



18th June 2025.

Subject: FAC Ref No 086/2024 / CN88531

Dear I

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 and Decision

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 086/2024 was held remotely by the FAC on 26th March 2025.

In attendance:

FAC Members: Mr. Donal Maguire (Deputy Chairperson), Mr. Luke Sweetman, and Mr. Derek Daly.

Secretary to the FAC: Ms. Ruth Kinehan.

Having regard to the evidence before it, including the record of the decision, the notice of appeal, and submissions received, the Forestry Appeals Committee (FAC) has decided to set aside and remit the decision of the Minister for Agriculture, Food and the Marine to grant the licence CN88531. The reasons for this decision are set out hereunder.

Background

The decision under appeal relates to an afforestation licence (CN88531) for 7.49 hectares at Carrowduff, County Clare which was issued by the DAFM on the 26/08/2024.

The project was the subject of a previous appeal and the decision of the FAC dated the 4th August 2023 stated that the FAC is satisfied "that a series of serious and significant errors was made in the making of the decision in this case. The FAC is, thus, setting aside and remitting the decision of the Minister regarding licence CN88531 in accordance with Section 14B of the Agriculture Appeals Act 2001, as amended, to undertake new screenings for Appropriate Assessment and Environmental Impact Assessment before a new decision is made."

The current project is for the afforestation of an approved area of approximately 7.49 hectares comprising two contiguous plots. Plot 1 is 7.21 hectares containing mainly Sitka spruce (85%) and

Additional Broadleaves Species on an area of 1.08 hectares. The second plot of 0.28 hectares has a species mix of Sessile oak, Scots pine, Downy Birch and Additional Broadleaves. The project also provides for 670 metres of fencing. The site is accessed via the public road network and a track at the south-western corner of the site. Mapping indicates an aquatic zone along the northern boundary of the site. The project area is described in the documentation as being underlain by surface water Gleys, Ground water Gleys 92%, Variable 8%, the average slope across the site is moderate at 3% and ranges from 0% to 6%. The dominant habitat types present are semi-improved GS4, drainage ditches and underground culverts FW4, hedgerows and stone walls BL1.

According to information published by the EPA, the project site is located within the River Sub-Basin Annagh (Clare)_010. Mapping data indicates the status as bad and in terms of risk is at risk. Forestry is identified as a pressure. The proposal is underlain by the Milltown Malbay Ground Waterbody which has "Good" status and is not at risk.

Applicant Documentation

The original application included a biodiversity map, fencing map, location map and a revised biomap which was submitted in relation to the current proposal.

DAFM Assessment

DAFM documentation states the date of application published as the 26/03/2020, and date advertised for 2nd Public Consultation as the 27/05/2022 and 19/04/2024.

A request of further information was made on the 19/02/2024 to submit a revised biodiversity map reflecting current site conditions including, water crossings, hedgerows & underground culverts on site. A biomap was submitted and uploaded on the FLV on the 17/04/2024.

There is an Appropriate Assessment Screening Report & Determination (AASRD) dated 16/04/2024 on file and uploaded onto the FLV on the 26/04/2024 (referred to as AA Screening Determination). It examines five European sites and screens in the Carrowmore Point to Spanish Point and Islands SAC IE0001021. Four sites were screened out: the Mid-Clare Coast SPA IE0004182; the Carrowmore Dunes SAC IE0002250; the Inagh River Estuary SAC IE0000036 and the Cliffs of Moher SPA IE0004005. Reasons are provided for the screening conclusions reached for each of the European Sites examined.

There is an Appropriate Assessment Screening Report Appendix A: In-combination report for Afforestation project CN88531 which is undated and uploaded on the FLV on the 17/04/2024 and which refers to databases which were consulted on the 16/04/2024 in order to identify other plans and projects. Reference is made to the Clare County Development Plan 2017-2023 being consulted. The report concluded that

"there is no likelihood of the proposed Afforestation project CN88531, when considered individually, having a significant effect on the relevant European Site(s), as described elsewhere in the Screening Report. There is no likelihood of residual effects that might arise from this project, which are not significant in themselves, creating a significant effect in-combination with other plans and projects. The relevant Qualifying Interests / Special Conservation Interests and Conservation Objectives, as listed

elsewhere in the Screening Report, have been taken into consideration in reaching these conclusions. Furthermore, it is considered that the regulatory systems in place for the approval, operation (including any permitted emissions) and monitoring of the effects of other plans and projects are such that they will ensure that they do not have any significant effect on those same European Site(s). There is no likelihood that the proposed project will have, or contribute to, any significant effect on those same European Site(s), when considered in combination with other plans and projects. Note that those European Site(s) upon which, a likelihood of a significant effect arises when considering the project individually, are screened in and will be progressed to, and addressed in, Stage 2 Appropriate Assessment".

There is an Appropriate Assessment Report (AAR) for Afforestation project CN88531 dated 16/04/2024 and uploaded onto the FLV on the 17/04/2024 which assessed the Carrowmore Point to Spanish Point and Islands SAC IE0001021. Mitigation measures are outlined. The AAR in section 5 also references an "Appendix A: In-Combination Report" which considered In-combination effects and refers to Appendix A which details the plans and projects identified and that as set out in Appendix A, 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 any European Site. Section 7 titled AA Determination concluded that *"the proposed Afforestation project under CN88531, with mitigation measures identified, will itself (i.e. individually) not result in any adverse effect or residual adverse effects on the integrity of the European site(s) listed above. The project was also considered in combination with other plans in the area that could result in potential significant cumulative effects on these European site(s). No potential significant cumulative effects are predicted with the plans and projects listed in Appendix A. 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 any European Site".*

There is an Appropriate Assessment Report Appendix A: In-combination report for Afforestation project CN88531 which is undated and uploaded on the FLV on the 17/04/2024. Reference is made to various online resources, datasets and DAFM's own databases which were consulted on the 16/04/2024. Reference is made to the Clare County Development Plan 2017-2023 being consulted. The report concluded that *"there is no possibility that the Afforestation project CN88531, with the mitigation measures set out in Section 4, will itself, i.e. individually, adversely affect the integrity of those European Site(s) screened in (as listed elsewhere in this AA Report. There is no likelihood of any residual effects that might arise, which do not in themselves have an adverse effect, creating an adverse effect on the integrity of the site(s) in-combination with other plans and projects. It is concluded that this project, when considered in combination with other plans and projects, will not adversely affect the integrity of those same European Site(s)".*

There is an Appropriate Assessment Determination (AAD) dated 19/06/2024 and uploaded onto the FLV on the 26/08/2024 which states in Section 3 that "An up to date in-combination report (attached to file) was considered to ensure that conclusions reached regarding European sites remain accurate." The FAC noted there was no in-combination report attached to the file. The FLV contains an in-combination report published on the same date as the AAD (26/08/2024). In outlining the basis for the Appropriate Assessment Determination, the AAD document states that

"There is an Appropriate Assessment Determination (AAD) dated 19/06/2024 and uploaded onto the FLV on the 17/08/2024 which indicated that 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.....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".

There is a titled Appropriate Assessment Report Appendix A: In-combination report for Afforestation project CN88531 uploaded on the FLV on the 26/08/2024 which it would appear was intended as an appendix to the AAD. Reference is made to various online resources, datasets and DAFM's own databases were consulted on the 10/6/2024. Reference is made to the Clare County Development Plan 2017-2023 being consulted. The report concluded that

"there is no possibility that the Afforestation project CN88531, with the mitigation measures set out in Section 4, will itself, i.e. individually, adversely affect the integrity of those European Site(s) screened in (as listed elsewhere in this AA Report. The relevant Qualifying Interests / Special Conservation Interests and Conservation Objectives have been considered in reaching this conclusion. There is no likelihood of any residual effects that might arise, which do not in themselves have an adverse effect, creating an adverse effect on the integrity of the site(s) 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 other plans and projects are such that they will ensure that those plans and projects do not give rise to any adverse effect on the integrity of those same European Sites. It is concluded that this project, when considered in combination with other plans and projects, will not adversely affect the integrity of those same European Site(s)".

The DAFM carried out an Assessment to Determine EIA Requirement bearing the date 26/08/2024 and is marked as certified on 16/08/2024, in advance of making the decision to grant the licence subject of this appeal. In this assessment the Inspector recorded a consideration of the application across a range of criteria relevant to the proposed afforestation, including water, soil, designated areas, landscape, amenity and recreation, Transfrontier, cumulative effects and referrals and submissions and determined that the project was not required to undergo EIA. The assessment notes that the project area within the sub-basin of a waterbody where forestry is characterised as a pressure by the EPA (alone or alongside other pressures) and a short summary of the issues raised within the referral responses which are addressed.

An Inspector's Certification Report dated 26/08/2024 and certified on 16/08/2024, recommends permission subject to conditions.

A DAFM Forestry Inspectorate High Nature Value farmland Assessment Report is on file which and states that project CN88531 was field inspected on 01/02/2024 and desk assessed 02/02/2024 to score the site

in relation to High Nature Value Farmland (HNVf). The report states *"CN88531 was field inspected on 01/02/2024 and desk assessed on 02/02/2024 to score the site in relation to High Nature Value Farmland (HNVf). Following assessment, this application has scored Moderate as documented below. Site specific measures are required"*. The report goes on to state in relation to assessment that *"following detailed assessment for the application site in relation to HNVF which included screening, site inspection, review and assessment, this application scored High"*.

The assessment referred to the project site is composed of wet improved and semi-natural grassland...an area of Devil's bit scabious was noted as being present to the site to the north that is considered to be suitable for Marsh Fritillary within an area of high species richness. mitigation measures have been proposed in relation to this and there are recommendations to exclude/retain the area of species rich grassland apply a 10m habitat setback around this with 10 rows of broadleaves and plant the area of moderate species richness grassland as broadleaves.

Referrals

The FAC noted, based on documentation submitted, that the application was referred to Clare County Council on the 29/09/2021 who in a response dated 27/10/2021 referred to conditions to attach to the licence in relation to the access, agreement with the area engineer and indemnity.

There was also a referral to the National Parks and Wildlife Service (NPWS) on the 21/02/2022 who in a response dated the 11/03/2022 referred to the site as approximately 2.7km from the European sites; Carrowmore Point to Spanish Point and Islands Special Area of Conservation (SAC) (Site Code: 001021) and Mid Clare Coast Special Protection Area (SPA) (Site Code: 004182) and contains watercourses. The Forest Service must ensure that the proposal will not impact on water quality in the European sites. The Forest Service must ensure that the suite of environmental guideline documents and requirements for forestry operations, including the Code of Best Forest Practice and the recently published environmental requirements are complied with in relation to this application. The Department of Housing, Local Government and Heritage should be provided with a copy of any additional information received for review and comment, or in the event of a decision being made a copy of the same.

Decision

The decision to approve and the licence for an approved area of 7.49 hectares was issued on the 26/08/2024 and is marked as uploaded to FLV on the same date.

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 the appeal and full grounds of the appeal were provided to the relevant parties. In summary, the initial grounds refer to;

- The inadequacy of the road network and the narrow width of the road serving the proposed project and that DAFM have accepted that the road is unsuitable for vehicles to use when felling is proposed and planning permission may be required to widen the access onto the public road.
- The project is within a residential area with 9 houses within 500 metres of the application site and the development will impact on the amenities of these properties.

- Reference is made to the issues of fire hazard and storm damage.
- Reference is made to the importance of tourism in the local area and the potential damage and pollution to water in the area.

A further submission in response to the DAFM response dated the 07/12/2024 in summary refers to;

- Reference is again made to the inadequacy of the road and road network serving the proposed project.
- Reference is also made to the response of Clare County Council and their requirements if a licence is granted.
- Reference is made to the area being prime agricultural land, to the presence of housing in the area and residents do not see the proposal enhancing the area amenities or environment.
- The issue of fire hazard is again alluded to.
- The incidence of storm and wind damage is referred to and the issue of trees surviving in particular in coastal areas with Sitka Spruce in particular at risk in storms and therefore planting this species is questioned.
- Reference is made to previous FAC decisions and the high incidence of remitting licence applications indicating errors made by DAFM.
- Reference is made to why planting of Sitka Spruce is proposed.
- DAFM need to consider that the granting of some licences is not appropriate and the current proposal is in this category.

DAFM Statement (SOF) to the FAC

A Statement of Fact (SOF) was received by the FAC from the DAFM and was provided to the parties. In summary, the SOF outlines the procedure adopted by the DAFM in processing the application, the related dates and the final decision. It is submitted (among other matters) that the decision was issued in accordance with DAFM procedures, SI 191/2017 and the 2014 Forestry Act.

The SOF also refers to;

- In relation to access that the roads in the area are typical of many minor roads in rural Ireland. Adequate access is deemed relevant for afforestation purposes once the proposed lands are adjoining a public road. Currently, the existing state of the public road is deemed sufficient for the type of machinery required for afforestation.
- In relation to landscape in the Clare Co. Council development plan 2023-2029, the designation for the land that the site is described as Miltown Malbay Coastal Farmland and also designated as settled landscape. This is not classed as residential area. Planting will not affect the landscape. The broadleaves will enhance the local amenity and create habitats for wildlife. Clare Co. Council are aware of the application and have not objected to the application.

- In relation to fire risk, it is indicated that most fires spread from adjoining lands into forests. The potential fire risk to the proposed plantation has been assessed and based on the vegetation present, DAFM is satisfied that the risk of fire is low/very low, that the plantation proposed itself is not a fire risk and no additional measures are required.
- In relation to Storm Hazard / Wind Hazard / Water pollution the selected mix of broadleaves and Sitka spruce can contribute to biodiversity and resilience against storm and wind stresses. Broadleaves provide canopy diversity and resilience while Sitka spruce is already well established in the area, showing its adaptability to the high winds and salt exposure, making it suitable for the area to be planted. Reference is made to the positive types of water related ecosystem services that will be installed as part of this project.

Consideration of FAC

As alluded to earlier in this letter and 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. The remit of the FAC, as set out in Section 14B of the Agriculture Appeals Act 2001, as amended, is to consider appeals against specified decisions of the Minister for Agriculture, Food, and the Marine, and to determine if a serious or significant error, or a series of errors, was made in making the decision under appeal, and if the decision was made in compliance with fair procedures.

In addressing the grounds of appeal, the FAC considered the completeness of the assessment of the licence application and an examination of the procedures applied which led to the decision to grant the licence. The FAC also had regard to the documentation provided through the DAFM's FLV as notified to the parties, the notice of appeal, and the statement provided by the DAFM.

The grounds of appeal express a number of concerns primarily in relation to the issue of the adequacy of the road network, impact on the appellant's residential amenities and to other residences in the vicinity, visual impact, and suitability of the planting proposed in relation to species.

In making a decision on the proposed afforestation, the Minister is required to undertake a number of processes and to have regard to certain matters. This includes, in keeping with Article 6 of the EU Habitats Directive, considering the likelihood of significant effects of a proposal itself or in-combination with other plans and projects on European sites, Special Areas of Conservation and Special Protection Areas, having regard to the conservation objectives of those sites and determining whether an Appropriate Assessment is required. In relation to the broader environment, the Minister must also consider the likelihood of significant effects on the environment which may arise from a proposal and whether an Environmental Impact Assessment is required.

The FAC noted that DAFM carried out an Assessment to Determine EIA Requirement bearing the date 26/08/2024 and is marked as certified on 16/08/2024, in advance of making the decision to grant the licence subject of this appeal. In this assessment the Inspector recorded a consideration of the application across a range of criteria relevant to the proposed afforestation, including water, soil,

designated areas, landscape, amenity and recreation, Transfrontier, cumulative effects and referrals and submissions received and determined that the project was not required to undergo EIA.

The EIA assessment document indicates that the DAFM had regard to, *inter alia*, the HNVf assessment report when determining the likelihood of significant effects on the environment resulting from the project. The FAC noted that the HNVf assessment report completed by the DAFM appears to contradict itself in scoring the proposal as both “moderate” and “high” in relation to HNVf. However, the body of text and the conclusion of the report indicate that the proposal is suitable for planting under certain conditions set out in the “Conclusion and Recommendations” section of the report. The FAC noted that the licence conditions require adherence to this section of the HNVf report “In the interests of protection of the environment, in particular the protection of biodiversity features, species and habitats”.

In relation to Appropriate Assessment, the FAC finds that the DAFM, in its processing of the application which led to the decision subject of this appeal (FAC 086/2024), carried out a fresh Appropriate Assessment screening of the proposal under Article 6(3) of the EU Habitats Directive. Accordingly, the FAC considered if the procedures leading to the making of the decision to grant the licence for the proposed development were consistent with the Habitats Directive. The FAC finds that the DAFM prepared the following documents / reports.

- An Appropriate Assessment Screening Report (AASRD) dated 16/04/2024.
- An Appropriate Assessment Report (AAR) dated 16/04/2024 which assessed the screened in Natura site the Carrowmore Point to Spanish Point and Islands SAC IE0001021.
- An Appropriate Assessment Screening Report Appendix A: In-combination report for Afforestation project CN88531 which is undated and refers to various online resources, datasets and DAFM's own databases that were consulted on the 16/04/2024 in order to identify other plans and projects which are also located in the general vicinity of the project area in the River Sub-Basin ANNAGH (CLARE)_010.
- An Appropriate Assessment Determination (AAD) dated 19/06/2024 and uploaded onto the FLV on the 17/08/2024.
- An Appropriate Assessment Report Appendix A: In-combination report for Forest afforestation CN88531 uploaded on the FLV on the 26/08/2024. Reference is made to various online resources, datasets and DAFM's own databases were consulted on the 10/6/2024 in order to identify other plans and projects which are also located in the general vicinity of the project area in the River Sub-Basin ANNAGH (CLARE)_010.

It is noted by the FAC that the In-combination report (screening stage) which deals with the screened-out sites contains the following as part of its conclusion *‘There is no likelihood of residual effects that might arise from this project, which are not significant in themselves, creating a significant effect in combination with other plans and projects’*

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 sites concerned. It appears to the FAC that it is not clear that the wording in the In-combination statement relating to the screened out sites demonstrates that the potential for significant effects to arise from the proposal in-combination with other plans and projects was considered by the DAFM as the wording refers to consideration on the basis that there is no likelihood of 'residual effect' 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 deals 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 would understand that the term residual is generally used in the context of what remains after an action is undertaken. In the context of Appropriate Assessment (AA) the term 'residual effects' is more commonly employed in relation to the consideration of what effects remain after mitigation measures have been assessed as part of the AA. For example, the Department of the Environment, Heritage and Local Government published a guidance document on Appropriate Assessment entitled Appropriate Assessment of Plans and Projects in Ireland Guidance for Planning Authorities (DEHLG, 2009). This document states on page 40,

'If the competent authority considers that residual adverse effects remain, then the plan or project may not proceed without continuing to stage 3 of the AA process: Alternative Solutions'.

The FAC considers that this represents a significant error in the processing of the application and that in the context of undertaking the screening again the Minister should correct this language to avoid the introduction of any unnecessary confusion.

The FAC also noted that all of the in-combination statements rely on what is stated to be the current Clare County Development Plan which was examined and was indicated as the Clare County Development Plan 2017-2023. The FAC notes that this plan had been superseded by a subsequent statutory county development plan, the Clare County Development Plan 2023-2029 which came into effect on the 20/04/2023 and which predated when these documents were completed, and this constitutes a significant error.

In relation to Appropriate Assessment (AA), the FAC noted that five European sites are recorded in the Appropriate Assessment Screening Report as lying within 15km of the project area, defined as the likely zone of impact and that four sites were screened out and subsequently an AAD was carried out with an overall conclusion of no likelihood of any adverse effect on any European site.

The FAC noted that the proposed project is not within a Natura 2000 site nor is it required for the management of a Natura 2000 site. The FAC has confirmed that the five sites identified for initial screening are the only sites within a 15Km threshold distance for impacts to Natura 2000 sites and were subjected to the Appropriate Assessment process in relation to the potential impacts of the likely significant effects of Afforestation project CN88153.

In considering the appeal, the FAC noted that the licence approval letter contains Appendix A "Operational Proposals that have been approved and must be implemented in full as conditions of both the Afforestation Licence and the Technical Approval for the Afforestation Scheme". The table in this section typically records the approved operational details of the licenced afforestation project. The FAC noted that, besides the fencing details, no other operational details are included with "Not Entered" stated throughout. In the particular circumstances of this case, the FAC considered that the decision is being remitted for other reasons and that, in the making of a new decision, the DAFM should ensure that if a licence approval is issued the approved operational details should be included.

Specifically in relation to the grounds of appeal in the initial submission and further response these express a number of concerns primarily in relation to the issue of the inadequacy of the road network and that DAFM have accepted that the road is unsuitable for vehicles to use when felling is proposed; the project is within an area is a residential area; to the area being prime agricultural land; reference is made to the issues of fire hazard and storm damage; to the importance of tourism in the local area and the potential damage and pollution to water in the area and why planting of Sitka Spruce is proposed.

In relation to the issue of traffic, the FAC noted that the site gains access onto the public road network via what is labelled on the Bio Map as an "existing onsite track". The FAC considered that the level of traffic generated by the afforestation project would not be greater than current agricultural practice and would be lower for a number of years after establishment and before thinning operations. The decision before the FAC relates to an afforestation proposal and the evidence before the FAC indicates that access for the proposed operations is adequate. The FAC consider that should the landowner seek to fell trees in the future, they would require a tree felling licence and would be required to adhere to any related conditions in addition to any laws regarding the standard of the access road and the use of public roads.

In relation to impact on residential property, it is noted that the site does not immediately adjoin a residential property and the applicant is required not to plant within 60 metres of a dwelling but no dwellings are noted within this distance. There are also no ESB lines present within or adjoining the proposal site.

In relation to fire risk, the FAC has noted the DAFM response that the potential fire risk to the proposed plantation has been assessed and is satisfied that the risk of fire is low and the FAC considers that DAFM has erred in this regard.

In relation to storm and wind damage it is noted that Sitka spruce is generally considered to be suitable to the climatic conditions prevailing making it suitable for the area to be planted.

In relation to impact on receiving waters and potential sediment run off The FAC noted that the project site is located on EPA mapping as within the River Sub-Basin Annagh (Clare)_010. Mapping data indicates the status as bad and in terms of risk is at risk and that forestry is identified as a pressure. It is also noted that mapping in relation to the project identifies setbacks and buffer zones adjoining aquatic zones and the planting of broadleaves. The record shows that potential impacts on water quality were considered by the DAFM and the DAFM consider that good practice and the conditions address water quality concerns. The issue of protection of water quality was also addressed in the AAD, conditions were outlined in relation to this matter and were included in the decision issued. It is also noted that the conditions of the licence as issued require that the afforestation project and all associated operations shall be carried out and completed in accordance with the measures set out in the Environmental Requirements for Afforestation and the Forestry Standards Manual (as amended by periodic Circulars) and proposal is required to include an unplanted setback from the waterbody and to adhere with standards of best practice. The Forestry Standards Manual outlines requirements in relation to the site generally and also requirements and standards in relation to biodiversity and setback distances, species, drainage and fertilisation, fencing, fire and ongoing management of the forest. It is noted that these requirements would apply in relation to watercourses and the biodiversity/operation map indicates a minimum 5 metre setback from all relevant watercourses and a 10 metre setback from aquatic zones in accordance with standards. The FAC concluded that the DAFM has not erred in its processing of the application in relation to the protection of water generally.

In considering the appeal, the FAC had regard to the record of the decision, the submitted grounds of appeal and submissions received. The FAC is satisfied that a serious error or a series of errors were made in the making of the decision in this case. The FAC is, thus, setting aside and remitting the decision of the Minister regarding licence CN88531 in accordance with Section 14B of the Agriculture Appeals Act 2001, as amended, to undertake a new Appropriate Assessment screening of the proposal itself and in combination with other plans or projects under Article 6(3) of the EU Habitats Directive and to address the other errors identified previously in this letter prior to the making of a new decision.

Yours sincerely,

Y

Derek Daly On Behalf of the Forestry Appeals Committee

