

By email only: [requests@righttoknow.ie](mailto:requests@righttoknow.ie)

**07/06/2023**

**RE: European Communities (Access to Information on the Environment) (“AIE”) Regulations 2007, as amended.**

**Our Ref: AIE Request 20230115**

**Your Ref: AIE: Coillte Board Minutes**

Dear Mr A. Glover,

I write to you on behalf of Coillte, having conducted the internal review requested by you on 11/05/2023, per your entitlement under Article 11 of the European Communities (Access to Information on the Environment) Regulations 2007 to 2018 (S.I. No. 133 of 2007, S.I. No. 662 of 2011, S.I. 615 of 2014 and S.I. No. 309 of 2018) (the “**AIE Regulations**”). This internal review request relates to an original AIE Request received from you on 11/04/2023 (“**the Request**”).

In line with Article 11(2) of the AIE Regulations, I confirm that I am unconnected with the original decision dated 10/05/2023 (“**the Decision**”), and I am more senior than the original decision maker Mr. Nicholas Egan.

Having re-examined both the Request and the Decision, I have decided that the Decision should be **affirmed**. The basis of this conclusion is set out hereunder.

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## The Request

The Request sought disclosure pursuant to the AIE Regulations as follows: -

*“Under the AIE Regs to request the following in relation to meetings of the Coillte Board for the Years 2020, 2021, 2022 and 2023 YTD*

*1) Agenda/minutes of the Board*

*2) Copies of presentations, analysis, reports or other written records provided to the Board in relation to Board meeting agendas (i.e. where records are noted in agenda/minutes, please consider these records within scope of the AIE)*

*For the purposes of this AIE, please consider active disclosure, via publication on Coillte website or gov.ie.”*

## First Decision

Access to this information was refused in the Decision, on the basis that the volume of records captured by the Request rendered it manifestly unreasonable. Article 9(2) of the AIE Regulations was cited in this regard. The Decision notes a previous invitation from Coillte for engagement so that the request could be refined in the interest of avoiding a full refusal. Coillte notes that you have not engaged with this invitation.

## Request for an Internal Review

Your request for an internal review, was as follows:

*“Please pass for internal review.”*

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## The Internal Review

Per Article 11(2) of the AIE Regulations, my role is to affirm, vary, or annul the Decision. Having re-examined both the Request and the Decision, I **affirm**, the Decision, the basis of which conclusion is set out hereunder.

## Reasons for Decision

The Request seeks access to all Board Minutes attaching all associated agendas and supplementary records, spanning a 3.5-year time period. An extremely large volume of documents, in the region of 750 to 800, fall within the scope of this Request.

Article 9(2)(a) of the AIE Regulations allows a public authority to refuse a request for information where the request –

*“is manifestly unreasonable having regard to the volume or range of information sought”*

I have assessed the likely workload required in identifying, locating and collating the information subject to your Request. This assessment included interviews with a relevant staff member who has completed a high-level overview of files and records within the scope of this Request. I have concluded that this workload would comprise a two-step process, as follows:

1. Search, identification, retrieval, validation, and collation of up to 750-800 documents; and
2. A further review of these documents for confidential information to be made subject to redactions (with follow redaction exercises most likely required in the vast majority of cases)

Furthermore, I am satisfied that the above two-step process could only be carried out by a very senior staff member, namely either one of a member of our Operating Executive or our Company Secretary. These key staff members would be required to conduct this complex task because of the confidential and commercially sensitive nature of the documents. Coillte also notes its obligation to decide on an AIE Request within one

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month from the date of receipt of the request under Regulation 7(2)(a) of the AIE Regulations. For one such key member of staff to re-direct their attention and time to one AIE request, and to decide properly within the prescribed timeframe would dramatically overwhelm their ability to conduct the full extent of their duties to Coillte, to the point of practical impossibility. It would result in the abandonment of other key Coillte objectives, including its commercial activities, as set out in the Forestry Act 1988.

The AIE Regulations and the ACCC acknowledge that compliance with certain requests could involve the public authority in disproportionate cost or effort or would obstruct or significantly interfere with the normal course of its activities. The legislation in turn permits a public authority to refuse access in such cases in order to ensure their proper functioning.

Due to the nature of the Request, the overall time it would take to comply with the Request and the staffing resource required would impose a particularly heavy burden on Coillte. This would unreasonably and disproportionately divert it from, and disrupt it in performing, its core functions, to the point of practical impossibility. This practical impossibility renders your request manifestly unreasonable, and it is refused on this basis.

Coillte is compelled to note your refusal to engage with invitations to refine your Request, as issued in the interests of facilitating your Request to a practicable extent. At the time of the Decision, specifically on the 20/04/2023, correspondence issued to you requesting that you refine your Request.

On the 21/04/2023 you declined to refine your Request and made the following comments:

*"RTK does not agree that the request falls under Article 9(2)(a) of the AIE Regulations  
Coillte has been established 34 years, the request has been limited to just recent records (from 2020)"*

Request refinements are a collaborative exercise allowing for avoidance of a blanket refusal on the basis of volume. While Coillte is committed to providing information as far as reasonably practicable, failure to bring the Request in scope of Coillte's resource constraints frustrates this ability in this instance.

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### **AIE Regulations, Articles 10(3) and 10(4)**

In making this refusal, Coillte is cognisant of its competing obligations with regard to the public interest. There is no doubt that the public interest is served by the widest possible systematic availability and dissemination to the public of environmental information. Notwithstanding this, Coillte simultaneously serves the public through the effective, efficient and dedicated achievement of its many other functions, not least as regards the business of forestry and related activities.

The extent to which your request would drain Coillte resources would significantly hinder Coillte's ability to perform these core functions. The extent to which the public interest would suffer through such misdirection of resources, in this instance, far outweighs any damage to the public interest arising out of a refusal of your request.

#### **Factors in favour of granting access:**

The public interest in openness and transparency. In this regard, Coillte makes as much information as possible available through its public files, BAU Plans, Public MapViewer and the Coillte website.

The public interest in individuals being able to exercise their rights under the AIE Regulations to the greatest extent possible in order to access environmental information.

The public interest in environmental information being made available and disseminated to the public in order to achieve the widest possible systematic availability and dissemination to the public of environmental information.

#### **Factors in favour of refusing access:**

The information requested covers hundreds of records and we have estimated that processing the requests would take staff time to identify, locate and extract the information requested:

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**Step 1:** an estimate of 33.33 workdays

**Step 2:** an estimate of 25 workdays

As noted above, due to the confidential nature of the Board documents, the Step 1 and Step 2 reviews would have to be completed by a very senior member of staff and these tasks could not be dealt with internally by administrative staff or outsourced externally.

To comply with the requests would place a substantial and disproportionate burden on Coillte and would result in an unreasonable diversion of limited resources.

There would be an adverse effect on the AIE Team's ability to deliver services and answer other requests.

There was engagement with the appellant to refine the Request so that it did not fall to be refused but he did not avail of the opportunity to do so.

There is also a strong public interest in the efficient and effective performance of Coillte and in ensuring we do not have to divert limited resources in dealing with voluminous AIE requests.

In that regard, I am satisfied that the balance of public duties lies in favour of a refusal in this instance. Coillte's obligations under Articles 10(3) and (4) are hereby satisfied.

### **AIE Regulations, Article 10(5)**

Coillte has carefully considered its obligations under Article 10(5) of the AIE Regulations in making this refusal. In doing so, Coillte was compelled to note the breadth of the Request, which spans across approx. 3.5 years. A lack of specificity of this kind undermines Coillte's ability to conduct any severance exercise in searching for information appropriate for disclosure to be extracted from the original request.

Coillte advises that specificity in any and all requests is essential to facilitate an exercise under Article 10(5). This requires that a request identifies specific records, whether by name, date, or other particular identifier. Requests relating to vague, limitless or otherwise non-specific categories of information will not be conducive to Article 10(5) considerations. Coillte cites Commissioner Decision CEI/16/0004 - Friends of the

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Irish Environment Limited v Public Authority: DAFM as authority for its rejection of "catch-all" or "trawling" requests of this nature. We further refer you to Article 9(2)(b) of the AIE Regulations in this regard. Please bear this in mind for all future AIE requests that you might make to Coillte.

## **Conclusion**

The above analysis renders the Decision in the first instance affirmed.

If you are unhappy with this decision, you have the right to appeal it to the Commissioner for Environmental Information. You have one month within which to lodge such an appeal from the date of receipt of this Internal Review decision. Further information on making an appeal can be found at the Commissioner's website <https://www.ocei.ie/making-an-appeal/how-to-appeal/>

If you have any queries in relation to the above, please do not hesitate to contact me.

Yours sincerely,

*Sent by email, no signature*

Nicola Wall

**Information & Data Protection Officer**

**Coillte CGA**

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