Our Ref: SS00008/2018
(Please quote in all related correspondence)

03 October 2018

Forest Policy
Department of Agriculture, Food and the Marine
Johnstown Castle Estate
Co. Wexford

Via email: Forestryfpmpplan@agriculture.gov.ie

Re: Public consultation on draft Plan for Forests & Freshwater Pearl Mussel in Ireland

A chara

On behalf of the Department of Culture, Heritage and the Gaeltacht, I refer to correspondence received in connection with the above.

Outlined below are heritage-related observations/recommendations of the Department under the stated heading(s).

Nature Conservation

The Draft Plan

The Draft Plan for Forests and Freshwater Pearl Mussel has been developed by the Forest Service in response to commitments contained in A Strategy for the Conservation of the Freshwater Pearl Mussel in Ireland published in 2011.

This submission is made by the Department of Culture, Heritage and the Gaeltacht in its statutory role in relation to nature conservation, as an environmental authority in relation to Strategic Environmental Assessment (SEA) and pursuant to the Minister’s role as set out in Regulation 42 of the European Communities (Birds and Habitats) Regulations 2011 (as amended) in relation to appropriate assessment of plans and projects. The observations are not exhaustive, and are made without prejudice to any recommendation that may be made by this Department in the future.

This Department recognises the difficult legacy issues faced by the Forest Service in regard to the large area of plantation in highly sensitive catchments.

The Forest Service should be cognisant of the general duties of a ‘public authority’ under Regulation 27 of the European Communities (Birds and Natural Habitats) Regulations,
2011. All public authorities are obliged to exercise their functions, including consent functions, in compliance with, or so as to secure compliance with, the requirements of the Habitats and Birds Directives and the Regulations. The deterioration of natural habitats and the habitats of species, and the disturbance of species in a European site, which would be significant in relation to the conservation objectives of the Habitats Directive, must be avoided.

This Department provided detailed observations dated 5 February 2016 in response to an SEA scoping and appropriate assessment screening request as part of the development of the Draft Plan. Many of the issues raised in this submission were previously highlighted in our response to SEA scoping in February 2016. The Department's observations at that time addressed the scope and objectives of the Plan and highlighted the need for tailored programmes of catchment and forest-specific measures and strategies for each of the eight priority catchments. The Department also offered to meet the Forest Service in order to help progress the development of the Plan. Unfortunately, neither the Forest Service nor its consultants have subsequently engaged with this Department in relation to the development of the Draft Plan and its associated environmental assessments and many of the comments that follow may arise as a result of this.

Please note that the European Union Environmental Objectives (Freshwater Pearl Mussel) (Amendment) Regulations 2018 (S.I. 355 of 2018) have de-listed the main channel of the Munster Blackwater, reducing the number of relevant Freshwater Pearl Mussel populations to 26. This should be reflected in any subsequent amendments to the Draft Plan.

The Draft Plan for Forests & Freshwater Pearl Mussel in Ireland essentially presents a system for regulating forestry on an individual, operation-by-operation basis in the affected catchments – the ‘Forests and Freshwater Pearl Mussel Management Framework’. The Department is of the view that this narrow scope does not fulfil the requirements of A Strategy for Conservation of the Freshwater Pearl Mussel in Ireland (2011) and also does not reflect commitments made as part of subsequent communications with the European Commission under the EUPILOT 5014/13/ENV1 infringement case. These included commitments pursuant to the 2011 Strategy to produce eight catchment-specific, strategic plans, one for each of the prioritised freshwater pearl mussel populations. These Forestry Catchment Management Plans would be a long term strategic plan for all forests in the catchment, including strategies for afforestation, felling and re-planting, and an associated monitoring programme. The 2011 Strategy requires that each strategic plan be underpinned by detailed scientific analyses of the catchment characteristics, leading to catchment and forest-specific risk assessments for each catchment. This information would then to be used to inform tailored programmes of catchment and forest-specific measures and strategies for each catchment.

As you are aware the European Communities Environmental Objectives (Freshwater Pearl Mussel) Regulations, 2009 (S.I. 296 of 2009) introduced ecological objectives for 27
populations (now 26 populations per S.I. 355 of 2018) listed as qualifying interests of SACs.

The 2009 Regulations required the development of Water Framework Directive Sub-basin Management Plans (SBMPs), with an additional set of programmes of measures to reduce the pressures responsible for the Freshwater Pearl Mussels’ unfavourable conservation status. The 2010 Sub-basin Management Plans identified existing clearfell conifer plantations as significant pressures across the 27 catchments studied, but particularly in the eight prioritised catchments. As a result, the purpose of the eight catchment-specific, strategic forest plans was, first and foremost, to convert existing forests into land-use(s) that could support the restoration of the eight freshwater pearl mussel populations, while minimising the inevitable impacts that would arise from the conversion process. Secondly, the plans were to present a medium to long-term forestry ‘vision’ for each of the eight catchments, identifying locations where woodland might assist in the restoration of the Freshwater Pearl Mussel populations.

The Draft Plan presents forestry as a potential measure to restore/maintain the status of the Freshwater Pearl Mussel, water quality and biodiversity generally across the catchments involved, without supporting scientific analyses, and does not properly address the urgent requirement to deal with the ‘legacy’ of existing conifer plantations.

The Draft Plan refers to “Woodlands for Water: Creating New Native Woodlands to Protect and Enhance Ireland’s Waters” (DAFM, 2018). Section 4 of the Woodlands for Water document summarises a variety of scientific papers, but some of these directly contradict each other. There appears to be no summary analyses of these papers, nor of whether the findings were appropriate to climatic, geological, soil or other factors in freshwater pearl mussel catchments or to freshwater pearl mussel requirements. Neither does the Draft Plan address how the model would follow particular recommended approaches or deal with issues raised in the papers.

In the eight priority populations, much of the most densely occupied habitat is in open areas with fringing wetland habitats and with very limited tree/shrub cover. In general, planting would be considered negative in these areas (risks including hydrological changes, loss of food material, reduced feeding) other than, perhaps, some limited/patchy bankside planting to stabilise river banks.

Despite reference to the ‘source-pathway-receptor’ model there is no evidence to suggest that the Draft Plan is underpinned by the necessary scientific analysis to make it possible to apply this model in any meaningful way. Specifically:

1. No scientific analyses of the pressures and impacts arising from existing forests in the catchments or the on-going and likely future operations therein (the ‘source’) are presented
2. No scientific analyses of the specific ‘pathways’ between the existing forests and the habitat of the freshwater pearl mussel, or other receptors (e.g. Annex I lake or peatland habitats) are presented.

3. While site-specific conservation objectives were reproduced in an appendix, there is no further consideration of the conservation objectives, their specific attributes and targets, either for the freshwater pearl mussel or other qualifying interests\(^1\) in the catchments (the ‘receptors’).

As these analyses appear not to have been conducted, no tailored measures to deal with the on-going and likely future pressures and impacts arising from existing forests in these catchments have been developed.

The Department has concerns in relation to the Forests and Freshwater Pearl Mussel Management Framework. The application of the Framework will involve an assessment of risk related to individual sites leading to decisions being made in relation to proposed forestry development (if any). The Department is very concerned that there is no evidence to show that the necessary ecological and hydrological expertise will be routinely available as part of this process and that therefore the risk assessment methodology will not properly assess hydrological and ecological risks. The risk assessment also does not reference or require full consideration of matters related to appropriate assessment yet the Registered Forester is required to make a declaration on the Site Risk and Operations Form (Appendix B) that the proposal “will prevent the possibility of a significant effect on Freshwater Pearl Mussel within the associated Special Area of Conservation”. The Department is of the view that completion of this form and the assessment therein does not provide the basis for any conclusions to be reached in relation to project-level appropriate assessment as required by law.

The Draft Plan promotes an untested ‘model for woodlands and forests in Freshwater Pearl Mussel catchments’, which comprises zones of “water setback”, “continuous cover forestry” and “commercial forest” or other land use. This is put forward as a central element of the Draft Plan without, for example, conducting a simple GIS-based exercise to demonstrate the feasibility of the approach, based on drainage-density, climate, soils, habitats and land uses in the eight priority catchments. Research and trials in freshwater pearl mussel catchments and other comparable Irish catchments, including through the KerryLIFE, Donegal INTERREG, FORMMAR and Hydrofor projects, have demonstrated that clearfell conifer forestry, particularly on peat and peaty soil, is a significant source of organic matter, nutrients, fine sediment and hydrological change. These projects have also demonstrated through detailed site-survey and practical trials, that the range of measures available for existing conifer plantations and the potential for new woodland is highly restricted in the eight priority (and other peat-dominated) catchments owing to the risks to freshwater pearl mussels, as well as other nature conservation and environmental constraints.

\(^1\) the catchments of the eight priority populations include SACs selected for grassland, peatland and heath habitats including Blanket bogs, Transition mires and quaking bogs, Northern Atlantic wet heaths with *Erica tetralix*, European dry heaths, Alpine and Boreal heaths, *Molinia* meadows on calcareous, peaty or clayey-silt-laden soils (*Mollinion caeruleae*).
The Draft Plan goes on to present options for forestry in Freshwater Pearl Mussel catchments including many options (e.g. commercial conifer forestry) which, based on evidence from KerryLife and similar projects referred to above, are in this Department’s view likely to be unsuitable in large parts of these catchments.

In this Department’s view the lack of the scientific analyses needed to assess pressures and impacts (including cumulative impacts), and therefore the lack of tailored and catchment-specific measures to deal with on-going and likely future pressures and impacts, means that it is not possible to demonstrate how the Draft Plan will contribute to the restoration to favourable conservation status of the eight priority and 18 other SAC freshwater pearl mussel populations covered by the European Union Environmental Objectives (Freshwater Pearl Mussel) (Amendment) Regulations 2018 (S.I. 355 of 2018).

**Appropriate Assessment**

The Department notes that a Natura Impact Statement (NIS) has been prepared as part of the appropriate assessment process required under Regulation 42 of the European Communities (Birds and Habitats) Regulations 2011 (as amended).

The following observations are offered to assist the Forest Service in undertaking an appropriate assessment of the Draft Plan. Particular emphasis is placed on the adequacy of data, information and analyses available in the NIS, and on the implications of the Draft Plan for the conservation objectives and integrity of the European sites affected. An appropriate assessment must contain complete, precise and definitive findings and conclusions with regard to the implications of a plan for the conservation objectives and integrity of a European site(s).

While the NIS presents an assessment of impacts on European sites arising from the Draft Plan, there are no scientific analyses of potential impacts arising from ongoing and likely future forestry operations in relation to conservation objectives either for the Freshwater Pearl Mussel or other qualifying interests of the relevant SACs. In this Department’s view the NIS does not therefore properly assess the potential impacts of the Draft Plan in relation to the qualifying interests in the affected SACs, including potential impacts to the 26 Freshwater Pearl Mussel populations involved. This Department is of the view, therefore, that a conclusion that the Draft Plan will not adversely affect the integrity of a European site(s) is not warranted.

**Strategic Environmental Assessment**

The Department notes that an Environmental Report has been prepared as part of the ongoing SEA process. This presents much useful baseline environmental information to inform the SEA process. As noted above, the Draft Plan presents a system for regulating forestry on an individual, operation-by-operation basis in the affected catchments – the ‘Forests and Freshwater Pearl Mussel Management Framework’. It also promotes an untested ‘model for woodlands and forests in Freshwater Pearl Mussel catchments’.
noted in Section 9.3 of the Environmental Report, the Draft Plan itself is seen as ‘a mitigation measure for forestry and forestry activities’ in the affected catchments and therefore of environmental benefit. This view may have led to a situation where the risks to the environment associated with the Draft Plan have not been fully recognised.

In this Department’s view the assessment of measures presented in Section 8.2 of the Environmental Report is not supported by the evidence which is needed to assess the potential environmental impacts of the Draft Plan. Rather than being supported by an evidence-base, there is an assumption that the central elements of the Draft Plan – the ‘Forests and Freshwater Pearl Mussel Management Framework’, together with the untested ‘model for woodlands and forests in Freshwater Pearl Mussel catchments’ will avoid or mitigate potential environmental impacts. Without the necessary evidence-base the conclusion that impacts to biodiversity, flora, and fauna will be positive is, in the Department’s view, unwarranted.

The Department is available to meet the Forest Service to discuss the Draft Plan and the issues raised here.

You are requested to send further communications to this Department’s Development Applications Unit (DAU) at manager.dau@chg.gov.ie (team monitored); if this is not possible, correspondence may alternatively be sent to:

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Is mise, le meas

Joanne Lyons
Development Applications Unit