal of Forest Research, 87(4), 492-503.

scenarios. **DAFM and Coillte should support the development of an EU "closer-to-nature" voluntary certification scheme**, which is proposed within the European Commission's communication on the New EU Forest Strategy for 2030, so that the most biodiversity friendly management practices could benefit from an EU quality label.

Image 2: Pro Silva Close to Nature Forest Management in the Ardéche, France. A plantation is in the process of being converted to Close to Nature Silviculture (Fintan Kelly)

Prioritise peatland restoration as biodiversity and climate action

The EU's peatlands support threatened biodiversity and provide essential ecosystem services such as climate change adaptation, resilience and mitigation, water regulation and human well-being[20]. Peatlands are the most important terrestrial ecosystem on the planet when it comes to carbon sequestration. Peatlands cover a mere 3-4% of the world's land area yet they contain up to one third of the world's soil carbon and twice as much as all the world's forests combined[21]. Keeping this carbon locked up is critical to achieving global

[20] Bonn, A., Allott, T., Evans, M., Joosten, H., & Stoneman, R. (2016). Peatland restoration and ecosystem services: an introduction. Peatland Restoration and Ecosystem Services: Science, Policyand Practice, Cambridge University Press, Cambridge, UK, 1-16.

[21] Parish, F. et al., 2008. Assessment on Peatlands, Biodiversity and Climate Change. 1st ed. Wageningen: Global Environment Centre & Wetlands International.

climate goals[22]. Europe's peatlands cover an area of approximately 350,000 km^2, however more than 50% are degraded by drainage and uses such as agriculture, forestry and peat extraction[23]. Rather than sequestering carbon these degraded peatlands are a source of 230 Mt CO2eq/year, which equates to approximately 7% of EU-27 total greenhouse gas emissions.

Drainage seriously alters the physical and hydraulic characteristics of peatlands and inevitably the biogeochemical processes that are responsible for the net fluxes of potent greenhouse gases such as CO2, CH4 and N2O[24]. The drainage of the peat for afforestation and other extractive activities results in a lowering of the water table and a deepening of the oxic zone resulting in the oxidation of peat and the loss of C in the form of CO_2 and Dissolved Organic Carbon (DOC). While forestry on drained peat may result in gains in C storage associated with increased above and below ground litter input from trees and shrubs and the obvious gain in C storage in the biomass of the trees and vegetation[25] ongoing loss of C through oxidation and DOC losses must be considered. Clear felling also alters the stand density as well as the site hydrology and may result in significant losses of peat, increasing emissions of CO_2 and N_2O[26].

The analysis of the GHG dynamics of plantations on peatlands over short time spans is myopic. Over normal forestry cycles the increase in tree biomass and indeed the decrease in CH4 emissions from peatland after drainage will cause afforestation to have a negative radiative forcing on global warming. When longer time spans are considered the need to protect the carbon stored in peat and the potential carbon sequestration capacity of active peatlands becomes an obvious priority over maintaining forestry on peat.

The Irish context

In the most recent EPA inventory, Land Use, Land-use Change and Forestry (LULUCF) sector was a net source of 4.8Mt CO2eq in 2018. The most recent projections published by the EPA for LULUCF indicate that, with current policies and measures, net emissions for the sector will increase from 4.5 Mt CO2eq in 2019 to 7.1Mt CO2eq in 2030[27]. Ireland's Climate Change Advisory Council (CCAC) proposes that in order for net emissions for LULUCF to achieve a 51% reduction, this projected trend in sectoral emissions will need to be reversed. It is our view that in order to change the land use sector from a net source to a sink, will require wide ranging changes to how we manage our landscape, not least in how we manage commercial forestry.

Overall, Irish peatlands are estimated to store 2216 Mt of carbon (uncertainty range: 2005–2320). An approximately equal proportion (42%) of the carbon store is located in the raised bogs and lowland blanket bogs, with the remainder (15%) in mountain blanket bogs[28]. Irish peatlands and peat soils are the dominant soil type in Irish forests accounting for 38.7% of

[22] United Nations Environment Programme (2022) Global Peatlands Assessment: The State of the World's Peatlands https://www.unep.org/resources/global-peatlands-assessment-2022?s=03

[23] Joosten, H., Tanneberger, F. & Moen, A. (eds.) (2017): Mires and peatlands of Europe: Status, distribution and conservation. Schweizerbart Science Publishers, Stuttgart

[24] Oleszczuk, R. et al., 2008. Impacts of agricultural utilisation of peatsoils onthe greenhouse gas balance. In: M. Strack, ed. Peatlands and Climate Change. Saarijärvi: International Peat Society, pp. 70-97.

[25] Minkkinen, K., Byrne, K. A. & Trettin, C., 2008. Climate impacts of peatland forestry, in: Peatlands and Climate Change. In: M. Strack, ed. Peatlands and Climate Change. Jyvaskyla: International Peat Society, pp. 98-112.

[26] Worrall, F. et al., 2011. A review of current evidence on carbon fluxes and greenhouse gas emissions from UK peatlands, Peterborough: JNCC .

[27] CCAC (2021) Carbon Budget Technical Report https://www.climatecouncil.ie/media/climatechangeadvisorycouncil/Technical%20report%20on%20carbon%20budgets%2025.10.2021.pdf

[28] Renouu-Wilson et al 2022 Research 401: Peatland Properties Influencing Greenhouse Gas Emissions and Removal

the total area[29]. Forestry covers 450,940 ha of peatlands in Ireland[30]. 60% of the Irish forestry on peat being State owned[31], with Coillte being responsible for 232,500 ha of forestry on peatlands making them the largest owner of peatland habitat in Ireland[32]. The EPA calculate that forestry on organic soils may emit from 0.59 t C/ha/yr to 1.7 t C/ha/yr[33] [34] which implies national emissions in the region of 0.2Mt CO_2 y-1 to 0.8 Mt CO_2 y-1. The legacy issues associated with the afforestation of peatlands have been largely ignored by policy makers in Ireland and are unfortunately unaddressed by the CCAC Carbon Budgets Technical report and national forestry policy. This is due mainly to the influence of the forestry sector over policy and the need for more research on the climate mitigation benefits of forest to bog restoration. Some Irish studies have unfortunately failed to consider the broader benefits of peatland restoration or have failed to consider the climate mitigation benefits of restored peatlands over the medium to long term[35], which is essential when considering the Global Warming Potential of short-lived and long-lived Greenhouse Gases.

Under a "business-as-usual" approach, where a peatland has been drained, we can expect that CO_2 emissions will persist in the absence of mitigation measures. Natural and cutover bogs hold just over half of all of the Soil Organic Carbon stored in Irish peatlands, which represent two-thirds of the national soil carbon stock. This has major implications for policy decisions and requires an urgent suite of actions to **(1) ensure that these carbon stocks remain in the ground and (2) promote the development of carbon sinks in all types of land use.** International biodiversity and climate change conventions [Convention on Biological Diversity and United Nations Framework Convention on Climate Change (UNFCCC)] now recognise peatlands as a priority for action, with peatland rewetting and restoration identified as "low-hanging fruit, and among the most cost-effective options for mitigating climate change".

[29] Forest Service. 2018. Ireland's National Forest Inventory 2017 Results. Forest Service, Department of Agriculture, Food and the Marine, Johnstown Castle Estate, Co. Wexford, Ireland.
[30] Duffy, P., Black, K., Fahey, D., Hyde, B., Kehoe, J., Murphy, B., Quirke, B., Ryan, A.M. and Ponzi, J., 2020. Ireland's National Inventory Report 2020. Greenhouse Gas Emissions 1990-2018 Reported to the United Nations Framework Convention on Climate Change. Environmental Protection Agency, Johnstown Castle, Ireland.
[31] NPWS (2015) National Peatlands Strategy https://www.npws.ie/sites/default/files/publications/pdf/NationalPeatlandsStrategy2015EnglishVers.pdf
[32] NPWS (2015) A National Peatlands Strategy 2015. Dublin: National Parks & Wildlife Services. Department of Arts, Heritage and the Gaeltacht.
[33] EPA (2022) Ireland's National Inventory Submissions 2022 https://www.epa.ie/publications/monitoring--assessment/climate-change/air-emissions/irelands-national-inventory-submissions-2022.php
[34] Jovani-Sancho, A. J., Cummins, T., & Byrne, K. A. (2021). Soil carbon balance of afforested peatlands in the maritime temperate climatic zone. Global Change Biology, 27(15), 3681-3698.
[35] Black et al (2022) Forests for Climate Report on Carbon Modelling of the Coillte Estate https://www.coillte.ie/wp-content/uploads/2022/08/Report-on-Carbon-Modelling-of-the-Coillte-Estate_August2022.pdf

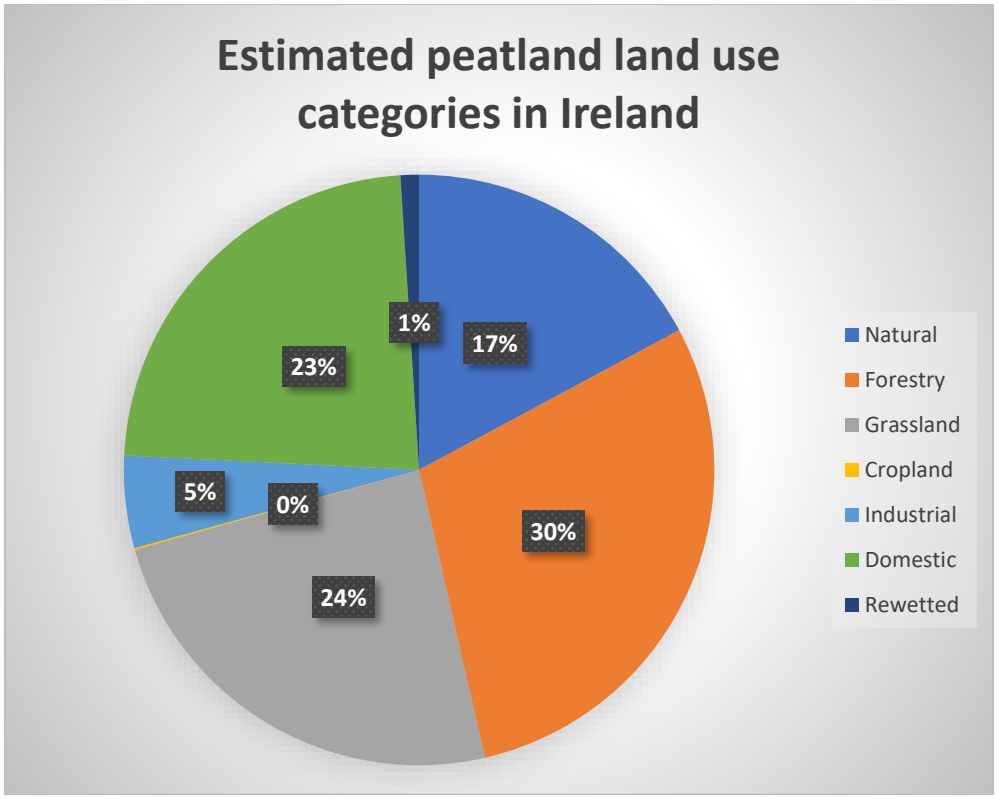

Figure 4. Estimated areas (ha) of peatland land use categories in Ireland. For grassland and domestic peat extraction area an average of the min and max range values was used (Source: Renou-Wilson, F. et al 2022)

1. **The State should show clear leadership and commit to restoring, rehabilitating and sustainably managing a large proportion of the 232,500 ha of afforested peatland in their ownership with clear restoration targets and timelines in line with the EU Nature Restoration Law proposal.**

2. **Coillte should lead by ending the practice of clearfelling on peat soils (where doing so would be compatible with other legal obligations)**

3. **The restoration of afforested peatlands should be prioritised by where:**

   a) **rehabilitation would prevent ongoing loss of peat through oxidation and forestry management**
   b) **restoration may restore the carbon sequestration capacity of a peatland**
   c) **where the restoration would deliver positive conservation benefits for biodiversity on site and in the wider landscape, with an emphasis on Natura 2000 sites and high priority sites identified within Coillte's BioClass system.**
   d) **where restoration would positively improve water quality by reducing acidification, pollution, sedimentation and eutrophication associated with forest management.**

Sustainable afforestation and forest management

The IFSIP has committed to increasing the amount of CO_2 sequestered in Irish forests by increasing the level of afforestation across the country. However, there is a growing body of research which highlights that the use of overly simplistic targets for land-use change such as the number of trees planted or annual afforestation rates can be misleading, potentially contributing to policy failure and misuse of carbon offsets[36]. To maximise GHG reductions a more nuanced approach is required to land use management which recognises spatial and temporal variability as well as the complexity required to deliver across a multitude of interconnected environmental and socio-economic policy objectives.

A number of Scottish studies have highlighted the limitations of area-based afforestation targets as an indicator of carbon sequestration outcomes and the potential for area based targets to unintentionally generate undesirable outcomes such as net emissions resulting from the afforestation of high carbon soils, stating "*a combination of land manager preferences, budgetary limitations, and the unintended consequences of other land use or agricultural policies can lead to the afforestation of less productive land, on soils with higher organic matter contents, that in the worst cases results in net emissions of carbon for decades*[37]." The heterogeneity of soil types and local conditions means that afforestation policies must take eco-system-level biogeochemistry and C fluxes and pre-existing SOC stocks into account or risk unintended policy and climate outcomes[38]. It is also of concern to us that current approaches to forestry carbon accounting fail to take into account the albedo effect of dark conifer plantations. Recent research[39] has highlighted that the expansion of coniferous forests across Europe has changed the albedo and evapotranspiration of those forests, leading to warming.

When it comes to the role that forest cover and forestry can play in sequestering carbon, the type of tree, where it is planted and how it is managed is extremely important i.e. the right tree in the right place. The level of complexity involved in maximising the positive environmental benefits of forestry and avoiding the negative effects is not currently present in Irish forestry policy. The Irish forestry model has failed to evolve in response to changing societal objectives. As a result, in the business as usual scenario we predict the ongoing afforestation of marginal farmland, including high carbon soils and we anticipate significant negative biodiversity, water quality and climate impacts.

Ireland's forestry model requires root and branch reform if it is going to deliver a credible carbon sink and address the negative environmental and socio-economic impacts it is having in many parts of the country. The scale of change needed within the sector is not reflected in Draft Irish Forestry Strategy. Maintaining a business as usual approach to forestry with enhanced afforestation rates will not address the issues within the forestry model which constrain its potential contribution to climate action nor will it address the factors which have resulted in the forestry sector being a leading threat and pressure on Irish biodiversity and water quality (as highlighted in the Environmental Pillars (Greening Irish Forestry report[40]). **Enhanced afforestation on the scale proposed without addressing the**

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[36] Brown, I. (2020). Challenges in delivering climate change policy through land use targets for afforestation and peatland restoration. Environmental Science & Policy, 107, 36-45. https://discovery.dundee.ac.uk/ws/files/42352981/ibrown_woodland_peatland_paper_feb2020_author_version.pdf

[37] Matthews, K. B., Wardell-Johnson, D., Miller, D., Fitton, N., Jones, E., Bathgate, S., ... & Perks, M. (2020). Not seeing the carbon for the trees? Why area-based targets for establishing new woodlands can limit or underplay their climate change mitigation benefits. Land use policy, 97, 104690.

[38] Friggens, N. L., Hester, A. J., Mitchell, R. J., Parker, T. C., Subke, J. A., & Wookey, P. A. (2020). Tree planting in organic soils does not result in net carbon sequestration on decadal timescales. Global Change Biology, 26(9), 5178-5188.

[39] Naudts, K., Chen, Y., McGrath, M. J., Ryder, J., Valade, A., Otto, J., & Luyssaert, S. (2016). Europe's forest management did not mitigate climate warming. Science, 351(6273), 597-600.

[40] Environmental Pillar (2109) Greening Irish Forestry, Recommendations for Nature Friendly Forestry https://environmentalpillar.ie/wp/wp-content/uploads/2020/06/Greening-Irish-Forestry-2019-Environmental-Pillar-Final-Report-.pdf

issues within the sector or introducing enhanced environmental safeguards will result in massive environmental and socio-economic impacts across affected areas.

Ireland requires a National Land Use Strategy that incorporates targets for biodiversity, water & climate action. The Irish Forest Strategy must be aligned with a national strategy which is based around forests that are designed to deliver multiple types of public goods & services.

Wood products that support a growing bioeconomy

In addition to the issue of forestry of peat there are a number of issues with Ireland's forestry model which need to be addressed in order to address its role in the emissions profile in the LULUCF sector. According to the Irish Forest Strategy the sector has "*developed a highly efficient timber products industry based on the forest output of fast-growing conifer species*", this is true but another way of looking at it is that the sector has failed to develop a diverse, environmentally sustainable sector based on slow growing hardwoods. The IFSIP also states that "*Conifers are an essential factor in the supply chain of timber products in Ireland*." While conifers will always have a role to play in Irish forestry continuing to base the entire sector around narrow market driven policies at the expense of environmental or social sustainability is not a realistic option.

The Irish Forest Strategy has highlighted the carbon sequestration role of wood products and the 'substitution effect', which arises when wood products are used instead of carbon intensive products. These arguments however are contradicted by the fact that Irish forestry is based around a predominance of Sitka spruce plantations which have short-rotation cycles and wood products with low sequestration potential due to their short-lives. According to Coillte's own assessment[41] of Irish timber, construction only account for 14% of total wood products. Even including OSB / MDF at 20% it is clear that the vast majority of Irish wood products are short-lived and therefore are not making a significant contribution to carbon sequestration (Fig 5).

If the Ireland is seriously about enhancing the carbon sequestration role and the 'substitution effect' of their wood products then it will be necessary to move away from soft-woods towards hardwoods which will produce longer-lived wood products and more construction grade building materials.

The transition over to hardwoods should be part of an overall shift to CNS and CCF. International research has highlighted that continuous cover forestry has greater potential to produce simultaneously multiple benefits from forests. Research[42] has shown that continuous cover forestry was better than rotation forest management in terms of timber net present value, carbon sequestration, amenity value and the number of large trees. Plantations are also unlikely to match the stability–and hence reliability–of C capture exhibited by more natural forests, particularly in the face of increasing droughts and other climatic perturbations[43]. Promoting natural forest regeneration and/or multi-species native tree plantations instead of plantation monocultures could therefore benefit climate change mitigation efforts, while offering valuable co-benefits for biodiversity conservation and other ecosystem services.

[41] Coillte (2022) Strategic Vision for Our Future Forest Estate https://www.coillte.ie/wp-content/uploads/2022/07/Coillte-Future-Forest-Estate-Strategic-Vision-Consultation-Booklet.pdf

[42] Peura, M., Burgas, D., Eyvindson, K., Repo, A., & Mönkkönen, M. (2018). Continuous cover forestry is a cost-efficient tool to increase multifunctionality of boreal production forests in Fennoscandia. Biological Conservation, 217, 104-112.

[43] Osuri, A. M., Gopal, A., Raman, T. S., DeFries, R., Cook-Patton, S. C., & Naeem, S. (2020). Greater stability of carbon capture in species-rich natural forests compared to species-poor plantations. Environmental Research Letters, 15(3), 034011.

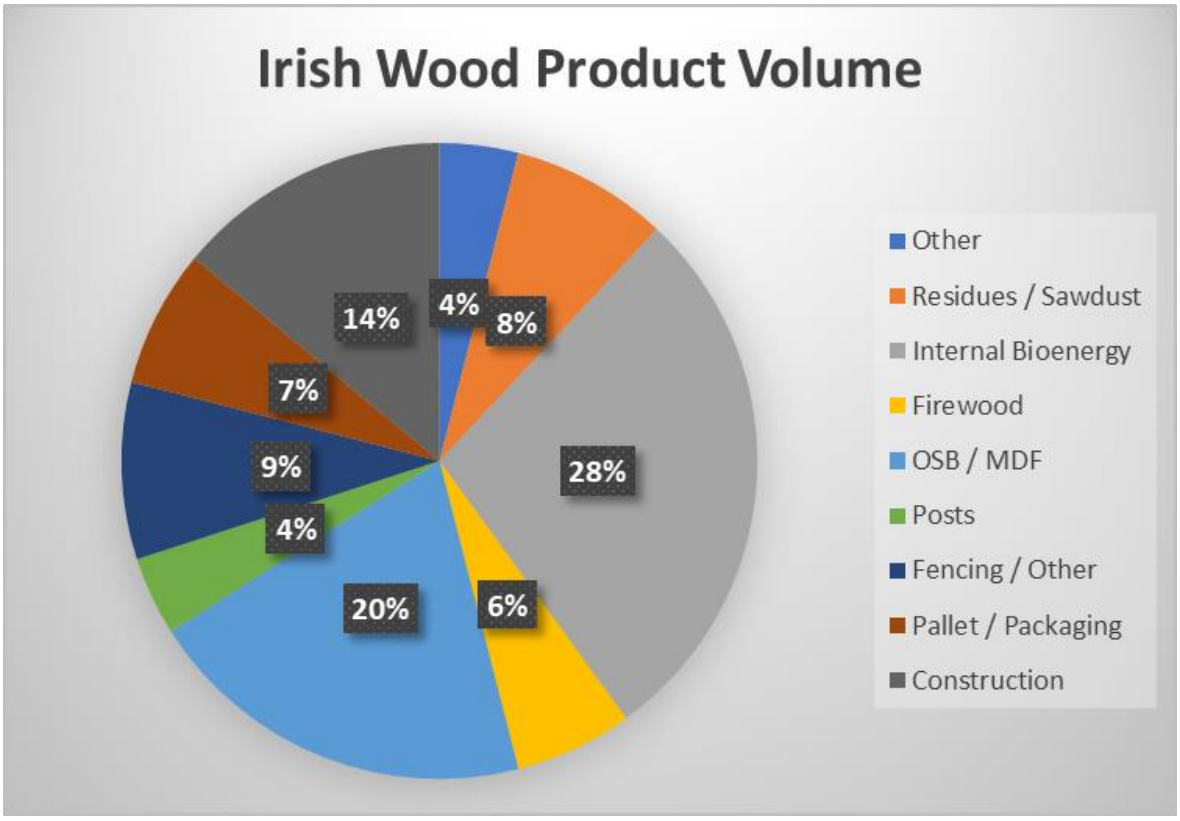

Figure 5. Irish Wood Product Volume (Taken from page 22 Coillte (2022) Strategic Vision for Our Future Forest Estate)

Greenhouse Gas Accounting

The forest industries greenhouse gas accounting does not appear to factor in the emissions from forestry operations and ancillary activities including:

- carbon loss from soils (especially peat) at clear fell
- harvesting, forest management, forwarding and haulage - all fossil fuel driven
- forest road construction
- fencing materials
- fertiliser and pesticide production

Without considering the emissions which are embedded in the lifecycle of forest management and wood products, informed decisions around the climate change impacts of different management decisions cannot be considered.

Ongoing Legal Issues

Principle one of the FSC Irish Forest Stewardship Standard on ‘Compliance with laws and FSC Principle’ outlines that “Forest management shall respect all applicable laws of the country in which they occur, and international treaties and agreements to which the country is a signatory, and comply with all FSC Principles and Criteria”: Criterion C1.1 Forest

management shall respect all national and local laws and administrative requirements. Full legal compliance is also a condition laid down within the State Aid decision which underpins the Forestry Programme.
Based on the observed negative impacts of forest management on habitats and species both within and outside of protected areas there are clear instances where either gaps in procedures or implementation are resulting in Coillte being non-compliant with key environmental laws and regulations in Ireland. Taking key pieces of European environmental legislation, we have presented examples of non-compliance which we believe require urgent investigation. These are:

- The failure to protect birds within designated sites.
- The failure to protect birds in the wider countryside.
- The Failure to Protect Aquatic Biodiversity.

Birds & Habitats Directives

The Birds and Habitats Directives are important cornerstones of biodiversity protection in Ireland and the EU and are transcribed into Irish law within the Birds & Habitats Regulations (2011) (S.I.477/2011). Irish national law does not represent a correct transcription of Article 5 of the Birds Directive as regards the protection of the nests and eggs from deliberate damage and destruction. Therefore, there is no general system of protection under Article 5 for forestry activity in Ireland and as a consequence the Irish State is not compliant with European Law. European Law supersedes National Law in terms of both the EU Treaty and the Irish Constitution. If the State's Regulatory provisions are not consistent with European Law then it cannot be evidenced that forestry activities in Ireland are compliant with the law. It is now on record that the Forest Service is aware that there is a discrepancy between the Irish Wildlife Act and the EU Birds Directive around protecting Birds during the breeding season.

There has been a longstanding failure of the Irish government to ensure forestry licensing complies with Irish and EU law. This reality is reflected by the departments acceptance that "*the system of procedures they had in place to screen environmental impacts on protected habitats and species was non-compliant with European law*" and this necessitated change in the Appropriate Assessment Procedure (AAP)-according to statements made by Minister Creed, Minister Doyle and Minister Calleary in Dáil Eireann. These failures have resulted in the crisis within the forestry licensing system. Rather than addressing these issues with ambitious root and branch reform we have observed the sector rallying to drive deregulation and undermine public participation and transparency through the Forestry (Miscellaneous Provisions) Act 2020 and new regulations introduced in 2020 on foot of that Act and the Forestry Act 2014, and the Animal Health and Welfare and Forestry (Miscellaneous Provisions) Act 2022, These have been compounded by ongoing serious issues of non-compliance with EU Environmental Law Requirements, including in respect of SPA's for threatened species such as Hen Harrier.

It is within this context that we are cautious about the Irish Forestry Strategies ambition to establish a "more streamlined system…that results in less conflict between what are currently viewed as sometimes **competing objectives of nature protection and forest expansion, and one that reduces the overall administrative burden on forest owners."**

We are supportive of the establish an efficient and effective regulatory and legislative system must it must be fully legally compliant. This is currently not the case as **despite the acknowledged past failures of the Forest Service, to date in 2022 the Forestry Appeals Committee has sent back or varied 69% of licences on appeal on the basis of serious errors or a series of errors made by the DAFM, Forest Service Inspectors**.

The key to delivering an efficient and legally compliant licencing system is to ensure that problematic applications are kept of the licencing system or removed as quickly as possible. This can be achieved through better regulation, such as better protection of designated sites and through the use of better planning tools such as forestry sensitivity mapping.

The requirements of Article 6(3) and 6(4) of the Habitats Directive are supposed to be implemented through the Forest Service's Appropriate Assessment Procedures. The negative impacts of reforestation are not being properly assessed at either the felling licence or reforestation phase.

Within protected areas Article 4 (4) of the Birds Directive states that member states must take "*appropriate steps to avoid pollution or deterioration of habitats or any disturbances affecting the birds*." The EU Forest Strategy clearly states that that felling should comply with the Birds Directive. Despite the clear obligation on Coillte and the Forest Service to protect important wild bird habitats from deterioration, there are inadequate safeguards and training in place to identify important habitats for wild birds within or outside of the SPA network. Aside from Hen Harrier and Curlew there are no other species-specific measures in place to conserve Annex I birds or listed Birds of Conservation Concern in Ireland within the forestry consent process. The Forest Service have been refusing to integrate data on the location of Hen Harrier Winter Roosts into their licencing systems for over a year.

Evidence of the failure to protect protected species from disturbance is contained within the last national Hen Harrier breeding survey, were extensive and widespread efforts to record pressures within areas containing hen harriers and/or areas with suitable hen harrier habitat. Field surveyors provided large numbers of records of pressures within 500m (n = 4,145) and 2km (n = 3,947) of these areas. Forestry activities were among the most frequent records numerically and proportionally (Table 2) within 500m was D1 (paths, tracks, cycling tracks; includes non-paved forest roads; n = 337; 9.1%) and B2 (forest and plantation management & use; n = 375; 9.1%) and within 2km was again B2 (n = 391; 9.9%) and D1 (n = 292; 7.4%) (Table 2)[44].

B1	89	2.2	96	2.4	forest planting on open ground (increase in forest area, planting e.g. on grassland, heathland)
B2	375	9.1	391	9.9	forest and plantation management & use
B3	89	2.2	91	2.3	forest replanting (i.e. replanting on forest ground after clear-cutting)
B4	42	1	160	4.1	forest clearance (clear-cutting, removal of all trees)

[44] Ruddock, M., Mee, A., Lusby, J., Nagle, A., O'Neill, S. & O'Toole, L. (2016). The 2015 National Survey of Breeding Hen Harrier in Ireland. Irish Wildlife Manuals, No. 93. National Parks and Wildlife Service, Department of the Arts, Heritage and the Gaeltacht, Ireland

B5	7	0.2	5	0.1	thinning of tree layer
B6	2	0.1	0	0	fertilisation (forestry)
B7	10	0.2	0	0	other forest activities (e.g. erosion due to forest clearing, fragmentation)

Table 1. The cumulative numbers of each forestry pressure code recorded within 500m and 2km of the centre of the hen harrier territory, nest site and/or suitable breeding habitats, during the national Hen harrier breeding survey 2015 (Ruddock et al., 2016).

Water Framework Directive (WFD)

The Water Framework Directive (Directive 2000/60/EC) establishes a framework for the protection of inland surface waters (rivers and lakes), transitional waters (estuaries), coastal waters and groundwater. It laid down the legal obligation that all aquatic ecosystems and, with regard to their water needs, terrestrial ecosystems and wetlands meet 'good status' by 2015 (and 2027 at the latest), and that high status where it exists is maintained.
Following the Weser Case (Case C-461/13 BUND V GERMANY), an Article 4 WFD assessment must be carried out for forestry activities to go ahead, further the Weser judgement demonstrates that even if the overall quality class doesn't decrease, i.e. from good to moderate., if one of the quality elements such as hydromorphology decreases then that is considered a deterioration and it is not permissible under WFD:

- Article 4 (1) of the WFD provides: "In making operational the programmes of measures specified in the river basin management plans: (a) for surface waters (i) Member States shall implement the necessary measures to prevent deterioration of the status of all bodies of surface water (ii) Member States shall protect, enhance and restore all bodies of surface water … "

- We would highlight that Article 5 of the Surface Water Regulations 2009 requires a public authority, in the performance of its functions, not to undertake those functions in a manner that knowingly causes or allows deterioration in the chemical or ecological status of a body of surface water.

- In Case C- 461/13 Weser the CJEU held: "Article 4(1)(a)(i) to (iii) of Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy must be interpreted as meaning that the Member States are required
  — unless a derogation is granted
  — to refuse authorisation for an individual project where it may cause a deterioration of the status of a body of surface water or where it jeopardises the attainment of good surface water status or of good ecological potential and good surface water chemical status by the date laid down by the directive."

Therefore, any forestry activities which have the potential to threaten the qualitative or quantitative status of any water body are likely to require a WFD specific assessment. The assessment should include both hydrological and ecological elements. The implementation of these requirements within the Irish forestry sector is poor.

The recommendations of the UCD HYDROFOR project[45] assessed the impacts of forestry operations on aquatic ecology in Ireland. The report recommended that in many areas negative impacts could be reduced by carefully designed water protection measures. However, in catchments with peat soils such was the negative impact of nutrient and sediment loss on the hydrochemistry and ecology of waterbodies that a cessation of conifer afforestation on peat soils in acid-sensitive (< 15 mg CaCO3/L) headwater catchments was recommended. These ongoing impacts are particularly damaging to sensitive high-status water bodies. Where Coillte owns plantations within acid sensitive catchments it must be concluded that ongoing operations including fertilisation, clearfelling, ground preparation and replanting are resulting in ongoing negative impacts which are negatively impacting on the WFD status of these water bodies. In respect of aquatic species such as Atlantic Salmon and Freshwater Pearl Mussel and other species that are protected under Habitats Directive it is clear that the water quality impacts resulting from ongoing forestry management are in breach of the Habitats Directive.

Natural Regeneration of Conifers

The adverse ecological impacts of the spread of exotic species (especially exotic coniferous trees) is not being adequately monitored or addressed across the forest estate. This is a major issue that is simply not being tackled. The issue of impact of natural regeneration of conifers into Annex I Habitats is referred to in Ireland's reporting under Article 17 of the Habitats Directive. Reseeding by Coillte conifers has direct and indirect significant negative impacts on designated habitats and species and the removal of these unwanted trees on protected open habitat by the NPWS drains vital resources that could be spent on other conservation management measures. Despite the acknowledged negative impacts of reseeding, the issues are not considered in AA's or EIA's or management plans.

Some Coillte plantations that aren't properly managed are acting as reservoirs for invasive plant species such as Rhododendron (Rhododendron ponticum), Japanese Knotweed (Fallopia japonica), Himalayan Balsam (Impatiens glandulifera) and Gunnera (Gunnera manicata). These invasive species proliferate within Coillte plantations and then spread onto adjacent habitats, including protected areas resulting in significant negative impact on native biodiversity and the functioning of habitats.

The Natura Impact Report prepared as part of the Appropriate Assessment Process

According to the NIR[46] of the Draft IFSIP the plan area is a national level plan and thus the plan area is the entirety of the Republic of Ireland. Given the ad hoc nature of the forestry programme and the lack of environmental safeguards and an underpinning national land use

[45] Kelly-Quinn, M. et al. (2016). Research 169: HYDROFOR: Assessment of the Impacts of Forest Operations on the Ecological Quality of Water, Wexford: Environmental Protection Agency.

[46] The Natura Impact Report prepared as part of the Appropriate Assessment Process https://assets.gov.ie/237556/ffe4b367-cc1b-4021-ba91-86b1004e96a2.pdf

strategy this means that there is a lack of certainty around where afforestation will take place. This further highlights the need for a precautionary approach to the NIR of the IFSIP given the need for clear and definitive findings as outlined within the conclusion of CJEU at in Case C-258/11, namely that an AA: "44… cannot have lacunae and must contain complete, precise and definitive findings and conclusions capable of removing all reasonable scientific doubt."

According to the NIR of the Draft IFSIP the scope of the NIR has been narrowed significantly to "*all Annex I habitats, Annex II species and Annex I Bird species that are QIs and SCIs of the Natura 2000 site network. Focusing on QIs, SCIs (or key receptors as referred in this report) and their threats and pressures allows the report to identify content within the Draft IFSIP which could affect a QI or SCI at any site within Ireland's territory and for adjacent territories*." The NIR is therefore not assessing the potential direct, indirect and cumulative impacts of the IFSIP on all qualifying interests of potentially affected sites, the reason given that "*assessment of each qualifying feature of every European sites is considered a task which would not benefit the AA process or that it could potentially obfuscate the process*." While such an approach may benefit the authors of the NIR it is in our opinion not legally compliant to intentionally narrow the scope of Art 6(3) for convenience sake. Indeed according to C-461/17 Brian Holohan and Others v An Bord Pleanála[47] "*an 'appropriate assessment' must, on the one hand, catalogue the entirety of habitat types and species for which a site is protected, and, on the other, identify and examine both the implications of the proposed project for the species present on that site, and for which that site has not been listed, and the implications for habitat types and species to be found outside the boundaries of that site, provided that those implications are liable to affect the conservation objectives of the site."* **Therefore, not only is there a legal obligation for the NIR to assess the implications of the IFSIP on all of the qualifying interests of all Natura 2000 sites but in addition there is a need to assesses the implications of afforestation and forestry management outside of the Natura 2000 network if there is a possibility that the conservation objectives of the site may be impacted. This has clearly not been done and therefore it is our view that the NIR is not legally compliant.**

Annex I Habitats Assessment

The NIR screening of Annex I Habitats under 92/43/EEC which is based on an assessment of Irelands Article 17 reports. The narrowing of the assessment was again done to "*streamline the assessment…in the interest of providing an accessible analysis of the potential risks of likely significant effects*." Again we do not believe this approach in compliant with the law and the need for complete, precise and definitive findings and conclusions capable of removing all reasonable scientific doubt. The assessors have also further narrowed the scope of the assessment by grouping habitats into broad categories and limiting the analysis to "*Annex I habitats that are in a bad or inadequate status with a corresponding forestry related pressure and threat as per the Article 17 2019 reports, national reports and published scientific literature*". We also believe that this approach is unlawful.

We have assessed the NIR screening of Annex I Habitats under 92/43/EEC which is based on the likelihood that they will be impacted directly or indirectly by forestry as a threat and / or pressure based on the identified threats and pressure in Irelands Article 17 reports. **We**

[47] http://curia.europa.eu/juris/liste.jsf?language=en&num=C-461/17

have identified that a number of habitats have incorrectly been screened out as not being impacted by forestry.

The NIR incorrectly says that **1130 Estuaries** are not impacted by forestry.

According to the Article 17 2019 report:

1130 Estuaries: It is considered highly likely that the pressures recorded have resulted from increased sedimentation…Those surrounded by, and down---stream of, areas of intensive agriculture and/or commercial forestry operations are frequently impacted by the increased sediment input caused by this activity.

The NIR incorrectly says that **1140 Tidal Mudflats and Sandflats** are not impacted by forestry.

According to the Article 17 2019 report:

1140 Tidal Mudflats and Sandflats: Pollution from agricultural, forestry and wastewater sources highlighted.

The NIR incorrectly says that **1150 Coastal Lagoons** are not impacted by forestry.

According to the Article 17 2019 report:

1150 Coastal Lagoons*: Sedimentation from peat related to turf cutting and/or forestry highlighted.

The NIR correctly says that **1160 Large shallow inlets and bays** are impacted by forestry.

According to the Article 17 2019 report:

Pressure B23 Forestry activities generating pollution to surface or ground waters (M)

The NIR incorrectly says that **2170 Dunes with creeping willow** are not impacted by forestry

According to the Article 17 2019 report: Five of the medium-importance pressures listed in NPWS (2013) were judged, based on expert opinion, to be low importance in the current reporting period. Including Forestry. So forestry was deemed to be a medium pressure in 2013 and a low pressure in 2019.

The NIR correctly says that **2190 Dune slacks** are not impacted by forestry in the 2019 reporting period.

However according to the Article 17 2013 report: forestry was a medium-importance pressure. From a precautionary perspective ‘forest and plantation management’ should therefore have been screened in as a potential pressure.

The NIR correctly says that **21A0 Machair*** are not impacted by forestry in the 2019 reporting period.

However the NPWS in the 2013 reporting period recorded one low-importance pressure under 'Forest and plantation management and use'. From a precautionary perspective 'forest and plantation management' should therefore have been screened in as a potential pressure.

The NIR correctly identifies that **3110 Oligotrophic isoetid lake habitat** is impacted by forestry in the 2019 reporting period.

Forestry is identified a number of times as a threat and pressure of high importance.

Pressure: B23 Forestry activities generating pollution to surface or ground waters (H)
B27 Modification of hydrological conditions, or physical alteration of water bodies and drainage for forestry (including dams) (H)

Threat: B23 Forestry activities generating pollution to surface or ground waters (H)
B27 Modification of hydrological conditions, or physical alteration of water bodies and drainage for forestry (including dams) (H)

The NIR correctly identifies that **3130 Oligotrophic to mesotrophic standing waters with vegetation of the Littorelletea uniflorae and/or Isoeto-Nanojuncetea** is impacted by forestry in the 2019 reporting period.

Pressure: B23 Forestry activities generating pollution to surface or ground waters (M)

Threat: B23 Forestry activities generating pollution to surface or ground waters (M)

The NIR correctly identifies that **3140 Hard oligo-mesotrophic waters with benthic vegetation of Chara spp.** is impacted by forestry in the 2019 reporting period.

Pressure: B23 Forestry activities generating pollution to surface or ground waters (H)

B27 Modification of hydrological conditions, or physical alteration of water bodies and drainage for forestry (including dams) (M)

Threat: B23 Forestry activities generating pollution to surface or ground waters (H)

B27 Modification of hydrological conditions, or physical alteration of water bodies and drainage for forestry (including dams) (M)

The NIR correctly identifies that **3150 Natural eutrophic lskes with Magnopotamion or Hydrocharition-type vegetation** is impacted by forestry in the 2019 reporting period.

Pressure: B23 Forestry activities generating pollution to surface or ground waters (H)
Threat: B23 Forestry activities generating pollution to surface or ground waters (H)

The NIR correctly identifies that **3160 Natural dystrophic lakes and ponds** is impacted by forestry in the 2019 reporting period.

Pressure: B23 Forestry activities generating pollution to surface or ground waters (H)
B27 Modification of hydrological conditions, or physical alteration of water bodies and drainage for forestry (including dams) (H)

Threat: B23 Forestry activities generating pollution to surface or ground waters (H)
B27 Modification of hydrological conditions, or physical alteration of water bodies and drainage for forestry (including dams) (H)

The NIR correctly identifies that **3260 Water courses of plain to montane levels with the Rancunculion fluitantis and Callitricho-Batrachion** is impacted by forestry in the 2019 reporting period.

Pressure: B23 Forestry activities generating pollution to surface or ground waters (M)
Threat: B23 Forestry activities generating pollution to surface or ground waters (M)

The NIR correctly identifies that **3260 Water courses of plain to montane levels with the Rancunculion fluitantis and Callitricho-Batrachion** is impacted by forestry in the 2019 reporting period.

The NIR correctly identifies that **4010 Northern Atlantic wet heaths with Erica tetralix** is impacted by forestry in the 2019 reporting period.

Pressure: B01 Conversion to forest from other land uses, or afforestation (excluding drainage) (H)
Threat: B01 Conversion to forest from other land uses, or afforestation (excluding drainage) (H)

The NIR correctly identifies that **4030 European dry heaths** is impacted by forestry in the 2019 reporting period.

Pressure: B01 Conversion to forest from other land uses, or afforestation (excluding drainage) (M)
Threat: B01 Conversion to forest from other land uses, or afforestation (excluding drainage) (M)

The NIR correctly identifies that **4060 Alpine and Boreal heath** is not impacted by forestry in the 2019 reporting period as a pressure of medium to high importance, however it is a pressure of low importance: B01 (Conversion to forest from other land uses, or afforestation (excluding drainage)), E01 (Roads, paths railroads and related infrastructure (e.g. bridges, viaducts, tunnels)) and M05 (Collapse of terrain, landslide), recorded in the current reporting period only, were assessed as low-importance pressures. Approximately 0.01% of the known national 4060 habitat area (0.02 km2) is either adjacent to or has some evidence of new forestry (i.e. planted within the current reporting period) within it (using PrivateForests2016.shp in conjunction with the 4060 distribution polygon shapefile). It is assessed as a low-importance pressure for this

reporting period due to the relatively small area of known 4060 habitat impacted, but actual areas impacted are likely to be higher, particularly outside of designated sites. E01 and M05 were assessed as low-importance pressures due to the fact that they occurred just once each, both with a small footprint on the 4060 habitat.

The NIR correctly identifies that 6230 Species-rich Nardus upland grassland*is not impacted by forestry in the 2019 reporting period as a pressure of medium to high importance, however it is a pressure of low importance: B01 (Conversion to forest from other land uses, or afforestation (excluding drainage), E01 (Roads, paths railroads and related infrastructure (e.g. bridges, viaducts, tunnels) and F07 (Sports, 668 6230 Species-rich Nardus upland grassland* tourism and leisure activities), recorded within the previous reporting period only, were retained as low-importance pressures of 6230 habitat for this reporting period.

The NIR correctly identifies that **6410 Molinia meadows on calcareous, peaty or clayey-siltladen soils (Molinion caeruleae)** is impacted by forestry in the 2019 reporting period.

Pressure: B01 Conversion to forest from other land uses, or afforestation (excluding drainage) (H)
Threat: B01 Conversion to forest from other land uses, or afforestation (excluding drainage) (H)

The NIR correctly identifies that **7110 Active raised bog*** is impacted by forestry in the 2019 reporting period.

Pressure: B01 Conversion to forest from other land uses, or afforestation (excluding drainage) (M)
Threat: B01 Conversion to forest from other land uses, or afforestation (excluding drainage) (M)

The NIR correctly identifies that **7120 Degraded raised bogs still capable of natural regeneration** is impacted by forestry in the 2019 reporting period.

Pressure: B01 Conversion to forest from other land uses, or afforestation (excluding drainage) (M)
Threat: B01 Conversion to forest from other land uses, or afforestation (excluding drainage) (M

The NIR correctly identifies that **7130 Blanket Bog (* if active bog)** is impacted by forestry in the 2019 reporting period.

Pressure: B01 Conversion to forest from other land uses, or afforestation (excluding drainage) (H) Threat: B01 Conversion to forest from other land uses, or afforestation (excluding drainage) (H)

The NIR correctly identifies that **7140 Transition mires and quaking bogs** is impacted by forestry in the 2019 reporting period.

Pressure: B01 Conversion to forest from other land uses, or afforestation (H)
Threat: B01 Conversion to forest from other land uses, or afforestation (H)

The NIR correctly identifies that **7150 Depressions on peat substrates of the Rhynchosporion** is impacted by forestry in the 2019 reporting period.

Pressure: B01 Conversion to forest from other land uses, or afforestation (excluding drainage) (H)
Threat: B01 Conversion to forest from other land uses, or afforestation (excluding drainage) (H)

Annex II Species Assessment

Given the ad hoc nature of afforestation, the absence of adequate environmental safeguards or a system of national land use planning and the lack of geographic specificity within the current Draft IFSIP it is necessary that a precautionary approach be taken and all Annexed species under the Habitats Directive within the Republic of Ireland are assessed within the NIR. Streamlining the assessment, by limiting the assessment to "*only annexed II species that have been identified to have a forestry pressure and threat have been assessed*" which is based on the limited scope of the *"Article 17 reporting*" is in our view unlawful. Further limiting the scope of the assessment to Annex II species that are in a bad or inadequate status with a corresponding forestry related pressure and threat as per the Article 17 2019 reports, and a limited number of national reports and published scientific literature is also unlawful. It is clear that the impacts of forestry related pressures such as habitat loss, disturbance, increased predation and water quality, sedimentation and eutrophication are not limited to Annex II species which currently have an identified high-medium importance threat / pressure in the most recent article 17 report. This is further supported by the fact that the status of forestry as a threat / pressure has changed for some habitats and species between the 2013 and 2019 assessment.

We have assessed the NIR screening of Annex II Species under 92/43/EEC which is based on the likelihood that they will be impacted directly or indirectly by forestry as a threat and / or pressure based on the identified threats and pressure in Irelands Article 17 reports. **We have identified that a number of species have incorrectly been screened out as not being impacted by forestry.**

The NIR correctly identifies that **1528 Marsh Saxifrage (Saxifraga hirculus)** is impacted by forestry in the 2019 reporting period.

Pressure & Threat: B27 Modification of hydrological conditions, or physical alternation of water bodies and drainage for forestry (including dams) (M)

The NIR correctly identifies that **1833 Slender Naiad (Najas flexilis)** is impacted by forestry in the 2019 reporting period.

Pressure & Threat: B23 Forestry activities generating pollution to surface or ground waters (M)

The NIR correctly identifies that **1029 Freshwater pearl mussel (Margaritifera margaritifera)** is impacted by forestry in the 2019 reporting period.

Pressure & Threat: B27 Modification of hydrological conditions, or physical alteration of water bodies and drainage for forestry (including dams) (H)

Pressure & Threat: B23 Forestry activities generating pollution to surface or ground waters (H)

The NIR incorrectly identifies that **1990 Nore pearl mussel (M. Margaritifera durrovensis)** is not impacted by forestry in the 2019 reporting period. The 1029 Freshwater pearl mussel (Margaritifera margaritifera) and the 1990 Nore pearl mussel (M. Margaritifera durrovensis) are assessed in tandem.

Pressure & Threat: B27 Modification of hydrological conditions, or physical alteration of water bodies and drainage for forestry (including dams) (H)

Pressure & Threat: B23 Forestry activities generating pollution to surface or ground waters (H)

The NIR incorrectly identifies that **1065 Marsh Fritillary (Euphydryas aurinia)** is not impacted by forestry in the 2019 reporting period.

Pressure & Threat: A07 Abandonment of management/use of other agricultural and agroforestry systems (all except grassland) (M)

The NIR correctly identifies that **1106 Atlantic Salmon (Salmo salar)** is not impacted by forestry in the 2019 reporting period.

Pressure & Threat: B23 Forestry activities generating pollution to surface or ground waters (M)

The NIR correctly identifies that **1334 Mountain hare (Leptus timidus)** is not impacted by forestry in the 2019 reporting period.

Pressure & Threat: B01 Conversion to forest from other land uses, or afforestation (M)

Annex I Bird Species

Given the ad hoc nature of afforestation, the absence of adequate environmental safeguards, a national and use planning system and the lack of geographic specificity within the current Draft IFSIP it is necessary that a precautionary assessment of all Annex I bird species under the Birds Directive within the Republic of Ireland is completed. Streamlining the assessment, by limiting the assessment to "*only those Annex I bird species that have been identified to have a forestry pressure and threat*" which is based on the limited scope of

"primarily on Article 12 reporting" is unlawful. Further limiting the scope of the assessment to Annex II species that are in a bad or inadequate status with a corresponding forestry related pressure and threat as per the Article 17 2019 reports, national reports and published scientific literature is also insufficient. It is clear that the impacts of forestry related pressures such as habitat loss, disturbance and increased predation are not limited to Annex I bird species which currently have an identified high-medium importance threat / pressure in the most recent article 12 report.

According to the Draft IFSIP the following species are reported as having forestry as a pressure and or threat:

Golden eagle (Aquils chrysaetos) Breeding Pressure: Medium Threat: Medium

Grey partridge (Perdix perdix) Breeding Pressure: Medium Threat: Medium

Hen harrier Amber Breeding Pressure: High Threat: High

Merlin Amber Breeding Pressure: Medium Pressure: Medium

Ring ouzel (Turdus torquatus) Pressure: High Threat: High

Short-eared owl (Asio flammeus) Pressure: Medium Threat: Medium

Snipe (Gallinago gallinago) Pressure: High Threat: High

Twite (Linaria flavirostris) Pressure: Medium Threat: None

White-tailed eagle (Haliaeetus albicilla) Pressure: None Threat: Medium

Based on our own assessment this list is incomplete. For example according to BirdWatch Ireland's assessment of the threats affecting bird species within BirdWatch Ireland's Group Action Plans for Irish Birds[48] there are ten priority species which are being impacted by afforestation and subsequent woodland management. Six of these species are Red listed species and three are Amber Listed Birds of Conservation Concern in Ireland (BoCCI)[49]. The SEA[4] for the current Forestry Programme itself admits that some migratory birds and open habitat specialists such as Curlew, Golden Plover, Hen Harrier, Merlin, Lapwing, Red Grouse, and Whinchat may be negatively impacted by afforestation. Species like Skylarks (*Alauda arvensis*) which are an Amber listed species[45] in Ireland could be added to this list as they favour extensively managed agricultural land and strongly avoid forested habitats[50]. They are being directly impacted by the afforestation of marginal farmland. Research from Scotland also indicates that the abundance of Ring Ouzel (*Turdus torquatus*), which is Red listed in Ireland[44], has been negatively affected by the afforestation[51]. While research in Ireland reveals that populations of Hen Harriers and Merlin may not be self-sustaining when levels of forest cover at a landscape level reach 40%[52] and 35%[53] respectively.

[48] BirdWatch Ireland (2014) BirdWatch Ireland's Group Species Action Plans for Irish Birds: Prioritisation of actions, species priorities and implementation. BirdWatch Ireland, Kilcoole, Co. Wicklow.
[49] Colhoun K and Cummins S (2013). Birds of Conservation Concern in Ireland 2014 –2019. Irish Birds. 9: 523—544.
[50] Copland, A. S., Crowe, O., Wilson, M. W., & O'Halloran, J. (2012). Habitat associations of Eurasian Skylarks Alauda arvensis breeding on Irish farmland and implications for agri-environment planning. Bird study, 59(2), 155-165.
[51] Buchanan, G. M., Pearce-Higgins, J. W., Wotton, S. R., Grant, M. C., & Whitfield, D. P. (2003). Correlates of the change in Ring Ouzel Turdus torquatus abundance in Scotland from 1988–91 to 1999. Bird Study, 50(2), 97-105.
[52] Irwin, S., Wilson, M., O'Donoghue, B., O'Mahony, B., Kelly, T., & O'Halloran, J. (2012). Optimum scenarios for Hen Harrier conservation in Ireland. Cork: Department of Agriculture, Food and the Marine by the School of Biological, Earth and Environmental Sciences, University College Cork.
[53] Lusby, J., Corkery, I., McGuiness, S., Fernández-Bellon, D., Toal, L., Norriss, D., ... & Quinn, J. L. (2017). Breeding ecology and habitat selection of Merlin Falco columbarius in forested landscapes. Bird Study, 1-10.

Hen Harrier

The Hen Harrier is Ireland's rarest resident breeding Annex I bird species and an excellent case study when it comes to assessing cases of non-compliance with environmental law. A comparison of Hen Harrier numbers in survey areas covered across all four national surveys carried out since 1998-2000, indicates an observed population decline of 33.5%; and a 52% decline in estimated breeding pairs over the last 40yrs[54] [55]. Within the six SPAs designated for the species, there has been a 27% breeding population decline between 2005 and 2010. Hen Harriers are traditionally reliant on open upland and extensive farming habitats for both breeding and foraging[56]. The main threat identified by the NPWS for each of the six SPAs is further afforestation: "*The main threat to the long-term survival of Hen Harriers within the site is further afforestation, which would reduce and fragment the area of foraging habitat, resulting in possible reductions in breeding density and productivity*". A habitat mapping project undertaken across the six SPAs showed that forest cover had reached 53%[57]. This is roughly five times the national average[1] meaning Hen Harrier SPAs are some of the most heavily afforested areas in the country. According to research, assuming forestry at a landscape level has a well-balanced age structure then approximately one quarter of the forestry will be in the pre-thicket stage at any one time. Given the established negative relationship between Hen Harrier breeding success and second rotation pre-thicket forestry a maximum threshold of 40% total forest cover in the landscape would be needed to ensure that a Hen Harrier breeding population does not collapse. This is well below the current forest cover across the six SPAs. It was predicted in 2006 that afforestation and the maturing age structure of forestry would drive the loss of suitable open habitat beyond critical levels by 2015. Within the nine most important areas in the country for breeding Hen Harrier it was predicted that habitat loss would drive a 30% reduction in these populations[58]. Sadly, the national surveys which have been carried out in the meantime have proven that this prediction was an accurate one. Similar research based on population viability analysis has predicted that regional populations will go extinct within circa 30 years[59]. According to the most recent assessment[60] of the breeding population within the six SPAs designed for breeding Hen Harrier, mean fledging rates across the SPA network range from 0.73 - 1.25 between 2015 – 2021 with the mean fledging rate in 2021 being the lowest yet recorded at 0.73 fledged young per confirmed pair. Both the mean and the 2021 fledgling rates are below the productivity threshold of 1.45 young per breeding pairs that is required for the population to be self-sustaining.

The science is clear that the direct, indirect and cumulative impacts associated with forest cover and forest management across important breeding and wintering habitat nationally is driving the ongoing collapse of Hen harrier within and outside the SPA network. Any further afforestation within nationally important breeding and wintering sites must be banned and strictly regulated. The moratorium on further planting within the six SPAs must be made permanent and forest cover must be reduced and habitat restoration measures implemented.

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[54] Ruddock, M., (2012). Republic of Ireland National Hen Harrier Survey 2010. National Parks and Wildlife Service.

[55] Ruddock, M., Mee, A., Lusby, J., Nagle, A., O'Neill, S. & O'Toole, L. (2016). The 2015 National Survey of Breeding Hen Harrier in Ireland. Irish Wildlife Manuals, No. 93. National Parks and Wildlife Service.

[56] O'Donoghue, Barry, O'Donoghue, Timothy A. and King, Frank (2011) The hen harrier in Ireland: conservation issues for the 21st century. Biology and Environment: Proceedings of the Royal Irish Academy

[57] Moran, P. & Wilson-Parr, R. (2015) Hen Harrier Special Protection Area (SPA) Habitat Mapping Project 2014. Irish Wildlife Manuals, No. 83. National Parks and Wildlife Service, Department of Arts, Heritage and the Gaeltacht, Ireland.

[58] Wilson, M., Gittings, T., O'Halloran, J., Kelly, T., & Pithon, J. (2006). The distribution of Hen Harriers in Ireland in relation to land use cover, particularly forest cover. COFORD, Dublin.

[59] O'Donoghue, B.G. (2010). The Ecology and Conservation of Hen Harriers (Circus cyaneus) in Ireland. PhD Thesis submitted to University College Cork.

[60] Hen Harrier Programme (2021) Hen Harrier Monitoring 2021 http://www.henharrierproject.ie/HHP_HH_Monitoring_2021.pdf

The measures listed within the NIR such as “limiting afforestation rates at designated SPAs” are totally inadequate. Any further afforestation would constitute a significant negative impact under Art 6(3). This is reflected in the most recent draft of the cited NPWS have a Hen Harrier Threat Response Plan.

Merlin

The lack of reference to the available peer-reviewed research on Merlin within the NIR and the noted poor status of the available baseline data on the state of the species in Ireland necessitates a precautionary approach to the future afforestation of any sites of national important to the species.

Native Tree Area

In Table 5 of the NIR, row 57 the impact of the native tree scheme is screened out for AA thus:

> *“The implementation of support does not lie within the scope of the management or conservation of Natura 2000 sites. It is not anticipated that this action shall pose any potential for likely significant effects to European sites”*

Likewise, in Table 11 of the NIR outlines the potential impacts of the Native Tree Area are similarly set aside:

> *“As a result of the aforementioned requirements set out for the Native Tree Area within Intervention 1, it is not anticipated that this Scheme shall pose a potential for likely significant effect on the Natura 2000 site network and/or QIs “*

It is entirely unclear to us what rationale underpins these assertions. This scheme will allow for afforestation with no need for licensing and the regime of controls within the existing licensing system. Given there would appear to be very little regulatory oversight of this scheme, and there are no safeguards in place that we are aware of, we are of the view that it is impossible to screen this out as a potential impact on Natura 2000 sites. We submit that this scheme does indeed pose a potential threat to Natura 2000 sites, and much more rigorous mitigation is required to offset the risk. First and foremost forestry sensitive mapping, as outlined in previous sections. As an example we would highlight the current moratorium on afforestation within the six SPAs designated for breeding Hen harrier. This is on the grounds of the scientific evidence that forest cover within the SPAs exceeds the levels at which Hen harrier populations are self-sustaining. Further afforestation even with native species would result in a direct loss of suitable habitat as well as other indirect and cumulative impacts such as fragmentation of habitat, increased predation and edge effects.

Low Category Pressures and Threats

We welcome the acknowledgement within the NIR of the following negative impacts on forestry on Annex I bird species:

- The direct loss of habitat through land use change such as the conversion of pasture and wet grasslands to forestry plantations impacts barnacle goose, Berwick’s swan, curlew, and whooper swan.

- Curlew would appear to be further impacted by a secondary effect of increased predation adjacent to forestry plantations as these provide habitat and hunting platforms for the curlew's predators.
- The introduction of biocides, pesticides, hormones, chemicals, and nutrients into the environment was a common pressure or threat found to effect common scoter and kingfisher, through diffuse pollution of surface water and groundwater resources which may directly impact the bird or their food sources.

Action Description

We note that there are no actions within the NIR that are designed to address the specific direct, indirect and cumulative impacts identified within the NIR. In particular there are no species or habitat specific measures that would negate of mitigate significant negative impacts resulting from forestry or forest management.

Assessment of In Combination Effects with Other Plans or Projects

We note that the assessment of in combination effects with other plans or projects concluded that policies such as Food Vision 2030 is anticipated to result in "negative likely significant in combination effects."

Existing Mandatory Forest Service Requirement as Mitigation

According to the NIR existing mitigation measures "*are considered adequate and further mitigation measures can be applied on licences as special specific conditions on a case by case basis*." This is an irrational conclusion given that the NIR is based on assessment of threats and pressures that exist concurrently with the current regime of mitigation measures. Clearly additional safeguards are needed to address the current status of forestry as a significant negative direct, indirect and cumulative pressure and threat, particularly taking into account the proposed ramping up of afforestation and the poor outlook for numerous habitats and species that are already classified as not being at good status.

The vague reference to future mitigation is also unlawful given the need for certainty around the effectiveness of mitigation measures before relying on them to avoid a conclusion of adverse impacts on the integrity of a site as per Moorburg case c-142/16[61].

The current status of forestry and forestry management as an acknowledged threat and pressure on annexed habitats and species is based on an assessment of the evidence of past negative impacts and a prediction of the future impacts which already take into account the existing mitigation measures. Therefore, it is irrational to assume that the existing measures will be sufficient to address the negative impacts associated with the aggressive expansion of the national forest estate. Likewise it is insufficient to state that foreseen significant negative impacts will be addressed through "*special specific conditions on a case by case basis*" without providing any detail on what this framework of measures will be.

The shortcomings of the IFSIP are continuation of the previous SEA and NIS of the Forestry Programme 2014-2020, which concluded that there would be no significant adverse or

[61] http://curia.europa.eu/juris/liste.jsf?num=C-142/16

residual impacts on the environment post mitigation. This was obviously not the case. Likewise, the conclusion of the Forestry Programmes NIS that there will be no significant adverse effects upon the integrity of any Natura 2000 sites was justified. These conclusions were based on inaccurate assumptions. One of these assumptions was that all the existing environmental guidelines and legal protections would be properly implemented. This includes the need for adequate Appropriate Assessments to be carried out for individual applications. As previously stated various Ministers have since admitted that a whole range of the legal requirements of the Habitats Directive, Birds Directive and the Water Framework Directive were not being implemented correctly and based on the ongoing record in regard to successful appeals to the Forestry Appeals Committee this continues to be the case.

Specific commitments which were outlined in the SEA[62] and NIS[63] of the Forestry Programme have never been implemented such as:

- The Forest Service have no monitoring in place to ensure that the Forestry Programme is not negatively impacting on biodiversity. No system of monitoring for upland birds or breeding waders has been implemented as recommended within the SEA.
- The SEA recommended that ecological assessments may be needed on a site-by-site basis and that appropriate ecological assessment to be carried out in sites where Annex I habitats or the habitat of Annex I birds or Annex II species occur or are likely to occur. These ecological assessments are not being carried out.
- According to the NIS sites with breeding Annex I bird species within Natura sites should be avoided. The Forest Service have no procedures in place to implement this recommendation.
- The NIS recommended that a review should be carried out of the impact of forestry on all qualifying interests of all Natura 2000 sites. No such assessment has never been carried out to date.

The implementation of the recommendations of the SEA[4] and NIS[5] was deemed necessary to mitigate the negative impacts of the Forestry Programme on biodiversity. It therefore must be concluded that the failure to carry out the recommended actions critically undermines the conclusions of the SEA and NIS. In other words, the Forestry Programme is resulting in significant adverse and residual impacts on the environment. It is also therefore rational for us to believe that unless there is an overhaul of the existing environmental safeguards and relevant procedures within the Forest Service that the sector will continue to be a leading driver of biodiversity loss in Ireland.

Conclusion on the NIR

There are serious shortcomings in the scope of the NIR. It is not based on the best scientific knowledge but on a superficial assessment of a small number of government reports such as the Article 17 and Article 12 reports. This superficial nature of the assessment is fully acknowledged within the report. The outlined mitigation measures are totally inadequate to ensure that any impacts on the conservation objectives of European sites will be avoided and/or minimised during the implementation of the Draft IFSIP either alone or in combination with other plans or projects. We believe that without additional tailored measures and tools

[62] Farrelly, N., & Gallagher, G. (2015). The potential availability of land for afforestation in the Republic of Ireland. Irish Forestry.
[63] Forest Service (2017) Forestry Programme 2014 – 2020 Mid Term Review. Forest Service Department of Agriculture Food and the Marine Johnstown Castle Estate Co. Wexford

such as forestry sensitivity mapping the IFSIP will result in further biodiversity loss in contravention of existing Irish and EU law.

SEA Environmental Report

The SEA overview of the current state of the environment and in particular the overview of the status of 'Biodiversity including Flora and Fauna' is woefully inadequate and fails to even cover the issues highlighted in the NIR, the scope of which is also inadequate.

The Environmental Assessment of Forestry Programme is woefully inadequate. For example, the assessment actually states that for Measure 1: Creation of Multi-Functional Forests "*the purposes of this assessment, it is assumed that the baseline environment of the land to be forested is greenfield land or highly modified industrial cutaway peatlands undertaken on a pilot basis and limited in area*." There is no conditionality within the scheme that would ensure that all sites are "greenfield" and the afforestation of cutaway bogs has the potential to negatively impact on a range of habitats and species.

The assessment of the Forest Road Scheme claims bizarrely that constructing more roads "*will also create opportunities to increase habitat and species diversity*." The basement then concludes that the impact of the Forest Road Scheme will negatively impact biodiversity.

In relation to the aggressive expansion in forest cover proposed the SEA states that "*Increased forest cover is likely to result in improved air quality and* ***enhanced biodiversity, depending on tree suitability and appropriate sites*** *however, an uncertain effect on land and soil and water is identified in that, sub-standard forestry operations have the potential to result in erosion, landslides, compaction, contamination, losses of soil organic matter, erosion, soil sealing, leaching, and changes in soil biodiversity*." This theme is repeated throughout the assessment i.e. all afforestation will positively benefit biodiversity and only infrastructure such as road construction is problematic. No justification is given to validate the assumption that biodiversity will be enhanced given the known negative impact of commercial forestry and increased forest cover on a range of semi-natural habitats and associated species in particular open habitat specialists and sensitive freshwater species. The existing framework of measures is inadequate to ensure that only "*appropriate sites*" are afforested and therefore the conclusions of the SEA are invalidated. The obvious need for species and habitat specific safeguards and planning tools such as forestry sensitivity mapping is missing from the mitigation measures.

As is the case with the NIR the assessment of the environmental impacts associated with the IFSIP is inadequate and the outlined mitigation measures are a mixture of the existing regime of measure that is currently failing to address the multitude of known impacts that the sector is having on biodiversity, water quality and climate plus and a vague commitment that "*many impacts will be more adequately identified and mitigated at project and EIA level*." The fact that EIAs are virtually unheard of within the forestry licensing system due to the excessively high thresholds for a mandatory EIA and poor sub-threshold screenings gives us little confidence that project level mitigation will happen.

Governance, Aarhus and certain specific EU law considerations.

The Irish Environmental Network's (IEN) environmental Law Officer prepared some over-arching remarks in relation to the public consultations on: the Draft/proposed Forestry Strategy (Programme), 2023-2027; the Draft/proposed Forest Strategy Implementation Plan for the proposed Forestry Strategy, 2022-2030, and the associated Natura Impact Statement (NIS) for the purposes of Appropriate Assessment (AA), and the Strategic Environmental Assessment (SEA) report. They concern in particular access to information, public participation and access to justice with some further commentary on related environmental law considerations. These were prepared so they can be relied upon by any of the IEN or Environmental Pillar members, and are in support of their individual submissions. We adopt and incorporate these here into our submission.

We request the Minister of Agriculture, Food and the Marine and the Minister of State for Land Use and Biodiversity to take our opinion particularly as expressed below and as appropriately above, into account in accordance with Article 8 and 9 of the SEA Directive (2001/42/EC) and for purposes of the Natura 2000 assessment.

The context for the current consultation and the EU law assessments required.

In the first instance the manner in which the two consultations, one around the strategy[64] the other on the implementation plan, SEA and NIS[65], have been launched and communicated has been very confusing.

There is no screening determination provided in respect of SEA or AA obligations on the Forestry Strategy which is the fundamental guiding document for the programme which is proposed to be implemented.

No rationale or legal justification is provided in respect of basing the SEA and AA in respect of the implementation plan only.

Given the very broad purposive approach of the Court of Justice of the European Union (CJEU) to the interpretation of obligations arising under the SEA directive – these deficiencies are a serious concern. We also note the recent reference from the Supreme Court in respect of the SEA obligations arising in respect of the National Development Plan, neutral citation [2022] IESC 42.

We also note that the Draft Forestry Strategy of 47 pages then arises additionally in the context of some 540 pages of text associated with the implementation plan, SEA

[64] https://www.gov.ie/en/consultation/849a5-consultation-on-the-draft-forest-strategy/

[65] https://www.gov.ie/en/consultation/b4288-consultation-on-the-draft-implementation-plan-for-the-forest-strategy-and-associated-sea-environmental-report-and-aa-natura-impact-report/

report, appendices and NIS – all to be digested and responded to between 19 October and 29 November. We do not consider that this short window is appropriate for the purposes of complying with the duty of providing for "effective consultation" given the complexity of issues which arise, the volume of information to be digested, and to facilitate the public adequately engaging to address the serious deficiencies in what is proposed. In short we do not consider that "effective" participation and consultation has been provided for here in accordance with the obligations arising under the Aarhus Convention and the SEA Directive.

We also question what screening determination and notifications have been provided in respect of obligations arising on Ireland in respect of transboundary impacts – in accordance with the Espoo Convention on Environmental Impact Assessment in a Transboundary context, and the intersection on non-discriminatory participation obligations arising for Ireland under Article 3 of the Aarhus Convention.

We also note that the existing Forestry programme 2014-2020[3] was extended to 2022 without any consultation or screening determinations associated with this either. We question the validity of that, and the requirement for remedial assessment obligations particularly in light of the perpetuation over that extended period in particular of the current unsustainable forestry model. Breaches of EU law require remedy the duty for which lies with the relevant public authority and emanation of the State. Further the Aarhus Convention Compliance Committee issued a clear and unequivocal statement in the context of the pandemic that there is no derogation from the rights and obligations under the Convention[66].

To say the draft strategy document is light on specific, measurable, achievable, realistic and relevant and timebound objectives would be an understatement – while these are normal elements of any coherent strategy as signified by the acronym SMART. There is no evaluation provided, or referred to on the compatibility or conflict of the different objectives set out. There is no meaningful evaluation or appropriate data provided on the current environmental situation particularly in respect of the negative consequences of forestry – commercial grant aided forestry that is, for water, biodiversity and societies. A strategy, as a game plan for moving forward, needs to be rooted and grounded in appropriate facts. A strategy in an area which is surrounded by significant EU law and International law obligations – including both the Aarhus and Espoo Convention needs to be rooted in an evaluation of current compliance issues, remedies required and robust credible commitment to a compliant regulatory regime. Instead page 36 on "Regulation & Legislation" entirely fails to identify one failure and focuses on administrative burden stating

> "There is a range of Irish and EU legislation, together with various international protocols which have a bearing on forest practice in Ireland. Low planting rates in recent years, together with reduced rates of other licensed activities such as felling and road construction, have been attributed to the complexity of the regulatory environment and the associated licensing system. Resolving these issues will be required in order to have a fit-for-purpose regulatory system that

[66] https://unece.org/environment/press/aarhus-convention-compliance-committee-makes-clear-covid-19-pandemic-cannot

facilitates Sustainable Forest Management and strong growth in afforestation, and one that is fully compliant with EU and national legislation. There is a need for a more streamlined system for forest owners, stakeholders, the public and the competent authority, that results in less conflict between what are currently viewed as sometimes competing objectives of nature protection and forest expansion, and one that reduces the overall administrative burden on forest owners.

3. Regulatory and Legislative Processes – Establish an efficient and effective regulatory and legislative system and support structure for forestry management practices and grant aided forestry schemes."

The strategy is silent on how to address and remediate these issues while it is not just sensible to ensure there is a robust and confident inspiring basis for the promotion of future forestry – there is the duty to remedy failures to apply EU law.

It is well known that the Forest Service had failed to properly exclude mitigation on screening for the purposes of Appropriate Assessment, and the further to the clarification by the CJEU in People over Wind case c-323/17[4] – this required not just adjustment in terms of the go-forward screening determinations on new licence applications, but also a remedy in terms of consents granted where there was inadequate and legally flawed appropriate assessment screening determinations.

The strategy is entirely silent on the legacy issue of entirely inappropriate forestry planted in entirely the wrong places. At the same time positive aspects of natural native forestry are relied upon in the vague narrative – but in a context where the proposed allocations extend to an overwhelming 58% of proposed forestry being on monoculture conifers with a small and all too often poorly supported border of broadleaf species.

This all arises in the context of a strategy which is not rooted in any coherent, extant or credible land use strategy. This issue is further compounded by the lack of any detail on the controls and assessment of proposals for large scale un-licencesed forestry – consequent on the Animal Welfare, Forestry and Miscellaneous Provisions Act, 2022, which on the face of the legislation allows for unlicensed forestry of unlimited cover so long as it remains within 20 meters in width – and this is but one of the issues with this enacted primary legislation. The SEA and AA for the regulations to allow for this – are nowhere extant – and create a serious issue for anyone trying to engage meaningfully and effectively in this consultation on the future of forestry in Ireland.

Specific Aarhus Convention considerations, and obligations under the EU Treaties and the EU Charter of Fundamental Rights.

The following comments arise in the context of Ireland being a full party to the Aarhus Convention in its own right, and in the context of the EU's ratification of the Convention and the obligations which apply to the EU and its Member States and so also to Ireland consequent on that EU level ratification, given the Aarhus Convention is an integral part of the EU legal order as clarified by the CJEU in case c-240/09, and how the

obligations in multiple directives need to be read in light of both the Aarhus Convention and the wider legal architecture of the Treaties and the EU Charter of Fundamental Rights.

Over the coming decade, the proposed Forestry Plan and related Programme will be the key framework for future decision-making by the Forestry Division of the Department and the Forestry Appeals Committee. This decade will be critical in addressing both the climate and biodiversity emergencies and the proposed Plan and Programme are highly important to both.

It is therefore gravely concerning that the Department have been so slow in bringing forward this new strategy, programme and plan – while they have actively continued to perpetuate the existing unsustainable forestry model. The rhetoric of the right tree in the right place rings as a very hollow and non-credible mantra in the context. Particularly when during a meeting on April 25th with multiple representatives from the Environmental Pillar, the Minister of State when pressed on the need for sensitivity mapping to identify areas not suitable for forestry – she indicated effectively in response that this would undermine the ability of the forest service to reach their targets for forestry.

Whether future decision-making concerns existing forests or proposed new planting, it is vital to ensure effective participation by an informed public and public concerned in line with the Aarhus Convention and related EU legislation, notably the Environmental Impact Assessment (EIA) Directive (2011/92/EU), the Habitats Directive (92/43/EEC), the Access to Environmental Information (AIE) Directive (2003/4/EC) and the INSPIRE Directive (2007/2/EC), and indeed many other Directives such as Directive 2000/60/EC of the European Parliament and of the Council establishing a framework for the Community action in the field of water policy ,the Water Framework Directive.

The Aarhus Convention recognises that every person has the right to live in an environment adequate to his or her health and well-being, and the duty, both individually and in association with others, to protect and improve the environment for the benefit of present and future generations.

Effective public participation, to give meaning to this right and duty, should count amongst the measures mentioned in Annex I(g) of the SEA Directive, i.e. measures to prevent, reduce and, as fully as possible, offset any significant adverse effects on the environment of implementing the Plan and Programme. It therefore needs to be specifically addressed and the issues with it resolved as part of the measures to be addressed in respect of these matters, be it the strategy and/or the implementation plan.

Regrettably, past and indeed recent forestry decision-making has contravened EU environmental requirements and has had significant adverse effects on, amongst others, biodiversity and water quality[AUB1] . Irish peatlands have been seriously damaged, along with the crucial climate services they provide by way of carbon sequestration and storage. High value nature areas have been impacted, together with

endangered species that depend on them. This has been compounded by prolonged and abrogate failures to implement effective management frameworks, including failure to provide for site specific conservation objectives for the species for which Natura 2000 sites have been designated, and conservation and the restoration obligations have not been observed or effectively implemented. The dashboard assessments of the European Environment Agency based on the latest Article 17 Reports required under the EU Habitats Directive – speak for themselves, as does the recent infringement action by the European Commission in respect of multiple failures in respect of Special Areas of Conservation was heard by the CJEU on 9th November in case c-444/21.

Regrettably too, the ability of the public and the public concerned to assert the right and observe the duty referred to in the Aarhus Convention has been impeded by significant obstacles to access to information, public participation and access to justice. Many of these are the result of Irish forestry legislation adopted as recently as 2020. These obstacles are not consistent with environmental democracy and we call for their immediate removal[AUB2] , and remedies to be applied for the deficits in participatory rights on consents granted under this defective regime.

Moreover these barriers to participation and access to justice rights were introduced without any effective weighing of the proportionality of the response in accordance with obligations arising under Article 52(1) of the EU Charter of Fundamental Rights in respect of any impingement of rights to an effective judicial remedy under Article 47. Such impingement must be objective justified as clarified by the CJEU in Protect Natur para 90[5], and with reference to its earlier judgment in Puškár.

The implications additionally for eNGO rights in particular were not addressed either.

By end of July 2020 when Minister of State (MoS) tabled legislation to significantly curtail appeal rights and facilitate the introduction of charges – it is interesting and important to note the following in terms of where the issues and challenges facing the sector were:

- Felling licences issued by the MoS's Department were down nearly 75% compared to July in the previous year:
- In 2020 by end of July - only circa 910 felling licences were issued compared to circa
- 3588 in 2019 7 to end July.
- Afforestation licences were also down by circa 28%:
- In 2020 by end of July, only circa 4122 afforestation licences were issued compared
- to circa 5724 afforestation licences by end of July in 2019 9 .

- That fall of over 1600 (28%) equated to another a shock to the sector.

In summary - if you are concerned about the volumes of licences available to the sector - the real issue is the drop in licences issued going in to the bucket of licences. Whereas on the other hand the appeals pursued by the public however represent a tiny leak in that bucket. (The following is based on detailed analysis of the application and decision files published by the Department.)

- Afforestation Licences appealed in 2019 and 2020 constitute just over 1% of licences issued:
    - Comparing the number of afforestation licenses appealed in 2019 and 2020 versus afforestation licences issued in 2019 and to end September 2020 respectively.

- Felling Licences appealed in 2019 constituted 2.6% of licences issued:
    - Comparing the number of felling licenses appealed in 2019 to the number issued in 2019:

- Felling licences appealed in 2020 went up, but appeals listed equated to circa 23.5% of

  felling licences issued in 2020.

The much more significant issue for the sector was clearly this year's massive drop in output of licences from the Department, particularly in felling, and not appeals.

So the response to drastically curtail participatory rights was not just nowhere proportionality evaluated, and in the context not just of the issue where the real issue of supply of licences fell with the Department, not with appeals – the response was entirely unjustified. Moreove, the appeals have and continue to be justified and exercise a critical public service in catching flawed decisions emanating from the Department, and the burden for the Department's failures is foisted multiply upon the public in terms of cost, burden and environmental impact.

We note that "Appendix A Interaction with Relevant Plans, Policies and Programmes" to the SEA report states in respect of the Aarhus Convention that:

> "DAFM, as the competent Authority and publisher of the Draft IFSIP will coply with all aspects of the Aarhus Convention in the adoption of this plan."

We therefore call on the Department to address the issues set out below in order that such compliance can be provided for and for the relevant elements of the SEA report and the plan and strategy to be updated accordingly, and for the Minister to respond with the requested assurances promptly.

Access to information

The rights of the public to environmental information relate to both timely publication of information and timely receipt of information on request, including under arrangements that are free of charge.

The Forestry Licence Viewer (FLV) introduced in January 2021 contributes to addressing these rights but has not done so to the extent required[AUB3] . Moreover the system implemented entirely fails to address the cost, delays and issues access to legacy decisions which are required to properly and effectively participate in respect of cumulative considerations, which are of course critical from an environmental perspective. Such information is an essential component for the public and eNGOs to be able to "effectively" participate in the environmental decision-making. Additionally, significant issues were encountered in the change over to this new system which further compromised participatory rights. These are serious EU law breaches which must be remedied. Any new program must take account of these matters and include actions to address remedies for past failures and actions to ensure these issues are resolved promptly for future decisions in respect of both licenced and unlicenced regime decisions.

In practice, the public and the public concerned have encountered problems of incomplete or late publication of forestry information; forestry information which should be provided for free, including information in spatial databases, being withheld until paid for; and forestry information requests being dealt with in a dilatory way and dealt with by default under domestic access-to-information provisions rather than under more generous provisions set out in the AIE Directive[AUB4] .

In terms of publication, we call on the Ministers to explicitly commit to ensuring that, in the period of application of the Plan and Programme and in respect of both the Forestry Division and the Forestry Appeals Committee, complete notices of forestry applications will be published in accordance with Article 6(2) of the Aarhus Convention, and decisions and all decision-related information will be published promptly in accordance with Article 6(9) of the Convention.

In terms of timeliness, we call on the Ministers to commit to consistently responding to information requests within the time-frames mentioned in the AIE Directive[AUB5] .

In terms of access to information under arrangements that are free of charge, we call on the Ministers to explicitly commit to ensuring that, in the period of application of the Plan and Programme and in respect of both the Forestry Division and the Forestry Appeals Committee:

- The information referred to in Article 6(6) of the Aarhus Convention is made available for examination free of charge on request as soon as it is available, and with no fee imposed for handling the communication containing the request for information;

- Information within the scope of the AIE Directive is made available for examination in situ free of charge;

- For purposes of access to spatial information, network services are provided in accordance with Article 11 of the INSPIRE Directive for all spatial information used in relation to forestry decision-making that comes within the Directive's scope[AUB6] .

In terms of giving primacy to the AIE Directive, we call on the Ministers to explicitly commit to ensuring that, in the period of application of the Plan and Programme and in respect of both the Forestry Division and the Forestry Appeals Committee, requests for environmental information in relation to the Plan and Programme are treated under the provisions of the AIE Directive without this directive having been explicitly mentioned in the request for information.

In respect of all the above calls, the Strategy, implementation plan and SEA reports need to be amended accordingly.

Public participation

The Aarhus Convention recognises that the public needs to be aware of the procedures for participation in environmental decision-making, have free access to them and know how to use them.

In particular preamble 12 of the Convention states:

> "The Parties to this Convention …
>
> Recognizing also that the public needs to be aware of the procedures for participation in environmental decision-making, have free access to them and know how to use them"

We would also add that charges as implemented are also discriminatory in their application, and particularly onerous in respect of upholding the Aarhus and EU law rights for those individuals and groups who need to participate in mutiple applications.

The participation fees introduced in 2020 were intended for a purpose contrary to the Convention, i.e. to discourage public participation in forestry decision-making. (There is an abundance of evidence to support this assertion and we will be happy to elaborate on that assertion). The participation fees are not consistent with its requirements.

The unreasonableness of the participation fees is illustrated by the simultaneous submission in early 2021 of 1884 applications to fell and restock over 15,000 hectares of land. It would have cost €37,280 to submit an opinion on all of these because of the charge of €20 per submission. And it would have cost €372,800 to appeal these decisions because of the charge of €200 for an appeal to the Forestry Appeals Committee[AUB7] . That is a conservative estimate of cost given the need to consider charges associated with consideration of legacy and cumulative considerations.

1864 of these applications were made by Coillte, – a state body – who itself should be conscious of the Aarhus obligations pertaining. It is inappropriate that the Minister of Agriculture, Food and the Marine should have put in place legislation to financially obstruct public participation in decision-making concerning an entity almost entirely vested in the Minister – a Minister who is conflicted given their remit in terms of promotion of forestry. (We highlight also in this regard the issues which arise under the new Article 9A of the EIA Directive as amended by 2014/52/EU). The lodging of all of these applications simultaneously by Coillte shows a lack of regard for orderly forestry decision-making – and decision-making that requires careful environmental assessment, since it put enormous pressure on decision-makers of the Department for Agriculture, Food and the Marine (DAFM) at a single point of time in 2021, quite apart from the burden on the public and eNGOs.

In respect of the impossible participatory burden placed on eNGOs in a letter IEN's ELO prepared for the Environmental Pillar to the Minister of State on foot of the lodging of the applications the above cost implications were outlined and also this:

"The applications were not available to the public to view on the Forest Licence Viewer (FLV) until the 23rd. Also given the unintuitive, unhelpful structure of the Department website, the existence of these applications was even not likely to be obvious to many until they are uploaded on the FLV, as the notification files are not quite so apparent on the site. Additionally, the consultation period also fell on the St. Patrick's national holiday week and also during the Easter Holiday period, so that is on average a requirement to process 72 Coillte felling submissions per day."

It was additionally highlighted in that that the Minister of State had discretion under the existing legislation to extend the participatory window. However, not only did the Minister of State fail to do so, but no response was even issued to this request until after the default deadline for participation had expired.

We call on the Ministers to explicitly commit to removing participation fees in the period of application of the Plan and Programme and in respect of both the Forestry Division and the Forestry Appeals Committee.

We also call on them to ensure that Coillte exercises its role as an applicant for forestry decisions in a manner that facilitates orderly decision-making and effective public participation.

While the Court of Justice found in Case C-216/05, *Commission v Ireland* that the EIA Directive did not preclude planning fees, it stated that fees cannot be fixed at a level which would be such as to prevent the directive from being fully effective, in accordance with the objective pursued by it and that this would be the case if, due to its amount, a fee were liable to constitute an obstacle to the exercise of the rights of participation conferred by the Directive. Moreover, it is clear from a cursory examination of that case that obligations arising under the Aarhus Convention did not figure in the considerations, presumably because of obvious timing considerations.

In terms of proposals for new forestry, we consider that the existing fees already amount to the obstacle mentioned by the Court. This is because the impacts of forestry are frequently cumulative, being the result of the combined effects of multiple different projects within sensitive landscapes. Public participation ought to be facilitated to help address these cumulative effects, but multiple projects mean multiple individual fees which are beyond the financial capacity of individuals and environmental NGOs. Even to be consistent with Case C-216/05 (which did not take account of the Aarhus Convention), there would need to be a cap on the total fees that are payable across different decision-making processes.

In respect of all the above calls, the Strategy, implementation plan and SEA reports need to be amended accordingly.

Access to justice

The Aarhus Convention, EU legislation, the Charter of Fundamental Rights and case-law of the Court of Justice require the public and the public concerned to be able to assert rights of access to justice.

Pre-conditions for the assertion of these rights include timely knowledge that decisions have been taken and timely access to the detailed documentation on which decisions are based.

Irish legislation does not, however, guarantee the timeliness of access to such information even in circumstances where there is a legal requirement to bring a legal challenge within a set time-frame. Additionally, the Compliance Committee of the Aarhus Convention has made findings against Ireland in respect of inter alia the failure to comply with the timeliness obligation under Article 9(4) of the Convention for appeals on AIE requests in case ACCC/C/2016/141, and further findings in respect of the non-compliance in respect of Court directions.

We call on the Ministers to explicitly commit to ensuring that, in the period of application of the Plan and Programme and in respect of both the Forestry Division and the Forestry Appeals Committee, information needed to assert rights of access to justice is provided within time-frames consistent with the time-frames for bringing legal challenges.

We call on the Ministers to explicitly commit to ensuring that, in the period of application of the Plan and Programme and in respect of both the Forestry Division and the Forestry Appeals Committee that pursuit of access to justice and upholding EU law rights and pursuit of effective judicial remedies should not be excessively difficult, and will comply with all the obligations and characteristics for access to justice required under Article 9(4) of the Convention. This therefore means any requirement of exhaustion of administrative review prior to recourse to the Courts – cannot present barriers – including a cost barrier to qualify , so in summary implementation of prohibitive costs for administrative review – are incompatible with the requirements for access to the courts.

In respect of all the above calls, the Strategy, implementation plan and SEA reports need to be amended accordingly.

Concluding remarks in respect of Governance, Aarhus Convention and certain specific EU law considerations.

Experience shows the importance of effective public participation in the implementation of the proposed Plan and Programe and we call on the Ministers to explicitly recognise this and commit to removing the obstacles to access to information, public participation and access to justice that we have highlighted in this opinion.

[1] https://www.gov.ie/en/consultation/849a5-consultation-on-the-draft-forest-strategy/

[2] https://www.gov.ie/en/consultation/b4288-consultation-on-the-draft-implementation-plan-for-the-forest-strategy-and-associated-sea-environmental-report-and-aa-natura-impact-report/

[3] https://www.gov.ie/en/publication/01381-forestry-programme-2014-2020-ireland/

[4] **Judgment of the Court (Seventh Chamber) of 12 April 2018, c-323/17, People Over Wind and Peter Sweetman v Coillte Teoranta, EU:C:2018:244**

[5] Court, 20 December 2017, case c-664/15, EU:C:2017:987, para 90