

Opening Statement to Joint Committee on Agriculture, Food and the Marine – Issues Relating to Peat and the Horticulture Industry

20 July 2021

I would like to thank the Committee for this invitation today and we welcome the opportunity to address the Committee on issues relating to peat and the horticulture sector. I am joined by Les Carberry, Principal Officer from the Circular Economy Division of the Department.

The Department of the Environment, Climate and Communications is acutely conscious of the supply difficulties being experienced by the horticulture sector. Our role here relates to one aspect of the existing regulatory regime that applies to peat extraction on sites of over 50 hectares.

It is important to note that no restrictions have been placed on peat extraction by the Department or Government and that there is no ban on the activity.

Insofar as regulation of the sector is concerned, there is a clear requirement, common to all types of development, that operators meet their legal obligations and have the necessary consents in place.

Industrial scale peat extraction is an invasive activity and involves a significant intervention in the landscape. The regulatory regime for such an activity needs to be robust and proportionate. Industrial peat extraction is subject to a dual consent process requiring planning permission and, for sites over 50 hectares, an Integrated Pollution Control (IPC) licence from the Environmental Protection Agency (EPA), as are many other types of development and activity.

However, there has been a history of widespread non-compliance with this dual consent process, with many operators in the peat extraction sector lacking planning permission and / or an IPC licence while others have failed to engage or been slow to engage with these regulatory processes at all.

Following a 2019 High Court judgment which re-affirmed, inter alia, that industrial scale peat extraction absent planning permission constitutes unauthorised development, the onus has been on operators to first regularise their past activities and then secure the necessary consents before any recommencement can take place.

It is now nearly two years since the High Court judgment but not all of the relevant peat extractors have engaged, as required, with the planning system as they are required to do initially before seeking an IPC licence if successful in obtaining the necessary planning permissions.

It is not open to the State to simply remove the requirement that operators must regularise their past unauthorised development, as this requirement is derived from EU law.

This point was clearly addressed in the 2019 judgment.

In terms the timing of any resumption of industrial scale extraction, it is a secondary issue as to whether, at the national level, such extraction is regulated via Planning, licensing, or some combination of the two. Any national system must be fully in compliance with the EIA Directive, and this includes the need to regularise past unauthorised development.

Therefore, for commercial peat extractors, the route to any resumption of commercial peat extraction at scale is through the existing dual consent system.

In terms of the horticulture sector, the Department of the Environment, Climate and Communications is working with other relevant Departments to assist in finding feasible short- and medium-term solutions to address shortages of horticultural grade peat.