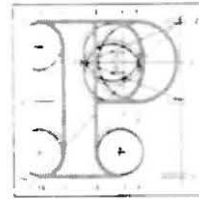


**Our Case Number:** ABP-318302-23



**An  
Bord  
Pleanála**

Emanuela Ferrari for Futureproof Clare  
4 Glenview Road  
Ennis  
Co. Clare  
V96H9T0

**Date:** 25 March 2024

**Re:** Expansion of the Bauxite Disposal Area, extension to the existing Salt Cake Disposal Cell and extension of the permitted borrow pit at Aughinish Alumina Limited  
In the townlands of Aughinish East, Aughinish West, Island Mac Teige, Glenbane West, and Fawnamore at or adjacent to Aughinish Island, Askeaton, Co. Limerick

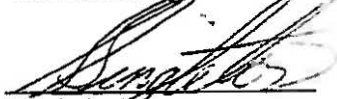
Dear Sir / Madam,

An Bord Pleanála has received your recent letter in relation to the above mentioned case. The contents of your letter have been noted.

If you have any queries in relation to the matter please contact the undersigned officer of the Board at [laps@pleanala.ie](mailto:laps@pleanala.ie)

Please quote the above-mentioned An Bord Pleanála reference number in any correspondence or telephone contact with the Board.

Yours faithfully,



Breda Ingile  
Executive Officer  
Direct Line: 01-8737291

CH08

Teil  
Glao Áitiúil  
Facs  
Láithreán Gréasáin  
Ríomhphost

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64 Sráid Maoilbhríde  
Baile Átha Cliath 1  
D01 V902

64 Marlborough Street  
Dublin 1  
D01 V902

**Attachments:**

240321 FPC Submission to ABP - 318302.pdf

**From:** Eoin Brady [REDACTED]

**Sent:** Thursday, March 21, 2024 5:28 PM

**To:** LAPS <[laps@pleanala.ie](mailto:laps@pleanala.ie)>

**Subject:** Response to applicant submission on ABP-318302-23

**Caution:** This is an **External Email** and may have malicious content. Please take care when clicking links or opening attachments. When in doubt, contact the ICT Helpdesk.

A Chara,

Please see submission on the above application.

You might please acknowledge receipt of same.

Regards,

Eoin

**Eoin Brady | Partner**

FP Logue LLP

8-10 Coke Lane, Smithfield, Dublin 7, IRELAND

Tel: +353 1 531 3510 | Direct: +353 86 852 4598 | Web: [www.fplogue.com](http://www.fplogue.com)

## FPLOGUE SOLICITORS

Our Reference: EJB/ 87503018  
Your Reference: ABP-318302-23

21 March 2024

### **By electronic submission**

An Bord Pleanála  
[laps@pleanala.ie](mailto:laps@pleanala.ie)

**Our client:** Futureproof Clare CLG  
**Address of client:** c/o 4 Glenview Road, Ennis, County Clare  
**RE:** Response to applicant submission on ABP-318302-23  
**Development:** Strategic Infrastructure Development Application for expansion of Bauxite Residue Disposal Area at Aughinish Alumina Limited, in the townlands of Aughinish East, Aughinish West, Island Mac Teige, Glenbane West and Fawnamore at or adjacent to Aughinish Island, Askeaton, Co. Limerick

A Chara,

We act for Futureproof Clare CLG (FPC), a mid-west based environmental non-governmental organization. FPC are a non-profit grassroots organisation with volunteer members from Co. Clare, Co. Limerick and other parts of Ireland. FPC are focused on local, national and global environmental issues including the wellbeing of the Shannon River and Estuary.

Our client has concerns about the increased industrialization of the Shannon Estuary, and the proliferation of polluting industries in the area, including Aughinish Alumina Limited (AAL).

Our client took successful judicial review proceedings against the previous decision of An Bord Pleanála to grant permission for the expansion of Bauxite Residue Disposal Area at Aughinish Alumina Limited. We note that the matter has been remitted to the Board for further consideration, and this submission is in response to the letter from Tom Phillips & Associates (TPA) on behalf of AAL dated 19<sup>th</sup> January 2024. Our client was requested to respond to same by the Board by way of letter of 20<sup>th</sup> February 2024.

The content of our client's submission focuses on the following points:

1. Preliminary Issue – duty to rectify breach of EU law
2. Climate Action and Low Carbon Development Act 2015
3. Lack of flood risk assessment

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4. Lack of explanation of how AAL intends to comply with 2015 Act.
5. Water Framework Directive
6. Contestation of AAL's sustainability, either financial or environmental.  
Omission of cumulative impacts of AAL licences and procedures e.g. application for dredging and dumping licence.

#### **Preliminary Issue – duty to rectify breach of EU law**

##### **2005 Permission/ABP Appeal**

Limerick County Council granted permission (PA Ref. 05/1836) on 15 May 2006 for an extension of the BRDA, an increase in production of Alumina production to 1.95 million tonnes per annum (including retention of planning permission for increase in production from 1 million tonnes per annum to 1.6 million tonnes per annum. This was subject to a third party appeal to An Bord Pleanála, which on 16 February 2007 granted permission to AAL subject to conditions (ABP-217976).

There are a number of significant legal issues with the decision of the Board.

The decision authorised construction of Phase 2 of the BRDA within the installation site (80ha), an increase in height of the 104 ha Phase 1 BRDA to 32m, retention of increased production from 1m tonnes per annum then authorised to 1.6 m tonnes per annum then being actually produced, and a further increase to 1.95 m tonnes per annum.

Phase 2 of the BRDA would impact on 0.2ha of mud flat, and remove 0.4ha of salt marsh habitat from the Lower River Shannon Special Area of Conservation (SAC) and the River Shannon and River Fergus Estuaries Special Protection Area (SPA) site in Robertstown Creek on the western side of the AAL site.

In that regard, the permission purported to grant planning permission for retention of development requiring Appropriate Assessment and Environmental Impact Assessment.

The production of aluminium by the Bayer process involves the hydrometallurgical extraction and refinement of alumina from bauxite. It constitutes the production of non-ferrous crude metals from ore by metallurgical, or chemical processes for which EIA is mandatory by virtue of Schedule 5 Part 1 Class 4(b) of the Planning and Development Regulations 2001 as amended. Insofar as the Board's permission authorised retention of increased production from 1.1 to 1.6 million tonnes per year, and a further proposed increase from 1.9 to 1.9 million tonnes per year, EIA of that production was required and was not carried out.

Furthermore, no Appropriate Assessment was carried out as required under the Habitats Directive of the proposal to expand the BRDA. The Environmental Impact Statement did not identify the need to assess the cumulative impacts of the original alumina production installation in relation to the proposed project.

The Board identified that the proposed development would require compensatory measures to make good disturbance of conservation interests of the SAC and SPA. It proposed that compensatory habitat would be provided, either to the south of the site, beyond the Limerick – Foynes rail line, or in alternative site to the east of Aughinish Island, near Poulaweala creek.

A finding that compensatory measures are necessary is implicitly a recognition of an adverse effect on the integrity of the SAC and/or SPA for the purposes of Article 6(3) of the Habitats Directive.

The Board Inspector's Report which was adopted by the Board stated the following at page 20:

*It is well documented from the information contained on file that the site could potentially impact on a number of European sites (pNHA, SPA and cSAC). These designations are indicated on Maps 12.1, 12.2 and 12.3. They relate to Robertstown Creek, Poulaweala Creek and the southern part of Aughinish Island. In this regard, particular reference should be made to the Waddnezee Judgement which in its overall conclusions states that authorisation for developments which adversely affects the integrity of a European site can only be granted in circumstances where there are imperative reasons for overriding the public interest as referred*



to in Article 6(4) of the Habitats Directive. These include reasons of a social or economic interest.

The proposed development would impinge upon of a number of European sites. However, a number of issues should be borne in mind in relation to the impact of the proposed development on these European sites and the spirit of the Waddenzee Judgement. Firstly, the sites in question have been the subject of significant survey as part of the Environmental Impact Statement. It notes that the greater burnet and meadow barley, both of which are protected flora species are located on the BRDA site. However, it is proposed to trans-locate both meadow barley and the greater burnet on adjacent lands which is indicated in Figure 12.4. It is also proposed to trans-locate the salt marsh habitat which will be also impacted by the proposed development. While it is acknowledged that translocation is not a substitute for conservation of the protected habitat in situ, it is noted that the proposed development will directly impact on these two protected plant species. The proposed rescue translocation will ensure that these species will be maintained in the area. Under Article 6(4) such compensation measures are necessary to ensure the overall coherence of the European Sites.

It should also be noted that the European Sites in question cover large areas. In the case of the SAC (002165), the site stretches along the from Killaloe to Loop Head. A distance of 120 kms. The site was elected for its floating river vegetation and Annex II aquatic species (Bottlenosed Dolphins and Lamprey). The proposed development will not impact on this vegetation or these species. Furthermore the proposed development constitutes an negligible portion of the overall SAC and therefore will not affect the overall integrity of the SAC. Similarly the NHA designation (00435 and 00432) relates to a large area – the Inner Shannon Estuary. The two rare plants that occur within the wet grassland of the NHA, and which are referred to above will be translocated. While Robertstown Stream and Poulaweala Creek form part of the River Shannon and River Fergus SPA (004077) no birds of high conservation value are likely to be impacted upon.

The Board should also have regard to the consideration of alternatives. It should be noted that alternative sites were investigated as part of the Environmental Impact Assessment process (see Section 5.3 of the Environmental Impact Statement). However, alternative sites were ruled out on grounds of property acquisition costs, the requirement to provide entirely new infrastructure to service sites further away from the appeal site. Also, greater haulage distances and the use of public roads could also give rise to additional planning and environmental issues. An examination of Figures 12.1 - 12.3 indicate that vast tracks of land in the vicinity of the site and its surroundings are covered by European Site Status. They are therefore likely to give rise to same environmental issues, as those associated with the current proposal. The proposed development constitutes a logical extension to the existing BRDA area and would appear to have inherent advantages over alternative sites in the vicinity.

I also note the National Parks and Wildlife Service have given due consideration to the proposed development, particularly in the context of its impact on European sites and generally deemed the translocation proposals to be acceptable, subject to appropriate conditions. I consider the applicant has given due consideration to the potential impact of the proposed development on the integrity of European sites and has proposed appropriate mitigation measure through the translocation of protected habitats and flora to conserve and maintain the protected habitats associated with these sites. I therefore consider the proposed development to be acceptable in this regard.

With regard to flora, I note that Sections 12.6.2 and 12.6.3 of Volume 2 of the Environmental Impact Statement, together with the additional information submitted in response to Questions Nos. 84-90 sets out appropriate mitigation measures to ensure the protection of birds, bats, otters and badgers. I therefore do not consider that the proposed development should be refused on the grounds that it will adversely impact the integrity of flora and fauna in the area.

I would therefore conclude that the impact of the proposed development on the European Sites in question could be considered to be negligible and that the proposed development is not likely to adversely affect the integrity of the European Sites nor is it likely to give rise to a deterioration or result in significant disturbances to the Sites in question.

A number of points arise from the same and the EIS submitted by the developer:



At the time of the grant of permission the designation of the SPA did not list the species of bird it was intended to protect, and apparently included all birds present in the SPA. AAL accepted that there was potential for disturbance to birds within the SPA but did not consider the disturbance significant due to the low numbers of birds involved.

AAL considered the Project to be the construction of the Phase 2 BRDA, and assessed the impact of that development on the Shannon Foynes SPA. It did not assess the impact of the main Alumina Installation beyond the existing 2009 closure horizon. Nor did it consider what impact the Alumina Installation would have on the environment after 2009 and whether that impact should be authorised. It did not consider the extent to which the Installation could already be causing deterioration of the wetland habitat in the area. There was no individual consideration of the impact on any of the species present in the Shannon Foynes SPA.

The proposed Phase 2 BRDA would be built on an area which had recently been discovered to contain two protected plant species, Greater Burnet (*Sanguisorba officinalis*) and Meadow Barley (*Hordeum secalinum*). It was proposed to relocate these to an alternative site, and some work had been done in this respect. There was no consideration of whether the locations proposed for compensatory habitat would themselves be protected, or whether the boundaries of the SAC and SPA would be altered to provide protection for them. There was no condition imposed requiring carrying out of the compensatory measures, or transplanting of protected species. Recent Ordnance Survey aerial photography reveals that the compensatory habitat has not been constructed, and the field earmarked for compensatory salt marsh or inter-tidal habitat is still a field. Furthermore, the area marked for transplantation of Greater Burnet and Meadow Barley exhibits a distinct red tinge indicating a likelihood that it has been contaminated by deposit of red dust, which is likely to have a caustic residue following processing. There was no reference in the NIS submitted of these species or the compensatory habitat shown, and no assessment of whether previously identified impacts have been successfully mitigated or remain outstanding.

AAL's documents conceded that otter and bats would lose resting places or potential resting places as a result of the construction of the Phase 2 BRDA, but did not consider this to be a problem. They did not advert to the concept of strict protection under Article 12 of the Habitats Directive. They proposed planting of additional woodland to compensate for loss of habitat for birds and bats. They did not consider the impact of the existing Installation, or its effect in combination with the extended Installation or extended BRDA.

No application has been lodged for substitute consent for the 2005 extension to the BRDA and to the lifetime of the Alumina Installation beyond 2009.

### **Legal Implications**

In Case C-196/16 *Comune di Corridonia* the Court of the Justice of the European Union held that where there was a failure to carry out a lawful EIA, Member States are obliged to nullify the unlawful consequences of that failure. In that regard, a Member State is permitted to regularise the project concerned after it has become operational on condition that such regularisation does not circumvent the application of EU law or dispense with applying same, and that the assessment for the purposes of regularisation must take into account the environmental impact of the project from the time of its completion.

Furthermore, in its judgment in C-278/21, *AquaPri*, the Court of Justice held as follows at para 43:

*Furthermore, where a Member State has provided, either in a measure of general scope, or in a measure of individual scope, that the continuation of an activity already authorised must be the subject of a new authorisation, the competent national authority is required to make that authorisation subject to a new assessment in accordance with the requirements of the first sentence of Article 6(3) of Directive 92/43, where it appears that that activity has not yet been the subject of such a compliant assessment, in which case that authority will have to draw all the factual and legal consequences which that new assessment entails in the context of the decision which it is called upon to adopt on any new authorisation to be granted."*

In light of the above, we submit the following:

1. That the Phase 2 BRDA expansion at AAL permitted under ABP-217976 was carried out in breach of the Environmental Impact Assessment, Habitats and Birds Directives;
2. That the Board now in the application before it has an obligation to regularise the failure to comply with EU law in relation to the project carried out under ABP-217976.

Our client previously raised this argument before the High Court in the successful judicial review proceedings. For the avoidance of all doubt, our client is therefore requesting the Board to exercise its remedial obligations under EU law in the context of this application, as required by the High Court in the decision of Humphreys J. on 27<sup>th</sup> October 2023 in *Carrownagowan Concern Group v An Bord Pleanála* [2023] IEHC 579.

#### **Climate Action and Low Carbon Development Act 2015**

AAL in their submission refer to the Climate Action and Low Carbon Development Act 2015, noting that the Board now has new duties under Section 15 of the same to, in so far as practicable, carry out its functions in a manner consistent with the climate plans, strategies and objectives referred to in Section 15. AAL refer to the new Climate Action Plan 2024 (CAP) which was approved in December 2023. However, AAL focus on the emissions section of the CAP, and do not refer at all to Chapter 23 of the CAP which addresses Adaptation.

The CAP refers to the IPCC Working Group I report which notes the following predictions:

- *An observed increase in pluvial flooding attributed to human influence and a projected further increase at global warming of 1.5°C (medium confidence) and 2°C and above (high confidence);*
- *A projected increase in severe windstorms at global warming of 2°C and above (medium confidence).*

The CAP notes the following potential impacts of climate change in Ireland:

*Precipitation extremes and flooding, resulting in disruption of transport services, damage to structures, damage to the built environment, unsafe driving conditions and deterioration of transport infrastructure.*

*Projected increases in sea levels and storm surge will result in increased frequency of coastal flooding and change, with significant impacts for coastal structures, communities, settlements, and coastal heritage sites*

The CAP notes the requirement for an updated national Climate Adaptation Plan and sectoral adaptation plans.

Our client submits that pending the publication of the same, that in light of the CAP the Board is required to determine this application in a manner consistent with the IPCC science referred to in the CAP.

In that regard, we refer to the coastal flood modelling carried out by Climate Central, which provides accurate and granular information on sea level rise and coastal flood hazard backed by the latest IPCC science<sup>1</sup>.

In the maps below, you can see the area of Aughinish with land 1 meters above the high tide line which could be reached through combination of sea level rise, tides and storm surges.

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<sup>1</sup> <https://www.climatecentral.org/>







is not based on the most up to date climate science, and does not take account of the geographical location of the Aughinish BRDA immediately beside a tidal estuary at risk of severe flood events.

We submit that this Golder report is fundamental to the submission by AAL that there is a very low risk of tailings failure on the BRDA.

The Board has an independent obligation to interrogate the AAL information on the risk of inundation of the BRDA. Inundation of the BRDA has the potential to cause one of the greatest ecological disasters ever in the State.

In the recent High Court decision in *Stapleton v Bord Pleanála* [2024] IEHC 3 the Court addressed the obligation to give reasons where one party makes a submission and the other contradicts it. Counsel for the Board had submitted that the Board was entitled to take the material before it, a traffic expert's report, "at face value", which the Court said generally means "before that value has been tested in any way" (§203).

The Court noted that the Board is obliged to be not merely independent, but impartial (§204). Taking materials at face value, "may not become a basis for the Board not performing its duties of inquiry into the information put before it by a planning applicant – at least where that information is stateably put in issue by objectors whose personal experience lends at least appreciable apparent weight to their objections" (§205).

The Court stated that there is no obligation to resolve disputes purely for their own sake, but where the submissions are contradictory, it may be difficult or impossible to meaningfully address them, or "truly engage", without resolving the contradiction (§207).

There is a contradiction between AAL's submission in respect of flood risk, and the independent evidence submitted here as to the anticipated sea level rise and the unsuitability of the AAL material to account properly for same.

We submit therefore, that the Board must resolve the contradiction in relation to flood risk before it can lawfully determine this application.

#### **Lack of flood risk assessment**

In section 2.1 of the additional information TPA rightly acknowledges the updated Limerick CDP which came into effect on July 29th 2022, after AAL's initial application for expansion in December 2021. Our client wishes to draw the Board's attention to the Limerick Development Plan 2022-2028 Volume 4 Strategic Flood Risk Assessment (SFRA).<sup>2</sup>

Page 52 of the SFRA shows a graph of the Foynes area where it is possible to see that much of the area is in Zone A - high risk of flooding or Zone - B moderate risk of flooding. The following quote is from page 52:

*"The entirety of the Town Centre lies within Flood Zones A and B. Until such time as the fluvial flood relief scheme has been completed major development in Foynes is considered premature and new development should be limited to minor development (Section 5.28 of the Planning Guidelines) as it does not pass the Justification Test."*

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<sup>2</sup> <https://www.limerick.ie/council/services/planning-and-placemaking/development-plan-strategies/limerick-development-plan-0>.

We submit that in light of the data outlined above in relation to predicted flood impacts at Aughinish that Aughinish is properly in Flood Zone A in the same way that the lands to the west around Foynes are.

The EIAR (Chapter 10) is clearly deficient in relation to addressing the flood risk at Aughinish. It is clear to our client that the lands have not been correctly classified for flood risk which is a preliminary requirement to addressing proposed development on lands.

We note that the CDP states the following:

*All proposed developments shall be in accordance with regional and national priorities and the SEA Directive, Birds and Habitats Directive, Water Framework Directive, Shellfish Waters Directive, Floods Directive and EIA Directive.*

We submit that the proposed development could not be compliant with the Floods Directive in circumstances where the flood risk had not been properly classified.

Accordingly, we submit the following.

- a) it would be premature to determine this application on account of the requirements of the *The Planning System and Flood Risk Management Guidelines*. Specifically, section 2.21 of the Guidelines requires the prior assessment of flood risk prior to development consent. As this has not happened any decision to grant permission would be premature;
- b) Notwithstanding the above, if the Board proceeds to determine the application the location is clearly required to be in Flood Zone A and a justification test is required.

#### **Lack of explanation of how AAL intends to comply with 2015 Act.**

Ireland fell significantly short of our Greenhouse Gas Emissions (GHG) reduction target in previous years and as acknowledged by TPA is introducing more stringent policy to reduce sectoral emissions under European Climate Law (2021), including limiting the use of industry's Emissions Trading System (ETS) which has allowed companies like AAL to effectively purchase carbon credits and continue to emit high amounts of GHG's. As TPA mention in their submission, AAL will be legally obliged to reduce its emissions. However, AAL has no plans laid out as to how it will reduce its emissions either in its EIAR or in its emissions report.<sup>3</sup>

It is not possible anymore to effectively 'kick the can down the road' as regards the requirement to address emissions. We submit that in light of the amended Climate Act 2015 that the Board have an obligation to ensure that the requirement to address emissions is addressed when granting permission for a development which will effectively ensure the continued emissions of significant levels of greenhouse gases to 2039.

AAL have not addressed how they will achieve the requirements of the CAP and sectoral emissions plans. The Board therefore in our submission does not have the relevant information before it by which it can comply with its obligations under Section 15 of the 2015 Act.

#### **Water Framework Directive**

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<sup>3</sup> <https://leap.epa.ie/docs/e6476152-7b9f-4d20-b332-70f61d68e996.pdf>



Our client submits that the existing AAL activities are having a significant impact on the nearby surface, ground and transitional water bodies.

We submit that the EIAR does not address, properly or at all, the requirements of the Water Framework Directive.

There is no assessment of water consumption at Aughinish and its impact on the local hydrology.

Bauxite and sodium hydroxide are produced on site and classified as Hazardous substances for groundwater. There is significant risk of leakage of leachate containing same to groundwater, and it appears that this has and is occurring. As set out in the TPA submission, the groundwater body underlying Aughinish is at 'poor' status. Furthermore all surface waters are at 'Poor' status.

In the first instance, we submit to the Board that there is a requirement in this application to consider the full impacts of the continuation of AAL's activities on the status of waterbodies up to 2039 (as well as historically). We say that the information provided in the EIAR does not address that requirement.

We refer the Board to the decision of the CJEU in Case C-535/18, *II v Land Nordrhein-Westfalen*, where the Court held as follows:

*Article 6 of Directive 2011/92 must be interpreted as meaning that the information to be made available to the public during the procedure for approving a project must include the data that are necessary in order to assess the effects of that project on water, in the light of the criteria and requirements laid down in, inter alia, Article 4(1) of Directive 2000/60.*

We note that AAL themselves acknowledge in their 'Evaluation of predicted residual impacts and their significance' that there will be a 'slight' impact on relevant waterbodies.

It is noted that these impacts are to waterbodies at 'poor' status. We refer to the decision of the CJEU in Case C-461/13, *Bund für Umwelt und Naturschutz Deutschland* where at para 70 the Court stated:

*In the light of all the foregoing considerations, the answer to the second and third questions submitted is that the concept of 'deterioration of the status' of a body of surface water in Article 4(1)(a)(i) of Directive 2000/60 must be interpreted as meaning that there is deterioration as soon as the status of at least one of the quality elements, within the meaning of Annex V to the directive, falls by one class, even if that fall does not result in a fall in classification of the body of surface water as a whole. However, if the quality element concerned, within the meaning of that annex, is already in the lowest class, any deterioration of that element constitutes a 'deterioration of the status' of a body of surface water, within the meaning of Article 4(1)(a)(i). (emphasis added)*

It is clear therefore that even a 'slight' impact as admitted by AAL, is not permissible to a waterbody at 'Poor' status. In that event, as the Court of Justice has noted the programme or project concerned may be authorised only if the conditions set out in Article 4(7) of that directive are met.<sup>4</sup>

There has been no information provided to satisfy the requirements of Article 4(7) of the Directive, and therefore the Board does not have jurisdiction to grant permission.

**Contestation of AAL's sustainability, either financial or environmental.**

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<sup>4</sup> See further Case C-525/20, *Association France Nature Environnement*



TPA refers a number of times in its document to the economic importance and incredulously, the contribution of AAL to sustainable development. For example on page 14:

*"We contend, therefore, that the proposal should be granted Planning Permission in the interests of the proper planning and sustainable development of the area."*

TPA refer to a section in Chapter 5 of the Limerick CDP to justify the proposed expansion of the borrow pit and BRDA:

*"It is an objective of the Council to safeguard the Strategic Development Locations at Foynes Port, Foynes Island and Aughinish Island for the sustainable growth and development of marine related industry and industrial development at Askeaton. All proposed developments shall be in accordance with regional and national priorities and the SEA Directive, Birds and Habitats Directive, Water Framework Directive, Shellfish Waters Directive, Floods Directive and EIA Directive. Buffer zones shall be incorporated into proposals for developments where necessary to preserve potentially valuable habitats, for example, areas of estuary, shallow bays and inlets, mudflats, lagoon, salt marsh and woodland habitat, which occur at or surrounding these Strategic Development Locations."*

However, our client notes that the CDP does not explicitly mention that the sustainable growth and development it supports takes the form of an extension of AAL. Our client contends that proper sustainable development would include a closure of the facility and clean-up of the area and repurposing the development explicitly for conservation given the Shannon Estuary's importance for bottle nose dolphins and many other flora, fauna and legally protected habitats and waters.

Furthermore, TPA include the following to back up/add weight to their argument:

*"The Local Authority recognises that it is crucial for the full potential of the Shannon Estuary, one of Limerick's natural assets to be realised. It is important to encourage existing and new industries around the Estuary to spread the economic impact of these throughout Limerick, generating local employment and providing a more diverse employment base"*

The following passage is not mentioned under Section 5.11 of the CDP, yet it is presented as though it is a direct quote from the CDP.

Regardless of this, the underpinned point to the quote included above and to any of the points brought forward by TPA, is essentially centred around the proposed application as being a good idea – our client completely disagree with this, and our client considers that the proposed application is not only the opposite of a good idea, but poses detrimental effects to the physical landscape, ecosystems and human health.

#### **Omission of cumulative impacts of AAL licences and procedures e.g. application for dredging and dumping licence.**

Our client recently submitted an objection to the EPA in relation to AAL's application for a dredging and dumping at sea<sup>5</sup>.

Our client is aware that AAL hold a dredging licence and note that the new application referred to contains proposals for different operations including different machinery, much larger quantities of

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<sup>5</sup> <https://epawebapp.epa.ie/terminalfour/DaS/DaS-view.jsp?regno=S0026-02>

dredging, longer periods of dredging, different areas for dredging, and for dumping at sea, whereas Aughinish does not currently have permission to dump near Foynes Island.

There is a requirement in our submission to cumulatively assess all aspects of AAL's operations including its existing Bauxite production, and the activities which support that which includes its Dumping at Sea operations. The EIAR fails to address the same, and accordingly we submit that no proper EIA can be conducted.

#### **Conclusion**

Our Client remains unconvinced by the additional information supplied by TPA and maintains that the proposed BRDA and salt cake disposal area application should be refused by the Board for all of the aforementioned reasons.

Yours faithfully



**FP LOGUE**