

# Environmental planning of national road and greenway projects

TII Standards Roadshow Webinar  
Wednesday, 17<sup>th</sup> of May 2023

# Environmental Planning of National Road and Greenway Projects

RE-ENV-07008 *Environmental Planning of National Road and Greenway Projects* (TII, February 2023)



# Technical



**TII Publications**



**Environmental Planning of  
National Road and Greenway  
Projects**

RE-ENV-07008  
February 2023



**Technical**



# Contents of Presentation

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- Purpose
  - Importance
  - Contents
  - Implications
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# The Purpose of the Document

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*“The purpose of this Technical Document is to assist those involved in the planning of **national road** and **greenway** projects to navigate some of the complex **environmental and planning law** that they will commonly encounter in their work.”*

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**Why is this document important?**

# Why is this document important?

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Environmental and planning law can significantly affect the:

- Planning,
- Design,
- Construction, and
- Maintenance,

of national road and greenway projects.

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# Why is this document important?

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## National road projects

### **The snail's pace progress of Kildare's 'urgent' bypass**

*M7 Kildare Town Bypass*

Kildare Nationalist – 14<sup>th</sup> January, 2000

### **Snails'-pace of bypass a mockery of people**

*N22 Ballyvourney-Macroom Bypass*

Corkman – 29<sup>th</sup> May, 2008

### **Bid to stop planned New Ross bypass fails**

*N25 New Ross Bypass*

Irish Times – 3<sup>rd</sup> March, 2010

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# Why is this document important?

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## National road projects

Bypass builders and consultants clash over rare butterfly

*N18 Ennis Bypass and N85 Western Relief Road*

Irish Examiner – 9<sup>th</sup> August, 2007

**Notice by An Bord Pleanála to refuse to approve the  
N26 Ballina to Bohola (Phase 2) road scheme, Co.  
Mayo.**

*N26 Ballina to Bohola (Phase 2) Road Scheme*

Irish Independent – 7<sup>th</sup> April, 2010

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# Why is this document important?

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## National road projects

**Outer bypass  
for Galway is  
dealt double  
whammy**

Bord Pleanála decision delayed  
and project also referred to EU

*N6 Galway City Outer Bypass*  
Galway City Tribune – 25<sup>th</sup> July, 2008

**European Court  
rules against  
Bypass plans**

*N6 Galway City Outer Bypass*  
Galway Independent – 11<sup>th</sup> April, 2013

 **Irish Examiner**

FRIDAY, DECEMBER 20, 2019

**Challenge to Cork-Ringaskiddy  
M28 motorway dismissed**

*M28 Cork to Ringaskiddy Motorway Scheme*  
Irish Examiner – 20<sup>th</sup> December, 2019

**Ruling will leave N59  
road plan dead in the  
water**

*N59 Maam Cross to Clifden*  
Connacht Tribune – 28<sup>th</sup> May, 2016

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# Why is this document important?

## National road projects

### **Judicial reviews lodged relating to Foynes road project**

*Foynes to Limerick Road Scheme (Including Adare Bypass)*  
Live 95 – 27<sup>th</sup> October, 2022

### **Councillors disappointed at legal challenge to Ardee Bypass**

*N52 Ardee Bypass*  
The Argus – 20<sup>th</sup> January, 2022

### **Application lodged for judicial review into contentious Galway Ring Road plan**

*N6 Galway City Ring Road*  
Thejournal.ie – 8<sup>th</sup> February, 2022

### **Galway ring road plan quashed as board admits it was not aware of climate plan**

*N6 Galway City Ring Road*  
Irish Times – 14<sup>th</sup> October, 2022

### **Application for €600m Galway ring road to be considered afresh by Bord Pleanála**

*N6 Galway City Ring Road*  
Irish Times – 30<sup>th</sup> January, 2023



# Why is this document important?

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## Greenway and active travel projects

### **Court ruling a 'step forward' for South Kerry Greenway**

*South Kerry Greenway*

RTE News – 15<sup>th</sup> October, 2021

### **South Kerry greenway to go ahead after Supreme Court decision**

Project was mooted a decade ago but stalled for various reasons

*South Kerry Greenway*

Irish Time – 8<sup>th</sup> February, 2022

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# Why is this document important?

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## Greenway and active travel projects

### **Residents win legal challenge against two-way cycle lane**

*Strand Road Cycleway*

RTE News – 30<sup>th</sup> of July, 2021

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# Why is this important?

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National road maintenance projects

## **High Court challenge brought by environmentalists over bridge works near Kylemore Abbey**

*N59 Kylemore Bridge Maintenance Works*

The Journal – 13<sup>th</sup> October, 2022

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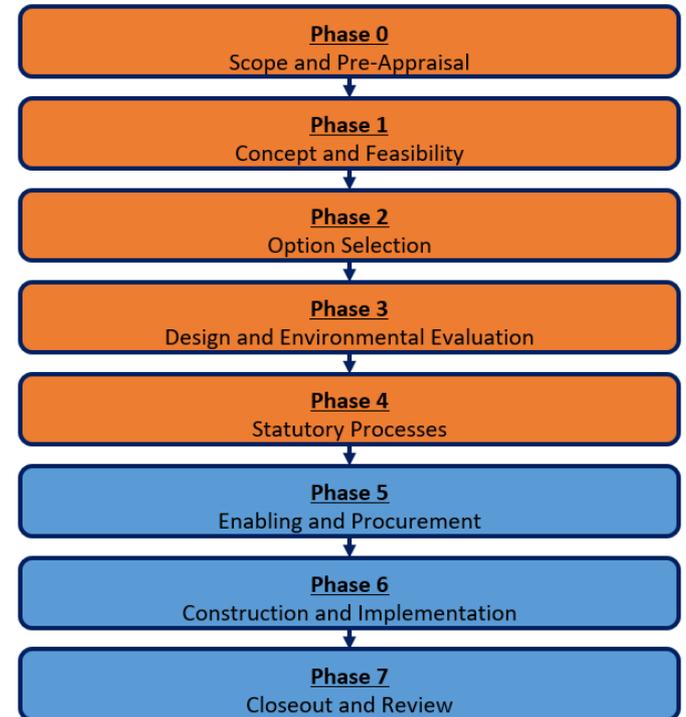
**Contents of *Environmental Planning of  
National Road and Greenway Protects*  
[RE] [ENV]**

# Contents

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# Contents: Introduction

- National road and greenway projects, and their developers.
- Critical European and Irish environmental legislation.
- The fundamentals of the Environmental Impact Assessment, Birds and Habitats Directives.
- Why is this document important?

# Contents: Phase 0 – Scope & Phase 1 – Concept & Feasibility

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- Project objectives
  - ‘Project splitting’
  - Definition of the ‘study area’
  - Development of options
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# Contents: Phase 2 – Option Selection

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- Article 5(1)(d) of the amended EIA Directive:

“[The information to be provided by the developer shall include at least:] a ***description of the reasonable alternatives studied by the developer, which are relevant to the project and its specific characteristics, and an indication of the main reasons for the option chosen, taking into account the effects of the project on the environment*** [...].”

- Article 6(4) of the Habitats Directive.
  - Other potentially relevant environmental law.
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## Contents: Phase 3 – Design & Environmental Evaluation

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1. Screening and determining the appropriate consent procedure.
  2. Preparation of statutory documentation.
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# Contents: Phase 3 – Design & Environmental Evaluation

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## Screening decisions – General Principles

Screening decisions must be:

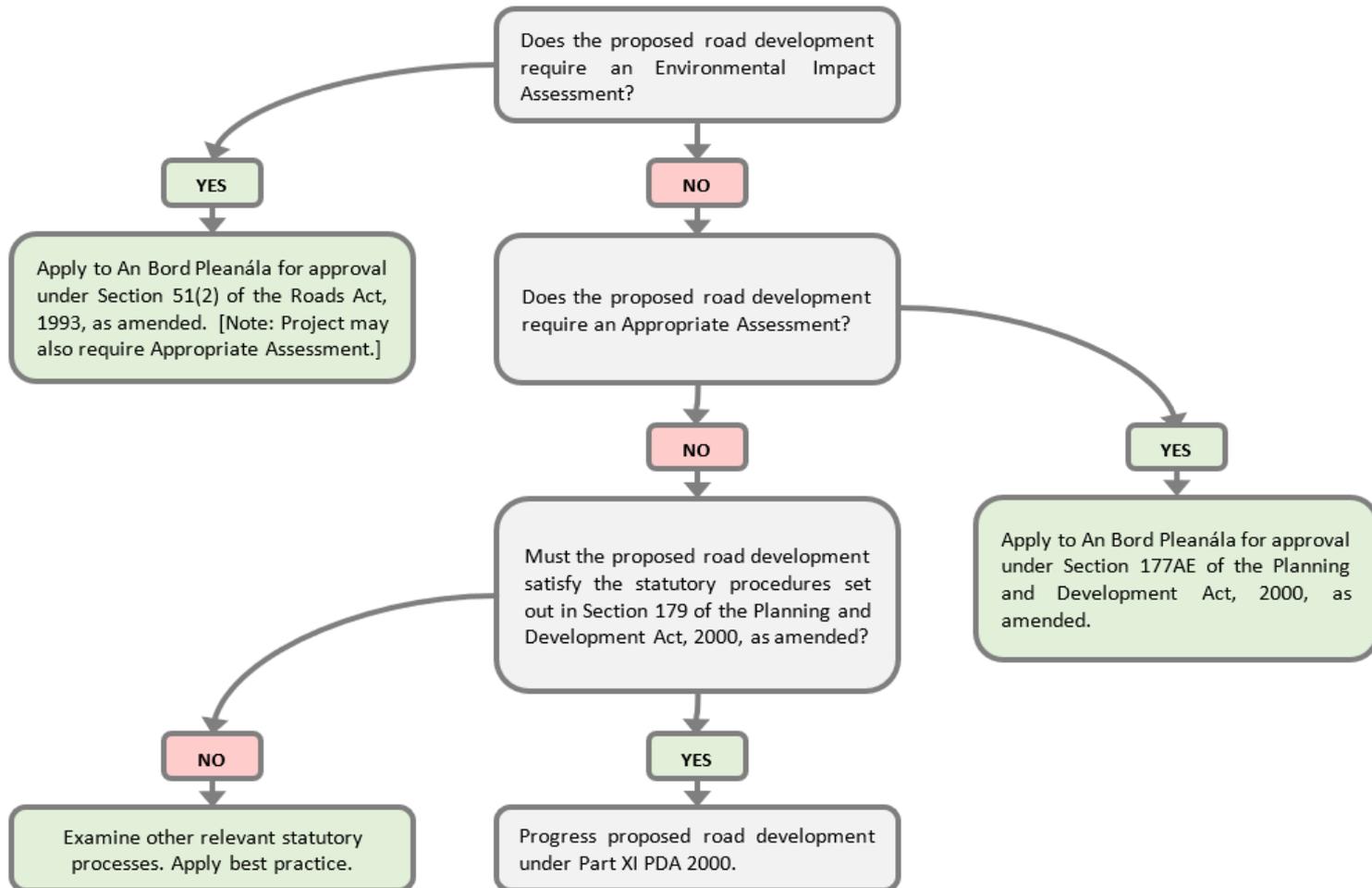
- Made in writing;
- Reasoned, e.g.:
  - *‘include the main reasons and considerations on which the decision is based’*; and,
  - *‘contain or be accompanied by all the information that makes it possible to check that is based on adequate screening’*.
- Made available to the public, e.g.:
  - May be inspected; and,
  - Placed on the authority’s website.
- Made formally via properly delegated authority or Chief Executive’s Order.

Screening decisions are not: made by an ecological consultant; or, an ecology report.

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# Contents: Phase 3 – Design & Environmental Evaluation

## Screening and determining the appropriate consent procedure:



# Contents: Phase 3 – Design & Environmental Evaluation

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## Screening and determining the appropriate consent procedure:

- Screening for Environmental Impact Assessment.
  - Screening for Appropriate Assessment.
  - Is the development ‘Part 8’ development?
  - Is the development subject to Section 38 of the Roads Traffic Act 1994? (*‘Traffic calming measures’*)
  - Is the development subject to Section 95 of the Roads Traffic Act 1961? (*‘Traffic signs’*)
  - Is the development subject to Section 138 of the Local Government Act 2001? (*‘Prior information to elected council’*).
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# Contents: Phase 3 – Design & Environmental Evaluation

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## **Preparation of statutory documentation:**

- Preparation of Environmental Impact Assessment Report.
  - Preparation of Natura Impact Statement.
  - Preparation of documents associated with a Section 177AE application.
  - Preparation of the 'Part 8' documents.
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# Contents: Phase 4 – Statutory Processes

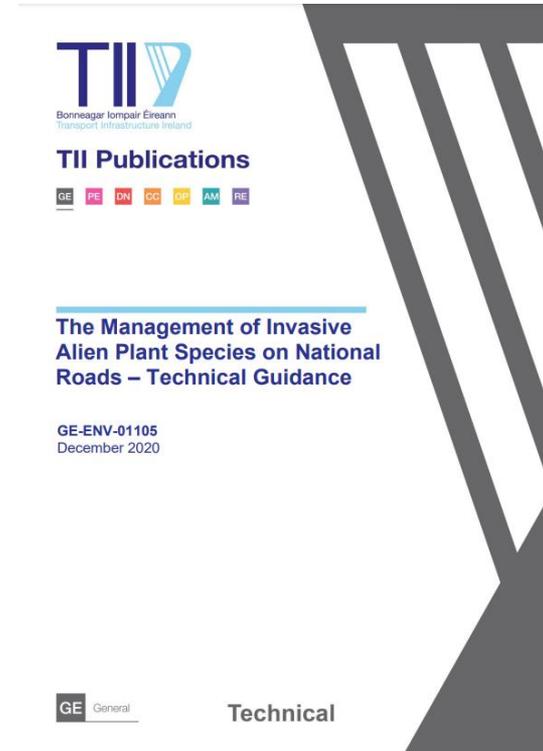
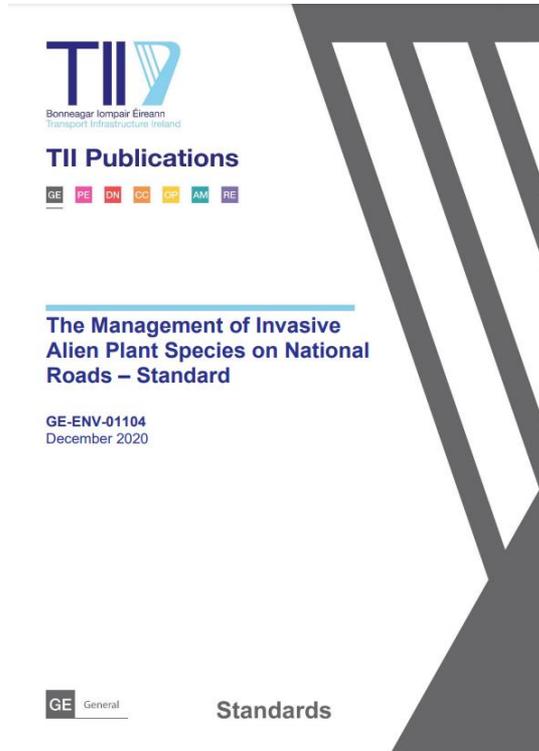
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## Statutory processes:

- Application under Section 51(2) of the Roads Act, 1993 (*‘proposed road development which is subject to an environmental impact assessment’*).
  - Application under Section 177AE of the Planning and Development Act, 2000 (*‘Appropriate Assessment of certain developments carried out by [...] local authorities’*).
  - Project subject to Section 179 of the Planning and Development Act, 2000/Part 8 of the Planning and Development Regulations, 2001 (*‘Local authority own development’*).
  - Other relevant statutory processes:
    - Section 38 of the Road Traffic Act, 1994 (*‘Traffic calming measures’*).
    - Section 95 of the Road Traffic Act, 1961 (*‘Traffic signs’*).
    - Section 138 of the Local Government Act, 2001 (*‘Prior information to elected council’*).
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# Contents: Phase 5 – Enabling and Procurement

- Advance works (e.g., IAPS)



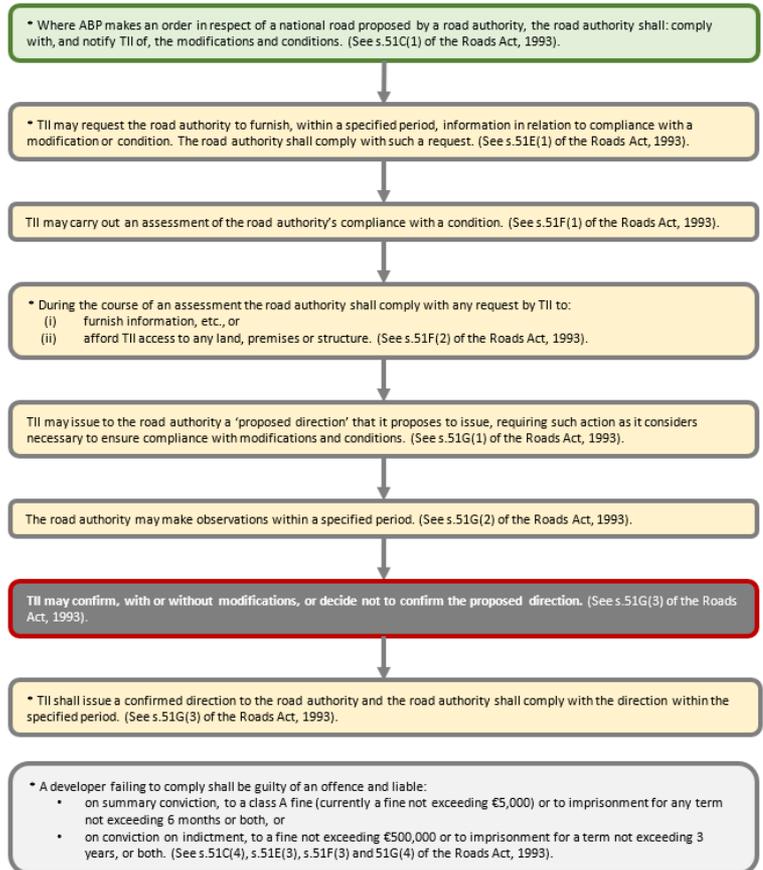
# Contents: Phase 5 – Enabling and Procurement

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- ‘Lifespan’ of consents
    - Legacy ‘Part 8’ projects
    - Screening for EIA decisions
    - Article 6(2) of the Habitats Directive/Article 27 of the Habitats Regulations 2011 – *Ballyboden Tidy Towns Group v. An Bord Pleanála* – taking appropriate steps to avoid deterioration/significant disturbance in European sites.
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# Contents: Phase 5 – Enabling and Procurement

- Environmental condition enforcement



# Implications



# Implications

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- [RE] [ENV] Technical Document.
  - Publication of the document should:
    - Help increase the legal robustness of applications and screening decisions.
    - Potentially lower risk of:
      - Permissions being refused;
      - Applications for judicial review; and,
      - Successful judicial reviews.
    - Improve the quality of projects.
  - Will need regular update (e.g., Planning and Development Bill 2022).
  - Should be expanded to include other areas of law (e.g., Water Framework Directive, CPO, foreshore development).
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