



DASOS FORAOIS MANAGEMENT LTD
c/o CSI Chartered Accountants

24th March 2026

Subject: Appeal FAC079/2025 regarding licence decision TFL01174925

Dear Sir/Madam,

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 (The Minister). The FAC established in accordance with Section 14A (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. The Agriculture Appeals Act 2001, as amended, and the Forestry Appeals Committee Regulations 2020 provide the statutory basis for the functioning and operation of the FAC.

Hearing

Appeal FAC079/2025 was considered by a division of the FAC at a hearing held remotely on 28th January 2026. In attendance:

FAC Members: Mr. Ed Carroll (Chairperson), Mr. Iain Douglas & Mr. Vincent Upton.

Secretary to the FAC: Ms. Aedín Doran.

The FAC division met again on 24th February 2026 to consider the additional submissions received. 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.

Decision

Having regard to the evidence before it, including the Department of Agriculture, Food, and the Marine (DAFM) record of the decision, the Statements of Fact (SoF) provided by the DAFM, submissions made, all materials on file, the notice and grounds of appeal and, in particular, the considerations described in this letter, the FAC has decided to affirm the decision of the Minister regarding licence TFL01174925.

Background

The appeal relates to the granting of a tree felling licence on 10.77 hectares at Moneenatieve, Co. Leitrim. The application was for the thinning and clearfell of a partially windblown forest, across two time periods, comprised of Sitka spruce and Japanese larch that was 24 years old in 2025. The application included

operational and environmental information and a series of maps. The forest would be replanted with a mixture of Sitka spruce and broadleaves.

The forest is bounded by public roads to the north and south and extraction would be in a southerly direction to an access point on the public road. The forest is adjoined by a river to the northeast and crossed by electricity wires. A significant portion of the forest is mapped as being windblown. Setbacks from the public road, river and hedgerow are marked.

The application was referred to Leitrim County Council. In its response, the County Council described the location of the lands in relation to designations in the County Development Plan and noted that a section of the lands adjacent to the public road lies within an Area of High Visual Amenity. The Council raised no objection to the felling but expressed concerns in relation to the replanting and suggested that broadleaf and mixed species should be incorporated into the replanting. It is submitted that there does not appear to be any recorded national monuments in or adjoining the site and no Tree Preservation Orders and that the DAFM should satisfy itself in relation to Appropriate Assessment and Environmental Impact Assessment. The submission also referred to the District Engineers Report, which was provided, and submitted that no specific objection was raised but that sightlines requirements must be met and requested conditions be attached to the licence.

The DAFM undertook a screening for Appropriate Assessment that describes the lands and proposal and the location relative to European sites. The lands are not located within or adjacent to a European site and the screening identifies six European sites (Boleybrack Mountain SAC IE0002032, Cuilcagh - Anierin Uplands SAC IE0000584, Lough Gill SAC IE0001976, Lough Arrow SAC IE0001673, Lough Arrow SPA IE0004050, Unshin River SAC IE0001898) within 15km of the felling site and one (Lough Forbes Complex SAC IE0001818) outside of 15km that is hydrologically connected. Each site is considered in turn with its interests and objectives, and reasons are recorded for the determination. Other plans and projects considered in-combination with the proposed felling and are also recorded in a separate document. The screening concludes,

Following AA screening, and pursuant to Article 6(3) of the Habitats Directive, the European Communities (Birds & Natural Habitats) Regulations 2011 (S.I. No. 477 of 2011) (as amended) and the Forestry Regulations 2017 (S.I. No. 191 of 2017), as amended by inter alia the Forestry (Amendment) Regulations 2020 (S.I. No. 32 of 2020), DAFM has determined that there is no likelihood of the felling and reforestation project proposed under TFL01174925 having any significant effect, either individually or in combination with other plans or projects, on any of the following European site(s), for the reasons set out in Part A: Screening Report:

- *Boleybrack Mountain SAC IE0002032.*
- *Cuilcagh - Anierin Uplands SAC IE0000584.*
- *Lough Gill SAC IE0001976.*
- *Lough Arrow SAC IE0001673.*
- *Lough Arrow SPA IE0004050.*
- *Unshin River SAC IE0001898.*

➤ *Lough Forbes Complex SAC IE0001818.*

As such, the project does not advance to the appropriate assessment stage in relation to these European Sites.

The file also includes a document entitled "Project Description, Environmental and Social Considerations" which considers the proposal across a range of criteria and concludes that the application should not be subject to the EIA process.

The licence was issued on 22nd July 2025 subject to conditions.

Appeal

One third party appeal against the granting of the licence was submitted to the FAC and received on 7th August 2025. The full Notice of Appeal and grounds have been provided to the parties. In brief summary the grounds submit that,

- The harvest plan is deficient and in conflict with licence conditions. The grounds allege that a number of features are present and not mapped and that this undermines the protection of the features. Hedgerows should have been retained when the lands were afforested and are likely present and not mapped and the Environmental Requirements for Afforestation include provisions that are too vague and the Harvest Plan identifies extraction routes through hedgerows. The DAFM have not undertaken a field survey and features have been damaged by windblow.
- Reforestation with 85% Sitka spruce is contrary to "Good Forestry Practice". The site has been subject to windthrow at 23/24 years of age and this demonstrates that the site is not windfirm and replanting with the same species is "foolhardy".
- Adequate access is not provided. The Harvest Plan indicates a proposed Forest Road but there is no application in the system for a forest road and this is project splitting. Any road application would be subject to the Single Consent System and it cannot be assured that permission would be granted, the access lands are on deep peat. DAFM should have included a condition that a forest road to the COFORD standard be constructed.
- Future Windthrow Risk is a lacuna in the assessment of the reforestation element of the project. A windthrow model indicates a 97.2% chance of windthrow at the upper elevation of the site. Windthrow has implications for a number of features and the risk is unassessed.
- There was a breach of Section 10(4) of the Forestry Regulations as the public was not afforded the opportunity to comment on the submission from Leitrim County Council, the Appropriate Assessment Screening Report and Environmental Impact Assessment Screening.
- There was inadequate and ineffective public notice in contravention of Article 6(2) of the Aarhus Convention and unfair procedures. As the application was subject to screening for Appropriate Assessment and Environmental Impact Assessment, Article 6(2) of the Aarhus Convention must be met. That reliance on the DAFM website does not serve for effective notification to the public and this view aligns with the Aarhus Convention Compliance Committee. The grounds refer to a Regulatory Review and a Court of Appeal decision. There is inconsistency between applications for afforestation and forest road works and tree felling. There is a serious error of due process and

fair procedure. The grounds refer to a previous appeal decision of the FAC and claims that members of the public have been disadvantaged.

- There was a failure to have regard to the social function of forestry in failing to provide effective notification to the local community during the awarding of the licence.
- The DAFM cannot evidence that the lands were afforested in accordance with the law, there is no evidence that the afforestation was subject to screening for Appropriate Assessment or Environmental Impact Assessment. The felling of trees is a continuation/extension of the afforestation of the lands. That the afforestation of the lands should now be subject to screening and an EIA is required as the cumulative area of afforestation within a 500 metre buffer exceeds 50 hectares.
- The felling of trees is not consistent with climate change targets as it is now generally acknowledged that the forestry sector in Ireland is a source of greenhouse gas emissions.
- Licence conditions are not adequately reasoned and “do not ensure the reason for the conditions. They are therefore irrational”.
- The assessment for the project under Article 6(3) of the Habitats Directive does not contain precise and definitive findings and conclusions capable of removing all reasonable doubt as to the effects of the proposed works on the protected area concerned.
- There were inadequate landscape considerations. The assessment of the project failed to identify that part of the site is within an area designated by the local authority as an Area of High Visual Amenity and the EIA screening records a negative response in relation to questions concerning landscape.
- There has been inadequate assessment under Article 12 of the Habitats Directive in relation to Annex IV species notably bats and otters. The grounds refer to the Birds and Natural Habitats Regulations and an NPWS document. The grounds submit that there has been no assessment in relation to otter and that at least seven of the nine species of bat native to Ireland are within their range within OS squares G82 & 92.
- The decision is invalid as the Minister has failed to evidence consideration of the submission of a prescribed body in relation to the submission from Leitrim County Council and its request for conditions to be included on the licence.
- The name of the Certifying Inspector is not on the file and this is a failure of due process.
- DAFM procedures are not consistent with the requirement for providing a General System of protection commensurate with Article 5 of the Birds Directive. The lands lie wholly or partially within a Current Breeding Distribution for Hen Harrier as recorded in the NPWS Article 12 Report.
- There has been inadequate assessment in the context of the Water Framework Directive. There is an unmapped watercourse within the project area which is directly impacted by windthrow and there is no provisions or assessment of the windblow.
- The determination of the Environmental Impact Assessment Screening is based on an inadequately reasoned assessment and is unsound in law. The grounds submit that the proposal falls under the categories provided for in the EIA Directive and challenge a number of responses provided in the DAFM assessment.
- There are inadequate setbacks and inadequate risk assessment in relation to the Water Framework Directive.
- There are inadequate setbacks from ESB infrastructure. The site is crossed by two powerlines and the standard setbacks required by the Department will not be sufficient to prevent trees falling on

the lines when older. There are buffers from a number of features required but not for low voltage power lines and this is irrational and not in keeping with Good Forestry Practice.

- That Access to Justice cannot be demonstrated to be “not prohibitively expensive”.
- Fees were not prescribed in accordance with the law.
- The Felling and Reforestation Policy has not been subject to a Strategic Environmental Assessment.
- The FAC is structurally biased and breaches the principle of constitutional justice.
- The DAFM has acted in a biased manner in the assessment of the application and contrary to “Good Forestry Practice”.

The Notice of Appeal also included further commentary on the appeals process and an oral hearing was requested.

Minister’s statement

Under 7(2) of the Forestry Appeals Committee Regulations 2020 (S.I. No. 418/2020), the Minister is required, in relation to each notice of appeal, to provide to the FAC,

(a) a statement showing the extent to which the facts and contentions advanced by the appellant are admitted or disputed, and

(b) information, documents or items in the power or control of the Minister that is relevant to the appeal.

The DAFM provided a statement (SOF) providing an overview of the decision and responding to the appeal, a full copy of which was provided to the parties and considered by the FAC. As the parties were advised, the FAC relied on the record of the decision as provided by the Minister on the online Forestry Licence viewer (FLV).

The DAFM submitted that the decision was issued in accordance with their procedures, SI 191 of 2017 and the Forestry Act 2014. The full statement was provided to the parties to the appeal. In brief summary the statement submitted that,

- The Harvest Plan contains sufficient information to allow the DAFM to make its decision. Hedgerows are mapped and there is no requirement to map old/veteran trees and scrub. DAFM policy in relation to hedgerows are set out in the Standards for Felling and reforestation; Extraction routes should not break through existing hedgerows or stone walls but utilise existing gaps and all operators must be fully aware of environmental features on site before operations commence.
- Sitka spruce is the predominant species in Irish forests, represents a significant carbon store and provides raw materials that supports employment and replaces carbon intensive products. That coniferous plantation typically include a proportion of broadleaves and micro-habitats. That national and international policy generally require replanting and the replacing of trees after felling.
- It is not a requirement to have a forest road in place at the time of submitting a felling licence application and identifying the location is sufficient. Forest road works form part of a separate licencing process.

- If the trees were left unmanaged they would eventually reach a critical height and would most likely suffer windblow. Proper management where thinning is carried out at the correct intensity and age can help to avoid windblow. That Storm Eowyn was an extreme weather event that was considered record-breaking and that damage to forests in its path was inevitable.
- Regulation 10(4) provides discretion to the DAFM in relation to additional public consultation and any contrary interpretation would negate the public interest in the licencing system being functional and efficient.
- The DAFM rejects the grounds and outlines the provisions for public consultation in the licencing process including the availability of the Forestry Licence Viewer. Any obligations that might arise under the Convention are met through the DAFM procedures.
- In relation to the afforestation of the lands, no specific environmental issues are being referred to in the grounds and the grounds are not relevant to a felling licence application. The clearfelling and replanting of an already established plantation forest is a standard operational activity that does not involve an activity or project that falls within the specified categories covered by the EIA Directive.
- Policy in relation to emission targets for the Land Use, Land-Use Change and Forestry (LULUCF) sector are under continual review and subject to set indicators. Targets under the Climate Action Plan 2024 will be kept under review in light of emerging evidence from inventory refinements and the Land-use Review.
- The DAFM stands over the licence conditions but considers that there are insufficient detail in the grounds to prepare a statement.
- The DAFM conducted a screening for Appropriate Assessment and concluded that there is no likelihood of the project having a significant effect on a European site, either individually or in-combination with other plans and projects. The DAFM considered other plans and projects as part of the screening.
- The planning authority had no objection to the tree felling and the Minister for Agriculture is the competent authority for forestry licencing.
- The licencing process administered by the DAFM represents the system of checks and balances by which the DAFM exercises its responsibilities with regard to protecting Annex IV species and the granting of the licence does not exempt the holder from meeting any legal requirements of the Wildlife Acts. That the proposal lands are not suitable habitat and no submissions were made in relation to species present on the lands.
- The DAFM included conditions in relation to contacting the local authority and adhering with best practice standards.
- The felling licence is certified by an inspector on behalf of the DAFM in line with DAFM standard procedures and policies. The licence is then issued on behalf of the Minister by a DAFM official.
- The granting of a felling licence does not exempt the holder from meeting any legal requirements set out under the Wildlife Acts, the grounds do not refer to a specific adverse effect, the appeals process is not the correct forum to raise legal matters regarding the transposition of EU law into national legislation, the lands do not fall within a Hen Harrier SPA or a non-designated nest site with a 750 metres buffer. Replanting with rows of broadleaves provides benefits at the local level.
- The DAFM applies a wide range of checks and balances during its evaluation of felling licence applications in relation to the protection of water, as set out in the DAFM document Forests & Water: Achieving Objectives under Ireland's River Basin Management Plan 2018-2021 (2018) and

felling licences are issued conditional on adherence with the Standard for Felling and Reforestation (2019). This includes measures such as operational setbacks and silt and sediment controls.

- The DAFM position is that the activity does not fall within the developments covered by the EIA Directive and the grounds do not identify any significant effects on the environment that are likely to occur.
- The maintenance of corridors within forests in relation to powerlines is addressed in the Electricity (Supply) Act 1927, as amended by Section 45 of the Electricity Regulation Act 1999, and the ESB is empowered to cut vegetation that obstructs or interferes with electrical wires. An appeal is not the appropriate forum for calls to change policy.
- Fees are not related to the licencing decision of the Minister and are reasonable and legally compliant.
- The Felling and Reforestation Policy is not a plan or programme under the relevant legislation and was not required to undergo a Strategic Environmental Assessment.
- Assertions in relation to the FAC are proper to the FAC and go beyond the appeal.

Further submissions

The Appellant made a submission in response to the DAFM statement in which the response is contested and the grounds and position of the Appellant restated. This submission was provided to the parties. The FAC sought further information from the DAFM in relation to the grounds of appeal concerning the responses recorded in relation to the protection of water and the requirements of the Water Framework Directive. The DAFM responded that the record was an error and that this was evidenced by a number of other responses. The DAFM response was provided to the parties who were provided with the same period in which to comment on the response if they wished. The Appellant refused to abide by the timeline provided by the FAC and made a submission on 21st February 2026. The FAC considered that it could refuse the submission as it was received after the provided period. However in the specific circumstances of the case and as the FAC had not finalised its decision, the FAC reviewed the submission and considered it to contest the response from the DAFM. The Appellant's submission was provided to the parties and no further submissions were received. The FAC division considered all post-appeal submissions and all submissions were circulated to the parties to the appeal.

Considerations of the FAC

At its sitting on the 28th January 2026, the FAC had before it the full DAFM record of the decision as made available on the Forestry Licence Viewer (FLV), the Notice of Appeal Form and grounds of appeal, the Statement of Fact (SoF) provided by the DAFM, further submissions, and all materials on file. As the parties were notified, the FAC referred to the record of the decision as is made available on the publicly available Forestry Licence Viewer (FLV). In its further submission, the Appellant sought that the FAC seek all records from the DAFM in relation to the appeal. The Forestry Appeals Committee Regulations 2020 (S.I. No. 418/2020) require the Minister to provide to the FAC the documents and information relevant to the appeal and the FAC did not consider that there was any basis to conclude that the Minister had not provided the required documents in responding to the appeal. The submission further sought that the FAC

clarify the Minister's position in relation to the grounds. The FAC considered that the statement and submission from the DAFM made it clear that the grounds of appeal were being contested.

The FAC considered in the first instance the grounds that alleged deficiencies in the application in relation to the mapping of features. In relation to hedgerows, the DAFM submit that hedgerows are identified. The FAC reviewed the mapping and noted that a network of hedgerows is clearly marked, with a green line, in addition to a hedgerow setback marked with a dashed green line on the maps submitted. The appeal included an unreferenced aerial image which appeared to show the lands. In addition to the absence of a date the image appears to show mature trees around a derelict building which is marked on the application mapping and this area is excluded from the application. The grounds claim that there are watercourses on the site which have not been mapped but provide no basis for this claim. The mapping submitted with the application identifies an aquatic zone to the northeast of the site and there is no basis to conclude that the mapping was deficient in this regard.

The grounds suggest that current afforestation standards should be backdated to a period decades previously and that the afforestation of the lands should be assessed against that standard. The FAC would not consider this to be reasonable.

The decision which has been appealed to the FAC relates to the application for tree felling under the provisions of the Forestry Act 2014, as amended, and the Forestry Regulations 2017. The DAFM have provided an application form for the making of an application for a tree felling licence and the FAC considers that the application contains the information required by the application. The licence was granted on condition of meeting the requirements of the Standards for Felling and Reforestation (DAFM, 2019), which include a range of protections. The applicant has identified a hedgerow setback in making the application. The FAC does not consider it reasonable to assume that the licence holder will not comply with the conditions.

The FAC was not satisfied that a serious or significant error or a series of errors was made in the making of the decision or that the decision was made without complying with fair procedures in relation to these grounds.

The grounds allege that the operations, and the replanting in particular, do not align with "Good Forestry Practice" and go on to provide a definition of the concept. The FAC finds that the definition of 'Good Forestry Practice' as quoted in the grounds is provided for in the Forestry Act 2014 at Part 10 Article 32 and that this is specified to be in the context of compensation for the refusal of a felling licence and for the purposes of the related section of the Act and is not provided as a definition for the purposes of the Act as a whole. The grounds further allege that future windthrow risk is a lacuna in the assessment. The DAFM contests the grounds and submits that the species selected is extremely well adapted to Irish conditions and represents a significant store of carbon and provides sustainable wood products that replace the use of carbon intensive products. It is submitted that such forests support economic activity and jobs, provide a valuable amenity and can help to create habitats. The DAFM further submits that replanting is in keeping with Government policy and international commitments.

The licence conditions identified in the grounds are in keeping with the application and are stated to be in the interest of the maintenance of national forest cover and sustainable forest management. The FAC would understand such reasons to fall within the jurisdiction of the Minister and to align with Government policy.

The FAC considered that the presence of significant windblow on the site had been clearly identified in the application and is related in the DAFM statement to the occurrence of Storm Éowyn. As referenced by the DAFM, Storm Éowyn was an extreme and unusual event. The application was considered by the Minister and assessed by a number of the technical staff of the DAFM. The position of the DAFM is that it has no concerns in relation to the replanting. It is well established that windthrow risk is influenced by a range of factors including management decisions, such as thinning and drainage, local factors such as topography and weather and climate. The model referenced in the grounds relies on broad categories and is indicative in nature.

The decision under appeal relates to the granting of a tree felling licence under the Forestry Act 2014, as amended, and the Forestry Regulations 2017. The Forestry Act 2014 provides powers to the Minister to require the replanting of lands but does not, as the FAC understands it, empower the Minister to bring about the permanent deforestation of lands or empower the Minister to entirely re-specify the nature of an application. Were the Minister to not condition the replanting of the lands, given the nature of the lands and changes to the microclimate over the preceding period, the forest would most likely regenerate anyway. In addition, as the replanting, by its nature, would not constitute afforestation, the landowner could likely replant the land if they wished in an unrestricted manner.

The licence decision before the FAC is for the felling of trees as provided for in the Forestry Act 2014 and the Forestry Regulations 2017. The Forestry Act 2014 provides for the Minister to produce and implement guidelines, codes of practice and standards for good forest practice and, as referred to in the statement from the DAFM, a number of such documents have been produced. The Forestry Regulations 2017 also require the Minister to have regard to such documents in making decisions on licence applications. The Minister has conditioned the licence on compliance with the Standards for Felling and Reforestation (DAFM, 2019) amongst other conditions. The FAC does not consider that the decision that was made was not in keeping with the Standards for Felling and Reforestation nor the Felling and Reforestation Policy (DAFM, 2017) documents published by the DAFM. The grounds allege that the replanting is “foolhardy” but the role of the FAC is to consider an appeal and to determine whether serious or significant errors were made in the making of the decision.

The application and licence conditions include setbacks from aquatic zones, public roads, hedgerows and ESB lines. There are no dwellings adjacent to the site. In processing the application, the DAFM recorded that the replanting was silviculturally and environmentally suitable for the site.

The FAC was not satisfied that a serious or significant error or a series of errors was made in the making of the decision or that the decision was made without complying with fair procedures in relation to these grounds.

The grounds submit that adequate access is not provided, that access is identified through a proposed forest road but no application has been made and would be subject to the Single Consent System and may not be granted and that the site is unsuitable. The grounds suggest that the DAFM erred in not including a condition that required a forest road constructed to the COFORD Standard be implemented. The DAFM submitted that it is not a requirement to have the forest road in place, that it is sufficient that access is identified and that forest roads are subject to a separate process.

The decision before the FAC relates to a decision for a tree felling licence application under the provisions of the Forestry Act 2014 and the Forestry Regulations 2017. The legislation provides for a licencing system for a range of forestry activities including tree felling and forest road works. As noted in the grounds, the Minister is the competent authority for the Single Consent system whereby applications for forest road works that include entrances to the public road can be considered and authorised. In this instance the application identified the proposed access to the site.

The application was not for forest road works, which is subject to a separate licencing system, and the FAC would consider that the granting of a felling licence does not exempt the holder from meeting any other legal requirements. The granting of the felling licence would not allow the licence holder to proceed with forest road works that required a licence under the forestry legislation. The FAC considered that the inclusion of a condition in the manner suggested by the Appellant would not be necessary and would not be a basis to conclude that the Minister had erred in making the decision on the tree felling licence application.

The FAC was not satisfied that a serious or significant error or a series of errors was made in the making of the decision or that the decision was made without complying with fair procedures in relation to these grounds.

In relation to the suggested breach of Section 10(4) of the Forestry Regulations 2017 (SI 191 of 2017), the FAC would understand that the legislation provides for a period of public consultation in relation to the application that was made and, further, provides discretion to the Minister to extend that period. The grounds refer to submission from the County Council, the "Appropriate Assessment Screening Report (17/06/25) and the "Environmental Impact Assessment Screening Determination" (17/06/25). None of these documents form part of the application and neither do they require to be subject to any public consultation process in and of themselves. The FAC considered this to be consistent with decisions of the Court of Justice in cases C-41/24 Waltham Abbey Residents Association and C-461/24 Asociación Petón do Lobo. The FAC considers that the extension of the public consultation period is at the discretion of the Minister and that there is no reason to consider that the documents identified were required to be subject to public consultation.

The FAC was not satisfied that a serious or significant error or a series of errors was made in the making of the decision or that the decision was made without complying with fair procedures in relation to these grounds.

The FAC considered the grounds in relation to Public Notice and Public Participation and the Aarhus convention. The grounds contend that there has been inadequate and ineffective public notice in contravention of Article 6 (2) of the Aarhus Convention and that, relatedly, the Minister had failed to have regard to the social function of forestry. The grounds reference comments of the Court of Appeal in *McCaffrey (McCaffrey v Minister for Agriculture Food and Marine [2017] IECA 247)*. The grounds make reference to a previous decision of the FAC on the matter and a decision of the Aarhus Convention Compliance Committee. The DAFM submit that any obligations that might arise under the Aarhus Convention are met through its procedures which are outlined.

The FAC understands the "Aarhus Convention" to be a reference to the *UNECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters*. The FAC understands the Aarhus Convention to be a convention under the UNECE and that it does not form part of domestic legislation as such. The Aarhus Convention has been transposed through a number of pieces of EU legislation, including the EU EIA Directive (Directive 2011/92/EU as amended by Directive 2014/52/EU), which in turn have been transposed through national legislation such as the Forestry Regulations 2017.

The EU EIA Directive defines an Environmental Impact Assessment (EIA) and identifies the projects which are required to be subject to EIA. The Directive sets out in Annex I, a list of projects for which Environmental Impact Assessment (EIA) is mandatory. Annex II contains a list of projects for which member states must determine, through thresholds or on a case by case basis (or both), whether or not EIA is required. Neither afforestation nor deforestation, nor any other class of development related to the proposal under appeal, are referred to in Annex I. Annex II contains a class of project specified as "initial afforestation and deforestation for the purpose of conversion to another type of land use" (Class 1 (d) of Annex II) and "Any change or extension of projects listed in Annex I or this Annex, already authorised, executed or in the process of being executed, which may have significant adverse effects on the environment." (Class 13 (a) of Annex II). This was noted in the Appellant's submission.

The Irish Forestry Regulations 2017, in relation to forestry licence applications, require the compliance with the EIA process for applications relating to afforestation involving an area of more than 50 hectares, the construction of a forest road of a length greater than 2000 metres and any afforestation or forest road below the specified threshold where the Minister considers such development would be likely to have significant effects on the environment. The Forestry Regulations 2017 do not provide for the Minister to undertake an EIA in relation to a tree felling licence application. In this instance, the application is for the clearfelling of trees in a managed plantation that has already been subject to windthrow and would be replanted, with no change in land use, and does not constitute afforestation or deforestation for the purposes of land use change or any change or extension to an existing project. The operations are of a standard nature in the context of ongoing forest management in Ireland and the standards of the DAFM.

The FAC does not consider that there was a requirement to undertake a screening for Environmental Impact Assessment or an Environmental Impact Assessment in processing the tree felling application.

The FAC finds that Article 6(2) of the Aarhus Convention refers to the public notification requirements where an environmental impact assessment is being undertaken and not at the screening stage. One of the requirements is that the public is informed of the fact that a development is subject to an assessment. The public clearly cannot be informed that a development is subject to an assessment before it has been decided that the development is to be subject to such an assessment. The recital of the EIA Directives states,

'Moreover, taking into account unsolicited comments that might have been received from other sources, such as members of the public or public authorities, even though no formal consultation is required at the screening stage, constitutes good administrative practice'

This is reflected in the consultation requirements provided for under Article 6 which is required after the competent authority has determined that a development is subject to an EIA. The FAC considered that public participation is not required at the screening stage is confirmed by the decision of the Court of Justice in C-42/24 Waltham Abbey Residents Association.

The procedure adopted in this case provided for a public consultation period in keeping with the requirements of the Forestry Regulations 2017 (SI 191 of 2017). The application was subject to a period of public consultation in relation to the application stage and the Appellant did not make a submission on the application. The FAC considered that the comments attributed to the Court of Appeal are referenced to a period prior to the current Forestry Regulations 2017 and procedures of the DAFM, including the availability of the FLV. The FLV is a standalone map-based website that displays information on forestry licences in an accessible manner. The Court of Appeal decision also related to an afforestation project and not the felling of trees in an established, managed plantation and did not result in a decision of the Minister being set aside.

The FAC understands that publication through the map-based FLV is the form of publication chosen by the Minister for Agriculture to inform the public and to make the application and decision freely available and accessible and to facilitate submissions. As the Appellant notes in their own grounds, they have pursued a number of previous appeals and are fully aware of the FLV and of the approach adopted by the DAFM.

The FAC considered that this ground of appeal effectively seeks to challenge Ireland's and the EU's transposition of the Aarhus Convention and related questions of law and the FAC considers, as the Appellant has noted that they are aware, that such matters would not fall within its jurisdiction to determine.

The grounds of appeal reference Regulation 10 of the Forestry Regulations 2017 and suggest that there is an inconsistency in the manner in which the notice is published by the Minister but the FAC do not understand that to be the case as all such applications are published on the FLV. The grounds also note the

stated requirements of the Forestry Regulations 2017 in relation to the erection of a site notice during operations but this relates to the period after the licence decision has been made. There are, as noted, separate requirements for afforestation and forest road works applications under the legislation.

The FAC was not satisfied that a serious or significant error or a series of errors was made in the making of the decision or that the decision was made without complying with fair procedures in relation to these grounds.

The grounds allege that the DAFM cannot evidence that the lands were afforested in accordance with the law. The DAFM submit that the grounds are not relevant to a felling licence application and has been rejected previously and that the grounds do not identify any significant effects on the environment or how the original decision was regulatorily deficient. The DAFM further submits that the activity is not covered by the EIA Directive.

The FAC does not consider that the grounds provide any convincing evidence that the forest was established in a legally deficient manner nor do they identify any significant effect on the environment that has occurred as a result of the afforestation. The Appellant provided no additional submission in relation to this ground and submitted no evidence to substantiate their claims. The grounds contend that the current EIA related legislation, competent authorities and thresholds established in the Forestry Regulations 2017 should be retrospectively applied to an afforestation development from 2001. The FAC does not consider this to be reasonable. Since 2001, EIA legislation has changed considerably both at EU and domestic levels. The FAC considers that its remit is to make a determination on the decision under appeal in accordance with the requirements of the Agriculture Appeals Act 2001, as amended. The felling of trees is not a continuation or extension of the afforestation of the lands by its inherent nature. As described by the Appellant the lands were in agricultural use prior to the afforestation of the lands and the afforestation occurred a number of decades prior to the application for the felling licence.

The FAC was not satisfied that a serious or significant error or a series of errors was made in the making of the decision or that the decision was made without complying with fair procedures in relation to these grounds.

The grounds allege that the decision is not consistent with climate change targets, that the forestry sector is a source of greenhouse gas emissions and that the DAFM must reduce the number of felling licences issued in the absence of increased afforestation. The DAFM describe the complexities of accounting and reporting emissions and removals in the land use sector and that the management of the existing forest estate will play a crucial role in achieving any emission reduction targets.

The FAC noted that the grounds provide no reference or basis for the claims that are made and presents an overly simplified description of a complex issue that is not in keeping with the legally established approach to accounting emissions and removals in the land use sector under EU Regulation 2018/841. In this instance, the felling would occur in a managed plantation that would be replanted and no

deforestation would occur. The FAC considered that there was no basis to conclude that the decision was not in keeping with any policies or obligations in relation to climate action.

The FAC was not satisfied that a serious or significant error or a series of errors was made in the making of the decision or that the decision was made without complying with fair procedures in relation to these grounds.

The grounds allege that licence conditions are not adequately reasoned as a number do not ensure the reason for the conditions. However, the grounds do not identify any specific conditions that are of concern to the Appellant or provide any details. The DAFM submitted that they stand over the licence conditions.

The FAC considered that the Appellant had provided no basis to conclude that the licence conditions or reasons contained errors. The FAC was not satisfied that a serious or significant error or a series of errors was made in the making of the decision or that the decision was made without complying with fair procedures in relation to these grounds.

The grounds submit that the “assessment for this project under Article 6(3) of the Habitats Directive does not contain precise and definitive findings and conclusions capable of removing all reasonable scientific doubt as to the effects of the proposed works on the protected area concerned.” However, the claim is not substantiated in any way and does not identify any specific effects or European sites. The DAFM submitted that they were satisfied that the screening was correct.

The FAC considered the screening undertaken by the DAFM. Article 6 of Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora states,

3. Any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects, shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. In the light of the conclusions of the assessment of the implications for the site and subject to the provisions of paragraph 4, the competent national authorities shall agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the site concerned and, if appropriate, after having obtained the opinion of the general public.

The Forestry Regulations 2017, as amended, provide,

19. (1) Where the Minister receives an application for a licence under sections 17 or 22 of the Principal Act, which is not directly connected with or necessary to the management of a European site, the Minister shall carry out a screening for appropriate assessment of the development, in view of the conservation objectives of the European site, to assess if the development, either individually or in combination with other plans or projects, is likely to have a significant effect on the European site.

(2) Subject to paragraph (8), if following an assessment in accordance with paragraph (1), in the opinion of the Minister the proposed development is likely to have a significant effect, either individually or in combination with other plans or projects, on a European site, or the Minister is unable to determine the likely effects of the proposed development on a European site, at any time following the application for the licence the Minister may require the applicant by notice in writing to furnish a Natura Impact Statement and the applicant is to furnish the statement within the period specified in the notice.

As previously described, the DAFM screening specifically identifies Boleybrack Mountain SAC IE0002032, Cuilcagh - Anierin Uplands SAC IE0000584, Lough Gill SAC IE0001976, Lough Arrow SAC IE0001673, Lough Arrow SPA IE0004050, Unshin River SAC IE0001898 and Lough Forbes Complex SAC IE0001818; each site is considered and a reason is provided for the screening conclusion. Other plans and projects are considered and the screening conclusion does not rely on any mitigation measures. The application was for a tree felling licence in a managed plantation, which is not a designated habitat, and is not located within or proximate to a European site.

Having reviewed the record, the FAC was satisfied that the Appropriate Assessment screening had been conducted correctly and that any obligations that might arise under Article 6(3) of the EU Habitats Directive had been met. The FAC was not satisfied that a serious or significant error or a series of errors was made in the making of the decision or that the decision was made without complying with fair procedures in relation to these grounds.

The grounds contend that there was inadequate consideration of the landscape and submitted that part of the site is located within an area designated by the local authority as an Area of High Visual Amenity. The grounds also note the responses recorded on the DAFM record. The DAFM in response referred to the submission made by the local authority, which raised no objection, and stated that the Minister for Agriculture is the competent authority in relation to tree felling licences.

The grounds include a map that was unreferenced but appears to align with the description of the lands in the submission from the County Council. The section that falls within an Area of High Visual Amenity is small and adjoins the public road and the application and licence include a setback from the road. The majority of the site does not fall within an Area of High Visual Amenity. The FAC considered that an error was made in not recording the fact that a small section of the lands fell within the designated area in the completion of the DAFM procedures. The same document does record that the submission from the Local Authority was received and examined. Considering the size and location of the overlap, the conditions of the licence and the response from the County Council, the FAC was not satisfied that the error could be considered to be serious or significant in nature.

The grounds contend that there has been inadequate assessment under Article 12 of the Habitats Directive (Annex IV species). The grounds make a general unreferenced claim that there are seven species of bat native to Ireland in two OS squares and also refers to otter. The DAFM submitted that the licencing process

represents the checks and balances by which their responsibilities are exercised and outlines stages of that process and how submissions can be made on applications. It is further submitted that there are no populations of protected species confirmed in the project area or in the vicinity of the project area and that the granting of a felling licence does not exempt the holder from meeting the legal requirements of the Wildlife Acts or other legislation and reference condition 7 of the licence. The statement goes on to submit that otters do not have a preference for forestry habitat and that there will be no impacts on watercourses and that concerns in relation to bats were not raised and that lesser horseshoe bat's distribution is linked to broadleaved and mixed woodland.

The FAC did not consider that the grounds provide a basis for how the identified species might be significantly impacted by the licenced activities. The lands are comprised primarily of semi-mature coniferous plantation which would not be considered to be a particularly rare or valuable habitat and would not have large trees or a well-developed understorey. The forest has already been subject to extensive windthrow and the application is for the felling of trees and the land would be subsequently replanted. The Appellant has not claimed to have any environmental expertise nor to have engaged such an individual.

Through the application and the conditions on the licence, there are protections provided in relation to hedgerows and broadleaf trees on site and in relation to the protection of water quality which include operational setbacks.

The grounds refer to an NPWS Guidance document that relates to activities undertaken by or on behalf of public authorities which does not describe the proposal. That document confirms that the granting of a permission or licence does not remove obligations under the relevant wildlife legislation and describes obligations that are placed on landowners and their agents in undertaking works. The FAC considered that the grounds in the main amounted to a challenge in relation to the legality of the Wildlife legislation and Ireland's transposition of EU Directives and that making such a determination would not fall within the remit of the FAC.

The FAC was not satisfied that a serious or significant error or a series of errors was made in the making of the decision or that the decision was made without complying with fair procedures in relation to these grounds.

The grounds submit that the decision is invalid as the Minister failed to evidence consideration of the submission of a prescribed body from whom he sought comment with reference to the submission from the County Council that referred to access and sightlines, extraction and concerns in relation to species employed in replanting. The DAFM referred to parts of the submission from the County Council and two of the conditions attached to the licence.

Leitrim County Council requested that a condition be attached to the licence that would require a "Forest Service representative" liaise with the Council and satisfy conditions and issues raised by the District Engineer. The FAC would consider it unreasonable for a condition to be attached to a licence applied for

by a member of the public that would require a public authority to satisfy conditions or issues of another public authority. Amongst other matters, this would restrict the actions of a member of the public where a condition was not met over which they have no control. The County Council is required to be notified and it is up to that authority to fulfil its function in keeping with the powers that have been provided to it under the relevant legislation. The licence application relates to a tree felling licence and a separate process and application addresses forest road works where access to the public road is required. In relation to replanting, the County Council suggests that broadleaves be incorporated into the replanting and this is provided for in the application. Adherence with best practice measures are also conditioned on the licence.

The DAFM procedures record that the submission of the County Council was received and examined and there are licence conditions that relate to contacting the County Council and adhering with best practice.

The FAC was not satisfied that a serious or significant error or a series of errors was made in the making of the decision or that the decision was made without complying with fair procedures in relation to these grounds.

The grounds submit that the certifying inspector is not on file and that this represents a failure of due process. The DAFM submit in response that an inspector certifies the felling licence on behalf of the DAFM, in line with DAFMs standard procedures and policies, and that the licence is then issued on behalf of the Minister and signed by a DAFM official.

The FAC found that the Forestry Inspectors name was identified in the Appropriate Assessment Screening document and that the licence is signed by a DAFM official. The grounds raise no specific concerns and are speculative in nature.

The FAC was not satisfied that a serious or significant error or a series of errors was made in the making of the decision or that the decision was made without complying with fair procedures in relation to these grounds.

The grounds allege that the DAFM procedures are not consistent with the requirement for providing a General System of Protection commensurate with Article 5 of the Birds Directive. It is submitted that the project lies within the current breeding distribution for Hen Harrier as recorded in the current NPWS Article 12 Report and that there has been no ecological assessment.

The DAFM submitted that the granting of a felling licence does not exempt the holder from meeting the legal requirements of the Wildlife Acts, that no specific adverse effects are referenced, and that the appeals process is not the appropriate forum for raising legal matters regarding the transposition of EU law. The DAFM disagrees that its procedures are inconsistent with Article 5 of the Birds Directive. It is submitted that the forest does not lie within any Hen Harrier SPA and does not overlap with "Non Designated Hen Harrier Nest Sites layer with 750m Disturbance Buffer". The licence conditions include

conditions related to the planting of broadleaves along aquatic zones which increase small bird and mammal populations locally.

The decision before the FAC relates to the granting of a tree felling licence in a managed plantation. The forest is semi-mature and comprised of coniferous species and has been extensively damaged by windthrow. This would not comprise a particularly rare or valuable habitat nor a habitat that in its current form would be associated with Hen Harrier. The lands are not within or proximate to an SPA and the DAFM records the land as not lying within a "Non Designated Hen Harrier Nest Sites layer with 750m Disturbance Buffer". As noted by the DAFM, at replanting stage broadleaf corridors will be established which can support bird and mammal populations. Young plantation can also provide nesting habitat prior to canopy closure.

The FAC did not consider that the grounds provided a basis to consider that a bird species might be threatened by the issuing of the licence. The FAC was not satisfied that a serious or significant error or a series of errors was made in the making of the decision or that the decision was made without complying with fair procedures in relation to these grounds.

The grounds contend that there has been inadequate assessment in the context of the Water Framework Directive. The grounds submit that the area is bounded by the Owengar (Leitrim) O10 River Sub Basin and that this has Good status. It is submitted that there is an unmapped watercourse within the area that is impacted by windthrow and that there has been no assessment of the impact on water quality and that specific mitigations in the context of windblow are required. It is submitted that the Pollution Impact Potential has not been considered or assessed and that the potential for impacts on water quality from overland flow has not been assessed. The judgment in C431-13 is referenced and it is submitted that in the absence of adequate mitigation the project may cause a deterioration of water quality. In the absence of adequate mitigation, the project should have been refused. The developer did not propose any specific mitigations to address additional risks posed by windblow. The DAFM's standard mitigations to protect water quality have not been subject to scientific assessment and the definitions employed have no scientific basis.

In response, the DAFM lay out their policies and procedures in relation to the protection of water quality, including in the context of the Water Framework Directive.

The grounds allege that there is an unmapped watercourse on the site but provide no basis for this claim or any evidence to substantiate it. The application was accompanied by mapping that included marked watercourses, in addition to other features. The FAC does not consider that there is any basis to conclude that the application was deficient in this regard. The applicant identified a number of mitigation measures in the application including in relation to the protection of water quality and the DAFM specified a number of related conditions. The FAC does not consider that it would be reasonable to assume that the applicant would not comply with the licence conditions in the absence of any reason,

In relation to wind damage, the application clearly identifies the extent of windthrow on site. A substantial portion of the site has been subject to damage by wind and the application is for the felling of trees. While the site has been subject to damage the inherent nature of the operations remains the same. The DAFM specified licence conditions that relate to best practice in addition to specific measures that relate to the protection of water quality. The concept of aquatic zones and relevant watercourses are defined in DAFM literature and have a clear purpose in relation to the identification of potential hydrological pathways on land based on their relevant characteristics and the appropriate measures that might be employed in each such as silt traps. The grounds do not identify what the appellant considers to be the correct terms. The measures specified in relation to the protection of water quality, including setbacks and sedimentation controls, are very well established and proven methods employed across multiple land uses and development sectors in Ireland.

The grounds further allege that the specified measures are deficient based on the nature of the lands. Specific reference is made to conifers dropping needles into water. The licence conditions include a 10 metre setback at replanting and, in addition, two rows of broadleaves, which almost doubles the distance between the aquatic zone and the closest planted conifer.

The FAC did not consider that the grounds provided a convincing basis to consider that the issuing of the licence would result in the deterioration of water bodies or impede the achievement by waterbodies of good status. In this case the closest waterbody is of Good status as noted in the grounds and in the DAFM record. The FAC was not satisfied that a serious or significant error or a series of errors was made in the making of the decision or that the decision was made without complying with fair procedures in relation to these grounds.

The grounds allege that the determination of the Environmental Impact Assessment Screening is based on an inadequately reasoned assessment and is unsound in law. The grounds refer to the document entitled "Project Description, Environmental and Social Considerations" and suggest that the activity might be captured by a number of entries in Annex II of the EIA Directive. The grounds also refer to specific responses recorded by the DAFM in their documentation.

In relation to suggested deforestation, the related project under Annex II is,

(d) Initial afforestation and deforestation for the purposes of conversion to another type of land use;

The concept of deforestation is well understood and does not relate to the standard felling of a managed forest which would be regenerated. The EIA Directive provides further clarity by specifying that it is for the purpose of conversion to another type of land use. In the current case, no change in land use would occur and the land would remain as forest. Neither is the proposal a change or extension of the afforestation of the lands, by its nature.

As previously noted, the Forestry Regulations 2017 do not provide for the Minister to undertake an EIA in relation to tree felling and there was no requirement, under the Forestry Regulations 2017, for the Minister to undertake a screening for EIA in relation to application for a tree felling licence. The Appellant is, in effect, seeking to challenge the transposition of the EU EIA Directive by Ireland. The FAC does not consider that making a determination on such a matter falls within its remit to make.

The FAC sought further clarity from the DAFM in relation to the response recorded on the DAFM documentation in relation to the question,

Will adherence of this proposal to the Forestry and Water Quality Guidelines, and any additional conditions attached to the approval be sufficient to prevent any potential significant impact to aquatic zones and their Q value?

The DAFM submitted that the response was made in error and submitted that this was evidenced by other responses recorded by the DAFM. The Appellant contested this response and submitted that it was not sufficiently evidenced.

The FAC considered the submissions made and found the explanation of the DAFM to be reasonable and that it was in keeping with the record and the licence as issued included specific conditions in relation to water quality. The FAC was satisfied that the record contained sufficient evidence to substantiate the DAFM's position that the error was of a clerical nature. In relation to the reference to a 20 metre setback that was contained in the statement, the DAFM also submitted that this was an error but was not significant and the Appellant again contested this position. The FAC noted that the error was made in the statement submitted in response to the appeal and was not contained in the record of the decision. The FAC considered that the error in the statement did not evidence an error having been made in the making of the licence decision itself.

The FAC was not satisfied that a serious or significant error or a series of errors was made in the making of the decision or that the decision was made without complying with fair procedures in relation to these grounds.

The grounds submit that there are inadequate setbacks from powerlines that are mapped on the lands. The grounds make reference to buffers that are included in relation to various features. The FAC noted the submission in the statement from the DAFM that the matter of management of vegetation from Electricity Transmission lines and public roads are provided for in separate legislation, the enforcement of which falls to other authorities. The DAFM statement asserts that grounds of appeal are not the appropriate forum for calls to change existing national policy, which would involve input from a number of public bodies, and therefore beyond the remit of a forestry licence appeal. The FAC would agree that matters of policy are to be determined by the appropriate authorities. The Standards for Felling and Reforestation (DAFM, 2019) require the mapping of utility lines in the Harvest Plan which was undertaken in this case. The line is identified running between plots 1 and 2 and 1 and 3.

The grounds claim that there is no buffer. The lines are excluded from the plots in which felling would occur and the application expressly states that there would be a 20 metre corridor. The FAC was not satisfied that a serious or significant error or a series of errors was made in the making of the decision or that the decision was made without complying with fair procedures in relation to these grounds.

The appeal includes various grounds that seek to challenge the establishment of the appeals system itself, including accusations that the fee is prohibitively expensive, the fee was not prescribed in accordance with the law, the FAC is structurally biased and breaches the principle of constitutional justice. The FAC considered these matters and formed the view that the grounds were not related to a decision of the Minister concerning section 7 of the Forestry Act 2014 nor the Forestry Regulations 2017 but was instead seeking to challenge the provisions of the Agriculture Appeals Act 2001, as amended, and related legislation, including on constitutionality grounds. The FAC was satisfied that the matters raised did not fall within its remit to determine.

In relation to the holding of an oral hearing, the agriculture appeals Act 2001, as amended, provides that,

14C (1) The Forestry Appeal committee shall determine an appeal without an oral hearing unless, having regard to the particular circumstances of the appeal, it considers that it is necessary to conduct an oral hearing in order to properly and fairly determine the appeal.

The FAC is satisfied that it conducted the appeal in a fair and appropriate manner, in keeping with the Agriculture Appeals Act 2001, as amended, and the Forestry Appeals Committee 2020. The FAC was satisfied that there was no necessity to conduct an oral hearing in this instance and that all parties had been afforded an opportunity to express their position and to respond to the position of each other party.

The grounds submit that the Felling and Reforestation Policy has not been subject to a Strategic Environmental Assessment (SEA) and suggests that this was required to have occurred. The DAFM contested the grounds and submitted that the document is not a plan or programme for the purposes of the Directive.

The FAC noted that the grounds have not alleged that any authority has made a determination on the necessity for an SEA to have been conducted in relation to the Felling and Reforestation Policy. The FAC considered that making such a determination might not fall to the FAC to make but that it would consider the matter in the context of the submitted grounds.

The Felling and Reforestation Policy (DAFM, 2017) is a broad policy document that contains guidance of a general nature. The FAC would consider that the document was not produced to fulfil a legal requirement and was not mandatory in nature, nor is it regulated, but that the Minister for Agriculture was entitled to produce such a document as guidance in relation to general felling and reforestation policies. Furthermore, the FAC would not understand the document to be binding on landowners, developers or public authorities. The FAC further considered the submission of the DAFM and the provisions of the referenced legislation. In that context, the FAC would consider that there was no requirement for an SEA to have been

undertaken. The FAC further noted that the Minister is required to undertake a screening for Appropriate Assessment and Appropriate Assessment, as required, in relation to tree felling licence applications under the Forestry Regulations 2017.

The FAC was not satisfied that a serious or significant error or a series of errors was made in the making of the decision or that the decision was made without complying with fair procedures in relation to these grounds.

The grounds contend that the DAFM acted in a biased manner in the assessment of the application and contrary to "Good Forestry Practice" and that there is a presumption in favour of a licence being awarded. The FAC considered that the grounds provided no reasonable basis for the contentions being made.

The FAC was not satisfied that a serious or significant error or a series of errors was made in the making of the decision or that the decision was made without complying with fair procedures in relation to these grounds.

The Notice of Appeal includes further various commentary on the appeals process and notes the rights of parties to challenge decision of the FAC to the High Court. As noted, the FAC does not consider that its remit extends to making determinations in relation to the statutory provisions of the Agriculture Appeals Act 2001.

The FAC considered the full appeal and submissions made, the record of the decision and all relevant material. Having completed its deliberation, the FAC was not satisfied that a serious or significant error or a series of errors was made in the making of the decision nor that the decision was made without complying with fair procedures. Therefore, the FAC is affirming the decision of the Minister for Agriculture, Food and the Marine in relation to the granting of licence TFL01174925 in accordance with Section 14B of the Agriculture Appeals Act 2001, as amended.

Yours sincerely,

Vincent Upton on behalf of the Forestry Appeals Committee