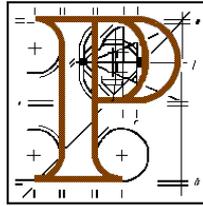


# An Bord Pleanála



## Inspector's Report

**PL29N.245738**

**DEVELOPMENT:-** Aviation Fuel Pipeline between Dublin Port and Dublin Airport.

**Address:** Dublin City Council – Bond Drive, Tolka Quay Road, East Wall Road, Alfie Byrne Road, Clontarf Road, Howth Road, Copeland Avenue, Malahide Road (R107), Malahide Road (R139). Fingal County Council – Clonshaugh Road, AUL/FAI Sports Ground, DAA Long Term Car Park, ALSAA Complex and Dublin Airport.

### PLANNING APPLICATION

**Planning Authority:** Dublin City Council and Fingal City Council

**Planning Authority Reg. No:** 2552/15

**Applicant:** Fingleton White

**Application Type:** Permission

**Planning Authority Decision:** Grant

### APPEAL

**Appellant:** (i) Copeland Avenue Residents Association,  
(ii) Christy Creely, (iii) David Ryan.

**Types of Appeal:** Third Party -v- Grant

**Observers:** (i) Tommy Broughan T.D., (ii) Cllr. Sean Haughey, (iii) Donnycarney West Community Association, (iv) Finian McGrath T.D., (v) East Wall Residents Association, (vi) Cllr. Cieran Perry, (vii) Clontarf Residents Association, (viii) Fingal County Council, (ix) Transport Infrastructure Ireland, (x) Cllr. Deirdre Heney.

**DATE OF SITE INSPECTION:** 29<sup>th</sup> February, 2016.

**INSPECTOR:** **Paul Caprani**

## **1.0 INTRODUCTION**

PL29N.245738 relates to multiple third party appeals against the decision of Dublin City Council to issue notification to grant planning permission for the Aviation Fuel Pipeline to convey jet aviation fuel in an underground pipeline, located mainly along public thoroughfares between Dublin Port and Dublin Airport. The grounds of appeal raised a number of issues primarily relating to health and safety by reason of potential leaks and spills as well as the potential implication on the value of property along the route of the pipeline. One appeal also expresses concerns in respect of the conditions attached by Dublin City Council. A large number of observations were also submitted supporting the grounds of appeal. The application for the Aviation Fuel Pipeline was accompanied by an EIS and an NIS.

## **2.0 PROPOSED DEVELOPMENT**

The proposed pipeline will run along a 14.4 kilometre route from Dublin Port to Dublin Airport. Aviation fuel will be transported within a 200 millimetre diameter welded steel pipe with a wall thickness of 12.7 millimetres. The pipeline will transport jet A1 aviation fuel to Dublin Airport. The pipeline will be capable of delivering 300 cubic metres of fuel per hour (equivalent to 2,700 million litres per annum). The pipe will be laid at a depth of 1.2 to 1.5 metres below the existing roadway. The majority of the pipe will be laid by open cut trenching. The public road will be cordoned off in sections (approximately 72 metres long and 4 metres wide on any one section) and the pipe will be laid sequentially along the route. The laying of the pipeline will involve saw cutting through the carriageway and breaking up the surface with an excavator. Excavated material will be removed while the section of pipe is laid and backfilled. All works within the public roadway will require road opening licence either from Dublin City Council and/or Fingal County Council. This will be the subject of a separate permitting system.

Where it is proposed to cross rivers or streams and the M1 Motorway alternative construction techniques will be used incorporating trenchless techniques under the road/rivers to be crossed. The backfilled material will comprise of 300 millimetres of sand or gravel directly above surrounding the pipe over which 700 millimetres of lean mix concrete will be backfilled to a depth of 200 millimetres below the surface. The existing road surface will be reinstated above the concrete.

The pipeline will be operated using an automated system which allows monitoring and control from both Dublin Port and Dublin Airport. The pipeline will be fitted with a leak detection system and a PLC based alarm system in the event of an accident. In addition fibre optic communication labels will be laid above the pipeline which will have a secondary function in detecting any third party interference with the pipeline. An impressed current cathodic protection system with deep well anode groundbeds will be installed to prevent external corrosion of the pipe.

### **3.0 PROPOSED ROUTE**

#### *3.1 Route Selection Process*

The EIS indicates that 6 separate route corridors were considered as part of the site selection process for the overall proposal. Option 6 emerged the preferred route on the grounds that it was technically feasible from both an engineering and construction point of view, was predominantly located within the public road, away from amenity areas, and the route has the potential to reduce potential traffic congestion associated with construction works. It is also noted that there were no direct impacts on designated sites and the route has the least impact on Recorded Monuments.

#### *3.2 Selected Route*

The development will begin at Dublin Port and fuel will be transferred from the existing storage tanks to an inlet station which is situated in an industrial compound close to the existing oil storage facilities within the port. The inlet station will comprise of above ground pipework, three pumps, a communications and control building surrounded by a 2.4 metre high security fence. A similar type reception station will be located within the existing loading and storage facilities at the airport.

Details of the route corridor are set out in Appendix B of the EIS. The pipeline is to be incorporated, for the most part within the roadway. The pipeline is to be constructed underground from the Dublin Port inlet station at the corner of Tolka Quay Road and Bond Drive. The pipeline is to be laid underground along the eastern side of Bond Drive until it meets the junction with Tolka Quay Road to the south where upon the supply line is to be laid along the southern side of this roadway until it meets the East Wall Road approximately 700m further east. Port related

land uses surround this section of the alignment. The pipeline is to continue approximately 800 m along the East Wall Road where it switches to the northern side of the road alignment. The pipeline continues northwards where it turns northwards onto the Alfie Byrne Road where it crosses beneath the River Tolka using trenchless technology. Approximately 120 m beyond the River Tolka crossing the pipe traverses the alignment of the Dublin Port Tunnel beneath. The majority of the pipeline is located along the northern side of the Alfie Byrne Road, a distance of approximately 1 km. The pipeline then turns westwards onto the southern side of the Clontarf Road and crosses underneath the suburban Dart Railway Bridge at Fairview before turning northwards and running along the north side of the Howth Road. The pipeline will then turn north-eastwards along Copeland Avenue before continuing northwards along the eastern side of the Malahide Road.

The adjoining land uses along the Alfie Byrne Road are predominantly open space. However on reaching the Clontarf Road/Howth Road, Copeland Avenue and Malahide Road (R107) the main contiguous land uses are residential interspersed with some commercial/neighbourhood land uses. The pipeline continues along the eastern side of the Malahide Road beyond Donnycarney and through Artane. The pipeline will skirt the eastern side of the Artane Roundabout before continuing northwards along the Malahide Road towards Coolock. Trenchless technology is used to pass under the Santry River to the east of the Malahide Road. The predominant land uses along this section of the route are a mixture of residential use together with recreational parks, institutional uses (such as churches, credit unions) and some commercial uses including suburban/neighbourhood type office and retail development. The pipeline skirts around the eastern side of the Darndale Roundabout before crossing over onto the western side of the Malahide Road as far as Clare Hall. The total length of the pipeline along the Malahide Road is estimated to be 5 km. At the Clare Hall junction the pipeline turns westwards along the southern alignment of the R139 (formally classified as the N32). To the immediate south of the pipeline some residential housing backs onto the R139. Further along the R139 the pipeline runs adjacent to Darndale Park. In the vicinity of Darndale Park the pipe is transferred onto the northern side of the N32.

At the Clonshaugh Roundabout the pipeline turns northwards onto the Clonshaugh Road and enters the administrative area of Fingal County Council. The pipeline continues northwards along the eastern side of the Clonshaugh Road. The majority of land uses along this section of the route are agricultural with some single houses. The pipeline leaves the

Clonshaugh Road and turns westwards skirting the northern side of the Athletic Union Sports Ground which are located between the Clonshaugh Road and the M1 Motorway further west. Trenchless technology is again used to traverse The River Mayne, the Cuckoo Stream and the M1. The pipeline crosses the M1 Motorway just south of Junction 2 on the M1 Motorway. On crossing the M1 Motorway the pipeline runs along the western boundary of one of the long-term car parks associated with Dublin Airport. The pipeline continues westwards before turning northwards towards the airport. The prevailing land uses in this area are characterised by long term car parking and car hire facilities as well as other airport associated land uses. Finally the route continues westwards across the Old Dublin- Swords Road (R132) using trenchless technology prior to terminating at the Dublin Airport Reception Centre to the immediate west of the R132.

#### **4.0 PLANNING AUTHORITY'S DECISION**

An application was lodged with Dublin City Council on the 8<sup>th</sup> April, 2015. It appears that a simultaneous application was lodged with Fingal County Council, however the latter application was not the subject of any third party appeals and as such details of the application with Dublin City Council only appear on file.

The application was accompanied by:

- A completed planning application form.
- Letters of consent from various landowners associated with the route.
- Details of public notices.
- A Planning Report.
- A Safety and Environmental Impact Evaluation.
- A Design Basis Report.
- A Route Selection Report.
- A Construction Plan.
- A Traffic Management Plan.
- An Emergency Plan.
- A Natura Impact Statement and
- Detailed drawings.
- An Environmental Impact Statement

All the above, with the exception of the EIS are contained in Folder No. 1 submitted with the application. A separate folder, (folder no. 2)

containing an Environmental Impact Statement and associated appendices has also been submitted.

#### **4.1 Initial Assessment**

A number of letters of objection were submitted in respect of the proposed development. A report from the **HSA** requested additional information be submitted (namely a document that identifies the potential major accidents as they relate to this application).

A report from the **Dublin Docklands Development Authority** states that it has no comments to make on the proposed development.

A report from **Dublin City Drainage Division** considers the EIS to be generally acceptable and that there is no objection to the proposal subject to conditions. A report from Iarnród Éireann states that the Authority have not yet given approval in principle for this project to cross the railway. And also sets out a number of general observations in respect of the proposal.

A report was submitted by **Councillor Sean Haughey** supporting residents' concerns in respect of the proposal on health and safety grounds.

A report submitted from **An Taisce** states that the application has failed to incorporate an integrated strategy with regard to climate mitigation and adaptation.

A report from the **NRA** considers that the proposed development is at variance with official policy in relation to control of development on/affecting national roads on the grounds that insufficient data has been submitted to demonstrate that the proposed development will not have a detrimental impact on the capacity, safety or operational efficiency of the national road network. The Authority considers that the applicant has not clearly demonstrated that its proposal would not reduce the structural safety, integrity or durability of the port tunnel.

A letter signed by a number of Dublin City Councillors also raised health and safety concerns in respect of the proposed pipeline. A letter of objection was submitted by **Tommy Broughan** T.D., which raises many concerns on behalf of the residents of Clontarf, Marino, Donnycarney, Killester and other residential areas in close proximity to the route.

A report from the **National Transport Agency** does not consider that the proposed development would be at variance with the Greater Dublin Area Draft Transport Strategy 2011 – 2013. However any detailed traffic management plan relating to the construction would need to be agreed with the Authority prior to commencement of the project. In this regard specific reference is made to the proposed Bus Rapid Transit Network, the existing Quality Bus Network and the Dublin Area Cycle Network Plan.

A report from **Geological Survey of Ireland (Department of Communications, Energy and Natural Resources)** states that it has no additional comments to make in respect of the proposed development. It requests however that copies of reports detailing any site investigation could be forwarded onto the office.

A report from the **Department of Agriculture, Food and Marine** states that it has no submissions or observations to make in respect of the proposal.

A **Roads and Traffic Planning Division Report** states that it has no objection in principle to the proposed pipeline. It is noted however that the proposal may cause considerable traffic disruption during the construction period. However the proposed pipeline does have the potential to remove a significant number of tanker trips from the road network and this considered to have a beneficial effect. It is noted however that there are currently no major issues associated with the existing transportation of fuel through the Port Tunnel/M1.

The report concludes that additional information is required reflecting the concerns raised about the NRA's submission and the NTA's submission.

A further submission by the **Health and Safety Authority (HSA)** notes that a request for further information regarding this application was submitted to Dublin City Council offices. However no reply was received. Subsequently the Authority has considered the application on the basis of this information received. On the basis of the information supplied the Authority does 'not advise against the granting of planning permission in the context of major accident hazards'.

A report from the **City Archaeologist** recommends that in the event of planning permission being granted archaeological conditions be attached.

A report from the **Senior Scientific Officer** notes that risks appear to be adequately mitigated for the pollution of groundwater and surface water traversed by the proposed pipeline. Ingress of volatile material into the Port Tunnel should be monitored as part of normal practice.

A further submission from the **NRA** reiterates the concerns that the proposed development could give rise to a detrimental impact on the capacity, safety and operational efficiency of the national road network in the vicinity of the site as well as the structural safety, integrity and durability of the tunnel.

A report from the **Conservation Officer's** report states that she is generally satisfied that the proposed development will not impact on the conservation of buildings along the route line.

A report from the **Environmental Health Officer** recommends that planning permission be granted and a number of conditions be attached.

#### **4.2 Additional Information Request**

A detailed Planner's Report was prepared on foot of the information submitted. It recommend that additional information be requested in respect of a number of issues. This information request was dated 4<sup>th</sup> June, 2015. Specifically further information was requested in respect of the following issues:

- Address the National Transport Authority's concerns with regard to potential conflict between the pipeline and future public transport infrastructure earmarked along the Malahide Road and in the vicinity of the route.
- The applicant is requested to address the concerns of the National Roads Authority with regard to the impact of the proposal on the capacity of the road and the structural integrity of the Port Tunnel. Furthermore the applicant is requested to ensure that the proposed development fully accords with "Guidance Notes for Developers in respect of the assessment of surfaces and subsurface developments in the vicinity of Dublin Port Tunnel". Reference should be made to Appendix 9 of the Development Plan.

- It is noted that the site is located near a road scheme objective in the Development Plan for the proposed M50 Eastern Bypass. It is requested that this constraint be factored in to the applicant's proposal and EIS.
- Further details are required in respect of noise monitoring.
- Further details are required in relation to the impact of the proposed development in the context of the North Dublin Drainage Scheme, Trunk Sewer at Nazareth House and the North Fringe Trunk Sewer crossing the R139 between Clonshaugh Road and the Northern Cross.
- The Planning Authority notes that the EIS does not make any reference to the existing of hazardous or contaminated lands along the preferred route.
- The construction plan should account for the impact and interaction of power lines and other underground structures in the context of cathodic protection design.
- Further details are requested in respect of additional block valves required along the route.
- The applicant is requested to clarify estimated setbacks from residential frontages along the route.
- The applicant is requested to consider providing a comparative risk study between the subject proposal and the recently constructed East Wall Road/Coolock Gas Line and also any other similar aviation fuel pipes within the UK.
- Finally the applicant was requested to clarify or update a number of issues contained in the EIS.

#### **4.3 Further Information Submission**

The applicant submitted further information on 21<sup>st</sup> August, 2015. The information submitted is briefly set out below:

Details addressing the concerns of the NTA and NRA are set out. It is stated that if necessary the pipeline can be inserted at a depth of 1.5 metres below ground level in order to facilitate any possible future rail provision along the Malahide Road Corridor. An assessment of the

proposal on the potential impact of the Dublin Port Tunnel is set out in Appendix B of the submission. The clearance between the pipe and the top of the tunnel varies from 0.67 metres to 0.98 metres. The proposed works have been assessed by a chartered engineer and the proposal will in no way lead to potential for tunnel deformation or any adverse impact on the DPT lining.

The proposed pipe will have no hydrogeological implications as the fuel pipe is considerably above the water table. Details with regard to the standards/guidance documents for the design of aviation fuel pipeline are set out. Other concerns raised by the NRA are also addressed in the response. It is noted that there is no constraint associated with the proposed M50 Eastern Bypass.

Further details in relation to the noise impact are set out in Appendix C to the response.

Further details are provided in respect of the North Dublin Drainage Scheme and the North Fringe Trunk Sewer in the context of the proposed pipeline alignment. These are indicated again in Appendix D of the submission.

With regard to contaminated lands it is stated that while there are records of contaminated lands in the vicinity of the pipeline, this the issue of contaminated land was addressed in Section 12.65 of the EIS.

Proposed cathodic protection is included in Section 5.2 of the Design Basis document submitted with the application.

In relation to block valves along the route, the applicant considers that there are the appropriate number of section isolation valves along the route way.

With regard to residential setbacks, it is stated that there 11 residences less than 5 metres from the pipeline. All other occupied buildings are greater than 5 metres from the pipeline. There is no hazardous proximity issue associated with this pipeline and there is no setback requirement. A Category B product such as aviation fuel does not require any proximity setback. Natural gas will be categorised with a higher hazard potential and this should be borne in mind at any comparative risk study between the subject proposal and the recently constructed East Wall Road/Coolock Gasline.

Finally the response sets out clarifications and various updates to the EIS as required in the Additional Information Request.

#### **4.4 Further Assessment by the Planning Authority**

A further report from the Road Planning Division recommends that planning permission be granted subject to 20 conditions.

A report from Transport Infrastructure Ireland (TII) acknowledges the additional information submitted and the Authority will rely on Dublin City Council to abide by official policy in relation to development on/affecting national roads as set out in the Spatial Planning and National Road Guidelines for Planning Authorities subject to conditions.

A subsequent planner's report was prepared on foot of the additional information and notes the response to the additional information requests. The report also sets out and summarises the information contained in the EIS and concludes that the EIS provides the appropriate information in terms of substance and adequacy having regard to the specific characteristics of the project. It further concludes that the information provided in the EIS considers that there will not be any significant impacts either short, medium or long-term as a result of the proposed development. Reference is also made to the Natura Impact Statement submitted and the conclusions arise therein that the proposed development will not result in any impacts which will adversely affect the integrity of the conservation sites in the vicinity.

The overall conclusion set out in the planners report considers that the critical issues have largely been addressed and that the EIA adequately evaluates the impact of the development upon the relevant environmental factors encountered along the selected pipeline corridor and their associated catchment. It is considered that the proposal generally meets the relevant standards set out in the Dublin City Development Plan and it is therefore recommended that planning permission be granted.

In its decision dated 15<sup>th</sup> October, 2015 Dublin City Council issued notification to grant planning permission for the proposed development subject to 15 conditions.

## **5.0 PLANNING HISTORY**

One file is attached Case Ref. 29N.PC0088. This file related to a pre-application consultation on the proposed aviation fuel pipeline route. The application arose from a question as to whether or not the proposed pipeline constituted strategic infrastructure in accordance with the provisions of the Act. The Board ruled in this instance that the proposed development is not strategic infrastructure as it does not come within the scope of the 7<sup>th</sup> Schedule of the Act. It was concluded therefore that normal planning applications should be made in the first instance to both Dublin City Council and Fingal County Council. This decision was dated 18<sup>th</sup> February, 2010.

The Dublin City Planning Officer's report also makes reference to Reg. Ref. 0189/99. It states that planning permission was granted by Dublin City Council and by An Bord Pleanála for an aviation fuel pipeline from Dublin Port to Swords Road/Santry Avenue junction. The permitted route of the proposed pipeline according to the information on file, was along the Tolka Quay Road, East Wall Road, Annesley Bridge Road, Poplar Row, Ballybough Row, Luke Kelly Bridge, Richmond Road, Gracepark Road, Griffith Avenue, Swords Road up to the boundary of the Dublin Corporation borough area. This decision was the subject of a number of 3<sup>rd</sup> Party appeals. Under Reg. Ref. PL 29N 222692 An Bord Pleanála upheld the decision of the planning authority and granted permission for the pipeline. This decision was made in 2001. The file is not attached however the inspectors report is available on the Board's website. The report was prepared by a consultant on behalf of the Board.

## **6.0 GROUNDS OF APPEAL**

The decision of Dublin City Council to issue notification to grant planning permission was the subject of 3 no. third party appeals which are set out below. The issues raised in the third party appeals are also supported by a number of observations contained on file which are set out subsequent to the grounds of appeal.

### **6.1 Copeland Avenue Residents Association**

Concerns are expressed in relation to the pipeline's close proximity to houses on Copeland Avenue, all of which are 100% residential in nature. All houses on the street will be within 20 metres of the pipeline and garden walls and driveways on the south side of the street will be 3

metres from the pipeline. The proximity will present an on-going threat of damage to homes. Excavation is the single greatest cause of accidents among all pipeline systems according to the information referred to in the grounds of appeal. While there is no guidance with regard to requirements for safe working in close proximity to high pressure pipelines in Ireland, English guidance requires an easement area for any work carried out within 3 metres either side of the pipeline. Such a requirement would affect residents on the south side of Copeland Avenue. Any system whereby the residents of Copeland Avenue are answerable to a private company for carrying out work on their own properties would be completely unacceptable. Yet there appears to be no explanation as to how this would work in practice.

Concerns are expressed that Copeland Avenue which is only 9 metres in width is heavily congested with underground services. A high level of underground service congestion was the reason why two other routes were eliminated. It is not clear why Copeland Avenue was overlooked. Concern is expressed that the long-term safety of Copeland Avenue residents is being sacrificed in favour of short-term convenience of running the pipeline along this short and narrow residential street.

The residents are concerned that beautiful trees along Copeland Avenue could be damaged as a result of the routing of the pipeline. There is no mention as to how Copeland Avenue will be affected in this regard.

Residents have been advised that home insurance premiums on the road could rise due to the proximity of houses to the pipeline. There is also concern with regard to a reduction in value of homes.

Finally it is stated that there was a lack of information and consultation with residents regarding the pipeline. It is therefore respectfully submitted that the aviation fuel pipeline if required at all, be diverted along a more appropriate route.

## **6.2 Appeal by Mr. Christy Creely**

Concern is expressed that when a previous planning permission was granted for a pipeline this was allowed to lapse and the proposed pipeline is larger and operates at twice the pressure. The estimated leaks would therefore be proportionately higher than that which was previously approved. Any detection and leakage will take considerable time to pinpoint and would result in massive disruptions to residents,

businesses and utilities in the area. Where small leaks occur in the system these are more difficult to detect and can build up over time in making an environmental clean-up more difficult and expensive. Copeland Avenue is already being disrupted by the installation of an underground gas transmission line from East Wall to Coolock. The aviation pipeline proposed would run the high pressure piping within 5 metres of the gas transmission pipeline. The aviation fuel pipeline will have to cross below the gas transmission line which will give rise to safety concerns and further additional disruption during the construction phase for residents.

The grounds of appeal set out potential sources of leaks and refer to third party activities trying to access fuel from the pipeline, corrosion, mechanical failure and natural hazard. With regard to natural hazard reference is particularly made to flooding. Reference is made to the UK experience where a number of 'near misses' occurred with regard to excavating pipelines.

The EPA should be consulted in advance of the installation commencing. It is considered that introducing fuel pipelines into the vicinity of domestic premises, petrol stations, schools and public facilities where there are accumulation of underground ducts and services including a major Bord Gais transmission pipeline is exposing residents to an unnecessary level of risk.

Copeland Avenue accommodates trees along its street. Pipeline operators in the UK state that trees near pipelines constitute a hazard. The application does not state anything in respect of this issue.

Concerns are expressed as to whether or not parking of heavy vehicles will be prohibited over the pipeline.

It is suggested that a new deep sea port north of the city may be included in a new strategic plan for Ireland and this would render the pipeline uneconomical.

The existence of the pipeline could prevent the installation of upgrades to residents, domestic utilities as it would increase the cost of working near or crossing the pipeline. The project is therefore adding future costs and unnecessary stress to the lives of residents along the pipeline.

The pipeline is planned to pass very close to Dublin Bay at Clontarf where there is a high risk of flooding. Leakage from the pipeline would damage to ecology of the Bay. Concerns are expressed that there is a general on-going lack of maintenance inspections in respect of other large Irish infrastructural projects. Reference is made to the partial bridge collapse at Malahide Estuary along a section of the northern rail line.

A number of documents are attached to this ground of appeal.

### **6.3 Appeal by Mr. David Ryan – No. 49 Copeland Avenue.**

Reference is made to the planning report which states that the developer will be seeking a wayleave of 8 metres in width on private lands for inspection and repair. No consent from any owners affected have been obtained and this is contrary to Article 22(2)(g) of the Planning and Development Regulations 2001 and reference is also made to the case of *McCallig versus An Bord Pleanála* where it was ruled that planning permission may not affect the land of any person who has not provided consent in the format advised in the judgement. No valid consent has been obtained from all the private landowners affected and thus Dublin City Council is obliged to reject the application as invalid.

The planning decision does not indicate that there is no scientific doubt left as to the absence of adverse effects on the conservation objectives of any European site.

With regard to the EIS, it notes that developers are seeking a 10 year life for the planning permission. It is questioned as to how an EIA can adequately consider need and other impacts that may arise 10 years into the future given the variations that may occur in aviation. The developers themselves admit significant changes have occurred since the first planning permission was obtained. It is questionable whether Dublin City Council as the competent authority can carry out an EIA of potential impacts in 10 years time.

The EIS is inadequate by failing to properly consider impacts on human health and safety, construction traffic, residential amenity, noise and odour. The application has also failed to adequately assess cumulative impacts.

Condition 5(a) is considered to be vague in the extreme. This relates to the logic of a cash deposit or a bond of an insurance company or other security to secure the environmental restoration in the event of the leak of the pipeline. The amount however is not specified. Given the nature of the proposal it is suggested that nothing less than a bond in excess of €500 million would be sufficient. Furthermore no reference is made to compensating residents and providing a bond to cover situations where an accident arises and causes loss of life and property.

With regard to Condition No. 5(b), the Council has failed to specify the definition of a suitably qualified person to monitor the pipeline. It is also suggested that the frequency of monitoring should be on a monthly basis.

Again concerns are expressed that qualification of an independently qualified person are not contained in Condition 5(c).

In Condition 5(f), it is argued that the agreed interval for review and testing have not been specified.

Condition 5(g) shows no concerns for the private individuals who may be affected by the proposal. The indemnity should be extended to all those affected.

Condition 5(h) it is stated that prior to the commencement of the development the developer should be required to submit evidence that wayleaves have been acquired.

Condition 5(j) needs to show how the developer can demonstrate that there is unobstructed route from the pipeline on Copeland Avenue. Many of the residents have already indicated their intention to park cars permanently on the route in order to prevent the proposal proceeding.

Condition 5(i) should include the requirement of a traffic management co-ordinator to liaise with residents. The Alfie Byrne Road is a vital artery into the City Centre and works along this road could significantly lead to congestion. The developer should pay Council costs of employing a noise consultant throughout the development.

It is stated that Condition 5(o) gives licence to a developer to amend the proposal without the necessity of a new planning permission. This removes the statutory right to object as set out in the planning laws.

With regard to Condition 5(q) it is stated that the depth of the pipe should be greater than 1.5 metres as stipulated for the section along the Malahide Road.

Condition 5(v) states that the pipeline should be designed as per the details submitted with any amendments agreed in writing in advance of any proposed change. It is argued that such a vital element of the proposal should not be agreed in secret with the Council but rather be a specific part of the permission subject to public consultation.

Condition No. 6 requires the applicant to ascertain the requirements of Iarnród Éireann including the obtainment of any wayleave agreements. It is suggested that such a private developer should pay considerably for any wayleave over State property as this is in the taxpayers' interest.

Condition No. 7 which requires consultation with Dublin City Council Drainage Division, should be extended to provide for specific remedial measures to be undertaken when and if electricity, internet, water and sewage services are disrupted by developers. Penalties for such breaches of service should be set out in any permission. Compensatory measures for residents affected by any outages should be outlined.

Condition No. 8 limits the construction at Belcamp to between April and August in order to protect wildlife. No such restriction applies to residents and their families. Work during State exam time should be curtailed so as students are not disturbed by noise and dust.

Condition 8(b) relates to an Invasive Species Management Plan. It is suggested that the developer should indemnify land and householders for the introduction of any invasive species. This indemnity should not be less than €50 million to deal with possible claims.

With regard to Condition No. 9 it is suggested that a detailed archaeological survey of the area should be carried out in advance of the commencement of the project.

With regard to Condition No. 11 the Project Construction and Demolition Plan should be submitted online for public viewing.

With regard to Condition No. 12 it is stated given the nature of the project the public has the right to be consulted on the Hazardous Contaminated Soil Management Plan prior to commencement of the project.

Condition No. 13 which relates to a Noise Management Plan, the appeal argues that the whole project should make specific reference to the impact on householders in the area of the proposal.

In respect of Condition No. 14 it is stated that since the City Council staff do not provide any 'out of hours' noise monitoring or planning enforcement services. The working hours should be set down in any permission in advance works being undertaken.

With regard to Condition No. 15, given the dirt and waste that will be generated by the project, specific cleaning schedules should be agreed in advance. It is suggested that Dublin City Council cannot be relied upon to monitor the development particularly outside the hours of 10 a.m. to 4 p.m. The developer could be required to provide window cleaning, driveway cleaning services for residents affected by dirt caused.

Furthermore it is suggested that further conditions could be included including the following:

- That developer pay for a full survey of all trees shrubbery along the route of the proposed project.
- The developer should be required to structurally survey all houses along the route at the discretion of the householders.
- A designated person should be appointed to deal with problems with driveways being blocked off.
- As developers stand to make substantial profits at the expense of the communities through which they propose to disturb and put at risk, it is suggested that provision of facilities for communities affected by the proposal should be considered.
- As the proposal will use Council owned property which requires the approval of elected members of the Council and this is a reserved function, there should be a necessity to obtain consent of the elected members of each local authority. It is inconceivable how planning permission can be granted by non-elective officials for this proposal.

The remainder of the grounds of appeal contain the original letter to Dublin City Council. In this letter concerns are expressed with regard to:

- Traffic disruption.

- Health and safety risks.
- Costs to the Council in attempting to enforce safety and environmental regulation.
- Financial concerns in relation to the proposed development.
- Further details in respect of working on wayleaves.
- Various safety concerns.
- Details of planning conditions that should be attached in the case where planning permission is to be granted for the proposed development.

## **7.0 APPEAL RESPONSES**

### **7.1 Applicants Response to the Grounds of Appeal**

A response was received from Fingleton White. The response is outlined below.

The response sets out the need for an aviation fuel pipeline. It is stated that aviation fuel is currently delivered from Dublin Port to Dublin Airport via road tankers which results in approximately 21,000 tanker round trips between the Port and the Airport on an annual basis. Demand is expected to almost double (from 800 million litres to 1.45 million litres by 2035). The pipeline will reduce the risk of contamination of fuel. A major advantage in transporting by pipeline is increased public safety and the reduction of emissions. Details of the fuel type and its classification is set out in the response. Details of the construction of the pipeline are set out. While there are no statutory regulations in Ireland in respect of the operation of pipelines, the proposed pipeline will be operated in accordance with UK Pipeline Regulations (No. 825 of 1996). Details of the pre-planning process and planning process are set out in the grounds of appeal.

Details in relation to:

- Route Selection
- Construction Plan
- Traffic Management Plan
- Emergency Response Plan
- Natura Impact Statement
- Environmental Impact Statement
- Further Information Requests by the Planning Authority

are all referred to and summarised in the grounds of appeal.

With regard to Copeland Avenue, it is stated that finding a route through a heavily congested area which would have severe consequential impacts on traffic prompted the applicant to avoid the junction of Malahide Road and Fairview Strand and run the pipeline through Copeland Avenue. Copeland Avenue includes gas mains, foul sewers and surface water sewers as well as watermains, telecoms. Plans show that these mains are generally laid parallel so crossing over or under the services will be minimal. Any work carried out in the gardens of Copeland Avenue by the residents will have no impact on the pipeline.

With relation to the removal of trees and shrubs it is stated any trees and shrubs on the public roadway cannot be removed without the permission of Dublin City Council Parks Department.

With regard to value of homes and insurance premiums it is stated that this is outside the remit of the Planning Authority and this is stated in the Planning Report dated 5<sup>th</sup> June, 2015.

Details of consultations undertaken with residents are set out in the EIS. It is considered that the consultation undertaken is in excess of statutory requirements.

With regard to the issue of leakage, it is stated that the safety and environmental impact evaluation sets out details of the probability of any leakage and how this is addressed in the design of the pipeline. The Emergency Response Plan has been designed to contribute to the efficient and orderly response to any potential escape of product from the pipeline.

With regard to the existing Gas Networks Ireland pipeline, it is stated that the crossing/design methodology will be standard and agreed with Gas Networks Ireland. With regard to spill measures it is stated that potential for spill is much more likely with road tankers. The spill frequency and release value with the pipeline will not increase with increasing demand unlike that of road tankers.

With regard to the mechanical failure of the pipeline, this issue is dealt with in Section 5.3 of the Design Basis Report. An annual static test to a pressure of one and half times the operating pressure can be carried out using the pipeline fuel as the test medium. Issues in relation to corrosion have been dealt with in the additional information submitted to the Planning Authority and also in the Design Basis Report.

With regard to flooding, the EIS Volume 3, Appendix 4 sets out a Flood Risk Assessment.

It is stated that sections of aviation fuel pipelines serving airports such as Heathrow run through residential streets. Pipeline leak free integrity will be verified prior to commission through hydrostatic testing and radiography. The hydrostatic test will be repeated on an annual basis. It is stated that the frequency of a leak of 10 litres per hour would be less than 1 in 10,577 years.

With regard to EPA involvement, it is stated that the pipeline is not a licensable activity. Where a leak is detected an Emergency Response Plan has been set out.

With regard to strategic development and the National Spatial Strategy it is stated that this project will result in an overall improvement to the environment. There will be reduced emissions, noise congestion and traffic accidents.

It is argued that the necessary consents to apply for planning permission were received and submitted to Dublin City Council and Fingal County Council with the planning application. A full appropriate assessment was carried out and a Natura Impact Statement as required was submitted as part of the planning documentation. The EIS is appropriate and has been prepared in accordance with EPA Guidelines.

The response goes on to address each of the issues raised in respect to the various conditions attached to Dublin City Council's notification to grant planning permission. In summary it is contended that the conditions are appropriate. The response also comments on the additional condition suggested in one of the grounds of appeal.

## **7.2 Planning Authority's Response to the Grounds of Appeal**

The response to the grounds of appeal was received from Dublin City Council on the 17<sup>th</sup> December, 2015. It refers to the Roads and Traffic Planning Division Reports of the 8<sup>th</sup> April and 13<sup>th</sup> October, 2015. These reports conclude that the proposal was acceptable from a roads and traffic perspective subject to a number of detailed conditions. The Roads and Traffic Planning Division have no additional comments on the appeal submission.

## **7.3 Observations**

### *7.3.1 Observation from Tommy Broughan T.D.*

This observation strongly opposes the proposal on behalf of the TD's constituents of Clontarf, Marino, Donnycarney, Killester, Artane, Clare Hall, Priorswood, Clonshaugh and Old Clonshaugh. It is argued that there was a total lack of consultation associated with the proposal. It is stated that the Environmental Impact Statement and associated documentation are grossly deficient in terms of information provided. There is absolutely no discussion of long-term impacts on householders who live along the planned route.

It is stated that a Health Impact Statement should have been submitted with the application. This is an extraordinary failure by the proposers. Up to a 1,000 homes are located adjacent or directly beside the proposal. Reference is made to American legislation whereby all pipelines must be 150 metres away from a family home. Reference is made to accidents in respect of pipelines in the US, Europe and Africa, all of which have resulted in fatalities. While the risk of pipeline failure can be reduced it can never be eradicated. Reference is made to conditions and why emergency response procedures are not set out in the conditions. These should have been included in the application.

There is a lack of regulation with regard to pipeline construction and the proposal should be deemed premature until such regulations are implemented.

The Route Selection Report which favours Option 6 traverses probably the most densely populated areas of all the routes assessed. A more obvious alternative would be the shipment of aviation fuel to a port north of Dublin to the proposed Braemore/Drogheda Port facility and the pipeline could be constructed from Drogheda to the Airport. This would be more appropriate as it would run through the rural countryside.

The Screening Report and Natura Impact Statement completely ignored the dangerous possible impacts of fragile ecosystems of Dublin Bay and Bull Island as well as various rivers along the route.

The proposal will result in a 12 month period of terrible disruption and traffic mayhem to the population of Dublin Bay North. There is no need for a pipeline having regard to the presence of the Port Tunnel which

has diverted heavy commercial traffic out of Dublin City Centre towards the Airport. The proposed pipeline through a densely populated residential district is ill-conceived.

### *7.3.2 Observation by Cllr. Sean Haughey T.D.*

This submission states that many residents along the proposed route of the pipeline have serious concerns about the proposal on health and safety grounds. They require assurance from relevant statutory agencies including the HSA that the scheme will be monitored on an on-going basis. It is also questioned whether the proposed pipeline is the best route having regard to the fact that it traverses many residential areas. There is concern about traffic disruption and noise during the construction phase and strict conditions should be put in place to deal with these matters.

### *7.3.3 Observation from Donnycarney West Community Association*

This observation expresses concerns in relation to safety together with the proposal to dig up the Malahide Road which will result in significant disturbance. The pipeline will pass through predominantly residential areas in close proximity to houses. Concerns are expressed about the proposed control cabinet and safety valve to be located on the Donnycarney Road. Concerns are expressed that the proposal will contribute and exacerbate traffic disruption on the Malahide Road which is a major artery into the city. There does not appear to be any obvious problems associated with the current arrangements to get fuel to Dublin Airport.

### *7.3.4 Observation from Finian McGrath T.D.*

The concerns expressed are as follows:

- The proposal represents a major public safety issue.
- The aviation fuel pipeline is totally unsuitable for a residential area.
- Major fire hazard.
- Local residents have major concerns.
- Negative impact on the local environment.

### *7.3.5 Observation from East Wall Residents Association*

The proposal will result in loss of amenity parkland along the Alfie Byrne Road. This is unacceptable given the multiple alternative vacant sites in the area. Concerns are expressed in relation to health and safety considerations resulting from the proposed pipeline. One of the key benefits of the Port Tunnel was to take the transporting of hazardous material away from residential areas. The pipeline will reinstate this potential hazard. Concerns were expressed that in laying the pipeline, accidents could emerge whereby other pipes could be damaged or ruptured during the construction process. The application should be refused on the grounds of the risk associated with the pipeline. The pipeline could be routed through Dublin Port lands and the East Point Business Park. Concern is expressed in respect of the combined risk which would result from the proposed pipeline and the Bord Gais pipeline. Concern is expressed that the proximity of both pipelines could exponentially increase the potential impact/risk should a major accident occur. Concerns are expressed that the pipeline may at some future date be used to transport gas. Concerns are expressed that the proposal will result in the excavation of contaminated land along the Alfie Byrne Road.

Finally the observation sets out a list of conditions which should be imposed in the event of planning permission being granted. For example it is suggested that the results of annual testing should be made public. Evacuation plans should be prepared for all affected residential areas. A condition should be imposed that the proposed works should not commence in the East Wall area until the sewage works have been completed. Acoustic screens should be used to minimise noise levels. Concerns are also expressed in relation to leaks within the pipe under rivers. Finally conditions should be put in place to ensure the construction staff do not park on cycle lanes.

### *7.3.6 Observation from Cllr. Cieran Perry*

This observation shares the concerns of the Copeland Avenue Residents Association. The main issues raised in the observation is that there is a lack of justification for the proposal. No satisfactory case is being made by the developer to demonstrate the necessity for a project of this nature and scale. The pipeline will be operated by an independent pipeline company giving them a virtual monopoly on the supply route between Dublin Port and the Airport. The level of disruption over a protected time period is deemed to be unacceptable.

Concerns is expressed that the applicant is not fully capable of seeing the project through to completion. A potential failure of the project due to financial restrictions would be catastrophic. Concern is expressed that there has been a lack of adequate consultation. A number of construction issues are raised regarding disruptions to primary schools, the impact on community sports and youth groups, contamination of the River Tolka and Dublin Bay and the fact that no element of community gain has been included in the proposal/grant of permission.

#### *7.3.7 Observation from Clontarf Residents Association*

Concern is expressed that the proposal will have an unacceptable impact on residential properties which interface with the proposal both during the construction and operational phase of the facility. The various issues raised in the grounds of appeal are supported in this observation.

#### *7.3.8 Observation from Cllr. Deirdre Heney*

This observation requests that the concerns of the Councillor's constituents are fully taken into account prior to reaching a decision on the application.

### **7.4 Further Submissions sought from An Bord Pleanála**

In receiving the appeal the Board sought observations from a number of agencies / proscribed bodies. The responses are set out below:

A letter from **Transport Infrastructure Ireland** states that the Authority was in receipt of the initial planning application. The Authority is satisfied that the issues identified in the original submissions have been addressed in the decision of the Council and the conditions attached. In the event that the Board upholds the decision of the Planning Authority, Transport Infrastructure Ireland request that conditions be applied to the grant of planning permission as they specifically relate to Dublin Tunnel. The Authority has no further observations to make on the subject planning application and appeal.

A letter from **Fingal County Council** dated 7<sup>th</sup> January, 2016 notes Local Objective 299 in the Fingal Development Plan 2011-2017 which supports the construction of an oil pipeline from Dublin Port to provide fuel service to Dublin Airport. The project would provide a secure

alternative to the current requirement to transport aviation fuel by road and across the city and would remove 15,000 truck movements per annum from the road network. Fingal County Council supports this development and would welcome a favourable decision from An Bord Pleanála.

## **8.0 PLANNING POLICY PROVISION**

There are a number of strategic policy documents, particularly on a national level that are of relevance to the current application and appeal before the Board. Rather than detail the various documents in this section of the report I intend to refer to the documents where relevant in my assessment below.

### **8.1 Dublin City Council Development Plan 2011-2017**

In terms of zoning the proposed pipeline is located within the public roadway and as such is not allocated any specific zoning provision. The various land use zonings on lands contiguous to the roadway which will accommodate the pipeline are indicated on Figure 7.1 of the EIS (page 67) and Table 7.2 of the EIS.

Section 5.2.4.15 of the Plan states that a secure and reliable energy network is an important element for supporting the economic development and supporting the needs of every sectoral interest in the city. To achieve this the Council will support a wide range of energy supply solutions to meet future demand particularly renewable energy resources and less carbon intensive supplies including promoting energy efficiency, energy conservation and the use of renewable energy in existing and new developments. In particular Dublin City Council will work in conjunction with adjoining local authorities to reduce greenhouse gas emissions and mitigate against climate change with particular regard to energy planning, transport, waste management and biodiversity.

In relation to amenity issues there are various statements contained throughout the plan which seek to ensure that amenities are protected. Chapters 11 and 12 make numerous statements specifically in relation to protecting residential amenity.

## **8.2 Fingal County Council Development Plan 2011-2017**

The Fingal County Council Development Plan 2011-2017 is the statutory development plan covering the northern portion of the pipeline to the north of the R139 (former N32). Again details of contiguous land use zoning objectives on either side of the pipeline route are indicated on Figure 7.1 and Table 7.2 contained in the EIS. In terms of specific objectives. A key strategic objective for the Airport includes Objective 9 to safeguard the current and future operational, safety and technical requirements of Dublin Airport and provide for its on-going development within a sustainable development framework. Objective TO39 seeks to facilitate the operation and future development of Dublin Airport recognising its role in the provision of air transport both passenger and freight.

Section 4.3 of the Development Plan specifically relates to energy. There are various policy statements contained in this section of the Plan in respect of energy efficiency.

Section 2.10 of the Development Plan specifically relates to Dublin Airport. It notes that Dublin Airport is of national and international importance and represents the most significant single economic entity in Fingal and the region. The airport is a principle gateway to Ireland and an important driver of economic development, generating employment both directly and indirectly.

Chapter 4, Section 4.1 specifically relates to transportation. The overall plan seeks to promote sustainable transport/modal change away from the private car.

## **9.0 PLANNING ASSESSMENT**

I have read the entire contents of the file including the EIS and associated documentation submitted with the planning application. I have also visited the route of the pipeline and have had particular regard to the issues raised in the grounds of appeal and the various observations contained on file. I consider the critical issues in determining the application before the Board are as follows:

- Strategic Considerations
- Justification for the Proposal
- Health and Safety Considerations

- The Requirement for a Health Impact Statement
- Consideration of Alternative Routes
- Traffic Disruption
- Issue of Contaminated Lands
- Construction Amenity Issues
- Impacts on Trees and Shrubs
- Devaluation of Property
- Lack of Appropriate Consultation
- Flooding Issues
- Conditions

The final sections of my assessment will relate to EIA and AA.

## **9.1 Strategic Considerations**

The proposed pipeline will obviate the need to transport fuel via road based transport from the Port area to Dublin Airport. The applicant indicates that in 2015 the annual demand for aviation fuel at Dublin Airport was estimated to be 800 million litres. This resulted in approximately 21,000 tanker round trips between the Port and Dublin Airport on an annual basis (based on a tanker capacity of 38,000 litres per vehicle). This approximates to c.60 vehicular trips per day. Demand is expected to grow to 1.45 million litres by 2035. Based on the same tanker capacity, this would result in 38,000 round trips per annum or 104 round trips per day. There can be little doubt that the removal of the these tanker journeys would be beneficial in terms of (a) reducing greenhouse emissions associated with the vehicles (b) reducing traffic congestion within the urban area and (c) reducing potential safety risks associated with traffic accidents involving the tankers.

In addition to the above, it also appears that the proposed development would be beneficial in facilitating an efficient supply of aviation fuel to Dublin Airport. Various strategic policy documents outline and highlight the important national role Dublin Airport plays in enhancing economic development within the Dublin and wider region.

The importance of Dublin Airport is recognised in the National Spatial Strategy for Ireland and the National Development Plan 2007-2013. The Air Transport Sub-Programme set out in this Plan seeks to ensure that there is sufficient infrastructure capacity to meet the growing air traffic demand and to ensure that infrastructural capacity increases in line with the growth of air services. Specific reference is made to Dublin Airport as an international gateway in this regard. It could be reasonably argued

in my opinion that the pipeline if delivered would assist in this overall goal in providing a secure and constant supply of fuel particularly in the light of meeting increasing demands.

The removal of HGV goods from the road network and in particular the urban road network is fully in accordance with various transportation strategies relating to the Dublin region. A New Transport Policy for Ireland 2009-2020 seeks to improve economic competitiveness to maximise the efficiency of the transport system and alleviate congestion and infrastructural bottlenecks while minimising the negative impacts of transport on the local and global environment through reducing air pollutants and greenhouse gas emissions. The road freight sector is considered to be a significant contributor to such air pollutants and greenhouse gas emissions.

Likewise the Greater Dublin Area Draft Transport Strategy 2011-2030 seeks to improve access to Dublin Port and Dublin Airport. Removing tanker traffic off the road network will certainly assist in this objective. The same draft policy document seeks to minimise the physical intrusion of motor traffic, minimise the impact of transport on air quality and water quality as well as noise and vibration and minimise the impact of transport on biodiversity and natural amenities. Again the removal of HGV vehicles associated with the transportation of aviation fuel will certainly assist in supporting these objectives. Finally the proposed development will comply with many of the policy statements contained in the various energy policy documents all of which seek to reduce CO2 emissions and greenhouse gases and thereby addressing the issue of climate change.

The proposed aviation fuel pipeline would therefore assist in many of the wider strategic objectives associated with (a) facilitating the development and expansion of Dublin Airport, (b) reducing greenhouse gases and assisting in the reduction of traffic congestion within the North Dublin urban and suburban areas, (c) improve road safety and amenity problems associated with such traffic, particularly freight and HGV traffic. I am therefore satisfied that the proposed development is justified on strategic grounds.

## **9.2 Justification for the Proposal**

Some of the observations submitted in respect of the proposal and in this regard I specifically refer to the observation submitted by Cllr. Cieran Perry, argues that no satisfactory case has been made by the

developer to demonstrate the necessity for a project of this nature and scale. It is suggested that the proposal is being made by a private developer and is motivated by profit alone. I consider that the arguments set out above justify consideration of the proposed development in terms of the strategic benefit that the proposal brings. The fact that the proposal is being put forward by a private developer is not a material consideration in my view. The applicant or any applicant for that matter is perfectly entitled to apply for planning permission for a development such as that proposed and any such application will be evaluated on its merits and in accordance with the proper planning and sustainable development of the area. One of the key considerations in this regard relates to health and safety considerations associated with the pipeline. This issue is assessed and evaluated in the section below.

### **9.3 Health and Safety Considerations**

Health and safety considerations constituted a major issue in the various appeals and observations submitted to the Board in respect of the proposed development. The concerns arise principally in the context of the proposed pipeline being constructed in a predominantly residential area in close proximity to a large number of dwellings. The main health and safety concerns relate to the following issues:

- Leakage of aviation fuel from the pipeline.
- The proximity of the proposed pipelines to other pipelines and in particular the presence of a natural gas pipeline in the vicinity of the proposed route.
- The potential for fire risk from the transportation of aviation fuel within the pipeline.
- Corrosion of the pipeline.
- Potential flooding of the pipeline.
- Rupturing of the pipeline as a result of third party activities (namely other utility companies).
- Potential spills.
- Potential mechanical failure.
- The possibility of accidents such as those which occurred in the US, Africa, Belgium and the UK.
- Concern is also expressed in respect of potential terrorist threats.

There can be no doubt that health and safety represents a significant issue in determining the application before the Board. While the control of major hazardous and accidents is primarily a matter for the Health and Safety Authority, safety aspects associated with the pipeline

nevertheless are a material planning consideration, particularly in the context of its potential to injure the amenities of the area through adverse health and safety implications arising from the development. Furthermore if perceived, health and safety consideration arises as a result of the proposal it could be reasonably argued it could both injure the amenities of the area and devalue property in the vicinity both of which are pertinent planning considerations.

Health and safety concerns are primarily predicated on the probability of an accident occurring and the potential for significant adverse consequences. A large scale leak from a pipeline could have significant adverse environmental and safety consequences, particularly if it goes undetected for a prolonged period of time and where corrective measures are not undertaken. This section of the assessment will initially examine the probability of an accident occurring before assessing the corrective measures which are proposed to address any potential pipeline failure. The assessment will then go on to evaluate the specific concerns raised by third parties or observers in respect of corrosion/mechanical failure etc.

The risk analysis carried out by AMEC (see Safety and Environmental Impact Evaluation Report in Folder 1 submitted with the application) is based on data collected between 1971 and 2012 and covers a total of 842,366 pipeline KM/years (data prepared by CONCAWE). The analysis undertaken suggests that in the case of a 200 millimetre pipeline such as that proposed, the total failure frequency in the pipeline is expected to occur on one occasion in every 5,130 years. This compares very favourably with road based tanker transports where accidents are likely to occur, again based on probability, one in every 32 years or under an absolute worst case scenario, an accident leading to a release or spillage of fuel could occur once in every three to four years. The risk analysis undertaken by AMEC unequivocally concludes that a pipeline, as a method of transporting aviation fuel, presents a significant improvement in terms of safety rather than transporting the same product by road tanker.

Section 4 of this AMEC report specifically compares the transportation of fuel via pipeline with road tankers. It suggests that although the average spill size from a pipeline is higher than by tanker, the failure frequency is very much lower giving an overall much reduced risk. Furthermore failure frequencies in pipeline tend to be minor leaks as opposed to full pipe ruptures. It is suggested that full bore rupture in a pipeline is likely to occur approximately once in every 35,000 years.

Notwithstanding all the statistical data presented in the application and summarised above, there can be no doubt that the risk posed specifically for residents living along the pipeline route is greater than that currently experienced by the residents in question on the grounds that no fuel pipeline currently exists along the proposed route. Currently the aviation oil is transported via roadways to the Port Tunnel and onto the M1 and M50 to the Airport. The transfer of aviation fuel oil between the Port and the Airport via road tanker currently poses a risk to other road users along this route and the risk becomes greater within the confines of the Port Tunnel.

Based on the risk frequency analysis carried out it appears that road based transport is between and 90 and 160 times more likely to give rise to an accident than that associated with pipeline transportation. I consider that the Board in determining the application must widen its evaluation of the health and safety impacts to the probability of an accident occurring on the route between the Port and the Airport as a whole and therefore its implications for the wider population, and not focus purely on the potential adverse health and safety implications for the residents adjacent to the pipeline.

A second critical issue in terms of assessing the risk is the severity of a failure/accident and the potential adverse safety consequences. This is perhaps a more difficult aspect of the proposal to assess. Aviation fuel is flammable under certain conditions and has a flashpoint above 38° C. The fuel will require the application of heat in order to ignite it. The probability of this is extremely low having regard to the ambient earth temperature in this temperate climate and the fact that the pipeline is located underground. Perhaps a greater concern relates to leaks migrating underground into the unvented voids and the consequent build-up of vapours within these voids. Again the risk analysis indicates that a failure frequency comprising of a minor leak (pinhole) is likely to occur once in every 10,000 years. Furthermore it is stated that the maximum spill size of a pipeline with two section isolation valves is less than three times that for a road tanker but the release frequency is approximately 90 times lower than that of a road tanker. The incorporation of isolation valves (as proposed in this instance) limits the potential volume to be released.

The final section on health and safety will address specific concerns raised in the grounds of appeal.

### 9.3.1 *Leakage*

A major concern is expressed in respect of leakage from the pipeline. I have already indicated above that under a worst case scenario the risk analysis indicates that a failure in the pipeline is likely to occur once every 5,100 years. The risk analysis also indicates that in approximately half of these cases any leakages tend to be minor in nature (the size of a pinhole) and these have a frequency of approximately 1 in every 10,000 years. The information contained in the application indicates that a computational model pipeline leak detection with automatic shutdown will be installed in compliance with recommended practice. Leak detection systems will be chosen from specialist leak detection vendors with a proven track record according to the information submitted. External leak detection will comprise of a slotted duct installed in the pipeline trench with a sensing cable installed in the duct. Leak detection measures will also be provided by means of fortnightly walk surveys and by instrumentation monitoring. Valve chambers will be equipped with liquid level sensors to detect any leak and alarm flooding and hydrocarbon sensors in order to detect fuel leaks. In the case of a larger leak in the event of a rupture section isolation valves will be installed in accordance with governing code (ISEN 14161).

Finally in relation to leaks, a communications fibre optic control cable will be laid on top of the pipe and will provide a means of detection of interference to the pipeline. Any disturbance to the pipeline will break this cable and will automatically initiate an emergency shutdown of the pumps and closure of any section isolation valves. The above measures have been specified in the plans and particulars submitted with the application. A condition in the event of planning permission being granted will require the applicant to comply with the particulars including the plans and mitigations measures set out in the EIS and associated documentation. Having regard to the measures to be incorporated into the design, it is considered that adequate measures are being put in place to ensure that any leak can be detected and isolated in order to minimise potential adverse impacts.

### 9.3.2 *Proximity to Other Pipes*

Concern is also expressed that the proposed pipeline, being laid in close proximity to other pipelines presents a significant adverse health and safety risk. In this regard specific reference is made to the gas pipeline which has been laid in close proximity to the proposed pipeline alignment for part of the route in the proximity to the port area. A

construction plan was submitted as part of the proposal. It will be a requirement of the developer to lay the pipe in accordance with best practice to ensure that no existing infrastructure or utilities will be in any way interfered with or damaged as a result of the laying of the pipeline. It is a normal and frequent occurrence that construction and maintenance works on underground utilities are carried out without damage or detriment to the other utilities and pipelines in the ground. It is stated that all works will be carried out as per ISEN 14161 and any requirements for local authorities. As with all construction works, it is a requirement that best practice be incorporated in undertaking all works and therefore I do not consider that the presence of other pipes in the vicinity of the proposed pipe represents a significant threat or obstacle to laying the pipeline in question. The fact that a gas pipeline is located in such close proximity to a fuel pipeline does not in my view pose a significant risk having regard to the fact that both pipelines will be of sufficient structural integrity to ensure that any failures in the pipe will occur very infrequently as indicated in the frequency risk analysis referred to above.

#### *9.3.4 Fire Risk*

In relation to the issue of fire risk, I reiterate that the ignition point for aviation fuel, is 38 degrees. The fact that the underground ambient air temperature is considerably below this temperature together with the pipe, being buried underground is not readily accessible, I consider any risk associated with fire to be minimal. The issue of fire risk is very much related to the risk of pipe failure and I have argued above the probability of failure is very small and thus the consequential risk from fire/explosion is likewise very small. Having regard to the statistics presented in the risk analysis, it appears that road transportation represents a greater fire risk/explosion in the case of an accident occurring.

#### *9.3.5 Pipe Corrosion*

In terms of pipe corrosion, it is mentioned throughout the EIS, the Design Basis Report and the Safety Environmental Impact Evaluation Report that an impressed current cathodic protection system with deep well anode groundbeds will be installed in order to prevent external corrosion of the pipe. Deep well groundbeds rather than remote ground beds will be employed to minimise the risk of interference with other buried services. The cathodic protection system will, according to the

information contained on file comply with relevant standards (BS 7361-1:1991 and BS 12954:2001).

### 9.3.6 *Physical Damage or Rupturing*

Concerns are also expressed that the proposed pipeline could suffer damage or rupturing from third party activity. The risk assessment report indicates that third party activity represents almost 50% of all recorded failures in data published by CONCAWE. The pipeline will be located in close proximity and in most cases parallel to other underground utility services, pipes and ducts. However the majority of the route will be operating within a public roadway which will require road opening licences. As such all such openings will be subject to licence requirements and such works shall be carried out in accordance with best practice. Furthermore along the whole route the trench will be backfilled with a lean mix concrete above the proposed pipeline. Beneath the lean mix concrete it is proposed to encase the pipeline with compacted sand and pea gravel backfill. This will give a significant level of protection to the pipe from external interference. The Board may also wish to note that in the case of the previous grant of planning permission for the pipeline, the thickness of the pipe was 11.91mm. This has been increased to 12.7mm in the case of the current application. The pipeline will also be the subject of a static pressure test to a pressure of one and a half times the operating pressure and this will be carried out using the pipeline aviation fuel as the test medium. This will detect and highlight any potential physical damage to the pipes.

### 9.3.7 *Accidents*

The grounds of appeal, and in particular the observation submitted by Tommy Broughan T.D., express considerable concerns with regard to history of accidents associated with fuel pipes. In this regard reference is made to a number of specific pipeline incidents in the US, Canada, Europe and in particular Belgium as well as a number of incidents in Africa. It is not possible to comment on the specific incidences referred to as no details have been provided in relation to the specific circumstances relating to the accident. In particular no details have been given as to the nature of the fuel being carried in the pipelines, the location of the pipelines, the health and safety mitigation measures included as part of the pipeline construction and maintenance. I am satisfied based on the information submitted with the application that the applicant, through details provided in the Construction Plan, the Design Basis Report, the Safety and Environmental Impact Plan together with

the Emergency Plan has demonstrated that the transportation of aviation fuel between the Port and the Airport by way of an underground pipeline will, subject to all mitigation measures being employed, represent a negligible risk in terms of creating a major accident or hazard which would compromise the health and safety of residents in the vicinity of the pipeline. I am satisfied that the applicant has undertaken a robust and comprehensive risk analysis and has also incorporated and employed measures to ensure that safety considerations associated with the pipeline are paramount to the design.

#### *9.3.8 Terrorist Threat*

The pipeline does not in my view constitute a terrorist threat having particular regard to nature of the Category B Fuel to be conveyed and its location underground.

#### *9.3.9 Health and Safety Authority Comments*

Furthermore in relation to the issue of health and safety, I would refer the Board to the submission of the Health and Safety Authority to Dublin City Council. While the HSA requested the Planning Authority initially to seek further information in the form a document that identifies the potential major accidents as they relate to this application, a further submission from the HSA (dated 25<sup>th</sup> May, 2015) states that on the basis of the information supplied “*the Authority does not advise against the granting of planning permission in the context of major accident hazards*”. It would appear therefore that the Health and Safety Authority are satisfied that the proposed pipeline is deemed to be acceptable in the context of health and safety and the potential for major accident hazards.

#### *9.3.10 Precedent Decision*

The Board may consider it pertinent or appropriate to seek independent advice in respect of the health and safety aspects associated with the proposed pipeline. The issue of risk analysis from a health and safety perspective is a technical and specialised area and for this reason the Board may wish to seek such additional independent expert advice. It should be borne in mind however that a similar type aviation fuel pipe linking Dublin Port to the Airport via Santry was determined by the Board. The report prepared on behalf of the Board by Michael Slattery (BE, Msc. (Fire Eng.) C.Eng FEI, MSPFE, Euring) recommended that planning permission be granted for the proposed pipeline. While

following a different route to the current application, the pipeline nevertheless passed under roads located in the north inner city and in close proximity to densely populated areas in close proximity to houses similar to that under the current application. The Board accepted the recommendation of the consultant in respect of the previous application and granted planning permission for the pipeline. Thus the principle of constructing an aviation fuel pipeline through the north of the city has already been accepted by the Board in terms of potential health and safety risks.

#### **9.4 The Requirement for a Health Impact Statement**

One of the observations submitted to the Board contended that the proposed development should not proceed in the absence of the applicant submitting a Health Impact Statement in respect of the proposed development. I consider that health and safety considerations go hand in hand and I am satisfied as argued above, that the proposed development represents an acceptable safety risk and a lesser risk than that associated with road transport. Therefore I do not consider that a separate health and safety impact is required.

#### **9.5 Route Selection Process**

The issue of evaluating alternative routes was raised as an issue in some of the submissions to the Board. Primarily concern was expressed that alternative routes were not considered - principally those routes away from residential areas. The six routes that were evaluated as part of the route selection process are indicated in Figure 2.2 of the EIS (page 11). These routes were assessed against 10 separate criteria including:

- Public health and safety and traffic impact.
- Impact on local community.
- Proximity to occupied buildings.
- Planning and land use.
- Wildlife and environmentally designated areas.
- Impact on protected structures.
- Visual impact.
- Pipeline construction and operation.
- Location of and access to intermediate isolation values.
- Cost and programming.

Route Option 6 was selected as the preferred option. I consider the criteria under which the various route options were assessed were reasonable. I further consider that the weightings in respect of each option (ranging from strongly positive to strongly negative) to be reasonable.

It is worth noting that Option 6, the preferred option, is estimated to cost an additional €3 million to lay over and above the least costly option. It is noted however that Option 6 (along with Option 3) has the highest potential impact on the local community. I note that none of the options involved placing the pipeline either in the Port Tunnel or along part of the railway line which would increase separation distances between the pipeline and surrounding residential development. While this would undoubtedly be beneficial in terms of its impact on the local community, it would also inevitably give rise to partial and complete closure of the Port Tunnel while the pipeline is being laid and laying the pipe along the rail line could also significantly impact on DART and mainline rail services. It is assumed for these reasons that these options were not considered. Any safety/maintenance issues associated with the pipeline along these alignments would inevitably result in significant disruption of priority strategic routes in and out of the city. However the Board may wish to consider further evaluation of these options prior to making any determination on the proposed pipeline route.

Finally one observation submitted recommends that consideration be given to piping the aviation fuel to the new proposed Port of Drogheda and then piping it from this new Port to the Airport. In relation to this alternative it is not altogether clear whether Drogheda currently has the capacity, the facilities or the infrastructure to handle and transport large quantities of aviation fuel. Furthermore it appears that any future development of the Port is a long to medium term objective. Finally I note that the distance between Drogheda and Dublin Airport is considerably greater than that between Dublin Port and the Airport. For these reasons this proposal may not constitute a viable alternative.

## **9.6 Traffic Disruption**

The proposed development will undoubtedly give rise to traffic disruption and increased congestion during the construction period. The proposed pipeline corridor passes along a number of busy commuter routes including the East Wall Road, Alfie Byrne Road, the Clontarf Road and particularly the Malahide Road. All the roads affected by the proposed pipeline with perhaps the exception of Copeland Avenue are heavily

trafficked important radial and distributor routes. The Malahide Road (R107) is perhaps the most important of the routes and the proposed pipeline will run along approximately 5 kilometres of this roadway. The Malahide Road together with the Howth Road accommodate bus lanes and the Malahide Road is further designated as part of the existing Quality Bus Network in the north of the city. The vast majority of the pipe laying will incorporate traditional open cut trenching within a corridor along the existing road network. It is estimated that the construction works will last for approximately 10 months. The construction works will take place in chronological sections along the carriageway. Each of the work sites will measure approximately 72 metres long by 4 metres in width. The construction works therefore will affect specific areas along the roadway in chronological sequence. The proposal therefore will not give rise to wholesale construction works along the entire route at any given time. Notwithstanding this point there can be little doubt that sectioning off 4 metres of carriageway will significantly reduce the capacity of the road network and will have implications in terms of traffic congestion upstream of the works taking place. The likely traffic congestion and delays resulting from the proposal are set out in Section 9.5.5 of the EIS.

However as with any construction project the impacts will be temporary in this instance it is estimated to be over a 10 month period. Construction site mitigation measures together with specific traffic management plans along the route are set out. Detailed traffic management plans are contained in Appendix 9.1 of the EIS. These traffic management plans set out the proposed measures to be taken along each section of the alignment and include signage to be provided along the route.

While the proposed laying of the pipeline will give rise to traffic congestion issues, I do not consider that the disruption invoked by the works to be carried out constitute reasonable grounds for refusal. The proposed works will only affect specific sections of the public road at any given time and more importantly will be temporary in nature. As already stated all works will be subject to a road opening licence which will be carried out in consultation with the local authority. It must also be acknowledged that the long-term implications of providing an aviation pipeline route will result in approximately 15,000 HGV tankers being taken off the public roadway on an annual basis. In addition it should also be noted that Dublin City Council's Roads Traffic Planning Division was satisfied that the anticipated impact arising from the construction works was deemed to be acceptable. The impacts which can be

expected are similar to other on-going roadworks which occur continuously in the Dublin City area associated with the repair, maintenance and laying of underground utilities. Once constructed the buried pipeline will have no impact on the road networks under normal operating conditions.

## **9.7 Contaminated Land**

Concerns are expressed that the construction works associated with the laying of the pipeline will result in the excavation of contaminated land particularly in the vicinity of the Alfie Byrne Road. The applicant has stated in response to the grounds of appeal that the proposed pipeline will not result in any excavation of contaminated land. The depth of excavation works will generally be limited to 1.5 metres below the existing ground levels. Deeper excavations will be required at river crossings where trenchless technology will be utilised to avoid the requirement for deep excavation. The estimated total volume of material to be excavated along the entire route of the pipeline is approximately 15,120 cubic metres. If any, only a fraction of this excavated material will potentially be contaminated. If the Board consider it appropriate, it can incorporate a condition requiring that along the section of Alfie Byrne Road any excavated material could be tested for contamination and where contaminated soils are identified these soils would be required to be disposed of by a specialised contractor.

## **9.8 Construction Amenity Issues**

As in the case of traffic and transport, the construction activity associated with the laying of the proposed pipeline is likely to impact on the amenity of residents along the route primarily by way of increased levels noise and dust generation. However as referred to earlier in my report, the construction work sites will move chronologically along the route as the pipeline progresses. Construction sites will occupy an area of approximately 72 metres in length and 4 metres in width at any given time. According to the information contained in the EIS, the construction period at any given location will be approximately two days. Therefore the inconvenience arising from the construction activity in the vicinity of a given house/premises is unlikely to extend beyond a week. Having regard to the short duration of this disruption the impact on residential amenity is deemed to be acceptable.

## **9.9 Impacts on Trees and Shrubs**

This issue raised in the grounds of appeal specifically related to the trees and shrubs on Copeland Avenue as opposed to the potential impact on trees and shrubs along the overall route. The drawings submitted indicated that all works will be undertaken on the public road and will be located adjacent to existing underground utilities along the roadway. There is no evidence to suggest that the laying of the pipeline will impact on existing trees and shrubs along the route. Specifically in relation to Copeland Avenue, the drawings submitted indicate that the open cut trench will be located along the southern side of the carriageway and will not encroach on the footpath. (See Drawing No. SM13). The route selection map and the photographs attached clearly indicate that mature trees are located on the “green acre” between the footpath and the roadway. There is no evidence to suggest that the proposed pipeline will result in the removal or damage of the trees in question. Section 11.5.3 of the EIS (page 181) acknowledges that treelines can be damaged as a result of roadworks (the EIS makes reference to the Alfie Byrne Road, the Malahide Road, the R139 and the Clonsaugh Road and not Copeland Avenue). It notes that the current route has been selected to avoid trees however amendments to the preferred route with the pipeline corridor may result in the removal of trees or partial route systems associated with trees. It further states that prior to construction a qualified arboriculturist will carry out tree surveys within the proposed planning corridor to establish where tree removal and modification is required. Any such tree removal will require a felling licence. In the scenario where trees are to be removed I consider that the Board could attach a condition requiring semi-mature trees to be planted in place of any tree/trees to be removed. The potential impact of the proposed pipeline on trees and shrubs along its alignment does not in my view constitute reasonable grounds for refusal. Particularly as mitigation measures including the planting of replacement trees can be implemented by way of condition.

## **9.10 Devaluation of Property**

Various references are made in the submissions that the proposal will result in a devaluation of property. I have argued above that the proposed pipeline has been the subject of a risk evaluation and that risks associated with pipelines of this nature are negligible. If the Board accept that the potential risk arising from the construction of a fuel aviation line are negligible, it can be reasonably be concluded that the

proposed development will not have any adverse impact on planning terms and by extension will not result in the devaluation of property along the alignment.

### **9.11 Lack of Appropriate Consultation**

Section 5.4 of the EIS sets out details of the consultation process associated with the proposed project and planning application.

It appears that consultations were held with prescribed bodies, NGOs, service providers and with the public. Furthermore two public information days were arranged and a door to door mail drop was conducted to houses, businesses and schools along the route. Over 1,000 leaflets were distributed according to the information contained on file. It appears therefore that adequate consultation was carried out beyond that required under legislation. The fact that so many submissions were made to the Planning Authority, and subsequently to the Board on appeal would support the conclusion that the public have been made aware of the proposed development.

### **9.12 Flooding**

A Flood Risk Assessment Stage 1 was carried out and this is contained in Appendix 13.1 of the EIS. The results of the flood risk identification process conclude that the preparation of a Stage 2 Flood Risk Assessment in accordance with OPW Guidelines would not be necessary. An early warning system of extreme tides will suspend construction of the pipeline on the Alfie Byrne Road and on Clontarf Road which would be perceived as 'at risk areas' in an extreme emergency. The location of existing services have been identified and slit trenching will be carried out in conjunction with the pipe laying along the sections of the road in order to proof the location of the services. I can only conclude there that no flood risk issues arise in respect of the proposed development.

### **9.13 Conditions**

The third party appeal submitted by David Ryan specifically centred on the conditions attached to the Planning Authority's grant of planning permission. The fact that the decision of Dublin City Council was subject of third party appeals has resulted in the proposed pipeline development being assessed as if it was made in the first instance and as such the conditions attached by Dublin City Council are for all intents and

purposes null and void. Notwithstanding this it is appropriate that the issues raised be assessed briefly below in the context of any conditions the Board may wish to draft in the case where it is minded to grant planning permission for the proposed development.

#### *Consents from Landowners*

Reference is made in the appeal to the planner's report where it is noted that the developer will be seeking a wayleave on private lands for inspection and repair. The grounds of appeal argue that no consent has been provided from the owners of this land. Reference is made to the *McCallig v. An Bord Pleanála* and it is argued that no consent can be given until agreement is reached with all private landowners whose lands are affected by the proposed pipeline. The applicant in a response to the grounds of appeal states that the necessary consents to apply for planning permission were received and submitted to Dublin City Council and Fingal County Council with the planning application. I consider that there is an onus on the applicant, having particular regard to the *McCallig* judgement, to ensure that all lands affected by the proposed development should in any planning application be accompanied by written consent from the owners of the land which is the subject of the planning permission. I note that two letters were submitted with the application one from Dublin Port and the other from the Senior Parks Superintendent of Dublin City Council. It is not altogether clear however whether or not consent has been obtained from other landowners including the owners of the Athletic Union Sports Ground and Dublin Airport. It is possible that letters on consent were submitted to Fingal Co Council for this section on the route but do not appear on file because Fingal Co Council decision to grant was not the subject of any appeal. Having regard to the High Court judgement in the case of *McCallig v. An Bord Pleanála* it may be pertinent for the Board, prior to determining the application, to seek clarification from the applicant as to whether or not all written consents have been secured from all relevant landowners to which the application relates.

#### *Appropriate Assessment*

With regard to the issue of appropriate assessment it is a requirement of the Board determining the current application and appeal before it to carry out a detailed and objective appropriate assessment in the course of determining the application. Please see section below in this regard.

## *Environmental Impact Statement*

The grounds of appeal also suggest that the EIS is inadequate principally because the current application seeks a permission life of 10 years and it is argued that the EIA process cannot adequately consider need and other impacts that may arise 10 years from now. It is not unreasonable to conclude that an EIS could anticipate potential adverse environmental impacts over a 10 year period. This is not considered to be an excessive timeframe in which to assess future environmental impacts. I note that the Board have previously, on other largescale applications, granted planning permission for a 10 year period where environmental impact statements have accompanied such applications. With regard to the quality and content of the EIS please refer to this issue under a separate heading below in my assessment.

### *Condition 5(a)*

This condition requires the developer to lodge with the Planning Authority a cash deposit or bond of insurance or other security to secure the environmental restoration in the event of a leak of the pipeline or in the event of the need for decommissioning. An Bord Pleanála is not an enforcement authority in respect of matters relating to environmental restoration etc. This is a matter for the Planning Authority and therefore I consider it appropriate that any such bond or cash deposit should be agreed between the relevant enforcement authority and the applicant. It is only in the case where agreement cannot be reached between the parties concerned that An Bord Pleanála would be required to address any dispute regarding same.

### *Condition 5(b)*

Condition 5(b) requires that prior to the commencement of development an independent and suitably qualified person shall be appointed at the developer's expense to monitor the pipeline on an annual basis. Again I consider this matter to be an issue which can be agreed between the applicant and Dublin City Council. Dublin City Council is the relevant enforcement authority in respect of issues involving the on-going monitoring of the pipeline and therefore the Council will need to be satisfied in respect of the independence and the qualification of the person appointed to undertake the monitoring. With regard to the frequency of the monitoring, I note that while an independent monitor is required on an annual basis in accordance with Condition 5(b), it is clear from the AMEC Report (see Section 2.4.3 of report) that instrumentation

monitoring and fortnightly walk surveys will be undertaken in respect of leak detection. This would appear to be an adequate level of monitoring in my view.

*Condition 5(c)*

Condition 5(c) sets out further monitoring requirements to be undertaken by an independent suitably qualified person. Again I consider that the suitability of such a person to undertake such works are a matter for Dublin City Council, it being the enforcement authority in respect of the proposed planning permission and the development.

*Condition 5(f)*

Condition 5(f) requires the developer to develop detailed emergency response procedures in respect of any leak or other failure associated with the pipeline and these procedures shall be subject to the approval of the Planning Authority. It is suggested in the grounds of appeal that the review of any emergency response procedure should be specified. I do not consider it unreasonable that any emergency response procedure would be subject to periodic review on a yearly or two yearly basis. The Board could therefore include a specified period for review in any such condition attached to a grant of planning permission.

*Condition 5(g)*

Condition 5(g) requires the applicant to indemnify Dublin City Council against any incident, accident or emergency which would give rise to environmental pollution or damage. The grounds of appeal argue that the indemnity should be extended to all those affected by the proposal. I would consider that it would be outside the legal remit of the Planning Authority to require the applicant to indemnify or compensate third parties. The Board may wish to seek legal advice in respect of same.

*Condition 5(h)*

In respect of Condition No. 5(h) which requires wayleave agreements along the route of the pipeline to be secured prior to the commencement of development, I would refer the Board to my comments set out in the first paragraph of this subsection. Having regard to the McCallig judgement it may be prudent and desirable for the Board to seek clarification whether or not all landowners have provided written consents to permit works along the entire pipeline route.

*Condition 5(i)*

Condition 5(i) requires the developer to accept responsibility for the removal or relocation of the aviation pipeline at his own expense. I consider this condition to be reasonable. There is nothing to support the suggestion set out in the grounds of appeal that the laying of the pipeline could impact on any water supplies or sewage disposal through damage in undertaking the works.

*Condition 5(j)*

Condition 5(j) requires the developer to demonstrate that there is an unobstructed route for the proposed pipeline given that there are a number of locations with heavily congested underground services such as the East Wall Road and Copeland Avenue. Again I consider this condition to be reasonable and it may be appropriate to insert the condition that prior to the commencement of development the developer shall prove that there is an unobstructed route for the proposed pipeline. It would be inappropriate for the developer to commence work only to find obstructions in latter sections of the route which would necessitate a rerouting of the pipeline and the requirement for further development consents.

*Condition 5(o)*

Condition 5(o) requires the developer to liaise with Transport Infrastructure Ireland (TII) in relation to the location of the proposed pipeline that lies within the protection corridor of the Eastern Bypass. Any amended location for the pipeline in the vicinity of the eastern bypass shall be agreed in writing with the Planning Authority prior to the development. It is argued that this condition gives licence to the developer to amend the proposal without the necessity of a new planning permission. I consider that it would be imperative that any alteration in the route of the pipeline must remain within the confines of the red boundary line as indicated on the drawings submitted with the application. In the case where the pipeline was to be relocated outside the boundary of the site this would in my view necessitate a new planning application. I consider that this point should be accurately reflected in any rewording of the condition.

*Condition 5(q)*

Condition 5(q) requires the cover of the top of the pipe should be a minimum of 1.5 metres along the Malahide Road to cater for the potential of a future light rail scheme being routed along the Malahide Road. The grounds of appeal suggest that this depth is inadequate and should be substantially increased. An observation from Transport Infrastructure Ireland (TII) on file recommended that the depth of the pipe be increased from 1.2 to 1.5 metres in order to facilitate the laying of a light rail system along the Malahide Road. Having regard to the comments of Transport Infrastructure Ireland and it being the competent authority in relation to the provision of light rail systems, I consider a depth of 1.5 metres to be appropriate in this instance.

*Condition 5(v)*

Condition 5(v) requires that the pipeline should be designed as per the details submitted with any amendments agreed in writing in advance of the proposed change. The grounds of appeal argue that this condition should be omitted on the grounds that it is vague and should not be agreed in secret between the parties concerned. I consider the Board could consider omitting this condition as it would appear to contradict the standard condition requiring the applicant to fully comply with plans and particulars submitted with the planning application.

*Condition No. 6*

Condition No. 6 requires the applicant to ascertain the requirements of Iarnród Éireann including any wayleave agreement prior to the commencement of any works on site. Issues regarding to any wayleave agreements and construction requirements as set out in this condition is a matter between the applicant and Iarnród Éireann. I consider this condition to be reasonable and should be retained unaltered.

*Condition No. 7*

Condition No. 7 requires the applicant to comply with the requirements of Dublin City Council's Drainage Division. Again the grounds of appeal suggest that this condition should be extended to provide for specific remedial measures for other underground infrastructure such as electricity, internet, water and sewage services. It is also suggested that compensatory measures should be put in place for residents affected by

any outages. The condition in question specifically deals with requirements in relation to drainage and I consider it to be appropriate.

*Condition No. 8*

Condition No. 8 requires the applicant to comply with the requirements of Dublin City Council's Biodiversity Officer in respect of the timing of laying the pipeline at Belcamp and also the requires the applicant to comply with the Invasive Species Management Plan submitted with the application. The grounds of appeal suggest that such a restriction should take account of the rights of residents and their families adjacent to the pipeline. I consider that this condition specifically relates to the issue of biodiversity and is appropriate.

With regard to the issue of indemnity for residents to deal with possible claims arising from any potential remedial measures/works to be undertaken, I consider this to be a matter between the applicant and an insurance company and not a planning matter.

*Condition No. 9*

Condition No. 9 relates to archaeology. The grounds of appeal argue that a detailed archaeological survey of the area should be carried out in advance of the commencement of the project. I consider that an appropriate archaeological condition can be drafted by the Board to ensure that archaeological issues are appropriately addressed if the Board are minded to grant planning permission for the proposed development.

*Condition No. 11*

Condition No. 11 relates to a Project Construction and Demolition Waste Management Plan which shall be submitted to and agreed in writing with the Planning Authority prior to the commencement of development. The grounds of appeal argue that such a Plan should be submitted on line for public viewing and consultation before any commencement begins. Again I consider that this matter can be adequately dealt with in the Board's standard conditions in relation to Construction and Demolition Management Plan.

*Condition No. 12*

Condition No. 12 requires that a Hazardous/Contaminated Soil Management Plan should be submitted for the written agreement of the Planning Authority prior to the commencement of any works on site. The grounds of appeal suggest that given the nature of this project the public has a right to be consulted on the hazardous contaminated soil management plan prior to the commencement of development. I consider that any issue in respect of hazardous/contaminated soil management are a matter for the Planning Authority and the applicant.

*Condition No. 13*

Condition No. 13 relates to the preparation of a noise management plan regarding the construction, operation and decommissioning phases of the project. The grounds of appeal suggest that the condition should make specific reference to householders in the area of the proposal and punitive measures for breaches of the plan should be included. It is also suggested that separate funds should be provided to the Council to employ staff to specifically monitor the project. The mitigation measures for noise is set out in Section 10.6 of the EIS. It states that a Noise Management Plan will be developed for the construction phase to ensure that best practice in reducing noise is implemented. This will include a noise monitoring programme. I therefore consider the condition attached by Dublin City Council to be reasonable and appropriate.

*Condition No. 14*

Condition No. 14 requires that prior to the commencement of development the applicant shall agree the working hours with the Planning Authority with any extension to the agreed working hours to likewise be agreed with the Planning Authority. The grounds of appeal argue that the working hours should be set down in any planning permission in advance. The Board may wish to stipulate details of working hours if it is minded to grant planning permission in this instance. It is suggested that working times could be restricted between the hours of 0800 hours to 1900 hours during weekdays and 0800 hours to 1400 hours on Saturdays and not at all on Sundays or Bank Holidays.

### *Condition No. 15*

Condition No. 15 requires that site development works and construction work should be carried out in such a manner so as to ensure that adjoining streets are kept clear of debris, soil and other material. This work should be carried out at the developer's expense. It is suggested in the grounds of appeal that Dublin City Council cannot be relied upon to monitor the development particularly outside working hours. It is also suggested that the developer should be required to provide window cleaning/driveway cleaning services for residents affected by dirt caused by the development. I consider the condition as worded by the Planning Authority is reasonable in this instance. I do not consider it appropriate that the developer should be required to clean windows of third party residents as the creation of dirt on windows in an urban environment may not be and cannot be specifically attributed to works undertaken as part of the proposed development.

### *Suggested Conditions*

Finally the grounds of appeal suggest that a number of other conditions could be attached in any grant of planning permission. It is suggested that the developer pay for a full survey of all trees and shrubbery along the entire route of the proposed development. I consider that a standard landscaping condition could be included in any grant of planning permission which would address the appellant's concerns in this regard.

It is also suggested that the developer should be required to structurally survey all houses along the route at the discretion of the householders. The EIS suggests (Section 10.13.1) that there would be no vibration impacts on human beings, buildings or sensitive equipment during the pipeline installation works. The proposed development would be similar to other road opening and pipe laying/maintenance works which are undertaken by statutory undertakers. There is no requirement in the case of other road opening works to structurally survey all houses in the vicinity. I do not consider it appropriate that such a condition be levied on the applicant in this instance.

It is also suggested that the Board attach a condition requiring the provision of facilities for communities affected by the proposal. Details of the type of facilities to be provided are not suggested in the condition. As the proposed development will result in the removal of significant amounts of HGV traffic from the road network this in itself would provide an appropriate community gain in my opinion. Furthermore the applicant

is required to make financial contributions to the Planning Authority in respect of the proposed development.

Finally it is suggested that a condition should be attached requiring the applicant to obtain the consent of elected members of the local authorities to which the development will pass. Dublin City Council or An Bord Pleanála are the competent authority in respect of determining planning applications as set out under the Planning and Development Act. In this context such a condition is not considered to be appropriate.

## **11.0 EIS ASSESSMENT**

I am of the opinion that the EIS submitted with the planning application is comprehensive and complies with the statutory requirements set out in Article 94 and Schedule 6 of the Planning and Development Regulations as amended and also complies with the EPA Guidelines as they relate to environmental impact assessment. The EIS has in my opinion identified, described and assessed the key likely significant environmental impacts relating to the proposed development and these are set out briefly below.

The proposed development adequately describes the pipeline including its design and the type of fuel to be transported within the pipeline. Details of the construction programme associated with the pipeline and the construction methods employed are also set out.

### *Impact on Human Beings*

In terms of the potential impacts on human beings, the main impacts identified and described in the EIS relate to construction impacts mainly in relation to traffic, noise and air quality and climate. The impacts identified are primarily temporary. In terms of operational impact it is suggested that a positive impact will arise from the removal of 15,000 fuel tankers from the public roads per year. No obvious cumulative impacts are identified. However it is acknowledged that some may arise if other works take place simultaneously within the roadway. Mitigation measures in respect of design and construction are set out. As a result impacts on residential amenity both direct and indirect are considered to be low. The EIS has correctly and appropriately identified the potential impacts on human beings during both the operational and construction phases. With the mitigation measures put in place the residual impacts are deemed to be not significant.

### *Socio-Economic Impacts*

The main socio-economic impacts arising from the proposed development are identified and described. The construction impacts are deemed to be positive in terms of employment and indirect employment. Commuting times are also identified as being of possible negative impact during the construction phase however this will be temporary in nature. In terms of operational impacts potential spillage is identified and as a potential negative impact. However the risk analysis undertaken indicates that the proposed pipeline is overall a safer mode of transporting fuel than by road tanker. The mitigation measures by way of design to reduce potential hazards and the construction mitigation measures in order to reduce potential impacts of the socio-economic environment are set out in the EIS. The EIS in my view has correctly identified the potential socio-economic which could arise and I would agree with the conclusion that the residual impacts would be slight when mitigation measures proposed are taken into consideration.

### *Traffic and Transportation*

In terms of roads and traffic, the existing baseline environment is described. The potential impacts identified include construction traffic and traffic congestion and delays as a result of the construction stage impacts. The potential impacts include traffic congestion in and around Dublin Port, the Port Tunnel and the wider road network in the vicinity of the pipeline including the operation of Dublin Airport. The EIA also identifies and describes the potential impacts on pedestrians, cyclists and public transport. In terms of the operational stage, the major potential adverse traffic impact identified and described relates to a potential leak from the fuel pipe. However the removal of 15,000 tanker trips off the road is deemed to be positive. The cumulative impacts identified include the installation of other utilities along the road network in the vicinity including a Bus Rapid Transit Project and the North Fringe Sewer Project. Various mitigation measures are proposed through route selection, route proving and traffic management. In terms of residual impacts the EIS acknowledges that it is not possible to avoid or remove the impacts completely and the impacts are described as being 'temporarily slight negative impacts' during the construction phase. However the overall impact during the operational phase is deemed to be positive. Again I consider that the EIS has correctly identified and described and assessed the potential direct and indirect impacts in terms of traffic and transportation arising from the proposed development.

## *Noise and Vibration*

In terms of noise and vibration, the EIS adequately describes the existing baseline environment along the pipeline corridor. In terms of both noise and vibration, the predicted impacts mainly arise from the construction phase of the development. The Guideline limits used in the assessment are BS:5228 (Part 1) and the NRA's Guidelines for the Treatment of Noise and Vibration on National Road Schemes (2004). The construction phase of the project will introduce additional noise sources to the surrounding environment by way of mobile and stationary plant used for the site preparation, construction of trenches, pipe laying and the reinstatement of the pipe trench. It is noted that the noise generated during the construction phase will be temporary and short term in duration approximately two days of road based trenching and 2 – 4 weeks for the river crossings. The potential noise impacts arising from the construction phase are clearly and comprehensively set out in terms of machinery used and work undertaken. Details of noise propagation along the linear corridor are set out. Mitigation measures are to be employed and this will include the development of a Noise Management Plan to ensure that best practice in the reduction of noise is implemented during the construction phase. In terms of the operational phase, no significant noise sources associated with the operation of the buried pipeline are identified. The residual impacts are described as 'temporary significant impacts'. With screening in place, the predicted levels suggest that the 28 occupied buildings within 10 metres of the pipeline will experience elevated noise levels during the construction phase. Noise monitoring will be carried out for the commencement of the construction phase. I consider the potential impacts on the noise environment arising from the proposal have been correctly identified, described and assessed in the EIS and with the development of a noise management plan and associated mitigation measures, the impact of the proposal on the noise environment is deemed to be acceptable.

In terms of vibration the EIS sets out a baseline environmental vibration survey at 14 locations along the route. Details of the survey are set out in Table 10.14 of the EIS. Again the main potential impacts which are identified and described in the EIS mainly relate to the construction phase. The potential impact on human beings, buildings, sensitive equipment and recorded monuments are set out. No significant impacts are identified in terms of vibration. Notwithstanding this, mitigation measures are set out including the application of construction vibration limits. It is concluded that there will be no residual impacts during the

construction, operation or decommissioning phases of the proposed development. As in the case of noise, I consider that the EIS has adequately identified, described and assessed the potential impacts on the receiving environment in terms of vibration and I conclude that the likely residual impacts identified are acceptable in terms of vibration.

### *Flora and Fauna*

Section 11 of the EIS specifically relates to flora and fauna. The existing baseline environment is described. Details of the designated sites in the vicinity of the site and details of surveys undertaken in relation to habitats, birds, terrestrial mammals, bats and aquatic ecology are also referred to. A desktop study of previous records of rare and protected flora along the pipeline corridor are also set out. The existing ecological habitats along the pipeline corridor are adequately identified and described. It is concluded that the construction of the proposed pipeline could potentially have negative impacts on the flora and fauna communities within the proposed planning corridor. However it is concluded that impacts on flora and fauna communities will be slight as each working area will be fenced off. Details of mitigation measures to be employed during the construction phase and during the operational phase (in terms of a potential spillage) are set out in the EIS. It is noted that the pipeline corridor does not lie within or cross through any site that has been designated for nature conservation and it is anticipated that there will be no direct impacts on these sites. A separate NIS has been prepared in order to identify and ascertain potential impacts on designated sites. The EIS identifies, describes and assesses in detail potential impacts on habitats, fauna, birds and aquatic ecology. Mitigation measures in order to protect flora and fauna during both construction and operational phases are detailed in the EIS. It is concluded that the residual impacts will be negligible. I consider this conclusion to be reasonable based on the detailed evaluation set out in the EIS and the mitigation measures to be employed in order to minimise any potential impacts.

### *Soils Geology and Hydrogeology*

In terms of soils, geology and hydrogeology the EIS describes the existing receiving environment and details the existing bedrock and groundwater regime. The potential impacts identified and described in the EIS include the removal of approximately 15,000 cubic metres of material, the potential degradation of soil and subsoil, the contamination of overburden and groundwater, potential ground movement and

problems associated with the importation of backfill during the reinstatement of the pipeline. In terms of groundwater, increased groundwater vulnerability and dewatering effects are identified as potential impacts. During the operational phase the main potential direct impacts on soils and ecology arise from a potential leak from the pipeline. Mitigation measures in order to protect the integrity of soils and bedrock and protect the quality of groundwater during the construction phase are detailed. Mitigation measures associated with the operational phase include incorporating protective measures in accordance with relevant standards. With the employment of appropriate mitigation the residual impact is deemed to be negligible. I consider these conclusions to be reasonable having regard to the nature of the receiving environment, the proposed works to be undertaken and the mitigation measures to be employed.

#### *Surface Water Quality and Drainage*

In terms of surface water quality and drainage it is noted that the following watercourses could potentially be adversely impacted by the proposed development.

- The Cuckoo Stream
- The Mayne River,
- The Kilbarrack Stream,
- The Santry River,
- The Wad River,
- The Naniken River and
- The Tolka River.

Details of the Dublin City sewers and watermains are also detailed in the EIS. Various studies as they relate to river and coastal flooding are also referred to as are details of the water quality of the existing rivers are set out in the EIS. The possible impact that could arise as a result of the proposed development are identified as:

- Potential impacts on hydrodynamics and flooding.
- Potential impacts on water quality.

- Cumulative impacts arising from other construction activities in the area (North Fringe Water Supply Scheme, Metro North, Proposed Eastern Bypass etc).

These potential impacts are set out in the EIS. The EIS sets out detailed mitigation measures to address potential issues regarding hydrodynamics and flooding and water quality. If such mitigation measures are put in place it is considered that the potential residual impact from the proposal during both construction and operational phases can be adequately mitigated against and thus the residual impact is considered to be low.

#### *Air Quality and Climate*

In terms of air quality and climate the existing climatic environment is described in detail as are details of ambient air quality in the vicinity of the proposed pipeline corridor. The principles adverse impacts are identified as dust emissions due to construction work and emissions from construction vehicles. The potential adverse impacts are described in detail in the EIS. In terms of climate impacts it is estimated that there will be no major impacts in the micro-climate during the construction phase. There will be a slight positive change in the micro-climate due to reduced vehicle emissions from trucks transporting the fuel from the Port to the Airport. Mitigation measures are set out for the construction phase only and these mainly relate to dust mitigation measures. Overall it is considered that the proposed development will give rise to positive residual impacts with the removal of traffic off the streets. The potential impacts have been adequately identified and described and assessed in the EIS and I consider that the conclusion in respect of residual impacts are reasonable.

#### *Archaeology and Cultural Heritage*

With regard to archaeology and cultural heritage, the EIS details all record of monuments and places (RMP) within 750 metres of the study area. It is stated that there is one Recorded Monument (RMP DU018:006) a bridge site within the proposed pipeline corridor. This feature no longer survives above ground. Other than this site the closest RMP site is located approximately 50 metres west of the pipe near Marino Crescent. This is a human burial ground. In terms of protected structures the proposed pipeline passes under Clontarf Road Bridge and there are an additional six protected structures within 50 metres of the proposed pipeline. An architectural conservation area is located immediately west of the proposed pipeline corridor along the western

side of Malahide Road between Griffith Avenue and Casino Park. The key possible impacts arise from direct construction impacts and indirect construction impacts on features in the wider area. No significant impacts during the operational phase are identified on the archaeological, architectural or cultural heritage resource. Detailed mitigation measures are set out during the construction phase which involves monitoring but no significant residual impacts are anticipated in terms of archaeology and cultural heritage. Thus the potential impacts in relation to archaeology and cultural heritage have been identified, described and adequately assessed for both the construction and operational phase of the pipeline. The conclusion that residual impacts would be negligible is reasonable based on the information set out in the EIS.

#### *Landscape and Visual Impact*

In terms of landscape and visual impact, the EIS identifies the main potential, visual and landscape impacts arising during the construction phase only. As the pipeline is to be laid below ground level there will be no permanent impact from the pipeline itself during the operational phase. The construction impacts will only arise during the 10 month construction programme and will therefore be temporary in duration. Furthermore the construction impacts will be sequential along the pipeline as works are undertaken. The proposed pipeline inlet station at Dublin Port and the reception station at Dublin Airport will be located within existing industrial areas and therefore will have an acceptable impact. Mitigation measures are set out for construction impacts only as the residual effects are likely to be slight. No significant mitigation measures are required. I would agree with the conclusions contained in the EIS that due to the nature of the proposed development and the temporary nature of construction activity that visual impacts are not a significant environmental issue.

#### *Material Assets*

In terms of material assets, the EIS identifies and describes the existing utilities infrastructure along the route of the pipeline. The key possible impacts identified and described in the EIS including potential impacts on service utilities during the construction phase and potential leaks during the operational phase. Again mitigation measures are set out in respect of both construction and operational phases and subject to all mitigation measures being complied with the residual impacts after

mitigation are not deemed to be significant. Again this is a reasonable conclusion in my opinion.

### *Overall Conclusions Regarding the EIS*

In conclusion therefore, I consider that the environmental impact statement submitted with the application has correctly and adequately identified and described in detail the key likely significant effects which may arise from the proposed development during both the construction and operational phases having particular regard to:

- Impacts on amenity (including noise, air, vibration).
- Socio-economic impacts.
- Visual Impacts.
- Transport and Traffic Impacts.
- Archaeology and Cultural Heritage Impacts.
- Flora and Fauna.
- Hydrology and Hydrogeology.
- Material Assets.

The EIS has also assessed potential cumulative impacts where they may arise in relation to other developments along the pipeline route. I am satisfied that the proposed development subject to the employment of appropriate mitigation measures as set out in the various chapters of the EIS and referred to where relevant in my report will result in a development that will not have a significant environmental impact on the receiving environment. I also agree with the conclusions that the proposed development is likely to have positive impacts in terms of reducing HGV trips within the City and associated health and safety benefits arising from the potential reduction in accidents associated with the road based transportation of aviation fuel. The reduction in road based transport will also have positive environmental impacts in terms of air quality and reduction in greenhouse gases. Inevitably slight negative impacts are likely to arise during the construction phase however these impacts will be temporary in nature and will only occur over a period of 2 to 4 days on any given location along the pipeline route. I consider these adverse impacts will be minimal and will be further reduced by the various mitigation measures set out in the EIS in order to alleviate construction impacts on surrounding residential amenity.

The EIS has also adequately in my view considered the issue of alternatives in assessing the development (see Section 2.2 of the EIS). In relation to alternatives the applicant has considered alternative route corridors and alternative designs in pipeline construction technology.

The EIS also sets out details of the consultation process undertaken with stakeholders during the course of scoping the EIS.

The final chapter of the EIS sets out the inter-relationships and interactions of the likely significant effects of the proposed development on particular aspects of the environments. The interactions have been assessed in accordance with best practice guidelines. The EIS has presented an accurate and reasonable assessment of these interactions in my view.

The residual effects identified under the various sections of the documents are acceptable in my view and are unlikely to have a significant environmental impact on the receiving environment. The proposed pipeline development either by itself or cumulatively with other developments in the vicinity of the pipeline corridor will not have a significant impact on the receiving environment.

In summary therefore having regard to the contents of the EIS and the various appendices attached to the main document together with the submissions on file I am satisfied that there is sufficient information in respect of this application to carry out a full EIA and I would agree with the conclusions contained therein that the proposed development would not adversely impact on the receiving environment subject the implementation of mitigation measures proposed and compliance with any conditions attached to my report and recommendation.

## **11.0 Appropriate Assessment**

A Screening Report and a Natura Impact Statement was submitted with the application and this is contained in Folder 1 of 2 submitted with the application. The statement contains details of Natura 2000 sites in the vicinity that could possibly be affected as a result of the implementation of the proposed development. It is noted that the pipeline does not traverse any designated Natura 2000 site. It should be noted that the South Dublin Bay and River Tolka Estuary SPA (Site Code: 004024) lies adjacent to that section of pipeline which runs along the Alfie Byrne Road. The NIS sets out potential adverse impacts as a result of the

proposed development which could adversely impact on the integrity of SACs in the vicinity. The key impacts that could arise from these works include disturbance and displacement of birds. The Stage One screening conclusion notes that there is a possibility that there could be effects on a large number of SPA's and SAC's in the wider area as a result of the proposed development. The Natura 2000 sites identified include:

*SPA's*

South Dublin Bay and River Tolka Estuary (004024)  
North Bull Island (004006)  
Baldoyle Bay (004016)  
Malahide Estuary (004025)  
Ireland's Eye (004117)  
Howth Head Coast (004113)  
Rogerstown Estuary (004015)

*SAC's*

South Dublin Bay (000210)  
North Dublin Bay (000206)  
Baldoyle Bay (000199)  
Malahide Estuary (000205)  
Ireland's Eye (002195)  
Rockabill to Dalkey Island (003000)  
Howth Head (000202)  
Rogerstown Estuary (000208)

It is concluded that the South Bull Island and River Tolka SPA, the Malahide Bay cSAC, the North Dublin Bay SAC, The South Dublin Bay cSAC, the Baldoyle Bay SPA and the Rogerstown SPA could in the absence of mitigation measures, could be potentially affected by the proposed pipeline.

I agree with the conclusions set out in the NIS the stage two appropriate assessment can be confined to the above Natura 2000 sites. The other site identified are of a sufficient distance so as not to be affected by the proposal.

The conservation objectives associated with the **South Dublin Bay and River Tolka SPA** seek to maintain and restore the favourable conservation condition of the bird species listed as being of special conservation interest or qualifying interest for this SPA. The qualifying interests are;

- The light-bellied Brent geese
- The Oystercatcher
- Ringed Plover
- Knot
- Sanderling
- Grey Plover
- Dunlin
- The Bar tailed Godwit
- Redshank
- The Black Headed Gull
- The Roseate Tern
- The Common Tern
- The Artic Tern
- Wetlands and Waterbirds

The conservation objectives associated with the **South Dublin Bay SAC** seek to define the favourable conservation condition for qualifying habitats and species at the site. These include:

- Mudflats and Sandflats not covered at low-tide
- Shifting Dunes along the shoreline
- Fixed coastal dunes with Herbaceous vegetation
- Humid dune stacks

The Conservation objectives associated with the **Baldoyle Bay cSAC** seek to define the favourable conservation condition for the qualifying habitats and species at the site. These include:

- Mudflats and Sandflats not covered at low-tide
- Salicornia and other annuals colonising mud and sand
- Spartina swards
- Atlantic salt meadows
- Mediterranean salt meadows

The Conservation objectives associated with the **Baldoyle Bay SPA** seek to define the favourable conservation condition for the qualifying habitats and species at the site. Baldoyle Bay is important for Brent Geese and wintering waterfowl.

The **Malahide Estuary cSAC** seeks to define the favourable conservation condition for the qualifying habitats and species at the site. These include:

- Mudflats and Sandflats not covered at low-tide
- Salicornia and other annuals colonising mud and sand
- Spartina swards

- Atlantic salt meadows
- Mediterranean salt meadows
- Shifting dunes along the Shoreline
- Fixed coastal dunes with herbaceous vegetation

The **Rogerstown Estuary SPA** seeks to define the favourable conservation status on the following qualifying interests:

- Greylag geese
- Light-bellied Brent Geese
- Shelduck
- Shoveler
- Oystercatcher
- Ringed Plover
- Grey Plover
- Knot
- Dunlin
- Black-tailed Gotwit
- Redshank
- Wetlands and Waterbirds.

The potential effects of the proposed development, mainly arise at construction stage through the potential release of contaminants such as fuel or oil into local water courses which are hydrologically connected to the European Sites in question. Siltation arising from the construction works would also lead to adverse impacts on filter feeder species associated with the European sites. Bird species that form part of the special conservation interests associated with the SPA's could be impacted through disturbance arising from construction.

The applicant in the NIS has set out detailed mitigation measures so as to ensure that the potential impacts outlined above are avoided. These mitigation measures include:

- Restricting construction works, particularly along the Alfie Byrne Road between the period of May to September to avoid disturbance to Brent Geese.
- Any dewatering of trenches during flood event will be subject to detailed discharges requirements of DCC and FCC.
- Any potentially contaminated discharges shall be through settlement ponds, or alternatively shall be pumped off site for treatment.
- River and stream crossing will be carried out using trenchless technology.

- All back fill material will be brought onto site on an 'as needed' basis. This will prevent silt-laden run-off.
- All hydro-carbons will be banded to 110% volume capacity.
- All waste materials including hazardous waste will be stored within appropriate metal or plastic containers.
- During the operational phase leak detection systems and shut-down valves will restrict any potential large-scale leakage.
- Regular inspection along the route will take place.

I consider that the mitigation measures to be put in place will ensure that the conservation objectives and integrity relating to the Natura 2000 sites identified above, will not be adversely affected by the proposed pipeline. I consider it reasonable to conclude on the basis of the information contained on file which I consider adequate in order to carry out a Stage 2 Appropriate Assessment that the proposed development individually or in combination with other plans and projects would not adversely affect the integrity of any European sites in the vicinity in view of these sites conservation objectives.

### **13.0 CONCLUSIONS AND RECOMMENDATION**

Arising from my assessment above I consider the proposed development to be acceptable and in accordance with the proper planning and sustainable development of the area and I therefore recommend that the Board uphold the decision of Dublin City Council and grant planning permission for the proposed aviation fuel pipeline between Dublin Port and Dublin Airport in accordance with the plans and particulars lodged based on the reasons and considerations set out below.

#### **REASONS AND CONSIDERATIONS**

It is considered that, subject to compliance with conditions set out, below the proposed development would not seriously injure the residential amenities of the area or property in the vicinity of the route of the proposed pipeline. Furthermore it is considered that the proposed pipeline would be acceptable in terms of the potential risk of environmental pollution and in terms of traffic safety and convenience. The proposed development would therefore be in accordance with the proper planning and sustainable development of the area.

## CONDITIONS

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the plans and particulars received by the planning authority on the 21<sup>st</sup> day of August 2015, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. The grant of planning permission shall be for a period of 10 years from the date of this order.

**Reason:** In the interest of clarity.

3. Prior to the commencement of development the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company or other security to secure environmental restoration in the event of a leak of the pipeline or in the event of the need for decommissioning coupled with an agreement empowering the planning authority to apply such security or part thereof to the satisfactory restoration of the environment. The form and amount of the security shall be as agreed between the planning authority and the developer or in default of an agreement shall be determined by An Bord Pleanála.

**Reason:** In the interest of environmental protection.

4. Prior to the commencement of development an independent and suitably qualified person (details of which are to be agreed with the planning authority or in default of agreement to be determined by An Bord Pleanála) shall be appointed at the developer's expense to carry out a monitoring exercise and report in respect of the structural integrity of the pipeline. This exercise is to be carried out on an annual basis or whatever timeframe is agreed in writing with the planning authority.

**Reason:** In the interest of environmental protection.

5. Prior to the commencement of development an independent and suitably qualified person (to be agreed with the planning authority or in default of agreement to be determined by An Bord Pleanála) shall be appointed at the developer's expense to under the following:
- (i) Validate all design details.
  - (ii) Validate accurate and detailed service drawings prepared by the applicant which will show all utilities underground in the vicinity of the pipeline and shall be prepared after consultation with all utility companies and relevant authorities.
  - (iii) Validate detailed geotechnical, topographical and utility surveys consisting of radar survey, manhole survey and topographical survey shall be carried out and verified by boreholes, trial pits and slit trenches immediately prior to construction.
  - (iv) Inspect and validate construction works and submit weekly reports to the planning authority which shall include the applicant detailed drawings of the pipeline as laid in addition to a detailed photographic survey of on-going works.
  - (v) Validate the testing and commissioning of the pipeline and associated installations.
  - (vi) Validate all operating and emergency plans/procedures in addition to procedures for on-going inspections and testing of the pipeline.
  - (vii) Any validation pursuant to this condition shall be submitted to the planning authority for written agreement.

**Reason:** To ensure the structural integrity of the pipeline and general environmental protection.

6. The developer/operator shall submit details of a Major Accident Prevention Document (MAPD) to the planning authority prior to the commissioning of the pipeline which shall comply and be in accordance with the Dublin City Major Emergency Plan. Details of the Major Accident Prevention Document (MAPD) shall be subject of a written agreement with the planning authority prior to the commissioning of the pipeline.

**Reason:** In the interest of safety.

7. Prior to the commissioning of the proposed pipeline a detailed Emergency Response Procedure in respect of any rupture, burst, crack or other type of damage or interference along the pipeline shall be the subject of an approval with the planning authority and any other relevant agencies and shall include procedures for review and testing at yearly intervals.

**Reason:** In the interest of environmental protection.

8. The applicant shall indemnify Dublin City Council against any incidence, accident, emergency or other event likely to cause or give rise to environmental pollution or damage to the environment arising from the construction, commissioning, operation, maintenance or decommissioning of the pipeline.

**Reason:** In the interest of environmental protection.

9. Any removal or relocation of the aviation pipeline shall be carried out at the developer's expense for the purposes of road reconstruction and repair at the request of the planning authority.

**Reason:** In the interest of orderly development.

10. Prior to the commencement of development the developer shall carry out a proving survey demonstrating that there is an unobstructed route for the proposed pipeline having regard to a number of locations where heavily congested underground services exist.

**Reason:** In the interest of orderly development.

11. The developer shall meet the requirements of all statutory undertakers in respect of other underground utilities and services along the route of the proposed pipeline.

**Reason:** In the interest of orderly development.

12. Prior to the commencement of development the applicant shall submit a fully integrated Traffic Management Plan to Dublin City Council for approval for each phase of the proposed development. This Traffic Management Plan must include details of required VMS signage, temporary signs, cones, bollards, barriers and any other temporary

infrastructure associated with the development. A full safety plan and risk assessment for dealing with each phase of the required road works associated with this development must also be submitted for planning authority approval prior to the commencement of development. Details of the various stages and phasing of the development shall also be the subject of agreement with the planning authority prior to the commencement of development.

**Reason:** In the interest of traffic safety.

13. A suitably experienced traffic management co-ordinator shall be appointed by the contractor to co-ordinate an overall approach to traffic and pedestrian management and to act as the main point of contact for the local authority prior to and during the construction works. The traffic manage co-ordinator shall be agreed with the planning authority and will be appointed a senior member of the contractors team and will have the authority to act on behalf of the contractor in respect of traffic management associated with the overall project.

**Reason:** In the interest of traffic safety.

14. Prior to the commencement of development the developer shall apply for a road opening licence and pay associated licence fees and other associated charges for the area of excavation for the proposed pipeline. The contractor will adhere to any conditions set out by the local authority on all such licences. All road works within Dublin City Council's functional area will, unless other agreed follow the requirements of the directions for the control and management of road works in Dublin City and no works will take place without the necessary directions/permits/consents and road opening licences being in place.

**Reason:** In the interest of orderly development.

15. The developer shall liaise with Transport Infrastructure Ireland (TII) in relation to the location of the proposed pipeline which lies within the protection corridor for the Eastern Bypass. Any amended location for the pipeline in the vicinity of the Eastern Bypass shall be agreed in writing with the planning authority prior to the commencement of development. In the event where the route of the pipeline is required to be located outside the planning application boundary as indicated in the drawings attached, a separate application for planning permission will be required.

**Reason:** In the interest of orderly development.

16. Prior to the commencement of development, the developer shall liaise with Transport Infrastructure Ireland and the operators of the Dublin Port Tunnel to prepare and agree a Construction Management Strategy in the vicinity of Dublin Port Tunnel. All works subject to the grant of permission shall be undertaken in accordance with Dublin Port Tunnel Guidance Notes for Developers.

**Reason:** In the interest of orderly development.

17. The depth from the road surface to the top of the proposed pipeline shall be a minimum of 1.5 metres along the Malahide Road to cater for the potential of a future light rail scheme being routed along the Malahide Road. In the event that the aviation pipeline is required to be relocated along any section of the road to facilitate any future light rail scheme, the applicant shall be responsible for all costs associated with the necessary relocation.

**Reason:** In the interest of orderly development.

18. Prior to any excavation of the carriageway for the proposed pipeline along the Alfie Byrne Road the applicant shall be required to demonstrate and obtain the agreement of the Environmental and Transportation Department of Dublin City Council on how the integrity of the road can be maintained following the installation of the pipeline including repairs to any membrane structures subjacent to the alignment of the road which are damaged during the course of the works. All costs associated with the reconstruction of the road including repairs to the stress relieving membranes shall be borne by the applicant. The developer shall also pay for the attendance and monitoring of the works by Dublin City Council engineers or agents working on its behalf.

**Reason:** In the interest of traffic safety.

19. All costs occurred by Dublin City Council including any repairs to the public road and services necessary as a result of the laying of the proposed pipeline shall be at the expense of the developer.

**Reason:** It is considered reasonable that the developer pay for any repairs to the public road necessitated as a result of the proposed development.

20. The pipeline shall be used for the conveyance of Jet A1 aviation fuel only. The use of the pipeline for the conveyance of any other fuel or fluid shall be the subject of a separate planning application regardless of any provisions set out in the exempted development regulations.

**Reason:** In the interest of safety.

21. The pipeline shall operate under the following operating criteria:
- (i) Internal pipeline diameter 200 millimetres.
  - (ii) Minimum pipe wall thickness 12.7 millimetres.
  - (iii) Pipe specification/material grade ISO 3183-1 L245 carbon steel.
  - (iv) Operating pressure 40 bar. Maximum fluid transfer rate 300 cubic metres per hour at 40 bar.
  - (v) All valves will meet the requirements of ISO 14313/API 6D.
  - (vi) Computational model pipeline leak detection (CPM) with automatic shutdown shall be installed in compliance with API recommended practice 1130 (2007 reaffirmed 2012) and German TRSL (Technical Rules for Pipelines).

**Reason:** To ensure the structural integrity of the pipe and adequate leak protection measures as incorporated into the design and operation of the pipeline.

22. A decommissioning plan shall be submitted for written agreement prior to any long-term discontinuance of the pipeline for the conveyance of aviation fuel and prior to any revalidation of the pipeline.

**Reason:** In the interest of health and safety.

23. Prior to the commencement of development a Construction Management Plan, Emergency Response Plan and an Operational/Maintenance Plan shall be the subject of written agreement with the planning authority.

**Reason:** In the interest of traffic safety, public health and safety and orderly development.

24. Prior to the commencement of any works on site the applicant shall ascertain and agree requirements with Iarnrod Eireann including the obtainment of any wayleave agreements on Iarnrod Eireann lands. Any required construction requirements from Iarnrod Eireann shall be

incorporated into the overall construction plan in consultation and agreement with Dublin City Council.

**Reason:** In the interest of orderly development.

25. All drainage arrangements shall comply with the requirements of the planning authority and the requirements of Dublin City Council's Drainage Division for such works and services.

**Reason:** In the interest of public health.

26. The requirements of Dublin City Council's Biodiversity Officer shall be undertaken and shall include the following:

- (a) The construction of the proposed pipeline at Belcamp and other grassland sections of the route shall be limited to the period between April and August to ensure compliance with the Birds Directive regarding preventing disturbance of feeding grounds.
- (b) As the pipeline depth is within the possible depth for invasive alien species, especially Japanese Knotweed, the Invasive Special Management Plan contained in Appendix 11.5 of the EIS shall be adhered to. All records of any invasive alien species are to be submitted to the National Biodiversity Data Centre for future monitoring use.

**Reason:** In the interest of natural heritage.

27. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the boundary of the pipeline route. In this regard, the developer shall -

- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,
- (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and
- (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

**Reason:** In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

28. Copies of all reports detailing site investigations carried out along the route as part of proposed development shall be forwarded to the Geological Survey of Ireland.

**Reason:** In the interest of orderly development.

29. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

**Reason:** In the interests of sustainable waste management.

30. Prior to the commencement of development a hazardous/contaminated soil management plan shall be submitted to the planning authority for written agreement.

**Reason:** In the interest of public health.

31. Prior to the commencement of the development the applicant shall submit to the planning authority a noise management plan relating to the construction and decommissioning phases of the project. This plan shall be the subject of written agreement with the planning authority and shall incorporate the mitigation measures set out in Section 10.6 of the EIS.

**Reason:** In the interest of orderly development.

32. Construction hours shall be restricted to the period of 08.00 hours to 19.00 hours Monday to Friday and 08.00 hours to 14.00 on Saturday and not at all on Sundays or Bank Holidays unless written agreement is obtained from Dublin City Council on a case by case basis.

**Reason:** In order to protect residential amenity.

33. The site development construction works shall be carried out in such a manner so as to ensure that the affected streets are kept clear of debris, soil and other material in accordance with the requirements of the planning authority.

**Reason:** To ensure that the adjoining roadways are kept clean and safe during construction works.

34. The developer shall incorporate adequate measures to ensure that all trees and shrubs along the alignment of the proposed pipeline route are adequately protected from damage during the construction phase.

**Reason:** In the interest of residential and visual amenity.

35. Prior to the commencement of development the applicant shall submit a tree survey by a qualified arborist detailing the conditions of all trees and shrubs located within ten metres of the proposed pipeline route. Subsequent to the completion of the development a similar survey shall be undertaken one year after the completion of the development and again three years and five years after the completion of the development. Any plants which die are removed or become seriously damaged or diseased subsequent to the completion of the development shall be replaced within the next planting season with others of similar size and species unless otherwise agreed in writing with the planning authority.

**Reason:** In the interest of residential and visual amenity.

36. The developer shall pay to the planning authority a financial contribution of €3,293 (three thousand two hundred and ninety three euro) in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000. The contribution shall be paid

prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. The application of any indexation required by this condition shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine.

**Reason:** It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

37. The developer shall pay to the planning authority a financial contribution of €1,786 (one thousand seven hundred and eighty six euro) in respect of the Luas C1 Line Scheme in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 of the Planning and Development Act 2000. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. The application of any indexation required by this condition shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine.

**Reason:** It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.

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**Paul Caprani,  
Senior Planning Inspector.**

**14th March, 2016.**

**sg**