Review of Section 40 of the Wildlife Acts 1976-2012
Submission from Planning Section of Laois County Council
January 2015

Introduction
Laois County Council welcomes the opportunity to input to the public consultation on the review of Section 40 of the Wildlife Act. Our comments are limited to the aspects of the review that relate to timing of cutting of hedges.

Our submission is set out hereunder, under three key headings:

1. Importance of Hedgerows
2. Current Legislation & Policy
3. Impact of cutting dates on biodiversity

1. Importance of Hedgerows
The importance of hedgerows in terms of Ireland's native biodiversity and landscape, is outlined in the discussion document and need not be detailed further here. However, as a detailed hedgerow survey has been carried out in Laois[1], with the support of the Heritage Council, the main conclusions of this study are summarised, to demonstrate the importance of the habitat within Laois, and the importance of appropriate management of this habitat type.

Laois Hedgerow Survey
In 2005 a field survey of hedgerows in Laois was carried out 19 sample 1 km squares distributed evenly around the county, covering approximately 1% of its total area. The survey aimed to record information on the extent, species composition, structure, condition, and management of hedgerows. Laois' hedgerow network is a huge asset to the county, valuable in terms of agriculture, landscape, wild flora and fauna, water quality, and employment.

Based on the sample, the total length of hedgerow in County Laois was estimated at 12,427 km, and the average figure for hedgerow density as 7.28 kilometres per square kilometre (km/km²). A very wide range of shrub and tree species were found in Laois hedges. A total of 32 shrub and tree species, including 21 native species, were found in the hedge layer of sampled hedges. 20 tree species, including 15 native species, were recorded growing as hedgerow trees. Whitethorn is the most frequently occurring shrub species found in 98% of hedges, with ash the most common tree species, occurring in 47% of hedges.

There is very high species diversity in a high proportion of individual hedges, with almost half of hedges found to contain an average of four or more native species in a 30m strip. This is considerably higher than any other county surveyed to date. This diversity is most likely to be due to various historical, and landscape factors. Roadside and townland boundary hedges were found to contain a higher diversity of native shrub species than other hedges.

Almost a third of the counties hedges have gaps for more than 10% of their length, and more than half display open, 'scrawny', or weak growth in the base of the hedge. These traits reduce the agricultural and wildlife value of hedges, and are not good for the long term viability of the hedges.

The majority of hedges are actively managed, with the flail by far the dominant means of trimming. The style and standards of current trimming practices could be improved. Over a fifth of hedges are cut to less than one metre high. In terms of agricultural and environmental best practice this proportion of very low hedges in Laois should be reduced. As a result of management levels and practices, levels of flowering and

[1] Foulkes, N & Murray, A (2005) County Laois Hedgerow Survey Report. Unpublished report to Laois County Council. http://www.laois.ie/LeisureandCulture/Heritage/HeritagePublications/Title,1779,en.aspx

fruiting were also found to be low. Trimming of roadside hedges during the prohibited cutting period of the bird nesting season was noticed, particularly around late June. Safety issues could justify the cutting, but none were apparent in most cases.

One fifth of surveyed hedges displayed clear evidence of having been laid, at least in part, in the past. This demonstrates that hedge laying was a traditional form of hedge management in Laois. Current rates of rejuvenation are not sufficient to maintain a sustainable resource, with evidence of recent laying being found in only three hedges. Laois has a particularly rich, distinct, and interesting hedgerow resource, but appropriate efforts must be made by various bodies and individuals if the resource is to be sustained into the future.

2. Current Legislation & Policy

The current legislation on management of hedgerows is set out through the Wildlife Acts 1976 – 2012, with the closed period from 1st March to 31st August. The exemptions to this are numerous and wide-ranging. They include cutting of hedges during "the ordinary course of agriculture or forestry", for health and safety reasons, for fisheries development, while destroying noxious weeds and clearance for development or building. In addition, notices may be served by Local Authorities on landowners under Section 70 of the Roads Act 1993, obliging them the take action to ensure that a hedgerows or tree which is or might become a hazard to persons using a public road, is removed.

It is our position that the exemptions in the legislation as it currently stands are sufficiently flexible to allow farming to proceed with very little modification to allow for the essential protection of biodiversity.

Laois County Council would welcome some clarification and guidelines on the application of these exemptions, in order to allow for better protection of wildlife.

Target 9 of the National Biodiversity Plan aims to ensure "Effective Hedgerow and Scrub management by 2016". The reduction of the closed period for hedge cutting or the introduction of further exemptions for roadside hedges would not fulfil this target and would simply cause the loss of more of the biodiversity resource that we should be aiming to protect.

The plan goes on to state that "Under Actions for Biodiversity, there will be a review of both hedgerow and scrub regulation with appropriate guidelines produced which should encourage best practice for hedgerow/scrub management for wildlife throughout the country and ensure that appropriate sanctions for unauthorised removal of hedgerows/scrub are applied."

Laois County Council would greatly welcome the production of best practice guidelines for the management of hedgerows and the application of sanctions for removal of hedgerows. In addition, training in the best methods to use in managing hedgerows, not just dates, should be provided.

The importance of hedgerows has been formally recognised recently with the launch of the National Hedgerow Database and a Hedgerow Appraisal System which are available at www.biodiversityireland.ie[2].

It should be noted that activity at Local Authority level on Action 9.3, the continuation of hedgerow surveys, has all but ceased in recent years, due to lack of resources. The National Hedgerow Database records that the most recent survey of hedgerows in any county was undertaken in Monaghan in 2010.

To ensure that data continues to be collected on this valuable resource, funding should be made available to Local Authorities to carry out hedgerow surveys.

[2] http://www.biodiversityireland.ie/data-centre-hosts-new-national-hedgerow-database/

3. Impact of cutting dates on biodiversity

Trends in breeding season dates in birds
As a matter of best practice, decisions to change policies which impact on a wide range of our remaining native biodiversity should be made bearing in mind the best and latest scientific information.

Many scientific studies have demonstrated that egg-laying trends in birds are changing, with the breeding season starting earlier in many species[3,4]. It makes sense therefore that the date by which cutting of hedgerows must stop should not be changed from 1 March.

The discussion document produced by DAHG states that "It has been suggested that landowners should have clear power to cut roadside hedges from the end of July on the basis that birds will generally have left their nests by then". However, no scientific evidence is presented to support this statement and a review of available literature has not found any evidence that this is the case. There is therefore no scientific basis for changing the cutting date at the end of the breeding season.

As part of our commitments under EU legislation, Ireland recent produced a report on the Status of EU Protected Habitats and Species in Ireland[5]. The conclusion of this report is that many Irish habitats are in unfavourable status and many are still declining. While hedgerows are not a habitat type considered under the Habitats Directive, it is worth noting that the "area of native woodlands is also deemed to be "Bad" as typically they are small and fragmented and therefore their area is considered insufficient for full ecological functionality."[6] Given the poor status of our native woodlands, hedgerows assume an even greater importance, providing an inter-connected habitat for plants and wildlife that is vital for woodland biodiversity.

Impact of cutting on hedgerows
In addition to being important for nesting, hedgerows are important to birds and other wildlife year-round as a source of shelter and food. It should be noted that too early or over-trimming of hedgerows will affect the level of berries produced an this should be borne in mind in setting dates for cutting also. The cutting cycle will determine the availability of fruits and flowers in a hedge; typically a cycle of two to three years is most beneficial for wildlife. Hedgerows along roads and farm access tracks may have to be trimmed annually to avoid obstruction, however this is not necessary or desirable for internal hedges.

Laois County Council believes that no changes should be made to the current dates for closed seasons, until scientific evidence is produced which demonstrates that these dates are no longer appropriate.

4. Conclusion
There is no justification for changing the current dates for cutting of hedgerows. Great guidance and training in best practice in management of hedgerows would be welcomed.

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[3] Crick, H.Q.P. and Sparks, T.H. (1999) Climate change related to egg-laying trends. Nature 399, 423.

[4] Torti, V.M. and Dunn, P.O. (2005) Variable effects of climate change on six species of North American birds. Oecologia 145, 486–495.

[5] NPWS (2013). The Status of Protected EU Habitats and Species in Ireland. Overview Volume 1. Unpublished Report, National Parks & Wildlife Services. Department of Arts, Heritage and the Gaeltacht, Dublin, Ireland. Editor: Deirdre Lynn. Accessed http://www.npws.ie/publications/article17assessments/article172013assessmentdocuments/Art17-Vol1-web.pdf

[6] *Ibid*, pg 148