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10/12/2021

CAP Rural Development Division
Agriculture House
Kildare Street
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Via email: CAPStrategicPlan@agriculture.gov.ie

Re: Draft CAP Strategic Plan 2023-2027 and associated environmental analysis, incorporating a Strategic Environmental Assessment and Appropriate Assessment

A chara

I refer to correspondence received in connection with the above. The Department of Housing, Local Government and Heritage welcomes the opportunity to engage with DAFM on the draft CAP Strategic Plan (CSP) 2023-2027. Outlined below are heritage related observations/recommendations of the Department under the stated heading(s).

Archaeology

The Department notes that Ireland's CAP Strategic Plan (CSP) for the period 2023-2027 will underpin the sustainable development of Ireland's farming and food sector by supporting viable farm incomes and enhancing competitiveness, by strengthening the socio-economic fabric of rural areas, and by contributing to the achievement of environmental and climate objectives at national and EU levels. The Department notes that the CSP will take more holistic approach and the submission below is framed around meeting those objectives.

Archaeological monuments are a finite resource, which although they have stood in the landscape for hundreds or perhaps thousands of years are, in many ways, fragile and once damaged or destroyed (often including the loss of artefacts or human remains), cannot be meaningfully restored. Under the *Good Agricultural and Environmental Condition (GAEC)* standards of Cross Compliance, archaeological sites and monuments are designated as Landscape Features. They often harness important zones of biodiversity as well as being important cultural heritage assets with, in many cases, significant potential to assist rural development through a contribution to rural communities' sense of place, well-being and local tourism.

The retention and maintenance of Archaeological Sites and Monuments is required under the GAEC rule regarding non-productive areas and landscape features and this rule has carried over into the eco-scheme. Measures directed specifically towards the care of



archaeological monuments on farmland have been included in both the general and cooperation teams options under Agri-environment-climate Measures (AECM) and the Department welcomes this

The Department has had a very positive and constructive cooperation and engagement with DAFM, in terms of Cross Compliance under GAEC 7 and would like to acknowledge the degree to which the importance of archaeological monuments to biodiversity and as cultural heritage and rural development assets and their contribution to the many objectives of the CSP, has been recognised in the draft plan.

The Department believes strongly that carefully considered actions in the CSP will enhance even further the value of archaeological sites and monuments to their owners; realise their role in the provision of habitats and biodiversity and encourage their management and preservation.

Detailed Submission

Having considered the draft CSP and the accompanying SEA report, the Department offers the recommendations numbered 1 to 4 below.

In the draft CSP, the Department sees opportunities for the **protection and maintenance of archaeological monuments on farmland**, through the application of specific actions directed towards their care in both AECM options (see point no. 1 below).

In addition to advising regarding the details of these specific archaeological actions, the Department would like to explore with DAFM the potential for focusing other practices allowed for in the draft CSP, which are not specifically directed towards archaeology, but could be carried out at or near monuments, without impacting on them adversely in any way. By this means the Department would see there is scope for in effect placing monuments at the centre of a high nature value farming areas on individual farms, thereby facilitating their protection, whilst contributing, in the broadest possible way, to the aims of the CSP (see point no. 2 below).

The Department has contributed to the training of farmers and farm advisors in successive Rural Development Programmes, for many years. This includes contributing a presentation on archaeology and GLAS, given at DAFM Farm Advisor training events, by the Department's archaeologists. The Department would seek to continue this important activity and to expand it in line with the recommendations below (see points 1, 2 and 3).

The proposal to feed practices developed in **European Innovation Partnerships (EIP)** into the CSP, via AECM Cooperation Teams is of particular interest to the Department. This Service would seek to continue and expand our involvement in this space (see point 4).



1. Agri-environment Climate Measures actions specifically directed towards archaeological monuments

In the lead-up to the last programme, at the request of DAFM, the Department was pleased to contribute detailed information regarding the structure of the archaeological measure in GLAS entitled 'Protection of Archaeological Sites' and the following is noted:

- The inclusion of a proposed Tier 3 action entitled 'Protection and Maintenance of Archaeological Monuments', in the AECM general option is much welcomed. The Department would be pleased to contribute, as before, to the detailed design of this action in collaboration with DAFM colleagues.
- The interdisciplinary approach proposed in the Local Cooperation Teams under the AECM Cooperation Teams option is innovative and very positive. There is undoubtedly benefit to be had from for example, archaeologists and ecologists cooperating to devise actions which will promote biodiversity and habitats whilst contributing to the positive management of archaeological monuments. The Department stands ready to provide input here.
- The requirement that archaeological expertise will be one of the core higher skills available to Co-operation Teams is very positive and has potential to make a valuable contribution to the protection of archaeological monuments, particularly as the high priority, high nature value farming areas where the teams will operate, will by their nature, be areas with high archaeological potential. DAFM can be assured of the support of the Department in implementing this innovation and would welcome the opportunity to discuss further with DAFM how we might assist.

2. Directing non-archaeological actions towards archaeological monuments

Central to this would be the establishment of a principle within the CSP, that when a monument is identified at farm plan stage, there should be a bias towards directing appropriate actions (not just archaeological actions) towards the monument. By this means, a number of actions could be concentrated around a landscape feature to maximum effect, addressing many requirements of the CSP at the same time.

The Department proposes the following actions for consideration by DAFM:

- Prioritise the inclusion of monuments in the 4% (or 7%) non-productive features under GAEC and eco-scheme rules.
- In the context of GAEC 1, explore ways to ensure that monuments with no surface trace (but potentially with extensive buried archaeological remains close to the surface) remain in grassland.
- As the locations to be addressed by GAEC 2, 'the protection of peatland and wetland', become clearer, the Department would seek to advise DAFM regarding



the treatment of archaeological areas, as part of this process, as both types of land tend to be archaeologically rich areas.

- Eco-scheme Practice 2, Extensive Livestock Production, could be facilitated, as grazing with low stocking rates keeps encroaching vegetation away from monuments- this has been advocated by the Department previously.
- Many of the Tier 3 AECM General Option actions may be suitable, particularly those connected with grasslands and margins, in facilitating the conversion of the areas of monuments with no surface trace to permanent grassland or species rich grassland.
- Many of the Tier 3 AECM Cooperation Option actions may be suitable for implementation near monuments.
- Minimum tillage, which is a mandatory action in Tier 2 of the AECM options, may be suitable where crops are grown in the vicinity of upstanding or buried monuments in tillage fields.

3. Training

The Department has been pleased to assist DAFM in the provision of training to Farm Advisors concerning the implementation of the archaeological measures in GLAS.

- The Department would seek to continue to assist DAFM in this space, by providing a revised presentation addressing all archaeological issues that might arise on the ground in the implementation of the finalised CSP. To facilitate this, the Department would seek involvement in the detailed design of the archaeological actions proposed in both AECM options.
- As stated at point 2 above, the Department would seek to advise regarding the archaeological requirements of the proposed Cooperation Teams and to provide training to them.

In addition, the Department would be able to advise DAFM as to how archaeological monuments will be protected and maintained as landscape features in Cross Compliance and how they might best contribute to the overall objectives of the CSP, by the application of a range of actions at or near archaeological monuments to maximum effect. The Department can also advise DAFM concerning training needs that might arise for this.

4. European Innovation Partnership (EIP)

The Department is currently involved in two EIP projects (Farming Rathcroghan Project and Comeraghs Upland Communities) in which the management of archaeological monuments in different farming contexts are very important elements.

- The Department sees great value in the EIP projects in both the protection of archaeological landscapes and individual monuments and meeting important shared objectives across our departments. Our Department is seeking to now develop a suite of new UNESCO World Heritage sites and is engaging with Local Authorities



and communities on various applications received this year. The Rathcroghan landscape, with its EIP, is under consideration as part of a Royal Sites of Ireland bid along with 5 other important heritage sites across the country, and the EIP at Rathcroghan is seen by us as extremely advantageous to meeting the challenging yet transformative UNESCO requirements of any future World Heritage designation. The Department would seek to explore with DAFM the potential for all these expansive cultural and heritage landscape applications to be considered for EIPs, through a project in Stream B- (EIPs aimed at addressing areas related to environmental, biodiversity and climate change challenges).

The National Monuments Service of Department looks forward to discussing the foregoing points with your Department in the near future. We would request a meeting with DAFM officials in January if possible to discuss.

Nature Conservation

The Department refers to the statutory consultation of the Environmental Assessments of the Draft Common Agricultural Policy (CAP) Strategic Plan 2023-2027. These observations include a combined response to two separate consultations: (a) A SEA Regulation¹ 13(1) referral of a sectoral plan SEA Environmental Report; and (b) a Birds and Habitats Regulation² 42 (9) referral of a Natura Impact Statement (NIS). Please note that the draft Plan did not accompany your consultation, and the versions accessed for review by this Department may not have been the most up-to-date version of the Plan³.

The Department's observations are structured around three main headings;

- General Nature Conservation
- Appropriate Assessment (AA) – Natura Impact Statement (NIS)
- Strategic Environment Assessment (SEA)

The primary ecological / biodiversity concerns are highlighted in the observations relating to AA and the draft NIS, it should be noted therefore that the Department's recommendations and necessary amendments should also be reflected in the SEA Environmental Report where relevant.

¹ European Communities (Environmental Assessment of Certain Plans and Programmes) Regulations 2004 (S.I. No. 435 of 2004) (as amended).

² European Communities (Birds and Natural Habitats) Regulations 2011 (S.I. No. 477 of 2011) (as amended).

³ These included (a) [file:///C:/users/goodj/downloads/180467_b3149735-f61f-4db0-a5dc-1b4531dc2b31%20\(1\).pdf](file:///C:/users/goodj/downloads/180467_b3149735-f61f-4db0-a5dc-1b4531dc2b31%20(1).pdf), (b) [file:///C:/users/goodj/downloads/203884_8ffd036b-4291-403a-ac1d-2b6776f764cb%20\(1\).pdf](file:///C:/users/goodj/downloads/203884_8ffd036b-4291-403a-ac1d-2b6776f764cb%20(1).pdf), and (c) [file:///C:/users/goodj/downloads/205686_8626ec05-9385-4a08-9293-59337ab72455%20\(1\).pdf](file:///C:/users/goodj/downloads/205686_8626ec05-9385-4a08-9293-59337ab72455%20(1).pdf)



As an initial comment, the Department welcomes the broad shift toward climate and nature conservation objectives reflected in the draft Common Agricultural Policy (CAP) Strategic Plan and the focus on 'right action, in the right place' with targeted measures and plans. The Department highlights though that considered focus and resources will be required to place the necessary infrastructure and supports for agricultural advisors to ensure a strong ecological knowledge and skill base will identify the 'right actions' in the 'right places'.

The Department also notes previous issues raised as part of the Departmental response to SEA scoping listed (opposite 'NPWS') in Table 2.1. (pp. 8-11) of the NIS, which should be taken into account and addressed fully in the assessments. It would be useful to address each specific concern previously raised by this Department with a specific response which could be highlighted within the SEA Environmental Report.

General Nature Conservation

Every government department has responsibilities under the National Biodiversity Plan 2017-2021. Previously farm measures stemming from the CAP had resulted in conflict with the protection of biodiversity resulting in habitat damage and deterioration. Specific examples include grubbing out scrub in order to plant wild bird crops. Payments were issued for the wild bird measure but in actuality the measure had destroyed a much more important habitat for birds which offered shelter, food and nest sites rather than just the ephemeral food source of the crop. Another example is grubbing out old hedgerows, which support a huge array of wildlife in order to be funded for planting a new hedgerow that will have little ecological benefit for many years to come.

It is important therefore that the DAFM eliminates such conflicts from the new CAP strategy. The development of Farm Plans will be crucial in this regard and it is important that there is ecological and climate expertise involved in drawing up the farm plans along with the agricultural advisor. This need will be vital in the beginning as there will be a time lag before agricultural advisors will be trained up in climate and ecological matters. It is therefore a recommendation from this Department that ecologists should be involved in drawing up the farm plans.

Appropriate Assessment – Draft NIS

The Department highlights that Appropriate Assessment (AA) is a scientific process and case law indicates that an appropriate assessment must examine the implications of the plan or project for the QIs, or the SCIs, of the European sites concerned, in view of the site's conservation objectives and in light of the best scientific knowledge in the field⁴. The assessment cannot have lacunae or gaps, and must contain complete, precise and definitive findings and conclusions⁵. Competent authorities can authorise or adopt a plan or project

⁴ Case 127/02 *Landelijke Vereniging tot Behoud van de Waddenzee and Nederlandse Vereniging tot Bescherming van Vogels v. Staatssecretaris van Landbouw, Natuurbeheer en Visserij* EU:C:2004:482

⁵ Case 521/12 *T.C. Briels v. Minister van Infrastructuur en Milieu* EU:C:2014:330



only if they have made certain that it will not adversely affect the integrity of a European site. This is so when there is no reasonable scientific doubt as to the absence of such effects⁶.

The following observations are intended to firstly highlight areas within the draft NIS that may require revision in order to fulfil requirements of AA and secondly, to focus (under specific headings) more general issues of relevance.

Specific Comments on NIS text

Section 4.0 Baseline Content (p. 35)

Species included in Annex IV of the Habitat Directive (92/43/EEC) are not relevant to Natura Impact Statement. Further this section is incomplete as it only includes cetaceans and the leatherback turtle. There are more species listed in Annex IV not mentioned.

Section 4.3 Current Conservation Status of Features of Interest

The source of conservation status for habitats and species must be included. With regard habitats and species listed in Annex I and II of the Habitats Directive, it is presumed that this information comes from the latest Article 17 report to the European Commission. The conservation status for bird species listed in Table 4.4 appears to be sourced from ‘Birds of Conservation Concern in Ireland’⁷. It may be more appropriate to refer to status of bird species listed in European Red List of Birds which references the status as critically endangered, near threatened, vulnerable...etc⁸.

Section 5 Impact Assessment

SMR 3 – Birds Directive. This should include a check that Planning Permission has been obtained for works which fall under the Planning and Development Acts and screen in for Appropriate Assessment.

SMR 4 – Habitat Directive. This should include a check that Planning Permission has been obtained for works which fall under the Planning and Development Acts and screen in for Appropriate Assessment.

The use of ‘Notifiable Actions’ wording (page 83 of NIS) is not applicable to European sites that are designated via a Statutory Instrument. The Department recommends that this

⁶ Case 243/15 *Lesoochránárske zoskupenie VLK v. Obvodný úrad Trenčín* EU:C:2016:838

⁷ Gilbert G, Stanbury A and Lewis L (2021), “Birds of Conservation Concern in Ireland 2020 –2026”. Irish Birds 9: 523–544

⁸ <https://www.birdlife.org/wp-content/uploads/2021/10/BirdLife-European-Red-List-of-Birds-2021.pdf>



wording is changed and or adjusted to reflect listed Activities Requiring Consent (ARC) for designated sites.

Section 5.3 Assessment of GAECs & Interventions

The habitats listed in the 'Impact' column do not appear to be comprehensive. Consideration should be given to including woodland habitats (in particular Alluvial Woodland in riparian areas), Tall Herb Vegetation, Vertigo species, otter etc.

General comment - Article 6.3 of the Habitats Directive states that "*Any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects, shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives.*"

The Department advises that impacts should be identified and assessed against the sites' conservation objectives. European Commission guidance suggests that a broad conservation objective aiming at achieving Favourable Conservation Status can be considered at an appropriate level, such as for example the national level and this should be considered⁹.

GAEC 2

DAFM is considering appropriate definitions of peatlands and wetlands. The impacts of this measure will to a large extent depend on how wetlands and peatlands are defined and mapped (i.e. whether there is broad or narrow definition of these habitats). The Department considers that the definition should be as broad as possible and should include degraded wetlands and peatlands including those drained and intensively managed which could be restored. The Assessment Rationale should include reference to restriction of drainage of wetland & peatlands. Appropriate assessment must contain complete, precise and definitive findings and therefore in order to complete appropriate assessment, the Department advises that these definitions must be provided at assessment stage.

GAEC 9 (or GAEC 8 in the CAP Strategic Plan)

It is suggested that consideration is given to whether non-productive features will be temporarily retained and the impact to habitats and species when such features are removed. Provision of temporary habitat may have long-term negative impacts.

⁹ European Commission (2012) Commission note on setting conservation objectives for Natura 2000 sites



AECM General – Tier 2 Actions: Planting of Trees – consider here fencing off areas, where deer are not a problem and allowing natural regeneration to take place along with tree planting.

It is recommended that support is also considered for natural regeneration projects i.e. using appropriate and approved management practices to allow nature to naturally colonise areas within the farmland. This could include supports for the natural expansion of tree cover across the farm at appropriate locations. This will ultimately lead to an improved and more sustainable approach to biodiversity recovery and avoid the risk of introducing damaging pests and diseases to the natural environment, including the risk of spreading non-native species and Invasive Alien Species. Long term management agreements would need to be put in place to ensure success and to avoid removal of such areas under subsequent plans or schemes.

On p. 149 of the NIS, under Screening, it is mentioned that tree- and hedgerow-planting cannot be permitted in pNHAs, SACs and SPAs. Note that some of these sites will be for woodland habitat types, where appropriate native species planting or regeneration will be acceptable.

Non-productive investments – hedgerow and tree planting. Specify the use of biodegradable weed membrane as an alternative to synthetic plastic membrane such as the Hy-TEX Ecotex Mulchmat <https://www.hy-tex.co.uk/product/ecotex-mulchmat/>.

Suckler Carbon Efficiency Scheme – this section must be updated as the cap on suckler numbers has been removed.

Section 6.3 Mitigation Measures for the CAP Strategic Plan

From 1 January 2023, it is proposed to allow up to 30% of a parcel consisting of features that may be beneficial to water protection, climate or biodiversity to be considered eligible. This would ensure that for areas of certain non-agricultural features, a farmer would not have to remove them to allow them draw down a BISS payment, Eco Scheme, or any Pillar II area-based payments. DAFM estimates that implementation of the “up to 30% features that may be beneficial to water protection, climate and biodiversity” may bring approximately an additional 55,000 hectares into eligible hectares.

The Department recommends that Natura 2000 Annex 1 habitats and habitats of Natura 2000 species are prioritised to be included within the 30%. This will require upskilling of farmers and advisors to identify such habitats. Annex 1 habitats should be recorded on LPIS and these maps should be available for Article 17 reporting.



General Overall Comments

The following also outlines more general aspects of the draft NIS that the Department consider important in terms of the overall draft CAP Plan and are intended to focus on areas where there potential for impact on the ecological integrity of European sites.

AECM Scheme

With regard to the implementation of scoring methods in habitats that support overlapping European sites (i.e. SPA and SAC's). The Department is concerned that scoring matrices and methods for scoring specific Annex habitats in the proposed Plan do not reflect the need to strategically accommodate competing or contrasting requirements for the Qualifying Interests/Special Conservation Interests of overlapping European sites. This issue is typically manifested in overlapping Special Areas of Conservation (SAC) and Special Protection Areas (SPA) sites. The current approach using generic scoring data is likely to lead to adverse impacts to supporting species or habitats for overlapping European sites. It follows that the drafting of as a bespoke plan with custom aims and targets for such land parcels/habitats would be more suitable for managing such habitats and farm areas. It is also recommended that there is strong provision made in the proposed Plan for intensive farm advisor training to build the necessary knowledge and capacity in decision making in this regard. Grassland habitat scoring is an example of where there is a requirement for more nuanced targets and scoring. In the current plan there appears to be no option to accommodate measures for overlapping SPA designations for Geese, breeding waders, Corncrake or Chough on Annex Grassland habitats.

This Department would like to emphasise that all individual farm plans arising from the Draft CAP Strategic Plan will require screening for Appropriate Assessment (AA) and may require full AA should they be found likely to have a significant effect on a European site. This is especially important due to the fact that actions contained in farm plans fall outside the ARC process of Regulation 30 EC (Birds and Natural Habitats) Regulations 2011.

The requirement for AA Screening is crucial for the Farm Sustainability Plans arising from AECM Co-operation project option. The indicative actions in that scheme have the potential to provide great environmental benefits but they need to be carefully planned by ecologically-skilled people as done incorrectly they could engender environmental harm.

Mitigation

The draft plan will have the potential to impact upon the integrity of European Sites and the conservation status of the features of interest supported by these European Sites. Furthermore, the NIS makes it clear that current levels of farming activity and mitigation measures are not sufficient to ensure protection of European sites from air and water borne pollution. Moreover, the NIS explicitly acknowledges that farm practices in their current form are adversely impacting the integrity of European sites and their ability to achieve their



conservation objectives. However, the NIS fails to provide clear unequivocal methods and or measures, based on the best available scientific knowledge, to demonstrate that the proposed plan will not result in an adverse impact on European sites throughout the island of Ireland.

The Department is concerned that the mitigation in the NIS is imprecise, unclear and deficient in its purpose to ensure that the proposed plan will not give rise to significant effects to European sites in the Natura 2000 Network. Furthermore, the mitigation uses prospective and unsubstantiated expectations regarding the establishment of recommended mitigation measures, makes significant broad assumptions that are not supported by the best available scientific data or advise and provides insufficient detail regarding the implementation of mitigation measure that are required to support the NIS conclusion. For instance, the mitigation measure to collaborate with NPWS for monitoring (p. 146 of the NIS) is not strictly a mitigation measure in itself, as monitoring without further consequential action is not mitigation.

The NIS indicates that, heretofore, the implementation of the existing Good Agricultural Practices Regulations has not resulted in reductions in nutrient pollution in waters. Furthermore, the agriculture sector in Ireland is responsible for 99% of ammonia emissions and that pig and poultry production acts as concentrated point sources of atmospheric ammonia (Kelleghan et al., 2020). The Department notes that Kelleghan et al. (2019) found that 80.7% of European Sites site are likely to exceed the critical level of 1 $\mu\text{g}/\text{m}^3$, while 5.9% of European Sites are likely to exceed critical levels of 3 $\mu\text{g}/\text{m}^3$. More broadly, the NIS indicates that the potential for negative ecological effects on European Sites from atmospheric nitrogen deposition is not just from hotspot sources but is also derived from inorganic and organic fertiliser application. Moreover, the concentration of intensive agricultural sites in combination with other farming activities has the potential to impact on the critical level and loads for sensitive species at Natura 2000 sites.

Within this context, the Department is concerned that the NIS discusses the issue of air pollution (e.g. ammonia emissions) and water pollution (e.g. nitrates derogations for farms with hydrological pathways to European sites) arising from current and proposed farm practices but does not present measurable and or quantifiable mitigation that addresses the identified impacts to European sites.

For example, the NIS provides no indication that the recommendations from Kelleghan et al. (2021) regarding management of air borne pollutants will be implemented in the lifetime of the proposed plan and the NIS provides no certainty with regard to mitigation of current polluting practices and or potentially new polluting practices arising throughout the lifetime of the proposed plan.

The Department highlights that such matters should be set out in the NIS to inform the AA and the achievement of targets for the National Emissions Ceiling Directive and other associated directives do not necessarily mitigate the full range of identified risks to European



sites. The sole purpose of the NIS and subsequent AA is to address the impact of the proposed CAP Plan on European sites, specifically, SAC sites that are designated for qualifying interests (e.g. Blanket or raised bog habitat) that are vulnerable to airborne pollution.

Nutrient Management and Capital Investment

In terms of protecting the conservation status of European Sites effective nutrient management planning at the site level is critical for avoiding nutrient losses to waters. The NIS notes that nutrient management plans do not appear to be subject to the land use assessment process provided for under Article 6(3) of Habitats Directive and as such the sensitivity of lands to fertiliser application, pathways to European Sites and their features of interest may not be currently factored in to decision making at the nutrient management planning site level.

Within this context, the Department welcomes the proposed requirement for screening determinations to be provided as part of the DAFM Capital Investment Scheme application process. However, the ecological assessment of developments that support agricultural activities (e.g. bio digesters, farm sheds etc.) do not typically assess the impact of the operational phase on European sites. This is reportedly undertaken at farm level (e.g. spreading of slurry and or digestate). However, the CAP plan contains no provision for joined up thinking with regard to farm level fertilizer, slurry etc. that arise from such developments. The Department recommends that in-combination assessments (farm to farm) and cumulative on farm assessments are mandated for new agricultural infrastructure supported by the proposed CAP plan.

Transboundary Risk

The NIS identifies the capacity for transboundary effects to European sites arising from the proposed plan with regard to pollutants such as pesticides, ammonia, nitrates generated on or near the border between NI (UK) and ROI. However, the NIS does not address cumulative and in-combination risks to European sites (within the ROI) arising from the proposed plan and post Brexit regulatory divergence in the regulation of farm practices such as poultry and pig accommodation. The Department shares the concerns of the EPA and DAERA regarding this matter and recommends that transboundary risks to European sites arising from agricultural activities are more explicitly detailed and or addressed in the proposed plan and associated NIS.

Climate Action Plan

It is noted that the environmental assessment does not assess the impact of the draft Plan on the recently announced targets under the Climate Action Plan 2021. The Plan itself, and the environmental assessment, will be updated shortly in order to reflect these targets and



to ensure coherence. A further update will be provided in this regard¹⁰. The updated NIS must be provided to the Minister for comments.

Support and extension for water quality in ecologically sensitive rivers

A particular issue that has not so far been successfully dealt with is water quality in rivers, and a particularly challenging issue has been the high water quality required in rivers designated for the endangered freshwater pearl mussel¹¹. GAEC 1 (now GAEC 4 in this plan) has not been successful in achieving this on its own, as buffer strips are often bypassed by main drain outlets, cattle accessing or crossing water, and overspreading by poorly set machinery. Measures such as riparian fencing with nose-pump water supply, low-emissions slurry spreading (LESS), fertiliser spreaders with easily adjusted headland settings (to avoid spreading into water), etc., need to be demonstrated more. There are more difficult issues such as the need to target digesters in some specific catchments with peaty or gley soils where winter slurry production exceeds the capacity of available green spread-lands. Also, a major lacuna in extension advice is the preferred procedure for construction silt traps in main drains before they discharge into a stream or river, and the need for a two-step process of constructing the silt-trap and then removing it carefully when the drains have revegetated. Furthermore, in this area, a particularly useful contribution would be full TAMS support for cattle river crossings where the cattle do not have to enter the river.

This does not mean that the NIS conclusion for GAEC 4 is incorrect. But it should be an issue for Pillar 1 eco-schemes. It might be beneficial if a farmer can obtain a doubling up of Pillar 1 measures (e.g. under water quality and biodiversity protection) to target measures which reduce nutrient emissions and/or ensure silt control in pearl mussel catchments. Fencing off stream and river banks eroded by livestock, and planting sally whips to stabilise the banks in the long term, would be very beneficial in many areas.

The recent addition of hedgerow measures to Pillar I eco-schemes, while welcome in itself, should not be at the expense of losing an opportunity to improve downstream water quality while also creating seasonal wet habitats. For instance, silt-traps and associated filter wetland habitats at farm drainage outlets should be considered for Pillar I eco-schemes (including dairy & tillage). This would be more than pollution control, as habitat is also being created, and should be minimally disruptive to operations as it will often be at field corners.

The NIS recognises the issues and impacts referred to above, but the proposed mitigation does address this persistent issue. This Department recommends that water quality/mini-wetland features are included in the set of features to compensate for the lack of effectiveness of GAEC 4, and that this is taken into account in the final appropriate assessment of the plan.

¹⁰ Department of Agriculture, Food and the Marine (2021) Ireland's Summary of the draft CAP Strategic Plan 2023-2027, November 2021

¹¹ See map on p. 12 of <https://www.irishstatutebook.ie/eli/2009/si/296/made/en/pdf>



The Department recommends that the creation of silt-traps and associated filter wetland habitats at farm drainage outlets should be considered as features for Pillar I eco-schemes (including dairy & tillage).

Support for extensive NHV grazing

For biodiversity and habitats, the Department particularly welcomes greater supports for sustainable low-intensity¹² farming in designated and High Nature Value (HNV) areas. For many protected habitats, grazing is critical in maintaining the open sward and conservation value of the habitat (e.g. crough habitat, orchid-rich grassland, machair, turloughs, fixed sand dunes, hen harrier habitat, breeding wader habitat, alkaline fen, salt meadows, etc.). The issue of socio-economic and social viability is particularly challenging, and the ability of the Burren Project and other more recent EIPs to demonstrate how this can be achieved in the medium- to long-term has been immensely positive. The importance of suckler cattle in delivering top quality habitat in these systems must also be emphasised.

Therefore, the Agri-Environment Climate Measure (AECM) is particularly welcome¹³, as is its focus on areas of higher environmental value. While it would have been preferable to see one of the Pillar II sections specifically target support for extensive grazing on HNV land, it is recognised that the change in orientation in this CAP will in itself be daunting for many farmers. Nevertheless, it is important that the AECM and other listed sections allow sufficient funds to target the deteriorating state of our most threatened habitats and species.

It needs to be established that front-loading (CRISS) will not take from farmers with larger acreages under more extensive grazing management, and therefore act as a disincentive. This does not appear to be modelled or calculated in the draft Natura Impact Statement (NIS).

Consideration should be given to greater funding supports for optimum extensive grazing of designated Natura habitats than in the previous CAP programme (mainly suckler & sheep enterprises).

Birds and Habitats Directive Compliance

The Draft CAP Strategy removes cross-compliance as a tool for handling infringements of environmental and nature conservation legislation within farming. It is unclear how such infringements will be dealt with under the new strategy as the draft regulations have not accompanied the documentation. For example the GAEC only bans burning stubble but not the widespread agricultural practice of uncontrolled burning vegetation on heathland or bog. Stubble fields are seldom designated but heathland and bog are often Qualifying Interests of

¹² The following is meant by 'low intensity': agroecosystems that are not reliant on external nutrient, chemical, mechanical (and often high capital) inputs, and which depend on the natural (if lower) productivity of soils and semi-natural vegetation. This does not necessarily mean low LU (e.g. the Curragh biodiverse grasslands in Co. Kildare require a close-cropped sward).

¹³ There is a typo for 'higher' on line 20 of p. 29.



a SAC or vital habitats in a SPA. These habitats take long periods to recover and often vital ecological elements are lost forever in fires. It is crucial then, that the regulations are strong enough to implement compliance with both the Nature Directives.

In addition there is sometimes a conflict between what is considered to be land in good agricultural condition and Annex I habitats in Favourable Conservation Status (FCS). This can be seen in many habitat types for example, heathland in FCS will have a mosaic of heather ages including tall, old heather or areas of Western gorse which have, in the past been deemed ineligible for payment on many farms. There is need for recognition that, especially in ANC, there must be acceptance of habitat features which would be ineligible on, for example, a dairy farm in the Golden Vale. These features should be included in farm plans and may in some cases add up to more than 7%. Any action which prevents the achievement of FCS is likely to be in breach of the EC (Birds and Natural Habitats) Regulation 2011.

Strategic Environmental Assessment

Eligible hectares (BISS)

Numerous areas of farm habitats have been affected by the insistence of previous support schemes that the eligible hectare must be in purely agricultural use (grazing or cropped). It is understood that associated linear habitat (riparian areas, woodland margins, hedgerow scrub, etc.) will now be acceptable up to a maximum area (30%), thus removing this incentive for their removal.

Biodiversity & habitats

The term 'biodiversity' is used throughout the plan. It is sometimes important to emphasise 'habitats' as a separate term from biodiversity. High investment in maintenance of hedgerows, as a biodiversity measure, for instance, should not be at the expense of investment in maintenance of threatened habitats, as the latter are of much greater conservation value. The same applies for the creation of habitat; it often a better outcome to support the maintenance of existing high-value habitat.

In-combination assessment & further screening

It is noted that some elements of the plan (GAEC and SMR measures) may be modified on foot of the Nitrates Action Programme. Note that any significant changes to the plan will need to be screened for appropriate assessment.

Assessment of LEADER projects

It is important that LEADER projects in designated and high-nature value areas are properly assessed for their ecological impact, as local people may not be aware of this requirement,



or the subtle effects of recreational disturbance and the presence of important habitats. Relevant Local Development Strategies should be screened for Appropriate Assessment and specific funding applications reviewed appropriately with potential for ecological impact in mind. Relevant assessment (eg. EclA, screening for AA and, if required, AA)

SEA Monitoring

SEA monitoring should target location specific (EPA monitored) water quality measurements, including designated rivers, rather than average values for the whole country.

SEA monitoring should target grazing-dependent habitat- and species-specific status measurements (NPWS monitored), as part of biodiversity measurements.

You are requested to send any further communications to this Department's Development Applications Unit (DAU) at [REDACTED] or to the following address:

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