

HARRISON O'DOWD

S O L I C I T O R S

Estuary House, Henry Street, Limerick
Tel: 061-416444 Fax: 061-416600 E-mail: info@harrisonodowd.ie DX: 3040

An Bord Pleanala
64 Marlborough Street
Rotunda
Dublin 1 D91 V902

Date 27 April 2018

Your Ref

Our Ref BOD.pm
SHA002055

re: lands at Foynes, County Limerick
our client: Shannon Foynes Port Company

Dear Sirs

We act for Shannon Foynes Port Company of Harbour Office, Foynes, County Limerick who are submitting a planning application to you under Section 37E of the Planning and Development Act, 2000 (as amended) in respect of, inter alia, property at Foynes, Co Limerick owned by Irish Cement Limited the subject of the Harbours Act, 1996, as amended, (Compulsory Acquisition)(Shannon Foynes Port Company) Order, 2016 made by An Bord Pleanala on the 11th March 2016 under reference number 13.CQ3001 (*“the ABP Order”*), copy **attached**.

On the 19th April 2016, our client served a Notice of Entry on Irish Cement Limited pursuant to paragraphs 3 and 4 of the Fourth Schedule to the Harbours Act, 1996 (as amended). Arising from the service of this Notice of Entry, our client became entitled to go onto and take possession of the land the subject matter of the ABP Order (*“the Property”*) and became entitled to acquire title to the Property. Legal title to the Property has not yet been transferred to our client by reason of the fact that the value of the Property remains to be determined (and paid by our client). In this regard, our client and Irish Cement Limited are awaiting a determination of an Arbitrator appointed by agreement of the parties as to the value of the Property for the purposes of the acquisition thereof by our client. Pending this determination and the transfer of legal title to the Property into the name of our client, Irish Cement Limited, entered into an agreement with our client dated the 8th November 2016 in relation to various matters pertaining to the Property, the determination of the valuation thereof and various interim matters. This Agreement included, at clause 4.3 thereof, a consent by Irish Cement to our client *“making any application for planning permission and/or a Strategic Infrastructure Development to Limerick City and County Council and/or An Bord Pleanala in relation*

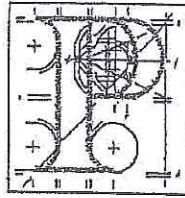
to all or any of the property after the date hereof". We **enclose** herewith a redacted copy of the said Agreement. Accordingly, we consider that our client has a sufficient legal interest in the Property to make the aforesaid application to you under Section 37E of the Planning and Development Act, 2000 (as amended).

Yours faithfully

A handwritten signature in black ink, appearing to read 'Harrison O'Dowd', written in a cursive style.

HARRISON O'DOWD
Solicitors

An Bord Pleanála



HARBOURS ACTS 1996 TO 2015

PLANNING AND DEVELOPMENT ACTS 2000 TO 2015

An Bord Pleanála Reference Number: 13.CQ3001

Limerick City and County Council

HARBOURS ACT, 1996 AND THE FOURTH SCHEDULE THERETO, AS AMENDED BY SECTION 7(3) OF THE HARBOURS AMENDMENT ACT 2009 AND THE PLANNING AND DEVELOPMENT ACTS 2000 TO 2015.

WHEREAS in pursuance of section 16 of the Harbours Act, 1996, as amended, Shannon Foynes Port Company made an application to An Bord Pleanála on the 30th day of September 2015 for an Order authorising the compulsory acquisition of 38.2 hectares of land at Durnish, Foynes, County Limerick.

AND WHEREAS An Bord Pleanála gave consideration to the following:

Having considered the objections made to the application for an acquisition order, the report of the person who conducted the oral hearing into the objections and having regard to the purposes of the compulsory acquisition as set out for the development described as follows:

Developing the said land as covered and uncovered storage areas to ensure the implementation of a scheme of development of the harbour of Shannon Foynes Port Company at the Port of Foynes, County Limerick, comprising the reclamation of lands behind the East Jetty and developing associated storage space granted permission under planning register reference number P12/212 issued by Limerick County Council and the joining of the East and West Jetty by constructing a suspended deck structure measuring circa 20 metres deep

by 120 metres long together with necessary revetment walls and jetty furniture and developing associated storage space at lands at Durnish, Foynes, County Limerick,

and having regard to

- (i) the provisions of the 2013 National Ports Policy;
- (ii) the provisions of the Mid-West Regional Planning Guidelines 2010-2022;
- (iii) the provisions of the current Limerick County Development Plan 2010-2016;
- (iv) the provisions of the Strategic Integrated Framework Plan for the Shannon Estuary 2013-2020;
- (v) the objectives and general duties of a Company under the Harbours Acts as set out in sections 11 and 12 of the Harbours Act 1996 to 2015;
- (vi) the scheme of development and maps, plans and book of reference accompanying the application as submitted by the Shannon Foynes Port Company, and
- (vii) the report and recommendation of the Inspector

AND WHEREAS An Bord Pleanála considered that the acquisition of the lands in question by the Shannon Foynes Port Company, as set out in the signed and sealed map entitled Job Number 15043 dated 24th day of September 2015 Revision Number 1 Drawing Title Irish Cement Lands to be Acquired, is necessary for the purpose of ensuring the implementation of the scheme of development of its harbour and without which its implementation would prove impracticable without the lands concerned being included in the scheme, and the objections cannot be sustained having regard to this necessity

NOW THEREFORE in exercise of the powers conferred on it by section 16 of the Harbours Act, 1996, as amended, and the Fourth Schedule thereto and by the Planning and Development Act 2000 to 2015, An Bord Pleanála has decided to make an order authorising the acquisition of land to which the application relates under the Harbours Act 1996, as amended, subject to the modifications set out in the Schedule hereunder.

This Order may be cited as the Harbours Act 1996, as amended, (Compulsory Acquisition) (Shannon Foynes Port Company) Order 2016.

SCHEDULE

All lands referenced on Drawing entitled Job Number 15043 dated 24/09/15 Revision Number 1 Drawing Title Limerick County Council Lands to be Acquired being lands within the ownership of Limerick City and County Council shall be omitted entirely from the acquisition and shall not form any part of this Acquisition Order.

Reason: To reflect the Shannon Foynes Port Company request made at the oral hearing held on the 16th day of December 2015 to consider this application to have such lands omitted from the application for acquisition.



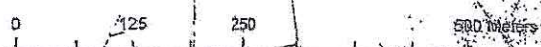
Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.



Dated this 11th day of March 2016.



Member of An Bord Pleanála
 duly authorised to authenticate
 the seal of the Board.

Dated this 11th day of March 2015.



Legend  Land to be Acquired from Irish Cement	Project Title: GFPO EPC Application	Job Number: 15043	
	Drawing Title: Irish Cement Lands to be Acquired	Date: 24/09/2015	
	Drawn By: KG	Scale: 1:5,000	

RECORD NO.: 2016/273JR

THE HIGH COURT
COMMERCIAL

IN THE MATTER OF AN APPLICATION PURSUANT TO SECTION 50 OF THE
PLANNING AND DEVELOPMENT ACT, 2000

BETWEEN

IRISH CEMENT LIMITED

APPLICANT

AND

AN BORD PLEANÁLA

RESPONDENT

AND

SHANNON FOYNES PORT COMPANY

NOTICE PARTY

SETTLEMENT AGREEMENT

1. DEFINITIONS

1.1 In this Agreement, the following terms shall have the following meanings:

"Acquisition Order" : The Order made by An Bord Pleanála dated the 11th of March 2016,

"Arbitrator" : means Mr Barry Smyth of de Vere White Smyth of Dublin 2 or, in the event that, for any reason, he shall relinquish his appointment or die, or if it shall become apparent that for any reason he shall be unable or shall have become unfit or unsuited (whether because of bias or otherwise) to complete his duties, or if he shall be removed from office by court order then such independent Chartered Surveyor having not less than 10 years experience in Compulsory Purchase Order arbitrations as shall, in default of agreement in writing between ICL and SFPC within 28 days, be nominated, on the application of ICL or SFPC, by the President of the Society of Chartered Surveyors Ireland.

"ICL" : means Irish Cement Limited.

"Notice of Entry" - the Notice of Entry on to the Property dated the 19th day of April 2016 served by SFPC on ICL pursuant to paragraphs 3 and 4 of the Fourth Schedule to the Harbours Act, 1996 (as amended).

"the Property" : that part of the property at Foynes, Co Limerick the subject of the Acquisition Order.

"Settlement Agreement" : means the interim Agreement entered into by SFPC and ICL on or about the 11th day of June 2016 in this matter.

"SFPC" : Shannon Foynes Port Company.

2. PROCEEDINGS

- 2.1 The Proceedings shall be struck out with each party bearing their own costs save that the costs of An Bord Pleanala are to be borne in equal shares by ICL and SFPC, same to be taxed in default of agreement.
- 2.2 SFPC shall be entitled to the benefit of all of the statutory provisions applicable to an acquisition under section 16 of the Harbours Acts, 1996 to 2015 in relation to the Property (including pursuant to the Acquisition Order) SAVE THAT SFPC agrees that the amount of the price to be paid by SFPC to ICL for the Property shall be determined by the Arbitrator (and not by the state property arbitrator).
- 2.3 ICL shall not raise any objection to any application by SFPC for an order pursuant to paragraph 7 of the Fourth Schedule of the Harbours Act, 1996 (as amended) in respect of all or any portion of the Property and hereby consents to any Vesting Order made on foot of such application.

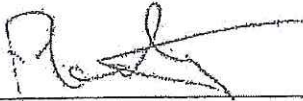
2.4 SFPC shall be deemed to have entered on and taken possession of the Property pursuant to the Notice of Entry and pursuant to the Acquisition Order for the purposes of paragraph 3 of the Fourth Schedule of the Harbours Act, 1996, as amended, on the 1st day of June, 2016.

4. GENERAL


4.3 ICL hereby consents to SFPC making any application for planning permission and/or a Strategic Infrastructure Development to Limerick City and County Council and/or An Bord Pleanála in relation to all or any of the Property after the date hereof.

Dated this 8th day of November 2016

SIGNED for and on behalf of
SFPC :


Duly authorized signatory

SIGNED for and on behalf of
ICL :


Duly authorized signatory
FINANCE DIRECTOR