

**From:** XXXXXX (DECLG)  
**To:** [REDACTED]  
**Cc:** XXXXXX(DECLG)  
**Subject:** RE: NBP Environmental Steering Group - conclusion of SEA/AA process  
**Date:** 07 September 2018 15:17:18  
**Attachments:** [image001.jpg](#)  
[image002.jpg](#)

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[REDACTED]  
Your email below issued on the 22<sup>nd</sup> August (while I was on leave) refers.

As discussed today, as my Department is not an Environmental Authority for the purposes of this SEA process (as per S.I. 435 of 2004), my comments relate to our remit with respect to planning processes as opposed to environmental considerations.

You may recall my comments at the Steering Group meeting in DCCAE last year, that exempted development is **not** required to comply with provisions of the relevant county/city development plan or local area plan and the relevant planning authority will not have oversight of exempted development generally (unless of course planning permission is required or otherwise unauthorized development is carried out). As such, noting that much of the proposed development for the Broadband project will be exempted development (i.e. development not requiring planning permission), I understand from DCCAE at the meeting last year that the developer would be contractually bound to meet environmental criteria and best practice standards as required by the process.

As such, I have only one additional significant observation to make on the enclosed draft material: Both environmental reports relating to the SEA Directive and the Habitats Directive correctly refer to exempted development (available in the Planning and Development Regulations 2001, as amended) as being subject to the restrictions in Article 9 of the same Regulations, specifically with regard to development that requires appropriate assessment. However, it would also be important in the same context, anywhere exempted development is mentioned, that all development is **additionally** subject to the provisions of Section 4(4) of the Planning and Development Act 2000, as amended, which removes exempted development if either appropriate assessment **or** environmental impact assessment is required. It would be important that the various environmental documents mention this, particularly with respect to mitigation measures.

For information, section 4(4) of the Planning and Development Act 2000, as amended, states the following:

*"4(4) Notwithstanding paragraphs (a), (i), (ia) and (l) of subsection (1) and any regulations under subsection (2), development shall not be exempted development if an environmental impact assessment or an appropriate assessment of the development is required."*

<http://revisedacts.lawreform.ie/eli/2000/act/30/front/revised/en/html>

Kind regards,

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Is faoi rún agus chun úsáide an té nó an aonán atá luaite leis, a sheoltar an ríomhphost seo

agus aon comhad atá nasctha leis. Má bhfuair tú an ríomhphost seo trí earráid, déan teagmháil le bhainisteoir an chórais.

Deimhnítear leis an bhfo-nóta seo freisin go bhfuil an teachtaireacht ríomhphoist seo scuabtha le bogearraí frithvíorais chun víorais ríomhaire a aimsiú.

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