

Hi [REDACTED]

We have received some observations from our agency, TII in relation to the consultation.

**TII observations re: the Review of the Access to Information on the Environment Regulations 2007-2018**

TII has set out below some points for consideration by the Department in making any submission in response to the below mentioned public consultation.

With respect to the Access to Information on the Environment Regulations 2007-2018 (S.I. No. 133 of 2007; S.I. No. 662 of 2011; S.I. No. 615 of 2014; S.I. 309 of 2018) (the '**AIE Regulations**'), TII would like to draw the Department's attention to the [decision](#) of the Commissioner for Environmental Information (the '**Commissioner**') dated 21 September 2020 (case number: OCE-93421-T8F8W7).

In this decision, the Commissioner held that a TII contractor, Celtic Roads Group DAC ('**CRG**'), is a '**public authority**' as defined under Article 3(1)(b) of the AIE Regulations, meaning it is a 'legal person performing public administrative functions under national law, including specific duties, activities or services in relation to the environment'. As a result of this decision, CRG has been brought within the scope of the AIE Regulations and must now directly respond to requests for information pursuant to those regulations.

It should be noted, that if this decision is followed in future cases before the Commissioner, this broad interpretation of the definition of public authority could result in other entities which are party to PPP or other contracts with TII (or other public bodies) also being deemed public authorities. The obligation to respond to requests under the AIE Regulations is likely to result in increased costs for concessionaires in their operation and management of tolls. As such, this development could potentially have cost implications for TII in any future contractual negotiations for such services.

Finally, in relation to the general operation of the AIE Regulations, it is TII's experience that some applicants use this regime to seek very wide-ranging information hooked on the most tenuous of environmental connections.

If you need any further information, please do not hesitate to contact the Department directly.

**Regards,**

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