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6th September 2015

Fiona Marshall
Secretary to the Aarhus Convention Compliance Committee
United Nations Economic Commission for Europe
Environment Division
Palais des Nations
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Dear Ms Marshall

Re: Communication PRE/ACCC/C/2015/129 to the Aarhus Convention Compliance Committee concerning compliance by Ireland in connection with public participation in decision-making on the sale of forestry land.

Further to your letter of 18th August where you requested further information on two points:

1. What is the legal basis for your allegation that the sale of the Kilcooley Abbey Forestry is subject to article 6, paragraph 1(b) of the Convention? Please explain your answer with reference to the second sentence of article 6, paragraph 1(b), namely “To this end, Parties shall determine whether such a proposed activity is subject to these provisions”.
2. What domestic remedies existed for you or other members of the public to challenge (i) the decision to sell Kilcooley Abbey Forestry and (ii) the lack of a public participation procedure regarding that decision? To what extent did you use those remedies and what were the outcomes of the resulting procedures? What other domestic remedies, if any, exist and why have you to date not used them?

In relation to point 1

1. The legal basis that the sale of the Kilcooley Abbey Forestry is subject to article 6, paragraph 1(b) of the Convention is covered by a number of domestic & European law acts.
2. Under the Forestry Act 2014, particular attention is drawn to Part 3 Protection of the Environment, Section 11:

Role of Minister in safeguarding environment

11. The Minister, in performing his or her functions under the relevant statutory provisions, shall—

(a) have regard to the social, economic and environmental functions of forestry,

(b) follow good forest practice,

(c) take particular account of—

(i) the different habitats and species in forests, and

(ii) natural and semi-natural woodland,

(d) consider whether the subject matter of the function being performed requires the carrying out of one or more of the following:

(i) a screening for an environmental impact assessment;

(ii) the submission of an environmental impact statement;

(iii) an environmental impact assessment;

(iv) his or her functions under the Habitats Regulations, including—

(I) a screening for an appropriate assessment,

(II) the submission of a Natura Impact Statement, and

(III) the carrying out of an appropriate assessment, within the meaning of those Regulations,

and

(e) where there is such a requirement under *paragraph (d)*, ensure that it is carried out.

3. Under the Forestry Act 1988 under the ‘General duties of the company’, Section 13, (1)(c) requires Coillte;

‘to have due regard to the environmental and amenity consequences of their operations’.

4. Coillte sets out how it complies with its duties on the environment through a number of reporting documents and policy documents. In Coillte’s Sustainability Report 2013, Environmental section, under the heading ‘Delivering for the environment’ it is reported that the company carries out an EIA prior to any operation taking place (see appendix 1):

Protecting our forest environment

Coillte ensures that environmental and social impacts of all forest operations or other land based activities are assessed prior to commencement of any operations.

Environmental Impact Appraisals (EIA) are carried out prior to any operations in our forests to identify potential impacts at the planning stage and to mitigate against them. Coillte uses four levels mitigation as part of its EIA Process. They are:

Avoidance, Reduction, Remedy, and Contingency or emergency planning

5. Coillte's forest management planning occurs in three areas, national, district (Business Area Units) and at local level through Forest Management Planning. At local level Kilcooley Abbey Forest forms part of the Forestry Management Plan for Littleton Forest (forest code number TY12).
6. The Business Area Unit planning for each area sets out its vision for the next 20 years is based on four key principles which include environmental protection and working with the local communities (see appendix 2):

Coillte's Business Area Units (BAUs) and Forests

Coillte's estate divided into 321 forests which are combined into 8 business area units (BAUs). Each BAU has a strategic plan which is the core document in the planning framework for the management of Coillte Forests. The BAU strategic plans set out a vision for the forests in each business area unit, and also, how Coillte policies and objectives will be implemented at Business Area Unit level during the period of the plan. Coillte's forests also have management plans which are approved for a five-year period and are available for the public to view. They address a wide range of economic, social and environmental objectives and include details of how forests will be expanded and restructured, how the mix of species in the business area unit will change over time, how nature will be conserved and recreational facilities provided, among other issues.

The aim of these plans is to set out a vision for the business area unit for the next 20 years and beyond. In outlining the broad direction of forest management it sets out the policies and practices that will be adopted and specifies short-term (5years) priority objectives to be addressed during the period of the plan.

Sustainability is the key principle on which the plan is based which requires meeting four closely related objectives:

- *Wise use of natural and cultural resources*
- *Effective protection of the environment*
- *Sustainable supply of forest products (wood and non-wood)*
- *Working with communities*

7. Kilcooley Abbey Forest is covered by the BAU 6 South Central. The South Central BAU Strategic Plan for 2011-2015 in Section 3.3.3 'Land Sales and Development' states that (see appendix 3):

'In the course of the period of this plan, properties will be identified which are considered suitable for sale or lease and we will endeavour to consult with the people likely to be affected as these arise'.

8. The Forest Management Plan for Littleton Forest covering the period 2011 to 2015 under the heading Social and Environmental Impact Assessment states that (see appendix 4):

Coillte's Social and Environmental Impact Assessment (SEIA) is the means by which we document the potential threats to the forest and its environment from

our activities or the activities of others and our approach to reducing the risk of damage.

9. The Forest Management Plan in the section 'Other Comments' also notes Coillte's practice of selling non-strategic land and that any sales are subject to their stakeholder consultation procedures and excision policy (see appendix 4):

'Coillte's practice is to sell, lease or develop a limited area of non-strategic land, for purposes other than forestry. Most sales are made in response to local demand and typically comprise house sites, isolated dwelling houses, sections of recently acquired farms, small outlying forest properties and gravel pits. Sections of land in Forest Properties at Crab, Noard and Newhill may be sold or developed for non-forestry purposes during the lifetime of this plan. Although forest management staff will be happy to discuss what they know of the plans for these areas the actual sale, if it proceeds, will be subject to the consultation procedures as detailed in our Stakeholder Consultation Code of Practice http://www.coillte.ie/community/consultation_policy/ and Coillte's policy on removal of these lands from those covered by our SFM certificate http://www.coillte.ie/businesses/land_development/property_management_policy/.

10. Coillte's Consultation Policy (review date 31/12/12) sets out how it complies with consultation and public participation in its day to day operations and through land sales (see appendix 5):

Section 5.4 Day to day operations

Consultation on routine forest operations, takes place frequently with neighbours, stakeholders, and interested groups, on an ongoing basis, and is part of our partnership approach in how we go about our business.

5.5 Other uses for our land

Coillte's practice is to sell, lease or develop a limited amount of non-strategic land for purposes other than forestry. These activities represent a key part of Coillte's business, and deliver benefit to individuals and communities at local and national levels. The greatest number of sales are made in response to local demand and typically comprise house sites, isolated dwelling houses, sections of recently acquired farms, small outlying forest properties and gravel pits. Consultation is carried out on these sales, leases or developments.

11. For the purpose of day to day operations we would submit that the sale of Kilcooley Forest was an activity covered by Coillte's day to day operations as defined by the Minister for Agriculture, Food and Marine, Deputy Simon Coveney in a written Answer statement on Coillte's harvesting rights sale of Kilcooley Abbey Forest. The Irish Government Dail Debate Written Answer system, allows elected members of Parliament to ask question of Ministers and get a written response. In a Written Answer (**number 241 of 23rd September 2014**) from the Minister for Agriculture,

Food and the Marine (Deputy Simon Coveney) to a question by Deputy Richard Boyd Barrett in the Dail.

Coillte Teoranta Harvesting Rights Sale

241. Deputy Richard Boyd Barrett asked the Minister for Agriculture, Food and the Marine if Coillte sold the harvesting rights for the 950 acres of public forest at Kilcooley abbey estate to the new owner; if so the price paid for this sizable amount of forest; the reason for same when Coillte are unable to increase its afforestation plans in order to support our 17% tree cover targets within the last national forestry plan; and if he will make a statement on the matter. [35490/14]

Minister for Agriculture, Food and the Marine (Deputy Simon Coveney): Coillte Teoranta was established as a private commercial company under the Forestry Act 1988 and day-to-day operational matters, such as the management of their forest estate, are the responsibility of the company. The company has, however, advised that Coillte has disposed of its interest in the leasehold of 402.92 hectares of land and trees at Kilcooley Estate, County Tipperary. As Coillte is a private commercial company, they do not disclose the price of individual property transactions for commercial reasons. The company also advised that the reason for the sale was that, in addition to being an attractive commercial proposition, sale of this leasehold interest meant that Coillte would no longer have to comply with onerous conditions relating to upkeep of walls, roads and buildings on the estate which are a feature of long leases of these old estates.

12. It is difficult to comprehend how the sale of Kilcooley Abbey Forest could be classed as non-strategic given that it is the largest continuous section of forest in the Littleton Forest area and its sale is one of the largest sales to the private sector of forestry in Coillte's history. In terms of ecological value Kilcooley Abbey Forest is described as an old timber plantation with trees dating back to the 1830s, and with a large biodiversity of plants & wildlife. It forms part of the River Nore fresh water pearl mussel (a protected species) catchment area for the hardwater species *m. durrovensis* which are only present in Ireland with a small population in the river Nore. The BAU plan identified a number of issues that need to be addressed in terms of protection for the fresh water pearl mussel and these include a reduction of log supply to the timber industry, loss of revenue & increased cost of special protective measures.
13. There are also numerous archaeological sites located within the forest area and the forest is surrounded by a 10km wall which is a protected structure. The estate itself also contains several protected structures including Kilcooley Abbey and Kilcooley Abbey Estate House. There is also a church and a graveyard on the estate which is used by the wider community for church services. We would argue that the protection of trees, plants, wildlife and the historical structures would have been best preserved by a state body like Coillte who have a legal mandate to protect the environment & structures rather than left to an individual who may not have the resources or access to specialist knowledge that Coillte would have.

14. Coillte's protection of the cultural heritage and archaeology sites is set out under the South Central BAU Strategic Plan for 2011-2015 in section 3.5 'Cultural heritage and archaeology measures' (see appendix 3):

Coillte, as manager of the State's forestry estate, has a duty to respect the cultural heritage attached to it. With support and advice from the NPWS it has developed a code of practice in order to protect this archaeological and cultural heritage.

The BAU will continue to protect archaeological sites on its lands and to note any new sites located during surveys. All recorded archaeological monuments are highlighted during the planning stage of operations. They are identified and fenced off on site by the forest manager to ensure their protection. Pedestrian access from the nearest public road is provided for such sites. Unrecorded archaeological monuments when located are immediately protected and reported to the Environmental Officer. The Forest Service Archaeologist is also notified who advises accordingly. The BAU will continue to support sites of cultural and literary heritage and will identify, protect and record all new items of heritage which are discovered on our lands.

15. Public participation is also externally audited as part Coillte's assessment for Forest Stewardship Council (FSC) Certification. As part of the FSC certification process Coillte is allowed to remove or excise a certain amount of forestry from the portfolio each year without losing its certification. Coillte has to comply with FSC excision policy FSC-POL-20-003. Timber from the excised land can no longer be sold under Coillte FSC trademark as timber coming from a sustainable forest. Each year Coillte is required to publish an excision list, which identifies forestry that is no longer under their FSC certification. Kilcooley Abbey Forest does not appear on the excision list for 2013 or indeed any excision list (see appendix 6). At the time of writing we are waiting for an explanation from Coillte and the FSC in what we would regard as Coillte's non-compliance with the FSC excision policy.

16. Under the Forestry Act 1988, Coillte are required to agree with the minister each year a programmes for the sale of land and sale of timber. NAMA have advised us via a freedom of information request that '*such a transaction took place subsequent to the sale of Kilcooley Abbey Estate and NAMA and its agents had no involvement in any such transaction, nor does it hold any records relating to it*'(see appendix 11). It is not clear if Coillte agreed the sale of Kilcooley Abbey Forest with the Minister.

17. The Forestry Act 1988, Acquisition and sale of land and sale of timber,

Section 14 (1) 'The company shall submit to and agree with the minister each year a programme for the sale and acquisition of land and the sale of timber, whether standing or felled.'

Section 14 (2) The company shall not exceed the limitation of the programme agreed with the Minister under section (1) without the prior approval of the Minister.

18. The European Court has made a number of rulings that Coillte is a public authority wholly owned and controlled by the Irish State. See the following cases:

Case C-306/97 Connemara Machine Turf [1998] ECR I-8761 (paragraph 35) and Case C-353/96 Commission v Ireland [1998] ECR I-8565.

Case C-339/00 Ireland v Commission of the European Communities [2003] ECR I-11757.

19. And as a State owned body, Coillte is subject to the Department of Finance ‘Code of Practice for the Governance of State Bodies 2009’ (see appendix 7). This is explained by the Minister for Agriculture, Food and the Marine (Deputy Simon Coveney) to a question raised by Deputy Richard Boyd Barrett in the Dail in relation to the oversights and check and balances relating to the sale of public land by Coillte in Written Answer (**number 242 of 23rd September 2014**)

Appointments to State Boards

242. Deputy Richard Boyd Barrett asked the Minister for Agriculture, Food and the Marine his view on a politically appointed board of directors overseeing the ongoing sale of public land by Coillte; the oversights that are in place; if there are checks and balances in place; if there is an independent evaluation of sites before sale; and if he will make a statement on the matter.
[\[35491/14\]](#)

Minister for Agriculture, Food and the Marine (Deputy Simon Coveney): *The Chairman and other members of the Board of Coillte are appointed by me, with the consent of the Minister for Public Expenditure and Reform in accordance with the Forestry Act 1988 as amended. As a State owned body, Coillte is subject to the Department of Finance ‘Code of Practice for the Governance of State Bodies’ . In line with the Code, Board members are appointed to act on a fully informed basis, in good faith, with due diligence and care, and in the best interest of the State body, subject to the objectives set by Government. The Code of Practice states certain procedures that should be followed in relation to the Disposal of State Assets, the company’s compliance with which is affirmed to me annually by the Chairman of Coillte in accordance with Paragraph 18.8 of the Code. I understand that following the identification of property to be sold, which occur primarily through approaches from third parties, there is an independent valuation done of the property in question. I am advised that valuations are done by professional auctioneers engaged by Coillte who have a panel of such valuers for this purpose, after which a reserve price is set. The company add that all sales are considered by a Property Sign-off Committee and that the Board is notified of all sales and has to give approval when sale price is over a certain level.*

20. The Code of Practice for the Governance of State Bodies 2009, Section 18.1 Disposal of State Assets and Access to Assets by Third Parties states that (see appendix 7):

18.1 The disposal of assets of State bodies or the granting of access to property or infrastructure for commercial arrangements e.g. joint ventures

with third parties, with an anticipated value at or above a threshold level of €150,000 should be by auction or competitive tendering process, other than in exceptional circumstances (such as a sale to a charitable body). The method used should be both transparent and likely to achieve a fair market-related price. The anticipated value may be determined either by a reserve price recorded in advance in the State body's records or by a formal sign-off by the Board on the advice of the Chief Financial Officer (CFO) or, if delegated by the Board, sign-off by the CFO or the Board Audit Committee, that, in its view, the anticipated value is likely to be less or greater than €150,000. In determining market value, regard should be had to accounting standards best practice in Ireland.

21. Coillte's disposal of Kilcooley Abbey Forest was not by auction or complete tendering process, nor was the sales process transparent as required by the Code of Practice. The reply by the Minister in Written Answers number 241 of 23rd September 2014 *Coillte Teoranta Harvesting Rights Sale* does not in any way define the sale of the state asset as an 'exceptional circumstance'. It is not clear from the Ministers statement how compliance with section 18.8 of the Code of Best Practise for State Bodies was affirmed. Without further clarification from the Minister it would appear that Coillte failed in its duty to comply with the Code of Practice for the Governance of State Bodies.
22. A further question put to the Minister for Agriculture, Food and the Marine through the Written Answer process by Deputy Pearse Doherty on 11th November 2014 (Written Answer 263) contains some further details on Coillte's practice for the disposal of lands. The response states that the Minister is advised that the property is advertised for sale '*except cases where there is no independent access and the only potential purchasers are adjoining landowners*'. This does not meet the criteria for the sale of Kilcooley Abbey Forest. I also note the lack of any reference to the Code of Practice for the Governance of State Bodies in the Minsiter's answer. I also note the Ministers statement that '*land transactions, are the responsibility of the company*'. Under the Forestry Act 1988 & 2014 the Minister as one of only two company shareholder's in Coillte, there is no mention of Ministerial responsible for land sales per the Acts.

Coillte Teoranta Lands

253. Deputy Pearse Doherty asked the Minister for Agriculture, Food and the Marine the procedures Coillte follows to ensure its lands or leaseholds are sold in an open and competitive process. [42936/14]

Minister for Agriculture, Food and the Marine (Deputy Simon Coveney): *Coillte Teoranta was established as a private commercial company under the Forestry Act, 1988 and day-to-day operational matters, such as land transactions, are the responsibility of the company. I understand that Coillte's practice is to sell, lease or develop a limited area of non-strategic land, for purposes other than forestry. Notwithstanding that land transactions are operational matters for the company, the company has outlined the*

procedures it follows in relation to the sale of lands. I am advised that all sales must be approved by Coillte's General Manager Operations with potential sales also discussed with the Head of Property Sales and consideration given to a number of factors. The company advise me that the property is valued internally to establish its forestry value and by a competent auctioneer and valuer to establish its commercial valuation in order to determine the Advised Minimum Value prior to offering the property for sale and that the method of sale appropriate to the property is also selected – tender, auction or negotiation - which is designed to ensure that Coillte can maximise the value received. The company further advise that all sales (except cases where there is no independent access and the only potential purchasers are adjoining landowners) are advertised. I am advised that the next stage in the process is that proposed sales are presented to an internal Signing Off Committee which determines the reserve price and confirms the method of sale with any sale greater than €2m needing Board approval. Such sales are discussed and approved initially by the Signing Off Committee. I understand that all sales of property to current or retired Coillte staff members must be approved by the Chief Executive in addition to the normal signing off procedure. When negotiations with the potential purchaser are completed, the sale is returned to the Signing Off Committee for price agreement and "Signing-Off". I am advised that the negotiations are monitored by Head of Property Sales and monthly reports, listing properties sold and relevant details, are prepared for senior management.

I note that the Deputy also refers to the sale of leaseholds. I understand that while these principles and procedures are generally applicable to sales of land and leaseholds, the actual process may vary depending on the circumstances of the case.

23. Press articles in April 2014 relating to the sale of the Kilcooley Abbey Foresty state that the forestry was purchased by the new owner for €1.5 million and that value of the forestry was now valued at €10 million (see appendix 8). The property is currently back on the market for sale at double the price at what it was allegedly sold for as reported in the press articles (see appendix 9), although we have circumstantial evidence that would suggest that the price reported in the press is considerably less than what was actually paid for Kilcooley Abbey Estate. Given that Ireland is still in a financial recession this would suggest that the Minister for Agriculture, Food and the Marine reporting that the sale of the forest was an *attractive commercial proposition* as stated in written answer number 241 of 23rd September 2014 (above) is somewhat misleading and it would bring into question if the sale of the forestry was in the best interest of the State. The sale price of Kilcooley Abbey Estate is reported on the governments Residential Property Price Register as being sold on 6th December for €700,000 (see appendix 10).
24. S.I. No 349 of 1989 European Communities (Environmental Impact Assessment) Regulations, 1989 and as substituted by S.I. No. 93 of 1999 European Communities (Environmental Impact Assessment) (Amendment) Regulations, 1999 sets out

provisions that the likely effects on the environment of the said operation or activity are such as would warrant the carrying out of an environmental impact assessment.

25. We would argue that S.I. No 538 of 2001 European Communities (Forest Consent and Assessment) Regulations 2010 that prior to Coillte's sale of the land and forest harvesting rights that the company should have satisfied themselves that the sale of Kilcooley Abbey Forest was not sold for a development that is likely to have a significant effect on the environment.

In relation to further information requested in point 2

2. What domestic remedies existed for you or other members of the public to challenge (i) the decision to sell Kilcooley Abbey Forestry and (ii) the lack of a public participation procedure regarding that decision? To what extent did you use those remedies and what were the outcomes of the resulting procedures? What other domestic remedies, if any, exist and why have you to date not used them?

26. Before we provide the information on point 2 some background information on the sale of Kilcooley Abbey Estate property and the sale of the forestry is necessary as we believe it is pertinent to answering the questions you raised.
27. Kilcooley Abbey Estate in Thurles, Co. Tipperary had been originally owned by the Ponsonby family since the 18th Century. In 2008 the family sold the property, which consisted of a freehold title of 1,170 acres. Of the 1,170 acres sold, Coillte owned 950 acres through a leasehold which commenced in 1934. At the time of sale in 2008 there was just over 70 years remaining on Coillte's lease.
28. In March 2011 Coillte issued contracts to sell their leasehold interest and timber harvesting rights to the new owner. We were advised of this date on 11th June 2014 via a response to an Access to Information on the Environment request we made to Coillte (Coillte also advise us that they sold Kilcooley Abbey Forest and timber harvesting right on 16th December 2013). The issuing of the contracts to sell Kilcooley Abbey Forest was less than three months into the Forest Management Plan for the Litteton Forest area .
29. In late 2011 certain assets of the owner, including Kilcooley Abbey Estate, were acquired by the National Asset Management Agency (NAMA) in Ireland and the property was put up for sale through Colliers International Estate Agents (Colliers).
30. As part of NAMA's foreclosure policy Bannon, Property Consultants & Chartered Valuation Surveyors (Bannon) were appointed as Receivers over certain assets of the owner which included Kilcooley Abbey Estate on 30th January 2013. Notice of

Bannon's appointment as Receiver on behalf of NAMA was placed in Iris Oifigiuil , the official gazette of the Irish Government on 5th February 2013.

31. On 21st January 2013 just prior to Bannon's appointment as Receiver they were appointed as property adviser to Coillte. Coillers are also property advisers to Coillte.
32. On 6th December 2013 Kilcooley Abbey Estate was sold to a new owner and on 16th December 2013 some 10 days after Coillte sold its interest in the forestry land lease and timber harvesting rights to the 950 acres to this new owner. It only became general knowledge that Coillte had sold the Forestry through a press article in the Irish Examiner in April 2014 (See appendix)
33. Between February 2012 and September 2013 we had extensive contact initially with Colliers and then with Bannon and NAMA in August and September 2014 with a view to purchasing Kilcooley Abbey Estate. At no time during the sales process were we advised by Colliers, Bannon or NAMA that Coillte was selling the forestry land and timber harvesting rights to the 950 acres. None of the sales publicity sent out by Colliers, Bannon or any of the press articles relating to the sale of Kilcooley Abbey Estate mention that Coillte was selling its land and timber harvesting rights at Kilcooley Abbey Estate. Indeed shortly after our viewings of the property in 2012 we contacted Coillte and enquired if they were selling the forestry. Coillte advised us that they were not selling their interest in Kilcooley Abbey Estate.
34. Through a recent freedom of information request & FOI internal review to NAMA we requested the following information from NAMA in relation to Coillte's land sale at Kilcooley Abbey Estate (see appendix 11).

9 When did NAMA or their representatives become aware that Coillte was selling its leasehold interest in the 950 acres of forestry at Kilcolley Abbey Estate. Who advised NAMA that Coillte was selling the freehold interest.

10 All information and correspondence, including emails, letters, diary entries, notes, internal briefings, audio recordings & meetings relating to the proposed sale and the sale by Coillte of its leasehold interest in the 950 acres of forestry at Kilcooley Abbey Estate.

11 All information and correspondence, including emails, letters, diary entries, notes, internal briefings, audio recordings & meetings relating to the proposed sale and the sale by Coillte of its leasehold interest in the 950 acres of forestry at Kilcooley Abbey Estate including all information and correspondence between the Receivers, Bannon, Property Consultants & Chartered Valuation Surveyors, Colliers International who are acting as the sales agents for sale of the property and working on behalf of

35. NAMA advised us in response to FOI internal review decision letter dated 24th August 2015 (see appendix 11)

I would also refer to your original decision letter in relation to Parts 9-11 of your request, which refer to the sale of a leasehold interest in forestry by Coillte. As outlined in the original decision letter, such a transaction took place subsequent to the sale of Kilcooley Abbey Estate and NAMA and its agents had no involvement in any such transaction, nor does it hold any records relating to it. As such, these parts of your request fall to be refused under Section 15(3)(a).

36. The FOI response from NAMA would indicate that despite NAMA being the owner of the property, Bannon acting as Receiver and the defacto owner of the property, as well as being on Coillte's advisory panel and Colliers acting as sales agent for Bannon and NAMA and also on Coillte's advisory panel they were not made aware of the sale of the land and timber harvesting rights by Coillte.

37. If NAMA response to our FOI request is correct that '*such a transaction took place subsequent to the sale of Kilcooley Abbey Estate and NAMA and its agents had no involvement in any such transaction*' then this would indicate that the forest was independently valued, the reserve price was set and considered and signed off by the various Property Sign-off Committees, all negotiations were completed and the sale of Kilcooley Abbey Forest was agreed and the legal papers transferred to the new owner and all this took place in a 10 day period between 6th December 2013 when NAMA sold Kilcooley Abbey Estate to the new owner and 16th December 2013 when Coillte sold its leasehold interest & timber harvesting rights to 950 acres to the new owner. Not only would this make it one of the largest land sales in Coillte's history but we would argue that it is probably the fastest lands sale in Coillte's history. This would also suggest that Coillte ignored and acted outside its environmental and legal responsibility and obligation, it ignored the company's policies and process and ignored issues relating to its international certification of responsible & sustainable forest management practice. It is inconceivable that Coillte was not aware that Kilcooley Abbey Estate was for sale, which then begs the question, why did Coillte not inform NAMA or their agents that they were selling Kilcooley Abbey Forest.

In relation to the first part of Point 2 *What domestic remedies existed for you or other members of the public to challenge (i) the decision to sell Kilcooley Abbey Forestry,*

38. To challenge Coillte's decision to sell the property we or other member of the public would have to be aware that Kilcooley Abbey Forest was for sale by Coillte. As pointed out above we and the main stakeholders involved with the sale of Kilcooley

Abbey Estate were not made aware of the sale and therefore it was not possible to challenge the decision to sell Kilcooley Abbey Forest. Had we or members of the public been aware of the sale then there would be a number of options open to challenge Coillte's decision. Once the sale has gone through there is no domestic remedies to challenge that decision.

In relation the second part of Point 2 *What domestic remedies existed for you or other members of the public to challenge (ii) the lack of a public participation procedure regarding that decision? To what extent did you use those remedies and what were the outcomes of the resulting procedures?*

39. There appears to be no domestic legal remedies available to us or other members of the public to challenge the lack of public participation procedure. Even if one was to take a legal challenge it would require significant legal costs and entail having some information about the sale and the sale process to base that challenge on. However as Coillte is an exempt organisation under the Freedom of Information Act it makes it extremely difficult to find out any information about the sale of Kilcooley Abbey Forest.
40. Question were raised about Coillte's sale of the forest at Kilcooley Abbey Estate in the Dail Debates through Written Answers, although these are of value they present little by way one could mount a legal challenge.
41. In order to get some information in relation to the particulars regarding the sales of Kilcooley Abbey Forest from Coillte, we have requested information through Access to Information on the Environment, however much of this information requested was denied. So we applied to the Commissioner for Environmental Information for a review. In the last two weeks Coillte have supplied us with further information and we have had a preliminary decision from the Office of the Commissioner for Environmental Information. At the time of writing we have yet to review the information and the preliminary decision in detail and we will respond to the Commissioner in due course.
42. In August 2013 we put forward our best and final offer to purchase Kilcooley Abbey Estate. NAMA through Bannon and Colliers rejected our offer. However, our understanding is that we put forward the highest bid on the property. NAMA, Bannon or Colliers have yet to provide any evidence or clarification to suggest otherwise.
43. On 22nd August 2013 we telephoned the Minister for Finance, (Deputy Michael Noonan) office to register our complaint regarding what we believe is a breach of code of practice for property service providers by Colliers and the Receivers Bannon in relation to irregularities in the sale of Kilcooley Abbey Estate and in the acceptance of bids. We also wrote a letter to the Minister of Finance on 22nd August 2013, setting

out our concerns. Had the Minister for Finance intervened at that stage of the sales process perhaps due diligence would have been carried out regarding the sale of the forestry. Public participation in the sale of Kilcooley Abbey Forestry would have possibly generated considerable interest in the sale of Kilcooley Abbey Estate for NAMA.

44. On 22nd August 2013 we also wrote and spoke with NAMA over what we believe is a breach of code of practice by Colliers and Bannon in relation to irregularities in the sale of Kilcooley Abbey Estate and in the acceptance of the bids. We had further contact and correspondence with NAMA & Bannon during August and September. In response to our complaint NAMA asked Bannon to carry out an investigation into our complaint against Bannon & Colliers. NAMA did not carry out any independent investigation of our complaint. Perhaps if NAMA had carried a thorough investigation into our complaint then due diligence would have alerted them to the sale of the forestry by Coillte.
45. On 30th September 2013 we filed a complaint with the Property Services Regulatory Authority (PSRA) against NAMA, Bannon and Colliers over their handling of the sale of Kilcooley Abbey Estate. Despite advising the PSRA of the urgent nature of the complaint and requesting that they appoint an investigator to look into our complaint they did not appoint an investigator to investigate our complaint until 27th June 2014 which was well after the sale of the forestry by Coillte. We believe had the PSRA investigated our complaint prior to the sale of Kilcooley Abbey Estate in a timely manner then the issue of the sale of the forestry sale could have been clarified with proper public participation and a transparent outcome achieved.
46. When we made the complaint to the PSRA on 30th September 2013 we were not aware that the Coillte were selling Kilcooley Abbey Forest so no mention of it was in our complaint. However, subsequently we were given the opportunity by the PSRA investigator to respond to Bannon and Colliers submissions. In our response to the PSRA on 6th October 2014 we highlighted the issue over the sale of the forestry by Coillte with the PSRA and asked them to consider it as part of their investigation. The PSRA has refused to contact us since January 2015. The investigation has not yet concluded. We telephoned the PSRA in July 2015 and were advised that the PSRA CEO had retired and that the PSRA investigator had left the PSRA and that a new investigator has not yet been appointed to our complaint. Currently our complaint is in limbo and we are not sure if the PSRA will investigate the issues we raised around the sale of the forestry by Coillte.
47. We raised our concern over the delay that the PSRA is taking to conclude their investigation into our complaint with the PSRA CEO Mr Tom Lynch on 4th February

2015 prior to his retirement from the PSRA, despite receiving an acknowledgment of our letter, Mr. Lynch did not respond to our letter.

48. We also raise our concern with the Minister for Justice and Equality (Deputy Frances Fitzgerald). As the Minister responsible for the Property Service Regulatory Authority (PSRA) we wrote to her to express our concern over the delay the PSRA is taking to determine what course of action they intend to take in relation to our case. We asked Minister Fitzgerald to assist us in getting an update on what has occurred in relation to our complaint. We also asked the Minister to confirm the advice that we received from the PSRA, that the PSRA was awaiting Ministerial approval or advice in order to proceed with our case. We wrote to the Minister on three separate occasions between February 2015 and May 2015. Despite receiving an acknowledgement of receipt of our correspondence the Minister did not reply to our concerns.
49. In February 2015 we raised the issue over the delay in the Office of the Commissioner for Environmental Information (OCEI) appointing an inspector to review our case with Alan Kelly, T.D., Minister for the Environment, Community and Local Government (DoECLG) who has ministerial responsibility for the OCEI. As Kilcooley Abbey Estate is also situated in his electoral constituency we raised our concern over the sale of the forestry with him also asked the Minister for Environment, Community and Local Government to assist us with getting the information. On 6th March 2015 we received a response from the Ministers private secretary stating that Coillte would not disclose any details as price or commercial information about land or lease sales.

'In your correspondence you additionally asked that Minister Kelly follow up with Coillte in relation to this matter. I wish to point out that Coillte is a private limited company registered under and subject to the Companies Acts. All of the shares in the company are held by the Minister for Agriculture, Food and the Marine and the Minister for Finance on behalf of the Irish State. The Board of Directors is appointed by the Minister for Agriculture, Food and the Marine. Nonetheless, officials of DoECLG, having received your correspondence, asked Coillte for their views on the matters raised therein. In response, Coillte stated that it does not disclose details of price or other such commercial information about land or lease sales for obvious commercial reasons.'

50. We made a complaint to the Ombudsman over the delay in the PSRA's failure to conclude its investigation in June 2015. However on 21st July 2015 the Ombudsman advised us that Part 2 of the First Schedule of the Ombudsman Act 1980 (as amended) lists the Property Services Regulatory Authority as a reviewable agency within the remit of this Office. However, we are restricted to examining matters which solely relate to registration, and are therefore prohibited from examining complaints about individual service providers.

51. Until the PSRA concludes its investigation we are unable to progress the matter any further.

52. Whilst we are aware that some of the latter actions open to us refer to the sale of Kilcooley Abbey Estate rather than the Forestry specifically, as pointed out above there are no domestic remedies to challenge the lack of public participation following the sale of the State asset. However we believe that the sale of both properties are intrinsically linked and uncovering issues relating to the sale of one property will shed light on the sale of the other property.

If you require further information and clarification on any point raised we would be happy to provide that information.

We look forward to hearing from you in the near future.

Yours sincerely

Jim and Mary Redmond