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TRANSBOUNDARY ENVIRONMENTAL JUSTICE: GOLD MINING IN THE SPERRIN MOUNTAINS

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Transboundary environmental justice: Gold mining in the Sperrin Mountains

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Summary

On 15 January 2025, a public inquiry into a controversial gold mine application ('Curraghinalt Project') for Greencastle, in the Sperrin Mountains in Co. Tyrone, was suspended because the Northern Ireland Department for Infrastructure failed to notify the Irish Government and conduct full transboundary consultation, as per its own legal procedures.¹

In addition to constituting the largest mining application in the history of the island, the operation site is linked to the catchment area of the [River Foyle and Tributaries](#) which is an Area of Special Scientific Interest as well as a Special Area of Conservation (SAC) including the [River Finn SAC](#), posing potential risks along the catchment in Donegal and further downstream (and upstream).

On 30 January 2025, the Department for Infrastructure in Northern Ireland formally notified the Irish Government, and after reviewing the documentation, Ireland's Department for Housing, Local Government and Heritage requested transboundary consultation. This means that citizens, civil society organisations, and public bodies in Ireland (and Northern Ireland, despite previous consultation exercises already taking place there) can now submit their comments on the gold mine to the Northern Ireland Department for Infrastructure.

The proposed gold mining activities in the Sperrins raise a series of environmental justice concerns, not least the procedural injustice associated with the failure to undertake proper transboundary consultation.

The purpose of this briefing paper is to provide background information on the mining application and its associated development, the submission process and who can respond, and why transboundary consultation is important on the island of Ireland at this time.

*Consultation responses can be submitted to planning@infrastructure-ni.gov.uk before the close of consultation at **5pm on 23 April 2025**.*

¹ Article 29(5) of the [Planning Environmental Impact Assessment Regulations 2017 \(Northern Ireland\)](#).



Sperrins ecosystems. Photograph: V'cenza Cirefice

Background to the Dalradian Gold mine application

continuum linking the north and south of Ireland.

There are few landscapes on the island with this level of significance recognised in multiple overlapping designations.

The Sperrin Mountains

The Sperrin Mountains are one of the most legally protected landscapes in Europe, recognized as being internationally significant through several national, European and international designations. In addition to being a designated [Area of Outstanding Natural Beauty](#) (AONB), the Sperrins include:

- A [Ramsar site of international importance](#) for active raised bog (Black Bog)
- A [Dark Skies Observatory](#) (one of only 200 internationally)²
- Six [Areas of Special Scientific Interest \(ASSIs\)](#)³ comprising rivers, woodlands and ancient bog
- An [Area of Significant Archaeological Interest](#) (ASAI) including Beaghmore stone circles
- [Owenkillew River Special Area of Conservation](#) (SAC), a site of European significance for several species, including the rare freshwater pearl mussel, the Native Atlantic salmon and otter. In addition, the Owenkillew River SAC and the Owenreagh River ASSI are hydrologically linked to Lough Foyle Ramsar site, the [River Foyle and Tributaries SAC](#) (including the [River Finn SAC](#) in Donegal) which together with smaller tributaries, form an ecological

The Dalradian Gold application

In 2017, Dalradian Gold, a subsidiary of global investment firm Orion Resource Partners,⁴ submitted a planning application for a gold mine in Greencastle, Co. Tyrone, which is situated in the Sperrin Mountains.

The Dalradian gold mine is the largest planning application in the history of Northern Ireland, comprising eight separate applications including the [mine](#) itself, a 54-metre tall [mine waste facility](#), 33kV overhead and underground [power lines](#), [road abandonment](#), two water abstraction and impoundment licenses and two water discharge [licenses](#).

Originally focused solely on gold, Dalradian later added silver and copper to the list of ore for extraction, with tellurium – a critical mineral – recently added in 2024.⁵

Concerns about Dalradian Gold's proposals

From the time Dalradian first submitted its application in 2017, there has been substantial objection to the project by the local community (including Save Our Sperrins), the local authority (Fermanagh and Omagh District Council) and the statutory cross-border environmental body (Loughs Agency). There has also been significant

² OM Dark Sky Park and Observatory, which is 8km from the mine site in Davagh Forest, is one of two Dark Sky Parks on the island of Ireland and was the 78th area in the world to be accredited as an International Dark Sky Park. Achieving Dark Sky Park accreditation takes years of careful monitoring of the darkness of the night sky, in all seasons, all phases of the moon and all weather conditions. The International Dark-Sky Association works to protect the night skies for present and future generations. There are only 200 hundred such designations internationally.

³ These include Owenkillew River SAC & ASSI, Drumlea and Mullan Woods ASSIs, Crockaghole Wood ASSI, Owenkillew and Glenelly Woods and Grange Wood ASSI, Black Bog ASSIs, and Owenreagh ASSI. According to DAERA, [ASSIs](#) are protected areas that represent "the best of our wildlife and geological sites that make a considerable contribution to the conservation of our most valuable natural places."

⁴ Dalradian Gold is the Irish subsidiary of Dalradian Resources Inc., a Canadian mining company whose parent is a Delaware based company, Dalradian USA LLC which was bought in 2018 by [Orion Resource Partners](#), a global US investment firm which manages "\$80 billion for institutional investors across specialized investment solutions." It is the parent company of several well-known mining companies including Rio Tinto, Vale, and Kimberly Mineral Sands.

⁵ See Dalradian Gold [Statement of Case 24, TR2](#), 'Dalradian's Curraghinalt Project and the Societal Value of its Metals'. At the pre-inquiry meeting held in March 2024, it was agreed that only gold and silver were to be considered. However, by the start of the public inquiry in January 2025 a list of other minerals had been added to Dalradian Gold's application.

interest expressed from the wider public, with 47,000 thousand objections lodged against the project and 4,000 letters of support for the project to date.⁶

A wide range of concerns about the project have been raised by the public, both ecological and legal experts, statutory bodies and government agencies. These include: the impact of the mine and ancillary applications on groundwater quality, water ecology and protected habitats;⁷ the use of outdated methodology used by Dalradian Gold in assessing the environmental impact;⁸ the lack of vital information necessary to inform the decision-making process;⁹ the lack of access to information and meaningful participation;¹⁰ poor carbon accounting and no accounting for planned destruction of carbon sinks (protected peatland);¹¹ light pollution and negative impact on the OM Dark Skies observatory;¹² negative impact on landscape and cultural heritage;¹³ as well as serious concerns over dust and air pollution,¹⁴ noise, and health and safety, given the proximity of the mine to family homes and farms,¹⁵ [the local primary school](#), and the local [GAA clubs](#). In addition,

there are potential negative impacts on local [tourism](#), [angling](#) and [farming](#). Particular concern related to the use of cyanide in the extraction processes. Cyanide was dropped from Dalradian Gold's application in 2019 due to public outcry.¹⁶ However, cyanide is just one of several heavy metals planned for use in the extraction process (other by-products of the extraction process include lead, mercury, cadmium, chromium, and arsenic).¹⁷

The progression of Dalradian Gold's application

[Questions have been raised](#) about how a development of this industrial nature and scale, carrying this level of risk, in a location of high natural sensitivity could have been progressed in the first place. This is even more concerning in light of the failure to conduct proper assessment of transboundary impacts, engage in proper transboundary consultation and the evident lack

⁶ The public submissions relating to the mine application are not currently available to view online at the planning portal, nor are the letters of support. The letters of support for the project must be considered in the context of Dalradian's website, which makes a number of claims about the sustainability of the mine which have been challenged, and lacks information about the predicted harms: <https://dalradian.com/>. The public responses to the water abstraction and discharge license applications were summarised by DAERA into a table and made publicly available [here](#). Public responses sent to Donegal County Council during the partial transboundary consultation are available [here](#).

⁷ See, among other documents, the Northern Ireland Environmental Agency Statement of Case in respect of the [water abstraction applications](#), [water discharge consent applications](#) and [impact](#) of the mine of priority habitats, [Loughs Agency Statement of Case](#) for the conjoined applications, and Save Our Sperrins groundwater and mining expert Dr. [Steven Emerman's](#) report.

⁸ Several consultees have raised this issue, including [Loughs Agency](#), [NIEA Legal Counsel](#) and [Fermanagh and Omagh District Council's expert ecology report](#).

⁹ This includes the lack of available documentation during the consultation phase and prior to the public inquiry when third parties could not access all the statements of case. It also concerns the lack of substantive environmental data for assessment by the statutory bodies themselves, i.e. the NIEA Land and Groundwater team concluded that 'The SRK Groundwater Impact Assessment (GIA) (2020) has been reviewed by the LGW Team and further clarification is recommended and that "The LGW Team are currently unable to make a recommendation for LA/10/2017/1249/F and AIL/2024/0008 due to the absence of further environmental information." [NIEA Statement of Case - Abstraction Applications for the Curraghinalt Project - Dalradian Gold Ltd AIL 20240008 & AIL 20240009 0.PDF](#)

¹⁰ For a summary of some of the issues to date, see 'Rebuttal Report re: 'Curraghinalt Project (Dalradian Gold)' and breaches of environmental law and human rights, Planning ref: LA10/2017/1249/F prepared by Dr Amy Strecker for Save our Sperrins, [Appendix 1 Save Our Sperrins Rebuttal Statement](#).

¹¹ For example, [FODC Statements of Case re carbon accounting](#); Friends of the Earth [Statement of Case](#) and [Rebuttal Report](#); Dr Alessandra Accogli and Elena Aitova's rebuttal report concerning Peatlands, [Appendix 11 Save Our Sperrins Rebuttal Statement](#).

¹² The HED Division (NIEA) notes in its SoC that "Lighting of the proposal would have an adverse impact on the dark skies of this part of the Sperrin AONB, impacting on the existing landscape character within an extensive visual envelope around the site." In addition, it concluded that "the impact of the proposal would, in our professional opinion, have an adverse impact on the tranquillity of the Sperrins landscape, an essential and acknowledged feature of this area, highlighted in both the NILCA NIRLCA series and the FODC LDP 2030." [NIEA SOC LA10 2017 1249 F.pdf](#), at 37 and 38.

¹³ Ibid, NIEA Statement of Case; [Mid Ulster District Council Statement of Case](#); Cultural Heritage Report prepared by Dr Peadar MacGabhann for [Save Our Sperrins](#) (Appendix 8) and Rebuttal Report prepared by Dr V'cenza Cirefice and Dr Amy Strecker for [Save Our Sperrins](#) (Appendix 9). See also Third Parties [Statement of Case 70](#).

¹⁴ Several Third Party statements of case refer to these aspects, in addition to FODC.

¹⁵ Third Party statements of Case [Part 1](#) and [Part 2](#).

¹⁶ However, no business plan on the viability of the project without the use of cyanide has been submitted by the Applicant, which has led to [campaigners fearing it could be reintroduced at a later date](#).

¹⁷ The documents for the water abstraction and water discharge consent applications can be found [here](#).

of broader democratic support.¹⁸ Dalradian Gold has argued that the development of the proposed mine would be economically significant for Northern Ireland.¹⁹ The company's [website](#) claims that the project will boost the economy, provide jobs, and be Europe's first "carbon neutral" mine.²⁰ These claims have been challenged.²¹ The website does not address the predicted harms that the project will generate.

A major driver of the fragmented assessment process and failure to consider the cumulative and transboundary impacts lies in the split in competencies between different regional departments in Northern Ireland and the UK. While local Councils are responsible for drawing up local development plans and processing planning applications, the Department for the Economy is responsible for granting mineral licences, with 4% of all royalties from mineral extraction going to the [Crown Estate](#). The Department for Infrastructure has responsibility for deciding on regionally significant development which includes mining applications, but there is no independent statutory body in charge of overseeing compliance with environmental protection. In other parts of the UK, for example, public bodies must seek approval from Natural England before carrying out their functions if they are likely to damage the special scientific interest of an ASSI.²² However, no such independent environmental authority exists in Northern Ireland akin to Natural England or the Environmental Protection Agency across the border in Ireland, both of which operate at arm's length from government departments. This is connected to a broader debate about problematic environmental governance in Northern Ireland more generally,²³ currently undergoing a [government commissioned review](#).

The public inquiry

Due to the controversial nature of the gold mine application and the amount of submissions received, in 2020 the (then) Northern Ireland Infrastructure Minister Nichola Mallon ordered a public inquiry and in 2021 the application was referred to the [Planning Appeals Commission](#) (PAC), an independent statutory tribunal, to hold a [public local inquiry](#). The inquiry commenced on 13th January 2025 in Strule Arts Centre, Omagh. In terms of scale, magnitude and potential transboundary impact, the Dalradian Gold (Curraghinalt project) inquiry is unprecedented in the history of the Planning Appeals Commission. When the inquiry is concluded, the PAC will prepare a report with its recommendations to the Department for Infrastructure. The Department is obliged to consider the Commission's report when making its final decision on whether or not to grant permission to Dalradian Gold to proceed with its plans.²⁴

Why was the public inquiry suspended?

The public inquiry began on 13th January 2025 but was suspended after two days when it transpired that the Department for Infrastructure had failed to notify the Irish Government about likely transboundary impact and failed to properly conduct transboundary consultation, in breach of its own legal requirements and international law.²⁵ The Espoo Convention on Environmental Impact Assessment in a Transboundary Context provides that the state of origin is required to "notify any Party which it considers may be an affected Party as early as possible and no later than when informing its own

¹⁸ See fn 6.

¹⁹ Dalradian Statement of Case 24, [TR2](#).

²⁰ Dalradian Gold was previously found in breach of misleading advertising by the [Advertising Standards Agency](#) for making false claims relating to carbon neutrality and that its extractives would lead to renewables.

²¹ For example, [FODC Statements of Case re carbon accounting](#); Friends of the Earth [Statement of Case](#) and [Rebuttal Report](#); Dr Alessandra Accogli and Elena Aitova's rebuttal report concerning Peatlands, [Appendix 11 Save Our Sperrins Rebuttal Statement](#).

²² Ibid.

²³ Ciara Brennan, Ray Purdy and Peter Hjerp, 'Political, Economic and Environmental Crisis in Northern Ireland: The

True Cost of Environmental Governance Failures and Opportunities for Reform' (2017) *Northern Ireland Legal Quarterly* 68(2) 123-157, available [here](#).

²⁴ A recent public inquiry into a regionally significant wind farm (Doraville), for example, advised against the development due to the widespread negative implications for that part of the Sperrins AONB and the "unacceptable scale of change that the proposed development would precipitate would harm local peoples' sense of place", something the DFI took on board when refusing planning permission. Commission Reference: 2018/C007, at 13.7.

²⁵ Article 3(1) [Espoo Convention on Environmental Impact Assessment in a Transboundary Context](#) and Article 29(5) of the [Planning Environmental Impact Assessment Regulations 2017 \(Northern Ireland\)](#).

public about that proposed activity." Dalradian submitted its mining applications in 2017, 2019 and 2020 respectively, yet the Department for Infrastructure waited until April 2024 to notify Donegal County Council and only referred to the main mine and power lines applications, not the [water abstraction and impoundment and water discharge licenses](#), which are the most significant from a transboundary perspective. An initial public consultation was held in Donegal between the 28 November 2024 and 6 January 2025, but it was based on incomplete information. Links to public submissions made to Donegal County Council, as well as the response from the Council itself, can be viewed [here](#). A pre-inquiry meeting had already been suspended in March 2024 because the Northern Ireland Environment Agency (NIEA) was unable to provide paperwork relating to the water abstraction applications, [which had expired](#).

In suspending the public inquiry on 15 January, Commissioner McParland described the process as having been "besieged with difficulties" and stated that it was "deeply regrettable" that members of the PAC had been put in this position by "the inaction of government departments, in particular the planning department of DfI" to follow their own legislative procedures.²⁶ The inquiry was suspended so that the DfI could comply and notify the government in Ireland, albeit at a late stage in the process.

The transboundary consultation is therefore now taking place in the middle of a public inquiry so that the Planning Appeals Commission can continue on the basis that procedures have been followed.²⁷ It is a conjoined public inquiry, considering the gold mine and powerlines applications as well as the related water abstraction and impoundment, water discharge license applications and road abandonment.

What is 'transboundary consultation and who can make submissions?

What does 'transboundary consultation' mean on the island of Ireland?

Transboundary consultation is a right to participate in the planning or decision-making processes of a neighbouring jurisdiction ("party of origin") where these decisions may impact across a political border. On the island of Ireland transboundary consultation is required in a broad range of circumstances because (amongst other reasons) the island is considered as [one single biogeographic unit](#). This means that the public in Ireland is entitled to make submissions commenting on or objecting to developments in Northern Ireland that may have a transboundary impact. Under the Espoo Convention on Environmental Impact Assessment in a Transboundary Context,

*"The concerned Parties shall ensure that the public of the affected Party in the areas likely to be affected be informed of, and be provided with possibilities for making comments or objections on, the proposed activity, and for the transmittal of these comments or objections to the competent authority of the Party of origin, either directly to this authority or, where appropriate, through the Party of origin."*²⁸

The [Aarhus Convention](#) on Access to Information, Public Participation and Access to Justice in Environmental Matters also requires transboundary impacts to be considered in environmental impact assessment.²⁹ The right to consult on the environmental impacts of a project cannot be limited based on domicile or nationality, which means that the Irish public should have been offered opportunities to be involved from the outset, and that the Northern

²⁶ Shauna Corr, [Dalradian Gold Mine Inquiry Suspended after Failure to Notify Irish Government](#), *Irish Independent*, 15 January 2025.

²⁷ A mid-inquiry meeting scheduled for 26 March 2025 was cancelled and the public inquiry will resume once the transboundary consultation period has ended and the PAC have had a chance to review the submissions from the public.

²⁸ Article 3(8), *supra* note 25.

²⁹ Aarhus Convention on Access to Information, Public Participation and Access to Justice in Environmental Matters, 38 ILM 517 (1999). The Convention entered into force on 30 October 2001, in accordance with article 20(1) and definitively on 30 October 2001, in accordance with article 20(1). It was ratified by the UK on 23 February 2005, which created legally binding obligations pertaining to the three pillars.

Irish public have a right to comment on the transboundary environmental impacts of the project in this public consultation. The European Court of Human Rights has recognised the right to be consulted on environmental impacts as a facet of Article 8 on the right to private and family life, and the right to fair procedures.³⁰ The European Convention on Human Rights is protected in both jurisdictions by the 1998 Agreement. Additionally, a State's obligations to notify, consult on and assess environmental impacts of projects with likely significant transboundary impacts is a recognised customary international law norm binding on the UK.³¹

In addition, in accordance with [Section 174\(5\)\(a\) of the Planning and Development Act 2000](#), any State authority in Ireland can make submissions or enter into discussions with a transboundary State in relation to potential transboundary effects of a proposed development, once the Minister is consulted first.

Transboundary consultation on the Dalradian goldmine plans

The [public in Ireland are entitled to be consulted](#) on the proposed gold mine and its associated applications in Northern Ireland. While the Department of Housing, Local Government and Heritage (DHLGH) has appointed Donegal County Council as the corresponding local authority, all submissions for the public consultation must be sent to the Department for Infrastructure Northern Ireland at this address: planning@infrastructure-ni.gov.uk before **23 April 2025**.

The public notice, published on 26 February 2025 in Ireland, states that "A member of the public may make a written submission or observations in relation to the potential transboundary environmental effects of the project by close of business on 23 April 2025 at the latest".³² The 'public' means citizens, statutory bodies, environmental agencies, and any other interested parties in Ireland or Northern Ireland who wish to submit their views on potential transboundary environmental effects (i.e. water quality, protected habitats, biodiversity, air), cumulative effects on waterways, as well as other potential effects of the applications on human health and environment on the island of Ireland (i.e. climate aspects, human rights, shared heritage).³³ [Article 3\(9\) of the Aarhus Convention](#) ensures that everyone on the island can respond to this latest consultation because it prohibits discrimination regarding public participation on the basis of 'citizenship, nationality or domicile'. See below ("the importance of public participation in this process") for advice on how to make a submission.

Overarching cross-border issues

Given that the potential impacts of this proposal (regarding both individual issues and cumulative impact) are myriad, the consultation is of interest to a very broad range of stakeholders, as well as the general public. Some of the potentially relevant issues in the cross-border context are:

- **Mining and pollution:** Transboundary consultation is vital in applications as consequential as mining projects because of the physical reality of our shared island and the documented negative effects of mining on human health and the environment.³⁴ Mining impacts span vast

³⁰ E.g. *Taskin v Turkey*, Application no. 46117/99 <https://hudoc.echr.coe.int/eng#%7B%22itemid%22%3A%22001-67401%22%7D> ; 'Klimasenniorinnen' Application 53600/20 , para 501 – 503 <https://hudoc.echr.coe.int/eng#%7B%22appno%22%3A%2253600/20%22%2C%22itemid%22%3A%22001-233206%22%7D>

³¹ E.g. see *Case Concerning Pulp Mills on the River Uruguay: Argentina v Uruguay*, ICJ available at <https://www.icj-cij.org/case/135>; Pimonkorn, P. (2024). Environmental Impact Assessment as customary international law in ASEAN region: Some legal issues. *Environmental Policy and Law*, 0(0). <https://doi.org/10.1177/18785395241276995>.

³² Published in the Irish Times and Irish Examiner on 26 /2/2025.

³³ Environmental Impact Assessment in Ireland includes: a) population and human health; b) biodiversity, with particular attention to species and habitats protected under

Directive 92/43/EEC and Directive 2009/147/EC; c) land, soil, water, air and climate; d) material assets, cultural heritage and the landscape; e) the interaction between the factors referred to in points (a) to (d). [EPA Guidelines on the Information to be included in Environmental Impacts Assessment Reports](#).

³⁴ Kaisa Raitio, Christina Allard and Rebecca Lawrence, 'Mineral Extraction in Swedish Sapmi: The regulatory gap between Sami rights and Sweden's mining permitting practices', *Land Use Policy*, 99 (2020) 105001; Ainsley Elbra, 'Arc of Avoidance: An Analytical framework for Analysing Mining Companies' Actions in the Global South', *Resources Policy* 96 (2024) 105232. Ciaran O'Faircheallaigh, 'Social equity and large mining projects: voluntary industry initiatives, public regulation and community development agreements' *Journal of Business Ethics*, 132 (2015), 91-103; ; [Monisha Jaishankar](#), et al., 'Toxicity, mechanism and health

scales of time and space and pollution can extend tens to hundreds of kilometres downstream from mining operations.³⁵ Mining has proven capacity to harm aquatic ecosystems, alter water and sediment chemistry, water cycling, physical habitat, and the health of animals and humans.³⁶ This is of particular significance in ecological terms on the island of Ireland. The reality is that salmon don't stop swimming at the Border, birds and insects don't stop flying at the Border, and heavy metals such as arsenic, lead and mercury don't stop mid-stream at the Border. In other words, Ireland is "a single biogeographic unit with shared landscapes, water sources, flora and fauna."³⁷

- **Protection of designated habitats and species:** The proposed development and associated activities involve interactions with the Owenkillev River SAC and the Owenreagh River ASSI. All treated wastewater and sewage from the mine will ultimately discharge into both rivers. Given the presence of EU protected habitats and species in the ecological catchment area of the River Foyle and Tributaries SAC (including River Finn SAC) and Lough Foyle (NI & Ireland), Ireland is under a legal obligation to ensure that the integrity of these EU protected sites and species is not adversely affected.³⁸ For example, the Native Atlantic Salmon, a protected species and one of the most culturally important on the island, are highly mobile

and are known to have an extensive range through the connected river system from headwaters to mouth. The freshwater pearl mussel, a [critically endangered species](#), is dependent on the Atlantic salmon, so the effects are cumulative and interconnected. The Owenkillev River, the Owenreagh River and the River Foyle and Tributaries SAC are not only hydrologically linked but ecologically integrated with smaller tributaries within the catchment of the SAC which are also very important ecological resources for Atlantic Salmon in particular. All three designated rivers are currently in unfavourable condition.

- **Right to participate in environmental decision-making:** Transboundary consultation is closely related to the right of public participation enshrined in the Aarhus Convention on Access to Information, Public Participation and Access to Justice in Environmental Matters, ratified by both the UK and Ireland.³⁹ According to Professor Áine Ryall, chair of the Aarhus Compliance Committee, *"the Aarhus Convention recognises that better quality decisions are achieved by guaranteeing the public the opportunity to provide its comments and requiring public authorities to take account of those comments in the decision-making process. Transparency and accountability in decision-making enables the public to verify whether environmental concerns have indeed been taken into account."*⁴⁰ Aarhus rights

effects of some heavy metals', *Interdisciplinary Toxicology*, 2014; vol.7(2): 60-72.

³⁵ Christopher J. Sergeant et al., 'Risks of mining to salmonid-bearing watersheds', *Science Advances*; Manuel Olías and Jose Miguel Nieto, 'Background conditions and mining pollution throughout history in the Río Tinto (SW Spain)', *Environments* 2 (2015), 295-316.

³⁶ Johnnie N. Moore, Samuel N. Luoma, 'Hazardous wastes from large-scale metal extraction: A case study.' *Environmental Science & Technology* 24 (1990), 1278-1285; K. L. Barry, J. A. Grout, C. D. Levings, B. H. Nidle, G. E. Piercey, 'Impacts of acid mine drainage on juvenile salmonids in an estuary near Britannia Beach in Howe Sound, British Columbia.' *Canadian Journal of Fisheries and Aquatic Sciences* 57 (2000), 2032-2043; Karlheinz Spitz and John Trudinger, *Mining and the Environment: From Ore to Metal* (CRC Press, 2019).

³⁷ Ciara Brennan, Finbarr Brereton, Mary Dobbs, Viviane Gravey, Hannah Gould, Alison Hough & Lisa Whitten (2023) 'Linking the Irish Environment: Final Report Environmental Justice Network Ireland Research Report,' June 2023 at <https://ejni.net/wp-content/uploads/2023/06/Linking-the->

[Irish-Environment-Final-Report-24-May-2023.pdf](#) (at 15, emphasis added).

³⁸ Article 6(3) of the Habitats Directive imposes obligations regarding SACs: "3. Any plan or project not directly connected with or necessary to the management of the 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. In the light of the conclusions of the assessment of the implications for the site... the competent national authorities shall agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the site concerned."

³⁹ *Supra* fn 29.

⁴⁰ Áine Ryall, 'A Brave New World: The Aarhus Convention in Tempestuous Times', *Journal of Environmental Law*, 2023, 35, 161-166, at 165. The right of access to justice, in turn, enables enforcement of the right to information and the right to participate, but it also extends further to include the enforcement of law relating to the environment more generally (for example environmental assessment law, nature laws and climate laws).

essentially enable individuals and NGOs to act to defend the environment in the interest of present and future generations,⁴¹ which is increasingly pertinent in an era of industry lobbying of public authorities and triple planetary crisis (climate change, biodiversity loss and pollution).⁴²

- **Other transboundary issues concern** shared cultural heritage,⁴³ the destruction of peatlands (which are also important carbon sinks),⁴⁴ air pollution, and disturbance to breeding and migratory birds.⁴⁵

How to make a submission in this process

Given that the environmental impact assessments to date have been carried out by the mining company (Dalradian Gold) and have not seriously considered transboundary impacts, submissions from public bodies, citizens and experts from the Republic become even more important to provide balance and plug any information gaps with a view to a more robust appraisal of the potential harms.

In this particular consultation, there is no single template for submissions as they can take different forms depending on who is responding i.e. whether it's a citizen, NGO or public body. In general, however, submissions from interested parties carry more weight when they:

- Refer to *specific issues* with the mine and/or ancillary applications;
- Refer to research/policy/law to support any comments or objections;
- Stay on topic and keep within the general area of experience or expertise/remit of

the person/organisation/body making the submission.

- Include the reference numbers for the relevant application(s) which can be found on the [PAC website](#).

For the general public or individuals new to the submission process, the Nature Forum published [guidelines](#) on how to make an effective environmental submission, which also provide links to examples of publicly available environmental submissions. Reading other submissions can be a useful way of understanding what information people include in their submissions and how they structure them. Links to public submissions made to Donegal County Council in the first round of partial consultation can be viewed [here](#). Something to bear in mind is that some submissions are published online after the consultation closes. Other submissions can be acquired through Freedom of Information (FOI) requests.

In terms of scope, Environmental Impact Assessment (EIA) in both Ireland and Northern Ireland includes effects on human health, biodiversity (with particular attention to protected species and habitats), land, soil, water, air and climate, cultural heritage and landscape – as well as the interaction between these factors.⁴⁶ Submissions can therefore refer to any of these aspects.

⁴¹ Ibid, 165.

⁴² Marc Pallemarts, 'Introduction.' In M. Pallemarts (Ed.), *The Aarhus Convention at ten: Interactions and tensions between conventional international law and EU environmental law*, Europa Law 2011, 1-16.

⁴³ Cultural Heritage Reports prepared for Save Our Sperrins by Dr Peadar MacGabhann (Appendix 8) and Dr V'cenza Cirefice and Dr Amy Strecker (Appendix 9), *Save Our Sperrins Rebuttal Report*. See also Third Parties [Statement of Case 70](#). Interestingly, our shared cultural heritage was raised in 2008 when the SDLP passed a 'Save Tara' motion in the Northern Ireland Assembly calling for a rerouting of the M3 motorway away from the Tara Skryne valley in Meath.

Thomas Muinzer, 'Cultural vandalism akin to Ripping a Knife through a Rembrandt? A Critical Assessment of the Protections afforded to Irish Cultural Rights under Ireland's Development Heritage Laws,' *Irish Journal of Legal Studies* (2016), 6(1), at 53.

⁴⁴ Fn 11.

⁴⁵ See among other documents, the sHRA for the mine and the Powerlines prepared on behalf of Dalradian Gold, and the NIEA Statement of case on Northern Ireland Priority Species.

⁴⁶ EPA Guidelines on the Information to be included in Environmental Impacts Assessment Reports, *supra* note 33.

Access to information and transboundary issues

Inaccessible information

Participating in the process and making a submission before the deadline requires accessing and processing relevant information, which, when faced with such an overwhelming amount of documentation, is no simple task. **The sheer amount of information connected to the mine and associated applications is bewildering, making it difficult for any lay person (or indeed most experts) to navigate.** The inaccessibility of relevant information in this process to date raises serious environmental justice concerns. Each individual application connected to the Dalradian proposal contains its own volume of documents, including the relevant applications (mine, waste facility, powerline, water abstraction, discharge, etc), the EIAs carried out by the mining company, submissions and consultation responses from statutory bodies, and statements of case and rebuttals from statutory bodies and third parties, including those objecting to the mine – all of which are located at multiple online links. The connection between the different applications is not made explicit on the DfI website and most visible documents comprise Dalradian Gold's applications and attendant EIAs. There is a lack of consistency in the way in which documents are labelled, and in which order they are presented. Dalradian Gold's applications are labelled, whereas nearly all statements of case from third parties, including some local governments, the local community, and statutory bodies such as the Lough Agency, are ascribed numbers or letters, and are not easily identifiable. Although Donegal County Council is the corresponding

local authority, not all of the applications and documentation are available at the County Council's website. The result is that the most important and consequential transboundary implications may be missed by the public. Furthermore, Dalradian Gold have introduced new information and parameters that have not been subject to public consultation.⁴⁷

Independent transboundary screening is absent

This is further compounded by the fact that **no independent transboundary screening** has been carried out to assess the potential impact of the mine (or the water abstraction and discharge applications) on the shared habitats, species (Atlantic salmon, otter, freshwater pearl mussel, birds) or shared waterways and water quality in Ireland. The only transboundary screening carried out to date is the one conducted by Shared Environmental Services on the powerlines.⁴⁸

When the DfI notified the Irish government on 30 January 2025, officials from the Department for Housing, Local Government and Heritage (DHLGH) in Ireland requested such a screening document and provided the DfI with a screening template as an example of what they were looking for. Internal communication between DHLGH officials shows that *"it wasn't possible to easily discern which documents highlighted and discussed the potential transboundary environmental impacts."* Accordingly, a response was issued to DfI on Friday 7 February, *"requesting DfI to forward the application documentation that clearly identifies what transboundary impacts need to be considered."*⁴⁹ The DHLGH advised that they would "not be in a position to confirm whether or not Ireland wishes

⁴⁷ New discharge consent parameters were not included in Dalradian Gold's 2020 discharge consent applications TrC 080 20_1 & TrC 081 20_1. Dalradian Gold has recently introduced new drawings and plans, including dust, noise and water quality baseline reports, which have not been subject to public consultation. In Dalradian's Statement of Case, new plans for discharge state that for seven years post closure, there would be a discharge of 4,400 gallons per day into the Owenkillew River, via the Curraghinalt Burn. After seven years, this discharge would increase to 176,000 gallons per day, indefinitely. This would comprise acid mine drainage, which would join the contaminated waste flowing from the Filtered Tailings Stack (mine waste facility), and

both would permeate the entire Foyle river system, posing a danger to all aquatic life.

⁴⁸ SES was established in 2015 to carry out Habitats Regulations Assessments on planning applications and local development plans to assess their impact on European sites, mainly Special Areas of Conservation (SACs) and Special Protection Areas (SPAs). SES has a non-statutory role and its remit is to provide guidance and specialist support to the 11 councils.

⁴⁹ Email sent 14 February from a Principal Officer (DHLGH) to colleagues re Dalradian Gold Mine Project Transboundary Consultation, on file with lead author - FOI request (FOI-0101-2025).

to participate in transboundary EIA consultation until all relevant documentation is available.”⁵⁰

On 14 February the DfI responded to the DHLGH with a table including references to the EIAs for the mine and powerlines applications, but not the four applications relating to water abstraction, impoundment and discharge consents, i.e. those especially relevant for transboundary implications. In its [response to the DHLGH](#), the DfI noted that “there may be other references, related content or synergies and this list is therefore not exhaustive.”⁵¹

Nevertheless, the transboundary consultation notice published on 26 February in Ireland includes links to these applications, even if it downplays their significance: *“Additionally, further to the three applications detailed above which DfI have decided require transboundary consultation, DfI have also provided links to the five applications below which members of the public are free to review and consider in their submissions.”*⁵²

It is evident from the documentation that the developer has not sufficiently considered the transboundary impacts of this project for the public to consult on. In the absence of such information, the public are not enabled to engage on the transboundary issues. All the relevant documentation is therefore not available.

This constitutes a breach of customary international law, the Espoo and Aarhus Conventions, Northern Irish domestic law on transboundary environmental impact assessment and public consultation implementing the EU law on the issue made prior to Brexit.⁵³

⁵⁰ The DHLGH sent two emails to the DfI asking for a screening document, on 5 and 6 February. This was followed by a formal letter sent to Alistair Beggs requesting further information on 7 February. “Your letter also advises that DfI is in the process of uploading documentation relevant to these applications (which will be available at this link www.infrastructure-ni.gov.uk/topics/dalradian-curraghinalt-project), including for example, environmental statements and a Habitats Regulation Assessment. I must advise that we will not be in a position to confirm whether or not Ireland wishes to participate in transboundary EIA consultation until all relevant documentation is available.” Letter sent from a Principal Office (DHLGH) to Alistair Beggs, Chief Planner & Director Regional Planning Policy and casework, 7 February 2025, on file with author - FOI request (FOI-0101-2025).

⁵¹ Email from DfI to DHLGH, 14 February 2025, on file with lead author.

⁵² Irish Times, Irish Examiner, 26 February 2025.

Accessing submissions from statutory bodies and third parties

There have been multiple barriers to accessing information from the inception of this application. Several submissions relevant for transboundary impacts, including those by Fermanagh and Omagh District Council, Loughs Agency, and other third parties were not available for the public to access before the public inquiry commenced in January 2025, but have since become available for the purposes of transboundary consultation.⁵⁴ Notwithstanding the problems with access to information to date, some of these independent submissions provide an indication of the transboundary implications for the Republic, and although not exhaustive, should be carefully considered when reviewing the documentation supplied by Dalradian Gold.

The **submissions of statutory bodies** with the most relevance for transboundary aspects include the [submission from the Loughs Agency](#), a cross-border body established under the 1998 Agreement with an explicit statutory remit for conservation, protection and development of inland fisheries within the Foyle and Carlingford system.⁵⁵ Statements of Case from the Northern Ireland Environment Agency (NIEA) on the main mine application which refers to shared species can be found [here](#), and on the water abstraction licenses can be found [here](#). Statements of case from Fermanagh and Omagh District Council (FODC) can be found [here](#) and its independent ecological survey which refers to transboundary impacts at page 28 can be found [here](#). Those from **third parties** (including [Save Our Sperrins](#), [Friends of the Earth](#), [Mid Ulster District Council](#) and others) can be found [here](#) and [here](#), and

⁵³ Regulation 43 of the Conservation (Natural Habitats, &c.) Regulations (Northern Ireland) 1995

⁵⁴ The Statements of Case from Loughs Agency, FODC and others were not available to the public before the public inquiry commenced and new information was submitted by Dalradian Gold that had not been subject to consultation.

⁵⁵ Lough Agency’s remit extends to the protection, promotion and development of Loughs Foyle and Carlingford, and catchments for commercial and recreational purposes in respect of marine, fisheries and aquaculture issues and the development of marine tourism (Foyle and Carlingford Fisheries (Northern Ireland) Order 2007). It is also worth noting that there is still a lack of agreement between London and Dublin Governments on the Border, its precise location and where the lines of sovereignty are drawn, including contestation over the Foyle. This raises a number of complex legal issues that have not resolved fundamental issues remaining from the time of the Border Commission in 1922 until today.

rebuttals to Dalradian Gold's assertions can be found [here](#).

Missing independent Habitats Regulations Assessments

In terms of required legal procedures, and given the special nature of the sites in question, it is concerning that no independent **Habitats Regulations Assessments** have yet been completed. Habitats Regulations Assessments refer to 'appropriate assessments' required for Special Areas of Conservation (SACs) under the Habitats Directive on the conservation of natural habitats and of wild fauna and flora.⁵⁶ The Habitats Directive was implemented in Northern Ireland through the Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 ('Habitats Regulations'). Under the Habitats Regulations, SACs require appropriate assessments to be carried out on any plan or project likely to have a significant effect, either individually or in combination with other plans or projects, on the integrity of the site's conservation objectives. Based on the conclusions of the assessment, the competent national authorities shall agree to the plan or project only after having ascertained that **it will not adversely affect the integrity of the site concerned.**"⁵⁷

The shadow Habitats Regulations Assessment (not an 'appropriate assessment') carried out by Dalradian Gold for the main mine application has been criticised by Loughs Agency and NIEA legal counsel for using outdated methodology and not fully assessing potential risks to Natura 2000 sites, including the River Finn SAC and River Foyle SAC.⁵⁸ A 'Likely Significance Test' carried out by the NIEA confirmed the need for an [appropriate assessment](#) because the mine water discharge is likely to have a significant impact on the integrity of the SAC features.⁵⁹ The test

identified the potential for "significant adverse impacts on the integrity of Owenkillev River ASSI/SAC arising from the discharge into the Curraghinalt Burn" and identified "potential for significant adverse impacts on the integrity of Owenkillev SAC, notably the Atlantic Salmon feature, arising from the proposed discharge into the Curraghinalt Burn", and that "the proposed discharge is likely to have a significant effect on the key relationships between the fresh water pearl mussel, Atlantic salmon and European Otter".⁶⁰

In addition, the NIEA states that "River Foyle and Tributaries SAC is hydrologically connected approx. 20km downstream and given that salmon are a mobile species and are known to have an extensive range through the connected river system from headwaters to mouth, it is considered that significant impacts on this selection feature are possible."⁶¹ Furthermore, freshwater pearl mussel is classified as '[Endangered](#)' ([Red List](#)) by the International Union for the Conservation Nature (IUCN) and is now only found in eight rivers in Ireland, two of which are the Owenkillev and Owenreagh. It is dependent on the Atlantic Salmon to host its larvae in the earliest part of their life cycle before they drop off into the river substrate, so healthy, recruiting salmon populations in those rivers are also important. These connections are not properly considered in the sHRA undertaken on behalf of Dalradian Gold.

The shadow Habitats Assessment conducted on behalf of Dalradian Gold omitted the Owenreagh River and Pollanroe Burn despite the presence of Atlantic salmon. Furthermore, Black Bog SAC and Ramsar site, which was designated for its sensitive raised bog habitats, was screened out and not included in the Dalradian shadow assessment, despite being located less than 5km south-east of the development site (i.e. downwind of the mine site in prevailing wind conditions).⁶² In addition, the NIEA's own Natural

⁵⁶ Council Directive 92/43/EEC of 21 May 1992 ("The Habitats Directive") provides for the conservation of natural habitats and of wild fauna and flora. It was implemented in Northern Ireland by the Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 ("The Habitats Regulations"). Sites designated under the Habitats Directive are labelled "SACs". See *supra* note 33.

⁵⁷ Article 43 (5) of the Habitats Regulations transposes Article 6(3) of Habitats Directive: In the light of the conclusions of the assessment, and subject to regulation 44, the authority shall agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the European site. Conservation (Natural

Habitats, etc) Regulations (Northern Ireland) 1995 ('Habitats Regulations').

⁵⁸ See the links provided in the preceding section.

⁵⁹ [DC 19 Consent Reference TC 80/20](#) & [DC 20 Consent reference TC 81/20](#). The requirement for "Appropriate Assessment" is set out in Articles 6(3) and 6(4) of the Habitats Directive (92/43/EEC). The Habitats Directive is transposed into Irish law by the European Communities (Birds and Natural Habitats) Regulations 2011 as amended (hereafter referred to as the Habitats Regulations).

⁶⁰ [DC 19 Consent Reference TC 80/20](#)

⁶¹ *Ibid*.

⁶² [Ecology Statement of Case prepared by Jon Davies BSc MSc FCIEEM CEcol for FODC](#).

Environment Division (NED) do not agree that the Pollanroe Burn and Curraghinalt Burn are of 'low risk' and have limited ecological value as suggested by Dalradian Gold. According to NED, this has been "evidenced by electrofishing surveys undertaken by Loughs Agency in June 2021 and Dalradian commissioned consultants supervised by Loughs Agency staff in June 2022, which demonstrated suitable Atlantic Salmon habitat is present in both Burns and evidence of Atlantic Salmon in the Pollanroe."⁶³

These initial findings, which are not accompanied by the required appropriate assessment carried out by an independent public body, should cause considerable pause for concern. Habitats Regulations Assessments must be cross-checked with the conservation objectives for SACs, SPAs, Ramsar wetlands, potential SPAs, possible SACs or proposed Ramsar wetlands,⁶⁴ which has not been done for the most consequential project to date for shared species on this island. This information is critical to the legality of the project as a whole and has serious transboundary implications for Ireland, given that the Foyle is tidal as far as Strabane and includes the River Finn SAC. This is also significant when considering not just the risk of discharge or spill of harmful mine waste but the additional factor of tidal backwash and various risks in the event of flood or high tide.

The lack of careful consideration of these issues was also raised by the Loughs Agency in its [statement of case](#). Given its statutory responsibility for shared waterways between Northern Ireland and the Republic, **its views in relation to the proposal carry particular weight**. In reviewing the shadow Habitats Regulations Assessment conducted on behalf of Dalradian Gold and supporting documents for the proposed scheme, Loughs Agency noted several overarching problems, which it divided into five themes:

1. Factually incorrect information presented as data,
2. Outdated survey results and datasets,
3. Surveys not carried out using accepted best practice methodologies appropriate for the area,

4. Apparent inappropriate application of international standards, and
5. Failure to appropriately consider impacts on surrounding watercourses, in particular; the Curraghinalt Burn, the Pollanroe Burn and Owenreagh as well as "Un-named watercourse", in the context of salmonid populations."⁶⁵

In Loughs Agency's opinion,

*"the environmental evidence base for this application is not robust, and that the environmental assessment should be rescinded and reconsidered from the beginning using contemporary best practice to generate relevant data on appropriate temporal and spatial scales. Any approach other than a wholesale restart of the process is likely to lead to further lack of clarity due to a lack of continuity in datasets."*⁶⁶

Legal counsel for NIEA also found in relation to the water discharge consent applications that *"The approach of Dalradian Gold in applying generic standards derived for other purposes and not focused on the needs of the SAC features is misplaced"*⁶⁷ and that *"for an SAC in unfavourable condition, there is no scope consistent with the conservation objectives to permit a worsening of water quality in respect of those parameters [...] If the existing poor situation would be made worse by reference to some key parameters that would not be lawful under the Habitats Regulations."*⁶⁸

According to the NIEA, 'Appropriate Assessments' for the water discharge consent applications will only be undertaken following receipt of the report from the Planning Appeals Commission, i.e. after the public inquiry. Aside from being procedurally flawed, this is inverted logic, because this information is fundamental in order to be able to fully consider environmental impact, as well as the legality of this proposal, including transboundary impacts, and not the other way around. **The information required for the public to engage fully and effectively in the transboundary consultation is therefore incomplete, falling below what would be considered access to all relevant information for effective participation within the meaning of Aarhus provisions.** This makes greater awareness of these issues even more vital, so that

⁶³ [NIEA Statement of Case for main mine application](#), p.24.

⁶⁴ [Protected sites and areas: how to review planning applications](#).

⁶⁵ [Loughs Agency Statement of Case](#) ("Third Party Statement of Case No. 37") (Loughs Agency).

⁶⁶ *Ibid*, page 3.

⁶⁷ [Advice from Landmark Chambers Legal Advice to NIEA](#), 31 July 2023, p. 9

⁶⁸ *Ibid*, page 9.

they can be given the appropriate attention they deserve.

Given the serious concerns raised by statutory environmental bodies, their legal counsel, the cross-border agency responsible for shared waterways, and Donegal County Council, the Irish government will need to ensure that both the Environmental Protection Agency (EPA) and the National Parks and Wildlife Service (NPWS) conduct a careful assessment of the EIAs submitted by Dalradian Gold. As this is also a question of compliance with EU law, any uncertainty or lacunae in environmental assessments legally precludes consent being granted as per Ireland's obligations under the Birds and Habitats Directive.⁶⁹

Reliance on unrealistic mitigation plans

Concerns about oversight and enforcement

The predicted negative effects are downplayed, separated and deemed acceptable by Dalradian Gold (and to a certain extent DAERA/NIEA, at times contradicting its own assessments), because of elaborate mitigation and compensation plans. This indicates a misunderstanding of landscape ecology as well as a misunderstanding of the legal requirements relating to legally designated sites, of which no amount of degradation is permissible.⁷⁰ The various 'environment management plans' and 'action plans' lack sufficient detail, and oversight of these plans remains unclear (see also the section above on Habitats). Given the long

history of problematic environmental governance,⁷¹ and in particular of deficits in environmental regulation and oversight, concerns about whether the implementation of any such plans will be subject to robust scrutiny are understandable, especially in the absence of up-to-date legally required assessments for some of the habitats and procedural impropriety in the process to date. In a recent report, Bróna McNeill and Ciara Brennan have also highlighted out the "*profound failure*" to undertake enforcement action against breaches of nature conservation law in Northern Ireland, "*despite the extensive network of nature conservation designations (both domestic and international) which have been applied to ensure that the most ecologically significant features of our natural heritage are adequately protected.*"⁷² This also raises questions about the capacity and willingness of the current environmental regulator in Northern Ireland to ensure that nature conservation law is upheld.⁷³ Compliance with environmental conditions has already been an issue in the drilling and exploration phase, where Dalradian Gold were found on several occasions to be [in breach of consent conditions](#) from the Water Unit (NIEA) for exceeding permitted toxicity levels for zinc. The public inquiry also heard [reports](#) of unauthorised development, fencing and infilling during the first two days of the inquiry.

Concerns about the pollution mitigation plans

Among the heavy metals to be discharged into the Owenkillew River and Owenreagh River include cadmium (known for its accumulation in the food chain, drinking water and soil), arsenic, lead, chromium and mercury, which can remain suspended in air due to its volatile nature. For example, in the Rio Tinto in Spain, pollution from

⁶⁹ See the case-law of the CJEU relating to Article 2(1) of Directive 2011/92, which provides that 'Member States shall take the measures necessary to ensure that, before consent is given, projects likely to have significant effects on the environment... are subject to an assessment with regard to their effects', that such an assessment must be carried out as soon as there is a likelihood or likelihood or a risk that the project will have such effects". [Judgment in Case C-526/16](#) (only available in French and Polish). An unofficial English translation by the Commission is provided on pp.51-52 of the Commission's 2022 [guidance document on EIA case law](#).

⁷⁰ See Landmark Chambers Advice to NIEA, *supra* note 67.

⁷¹ *Supra* fn 23.

⁷² Bróna McNeill and Ciara Brennan, Lough Neagh: A Case study in Environmental Injustice (EJNI 2025), <https://ejni.net/wp-content/uploads/2025/02/Lough-Neagh-A-case-study-in-environmental-injustice-31.01.25-1.pdf>

⁷³ See recent report (April 2025) available here: <https://www.theoep.org.uk/report/action-urgently-needed-protect-and-restore-northern-irelands-natural-treasures-says-oep>

copper mining has lasted over 5,000 years.⁷⁴ Given the findings of the independent environmental and ecology assessments in relation to the impact on water quality and ecology, this is highly concerning. A world-renowned mining and groundwater expert, Dr Steven Emerman, has queried the methodology for the mine waste facility and lack of design flood in Dalradian Gold's plans.⁷⁵ The parameters and scope of the Dalradian project continue to shapeshift in what can only be interpreted as a means of ensuring planning permission at all costs.⁷⁶

Concerns about the cumulative effects of activities

Given the nature of project splitting, none of the assessments carried out contemplate the **cumulative effects** of the mine applications on the interconnected nature of the ecology and the knock-on effects of these on groundwater, shared waterways, shared habitats and species in Ireland (i.e. the pearl mussel is dependent on the salmon, which is turn dependent on clean water and undisturbed spawning ground). Most of the acknowledged negative impacts are downplayed by Dalradian Gold and dealt with separately, whereas the ecology and landscape of Ireland and Northern Ireland is interconnected, and the impacts are significant.

As explained by the Advocate General in the *Commission v United Kingdom* at para [47], cited by McBride J when quashing other Dalradian and Flintridge Resources mineral prospecting licenses in Derry and Tyrone, "...the first stages of a proposal regularly determine the realisation of the subsequent stages. If the effects of the entire proposal on areas of conservation not at issue until later are examined neither within the framework of the plan nor at the time of the first stages, each stage restricts the number of possible alternatives for subsequent stages, without an appropriate assessment of

alternatives being carried out. Such a course of action is often derogatorily described as salami tactics."⁷⁷

The wider significance of transboundary consultation on the Island of Ireland

An important precedent for responding to extractive industries

As the largest mining application on the island at this time, Dalradian Gold's application is a litmus test for environmental justice and cross-border cooperation on the island of Ireland. As noted by V'cenza Cirefice, "*while the Island is sold as one country to the global mining industry and government departments on either side of the border work closely together to facilitate mining, it's ironic that Northern Ireland's government departments were found to be acting illegally for failing to consult with the Republic of Ireland, both their government and citizens.*"⁷⁸

Communities across Ireland are also seeing this as an all-island issue and are building solidarity in the face of increasing mineral prospecting licenses being granted in which they have no say.⁷⁹ Due to the international significance of the Sperrins the gold mining application has also received much attention from outside Ireland.⁸⁰ In addition, there is a growing international network of solidarity with [Save Our Sperrins](#), and communities from around the world affected by

⁷⁴ Manuel Olías, Jose Miguel Nieto, 'Background conditions and mining pollution throughout history in the Río Tinto (SW Spain)', *Environments* 2, (2015), 295-316.

⁷⁵ Groundwater and mining expert Dr. [Steven Emerman's](#) report Annex 1, Save Our Sperrins Statement of Case.

⁷⁶ For example, Tellurium is now mentioned, whereas it was not featured in Dalradian Gold's Business reports for 2022 and 2023; the lack of information pertaining to the export of ore for final extraction and its economic viability; the contradictory statements concerning the use and destination of the minerals (after their use for jewellery, investment and central bank vaults). In TR2 (supra fn 5), Dalradian states that: "The Curraghinalt deposit has the potential to increase accessibility to these minerals for the

United Kingdom and other parts of Western Europe." In other places, it says "the minerals will be transported all over the world in a global market."

⁷⁷ [\[2024\] NIKB 84](#) at para. 158.

⁷⁸ V'cenza Cirefice, '[Sperrins Gold Mine Inquiry Suspended: Transboundary Solidarity for Environmental Justice in Ireland](#),' *Rundale*, 6 March 2025.

⁷⁹ Communities Against the Injustice of Mining (CAIM) is an all-island network of communities affected by and resisting prospecting and extraction: <http://caimnetwork.org/>.

⁸⁰ The gold mining application in the Sperrins has been raised at countless events, conferences and workshops in Ireland and internationally, including at the UN and Council of Europe.

destructive mining projects have taken an interest in what is happening, some having [visited the Sperrins](#) to lend their support.

Although mineral prospecting results in few mining applications, the sheer volume of prospecting licenses being granted across the island is causing public concern.⁸¹ In Leitrim alone 47 townlands are currently subject to mineral prospecting licenses. Others stretch across nearly [all counties](#), from Wicklow to Cork (where there are 18 new applications), from Cavan to Donegal. The companies operating in Northern Ireland are also prospecting in the Republic. For example, Flintridge Resources, which was granted a gold prospecting license for 47 townlands in Leitrim in April 2022, had previously been granted a prospecting license for over 742km/sq of land in Derry and Tyrone in 2019 (despite the local council - Derry City and Strabane Council - objecting). In 2022, Flintridge Resources was prosecuted for serious health and safety failings at Dungannon Crown Court following an [investigation by the Health and Safety Executive](#) (HSE) in Northern Ireland, and was fined £120,000.

Mineral prospecting itself carries an environmental and social cost, but these are not fully assessed when granting prospecting licenses⁸² and there is minimal financial gain to the state from prospecting licenses compared to the burdens placed on local communities from testing and exploration, in addition to the psychological apprehension of future mining.⁸³ These hidden costs raise clear distributive justice concerns. This is compounded by the expectation that companies will comply with license conditions, which is not always the case. For example, public submissions opposing prospecting licenses in Leitrim testify to local

farmers and landowners not being consulted by the prospecting company (Flintridge Resources, a subsidiary of Galantas Gold) before carrying out testing on their land, in breach of the Department's guidance.⁸⁴

Public submissions focusing on possible destruction of biodiversity, protected habitats, tourism and farming in Leitrim were all dismissed by the Geoscience Regulation Office (GSRO) on the basis that they opposed mining, and that prospecting is not mining.⁸⁵ This was also the case for the GSRO review of submissions opposing the renewal of eight prospecting licenses in the Blackstairs Mountains in Carlow and Wicklow.⁸⁶ There is a belief on the part of the GSRO that mineral exploration activity takes place within a "robust framework of environmental legislation that has been enacted to ensure that the environment has been protected".⁸⁷ However, research on both the state of Ireland's environment and the reality of enforcement and compliance tells a very different story.⁸⁸

In a recent [High Court decision](#), three mineral prospecting licenses granted to Flintridge Resources and Dalradian Gold for Derry and Tyrone were quashed because of the Department's failure to "operate a fair consultation process".⁸⁹ The High Court also found that the Department "ought to have conducted" Habitats Regulations Assessment screenings on plans presented by the licensees before approving their licences to prevent 'salami slicing' of issues, which combined, could have a much greater impact on areas of conservation if not examined from initial stages.⁹⁰ This ruling, which found that the Department erred in not conducting a Habitats Regulations Assessment before granting *prospecting*

⁸¹ Mineral prospecting licenses (MPLs) have a 30-day consultation period in Ireland, with public submissions being considered by the Geoscience Regulation Office (GSRO) of the Department of the Environment, Climate and Communications. The GSRO manages the regulation, licencing, compliance and enforcement roles for mineral exploration, production and decommissioning. There is no appeals procedure. Local Authorities and An Bord Pleanála (the sole appeal instance) have no role in the issuing of prospecting licences. For the extraction phase, there are three authorities involved, each granting a different permit. These permits are planning permission from the Local Authority, an Integrated Pollution Control (IPC) or Industrial Emissions (IE) licence from the Environmental Protection Agency (EPA) and a state mining license.

⁸² Mining applications undergo a three-stage process whereas MPL applications are much less stringent and attached environmental conditions are largely left up to the company to self-regulate once the licenses have been granted.

⁸³ Geoscience Regulation Office: Review of Submissions Received in Relation to PL Areas 1469 and 3162 (MA 342/1) (hard copy on file with lead author thanks to K. Melia).

⁸⁴ Ibid. See also [Guidance for Good Environmental Practice in Mineral Exploration](#) states "there should be full consideration and close liaison with relevant landowners and regulatory authorities".

⁸⁵ Ibid.

⁸⁶ [Geoscience Regulation Office: Review of Submissions Received in Relation to the Renewal of Eight Blackstairs Lithium Prospecting Areas in Counties Carlow and Wicklow \(MA 284/1\)](#).

⁸⁷ Ibid, at page 5.

⁸⁸ Environmental Protection Agency, [Ireland's State of the Environment Report 2024, Report of the Citizens Assembly on Biodiversity Loss 2023](#).

⁸⁹ [2024] NIKB 84

⁹⁰ Ibid, at para. 158.

licenses, only further underscores the seriousness of the lack of such an independent assessment for a mining application with such serious implications for habitats, including intensive water abstraction and discharge.

Questions about economic advantages

There is an uncritical assumption that mining leads to jobs and “growth” but the reality is that gold mining projects are more focused on creating economic value for shareholders than contributing to local economies.⁹¹ Research has shown that large-scale land investments (extractives in particular) increasingly result in the displacement of local communities, violations of economic and social rights, and destruction of the natural environment.⁹² This is also reflected in the literature on mining and risk.⁹³

The Curraghinalt mining project is first and foremost an [investment project](#) with obligations to its shareholders. **The local community and the local authority (FODC) believe that the environmental, social and economic costs of the mine will be much greater and longer lasting than the purported economic benefits accrued in the short term.**

In 2003, the International Mining Council agreed to a [‘no-go’ ban on mining in World Heritage Sites](#) and agreed to respect designated protected areas, recognizing the damage of mining on such sites. “ICMM believes that mining in World Heritage Sites is not compatible with biodiversity conservation: the costs outweigh the benefits. ICMM also believes that all protected areas need to be managed carefully to prevent the irreversible loss of those values.” This acknowledgment from the industry itself on the incompatibility of mining with important heritage sites should be carefully considered in light of the Sperrins landscape.

⁹¹ Michael L. Ross, ‘The Political Economy of the Resource Curse,’ *World Politics*, 51 (1999), 297-3222; Jody Emel and Mathew Huber, ‘A risky business: Mining, rent and the neoliberalization of “risk”’, *Geoforum*, 39(3) (2008), 1393-1407.

⁹² Saturnino Borrás and Jennifer Franco, ‘Global Land Grabbing and Trajectories of Agrarian Change: A Preliminary Analysis’, *Journal of Agrarian Change* 12 (2012), 34-59. Lorenzo Cotula, ‘The International Political Economy of the Global Land Rush: A Critical Appraisal of Trends, Scale, Geography and Drivers’, *Journal of Peasant Studies* 39 (2012), 649-680. Francesca Romanin Jacur, Angelica Bonfanti and Francesco Seatzu (eds.), *Natural Resources*

Environmental democracy under threat

It is increasingly falling on citizens to hold public authorities to account. The term ‘objectors’ in planning nomenclature is no longer used in international law when referring to environmental protectors. In the case of the Sperrins, the term ‘objectors’ does an injustice to the multiple thousands of people who have valid concerns and feel a strong duty of care to the Sperrins landscape, notwithstanding the lack of resources at their disposal compared to those available to Dalradian Gold. A more accurate description of Save Our Sperrins, the local community and other campaigners who have spent their own time and resources attempting to have their democratic environmental rights fulfilled is “environmental defenders.” A recent report by the UN Special Rapporteur on the Situation of Human Rights Defenders found “a clear link between violations committed against environmental human rights defenders and the area of their activities. The extractive industry was the sector with the most violations.”⁹⁴

The facilitation of Dalradian Gold’s planning application, alongside the simultaneous lack of [due diligence](#) to date on the part of government departments in Northern Ireland, is an example of what leading UK planners describe in a recent Policy Paper ‘Planning for the Public’, which draws on extensive peer-reviewed research and policy reports.⁹⁵

“The roots of our present crises are not an over-bearing weight of regulation and state interference – it is in fact the opposite: chronic under-investment, the stripping away of environmental and regulatory protections for the public and a politics which prioritises the profits of companies over the needs of the public.”⁹⁶

It goes on to state that “Over the last decade or so, the UK has been running a failed experiment with a ‘market-led’ approach to planning. [...]”

Grabbing: An International Law Perspective (Brill, 2016), Ruth Meinzen-Dick and Joachim Von Braun, ‘Land Grabbing by Foreign Investors in Developing Countries: Risks and Opportunities.’ *IFPRI Policy Brief* 13 (2009). Report of the UN Special Rapporteur on the situation of human rights defenders, [A/71/281](#), at para. 37.

⁹³ Emel and Huber, *supra* note 91.

⁹⁴ [Report of the UN Special Rapporteur on the situation of human rights defenders](#), [A/71/281](#) (2016) at para. 37.

⁹⁵ Public Planning Group Policy Paper - [Planning for the Public. Why Labour should support a public planning system](#), 2023

⁹⁶ Planning for the Public, *ibid*, at 2.

where the value created by planning permission goes predominantly to the landowners and developers rather than the public. [...]. "The market-led approach to planning, as in many other areas of society, has done little to nothing to reduce the spatial and regional inequalities".⁹⁷

Research into the Irish planning context by Enda Murphy and Linda Fox Rogers shows that since the 1980s, "the planning system has been gradually neoliberalised; that is, its governance arrangements and associated planning practice has been moulded and shaped in such a way as to be highly facilitative of powerful political economic interests. Its ability to adequately regulate development has gradually been eroded and the system has become (almost) devoid of its socially progressive roots as a redistributive institution."⁹⁸

Ireland is currently witnessing a backsliding of democratic environmental rights, most visible in recent changes to the Planning and Development Act 2024, which among other things water down access to justice provisions.⁹⁹ Last-minute amendments were added to introduce a class of "strategic infrastructure" that would be exempt from the normal protocols. The Act lists some types of development that fall into this category, such as liquefied natural gas (LNG).¹⁰⁰

We are in the midst not only of a climate and biodiversity crisis on the island but also a crisis of environmental democracy. As stated by Ciara Brennan et al. in *Linking the Irish Environment*, "Protecting this common environment is dependent on coherent policy-making, high standards and regulations and enforcement on both sides of the border. Increasing cross border cooperation and policy-making provides a real opportunity to improve the environment on an all-island basis."¹⁰¹

Public participation in the resumed inquiry

The public inquiry into the gold mine itself has begun with barriers to effective public participation which are no longer acceptable in light of transboundary consultation. When the inquiry resumes it will need to be open to citizens and bodies from the Republic who wish to make their views heard before the PAC. There is currently a [petition](#) to request the PAC to change their procedures to livestream the inquiry, take a public record of the proceedings and allow expert witnesses to participate online if they cannot be present. Current [PAC procedures](#) only allow for in-person participation in Omagh.¹⁰² It is important to remember Article 6(8) of the Aarhus Convention, which stipulates that parties must ensure that a decision takes due account of public participation, and that the reasons and considerations on which a final decision is based should provide evidence of how due account was taken of public participation.

Conclusion

Environmental justice incorporates concerns around the just distribution of environmental harm, about the extent to which the public can participate in environmental decision-making, and about the meaningful recognition of the unique and crucial relationships that local communities have with the landscapes that matter to them.¹⁰³ The proposed mining application in the Sperrin mountains not only has serious potential implications for human and animal health across our island, but also for the natural and cultural heritage of one of our island's most precious landscapes. The focus of this paper has been on the procedural environmental justice issues which have arisen in this context through a lack of effective transboundary

⁹⁷ Ibid, p. 2. See also V'cenza Cirefice, Sinéad Mercier and Aileen O'Dochartaigh, 'Resistance to Mining and Pathways to a Sustainable Rural Environment: Rewriting the Maps' in Adrienne Atron, Sean Heron and Ruth McAreevey (eds), *Rural Governance in the UK. Towards a Sustainable and Equitable Society* (Routledge, 2022), 99-119.

⁹⁸ Murphy, Enda, and Linda Fox-Rogers. 'Perceptions of the Common Good in Planning', *Cities*, 42 (2015), 231-241.

⁹⁹ The Irish Government recently passed legislation (not yet commenced) to restrict the standing of unincorporated associations see [s.286\(4\) of the Planning and Development Act 2024](#).

¹⁰⁰ Amy Strecker and Sinéad Mercier, [Planning Bill is Deeply Flawed](#), Irish Times, 7 October 2024.

¹⁰¹ See supra note 37.

¹⁰² The pre-inquiry meeting held on 20th March 2024 was not recorded and there was no transcript or minutes made available to the public, which is highly irregular. A livestream option is not a substitute for a transcript or minutes, and the absence of any recording of proceedings in what is purported to be an open and transparent planning process is a violation of the public's right to access information and effective participation. Previous inquiries have permitted online participation, for example the Doraville wind farm inquiry, supra note 24.

¹⁰³ Bróna McNeill and Ciara Brennan, Lough Neagh: A Case study in Environmental Injustice (EJNI 2025), <https://ejni.net/wp-content/uploads/2025/02/Lough-Neagh-A-case-study-in-environmental-injustice-31.01.25-1.pdf>

consultation, but it is clear that the proposed project also has the potential to generate unequal distribution of environmental harm and may also serve to eclipse local connections to land and landscapes. Given the potentially dangerous precedent for backsliding on environmental rights, it is vital that citizens across the island exercise their democratic right to participate in this important transboundary consultation.



Sperrins landscape. Photograph: V'cenza Cirefice