



Rialtas na hÉireann
Government of Ireland

National Broadband Plan

Intervention Strategy - Addendum 2019



Introduction

The National Broadband Plan (NBP) is a Government policy initiative which aims to deliver high speed broadband to every citizen and business in Ireland. This is being achieved through a combination of commercial investment by telecoms operators, and a proposed State intervention to provide high speed broadband to those parts of the country where there is no certainty that the commercial sector will invest.

The Department of Communications, Climate Action and Environment (the Department) first published its National Broadband Plan – Ireland’s Broadband Intervention Strategy (the Intervention Strategy) in December 2015, following a public consultation.

The SEA Directive (2001/42/EC) provides for a high level of protection of the environment and aims to contribute to the integration of environmental considerations into the preparation and adoption of plans and programmes. In accordance with the Directive a Strategic Environmental Assessment is carried out on certain plans and programmes which are likely to have significant effects on the environment. The SEA Directive is transposed in the European Communities (Environmental Assessment of Certain Plans and Programmes) Regulations 2004 (S.I. No 435/2004) as amended by European Communities (Environmental Assessment of Certain Plans and Programmes) (Amendment) Regulations 2011 (S.I. No. 200/2011) and the Planning and Development (Strategic Environmental Assessment) Regulations 2004 (S.I. No. 436/2004) as amended by Planning and Development (Strategic Environmental Assessment) (Amendment) Regulations 2011 (S.I. No. 201/2011).

The Habitats Directive (92/43/EC) and the Birds Directive (2009/147/EC) aim to ensure the survival of Europe’s most endangered and vulnerable species. The Habitats and Birds Directives set out various procedures and obligations in relation to nature conservation management in Member States in general, and of the Natura 2000 sites and their habitats and species in particular. The Habitats and Birds Directives are transposed in Ireland in the European Communities (Birds and Natural Habitats) Regulations 2011 (S.I. No.477/2011) as amended.

A key obligation placed on the competent national authorities under Article 6(3) of the Habitats Directive is any plan or project not directly connected with or necessary to the management of a Natura 2000 site but likely to have a significant effect thereon, either individually or in combination with other plans or projects shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. This is called an Appropriate Assessment.

In line with these Directives and the national regulations, the Intervention Strategy was first screened to determine if Strategic Environmental Assessment (SEA) and/or Appropriate Assessment (AA) would be required. After a determination that an SEA was required, SEA Scoping was carried out to establish the scope and level of detail appropriate for the environmental assessment. A scoping report was prepared and this was used as the basis for statutory and non-statutory consultations.

Separately, AA screening was undertaken it was determined that the Intervention Strategy had the potential to give rise to likely significant effects on one or more European site(s), and as such a Natura Impact Statement would be required.

Following this, an SEA Environmental Report, the Natura Impact Statement and the Intervention Strategy were published in January 2018 and were subject to public consultation. All documents related to this consultation are published on the Department's website.

The consultation in January 2018 also took the opportunity to consult on the High Speed Broadband Map.

The consultation concluded on 9th February 2018, with 23 submissions received in total, 18 of which related to the consultation on the High Speed Broadband Map. Careful consideration was given to the submissions and supporting consultation reports.

This document forms an addendum to the Intervention Strategy and takes into account the Environmental Report, submissions made during the public consultation and the transboundary consultation. It also outlines the conclusions on the mapping consultation.

Together with the Intervention Strategy 2015, these documents form the overall Intervention Strategy as adopted.

Environmental

Objectives

In addition to the stated objectives for the State led intervention under the NBP this addendum adds an environmental objective to the Intervention Strategy objectives, namely:

- Ensure that all development and implementation of plans, projects and works arising from this Intervention Strategy are in compliance with the requirements of the Habitats Directive (92/43/EC) and the Birds Directive (2009/147/EC), the European Communities (Birds and Natural Habitats) Regulations 2011 (S.I. No.477/2011) as amended, best practice and the mitigation measures developed as part of the Strategic Environmental Assessment and Appropriate Assessment processes carried out for the Intervention Strategy.

Overview of the key findings

Strategic Environmental Assessment

The SEA Directive (2001/42/EC) requires that certain plans and programmes which are likely to have a significant impact on the environment be subject to the Strategic Environment Assessment (SEA) process. The process provides for a high level of protection of the environment and promotes sustainable development by contributing to the integration of environmental considerations into the preparation and adoption of specified plans and programmes. Following this consultation, an SEA Statement has been prepared and is published on the Department's website.

The SEA Statement outlines how environmental considerations have been integrated into the Intervention Strategy. It also describes how the Environmental Report, feedback received during the 2018 consultation, including transboundary consultations, has influenced the Intervention Strategy.

Appropriate Assessment

In addition to the SEA process, Article 6(3) of the EU Habitats Directive (92/43/EEC) requires an Appropriate Assessment (AA) for any plan or project not directly connected with or necessary to the management of a Natura 2000 site but likely to have a significant effect thereon, either individually or in combination with other plans or projects.

As part of this process and following an initial screening procedure, a Natura Impact Statement was published as part of the 2018 public consultation. Following this consultation, an AA determination is published on the Department's website.

Documents, including the SEA Statement, the AA Determination, the Environmental Report and the Natura Impact Statement are available on the Department's website.

Strategy Level Mitigation Measures

Mitigation measures have been proposed that will prevent, reduce and as fully as possible offset any significant adverse effects on the environment of implementing the Intervention Strategy. These mitigation measures are available on the Department's website.

➤ European Site Protection Policy

All plans, projects and works arising from the Intervention Strategy will be developed and carried out in such a way that the requirements of the Habitats and Birds Directives, as transposed in the European Communities (Birds and Natural Habitats) Regulations 2011 (S.I. No.477/2011) as amended, are met in relation to safeguarding European sites, their conservation objectives and their integrity, and so that deterioration of natural habitats and of the habitats of species, and significant disturbances of species are avoided. Among other things, obligations to carry out screening for appropriate assessment and appropriate assessment, where required, will be met.

➤ Statutory Obligation in Relation to European Sites

NBPco (the successful bidder) will be required to comply with the relevant statutory obligations under the Habitats Directive (as transposed in the Birds and Natural Habitats Regulations, 2011 (S.I. 477 of 2011) as amended) with particular reference to the issue of exempted development. It is noted that exempted development is dealt with under Schedule 2, Part 4 of the Planning and Development Regulations 2001, as amended. This also includes restrictions on exemptions which, under Article 9, comprise development, which would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site.

Other mitigation measures are detailed in the Environmental Report. These relate to deployment level measures to be controlled at Local Authority and NBPco level.

Other Mitigation Measures – relevant to deployment/implementation

➤ **Appropriate Skills**

The Department recommends that the Contractor appoints/includes suitably qualified staff including an ecologist, an environment assessment specialist and an Ecological Clerk of Works as part of the roll out team, to advise and guide the Contractor on issues relating to environmental protection and mitigation.

➤ **Advice and Support of Local Authorities**

While the Department is the competent authority for the Intervention Strategy, it is acknowledged that the delivery of the infrastructure on the ground will be more closely overseen by the relevant local / planning authority in each deployment area.

Furthermore it is noted that depending on the solution proposed by the successful bidder post procurement, many of the activities may be classed as exempted development.

The scoping process highlighted the importance of streamlining to ensure a consistent approach to applications and roll out for broadband infrastructure development in each Local Authority area particularly in relation to assessment under the Habitats Directive.

A number of related activities are already underway including the establishment by the Department of Rural and Community Development (DRCD) of Regional Action Groups to work with local authorities, Local Enterprise Offices, LEADER Groups and other relevant agencies to help accelerate the broadband network build in rural Ireland. It is intended that the contract with NBPco will require adherence to Best Industry Practice in its engagement with the relevant competent authority responsible for consents in relation to construction activities and works. It is recommended that NBPco and relevant competent authorities also engage in consultation and knowledge sharing in relation to environmental obligations at an early opportunity post contract award, to assist in streamlining the delivery.

Examples of where streamlining could be considered include but are not limited to:

- Construction Environmental Management Plan for each Deployment Area;
- Traffic Management Plan for each Deployment Area;
- Ecological Management Plan for each Deployment Area;
- Surface Water Management Plan for each Deployment Area;
- Waste Management Plan for each Deployment Area; and
- Protocol for prevention of the spread of invasive alien species.

It should also be noted that in addition to planning, other consent applications to competent authorities other than the local authorities may also be needed e.g. TII for road opening licence of national primary and secondary roads or the Department of Housing, Planning and Local Government for foreshore licence applications. Best Industry Practice should apply in these situations also.

➤ **Governance**

As acknowledged earlier, the Department is the competent authority for the SEA and AA of the Intervention Strategy, however the roll out of broadband in the intervention area will be delivered by a third party (NBPCo) and will be overseen by local authorities in accordance with their functions as planning authorities, road authorities etc.

In order to ensure that there are robust and transparent mechanisms to oversee the deployment of the high speed broadband network under the Intervention Strategy, it is recommended that the Department will continue to co-operate with key stakeholders, including but not limited to the DRCD and the local authorities, to support, as required an approach to governance and implementation of the Intervention Strategy which will allow for environmental best practice with regard to deployment under the Intervention Strategy.

➤ **Best Practice**

The Contractor will be required to comply with the relevant statutory obligations relating to environmental protection and should have regard to current best practice guidelines and any future guidance. Such current guidelines include but are not limited to:

- European Commission “Assessment of plans and projects significantly affecting Natura 2000 sites – Methodological guidance on the provisions of Article 6(3) and 6(4) of the Habitats Directive 92/43/EEC (2001)”;
- IFI “Guidelines on protection of fisheries during construction works in and adjacent to waters (2016)”;
- Relevant CIRIA Publications including:
 - Control of Water Pollution from Linear Construction Projects (CIRIA Report No C648, 2006); and
 - Control of Water Pollution from Linear Construction Project – Site Guide (CIRIA Report No C649, 2006).

- Building Research Establishment “Control of Dust from Construction and Demolition Activities”;
- Transport Infrastructure Ireland or “TII” (formerly NRA) Guidelines on environment including:
 - Guidelines for the Crossing of Watercourses during the Construction of National Road Schemes;
 - The Management of Noxious Weeds and Non Native Invasive Plant Species on National Road Schemes; and
 - Guidelines for the Protection and Preservation of Tress, Hedgerows and Scrub prior to, during and post Construction of National Road Schemes.

➤ **General Guidelines and Recommendations**

The proper siting of new infrastructure can mitigate the impact on communities, the environment and important habitats. It is acknowledged that the delivery of the necessary infrastructure for the broadband intervention will be achieved through a third party (NBPco).

NBPco will be subject to all relevant planning and environmental legislation which is enforceable by the relevant planning authority and / or regulator.

As such, the following guidance and recommendations are provided to assist NBPco, once appointed and the relevant authorities during their decision making. While not mandatory, the guidance may assist in the identification of issues that may or may not be relevant to a given deployment area.

- NBPco should make itself aware of environmental constraints in each deployment area prior to commencement of works to ensure protection of the environmental / ecological resource.

- All development proposals should be subject to screening for Appropriate Assessment and if considered necessary, the provision of a Natura Impact Statement, which should include, but not be limited to assessing construction related impacts (e.g. habitat loss, disturbance from noise/humans, impacts on water quality and water movement), operational related impact (e.g. such as potential habitat degradation associated with access for maintenance of the network, collision risk and barriers to movement both in-situ and ex-situ) and in-combination impacts (in particular, for above ground wireline or masts, in-combination impacts with existing overhead lines and masts).
- Reuse of existing infrastructure should be considered in the first instance for any network development or expansions to limit the potential impacts on the environment including European Sites.
- Avoid siting new broadband network infrastructure within, immediately adjacent to or adjoining any Natura 2000 Site in order to limit the potential habitat/species loss impacts and disturbance to habitats and species therein during construction and/or operation.
- In the case of connecting off-shore islands (which may be located within or immediately adjacent to an SAC/SPA) to the broadband network, infrastructure should as far as possible be located on existing infrastructure or on existing built ground/structures where possible. This is to reduce the potential impacts and disturbance to habitats and species during construction and/or operation.
- Avoid where possible siting new broadband network infrastructure in proposed Natural Heritage Areas (pNHAs), Natural Heritage Areas (NHAs), Statutory Nature Reserves, Refuges for Fauna and Annex I Habitats occurring outside of European Sites, but which provide a supporting role to European Sites.
- In order to protect habitats which, by virtue of their linear and continuous structure (e.g. hedgerows, rivers and their bank) or their contribution as stepping stones (e.g. ponds or small woods), which are essential for the migration, dispersal and genetic exchange of wild species, these features should be protected as far as possible from loss or disruption through good site layout, design and management. Any hedgerow trimming, tree clearance or river crossings required to install and/or maintain the new network will be kept to the absolute minimum required.

- Consider surveying for the presence of invasive species (as listed in the Third Schedule of the Birds and Natural Habitats Regulations) prior to infrastructural development, and put in place protocols to prevent the spread of invasive species.
- Avoid where possible siting infrastructure or related infrastructure in areas protected for landscape and visual amenity, geology, heritage and or cultural value.
- To prevent the spread of Invasive Alien Species (IAS), consider undertaking an IAS survey of any prospective sites. If found, preventative measures include ensuring that good site hygiene practices are employed for the movement of materials into, out of and around the site and ensuring that imported soil is free of seeds and rhizomes of key invasive plant species;
- Ensure that no development, including clearance and storage of materials, takes place within a minimum distance of 15m measured from each bank of any river, stream or watercourse. The extent of these buffer zones should be determined in consultation with a qualified ecologist and following a Flood Risk Assessment. Any hard landscaping proposals should be located outside of these buffer zones;
- Consultation is recommended to take place with Inland Fisheries Ireland and National Parks and Wildlife services;
- Ensure that the infrastructure siting does not compromise the requirements of the Water Framework Directive and the attainment of the relevant water quality objectives identified in the current River Basin Management Plans and any updates;
- Avoid development of infrastructure in flood risk areas. Reference should be made to the Planning System and Flood Risk Management for Planning Authorities (DECLG/OPW 2009) and the National Flood Hazard Mapping (OPW) while referring to the relevant Flood Risk Management Plan (FRMP);
- The geological and hydrogeological conditions in the area should be considered. Avoid where possible siting infrastructure in geologically unsuitable areas including karst where practicable, and areas susceptible to subsidence or landslides;
- Due consideration should be given to the primary water source of the area and the degree of surface water/groundwater interaction including tidal influences;

- Impacts on transport should be considered including road access, network, safety and traffic patterns to and from the proposed works in accordance with road design guidelines and/or relevant LA guidelines in relation to roads;
- Planning authorities should consider the need for CEMP's or similar for each deployment area as a way to plan and monitor the roll out of the infrastructure on the ground.

Environmental Monitoring

The Department recognises the need for monitoring of potential significant environmental impacts arising from the Intervention Strategy and publication of relevant information at the implementation stages of the Intervention Strategy. Measures to monitor significant environmental effects of the implementation of the adopted Intervention Strategy are outlined in the SEA Statement, published on the Department's website.

As indicated above, it is intended the contract with NBPco and any related consents will require compliance with all environmental obligations under Law. In this way the contract will reflect the statutory requirements outlined in the mitigation measures relating to European Site Protection Policy and Statutory Obligations in relation to European Sites, specifically in relation to relevant statutory obligations under the Habitats and Birds Directives as transposed in the European Communities (Birds and Natural Habitats) Regulations 2011 (S.I. No.477/2011), as amended. It is also intended that NBPco will be required under the contract to provide details of all consents received from relevant authorities in relation to construction activities and works. The Contract will also reflect the mitigation measures in respect of Best Practice, requiring NBPco to have regard to Guidance relevant to the environment in connection with the deployment, maintenance and operation of the State led intervention network.

Other mitigation measures take the form of recommendations to relevant authorities and NBPco. These relate to Appropriate Skills, Advice and Support of Local Authorities; Governance; Best Practice; and General Guidelines and Recommendations which NBPco, and the relevant authorities as the Competent Authorities in the consenting process, should consider at the deployment stages.

Update to the Intervention Area Chapter/Section - Mapping

The High Speed Broadband Map is available online at www.broadband.gov.ie.

The High Speed Broadband Map identifies locations and premises as being AMBER, BLUE or LIGHT BLUE as follows:

AMBER areas – this is the Intervention Area where there is no existing or planned commercial high speed broadband. The Intervention Area (Amber area) contained approximately 542,000 premises as of April 2017.

BLUE areas - where commercial operators are delivering or have indicated plans to deliver high speed broadband services. Operators are continuing to enhance their services in these areas to improve access to high speed broadband.

LIGHT BLUE areas - new areas where commercial operators have committed to deliver high speed broadband in rural areas.

The Department has also published guidelines which will apply to the management of the High Speed Broadband Map both before and after NBP Intervention Area contract award.

The process undertaken by the Department to date to determine what broadband services are currently available and where commercial operators have provided concrete and committed plans had the following steps:

- The High Speed Broadband Map was first published in November 2014 and was subjected to a public consultation. This followed a comprehensive mapping exercise whereby operators submitted details of their high speed broadband coverage at that time, and their high speed broadband deployment plans to the end of 2016, which were assessed by the Department.
- In March 2015, the Department requested supplementary information from operators for their deployment plans to the end of 2020.
- The High Speed Broadband Map was re-published in December 2015 following analysis of six operators' plans and assessment against the published Assessment Criteria
- An updated High Speed Broadband Map was published on 4 April 2017 following submission of one operator's plans and assessment against the published Assessment Criteria. This resulted in 300,000 premises being removed from the Intervention Area.

84,500 premises were added to the Intervention Area at the same time, after the Department concluded that commercial plans for these premises were not forthcoming. The scope of the Intervention Area currently stands at 542,000 premises.

- The Department invited further observations on the High Speed Broadband Map as part of a public consultation in January 2018.

A total of 18 submissions were received to the mapping aspect of the public consultation. Two responses were received from operators and the remaining responses were from individual members of the public. The responses received from operators primarily dealt with general industry comments and also suggestions for future improvements to update the map to ensure it properly reflects “actual” build and ensures full transparency for premises in BLUE that are not built according to plans submitted some years ago. The responses received from individual consumer respondents commented on the lack of availability of high speed broadband in their area.

The High Speed Broadband Map as published provides a measure of certainty as to the intervention area for procurement. The Department does not propose to change the intervention area during the procurement unless it is absolutely necessary to do so, for example for reasons of consistency with State Aid Guidelines or public procurement rules. However changes to the intervention area (including both increases and decreases) can be facilitated after contract award through a contractual change process, which will be included in the NBP contract.

The Department will continue to engage with operators to confirm that the deployment plans are credible and concrete for these specific areas. If no credible plans are received the Department will consider the inclusion of the unserved premises as part of the State led intervention.

All changes to the Intervention Area will comply with the relevant environmental obligations as outlined in this document.

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