

22nd August 2020

Draft Agricultural Appeals (Amendment) Bill 2020

SUBMISSION TO PUBLIC CONSULTATION

SUBMISSION MADE TO: FORESTRYBILL2020@AGRICULTURE.GOV.IE

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1. Managed Forestry in Ireland

Managed forestry is a fast growing, green industry which provides rural jobs, contributes to climate action, facilitates tourism and recreation and produces technologically advanced timber and biofuel products. The industry, which is managed to the highest European standards, makes a €2.3 billion contribution to the Irish economy and supports 12,000 jobs. Larke & Davis Ltd is proud to be delivering and growing quality jobs, especially in our rural communities. By 2035, it is expected that the sector will double in size. We provide numerous jobs making a significant contribution to both direct and indirect employment and the local economy for over 22 years.

Forestry has the potential to significantly contribute to Ireland's obligations to mitigate climate change and provides valuable habitats for biodiversity and nature, along with important ecosystem services such as water quality and flood protection. Forestry can also meaningfully improve farm income and farm value.

The formation of a new government, together with an important and ambitious Programme for Government, *Our Shared Future*, paves the way for policy formation, legislation and change. We will always seek to engage positively with Government into the future and we note in particular that forestry can play an important role across so many of the objectives laid out in the Programme for Government.

This is a shovel ready sector, with real potential to grow sustainable local and green jobs.

*Job numbers by county: Waterford: 470 jobs; Carlow: 110 jobs; Kilkenny: 355 jobs; Tipperary: 740 jobs; Wicklow: 760 jobs; Cork: 1,395 jobs; Galway: 950 jobs; Laois: 420 jobs; Leitrim: 565 jobs; Sligo: 445 jobs; Longford: 245; Kerry: 815 jobs

2. Current crisis

At present, the forestry industry is at crisis point. The huge investment made by Mills and contractors alike leave our businesses open to failure under the current guidelines.

Since the introduction of new forestry licensing procedures in 2019, the processing and issuing of forestry licences have been seriously impacted. The current system is not fit for purpose and the ability to operate and plan is being impeded by administrative inadequacies and procedural barriers, which exist nowhere else in Europe.

There has been widespread disruption across the forestry sector. Currently, felling license approvals are only at 20% of the required rate; consequently, the industry is being starved of the necessary timber supplies. The potential impact is severe, both financially and with respect to jobs as sawmills will run out of timber within months unless the current impasse is resolved. The severity of the situation is underscored even further when the impact of Covid-19 is considered as unemployment soars nationally and the numbers on the Live Register remain high here in Co.Mayo.

Another central part of the licensing process, the Forestry Appeals Committee (FAC) has caused significant difficulties. At present, there are approximately over 400 outstanding projects appealed but not yet processed – these appeals impact planting, felling and road building. Since the start of the year, the FAC has only processed an average of circa 25 projects per month. At the present rate at which appeals are being processed, it will take 16 months to clear the backlog. However, the rate of new appeals continues to grow and is actually far greater than the rate at which they are being processed - leading to an ever increasing backlog. In one day in early August, objectors stalled production of 100,000 cubic metres of timber - enough timber to build 5,000 homes. It is also worth noting that the vast majority of appeals are lodged by a small handful of individuals and target forest policy generally rather than any specific project.

We believe that these issues can be addressed, and solutions identified but action must be taken now before more jobs are lost rather than created and the true potential of the industry is undermined.

3. Comments regarding the draft legislation

Larke & Davis welcomes the draft legislation and encourages its implementation with additional elements. Outlined below is the views of Larke & Davis with respect to specific parts of the draft legislation alongside some additional recommendations.

- **Head 3:**
 - **Annual Report:** The proposal regarding the introduction of a yearly report is welcome. A key focus of the report should be on how the FAC performs with respect to the timely delivery of decisions on appeals. Sufficient resources should be put in place to ensure that FAC decisions are delivered within 60 days of appeals being lodged.

- **Head 4:**
 - **Chairperson:** The introduction of a Deputy Chairperson is welcome; this would negate current difficulties where the Chairperson must be a participant in every appeal.
 - **FAC Divisions:** I welcome the proposal to allow the FAC to meet in divisions and recommend that a division of the FAC should be able to operate without one of the Chairpersons and be comprised of FAC board members only.
 - **Quorum:** A quorum for a committee should be 2 rather than 3, as this is appropriate to the level of complexity of forestry projects and it will allow the statutory timeframe of 2 months to be met.
 - **Criteria for FAC Membership:** The FAC will be able to fully utilise the resources at its disposal by the removal of the requirement for a member of the FAC to be of a specified grade – this is a welcome proposal.
 - **Resources:** The FAC must be adequately resourced and have the appropriate manpower to clear the backlog and reach a point where all appeals are decided upon within 60 days of an appeal being lodged.
 - **Timeframe for Appeals:** As noted above, a decision on all appeals should be issued within 60 days of an appeal being lodged – a statutory timeframe should be put in place for dealing with appeals; an approach already adopted for some housing developments. This additional amendment is of fundamental importance to improving the effectiveness of the forestry appeals legislation.

- **Head 5**

- **Payment of fees:** The proposal regarding an introduction of a fee for appeals is welcome and a key step to ensure the FAC is adequately resourced and brings the process in line with other planning requirements.
- **Oral Hearings:** Larke & Davis supports the proposal regarding the power of the Chairperson(s) to determine whether an oral hearing is required to determine an appeal. The holding of oral hearings has created long and unnecessary delays.
- **Ministerial Powers:** The proposal for the relevant Minister to retain the stated powers to issue Directives and formulate regulations for the FAC is welcome.

- **Additional Measures to those contained in the draft legislation:**

- **National forestry policy:** Terms of reference for the FAC should make note of the obligation of the licensing system and the process for appeals to support national forestry policy. The importance of the forestry sector, the employment it supports throughout Ireland and its €2.3 billion contribution to the national economy have been recognised by successive governments.
- **Appeals without sufficient ground:** The Chairperson of the FAC should be given powers to reject appeals which are without sufficient ground or merit.
- **Site specific appeals:** Valid grounds for appeal should be further developed to ensure all appeals are related to a specific site and are not used as a mechanism to object to national forest policy.
- **Appeals determination and precedence:** The Chairperson of the FAC should establish a firm precedent from existing decisions; this would avoid a situation of hearing repeated appeals that are generic and raise no new issues. If an appeal is upheld or rejected, the FAC should be able to examine its backlog of existing appeals (and new appeals) and summarily issue the same decision on appeals of exactly the same type and same pertinent factors.
- **Lodging of appeals:** The Minister should establish more rigorous requirements with regard to an application to appeal; that is to say that an appeal should have grounds that relate to an individual licence rather than a group of licences. Evidence for specific appeals should be provided when lodging the appeal and the appellant should be required to state their specific interest in the licence that they are appealing.

4. Conclusion

It is incredible to think that in a country that grows trees faster than any other in Europe we are one of the most underplanted with slightly over 10% when the European average is 34% and when it should be of the utmost importance to put a very aggressive planting programme in place we seem intent on doing the opposite, when a sustainable harvesting programme should be underway as per good silvicultural practices we are hogtied by bad guidelines and watch a generation of trees either rot into the ground or not reach their full potential due to not being able to thin in time, all this is not even taking into account the job losses and huge economic effect even though it is one of the only industries that is not overly affected by the Covid 19 pandemic I would implore the powers that be to put a system in place that allows the planting and harvesting of timber in the forests of Ireland to continue unhindered by serial objectors who seem hellbent on creating nothing only mayhem.

With over 35 years in forestry it never ceases to amaze me how underutilised our country is from a forestry perspective and how we should be the envy of every other country. Act now before its too late.

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