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### **Irish Wildlife Trust submission to the Fourth National Biodiversity Action Plan**

To whom it may concern,

The Irish Wildlife Trust (IWT) is a national, charitable, membership-based organisation which was established in 1979. Our goal has been to raise awareness of our natural heritage and its benefits to people and for over 40 years we have sought to do this through a combination of education and active campaigning for policies that recognise the inherent value of nature and biodiversity.

It is now 30 years since Ireland committed to the principles of the Convention on Biological Diversity (CBD) and in so doing, agreed to the preparation of National Biodiversity Action Plans (NBAPs). Three have been produced to-date however even the kindest assessment of their effectiveness would have to conclude that they have been unsuccessful. In 2021, the independent National Biodiversity Forum (NBF, on which the IWT represents the Environmental Pillar) concluded that we are continuing to lose biodiversity in Ireland and that the State was the “biggest transgressor of environmental law”. In other words, the State has a unique position in addressing the biodiversity crisis. While the support of the citizenry, including communities, farmers, NGOs, fishers and active individuals is essential, only the State can shape national policies and provide the necessary funding to implement environmental laws and other commitments.

NBAPs numbers one, two and three have failed largely due to a lack of accountability, clear lines of responsibility, dedicated funding streams and policy coherence across legislation and government departments.

The role of the State is recognised in the draft NBAP, which calls for an ‘all of government response’. The plan also acknowledges the need for a **Biodiversity Act** that will put the NBAP on a legal footing, similar to how the Climate and Low Carbon Development Act 2022 underpins the National Climate Action Plan. However, it is unclear who is writing the NBAP. Is it a departmental plan that is used to influence other arms of government? It is written as if it is.

However, this approach is not compliant with the CBD, which was ratified by the Oireachtas in 1996. Article 6 states:

*Each Contracting Party shall, in accordance with its particular conditions and capabilities:*

*(a) Develop national strategies, plans or programmes for the conservation and sustainable use of biological diversity or adapt for this purpose existing strategies, plans or programmes which shall reflect, inter alia, the measures set out in this Convention relevant to the Contracting Party concerned;*

If the NBAP is a national strategy then why is it calling for an ‘all of government response’, since this is would surely already be implicit? How can a government plan acknowledge the need for primary legislation (a Biodiversity Act) only to then say that “by 2023, Government has considered introducing a statutory requirement” (Action 1B1). This immediately undermines the credibility of the draft NBAP.

- The NBAP needs to commit to introducing legislation, as a matter of urgency, that would place it on a legal footing

#### *Monitoring and implementation*

The role of the Oireachtas in **monitoring the implementation** of the NBAP needs to be underpinned. Annual reporting is welcome but without accountability is unlikely to be effective in delivering change. It needs to be clear in the NBAP where the responsibility for implementation lies. This needs to be a senior minister. The remit of monitoring the implementation of the NBAP needs to be explicitly assigned to an Oireachtas Committee.

Actions in the plan are worded in such a way that monitoring its success is difficult and open to subjectivity. This was highlighted by the NBF in 2021 and remains a significant weakness. The word ‘review’ (or its derivatives) appears 95 times in NBAP, ‘promote’ appears 28 times, as far as verbs go, they imply no commitment to do anything in particular.

There are no actions for enhancing the role of the NBF. An independent NBF should be placed on a statutory footing, like the Climate Change Advisory Council (CCAC). There may also be a case for integrating biodiversity into the CCAC to provide for greater coherence in actions to address the climate and biodiversity crisis. There should be a commitment to funding a permanent secretariat for the NBF, improving its capacity for communications, and establishing structured lines of reporting to the relevant minister and Oireachtas committee.

- Strengthen the role of the NBF

#### *Funding*

Funding for implementation of the NBAP needs to be addressed. It must be costed and lines of financing provided, e.g. to Local Authorities for implementation of local BAPs. It is insufficient to

spend another five years 'reviewing' the financial needs for biodiversity action when much work has already been done in this regard (e.g. the prioritised action framework).

### *Legal compliance (Outcome 1E)*

Compliance with existing environmental law is the very minimum that should be expected of the State. Some actions in the NBAP are not compliant with the law, for instance Action 2F5 says that "Commercial fish and shellfish stock levels are maintained or restored to levels that can produce maximum sustainable yield as soon as possible, and no later than 2026", whereas **the legal deadline for ending overfishing was in 2020!** There is no basis for setting a target to meet this objective in 2026.

All government plans and policies need to be clear that compliance with environmental law is a minimum requirement. This is not currently the case, for instance the FoodSmart 2030 Plan or the Review of the Common Fisheries Policy 2022 avoid mentioning many existing legal commitments.

- There should be a clear commitment in the NBAP that the State will comply with all environmental legislation

The problems associated with wildlife crime have received much media attention and we welcome the increased focus on prosecutions under the current government. However, there is an urgent need for the creation of a dedicated **Wildlife Crime Unit**, the creation of which had been a commitment of current and previous ministers but appears to have been dropped. A Wildlife Crime Unit would be a dedicated, fully staffed function of the department with clear lines of communication, enhanced procedures for staff at all levels, and a clear chain of authority. A promised increase in ranger numbers is extremely welcome however without the senior support for prosecuting cases across all divisions and regional units wildlife criminals will continue to evade the law.

It is important that State actors are not seen to be above the law. There needs to be a willingness within government to prosecute State bodies in exactly the same way they would a private individual. This is not currently the case. The belief that there are different rules for the State than for others undermines the democratic process as well as efforts to address the biodiversity crisis more broadly.

- A Wildlife Crime Unit should be established that peruses the prosecution of crimes regardless of region or the suspected perpetrator

### *Meeting Conservation and Restoration Needs*

The targets for implementation of the Habitats and Birds Directives are too weak. Ensuring full statutory protection (2A1) or publishing Conservation Objectives for Natura 2000 sites (2A2) do not, on their own, achieve 'favourable' status for protected habitats and species. We welcome the recent establishment of a Conservation Measures Unit in the National Parks and Wildlife Service (NPWS) and we understand that actual works on the ground to improve the status of Natura 2000 sites is underway. However, there needs to be a much more rigorous and systematic approach. **Individual Natura 2000 sites need to be assessed** (currently species and habitats in the Habitats Directive are assessed only at a national level). A routine programme of surveying, reporting and setting of management measures based upon the needs of the individual site need to be set out. Currently, it is too easy to avoid implementing management measures based on the level of difficulty or political sensitivity. Data deficiencies need to be communicated.

The prevention of deterioration of qualifying features in Natura 2000 sites (Action 24A) is already a legal requirement. If there are plans to publish Species Action Plans/Threat Response Plans then the NBAP should list those that are needed along with timeframes and responsibilities for implementation. Action 2A5 says that implementation will be tracked through "Trends in the status of the protected habitats and species under the Directives are improving" however this is currently only done at a national level. This approach is too coarse if we are to get a true picture of the state of Natura 2000 sites.

- Conservation measures for the existing protected area network need to be transparent, monitored and reported on at the site level and set in a systematic way.

Action 2A7 hints that new areas for nature conservation are to be designated under the EU Biodiversity Strategy however no details of this are given. This action falls short of committing to the protection of **30% of land by 2030 (30x30)** that is contained within the Strategy and which features in an earlier draft of the NBAP. This is also a hoped-for outcome of the COP15 meeting of the CBD in December of this year. We feel that Ireland should commit to this target and failure to do so demonstrates a lack of leadership in addressing the biodiversity crisis.

There is **no mention of the Natural Heritage Area network** (oddly the NHA acronym is included in the appendices but is not actually referenced in the body of the NBAP). The third NBAP also attempted to overlook the NHA network which are sites considered to be of national importance to biodiversity, even if they have been terribly neglected. Proposed NHAs could significantly contribute towards the 30x30 goal but need to be resurveyed, criteria for NHAs should be developed and the designation process completed as committed to in previous NBAPS.

- The NBAP should **commit to protecting 30% of land by 2030** in line with international commitments.
- The designation of pNHAs should be completed and added to the protected area network.

Action 2A8 should identify those species which are in need of **captive breeding programmes**. For instance, there is an urgent need to establish such a programme for the freshwater pearl mussel that would safeguard populations in individual river systems while habitat restoration measures are underway.

There is no mention of reintroductions. Article 17 of the Habitats Directive requires member states to examine the feasibility of reintroducing species which have been lost from their natural range. We would like to see a **dedicated reintroductions project** that will examine, on a species by species basis, the case for reintroductions in the short, medium and long-term.

The role of certain state agencies is key in addressing the biodiversity emergency. The remits of **Coillte, Bord naMóna, Bord Iascaigh Mhara** and the **Office of Public Works (OPW)** must be reviewed to ensure that their works are compliant with environmental law (at a minimum). Their remits must include biodiversity restoration, working with communities to affect a just transition (e.g. in fisheries), identifying areas to meet the 30x30 target and transitioning away from environmentally harmful economic activities (river drainage, bottom trawling, clear-felling). It is not sufficient, for example, for the OPW to simply assess the damage caused to rivers and wetlands from their drainage operations (2B15), they must stop the damaging activities and restore river systems in line with our commitments under the Water Framework Directive.

The 2019 NPWS report to the CBD highlighted that forestry operations were having an impact on biodiversity and there was still **no “working definition of ‘high nature value’** farming to guide where planting should or should not occur”. The absence of such a definition is still resulting in the loss of species rich grasslands, peatlands and breeding sites of ground-nesting birds which is unacceptable.

- Bord naMóna should commit to implementation of the **Shannon Wilderness Park** project on bogs at Derryadd in Co. Longford.
- Bord Iascaigh Mhara should help local fishing communities to transition away from harmful fishing practices, such as bottom trawling, and to establish and monitor local Marine Protected Areas.
- The **Arterial Drainage Act should be reformed** to remove the OPW’s mandate to continually drain river systems and to restore floodplains.
- Coillte should be mandated to transition to nature-friendly commercial forestry while restoring/rewilding areas which are of high biodiversity value potential, especially on peatlands.

- Forestry applications should not be granted on sites of 'high nature value' farmland (as agreed with the European Commission and so a definition for the term must be agreed).

### *Biodiversity in the Marine Environment*

Current **Marine Spatial Planning** has not been undertaken to an adequate level and this places biodiversity at risk from renewable energy developments. While the commitment to enact legislation for the **designation and enforcement of Marine Protected Areas (MPAs)** is welcome this process must be expedited. Even if robust legislation for MPAs is enacted by the end of 2023, there will then only commence the process of site identification, stakeholder engagement and implementation of management measures. In addition, there are serious doubts as to whether MPAs can be effective without additional legislation to circumvent Article 11 of the CFP, which has been an impediment to the creation of MPA in shared waters of the EU.

- The NBAP should commit to no granting of permits for offshore wind development in advance of MPA designation.
- The NBAP should commit the Irish government to enhancing the EU's **proposed Natura Restoration Law (NRL)** to include measures that allow the Commission to implement fisheries management measures, including no take zones, in MPAs which are based upon the best available science.

As already noted, the ending of overfishing by 2020 is a legal requirement of the CFP and which is currently subject to a number of legal proceedings at EU level. The NBAP needs to make clear that overfishing should end without further delay and that Ireland will use its influence at EU level to pursue this goal.

The management of non-quota species of fish and invertebrates in the inshore zone is something that the Irish government can undertake unilaterally. Action 2F6 however is exceedingly vague.

- There should be a commitment for the creation of regional management councils where all marine activities (commercial and recreational fishing, aquaculture, casual seaweed and shellfish gathering, and amenity activities such as dog walking and jet ski use) are assessed. All extraction needs to be subject to quotas as well as seasonal/spatial closures that are consistent with biodiversity restoration aims. This includes not only commercially targeted

species but also the bycatch and species targets as bait in pots or on lines.

- We would like to see a **LIFE project for marine Natura 2000 sites** to establishment management measures to achieve favourable conservation status for the species or habitats which are qualifying interests.
- The NBAP needs to commit to reinstating the **inshore trawling ban** which is an objective in the Programme for Government.

The mainstreaming of engagement (Action 2F10) is welcome but the deadline should be earlier (to align with MPA legislation), The action itself is too vague and its effectiveness cannot be measured by the number of outreach events or public consultations (see suggestion for regional management councils above). We are highly supportive of the idea to roll out a marine education programme (Action 2F11).

#### *Invasive species*

There needs to be a **review of the species that are designated as invasives** to adopt a more scientifically rigorous approach. Currently species which are widely accepted as being invasive (Pacific oyster, cherry laurel, Sika deer) are not listed as invasive while the wild boar is, despite being a native species and an important part of our natural ecology.

- Remove wild boar from the list of alien invasive species

Elsewhere, actions to monitor and control invasive species are largely positive.

It is hard to believe that there is an action (3C8) for the 'Origin Green' marketing label that has resulted in so much harm to biodiversity.

- **Reference to Origin Green should be removed from the NBAP and the programme should be disbanded**

#### *Climate Action*

- The CCAC should have at least one biodiversity expert.
- The government should account for '**blue carbon**' in our Nationally Determined Contributions, including identifying areas of high carbon

storage or sequestration potential such as seagrass meadows, kelp forests and carbon rich benthic sediments. Forthcoming MPA legislation should allow for the designation of 'carbon' MPAs.

Elsewhere, the language in Objective 4C (Embed Biodiversity at the Heart of Climate Action) is too vague to fully assess what is being proposed or how it can be measured.

### *International*

Ireland must acknowledge that our unsustainable consumption is contributing to biodiversity loss at a global scale. The NBAP should include a target to quantify and map Ireland's consumption and its links to global ecosystem collapse, e.g. deforestation, unsustainable fishing, pollution of waterways etc.

### *Positives*

Welcome commitment to creating Biodiversity Officer posts in all Local Authorities (1B4).

The recruitment of a communications expert (though a team would be more appropriate) is badly needed (1D1).

We welcome increased funding for community biodiversity initiatives (1D5)

The review of the wildlife legislation (principally the Wildlife Act) is welcome but the deadline of achieving this by 2027 is too far out (1E1).

Review of the EIA (agriculture) regulations is needed for the protection of hedgerows and wetlands but greater monitoring and enforcement is also needed (1E4).

Objective 2E (develop a **National Restoration Plan**). This is a requirement of the proposed Nature Restoration Law (NRL). There should be scope to review the NBAP in 2024 when the law is enacted. It is welcome that there is a commitment to adhere to the statutory targets (Action 2E1) although the OPW/Inland Fisheries Ireland would then need to meet targets for river restoration rather than simply 'explore' them. Also, the target of 300km of free-flowing rivers seems exceptionally low. There is also a need for the targets of the NRL to be clearly communicated and mechanisms for their implementation elaborated, particularly where private land is concerned. We urge the government to ensure that **biodiversity targets are implemented in a fair and equitable manner** that respects the rights, culture and knowledge of local people. We particularly feel that a **dedicated funding stream for the restoration of peatlands** be established. Relying on existing funding under the Common Agricultural Policy is



unlikely to be sufficient. Many peatlands stretch across public and private land and if restoration is to be successful measures must be taken at a landscape level. It is important that private landowners are adequately incentivised to undertake rewetting/restoration measures.

There is a welcome commitment to meeting the objectives of the Marine Strategy Framework Directive and the Water Framework Directive (WFD). However, the Environmental Protection Agency recently said that meeting these objectives is not likely under current scenarios. The NBAP needs therefore to be stronger in identifying the specific measures that are required in order to reach good status.

### *Summary*

The NBAP is an important document but if it is to be a government plan then government buy-in needs to be implicit from the start. The Citizens' Assembly on Biodiversity Loss is charged with "examining ways to improve coherence in national policy" and we very much hope that whatever recommendations they come up with can be integrated with the NBAP. The government will also agree to a new Global Biodiversity Framework (GBF) as part of the COP15 negotiations in Montreal, but the government is dragging its heels on signing up to the 30x30 target while the commitment to it in the NBAP is a mealy-mouthed "as far as is possible and practicable".

We also see new initiatives, particularly the EU's NRL, on the horizon and while Irish government support is welcome, we need to be laying the groundwork now if it is to be implemented in a fair and equitable manner.

The draft NBAP lacks heart, conviction and definition. It neither reaches for the required level of ambition nor meets minimum standards for the protection of nature in Ireland. While some good initiatives are listed, the sum of the total is dreadfully inadequate for the challenge ahead. The language is vague even if the main challenges have been identified. Without radical change, the NBAP will not deviate from the path of previous plans. In other words, they will fail to achieve.

Restoring nature in Ireland could be the most spurring project for our generation and would pass on a legacy to the next generation that we can all be proud of. The NBAP should be our roadmap for achieving that but, as it stands, it falls far short.