

December 2025

DONEGAL COUNTY COUNCIL

TEN-T PRIORITY ROUTE IMPROVEMENT PROJECT, DONEGAL

STATUTORY STEPS TO BE FOLLOWED IN RESPECT OF TRANSBOUNDARY EFFECTS/EFFECTS ON NORTHERN IRELAND AND THE
UNITED KINGDOM

DCC	Donegal County Council
ACP	An Coimisiún Pleanála
Northern Ireland	Section 51(3)(c) and (d) specifically refer to the relevant authority in Northern Ireland as the party to whom notice of an application to which that section and subsection applies. Note that this is different to the requirements under the PDA where the application is to send same to the transboundary state which in the case of the Espoo convention is the UK as a whole, as referred to below.
the Minister	The Minister for Housing, Local Government and Heritage ¹
the Project	TEN-T Priority Route Improvement Project, Donegal
United Kingdom of Great Britain and Northern Ireland ("the U.K.")	The U.K. (including Northern Ireland) has been treated as a transboundary state for the purposes of the Planning and Development Regulations 2001-2025 (the " Planning Regulations ") in this document because the definition of a " <i>transboundary State</i> " in the Planning Regulations includes any state which is a party to the " <i>Transboundary Convention</i> " which is defined in the Planning and Development Act 2000 (as amended) (the " 2000 Act ") as the United Nations Economic Commission for Europe Convention on Environmental Impact Assessment in a Transboundary Context, done at Espoo (Finland), on 25 February, 1991, more commonly known as the Espoo Convention, to which the United Kingdom of Great Britain and Northern Ireland is a party to.

¹ The Minister is defined as the Minister for the Environment and Local Government in the Planning and Development Act 2000 (as amended) however the name of the Department of the Environment and Local Government has been amended on a number of occasions, most recently by S.I. No. 408/2020 to the Department of Housing, Local Government and Heritage.

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Nature of the development.

The road development herein is one in respect of which both an EIA and AA will be required. Due to the requirement to prepare an EIAR, the development in question comprises a "proposed road development" as defined by Section 2 of the Roads Act of 1993.

Under Section 2 of the PDA, 2000, (as amended) strategic infrastructure development is defined as follows:

"strategic infrastructure development" means –

- (a) any proposed development in respect of which a notice has been served under section 37B(4)(a),*
- (b) any proposed development by a local authority referred to in section 175(1) or F36[subsection (3) or (6) of section 226],*
- (c) any proposed development referred to in section 181A(1) which has been identified as likely to have significant effects on the environment in accordance with regulations made under section 176,*
- (d) any proposed development referred to in section 182A(1),*
- (e) any proposed strategic gas infrastructure development referred to in section 182C(1),*
- (f) any scheme or proposed road development referred to in section 215,*
- (g) any proposed railway works referred to in section 37(3) of the Transport (Railway Infrastructure) Act 2001 (as amended by the Planning and Development (Strategic Infrastructure) Act 2006), or*
- (h) any compulsory acquisition of land referred to in section 214, 215A, 215B or 215C, being an acquisition related to development specified in any of the preceding paragraphs of this definition;"*

Section 215 of the PDA then contains the following:

215. (1) The functions of the Minister in relation to a scheme or proposed road development under sections 49, 50 and 51 of the Roads Act, 1993, are hereby transferred to and vested in the Board and relevant references in that Act to the Minister shall be construed as references to the Board and any connected references shall be construed accordingly, except that any powers under those sections to make regulations or to prescribe any matter shall remain with the Minister.

As a result the proposed road development comprises strategic infrastructure development as defined by Section 2 of the PDA 2000 and thus is subject to the provisions of the PDR 2001, as amended, in so far as same apply to Strategic Infrastructure Development.

PHASE 1			
Following DCC's Application for Approval is submitted to ACP in accordance with section 51(2) of the Roads Act 1993 (as amended)			
No.	Party	Source	Action
1	DCC	Section 51(3)(a)(vi) of the Roads Act 1993 (as amended) (the "1993 Act")	DCC shall as soon as may be publish in one or more newspapers circulating in the area in which the Project would take place a notice in the prescribed form, stating, amongst other things, that the Project is likely to have significant effects on the environment in Northern Ireland. <i>Note No. 1: DCC's project team have advised DCC that the Project is likely to have significant effects on the environment in Northern Ireland.</i>
2	DCC	Section 51(3)(c) of the 1993 Act	DCC shall as soon as may be send a copy of the Environmental Impact Assessment Report (<i>and the Natura Impact Statement</i> ²) to the prescribed authority in Northern Ireland, being the Department for Infrastructure (Northern Ireland) ("DfI") ³ where the Project is likely to have significant effects on the environment in Northern Ireland or where the DfI so requests, together with a notice in the prescribed

² While the 1993 Act does not state this, it is prudent to also send a copy of the Natura Impact Statement any time the Environmental Impact Assessment Report is to be furnished.

³ Pursuant to Article 9(2) of the Roads Regulations, 1994 (SI No. 119/1994) this prescribed authority for Northern Ireland is the Department of the Environment for Northern Ireland ("DoE (NI)"). DoE (NI) was dissolved under Section 1(9) of the Departments Act (Northern Ireland) 2016. The Department for Agriculture Environment and Rural Affairs (Northern Ireland) has advised that the "prescribed transboundary authority for Environmental Impact Assessment planning consultations" in Northern Ireland is the DfI. So far as we can trace in Northern Ireland legislation, both through the Departments (Transfer of Functions) Order (Northern Ireland) 2016 and Regulation 30 of the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2017, and so far as we can establish from public-domain information, as a matter of the law of Northern Ireland, the DfI have the functions which most closely resemble the environment, development-consent and road-development functions of DoE (NI) in 1994 when DoE (NI) was prescribed for these purposes, and is therefore the prescribed authority in Northern Ireland for trans-boundary notifications and consultations relating to environmental impact assessments, which we take to include notifications and consultations for the purposes of section 51(3)(c) and (d) of the 1993 Act.

PHASE 1			
Following DCC's Application for Approval is submitted to ACP in accordance with section 51(2) of the Roads Act 1993 (as amended)			
No.	Party	Source	Action
			form ⁴ , stating that DCC has made an application for approval of the Project and that submissions may be made in writing to ACP in relation to the likely effects on the environment of the Project.
3	DCC	Section 51(3)(d) of the 1993 Act	DCC <u>shall</u> as soon as may be where the Environmental Impact Assessment Report (<i>the Natura Impact Statement-see footnote 2 above</i>) and a notice has been sent to the DfI pursuant to Point No. 2 above, enter into consultations with the DfI regarding the potential effects on the environment of the Project and the measures envisaged to reduce or eliminate such effects.
<p><i>Note No. 2: The 1993 Act does not say what is to occur after these consultations at Point No. 3 above however the form served on the DfI at Point No. 2 above does say that the DfI can make submissions to ACP and such submissions may be the natural consequences of the consultations. It is important for such consultations to occur quickly enough so that DfI are encouraged to make any submissions to ACP within the same period as the Irish prescribed authorities.</i></p>			
4	ACP	Regulation 124(1)(b) of the Planning Regulations ⁵	<p>ACP as soon as may be <u>shall</u> notify the Minister of the application where:</p> <ul style="list-style-type: none"> (i) in ACP's opinion the Project would be likely to have significant effects on the environment in the UK (thus including Northern Ireland); or (ii) DCC has notified the U.K. of the Project (a notification under Point No. 2 and Point No. 3 above to DfI in Northern Ireland is not legally a notification of the UK. In any event the

⁴ Pursuant to S.I No. 49/2009 (as amended by S.I. No. 485 of 2019) the form of the notice (Form No. 6) contained in Schedule 6 is prescribed for the purposes of section 51(3)(c) of the 1993 Act.

⁵ The application for approval by DCC under section 51 of the 1993 Act is an application for strategic infrastructure development for the purposes of Part 10 of the Planning Regulations pursuant to section 2 of the 2000 Act as there is no definition of strategic infrastructure development in the Planning Regulations.

PHASE 1			
Following DCC's Application for Approval is submitted to ACP in accordance with section 51(2) of the Roads Act 1993 (as amended)			
No.	Party	Source	Action
			requirements under Chapter 4 of the PDR should trigger this requirement. Thus effectively two notifications, one to DfI in Northern Ireland by DCC (under the Roads Act) and one to the UK government by ACP (under the PDA and PDR) should issue.
		Regulation 124(2) of the Planning Regulations	A notice under this section shall be accompanied by a copy of the Environmental Impact Assessment Report <i>(and the Natura Impact Statement⁶)</i>
5	ACP	Regulation 126(1) of the Planning Regulations	At the same time as Point No. 4 above, ACP shall provide information on the Project to the UK <i>(see Note No. 3 below)</i>
		Regulation 126(2) of the Planning Regulations	The information to be provided in this section under Regulation 126(1) of the Planning Regulations is: <ul style="list-style-type: none"> (a) a description of the Project, together with any available information on its possible transboundary impact, (b) an indication that the project is subject to an environmental impact assessment procedure, (c) an indication that ACP is the competent authority responsible for taking the decision, (d) an indication of the types of decision ACP may make in relation to the application,

⁶ While the Planning Regulations do not state this, it is prudent to also send a copy of the Natura Impact Statement any time the Environmental Impact Assessment Report is to be furnished.

PHASE 1			
Following DCC's Application for Approval is submitted to ACP in accordance with section 51(2) of the Roads Act 1993 (as amended)			
No.	Party	Source	Action
			<p>(e) an indication that a decision will not be taken on the proposed development until the views, if any, of Northern Ireland have been received or the consultations are otherwise completed, <u>and</u></p> <p>(f) an indication that where Northern Ireland indicates that it wishes to take part in the decision-making procedures in relation to the Project, a copy of the Environmental Impact Assessment Report (and Natura Impact Statement – see footnote 6) will be sent to it.</p> <p><i>Note No. 3: By virtue of the specific wording of Article 126(1) of the Planning Regulations ACP will be obliged to provide the above information at (a) to (f) notwithstanding the fact that DCC has notified DfI in Northern Ireland of the Project since DfI and Northern Ireland is not the transboundary state as referred to (being instead the U.K. as a whole). In addition, DCC's statutory obligations under the 1993 Act as to what it is to say to the DfI (the prescribed body for Northern Ireland) differ in terms of the information to be provided to the U.K. by ACP.</i></p> <p><i>Note No. 4: The prescribed counterpart body for ACP in the U.K. to consult with appears to be the Ministry of Housing, Communities and Local Government of the United Kingdom through the United Kingdom's Planning Inspectorate however ACP to confirm.</i></p>
6	ACP	Regulation 126(1) of the Planning Regulations	At the same time as complying with Point No. 4 and Point No. 5 (if Point No. 5 is applicable) above, ACP <u>shall</u> enter into consultations with the U.K. state in relation to the potential transboundary effects of the Project.
7	Minister	Regulation 124(3) of the Planning Regulations	Where the Minister is notified pursuant to Point No. 4 above, the Minister <u>shall</u> consult with ACP as appropriate in relation to the Project.

PHASE 2			
The Remaining Period until ACP Order			
No.	Party	Source	Action
8	Minister	Regulation 125 of the Planning Regulations	<p>The Minister <u>may</u> where:</p> <ul style="list-style-type: none"> (i) in their opinion the Project involves development which would be likely to have significant effects on the environment in the U.K. (including Northern Ireland), or (ii) where the U.K. considers that the Project would be likely to have such effects and has requested that it be provided with information on the Project <p>require ACP to furnish the Minister such details, information or documents as the Minister may specify in relation to the application for the Project as appropriate.</p> <p><i><u>Note No. 6:</u> It is probably unlikely that the U.K. government, once made aware that Northern Ireland has been notified by DCC and in light of the statutory notification with DfI from and consultations with DCC under the 1993 Act would request information under this Regulation. Moreover, it would be unlikely that the Minister would seek further information under this Regulation from ACP given that ACP will have notified, provided the Environmental Impact Assessment Report (and Natura Impact Statement-see footnote 6) to and entered into consultations with the Minister (Point No. 4 and Point No. 7 above).</i></p>

PHASE 2			
The Remaining Period until ACP Order			
No.	Party	Source	Action
9	ACP	Regulation 126(3) of the Planning Regulations	Where the U.K. indicates that it wishes to take part in the decision-making procedures in relation to the Project, ACP shall forward the Environmental Impact Assessment Report (<i>the Natura Impact Statement-see footnote 6</i>) and any other relevant information to the U.K. <i>Note No. 5: Same will be in addition to any information already sent by DCC to the DfI as referred to above at Point No. 2.</i>
10	ACP	Regulation 126(4) of the Planning Regulations	ACP shall notify, DCC of that fact that it has provided information and entered into consultations with the U.K. state.
12	ACP	Regulation 129(2) of the Planning Regulations	Where ACP considers that any submission, observation, document, particulars or other information submitted to it in response to a request or requirement of ACP, in respect of the application for the Project, contains significant additional data on the effects on the environment of the Project, ACP shall send a copy of the relevant data to the Minister and to the U.K..
13	ACP	Regulation 130 of the Planning Regulations	ACP shall not determine the application for the Project, until after (a) the views of the U.K. been received in response to consultations with ACP under Article 126(1) of the Planning Regulations (Point No. 6 above), <u>or</u> (b) the consultations are otherwise completed.

PHASE 2			
The Remaining Period until ACP Order			
No.	Party	Source	Action
<p>Note No. 8: Pursuant to section 174(2) of the 2000 Act, ACP <u>shall</u> have regard to the views of the U.K. (again it is the U.K. that is the transboundary state as defined by the PDA) in relation to the effects on the environment of the Project⁷.</p> <p>Note No. 9: Pursuant to section 174(3) of the 2000 Act, ACP <u>may</u> following the considerations of any submissions or observations received or any consultations entered into by ACP impose conditions on an approval in order to reduce or eliminate potential transboundary effects of the Project.</p>			

⁷ The Project falls under the definition of “proposed development” for the purposes of Part X of the 2000 Act pursuant to section 171A of the 2000 Act. While the specific legislative sections referenced in Section 174(2) are not related to a proposed road development, since Section 174(2) refers to this obligation as being “in addition to” those identified sections, the requirements of Section 174(2) of the PDA 2000 applies to ACP and must have regard to the views of the U.K. government in relation to the effects on the environment of the Project in any event.