

Irish Raptor Study Group

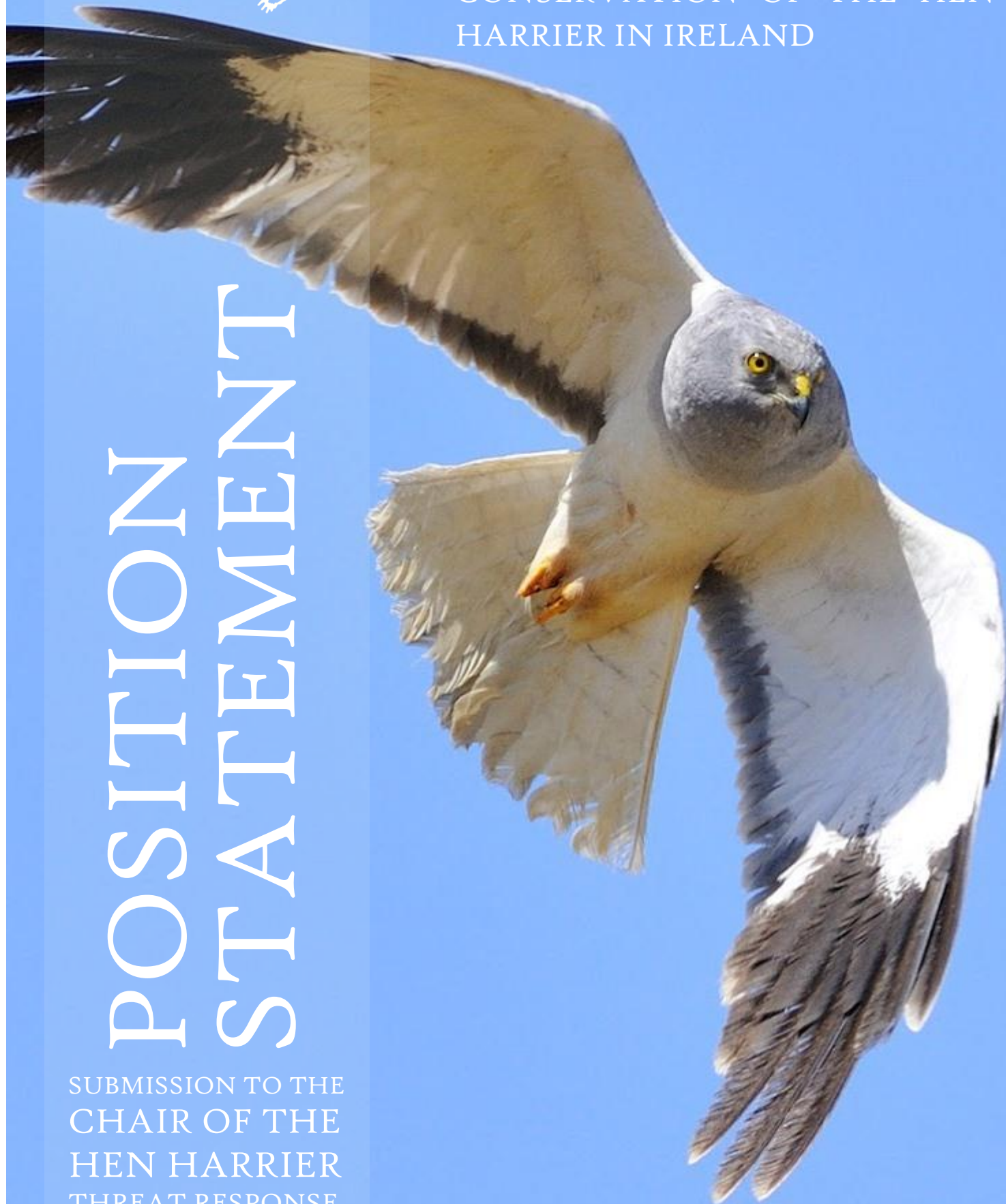
Grúpa Staidéir Éan Creiche na hÉireann



CORE REQUIREMENTS FOR THE
EFFECTIVE RECOVERY AND
CONSERVATION OF THE HEN
HARRIER IN IRELAND

POSITION STATEMENT

SUBMISSION TO THE
CHAIR OF THE
HEN HARRIER
THREAT RESPONSE
PLAN OCTOBER 2016



POSITION STATEMENT OF THE IRISH RAPTOR STUDY GROUP COMMITTEE

SUBMISSION TO:

20th OCTOBER 2016

Minister Heather Humphreys
c/o Dr. Ciaran O'Keeffe
Chair of the Hen Harrier Threat Response Plan
National Parks and Wildlife Service
Department of Arts, Heritage, Rural, Regional and Gaeltacht Affairs
7 Ely Place, Dublin 2
Ireland

Irish Raptor Study Group

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The Irish Raptor Study Group (IRSG) carries out survey, monitoring and research on Birds of Prey and Owls (Raptors) in the Republic of Ireland. The IRSG aspire to secure the conservation and enhancement of Ireland's Raptor populations and the landscapes on which they depend. The IRSGs' success depends on fostering an understanding and appreciation of Raptors as natural assets, whose conservation can deliver investment for rural communities but also secure local and regional public benefits. The IRSG also work to promote meaningful supports to landowners in designated Natura 2000 sites and to deliver their sustainable use and management.

CORE REQUIRMENTS FOR THE EFFECTIVE RECOVERY AND CONSERVATION OF THE HEN HARRIER IN IRELAND

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I. FOREWORD

The IRSG are engaged, as recognised stakeholders by the Minister, in the Hen Harrier Threat Response Plan co-ordinated and chaired by the National Parks & Wildlife Service. In this process all parties are concerned with the future of the Hen Harrier's last refuge, examining those aspects of land use and human activity which have caused loss and damage to habitats on which the Hen Harrier depends. The Threat Response Plan is fundamental to the protection of the Hen Harrier. Many of the environmental challenges associated with upland biodiversity loss mirror a continuing socio-economic decline in rural farming. The two are inter-linked. The loss of local communities is therefore an equally important concern.

The land use pressures impacting on Hen Harrier will continue to cause population decline unless appropriate counter-action is taken. The NPWS cannot afford to be subdued in its response; complacent on its legal obligations; or, depend on good fortune. The IRSG stress that the NPWS must act to halt the Hen Harrier population decline and restore the population in Special Protection Areas (SPA) and nationally to favourable conservation status. NPWS must also act to conserve unimpaired a sustainable future for our mountains and upland marginal high nature value farmland against continuing damage and loss. The conservation strategy should be to minimise all further losses; halt the Hen Harrier population decline; and, secure meaningful long term financial supports for landowners engaged in outputs based farming both inside and outside Natura 2000 sites.

Throughout the Regulation 39 process, particular stakeholders of the Threat Response Plan have openly protested against hindrance to further development despite unequivocal evidence of the significant impacts those stakeholder interests have on the Hen Harrier population. Only when these parties are prepared to accept the scientific evidence and place limits on their intentions can there be any case for discussing conservation requirements on similar terms, and only in respect to what is legally acceptable. The source of counter arguments to the indisputable scientific evidence of threats to Hen Harrier as presented by the NPWS through-out the Threat Response Plan Consultation Committee Meetings, are entirely a matter of benefit to local, sectional or individual interests. These interests are mostly heavily dependent on public funds derived largely from the wealth of urban society. Any counter arguments to the required conservation actions must be considered proportionally in the context of the Member States wider legal obligations; be informed by our state of knowledge; and, with the confidence that legal and monetary provisions are available to make the recovery and conservation of the Hen Harrier a reality.

The Hen Harrier Threat Response Plan (HHTRP) has convened for over three years (as of mid-June 2016). In view of the lack of tangible progress or sector commitments, the IRSG Committee set out in this document, in simple terms, our current understanding and the outcomes to be delivered by statutory stakeholders to implement a successful HHTRP.

On behalf of the Irish Raptor Study Group Committee
Ryan Wilson-Parr (Serving Chairman)
chairman@irsg.ie 20th October 2016

2. CONTEXT

2.1. THE HEN HARRIER IS LISTED ON THE BIRDS DIRECTIVE

Directive 2009/147/EC or the Birds Directive provides a comprehensive scheme of protection for all wild birds naturally occurring in the European Union. The Directive instructs Member States to maintain the populations of wild bird species at a level which corresponds in particular to ecological, scientific and cultural requirements, while taking account of economic and recreational needs. In light of this requirement Ireland, along with other Member States, shall take the requisite measures to preserve, maintain or re-establish a sufficient diversity and area of habitats for its wild bird species. The Directive also requires the classification of suitable areas as Special Protection Areas for the protection of certain bird species listed on Annex I of the Birds Directive, including the Hen Harrier (*Circus cyaneus*).

Under Article 6 of the Habitats Directive, which applies to Special Protection Areas (SPAs), Ireland is obliged to prevent the deterioration of these SPAs (as suitable areas for the species) and only to consent to projects where there is clear scientific evidence that such projects will not lead to an adverse impact on the integrity of the SPA or Special Conservation Interest (SCI).

The Court of Justice of the European Union, in a number of its findings regarding the interpretation of these Directives, has emphasised the importance of scientific understanding of the impact of proposed interventions, and where there is scientific doubt as to the potential impacts on the species, the precautionary principle must apply.

2.2. REGULATION 39 THREAT RESPONSE PLAN

The legal basis for the HHTRP is established in Regulation 39 of the European Commission (Birds & Natural Habitats) Regulations 2011 (SI No. 477), the objectives of which are to develop and implement an appropriate Threat Response Plan to cease, avoid, reverse, reduce, eliminate or prevent threats on the Hen Harrier; and specify a timeline for achievement of its objectives.

The Threat Response Plan aims to determine the particular threats facing the Hen Harrier population in Ireland and identify the conservation measures required to address these threats, as well as identifying who is responsible for implementing them and providing a time frame for delivery. The plan specifically provides detailed information on the range, distribution and habitat of the Hen Harrier with a view to integrate this data with known relevant sectoral pressures, e.g. forestry, agriculture and wind farm development, in order to prescribe a collaborative way forward for the recovery and long-term conservation of this species.

The NPWS commenced the Threat Response Plan in June 2013 and was due for completion by June 2015. An Inter-departmental Steering Group has contributed to the development and will commit to the future implementation of the Threat Response Plan. The Inter-departmental Steering Group consists of the Department of Agriculture, Food and the Marine (DAFM); Department of Communications, Climate Action and the Environment (DCCA); and the Department of the Housing, Planning, Community and Local Government (DHPCLG). A Consultative Committee comprising appropriate stakeholder representation also contributed to the plan from Forestry, Agricultural, Renewable Energy Sectors and Environmental Non-Government Organisations.

3. STATE OF KNOWLEDGE

3.1. THE DATA ON HEN HARRIER IS EXTENSIVE

The IRSG is uniquely placed to offer expertise, evidence, objectivity and direction on the most effective and appropriate conservation measures required to deliver positive long term outcomes for the Hen Harrier in Ireland.

The Hen Harrier is one of the most intensively and comprehensively studied bird species in the Republic of Ireland (excluding re-introduced Annex I Eagle species). Our extensive knowledge and understanding of Hen Harrier's requirements has been informed from both state funded quinquennial national surveys since the year 2000 and supplemented by the work of the IRSG during intervening years. Public funded forestry sector led research on impacts of forestry on Hen Harrier has also provided detailed short term regional level population data (Irwin *et al.*, 2012). Infrequent and local scale data is infrequently obtained from wind farm planning related survey and reporting.

The NPWS and other HHTRP statutory stakeholders undoubtedly have at their disposal, for the purposes of implementing an evidence based HHTRP, accurate, highly detailed and contemporary datasets of range, distribution, and abundance of breeding Hen Harrier spanning the last 20 years; and, wintering range, distribution, and, roost data from an independent co-ordinated study over the last 10 years. NPWS also have a recognised European authority on the ecology and conservation of the Hen Harrier working within their Department. A large proportion of the data available to the HHTRP has been collected through the expertise, hard work and committed voluntary effort of hundreds of skilled Ornithologists and Raptor workers contributing to the work of the IRSG.

3.2. THE HEN HARRIER IS IN DECLINE

Based on best available evidence in the field, the Hen Harrier is Ireland's rarest declining resident breeding bird species listed on Annex I of the Birds Directive. The last two quinquennial national breeding Hen Harrier surveys undertaken in 2010 and 2015 show that the breeding Hen Harrier population, both nationally and in the six Special Protection Areas (SPAs) designated to protect this iconic upland breeding species continue to decline (Ruddock *et al.*, 2012; 2016).

Overall, nationally there has been a recorded 15% decline in confirmed breeding pairs nationally in the last 5yrs; a 33% breeding population decline in all areas studied in every national quinquennial survey over last 15yrs; and, a 52% decline in estimated breeding pairs over the last 40yrs.

3.3. HEN HARRIER SPAs ARE NOT PERFORMING

SPAs are designated on the basis that these areas are the most important habitat for Hen Harrier within the Member State. SPAs are therefore those areas which contribute significantly to the species population viability locally and as a whole. There has been a 26% breeding population decline in SPAs in last 10yrs (Ruddock *et al.*, 2012; 2016).

The conservation crisis is so severe that there is now a greater proportion of breeding Hen Harrier outside of SPAs

The gradual and persistent degradation of the SPA network for breeding Hen Harrier means that these SPAs now no longer contribute significantly to population viability. For instance, IRSG data shows that Mullaghanish and Musheramore Mountain SPA had no Hen Harrier breeding within its boundary in 2014. The breeding population of Hen Harrier in the Slieve Beagh SPA in 2016 is now reduced to just one pair. Ruddock *et al.* (2016) in an assessment of the findings of the 2015 national survey state that two SPAs now urgently require intervention and remedial actions. The situation is critical.

3.4. SOME BREEDING POPULATIONS ARE NOW UNVIABLE

Wilson *et al.* (2006) stated that within ten years the landscape carrying capacity for Hen Harrier would be reduced by 30% as a result of forest maturation. O'Donoghue (2010) showed through population viability analysis that regional populations were predicted to go extinct within c.35-40 years.

The projected future decline and regional extinction of the breeding Hen Harrier population in Ireland has been known for a decade, however no action has been taken by the NPWS to prevent this reality unfolding. Contrary to the Departments statutory remit, NPWS openly facilitated further tax funded and incentivised Forest Service approvals for afforestation in SPAs despite the known negative impacts.

According to analysis presented in the 2010 national Hen Harrier survey report all of the SPA populations, with the exception of the Slieve Blooms SPA, were considered unable to support themselves without immigrants from other areas (Ruddock *et al.*, 2012).

Modelling data of the Hen Harrier population from both the 2010 and 2015 national breeding Hen Harrier surveys show that mortality rates are higher than productivity and the Hen Harrier population does not appear to be self-sustaining.

3.5. NO CONSERVATION OBJECTIVES FOR HEN HARRIER SPAs

None of the six SPAs designated for breeding Hen Harrier have site specific Conservation Objectives (COs). According to Article 4(4) of Directive 92/43/EEC, all sites submitted to the Commission must have established priorities (in light of the importance of the sites) for the maintenance or restoration of those sites at a favourable conservation condition within six years (Conservation Objectives).

The lack of any site level objectives for breeding Hen Harrier SPAs ultimately means the Member State is not achieving the requirements as set out in Articles 2, 4.1, 4.2 and 4.4 of the Directive in relation to its protection of the Hen Harrier.

Conservation Objectives are required to be submitted to the Commission within six years of notification. The six aforementioned SPAs were designated in 2005. Conservation Objectives for the six breeding Hen Harrier SPAs have not been progressed by NPWS and there currently exists no reference for: identifying site-related conservation measures, or, for carrying out appropriate assessments of the implications of plans and projects for a site (in compliance with Article 6(3) and 6(4) of Directive 92/43/EEC). Article 7 of Directive 92/43/EEC, which applies to Special Protection Areas (SPAs) designated under the Birds Directive, makes clear that the provisions of Article 6.3 apply to the SPAs. Priorities for site-related conservation measures must be defined in the light of the threats of degradation or destruction to which those sites are exposed. It is expected these correspond to the threats and pressures identified by NPWS in the Article 12 reporting submitted to the European Commission.

The European Commission Guidance Note (2012) on *Setting Conservation Objectives for Natura 2000 Sites* states that Conservation Objectives at the site level must have full regard to the details in the Natura 2000 Standard Data Forms and that these form the starting point for the setting of site level targets for the maintenance and enhancement of listed species. Conservation Objectives for the Hen Harrier SPAs need to be clear and straightforward and should be quantifiable in numbers and/or size.

IRSG expect that site level targets should be the number of Hen Harrier present in SPAs at time of designation as per Natura 2000 Standard Data Forms submitted to the Commission.

In the event NPWS set site level targets that deviate from the baseline population at designation, this is not an acceptable or reasoned approach that will contribute positively to the improved conservation of Hen Harrier SPAs, especially when recovery to and beyond the 2005 populations levels can be achieved with proper land management, forest removal and restoration, and through financial provisions available under Pillar 2 Priorities of the Rural Development Programme.

3.6. POPULATIONS OUTSIDE OF SPAs ARE EQUALLY UNDER THREAT

There is now a greater proportion of national breeding Hen Harrier population occurring outside of SPAs and there now must be emphasis on a holistic national strategy for sustainable upland management.

Protection and incentivised site management is currently restricted to designated breeding sites. There is urgent need to facilitate appropriate management and protection of sites important for wintering Hen Harrier.

Ireland has an unsatisfactory compliance record in protecting biodiversity in the wider countryside as evidenced by the CJEU Ruling C418-04 Commission v Ireland “Birds Case” in which the Court held that despite a requirement for Member States to “make a serious attempt at protecting those habitats which lie outside the SPAs,” Ireland has not “transposed that provision fully and correctly by taking suitable steps to avoid pollution or deterioration of the habitats lying outside the SPAs. It is thus clear, in the present case that Ireland must endeavour to take suitable steps to avoid pollution or disturbances of the habitats.”

This case remains open nearly ten years and is relevant to the Threat Response Plan notably in relation to wider countryside measures. A striking example of threats to Hen Harrier populations outside SPAs is Slieve Rushen, County Cavan. The entire eastern to south west slope of the upland plateau has been entirely afforested. In 2016, the Forest Service approved new conifer afforestation on Annex I habitat within a protected Natural Heritage Area (NHA) on Slieve Rushen. This site supported 6 pairs of Hen Harrier in 2005. IRSG data shows that no Hen Harrier bred at this site in 2016.

Threats to Hen Harrier are not restricted to the breeding period and the Threat Response Plan must avoid a breeding season centric approach. One key ecological concern for the Hen Harrier in Ireland relates to the high mortality rate of fledged birds in their first winter (72% annual mortality). This low survival rate is considered a proxy for poor prey availability / habitat condition on wintering grounds. Maintenance and extension of the ecologically coherent network of sites important for wintering Hen Harrier is a priority.

A large number of non-designated upland areas important for Hen Harrier are subject to increasing pressure from wind farm development, notably population strongholds in areas such as the Ballyhoura Mountains and Nagle Mountains. National cumulative impacts on the Hen Harrier population need to be examined in detail and integrated into the HHTRP.

3.7. FORESTRY IS THE MAIN THREAT TO THE HEN HARRIER IN IRELAND

IRSG would like to again reiterate the specific responses made to Forestry Sector stakeholders as outlined in the following documents:

- Hen Harrier Conservation and the Forestry Sector in Ireland. Submission by Environmental Non-Governmental Organisations to the HHTRP Consultative Committee (January 2016).
- An Taisce Submission Re: Public Consultation on the Draft Environmental Requirements for Afforestation (May 2016)

The NPWS HHTRP document, issued in March 2015 *Hen Harrier Conservation and the Forestry Sector in Ireland* shows objectively that non-native conifer plantation forestry has significant negative long-term effects on the breeding Hen Harrier population in Ireland. The extent and temporary availability of forest habitat, exacerbated by the negative relationship between Hen Harrier productivity and 2nd rotation early growth forest (which accounts for a large proportion of the current and future forest estate) is clearly the main influence acting on the Hen Harrier, affecting the long term distribution, abundance and viability of its population in the Member State. International research corroborates this assertion and provides evidence that plantation forestry is a driver of population decline within a wider guild of upland avi-fauna through habitat loss, predator /edge effects and direct/indirect disturbance.

Afforestation of open habitats and further expansion of forest within SPAs is entirely contrary to achieving site-based conservation measures and will lead to known negative impacts – exacerbating even further the existing known drivers of population decline.

Hen Harrier populations in Ireland are now breeding predominantly in forested landscapes which have replaced traditional open heath-dominated upland nesting habitats. The remnant open heath dominated upland habitats are overall in unfavourable conservation condition due to overgrazing, reclamations, drainage and burning.

Associated land use within forested areas in Hen Harrier breeding areas is also considered a significant threat. Data on the extent of cut-over peat within the SPA network (Moran & Wilson-Parr, 2015) indicates that disturbance from industrial scale peat harvesting and associated human activity, although likely to be variable on small and medium sized bogs, occurs at high levels in three SPAs, including the two largest Hen Harrier designations. This practice destroys /disturbs important Hen Harrier hunting and breeding habitat at a critical time each year and is known to result in nest failure. Access to these small and medium sized bogs within Coillte property should be restricted and regulated, but both access and peat extraction is apparently facilitated.

3.8. THERE IS TOO MUCH FOREST IN THE SPA NETWORK

A contemporary and comprehensive habitat mapping Project undertaken by NPWS in 2014 showed that forest cover in SPAs is equivalent to 53% (Moran & Wilson-Parr, 2015).

Public funded Forest sector led research has determined that Hen Harrier productivity drops to below a self-sustaining level when forest cover in the landscape is approximately $\geq 40\%$.

On the basis of the 40% critical threshold, this shows that 13% of total forest in the SPA network would need to be removed just to get to a point that the Hen Harrier population in these sites could be expected to be self-sustaining. The removal of the 13% (c.20,000 hectares) of forestry in the SPAs in itself will not be sufficient to reverse the decline.

3.9. NO TRANSPARENCY ON AFFORESTATION

According to the Forest Service Appropriate Assessment Procedures (AAP) (March 2012) the Forest Service will make available for public inspection any decision it makes under the AAP in relation to a project, and reasons for that decision. There is however no online map viewer or planning portal that permits interactive, spatially accurate and publicly open viewing of historical and current Forest Service applications. Forest Service Applications are subject to the same planning legislative requirements as any other project/plan and should be available for public scrutiny.

3.10. RE-ALLOCATION OF €433 MILLION FROM NATURA 2000 FARMERS

The re-allocation of Common Agricultural Policy (CAP) funding during the last Rural Development Programme (RDP) created insurmountable obstacles to landowners in Natura 2000 and effectively ended any possibility of effective Hen Harrier conservation in Ireland. Article 8.4 of the Habitats Directive states 'the Commission shall adopt, having regard to the available sources of funding under the relevant Community instruments.....a prioritised action framework of measures involving co-financing when the site has been designated'.

During the last RDP, the Department of Agriculture, only issued 95 million euro for NATURA 2000/Directive 2000/60/EC sites, whereas an allocation of over 500 million euro was allocated for measure 213 of Axis 2, under Pillar II, by European Agricultural Fund for Rural Development (EAFRD).

Only €95 million of €528 million allocated to Natura 2000 sites in Ireland was used for that purpose during the last RDP. National Exchequer funding was ultimately used for Hen Harrier management through National Parks & Wildlife Service Farm Plan Scheme (FPS), rather than implementing similar measures using 75% European funding.

The re-allocation of funds away from Natura 2000 farmers is clearly documented in The Joint Committee on Agriculture, Food and the Marine ‘Designation of lands as Special Protection Areas for the conservation of breeding Hen Harriers AFM 007 October 2015’. An excerpt from that document states:

‘In the last RDP round (2007 – 2013), €528 million was allocated to Natura 2000 sites in Ireland. In response to an inquiry from An Taisce in 2013, DAFM stated that only €95 million of these funds had been used for the intended purpose: i.e. for use on Natura 2000 sites. Over €400 million was reallocated ‘across the Agri-environment (REPS and AEOS) and LFA schemes in RDP Axis 2’. DAFM said the re-allocation was due to lack of demand from the SPA and SAC farmers: but no measure had been put in place: no scheme created to ensure the funds were channelled into SACs and SPAs. Indeed, the NPWS FPS [Farm Plan Scheme], which was in operation during this period, was funded entirely from the Exchequer.’

This re-allocation has had a demonstrable impact on farmers’ attitudes to nearby Hen Harrier SPAs due to lack of entitlements and supports and the perceived loss of alternative lucrative tax payer funded forestry grant programme advantages. The decline of Hen Harrier on Irish farmland is entirely contrary to Bord Bia’s extremely important Origin Green & sustainability targets for 2020.

3.II. HEN HARRIER GLAS IS NOT FIT FOR PURPOSE

The Green Low-carbon Agri-Environment Scheme (GLAS) Specifications released on 14th April 2015 by the DAFM included a Hen Harrier measure with an objective to promote the maintenance and creation of suitable breeding and foraging habitats for Hen Harrier. The current GLAS prescriptions for Hen Harrier seem straightforward for participants but they lack important details which, if implemented, would be of significant benefit to the conservation of Hen Harrier and deliver the type and condition of farmed habitat they require. There is considerable concern that the current set of prescriptions lack relevant detail and that EU funded habitat conservation actions on the ground are simply not effective.

3.I2. CAPPED GLAS PAYMENTS ARE NOT A SUFFICIENT INCENTIVE

The conservation implications of capping GLAS payments needs to be fully assessed and DAFM need to make information available to the HHTRP process on the level of uptake in Hen Harrier SPAs. If the majority of farmers in Hen Harrier SPAs have land holdings greater than the upper GLAS+ payment threshold of 18.9 hectares (ha) there will be a sub-optimal uptake by farmers and land within the SPA may become more intensively farmed, resulting in a net loss of suitable habitat for Hen Harrier.

3.13. DESTRUCTION OF HEN HARRIER HABITAT

DAFM's Guide to Land Eligibility Direct Payment Scheme clarifies the situation on what habitats can be paid on through the Basic Payment Scheme (BPS) for those lands within the Hen Harrier SPA network. However the resolution of eligibility issues has not been completely extended to those areas outside of SPAs and to include other non-designated areas of importance to breeding Hen Harrier. Therefore the requirement to remove suitable Hen Harrier breeding habitat (e.g. scrub, tall heather and dense rush) still exists in order to maximise payments.

DAFM and the NPWS are to be commended for providing scope for particular lands that might not be eligible in the normal sense, to be deemed eligible if they are required for the management requirements or ecological objectives for particular habitats or species protected by the Natura 2000 designations/Directives. It should not be and need not be the case that farmed habitats are destroyed by virtue of the BPS and allowances are made in the EU Regulations for such circumstances where the habitats are relevant to the Natura Directives. The situation before now had been one whereby habitats were being cleared and burned on an extensive scale, with no practical implementation of the previously existing Article 34 of EU Regulation 73/2009 (even though that Article was referenced in the Single Payment Scheme Terms & Conditions). While scope for considering particular habitats to be eligible has now been provided for in the BPS Terms and Conditions and explained in a Guide to Land Eligibility, **it is unfortunately clear that business has and is proceeding as usual with regard to land eligibility under the BPS**. In other words, habitats important for Hen Harrier and other species of conservation concern (as well as protected Annex I habitats in their own right) continue to be targeted for destruction (deemed ineligible and not paid on) when it comes to Basic Payment and thus removed by the farmer (who is dependent upon the BPS) or made irrelevant to farm income with subsequent loss of interest or economic viability. **It is clear that the message of having certain habitats paid for in the BPS is not being implemented in reality** – perhaps only in a very small percentage of cases only. Overall, rushy fields, scrub patches, bushy hedgerows and blanket bog; all habitats supporting bird species of conservation concern, are being deemed ineligible by DAFM and farmers are subsequently moving to remove or burn these habitats. Through engagement with farmers and direct observations on the ground from our members this destruction is widespread. The scale of this pressure has been well documented in the national press and most notably in the National Hen Harrier Survey 2015 report (Ruddock *et al.*, 2016). Much of what little natural and semi-natural habitats remain in Hen Harrier breeding areas has been destroyed. The cumulative impact of this habitat destruction is likely undermining the viability of the Hen Harrier population nationally. The evidence for this is overwhelming and there needs to be a clear and honest approach to addressing this serious issue by DAFM in the Threat Response Plan.

The practical implementation of Article 32 of EU Regulation 1307/2013 is inadequate and there needs to be clear and transparent communication to farmers, DAFM inspectors and planners as to the intention of this Article. It should be noted that it concerns the implementation of the Natura (and Water Framework) Directives and is not solely concerned with Natura designated areas – yet it appears from what little has been described that in the rare occasions that DAFM are applying this Article, that it is only in SPAs and only when someone has been refused consent for a particular activity – preventing the intended purpose of this Article introduced by the European Commission.

3.14. LACK OF GUIDANCE ON BIRDS & WIND FARMS

Hen Harrier SPAs have been subject to growing wind farm development over the last decade. Wind farms were promoted as being of significant benefit for local communities; however these benefits are not evident. Conversely, a review of the continuing socio-economic decline in rural areas would likely suggest that wind farms have not contributed positively towards the sustainability of rural communities. It is a concern that many of these wind farms have been approved in SPAs when there has never been any sector specific formal guidance issued by NPWS Birds Unit for the survey and assessment of impacts of wind farms on birds designed specifically within an Irish context. Percival (2003) provides a review of assessment methodology and recommends Scottish Natural Heritage (SNH) guidance, the 'industry standard' for over a decade. Given the considerable back log of High Court Cases brought against An Bord Pleanála and emerging Case Law it is considered that there exists inconsistency in the quality of Environmental Impact Assessment (EIA) and Screening for Appropriate Assessment (AA) / Natura Impact Statements (NIS) submitted to the statutory authority assessing impacts of wind farm developments on birds and SPAs.

The lack of stipulated guidance from NPWS creates uncertainty with developers on the level of survey required and this subsequently results in an increased propensity for developers to use ecological consultants that apply less rigorous survey methods and survey intensity. This undermines the statutory authorities' ability to extend an appropriate level of scrutiny to submitted EIA and AA/NIS; and, fulfill their obligations under the Planning & Development Acts 2000 to 2012 and the European Communities (Bird & Natural Habitats) Regulations 2011. This lack of consistency and compliance to any stipulated best practice methodology also undermines Irish Wind Energy Association's "green" image.

Where direction from the statutory authority on best practice guidance is lacking, wind farm developers are simply under no obligation to undertake adequate baseline surveys nor are they prepared to pay for the additional consultancy fees associated with further detailed pre-planning monitoring, if there is no statutory requirement to do so. This is perpetuated in a planning system that offers limited ecological peer review from the statutory authorities on submitted Strategic Environmental Impact Assessment (SEA) / EIA / AA and associated NIS; and, where projects / plans with inadequate baseline are often considered as sufficient by under-resourced ill-equipped Local Authorities. It is noted that currently NPWS have only two staff in the Birds Unit and only four Regional Ecologists serving the entire Member State. It is also noted that An Bord Pleanála have no Ecological Expertise on the Board. Developers can gain approval in cases where below the 'industry standard' minimum level of baseline information is presented to inform planning.

The lack of agreed statutory guidelines in this regard, has been cited by NPWS Regional Management as a serious constraint on effective planning. These deficiencies are also highlighted by Local Authorities and private planners at Oral Hearings. The lack of guidelines has also resulted in additional cost & time implications for the Irish wind farm sector due to objections from third parties. The lack of proper planning guidance and a centrally managed and reviewed EIA / NIS or post-construction monitoring database also masks the true cumulative impact on our declining Hen Harrier population.

4. WHAT SHOULD BE IN THE THREAT RESPONSE PLAN

4.1. RESTORATION AND PROTECTION OF SPAs

The target for the HHTRP is to achieve a site based productivity level that ensures population growth and the recovery of the population in SPAs to at the very least the level at designation. Forest sector led research has shown that where the forest cover within the landscape is 40% or over, the Hen Harrier population cannot endure. $c.>40\%$ forest cover is therefore the limit at which the Hen Harrier population becomes unsustainable. Forest cover currently exceeds this critical threshold value by a significant margin. Working with Forest Service and Coillte, the NPWS need to implement a timeline for delivery for the removal of forest within each SPA to a level far below that 40% threshold. The aim of the Threat Response Plan is to recover and enhance the population. Applying this evidence based maximum critical threshold of 40% forest cover, the Forest Service, Coillte and NPWS will need to target the removal and restoration of c.20,000 hectares of conifer forest within the SPA network to provide a functioning SPA network for breeding Hen Harrier.

Several misconceived and furtive forest management ‘options’ have been floated by the Forest Service during the Consultative Committee meetings, notably to take out areas of stunted ‘unproductive’ forestry planted on Annex I peatland habitat. The rationale here is that this would ‘free up’ available hectares within the SPA in lower more fertile wet grassland for new afforestation. This ‘checker-board’ approach based on maximising quotas is entirely contrary to the objectives and purpose of the HHTRP. There are clear ecological and legal problems with this approach. Firstly, the target forest to be removed i.e. stunted, partially open conifer forest on wet heath provides suitable foraging habitat for Hen Harrier. Secondly, the intended habitat targeted for afforestation, i.e. wet grassland, provides foraging habitat for Hen Harrier.

The IRSG are totally opposed to any plan by the Forest Service to approve afforestation on improved agricultural grassland in SPAs under the premise that intensively managed grassland is of limited value to Hen Harrier. Improved agricultural can easily be reverted into low intensity grassland of benefit to Hen Harrier and this should be the preferred management option.

In a legal context, due to the known negative effects of forestry on Hen Harrier it is not envisaged the Forest Service can actually approve any future re-planting or afforestation in SPAs and be compliant with Article 6(3) and 6(4) of the Habitats Directive or the Birds Directive.

4.2. REVISE GLAS PRESCRIPTIONS FOR HEN HARRIER

The current Hen Harrier prescriptions are inappropriate, vague, broad and non-targeted so will deliver no net benefit for Hen Harrier. DAFM are to undertake a programme of monitoring and review of GLAS over the coming years. In this review DAFM should at the earliest opportunity amend the Hen Harrier prescriptions so they provide actual tangible benefits for Hen Harrier.

- Clear instruction on the recommended grazing levels appropriate to particular habitats is needed. This would reduce the risk of lands entered into GLAS being overgrazed and lead to a reduction in the quality of the breeding habitat in SPAs;
- Optimising the management of rush cover is essential. Currently the GLAS prescriptions do not set out a minimum amount of rush cover. In order to achieve a balance between farmers farming the land and the ideal state of the habitat from a Hen Harrier perspective a range of 30 – 70% rush cover is considered appropriate. The cover and height of rush habitat within fields and the timing of rush management (mowing cycle) are also extremely important and should be detailed in the revised GLAS prescriptions;
- Managing hedgerows. These linear habitats can constitute a valuable feeding resource for the Hen Harrier. If necessary more precise prescriptions on management could increase the extent and the quality of this habitat for Hen Harrier; and
- Maximising the benefits of scrub habitat. Scrub is a valuable habitat for breeding Hen Harrier and active management of this resource should be detailed in prescriptions to optimise structural diversity within the land parcel.

A common theme running through GLAS prescription should be to increase the prey resource and feeding opportunities for Hen Harrier. In light of maturing conifer plantations, which is leading to a sustained yearly reduction in the overall extent of usable foraging habitat within the SPA network, the conservation argument for these further measures are considered to be proportionate.

The primary prescriptions of an amended GLAS+ tier could include:

- Planting of native (preferably fruit bearing) trees in field corners. Native tree species (e.g. fruit bearing native trees such as Rowan, Hawthorn and Holly) support high densities of prey species for Hen Harrier. If field corners are left ungrazed then a diverse and dense ground cover will develop, which would further enhance this foraging resource;
- Hedgerow establishment. New hedgerows directly increase the extent of foraging habitat along field boundaries and would also improve connectivity between land parcels;
- Creation of 6 – 10m field margins dedicated to wild bird seed cover. This would support seed-eating birds throughout the winter which in turn would provide foraging resources for Hen Harrier overwintering on the breeding grounds or returning to these areas early the following year; and
- Drain levelling and blocking in areas of drained moorland occurring within a land parcel. Raising the water table in agricultural land parcels may also encourage the establishment of wet grasslands, small wetlands and reedbeds suitable for winter foraging and roosting.

4.3. A MONITORING PROGRAMME TO QUANTIFY HABITAT LOSS

Accurate data on the contemporary rate of loss of Hen Harrier breeding habitat caused by intensification of farming and scrub removal in breeding areas is a priority. This should be achieved by repeating and extending the approach of the Hen Harrier Habitat Mapping Project to these areas. This will allow a cumulative impact to be determined of sub-threshold activities under the EIA (Agriculture) Regulation 2011 on breeding Hen Harrier populations in SPAs and also important yet non-designated breeding areas.

4.4. REMOVE THE CAP ON GLAS PAYMENTS

To ensure that a sufficient amount of existing agricultural land is farmed in an extensive manner under GLAS, the level of uptake of the Hen Harrier GLAS measure across the SPA network should be maximised. DAFM should remove the capped payment structure of GLAS in the SPA network. Removal of the cap would allow a greater amount of relevant agricultural land to be available and maintained/improved for the conservation of Hen Harrier through GLAS. Agricultural lands excluded from existing schemes are liable to intensification or abandonment which would have negative consequences on the availability of breeding habitat within the SPAs.

4.5. RESOLVE PILLAR I AND II ISSUES ON ELIGIBILITY

As a basic start towards protecting the most important Hen Harrier sites in the country, GLAS (which is supposed to be a scheme to proactively support habitats on farms) should take full recognition of nesting and roosting sites, even if those sites are not deemed automatically eligible under Pillar 1. It makes absolutely no sense that GLAS should discriminate on the basis of land being (often incorrectly) deemed ineligible for another scheme such as BPS, when the EU Regulations governing Agri-Environment-Climate payments allow for Agri-environment payments on land where Pillar 1 is not being paid. DAFM have already moved to allow this in the case of Commonages, yet not for Hen Harrier for which GLAS is touted as the main Government initiative to support, maintain and improve existing habitat for this species (which we have shown is not fit for purpose). To the contrary, it appears on the ground that many of the best habitats have been removed by farmers entering GLAS, so that they can be paid on the area previously occupied by those habitats but deemed ineligible for Pillar 1 and thus also GLAS.

While Article 32 of EU Regulation 1307/2013 has been adopted, this would not appear to have been the most appropriate legal mechanism to allow important habitats to be paid on and not discriminated against. Article 4(1)(h) of EU Regulation 1307/2013 and Article 9 of EU Regulation 640/2014 would both have appeared to be more comprehensive and applicable. The application of these needs to be reconsidered if practical protection of habitats under the BPS is to be realised and the Hen Harrier Threat Response Plan provides a platform to raise these issues in a focussed way with a view to a resolution. It is clear that the mechanisms to protect habitats are available but are not being utilised.

4.6. A STRONGER UPLAND AGRI-ENVIRONMENTAL SCHEME

IRSG welcome the roll out of the Locally led agri environment schemes (LLAES) that will offer a complementary approach to the action-based model which has been adopted for the broader Green Low-carbon Agri-Environment Scheme (GLAS). IRSG agree that the schemes will encourage locally-driven solutions to address the many environmental and biodiversity challenges which manifest themselves at local level. A key recommendation for LLAES is that the programme and funding is secured for the long-term for participants so that meaningful supports are equivalent to those offered for Forest Premiums and Grants. LLAES should run for 15 yrs and provide stability for land management and financial security for landowners.

4.7. AN AGRI-ENVIRONMENT SCHEME FOR WINTERING HEN HARRIER

There is evidence for high mortality rates in juvenile Hen Harrier and there is strong justification for provisions of financial supports to encompass sites that are vital for wintering Hen Harrier, notably targeted towards land management and habitat connectivity for isolated roost sites. Retention of the roost locations are a priority, however an agri-environment scheme should incentivise actions that provide conservation headlands within foraging range of roosts. Actions should include retaining stubble for as long as possible and the continuation of spring cereals in core wintering areas. The scheme could explore/implement the cultivation of cereal crops that were once widespread in the West of Ireland that provide bird cover crops. The disappearance of Yellowhammers, Twite, Corn Bunting in many regions has occurred in tandem with the disappearance of cereal crops in particular. This crop would also be of benefit to other bird species of conservation concern during winter.

4.8. A STRONGER NATIONAL PARKS & WILDLIFE SERVICE

Since 2011, the budget for the National Parks & Wildlife Service has been slashed by almost 70%. There is now only <50% geographical coverage of Conservation Rangers. This means that the vast majority of the Hen Harrier SPA network is not currently under statutory staffed supervision. Quite simply the Government cannot service the needs of implementing the Birds and Habitats Directives on 30% of its previous 2011 budget and meanwhile also address the outstanding issues and requirements of the Directorate-General for the Environment. Ireland needs a stronger NPWS and at the very minimum the Minister should provide for:

- Full geographical coverage of Conservation Rangers;
- Significant expansion of the NPWS Birds Unit and substantial increase in financial supports for research and salaried personnel including new Regional Ecologist positions. This should aim to be proportionate to the resource allocation as deemed adequate by similar EU Member States for the management, monitoring and protection of Annex I species and SPAs.

4.9. WIND FARM IMPACT ASSESSMENT GUIDELINES

NPWS should publish and implement guidelines for professional Ecologists and developers on the best practice methodology for assessing impacts of wind energy interactions on birds. This issue equally requires clarification and progress from professional bodies representing Ecological Consultants (e.g. Chartered Institute of Ecology and Environmental Management). These should be ratified by relevant industry stakeholders and environmental professional organisations; implemented within the statutory authority; and, pro-actively disseminated to Local Authorities. Guidance should include a requirement for developers to engage with a suitably qualified Ornithologist with proven project expertise in Hen Harrier survey and assessment where the project may impact on suitable habitat for this species. A specific guidance note should also be published by NPWS for Cumulative Impact Assessment of Wind Energy Developments on Birds pursuant to Article 6(3) and 6(4) of the Habitats Directive.

4.10. EDUCATION FOR POSITIVE CHANGE

The aforementioned EC Guidance (2012) recommends landowners and local agents must have a good knowledge and understanding of a SPAs Conservation Objectives at all levels, and particularly at the site level and the way landowners are expected to contribute to them. Clearly communicating the site's Conservation Objectives and its contribution to higher level conservation measures should help improve awareness and commitment of local stakeholders. The need for enhanced enforcement of penalties in relation to deliberate raptor persecution and incidents of negligence is also considered important to improve landowner commitment. In providing a commitment to achieving these aims, NPWS should make provision for a suitably qualified full time Hen Harrier Liaison Officer to operate across all SPA regions in delivering community focused support and management advice to landowners. This should be entirely separate to any Ornithological or Scientific expertise provided via Locally Led Agri-Environment Schemes. Key result areas for this position should be to promote positive community engagement/relations; facilitate and develop local partnerships with Locally Led Agri-Environment Scheme Managers and associated Agricultural Consultants; deliver educational aspects of Hen Harrier conservation to schools within SPA regions; and, raise the profile of outputs based farming and the role of the NPWS.

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Irish Raptor Study Group

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