
STATUTORY RULES OF NORTHERN IRELAND

2017 No. 83

The Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2017

PART 2

Pre-Application Procedures

Pre-application determination as to need for environmental impact assessment and opinion as to content of environmental statement

8.—(1) Subject to paragraphs (2) to (6), before applying for planning permission or subsequent consent, an applicant may request in writing the council or, as the case may be, the Department to—

- (a) make a determination as to whether a proposed development is or is not EIA development (a “screening determination”);
- (b) give an opinion as to the scope and level of detail of the information to be provided in the environmental statement to be submitted with an EIA application (a “scoping opinion”).

(2) A request for a scoping opinion may be made at the same time as a request for a screening determination.

(3) When making a request for a screening determination, an applicant shall, taking into account so far as relevant the selection criteria and the available results of other environmental assessments required under Union legislation (other than legislation implementing the requirements of the Directive), provide the following information—

- (a) a plan sufficient to identify the land;
- (b) a description of the development, including in particular—
 - (i) a description of the physical characteristics of the whole development and, where relevant, of demolition works;
 - (ii) a description of the location of the development, with particular regard to the environmental sensitivity of geographical areas likely to be affected;
- (c) a description of the aspects of the environment likely to be significantly affected by the development;
- (d) to the extent the information is available, a description of any likely significant effects of the development on the environment resulting from—
 - (i) the expected residues and emissions and the production of waste, where relevant; and
 - (ii) the use of natural resources, in particular soil, land, water and biodiversity.

(4) The applicant, when making a request for a screening determination, may also provide a description of any features of the proposed development or any measures envisaged to avoid or prevent what might otherwise have been significant adverse effects on the environment.

(5) A request for a scoping opinion in respect of an application for planning permission shall be accompanied by—

- (a) a plan sufficient to identify the land;
 - (b) a description of the nature and purpose of the proposed development, including its location and technical capacity; and
 - (c) an explanation of the likely significant effects of the development on the environment.
- (6) A request for a screening determination or scoping opinion in respect of a subsequent application shall be accompanied by—
- (a) a plan sufficient to identify the land;
 - (b) sufficient information to enable the council or, as the case may be, the Department to identify any planning permission granted for the development in respect of which a subsequent application has been made; and
 - (c) the information referred to in paragraph (3)(c) and (d), but only to the extent that this relates to the likely significant effects on the environment which were not identified at the time that the planning permission was granted.
- (7) Where the council or, as the case may be, the Department has to make a screening determination, it shall take into account—
- (a) any information provided by the applicant;
 - (b) where relevant, the results of other environmental assessments carried out pursuant to Union legislation other than legislation implementing the requirements of the Directive; and
 - (c) such of the selection criteria as are relevant to the proposed development.
- (8) Subject to paragraph (11), the council or, as the case may be, the Department shall inform the applicant, in writing, of its screening determination within 4 weeks from the date of receipt of the request, or within such longer period, not exceeding 90 days beginning with the date of receipt of the request, as may be agreed in writing between the council or, as the case may be, the Department and the applicant.
- (9) The Department shall send a copy of its screening determination to the council in whose district the proposed development is to be situated.
- (10) Where the council or, as the case may be, the Department consider that due to exceptional circumstances relating to the nature, complexity, location or size of the proposed development it is not practicable for the council or, as the case may be, the Department to make a screening determination within the period specified in paragraph (8), the council or Department may extend that period by notice in writing to the applicant giving reasons for that conclusion and the date when the screening determination may be expected.
- (11) Where the council or, as the case may be, the Department considers that it has not been provided with sufficient information to enable it to respond to a request for a screening determination or a scoping opinion, it shall notify the applicant in writing of the particular points on which additional information is required, and the period for making the screening determination or for giving a scoping opinion shall not commence until receipt of that additional information.
- (12) Subject to paragraph (16), the council or, as the case may be, the Department shall not give a scoping opinion until it has consulted such other authorities likely to be concerned by the proposed development by reason of their specific environmental responsibilities or local or regional competences, but shall respond to such a request within 6 weeks of receipt of that request or such longer period as may be agreed in writing with the applicant.
- (13) The Department shall send a copy of its scoping opinion to the council in whose district the proposed development is to be situated.
- (14) If, in response to a request for a screening determination, the council or, as the case may be, the Department determines that the proposed development is EIA development, it shall provide

with the screening determination a written statement giving the main reasons for that conclusion with reference to the relevant selection criteria.

(15) If, in response to a request for a screening determination, the council or, as the case may be, the Department, determines that the proposed development is not EIA development, it shall provide with the screening determination a written statement giving the reasons for that conclusion with reference to the relevant selection criteria and, where proposed by the applicant, state any features of the development and measures envisaged to avoid or prevent, what might otherwise have been, significant adverse effects on the environment.

(16) Where the council or, as the case may be, the Department makes a screening determination and the applicant has also requested a scoping opinion, the council or, as the case may be, the Department shall respond to the request for the scoping opinion within 6 weeks of the date of issue of its screening determination under paragraph (14) or such longer period as may be agreed in writing with the applicant.

(17) In giving a scoping opinion, the council or, as the case may be, the Department shall take into account —

- (a) any information provided by the applicant about the proposed development;
- (b) the characteristics of the development;
- (c) the likely significant effects of the development on the environment; and
- (d) representations from the authorities consulted under paragraph (12).

(18) Where, following receipt of a scoping opinion under paragraph (16), an applicant wishes to proceed with the submission of an environmental statement, the applicant shall by notice in writing inform the council or, as the case may be, the Department to such effect within 4 weeks of the date of the scoping opinion.

(19) Where, following receipt of a screening determination under paragraph (14), the applicant wishes to proceed with the proposed development, the applicant shall by notice in writing inform the council or, as the case may be, the Department that the applicant either—

- (a) accepts the council's or, as the case may be, the Department's screening determination and proposes to provide an environmental statement; or
- (b) does not accept the council's or, as the case may be, the Department's screening determination and proposes to seek a hearing before the Commission.

(20) The notice referred to in paragraph (19) shall be served on the council or, as the case may be, the Department within 4 weeks of the date of the screening determination.

(21) Where the council or, as the case may be, the Department has given a scoping opinion or where it has received a statement under regulation 6(2)(a) it shall not be precluded from requiring further information in connection with any environmental statement that may be submitted.