



19<sup>th</sup> April 2024.

**Subject:** FAC 053/2023 regarding LK07-FL0200

Dear

I refer to the appeal to the Forestry Appeals Committee (FAC) in relation to the above licence granted by the Minister for Agriculture, Food and Marine (DAFM). The FAC established in accordance with Section 14 A (1) of the Agriculture Appeals Act 2001, as amended, has now completed an examination of the facts and evidence provided by the parties to the appeal.

#### **Hearing**

Having regard to the particular circumstances of the appeal, the FAC considered that it was not necessary to conduct an oral hearing in order to properly and fairly determine the appeal. A hearing of appeal FAC 053/2023 was held remotely by the FAC on 20<sup>th</sup> March 2024.

In attendance

FAC Members: Mr. Seamus Neely (Chairperson), Mr. Derek Daly & Mr. Luke Sweetman.  
Secretary to the FAC: Ms. Vanessa Healy and Ms. Aedin Doran (Observer).

#### **Decision**

Having regard to the evidence before it, including the record of the decision by the DAFM, the notice of appeal, and all other submissions received, and in particular, the following considerations, the FAC has decided to set aside and remit the decision of the Minister regarding licence LK07-FL0200. The reasons for this decision are set out hereunder.

#### **Background**

A felling licence (LK07-FL0200) at Glenanaire East, County Limerick was issued by the DAFM on the 21<sup>st</sup> September 2023.

The licence decision pertains to the felling of an area of 8.23 hectares. The application was submitted on the 24<sup>th</sup> March 2023 and included operational and environmental information and a number of maps outlining the licence area and operational and environmental features.

The operations would involve the clearfelling of an existing plantation comprised predominantly Sitka Spruce (7.57 hectares) and Noble Fir (0.66 hectares) planted in 1983 and 1987. The site would be

replanted with 80% Sitka spruce and the balance being Open Space. Ground preparations of the area will include windrowing and mounding and before replanting.

The site is accessed via an onsite tracks/forest roads which connects to the public road network and is part of a wider forestry. There are watercourses crossing the site. The project area is described in the documentation as a steep sloping site (15% to 30%), with a soil composition of shallow gley soils and the habitat is WD4 (Conifer Plantation).

The site is shown to be located on EPA mapping within the River Sub-basin OGEEN\_010 (IE\_SW\_180010200). Mapping data indicates the status as good and in terms of risk is indicated as being at risk. The sub basin is part of the catchment Blackwater (Munster) Subcatchment Blackwater [Munster]\_SC\_100 where most of the catchment is identified as being at risk and forestry and clearfelling is identified as the risks in River Sub-basin OGEEN\_010.

### **Applicant Documentation**

The application submitted included an application pack which includes details relating to species and general mapping which were marked as uploaded on the Forestry Licence Viewer (FLV) on the 5th April 2023.

The application also included a document entitled Appropriate Assessment Pre-Screening Report for Clearfell and Reforestation project LK07-FL0200, located at Garryknock, Co. Limerick which is dated 20th July 2023 and was prepared on behalf of the Applicant. This describes the site, including hydrology, and operations in further detail and screens the proposal for potential significant effects on European sites. This document identifies four Natura 2000 sites within 15km of this project. The four sites are Ballyhoura Mountains SAC (002036), Blackwater River (Cork/Waterford) SAC (002170), Carrigeenamronety Hill SAC (002037) and Kilcolman Bog SPA (004095). Blackwater River (Cork/Waterford) SAC (002170) was identified as hydrologically connected to the project site.

In addition, the potential for hydrological pathways for likely significant effect with European Sites at distances greater than 15km was also considered and Blackwater Callows SPA (Site Code: 004094) at a distance of approximately 40 km and the Blackwater Estuary SPA (Site Code: 004028) at a distance of approximately 88.3 km was identified. It was considered that based on the nature and scale of the project, the large distance and the assimilative capacity of the intervening watercourses that there is no potential for significant effect on any European Sites beyond 15km.

Each qualifying interest or special conservation interest associated with a Special Conservation Area (SAC) or Special Protection Area (SPA) is considered in turn. The report also identified other plans and projects considered in-combination with the proposal.

The pre-screening determines that Appropriate Assessment should be undertaken in relation to specified interests of one European Site the Blackwater River (Cork/Waterford) SAC (002170) due to potential significant effects on a number of a Qualifying Interest (QI); Freshwater Pearl Mussel (*Margaritifera Margaritifera*) [1029]; White-clawed Crayfish (*Austropotamobius pallipes*) [1092]; Sea

Lamprey (*Petromyzon marinus*) [1095]; Brook Lamprey (*Lampetra planeri*) [1096]; River Lamprey (*Lampetra fluviatilis*) [1099]; Twaite Shad (*Alosa fallax fallax*) [1103]; Salmon (*Salmo salar*) [1106]; Otter (*Lutra lutra*) [1355]; Water courses of plain to montane levels with the *Ranunculus fluitantis* and *Callitriche-Batrachion* vegetation [3260] and Alluvial forests with *Alnus glutinosa* and *Fraxinus excelsior* (*Alno-Padion*, *Alnion incanae*, *Salicion albae*) [91E0].

The FAC also finds on file a document entitled Natura Impact Statement for Clearfell and Reforestation project LK07-FL0195, LK07-FL0198, LK07-FL0200 and LK07-FL0201, located in the vicinity of Brockagh, Ballard Park, Garryknock, Ballymooney and Toor, Co. Limerick and dated 20th July 2023. The NIS examines the potential impacts of four clearfell and reforestation projects (LK07-FL0195, LK07-FL0198, LK07-FL0200, and LK07-FL0201) that occur in close proximity to one another and within the same river sub-basin. Each project is considered in turn and specific to LK07-FL0200 potential threats arising from the project are outlined in relation to the Qualifying Interests (QIs) and mitigation measures are outlined in the pre-screening document and measures are outlined.

The Appropriate Assessment (AA) Pre-Screening Report and Natura Impact Statement (NIS) were marked as uploaded on the FLV on the 2<sup>nd</sup> August 2023.

#### **DAFM Assessment**

The application was subject to desk assessment by the DAFM.

#### **Appropriate Assessment Screening Report & Determination (AASRD).**

An AASRD dated 13<sup>th</sup> September 2023 is to be found on file as prepared by a Forestry Inspector, Department of Agriculture, Food and the Marine on behalf of the Minister and marked as uploaded on the FLV on the 21st September 2023. The screening refers to *"Felling and Reforestation project LK07-FL0200, at Glenanaire East, Co. Limerick.*

The AASRD states that in undertaking screening for Appropriate Assessment, the following were taken into account:

- the initial application, including all information submitted by the applicant, information available via iFORIS (including its GIS MapViewer) and input from the District Inspector (including information following field inspection);
- responses from consultation bodies and submissions from 3<sup>rd</sup> parties;
- any subsequent supporting documentation received from the applicant;
- any other plan or project that may, in combination with the plan or project under consideration, significantly affect a European Site;
- any information or advice obtained by the Minister;
- Conservation Objectives, Natura 2000 forms, site synopsis and supporting documents for each relevant European site, available from National Parks & Wildlife Service ([www.npws.ie](http://www.npws.ie));
- available ecological and environmental information including aerial imagery, historical OS maps, DAFMs iFORIS system, QGIS and ArcGIS applications and data available at National Parks &

Wildlife Service (npws.ie), EPA Maps, GeoHive, Data and maps (gsi.ie), Biodiversity Maps (biodiversityireland.ie);

- any other relevant information.

and records consideration of five European sites, four located within a 15 km radius of the project; Ballyhoura Mountains SAC; Carrigeenamronety Hill SAC IE0002037; Blackwater River (Cork/Waterford) SAC IE0002170 and Kilcolman Bog SPA IE0004095 and the Blackwater Callows SPA IE0004094 outside of 15km from the project and indicated as hydrologically connected. The AA screening considers each site in turn and records a screening conclusion and reasons. The screening document concludes that an AA was required in relation to one European Site, the Blackwater River (Cork/Waterford) SAC IE0002170. The AASRD report references an 'Appendix A: In-Combination Report for Felling and Reforestation proposed under LK07-FL0200' with the commentary 'See File'.

#### **DAFM Appropriate Assessment Determination (AAD)**

An AAD for Felling and Reforestation project LK07-FL0200, at Glenanaire East, Co. Limerick dated 14/09/2023 is to be found on file. It is marked as made by a consultant ecologist on behalf of the Minister for Agriculture, Food and the Marine) and marked as uploaded on the FLV on the 21/09/2023. It states that documents / matters such as the application information and NIS, the DAFM screening, and submissions from consultation bodies were taken into account.

The AAD concluded that it was determined that adequate information was available to enable an Appropriate Assessment Determination to be reached for this project. and has made certain, based on best scientific knowledge in the field and the European Communities (Birds & Natural Habitats) Regulations 2011 (as amended) and the Forestry Regulations 2017, as amended, and Article 6(3) of the Habitats Directive, that the proposed project, individually or in combination with other plans or projects, will not adversely affect the integrity of any of the aforementioned European Sites, having regard to their conservation objectives, provided mitigation is implemented.

The AAD in section 4 goes on to set out measures in relation to the screened in European site and provides reasons for the measures.

*The AAD also indicates "in combination effects were assessed prior to meeting this determination. The mitigations outlined will ensure that the proposed project will not represent a source and, as such, there is no potential for the project to contribute to any significant cumulative effects, when considered in combination with other plans and projects. Therefore, DAFM deems that the proposed project, when considered in-combination with other plans and projects, will not give rise to the possibility of significant effects on any European site. Therefore, the Minister for Agriculture, Food & the Marine has determined, pursuant to Regulation 42(16) of the European Communities (Birds and Natural Habitats) Regulations 2011 (as amended) and Regulation 19(5) of the Forestry Regulations 2017 (as amended), based on objective information, that no reasonable scientific doubt remains as to the absence of any adverse effect on the integrity of any European site".*

## **In-Combination Assessment**

There is an In-Combination Assessment report marked as being for Felling and Reforestation project LK07-FL0200 dated 11/09/2023 on file and marked as uploaded on the FLV on the 21/09/2023. It is titled as 'Appropriate Assessment Screening Report Appendix A: In-combination report for Felling and Reforestation project LK07-FL0200'. The report concludes that;

*"there is no likelihood of the proposed Felling and Reforestation project LK07- FLO200 itself, i.e., individually, having a significant effect on certain European Site(s) and associated Qualifying Interests / Special Conservation Interests and Conservation Objectives, as listed in the main body of this report. Similarly, there is no likelihood of residual effect(s) that might arise, which are not significant in themselves, creating a significant effect in-combination with other plans and projects. Therefore, there is no potential for the proposed project to contribute to any significant effect on those same European Site(s), when considered in-combination with other plans and projects. Furthermore, it is considered that the regulatory systems in place for the approval, operation (including any permitted emissions) and monitoring of the effects of these other plans and projects are such that they will ensure that they too do not give rise to any significant effects on these European Sites. Therefore, it is deemed that this project, when considered in combination with other plans and projects, will not give rise to any significant effect on the above European Site(s). Note that the European Site(s) that have not been screened out by this screening exercise will be progressed to, and addressed in, Stage 2 Appropriate Assessment"*.

There is also an In-Combination Assessment for Felling and Reforestation project LK07-FL0200 dated 13/09/2023 on file and marked as uploaded on the FLV on the 21/09/2023 which addresses screened in sites. It is titled as an 'Appropriate Assessment Report Appendix A: In-combination report for Felling and Reforestation project LS09-FL0192' and concludes that;

*"there is no possibility that the proposed Felling and Reforestation project LK07- FLO200, with mitigation measures set out in Section 4 of the AAD, will itself, i.e., individually, giving rise to an adverse effect on the integrity of any European Sites and their associated Qualifying Interests / Special Conservation Interests and Conservation Objectives. Similarly, there is no likelihood of any residual effect(s) that might arise, which do not in themselves have an adverse effect, creating an adverse effect in-combination with other plans and projects. Therefore, there is no potential for the proposed project to contribute to any adverse effect on the integrity of the European Site(s) listed in the main body of this report, when considered in combination with other plans and projects. Furthermore, it is considered that the regulatory systems in place for the approval, operation (including any permitted emissions) and monitoring of the effects of these other plans and projects are such that they will ensure that they too do not give rise to any adverse effect on the integrity of these European Sites. Therefore, it is deemed that this project, when considered in combination with other plans and projects, will not give rise to any adverse effect on the integrity of the above European Site(s)".*

## **Referrals**

The application was referred to Limerick County Council and the National Parks and Wildlife Service (NPWS).

Limerick County Council in a response dated 25<sup>th</sup> May 2023. which covered a number of projects referred to where clear fells are within or close to SPAs that consultation with the NPWS takes place in order to establish the presence of Hen Harrier nesting sites and the correct procedure to be followed.; the provisions of the harvesting guidance dating from 2000 be observed in full including timing of works such as extraction outside periods of heavy rainfall, the observance of buffers from water courses and the use of brash for extraction to minimise ground damage and the maintenance and use of silt traps in the drainage of the felling areas is encouraged to prevent sediment laden run off.

NPWS in a response dated 23<sup>rd</sup> May 2023 submitted some general observations in relation to forestry application referrals which should be taken into account.

#### **Decision**

The decision to approve the licence was issued on the 21/09/2023 and marked as uploaded to FLV on the same date. It was subject to thirteen conditions which in addition to general related conditions included a condition referring to the requirements as set out in the AAD.

#### **Appeal**

There is one appeal against the decision to grant the licence. The full grounds of appeal were considered by the FAC and are to be found on file. The Notice of Appeal and full grounds of appeal were provided to the parties.

In summary, the grounds submitted that there is a requirement to adhere to the provisions of Directive 2003/4/EC; that this is one AA project as all have direct effect on the Blackwater River (Cork/Waterford) SAC noting that in the submission a number of other projects are referenced; that no assessment of the planting has taken place; that the do nothing position has not been considered; that the NIS was not available to the NPWS; that the public were not given the mandatory 30 day consultation on the full application; that there is no AA which complies with CJEU 258/11 paragraph 44 and reference is made to the requirement for EIS.

#### **DAFM Statement**

The DAFM provided a response to the grounds of appeal (SOF) which was provided to the other parties. In summary, the statement provides an overview of the processing of the application and addresses the grounds of appeal. This records the consultation with prescribed bodies and that the application was subject to public consultation. It indicates that the decision was issued in accordance with DAFM procedures, SI 191/2017 and the Forestry Act.

In relation to the grounds of appeal specific to the issue of replanting the statement includes that the application contains a detailed reforestation map along with the proposed species mix at replanting; that throughout the applicants own Pre-Screening Report and Natura Impact Statement (NIS) replanting is referred to and the NIS for example goes into detail on how the ground will be prepared for replanting, how trees will be physically put in the ground and the treatment of plants to protect against

pine weevil. Section 3 of the AAD, it states, lists the documents that were taken into account in the AA which includes documentation which include reforestation in the title and reference to a Felling and Reforestation project and references that conditions which apply at replanting and which are specifically designed to protect water quality during the replanting operation are outlined.

In relation to the grounds of appeal specific to the issue of the Department's AA process the Department disputes the appellants assertion that there are lacunae in the AA Process. The Appropriate Assessment Determination, it states, is created following a detailed and thorough process that delivers precise, complete and definitive findings and steps taken by the Department underpinning its compliance with article 6(3) of the Habitats Directive. These steps, it states include that the application is uploaded to the Department's Forest Licence Viewer (FLV) and that members of the public have full access to the FLV and can see the geographic location of any felling licence received by the Department in relation to their own location. It also sets out that applications when received are advertised on the DAFM's website where location information at a townland level is provided to assist the public in locating any felling licence application for any given month and that forestry stakeholders and members of the public have 30 days to lodge a submission on any applications falling within a Townland of interest and that when a submission is made, the individual making the submission receives documents in relation to the forestry licence application.

It also sets out that the application itself includes an inventory of the stand to be felled, species, year planted, average tree size and yield class and that a pre-screening report, location maps of the harvest site and a shapefile with the digitised area of the project. It states that this shapefile allows spatial analysis by GIS to be carried out in relation to the harvest site and surrounding environmental layers such as SPAs, SACs, Hen Harrier designations and sub catchment boundaries and rivers. The statement sets out that once the 30 days has past the Department begins work on the licence application taking into account any submissions received and that this includes screening the application for Appropriate Assessment in accordance with Article 6(3) and (4) of the Habitats Directive 92/43/EEC. Screening it states, starts with GIS analysis and preparation of an 'In-combination Report' which looks at other developments and activities in the vicinity, including forestry operations. This screening exercise, it states, also looks at the documentation submitted by the applicant (Pre-Screening Report, 'In Combination' analysis and the NIS) and determines whether European Sites are either 'screened in' or 'screened out' based on hydrological connectivity to European Sites (SACs) and separation distances for birds (SPAs). It states that hydrological connectivity assessment takes into account all existing aquatic zones and relevant watercourses and uses the EPA GIS tool which includes catchment boundaries as well as rivers.

It states that where the site is screened in for second stage appropriate assessment a Natura Impact Statement (NIS) is submitted by the applicant or where an NIS has not been prepared the Department will prepare an Appropriate Assessment Report (AAR). It sets out that in either case the NIS or AAR is posted to the FLV and stakeholders and members of the public have a further 30 days to make submissions and that the opportunity to make submissions on these documents is also advertised on the Department's website and any submissions received are taken into account in preparing the

Appropriate Assessment Determination (AAD). It states that prior to signing off on the AAD a second 'In combination' is prepared and that this demonstrates that the project in combination with other plans and projects with conditions doesn't have an adverse impact on the European sites.

In relation to the grounds of appeal specific to the issue of EIA it is the position of the Department that clear-felling and replanting an already established plantation forest is a standard operational activity and does not involve an activity or project that falls within the specified categories of forestry activities or projects subject to the requirements of the EIA Directive, as transposed and set out nationally in Schedule 5 Part 2 of the Planning and Development Regulations 2001, as amended, and in Regulation 13(2) of the Forestry Regulations 2017 (and wherein relevant national mandatory thresholds and criteria for EIA are also prescribed).

### **Consideration of FAC**

In addressing the grounds of appeal, the FAC considered the completeness of the assessment of the licence application, whether there was an adequate assessment of cumulative effects and an examination of the procedures applied which led to the decision to grant the licence. The FAC considered that the appeal raises general concerns in relation to the Appropriate Assessment recorded by the Minister but does not submit any specific concerns in relation to significant effects or impacts on European sites and their interests.

The FAC had regard to the documentation provided through the DAFM's Forestry Licence Viewer (FLV) as notified to the parties, the notice of appeal and the statement provided by the DAFM. In relation to Appropriate Assessment the documents included a Pre-Screening Report and Natura Impact Statement submitted by the Applicant in addition to other application information, an Appropriate Assessment Screening Report and Determination and Appropriate Assessment Determination (AAD) both prepared on behalf of the Minister and two In-Combination Assessments documents (the assessment dated 11/09/2023 appears to be an appendix to the DAFM Appropriate Assessment Screening Report and Determination, and the assessment dated 13/09/2023 is described as being an appendix to an Appropriate Assessment Report (which does not appear to be on the FLV), both were prepared on behalf of the Minister.

From the procedure adopted in relation to the processing of this application in chronological sequence it appears that the NIS was prepared before the screening was undertaken by the Minister. Having regard to the Forestry Regulations 2017, the FAC considers that this may be acceptable in practice where there is a clear consistency in the reasoning in the assessment undertaken by the Minister with that in the NIS or that any significant inconsistencies are explained and where the assessment and conclusions are clear, definitive and complete.

In this instance, the FAC is of the view that there is contradictory information within the pre-screening and NIS submitted by the applicant and the screening and assessment undertaken by the Minister. While the Applicants Screening document in Section 4 page 34 states 'This project lies in a rural landscape in the townland Garryknock, Co. Limerick in the River Sub-basin OGEEN\_010



(IE\_SW\_18O010200) and the NIS at Section 1 page 4 states that it 'examines the potential impacts of four clearfell and reforestation projects (LK07-FL0195, LK07-FL0198, LK07-FL0200, and LK07-FL0201) that occur in close proximity to one another and within the same river sub-basin' and refers to the projects as located in the vicinity of Brockagh, Ballard Park, Garryknock, Ballymooney and Toor, Co. Limerick. Specific to LK07-FL0200 in Section 1 page 8 of the NIS it refers to the townland of Garryknock whereas the screening and assessment undertaken by the Minister refers to the correct location that being for project LK09-FL0200 located at Glenanaire East, County Limerick. The FAC considers that these contradictions have not been addressed in the assessment and reasoning recorded in the documentation of the Minister. The FAC further considers that it is a significant error to rely on an NIS which has been carried out having recorded an incorrect location for the project as this may have impacted on the accuracy of any spatial analysis done to inform same and that it is misleading in the context of the publication of the NIS as it indicates an incorrect location for the project, which could have impacted on the public consultation process.

In relation to In-Combination assessment the FAC would understand that the consideration of other plans and projects should take place as part of the process to ascertain whether the project, either individually or in-combination with other plans or projects, is likely to have a significant effect on a European site and an Appropriate Assessment of the implications of the project and such effects on the European site, having regard to the conservation objectives of the site concerned. As stated on the record, it appears to the FAC it is not clear that the potential for significant effects to arise from the proposal in-combination with other plans and projects was considered by the DAFM as these were ruled out at screening stage for screened out sites on the basis that there is no likelihood of residual effect(s) that might arise, which are not significant in themselves, creating a significant effect in combination with other plans and projects. In the FAC's view, the reference to 'residual effects' in the In-Combination report / assessment on file that appears to deal with the screened-out sites, creates confusion as it is not clear what effects are being referred to in this instance and there is no explanation as to what gives rise to these effects such that they can be described as being 'residual'.

The FAC finds that the In-Combination assessment dated 13/09/2023 is described as being an Appendix to an 'Appropriate Assessment Report' however no Appropriate Assessment Report is to be found on file. This In-Combination assessment contains the following passage as part of its statement;

*'It is concluded that there is no possibility that the proposed Felling and Reforestation project LK07-FL0200, with mitigation measures set out in Section 4 of the AAD, will itself, i.e. individually, giving rise to an adverse effect on the integrity of any European Sites and their associated Qualifying Interests / Special Conservation Interests and Conservation Objectives'.*

From this passage the FAC notes that the assessment which is dated 13/09/2023 relies on a report (AAD) that postdates it (14/09/2023). The FAC considers that this is a further error in the processing of the application.

In reviewing the documentation on file, the FAC noted that condition 10 of the licence states that “only minor site level changes in the interest of environmental protection are permitted.” The FAC considers that the wording of this condition is insufficiently clear as to the meaning of the words “only minor” and therefore the words are open to a wide interpretation and not adequately addressed in the context of appropriate assessment of likely impacts and effects. The FAC considers that the lack of a consistent and objective interpretation of “only minor” that would ensure the implementation of the condition for its intended purpose which is stated as in the interest of environmental protection constitutes a serious and significant error in the making of the decision in this case.

The FAC also noted that conditions D and N of the AAD make reference to a Harvest Plan and condition 11 to adherence to the conditions of the AAD. The FAC considers that the Minister has set a minimum standard for the content of Harvest Plans in the Standards for Felling & Reforestation (DAFM,2019), and the application included Harvest Plan maps but did not include a Harvest Plan.

In relation to the submissions made, the FAC noted that the application and NIS were subject to a period of public consultation and statutory bodies were informed of the submission of the project and invited to make a response. Furthermore, the Minister is required to have regard to the submissions made by prescribed bodies and the public in making a decision.

The grounds make a general reference to the replanting of the lands not being assessed which is contested by the Minister. The grounds do not substantiate any particular concern other than reference to consideration of a do nothing position. The appellant has not expressed any specific concern in relation to the lands which are the subject of the decision that has been appealed or if or how they consider that a significant effect on the environment or an impact on the integrity of a European site may come about.

In relation to a do nothing position the project is for felling and replanting which is clearly outlined in the documentation as submitted and the assessment is based on the project as proposed and an assessment of likely impacts which could potentially arise specific to the project as proposed. The FAC has already noted that the Appropriate Assessment process should be undertaken again but it does note that the application provided details of the replanting following felling and that the NIS and AAD referred to effects from the replanting operations and specified measures.

In relation to the Water Framework Directive and effects on water quality generally the FAC viewed the information on the EPA and Irish Catchments websites and current mapping and data which confirmed information contained on the DAFM file that the project is within the River Sub-basin OGEEN\_010 (IE\_SW\_18O010200). Mapping data indicates the status of the waterbody concerned as good and in terms of risk is indicated as being at risk.

The FAC noted that the site has a status which is indicated as good and also that the sub basin is part of the catchment Blackwater (Munster) Subcatchment Blackwater [Munster]\_SC\_100 where most of the catchment is identified as being at risk and forestry and clearfelling as identified as the risks in River Sub-

basin OGEEN\_010. It is also noted that the conditions of the licence decision require that all felling and planting operations are carried out in accordance with Forestry guidelines as they relate to water quality and the Code of Best Forest Practice and many of the conditions of licence specifically refer to setbacks from aquatic zones and watercourses in the interest of the protection of water quality generally and also the protection of aquatic ecosystems from possible sediment and nutrient runoff from the site during harvesting and reforestation operations.

The FAC concluded that the decision should be set aside and remitted and, given the nature of the errors, the FAC considered that the Minister should request a new NIS or prepare an Appropriate Assessment Report that identifies and assesses likely significant effects on European sites of the proposal itself and in-combination with other plans and projects and, where they occur, mitigation measures and an assessment as to whether the proposal would impact on the integrity of a European site . Whichever approach is adopted, the FAC considers that a new period of public consultation should be undertaken.

Yours sincerely,

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Derek Daly On Behalf of the Forestry Appeals Committee

