

Observation on EIS in relation to the applicant's failure to engage meaningfully with the public in the SID for the proposed development by Indaver NV trading as Indaver Ireland for a Resource Recovery Centre (including a waste - to - energy facility) at Ringaskiddy

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Observation on Environmental Impact Statement (EIS) – engage meaningfully with the public

This observation focuses specifically on the applicant's failure to engage meaningfully and early with the public, as required under EU policy and transposed Irish legislation. This deficiency undermines the democratic integrity of the planning process, disenfranchises local communities already burdened by industrial development in this sensitive harbour area.

The impacts of this facility—emissions, traffic, noise, and odour—extend far beyond Ringaskiddy, affecting a wider area including Cobh, Carrigaline, Passage West, Monkstown, Aghada, and the broader Cork Harbour environs. Residents in these communities, schools, fisheries, and recreational users of the harbour deserve a genuine voice in decisions that could alter their air quality, health, and livelihoods. Instead, Indaver's approach has been perfunctory—limited to statutory notifications and written submissions—without proactive, accessible dialogue that builds understanding and addresses concerns. This contravenes the spirit and letter of EU public participation mandates, which emphasise "early and effective" involvement to inform and influence outcomes.

1. Legal Framework: EU and Irish Obligations for Robust Public Engagement

The proposal, as a major waste infrastructure project requiring an EIA, triggers mandatory public participation under the following instruments, all applicable as of 2025:

EU Level:

EIA Directive (2011/92/EU, as amended by Directive 2014/52/EU): Article 6 requires "early and effective public participation" in the EIA process, including timely access to information, opportunities for informed comments, and consideration of public input before decisions. The 2014 amendments strengthened this by mandating consultation on screening/scoping and ensuring "reasonable timeframes" for responses (transposed in Ireland via S.I. No. 296/2018 – European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018).

Public Participation Directive (2003/35/EC): Transposing the Aarhus Convention (1998) on access to information, public participation in environmental decision-making, and access to justice. Article 6 mandates broad, inclusive engagement for projects with significant environmental effects, including non-statutory bodies and the public concerned (e.g., local residents, environmental NGOs, and community groups). This applies to all EIA-screened developments, emphasizing "transparency and dialogue" to avoid tokenism.

Irish Level:

Planning and Development Act 2000 (as amended), Sections 129-131: Requires planning authorities and applicants to facilitate public consultation in EIAs, including newspaper notices, site notices, and submission periods. For strategic infrastructure like this (Section 182), An Coimisiún Pleanála must ensure "*effective consultation*" **beyond minimums**.

S.I. No. 352/2010 – European Communities (Public Participation) Regulations 2010: Enforces Aarhus by requiring authorities to "*seek, and where appropriate take into account, the views of the public*" early in the process, with provisions for oral hearings if concerns warrant.

The Office of the Planning Regulator (OPR) and the Department of Housing, Local Government and Heritage have published a series of planning leaflets dealing with all aspects of the planning system. These leaflets were revised and updated in 2022 and cover a wide range of issues including how to prepare and lodge a planning application, how to make a planning appeal, requirements for change of use, building extensions, garages, domestic sheds, agricultural development, etc. The leaflets are available free of charge and the leaflets will be updated on a regular basis to take account of changes in legislation and policy.

Office of the Planning Regulator (OPR) Guidance (2022): Stresses proactive developer-led engagement (e.g., community forums, workshops) pre-lodgement to comply with EIA Directive, especially in cumulatively impacted areas like Ringaskiddy and its wider environs.

These laws **collectively demand more than passive receipt of objections**—they require active, two-way engagement to empower communities and refine proposals, particularly where transboundary effects (e.g., plume dispersion to Cobh or Aghada) affect multiple locales.

2. Indaver's Deficient Engagement Process

Indaver's public involvement has fallen short of these standards, appearing reactive and minimalistic, with no tailored outreach to the wider impact area:

Lack of Early and Inclusive Engagement: Pre-application consultations were confined to statutory bodies (e.g., ABP, Cork County Council, EPA) and a select list of "non-statutory bodies" (e.g., historical consultations in 2015-2016 with groups like Cork Harbour Alliance for a Safe Environment (CHASE), local Tidy Towns committees, and fishing associations in Passage West and Monkstown). However, objections from these non-statutory bodies—such as concerns over cumulative pollution and habitat disruption—were not meaningfully incorporated into subsequent iterations, merely acknowledged in reports without evidence of how they influenced design or mitigation. Simply writing to these bodies and listing them in the EIS creates a false impression of broad support or endorsement, when in fact their input was sidelined, breaching Aarhus' requirement for "*taking into account*" views (Article 6(3)). No equivalent early dialogue occurred for the 2025 process, leaving communities in Carrigaline, Aghada, and the harbour islands without proactive forums to shape scoping.

Inaccessible and Tokenistic Opportunities: While submissions were invited (e.g., post-August 2025 further information, closing November 17, 2025), these rely on written responses to a voluminous EIS (multiple volumes, technical jargon), without developer-hosted events for Q&A or simplified briefings in affected areas like Cobh town hall or Passage West community centre. This excludes non-experts, vulnerable groups (e.g., non-English speakers, elderly), and those without digital access, breaching Aarhus' inclusivity principle. No oral hearings have been proactively sought, despite S.I. No. 352/2010 allowing them for complex issues like cumulative pollution in a Natura 2000 site impacting Monkstown beaches or Aghada village.

Failure to Address Local Concerns Proactively Across the Wider Area: Historical opposition (e.g., 2016-2018 refusals/approvals, 2021 High Court quashing for procedural flaws) highlights distrust from past inadequate engagement, where non-statutory input from harbour user groups (e.g., sailing clubs in Monkstown, fisheries in Passage West) was documented but dismissed without transparent reasoning. The 2025 process repeats this: no tailored responses to cancer rate worries in Carrigaline or ecosystem fears in Aghada during pre-EIS phases, undermining "effective" participation under the EIA Directive. Merely notifying bodies without demonstrating how their feedback was integrated (e.g., via tracked changes or follow-up meetings) does not suffice—it

perpetuates a one-way process that ignores the interconnected impacts on the entire harbour catchment.

This approach risks decisions uninformed by community knowledge (e.g., on wind patterns amplifying emissions to Cobh or tidal influences on deposition in the harbour), perpetuating inequities in Ireland's "pollution hotspots" like Ringaskiddy and its surrounds.

3. Consequences and Precedents

Inadequate engagement violates EU law, as affirmed in ECJ cases (e.g., C-58/24, emphasizing Aarhus in EIAs) and Irish precedents (e.g., 2021 High Court in *Friends of the Curragh Environment v An Bord Pleanála*, quashing for Aarhus non-compliance). It erodes trust, delays projects via appeals, and exposes the Board to infraction proceedings under Article 258 TFEU, particularly where wider-area effects on places like Passage West, Cobh or Aghada are unaddressed.

Conclusion and Recommendations

Indaver's superficial engagement contravenes EU and Irish mandates for democratic, inclusive environmental governance, rendering the application procedurally flawed—especially given the proposal's reach into Cobh, Carrigaline, Passage West, Monkstown, Aghada, and the harbour.