



Cork County Development Plan 2014 **Section 31(8) Chief Executive's Report**

Draft Direction, Summaries, and Recommendations •

25th February 2015







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Section 1(a): Introduction

Overview of this Report

The purpose of this report is to summarise the views and recommendations of all those who made submissions during the public consultation on the draft Ministerial Direction and make recommendations in relation to the best manner in which to give effect to the draft direction.

The **Chief Executive's Report- "Draft Direction, Summaries, and Recommendations"** consists of the following:

Section 1(a) Introduction: Provides an introduction and overview of the report, describes the consultation that was undertaken during the Section 31 (7) consultation phase and details the legislative background and requirements for the report.

Section 1(b) Summary of the views of and recommendations made by all those who made a submission as follows;

1(b) (i) Summary of the views of any person who made a submission

1(b) (ii) Summary of the views of and recommendations made by elected members

1(b) (iii) Summary of the views of and recommendations made by the Regional Assembly

Section 1(c) Recommendations in relation to the best manner in which to give effect to the draft direction.

The Report also includes "Appendices" to the report as follows;

- Appendix A(i) Full list of submitters by Interested Parties (A-Z)
- Appendix A(ii) Full list of submitters by Unique Reference Number

Public Consultation

The public consultation stage on the Draft Ministerial Direction on the Cork County Development Plan 2014 took place from **Wednesday 14th January 2015 to Wednesday 28th January 2015 at 4pm.**

These public consultations were advertised through a number of media:

- An advertisement was placed in a number of Newspapers circulating locally;
- A notice was placed on the Cork County Council website;
- Prescribed authorities were notified;

A copy of the draft direction was available for inspection each working day, exclusive of public holidays, between the hours of **9.00 a.m. and 4.00 p.m. at the following locations:**

1. Planning Department, Floor 1, County Hall, Cork.
2. Planning Department, Norton House, Skibbereen, Co. Cork.
3. Cork County Council Divisional Office, Annabella, Mallow.
4. County Library and Branch Libraries during normal library opening hours—



5. Online at www.corkcoco.ie at all times.

In order to aid the public in accessing information and making a submission on the Draft Ministerial Direction on the Cork County Development Plan 2014 Cork County Council made an electronic copy available on the Cork County Development Plan 2014 webpage. The public notice and the draft ministerial direction were available to download. Submissions were invited from the public during the consultation period and could be made electronically (via the Co Council's Web-site/Cork County Development Plan web page) or sent via post.

A total of 15 submissions were received. A list of the persons and organisations that made submissions is included in Appendix A. One late submission was received after the public consultation period had ended and therefore was not taken into consideration in preparing this report.

Legal Background to the Chief Executive's Report

Section 31(8) of the Planning and Development Acts, as amended, requires that the Chief Executive no later than 4 weeks after the expiry of the public consultation period shall prepare a report on any submissions or observations received under subsection during that period which shall be furnished to the Minister and the elected members of the planning authority.

Section 31(9) states that the report referred to in subsection (8) shall—

- (a) Summarise the views of any person who made submissions or observations to the planning authority,
- (b) Summarise the views of and recommendations (if any) made by the elected members of the planning authority,
- (c) Summarise the views of and recommendations (if any) made by the regional assembly,
- (d) Make recommendations in relation to the best manner in which to give effect to the draft direction.

Section 31(10) states that the elected members of the planning authority may make a submission to the Minister in relation to the notice issued by him at any time up to the expiry of the period of time for public consultation.

Under the provisions of Section 31(8) of the Planning and Development Act, 2000, as amended, the Section 31(8) Chief Executive's Report shall be furnished to the Minister and the elected members of Cork County Council not later than **Wednesday 25th February 2015.**

Section 31(9)(d) states that report should " make recommendations in relation to the best manner in which to give effect to the draft direction"

Under Section 31(11)(a) the Minister will consider the report furnished under Section 31(8) and any submissions received under section 31(10) where he believes that no material amendment to the draft direction is required, or that further investigation is not necessary in order to clarify any aspect of the report or submissions, he may decide ,no later than 3 weeks after date of receipt of the report (**Wednesday 18th March 2015**) for stated reasons to issue the direction with or without minor amendments or not to issue the direction.

Under Section 31(17) the direction issued by the Minister is deemed to have immediate effect and its terms are considered to be incorporated into the plan, or, if appropriate, to constitute the plan. No variation of the County Development Plan will be required.



Section 1(b): Summary of the views of and recommendations made by all those who made a submission?

Section 1(b) (i) Summary of the views of any person who made a submission.

Unique Reference Number	Name of Interested Party	Summary of Submission
CDP2014S_3115/2014	Indaver Ireland Ltd	<ol style="list-style-type: none"> 1. Welcomes the draft Direction which recognises the requirement for the CDP to be consistent with Regional, National and European waste law and policy and competition law. 2. Any discrimination between two types of waste recovery technology within the same tier of the waste hierarchy may be unlawful for being distortive of competition in the waste treatment market in breach of EU and Irish competition law. 3. Cork County Council is under an obligation to ensure that it does not introduce any measure that is likely to distort competition. 4. Acknowledges that the Direction which revises the wording of Objective ZU 3-7 addresses this concern and removes any risk of unlawful discrimination or distortion to competition.
CDP2014S_3115/2015	Environmental Protection Agency	<ol style="list-style-type: none"> 1. Supports the suggested re-wording of Objective ZU 3-7 to ensure consistency with the Government Waste Policy Document (A Resource Opportunity-Waste Management Policy in Ireland) as directed by the Minister. 2. The Plan should fully conform to National Waste Management Policy and also be consistent with the Draft Regional Waste Management Plan for the Southern Region.
CDP2014S_3115/2016	Masson, Joan	<ol style="list-style-type: none"> 1. Opposes the draft Direction and disputes the Ministers right to disregard the democratic process. 2. Considers waste to energy developments to be one of the more dirty forms of energy which in turn generates its own waste which requires land filling.
CDP2014S_3115/2017	Cork Harbour Alliance for a Safe Environment	<ol style="list-style-type: none"> 1. The draft Direction is undemocratic and it totally challenges the principles of democracy, transparency and independence in the planning process. 2. Current zonings are appropriate and not in contravention of the Regional Waste Plans. 3. The draft Direction contravenes fairness in planning and imposes a burden on the community and is contrary to the Aarhus Convention. 4. The draft Direction is not in the interest of the "greater good" and the wording should not be changed to facilitate a private company. 5. The direction is contrary to national policy as it is not appropriate to promote one company's technology over another.



Unique Reference Number	Name of Interested Party	Summary of Submission
		<p>6. Draft direction is contrary to the Waste Management Guidelines, Ireland does not need a third incinerator and this change in wording would facilitate that.</p> <p>7. Wording of Objective ZU 3-7 is not contrary to nor undermines Government Policy and does not interfere with the Waste Management Plan.</p> <p>8. Minister should respect the decision taken by public representatives.</p>
CDP2014S_3115/2018	CHASE	<p>1. Submission is a supplement to the submission provided by CHASE.</p> <p>2. Council did not ignore or not take into account the Ministers letter dated the 26/2/14.</p> <p>3. Refers to Clarke J in the High Court in the Tristor case [2010] IEHC 397. The Minister has not set out any evidence grounding his conclusion in a manner that has regard to judicial review principles. His assertion that the Plan is not in compliance with Sections 9, 10 and 12 of the Principle Act, as amended, is made without being accompanied by reasons of the kind which those principles would require. Instead he makes a sweeping charge covering no fewer than three very substantial and very different sections of the Act with a notable lack of precision as to the nature of the several breaches alleged.</p> <p>4. Minister does not say how or in what manner Objective ZU 3-7 is inconsistent with Government Policy.</p> <p>5. The members of Cork County Council acting prudently and openly, adopted the Plan in compliance with the Planning Act.</p> <p>6. Draft Direction does not acknowledge the constitutionally protected role of local government under Art. 28A of Bunreacht na hEireann.</p> <p>7. Submits that the Minister has not shown that he has any proper legal basis for making the proposed Section 31 direction.</p> <p>8. Appropriate course for the Council is to maintain the integrity of its decision in relation to the making of the current CDP.</p>
CDP2014S_3115/2019	O'Brien, Henry	<p>This submission requests the zoning for housing of lands currently in the County Metropolitan Greenbelt. Submission does not relate to the issue under consideration in this process.</p>
CDP2014S_3115/2020	Fitzpatrick, Linda	<p>1. Concerned about the manner in which the issue was raised as the last item in the Council meeting to consider the CDP.</p> <p>2. Public consultation period of 2 weeks is too short for any meaningful consultation.</p> <p>3. Access to which vested interests appear to have to decision and policy making on this issue is disconcerting.</p>



Unique Reference Number	Name of Interested Party	Summary of Submission
		<p>4. Manner in which public representatives have their concerns overruled and the Minister's wishes imposed on them makes a farce of local representation.</p> <p>5. Requests an extension to the deadline to allow further consultation on the issue.</p>
CDP2014S_3115/2021	Cork Environmental Forum	<p>1. Concerned that the proposed change favours waste to energy which is not the preferred option as waste streams should be viewed as a valuable resource.</p> <p>2. Ireland is lagging behind in "rethinking waste" and projects modelled on social enterprise.</p> <p>3. Groups involved with CEF have expressed serious concerns about future plans for hazardous waste management.</p> <p>4. Changes proposed affect everyone and there should be proper public consultation with the public on matters which effect their environment, in particular as Ireland has ratified "UNECE Convention on Access to Information, Public Participation in Decision Making and Access to Justice in Environmental Matters"</p>
CDP2014S_3115/2022	O'Callaghan, Margaret and Brendan	<p>1. Objects to any change in the CDP which would make Cork Harbour available for Waste to Energy Processing.</p> <p>2. Does not want waste to energy in any shape of form.</p> <p>3. More leisure activity than ever in the Harbour including sailing, rowing and swimming. Also more liners than ever coming into Cobh and tourists visiting Spike Island.</p>
CDP2014S_3115/2023	Kackett, Susan and Corcoran, Kate	<p>1. Challenge the right of the Minister to interfere with elected members decisions made on behalf of local residents.</p> <p>2. Considers public consultation period a sham as Minister has already ordered a direction to change wording.</p> <p>3. Long involved in environmental campaigns to improve Cork Harbour and oppose contract incineration in Ringaskiddy.</p> <p>4. Things were beginning to look up with the National Maritime Institute, MERC, the Haulbowline clean-up, the liner traffic to Cobh and the proposed marina there, and the development of Spike Island and Camden as tourist attractions.</p> <p>5. Fail to see how proper planning and development can now allow for incineration to be part of the CDP.</p> <p>5. The site in Ringaskiddy was deemed unsuitable – climate change and emissions to the atmosphere etc.</p>
CDP2014S_3115/2024	Bowen, Mary & Ramsden, Christopher	<p>1. Oppose the proposed Directive because it is undemocratic as it does not reflect the wishes of the people of Cork in their Waste Management Policy.</p> <p>2. Replacement wording specifically favours incineration</p>



Unique Reference Number	Name of Interested Party	Summary of Submission
		<p>technology over others and would be anti-competitive.</p> <p>3. Draft Direction gives unfair advantage to incinerator developers, without affording proper consultation or debate with the public. The original wording in the CDP does not do this, allowing the people of Cork to have a role in saying where such facilities are acceptable.</p> <p>4. Original wording should be retained to ensure proper planning.</p> <p>5. Public must have a say in where these facilities are appropriately sited through input into the CDP. To remove this right is undemocratic and against the Aarhus Convention. Uphold this right and the role which the Strategic Infrastructural Act has greatly eroded.</p>
CDP2014S_3115/2026	Mason, Jessica	<p>1. Change in wording of CDP will encourage methods of waste management from lower in the waste hierarchy, as opposed to seeing waste as a potentially useful resource, or better still using creative solutions to reduce and eliminate waste at source.</p> <p>2. Need to change attitudes around waste to tackle these issues at source.</p> <p>3. Important that fair and democratic processes are adhered to.</p>
CDP2014S_3115/2027	Cargin, Rosie	<p>1. Waste to energy is not in accordance with the proper planning and development of any area.</p> <p>2. Minister should withdraw his direction as recent decisions show that incinerators are not acceptable for the following reasons; carbon cost is high, damage to health and farming from emissions, create a requirement for hazardous landfill facilities, curtail resource protection and employment opportunities.</p> <p>3. Minister should rethink his decision and take heed of the wise decision of the democratically elected councillors rather than partisan lobbying of incinerator companies.</p>
CDP2014S_3115/2028	Cargin, Rosie	As per Submission No. CDP2014S_3115/2027



Section 1(b) (ii) Summary of the views of and recommendations made by elected members.

Unique Reference Number	Name of Interested Party	Summary of Submission
CDP2014S_3115/2025	D'Alton, Cllr. Marcia	<p>1. Contravenes both Article 7 of the Aarhus Convention and Articles 11 and 12 of the 2000 Planning Acts.</p> <p>2. Plan is not in contravention of national waste policy. Purpose of Objective ZU 3-7 is not to restrict any kind of waste management type but to advise on where it should be sited. Plan supports national waste policy and identifies broad county level policies for guidance on siting waste management facilities. Plan does not prohibit energy recovery through incineration. The suggestion that ZU 3-7 as drafted runs counter to government policy indicates that the many other constructive references in the Plan to waste to energy were not considered.</p> <p>3. Draft Direction is in contravention of national waste policy. There are many technologies capable of being considered as large scale waste treatment facilities. Current ZU 3-7(c) Indicates that all large scale waste management facilities may be considered within Strategic Employment Areas. Minister whilst advising against determining in favour of one process over another then proceeds to request amendment which in effect does exactly that, contravening his own instructions. The amendment would favourably single out incineration with energy recovery over so many other technologies further up the waste hierarchy. Direction is anti-competitive and unsustainable.</p> <p>4. The public consultation procedure associated with Section 31 draft Direction is in contravention of Aarhus Convention. If Minister is intent on amending the CDP what is the purpose of public consultation other than to give lip service to a legislative requirement. At a minimum public participation requires effective notice, adequate information, proper procedures and appropriate taking account of the outcome of public participation, this processes fails on all these counts. Minister has made it quite clear that the opinion of the public is irrelevant in this case.</p> <p>5. Requests that the Chief Executive reflects on author's rejection of the draft Direction and Ministers failure to consider the CDP 2014 in its entirety. The amendment would introduce inconsistencies in the Plan, favour a recovery technology over a technology further up the waste hierarchy, disregards public</p>



		participation and shows a lack of faith in the executive and elected members of Cork County Council.
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Section 1(b) (iii) Summary of the views of and recommendations made by the Regional Assembly.

Unique Reference Number	Name of Interested Party	Summary of Submission
No Submission was received from the Southern and Eastern Regional Assembly		



Section 1(c) Recommendations in relation to the best manner in which to give effect to the draft Direction.

Having considered the submissions made, and the resolution and submission passed by Cork County Council in relation to the matter, should the Minister be of the view that no material amendment is required to the draft Direction, or that further investigation is not necessary in order to clarify any aspect of the report or submissions, it is recommended that the best manner in which to give effect to the draft Direction is for the Minister to issue the Direction.



Appendix A (i): Full list of submissions by Interested Party

Name of Interested Party	Unique Reference Number
Bowen, Mary & Ramsden, Christopher	CDP2014S_3115/2024
Cargin, Rosie	CDP2014S_3115/2027
Cargin, Rosie	CDP2014S_3115/2028
CHASE	CDP2014S_3115/2018
Cork Environmental Forum	CDP2014S_3115/2021
Cork Harbour Alliance for a Safe Environment	CDP2014S_3115/2017
D'Alton, Cllr. Marcia	CDP2014S_3115/2025
Environmental Protection Agency	CDP2014S_3115/2015
Fitzpatrick, Linda	CDP2014S_3115/2020
Indaver Ireland Ltd	CDP2014S_3115/2014
Kackett, Susan and Corcoran, Kate	CDP2014S_3115/2023
Mason, Jessica	CDP2014S_3115/2026
Masson, Joan	CDP2014S_3115/2016
O'Brien, Henry	CDP2014S_3115/2019
O'Callaghan, Margaret and Brendan	CDP2014S_3115/2022



Appendix A (ii): Full list of submissions by Unique Reference Number

Unique Reference Number	Name of Interested Party
CDP2014S_3115/2014	Indaver Ireland Ltd
CDP2014S_3115/2015	Environmental Protection Agency
CDP2014S_3115/2016	Masson, Joan
CDP2014S_3115/2017	Cork Harbour Alliance for a Safe Environment
CDP2014S_3115/2018	CHASE
CDP2014S_3115/2019	O'Brien, Henry
CDP2014S_3115/2020	Fitzpatrick, Linda
CDP2014S_3115/2021	Cork Environmental Forum
CDP2014S_3115/2022	O'Callaghan, Margaret and Brendan
CDP2014S_3115/2023	Kackett, Susan and Corcoran, Kate
CDP2014S_3115/2024	Bowen, Mary & Ramsden, Christopher
CDP2014S_3115/2025	D'Alton, Cllr. Marcia
CDP2014S_3115/2026	Mason, Jessica
CDP2014S_3115/2027	Cargin, Rosie
CDP2014S_3115/2028	Cargin, Rosie



