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1st December 2025

Re: Public consultation on the Draft Sixth Nitrates Action Programme

A Chara,

An Taisce welcomes the opportunity to comment on this 6th Nitrates Action Programme (NAP) consultation. In light of the length of this document, we have included a Table of Contents for reference.

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1. Appropriate Assessment Screening Decision- NAP as management plan

The Appropriate Assessment (AA) screening seeks to position the Nitrates Action Programme (NAP) as a 'protective' measure:

> *"Measures should be considered in the context of the requirements under the Nitrates Directive, which is to protect water quality from agricultural sources of nitrogen. The Nitrates Directive does not impose any requirement upon Member States to authorise agricultural activities, in a formal sense, instead the Directive imposes constraints upon how agricultural activities are carried out."*

It also seeks to position the NAP as a management plan which is necessary for fulfilment of the conservation objectives of European site(s), and as such does not require screening for AA.

It is on this basis that the majority of the measures outlined in the 6th NAP have been screened out for full Stage 2 assessment under the Habitats Directive- as outlined in Table 1 from the AA screening document in Appendix A of the NIS document.

Table 1: Pre-screening criteria from AA screening document

Pre-screening Category		Further Explanation
A	Continuing protective horizontal conservation measure – no further screening required	An article which carries forward existing horizontal protective conservation measures will have no effect compared to the GAP regulations currently in force. The measures continue to be directly connected with or necessary to the achievement of the conservation objectives for European sites and no further AA screening is required.
B	Continuing protective horizontal conservation measure (reinforced and/or clarified) – no further screening required	Article 6(1) and (2) of the Habitats Directives are ongoing duties whose implementation needs to take account of economic, social and cultural requirements and regional and local characteristics (refer Article 2(3)). The need to take account of wider considerations allows for an iterative approach to the delivery of conservation measures, with measures potentially being introduced in a phased manner until the conservation objectives are achieved. The four yearly NAP review provides a vehicle through which measures to deliver improvements in water quality can be reinforced as may be necessary. An article which reinforces an existing horizontal protective conservation measure is directly connected with or necessary to the achievement of the conservation objectives for European sites and no further AA screening is required. An article which provides clarification in respect of an existing horizontal protective conservation measure (whilst not reinforcing or improving ecological outcomes) continues to be directly connected with or necessary to the achievement of the conservation objectives for European sites and no further AA screening is required
C	New protective horizontal conservation measure - no further screening required	Article 6(1) and (2) of the Habitats Directives are ongoing duties whose implementation needs to take account of economic, social and cultural requirements and regional and local characteristics (refer Article 2(3)). The need to take account of wider considerations allows for an iterative approach to the delivery of conservation measures, with measures potentially being introduced in a phased manner until the conservation objectives are achieved. The four yearly NAP review provides a vehicle through which measures to deliver improvements in water quality can be reinforced as may be necessary. An article which introduces new protective horizontal conservation measure is directly connected with or necessary to the achievement of the conservation objectives for European sites and no further AA screening is required.
D	Measure to provide necessary context to the implementation of a protective horizontal conservation measure - no further screening required	Some measures provide necessary detail or context relevant to the implementation of a protective horizontal conservation measure. These provisions are directly connected with a protective horizontal conservation measure, and can be regarded as directly connected with or necessary to the achievement of the conservation objectives for European sites, with no further AA screening being required.
E	Measure which is not directly connected with or necessary to the management of European sites – further AA screening required.	Some measures are not directly connected with or necessary to the achievement of the conservation objectives for European sites and will be subject to AA screening.

However, the NAP functions as a permitting system for agricultural activity in an Irish context. It effectively sets limits of allowable pollution. The NAP gives rise[1] to the Good Agricultural Practice regulations, which regulate farming activities, and set binding limits and thresholds. This is very much a system of authorisation for agricultural activities, and while the intent of the NAP is to protect water quality, the function of the NAP and the GAP regulations is very much an authorisation structure, and regulates farming activities more generally, to permit given activities at certain levels and certain times. The NAP and GAP regulations are the primary policy and legislative means of controlling what happens on agricultural land, with a view to protecting water quality. There is no project level plan for these activities.

Article 11(3) of the Water Framework Directive highlights that the measures required under the Nitrates Directive qualify as a "basic measure" for achieving the objectives established under Article 4 of the Water Framework Directive. In Ireland's latest River Basin Management Plan (RBMP) and the Programme of Measures, the NAP is presented as the key basic measure to tackle water pollution from agriculture. As such, the NAP should take into account not only the objectives of the Nitrates Directive itself but also those set out in Article 4(1) of the Water Framework Directive. This assessment must be complete and explicitly show that activities under the NAP comply with the relevant obligations, including the Nitrates Directive, but also those under Art 4(1) of the Water

[1] In Ireland, the measures identified in the NAP are put into effect through the Good Agricultural Practice (GAP) Regulations. It is these regulations which are treated as a 'plan or project' subject to assessment as they are the instrument through which actual change is brought about.

Framework Directive and under Article 6(3) of the Habitats Directive. This implies that the NAP must be assessed against those objectives, with particular reference to Article 4(1)(c) of the WFD where the measures proposed may impact on protected areas, such as those designated under the Birds and Habitats Directive. An incomplete analysis and evaluation of the effects of the agricultural activities carried out under the NAP would be flawed and, as a result, affect the validity of the NAP.

We would argue that it is disingenuous to attempt to disentangle the 'authorisation of agricultural activities' from 'imposing constraints on how agricultural activities are carried out'. They function, in an Irish context, as one and the same. While the NAP and GAP regulations set limits and constrain agricultural activity, the logical counter view of that is that they therefore permit those same activities up to the set thresholds. A useful analogy would be that of Integrated Pollution Control Licencing. While the purpose of the licence is to protect water quality, it is, nevertheless, a permitting system, which constrains the pollution output of industry discharges. As such, an IPC licence is both a protective measure, and a permitting system, at the same time, but there would be no question over needing to undertake an AA on IPC licence discharges to European sites.

As such, we would strongly argue that the NAP cannot legally be considered as a management plan necessary for the management of European sites. This logic would hollow out article 6(3) and 6(4) of the Habitats Directive, whereby any permitting system which functioned to protect the environment could be deemed a 'management plan' simply to get around the requirement for assessment. The NAP and GAP regulations are a system of permitting certain polluting activities, and while those limits may, in certain circumstances, provide some protection to European sites, it is not, in and of itself, a management plan for the purposes of European sites. It is a regulatory system for controlling agricultural activity, activity which is not directly connected with or necessary for the management of those sites.

The CJEU in Cooperatie[2] held that agricultural activities do come within scope of Article 6(3) and therefore require assessment:

> *"Article 6(3) of Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora must be interpreted as meaning that the grazing of cattle and the application of fertilisers on the surface of land or below its surface in the vicinity of Natura 2000 sites may be classified as a 'project' within the meaning of that provision, even if those activities, in so far as they are not a physical intervention in the natural surroundings, do not constitute a 'project' within the meaning of Article 1(2)(a) of Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment.*

The NIS has failed to provide the evidence base that the NAP measures and GAP regulations are comprised exclusively of measures directly connected with or necessary for the management of the site, as highlighted as being necessary in Case C-241/08. Advocate-General Kokott's opinion in Case C-434/22 AS 'Latvijas valsts meži' is a useful comparison, it pertained to tree-felling in an SAC with a view to the "protection" of forest habitats in order to maintain/create infrastructure installations in

[2] Joined Cases C-293/17 and C-294/17

accordance with the legal requirements relating to forest fire protection. At para 38 specifically, Adv-Gen Kokott held:

> *"It does not follow, however, that all precautionary fire protection measures, or the measures at issue at least, are necessarily directly connected with or necessary to the management of the site."*

By that same rationale, the NIS has failed to put forward the evidence base or argument for why any, or all, of the measures proposed under the 6th NAP are directly connected with or necessary to the management of the site. Furthermore, there is no evaluation or assessment of the efficacy of these measures individually or at all within the screening decision, for preventing water pollution and thereby protecting European sites. The CJEU in Cooperatie[3] held:

> *"Article 6(3) of Directive 92/43 must be interpreted as meaning that an 'appropriate assessment' within the meaning of that provision may not take into account the existence of 'conservation measures' within the meaning of paragraph 1 of that article, 'preventive measures' within the meaning of paragraph 2 of that article, measures specifically adopted for a programme such as that at issue in the main proceedings or 'autonomous' measures, in so far as those measures are not part of that programme, if the expected benefits of those measures are not certain at the time of that assessment."*

Therefore, the AA Screening Determination is contrary to Article 6(3) of the Habitats Directive. Calling something "protective" does not offer a way around the requirements of the Habitats Directive.

Additionally, as highlighted in our submission and subsequent judicial review on the 5th NAP, the NIS for the 5th NAP clearly highlighted potential risks as a result of certain NAP measures to European sites. These same measures are carried forward into the 6th NAP. This is particularly relevant, given this statement in the AA screening document:

> *"Each 4-yearly review triggers the making of 'new' GAP regulations but, in practice, many of the regulations are simply carried forward without being 'new' in terms of introducing any change or 'effect' which might be relevant to a European site...*
>
> *From a Habitats Directive context, the **continuation of an existing measure would generally not give rise to any new 'effects'** which might trigger an assessment under Article 6(3). The continuation of ongoing measures or activities may however be relevant to parallel duties under Articles 6(1) and/or 6(2)."*

However, these risks were clearly articulated in the 5th NAP NIS, for example (Table 2 provides a more complete review of the risks articulated in the 5th NAP), in regard to Article 20(1) of the existing GAP regulations, the NIS for the 5th NAP held:

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[30] Coöperatie Mobilisation for the Environment UA, Vereniging Leefmilieu v College van gedeputeerde

3 staten van Limburg (Joined Cases C-293/17 and 294/17)

'It is also noted that there is no scientific evidence to support whether 170 kg of nitrogen per hectare allows for the maintenance of high-status water quality where it is required relative to environmental objectives set under the River Basin Management Plan or is an environmental target set as part of site-specific conservation objectives for SACs e.g. for the freshwater pearl mussel, or oligotrophic or hard water lakes. Further research is required in this regard'".

Or for Article 17(1) for which the 5th NAP NIS held:

"Whilst a mandatory setback distance of 2m from any surface water … will have a positive effect on water quality … it is not considered to be a sufficient distance in certain circumstances, to adequately minimise contamination of surface waters. Consideration must be given to increasing this distance in line with recommendations from scientific research … Cognisance must be taken of the specific environmental characteristics in the determination of required buffer size, and a one size fits all approach is not sufficient."

As such, we have measures which were previously stated to pose a risk to European sites, which are now being screened out for AA based purely on the logic that they are already in place, with no assessment provided of their efficacy, their potential risk to water quality, advances in scientific knowledge, changes to the environmental baseline, or in-combination impacts with new projects. No further research has been provided to address the suitability of the 170 kg/N/ha for specific SACs, and we continue to have a one size fits all buffer zone. These are just two examples of many which were highlighted in the An Taisce submission[4] on the 5th NAP (see Table 2), and which are now subject to judicial review. In Section 8(3)(c) of the NIS for the 5th NAP this uncertainty was clearly stated:

"There is no scientific basis presented for the quantified measures identified within the draft Policy Document, in particular those relating to stocking rate, reliance on chemical fertilisers and over-stocking, to demonstrate that those quantifications and the thresholds set are at the level necessary to restore and maintain water quality to achieve the favourable conservation status of QI habitats and species and therefore of European sites. A number of measures in the wider Nitrates Action Programme are not determined based on what is scientifically and ecologically necessary to restore and maintain favourable conservation status of European sites and their QIs; particularly those dependent on water quality to achieve favourable conservation status."

The Department have provided no additional information or assurances in regard to the potential risk of these measures which they are carrying forward, or indeed an assessment of their efficacy for delivering on their multiple objectives under the Nitrates Directive, WFD and SEA. This is clearly outlined in the draft SEA Environmental Report:

"The current system of monitoring and reporting does not however provide a means of definitively linking individual NAP measures to their environmental outcomes, and does not allow quantification of the effects of the measures".

[4] Submission on Ireland's proposed measures for the Fifth Nitrates Action Programme | An Taisce - The National Trust For Ireland

Given their inability to be able to conclude beyond reasonable doubt in regard to these same measures in the 5th NAP, and in the absence of any additional assurances in regard to their suitability, we are of the view that to screen these out without assessment is a significant breach of Article 6(3) of the Habitats Directive.

Overall, it is difficult to accept that the NAP, which may give rise to impacts on European sites (as elucidated in a previous NIS for these measures), falls within the legal interpretation of management which is necessary for fulfilment of the conservation objectives of European site. Not least given the environmental baseline, and long-established pattern of agriculture being a significant pressure on water quality, as elucidated in the next section.

2. Baseline

The NIS relies heavily on a given baseline, set at the point of the 5th Nitrates Action Programme. Section 3.5 of the AA screening outlines the following:

> *"The ongoing nature of the GAP Regulations in Ireland (since 2005), and the need for regular 4-yearly review, raises important questions over the correct baseline against which an assessment under Article 6(3) is undertaken in respect of a plan to update the current GAP regulations. The European courts have established that, 'in assessing the potential effects of a plan or project, their significance must be established in the light, inter alia, of the characteristics and specific environmental conditions of the site concerned'. For the purpose of this AA screening the 'effects' of the 'Sixth NAP' (and associated updates to the current GAP regulations) are understood with reference to the* ***prevailing environmental conditions****. In other words, with reference to the current version of the NAP as implemented through the existing 2022 Good Agricultural Practice regulations (as amended)"* [Our emphasis]

We would note, the 5th NAP is not an environmental baseline, it is a series of measures which were implemented, and which, notably, are under judicial review for their alleged failure to adhere to multiple pieces of environmental legislation, including Habitats Directive, WFD and SEA. We would highlight the absence of analysis of the data provided in the EPA report from 2025[5] (and an earlier iteration in 2021) which highlights a number of catchments which have elevated nitrogen, above and beyond what is sustainable for ecological health of our estuaries, including:

- the Blackwater in Cork, which is both an SAC (The Blackwater River SAC) and whose estuary is the Blackwater Estuary SPA;
- the Bandon River in Cork, which is also the Bandon River SAC;
- the Boyne which is both an SAC and an SPA (River Boyne and River Blackwater SAC and River Boyne and River Blackwater SPA) along with its estuary also being protected (Boyne Estuary SPA and Boyne Coast and Estuary SAC);

[5] EPA (2025) Evidence based targeting of agricultural measures to reduce nitrogen in catchments to achieve water quality objectives August 2025

- the River Barrow and the River Nore, which are designated as the River Barrow and Nore SAC;
- the River Suir which is the Lower River Suir SAC;
- the Slaney, which is the Slaney River SAC, and it discharges into Wexford Harbour and Slobs SPA; and
- the River Lee, which is acknowledged as having sub-catchments which are too high in nitrogen, and the River Lee discharges into Cork Harbour SPA.

Under WFD, the estuaries associated with these catchments are not in good condition, with Cork Harbour/Lough Mahon and Waterford Estuary being of moderate condition under WFD, while Wexford Harbour, the Lower Bandon estuary and the Boyne Estuary are all at poor condition. The EPA[6] have described the declines in our estuarine water quality as 'precipitous':

> *"the amounts of nitrogen and phosphorus flowing into our estuaries have been too high in recent decades and the ecology of our estuaries, particularly in the south and southeast has declined precipitously as a result."*

This is not an exhaustive list of waterbodies and European sites which are impacted by agricultural pollution in Ireland, but these catchments are particularly at risk from elevated agricultural nitrogen pollution, as outlined by the EPA[7]:

> *"An overall reduction in nitrogen loads may also be required in those catchments and subcatchments where nitrates levels are substantially in excess of the levels needed to support good water quality"*

The baseline presented for the NIS appears to take no account of this reality. Of note, the draft SEA describes the baseline with actual reference to the prevailing environmental conditions, which would be a far more appropriate framing for the NIS. The SEA Environmental Report (page 17) outlines in that regard:

> *"water quality is continuing to decline nationally and, though there is evidence of improvement in nutrient concentrations, nitrogen concentrations in waters are fluctuating and are too high in some catchments, particularly in the east and southeast. These impacts have been linked to agricultural activity, with agriculture identified as a significant pressure on more than 1,000 water bodies nationally in the Water Action Plan 2024. All of this points to the necessity for additional and strengthened measures in the Sixth NAP to ensure that declining trends in nitrogen concentrations can be sustained so that water bodies can achieve their environmental objectives under the Water Action Plan 2024."*

As such, the correct environmental baseline for the AA is one which is informed by scientific evidence and data, not with regard to the ineffectual measures which have given rise to this situation. To quote

[6] EPA-Water-Quality-in-Ireland-Summary-Report
[7] EPA (2025) Evidence based targeting of agricultural measures to reduce nitrogen in catchments to achieve water quality objectives August 2025

the SEA Environmental Report which accompanied the 5th NAP, which highlight the failings more clearly than the current draft documentation (page 110):

> *"This baseline points to a deteriorating water quality trend over the period of the **past two NAP highlighting that the prescribed measures have failed to sufficiently protect water quality from agricultural activity**. It is important to note that this baseline trend was against the backdrop of changes to the agri-food sector and an increasing dairy herd in the past decade. This increased dairy herd and increased demand for grass growth has put further pressures on the current NAP measures to protect water quality. This is evident in the south and east of the country where agriculture intensification is occurring. The EPA monitoring data indicates a number of catchments of concern in these regions whereby current nutrient levels within the water are high and increasing. These higher levels are attributed to the free draining soils within these catchments and within this freer migration pathway, the risk in these areas is heightened."* [Our emphasis]

This situation remains largely unresolved, almost four years later. The latest EPA data[8] indicate that there has been an overall decline in ecological quality of our waterbodies, and that we have not made any significant overall improvements in water quality for the period 2019-2024. 44% of our rivers have too much nitrogen, and a third of our lakes have too much phosphorus. This is primarily attributable to intensive agriculture, which is a particular problem on free draining soils in the south and east. In short, the 5th NAP has clearly continued to fail to provide the measures necessary to sufficiently protect water quality from agricultural pollution.

The AA Screening decision, which screened out the majority of the measures from Stage 2 assessment, is predicated on the logic that the baseline is the measures in the 5th NAP, which do not need to be screened in as they are assumed to not give rise to any new 'effect'; that the measures are directly connected with or necessary for the management of the sit; and that the NAP is protective in nature. We have highlighted that the measures in the 5th NAP, which are being carried forward into the 6th NAP, have been indicated as posing a potential risk to European sites. With regard to the NAP being a management plan for European sites, and 'protective' in nature, the previous SEA Environmental Statement indicated clearly that previous NAPs have failed to protect water quality. Moreover, the fact that it is a basic measure under the WFD confers more stringent environmental assessment obligations on relevant authorities when it comes to assessing an NAP. Furthermore, the necessity and efficacy of the individual measures under the NAP for the protection of the European sites have not been assessed or justified. Finally, with regard to the baseline, the situation has not improved since the 5th NAP was adopted, and recent EPA reports and the draft SEA for this consultation clearly highlights the ongoing risk posed by agricultural activities to water quality.

In short, to screen these measures out for the need for AA is legally flawed and ecologically reckless in the face of sustained agricultural pollution of our waterbodies.

[8] Water Quality in Ireland 2019-2024 | Environmental Protection Agency

3. SEA Alternatives

We note in the SEA when alternatives are being considered, the impact of a move away from the derogation appears to be unknown (Figure 1) (Alternative S2a: Business-as-usual approach: keep the derogation as is; Alternative S2b: Move away from the derogation; and Alternative S2c: Keep the derogation but with additional measures).

Table 7.3 Assessment of derogation measures

Alternative	PHH	BFF	LS	W	AQ	CF	MA	LandS
S2a	+/-	-	-	-	-	-	+/-	0
S2b	+/-	?	?	?	?	?	++/--	?
S2c	+/-	+	+	+	+	+	+/-	0

Key: PHH – Population and Human Health; BFF – Biodiversity, Flora and Fauna; LS – Land and Soils; W – Water; AQ – Air Quality; CF – Climatic Factors; MA – Material Assets; LandS – Landscape

Figure 1: Assessment of derogation measures in 6th SEA Environmental Report

This is interesting, and a significant change of assessment from what was provided in the SEA Environmental Report for the 5th NAP (Figure 2), where the strategic alternative of a move away from the derogation (alternative S5) was considered to have a widely positive outcome for everything besides material assets:

7.4.2 Alternative Derogation Scenarios

Description of Alternative
Strategic Alternative 3 (S3): Ireland to seek a derogation for grassland farms.
Strategic Alternative 4 (S4): Ireland to seek a derogation only for designated low risk catchments within the State.
Strategic Alternative 5 (S5): Ireland not to seek a derogation from the EU under this NAP.

Reference	PHH	BFF	LS	W	AQ	CF	MA	CH	LandS
S3	-	-	-	-	-	-	+	0	0
S4	-	-	-	-	+/-	+/-	-	0	0
S5	+	+	+	+	+	+	-	0	0

***Key: PHH** – Population and Human Health; **BFF** – Biodiversity, Flora and Fauna; **LS** – Land and Soils; **W** – Water; **AQ** – Air Quality; **CF** – Climatic Factors; **MA** – Material Assets; **CH** – Cultural Heritage; **LandS** – Landscape.*

Figure 2: Assessment of derogation measures in 5th SEA Environmental Report

The rationale for the uncertainty is explained in the text of the SEA:

> *"It is considered likely that losing the derogation would impact the positive engagement and cooperative approach to the implementation of regulatory, and in particular non-regulatory, measures, and this could ultimately result in negative effects on the environment and on human health"*

This is a somewhat alarming statement, given that there are multiple European legal requirements at stake here, including the Nitrates Directive, WFD and Habitats Directive. To suggest that farmers would engage in widespread unlawful activity if the derogation is lost is alarming and certainly not a factor relevant to the assessment. The farming sector should not require a derogation in order to remain compliant with their legal obligations, and to consider that outcome as a credible risk is indicative of how weak the enforcement of this legislation currently is. This is not a credible argument for the retention of the derogation, it is an alarm bell for how much stronger our enforcement needs to be.

The SEA also states the following:

> *"It is likely that the majority of derogation farmers would seek access to additional land, rather than reducing animal numbers."*

But it is unclear what this is based on, and no analysis is provided to underpin this assumption.

As such, the unknown impact for assessing a move away from the derogation in the 6th NAP is not only entirely at odds with the same assessment for the 5th NAP, it also gives consideration to issues which have no evidence base and which suggest the potential for widespread unlawful farming activity. This is not a credible analysis of alternatives within the meaning of the SEA Directive. It is implicit in the assessment of alternatives that the environmental effects of reasonable alternatives are assessed. Moreover, it is a requirement of the Directive that each reasonable alternative be assessed against substantive requirements of environmental law, for example the Habitats Directive and Water Framework Directive. It is not lawful for an assessment of reasonable alternatives to be left as "unknown", particularly an alternative such as a move away from the derogation which undoubtedly would have positive environmental effects and would lead to greater compliance with the Habitat's and Water Framework Directives.

Additionally, the SEA concludes with regard to derogation options:

> *"On balance, Alternative S2c (keep the derogation but with additional measures) is recommended to be adopted for the Sixth NAP as the project-level Habitats Directive assessment should ensure that environmental impacts are properly considered or mitigated at project level before granting any derogations; which should ensure that this alternative is sustainable. This alternative also limits the economic and social impacts compared with moving away from the derogation."*

However, this conclusion is predicated on the assumption that a derogation could only be authorised if the Habitats Directive assessment ascertained that it would not adversely affect the integrity of relevant European sites' conservation objectives. This next derogation will begin in January of 2026 - there is zero consideration of the time lag which will ensue in delivering on those project level habitat assessments, which entirely undermines this conclusion. It is likely to take a significant portion of time to have the procedures and resources for those assessments in place, including allowing for public participation, and the risks to water quality in the meantime have not been assessed in any way.

The NIS for the derogation decision highlights this risk clearly:

> *"On the basis of the precision of the plan, it was not possible to ascertain no adverse effects to site integrity individually or in-combination from the implementation of Part 7 of the GAP Regulations. This is on the basis that the continued allowance for increased nutrient loading could potentially undermine the achievement of necessary restoration in sites which are subject to a restore objective in respect of water and/or air quality."*

Our understanding, from comments made by Minister Heydon on RTE Countrywide on 29th November, is that Ireland will not have the necessary Habitats Directive assessments in place for three years. As such, the conclusion which relates to option S2a (Business-as-usual approach) will be the prevailing reality until such a time as those assessments are in place, likely at least three years. In fact, the selection of an alternative that depends on compliance with Article 6(3) which will not in fact be implemented for at least three years, cannot be selected as a lawful alternative to bring forward as the preferred alternative, since it is premised on activities being carried out unlawfully in the absence of an assessment. The outlook for that is very negative:

> *"Alternative S2a (keeping the derogation as is) is considered to result in ongoing negative direct and indirect effects on PHH (human health) W, BFF, LS, AQ and CF, due to the fact that higher animal numbers and higher organic and chemical fertiliser use increases the risk of losses of polluting substances to water and air, and is associated with potential soil and land degradation and loss of natural habitats."*

This business as usual will continue until such a time as the habitats assessment for derogation farms is complete, which would appear from media comments to be circa three years, albeit we have no concrete timeline. Therefore, this must be factored into the SEA assessment of alternatives. The alternatives, as presented, provide an overly vague judgement on a removal of the derogation, and an overly positive outlook on keeping the derogation with measures, given the time lag and damage which could ensue in that time period until such a time as the assessments are done. This is not an adequate assessment of alternatives, based on the available data and options.

4. SEA/NIS Assessment of Measures

The NIS does not assess the specifics of the majority of the GAP measures, based, we would argue, on a flawed argument upon which they were screened out of Stage 2 AA. The SEA does assess them, but we would highlight that there is a very noticeable and stark difference between the assessment of impact in the current SEA, and what was outlined for virtually the same measures in the NIS for the 5th NAP - as elucidated in detail in Table 2 below. The stark difference in assessment is not explained in this current documentation. These issues were highlighted by An Taisce in our submissions on the 5th NAP, and were not adequately addressed, and it would appear as though the current SEA is relying on an entirely different evidence base, one which does not highlight or foresee any potential risks. The SEA Environmental Report for the 6th NAP provides an assessment by means of a matrix for each article in Table 8.2, 8.5 and 8.8, where the judgement is that these measures

would be largely positive, or very positive. The discussion on these articles is largely absent, again in contrast to the far more detailed SEA Environmental Report for the 5th NAP, which brought to light a number of issues related to a number of these measures, which were then reflected in the NIS for the 5th NAP. As far as we are aware, the majority of these concerns remain valid and outstanding for these measures, and the current SEA has just entirely failed to acknowledge them. Nevertheless, the conclusion in the SEA is as follows:

> *"The assessments outlined in Chapter 7 and 8 of this Environmental Report broadly concludes that the measures are positive for human health and the environment, mixed for farmer incomes and the agri-food sector, and that there are some negative effects for landscapes and views associated with storage requirements. There are no conflicts between the measures, and the measures together would have positive cumulative effects on the environmental and on human health"*

This is not robust from a legal, or an ecological perspective.

Table 2: Comparison of measures in 6th and 5th NAP, with relevant assessment from the 5th NAP NIS

Article number	**Draft NIS/Draft SEA text**	**5th NAP NIS statement**	**An Taisce comment**
14	**NIS**: "Art. 14 provides clarification in respect of the positive measures delivered under Articles 10-13. **SEA**: "If implemented appropriately, these measures should realise positive effects for the environment and for human health, similar to the other sub-articles in Part 2. In these circumstances, a reduction in storage capacity requirements could be more positive for AQ and CF due to reduced risk of emissions to air."	• Article 14(2) 'There is potential here for negative effect on water quality through the release of sediment' • Article 14(3) 'Enforcement of these conditions remains a potential concern however, such as in the case of poaching which may present difficulties through inspection'	No mention of potential negative impacts previously highlighted for 5th NAP
Article 15(5)	**SEA**: 'Articles 15(1) to 15(5) consist of definitions and clarifications as they relate to Part 3, and are therefore not assessed.'	'Incorrectly estimating the nutrient availability of the soil increases the risk for potential negative impacts to water quality	No mention of potential negative impacts previously

	NIS: 'Art. 15(1-5) provide the necessary context in respect of the positive measures delivered under Part 3 – Nutrient Management. These sub-articles are designed to remove ambiguity on definitions, standardise nutrient quantity calculations and application, provide a precautionary approach where an organic fertiliser type is not specified and reference the use of indices which provide guidance on nutrient retention within the soil. These clarifications are necessary to support the articles within Part 3.'	through nutrient losses to receiving waters, where crop requirements are exceeded'	highlighted for 5th NAP
16(1)	**NIS:** 'Art. 16 is a positive measure for water quality, requiring taking steps to prevent an excess of fertiliser being applied.' **SEA:** 'This general requirement for farmers to prevent the application of fertilisers in excess of crop requirements will reduce the risk of losses of nutrients to water and emissions to air, with direct and indirect benefits on the environment and human health, including PHH, BFF, W, AQ, CF and LS'	"the extent of what would be considered reasonable remains subjective in the absence of a precise description/threshold. There is potential for a negative effect on both water quality and soils while this measure is open to interpretation. In addition, the overuse of fertiliser should not be minimised, it should be prevented."	The subjectivity remains in the current proposed wording of the next GAP.
Article 18(1) (previously article 17(1) in current GAP)	**NIS:** "The measures contained within Art. 18 are positive measures that relate to the application of both organic and chemical fertilisers in proximity of sensitive receptors including	"Whilst a mandatory setback distance of 2m from any surface water … will have a positive effect on water quality … it is not considered to be a sufficient distance in	Increase from 2m mandatory setback to 3m for artificial fertiliser in the new GAP regs, no scientific

	abstraction points, lake shorelines, surface waters, turloughs likely to flood and karst limestone features. The inclusion of setback distances provide protection both to water quality and to human health due to potential for contamination from the application of fertiliser. In addition measures are included to prevent poaching through limiting cattle access to watercourses and prescribing setback distances for drinking points. Art. 18 also includes limits for certain activities during higher risk periods where adverse conditions prevail, the provision of buffer zones and requirement for riparian vegetation"	certain circumstances, to adequately minimise contamination of surface waters. Consideration must be given to increasing this distance in line with recommendations from scientific research … Cognisance must be taken of the specific environmental characteristics in the determination of required buffer size, and a one size fits all approach is not sufficient."	evidence provided to indicate that is adequate in all cases, and that it does not still pose a risk
Article 18(17) - previously Article 17(18)	**NIS: '**In the case of livestock holdings with a previous year grassland stocking rate of 170 kg nitrogen per hectare from livestock manure or above prior to export of livestock manure, bovines shall not be permitted to drink directly from watercourses'	"A study by Conroy et. al., (2016) … acknowledges that bovine access to watercourses can limit the potential of some sites to achieve at least good status as is required under WFD. It is anticipated therefore that this measure will achieve significant benefits for any downstream European sites. It is noted however that these requirements apply only to holdings with higher stocking rates and as such there is potential for smaller holdings to continue to give rise to adverse effects in this regard. "	This requirement remains unchanged, with no assessment of the impacts, and no apparent reference to the risk which was previously outlined in the 5th NAP NIS

Article 18 (9) – previously Article 17(12)	**NIS**: '"prior investigations" means, in relation to an abstraction point, an assessment of the susceptibility of waters to contamination in the vicinity of the abstraction point'	"in practice compliance will be a potential issue. There is potential for incorrect slope judgement resulting in nutrient loss to watercourses."	This sub article remains largely the same with no assessment of the risk outlined in the NIS for the 5th NAP
Article 18(12)- previously Article 17(13)	**NIS:** 'Where farmyard manure is held in a field prior to landspreading it shall be held in a compact heap and shall not be placed within— various options'	"there is potential for pollution as no mention is made of other high nutrient organic materials such as chicken litter etc. that are regularly stored in fields before use.'	This sub article remains largely the same with no assessment of the risk outlined in the NIS for the 5th NAP
Article 18(14)- previously Article 17(15)	**NIS:** 'Where there is inadequate facilities for the collection and storage of any potential effluent from silage bales, bales may only be stored at a maximum height of two bales, and at least 20m from surface water or a drinking water abstraction point.'	"This specification could give rise to a potentially negative effect should the silage bales give rise to leakage and overland flow to water bodies which are downslope of the bales, or via subsurface pathways to groundwaters. "	This sub article remains largely the same with no assessment of the risk outlined in the NIS for the 5th NAP
Article 18(18)- previously 17(19)	**NIS: '**In the case of holdings identified in sub-article (17), supplementary drinking points shall not be located within 20m of surface waters.'	"cognisance is required of the effect that could potentially be generated on non-derogation farms that are not required to comply with this measure. There is significant potential for negative effect to watercourses in areas with, inter alia, poorly drained soils and high rainfall. In such a scenario, the location of a	This sub article remains largely the same with no assessment of the risk outlined in the NIS for the 5th NAP

		drinking point near a watercourse could have a significant negative effect on water quality irrespective of the stocking rate. This would be of particular concern in a sensitive catchment where there are water bodies at risk of not meeting WFD objectives."	
Article 19(2)- previously Article 18(2)	'Organic and chemical fertilisers or soiled water shall not be applied to land in any of the following circumstances—'	"there is a level of ambiguity in the language used in some instances, for example 'heavy rain is forecast within 48 hours'. In this instance it should be specified as to what constitutes heavy rain thereby avoiding subjectivity in its interpretation."	This sub article remains largely the same with no assessment of the risk outlined in the NIS for the 5th NAP
Article 19(3)- previously article 18(3)	'A person shall, for the purposes of sub-article (2)(d), have regard to weather forecasts issued by Met Éireann.'	"this is not always reliable therefore there will be potential for negative effect to water quality where weather is incorrectly predicted."	This sub article remains largely the same with no assessment of the risk outlined in the NIS for the 5th NAP
Article 21(1)- previously article 20(1)	**NIS:** 'The amount of livestock manure applied in any year to land on a holding, together with that deposited to land by livestock, shall not exceed an amount containing 170 kg of nitrogen per hectare.'	"It is also noted that there is no scientific evidence to support whether 170 kg of nitrogen per hectare allows for the maintenance of high-status water quality where it is required relative to environmental objectives set under the River Basin Management	This sub article remains largely the same with no assessment of the risk outlined in the NIS for the 5th NAP

		Plan or is an environmental target set as part of site-specific conservation objectives for SACs e.g. for the freshwater pearl mussel, or oligotrophic or hard water lakes. Further research is required in this regard'	
Article 21(3)- previously article 20(3)	**NIS: '**For the purposes of sub-article (1), the area of a holding shall be deemed to be the eligible area of the holding'	"there is also potential for negative effect in some cases. For example farms with commonage. The whole farm approach will include the proportion of commonage associated with the farm. In most cases there will be no fertiliser applied to the commonage area therefore there will be a greater amount of fertiliser allowance to be spread on the remaining areas. There are also variations in field fertility and yield potential inter alia. Overall, whilst the article appears to be positive, there is still potential for negative effects through over application in certain land parcels where no soil testing has been undertaken."	This sub article remains largely the same with no assessment of the risk outlined in the NIS for the 5th NAP

5. Grazing Platform

While we welcome the addition of the new Article 17(1) requirement, and the recognition of the pollution potential of a highly stocked grazing platform in the AA screening:

> *"milking cows predominantly graze on the land that can be accessed from the milking parlour. As a result, these lands may receive a higher proportion of the farm's livestock manure nitrogen while cows are at grass and/or in the form of slurry due to close proximity to the farmyard. While the nutrient allowance is based on the total land area being farmed, for practical and economic reasons, the nutrient distribution may not extend to the outblocks. If this results in a significantly higher concentration of nutrients being spread on the land closer to the farmyard, or the area typically referred to as the milking platform, it is proposed that a lower N allowance will be applied if the farmer cannot demonstrate that livestock manure is being spread across the farm holding."*

We would observe that given the data which indicates how significant a driver of nitrate loss that urine patches are on free draining soil[9], modelled to be at circa 60% of the nitrate loss on free draining soils, the mitigation proposed here is inadequate, and has not been properly assessed in terms of the efficacy of this measure to adequately offset the identified risk:

> *"(b) For the purpose of determination of the stocking rate on the milking platform, the Minister for Agriculture, Food and the Marine will consider all dairy cows on the holding to be based on the milking platform. If that gives rise to a stocking rate greater than to the value shown in Tables 14, 15 or 16, as appropriate to the holding, cattle slurry produced on the holding must be applied outside the milking platform or a lower chemical fertiliser allowance will apply as set out in Tables 14, 15 or16."*

The NIS outlines that:

> *"In the context of the above, Art. 17(1)(a-b) is a positive measure for water quality as milking platforms will be declared to determine fertiliser allowance and all dairy cows on a holding will be considered to be based on the milking platform. If this results in a stocking rate greater than the values shown in the supporting technical tables, this will then impact the spreading of cattle slurry (as outlined) and chemical fertiliser allowances. This is positive for water quality as it will prevent excessive nutrients being applied to concentrated areas, with corresponding nutrient losses and improve nutrient distribution."*

And it outlines that article 17(1) is a new measure for the purposes of AA screening, but assigns it into category C, which the NIS outlines means:

> *"New protective horizontal conservation measure - no further screening required"*

With the additional rationale:

[9] The Impact of Nitrogen Management Strategies within Grass Based Dairy Systems - Teagasc | Agriculture and Food Development Authority

"Article 6(1) and (2) of the Habitats Directives are ongoing duties whose implementation needs to take account of economic, social and cultural requirements and regional and local characteristics (refer Article 2(3)). The need to take account of wider considerations allows for an iterative approach to the delivery of conservation measures, with measures potentially being introduced in a phased manner until the conservation objectives are achieved. The four yearly NAP review provides a vehicle through which measures to deliver improvements in water quality can be reinforced as may be necessary. An article which introduces new protective horizontal conservation measure is directly connected with or necessary to the achievement of the conservation objectives for European sites and no further AA screening is require".

While this measure will undoubtedly lower the nitrogen load on those lands, there should be an evidenced based approach in order to protect water quality of individual water bodies and all European sites and to demonstrate that this will be sufficient for water quality under WFD and European sites. There does not appear to be any assessment of this measure, beyond what is provided in the AA screening Table 4-4. An adequate assessment would likely result in the need for limits on stocking densities on some grazing platforms, depending on their nitrate loss potential risk, given the animals themselves are the main driver of nitrate loss, should also be considered. The EPA Farm and Landscape Measures for Agriculture (FLAG) map and Pollution Impact Potential (PIP) map work, combined with work by Eoin McAleer[10] in LAWPRO have clearly evidenced the benefit of this type of farm level assessment in addressing nitrate loss from grazing platforms, and the weakness in taking a one size fits all approach. The weakness of this measure, and consequently the risk it poses, has not been adequately assessed in the NIS or the SEA Environmental Statement. This is a new measure, introduced on foot of a recognition that the grazing platforms are likely to have higher proportions of nitrogen spread on those lands, with the clear implication that this would have negative impacts for WFD waterbodies and European protected sites. As such, a risk has been identified, and while a mitigation measure has been proposed, given the body of evidence available, it is clear that this will not be sufficient to address the primary driver of nitrogen loss on free draining soils, which is primarily animals urinating while they are out at pasture, nor has the adequacy of this mitigation measure been assessed in any way. In our view this is a lacuna in the data, and highlights uncertainty with regard to the protection of European sites and WFD waterbodies. This measure should not have been screened out for AA.

6. Compliance

The SEA Environmental Report outlines:

"With overall non-compliance levels amongst all farms inspected in 2024 under the NAIP at 42%, it is clear that enforcement is key to the effectiveness of the Sixth NAP. Mitigation measures are proposed in this Environmental Report aimed at ensuring that enforcement action is taken when non-compliances are identified during inspections."

This same issue was highlighted in the NIS for the 5th NAP:

"It is considered that compliance, which is recorded as being low, is a key issue which needs to be addressed to ensure that the draft NAP realises the required improvements to water

[10] 12. A data driven approach to target nitrogen reductions - Eoin McAleer, LAWPRO

and air quality which are required for the identified range of European sites to achieve favourable conservation status."

At that time, An Taisce highlighted that there was considerable uncertainty regarding the efficacy and delivery time for the measures proposed to improve compliance, and as such we stated that this was not a mitigation measure which could be relied upon due to the innate uncertainty as to whether it would actually be deployed. Yet again, in this NAP, this is being highlighted as a key issue. While we acknowledge the establishment of the National Agricultural Inspection Programme (NAIP), the level of non-compliance is still extremely high, and the only mitigation which is provided in the SEA would appear to be a review of the effectiveness of the NAIP. This is likely to result in another compliance section in the 7th NAP, in four years time, once again highlighting that compliance is still an issue. This is not adequately addressing a problem which is likely to be driving significant numbers of breaches of EU law, namely the Nitrates Directive, WFD and Habitats Directive. This lack of compliance is not sustainable, and a far more ambitious approach, and stronger enforcement tools needs to be implemented to address it.

7. Effectiveness of the measures

The SEA outlines:

"*Definitively linking NAP measures to their environmental outcomes would inform the compilation of a robust suite of measures capable of achieving the environmental objectives of the Nitrates Directive. The assessments outlined in Chapters 7 and 8 of this Environmental Report highlight a pressing need for detailed, evidence-based assessment of the effectiveness of the NAP measures individually.... Considering the state of the environment outlined in Chapter 5, it is likely that significant changes will be required to ensure the efficacy of NAPs*."

The idea, that 30 years after the introduction of the Nitrates Directive, as we draft our 6th NAP, that there has never been an assessment of the efficacy of the measures is astounding. This was a key part of the An Taisce submission on the 5th NAP, where we clearly highlighted the lack of an evidence base for the measures. The NAP is a basic measure under Article 11 of the Water Framework Directive, which includes obligations under Article 4(1)(c) for European sites. This is a clear statement of reasonable doubt about the effectiveness of the measures, and a recognition that what is currently proposed in the 6th NAP is unlikely to be sufficient to address the current state of our environment. This is the argument which An Taisce raised in our submissions on the 5th NAP, and in our subsequent legal case, and this statement in the SEA would appear to further validate those concerns, and highlight that the 6th NAP, like the 5th before it, fails to provide the necessary evidence base and is likely to fail to address water pollution in the same way that previous NAPs have, given their efficacy has never been assessed. This further calls into question the assertion that the NAP is a management plan under Article 6(1) of the Habitats Directive, given the lack of evidence for the efficacy of the measures.

8. SEA Monitoring

Article 10 of the European SEA Directive (2001/42/ EC) states that the significant environmental effects of implementing a plan/programme shall be monitored in order, inter alia, to identify at an early stage unforeseen adverse effects and to be able to undertake appropriate remedial action. The SEA environmental report highlights the various monitoring of water quality which is underway, and concludes the following:

> *"It is considered that the existing monitoring and reporting in relation to water quality is sufficient to identify unforeseen adverse effects on water quality arising from implementation of the Sixth NAP in order to allow for appropriate remedial action to be taken."*

However, the majority of this monitoring has been ongoing for over a decade, and in that time agriculture has continued to be the dominant pressure on our water quality, all evidenced via the EPA data. Despite this, no remedial action ever appears to have been taken at a national level to strengthen the measures in the NAP. Indeed, there was an acknowledgement in the last SEA for the 5th NAP that multiple previous NAPs had failed to adequately address agricultural water pollution. The target outlined in Table 9.3 of the SEA Environmental Statement for water is 'No water bodies impacted by agricultural nutrients'. We are a long way off ever achieving that, with little change for the better in that regard over previous NAPs. This is particularly concerning, as the remedial action provided for in that table for water pollution is increased inspection and compliance, which we know is at a very low level. The efficacy of the measures for addressing the water pollution causes would be a critical factor here, given we are now on our 6th NAP and have no evidence base for what the measures might achieve in terms of water quality outcomes. While increasing compliance is necessary, perfectly implemented ineffective measures will not address the problem at hand, and given we don't know if the measures work this is not a credible remedial action. As such, we are of the view that while the monitoring is adequate, the remedial action on foot of what those reports are highlighting has been entirely absent, in contravention of the legal requirement in Article 10 of the SEA Directive.

9. Water Framework Directive

In the context of the WFD, where a plan or programme is adopted using the SEA procedure, the assessment of whether or not the plan or project meets the "environmental objectives" identified in Article 4 WFD must be included in the environmental assessment required by the SEA Directive; and so included in the "Environmental Report" prepared under Article 5. We are of the view that the SEA environmental report provides an overly cursory assessment of WFD which fails to meet the standard required under Article 4 of the WFD.

None of the measures identified in the SEA Statement meet the standard of scientific certainty either individually or collectively as required for the purposes of Article 4 of the WFD. Furthermore, there is no evaluation or assessment of the efficacy of these measures individually, or at all, in order to allow the relevant authority to be able to verify compliance with the obligations arising from Article 4 in

respect of individual water bodies. This is clearly elucidated elsewhere in the SEA Environmental Report where they outlined:

> *"Definitively linking NAP measures to their environmental outcomes would inform the compilation of a robust suite of measures capable of achieving the environmental objectives of the Nitrates Directive The assessments outlined in Chapters 7 and 8 of this Environmental Report highlight a pressing need for detailed, evidence-based assessment of the effectiveness of the NAP measures individually"*

Article 13 of the WFD requires each Member State to adopt a "River Basin Management Plan" (RBMP) which is to be reviewed every six years. Ireland's current RBMP (or Water Action Plan) was published in September 2024. The requirements of the RBMP are specified in Annex VII WFD and include:

> "*a summary of the programme or programmes of measures adopted under Article 11, including the ways in which the objectives established under Article 4 are thereby to be achieved*".

Article 11 of the WFD requires each Member State to:

> "*ensure the establishment for each river basin district… of a programme of measures, taking account of the results of the analyses required under Article 5, in order to achieve the objectives established under Article 4*."

Each programme of measures shall include the "basic" measures specified in Article 11(3) and, where necessary, "supplementary" measures. Of note, the "basic" measures include:

> "*(a) those measures required to implement Community legislation for the protection of water, including measures required under the legislation specified in Article 10 and in part A of Annex VI*".

The Nitrates Directive and the Habitats Directive are specified in both Article 10 and in part A of Annex VI. Further by part (v) of Annex IV it references areas designated for the protection of habitats or species where the maintenance or improvement of the status of water is an important factor in their protection, including relevant Natura 2000 sites designated under Directive 92/43/EEC and Directive 79/409/EEC. The draft 6th NAP is a measure under the umbrella of the Water Action Plan 2024, Ireland's third cycle RBMP under the WFD. It contributes to achieving water body objectives nationally. The Water Action Plan 2024 programme of measures in relation to agriculture comprises the NAP, as well as additional or supplementary agricultural measures.

Article 4 (1) of the WFD provides:

> "*In making operational the programmes of measures specified in the river basin management plans: (a) for surface waters (i) Member States shall implement the necessary measures to prevent deterioration of the status of all bodies of surface water (ii) Member States shall protect, enhance and restore all bodies of surface water … "*.

We would highlight that Article 5 of the Surface Water Regulations 2009 requires a public authority, in the performance of its functions, not to undertake those functions in a manner that knowingly causes or allows deterioration in the chemical or ecological status of a body of surface water. It does

not appear that such an assessment as required under Article 4 of the Water Framework Directive has been carried out within the consultation material made available to determine whether this project may cause a deterioration of the status of a body of surface water or where it may jeopardise the attainment of good surface water status or of good ecological potential and good surface water chemical status.

According to the CJEU in Case C-461/13 (Weser), in the context of the environmental objectives for "surface waters":

> *"32 It is necessary, as the referring court has done, to construe authorisation of an individual project as such implementation.*
>
> *33 Furthermore, as provided in Article 4(1)(a) of Directive 2000/60, it is '[i]n making operational the programmes of measures specified in the … management plans' that the Member States adopt the measures necessary in order to achieve the objectives of preventing deterioration of the status of bodies of surface water and protecting and enhancing their status. The use of the words '[i]n making operational' supports an interpretation of that provision to the effect that it entails obligations which must be complied with by the competent authorities when approving individual projects in the context of the legal regime governing the protection of waters. …*
>
> *51 In the light of all the foregoing considerations, the answer to the first and fourth questions is that Article 4(1)(a)(i) to (iii) of Directive 2000/60 must be interpreted as meaning that the Member States are required — unless a derogation is granted — to refuse authorisation for an individual project where it may cause a deterioration of the status of a body of surface water or where it jeopardises the attainment of good surface water status or of good ecological potential and good surface water chemical status by the date laid down by the directive.*

While the Weser case was ultimately addressing the approval of an individual projects, that does not mean its logic is so confined. We are of the view that the logic of the decision also applies to "the programmes of measures" themselves. It is submitted that the same logic applies to satisfaction of the "environmental objectives" for "ground waters" and "protected areas" – a project cannot be authorised if it does not meet the environmental objectives. We do not believe this standard was applied to the adoption of the NAP, and that an adoption of the NAP without such an assessment would be a breach of Article 4 of the WFD.

It is noted that the question of the application of Articles 4 and 11 of the Water Framework Directive to a NAP created pursuant to Article 5 of the Nitrates Directive is currently being considered by the European Court of Justice in the proceedings taken in respect of the 5th NAP.

An Taisce has very significant concerns about the adequacy of the current River Basin Management Plan to meet the environmental objectives of Article 4. We are concerned about the generic and non-specific nature of the measures proposed in the RBMP in respect of nitrates, and in particular, the next NAP. For example, Additional Measure Agri 6 states:

> *"DHLGH and DAFM will put arrangements in place to ensure independent assessments and reviews of the efficacy of the Nitrates Action Programme (NAP), the CAP Strategic Plan and the Water EIP (and other relevant measures) to bring the 1,000 water bodies impacted by agriculture up to good status and to prevent deterioration. They will identify additional*

measures, where necessary, which will be implemented during the lifetime of the plan or beyond, where justified under Article 4 of the WFD."

It appears to us that no such arrangements have been put in place, nor additional measures identified and implemented. There is a complete lack of detail about the measures proposed for individual waterbodies, both in general and in respect of agriculture in order to achieve the objectives of Article 4 of the WFD.

Furthermore, many of the proposed measures are prospective in nature, and are still not in place at the time that this new NAP is proposed to be implemented. In that regard, Additional Measure Agri 7 provided:

> *"In support of the Catchment Management Work Plans, the Department of Agriculture, Food and the Marine will publish an Agricultural Sectoral Action Work Plan to reduce nitrogen losses to waters in areas where levels are increasing or are too high, and to bring nitrogen, phosphorous and sediment losses to water from agricultural sources within sustainable levels by 2027.*
>
> *The Sectoral Action Work Plan for Agriculture will include targeted measures to address the 1,000 water bodies at risk from agriculture during the third-cycle, along with protection measures needed to prevent further deterioration. The aim of the plan will be a rapid graduated reduction of nitrogen, phosphorous and sediment losses to water bodies with a target to reach sustainable use and discharges in all catchments of concern by 2027. [Timeframe 2024]"*

It is noted that at the time of writing, the Sectoral Action Work Plan for Agriculture has not been finalised.

In that context, it is clear that there is a lack of detailed measures for the purposes of ensuring compliance with the Article 4 obligations of the WFD in respect of the 1000 waterbodies identified as being at risk from agricultural activities.

The combined result of the RBMP with this proposed NAP is that there is a failure to address the requirements of the WFD in respect of individual waterbodies and what is required for them to meet their environmental objectives by 2027.

Such a similar generic approach to fulfilling the requirements of the WFD was condemned by the High Court for England and Wales in *Pickering Fishery Association by Martin Smith, R (on the application of) v Secretary of State for Environment, Food and Rural Affairs* [2023] EWHC 2918 (Admin). In that case, the Court struck down the RBMP for the river Humber. The applicants' argument was that the RBMP for the river Humber only contained generic measures with no specific measures for a particular waterbody which was known to be suffering from pollution issues.

The Court held that a Programme of Measures must set out measures applicable to specific water bodies in order to achieve the water body-specific environmental objectives required under the WFD, though the level of detail may vary and some measures can be generic where appropriate. Article 11(5) of the WFD requires investigation and additional measures where objectives are unlikely to be achieved, which must be water body-specific to be meaningful.

It appears to An Taisce that despite the emphasis which we had placed on the requirements of the WFD in the 5th NAP and subsequent judical review, in respect of the current NAP they have not been

taken on board. The draft documents do not include any specific assessments for the purposes of Art 4 of the WFD. It must therefore be taken that the position of the Department is that no such assessment is required. It is not sufficient to make reference to the WFD at section 5.5 of the draft SEA. This is despite that report stating that the 'current assessment' for water is "*Poor - environmental and/or compliance challenges to address*", with the 'outlook' being "*Partially on track to achieving full compliance in place or planned that will improve the situation. However, the outlook is depended on existing and planned actions and measures and plans being fully implemented and effective."*

This conclusion is stark in light of the requirements of the WFD to achieve good environmental status of all waterbodies by 2027. It is even more surprising in that context that there has been a failure to request or even flag the requirement for a derogation from the environmental objectives of Article 4, as has been done in respect of urban waste water (UWW 11 refers), in circumstances where this proposed NAP will coincide with the deadline for achievement of the environmental objectives of Art 4 WFD.

We consider the failure of this proposed draft NAP to properly address the requirements of the Water Framework Directive, to be a fundamental legal error and we request that the approval of the NAP be delayed in order to allow for a legally compliant Article 4 assessment to be completed.

10. Material Assets in SEA

In the assessment of alternatives for the derogation options in the SEA, the assessment stated the following (where 'alternative S2b' is a move away from the derogation):

> *"In relation to MA, there would certainly be significant negative economic effects associated with Alternative S2b for that proportion of the population supported directly or indirectly by the dairy sector. A Teagasc report on the environmental and economic impacts of potential changes to stocking rates published in September 2025 reports an average family farm income reduction per affected farm of 39%, or €43,355, associated with reducing dairy cow numbers to 170 kg N/ha.286 The Teagasc report also notes that a dairy herd reduction would have knock-on impacts on the wider agri-food sector. For example, a smaller national milk pool could negatively impact milk prices, and each 1% milk volume reduction would equate to a €64 million loss in export revenue. According to the report, moving away from the derogation (Alternative S2a) would lead to an estimated 15% reduction in national milk production, which would have a significant impact on the value of Ireland's dairy exports (valued at €6.3 billion in 2024)."*

The European Court has previously clarified that only those effects on material assets which are also likely to have an impact on the environment should be taken into account.[11] The Court further provided that an extension of the environmental assessment to the monetary value of material assets cannot be inferred from the wording of Article 3 of the SEA Directive and would also not be in accordance with the purpose of that Directive, which is to assess the effects of public and private

[11] Judgement of the Court of Justice of 14 March 2013 in case C-420/11, Jutta Leth v Republik Österreich, Land Niederösterreich, EU:C:2013:166, paras 27 and 29.

projects on the environment. As such, we submit that the assessment provided in the SEA for material assets, with regard to the removal of the derogation, is not in keeping with the meaning of material assets under the ambit of the SEA Directive. The value of farming assets as well as the broad societal impacts of agricultural activities, the impact of the plan or project on the agricultural industry and the impact on the output and income of farmers, the sustainability of the agricultural industry, the food supply chain, and the employment of a significant portion of the population are not relevant considerations under the heading of material assets as these impacts are not covered by the assessment under the SEA Directive.

11. Derogation Assessment in NIS

The screening assessment for the derogation outlined, in Table 4-9 in the NIS:

> *"A derogation from the stocking rate limits set for the protection of water quality to allow a higher stocking rate may result in the potential for increased nutrient loading in water bodies within the Zone of Influence of any derogation farm. Effects are anticipated to persist over the longer-term and could undermine the achievement of the conservation objectives for European sites which are sensitive to water quality. This may give rise to potential for LSEs where such farms lie in close proximity to, or are closely hydrologically or hydrogeologically linked to European sites"*

While we agree with this screening conclusion, it does raise questions about the evidence base used to screen out farms which have up to 170kg/N/ha, or indeed those farms which have higher stocking densities, but export slurry to stay out of derogation. If, as outlined, 'a higher stocking rate may result in the potential for increased nutrient loading in water bodies within the ZOI', then how do intensive, non-derogation farms, not require a similar assessment? This is highly pertinent, given what was clearly stated in the NIS for the 5th NAP, where the NIS said clearly:

> *"It is also noted that there is no scientific evidence to support whether 170 kg of nitrogen per hectare allows for the maintenance of high-status water quality where it is required relative to environmental objectives set under the River Basin Management Plan or is an environmental target set as part of site-specific conservation objectives for SACs e.g. for the freshwater pearl mussel, or oligotrophic or hard water lakes. Further research is required in this regard".*

As such, the legal and ecological rationale for screening in a derogation based on stocking density, while screening out Article 21(1) which provides:

> *"The amount of livestock manure applied in any year to land on a holding, together with that deposited to land by livestock, shall not exceed an amount containing 170 kg of nitrogen per hectare. The amount considered to be applied to commonage shall not exceed 50 kg of nitrogen per hectare",*

is entirely unclear. We are of the view that it is legally and ecologically flawed to screen out this measure for AA in light of previously expressed risks from the 5th NAP, and in light of the recognition in the derogation screening that stocking density may result in increased loading. The relevant authority cannot conclude beyond reasonable scientific doubt that it will not impact on the integrity of a European site, and nor was it assessed for its impact on WFD waterbodies via an Article 4 assessment.

Additionally, the NIS outlines the following:

> *"When determining the 'impacts' of Part 7* [the derogation]*, as relevant to European sites, it is necessary to recognise that Part 7 of the GAP regulations does not introduce a new provision. Equivalent provision are already in place under the existing GAP Regulations currently in force. From this perspective the actual 'impact' of Part 7 is the maintenance of the status quo. The question to be addressed as part of the appropriate assessment is whether the continuation of the derogation provision might undermine the achievement of the conservation objectives of European sites potentially at risk."*

This again introduces the concept of a flawed baseline, which we addressed in Section 2. The baseline should not be the activity which was underway, it is the scientific evidence base of the state of the environment, which the SEA correctly outlined as follows:

> *"water quality is continuing to decline nationally and, though there is evidence of improvement in nutrient concentrations, nitrogen concentrations in waters are fluctuating and are too high in some catchments, particularly in the east and southeast. These impacts have been linked to agricultural activity, with agriculture identified as a significant pressure on more than 1,000 water bodies nationally in the Water Action Plan 2024. All of this points to the necessity for additional and strengthened measures in the Sixth NAP to ensure that declining trends in nitrogen concentrations can be sustained so that water bodies can achieve their environmental objectives under the Water Action Plan 2024."*

The NIS puts forward this argument:

> *"The implementation of Part 7 derogation provision in the existing GAP regulations has not hindered the achievement of water quality conservation objectives targets to date, meaning it can reasonably be anticipated that the risk from Part 7 to such sites is limited to the potential for an increase in derogation farms affecting a given European site compared to the current situation."*

We would argue that there is no evidence base to conclude that the derogation has not hindered the achievement of water quality conservation objectives, particularly in light of the baseline as described in the SEA, where it identifies the need for additional and strengthened measures to achieve WFD objectives. The new Article 17 report by the NPWS on the status of European sites in Ireland is due by the end of 2025, and the previous Article 17 report, which presumably is what the Department is relying on here, is now six years old. Additionally, while the waterbody in question may have managed

to withstand a certain level of loading to date, it does not indicate that this can continue on ad infinitum with no potential for impact. This is very clearly evidenced in recent fish kills in Lough Sheelin[12], whereby there would appear to not have been a pollution event, but high water temperatures and lack of oxygen combined with the **existing** level of pollution to lead to a large kill of trout and other fish. This is a critical issue, our waterbodies do not exist in a vacuum, and they are subject to ever more environmental pressures which may have synergistic impacts on their ecological quality, with climate change a particularly notable issue. This assessment needs to be carried out on a case-by-case basis - a broad assumption such as what is provided in the NIS is not predicated on the ecological reality of the current state or pressures on our waterbodies and European sites, and cannot be considered to be legally robust.

Furthermore, irrespective of the ecological points raised above, the logic appears to be that because the conservation objective has not declined from maintain to restore therefore the extant derogation can have had no adverse impact on the European site. This is illogical, and negative impacts can indeed occur without impacting on the overall conservation objective. A change in conservation designation is not the only indicator of negative environmental impact on a European site, and limiting it to this is both ecologically and legally flawed.

Given the abundant evidence that agriculture continues to impact on water quality, we cannot use such broad assumptions to screen out the requirement for AA for derogation farms within the zone of influence of European sites which six years ago were achieving their conservation objectives. That is neither legally nor ecologically robust.

Additionally, with regard to air quality and ammonia pollution impacts on European sites, where ammonia deposition is known to be detrimental to our nutrient poor sites such as bogs and heaths. As the NIS outlined, 81% of SACs and 78% of SPAs were modelled to exceed the critical level for atmospheric ammonia (1 µg/m-3) for lower plant communities (lichens and bryophytes). However, the NIS then outlines with regard to the derogation farms (part 7):

> *"Where a maintain objective applies, the impact of Part 7 will maintain the status quo. The implementation of Part 7 derogation provision in the existing GAP regulations has not hindered the achievement of air quality conservation objectives targets to date, meaning it can reasonably be anticipated that the risk from Part 7 to such sites 47 is limited to the potential for an increase in derogation farms compared to the current situation"*

This is a flawed assumption given the previously highlighted lack of information in the NIS about NOx deposition impacts on European sites:

> *"NOx deposition upon Natura 2000 sites across Ireland is relatively limited given a general lack of available monitoring data"*

As such, there is no evidence base to make such an assumption. It would appear we do not know what impact ammonia deposition as a result of derogation farms has had on our sensitive European

[12] IFI publish Lough Sheelin fish kill investigation reports | Inland Fisheries Ireland

sites. This was an issue we flagged up in our submission on the 5th NAP, where this risk was also highlighted and discounted, with a reliance on the AgClimatise strategy. This is very clearly a lacuna in the data, and to screen out based on Natura 2000 sites having been at maintain conservation objective six years ago is neither legally nor ecologically robust. A site-by-site assessment is required.

This logic for both water and air is continued further down in the NIS, under the Anticipated Scenarios section, where they provide the following logic:

> *"A maintain objective applies, and a derogation relates to a continuation of a recurring agricultural practice. It is reasonable to anticipate that there will be no adverse effect to site integrity in this scenario. This is on the basis that the derogation is already part of the baseline conditions and the maintenance of the status quo will not represent a risk to the achievement of the conservation objectives for air / water quality targets, which are already achieved whilst the derogation is in place. This scenario is unlikely to undermine the achievement of the conservation objectives."*

This again refers to measures as a baseline, without reference to the well-established declining environmental baselines for water and air pollution on foot of agricultural activities. The legal and ecological logic for these is flawed, as outlined above. In the case of air quality, they simply do not have the data to conclude that. In the case of water, there is an assumption that the other environmental conditions are unchanging, where that is clearly not the case, with prolonged hot spells and droughts, along with unseasonably heavy rainfall on foot of climate change adding a whole new level of stress to these ecosystems. Climate change is a stressor which will act synergistically with all the other extant pressures, meaning existing pressures which have not yet tipped ecosystems into bad conservation status may now do so.

This is compounded by the conservation status only being assessed in the six-yearly Article 17 reports, and the assumption that the carrying capacity of the given waterbody remains unchanged. In instances like Lady's Island Lake (both an SAC and an SPA), the decades long nutrient pollution problem has led to a significant build up in the sediment of the lake, and even in the absence of additional loading, this will continue to pose an ecological challenge for the foreseeable future. The impact of additional future loading to the already well-established nutrient bank in the sediment of the lake would have to be assessed. Similarly, Lough Carra SAC is a shallow marl lake in County Mayo, and scientific evidence would indicate that while the marl itself has likely buffered the lake from nutrient pollution over years, by absorbing phosphate from the water, at a certain point these types of shallow lakes undergo tipping points[13], and particularly with shallow marl lakes, any additional loading could be the trigger for that, whereby the marl dies, it no longer absorbs the phosphate, and the entire lake ecosystem could flip into a highly eutrophic algae dominated system in a very short period of time. This could be triggered by continued current levels of pollution to the lake. As such, the logic that an ecosystem which has withstood a certain pollution loading can continue to withstand the same level of pollution into the future with no impact is ecologically illiterate, and such

[13] Alternative equilibria in shallow lakes - ScienceDirect

assumptions cannot be applied to highly diverse ecosystems which are responding to a whole host of pressures in real time. A site-by-site assessment is necessary - no large scale screening out of European sites, as would appear to be proposed, should be permitted.

As such, in all cases where a derogation farm is undergoing AA, we would firmly assert that assessment at project level would be required to ensure compliance with the requirements of the Habitats Directive. There can lawfully be no widely applied screening exemptions.

12. Ammonia

The NIS provides the following in regard to ammonia:

> *"Monitoring of 12 Natura 2000 sites in Ireland in a recent study recorded the exceedance of critical load for ammonia deposition, deriving from agricultural practices. The monitoring confirms for the first time CLE and CL exceedances of European sites in Ireland as a direct result of agricultural ammonia. It is considered likely that this also applies to further sites, not subject to monitoring and that in the event of increases to ammonia emissions associated with agricultural practices further sites may exceed the relevant critical loads."*

The authors then make a list of recommendations, but these are not mitigation measures under the ambit of the Habitats Directive, and there does not appear to be any further assessment of this impact. As such, an impact on and a future risk to European sites have been identified, and no targeted mitigation is provided, nor indeed is there any additional information or analysis provided to highlight what is driving this impact, or how it should be mitigated. The recommendations are general in nature, and point to non-specific additional monitoring for 'all sources of ammonia'. This is meaningless given the decision by the Department to screen out the majority of the NAP measures from Stage 2 AA, based on the assertion that they are protective and thereby management measures. How then would the ammonia which might arise from those non-assessed activities be assessed at a later point, given there is no other systemic regulatory framework which controls standard farming activity across Ireland, unless it is the building of infrastructure which triggers assessment under the guise of the Planning and Development Act, or EPA discharge licencing. For any activities which do not trigger these additional permitting frameworks, there will, in practice, be no other avenue to assess the ammonia impacts.

One of the recommendations is for a 'Site-specific nitrogen management plans'. This should in fact be carried out as part of the NIS for this NAP, with any European sites which have the potential to be impacted by ammonia deposition specifically assessed, or this should be committed to as an additional sub-level plan if it is beyond the scope of a plan level assessment. As drafted, this is purely a non-binding recommendation, which will not provide any ecological or legal protection to European sites which have been identified as being at risk on foot of the agricultural activities which are regulated under this NAP. While the derogation project level assessment may assess the impact of nitrogen air pollution on sensitive European sites, no other assessment mechanism exists for farming

activity which does not require additional assessment. As such, in the eyes of the Habitats Directive, and based on what is provided for in the NIS, this activity remains largely unregulated and unquantified with regard to its identified risk to nitrogen deposition on protected European sites, in contravention of the requirements of the Habitats Directive.

13. Spreading of UWWT Sludge

The NAP outlines:

> *"The timing of the application of nutrients to arable land will be restricted to better align with crop demands in catchments where the greatest nutrient load reduction is required to meet Water Framework Directive objectives. With the exception of arable land being sown to brassica spp. or grass crops by 15 September, post-harvest application of organic fertiliser in the form of sewage sludge or biosolid derived from the treatment of sewage sludge, is proposed to be prohibited in the Barrow Catchment and the Slaney & Wexford Harbour Catchment.* ***To allow an adjustment period to provide additional storage,*** *o****r to identify alternative destinations for the sewage sludge*** *currently applied to arable land in these catchments in the autumn period, this measure is proposed to apply with effect from 1 January 2028 as set out in Article 17 of the draft GAP Regulations."* [our emphasis]

Article 17(1)(d) of the new GAP regs proposes:

> *"Notwithstanding, sub-paragraph (1)(c) with the exception of arable land being sown to brassica spp or grass crops by 15 18 September, post-harvest application of organic fertiliser in the form of sewage sludge shall be prohibited in the Barrow Catchment and the Slaney & Wexford Harbour Catchment with effect from 1 January 2028."*

NIS outlines:

> *Art. 17(1)(c) and (d) relate to arable lands. Part (c) is a positive measure as it will minimise the potential for nutrient loss/runoff by providing a short timeframe to incorporate organic fertiliser into the soil and sow a crop. Part (d) is also a protective measure as it prohibits the post-harvest application of certain fertilisers in the most high-risk catchments.*

This sub-article is screened out for AA screening based on this rationale:

> *"New protective horizontal conservation measure - no further screening required"*

However, we would observe that a risk has been highlighted here, whereby sewage sludge applied to these lands in the Barrow and Slaney catchment has been identified as posing a risk to WFD water quality in these catchments as they are particularly high in nitrogen[14]. Despite this, the intention of the Department is to postpone implementation of this measureuntil January 2028, purely for operational reasons, to allow Uisce Eireann to find some other outlet for their sludge. The lawfulness of this is highly questionable. A risk has been identified both under WFD and the Habitats Directive, a mitigation measure has been proposed, but for convenience the implementation of that mitigation

[14] Nitrate_Reductions_and_FLAG_Map_July2025_F01.pdf

measure has been delayed for three years. No assessment has been carried out at all on this measure, as the Department has screened it out. As such, there is no analysis of the impact that the three year delay of this mitigation measure will have.

We would note that the condition of the sewage sludge will greatly affect the risk that this practice poses. Will the sludge be dried, biodigested and pelleted, or will it be in non-dried form? The use of digested and heat-treated sludges poses a more minor risk than for non-dried sludge waste. The assessment should identify which wastewater treatment plants the sludge is coming from, and what their treatment process is for the sludge, prior to it being land spread. The utter paucity of information or analysis in this regard effectively excludes public participation, and we would argue, it introduces significant doubt about the impact this three year delay would have on the potentially impacted European sites. The legality of granting themselves an additional three years of potential pollution because it is convenient should be seriously considered, not to mention the potential ecological and human health impacts which may arise. While this is screened out for Stage 2 AA, erroneously we would argue, that does not limit the scope of an Article 4 WFD assessment which is necessary, as argued with regard to the full suite of NAP and GAP measures as outlined earlier. This practice of spreading sewage sludge is recognised as potentially impacting on WFD status of the Slaney and the Barrow, and the impact on WFD status as a result of this three year delay in halting this practice is entirely ignored in the SEA and AA Screening. This cannot be considered adequate in the context of either WFD or AA obligations on the decision maker. The impact of this delay should have been assessed against WFD and Habitats Directive requirements to determine if it would impact on status, and if it was deemed to be a risk then an additional legal mechanism such as IROPI under the Habitats Directive or an Article 4(7) exemption for WFD should have been sought.

Notwithstanding those comments, the spreading of any sewage sludge in any catchment should be far more rigorously assessed, not just limited to the Barrow and the Slaney. There is a paucity of information in the public realm about what treatment process the sludge undergoes before land spreading, and given the potential ecological and human health risks which arise from this practice, there needs to be a far more transparent assessment and the public need to be able to access that information. We would advocate for all sewage sludge to be digested, dried and incinerated in order to destroy the increasingly heavy burden of microplastics found in sludges and any organic compound present including pharmaceuticals. Incineration is the only real way of removing these compounds from being recycled back through the food chain.

14. Nutrient balance at individual farm level (know your number)

While we very much welcome this initiative, we would note that the nutrient balance does not account for clover fixated nitrogen. It is based purely on a farm-gate NUE. As such, it will wholly overestimate the nitrogen use efficiency on farms where clover has been established. From a water quality perspective, failing to adjust this number for the inclusion of clover fixed nitrogen renders it far less useful as a water quality target. AgNav is suggested as the tool to be used, but while this may render some useful data on non-clover farms, or from a climate perspective, it is limited as a water measure, and to fail to adjust for this is, in our opinion, a missed opportunity. Additionally, we would argue

that this calculation should be mandatory for more than just derogation farms, and at a minimum should include non-derogation higher stocking rate farms which are orange-flagged (i.e. areas requiring N reductions) on the EPA Targeting Agricultural Measures map.

15. Increased slurry and soiled water storage capacity requirements

We would highlight that while we welcome the suggestion that slurry and soiled water storage should be increased, in line with the need identified in the Teagasc study (21% deficit for slurry, and 43% deficit for soiled water), as outlined in the draft NAP consultation document:

> *"The survey highlights the volume of slurry produced by the average dairy cow in Ireland is 21% higher than existing regulatory values."*

> *"Compared to the existing value, the volume of soiled water produced from a dairy cow has increased by 43%."*

We are very concerned that the measures are only due to come into force on October 1st 2028. As such, there is a recognised deficit in slurry and soiled water storage which will continue largely unregulated until three years' time. While we appreciate the difficulties posed here for farmers in terms of acquiring planning permission, and building the necessary additional infrastructure, from an ecological perspective this is an incredibly risky move. This delay in implementing this measure was not adequately assessed in either the NIS or in the SEA Environmental Report. Article 8 and article 9 in the GAP regulations appears to be the articles which refers to the requirement for storage of cattle slurry and for soiled water, and the NIS assessment screens this out as an ongoing measure:

> *"Continuing protective horizontal conservation measure (reinforced and/or clarified) – no further screening required"*

With no mention of the lack of adequate storage, the delay in addressing this deficit, or what impact this storage deficit would have in the three years interval on WFD status and European sites. This can hardly be deemed a 'protective' measure, when a deficit has been identified, and the plan is to allow this deficit to continue for another three years. The impact of this delay should have been assessed against WFD and Habitats Directive requirements to determine if it would impact on status.If it was deemed to be a risk, then an additional legal mechanism such as IROPI under the Habitats Directive or an Article 4(7) exemption for WFD should have been sought.

16. Organic Nutrient Movement Database

We very much welcome this initiative and would highlight that there are persistent traceability gaps in slurry redistribution and unverified nutrient transfers, reinforcing the need for a comprehensive

regulatory framework to track and manage organic nutrient movements[15] . We would recommend expanding the nutrient-movement register to include all organic materials (slurry, digestate, composts, and biosolids) and given the long-standing traceability gaps, the Department should require GPS-logged, time-stamped records for each application. We would also advocate strongly for an evidenced based approach to all nitrogen going into catchments, particularly those catchments of concern for nitrogen pollution. We recommend the introducing of catchment-level nitrogen budgets which include imported or waste-derived organic materials. New or expanded anaerobic-digestion or waste-processing facilities must demonstrate that all generated nutrients can be safely managed within these caps before licensing.

17. Knowledge transfer and awareness raising for both farmers and farm advisors

An Taisce fully supports this initiative but would highlight that to date there is an information deficit among many in the farming community, including among advisors, with regard to nitrogen pollution, and how it moves differently to phosphorus, depending on soil type. Additionally, the fact that the majority of nitrogen lost on free draining soils is generated by cattle urinating while out at pasture is not widely known or acknowledged. If Ireland intends to address our nitrogen pollution problem, then it is critical that the full farming community has access to the necessary knowledge, and that that community is actively targeted in any knowledge transfer programme with this specific information. The adequacy of the standard water protection measures should also be explained, particularly what pollutant the different measures are designed to address (e.g. LESS for ammonia, buffer strips for phosphate and silt, NUE for nitrogen). This is a critical issue and must be addressed if we want to encourage the necessary action in landowners, it is only fair that they are given the necessary knowledge base to fully understand the potential benefits of the measures which they are paying to put in place.

We are of the view that the Department cannot lawfully adopt the 6th NAP as drafted, with the attendant environmental assessments. To do so would be a breach of the Habitats Directive, the Nitrates Directive, and the WFD. Any such favourable decision by the Department may be subject to challenge.

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[15] A case study in County Cork revealed that 33% of declared nitrogen exports (1.5 million kg N) were unaccounted for in 2019, equivalent to the output of over 17,000 dairy cows. This points to widespread discrepancies between declared exports and actual imports. Furthermore, some slurry movements never actually occur in practice, with advisors signing off on paper records that do not reflect reality. Regional Operational Committees (2024).



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