

# Review of Approval Processes for Afforestation in Ireland

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## REVIEW OF APPROVAL PROCESSES FOR AFFORESTATION IN IRELAND

### Introduction

1. The aims of the Review, commissioned by the Department of Agriculture, Food and the Marine (the Department) in August 2019 are: -
  - To examine the process for approving afforestation proposals and the linked issues for other forestry related operations i.e. forest road works and tree felling.
  - To make recommendations which will address any issues identified and which will improve the process

The Review is required to take account of analysis in 2016 on the procedures for woodland planting and grants in Scotland, highlighting the similarities and differences between the 2 countries.

2. The Review has been informed by a range of data on licensing applications and appeals, discussions with the Department of Agriculture, Food and the Marine and other State bodies, including Teagasc, the Forestry Appeals Committee, the forestry sector, the Environment Pillar and farming organisations. A number of constructive written submissions were received, including one from the Environment Pillar which also set out concerns over the Terms of Reference of the Review. Many of the issues raised ranged well beyond what is, given the tight timescale for submitting the report, a narrowly focused Review. In addition, site visits were undertaken, accompanied by an Inspector, to see existing, planned and potential woodland in Wicklow, Galway and Connemara.

### Policy Context

3. The key policy drivers are, firstly, the contribution of forestry to the challenges of climate change. The Climate Action Plan (June 2019) acknowledges "the expansion of forestry planting....to ensure that carbon abatement from land-use is delivered over the period from 2021 to 2030 and in the years beyond." While there is some debate around the respective contributions of conifers and broadleaves to carbon sequestration, increasing the area of new woodland is one of the key actions in the Irish Government's strategy on climate change as the Taoiseach highlighted in his speech at the United Nations conference in September 2019.
4. Secondly the substantial contribution forestry makes to the economy, creating around 12,000 jobs, many in rural areas. The timber processing industry is dependent on the supply of quality softwood timber from coniferous forests. Over 80% of wood based panel production is exported to the United Kingdom. The possible implications of Brexit for the sector are therefore making very significant demands on the Department's resources.

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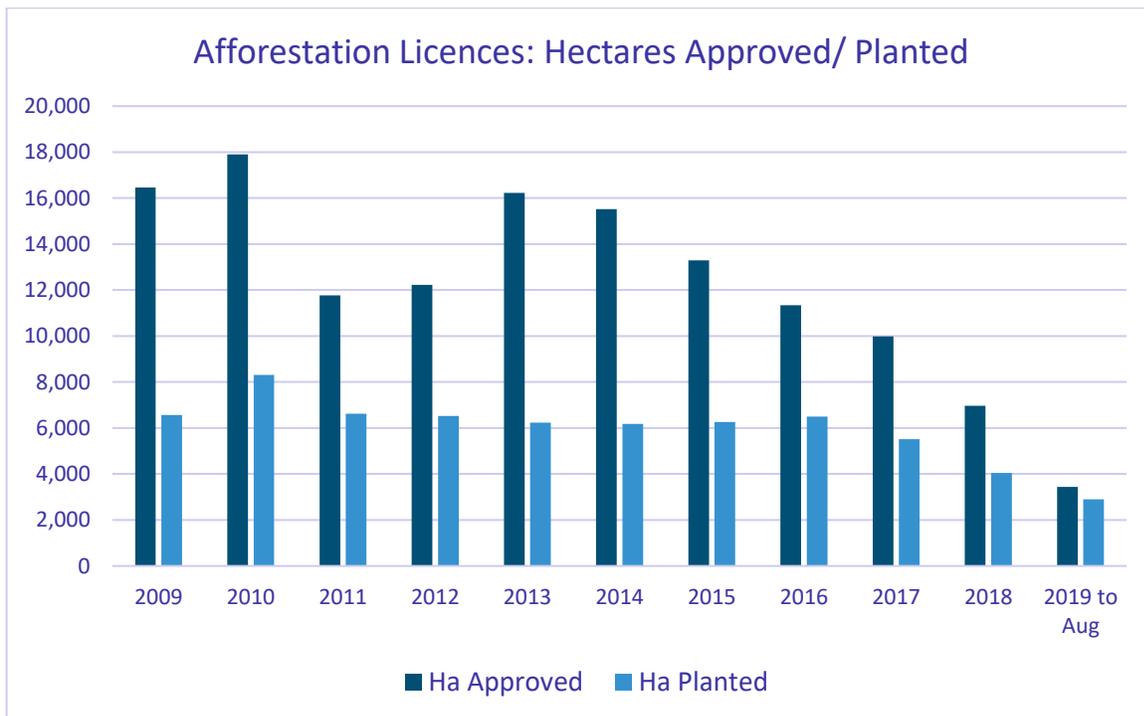
## Approval Processes for Afforestation in Ireland

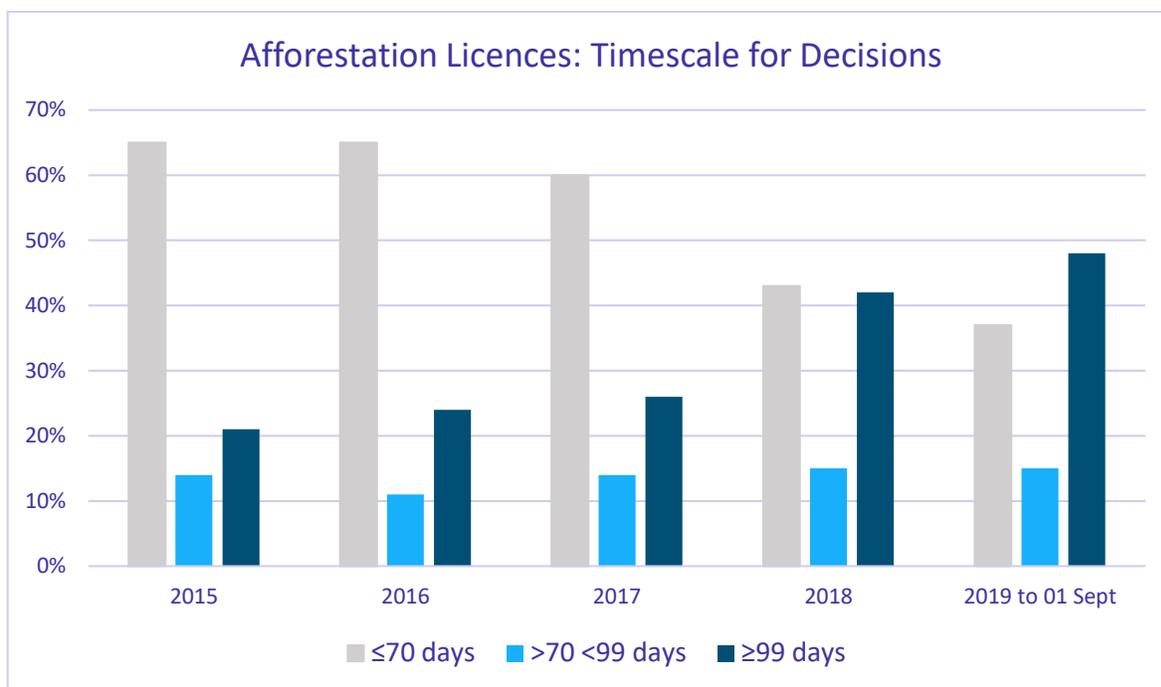
5. The approval procedures for forestry planting, felling and road construction are underpinned by the iFORIS system. This is linked to an excellent GIS system which identifies, inter alia, natural and built heritage sites on or in the vicinity of application sites. Registered Foresters (RF) have access to iFORIS but on a more limited basis (iNET). For example, they can monitor progress on applications but have no access to any comments received.
6. In summary the process for applying for an afforestation license and grant is:
  - Landowner decides to plant and engages RF to submit application for new woodland creation.
  - RF submits application (no fee involved) online through iFORIS iNET with the woodland designed to conform to the Forestry Standards Manual (2015) and take account of land type, potential impacts on natural and built heritage, landscape, fisheries, etc.
  - iFORIS iNET includes an online mapping tool which allows the RF to digitise the site boundaries of the application.
  - The application is a series of tick boxes, with scope for comments, along with a map identifying the location of the site and a map/photograph identifying the location of the site notice which has to be in place for 5 weeks from the date of the application.
  - Admin Team in Wexford check the application, advertise its receipt on the Department's web site, then forward to Inspectors based around Ireland and, at the same time, initiate the consultation process with the Prescribed Bodies (PB) based on information provided by the RF and spatial checking.
  - Written Submissions may be made for 30 days from the date of advertising on the Department's website and are made available for the Inspectorate's consideration.
  - An exception is where the views of Archaeology Section of the Inspectorate are sought who in turn notify/consult the National Monument Service (NMS), Department of Culture, Heritage and the Gaeltacht (DCHG) with comments on the application.
  - Inspector checks all applications to establish whether the relevant material has been submitted and, undertakes in accordance with the Habitats Directive, an Appropriate Assessment screening to establish the possibility of the project having a potentially significant effect on a Natura Site, the collective name for Special Areas of Conservation (SAC) and Special Protection Areas (SPA); or Natural Heritage Areas (NHA) or proposed NHA.
  - If there are deficiencies or inaccuracies in the application, the Inspector informs the Admin team who will request further information from the applicant.
  - The Inspector may request that the Admin Team recommence the consultation process on receipt of the additional information.
  - Where a Natura Impact Statement (NIS) is requested because of the potentially significant effects on a Natura Site, the Inspector will liaise with the Department's ecologist to specify the NIS requirements.

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- The NIS must be carried out before the application can progress.
  - PBs have a timescale for comments, internal consultees do not.
  - A PB may raise further issues that require further information from the RF and this request is considered by the Inspector.
  - Where the Inspector agrees additional information is required, the Admin Team will contact the applicant/RF. On receipt of the information by the Admin Team, it is passed to the Inspector. If the RF has omitted information or amendments are made to the application this may result in consultation with another PB.
  - Inspector assesses the application based on its silvicultural potential, environmental suitability, field inspections which are based on a risk assessment and iFORIS business rules together with any submissions and makes a recommendation on the application.
  - Applications can be approved (generally with conditions) or refused.
  - Decision is then placed on the Department's web site with a 28 day period to allow for an appeal (by applicant or a 3rd party).
  - If no appeal, decision stands and application proceeds to financial approval and, on completion of planting, the grant is awarded and the RF is paid.
  - If an appeal is received the application proceeds to the Forestry Appeals Committee (FAC).
7. Applications for felling licenses are submitted manually but then processed through iFORIS and follow a similar process to afforestation licenses. A site notice is put in place before works get underway. It is often the case that the application for felling will include intermediate thinning. There is an obligation to replant any clear felled area.
8. Where an application involves a new/upgraded entrance onto a public road, consent is required from the Department and the relevant local authority. It has been agreed that a single consent administered by the Department will be introduced; legislation is being drafted to achieve this which should streamline the process. Whereas applications for afforestation and road construction consents require to be made by a RF, this restriction does not apply to felling license applications.

## Afforestation and Felling Applications: Some Facts

9. In 2009 just over 2,000 afforestation applications were received for nearly 16,500 hectares of woodland creation. This pattern was broadly maintained until 2017 when 1,400 applications were submitted for over 11,000 hectares; in 2018 this had fallen to just over 1,000 for 8,600 hectares; and, to end October 2019, 838 applications were submitted for just over 6,500 hectares. The average size of application over the last 10 years has been consistent at around 8 hectares.
10. In 2009 over 1,500 applications were approved covering almost 16,500 hectares. This declined to just over 1,200 applications (almost 10,000 hectares) in 2017, reducing to 850 applications (6,900 hectares) in 2018 with just over 540 applications (3,980 hectares) approved in the first 10 months of 2019. In 2016 and 2017 under 3% of applications were refused, over 4% in 2018 but, to date in 2019, the refusal rate has risen to just under 8%.
11. The last few years have seen a rise in the number of submissions on afforestation licensing applications. An application can attract several submissions. In 2017 there were 288 submissions on 143 individual applications; in 2018 the figures were 825 submissions on 296 applications; and, in 2019 to end October, 784 submissions were made on 377 applications. Whereas in 2017, submissions were made on 10% of applications, the figure rose to over 50% of applications in 2018, declining to 43% in the first 8 months of 2019. One individual made 72 submissions on afforestation licenses in 2018; the figure rose to 403 at the end of September 2019. If submissions on roads and felling applications are included the figure rises to over 1,000. While less than 10% of applications in Meath and Tipperary attracted submissions, the figure was over 40% in Wexford, Leitrim, Cork, Clare and Carlow.

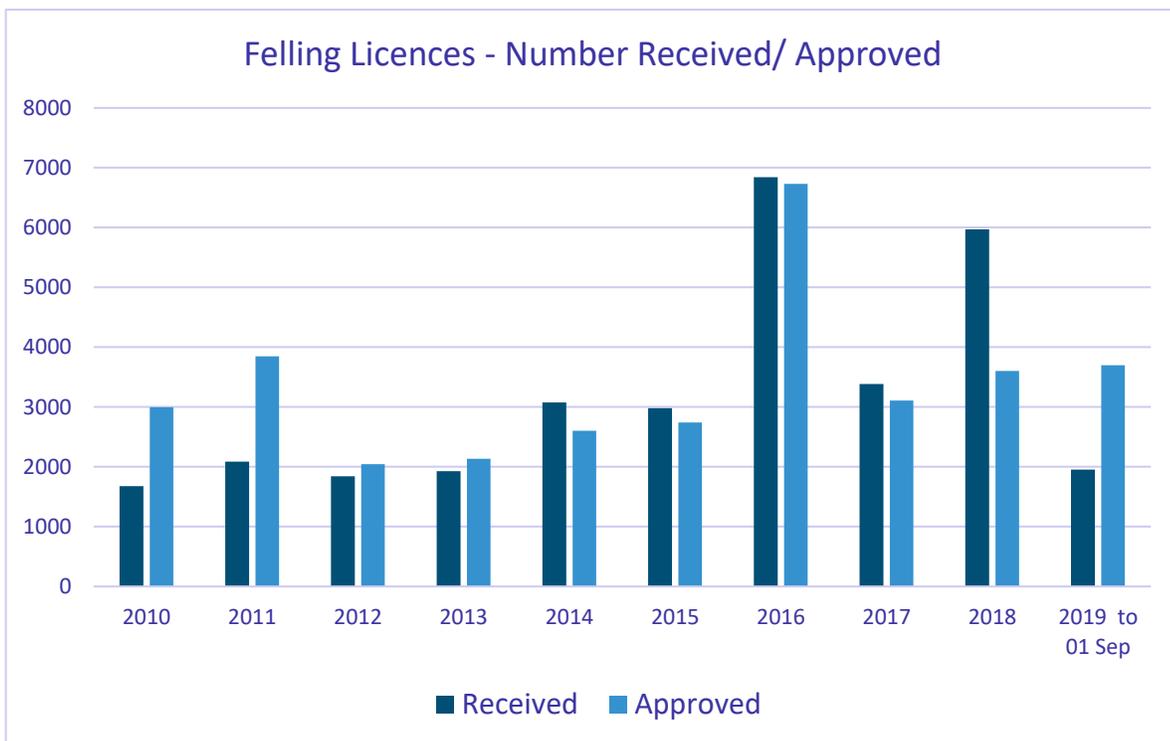




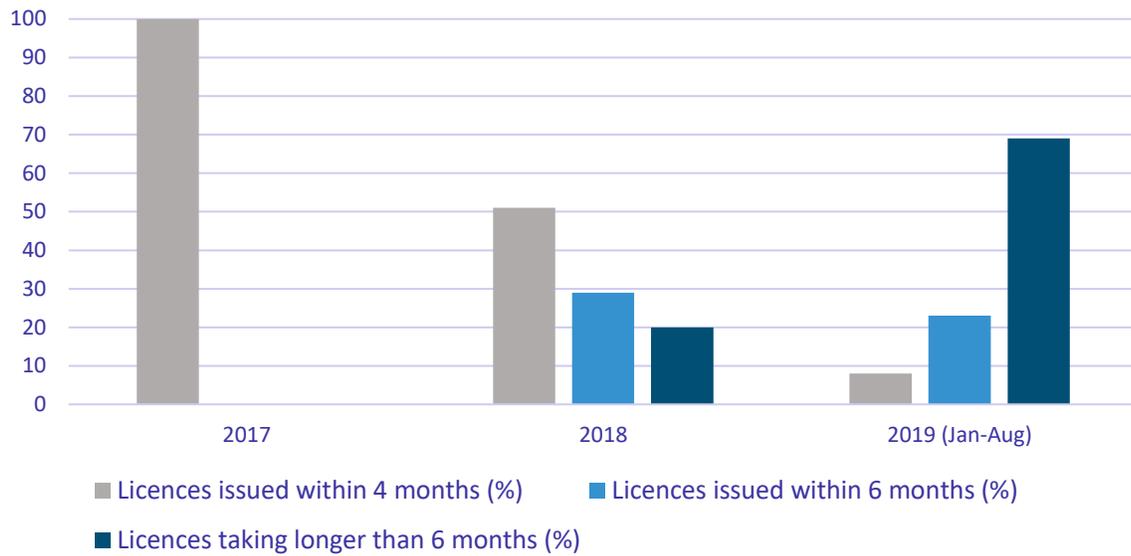
12. In 2015, 65% of applications were decided in 70 days or less, with 21% in the system for over 99 days. The percentage decided in less than 70 days has fallen consistently with less than 40% decided within this period in 2019. In 2019 almost half the applications took over 99 days to decide. The figure does not include applications still under consideration so the proportion taking over 99 days to decide is expected to increase.
13. In 2009 780 applications resulted in over 6,500 hectares being planted. The area planted rose to over 8,300 hectares in 2010. Between 2010 and 2016 over 6,000 hectares were planted annually. This fell to just over 5,500 hectares in 2017, with a further drop to just over 4,000 hectares in 2018; to the end of October 2019, the figure stands at 3,250 hectares. The conversion rate from applications received to planting completed averaged 37% over the past 10 years. Since 2015 the conversion rates have risen from 49% to 64% in 2019. The average area where planting has been completed fell from 8.4 hectares to under 7.0 hectares. There has been a steady increase in the percentage of broadleaved species planted rising from 20% in 2015 to 27% in 2018.
14. From 2010 to 2018, the number of felling license applications submitted showed a sustained increase from under 1,700 in 2010 to almost 6,000 in 2018. However just over 1800 applications were submitted in the first 7 months of 2019. The number of licenses issued has remained around 2,000/2,500 between 2010 and 2015, but rose sharply to over 6,700 in 2016 before dropping back to over 3,000 in 2017 and 3,600 in 2018. In the first 9 months of 2019 the figure stood at over 3,500.
15. Information on time taken to reach decisions on felling license applications is recorded on a different basis from afforestation licenses. However, a similar picture of increasing delays emerges. For private licenses, in August 2017, 100% of licenses were issued within 4 months; in August 2018, 51% were issued in under 4 months and a further 29% within 6 months; in August 2019, only 8% were issued within 4 months and 23% within 6 months. Between August 2018 and 2019, applications taking more than 6 months rose from 20% to 69%. Putting this in context, 182

applications were received in August 2017, 167 in August 2018 and 135 in August 2019. In summary, while applications received declined steadily the time taken for decisions to issue rose sharply.

16. The current appeals process was introduced through the commencement of the Forestry Act in May 2017. The Forestry Appeals Committee was formally established in 2018. The number of appeals has risen sharply from 35 in 2017 to just under 200 in 2018 and to 250 in the first 7 months of 2019. These appeals are almost exclusively appeals from third parties and a decision on a license can attract multiple appeals. Leitrim County accounts for 15% of appeals, while one individual appealed nearly 20% of decisions.
17. 13 decisions on 2017 appeals have been issued; 66 of the 2018 decisions; but only 1 of the 2019 appeals had been decided by mid-August. Appeals are taking longer to decide with 2 out of 13 being decided in over 53 weeks in 2017; the following year 26 of the 66 appeals decided took over 53 weeks to determine – almost 40% of the total.
18. Only 2 appeals from 2017 await decision; this rose to 41 in 2018 (still awaiting decision) and all but one of the 2019 appeals await a decision; some of these 2019 appeals will be decided in the course of the year but the numbers awaiting decision will rise as new appeals are submitted.



## Felling Licences: Timescale for Decisions



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## Observations on Licensing

19. Pre-application consultation is very much the exception because of perceived tensions between the Inspectorate's enabling and regulatory roles. The quality of applications varies with almost 1 in 4 returned to the applicant. This may be where a simple clerical error has been detected, or as result of issues picked up by an Inspector, for example maps of inferior quality or from a PB seeking further information. Requests for further information or analysis, particularly those which come late in the assessment process, are a source of considerable frustration to applicants.
20. The percentage of external referrals responded to varies between PBs as does the average time taken to respond. In general for afforestation applications, An Taisce is least likely to respond but, when they do, responses over the past 4 years have averaged less than 20 days. County Councils responded on just over 50% of applications and did so within 25 days. In contrast the National Parks and Wildlife Service (NPWS) responded to over 90% of afforestation cases from 2015 – 2017 and did so within 30 days. In 2018 and 2019 to date the percentage of applications on which responses were sent fell to 79% in 2018 and to 64% in the period to September 2019. However, the average response time over this period rose to over 50 days. Para 6 indicated that archaeological issues are handled differently with the initial consultation sent to a specialist Section of the Inspectorate who then notify/refer the case to the NMS. Significant inroads have been made into the backlog of cases awaiting action from this specialist Section which has benefited from the recruitment of additional archaeologists and the Head of the Archaeology Section's proactive approach to casework management.
21. Views may be sought from the Environment Section of the Inspectorate, for example as a result of comments from the NPWS or at the request of an Inspector. This Section has very limited resources which are stretched well beyond their capacity to respond and, as a result, there is a significant backlog of cases.
22. An increasing number of submissions are being made, some by individuals who have concerns on overshadowing of domestic property; or community groups over what they regard as a potential negative impact of coniferous planting on protected sites, biodiversity and landscape. Unlike submissions on planning applications in Ireland these do not attract a fee. In addition, an appeals system which allows third parties, at no cost, to challenge decisions of the Department has created further delays with significant administrative costs. The perception among RFs and landowners was that, where an appeal is lodged, it is likely to be a further 12 months before a decision is issued.
23. A more recent and increasingly significant cause of delays has resulted from the statutory requirement to screen for potentially significant effects on Natura Sites. While all applications must be screened under the Habitats Directive relatively few numbers have resulted in requests for Natura Impact Statements. However, these requests have risen from less than 15 in 2016 to over 50 in 2019 in the first 9 months of 2109. Concerns over the way the screening process has been applied have featured increasingly in submissions and appeals. The problems are exacerbated by a lack of confidence among Inspectors around carrying out these assessments, particularly where "in combination" effects are potentially involved.

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## Ireland and Scotland: Similarities and Differences

24. Land areas of Ireland and Scotland are similar while topography and climate are comparable. The Irish and Scottish Governments have aspirations to expand the area under woodland; Scotland to 21%, Ireland to 18%. Both regard the expansion of forestry as important in addressing the challenges of climate change. Ireland has a planting target of 8,000 hectares but that has never been met in the last decade. Indeed, the gap between the area planted and the target is increasing. For the Scottish Government to meet its commitment to carbon reduction, the planting target was set at 10,000 hectares per annum. This was not achieved until 2018 – 2019 when 11,200 hectares were planted.
25. The afforestation programme in Scotland is funded in part by EU subsidy; in Ireland it is 100% exchequer funded but it must, nevertheless, comply with EU State Aid Rules. In Ireland, forestry policy and the administration of the various schemes is the responsibility of a Government Department; in Scotland these functions fall to what was the Forestry Commission, now Scottish Forestry. How important this is in explaining the contrasting performances of the 2 countries on rates of planting is difficult to determine; in any event, it is beyond the scope of this Review.
26. There are however much more significant differences between the 2 countries which account for the lower planting rates in Ireland and the continuing failure to meet planting targets. The key differences include:
  - The high political priority given to forestry since 2016 by the Cabinet Secretary for the Rural Economy in the Scottish Government with farming and forestry seen as complementary sectors of the rural economy.
  - The greater clarity around the Scottish Government's commitment to forestry (now contained in the Forestry Strategy 2020 – 2030) combined with a stronger, more focused approach to promotion of the sector.
  - In Scotland there is greater evidence of partnership working with Government; the Industry is focused on delivering the benefits of forestry while engagement with environmental organisations seems more pragmatic and focused on sustainable outcomes.
  - A widely perceived cultural antipathy, arguably resistance, to forestry from many farmers and increasingly, some rural communities which is not replicated to the same extent in Scotland.
  - The lack of consultation with the Inspectorate prior to submitting license applications.
  - The small size of areas, averaging around 8 hectares over the past 10 years, for which an afforestation license is sought. In Scotland the comparable figure in 2018 was 40 hectares but schemes of 200 hectares or more are not uncommon.
  - The conversion rate of license approval to planting in Scotland is consistently over 90%; in Ireland the comparable figure was 64% in 2019, the highest in the past decade.
  - Registered Foresters do not receive their fee until the afforestation license has been issued, the grant approved and trees planted; this could take 2 years or more. In Scotland the land owner/applicant pays whoever is lodging the application much earlier.
  - The major concerns over screening under the Habitats Directive in Ireland have not, as yet,

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featured in Scotland although there were tensions around Environmental Impact Assessment of applications for woodland creation when the 2016 Review was conducted.

- Blanket restrictions, namely the 20% limit for planting on Unenclosed Land, are not replicated in Scotland.
- Procedures for Afforestation and Felling licenses in Ireland are contained in statute; in Scotland the processes for woodland creation are non-statutory, except in relation to the transposition of European Environmental Directives.
- A third party right of appeal in Ireland on applications for afforestation, felling and forest road construction does not exist in Scotland.

Taken together, these are major barriers to the achievement of the Irish Government's target for forestry planting.

27. On the plus side, the iFORIS system is very impressive, (although some Inspectors felt there was considerable scope for improvements to the system) making online applications for afforestation the norm while the supporting GIS system identifies and locates natural and built heritage resources with a high degree of precision. The system is capable of providing a range of up to date information on licensing, planting, appeals, etc. In Scotland the online and GIS systems are, for a variety of reasons, less developed.
28. In Ireland all applications for afforestation and roads (but not felling licenses) must be submitted by a RF and all Inspectors are similarly qualified with some developing more specialist areas of expertise. In Scotland there is no equivalent restriction on who can submit applications for woodland planting but there were widely expressed frustrations from experienced foresters meeting staff in the conservancies (area offices) who may not have sufficient technical knowledge and understanding of issues such as yields from different soils and/or the productivity of woodland species.
29. The information submitted with applications for afforestation and felling in Ireland is quite limited. The applications may lack analysis of the environmental challenges of afforestation and/or justification for the design, layout and species composition. Key natural and built heritage issues may not therefore be identified or sufficiently addressed in the application, creating difficulties and delays in screening potentially significant effects under the Habitats Directive. This can result in requests for further information or analysis. In Scotland information requirements are more demanding which is not perhaps unexpected given the much larger areas for which approval and grant aid are sought.
30. However, these operational strengths are not sufficient to address and overcome the quite formidable hurdles in the way of forestry expansion in Ireland.

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## Key Issues

31. A consistent theme emerging during the Review was the lack of political commitment and priority from the Irish Government to woodland creation. As a farmer who has invested in woodland creation, the Minister of State has put into practice the objective of farming and forestry as complementary land uses. Forestry does not appear, however, in the title of his Department and a Minister of State does not have the influence or leverage of more senior Ministers.
32. In Scotland, the senior Minister with responsibility for forestry is the Cabinet Secretary for the Rural Economy, who has shown a sustained commitment to promoting forestry. This has had a very positive impact not only in galvanising the public sector to deliver on the Scottish Government's ambitious planting target but has drawn an equally positive response from the sector who can approach planting and supporting investment, for example in nurseries, with greater confidence. The Cabinet Secretary's drive and determination is widely held to be the most significant factor in driving the increased rate of planting.
33. The forestry sector in Ireland does not exude a similar confidence and optimism although there is clearly an ambition to create a thriving industry. Concerns over the strength of the Government's commitment to forestry have been exacerbated by a number of issues, including some negative effects of digitisation on forestry premiums; the continuing indecision on ash die back; and a failure to tackle the problems with licensing. However, the industry has been supportive of this Review and has engaged positively with it.
34. The clear impression is that, notwithstanding the limited information requirements on license applications, forestry policy and practice in Ireland is overburdened with paper, much of it not written with users in mind. It is all too easy to provide an electronic link to some lengthy report but that practice is by no means exclusive to the Department. The inclusion of the planting target in the Climate Action Plan has been welcomed although concerns were expressed that tree planting might become exclusively focused on carbon sequestration with the wider benefits of woodland – economic, social, environmental, health and wellbeing – lost sight of.
35. The contribution of forestry to addressing the major challenges of climate change is very significant. Although environmental organisations take a different view and favour a major expansion of native woodland planting, others argue that fast growing conifers offer the best opportunities for carbon sequestration. In addition, much of the timber processing industry, which has created significant job opportunities in rural areas, is geared towards a sustained programme of softwoods. The resistance to blanket planting of Sitka Spruce is understandable but the industry has moved some way from this and, in the past few years, planting of native woodland and other broadleaf species is approaching 30%. Coillte's decision to establish a not for profit entity – Coillte Nature – to focus on the creation of environmental and non-commercial woodland planting offers significant potential to increase further the amount of native species while the recently announced partnership with Bord Na Móna is further evidence of the aspirations to create a more diverse woodland cover.
36. The impression gained during the Review is that State Bodies are not as engaged in helping deliver the afforestation programme as they could and should be. In Scotland it is not just the responsible Government Department and Scottish Forestry who are clear on what is expected of them. Government Agencies - Scottish Natural Heritage, Scottish Environmental Protection Agency and Historic Scotland - understand the need to play their part in delivering Scotland's ambitious planting target. As a result, their consultation responses on woodland creation applications must be timely and proportionate. Asking for information on which to assess applications for woodland planting on a "nice to know" basis has become increasingly a thing of the past; "need to know" is

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very much the order of the day.

37. Government documents contain different planting targets. The report on the Afforestation Grant and Premium Scheme 2014 – 2020 (March 2015) refers to establishing 10,000 hectares of new forests and woodlands per annum (subject to the availability of funds and land) in Ireland while the Mid Term Review of the Forestry Programme 2014 -2020 refers to a target of 6,000 hectares in 2015. The now widely accepted target of 8,000 is not to be found in a policy statement on forestry but in the Climate Action Plan (June 2019).
38. The most senior forestry professional in the Irish Government is the Senior Inspector. The title "Senior Inspector" does not capture the nature and status of a position, which should be as much if not more about promoting woodland creation and sustainable forest management, than regulating the sector.
39. The number of Inspectors has remained constant over the past 5 years but it is clear that their workload has not just increased but has also become more complex, largely because of the requirements of the Habitats Directive. It is difficult to compare Inspectors' workloads with their Scottish equivalents but if the average size of application in Ireland is 8 hectares, then 1000 applications for afforestation must be processed, considerably more if the conversion rate of approved applications stands at or around 60%. In Scotland at an average area of 40 hectares/afforestation application then, bearing in mind the almost 100% conversion rate, 250 applications would be required to be approved for the 10,000 hectare target to be met. It is difficult not to conclude that the Inspectorate's resources are spread very thinly.
40. The requirements for assessing applications for felling licences have become much more stringent. Woodlands planted 20/30 years ago were not subject to the rigorous environmental scrutiny that is the case now albeit that the heritage resources were present at the time the areas were planted. Undoubtedly mistakes have been made in terms of species selection which has contributed in significant part to the negative perception of forestry. However, there is general agreement that felling operations can have detrimental environmental consequences on sensitive habitats and species. In Scotland, similar issues have not arisen, possibly because felling, particularly of larger woodland areas, is largely regulated through long term forest management plans.
41. The perceived complexities over compliance with the Habitats Directive were consistently raised as an issue and the Department has been working to address concerns. Archaeological issues can generally be resolved by including safeguarding measures as part of afforestation or felling license applications. Measures to mitigate potentially significant impacts on Natura Sites cannot be treated in what is regarded as a similar pragmatic way. Compliance with the requirements of the Habitats Directive can be significantly more challenging, raising the prospect of procedural challenges. One matter consistently raised during the Review was the perception that a proposal to plant 5 hectares of woodland had to go through the same screening and related processes as power stations, waste water treatment plants, large quarries, etc. These concerns which can result in extended timescale for a decision and a possible appeal, often reflected in requests for additional information/analysis, create an impression of excessive bureaucracy and can serve as a disincentive to land owners to bring land forward for woodland creation.
42. A number of Inspectors, even those with considerable experience of woodland creation and management, remain apprehensive about making screening judgements under the Habitats Directive. They feel they lack the scientific knowledge to justify their decision in the event of an appeal or review by the Courts where their decisions could be overruled. This has undoubtedly created a more cautious approach to assessing license applications, fuelling widely expressed

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concerns that bureaucracy and regulation has taken precedence over enabling woodland expansion. In the course of the accompanied visits a young RF expressed concerns for his job security as a result of delays in handling applications and the potential for appeals. Similar concerns exist from nursery owners, contractors and the timber processing industry. Actions by some, inaction by others can have a negative impact on the livelihood of individuals.

43. Inspectors are located in 14 locations across Ireland and they know their areas well. However, many Inspectors feel isolated and not sufficiently supported. It was suggested that the Inspectorate were too focused on individual site appraisal and had lost sight of the bigger picture in relation to forestry's role in meeting the planting targets in the Climate Action Plan and supporting rural development. There is also evidence that the rate of site inspections has fallen and it is likely that this been as a result of the Inspectorate's high workload.
44. Not all Inspectors are viewed in such a negative light but it seems clear that an overly cautious and risk averse culture has evolved which has resulted in widespread negative perception of customer service. Just as many farmers feel giving over part of their land to forestry might be regarded as failure so some Inspectors feel that having their assessments overturned by more senior staff without sufficient justification or at appeal casts doubts on their professional competence and reputation. This, together with workload pressures, is having a negative effect on morale.
45. On the other hand, not all RFs are regarded as equally assiduous and competent in discharging their responsibilities. Poor quality applications are a source of concern as is a failure to understand the implications of the legal processes under which the various schemes operate, which have been reinforced by recent Court judgements.
46. The tensions/conflicts between the Inspectorate's promotional/enabling role and their regulatory functions is reflected, for example, in the reluctance to undertake pre-application discussion to facilitate the processing of afforestation and felling applications. The function of pre-application discussions is not to prejudge the outcome of the process but to identify the issues that should be addressed in licensing applications.
47. There was little evidence of PBs actively engaging early in the licensing process. Indeed, it was suggested that some PBs saw their role exclusively as consultees. The equivalent organisations in Scotland are much more engaged and are encouraged to take a proactive role in problem solving. This lack of active engagement is particularly evident in the challenges many Inspectors are having with Appropriate Assessment.
48. A third party right of appeal is a fundamental part of the Irish Planning system but its introduction to forestry has had far reaching consequences in terms of delay but has also resulted in significant additional costs. However, unlike Planning where there are fees for making a submission on a planning application and lodging an appeal, similar actions on licensing, felling and road access applications do not attract a fee.
49. Forest Industries Ireland; land owning interests; agricultural and forestry consultants all argued that delays, uncertainties and perceptions of excessive bureaucracy are a significant disincentive to farmers agreeing to transfer land to forestry, particularly with the post felling replanting obligation. While the evidence is largely anecdotal, it came from a significant number of those who engaged with the Review and is very likely to be the case when set alongside many farmers' disinclination to invest in forestry even when it is to supplement what are often quite low and fragile farm incomes.
50. There is considerable engagement with the industry and environmental organisations, for example,

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through the Forestry Programme Implementation Group (FPIG) which meets quarterly with the Minister of State in the Chair and the monthly discussions on Key Performance Indicators (KPI) which alternate between conference calls and round table discussions. The KPI meetings/calls discuss the monthly figures on applications submitted, approved and areas planted but it is misleading to describe these figures as KPIs. A performance indicator should relate to matters such as time taken to conduct a screening, the number of applications which did not require requests to prepare a Natura Impact Statement, and how long a decision on a licence or appeal takes to issue. While the FPIG meetings are provided with useful updates on a range of issues, for example on the Climate Action Plan, they should be more focused on actions which will improve the speed of decision making on afforestation licenses and related permissions.

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## Some Ways Forward

51. Significant hurdles remain if the Irish Government's planting target is to be met, ideally exceeded. The perceived lack of political priority given to forestry is a major concern. Added to this are constraints and barriers because of antipathy/resistance towards forestry by many farmers and some local communities; the small average size of areas planted and the 20% restriction on planting of unenclosed land; the numbers and skills (essentially around meeting the requirements of the Habitats Directive) in the Department which has affected morale and confidence; and the lack of flexibility arising from procedures being set out in legislation (including a third party right of appeal) which are likely to be time consuming to alter. Coillte's intention to move back to commercial forestry planting is very welcome – and will complement the Coillte Nature initiative, (para 35) – but there a number of issues still to resolve, notably around finance. The Department, together with Coillte, should explore ways of ensuring the viability of an initiative which offers an opportunity to increase, potentially significantly, the rate of new woodland creation which is essential if the target in the Climate Action Plan is to be met.
52. Meeting planting targets is but one of many pressures on the Department. The most immediate and important are Brexit preparations. These have added significantly to the workload and could continue to do so. Therefore, the recommendations of the Review will remain firmly within the scope of the Review and not stray into areas which are important but outside the scope of what is rightly a limited remit. Nor should the recommendations be so extensive that they become difficult, arguably impossible, to deliver. So the emphasis is on actions that can be taken forward within a reasonable timescale.
53. A constant theme running through the conduct of the Review was the low political priority attached to forestry. There are actions that can be taken to raise the profile of forestry. These include:
- Considering an elevated status for the Minister responsible for forestry.
  - Including Forestry in the Department's name.
  - Having the Taoiseach's Department represented on Forestry Programme Implementation Group.
  - Ensuring the Climate Action Delivery Board acts where planting rates continue to falter.
  - Using Taoiseach's speeches to promote the case for forestry.
  - Providing a Taoiseach Foreword to updated statement of Forestry Policy (see para 65 below).
54. The current blockages within the licensing system have to be addressed as a matter of urgency. This will require a much more pro-active approach to casework management than appears to be the case at present. The approach to the backlog adopted in the Archaeology section has much to commend it and should be routinely applied within the Department. Key management information that should be actively monitored and acted on where issues arise include time taken to accept applications, initiate consultation, propensity of different Inspectors to ask for additional information, etc.
55. Pre-application discussions must be introduced. These discussions are a standard feature of the process of applications for woodland creation in Scotland. Moreover, these discussions in advance of a formal application have long been a feature of the land use planning process in Scotland and

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Ireland. These discussions should focus on the matters that need to be addressed in licensing and related applications and the information required to properly inform decisions on potential impacts on various environmental receptors. Built heritage issues should also come in to focus at this stage but these are generally easier to resolve without a requirement to carry out potentially time consuming and costly studies.

56. In Scotland, following the 2016 Review, an Issues/Action log was introduced to ensure there was an agreed understanding of the issues that had to be identified and resolved. It may be necessary to involve some PBs in pre-application meetings to ensure a smoother process of consultation and avoid late requests for additional information or analysis. The purpose of pre-application discussions is **not** to commit to a nod and a wink approval or authorisation, not least because detailed scrutiny of applications or issues raised in submissions could highlight additional matters that may need to be addressed. However where a project could have such a seriously damaging effect on a very sensitive environmental receptor and is, therefore, unlikely to gain approval, this should be signalled to potential applicants.
57. Embedding pre-application meetings should result in consistently higher quality applications. This can be further enhanced by requiring an Environment Report (ER) to be submitted with applications. These should include:
- Site Description covering, inter alia, soil type, habitats, slope, drainage etc.
  - Record of Natural and Built Heritage Resources in the vicinity.
  - Identification of Potential Impacts on Heritage Resources.
  - Design of Woodland, explaining how this has been arrived at.
  - Approach to Woodland Management.

The ER should also outline the actions to inform neighbours and the wider community. CONFOR in Scotland has produced helpful guidance on this issue. However, much of this guidance is relevant to large scale afforestation proposals – a not schemes of 8 hectares or less – so engagement has to be proportionate. The ER should be a succinct and focused report not an exhaustive compendium of environmental information. It may be that Coillte could take the lead in producing a model ER. While the introduction of ERs should result in higher quality applications it does come at a cost, particularly if specialist consultants need to be commissioned. Therefore, the Department should consider introducing a Planning Grant to cover all or part of this work payable at an early stage in the process and not when grants are paid as is currently the case.

58. A suggestion from the industry to reduce the number of poor quality applications was a system of what might be termed yellow and red cards. If a RF was regularly submitting applications below the required standard they should be advised accordingly. Where there was no improvement in the quality of applications then the individual could be suspended from submitting applications pending attendance at a training course. This should be pursued, possibly through sanctions in the Register of Foresters held by the Department.
59. The efforts the Department have put in to staff training on the implications of the Habitats Directive are welcome and must be sustained so that Inspectors have greater confidence in their professional judgement. However, the process should not become unduly cumbersome and while statutory requirements must be met the approach to assessing the environmental impact and suitability of

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projects must be pragmatic and proportionate. Clear guidance should be developed as a priority and as the joint responsibility of the Department, NPWS and the Department of Communications, Climate Action and Environment as many participants in the Review perceived tensions between increasing the area of woodland to help address the challenges of climate change and the protection of habitats and species. The experience of the FAC could also usefully be drawn on without prejudicing their independence or the impartiality of their decisions. Concerns over how the Habitats Directive, in so far as it affects forestry and the Government's target for new planting in the Climate Action Plan, should be pursued with the European Commission.

60. The consultation process with PBs must be streamlined. It is not clear why NPWS should be given twice as long to respond as other Bodies. These timescales for PB consultation should be aligned. There are Memoranda of Understanding/Protocols with NPW (2012) and NMS (2004) in relation to referrals. These should be revised and updated by end March 2020 with a view to streamlining current processes. Consultation with the other Bodies should be reviewed thereafter with priority given to the arrangements with those local authorities with the highest workload responding to licensing applications.
61. The concerns of many Inspectors over increasing and more complex workload are accepted; on the face of it the Department is far less well in this regard, than their equivalents in Scotland who also have the advantage of being brigaded in a small number of area offices. Low morale has become endemic and more resources, along with improvements to iFORIS, could help restore this. Some suggestions put to the Review for additional inputs look impractical in current circumstances, adding to the pressures on the Department, leading to further uncertainty and delays. In turn, this could act as further disincentive to land owners wishing to get involved in woodland creation.
62. Additional Inspectors should be recruited. It is not for this Review to specify the number of new staff; this should be based on the forecast workload in the area offices. It is also accepted that more environmental specialists need to be recruited. These individuals should be located around Ireland. Appointing additional staff cannot, however, mean continuing with current practices and approaches. It is essential that, in the event of new staff being recruited, firm undertakings be given by senior management that the pace of decision making on licensing applications will improve significantly.
63. Strong concerns were expressed about the performance of the Department and the quality of customer service. These should be set against the wider context of criticism of the Department's perceived inaction on a number of issues. While there are monthly discussions/conference calls on what are called Key Performance Indicators (KPIs) this term is a misnomer. A small number of KPIs need to be developed essentially around timescales for decision making but the monthly discussions/calls should cease and the issues around performance and actions to improve performance included in the agenda of the Forestry Programme Implementation Group.
64. The Department should also move quickly to produce a Customer Service Charter which sets out what applicants, agents, PBs and those making representations on afforestation and related applications can expect by way of the service they should receive. This could cover, inter alia, commitments to register applications, commence consultation, length of notice to land owners before entering their land, etc. This is not a major task as there are many examples of service standards and customer charters which could be readily adapted for use by the Department.
65. An overarching statement of the Irish Government's policy on forestry is essential. The definitive figure on planting targets is in the Climate Action Plan. This is a key statement of Government Policy and aspiration and while Irish forestry's contribution to this major global challenge is welcome, the

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other benefits of forestry – for the wider economy (including agriculture), habitat creation, leisure, health, etc. – should also be recognised. The Scottish Government's Forestry Strategy 2020 – 2030 is a possible model for the sort of document that is required.

66. It is not however just a case of setting out government policy on forestry and hoping that it will be delivered. The policy should not be seen as the sole preserve and responsibility of the Department. Other State Bodies must play a full role in securing its implementation. In addition, the aim should be to have the policy endorsed by the industry and other sectors of Irish society, including farming and environmental interests. It should also demonstrate how the policy, including planting targets, will be delivered and an annual progress report should be prepared indicating what has worked well, where progress and practice have fallen short and the remedial action(s) that will be pursued. While consistent, sustained and high level Government leadership and support at the political and official level are essential, there is a wider dimension to this issue.
67. Firstly, the status and profile of the Inspectorate within Government needs to be raised and this could begin with changing the title of Senior Inspector title to Chief Forester. This would signal a move away from a solely regulatory role to a greater emphasis on the promotion of forestry. This will involve much greater outward focus and higher visibility in the area offices. Other posts within the Department might also benefit from a change of title/job description.
68. Secondly there must be much greater emphasis on and commitment to partnership working based on mutual trust and respect. This will involve the public sector addressing more urgently delays and blockages in the system not just to ensure that there is sustained progress towards meeting planting targets not just as an end in itself but for the wider benefits to the economy, for example on nurseries and the timber processing industry, but also the environment. The private sector must also up its game in terms of improving the quality of applications and being willing to understand the need for a cautious approach on adapting processes as a result of appeal and court decisions. Environmental organisations should also consider whether their current approaches are as effective as they could be in changing policy and practice. The way in which Woodlands of Ireland have engaged in woodland creation appears to have achieved positive results.
69. In Scotland, Forestry Scotland, the industry and environmental organisations are all signed up to the UK Forestry Standard. While new woodland proposals must conform to the Forestry Standards Manual (2015) this is some way short of a standard to which the sector as a whole is committed. Discussions should get underway to produce a similar document for Ireland. The approach advocated by Coillte – Right Tree in the Right Place for the Right Objectives – should be the guiding principle for this work with the addition of Right Management as featured in a submission from the Environment Pillar.
70. There are a number of issues around awareness, promotion and communication. It has long been the case that Government Reports find it hard to compete with 'craic at the mart', now posts on social media have added to the challenges of getting facts across to a wider audience. There is a strong case for an Easy Read guide to the licensing processes. The Forestry Strategy (para 65) should be written in accessible language setting out the Government's objectives for forestry and the wider economic, environmental and social benefits resulting from woodland creation. Making wider use of the term woodland (rather than forestry) could also help overcome some of the prejudices against new planting, particularly as an increasing percentage of trees planted will be native species and/or broadleaf.

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71. Allied to this is the need to take stock of what appears to be a multiplicity of campaigns and initiatives to promote forestry. Teagasc seems well placed to carry out such a review by Spring 2020. The aim should be to ensure there is no duplication of effort, assess how effective different approaches to promoting sustainable woodland creation have been in terms of encouraging landowners to plant trees and the extent to which public perception of forestry has shifted. One issue that needs to feature is the role of Knowledge Transfer Groups on which many positive comments were made but these were accompanied by concerns over levels and certainty of funding. Moreover, rather than the Department issuing guidance, more could be done to publicise best practice by the industry itself in terms of model applications, woodland design, approaches which reconcile new planting with environmental protection and improvement. The RDS Forest and Woodland Awards scheme could be expanded to include recognition of best practice in licensing applications.
72. Forestry practice has changed significantly and will continue to evolve. Across the profession a number of concerns were expressed about perceived gaps in the education of foresters, for example the implications of the Habitats Directive and the growing trend for planting native woodland species. While there are training courses which cover these important issues, there was a widespread perception that the skills and competencies required of the modern professional were not sufficiently embedded in undergraduate courses. There was insufficient time to pursue these observations with staff in University College Dublin or the Waterford Institute of Technology but these concerns could be pursued.
73. There is no right of appeal on forestry decisions in Scotland. In Ireland a third party right of appeal is deeply embedded on the right to challenge land use decisions and legislation to remove this right is unlikely to be introduced. **The case for placing third party rights of appeal on forestry on a similar financial basis to planning is unarguable.** Fees should be introduced as a matter of urgency for making a submission on an application and lodging an appeal. These should be in line with the comparable planning fees.
74. There are overall figures on land availability for forestry in Ireland. However, there is a need for a more targeted, area based approach led by the Department with a strong input from Coillte, the private sector, environmental and community groups which looks at opportunities for woodland creation which focus on silviculture potential having regard to natural and built heritage constraints. It was clear from the accompanied visits to Wicklow, Galway and even parts of Connemara, where opportunities to plant trees are limited as much of the land is too wet/rocky or soils too thin, that there are considerable opportunities for new planting. These studies should include areas of unenclosed land, not all of which is infertile and exposed. There will be opportunities for planting native woodland on more sheltered sites. The objective is not to reintroduce blanket planting of conifers; instead it is looking at options for woodland creation which would yield a good return on investment without impacting adversely not just on protected sites and species while making a positive contribution to landscape quality and biodiversity.
75. The Review has steered clear, with the exception of fees for lodging applications, submissions and appeals, of recommending legislative change but something that should be considered for the future is a comprehensive review of the current Act and Regulations with a view to reducing the amount of detailed process which is prescribed in statute. The opportunity could also be taken to introduce a single consent for planting, road construction, management and felling. Meanwhile, it would be helpful if the legislation being drafted for a single consent on road construction could be introduced early in 2020.
76. The recommendations of the Review are summarised in Annex A.

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## Next Steps

77. There is a clear need to establish greater impetus and momentum on woodland creation. The Department should, therefore, aim to publish its views on the Review and how it plans to take forward the findings within 6 weeks of the submission of this report. All the recommendations may not necessarily be accepted but the Department should be clear on what actions it proposes to take forward, when it will do so and by whom. The Forestry Programme Implementation Group should be the forum for reporting on progress and a meeting of the Group should be scheduled for end March 2020. It is essential that there are clear signs of progress or confidence in the Department will dissipate further. Continuing with present practices and approaches is likely not only to result in a continuing failure to meet planting targets but intensify criticisms over the strength and depth of Government support for the forestry industry in general and woodland creation in particular.
78. Blanket planting of Sitka spruce is increasingly a thing of the past and a greater proportion of the new woodlands will have a greater proportion of native species. However not all land that is potentially available for tree planting will be suitable for native woodland and other broadleaf species. The way forward for woodland creation in Ireland should reflect the guiding principles which Coillte and the Environment Pillar have articulated – Right Tree/Right Place/Right Management/Right Objectives. If these principles are put into practice, this should go a considerable way to creating a vibrant, confident and sustainable forestry industry which enjoys support, not just across the sector, but from community and environmental groups who can benefit and take pleasure from a more diverse woodland cover in Ireland.

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## Annex A

### Summary of Ways Forward

- Raise the political profile and commitment to woodland creation.
- Focus action on reducing current backlog of applications.
- Introduce Pre-Application discussions with Issues/Action Log.
- New Requirement for Environment Report supported by Planning Grant.
- Address problems with poor quality applications.
- Develop guidance on the Habitats Directive as it affects licensing applications.
- Discuss with the European Commission the impact of the Directive and woodland creation to support the Climate Action Plan.
- Revise MOUs with NPWS and NMS.
- Recruit additional Inspectors and Environmental Specialists.
- Introduce genuine KPIs.
- Develop a Customer Service Charter.
- Prepare a Forestry Strategy for Ireland
- Ensure all State Bodies play their part in implementing the Strategy.
- Establish an Irish Forestry Standard.
- Raise the status and profile of the Inspectorate.
- Need for greater commitment by all to partnership working.
- Raise awareness of value of woodland creation and a vibrant forest industry.
- Take stock of the multiplicity of campaigns and initiatives to promote woodland creation.
- Review education and training of forestry professionals.
- Introduce fees for submitting applications, making submissions and lodging appeals.
- Conduct pilot studies on land availability, including the potential for woodland creation on areas of unenclosed land.

In the longer term review the legislation on forestry and consider the introduction of a single consent covering planting, road construction, management and felling.