



An Roinn Talmhaíochta,  
Bia agus Mara  
Department of Agriculture,  
Food and the Marine

# Woodland Creation on Public Lands

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## 1 Overview of Scheme

- 1.1. The purpose of this Scheme is to encourage Public Bodies to establish new native woodlands on suitable bare land. This aim is consistent with the Programme for Government which sought to “*Embark on an ambitious programme of afforestation on state-owned lands*”
- 1.2. Native woodlands are an important part of Ireland’s natural heritage, history and culture, and are unique in terms of their biodiversity. They are home to specialised woodland animals, birds, insects and plants, including red squirrel, pine marten, great spotted woodpecker, narrow-leaved helleborine and wood millet, to name but a few. They provide numerous ecosystem services, including the protection and enhancement of water quality, wider habitat linkage, landscape enhancement, opportunities for outdoor recreation and interpretation, and carbon capture.
- 1.3. The Scheme aims to conserve nature by developing permanent, non-commercial woodlands on public land that will deliver the following benefits:
  - Recreation of lost native woodland habitats, rich in biodiversity and cultural significance.
  - Reverse the fragmentation of other habitats and the loss of biodiversity corridors within the wider landscape.
  - Carbon sequestration from forests that will exist in perpetuity.
  - Protection and enhancement of water and associated aquatic ecosystems.
  - Provision of attractive woodland amenities, to promote health and well-being and opportunities for outdoor learning amongst local communities.
  - Enhancing air quality in urban and peri-urban areas.
  - Soil protection and the reclamation of former landfill and brownfield sites.
- 1.4. Public Bodies that engage in this new initiative will be making a strong statement to their customers and partners and to the public in general, that they are contributing in a meaningful way to meeting the UN Sustainable Development Goals as well as targets set out under the Climate Action Plan and other national and international environmental priorities.
- 1.5. The Scheme is aimed at all Public Bodies, including:
  - i). Government Departments and State Sponsored Organisations
  - ii). Higher Education Authorities and
  - iii). Local Authorities

## 2 Getting Started

- 2.1. The first step in the process is to identify a potential site or sites within your organisation’s land bank, which if developed into a native woodland, would advance the organisation’s own targets regarding the Sustainable Development Goals, corporate social responsibility, climate targets, etc. The site must also be suitable from a ‘silvicultural’ perspective to grow a new woodland, and also from an environmental perspective, so that negative impacts of other valuable habitats and species are avoided.

- 2.2. Applications under this scheme must be prepared with input by a Registered Forester, who will be familiar with the processes involved and the various silvicultural and environmental requirements that apply, and who will be able to oversee the site preparation, planting and establishment of the woodland. Click [here](#) for the Department's list of Registered Forestry Companies and Registered Foresters. Make sure that the Registered Forester selected has completed the Native Woodland Scheme Training Course, held periodically by the Department in association with Woodlands of Ireland.
- 2.3. In addition to a forester, it is advisable that an ecologist is engaged at an early stage, to review the proposed site, to advise on its suitability (or otherwise) in terms of woodland creation, and to provide the Department with supplementary information it may need to evaluate the application (e.g. habitat survey). Click [here](#) for the Department's Directory of Professional Ecologists, noting that this list is not exhaustive and that other professional ecologists are available.
- 2.4. The Scheme itself will support the planting of sites as small as 0.1 ha. However, from a practical perspective, the larger the area, the more likely it is that the Scheme will cover the majority or all of the costs involved in site preparation, planting and early maintenance. Alternatively, a number of smaller sites can be bundled together and submitted as a single application, in order to achieve the necessary scale. However, sites should be similar in nature from a silvicultural and environmental perspective, as a delay in processing one site (due, for example, to concerns regarding a nearby designated area) may delay the entire package. Your appointed Registered Forester will be able to advise on these issues.
- 2.5. In order to satisfy legal requirements regarding public consultation, all proposed planting sites must have site notices erected and all townland names must be provided to facilitate advertisement by the Department to facilitate third party input.
- 2.6. As part of the site visit by the Registered forester (and ecologist, if engaged), s/he will advise on which of the following five scenarios are most suitable, either for all of the site or for different parts of the site. This assessment will be based on soil, elevation, existing vegetation and other site factors. These scenarios have been developed by the Department in consultation with Woodlands of Ireland, National Parks & Wildlife Service and others, primarily for the Native Woodland Scheme, and are adopted for use under this Scheme for woodland Creation on Public Lands. They represent the main native woodland types to be found in Ireland, linked in each case by the typical soil type.
- Scenario 1: Podzols (*Oak-Birch-Holly Woodland*)
  - Scenario 2: Brown Podzolics (*Oak-Birch-Holly with Hazel Woodland*)
  - Scenario 3: Brown Earths (*Oak-Ash-Hazel Woodland*)
  - Scenario 4: Gleys (*Alder-Oak-Ash Woodland*)
  - Scenario 5: Highly Modified Peat & Peaty Podzols (*Pioneer Birch Woodland*)
- 2.7. By selecting one or more scenarios for the site (with no overlap), the Registered Forester is matching the site to the type(s) of native woodland that would have existed there in the past, and which is to be recreated, through the planting of a 'starter kit' mixture of key native species.

- 2.8. The Forester (working with the Ecologist, if engaged) will also have to draw up a plan for the woodland, incorporating details regarding setbacks (to avoid any negative impact on environmental features such as watercourses, archaeological sites and adjoining dwellings), fencing, site preparation, planting design, vegetation management and the filling in of early tree mortalities. S/he will be working to well-established requirements and standards, such as the 'Environmental Requirements for Afforestation' document. Woodland developed under this scheme will also have to adhere to the requirements under the Native Woodland scheme regarding the use of native planting material and minimal site inputs.
- 2.9. Once the details are finalised and the application form and accompanying maps, are completed, the application is submitted to the Department by the Forester on behalf of the Public Body, seeking 'technical approval'. This initial application is known as the Form 1 application.
- 2.10. On receipt, the Department begins processing the application, which involves public consultation, referral of statutory bodies, silvicultural and environmental evaluation, the latter encompassing requirements concerning Appropriate Assessment and Environmental Impact Assessment. This stage can take 3 – 6 months on average, depending on the type of issues that may arise. During this period, the Department may seek further information, ranging from further technical details or a habitat survey, up to more extensive information necessary arising from the Appropriate Assessment (AA) or Environmental Impact Assessment (EIA) processes. Many issues triggering a further information request revolve around protected habitats and species. Hence, it is always advisable to engage an ecologist at the outset, to identify potential issues that may arise and to provide as much relevant information with the application itself, to facilitate the Department in its evaluation.
- 2.11. Once technical approval is given by the Department (as notified in writing to the applying Public Body and the Registered Forester, and often with specific conditions attached), there is a stay of 28 days before any operations can commence, to allow for any appeals. Thereafter, fencing, site preparation and planting can take place, overseen by the Register Foresters involved in making the original submission.
- 2.12. Once the works are completed, the Registered Forester will apply to the Department for the payment of the grant, using what is known as a 'Form 2'. Supplementary information is also required, such as a 'Form 2 Map' and documentation supplied by the nursery detailing the planting stock used. The site is then inspected by a Department Forestry Inspector and assuming that the works have been completed up to the required standard and that any specific conditions set in the approval letter have been met, the 1<sup>st</sup> instalment of the grant is paid. This 1<sup>st</sup> instalment constitutes 75% of the overall grant amount, and is paid directly to the Public Body (or if requested, by mandate to the Registered Forester).
- 2.13. It is normal practice for the Registered Forester to then manage the establishing trees for the next 4 years, typically focusing on fence repair, vegetation management, and the replacement of trees that have died. Once this time has passed, the Registered Forester will submit a 'Form 3', which is the formal request for payment of the remaining 25% of the grant. At this point, the site may be inspected again by the Department and if all is in order, the 2<sup>nd</sup> instalment is released. However, where issues arise, the Department may seek remedial works, and these works must be completed and verified before the 2<sup>nd</sup> instalment grant can be released.

- 2.14. Formal arrangements may end at this point between the Public Body and the Registered Forester. However, the relationship may continue in connection with the ongoing management of the site. The Department advises that the Public Body retains the services of a Registered Forester on an ongoing basis, to undertake periodic monitoring and to oversee any future works needed (e.g. the control of invasive species), and also to assist in the long-term management of the woodland to ensure the delivery of the various eco-system services it was originally established to deliver.
- 2.15. Some additional detail on the business process is described in Appendix 1.

### 3 Grant Rates

- 3.1. The Scheme consists of the following four grant elements, two for planting and two for recreational facilities:

Element	Funded activity	Grant rate
Element 1	Planting Scenarios 1-3	€6,220 / ha (payable in 2 instalments)
Element 2	Planting Scenarios 4-5	€5,880 / ha (payable in 2 instalments)
Element 3	Trails and Signage	Up to €3,800 / ha
Element 4	Forest Playground	Up to €10,000 per application

- 3.2. Planting Elements 1 and 2

The specifics regarding Elements 1 and 2 are as follows:

- The grant rates under Elements 1 and 2 reflect what is currently available under the Department's Native Woodland Establishment Scheme, under the 'Grant & Premium Categories' (GPCs) 9 and 10, and are designed to cover 100% of costs associated with planting and maintaining the forest to Year 4. Such funding is now being made available to Public Bodies for the first time, under this Woodland Creation on Public Land Scheme.
- Please note, to promote ecological values, the selection of the planting scenario(s) is to be guided by site parameters such as soil, existing vegetation, etc., and not by the level of grant aid available.
- There can be no overlap between any of the five separate planting scenarios.
- It may be the case that certain former landfill sites or 'brownfield' sites may be suitable for woodland establishment. In these cases, a further 'Derelict Site Grant' of up to €500 / ha may be payable to undertake specific operations necessitated by the site's status as a former landfill or brownfield site, subject to the production of relevant invoices for the amounts being sought.

### 3.3. Facility Elements 3 and 4

The specifics regarding Elements 3 and 4 are as follows:

- Elements 3 and 4 are aimed at funding the installation of general facilities that enable access to, and enjoyment of, the woodland by the local and wider community.
- Elements 3 and 4 only become available in projects that include 5 ha or more of planting under Element 1 and / or Element 2.
- Facilities eligible under Element 3 include new walking trails and the installation of signage, including information boards, interpretive aids and way markers. Facilities eligible under Element 4 include playground equipment and fitness training equipment appropriate to a woodland setting.
- In the case of Element 3 (Trails & Signage), the entire area of the woodland is eligible, (i.e. a 6 ha site is eligible for €3,800 x 6), up to a maximum of €45,600 per application.
- In the case of Element 4 (Forest Playground), the grant is capped at €10,000 per application.
- Facilities funded under Element 3 and / or 4 must be located within areas planted under Elements 1 and / or 2.
- The degree to which the site can be developed for recreational use will be determined by its proximity to a user group. Therefore, the installation of recreational facilities into woodlands created under this Scheme is not compulsory.
- Where amenity use is pursued, facilities must allow for reasonable access-for-all, to enable people of different ages and abilities to use and enjoy the woodlands. Organisations such as Enable Ireland ([www.enableireland.ie](http://www.enableireland.ie)) and the UK's Fieldfare Trust ([www.fieldfare.org.uk](http://www.fieldfare.org.uk)) provide relevant information and guidance.
- Any application under either or both elements must be included as part of an application under the Woodland Creation on Public Land Scheme for planting.
- A map showing the proposed location of facilities sought under Element 3 and 4 must be provided at with the scheme application (i.e. Form 1 stage) and with the subsequent request for payment (upon completion of works) (i.e. Form 2 stage).
- All proposed facilities must be described fully at application stage, through the provision of specifications, technical drawings, photos of similar examples from elsewhere, etc.
- In all cases, any facility installed must be suitably located and designed to be durable and in keeping with the woodland context. See the Forest Service's *Forest Recreation in Ireland: A Guide for Forest Owners and Managers* for information on facilities for woodland recreation.
- Any project seeking support under either or both facility elements must also have a clearly identified and significant 'user group' regarding future amenity use. Potential user groups shall be identified at Form 1 stage where this grant

is being used. Where user groups are not present due to the isolation of the site or for other reasons, this element of the Scheme shall not be made available.

- Under Element 3 and Element 4, the grant is paid in its entirety at Form 2 stage, subject to the presentation of vouched eligible expenditure exclusive of VAT.
- Supporting documentation in the form of invoices or documents of equivalent probative value (exclusive of VAT) must be provided for Elements 3 and / or 4. All invoices must clearly state the supplier, date, main operations, quantities and costs incurred. Grant payments for Elements 3 and 4 will be made on the basis of actual costs incurred, up to the maximum grant specified for each Element.
- VAT for related costs is not eligible to be claimed under this scheme.

## **4 Corporate Social Responsibility**

### **4.1 Ecosystem services**

- 4.1.1. Woodlands and forests are multifunctional in terms of the wide range of ‘ecosystem services’ they provide, and there is huge scope for Public Bodies to use their woodland to demonstrate to their customers, partners and the public in general that they are delivering on their corporate social responsibilities and selected Global Sustainability Goals. This can help generate the type of corporate identity they wish to project as Ireland moves towards a low carbon future and addresses other key issues such as the biodiversity crisis or the need to protect our waters. Early in the decision-making process, any Public Body considering applying under the Scheme should consider what their expectations in terms of how a new woodland would advance its commitments to the wider good. It may be the case that a Public Body is happy to simply plant land with native trees and not engage in any promotion regarding their participation in the Scheme. However, where particular commitments exist regarding, e.g. climate, biodiversity, water or public amenities, these should be factored in at the very outset, in terms of the selection of sites and the layout and design of the proposed woodland. However,
- 4.1.2. The type of ecosystem services delivered by native woodlands include the following;
- Local amenity: Woodland can be created under this Scheme to provide attractive local woodland amenities for local communities and visitors. Woodland recreation has been shown to promote physical health and mental well-being, and also provide the ideal outdoor classroom to promote an understanding about natural ecosystems, local heritage and the wider environment.
  - Clean water: The strategic planting of native woodlands can improve water quality and help reduce the risk and severity of flooding. As set out in the DAFM document Woodland for Water, research and practice show that new native woodlands trap sediment and nutrients, stabilise banks, provide food, shading and cooling for aquatic life, aid riparian restoration, and help regulate floodwater. Used in this way, the Scheme can be utilised by Public Bodies to contribute in a meaningful way to the achievement of objectives under the Water Framework Directive.

- Creation of diverse habitats: New native woodlands represent a semi-natural environment that provides a home for a wide range of plants and animals, including woodland specialists, woodland generalists and 'ruderals' (or opportunists). They can be used strategically to augment existing native woodland and to create linkage throughout the landscape between other semi-natural habitats, including rivers, species-rich grasslands and upland heaths, thereby opening up 'bio-corridors' within the countryside and even into our urban areas .
- Carbon capture: Native trees and the wider woodland ecosystem, including soil, sequester carbon from the atmosphere, thereby contributing to enhanced carbon storage within the countryside. This aspect is explored further below.

## 4.2 Carbon Storage

4.2.1. The Woodland Creation on Public Lands Scheme allows Public Bodies to report the carbon captured by the forest against their own carbon footprint, using an estimated figure for carbon captured. There is, however, no verification process underpinning the carbon captured under the Scheme. This Scheme is therefore not a carbon standard in its own right and cannot be regarded as a formal mechanism for carbon offsetting. Where Public Bodies have a carbon offsetting requirement that they wish to address through the Scheme, formal offsetting can only be achieved through a recognised carbon standard accepted under the International Carbon Reduction and Offset Alliance (ICROA)'s Code of Best Practice.

4.2.2. The following table shows the *estimated* carbon captured by forests planted under this Scheme:

Woodland Type Scenarios	Dominant Species	Management	Average CO <sub>2</sub> potential sequestration / ha / yr <sup>*#</sup>
NWS Scenario 1 and 2	Oak	Biodiversity no thin	3.74
NWS Scenario 3 and 4	Oak	Biodiversity no thin	4.94
NWS Scenario 5 <sup>#</sup>	Birch	Biodiversity no thin	2.74

# includes emissions from harvest and organic soils

\* Includes HWP removals and emissions



4.2.3. These amounts can be reported against the footprint but not in the context of formal offsetting.

4.2.4. It is important to note also that these carbon figures represent an estimate of carbon captured over a 100 year rotation. The amount of carbon that can be captured is dependent on a number of variables such as the type of forest management that was applied over that time period, natural events that might have occurred, such as fire, disease and drought. Rules that take these variables into account are included in carbon standards such as the UK's Woodland Carbon Code.

### 4.3 Host a Hive

- 4.3.1. Native woodlands provide a rich source of pollen and nectar for the honeybee, both from the trees themselves and from the wide array of woodland flowers in the ground flora and shrub layer. As native woodlands created and restored under the Woodland Creation on Public Lands Scheme will not be intensively managed, with the primary objective being biodiversity enhancement, there is scope to develop synergy and practical measures to optimise pollination and pollinators.
- 4.3.2. This opportunity could allow for honey produced in the native woodland planted by the Public Body to be consumed and enjoyed by staff.

## 5 Application Procedure

- 5.1. The relevant application forms, as described in this paragraph, are available from the Forest Service, Department of Agriculture, Food and the Marine, Johnstown Castle Estate, Co. Wexford. Lo-call 1890 200 509. Alternatively, you can contact the relevant section by email as follows;

Email Addresses	Queries
forestryappenq@agriculture.gov.ie	Form 1, approvals, application procedures
1stgrant@agriculture.gov.ie	Form 2, 1st Grant
ForestPremiums@agriculture.gov.ie	Form 3, 2nd Grant
felling.forestservice@agriculture.gov.ie	Felling licences

- 5.2. The appropriate application form and all supporting documentation and maps must be submitted to the Forest Service within the timeframes indicated below for each stage.

### 5.1 Form 1 - Application for Pre-planting (Technical) Approval

- 5.1.1. Element 1 and 2 of the Woodland Creation on Public Land Scheme equate to GPC 9 and GPC10 of the Afforestation Scheme (but without premiums attached). Therefore, applications under the Woodland Creation on Public Land Scheme are made using the Application for Pre-planting Approval (Form 1) or via iFORIS iNET<sup>1</sup>. The applicant and a Registered Forester must complete the application form following a site visit and detailed field assessment by the Registered Forester.
- 5.1.2. Technical approval is only valid up to and including the expiry date specified in the letter of approval, if issued.
- 5.1.3. Technical approval confirms only that the proposed forest detailed in the application complies with the silvicultural and environmental requirements of the Scheme and the approval provides permission to plant all or part of the area specified, as long as the planting and all the works undertaken do not lead to a material change in the project for which the pre-planting approval was granted and the areas planted meet scheme requirements. It does not confirm eligibility for a grant under the Scheme, nor does it

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<sup>1</sup> Hard copy forms will be submitted initially until the online system iNET becomes available.

confirm that funding for a grant has been approved. A separate financial approval is required for this purpose. Also, the issuing of a technical approval does not guarantee that a woodland proposed or amended by conditions applied by the Department will establish successfully. Responsibility for the successful establishment of the woodland rests solely with the applicant, and the Department will not accept any liability if the plantation fails to establish. Nor can the Registered Forester and the applicant rely upon inspection by the Department to ensure that the standards required of him or her are achieved. Failure to establish a forest to the required standard may give rise to the recovery by the Department of all grants paid to the applicant. The Department accepts no liability for costs incurred by an applicant at this stage or at all.

5.4 Applications under the facilities-related Element 3 and Element 4 will require the following additional documentation;

- A map showing the pathway and the location of signage must be provided.
- All proposed facilities must be described fully at application stage, through the provision of specifications, technical drawings, photos of similar examples from elsewhere, etc.
- In all cases, any facility installed must be suitably located and designed to be durable and in keeping with the woodland context. See the Forest Service's *Forest Recreation in Ireland: A Guide for Forest Owners and Managers* for information on facilities for woodland recreation.

## **5.2 Form 1a – Application for Financial Approval to Plant**

5.2.1. The Department will notify by circular all Registered Foresters and Forestry Companies when applications for financial approval may be submitted and will also set out the conditions to be met.

5.2.2. Applicants with technical approval may apply for financial approval by completing and submitting a Form 1a. Generally speaking, a Form 1a should be submitted only when planting is imminent, and arrangements have been put in place to commence planting.

5.2.3. Financial approval will be granted if funding is available to the Department for the project. Financial approval confirms that funding for the project is available and has been provisionally reserved for the project that is the subject of the application.

## **5.3 Form 1b - Notice of Substantial Commencement**

5.3.1. A Form 1b (notice of substantial commencement) must be submitted to the Department after the issuing of financial approval. Where, for any reason, the Department requires submission of the Form 1b within a specific period, this will be notified in the circular referred to in Section 7.2.1.

5.3.2. Failure to submit a Form 1b within that period will result in funding for the project being withdrawn. The applicant will also be precluded from reapplying for financial

approval for a specified period from the date of the award of the previously granted financial approval.

#### **5.4 Form 1c –Notice of completion**

5.4.1. A Form 1c must be submitted immediately following plantation formation and not later than the expiry date specified in the technical approval.

#### **5.5 Form 2 - Application for 1st Instalment Grant**

5.5.1. Application for payment of the 1st Instalment Grant must be made using ‘Form 2’. The time limit for receipt of the Form 2 in the Department shall be 12 weeks after the date of completion of the plantation. Where a Form 2 is received after the prescribed period, the applicant must submit a written explanation for its late submission and it will be at the discretion of the Department as to whether or not the application can be accepted. The applicant and his/her Registered Forester must complete the application following a site visit and a detailed field and forest plot assessment by the Registered Forester. The application form sets out the requirements to be met to make a valid application. Where supporting documentation (e.g. ownership proof) could relate to more than one contract, individual copies of the documentation must be submitted with each separate Form 2 claim.

5.5.2. Where a Form 2 application is lodged with the Department within the required 12 weeks time-frame but supporting documentation remains to be submitted, the application will be held open for a maximum of 2 calendar years from the date of completion of the plantation.. As regards the 1st grant, payment may be made on receipt of supporting documentation up to 6 years after the date of completion. After year 6 the grant will also be forfeited and the contract considered terminated if a fully valid claim with all necessary documentation has not been lodged in the Department. Non-payment of a Registered Forester or Forestry Company for works carried out will be a matter for resolution between the applicant and the Registered Forester or Forestry Company, and the Minister shall bear no liability.

#### **5.6 Form 3 - Application for 2nd Instalment Grant**

5.6.1. The 2nd Instalment Grant may be claimed for payment 4 years after the completion date of the plantation. Application for payment of the 2nd Instalment Grant must be made using a ‘Form 3’. The Applicant and a Registered Forester must complete the application following a site visit and a detailed field and forest plot assessment.

### **6 Rules Specific to this Scheme**

6.1. Detailed terms and conditions as they apply to Afforestation Scheme can be found at the following links:

- <https://www.agriculture.gov.ie/media/migration/forestry/grantandpremiumschemes/2015/AfforestationSchemeEd2190315.pdf>
- <https://www.agriculture.gov.ie/media/migration/forestry/grantandpremiumschemes/schemecirculars/2018/NativeWoodlandSchFramework160418.pdf>

These rules also apply to this scheme.

- 6.2. A forest must be greater than 0.1ha in size and tree crown cover of more than 20 per cent of the total area, or the potential to achieve this cover at maturity<sup>2</sup>.
- 6.3. Plots may be grouped into a single Form 1 application where individual plots are small. These plots should be grouped according to their proximity to one another, bearing in mind that small areas may prove uneconomical for contractors. **Where sites are being grouped they must be submitted on a county basis.** Applications submitted on the same date can be counted towards meeting the area threshold.
- 6.4. Premium payments are not available under this Scheme.
- 6.5. Applicants can only apply for Element 3 and / or Element 4 in parallel with an application under Element 1 and / or Element 2, and only for the same area proposed for planting under Element 1 and / or Element 2.
- 6.6. The Department are allowed to use all information related to any project under this Scheme, including carbon and other information included in the Ecosystem Services Report where this option is adopted.
- 6.7. The State maintains its primacy on reporting rights of the carbon captured by native woodlands established under this Scheme as part of its international reporting obligations<sup>3</sup> at all times.
- 6.8. The Department can use the Public Body's name in its promotional literature and other promotional events and also to promote the Afforestation Scheme in general. This may include (inter alia) press releases, brochures, seminars and field days.
- 6.9. Where the Public Body engages in promotion, reporting or events relating to the projects funded under this Scheme, they must refer to DAFM's contribution. Suitable text is as follows; "The creation of this new Native Woodland was funded by the Department of Agriculture, Food and the Marine through the Woodland Creation on Public Land Scheme". Where facilities are also involved under Element 3 and 4, the Department's contribution must also be recognised. Where the Public Body logo appears in relation to the woodland, so should DAFM's in equal size.
- 6.10. Projects involving entrance fees or any other economic activity are excluded from this Scheme.
- 6.11. There can be no barrier to general public access<sup>4</sup> except where barriers are necessary to protect the health and safety of the public. Access may also be restricted for a specified period where it is necessary to protect sensitive areas, or where vandalism or

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<sup>2</sup> Forestry Act 2014

<sup>3</sup> The State's obligations to report greenhouse gas emissions and greenhouse gas removals in the land use, land use change and forestry (LULUCF) sectors are set out under Regulation (EU) No 525/2013, while its accounting obligations are set out in Decision No 529/2013/EU up to 2020 and Regulation (EU) No 2018/841 ("the LULUCF Regulation") for the period 2021-2030. These relate to the EU's international commitments and obligations under the UN Framework Convention on Climate Change (UNFCCC) and the associated Kyoto Protocol and Paris Agreement.

<sup>4</sup> Access refers to access to the forest via manmade trails or forest roads only. There may be some cases where this rule may not apply, for example Department of Defence lands or State own facilities where security may be a priority.

dumping is an issue, or to ensure the proper and safe use of the infrastructure. Where measures have been taken to protect any infrastructure from animal trespass, pedestrian access must be provided by a gate or stile or other means. Public access does not confer any permanent rights to individual members of the public and does not extend to access off the forest road. If it proves necessary to restrict access to any forest infrastructure works undertaken under this Scheme, the beneficiary must notify the Department in writing of the reason for the restriction and must specify the requested duration of the restriction.

- 6.12. Owners of these forests are encouraged to submit a Forest Management Plan with their application in year 12 in the format agreed by the Minister.
- 6.13. Only one Public Body can be associated with the woodland. Therefore, Woodland Environment Fund payments do not apply under this Scheme.
- 6.14. For Public Bodies who wish to engage an NCF to develop the promotional benefits of their woodland, the Department has no role in this arrangement.
- 6.15. The Forestry Act 2014 sets out the legislation governing the felling of trees, the licences required, offences and penalties for breaches of the legislation. Forests require a felling licence before felling can take place and where clearfelling is undertaken a condition of this felling licence is that the site must be replanted. In most cases therefore forestry land will remain a forest in perpetuity. The Department's Felling and Reforestation Policy document provides a consolidated source of information on the legal and regulatory framework relating to tree felling.
- 6.16. All costs taken into account in respect of facilities-related Elements 2 and 3 will exclude VAT.

## **7 State aid**

- 7.1. Funding under this Scheme is considered to be compatible with the single market as DAFM are adding to our society's culture and heritage by recreating the type of woodlands that existed thousands of years ago. These woodlands, which have largely disappeared from today's landscape, will open up a window into the deep past; these publicly funded forests are then available for all to enjoy. With this in mind, Article 107(3)d states that the following may be compatible with the internal market;

*“aid to promote culture and heritage conservation where such aid does not affect trading conditions and competition in the Union to an extent that is contrary to the common interest;”*

- 7.2. Support for non-productive forestry investments enhancing, ecological, cultural, and recreational values of woodlands, in the absence of a primary economic driver, does not constitute State Aid within the meaning of Art. 107(1) TFEU.

There is no commercial/economic aspect to the activities proposed and the public bodies involved are ‘purely carrying out public functions serving general and non-commercial objectives for the benefit of the public in general’<sup>5</sup> as part of this Scheme.

7.3. Furthermore, the woodlands that will be created from this new scheme will be non-economic in nature, organised and managed in a non-commercial manner<sup>6</sup>. They are being established for the conservation of biodiversity, habitats and species and where practicable will be accessible to the public without charge<sup>7</sup>. It follows therefore that income from the sale of rights related to these forests to third parties is not permitted under this Scheme and consequently non timber benefits can only be linked to the owner of the land.

7.4. While these forests are not managed for their timber benefits, revenue from the sale of timber is allowed once harvesting is scheduled in the management plan and is consistent with the objectives of that plan. The occasional selling of timber resulting from tree thinning carried out for preservation purposes is therefore not classed an economic activity, but is deemed to be a purely ancillary economic activity which is allowed under the

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<sup>5</sup> European Commission, Guidance Note on Aspects of simplification of State Aid in the agricultural and forestry sectors – Public financing that is non-aid, Section 2 – 16/04/2018.

<sup>6</sup> Public funding of general infrastructure such as public roads, bridges or canals which are made available for public use without any charge and not for commercial exploitation are also noneconomic. This would extend to leisure facilities such as cycle paths, nature trails, associated signage, equipment and information and rest areas to be used without charge.

<sup>7</sup> See para 33 [https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52016XC0719\(05\)&from=EN](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52016XC0719(05)&from=EN)

## Scheme Appendix 1

