

Draft Agri-Food Strategy to 2030 Environmental Consultation
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Sent by email to: 2030StrategyEnvironmentalConsultation@agriculture.gov.ie

15th June 2021

To Whom It May Concern,

An Taisce welcomes the opportunity to respond to the Public Consultation on the Environmental Assessment of the Draft Agri-Food Strategy to 2030.

Please acknowledge our submission and inform us of any further consultation periods.

Kind regards,

[Redacted signature]

An Taisce – The National Trust for Ireland

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An Taisce – The National Trust for Ireland

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Directors: [Redacted]

An Taisce Submission to the Public Consultation on the Environmental Assessment of the Draft Agri-Food Strategy to 2030

1. Environmental Pillar Engagement with the Draft Strategy

An Taisce has been involved with the Agri-Food 2030 process from the outset as a member of the Environmental Pillar. We would highlight that the recommendations and concerns about the Draft Strategy that the Environmental Pillar expressed throughout the process (both at Committee meetings and in written submissions) remain outstanding. The report prepared by the Environmental Pillar, the Sustainable Water Action Network and Stop Climate Chaos (representing over 70 civil society organisations) providing policy recommendations for a sustainable future for agriculture is attached to this submission as an Appendix, as is our submission on the draft Chapter 10 of AFS, submitted in 2020.

We note that Section 2.2 of the Strategic Environmental Assessment states the following:

*"The Agri-Food Strategy to 2030 builds on its predecessor programmes; in establishing a vision of how the sector is anticipated to develop over the period to 2030 for the benefit of its stakeholders and the wider Irish economy and environment. This is reflected in the terms of reference for the 2030 Stakeholder Committee, to outline the vision and key objectives, with associated actions, required to ensure the economic, environmental and social sustainability of the agri-food sector in the decade ahead. A key feature of each of these strategies has been the level of joint engagement by stakeholders and Government. **These strategies are fully owned by all who took part in forming them: farming organisations, food industry, environmental non-governmental organisations (NGOs), retailers and academics; as well as the DAFM and relevant State agencies.**"*
[An Taisce emphasis added].

An Taisce would strongly contest the above statement in bold with regard to AgriFood 2030. The Environmental Pillar, of which An Taisce is a member, withdrew from the Committee after its inputs were consistently not reflected in the drafting of the strategy, and we could not stand over the plan as drafted. Therefore, it cannot be accurately stated that Agri-Food 2030 is "fully owned by all who took part".

2. Public Participation

The United Nations Economic Commission for Europe Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (commonly known as the Aarhus Convention) was adopted in Denmark on 25th June 1998 and ratified by Ireland in June 2012. It delineates the right to public participation and access to information in environmental matters. An Taisce would highlight in particular Article 7 regarding 'Public Participation concerning plans, programmes and policies relating to the environment', which states:

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Directors: [REDACTED]

'Each Party shall make appropriate practical and/or other provisions for the public to participate during the preparation of plans and programmes relating to the environment, within a transparent and fair framework, having provided the necessary information to the public. Within this framework, article 6, paragraphs 3, 4 and 8, shall be applied. The public which may participate shall be identified by the relevant public authority, taking into account the objectives of this Convention. To the extent appropriate, each Party shall endeavour to provide opportunities for public participation in the preparation of policies relating to the environment.'

An Taisce would question the ease of accessibility, and therefore ease of public participation, due to the challenges of navigating the Gov.ie website and consultation process.

An Taisce considers that the listing of the consultation as '*Public Consultation on the **Environmental Assessment of the Draft Agri-Food Strategy to 2030***' is misleading, with the consultation period also pertaining to comment on the draft Agri-Food Strategy itself, in addition to the associated Environmental Report and Natura Impact Statement, as stated on the consultation web page:

*"The documents listed below are now published and members of the public and stakeholders are invited to make a written submission or observation with respect to **the Draft Agri-Food Strategy to 2030 and associated Environmental Report and Natura Impact Statement**" [An Taisce emphasis added].*

We would also note that the listing of documents on the consultation webpage may be confusing to the general public not familiar with such documentation. The documents are not hyperlinked at this stage, only available at the bottom of the webpage after the intervening text (re. availability of documentation during COVID-19 and data protection during sharing and publication of submissions). The documents also appear under different headings than those earlier listed, with a lack of clarity regarding which documents are relevant for the current public consultation.

3. SEA

3.1 Non-technical Summary

An Taisce would highlight the failure of the Non-technical Summary of the Strategic Environmental Assessment (SEA) to adequately comply with the provisions of Annex 1(j) of the SEA Directive, due to the omission of important information.

Annex 1(j) states the requirement for;

'a non-technical summary of the information provided under the above headings'

(i.e. sections (a) - (i) of Annex 1 of the SEA directive).

While an outline of the contents and objectives of the Agri-Food 2030 is provided, the overview of the 'Current state of the Environment in Ireland' is vague and potentially misleading, as it fails to highlight the scale of the challenge in regard to environmental protection in an agricultural context. The methods employed to assess the Agri-Food Strategy during the SEA are described, however, the results of the evaluations are not discussed in the non-technical summary and must be searched for in the main SEA document. It is our opinion that such omissions from the non-technical summary diminish the capacity for effective public access to information, understanding and participation in the consultation process, and therefore do not comply with the requirements of the SEA Directive.

3.2 Consideration of Alternatives

It is our view that the 'Consideration of Alternatives' in Section 5.2 of the SEA is legally insufficient, the outcome of which is wholly unsubstantiated.

Annex 1(h) of the SEA Directive stipulates informational requirements including:

'an outline of the reasons for selecting the alternatives dealt with, and a description of how the assessment was undertaken including any difficulties (such as technical deficiencies or lack of know-how) encountered in compiling the required information;'

No such rationale is provided for the selection of the three scenarios under consideration: Alternative 1 Do Nothing ("*Base Case/Do Nothing Scenario*"); Alternative 2 Reduced Output ("*Greater Emphasis on Reduced Output*"); and Alternative 3 Selected Strategy ("*Balanced Approach*")¹. Instead, only a brief description is included for each scenario. This omission compromises the legitimacy and transparency of the succeeding assessment of alternatives, and ultimately the subsequent justification of the AgriFood 2030 strategy.

We note that Alternative 1 Do Nothing is assessed on the premise that the current FoodWise 2025 strategy will continue in a business as usual manner. With the FoodWise strategy lapsing in less than four years time, we would question the validity of this. In this regard, we suggest that the FoodWise strategy is not a suitable proxy for the baseline, from which both the alternatives and associated impacts are compared.

¹ Alternative 1 is described as the continuation of FoodWise 2025 without the introduction of additional environmental protection measures i.e., business as usual. Alternative 2 envisages a more environment-centric food production model with enhanced biodiversity and climate benefits, albeit with reduced output. Lastly, Alternative 3 (the chosen option) envisages a "balanced" approach whereby environmental, economic and social values are given equal importance, with increases in yield deriving from the existing herd.

It is further noted that Alternative 2 Reduced Output is overly simplistic in its interpretation of an environment-centric future for the agricultural sector. No regard is given to alternative forms of agriculture and land diversification such as organic farming, agroforestry, and horticulture expansion. Instead, the reader is presented with what we consider to be a short-sighted focus on a 'reduced output' model which neglects the potential synergies between industry and environmental objectives involved in a transition from a bovine-focused system of farming to a more diversified system.

Similarly, there is little transparency surrounding Alternative 3 Selected Strategy, generically described as follows: *"This alternative assumes an increased focus on all three strands of sustainability - environmental, economic and social."*

This statement is reminiscent of the "guiding principle" of FoodWise 2025, highlighted in its Executive Summary as: *"[...] recognising that the three pillars of sustainability - social, economic and environmental - are equally important and carry commensurate weight."*

Given the ongoing downward trends in Ireland's key environmental indicators (e.g. water quality, ammonia emissions, biodiversity loss, etc.) over the course of FoodWise 2025's running period, it would lead us to question the credibility of future claims of a supposed "balanced" agri-food model which are made in the absence of concrete measures. A harmonious relationship between environmental, economic and social objectives will not be delivered within the existing export-focused intensive bovine model of agriculture. Even with a stable herd size, increased dairy yield is directly correlated with spikes in ammonia and nitrate emissions. As such, brandishing Alternative 3 Selected Strategy with a "balanced" label is a gross miscalculation unsupported by scientific evidence.

3.2.1 Human Health

An Taisce submits that there are key inaccuracies within Section 5.3 and Section 6.1 of the Strategic Environmental Assessment, pertaining to the assessment of alternatives and thus the reasoning for selecting the chosen option. Specifically, in our opinion, the information regarding the potential health impacts relating to both air and water quality of all alternatives 1, 2, and 3, is both inaccurate and misleading, bringing into question the selection of alternative 3 (See footnote 1 above).

Whilst the SEA does acknowledge that alternative 2 performs higher compared to the other alternatives in all environmental aspects examined in accordance with the SEA Directive, the report states that alternative 2 is the worst performing scenario in relation to population and human health impacts, as a reduction in agricultural activity:

"May also increase the risk of ongoing rural depopulation which may indirectly lead to under-grazing or land abandonment. It is anticipated that there could be adverse effects on population and human health. However there may be some indirect beneficial effects on human health through better air and water quality."

The report cites that, due to a reduction in agricultural activity, there is a potential for “adverse impacts” on local populations, with the report further elaborating these impacts encompass potential economic hardship, reduced rural development, and increased stress due to reduced agricultural activity. However, reduced agricultural output is not necessarily synonymous with reduced rural development, nor a reduced quality of life. In these instances, there can be an expansion of small-scale, local food production, in particular, local initiatives that shorten, amplify and democratise local food supply chains linking producers to consumers. This also opens up marketing and new business opportunities for a range of HNV food produce and ecotourism and can also increase the uptake in organic farming in line with the EU Biodiversity Strategy 2030 target of having at least 25% of agricultural land under organic farming management.

While the aforementioned adverse impacts on rural economies are certainly acknowledged, there are also an array of health benefits from a reduction in current agricultural practices, such as improved drinking and bathing water quality from reduced pesticides and run-off, and improved air quality from reduced ammonia emissions, alleviating cardiovascular stress and respiratory issues of vulnerable groups in society. However, the SEA only briefly mentions the beneficial health impacts of the Reduced Output alternative, which are then seemingly overshadowed by the adverse economic impacts.

In contrast, in Section 6.1 Assessment of Mission 1 of the chosen alternative, the SEA highlights the health impacts of improved water and air quality in greater depth and magnitude in favour of alternative 3, the selected strategy:

“As improvements are anticipated in environmental conditions including improved water quality, air quality and actions to tackle climate change, it is expected that beneficial effects would be seen for human health, both directly (due to improved air quality for example) and indirectly (due to improved environmental quality).”

As alternative 3 supports increased agricultural activity, there will likely be a significant decrease in both water and air quality as alternative 1, similar to alternative 3 in expanding agricultural production, highlights: *“Air pollutants from agriculture have been increasing which can pose health risks. Some drinking water supplies have also failed to meet the necessary pesticide standard.”*

In a recent report from the European Commission, the death toll for poor air quality is the number one environmental cause of premature death in the EU, with over 390,000 premature deaths every year². Air pollution also impacts quality of life through exacerbating asthma and respiratory problems with vulnerable groups such as children, asthmatics and the elderly worst affected.

One potential air pollutant impact arising from furthering agriculture is increased ammonia emissions. Agriculture is already responsible for approximately 99.4% of ammonia emissions, with recent data suggesting levels are much higher than originally thought, with

² https://ec.europa.eu/environment/air/index_en.htm

Ireland in violation of the ammonia ceiling for seven of the past nine years³. Health impacts from increased ammonia include cardiovascular disease, cognitive decline, and respiratory issues with recent UK studies finding at least 3,000 deaths could be prevented annually by halving ammonia emissions.

Health impacts also arise from declining water quality as a result of increased agricultural production. As of 2019, approximately 300,000 people have been impacted by polluted water supplies which fail to meet the legal standard for safe pesticide levels. Under alternative 3, pesticide use would be increased which further jeopardises the safety of drinking-water for Irish citizens⁴.

Despite this, alternative 3 does not consider the potential environmental impacts as harmful to human health, but rather classifies them as benefits whilst giving them no real weight in alternative 2.

It is our view that the beneficial health impacts relating to improved water and air quality of alternative 2 are not given their appropriate weight, creating an inaccurate representation of these benefits, and furthermore, that the health benefits relating to "improved" air and water quality of alternative 3 have been inflated and given further weight than is warranted. This is highlighted both by the alternative 1 assessment of increased agriculture and numerous studies detailing the associated health impacts of increased agriculture.

For this reason, we recommend a full assessment be conducted on the potential health impacts of water and air quality impacts under alternative 3 and that the potential beneficial impacts of alternative 2 be re-evaluated and given their appropriate weighting. Doing so would provide greater clarity as to which alternative actually performs best in relation to human health.

3.2.2 Assessment Metrics

An Taisce considers that the metrics used for the comparative assessment of alternatives lack clarity and transparency. The 'high level matrix approach' outlined in Section 3.5 is a colour-coded system used to classify effects by type and likelihood e.g., likely strong beneficial effect, likely adverse effect, uncertain effect. However, no clarity is provided in relation to the internal mechanisms of this classification system:

"The high level matrix assessment is not a conclusive tool or model; its purpose is to identify those strategic priorities for which uncertainties or potential adverse effects may arise. These particular strategic priorities can then undergo further scrutiny at the detailed matrix assessment stage."

³ EPA (2021) Ireland's Air Pollutant Emissions: https://www.epa.ie/publications/monitoring--assessment/climate-change/air-emissions/EPA-Irelands-Air-Pollutant-Emissions-report_2021Final.pdf

⁴ EPA (2020) Drinking Water Quality in Public Supplies 2019: <https://www.epa.ie/publications/compliance--enforcement/drinking-water/annual-drinking-water-reports/drinking-water-quality-in-public-supplies-2019.php>

The evidence base for identifying such “uncertainties or potential adverse effects” is not supplied, creating a gap which undermines the robustness of the assessment. While the document outlines it is not a conclusive tool or model, it is, nevertheless, the determination of whether a potential impact undergoes further scrutiny. As such, this part of the decision making must be fully transparent and robust.

For instance, in the “Soil and Land Use” category both Alternative 2 Reduced Output and Alternative 3 Selected Strategy receive the light green “likely beneficial effect” classification. Despite the obvious difference in biodiversity values, levels of fertiliser use and farming intensification between the two scenarios, yielding markedly different results for soil health and land use, no distinction is made between the two. We consider the lack of differentiation to be illogical, and as such we submit that it is both inaccurate and misleading.

This is compounded by the fact that the matrix assessment is not tallied, rendering the final decision to pursue Alternative 3 Selected Strategy all the more confusing.

3.3 Monitoring

Article 10 (1) of the SEA directive states that:

‘Member States shall monitor the significant environmental effects of the implementation of plans and programmes in order, inter alia, to identify at an early stage unforeseen adverse effects, and to be able to undertake appropriate remedial action.’

Chapter 8 of the SEA addresses the need to *‘monitor significant environmental effects of implementing the Strategy’*, ensuring this is *‘be done in such a way as to also identify unforeseen adverse effects and to take appropriate remedial action’*. While a number of monitoring strategies have been identified, An Taisce would note the absence of a mention of remediation to address unforeseen effects, should they arise in accordance with Article 10. We would highlight that breach of Article 10 with regard to the FoodWise 2025 monitoring and remediation of unforeseen adverse effects is already under investigation by the EU Commission.

An Taisce would question the validity of the following statements, as included in the SEA report:

*‘It is important that any monitoring proposed by the SEA should aim to **specifically monitor the impact of the Strategy rather than monitoring trends in the baseline environment that would have occurred regardless**’*

And

*'Monitoring of these aspects over the Strategy duration will not directly measure the performance of the Strategy as they are all **affected by multiple factors of which the Strategy is just one**'. [An Taisce emphasis added].*

We would question both the viability and validity of segregating environmental impacts observed/monitored throughout the duration of the strategy, and would note that this does not preclude the requirement for remedial action, particularly in the instance of unforeseen or cumulative impacts.

3.3.1 Carbon Sequestration

An Taisce would highlight the limited potential for proposed *'farm-scale carbon offsetting schemes... for example through woodland creation or peat restoration'* to offset the adverse impact of an *'increased carbon footprint for some produce'* due to an increase in food miles associated with an increased focus on exports.

Carbon sequestration only happens when carbon levels in a "store", like soil, are increased over time, ideally centuries. Land-use in Ireland is a net emitter of carbon, with many current land use systems and practices (e.g. grassland systems, intensification, hedgerow removal, drainage, deforestation) resulting in the removal of existing vegetation and soil carbon stores. While promoting increased carbon drawdown on farmland is good for farming, it is not good for verifiable climate action because it's insecure, hard to measure, and easily 'gamed'. This is no substitute for fossil fuel and methane emissions reduction. The rate of carbon loss far exceeds the rate of sequestration. Increases in sequestration would serve to offset losses, not ongoing emissions.

3.3.2 Monitoring and Water Quality

An Taisce note the monitoring proposal for Mission 1, Goal 3 of the Strategy which aims to *'Protect high status sites and contribute to achieving good water quality and healthy aquatic ecosystems, as set out in the Water Framework Directive'*, and the proposed monitoring and mitigation measures to:

"Monitor nitrogen fertiliser usage rates over the Strategy period to establish if rates fall, regional / catchment area reporting should be adopted where possible to match the recorded achievements to the areas of greatest urgency (as identified by the baseline). Increase the overall amount of water bodies monitored. Monitor nitrogen and phosphorus levels of waterbodies, especially those already known to be affected by agriculture".

We would also highlight section 7.3 of the SEA report, which outlines an additional mitigation measure for consideration by the strategy as the *'Development of sector-*

wide strategy to tackling the issues relating to surface water pollution from agricultural sources'.

We would observe that Ireland has legal obligations under the Water Framework Directive and Nitrates Directive to prevent water pollution. The deadline for achieving WFD objectives is 2027, and the means to achieve that is the 3rd River Basin Management Plan which is currently being drafted. If the agricultural sector aligns itself to the RBMP, as it is legally obliged to, then there will be no need for a standalone strategy and the necessary steps can be taken immediately, instead of waiting on some additional strategy.

If Ireland is to align itself with the ambition of the Farm to Fork strategy then nitrogen inputs need to fall 20% by 2030. This SEA should be endeavouring to monitor the year on year reduction, to ensure we are on track to achieving that. If the rates are not falling fast enough, or at all, then effective action should be taken to address that. Simply monitoring the trends with no specific aim will achieve nothing.

3.4 Policy Coherence

3.4.1 Air Quality

It is submitted that the SEA contains a contradictory point within its policy coherence assessment in Section 4.2 relating to other plans and programmes. For instance, it is stated that this strategy will directly support the European Commission 2013 A Clean Air Programme for Europe, however, it is also stated that the strategy is in conflict with the DCCAE (2017) Cleaning Our Air Public Consultation to inform the development of a National Clean Air Strategy, as the strategy states in Appendix B:

"Goal 1 of "Viable and Resilient Primary Producers with Enhanced Well-Being" sets out an ambition for the pig and poultry sectors to capture a greater market share. This may potentially conflict with future air quality / odour objectives"

Furthermore, there is also a conflict with the DCCAE (2019) National Air Pollution Control Programme (draft NAPCP report) as the same Appendix reiterates the previous point now in relation to the above programme.

This point regarding a potential increase in pig and poultry leading to air quality issues is not addressed in relation to the European Commission 2013 A Clean Air Programme, with the strategy primarily focusing on its "improvements for ammonia reductions", with no mention given to the air quality impacts of Goal 1 relating to pig and poultry expansion: *"Sector-specific targets for ammonia will be set as part of Goal 1 of "Viable and Resilient Primary Producers with Enhanced Well-Being"*

However, the aim to "support improvements in air quality" is inadequate given Ireland has been breaching its NECD ammonia limit since 2012 and furthermore, the EPA and EU Commission have stated that proposed measures will not reduce ammonia emissions

sufficiently to meet the target in future. This again highlights the conflict between this strategy and previous targets and policy.

It is our view that this SEA is unjustified in stating this strategy will support the European Commission 2013 A Clean Air Programme whilst simultaneously stating potential air quality issues from Goal 1 of the strategy highlighted by conflict with DCCAE (2017) Cleaning our Air Public Consultation to inform the development of a National Clean Air Strategy and DCCAE (2019) National Air Pollution Control Programme (draft NAPCP report).

3.4.2 Peatlands

The SEA states that there is conflict with the DCHG (2018) National Raised Bog Special Areas of Conservation (SACs) Management Plan 2017-2022. This is again echoed by Agri-Food 2030 as despite the strategy indicating potential indirect peatland conservation under LULUCF for carbon sequestration, it is also stated in Appendix B:

"Contribution to greater afforestation set out in Goal 4, albeit with a focus on agro-forestry and biodiverse woodlands may present a conflict w/r/t protection of peatlands if not appropriately mitigated."

This again demonstrates inadequate policy coherence and we consider that a full assessment be carried out detailing mitigation measures for afforestation in relation to peatlands to ensure compliance with both the DCHG (2018) National Raised Bog Special Areas of Conservation (SACs) Management Plan 2017-2022 and the Habitats Directive.

3.4.3 River Basin Management Plan

It is our view that this strategy also conflicts with the EPA (2018) River Basin Management Plan for Ireland 2018-2021 as required under the Water Framework Directive. In 2019, an [EPA⁵](#) report stated nitrate was increasing in nearly half of rivers and phosphate concentrations increasing in 25% of rivers, with this figure just 1.4% and 4.2% respectively pre-2015 and pre-quotas. This strategy follows its predecessor in supporting herd expansion, however, the strategy states it will contribute to water quality objectives set out in Goal 2 of the "A Climate Smart, Environmentally Sustainable Agri-Food Sector" through nine actions covering pesticides with Action 4 addressing pesticide reductions. However, the SEA then states:

"The extent of any positive effects are as yet uncertain as they will be influenced by the implementation measures adopted for these actions."

Contrastingly, the SEA then concludes:

⁵ EPA (2020) Water Quality in 2019, An Indicators Report: https://www.epa.ie/publications/monitoring--assessment/freshwater--marine/Water_Quality_2019.pdf

"These actions are therefore expected to have beneficial effects on the natural capital objective and to a lesser extent on the water, climate change and soil and land use objectives."

We note that there are no WFD specific assessments required for the granting of derogation licences, or for intensive farms operating without derogation. As a result, we consider that this strategy is in direct conflict with the EPA (2018) River Basin Management Plan for Ireland 2018-2021, and likely it's successor, contrary to the conclusions drawn.

3.4.4 EU Biodiversity Strategy

The SEA report states that under Goal 3 of Mission 1 "A Climate Smart, Environmentally Sustainable Agri-Food Sector", that the EU Biodiversity Strategy will be supported by Agri-Food 2030. The goal sets out various measures such as lower chemical nitrogen use, soil management, and reducing the risk pesticides pose to drinking water, however, due to the numerous adverse environmental impacts associated with increased agricultural output, these actions are insufficient in addressing the full extent of biodiversity decline from agriculture and thus conflicts with the EU Biodiversity Strategy.

4. Appropriate Assessment

4.1 Requirement for a Natura Impact Statement (NIS)

As outlined in the guidance issued by the Department of Housing⁶, a Natura Impact Statement (NIS):

"comprises a comprehensive ecological impact assessment of a plan or project; it examines the direct and indirect impacts that the plan or project might have on its own or in combination with other plans and projects, on one or more Natura 2000 sites in view of the sites' conservation objectives"

As outlined at the beginning of the NIS for AgriFood 2030:

"A plan or project may have a significant effect on a Natura 2000 site if it:

- Reduces the area of an Annex I habitat, the habitat of an Annex II species, or the overall Natura 2000 site;*
- Damages the physical quality of the environment (e.g. water quality and supply, soil compaction) within the Natura 2000 site;*
- Causes serious or ongoing disturbance to species or habitats for which the Natura 2000 site is designated, e.g. increased noise or human activity;*
- Results in direct or indirect damage to the size, characteristics or reproductive ability of populations within the Natura 2000 site; or*

⁶ https://www.npws.ie/sites/default/files/publications/pdf/NPWS_2009_AA_Guidance.pdf

- *Interferes with mitigation measures put in place for other plans or projects*"

The negative impact of agriculture on Irish Natura sites and habitats is well established. Section 3.5.1 of the NIS outlines the potential impacts on Natura 2000 sites from agriculture. It acknowledges the findings of the NPWS Article 17 report under the Habitats Directive that agriculture is a key contributor to declines in conservation status of protected habitats and species. It outlines:

"The wide ranging potential ramifications of agricultural practices is reflected in the number of habitats and species included in Table 6. It can be seen that the Table includes the majority of Annex habitats and species represented by the Natura 2000 series in Ireland."

Section 3.5.1 further acknowledges the European Court of Auditors report on Biodiversity on Farmland (2020)⁷ which concluded that the effect of CAP direct payments on farmland biodiversity is limited, and that agricultural intensification remains one of the main causes of biodiversity loss and ecosystem degradation.

Impacts on water quality are also acknowledged in the NIS, although An Taisce would note that the disproportionate impact of nitrogen runoff as a direct result of dairy intensification, as clearly catalogued by the EPA in their most recent reports⁸, is not acknowledged, with the NIS instead highlighting increases in phosphate as being particularly problematic:

"In recent years, there have been significant increases in nutrient levels (especially phosphate), sediment and dissolved organic carbon from agricultural activities."

In section 4.3 it is clearly outlined that:

"Each of these impact pathways are intimately connected to agricultural, forestry and fisheries activities and are the key routes by which agriculture can affect the status of Natura 2000 sites. The actions within the AFS are therefore critical in determining the future direction of these impact pathways (positive or negative)."

As such, the obligation to carry out an NIS is clearly outlined, the existing and potential impacts of agriculture, particularly intensive bovine agriculture, are acknowledged and the importance of the actions outlined within the AFS are clearly identified as being key to achieving the conservation objectives of Natura 2000 sites impacted by agriculture.

⁷ <https://www.eca.europa.eu/en/Pages/DocItem.aspx?did=53892>

⁸ Environmental Protection Agency (2020) Water Quality in 2019: an indicators report

4.2 Mitigation and the requirement for certainty

Under the Mitigation heading in the NIS the following is outlined:

"Key areas for mitigation are in relation to the location and extent of Natura 2000 sites (i.e. where these sites lie in proximity to agricultural activities), managing agricultural intensification (including drainage), managing diffuse and atmospheric pollution and regulation and management of fisheries."

And that:

"The AFS addresses all these issues in some detail and provides appropriate mechanisms for reducing and counteracting impact pathways."

We respectfully submit that this is not the case. AgriFood 2030 does not propose any measures which are not already in place via various regulations such as the Nitrates Action Programme, or alternatively it relies upon strategies such as Ag-Climatise and the Code of Good Agricultural Practice for ammonia, both of which have been heavily critiqued, and their credibility called into question. Alternatively, it relies on yet to be drafted or reviewed strategies, such as a review of the Nitrates Action Programme, or an as yet to be drafted, National Soils Strategy. As such, the legal standard of certainty is not being met.

The Department cannot objectively conclude that the measures outlined in the Strategy will address the ongoing declines in all our environmental indicators, when the mitigation is a reliance on already existing, and failing, measures, or plans which rely on voluntary and unenforceable action by land-owners, or have not yet been drafted or reviewed, yet are relied upon in the NIS.

Even when measures are outlined, they are largely insufficient, non-targeted and vague. For example, in regard to biodiversity and impacts on Natura 2000 sites, the mitigation is as follows:

"knowing where an individual farm is in relation to a SAC or SPA feature is very important in order to avoid or reduce impacts from agriculture."

And:

"Targeting of Natura sites by future agri-environment schemes, especially with higher level measures also provides a high potential level of mitigation."

While it is obviously essential that these Natura sites be identified, the mitigation measures propose nothing more than identifying where these are, and having some ad-hoc nominal protection by agri-environmental schemes. The very same schemes which the EU Court of Auditors have already categorically concluded did not provide any substantial biodiversity

benefit. It does not propose that any farming activity be in any way curtailed by proximity to Natura sites, nor that any AA be carried out in regard to standard farming activities. This is particularly pertinent given that the intensification of agriculture is one of the primary drivers of degradation of protected habitats and species. We would respectfully query how knowing the location of these Natura sites would in any way address that issue comprehensively, as is the required standard of certainty under Article 6(3) of the Habitats Directive. We would also question how agri-environmental schemes will provide the broad protection necessary for all the QIs in a Natura site, and what certainty they can provide. While they may, if properly designed, provide some level of protection, it is not the equivalent to a rigorous and targeted mitigation measure under the Habitats Directive.

Furthermore, for bird impacts the mitigation measures outline:

"Disturbance effects on Annex I bird species can be controlled through the avoidance of operations in known areas during the breeding or wintering season. "

While this may be true in certain circumstances, the alarming decline in farmland bird species is as a result of changes in land management practices, and loss of roosting and feeding habitat. Carrying out activity outside of the breeding season will not benefit species which have lost their habitat.

A further mitigation measure is:

"Relevant studies of direct and indirect impacts should be made available to agri environment advisors and relevant agricultural workers (including farmers), where Natura 2000 sites are present on a landholding. This should include an appreciation of appropriate buffer zones (e.g. in terms of disturbance effects on Annex II (Habitats Directive) and Annex I (Birds Directive) species. "

This is in no way compliant with Article 6(3) of the Habitats Directive, where prior authorisation is required for activities which may impact on Natura 2000 sites. While it is beneficial that agricultural workers and advisors are cognisant of the direct and indirect impacts, it is not their legal obligation to judge the appropriateness or risk of their activities to the Natura site. It is that of the Irish state, or a state body acting as an entity of the Minister with responsibility for the Habitats Directive. Furthermore, we would question what benefit 'appreciation of the appropriate buffer zones' would have. It has no legal meaning, and imposes no legal obligation on these workers.

We would highlight that in *Kelly v An Bord Pleanála & Ors.* [2013 No 802 J.R.] with reference to *Commission v Spain c-404/09* the High Court held in para 36 that the competent authority must carry out an AA for a plan or project in light of the best scientific knowledge in the field and that the final determination of the competent authority must

include complete, precise and definitive findings. The case repeated the conclusion of CJEU at para. 44 in Case C-258/11, namely that an AA:

"cannot have lacunae and must contain complete, precise and definitive findings and conclusions capable of removing all reasonable scientific doubt."

Furthermore, it is now well established in law that approval can only be granted for plans and projects when it has been established beyond all reasonable scientific doubt that the subject proposal will not adversely impact any Natura 2000 sites. In Case C-258/11, *Sweetman & Others v An Bord Pleanála & Others*, it was held that:

*"authorisation for a plan or projectmay therefore be given only on condition that the competent authoritiesare certain that the plan or project will not have lasting adverse effects on the integrity of the site. That is so where **no reasonable scientific doubt remains** as to the absence of such effects"* [emphasis added].

4.3 Conclusion

It is our considered opinion that the NIS, as presented, fails to provide the scientific evidence and level of certainty which is necessary for the decision maker to conclude beyond reasonable doubt that the plan or project will have no adverse impact on Natura 2000 sites. We submit that the mitigation measures are vague, non-binding and do not present detailed analysis of how they will counteract the ongoing declines for Irish Natura sites as a result of agricultural practice, as acknowledged by the NPWS, and the introduction of this very NIS. There is a reliance on existing measures, which have been shown to be ineffective thus far for the protection of Natura 2000 sites from agriculture, and a dependence on plans and strategies which are as yet unproven in regard to their efficacy, and several of which have been widely criticised in regard to their credibility for achieving their specific aims.

We would reiterate that the NIS specifically outlined that the actions within the AFS are critical in determining the future direction of these impact pathways, and that the AFS addresses all these issues in some detail and provides appropriate mechanisms for reducing and counteracting impact pathways. We would highlight that is clearly not the case, and no such evidence is provided in the NIS document before us. As such the potential impact has been identified, the importance of mitigation measures has been underlined, but no sufficient mitigation measures have been provided. Therefore, we submit that this is a clear failure within the NIS document.

As such, we are of the view that the Department cannot sign off on the AgriFood 2030 from a legal perspective, as the NIS does not provide the necessary legal certainty as required by Article 6(3) of the Habitats Directive. To do so would be in contravention of the Habitats Directive, and subject to legal challenge on those grounds.