



DASOS FORAOIS MANAGEMENT LTD

18 August 2026

Subject: Appeal FAC 106/2024 regarding CN94038

Dear DASOS Foraois Management Ltd,

I refer to the appeal to the Forestry Appeals Committee (FAC) in relation to the above licence granted to you 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.

DECISION.

Having regard to the evidence before it, including the Department of Agriculture, Food, and the Marine (DAFM) record of the decision, the Statement of Fact (SoF) provided by the DAFM, all materials on file, the notice and grounds of appeal and, in particular the following considerations, the FAC has decided to set aside and remit the decision of the Minister regarding licence CN94038.

THE LICENCE.

Licence CN94038 is for the Afforestation of 14.13 Ha of land in the townlands of Lecarrowntemple and Conaghra, Co. Mayo.

The application for licence CN94038 was published on the Forestry Licence Viewer (FLV) on 06/02/2024. The application was advertised for public consultation on 10/04/2024. A decision approving the licence was issued on 18/09/2024 subject to standard conditions and compliance with the Environmental Requirements for Afforestation and the Forestry Standards Manual.

FORESTRY APPEALS COMMITTEE.

Appeal Ref: FAC 106/2024 against the decision to grant licence CN94038 as dated 18/09/2024 was considered by a division of the FAC at a hearing held remotely on the 5th of May 2026. The FAC members present were:

FAC Members:	Mr. Myles Mac Donncadha (Deputy Chairperson) & Mr. Vincent Upton
Secretary to the FAC:	Mr. Radoslaw Wojtczak and Mr. Michael Kirwan (Non-participating).

At the sitting the FAC had before it the DAFM record of the decision as published on the Forest Licence Viewer (FLV), the notices and grounds of appeal and a Statement of Fact (SoF) provided by the DAFM.

BACKGROUND.

The project comprises an approved afforestation area of 14.13 Ha divided across 5 plots in the townlands of Lecarrowntemple and Conaghra, Co. Mayo. The site is bisected into two main land blocks by a public road (BL1). Surrounding habitats consist of agricultural land (GA1), heath bog (PB), and existing coniferous forestry (WD4) adjoining the project boundary to the north of Plots 1, 2, and 3, and to the south of Plot 4.

The site lies at an elevation of 113 m to 149 m above sea level, with a moderate average slope of 4% (ranging from 1% to 9%). Soils across the site consist predominantly of Blanket Peats (82%), with the remainder composed of Surface Water Gleys and Ground Water Gleys (18%).

Following field walkover assessments conducted by a DAFM ecologist on 15/07/2024 and 02/09/2024, the site habitats were classified under Fossitt codes as Wet Grassland (GS4) and Improved Agricultural Grassland (GA1).

The site is located within the Blacksod-Broadhaven WFD Catchment (100%), the Glencullin [NorthMayo]_SC_010 Sub-catchment (100%), and spans the Cloonalaghan_010 (94%) and Gortmore Stream (Mayo)_010 (6%) sub-basins. A low-depositing stream (FW2) flows south, exiting the site to the south of Plot 4. A network of internal drainage ditches (FW4) runs through Plots 1 to 4 with shallow or no water present. One specific relevant watercourse intersecting the north of Plot 1 (marked points a to b on the DAFM Habitat Map) was identified as having slow water flow and a species-rich flora along its banks, including Pyramidal Orchid (*Anacamptis pyramidalis*), Devil's-bit Scabious (*Succisa pratensis*), Cuckoo Flower (*Cardamine pratensis*), and Ragged-Robin (*Silene flos-cuculi*).

The site is hydrologically connected via the Cloonalaghan_010 WFD waterbody stream (33C54) through a meandering agricultural and forestry landscape to two coastal European sites—Lackan Saltmarsh and Kilcummin Head SAC (IE0000516) and Killala Bay/Moy Estuary SPA (IE0004036)—located approximately 3.6 km downstream in Killala Bay.

The licence application CN94038 was submitted and published on the Forestry Licence Viewer (FLV) on 06/02/2024. Key documentation considered during DAFM's processing and screening included: an initial soil and ecological survey report completed by an independent ecologist on 23/10/2023; further information requested by the District Inspector (15/05/2024 and 06/06/2024) excluding areas of blanket bog >30 cm and providing depth mapping for peat soils <30 cm; revised Species, Bio-Diversity, and Habitat Maps submitted on 19/06/2024 and final Habitat Map dated 03/09/2024; referral letters issued to Mayo County Council and An Taisce on 12/04/2024; one third-party submission received on 09/05/2024 raising concerns regarding local drinking water quality, chemical run-off, sedimentation, and downstream impacts on Killala Bay; DAFM In-Combination Report issued on 29/08/2024; Appropriate Assessment Screening Report & Determination (AASRD) prepared by a DAFM ecologist on 03/09/2024, which screened out all 5 European sites within 15 km (including Lackan Saltmarsh and Kilcummin Head SAC and Killala Bay/Moy Estuary SPA) from requiring Stage 2 Appropriate Assessment.

SUBMISSIONS.

External referrals were made to Mayo County Council and An Taisce for which there is no record of a response. Standard licence conditions mandate that the applicant liaise with Inland Fisheries Ireland (IFI) and the National Parks & Wildlife Service (NPWS) prior to the commencement of operations to safeguard water quality and surrounding habitats.

The FLV records that there was one third-party submission on the licence application. The submission was made by the appellant and raised private well, sedimentation, visual amenity, and archaeological concerns which were subsequently elaborated upon in his Notice of Appeal.

APPROPRIATE ASSESSMENT.

The DAFM conducted a Stage 1 Appropriate Assessment (AA) Screening using GIS tools and ecological data to evaluate potential impacts on five European sites within a 15 km radius. Although field surveys confirmed the site consists of wet and improved grassland with no protected species, a 3.6 km surface water connection via the Cloonlaghan_010 stream to Lackan Saltmarsh SAC and Killala Bay/Moy Estuary SPA was identified. Following two field walkovers by a DAFM ecologist in July and September 2024, a review of third-party submissions, and an in-combination assessment, DAFM issued an AA Screening Report & Determination (AASRD) on 03/09/2024. The AASRD screened out all European sites—concluding that no significant effects would occur due to intervening distance, sub-optimal habitat for bird species, and the assimilative capacity of Killala Bay—thereby eliminating the requirement for a Stage 2 Appropriate Assessment prior to licence approval on 18/09/2024.

ENVIRONMENTAL IMPACT ASSESSMENT.

Regarding Environmental Impact Assessment (EIA) requirements, the proposed afforestation project comprises 14.13 Ha in total area, falling well below the 50-hectare statutory threshold for mandatory EIA as set out in the Forestry Regulations 2017. DAFM carried out a sub-threshold EIA screening assessment to determine whether the proposal, having regard to its nature, scale, location, and surrounding environmental sensitivities, required a formal Environmental Impact Assessment Report (EIAR). Cross-checking all available environmental datasets, verifying agricultural land suitability, and considering the site inspector's field certification of 16/09/2024 alongside the third-party submission, DAFM determined that an EIAR was not required. Approval was subsequently recommended subject to environmental safeguards, including standard watercourse setbacks, the retention of all existing hedgerows and treelines, additional broadleaf planting along public roads and dwelling setbacks, and pre-operational liaison with Inland Fisheries Ireland (IFI) and the National Parks & Wildlife Service (NPWS).

THE APPEAL.

There is one third-party appeal against the decision to approve afforestation licence CN94038. The Notice of Appeal and full grounds of appeal were provided to all parties. The grounds of appeal are summarised as:

Ground 1 (Drinking Water): Concerns regarding a domestic drinking water well located 45m from the site boundary and potential contamination from herbicides and 250 kg/ha granulated rock phosphate.

Ground 2 (Silt, Sedimentation, and Water Quality): Claims that soil disruption will cause sediment loading to streams connecting to European sites downstream, and that site drainage was mislabelled in the Appropriate Assessment Screening Determination (AASD).

Ground 3 (AA Terminology & Text Error): Claims that Appropriate Assessment (AA) terminology was used incorrectly, that a typographical error in the AASD text created ambiguity, and that localized watercourse setbacks were improperly treated as European site mitigations.

Ground 4 (Tourism): Claims of adverse visual and tourism impacts along public road vistas.

Ground 5 (Archaeology): Concerns regarding proximity to prehistoric monuments, including the Rathlackan Court Tomb (MA007-08113) and pre-bog field systems.

Ground 6 (Road Safety): Concerns regarding traffic and road safety along the adjoining public road.

Ground 7 (Survey Timing): Claims that ecological surveys conducted in October were outside optimal seasonal windows for botany, bats, and badgers.

MINISTER'S STATEMENT.

The DAFM submitted a Statement of Fact (SoF) dated 06/10/2025, alongside a supplemental Archaeological Assessment dated 21/11/2024, providing a detailed response to the appeal:

Ground 1 (Drinking Water): Herbicide control occurs only during establishment (Years 0–3) under S.I. 155/2012 regulations. While statutory rules require a 5m setback for private wells serving <10 people, the Registered Forester formally provided written confirmation agreeing to a 100m no-herbicide buffer around the appellant's well. Fertilizer application is strictly regulated, minimal (~100 kg/ha phosphate if needed), and Plot 5 closest to the well is already improved agricultural grassland (GA1).

Ground 2 (Sedimentation): On-site drains were inspected twice by DAFM ecologists (15/07/2024 and 02/09/2024) and found to be well-vegetated, providing natural sediment buffering. Killala Bay European sites lie ~3.6 km downstream; given the intervening distance and marine assimilative capacity, no significant effects will occur.

Ground 3 (AA Terminology & Text Error): Stage 1 is correctly termed AA Screening under European and national legislation. A minor typographical transcription error occurred in text regarding Lacken Saltmarsh and Kilcummin Head SAC, but the ecological reasoning in the body of the report conclusively showed no possibility of significant effects. Local watercourse setbacks are designed for local biodiversity protection, not as mitigation for European sites.

Ground 4 (Tourism): Forestry is a dominant feature in the Mayo landscape; public viewing vistas will remain open and unaffected.

Ground 5 (Archaeology): The nearest RMP constraint polygon is over 350m distant, and the nearest pre-bog field wall (MA007-08101) is 550m distant. Standard procedural triggers require screening only within 200m. Aerial imagery confirms extensive agricultural improvement on-site since 2004, significantly diminishing sub-surface archaeological potential.

Ground 6 (Road Safety): Access for establishment is minimal (tracked machinery entering once; light quad traffic for one week). Timber harvesting access will require a separate forest road licence in the future.

Ground 7 (Survey Timing): Although the initial survey was carried out in October 2023 by an experienced ecologist (>20 years experience), DAFM ecologists conducted two follow-up field assessments in July and September 2024, verifying habitats and confirming the absence of invasive or protected species.

CONSIDERATION BY THE FAC.

At its sitting on 05/05/2026, the FAC considered appeal FAC 106/2024 and had before it the DAFM record of the decision as published on the FLV, the Notice and grounds of appeal, the Statement of Fact (SoF) provided by DAFM dated 06/10/2025, the supplemental archaeological assessment dated 21/11/2024, and all supporting materials on file. The FAC determined that there was sufficient information on file to assess and determine the appeal without an oral hearing.

The FAC examined the grounds of appeal as follows:

Ground 1 (Drinking Water): The FAC considered the appellant's concern regarding a domestic drinking water well located approximately 45 m from the proposed afforestation boundary, and the potential risk of contamination from herbicides and granulated rock phosphate. The FAC noted DAFM's response that herbicide application is limited to the establishment phase (Years 0–3) under strict statutory controls (S.I. No. 155/2012). The FAC reviewed the Environmental Requirements for Afforestation, which mandate statutory setbacks from abstraction points, and noted that while S.I. No. 155/2012 prescribes a 5 m setback for private wells serving fewer than 10 people, the Registered Forester provided to DAFM formal written confirmation agreeing to maintain a 100 m no-herbicide buffer around the appellant's spring well. The licence states that the afforestation project must be carried out and completed in accordance with plans and particulars lodged with the application and the FAC was satisfied that compliance with this undertaking forms part of the granting of the licence. The FAC also noted that Plot 5, situated closest to the well, consists of Improved Agricultural Grassland (GA1) with a history of agricultural fertilizer use. The FAC is satisfied that the 100 m chemical exclusion buffer, combined with mandatory statutory guidelines, provides robust protection for the private water supply and that DAFM did not err in this regard.

Ground 2 (Silt, Sedimentation, and Water Quality): The FAC evaluated the claim that soil disruption would cause sediment loading to streams connecting to European sites downstream and that site drains were mislabelled in the Appropriate Assessment Screening Determination (AASD). The FAC reviewed the AASRD and ecological survey records, noting that a DAFM ecologist inspected the site on two separate occasions (15/07/2024 and 02/09/2024). The DAFM ecologist confirmed that internal drainage ditches were well-vegetated with shallow to no water flow outside heavy storm events, providing a natural sediment trap. Given the 3.6 km surface water distance via the Cloonlaghan_010 stream (33C54) to Killala Bay, the intervening agricultural/forestry landscape, and the natural assimilative capacity of coastal waters, the FAC is satisfied that the proposal will not result in significant siltation or sedimentation impacts.

Ground 3 (AA Terminology & Text Error): The FAC examined the three procedural claims raised under Appropriate Assessment:

- **AA Terminology:** Regarding the claim that Stage 1 should be titled "Habitats Assessment" rather than "Appropriate Assessment Screening," the FAC noted that Stage 1 AA Screening is the correct statutory term under Article 6(3) of the Habitats Directive, S.I. No. 477/2011, and S.I. No. 191/2017.

- **Typographical Text Error:** Regarding the contradictory text on page 17 of the AASRD in relation to Lackan Saltmarsh and Kilcummin Head SAC, the FAC noted DAFM's acknowledgement that a typographical transcription error occurred during table generation. The FAC reviewed the substantive ecological assessment in the body of the report and is satisfied that objective scientific rationale demonstrated that an AA was not required, making the text error non-fatal to the conclusion.
- **Stage 1 Mitigation:** Regarding the claim that mitigation was improperly incorporated into Stage 1 screening, the FAC found that the AASRD explicitly incorporates specific protective measures—including a mandatory 5 m pit-planted broadleaf watercourse setback (points a to b), silt traps, and general forestry guidelines—directly within the body of the Stage 1 Screening Report. In accordance with the ruling of the Court of Justice of the European Union (CJEU) in Case C-323/17 (People Over Wind) and the High Court in Heather Hill Management Co. CLG v An Bord Pleanála [2019] IEHC 450, measures intended to avoid or reduce harmful impacts on water quality or connected ecosystems cannot lawfully be taken into account at Stage 1 AA Screening to screen out a project. The FAC concluded that incorporating general forestry guidelines into the screening determination constitutes a serious error in the processing of the licence application, requiring that a new Appropriate Assessment Screening be conducted strictly independent of mitigation measures.
- In assessing an application for afforestation the Forestry Regulations 2017 require the Minister to undertake a screening process for potential significant effects on the environment and the need for an Environmental Impact Assessment. While water quality was amongst the potential environmental factors in conducting this screening the FAC noted that the DAFM only had regard to other forestry projects. The FAC would understand that in undertaking the screening process the DAFM was required to consider potential cumulative effects from other plans and projects, both forestry and non-forestry. In limiting the screening process to only forestry projects the FAC considered that the DAFM has made a serious error in the making of the decision. The FAC considered that the DAFM should undertake a new screening for EIA in making a new decision on the application.

Ground 4 (Tourism): The FAC evaluated the claim that commercial afforestation would adversely impact local tourism and scenic vistas along public roads. The FAC noted that the application was assessed by a DAFM Forestry Inspector and referred to Mayo County Council. Forestry is an established landscape feature in this area of Co. Mayo, and ample open viewing vistas will remain available along the public road network. The FAC agrees that the proposal will not unacceptably impact local visual amenity or tourism.

Ground 5 (Archaeology): The FAC considered the claim regarding proximity to prehistoric monuments, including the Rathlackan Court Tomb (MA007-08113) and pre-bog field systems. The FAC reviewed the supplemental statement from DAFM's Senior Archaeologist dated 21/11/2024. The record establishes that the nearest Recorded Monument (RMP) constraint polygon lies over 350 m west of the site boundary, and the nearest pre-bog field wall (MA007-08101) is 550 m distant—well beyond the 200 m threshold that triggers internal archaeological screening. Furthermore, historical aerial photography confirms extensive land improvement and drainage works undertaken on-site since 2004, significantly reducing the

potential for surviving sub-surface archaeological features. The FAC is satisfied that the decision protects archaeological heritage.

Ground 6 (Road Safety): The FAC examined the ground relating to traffic hazards and road safety along the adjoining public road. The FAC noted that the land is currently accessed for agricultural purposes. Access for forest establishment is minimal and temporary (tracked machinery entering/exiting once, alongside light quad traffic over a one-week period). Future timber harvesting access which involves the creation of a new forest entrance or the widening of an existing access to the public road will require a separate forest road licence application, which will undergo its own independent statutory assessment. The FAC is satisfied that the afforestation proposal presents no traffic or road safety hazard.

Ground 7 (Survey Timing): The FAC considered the claim that ecological field surveys conducted in October were outside optimal seasonal windows for flora, bats, and badgers. The FAC noted that while the initial report submitted by the applicant was undertaken in October 2023 by an ecologist with over 20 years' experience, DAFM ecologists carried out two subsequent multi-season site walkovers on 15/07/2024 and 02/09/2024. These summer and autumn surveys confirmed site habitats (GS4/GA1) and verified the absence of invasive species or protected mammal dwellings. Standard conditions requiring the retention of all existing treelines and hedgerows provide further ecological protection. The FAC is satisfied that survey timing was robust and comprehensive.

CONCLUSION.

In considering the appeal, the FAC had regard to the record of the decision, the Notice and grounds of appeal, and the SoF and supplemental submissions provided by DAFM. The FAC considered the provisions of the Agriculture Appeals Act 2001, as amended, and the Forestry Appeals Committee Regulations 2020. The FAC is satisfied that a serious or significant error was made in the processing of the licence application regarding the incorporation of protective watercourse measures into the Stage 1 Appropriate Assessment Screening determination. Consequently, the FAC hereby sets aside and remits the decision of the Minister for Agriculture, Food and the Marine regarding licence CN94038. The DAFM is required to carry out a new Stage 1 Appropriate Assessment Screening determination in accordance with Article 6(3) of the Habitats Directive, ensuring that no avoidance or mitigation measures are relied upon to screen out European sites. If potential significant effects on downstream European sites (Lackan Saltmarsh and Kilcummin Head SAC or Killala Bay/Moy Estuary SPA) cannot be ruled out without mitigation, advance the application to Stage 2 Appropriate Assessment. Furthermore, the DAFM should undertake a new screening for Environmental Impact Assessment before a new decision is made.

Yours sincerely,
Myles Mac Donncadha

On Behalf of the Forestry Appeals Committee