

Our Case Number: ABP-318802-24



An
Coimisiún
Pleanála

Cork Environmental Alliance
c/o Dunsherkin,
Myrtleville,
Crosshaven,
Co. Cork

Date: 16 December 2025

Re: Proposed development of a resource recovery centre (including waste-to-energy facility)
in Ringaskiddy, County Cork.

Dear Sir / Madam,

An Coimisiún Pleanála has received your recent submission in relation to the above mentioned proposed development and will take it into consideration in its determination of the matter. Please accept this letter as a receipt for the fee of €50 that you have paid.

The Commission will revert to you in due course with regard to the matter.

Please be advised that copies of all submissions / observations received in relation to the application will be made available for public inspection at the offices of the local authority and at the offices of An Coimisiún Pleanála when they have been processed by the Commission.

More detailed information in relation to strategic infrastructure development can be viewed on the Commission's website: www.pleanala.ie.

If you have any queries in the meantime please contact the undersigned officer of the Commission. Please quote the above mentioned An Coimisiún Pleanála reference number in any correspondence or telephone contact with the Commission.

Yours faithfully,

Kevin McGettigan
Executive Officer
Direct Line: 01-8737263

PA04

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LDG-	_____
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11 NOV 2025	
Fee: €	_____ Type: _____
Time: 9.15	By: reg post

*An Coimisiun Pleanala
64 Marlborough St
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Nov 10th 2025*

Re: your ref - Case Number ABP - 318802-24

Proposed Development of a resource recovery centre (including waste to energy facility) in Ringaskiddy, Co Cork

NO FEES APPLY

Sir/Madam,

I refer to your letter re the above of Sept 25th last and attachments.

At the outset it is important to make the observation that this further consideration by An Coimisiun Pleanala of the above application – Case Number ABP 318802-24 – is, by order of the High Court, a resumption of consideration of planning application PL04.PA0045. This is not a new planning application.

To recap, it was a finding of the High Court that An Bord Pleanala's decision of May 30th 2018 was quashed by the court as it was affected by 'Objective Bias' on the part of An Bord Pleanala. This 'bias' arose through the involvement with the applicant of former Board member and Deputy chairman of An Board, Mr Conal Boland. Mr Boland had had a previous private professional involvement with the applicant.

Orders of the High Court issued on Oct 1st 2021 directed An Bord Pleanala to resume consideration of the application from the point where that consideration had reached on Oct 3rd 2017. On this date further information requested by the board was submitted by the applicant, information on which An Bord Pleanala failed to seek the views of third parties.

The High Court noted (but did not direct) that *the Board could exercise its power to hold a further Oral Hearing from that point and that third parties could take further proceedings if the Board (now An Coimisiun Pleanala) does not give proper consideration to doing so.*

We would therefore urge An Coimisiun to exercise that power and hold an Oral Hearing to ensure no party to this appeal is excluded from the process.

The value of the Oral Hearing was evidenced by the uncovering by third parties of ‘irregularities’ and sloppy recording methods by the applicant which resulted in ‘unreliable’ dioxin figures being presented to An Bord Pleanála. Because of this, among the other reasons identified by the courts, the communities of Cork Harbour are embroiled once again in this 24 year-long planning saga. That we are here is clearly not through any fault of our own, but simply because we pointed out errors in the dioxin figures presented by Indaver to An Bord Pleanála and An Bord Pleanála’s own failure to uncover the inaccuracies in those figures when it accepted the unreliable information presented by the planning applicant as accurate and reliable.

Predicted dioxin¹ deposition, and impacts on the Most At Risk Individual (MARI), are a vital part of overall public health protection systems. That the applicant and An Bord Pleanála have displayed such a cavalier attitude towards such an important facet of public health protection systems is lamentable.

Equality of Arms

Article 6 of the European Convention on Human Rights suggest that engagements such as this should be conducted in a spirit of fairness and that there should exist a measure of equality between the parties. The invaluable input by third parties was only possible because the Cork Harbour communities, and other communities beyond, fundraised tirelessly for many years to be in a position to engage a range of experts to examine and advise on all aspects of this proposal. We feel sure that An Coimisiún would agree that it would be entirely unreasonable and unfair to impose on the Cork Harbour communities once again the burden of fundraising the vast sums of money necessary to engage with some degree of equality with the other parties as this appeal continues.

As a consequence of the above we believe it is the responsibility of An Coimisiún Pleanála to underwrite the costs of all third parties to the resumption of this planning appeal process. We would urge An Coimisiún to commit publicly to doing so.

Trust

“I trust you Mr Daly, An Bord Pleanála and all of those who are in positions of power to do the right thing and to follow your conscience.”

Thirteen year old Cobh schoolgirl Abby MacAssey speaking in 2016 at the An Bord Pleanála oral hearing.

It goes without saying that the proper planning of society for the benefit of present and future generations is of equal concern and importance to all members of society. With this in mind it is clear that the planning system must never be viewed as the sole preserve of developers and other professional players in the planning industry. Planning officials appointed by the state are relied upon by members of the public to make judgements on planning matters in an objective, fair and open manner, respecting equally the involvement of all parties.

For such a system to work it is imperative that even the slightest suggestion of bias towards one party or the other must be meticulously avoided.

¹ Dioxins are a group of highly toxic chemical compounds that are harmful to health. They can cause problems with reproduction, development, and the immune system. They can also disrupt hormones and lead to cancer. There is no safe level of exposure to dioxins.

In the subject matter under discussion this clearly is not the case. Since the conclusion of the Oral Hearing on May 17th 2016, it has come to light that Mr John Connolly, who was appointed to the board of An Bord Pleanála in Sept 2017, was, up to the point of his appointment, actively lobbying An Bord Pleanála on behalf of Indaver.

Several attempts by Cork Environmental Alliance to establish the rationale of An Bord Pleanála's failure to recuse an acknowledged lobbyist for Indaver from involvement in a planning application by Indaver before the board were unsuccessful. Our letters to the then Chair of An Bord Pleanála, Dr Mary Kelly, and the relevant minister were simply ignored (see attachment 1).

Mr Connolly's involvement both as a lobbyist to An Bord Pleanála on behalf of Indaver and his possible involvement, as a board member of An Bord Pleanála, in adjudicating on an application for planning permission by Indaver is outlined as follows.

According to a report by Eoin English in the Irish Examiner (2nd June, 2018), a memo written by the Chairwoman of An Bord Pleanála, Dr Mary Kelly, showed she was satisfied that no members of the Board had a conflict of interest in relation to Indaver's proposed incinerator at Ringaskiddy. In fact, she went so far as to exclude two Board members to ensure that there could be no perception of a conflict of interest or of any form of bias.²

Board member John Connolly was not among those excluded by Dr. Kelly, the apparent implication being that she did not believe him to have either a genuine or perceived conflict of interest in relation to the case.

In 2012, the Secretary of An Bord Pleanála Chris Clarke, giving an example of a conflict of interest, described how a Board member would have to declare, and place on the register of interests, which is open to public inspection, if he discovered that his local residents association was making an appeal to the Board, even if there would not have been a beneficial interest. In such a case, Clarke said, the file would go through the building without the Board member seeing it.³

For the 14 years prior to his appointment to the Board in September 2017, Connolly had been a director of the Irish Waste Management Association (IWMA), a trade association and lobbying group that includes the applicant, Indaver.⁴

Connolly, who was appointed to the Board on the nomination of IBEC,⁵ had also been the Chairman of the Waste and Resource Management Working Group of an IBEC Committee that had written to An Bord Pleanála in March 2016, just weeks prior to the Oral Hearing, lobbying in favour of the Ringaskiddy incinerator.⁶

² See Irish Examiner (2nd June, 2018)

³ Discussion regarding conflict of interest here - <http://www.thejournal.ie/serial-planning-objector-appointed-to-an-bord-pleanala-421912-Apr2012/>

⁴ See Connolly bio here - <http://www.pleanala.ie/about/members.htm> and list of IWMA members here- <http://iwma.ie/about-us/list-of-iwma-members/>

⁵ See nominating body here - https://webcache.googleusercontent.com/search?q=cache:aPNkTEYo_VYJ:https://www.ho.using.gov.ie/sites/default/files/publications/files/boards_database_feb_2018_0.xlsx+&cd=3&hl=en&ct=clnk&gl=ie&client=safari

⁶ See Connolly on IBEC Environmental Policy Committee with John Ahern here (also letter to ABP lobbying on behalf of Indaver) -

Furthermore, the IBEC Committee in question, the Environmental Policy Committee, is chaired by none other than Indaver's Executive Chairman, John Ahern. Connolly remained on the Committee with Ahern until his appointment to the Board.⁷

Under An Bord Pleanála's code of conduct Connolly was bound to disclose relationships that are of relevance to the work of the Board. Since Dr Kelly stated that no board members had a conflict of interest it would appear to leave just two possibilities; either Connolly failed to disclose his involvement in lobbying for the development and his relationship with Executive Chairman of Indaver, John Ahern, or he did disclose same and Dr. Kelly failed to highlight the matter and address it as a conflict. This would make her memo a potential breach of the Board's Code of Conduct, which states that 'employees shall take care to ensure that all accounts, reports or statistics relating to the business of the Board are accurate and are not misleading'.⁸

Connolly recused himself from the case on the 3rd of May 2018,⁹ the day the Board met to decide whether to grant planning and over two years after the oral hearing had taken place.¹⁰ If it is the case that Connolly withheld his involvement in lobbying for the development and his relationship with John Ahern, there are serious questions to be answered as to why he did so.

An Bord Pleanála were aware of Connolly's work with the Irish Waste Management Association and his role within the Environmental Policy Committee as details of both are included on the Board's website.¹¹ The Board were obviously aware that they had been lobbied by the IBEC Committee in relation to the application. If Dr. Kelly, who was responsible for environmental policy during her time at IBEC,¹² was aware of the conflict and failed to exclude Connolly from the case, there are possibly even more concerning questions for An Bord Pleanála.

Given that Connolly was involved in attempts to influence the Board in relation to the proposed incinerator prior to his appointment, it is deeply disturbing that he was put in a position where he would have unfettered access to potentially continue lobbying for the development as a Board member. It is unclear to what extent Connolly had access to the case files but from the available records it is apparent that he, along with the other board members, was briefed on the case.¹³ Having any dealing with the case in any capacity would be a further breach of the Board's code of conduct.¹⁴

[http://www.ibec.ie/IBEC/DFB.nsf/vPages/Environment~Resources~environment-policy-committee-meeting-9-june-2016-03-05-2016/\\$file/EPC+Meeting+info+pack_9June2016_FINAL_03062016.pdf](http://www.ibec.ie/IBEC/DFB.nsf/vPages/Environment~Resources~environment-policy-committee-meeting-9-june-2016-03-05-2016/$file/EPC+Meeting+info+pack_9June2016_FINAL_03062016.pdf)

⁷ See Connolly on IBEC Environmental Policy Committee at time of appointment to ABP here - [https://merrionstreet.ie/en/News-Room/Releases/Minister Coveney announces five appointments to the Board of An Bord Pleanála.html](https://merrionstreet.ie/en/News-Room/Releases/Minister_Coveney_announces_five_appointments_to_the_Board_of_An_Bord_Pleanala.html)

⁸ ABP Code of Conduct here - <http://www.pleanala.ie/about/conduct.htm>

⁹ See Irish Examiner (2nd June, 2018) for details re recusing

¹⁰ See details of Board meetings here -

<http://www.pleanala.ie/documents/directions/PA0/SPA0045.pdf>

¹¹ See Connolly bio here - <http://www.pleanala.ie/about/members.htm>

¹² See Irish Examiner (26th July, 2003) for Dr. Kelly bio and here -

<http://www.pleanala.ie/about/members.htm>

¹³ See memo discussing previous cross-circulation of documents and summary of responses circulated to the Board here -

<http://www.pleanala.ie/documents/directions/PA0/SPA0045B.pdf>

¹⁴ See reference to section 15.2 in Eoghan Murphy's answer here -

<https://www.kildarestreet.com/wrans/?id=2018-06-12a.3603>

Note – The web links above are no longer publicly available on the An Bord Pleanala website – No doubt hard copies have been retained by An Bord/Coimisiun Pleanala as they play an intrinsic role in this live appeal.

However An Bord Pleanala’s Code of Conduct regulations remains available on An Coimisiun Pleanala’s website.

Until Mr Connolly’s involvement in this application is clarified a question mark will remain over the fairness of this entire process. Cork Environmental Alliance would welcome a statement from An Coimisiun Pleanala clarifying Mr Connolly’s position vis-à-vis this specific planning application. Perhaps an Oral Hearing could very well be the most appropriate venue for such a statement.

General comments

In the limited time allowed for examination of the further information supplied by the applicants only certain aspects of the ‘new’ EIS etc have been reviewed. These comments are not to be read as the only comments we wish to make but the only ones possible in the time frame granted to third parties to review and comment on approximately 4000 pages of new text and drawings.

Baseline receiving environment

As set out by the applicant in their revised EIS, there was the potential for changes in the baseline receiving environment since the compilation of the 2016 EIS (EIS, 2025, page 1.8). Profound changes have indeed occurred within the proposed redline development area, both to the east, where coastal erosion has taken place and to the west, where the M28 motorway is currently under construction within the development redline area.

In February 2023 ownership of over 5 hectares of the western portion of the subject lands were transferred to Cork County Council and significant ground reduction works, amounting to a cut of up to 11m deep, to allow for the construction of the M28 road, have taken place within this portion of the redline area of the proposed development site.

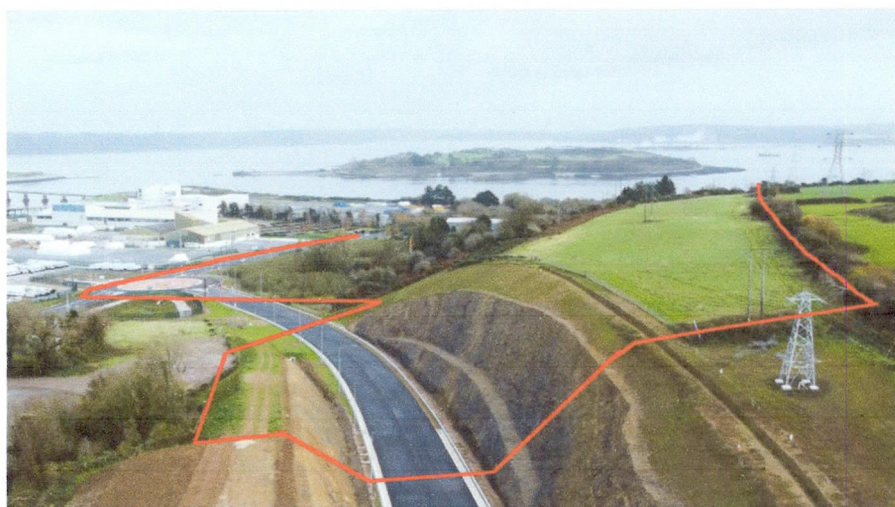


Plate 1 showing M28 cut through Eastern end of site

The applicants revised EIS noted the cut was through glacial till over mudstone/sandstone (EIS, 2025, page 13.73). The revised EIS further states that it is proposed to raise the existing ground levels in the western field to 4.55m OD and **that “this activity could induce instability in the M28 cut slope face”** (EIS, 2025, page 13.73).

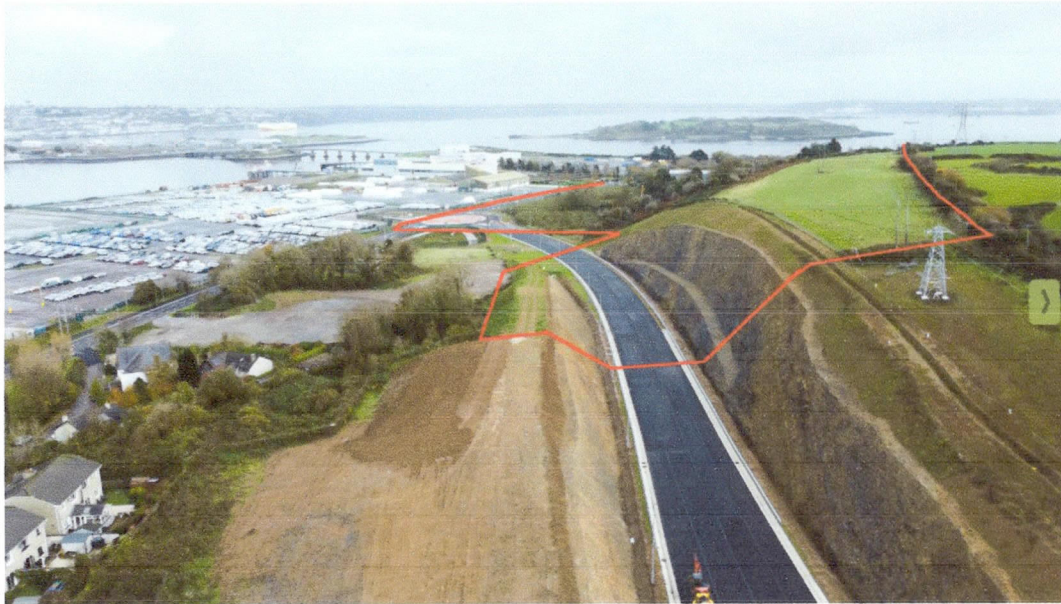


Plate 2 Showing M28 cut through the Eastern end of the site

The applicant have failed to provide revised plans or section drawings which show the proposed development as it relates to the M28 road which traverses within the development redline area and have failed to adequately address potential impacts upon the M28 cut during construction and operation of the proposed development. The applicant has therefore failed to adequately establish the very significant changes to the baseline receiving environment within the proposed development redline area.



Plate 3 Western end of M28 cut through the Eastern end of the site

In their letter of June 26th, 2025 (see appendix 1.3 of the revised EIS) Cork County Council confirmed it had no objection to the lands subject to CPO being included within the redline boundary for the remitted application. However, the Council stated that the lands were not available for private development with the exception of utility connections along the public road. As a result, the design of the scheme was altered at the northwest where a proposed fence line was redrawn and the access gate to the raised plateau within the western field amended.

Notwithstanding Cork County Council's letter and the redesign within this portion of the site, the proposed scheme, as shown in the revised drawings (see 'Proposed surface water drainage layout sheet 1 of 2' C-000-011), appears to encroach within the compulsorily Purchased lands where a 1m wide x 1m deep filter drain at the toe of the embankment is shown running outside the proposed fence line (which follows the line of the boundary of the lands in the ownership of Cork County Council) and the revised gate allowing access to the raised plateau appears to encroach marginally within the Compulsorily Purchased lands. Cork County Council have clearly stated they do not consent to these works within those Compulsorily Purchased lands.

Best Available Techniques

Existing waste treatment installations (i.e. first permitted before the publication of the BAT conclusions) have four years to comply with the new standards. New installations (i.e. first permitted after the publication of the BAT conclusions) need to comply immediately with the new requirements.¹⁵

The applicant acknowledge that they are required to adhere to best available techniques (BAT) under the Industrial Emissions Directive (Directive 2010/75/EC) and state that the recommendations of the Best Available Techniques Reference Document (BREF), published in November 2019, 'have been implemented throughout the design of the facility' (EIS, 2025, page 4.41).

For example, the applicant state that the flue gas treatment system 'has been designed to ensure compliance with [...] BAT reference document JRC118637 2019' (EIS, 2025, page 4.23). Given the proposed development (as originally submitted) was designed prior to their January 2016 planning application, it stands to reason there has been a significant redesign of the scheme in an attempt to allow for compliance with the 2019 BREF, this redesign necessitates a new planning application.

In their letter of response (dated August 29th, 2025) to ACPs RFI, the applicant state that the updated planning drawings submitted 'reflect minor refinements to the landscape design, an alternative electrical grid connection route, and an update to the public road design'. However, numerous significant operational differences are also noted between the scheme as proposed in 2016 and that detailed in the revised EIS of 2025.

These include the operating pressure and temperature of the steam boiler, the temperature of the flue gas leaving the boiler, the operating pressure and temperature within the superheater heat exchanger, the operating pressure and temperature of the turbine, the temperature of the

¹⁵ <https://www.ecos.ie/best-available-techniques-bat-new-standards/>

steam leaving the turbine, the electrical generation efficiency of the scheme, the temperature of the wet steam exiting the turbine, the volume of light fuel oil required to raise the temperature at start up, the volume of lime consumption, and the feeding rate from the aqueous waste tank, for example.

Furthermore, the design of the aqueous waste storage tank was proposed as double walled in 2016 and is proposed as single walled in 2025. The proposed fire suppression system has been redesigned with 300m³/h water cannons proposed in 2016 and 60m³/h water cannons proposed in the 2025 revised EIS. Further significant alterations to address potential flooding and erosion were also included in the 2025 EIS. Together, these alterations constitute a significant redesign which have not been afforded adequate scrutiny.

The applicant were at pains to point out that the project design submitted in 2016 was significantly changed from that submitted in 2008, with the footprint reduced from 14,000m² to 9,300m² (EIS, 2016, page 4). Given that the subject design is now over 10 years old, it follows that if a scheme were to be designed today, a similar revision would be necessary to allow for compliance with the BREF published in 2019.

Notwithstanding the significant changes to the proposed development between the 2016 application and the revised 2025 EIS, as outlined above, the constraints in terms of form and footprint of an out-of-date layout do not allow the proposed development to comply with BAT guidelines as published since the original scheme was proposed.

Fire

In spite of any guarantees the applicant may give vis a vis safety precautions which will be employed to prevent as far as possible accidents occurring on-site, the applicant is clearly not in a position to give any such assurances as regards operations in the Hammond Lane facility, which is situated at the very centre of the proposed site (Plate 4). The attached photographs show a fire at that site on Dec 22nd 2012 (see Plates 5 & 6). Such a fire would. likely have very serious repercussions should it occur at the very centre of this incinerator site.



Plate 4 showing Hammond Lane works centre of the proposed facility



Plate 5 View of fire within the Hammond Land facility in December 2012



Plate 6 View of fire within the Hammond Land facility in December 2012

Wastes arising and disposal routes

Of the 240,000 tonnes of waste to be incinerated per annum at the proposed Indaver facility, 65,000 tonnes (27% of total waste input), will remain to be disposed of as ash. Of this 65,000 tonnes, 11,300 tonnes (17.3%), will consist of intractable waste consisting of boiler ash and flue gas cleaning residues. This portion will be in the form of particulate matter and will contain heavy metals and unknown products of incomplete combustion (PICs). Of necessity this will require to be disposed of to a hazardous waste holding facility. A disused salt mine in Northern Ireland as well as disused underground salt mines in Germany are suggested as acceptable 'disposal' sites for the 11,300 tonnes of hazardous and toxic wastes to be produced by the Ringaskiddy facility.

Therefore, it follows that of the 240,000 tonnes of waste 'treated' at the Ringaskiddy facility 175,000 tonnes will exit the stack in the form of carbon dioxide, water, and particulate matter with a strong chemical bonding to heavy metals, dioxins, furans, Pcb's, PAHs etc. All pose a serious public health risk

The applicant does not appear to have supplied a design Destruction and Removal Efficiency (DRE) output rating for the proposed incinerator. Therefore, it is not possible to quantify with any degree of accuracy the composite parts of emissions exiting the stack.

We would point out that a DRE of 99.9999% would still mean that 24 tonnes of products of incomplete combustion (PICs) would be emitted from the stack with no controls on where such emissions would ground. The majority of these PICs remain unidentified but of those that have been identified many have been characterised as highly detrimental to human health.

Based on the above it is obvious incineration does not absolve us of responsibility for dealing with waste. In fact, as a technology, it merely reduces to volumes of municipal waste by approximately 75% while creating significant hazardous residues requiring further treatment.



Plate 7 Aerial view towards the Incinerator site and the bridge across which 1000 naval personnel are expected to evacuate from Haulbowline Naval HQ



Plate 8 Aerial view towards the Naval College and the bridge across which 1000 naval personnel are expected to evacuate from Haulbowline Naval HQ

Evacuation plan

Indaver seem to be relying entirely on the infallibility of their on-site safety procedures to negate any eventuality at their facility which would require an emergency evacuation plan. This ‘Captain of the Titanic’ like confidence is further evidenced by the downgrading of their fire-fighting capabilities as outlined earlier. This misplaced confidence is foolish in the extreme and exhibits a complete disregard for the protection of public health and safety in relation to the operation of the proposed incinerator.

The photographs below show the only escape route available (across Haulbowline Bridge) for the 1000 plus personell at Naval HQ on Haulbowline Island in the event of an incident at the Indaver site (see Plates 3 & 4). The most basic understanding of evacuation procedures would insist that people are ***NEVER*** evacuated towards the incident they are fleeing, but this is exactly what Indaver suggested as a sensible option when questioned at the Oral Hearing in 2016.

Other incinerators

We note that the EIS supplied as further information to the original application makes no mention of the recently permitted merchant incinerators at the former Novartis site on the Western edge of Ringaskiddy village - a village which would be hedged in by commercial incinerators at both ends should this proposal go ahead.

The omission of the above from consideration in their EIS is a serious failure to establish the baseline conditions within the receiving environment and shows a complete disregard for a community which has been sacrificed on the altar of an ill-thought-out and piece-meal industrialisation policy for generations.

Conclusions

As noted above, Article 6 of the European Convention on Human Rights demands fairness and equality between parties in dispute. This includes a planning authority's duty to ensure a speedy process. Twenty five years in, the goal of a speedy planning process can hardly be said to have been achieved by An Bord Pleanala. There is no doubt the applicant bears much of the responsibility for dragging this planning saga out over a quarter of a century. Indaver have done this by lodging multiple planning applications for essentially the same facility and prolonging High Court actions (for which they were very publicly rebuked by the Court on one occasion). This tactic of dragging out the planning process in efforts to exhaust a poorly resourced community flies in the face of the requirement of Article 6 for a speedy and fair process.

To all intents and purposes It could reasonably be argued that we are now effectively grinding our way through a fourth planning application, an application which, no doubt, would have been lodged by the applicant if the current zoning of the site did not prevent such an application being successful.

An Bord Pleanala also dragged it heels by deferring a decision on the 2016 Oral Hearing no less than seven times over the period from July 12th 2016 (when a decision was due to be announced) right up to the 30th May 2018 when a decision to grant planning was announced.

Over the course of the past twenty-five years there have been three Oral Hearings of objections to an incinerator being permitted at this site. On each occasion such objections have been upheld by An Bord's Inspectors citing multiple grounds for refusal of planning. Common to all three recommended refusals over that twenty-five years has been the unsuitability of the site, situated as it is in a cul de sac, subject to coastal erosion, subject to severe weather inversions, in close proximity to educational facilities and impacting on operations at Naval HQ on Haulbowline Island.

Why on Earth An Board Pleanala chose to continually overrule the recommendations of their own appointed planning experts remains a mystery.

However, the people of Cork Harbour, well versed as we are in the intricacies of this planning marathon, live daily with the many unanswered questions around this and general planning matters. Questions such as why the unfettered appointment and involvement of an Indaver lobbyist to the board that was then in the act of deciding this matter; or the Indaver project manager ascending to the Director General ship of the EPA; the 'lottery money' inducements¹⁶ being waived about the harbour like snuff at a wake; the conviction of former Vice Chair of An Bord Pleanala; and the very disbandment of An Bord Pleanala itself following on from some very questionable practices.


We would suggest this application presents a golden opportunity for An Coimisiun to begin to restore public confidence in Ireland's planning laws and regulations. We don't expect favour from our planning system but we do expect equity and fairness.

¹⁶ <https://afloat.ie/port-news/cork-harbour-news/item/69345-cork-harbour-community-opposes-indaver-incinerator-plan>

This planning application was made circa 10 years ago and numerous local, national and EU policies, objectives and laws have come into force in the intervening period. The proposed scheme could not have taken these into consideration when designed, prior to the planning application of January 2016. The breach of Article 6 of the European Convention on Human Rights in relation to the right to a speedy process, the obsolete design of the proposed development, and its non-adherence to regulatory changes in the intervening years means the proposed development should be refused.

I remain

Yours sincerely

A handwritten signature in blue ink, appearing to be 'Derry Chambers', written over a horizontal line.

Derry Chambers
(on behalf of Cork Environmental Alliance)

*Correspondence concerning the Involvement of former Indaver Lobbyist
Mr John Connolly*

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Dr Mary Kelly
Chairperson
An Bord Pleanála
64 Marlborough Street
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26th June 2018

Strategic Infrastructure Development Application to An Bord Pleanála Reg. no.
PL04.PA0045 - Proposed municipal and hazardous waste incinerator at Ringaskiddy,
Co. Cork

Dear Dr Kelly,

We are writing to you in relation to procedural matters arising following An Bord Pleanála's recent decision to grant planning permission for the above referenced development.

We note Eoghan Murphy TD's (Minister for Housing, Planning and Local Government) written reply to a question by Seamus McGrath TD in Dáil Eireann on the 12th June this year regarding the implications for a situation where conflict of interest and the decision making powers of An Bord Pleanála board members arise. The Minister's reply is as follows...

"An Bord Pleanála operates under a Code of Conduct as required by section 150 of the Planning and Development Act 2000, one of the purposes of which is to ensure that any conflicts of interest relating to it's statutory functions are dealt with in an appropriate manner...."

Section 13 of the code outlines the procedures for dealing with conflicts of interest in the context of Board meetings, where appeals and other planning cases are determined. Section 15 of the Code specifically requires that a Board member shall not deal with any case in any capacity on behalf of the Board where the member had any involvement at any time in the matter, either on a personal basis or on behalf of a previous employer or as a member of any other organisation or voluntary body.

Furthermore, section 15.4 requires that a Board member shall not knowingly deal with a file relating to a planning authority or a private practice where he or she was previously during the

previous 2-year period or any voluntary or professional organisation of which the person is or was a member during the previous 2-year period."

We further note the reported comments in 2012 of the Secretary of An Bord Pleanála, Chris Clarke, giving an example of a conflict of interest, described how a Board member **"would have to declare, and place on the register of interests, which is open to public inspection, if he discovered that his local residential association was making an appeal to the Board, even if there would not have been a beneficial interest."** In such a case, Clarke said, **"the file would go through the building without the Board member seeing it."** (The Journal.ie Apr 23rd 2012)

Bearing the above in mind we believe it was unfortunate, but proper, that Board member, Mr Philip Jones, a professional planner of long standing was, because of his involvement as chair of the Board's Oral Hearing almost two decades previously, excluded by you Dr Kelly, from playing any role in the Board's deliberations which ultimately led to the Board making the decision to grant planning permission to the the development under discussion. It appears from media reports, that another Board member and professional planner Mr Paul Hyde was excluded by you on what seems the rather tenuous grounds that 'he was from Cork!'

However, your decision not to exclude Board member Mr John Connolly in this instance we find inexplicable.

Mr Connolly, who, as you are aware, was appointed to the Board on the nomination of IBEC, had also been the Chairman of the Waste and Resource Management Working Group of an IBEC Committee that had written to An Bord Pleanála in March 2016, just weeks prior to the Oral Hearing of objections to this development, lobbying in favour of the Ringaskiddy incinerator.

Furthermore, the IBEC Committee in question, the Environmental Policy Committee, is chaired by the applicants Executive Chairman, John Ahern. Mr Connolly remained on the Committee with Indaver's Mr Ahern until his appointment to the Board.

Under An Bord Pleanála's code of conduct Mr Connolly was bound to disclose relationships that are of relevance to the work of the Board. Since you, Dr Kelly, stated that no board members had a conflict of interest it would appear to leave just two possibilities, either Mr Connolly failed to disclose his involvement in lobbying for the development up to the time of his appointment to the Board and his relationship with Executive Chairman of Indaver, John Ahern, or he did disclose and you failed to highlight the matter and address it as a conflict of interest. This would make your memo as reported, wherein you state that you are satisfied that no member of the Board had a conflict of interest, a potential breach of the Board's Code of Conduct, which states that **'employees shall take care to ensure that all accounts, reports or statistics relating to the business of the Board are accurate and are not misleading'**.

Mr Connolly recused himself from the case on the 3rd of May 2018, the day the Board met to the decide whether to grant planning and over two years after the oral hearing had taken place. If it is the case that Mr Connolly withheld his involvement in lobbying for the development and his relationship with the applicant's MD, John Ahern, there are serious questions to be answered as to why he did so.

An Bord Pleanála were aware of Mr Connolly's work with the Irish Waste Management Association and his role within the Environmental Policy Committee as details of both are included on the Board's website. The Board were obviously aware that they had been lobbied by the IBEC Committee in

relation to the application. If you were aware of the conflict and failed to exclude Mr Connolly from the case, there are possibly even more concerning questions for An Bord Pleanala.

Given that Mr Connolly was involved in attempts to influence the Board in relation to the proposed incinerator immediately prior to taking up his post with An Bord Pleanala, it is deeply disturbing that he was put in a position where he would have unfettered access to (potentially) continue lobbying for the development as a Board member. It is unclear to what extent Mr Connolly had access to the case files but from the available records it is apparent that he, along with the other board members, was briefed on the case. Having any dealing with the case in any capacity would be a further breach of the Board's code of conduct.

Perhaps there is an innocent explanation as to why you failed to exclude Mr Connolly as you did Mr Jones and Mr Hyde but if there is we have failed to identify it.

We would be obliged if you would address as soon as possible the concerns we have raised in this letter.

Yours sincerely,

Derry Chambers

(on behalf of Cork Environmental Alliance)

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July 4th 2018

*Strategic Infrastructure Development Application to An Bord Pleanála Reg. no. PL04.PA0045 -
Proposed municipal and hazardous waste incinerator at Ringaskiddy, Co. Cork*

Tánaiste,

We write to you in relation to the above.

We note your many public statements over the years outlining your opposition to the above proposed development. We are also conscious that you recently hosted a very successful event in Crosshaven to raise funds for a potential legal challenge - possibly being mounted by CHASE to the incinerator proposal at Ringaskiddy.

However, we are aware that in your former role, as Minister for Housing, Planning, Community and Local Government, you appointed Mr John Connolly to the board of An Bord Pleanála on the 13th June 2017 announcing at that time that Mr Connolly would take up duties on Sept 18th 2017.

Given that Mr Connolly was, at the very time of his appointment by you to An Bord Pleanála, part of a group (which included Indaver MD, Mr John Ahern) actively lobbying An

Bord Pleanála on behalf of Indaver^[1] we are having some difficulty reconciling your publicly stated opposition to the Incinerator project with your action in appointing a lobbyist for Indaver to the very agency which holds the statutory power to grant permission for this incinerator project to go ahead.

We would welcome a clarification of your position,

Yours sincerely,

Derry Chambers
(on behalf of Cork Environmental Alliance)

[1] According to a report by Eoin English in the Irish Examiner (2nd June), a memo written by the Chairwoman of An Bord Pleanála, Dr. Mary Kelly, shows she was satisfied that no members of the Board had a conflict of interest in relation to Indaver's proposed incinerator at Ringaskiddy. In fact, she went so far as to exclude two Board members to ensure that there could be no perception of a conflict of interest or of any form of bias.

Board member John Connolly was not among those excluded by Dr. Kelly, the apparent implication being that she did not believe him to have either a genuine or perceived conflict of interest in relation to the case.

For the 14 years prior to his appointment to the Board in September 2017, Connolly had been a director of the Irish Waste Management Association, a trade association and lobbying group that includes the applicant, Indaver.

Mr Connolly, who was appointed to the Board on the nomination of IBEC, had also been the Chairman of a Working Group and a member of an IBEC Committee that had written to An Bord Pleanála in February 2016, just weeks prior to the Oral Hearing, lobbying in favour of the Ringaskiddy incinerator.

Furthermore, the IBEC Committee in question, the Environmental Policy Committee, is chaired by none other than Indaver's Executive Chairman, John Ahern. Mr Connolly remained on the Committee with Mr Ahern until his appointment to the Board.

Under An Bord Pleanála's code of conduct Mr Connolly was bound to disclose relationships that 'are of relevance to the work of the Board'. Since Dr. Kelly stated that no board members had a conflict of interest it would appear to leave just two possibilities. It seems that either Mr Connolly failed to disclose his involvement in lobbying for the development

and his relationship with Executive Chairman of Indaver, John Ahern, or he did disclose and Dr. Kelly failed to highlight the matter and address it as a conflict. This would make her memo a potential breach of the Board's Code of Conduct, which states that 'employees shall take care to ensure that all accounts, reports or statistics relating to the business of the Board are accurate and are not misleading'.

Mr Connolly recuse himself from the case on the 3rd of May 2018, the day the Board met to decide to grant/not grant planning and over two years after the oral hearing had taken place. If it is the case that Mr Connolly withheld his involvement in lobbying for the development and his relationship with John Ahern, there are serious questions to be answered as to why he did so.

An Bord Pleanála were aware of Mr Connolly's work with the Irish Waste Management Association and his role within the Environmental Policy Committee as details of both are included on the Board's website. The Board were obviously aware that they had been lobbied by the IBEC Committee in relation to the application. If Dr. Kelly, who established and headed Environmental Policy during her time at IBEC, was aware of the conflict and failed to exclude Mr Connolly from the case, there are possibly even more concerning questions for An Bord Pleanála.

Given that Mr Connolly was involved in attempts to influence the Board in relation to the proposed incinerator prior to his appointment, it is deeply disturbing that he was put in a position where he would have unfettered access to potentially continue lobbying for the development as a Board member.

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**Mr Dave Walsh
Chairperson
An Bord Pleanála
64 Marlborough Street
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June 13th 2022

**Strategic Infrastructure Development Application to An Bord Pleanála Reg. no.
PL04.PA0045 - Proposed municipal and hazardous waste incinerator at Ringaskiddy,
Co. Cork**

Dear Mr Walsh,

We wrote to you in October of 2018 re concerns we had raised with your predecessor, Dr Mary Kelly, regarding matters arising from the granting of the above planning permit. Despite follow up letters to Dr Kelly and to you yourself, An Bord Pleanála has failed to respond to, or acknowledge in any way, our inquiries.

In light of recent events surrounding possible conflicts of interest involving some board members of An Bord Pleanála we would hope that you might now address the issues raised in our original letter dated 26th June 2018 and reminders (copies attached).

We look forward to your response,

Yours sincerely

Derry Chambers

(on behalf of Cork Environmental Alliance)