

EIR Request (received 16 June 2025) - Reference: DFI/2025-0268, 0269 & 0270

This request is made under the Environmental Information Regulations 2004 (EIR) and the Freedom of Information Act 2000 (FOIA).

I seek disclosure of any and all internal policy papers, Ministerial submissions, Cabinet or Executive briefings, working group papers, or interdepartmental correspondence held by the Department since 1 January 2011 which relate to:

The non-commencement of Schedule 3 (Review of Old Mineral Permissions) under the Planning Act (NI) 2011.

Any proposed, contemplated, or deferred reforms of mineral planning law and the Department's consideration of such reforms.

Correspondence with DAERA, the Department for the Economy (DfE), or the Executive Office concerning ROMPs, mineral planning reform, or pre-1972 mineral permissions.

I request that the Department apply the presumption in favour of disclosure under Regulation 5(1) EIR.

Response (issued 11 July 2025)

Thank you for your correspondence dated 16 June 2025 and I note your 3 requests for information, made under the Freedom of Information Act 2000 and the Environmental Information Regulations 2004, on matters relating to the Review of Mineral Permissions (ROMPS). The references for these requests are DFI/2025-0268, DFI/2025-0269 and DFI/2025-0270.

In considering your request on behalf of the Department I have determined that the information requested falls under the aegis of the Environmental Information Regulations 2004, as opposed to the FOI Act 2000. Section 39 of the Freedom of Information Act specifically excludes from consideration under that Act requests for what is deemed to be environmental information. EIR gives rights of public access environmental information held by public authorities.

A guide explaining the Environmental Information Regulations can be found at: [Guide to the Environmental Information Regulations](#).

The Environmental Information Regulations established general public rights of access to environmental information held by public authorities, similar to the general rights established

under FOI. There is no provision for privileged access to information, it may either be released to the World at large, or it must be withheld. Any information provided in response to an information request (either FOI or EIR) is considered to have been placed in the public domain.

In response to your 3 requests for information, I can confirm that the Department for Infrastructure does hold information related to your requests. As EIR relates to public rights of access to information, I must consider whether information is suitable for release to the world at large, and not solely to the applicant. There is no provision for privileged access to information, it may either be released to the World at large, or it must be withheld. Any information provided in response to an information request (either FOI or EIR) is considered to have been placed in the public domain.

You requested the following information relating to ROMPs seeking disclosure of *“any and all internal policy papers, Ministerial submissions, Cabinet or Executive briefings, working group papers, or interdepartmental correspondence held by the Department since 1 January 2011 which relate to:*

- *The non-commencement of Schedule 3 (Review of Old Mineral Permissions) under the Planning Act (NI) 2011.*
- *Any proposed, contemplated, or deferred reforms of mineral planning law and the Department's consideration of such reforms.*
- *Correspondence with DAERA, the Department for the Economy (DfE), or the Executive Office concerning ROMPs, mineral planning reform, or pre-1972 mineral permissions”.*

With regard to this request, I can advise that planning officials have been reviewing the area of ROMPs and if it would be appropriate to commence it in its current legislative form.

The current considerations and advice on the matter of commencing ROMPs, sets out that it will be necessary to amend the current primary legislation relating to ROMPs and to also amend the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2017. These legislative amendments are required to fully deliver these powers to planning authorities, ensuring that it is compatible with related environmental legislation and provides for proper transparency with public participation regarding both the review of conditions and implementation of new conditions.

As the policy development is ongoing in relation to appropriate legislative requirements relating to the implementation of ROMPs it will not be possible to disclose correspondence in relation to DSO legal advice on this matter, including internal documentation.

The necessary legislative amendments are still at a policy development stage and based on the exceptions reflected in Regulation 12(4)(d) material in the course of completion, unfinished documents & incomplete data, Regulation 12(4)(e) internal communications and Regulation 12(5)(b) the course of justice and inquiries, it will not be possible to release any related documentation, at this time.

Disclosure of this information, at this stage would undermine the Department's ability to engage in effective policy formulation, development and implementation. Whilst there is always a public interest in disclosure of environmental information, to ensure that the public is better informed and to increase transparency in decision-making, the legislation recognises that there will be times where it is necessary to allow public authorities a safe space within which to develop ideas and policies, without fear of the chilling effect on both decision-makers and other advisers should their comment or recorded thought be presented to the public for scrutiny. It is essential for public authorities to be able to engage in free and frank internal discussions for which there is a reasonable expectation of confidentiality.

It is important to note, that whilst the introduction of the legislation relating to ROMPs in Northern Ireland has not been commenced, no decision has been taken not to implement ROMPs and that the legislative proposals will require primary legislative change and a decision on the legislative measures required will be taken on this matter in the context of any future Planning Bill.

Application of exceptions

In addressing your information request, the Department relied upon exceptions from the general public right of access to environmental information provided under the Environmental Information Regulations. The exceptions were Regulation 12(4)(d): material in the course of completion, unfinished documents & incomplete data; Regulation 12(4)(e): internal communications and Regulation 12(5)(d) the course of justice and inquiries.

The decision to withhold information under the exceptions listed above was clearly linked to provide a safe space within which DfI officials could create and collate records that would form the basis of policy development regards the procedures required to implement ROMPS in an appropriate and effective manner. While some of the material fell within the scope of your request, the process of internal discussion and information gathering was incomplete.

Timing of the request

It is important to stress that, where information requests are processed under the EIR, the timing of a request will often be a significant determining factor in any decisions on disclosure. The legislation assumes that the passage of time will have a major influence on the public interest considerations that must be weighed up when deciding what information

may or may not be disclosed. As a result, information that is withheld in response to a request may well be disclosed if precisely the same request is made at a later date.

I and my colleagues would be happy to meet with you to discuss this matter at a date of your convenience. Should you wish to avail of a meeting, please contact my Personal Secretary... to make the necessary arrangements.

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