



An
Bord
Pleanála

Inspector's Report 29S.ZD2013

Development	Draft Planning Scheme
Location	Poolbeg West, Dublin 4
Development Agency	Dublin City Council
Appellant(s)	<ol style="list-style-type: none">1. Sandymount & Merrion Residents Association2. Becbay & Fabrizia (In Receivership)3. John Bissett Engineering4. Lens Media
Observer(s)	<ol style="list-style-type: none">1. Lorna Kelly2. Dublin Port Company
Inspector	Donal Donnelly
Date of Site Inspections	10 th March & 16 th April 2018
Date of Oral Hearing	17 th - 19 th April 2018

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1.0 Introduction

- 1.1. Under Section 166 of Part IX of the Planning and Development Act 2000 (as amended), the Government may designate a site for the establishment of a strategic development zone (SDZ) where, in the opinion of the Government, the development of the site is of economic or social importance to the State. Poolbeg West, comprising an area of approximately 34 hectares located to the east of Irishtown, south of Dublin Port and north of Sandymount Strand, was designated as a SDZ for mixed use development on the 17th May 2016.
- 1.2. Following the making of an order designating a site, the relevant development agency (Dublin City Council) shall prepare a draft planning scheme in respect of all or any part of the site under Section 168(b) of the Act. The Poolbeg West Planning Scheme (Interim Publication) was published by Dublin City Council in October 2017 following a statutory consultation process.
- 1.3. The development agency, or any person who made submissions or observations in respect of the draft planning scheme, may appeal the adoption of the draft planning scheme. This report relates to 4 no. appeals submitted to the Board under Section 169 of the Act by Sandymount & Merrion Residents Association, Becbay & Fabrizia (In Receivership), John Bissett Engineering Ltd. and Lens Media Ltd. Observations on the appeals were received from Dublin Port Company and Ms. Lorna Kelly, a resident of Sandymount.
- 1.4. Having regard to the scale and long term nature of the Scheme, which is for a new strategic settlement, and the nature of concerns raised in appeals, the Board decided that an Oral Hearing should be held to explore the planning matters arising and to inform the decision on the case. Accordingly, an Oral Hearing was held in the offices of An Bord Pleanála on 17th – 19th April 2018.
- 1.5. When considering a draft planning scheme in accordance with subsection 8 of Section 169 of the Act, the planning authority or the Board shall, inter alia, consider the provisions of the development plan, the provisions of the housing strategy, the provisions of any special amenity area order or the conservation and preservation of any European Site and, where appropriate, the effect the scheme would have on

any neighbouring land to the land concerned, and the effect the scheme would have on any place which is outside the area of the planning authority.

2.0 The Poolbeg West Strategic Development Zone

2.1. The Poolbeg West Strategic Development Zone was established by Statutory Instrument (S.I. No. 279/2016) pursuant to a proposal by the Minister for the Environment, Community and Local Government to designate the site for the establishment of a strategic development zone for a mixed use development which may principally include residential development, commercial and employment activities including, office, hotel, leisure and retail facilities, port related activities and the provision of educational facilities, transport infrastructure, emergency services and the provision of community facilities as referred to in Part III of the First Schedule to the Act, including health and childcare services, as appropriate.

2.2. The following has been taken into consideration in designating the site for the establishment of a SDZ:

- the National Spatial Strategy 2002-2020, which identifies the city of Dublin as a gateway,
- the Regional Planning Guidelines for the Greater Dublin Area 2010-2022, which emphasise the consolidation of the metropolitan area,
- the Dublin Port Masterplan 2012-2040,
- the core strategy and objectives of the Dublin City Development Plan 2011-2017, and
- wider Government policy to support economic development.

3.0 Site Location and Description

3.1. The Planning Scheme boundary roughly equates to the SDZ area as identified in the Statutory Instrument (S.I. No. 279/2016).

3.2. The site is located at the western side of Poolbeg Peninsula to the north-east of Seán Moore Park and south-east Seán Moore Road (R131). A narrow strip of the site extends eastwards to Irishtown Nature Reserve. Pigeon House Road forms the

northern boundary and adjoining the site to the north-east are the Synergen Power Plant and the Dublin Waste to Energy Facility. An embankment continues along the southern site boundary next to the coastal pathway to the nature reserve and onto the South Bull Wall and Poolbeg Lighthouse.

- 3.3. The main body of the SDZ is occupied by Dublin Port lands, the former Irish Glass Bottle site and the adjoining Fabrizia lands to the south-east. This part of the site is traversed from north-west to south-east by South Bank Road. To the north of South Bank Road and to the west of White Bank Road are Dublin Port lands used for shipping container storage and maintenance, and to the east of White Bank Road is ED&F Man Liquid Products Ireland Ltd., a supplier of molasses and liquid products for animal feeds. These lands are also within the SDZ.
- 3.4. South Bank Road splits into two culs de sac further to the east, with the southern cul de sac providing access to John Bissett Ltd., a company specialising in precision engineering. The eastern cul de sac accesses the Kilsaran concrete plant and Dublin Port lands further to the east of the SDZ in use for container storage. There is also a container storage business to the north of this cul des sac outside the site boundary, as well as an area once used as a pitch and putt course.

4.0 The Planning Scheme

4.1. The Making of the Scheme

- 4.1.1. Section 169 of the Planning and Development Act, 2000 (as amended) sets out the procedure for the making of the planning scheme. The planning authority shall advertise the draft planning scheme and invite written submissions or observations, and the manager of the planning authority shall prepare a report, which shall be considered by the members of the authority. Where the planning authority decides to make variations or modifications to the draft planning scheme, these shall also be advertised and written submissions or observations invited. A determination shall be made as to whether or not the variations/ modifications shall be subject to Strategic Environmental Assessment/ Appropriate Assessment. Where a draft planning scheme is deemed to have been made, it shall have effect unless an appeal is brought to the Board.

- 4.1.2. The Poolbeg Draft Planning Scheme was put on public display between 24th January to 6th March 2017 and a total of 109 submissions were received during this period. These submissions were considered within the Chief Executive's Report of April 2017, which contains a summary of the issues raised and the Chief Executive's response and recommendation. A Chief Executive's Report was also prepared (May 2017) on Councillor Motions received following the public display and receipt of submissions. A number of modifications agreed at a Council meeting held on 18th May 2017 constituted material alterations and a further public display period took place between 14th June and 12th July 2017. The material modifications related to issues of affordable housing; mix of units; social, cultural, creative and artistic spaces; reallocation of B2 lands to mixed use; and urban form and height. Screening determinations for SEA and AA were also carried on the modifications.
- 4.1.3. A further 60 submissions were received on material modifications and further Chief Executive's Reports were prepared on submissions and motions received on the proposed Material Alterations to the draft Poolbeg Planning Scheme. Notice was given pursuant to Section 169 of the Planning and Development Act, 2000 (as amended), Article 179 of the Planning and Development (Strategic Environmental Assessment) Regulations 2004 and Habitats Directive 92/43/EEC that Dublin City Council, at its meeting on 2nd October 2017, had decided by resolution to make the Poolbeg West Planning Scheme.

4.2. **Scheme Content**

- 4.2.1. The Poolbeg West Planning Scheme (Interim Publication) October 2017 is set out in three parts. Part A comprises a written statement, Part B contains figures and Part C includes appendices. The contents of the Planning Scheme before the Board can be summarised as follows:

Part A - Written Statement

- 4.2.2. Chapter 1 – Introduction sets out the background to the Scheme and a description of the SDZ lands and their context. The development breakdown of the SDZ is included at an approximate ratio of 80-85% residential and 15-20% commercial, complemented by community, recreational, retail and service uses. It is estimated that the lands will accommodate between 3,000 and 3,500 residential units (238 per

hectare) and between 80,000 and 100,000 sq.m. of commercial floorspace. Port lands to the north and east are required to accommodate anticipated growth of Dublin Port from 30 million to 77 million tonnes per annum by 2040. This chapter also provides reasons for designating a SDZ at this location and the policy context for the SDZ and Planning Scheme.

- 4.2.3. Chapter 2 – Vision & Key Principles promotes three themes of ‘connect’ with the physical, environmental, economic and social fabric of the city, the bay and adjoining neighbourhoods; ‘create’ a new sustainable urban neighbourhood that responds to the area’s unique location and enhances the enjoyment of local amenities; and ‘protect’ the special status of Dublin Bay, the intrinsic functions of the port/ municipal facilities and the amenity of existing and future residents. This is illustrated on Figure 2.1: Concept Plan.
- 4.2.4. Chapter 3 – A New Residential Neighbourhood acknowledges the challenges and opportunities for the Scheme of addressing a city-wide shortfall in housing supply and achieving a balanced residential population located within a housing density and design that is appropriate to the location. Ratios are included for mix of unit types, together with limits for building height and configurations for block layout. The Scheme also aims to create an inclusive and socially balanced community where 900 of the 3,500 homes will be delivered as social and/ or affordable housing and a minimum of 10% delivered as social housing. This chapter highlights the key principle of implementing a sustainable new neighbourhood through sustainable building design and quality housing. A range of objectives (H1-H12) relating to housing are also set out on page 13.
- 4.2.5. Chapter 4 – Community Development recognises that the regeneration of the Poolbeg West lands is about people and building communities, as well as the physical and economic aspects. The Scheme aims to provide a variety of new community and social infrastructure that complements the range of facilities in the vicinity (Figure 4.1).
- 4.2.6. Proposals for large scale residential and/ or mixed use schemes will be required to submit community audits (Section 16.10.4 of the Development Plan). It is also stated that the Planning Scheme will ensure that developments in Poolbeg West

will contribute to a 5% allocation of space in the Docklands area to be used for social, cultural, creative and artistic purposes.

- 4.2.7. It was established that a primary school site should be reserved in the SDZ, and school grounds should be designed so that they can be accessed outside school hours to increase the potential for sharing of facilities. The provision of childcare facilities within new residential developments will be also sought.
- 4.2.8. The above is reflected in Objectives CD1-CD10 on pages 17/ 18. Objective CD8 states that all developments over 200 residential units/ 10,000 sq.m. will be required to provide 5% social, community, creative and artistic space in the SDZ.
- 4.2.9. Chapter 5 – Economy & Employment notes the challenge of providing commercial and residential uses whilst allowing Dublin Port to continue to operate successfully. The commercial area of the Scheme will seek to deliver a density of development that can protect the residential area from port and utility uses. Furthermore, the Scheme should provide a viable retail and commercial core, providing a range of local services and new employment locations. The retail area should accommodate one or two supermarkets, as well as supporting retail and services up to a maximum of 5,000 sq.m. within the village centre and along the northern side of Central Boulevard and the eastern edge of Coastal Park. Retail uses should address the street and create an attractive village hub.
- 4.2.10. In addition to the 80,000 to 100,000 sq.m. of office development within the Planning Scheme, it is stated that there is the long-term possibility of adding 30,000-50,000 sq.m. on the north-eastern side of South Bank Road. From an urban design perspective, flexible office floorspace provision will be promoted in the Planning Scheme to allow for a range of office accommodation types. It is noted that typical office occupiers have an average floorspace requirement of between 2,000 and 4,000 sq.m. There is evidence of demand for a mix of large and small office floorspace in close proximity. The Council will support uses associated with media/digital media and film production.
- 4.2.11. The importance of retaining port uses and port related activities is recognised in the Planning Scheme. These uses will be retained in the northern and eastern portions of the SDZ.

- 4.2.12. It is highlighted that there may be opportunities as the Planning Scheme progresses of employment for local residents and the provision of training.
- 4.2.13. Objectives EC1 to EC13 relate to the economic and employment aims of the Planning Scheme (Pages 22-23).
- 4.2.14. Chapter 6 – Movement addresses the challenges of providing new public transport links and reducing dependency on the private car. Car parking will be provided well below Development Plan standards and a new bridge over the mouth of the River Dodder will facilitate improved public transport, cycling and walking connections to the SDZ.
- 4.2.15. The Eastern Bypass reservation corridor will have an impact on the potential land uses within the SDZ and the section of this route extending from the Port Tunnel to the south port area (SPAR) is to be delivered within the lifetime of the NTA Transport Strategy for the Greater Dublin Area, 2016-2035. As an interim measure, it is intended to provide an alternative south port access route to the north of the proposed new junction of Seán Moore Road/ South Bank Road.
- 4.2.16. The NTA Strategy also includes a proposal to extend the Luas Red Line to Poolbeg along Seán Moore Road. As an interim measure, it is a policy to promote a range of new/ extended/ higher frequency bus services (Figure 6.1: Public Transport Strategy).
- 4.2.17. In terms of cycling and walking, the Planning Scheme will support low-speed self-regulating streets. A coastal walkway/ promenade with integrated flood defence will be provided through the SDZ and this will link with the proposed East Coast Trail cycle route. It is proposed to upgrade the East Link Bridge during the implementation phase of the Planning Scheme to improve the walking and cycling environment. A 2-way segregated cycle route will also be provided along Central Boulevard (Figure 6.2 – Strategic Cycle Network).
- 4.2.18. High levels of permeability and amenity for walkers will be facilitated by the block layout of the scheme and connections to the Village Green, Seán Moore Park and the coast, and along the Boulevard. It is also proposed to install pedestrian crossing facilities on surrounding roads.
- 4.2.19. Transport and movement objectives MV1-MV12 are set out in pages 28-29.

- 4.2.20. Chapter 7 – Infrastructure & Utilities sets out the challenges in terms of infrastructure provision in the SDZ and wider Dublin area. There is urgent priority to upgrade the Ringsend Wastewater Treatment Plant. There will also be a need for investment in the local and wider networks to provide water supply to the SDZ.
- 4.2.21. Reference is made to a Strategic Flood Risk Assessment prepared for the Scheme. SuDS components such as green roofs/ living walls, rainwater harvesting, permeable surfacing, soakaways, rain gardens and swales should be considered on private areas. SuDS will also be incorporated into public realm infrastructure.
- 4.2.22. A district heating system is planned to begin in the Docklands and Poolbeg West areas initially and it is envisaged that the Waste to Energy Plant would be the primary heat source. The preferred location of a peak boiler station for heat storage and to provide back-up is within Block B2.
- 4.2.23. It is noted that there is potential to encounter sites of historical contamination throughout the unresolved portions of the site. A Contamination and Remediation Assessment has been undertaken with remediation measures outlined for medium and high risk sites.
- 4.2.24. Objectives IU1 to IU15 on pages 35-37 relate to flood risk, SuDS, water and wastewater, district heating, remediation, waste and energy efficiency.
- 4.2.25. Chapter 8 – Environment, Green Infrastructure & Open Space provides objectives that focus on the enhancement of environmental assets in the area. The key challenge outlined in this chapter is to balance the relationship between the industrial landscape and natural environment in the provision of new housing. It is the aim of the Planning Scheme to regenerate the area in a manner that will conserve and enhance ecology and biodiversity; create new areas of ecological value and greenspace; and integrate the land and marine environments.
- 4.2.26. It is stated that an important part of the Planning Scheme will be to improve pedestrian and cycle access to adjoining recreational amenity areas through a network of varied open spaces and green routes (Figure 8.1). The Scheme will provide three new parks along the coast, in the village green and as a buffer with B2 lands. The coastal park will extend back from the existing embankment and will continue from Seán Moore Park to Irishtown Nature Reserve (Figure 11.7).

- 4.2.27. Village Green will be a multifunctional space incorporating nature and providing spaces for play and to act as a focal point. Active ground floor uses will face onto the green along its northern and adjoining boundaries. Port Park will separate the housing from port related uses and will therefore require screening elements. These lands are part of the Eastern Bypass reservation in the longer term. This park will comprise more of sport and active uses.
- 4.2.28. Communal open space can be provided as courtyards within perimeter block developments, taking into account sunlight and daylight. Private open space in the form of balconies, terraces and roof gardens or communal landscaped areas should be in accordance with Development Plan standards. SuDS will be incorporated into the design of each block and public area (Figure 8.2), and tree planting will be encouraged along main urban streets.
- 4.2.29. Objectives relating to environment, green infrastructure and open space are included on Pages 43 – 44 (GI1-GI12).
- 4.2.30. Chapter 9 – Land Use & Phasing divides the SDZ into five land use areas (Figure 9.1). These areas are the industrial and port zone to the north; housing with some mixed use on the Irish Glass Bottle site and Fabrizia lands; commercial between the port uses and residential/ mixed use and to the east; community and education uses fronting onto Seán Moore Park and the proposed Village Green; and park and recreational lands. Specific reference is made to B2 lands being identified for mixed use which enables a range of uses, including those associated with Dublin Port and film studios.
- 4.2.31. There are two streams of phasing of development relating to commercial, residential, retail and community uses on the southern portion of the site, together with the port and industrial activity zonings to the north and east of the SDZ (Figure 9.2). It is stated that a masterplan shall be provided were an application does not extend across an entire block in Phasing Area A. Supporting uses and amenity space are to be delivered in conjunction with housing, and all development north of the Boulevard must be delivered in tandem with buffering commercial buildings. Transport must be prioritised and certain elements must be delivered prior to occupation of housing.

- 4.2.32. Within Phase 2 it is proposed to move the existing Lo-Lo container terminal within Block B1 further to the east and replace it with a Ro-Ro facility. It is stated that the northern edge of South Bank Road could then contain hotels and uses associated with the growing cruise tourism facility. Block B2 is proposed for unitised cargo storage in the long term, with a commercial element facing the buffer park zone.
- 4.2.33. Objectives LP1-LP7 for land use and phasing are included on Page 51.
- 4.2.34. Chapter 10 – Public Realm notes that a public realm masterplan will be prepared within one year of publication of the Planning Scheme and this will address materials, planting, street furniture, etc. The aims for the design of the public realm will be focused on place-making; environmental protection and enhancement; connectivity and movement; and a high quality palette of materials and street furniture. The public realm masterplan will address four main components in the detailed design of streets and spaces, namely major streets, local streets, parks, open spaces and green routes and courtyards.
- 4.2.35. Objectives PR1-PR5 on Page 55 relate to public realm.
- 4.2.36. Chapter 11 – Urban Structure & Design sets out aims and objectives across the Scheme for access and movement, land use distribution, the open space network, building and block layout and architectural language. Figure 11.1 illustrates the formation of the urban structure with key linkages and permeability, and gateways, edges and nodal points around which land uses, densities and building layouts are arranged. Movement proposals and land use are shown in greater detail on Figure 11.2, and block form and layout, including indicative building heights, are included in Figure 11.3. These figures provide the urban design framework or masterplan for the Poolbeg West.
- 4.2.37. Various components of the urban structure will be either fixed or flexible. The area between the commercial and residential lands can be considered a flexible use area; however, residential development is fixed to those blocks immediately adjoining the Boulevard and to the south. The location of community facilities and the school is fixed but their final form is flexible. The neighbourhood square is fixed and a more flexible approach may be taken in regard to its form and layout. A pedestrian plaza of 2,000 sq.m. minimum and 50m width minimum (east to west) must be provided. The location of Village Green is also fixed and must have a

minimum area of 9,000 sq.m., with minimum splayed width of 50m and 75m at either end. The coastal park is fixed and the location and size of Port Park is flexible.

- 4.2.38. Building heights are varied throughout to create a visually engaging skyline. Taller buildings are proposed along major movement corridors and at gateways and convergence points. Higher buildings are also facilitated at the neighbourhood centre and along park edges, and lower buildings are shown at south-eastern and south-western sides of blocks to maximise daylight access. Lower buildings are also proposed along Seán Moore Road to provide a transition to existing communities. All proposals will be subject to wind and shadow impact analysis.
- 4.2.39. Building lines are fixed along Seán Moore Road, South Bank Road, Central Boulevard and Village Green and will be flexible on local streets/ shared streets. Blocks fronting Coastal Park and Seán Moore Park are to be designed to avoid the appearance of a continuous wall of perimeter block development. It is stated that a greater range of block layout may be considered in commercial areas and in the neighbourhood centre.
- 4.2.40. An architectural design statement will be submitted for any developments relating to one block or more and/ or buildings greater than 20m in height. Objectives US1 to US5 for architectural language at contained on Page 62.
- 4.2.41. Chapter 12 – Implementation & Monitoring highlights that the Planning Authority will assess all planning applications to ensure that they comply with the Planning Scheme. Planning applications will be required to submit a planning scheme compliance statement.
- 4.2.42. The Council is also committed to investing in the necessary physical and social infrastructure to serve the area. The Docklands Forum will play a key role in service and delivery and will work closely with the Council to ensure there is a clear and continuing programme of investment. It is estimated that contribution levies will provide €25-30 million over the lifetime of the Scheme and the Dodder Bridge will require investment from national funds. The various projects to be funded under each of the five categories of development are set out in the Scheme.

4.3. Supporting Documentation

4.3.1. The following documentation has been submitted in support of the Poolbeg West Draft Planning Scheme:

- Minutes – Monthly City Council Meeting 02/10/17, adjourned to 10/10/17;
- Chief Executive’s Report on submissions received from the public display of the Poolbeg West Draft Planning Scheme, April 2017 (Report No. 141/2017 of the Chief Executive);
- Chief Executive’s Report on Motions – Poolbeg West Draft Planning Scheme, May 2017 (Report No. 176/2017 of the Chief Executive);
- Chief Executive’s Report on submissions received on the proposed Material Alterations to the Poolbeg West Draft Planning Scheme, August 2017 (Report No. 285/2017 of the Chief Executive);
- Chief Executive’s Report and Recommendations on Councillors’ Motions submitted (Further to Report 285/2017 on Submissions Received from the public display of the proposed Material Alterations to the draft Poolbeg West Draft Planning Scheme), September 2017 (Report No. 323/2017 of the Chief Executive);
- SEA Statement for the SDZ Planning Scheme for Poolbeg West Strategic Environmental Assessment (CAAS, October 2017);
- SEA Environmental Report as part preparation of the Strategic Development Zone Planning Scheme for Poolbeg West (CAAS, October 2017);
- SEA Environmental Report – Appendix II – Non-Technical Summary as part preparation of the Strategic Development Zone Planning Scheme for Poolbeg West (CAAS, October 2017);
- Strategic Flood Risk Assessment as part of the preparation of the SDZ Planning Scheme for Poolbeg West (CAAS, October 2017);
- Environmental Assessment of Contamination and Remediation Volume 1 as part of the preparation of the SDZ Planning Scheme for Poolbeg West (CAAS, October 2017);

- Baseline for Environmental Assessment of Contamination and Remediation Volume 2 as part of the preparation of the SDZ Planning Scheme for Poolbeg West (CAAS, October 2017);
- Natural Impact Report in support of the Appropriate Assessment for Poolbeg West SDZ Planning Scheme (CAAS, October 2017);
- AA Conclusion Statement in support of the Appropriate Assessment of the Poolbeg West SDZ Planning Scheme (CAAS, October 2017).

4.4. Prescribed Bodies

4.4.1. Submissions received by Dublin City Council on the Draft Planning Scheme from the following state agencies are summarised as follows:

Department of Housing, Planning, Community and Local Government
(DHPCLG)

- Draft Planning Scheme is a rational and reasonable response to a strategically important site, which can make a dramatic contribution to housing supply.
- DHPCLG will support delivery of new neighbourhood of at least 3,000 homes in a range of building heights as a means of creating a new skyline and countering urban sprawl.
- Recommended that further consideration be given to inclusion of more detail that supports the type and scale of port-related activities.
- Planning Scheme should be amended to enable new models for maximisation of a mixed tenure approach – further 10% social housing on agreed basis.
- It is crucial that people who need social housing and key workers can avail of affordable housing in places like Poolbeg.
- Consideration should be given to increasing height to enhance viability and housing yield, e.g. along the south side of some blocks.

- Council should work with landowners to realise the potential for media related development commensurate with the need to first and foremost maximise housing delivery and the development of Dublin Port.

Eastern and Midlands Regional Assembly (EMRA)

- Regional Planning Guidelines support the development of housing and employment in strategic growth area within the Metropolitan Area.
- Poolbeg is designated as a Level 3 District Centre – retail should be at a level commensurate with the local catchment and to ensure viability of surrounding local retail centres.
- RPGs support the provision of the infrastructure needed to regenerate Poolbeg West and improve connectivity to the city.
- RPG supports the protection of Dublin Bay and the integration of sustainable design principles into the Scheme.

National Transport Authority (NTA)

- Generally supportive of the Draft Planning Scheme subject to amendments and insertion of text relating to protection of the Eastern Bypass corridor; agreement of bus services and priority measures on Seán Moore Road; the standalone nature of port access via Pigeon House Road and the South Port Access Route; and the removal of bus lanes from figures.

Transport Infrastructure Ireland (TII)

- Role of Eastern Bypass, SPAR and alternative access route in the draft scheme is unclear and different methodologies are promoted to deliver the national road element of the Eastern Bypass – amendment suggested to clarify.
- Formats for urban design and land use proposals for industrial and port zone are premature pending outcome of future decisions.

Environment Protection Agency (EPA)

- Reference to Regional Spatial and Economic Strategy (replacing RPGs), which will be adopted over the lifetime should be incorporated into the Scheme.

- Objective EC-3 should be amended to include sustainability – Scheme should ensure that water quality is protected to comply with Water Framework Directive.
- Scheme should include a commitment that any contaminated material will be managed in a manner that removes any risk to human health and ensures that the end use will be compatible with any risk.
- Requirements of the WFD, Floods, EIA and Habitats Directive should be complied with during implementation of the Scheme.

Department of Arts, Heritage, Regional, Rural and Gaeltacht Affairs

- SEA notes potential for survival of buried archaeological features and structures – new mitigation measure should be included in the environmental report relating to Wreck Inventory Database and archaeological impact assessment.
- There are some deficiencies in the Natura Impact Report – reports quoting conservation objectives should be the most up-to-date.
- Department does not agree with the screening out of certain sites where bird flight paths are involved and the issue of cumulative effects with other plans and projects has not been adequately addressed in the NIS.
- Issue of biodiversity and species has not been comprehensively dealt with in the SEA – not clear whether rare plant database has been consulted or not.

4.4.2. On foot of the above submissions, a number of amendments were made to the Draft Planning Scheme and adopted by the Council.

4.5. **Third Party Observations**

- 4.5.1. There were 109 no. third party observations on the Draft Planning Scheme. The issues raised were addressed on a chapter by chapter basis within the Chief Executive's Report, including response to each issue and recommendation.
- 4.5.2. Following assessment of third party observations, submissions from prescribed bodies and Councillor motions, it was decided that the modifications below constituted material alterations to the draft planning Scheme:

- Affordable Housing - Provision was made for an additional 550 affordable housing units in the SDZ by way of agreement between Dublin City Council, the Minister for Housing, Planning, Community and Local Government, and the beneficial owners of the land. It is considered that the change in tenure diversity from the 10% (350 units) provided in the Draft Planning Scheme to 900 units would constitute a material alteration.
- Mix of Units - The planning scheme was modified so that the minimum amount of 3 bed units increased from 15% to 20% and the maximum amount for 1 bed units was reduced from 25-30% to 20- 25% in the SDZ. These modifications constituted a material alteration to the mix of units in the SDZ.
- Social, Cultural, Creative and Artistic Spaces - The scheme was amended to require all developments over 50 units/5000 sq.m. to provide 5% social, cultural, creative and artistic spaces in the SDZ as identified in a cultural community audit rather than in the general locality.
- Re-allocation of B2 lands to Mixed use - The land identified as B2 in the draft planning scheme and shown as Industrial & Port Zone was zoned for mixed use, mainly to allow for existing developments on site such as Bissett Engineering, and consideration of a film studio type development in the B2 area. These alterations included a reduction in the Port Park size, and were considered to be material alterations to the scheme.
- Urban form and Height - Additional storeys were provided for on a number of streets within the scheme, apart from Seán Moore Road which remains 4-5 Storeys. In addition, provision was made for an increase in the height of the landmark buildings, with the maximum height of the focal building overlooking the park increased from 16 to 20 storeys. The scheme was also amended to show a general height of up to 20m (5 storeys) on the port lands. These amendments facilitated a possible increase from c.3000 to c.3,500 units. All buildings are subject to detail assessment in relation to amenity, urban design etc. at planning application stage.

5.0 Planning History

Dublin City Council Reg. Ref: 3454/17

- 5.1. Permission granted in October 2017 on a site to the east of White Bank Road for the construction of a 2-storey permanent steel gantry structure to allow for safe inspection and repair of refrigeration engines on shipping containers and all associated site works.

Dublin City Council Reg. Ref: 2209/13 (PL29S.241965)

- 5.2. The Board granted permission in July 2013 for the continuation of use of a concrete batching plant until 15th September 2019 on a site to the east and south of South Bank Road.

Dublin City Council Reg. Ref: 255/12

- 5.3. Application for a 2 screen drive-in-cinema to east of above site declared withdrawn.

An Bord Pleanála Ref: 29S.EF2022

- 5.4. Approval granted in November 2007 for a waste to energy facility at Pigeon House Road, Poolbeg. It was a requirement under Condition 6 of this permission that access from the existing Shellybanks Road shall continue to be available to existing landowners abutting the road during the construction phase of the proposed development and on completion of the construction works the road shall be re-opened.

An Bord Pleanála Ref: 29N.PA0007

- 5.5. The Board refused consent for development of additional port facilities with access to deepwater berths at the north-eastern part of Dublin Port, off Alexandra Road including reclamation of 21 hectares of foreshore; construction of a 1,025m solid quay wall and 500m rock armour revetment; 60m high container handling cranes; 2-storey terminal building; extension to railway line; and dredging of an area of 220,000 sq.m.
- 5.6. The reason for refusal related to the potential adverse effects on the integrity of the South Dublin Bay and River Tolka Estuary pSPA and the natural heritage of Dublin Bay.

An Bord Pleanála Ref: 29N.PA0034

- 5.7. Permission granted (July 2015) for the redevelopment of Alexandra Basin and Berths 52 and 53, together with associated works in Dublin Port and the dredging of the Liffey approach channel.

An Bord Pleanála Ref: PC0252

- 5.8. Pre-application consultation yet to be concluded in relation to the reconfigured ferry terminal, roadways, buildings and lands, new jetty, dredging works and all ancillary works at Dublin Port Company Estate, Dublin Port.

An Bord Pleanála Ref: 301798

- 5.9. A 10-year planning permission is sought for development of the Ringsend wastewater treatment plant upgrade project, including a regional biosolids storage facility. This application was lodged with the Board on 6th June 2018.

6.0 **Policy Context**

6.1. **Project Ireland 2040 – The National Planning Framework (NPF)**

- 6.1.1. The NPF recognises the requirement to focus on a number of large regeneration and redevelopment projects in Dublin on underutilised lands, facilitated through well-designed higher density development. It is also stated that the growth of Dublin Port, through greater efficiency, limited expansion into Dublin Harbour and improved road access, particularly to/from the southern port area, should be facilitated. The “M50 Dublin Port south access” is one of a number of sections of the national road network that will be progressed through pre-appraisal and early planning during 2018 to prioritise projects which are proceeding to construction.

6.2. **Regional Planning Guidelines for the Greater Dublin Area**

- 6.2.1. These Guidelines emphasise the need for consolidation of the metropolitan area, expansion of Dublin Port and the protection of Dublin Bay.

6.3. Dublin City Development Plan, 2016-2022

6.3.1. Poolbeg West Strategic Development Zone (SDZ) is within the Docklands Strategic Development and Regeneration Area (Section 15.1.1.6). Guiding principles for the development of Poolbeg West are set out in Section 15.1.1.9.

6.3.2. The following other policies and objectives make reference to Poolbeg:

- MTO32: To protect the routes of the proposed eastern by-pass from existing Dublin Port tunnel to Poolbeg, also referred to as the Southern Port Access Route, and in the longer term to provide a route corridor between Poolbeg and the Southern Cross/ South Eastern Motorway (in accordance with the NTA Strategy for the Greater Dublin Area 2016 – 2035). The preferred route for DCC is by means of a bored tunnel, under Sandymount Strand and Merrion Strand and will be subject to full statutory Environmental Assessment, together with an Appropriate Assessment for the entire proposed routes, in accordance with the Habitats Directive, together with a full consultation process. (See Development Plan Map J).
- GIO19: To maintain beaches at Dollymount, Sandymount, Merrion and Poolbeg/Shellybanks to a high standard, and to develop their recreational potential as a seaside amenity, in order to bring them to 'Blue Flag' standard subject to Article 6 Assessment of the Habitats Directive.
- CHCO16: To undertake a feasibility study to identify suitable uses, potential partners, funding opportunities and a conservation strategy to secure the conservation, future use and appropriate development of the former Pigeon House Hotel and former Pigeon House Power Station for the benefit of the City of Dublin. Provide further reports to the Area Committee on the technical appraisal being carried out by ESB in relation to the Poolbeg chimneys, which are iconic features of the Dublin skyline and of the industrial heritage of Dublin. The retail hierarchy for Dublin City designates Poolbeg as a Level 4 Neighbourhood Centre and Local Centre which is intended to provide for daily shopping needs and local services of the resident community.

6.4. Dublin Housing Strategy, 2016-2022

6.4.1. This Strategy comprises the following three core principles that inform and guide the overall core strategy of the Development Plan relating to housing:

- To ensure the provision of good quality housing across owner-occupied and rental housing tenures in sustainable communities;
- To ensure the planning and building of housing and residential space in the city contributes to sustainable and balanced development; and
- To ensure adequate provision of social rental housing for households unable to afford housing from their own resources.

6.5. Natural Heritage Designations

6.5.1. The following European Sites are located within 15km of the appeal site:

European Site	Site Code	Distance from appeal site	Direction from appeal site
South Dublin Bay and River Tolka Estuary SPA	4024	0km	South
North Bull Island SPA	4006	2.67km	North-east
Baldoyle Bay SPA	4016	8.1km	North-east
Dalkey Islands SPA	4172	9.5km	South-east
Howth Head Coast SPA	4113	10km	North-east-east
Ireland's Eye SPA	4117	11.4km	North-east
Wicklow Mountains SPA	4040	12.2km	South-south-west
Broadmeadow/Swords Estuary SPA	4025	12.4km	North-north-east
South Dublin Bay SAC	210	0km	South
North Dublin Bay SAC	206	2.7km	North-east
Rockabill to Dalkey Island SAC	3000	7.3km	East
Howth Head SAC	202	8km	North-east
Baldoyle Bay SAC	199	8.2km	North-east
Ireland's Eye SAC	2193	11.km	North-east
Malahide Estuary SAC	205	11.7km	North-east
Wicklow Mountains SAC	2122	11.9km	South-south-west
Glenasmole Valley SAC	1209	13.5km	South-west
Knocksink Wood SAC	725	13.8km	South
Ballyman Glen SAC	713	14.5km	South

6.5.2. The South Dublin Bay proposed Natural Heritage Area adjoins the appeal site to the south and the North Dublin Bay pNHA is 1.25m to the north. The grand Canal pNHA is 1km to the west of the appeal site.

7.0 Appeals

7.1. Grounds of Appeal

7.1.1. Four appeals have been lodged in accordance with Section 169 of the Planning and Development Act, 2000 (as amended) against the Planning Scheme for Poolbeg West Strategic Development Zone. The grounds of appeal and main points raised in these submissions are summarised as follows:

Sandymount and Merrion Residents Association

- Poolbeg proposal was approved without any further dialogue with appellants and no apparent change to any concerns presented.
- Letter to Council of 3rd July is the basis for appeal on the following grounds:
 - Many aspects of infrastructure in Sandymount and Mount Merrion are already overloaded and inadequate – enabling infrastructure must precede development.
 - Ringsend Wastewater Treatment Plant has twice been upgraded since 2003 and is still being grossly overloaded and cannot be expanded further – this will have a devastating effect on the Sandymount Strand as an amenity area.
 - Roads cannot take any further increase in the volume of traffic.
 - Vehicle environmental damage is causing significant air and noise pollution and vibration transmitted across marine silt ground bed.
 - There is insufficient provision in the plan to protect the adjoining EU designated Habitat and Species Directive.
 - Level of engineering challenge in a number of areas gives rise to residential concern.

- Appellants understand the criticality of the SDZ but this also requires a strategic consideration of impacts.

Becbay Ltd. (In Receivership) and Fabrizia Developments Ltd. (In Receivership)

- The appellant seeks the following within the appeal submission:
- Modifications to height at specific locations so that up to 3,500 residential units and 120,000 sq.m. of commercial space can be delivered (Figure 4.1 of appeal submission);
 - Edges (street, square, park) can accommodate greater overall height.
 - Particular disposition of height within each plot should be flexible (e.g. Kings Cross Masterplan).
 - Seán Moore Park – increase height of community/ education block from up to 4-5 storeys to 8-9 storeys.
 - Seán Moore Road – increase in building height from 4-5 storeys to 6-7 storeys. Create a boulevard with on-sided city centre street. Tall buildings will have little negative effect and will improve the life of the street, whilst creating a strong and recognisable place.
 - South Bank Road – increase building height from 6-7 storeys to 8-9 storeys. Buffer will become more effective; location, aspect and climate lends itself to taller buildings; street is wide enough for denser collection of commercial uses; and quantum and setting must promote future development.
 - Southern element of commercial plots – southern and eastern elements of commercial perimeter block increased from 4-5 storeys to 6-7 storeys. Deeper buildings to South Bank Road would exceed the notional 18m depth shown; office plots are not subject to residential daylight and sunlight constraints; and it is imperative to use city land efficiently and sustainably.
 - Section 11.5.1 – Managed Flexibility for Additional Height - Amend text for up to 2 additional setback storeys above the maximum height to

encourage diversity of built form, quality of design and to achieve the right number of units.

- Modifications pertaining to the Commercial Agreement with confirmed funding for social and affordable housing so that any such agreement may be voluntarily entered into for the provision of additional units over 10% maximum, and should be dealt with outside the adopted Planning Scheme in line with the Receiver's statutory powers:
 - Opinion of Senior Counsel is that the requirement to provide 'a minimum' of 10% social and/ or affordable housing is unlawful; there is no legal basis upon which the Council could rely to require the Receiver to enter into a separate social and affordable housing agreement; and the Council is not entitled to override a statutory provision that caps Part V housing at 10%.
 - Separately described 'commercial agreement with confirmed funding' falls outside the provisions of Part IX (SDZs) of the Act and any other section of the Act.
 - Reference to 'given public investment in enabling infrastructure for the area' should be removed as issue is being addressed under LIHAF.
 - Third last paragraph under Section 3.5 should be deleted by reason of modifications proposed by the Receiver.
 - Receiver is amenable to entering into discussion to reach an agreement for delivery of additional units to Dublin City Council on a voluntary basis and at commercial rates – condition of planning permission, however, would be ultra vires.
- Modifications to layout, form and height of proposed Community and Education Blocks:
 - Community and education uses can be accommodated at ground level and lower floors, with apartments and commercial uses above.
 - Community/ education block should be illustrated as a complete plot with appropriate height of 8-9 storeys addressing Seán Moore Park.

- E.g. Primary school under residential, Dalston and Kings Cross Academy, London.
- Basketball court within community/ education uses could be more appropriately located within Village Green, Seán Moore Park or at roof level.
- Increased height will adequately define the city park and provide a consistent urban edge.
- Section 9.3 allows the school and community block to be relocated one block to the east – this may be a drafting error and should refer to the west (onto Seán Moore Road). This will provide better integration with established communities.
- Section 11.3.4 should be amended for consistency as school is not fixed to this location.
- Modifications to provisions relating to cultural and community uses to provide an effective policy context for the delivery of these uses (Objective CD8):
 - Insert community and omit reference to 5% in Section 4.4.2.
 - Proposed modification is consistent with the Docklands Planning Scheme and City Plan provisions, which do not reference a percentage or quantum of floor area to be provided.
 - 5% of floor area of permitted development being provided for social and community facilities is inappropriate, excessive and unnecessary.
- Modifications that maximise connectivity, permeability and integration with the surrounding communities:
 - Key desire lines between Poolbeg West and Irishtown/ Sandymount are less well defined.
 - Generating adequate level of activity on Seán Moore Road and addressing the shoreline and promenade will be critical to integrating the development with Sandymount (amended movement strategy proposed).
 - Planning Scheme should emphasise the permeability of the southern boundary between Seán Moore Park and Sandymount.

- Promenade would be better activated by securing improved connectivity to Irishtown and Sandymount by providing a continuous promenade connection.
- Amend Figure 2.1 – Concept Plan to include sustainable transport corridor to Beach Road.
- Modifications were made by the Board to facilitate future connections with adjoining communities surrounding the Grangegorman Planning Scheme.
- Modifications relating to urban structure and design to provide flexibility relating to development plots; development capacity (120,000 sq.m. of office, hotel and related development); and phasing and implementation to provide for a transport and infrastructure strategy;
 - Proposed: “The commercial blocks are indicated on Figure 11.3 as perimeter blocks. The plan for these blocks could be based on a full site coverage incorporating an atrium.”
 - Proposed: “The heights and particular building footprints illustrated on each plot on Figure 11.3 may be redistributed within the plot to optimise daylight and sunlight penetration to residential units, internal courtyards, public realm and adjacent blocks.”
 - Perimeter block approach is perfectly valid but Poolbeg would benefit from a variety of housing typologies, including courtyard schemes, mansion blocks and dual aspect approaches.
 - Perimeter blocks when applied repeatedly can reduce the very diversity and variety that the Planning Scheme promotes.
 - Approach at London Kings Cross defined maximum heights and quantum parameters, while anticipated solutions were illustrative, leaving room for architectural excellence.
 - Prescriptive application of the BRE Guidelines does not achieve the optimum urban design and residential amenity outcomes (modification to Section 11.5.2 proposed).

- Flexibility in plots – proposed modification: Junctions of internal streets (aligned parallel to Seán Moore Road and Coastal Park) and perpendicular streets can be staggered – sections between junctions can be relocated up to 20m to the east or west.
- Section 11 and Appendix 2 – Street sections should be removed or labelled as indicative.
- Preferred approach is that car movement at grade is minimised and access to basements is provided early upon entry to the site.
- Public realm masterplan can be prepared within one year of adoption of the Planning Scheme to provide coherent approach to streets.
- Modify stated commercial capacity where referenced from 80,000-100,000 sq.m. to 120,000 sq.m. to ensure that the upper limit of the stated development capacity is consistent with the capacity of the site, and for the effective implementation of the Planning Scheme.
- Modify Section 9.4 – submission of a transportation and infrastructure masterplan for the IGB and Fabrizia site.
- Amend Objective LP6: “If the housing area is to be developed as one entire scheme, the preference is that generally development shall take place sequentially across the site to avoid gap sites detrimental to amenity.”
- Modifications relating to the reservation of the Eastern Bypass Corridor to bring clarity:
 - Objective MV4 - Include text: “The reservation does not impact on the southern portion of the SDZ lands to the south of South Bank Road, and development can proceed in this area in advance of any further route selection studies.”
 - Board is requested to invite TII to provide any clarity possible in respect of the width and alignment of the corridor reservation and to clarify if the proposed modifications can be incorporated by the Board.

- Proposed modifications do not require further AA of SEA (correspondence from ecologists attached).

John Bissett Engineering Ltd.

- Appellant holds a long leasehold until 2089 over the property currently in operation as an engineering facility.
- NRA/ TII and Dublin City Council should be requested to define the actual land area required for the eastern by-pass route – appellant’s property entirely included in the corridor.
- Alignment of roadway must be rectified within the Planning Scheme to ensure the timely delivery of development and to avoid uncertainty on the part of developers.
- Detailed study of Eastern Bypass through Booterstown and Sandyford in 2011 has enabled a more defined alignment that has resulted in significant reduction in blight.
- Section 12 – Implementation and Monitoring should include a defined alignment of the South Port Access Route and Eastern Bypass to facilitate development of the SDZ area. Section 6 does not show roads network in the area.
- Permissible height of 28m for the site is unduly restrictive – site is well suited to accommodate a landmark building of up to 18-20 storeys having regard to its pivotal position between two land bodies and with its southern aspect across Dublin Bay.
- High landmark building at this location will provide a visual focal point for the Planning Scheme and will set a clear distinction between the existing industrial land use and the proposed new development.
- Building height strategy should be further considered to include the provision of a higher building up to 18-20 storeys on appellant’s site.
- Street hierarchy and layout of Planning Scheme (Page 3, Appendix 2) does not include an indication of an access route for appellant’s lands – Planning

Scheme should be modified to include 'local street (access)' to appellant's site for longer term development.

- Figure 11.9 should be amended to indicate lands/ blocks shown in yellow up to 28m in height and not 20m as shown.

Lens Media Ltd. (Promoter of Dublin Bay Studios initiative)

- Principle objective is to ensure that the adopted Planning Scheme is capable of supporting a world class film production facility at Poolbeg.
- Interim Planning Scheme does not reflect the clear direction given by the comprehensive cross-council support to facilitate the provision of the film studio initiative on B2 lands.
- Interim Planning Scheme omits certain components of an SDZ Planning Scheme that are required by legislation.
- Interim Planning Scheme presents a number of contradictions.
- Dublin Bay Studios (DBS) would not in any way compete with, but rather would complement the very necessary housing requirements at Poolbeg.
- DBS will capitalise on the significant shortage of studio/ production space in Ireland, as well as the shortage of premium studio facilities internationally.
- DBS will create 1,800 jobs relating to studio production; 1,000 jobs via digital production and post production; and 1,800 jobs indirectly in shops, hotels and restaurants.
- Proposed creative city quarter will provide for an array of uses including commercial, residential, cultural and amenity uses, whilst balancing the essential social and infrastructural requirements of the area.
- Proposal promotes development of economic and social importance to the State in accordance with Section 166 of the Planning and Development Acts 2000-2017.

- DBS would attract significant increases in tourist numbers as was seen with Game of Thrones and Lord of the Rings.
- Direction of Councillors and confirmation by Executive that the film studio initiative would be given equal status to port-related activity has not occurred.
- B2 lands are also proposed in the Scheme for ‘unitised cargo storage’ in the long term – there is no certainty to promoter of film studies.
- Board should seek clarity from NTA and TII as to the exact status of the Eastern Bypass and South Port Access Route given the need for certainty in the SDZ Planning Scheme.
- Scheme does not adequately set out a number of the details required under subsection 2 of Section 168 of the Act. Scheme fails to provide a clear blueprint for the development of Block 2 in relation to the quantity of development prescribed for each use, or overall design considerations.
- It is essential that the adopted Scheme makes specific reference to the designation of B2 lands for ‘creative industries, which will facilitate film and television production activities.’
- Interim Planning Scheme states that Poolbeg West comprises some 34 hectares – appellants have calculated 38.1 hectares.
- Chapter 2: Vision and Key Principles and Chapter 4: Community Development contains no reference to the film studio initiative. Chapter 5: Economy & Employment should make extensive reference to film studio initiative but fails to do so. There is no objective among EC1 to EC13 to support film studio initiative.
- No reference in Chapter 6: Movement – Initiative would have major synergies with cruise liners and would act as major impetus for extension of Luas.
- Location of Dublin District Heating System proposed peak boiler is unclear and film studio in B2 lands could be deemed premature pending its determination – this is contrary to the principles of SDZ legislation.

- Initiative could have a major green and sustainability element and could serve as a buffer between residential and port related and infrastructural uses.
- Objective set out in Section 9 relating to Land Use and Phasing fails to reference the film studio initiative when it is to be at the heart of the Scheme.
- Initiative would bring a significant public realm contribution in term of place-making, environmental protection and enhancement, and connectivity and movement.
- Film studio initiative needs a specific subsection within Section 11.3 – Land Use Distribution.
- Figure 6.3 shows too wide a corridor for the SPAR and Eastern/ Eastern Bypass.
- Board is referred to submission to Council of 8th March 2017 and to the quality of indicative film studio proposal by Plus Architecture.
- Shadow diagrams show no development on B2 lands.

7.2. Development Agency Responses to Appeals

7.2.1. Dublin City Council responded to the appeal submitted on behalf of **Becbay Ltd. (In Receivership) and Fabrizia Developments Ltd. (In Receivership)** with the following comments:

Height

- Overall quantity of development has been extensively modelled at all stages and based on an 85%/15% residential/ commercial split, and an estimated gross floor area of 100 sq.m. per residential unit, a total of 3,250 units would be achievable, together with 85,000 sq.m. commercial.
- Additional set back storeys have the potential to yield 385 residential units and 11,000 sq.m. commercial.
- Potential yield could also be increased by flexible building lines and unit typologies that would be well below 100 sq.m.

- A greater range of block layouts may be considered in commercial areas and the Neighbourhood Centre where public access may be desirable to all sides of a building (Section 11.5.2).
- There is sufficient scope in the Planning Scheme to achieve the upper limit of 3,500 residential units and 100,000 sq.m. of office space and there is no justification for additional setback storey.
- There is scope for increases in building heights at Seán Moore Park and Community/ Education Block and South Bank Road. These changes could yield an additional 290 units and 7,700 sq.m. commercial.
- Section 3.4 (2nd Paragraph) may be amended at the Board's discretion to state that "residential buildings will be predominately under 28m in height and located in the central and southern section of the SDZ lands, i.e. 4-7 storeys commercial and up to 9 storeys residential. Mid-rise Heights of up to 20 storeys can also be accommodated." (Figure 11.3 amendment)

Social and Affordable Housing

- Council fully accepted that 10% social and affordable housing is all that is required under statutory obligations. It was the view of elected members that the proposed commercial agreement for 900 social/ affordable/ senior dwellings should be included in the Draft Scheme, with the principles of the agreement referenced in the text.
- Requirement for 900 units as set out in Section 3.5 of the scheme was the outcome of a lengthy process (summarised to assist Board).
- Board may choose to determine the applicability and relevance of the above requirements given the significance of this issue to the overall scheme.

Community and Education Block

- Agreed that there is a strong urban design argument for higher buildings on school/ community sites.
- Design solution for primary school with residential above, similar to Kings Cross, London, could be implemented subject to additional safeguards regarding security and amenity, and the requirements of the Department of

Education and Skills. (Suggested amendment to Section 11.3.4 which also states that if agreement cannot be reached for a mixed use development model on the school site, then height limit of up to 5 storeys shall apply to this site).

- Fixed reference in Section 11.3.4 refers to the south-west area of the SDZ lands adjacent to Clanna Gael GAA Club – this would enable the school to be developed on the next block to the west. Section 9.3 (para. 5) may be amended – west instead of east. (Figure 11.3 amendment)

Social, Community and Artistic Use

- It is considered inappropriate to remove the 5% provision of community, creative and artistic space requirement for developments over 200 residential units/ 10,000 sq.m. having regard to the evolution this policy (originally 5% per 50 units/ 5000 sq.m.).
- Bullet points under Section 9.3 are suggested ways of meeting this objective and should be retained. Objective CD8 should also be retained.
- Council has no objection to insertion of the word ‘community’ within Section 4.4.2.

Connectivity, Permeability and Integration

- Sustainable transport links to the south are provided for within the plan for pedestrians and cyclists.
- Proposed public transport route through the site not supported by Council for the following reasons:
 - Area to south identified as coastal/walkway/promenade and flood defence;
 - Link sought has not been included in the list of planned road and bridge improvements in the Development Plan;
 - Local Environmental Improvement Plan for Ringsend/ Irishtown does not envisage the provision of a public transport link.

- Proposed road infrastructure would be an intrusive element through Seán Moore Park – park forms part of a continuous linear green space connection from Beach Road to eastern end of Poolbeg Peninsula.
- Foreshore area is presently well utilised by walkers and SDZ development will draw more people to this location.
- Bus Route 18 is shown extended to the planning scheme lands.

Urban Structure and Design

- Allowing building heights to be redistributed within each block would seriously undermine the height strategy and may compromise the distribution of development within the SDZ lands. This would lead to a high degree of uncertainty for future purchasers of units within the Scheme with regards to permissible heights of adjoining buildings.
- Additional text could be added to the Planning Scheme to clarify that the rear boundary lines of office buildings are flexible, meaning that larger floor plates can be provided.
- Proposed amendment could lead to a fragmentation of the perimeter block model and height strategy.
- Planning Scheme allows for a greater range of block layouts in commercial areas and the neighbourhood centre where public access may be desirable to all sides of the building. Text can be expanded to include buildings with community uses at ground floor.
- Perimeter block model has been successfully implemented throughout the Docklands area and docklands developments in other countries – these create a vibrant built environment through applied architectural language (articulation, fenestration, materials and finishes).
- Public/ private space, streets and car parking can be clearly defined via the use of perimeter block structure (Urban Design Manual).
- Alignment of north-south minor streets vary within the Scheme, with a number of small off-sets provided at junctions – there is no need for a

specific reference to a 20m off-set and individual variations can be considered on merit.

- Street typologies are intended to be flexible – Section 11.5.2 (last paragraph) may be amended to include a greater range of block layouts for community hub and commercial blocks based on full site coverage incorporating atrium.
- Section 11.2.1 may be amended to state that the street hierarchy, including indicative cross sections and layout are illustrated in Appendix 2 and that there is a fixed alignment for the Central Boulevard, South Bank Access Street, Coastal and School Route, and the alignment and widths of side streets and home zones are flexible.

Development Capacity

- 3,500 homes and 120,000 sq.m. commercial could be delivered with an 80/20 split and increased building heights on southern side of South Bank Road – amendment to 120,000 sq.m. at Board’s discretion.

Phasing and Implementation

- Emphasis on sequential development is unnecessary and may undermine the intent of the Scheme to avoid gap sites should multiple applications on smaller land parcels be lodged throughout SDZ lands.
- New point to list at Section 9.4 at Board’s discretion: “A transportation and infrastructure masterplan shall be developed for Area A and submitted as part of the first planning application, which may be for infrastructural elements only. This is to recognise that infrastructure, transport, connectivity, utilities and public realm are required to be dealt with at site level.”

Eastern Bypass

- TII raised concerns in respect of the Draft Planning Scheme regarding the placement of structures within the South Port Access/ Eastern Bypass Corridor (B1 lands).
- Recommended Section 6.2, 3rd bullet point may be amended to state that Eastern Bypass reservation corridor will have an impact on potential land

uses within the SDZ; however, it should not impact on lands to the south of South Bank Road, and development can proceed in this area in advance of any further route section studies.

- Street hierarchy diagrams, Appendix 2 – following amendments shown:
 - “all street typologies are indicative and will be further refined during the development of the Public Realm Masterplan, and detailed design stage.”
 - Central Boulevard – Local street (access) serving as a major pedestrian/ cycle link.
 - South Bank Road – Existing road to be retrofitted as a Local Street (access) to provide pedestrian, cycle and vehicle access from Seán Moore Road.
 - South Bank Access Street rather than Link Street.
 - Coastal and School Route (rather than Access Street) – Function: Local Street (Homezone) serving as a major pedestrian/ cycle link.
 - Local Streets (side streets) – Function: north-south streets providing pedestrian, cycling and vehicle access from/ between the Central Boulevard, Seán Moore Road and the Coastal and School Route. Car park entrances should be located on Side Streets. Character – Low speed street – may be off-set at junctions to create visual interest and as a traffic calming measure.
 - Local Street – Homezone: Local street providing east-west pedestrian, cycle and vehicular access to Side Streets – will carry very little traffic and may be pedestrianised in sections.

7.2.2. Dublin City Council responded to the appeal submitted on behalf of **John Bissett Engineering Ltd.** with the following comments:

- Dublin City Council is guided by the NTA and TII with regard to the extent of reservation for the Eastern By-Pass – Figure 6.3 of the Planning Scheme has been extracted from the Eastern By-Pass Corridor Protection Study.
- Delivery of housing and major areas of employment are not affected by the corridor reservation or are predominately located outside it.

- Bissett Engineering site is not critical in terms of meeting the Key Objectives of the Planning Scheme.
- Lands affected by the reservation are mostly in the ownership of Dublin Port – Dublin Port Masterplan identified the lands in question as ‘Public Realm’.
- Development Agency agrees that a refinement to the Reservation could be included in Chapter 6. If Board deems appropriate, text could be amended to state that ‘the Council will also work with Transport Infrastructure Ireland and the National Transport Authority to refine the route of the South Port Access/ Eastern Bypass Corridor Reservation’.
- Provision has already been made within the Planning Scheme for an 18 storey landmark building where the shoreline pivots from the ‘Coastal Park’ towards Poolbeg Peninsula. There is more certainty at this location in terms of deliverability outside the bypass reservation.
- Site designated mixed-use in order to safeguard the established use – height limit of 28m (7-storeys commercial/ 9 storeys residential) is considered adequate.
- Access to site would be similar to private access and would not function as a ‘local street (access)’ – ‘Street Hierarchy’ diagram can be amended to clarify this issue (recommended).

7.2.3. Dublin City Council responded to the appeal submitted on behalf of **Dublin Bay Studios** with the following comments:

- Planning Scheme (Interim Publication) is an accurate reflection of the resolutions passed by Elected Members and includes references to exploring the opportunity for a film studio and mixed uses, including film, TV and digital content production studios on B2 lands.
- B2 lands were redesignated from ‘industrial and port zone’ to ‘mixed use’ and then to ‘mixed use – commercial, creative industries, industrial (including port related activities)’ (amendment of text in Chapter 9).
- Identification of B2 lands for ‘creative industries, which will facilitate film and television production’ at the exclusion of others would conflict with S.I. No. 279 of 2016, which makes specific reference to ‘port related activities’.

- Further references to a ‘film studio’ would not be appropriate having regard to ownership of lands, Dublin Port Company’s intentions for the lands and the location of B2 lands within the South Port Access/ Eastern Bypass Corridor.
- It would not be appropriate to reproduce the DBS design proposal as a design framework, as it relates to specific commercial development.
- Range of possible uses and level of detail in terms of spatial distribution, building typologies, block layouts and accessibility cannot be provided on B2 lands, as is provided on A lands. Planning Scheme does provide a robust series of measures to guide the development of B2 lands (uses, height, phasing, etc.)
- Area of SDZ (34 hectares) taken from map accompanying S.I. 279.
- Fig. 6.3 South Port Access/ Eastern Bypass Corridor is taken from corridor protection study.
- Colour codes in Fig. 8.1 can be revised at time of publication.
- View corridors for Figures 11.4, 11.5 and 11.8 – key diagram provided.
- Figure 11.13 is indicative only and can be revised at the time of publication.

7.2.4. Dublin City Council responded to the appeal submitted by SAMRA (Sandymount & Merrion Residents Association) with the following comments:

- Plan making process went through a robust public engagement and all submissions were considered.
- Issues raised by appellant were considered in the drafting of the Draft Planning Scheme and in accompanying reports on environment, habitats, flooding and contamination.
- SEA was undertaken to comply with the SEA Directive and Stage 2 Appropriate Assessment was undertaken to comply with the EU Habitats Directive.
- Council will support Irish Water to ensure the upgrading of wastewater infrastructure, and development of the Greater Dublin Regional Wastewater

Treatment Plant, the North Docklands Sewage Scheme, the Marine Outfall and orbital sewer.

- Council will support Irish Water in the provision of high-quality drinking water, water conservation, and the development of water and wastewater systems.
- Section 9.4 sets out the sequencing of development for the SDZ and the infrastructural requirements needed for each phase. It is an objective of the Planning Scheme to ensure that development is permitted in tandem with available wastewater, surface water and water supply.
- Planning Scheme will promote a modal shift from private car use to more sustainable forms of transport – Scheme identifies responsible stakeholders for transport infrastructure and services provision.
- Proposed Dodder Bridge is currently at design stage and proposed amendments to the location of pedestrian/ cycle bridges over the River Liffey is pending a decision from the Board.
- Various provisions have been integrated into the Planning Scheme that will contribute towards minimising air and noise pollution (Objective MV1 – promotion of sustainable transport forms and Construction and Environmental Management Plan).
- Foreshore buffer will provide an appropriate degree of separation between the development of Poolbeg West and Dublin Bay.
- Development of Poolbeg represents an opportunity to remediate post-industrial sites to ensure they are suitable for a living/ working environment.
- Having incorporated avoidance and mitigation measures, it is considered that the Scheme is not foreseen to have any likely significant effects on the ecological integrity of any European Site.
- Consultative Forum will be established to engage in the ongoing monitoring and with the advisory body for the lifetime of the implementation of the Plan.

7.3. Observations

7.3.1. Observations on the appeals were received from Dublin Port Company, and from Ms. Lorna Kelly, a resident of Sandymount. The main points raised in these submissions are summarised as follows:

Dublin Port Company

7.3.2. This submission includes commentary with respect to engagement with Lens Media Ltd. and the relationship with John Bissett Engineering Ltd.

Lens Media Ltd. Appeal:

Land ownership

- Lens Media Ltd. has no legal interest in the subject lands owned by Dublin Port Company.
- Lens Media is effectively inviting the Board to impose a specific and narrow use on these lands which are required for core port purposes.
- Effect of appeal would be to impose restrictions on the use of public lands of strategic national importance in favour of the promoters of an aspirational and privately-owned film and television production facility.

Locational requirements

- S.I. No. 279/2016 specifically referenced port related activities as a core use within the SDZ and no reference is made to the specific use sought by the appellants.
- Unlike Dublin Port, a television production facility has no specific locational requirements that deem it must be situated on lands confirmed as being strategic to national and regional development.

Planning Policy

- Importance of Dublin Port to the national and regional economy is recognised and supported by EU, national, regional and local planning policy documents.

- Dublin Port is a core port on the EU's Trans European Network-Transport under which the Alexandra Basin Redevelopment is grant funded and supported by the European Investment Bank.
- Dublin Port is a designated node on the North Sea-Mediterranean Core Network Corridor and is a Tier 1 port of national significance.
- Draft National Planning Framework Ireland 2040 Our Plan seeks to facilitate the growth of Dublin Port through greater efficiency, limited expansion into Dublin Harbour and improved road access, particularly to/from the southern port area.
- Continued commercial development of Dublin Port Company is a key strategic objective of the National Ports Policy, 2013.
- Regional Planning Guidelines for GDA recognise the need for expansion of the port, noting that there are capacity constraints and therefore requirements for expansion of port facilities.
- Development Plan Policy SC9 seeks to support and recognise the important national and regional role of Dublin Port in the economic life of the city and region, and to facilitate port activities and development, having regard to the Dublin Port Masterplan 2012 – 2040.
- Policy CEE23(iii) seeks *“to recognise that Dublin Port is a key economic resource, including for cruise tourism, and to have regard to the policies and objectives of the Dublin Port Masterplan.”*
- Area denoted as B2 in the Planning Scheme was designated as “Area 9 Non-core port lands” in the Dublin Port Masterplan 2012. However, vision for this site altered since, and it is now required for the transit storage of cargo and this is reflected in the Masterplan Review Consultation Paper.
- Effective removal of these lands from the Port estate would create a necessity for infill works, in or adjacent to Natura 2000 sites.
- Restriction of port related activity on the B2 lands conflicts with established spatial, economic, transportation and planning policy at all levels of the policy-making hierarchy.

Making of the Planning Scheme

- Motions were submitted seeking the development of 'Dublin Bay Studios' on B2 lands. Chief Executive recommendation was for inclusion of text stating that *"there may be an opportunity for these and associated uses to locate within the proposed SDZ commensurate with the need to first and foremost maximise housing delivery and secure the strategic development of Dublin Port as Ireland's most strategic and largest port."*
- Correspondence between Dublin Port Company with Lens Media included with observation, along with commentary on appeal and lobbying activities undertaken by Lens Media.

Purported inconsistencies within the Planning Scheme

- Draft Planning Scheme placed the ongoing operation of Dublin Port at the heart of the SDZ.
- Scheme states that Block B2 is proposed for unitised cargo storage in the long term, with a commercial element on the western boundary facing onto the buffer park zone.
- Planning policy framework and view of Dublin Port Company have been consistent and in agreement throughout the process of preparation of the scheme.

Economic cost

- There is no analysis of quality of employment and there will be a low employment density for a city centre site.
- Tourism is associated with filming locations and not studios – there is no reference to provision of theme park facilities.
- Film and TV production facilities will have land requirements and will reduce the potential land available for housing.
- Opportunity cost of using c. 8 hectares at this location for film and TV production has not been assessed – Dublin Port supports hundreds of thousands of jobs in the Irish economy.

- Board is requested to approach the making of the Planning Scheme without modification. If inconsistencies prevail, references to film and TV production should be removed.

John Bissett Engineering Ltd. Appeal

- Operator is located on a site owned by Dublin Port and leased since 1989.
- Appellant has no legal interest to pursue an amendment to the Planning Scheme seeking to maximise the commercial development potential of these lands other than for the purposes of marine, precision and general engineering.
- Lands occupied by appellant were shown on the Draft Planning Scheme as being within the port park – those lands should be retained as port park to create an appropriate buffer between residential/ commercial uses and port uses.

7.3.3. In addition to the consultant's report, Dublin Port Company submitted commentary containing the following points:

- DPC intends to develop the Bissett site as part of Port Park as and when Bissett's leasehold interest in the lands is extinguished, however this may come about.
- Bissett will not be granted any interest in the land to the extent that would be required to lodge a planning application to develop the site for a purpose not in conformance with the specific user clause in the lease.
- Dublin Bay Studios has no interest in Dublin Port lands in a legal or planning sense.
- It has been confirmed by the Board of Directors of DPC that Area B2 is required for the future development of Dublin Port – only Directors of DPC can dispose of port lands for any purpose.
- Dublin Bay Studios has been involved in an extensive lobbying campaign to try to get politicians to force DPC to make the lands available.
- Changes introduced to Draft Planning Scheme following Council meeting of 18th May 2017 moved the Scheme away from the statutory objectives for the SDZ.

- Inclusion of wordings in the Scheme that seek to accommodate DPC, DBS and Bissett, introduces an unnecessary lack of clarity.
- Statements of support in the DBS submission from IBEC and IDA are exaggerated and misleading. British Irish Chamber of Commerce stated that sites at Ballymun and Swords should be considered.

Lorna Kelly, Castle Park, Sandymount

- Proposal involves direct and indirect impacts on EU protected habitats and species and the overall environment, including ecology and biodiversity and on human and wildlife communities.
- The following is referred to from observer's submission on the Draft Planning Scheme:
 - Extensive pre-draft consultation with local residents did not take place.
 - A hazardous and toxic waste dump in the sea is not land in the normal, surface of the earth sense. Fabrizio site is composed entirely of waste materials dumped directly onto the beach and into the sea in the 1960's and early 1970's.
 - Docklands Masterplan of 1997 stated that "there may be difficulties to be addressed relating to both contamination and bearing capabilities from a construction/ structural point of view."
 - Site is valuable in terms of public amenity and natural habitat.
 - Site should be regarded as a flood plain – no consideration of possible effects of large scale interference with high water table and obstruction of surface drainage pattern.
 - Additional exchequer cost of providing massive infrastructure to promulgate the scheme are not detailed.
 - Area should be designated as an ecological and natural parkland.
 - SEA omitted investigation of possible effects of height, block position, light pollution and possible increased human usage of both terrestrial and sea areas on birds, their flight paths and habitat.

- Area B2 is ancillary to the designated EU sites and should have been included as part of the habitat.
- Increased heights and urban form will have significant adverse visual impacts on the coastline.
- Remains uncertain as to what type of foundations will be needed and the depth to which contaminated material will be penetrated.

7.4. Development Agency Responses to Observations

7.4.1. Dublin City Council responded to the observation from Dublin Port Company with the following comments:

- Concerns of Dublin Port Company regarding any measures that would restrict the operations of the port on B2 lands were addressed within the Council's response to the Dublin Bay Studios appeal.
- DPC have confirmed their intentions to use the lands under lease to Bissett Engineering Ltd. as open space and this is addressed in the Council's response to that appeal.

7.4.2. In response to the observation from Ms. Lorna Kelly, Dublin City Council submitted the following comments:

- All submissions were considered in making the Planning Scheme, inclusive of the Observer's.
- Planning Scheme does not propose to destroy any existing open spaces – objectives of the Scheme seek to protect and enhance open spaces for biodiversity and recreational use.
- SEA informed the Planning Scheme and concerns such as human health, Seveso III sites, water, soil, air, biodiversity and flood management, etc. have been addressed accordingly. It is an objective of the Scheme to have regard to the mitigation measures set out in the Environmental Report.
- Strategic Flood Risk Assessment and Contamination and Remediation Assessment were undertaken alongside the preparation of the SEA and AA.

- SEA and AA Statements will be prepared on final adoption of the Planning Scheme, demonstrating how environmental and ecological considerations have been integrated into the Scheme.

7.5. Further Responses

7.5.1. The consultant acting for Becbay Ltd. (In Receivership) and Fabrizia Developments Ltd (In Receivership) submitted to the Board on 4th December 2017 that they have no observations on the other appeals lodged in respect of the Draft Planning Scheme.

7.5.2. On 5th December 2017, the consultant acting on behalf of Lens Media Ltd. submitted the following comments to the Board in response to the three other third party appeals:

- Board should seek detailed response from the NTA and TII in advance of, and attendance at, the Oral Hearing to give certainty in relation to Figure 6.3 – South Port Access/ Eastern Bypass Corridor.
- Lens Media Ltd. supports John Bissett appeal with respect to unduly restrictive height criterion for Block B2; uncertainty regarding South Port Access/ Eastern Bypass Corridor and need for clarification; and inconsistencies/ drafting error in Fig. 11.9 regarding 20m height criterion.
- Dublin City Council should prepare a response to residents' association's concerns regarding sewage disposal, traffic congestion, air emissions and engineering challenges.
- Lens Media do not concur with residents' association's correlation of height and the effect on EU Habitats and Species in principle.
- Lens Media support Becbay Ltd. (In Receivership) Fabrizia Developments Ltd. (In Receivership) for modest increases in height at identified locations.
- It is wholly inappropriate that the Planning Scheme lacks clarity in terms of what can be built on Block B2.
- Supports request for further housing provision, to which a film studio initiative is very complementary.

7.5.3. Ms. Lorna Kelly submitted the following comments on Dublin City Council's response to SAMRA's appeal:

- Public information sessions were difficult to access and were poorly advertised and badly timed.
- At no time was any issue relating to the land reclaimed from Sandymount Strand raised at the meeting of the environmental grouping.
- Council's response lays responsibility on other bodies for infrastructure.
- Council response does not satisfy EU Environmental Directives or conform with the requirements of the UN Aarhus Convention for effective participation.

7.5.4. The consultant acting on behalf of John Bissett Engineering Ltd. submitted the following comments on the observations by Dublin City Council of 30th November 2017 and by Dublin Port Company of 27th November 2017:

- Board should disregard observations made on behalf of Dublin Port Company, as it does not respond to appeal submitted on behalf of John Bissett Engineering Ltd.
- Appellant welcomes additional text in Section 6.5 of the Planning Scheme, which states that the Council will work with TII and the NTA to refine the route of the South Port Access / Eastern Bypass Corridor.
- Council should work as a matter of urgency with TII/ NTA and other relevant agencies to define the routes and these should be clearly identified in the Planning Scheme.
- Council's proposed amendment with regards to the street hierarchy diagram and showing access to the Bissett premises is welcomed.
- Appellant is entitled to comment on the Planning Scheme to ensure the most appropriate future use of the land – there are 71 years remaining on the lease and appellant has significant interest in the future potential use of the property.
- There are a number of potential mechanisms for facilitating change of use under the lease and relevant landlord and tenant legislation.

- Subject lands were not designated as port park in the adoption of the Planning Scheme by the Council – DPC has no grounds to request that lands be retained as port park. DPC did not make a submission or appeal the use of the lands.
- Park use on site would not create an effective buffer zone for the industrial and port related development on the eastern portion of the SDZ – residential uses will be located adjacent to existing unsightly engineering facility. Site is designated for a range of commercial uses such as office and hotel to form a buffer.
- Park use will not provide an adequate barrier to deflect potential noise and mitigate visual impacts with viewed from upper levels of apartments.
- Buffer would best be achieved by new commercial building for office/ hotel use – this would also facilitate future regeneration of the site.

7.5.5. The consultant acting on behalf of The Receiver over the Becbay and Fabrizia lands submitted a response to Dublin City Council’s comments on the modifications proposed in their appeal. These are summarised as follows:

- Principal purpose of proposed modifications to height is to provide flexibility for designers at the detailed design stage to allow height and massing to be used in a way that optimises urban design, public realm, legibility and residential amenity – Board requested to support all the proposed amendments on height.
- Analysis by Receiver’s team of the proposed amendments supported by the Council indicates that the Scheme will comfortably achieve 3,500 units but will be considerably below the 3,950 units suggested by the Council. Council have used gross external area to calculate volume rather than gross internal area, which is more accurate.
- Seán Moore Road necessitates a confident urban edge to its east to compensate for the presently fragmented condition of its western side – height of 4-5 storeys will not adequately frame this important boulevard. Road is sufficiently wide enough and visual impact of 6-7 storeys with

potentially 1-2 additional storeys at appropriate locations will be effectively mitigated.

- Proposed additional height to the southern corners of commercial plots seeks only 6-7 storeys with flexibility to provide additional 1-2 storeys – commercial local streets of 14-17m in width can accommodate heights of 10 commercial storeys on each side (Canvey Street, Southwark, London).
- Relaxation of height limits on the southern edges of commercial plots from 4-5 to 6-7 storeys with potential for additional 1-2 storeys would facilitate strong commercial buildings without threatening the hierarchy or the amenity of the proposals.
- Flexibility in the distribution of height per urban block, as proposed, would allow heights to be adjusted up and down to create increased diversity in built form – Board requested to modify Section 11.5.1 as proposed.
- 28m height limit for 9-storey building (Section 3.4) is too restrictive as ground floor active uses will be 5m in height and apartments are currently built to 3.15m to achieve 2.7m floor to ceiling requirements (3.3m for higher buildings to take load, plant and parapet).
- Landmark building should be allowed to exceed 20 storeys as it sits within a streetscape that will provide three 18 storey corner blocks along Central Boulevard – additional height could deliver on its design intent as a landmark building.
- Receiver remains amenable to entering into discussions to reach an agreement for delivery of additional social and affordable housing units to the Council on a voluntary basis and at commercial rates.
- DHPLG expressed significant concern regarding the 5% requirement for social, cultural, community and artistic uses – it would take up to an equivalent of 175 dwellings and should be modelled more closely on the North Lotts & Grand Canal Dock SDZ Planning Scheme.
- Blanket 5% floor space requirement has the potential to undermine existing facilities in the Docklands and could result in significant areas of vacant space.

- Development Plan makes provision for a public transport link from the site to Beach Road, Seán Moore Park (Figure 26 – Key Development Principles and SDRA Guiding Principles).
- Proposed objective for public transport link to the south will ensure that the new community integrates with Ringsend, Irishtown and Sandymount, will maximise permeability, support activity on the promenade and maximise accessibility by sustainable modes and public transport.
- Ringsend LEIP study area does not include any part of the designated SDZ, Seán Moore Park or Sandymount.
- Strong green corridor would be strengthened rather than weakened by a well-designed public transport link between Beach Road and Poolbeg, e.g. Herbert Park and Chesterfield Avenue. Also provides surveillance and accessibility.
- Connection with Sandymount and Beach Road would activate the coastal park and upper promenade and act as a place where Dublin meets its bay.
- Success of public transport on newly built areas depends on the early provision of those services as travel patterns are established. Provision of sustainable transport connection to Beach Road will give the required level of flexibility to avoid the risk of a cul de sac development in the interim phase.
- There should be no implied prohibition on development proceeding concurrently on one or more blocks, e.g. commercial blocks along South Bank Road and residential development addressing Seán Moore Road. May not be practical for development to take place on a sequential basis for reasons relating to phasing, response to market demands or other short term development constraints.
- TII/ NTA should be invited to provide clarity on width and alignment of Eastern Bypass and whether proposed modifications can be incorporated by the Board on the basis that it is necessary to clarify development capacity of the site.

- Board should have regard to Draft Update to the Sustainable Urban Housing Guidelines for the purposes of aligning the provisions of Section 3.3 of the Scheme, which provides for 'build to rent' schemes. Board should consider modification that acknowledges relevant Guidelines that take precedence over any conflicting policies and objectives in the Planning Scheme.

7.5.6. The consultant acting on behalf of **Lens Media Ltd.** submitted a response on 16th January 2018 to the six submissions received by the Board. The response is summarised as follows:

- Dublin Port Company's plans for the subject lands have not been consistent.
- Land ownership has never been a criterion in any of the other eight SDZ Planning Schemes already approved by the Board to determine the use of individual land parcels.
- Lens Media identified the Poolbeg West lands as an ideal location for a TV and digital content production studio in 2012 when Masterplan stated that lands were 'port area available for other development/ amenity use.'
- It would have been reasonable to assume that the Government's intention with the SDZ designation was to seek alternative uses on the subject land; otherwise, DPC owned lands could have been excluded from the SDZ designation.
- Port related activities are not listed as a core use in the Statutory Instrument, and they do not have any predominant role compared with other uses listed.
- Location of the film studios outside of a central area would compromise its success.
- If the lands were so critical for core port activities, why did DPC announce plans for a 600 bed hotel in July 2016.
- Zoning of B2 lands for commercial uses, different from port related uses, will not bring about the infilling of an area within the Natura 2000 site and there is no evidence for this correlation.
- Studies are appended to show the benefits of creative industries and economic analysis of the proposal was carried out and presented.

- Dublin Bay Studios project would not reduce the potential land available for housing as it is contained on lands where housing is not a proposed use.
- All communications held with officials have focused on evidence based planning arguments and demonstration of compliance with policy.
- Dublin City Council stated that limiting the site to a specific land use and stipulating the exact square footage would not be proper planning for the SDZ.
- Any potential exclusion of port related activities from B2 lands would not lead to any conflict within the Planning Scheme.
- Land ownership should not have any bearing in the sequencing or land use provisions included in the Planning Scheme – only objective should be to maximise the development potential of the lands in a manner that is compliant with proper planning and sustainable development.
- Interim Poolbeg SDZ does not adequately set out a number of the criteria in subsection 2 of section 168 of the Act for B2 lands – Board requested the Development Agency for the Cherrywood SDZ Planning Scheme to provide an Urban Form Development Framework prior to any development being permitted in the SDZ. Similar level of detail is required to guide development in the Poolbeg Scheme.
- Extracts from Cherrywood and North Lotts and Grand Canal Dock SDZ Planning Schemes show the provision of specific end uses and quantum of GFA for each use.
- Planning Scheme needs to be exhaustive as there is no appeal and the assessment of an application is a checking list between the application and Planning Scheme with little or no room for interpretation.
- Any commitment by the Council to work with NTA and TII to refine the route of the SPAR/ Eastern Bypass Corridor would sterilise the potential of the B2 lands – applicant for B2 lands would not be able to demonstrate any compliance with the Planning Scheme as required by Section 170(2) of the Planning and Development Act, 2000 (as amended).

7.5.7. On 1st February 2018, the consultants for Lens Media Ltd. submitted further comments on Dublin City Council's submission, summarised as follows:

- Council's submission in relation to the submission made on behalf of Dublin Port Company appears to accept DPC's stance in relation to the Planning Scheme – there is no critical analysis of any of the issues raised by DPC.
- Planning legislation makes no distinction between parties involved in the Planning Scheme making process.
- Decision regarding land uses, type of development, design, etc. should be based on economic or social parameters and not on land ownership or otherwise.

7.5.8. Finally, the consultants for Becbay/ Fabrizia (In Receivership) submitted to the Board on 9th February 2018 that they have no observations on the responses of Dublin City Council to observers' submissions.

8.0 Oral Hearing

8.1. An Oral Hearing in respect of the appeals against the making of the Poolbeg West Draft Planning Scheme was held in the office of An Bord Pleanála over three days between the 17th and 19th April 2018.

8.2. The following is a brief summary of the order of proceedings of the hearing, including the parties who presented and some of the key matters arising. A digital recording of the hearing is appended to this report, along with the written statements of witnesses.

8.3. An agenda was circulated in advance of the hearing and this was subject to some minor modifications over the course of proceedings. Submissions were held in the following order:

Day 1

8.4. **The Development Agency**, Dublin City Council, presented the Draft Planning Scheme to the hearing under the following order:

- Stephen Dodd, BL
- John O'Hara, City Planning Officer

- Jason Taylor, Executive Planner
- Myles Farrell, Senior Planner
- Chris Manzira, Senior Engineer
- Kehinde Oluwatosin, Executive Planner

- 8.5. John O'Hara commenced the Development Agency's presentation by giving a brief summary of the Scheme and setting out how it accords with the statutory instrument, Development Plan policy and statutory guidelines
- 8.6. In his submission, Mr. O'Hara offers an explanation that the area of the Scheme was measured at 34 hectares to include the area zoned Z14 in the Development Plan and excluding the coastal promenade areas. In response that the Scheme does not comply with Section 168 of the Planning and Development Act, 2000 with regard to the detail of the port related lands, it is submitted that a 28m height envelope is set out for this area, and together with the other requirements of the Scheme, it is considered that Section 168 has been complied with.
- 8.7. Reference is made to the National Planning Framework, which sets out a number of "key future growth enablers" for Dublin, including the identification of large scale regeneration areas for new housing and employment and the facilitation of growth of Dublin Port. It is submitted that the Poolbeg West Planning Scheme is in accordance with the National Planning Framework and with other plans and guidance, including the contribution that the Scheme will make towards the need for c. 5,000 dwelling units per annum.
- 8.8. The submission by Mr. Jason Taylor sets out the Urban Design Framework for the Draft Planning Scheme under the headings of access and movement, land use distribution, open space network and building and block layout. It is acknowledged that there may be scope for increases in building height at a limited number of locations provided they are in accordance with the height strategy. It is also submitted that there are a number of other potential factors that may increase capacity at detailed design stage, such as the provision of smaller residential units, flexible building lines and provision of a greater range of commercial block layouts.
- 8.9. Mr. Myles Farrell's presentation included a summary of the statutory process, consultation and the role of elected members, and housing including social and

affordable housing. A housing needs demand analysis is appended to the statement of evidence to provide additional detail on the housing mix that is sought. The submission also covers issues relating to social and transport infrastructure, surface water drainage, water supply and wastewater and energy/ district heating/ ICT. Reference is made to retaining the 5% social, cultural, community, creative and artistic uses comprising 10-20 studios in one or more clusters.

- 8.10. With respect to district heating, the submission proposes an amended wording that all developments of an appropriate scale be district heating-enabled and this shall be demonstrated through compliance with the Dublin City document “Dublin District Heating System – Technical Information Pack for Developers” (Feb 2018) and future updated versions of this document.
- 8.11. The evidence presented by Mr. Chris Manzira sets out the transportation planning policy context; the context for addressing transportation issues from a strategic transportation perspective; an overview of the decision process for establishing appropriate transportation infrastructure; and responses to specific infrastructure projects associated with the Planning Scheme.
- 8.12. During the course of the hearing, the Poolbeg Strategic Development Zone – Transport Assessment prepared by Dublin City Council and the National Transport Authority and dated December 2016 was referred to and copies were made available. It is anticipated that the mobility requirements for the Planning Scheme will be adequate, with an AM and PM car modal share of 22.8% and 16.1% respectively. The Transport Assessment also states that up to 30% build out of the Poolbeg SDZ could be accommodated prior to introduction of the Dodder Bridge, the design of which has already commenced. It was also noted that the granting of permission may be phased to match available transportation infrastructure.
- 8.13. The final presentation by the Development Agency was by Mr. Kehinde Oluwatosin who addressed the SEA, AA, Flood Risk Assessment and remediation aspects of the Planning Scheme.
- 8.14. During the afternoon of Day 1, presentations were heard from the following:
 - Declan Brassil (planning consultant) and Paul Appleton (architect) on behalf of Becbay Ltd. (In Receivership) and Fabrizia Developments Ltd. (In Receivership).

- Patsy Doolin and Kevin Burney, Irish Glass Bottle Housing Action Group.
- Tom Phillips (planning consultant), James Morris and Alan Moloney, Lens Media Ltd., promoter of Dublin Bay Studios.

- 8.15. Mr. Declan Brassil confirmed that **the Receiver** is appealing the aspects of the Planning Scheme relating to the provision of 900 social and affording housing units on legal grounds. Notwithstanding this, it is noted that the Receiver has been working with Dublin City Council and the Department of Housing, Planning and Local Government on a binding commercial agreement with confirmed funding for additional units (up to 550 for affordable homes) at commercial rates outside of the Planning Scheme. A consequential amendment to Section 3.5 was submitted at the Hearing.
- 8.16. The presentation by Mr. Paul Appleton presents a critique of the Planning Scheme. Reference is made to the regeneration of industrial lands at Kings Cross and the Olympicopolis in London. It is acknowledged that Poolbeg represents a strong urban framework that could be improved through better connectivity, integration and increased flexibility. In particular, it is suggested that Seán Moore Road should be developed as an urban boulevard, with increased height on its eastern side, and that there should be flexibility for allowing additional setback storeys and in terms of the design of the southern component of commercial blocks.
- 8.17. A capacity study was carried out which estimates that the total residential units will be in the range of 3,259 to 3,468 based on a figure of approximately 105 sq.m. gross floor area per unit.
- 8.18. The representatives of **Irish Glass Bottle Housing Action Group** made a submission to the Hearing highlighting their support for the provision of 900 social and affordable homes on the site and noting that they did not appeal the Scheme on the basis that this number of social and affordable units would be provided. The group also submitted that the SDZ should benefit and integrate with the local area. They are opposed to any additional height along Seán Moore Road and any overall increase in density.
- 8.19. The first day of the Hearing concluded with a presentation by Mr. Tom Phillips on behalf of **Lens Media Ltd.** The main arguments put forward were that the Planning Scheme falls short of the Planning and Development Acts 2000-2017 requirements;

there has been uneven treatment as to the constituent segments of the Scheme; and the Draft Planning Scheme represents a work in progress rather than a finished article. Reference is also made to Shellybanks Road which still appears to be closed despite a condition attached to the Waste to Energy Facility permission (29S.EF2022) that it should be reopened. Conclusions drawn from the presentation are that a planning scheme must provide certainty; the film studio proposal is clearly of economic and social importance to the State; and SDZs are blind as to tenure. It is requested that the Board should seek an Urban Form Development Framework from the Development Agency.

- 8.20. Submissions were also heard from Mr. James Morris and Mr. Alan Moloney of Lens Media Ltd., who together with other international industry partners, are proposing to develop world class film, TV and digital content production studios as part of the Poolbeg West SDZ. A central location is considered critical to securing recurring business and to facilitate access to services such as talent pool, transport infrastructure, hotels and restaurants. It is submitted that Dublin Bay Studios will create c. 4,600 new jobs directly and indirectly relating to studio production.

Day 2

- 8.21. The following is a list of speakers who presented on the second day of the Hearing:

- Senator Kevin Humphries
- Jim O'Callaghan TD
- Helen Hughes, Transport Infrastructure Ireland
- Seán Laffey, Irish Water
- Sandymount and Merrion Residents Association
- Cllr. Dermot Lacey
- Cllr. Paddy McCartan
- Ms. Lorna Kelly
- John Bissett Engineering Ltd.
- Dublin Port Company

- 8.22. **Senator Kevin Humphries** made a number of points relating to impact on the local community and existing villages. There were also concerns regarding traffic impact and in particular the potential impact on bridges (Samuel Becket Bridge, East Link Bridge and the proposed Merrion flyover). The Board is asked to consider that an improved internal port road over the river be put in place before 50% build out of the Scheme. It is also suggested that building along Seán Moore Road be phased in such a way as to provide a sound barrier for existing residents on the western side of this road.
- 8.23. **Jim O’Callaghan TD** asked the Board and Inspector to have cognisance of what political representatives from the area have to say with regards to the provision of social and affordable housing. It is considered that the 900 unit provision of social and affordable housing should be maintained having regard to the existing social and political problems in terms of housing provision, and the considerable effort made by community groups and elected representatives into reaching agreement.
- 8.24. Ms. Helen Hughes from **Transport Infrastructure Ireland** gave evidence on the alignment of the Southern Port Access Road and the Eastern Bypass, setting out the background to these proposals, interaction with the Poolbeg West SDZ and their current status. It is noted that corridor protection studies have been undertaken, which define a set of appropriate guidelines for development near or adjacent to proposed route corridors. Reference is also made to the proposals in Project Ireland 2040, the NTA Transport Strategy for the Greater Dublin Area 2016-2035 and the Dublin City Development Plan, 2016-2022.
- 8.25. TII advised at the Hearing that the critical residential components for site A1-A4 (Figure 9.2) are compatible with the Dublin Eastern Bypass Corridor Protection Study. It is also confirmed that at present there is no alignment for the Southern Port Access Route and the Eastern Bypass. The M50 Dublin Port South Access Road will be progressed through pre-appraisal and early planning during 2018. It was advised that this will require careful co-ordination due to the required tie in with the Dublin Tunnel (M50) and the long term Eastern Bypass project.
- 8.26. Mr. Seán Laffey, states that **Irish Water** will require the developer to prepare a local network plan in accordance with the indicative water network development plan submitted at the Hearing. The required infrastructure to accommodate the phasing

of the development blocks is also appended to Irish Water's submission. Water supply and collection trunk networks in the vicinity of the SDZ are deemed to be adequate to cater for the demand and load generated by the SDZ.

- 8.27. Irish Water is progressing works to raise the capacity of the Ringsend Wastewater Treatment Plant to 2.4m p.e. and to provide a higher level of treatment to meet EU Directive and Wastewater Discharge Licence requirements. An application will be made in 2018 to provide more advanced treatment technology in lieu of the previously proposed long sea outfall discharge. The SDZ will have a p.e. of 14,000 and the incremental loading will have a negligible impact on the overall load to the treatment plant.
- 8.28. It is requested that the Planning Scheme includes provision for a below ground wastewater pumping station in an easily accessible area. The building layout should also ensure that critical water services infrastructure through the site to Ringsend Wastewater Treatment Plant are not built over.
- 8.29. **Councillors Dermot Lacey and Paddy McCartan** outlined their support for social and affordable housing provision, noting that the agreement between parties in this regard should be honoured.
- 8.30. Mr. Dave Turner from **Sandymount and Merrion Residents Association** presented to the Hearing its support for the principle of the SDZ but cautioning on infrastructure upgrades, protection of the adjoining EU declared Habitat and Species zone and the level of engagement with residents on the significant technical challenges that are faced. It is submitted that infrastructural upgrades will follow house build rather than preceding it and all roads in the area are now so congested that they cannot take a further increase in traffic volumes. The Planning Scheme is considered to be premature at this point until infrastructural issues are addressed.
- 8.31. During the second part of the submission, **Ms. Lorna Kelly**, who is also an observer, noted that a section of the site lies within EU designated sites. Concerns were also expressed regarding the usage of the site by Annex 1 and Annex 2 species throughout the year; building heights and impact on bird flight paths; human disturbance; and the lack of surveys carried out.

- 8.32. The submission by Mr. John Spain on behalf of **John Bissett Ltd.** noted that the property is in use as an industrial engineering facility and will remain as such if redevelopment of the site is not facilitated within the Planning Scheme. It is considered that the subject site is at a pivotal position and its southern aspect is highly suitable for a landmark development of 18-20 storeys.
- 8.33. The presenter also submits that the alignment of the Eastern Bypass should be finalised as a matter of urgency prior to the adoption of the Planning Scheme, and to restrict and sterilise the use of these lands due to an absence of a defined transport corridor is contrary to the proper planning and sustainable development of the area.
- 8.34. A legal opinion submitted by Mr. Owen Hickey S.C. states that it is not the case that John Bissett Ltd. has no legal interest to pursue an amendment to the Planning Scheme to maximise commercial development potential of the lands. Reference is also made to Section 67 of the Landlord and Tenant (Amendment) Act, 1980 where the lessor's approval for works shall not be unreasonably withheld.
- 8.35. Jarleth Fitzsimons S.C. on behalf of **Dublin Port Company** presented strategic issues of a legal nature before the statement of evidence by Ms. Helena Gavin of RPS Group Ltd. The point is made by Mr. Fitzsimons that it would be unlawful for the Board to accede to the Lens Media appeal whereby 8 hectares would be zoned for creative industries notwithstanding the absence of any reference to such a use in the S.I.
- 8.36. The submission by Ms. Gavin re-emphasised that Dublin Port Company intends to develop the B2 lands for port related uses to support the function of Dublin Port as set out in the Dublin Port Masterplan 2012-2040. The submission also includes specific responses to Lens Media Ltd and John Bissett Ltd, as well as clarifications to the Planning Scheme.
- 8.37. With respect to a potential hotel development, it is confirmed that at no time did Dublin Port Company suggest the siting of this facility on B2 lands. The location that was selected for hotel use was shown to be on the north-eastern side of South Bank Road.
- 8.38. Finally, Dublin Port Company requested the Board to ensure that the language included in the Planning Scheme does not impede the delivery of future

development proposals on port lands for port related activities and does not provide any perceived uncertainty with regards to development of these lands for anything other than port related uses, in the first instance.

8.39. The second day of the Hearing concluded with questioning of the Development Agency by Declan Brassil, Tom Phillips, Dave Turner and Lorna Kelly.

Day 3

8.40. The Inspector questioned the Development Agency, Dublin City Council on the following matters:

Development Capacity

- Development capacity and site dimensions including perimeter and courtyard sizes.
- Consequences in terms of future household sizes within the Scheme having regard to anticipated demographic profiles in the wider city.
- Provision of services and facilities to serve resident and working population within the Scheme area, e.g. secondary school capacity; communal and public open space; capacity of sports facilities; social community and artistic space; and provision of retail.

Urban Design and Public Realm

- Height strategy including formation of seafront skyline, vista and pedestrian desire line to Village Green and achievement of indicative building height.
- Proposals for Village Green in terms of activities, ground floor uses, night time usage, wind moderation and landscaping.
- Impact of landmark building on neighbourhood square.
- Proposals for Port Park and Coastal Park.
- Status of scheme upon completion of Public Realm Strategy after Year 1.

Transport and Movement

- Achievement of car modal splits through travel plans and car parking provision.

- Reasons for vehicles accessing internal streets, provision of on-street car parking, carriageway widths and traffic calming
- Surfacing of neighbourhood centre.
- Servicing of proposed Luas stop.
- Level of development commensurate with opening of Dodder Bridge.

Contaminated land

- Landfill gas testing and design solutions for preventing landfill gas from entering buildings above.
- Basement excavation and types of remediation.
- Development and contaminated land risk assessment.
- Piling and stabilisation techniques
- SuDS pathways and impact on future or historic contamination.
- Seveso consultation zone and HSA risk zones

Appropriate Assessment

- Specific mitigation measures other than policies/ objectives of the Scheme.
- Specific consideration to bird flight paths, light pollution and human disturbance.

Flooding

- Finished floor levels
- Use of embankments as raised defences

Other

- Enabling infrastructure for district heating scheme
- Local Infrastructural Housing Activation Funding for other enabling infrastructure
- Consideration of compulsory purchase powers.

8.41. Questions were then put to Lens Media Ltd. on the following issues:

- Requirement for full 8 hectares of B2 lands
- Consideration of other sites for locating film studios
- Clarification of permanent, temporary and one-off employment

8.42. The Inspector's questioning concluded when the following was asked of Dublin Port Company:

- Commitment to redirecting traffic away from South Bank Road
- Proposal to realign South Bank Road
- Visual impact improvements along southern boundary of port lands along South Bank Road
- Purpose of stacked containers forming boundary along South Bank Road
- Accommodation of Lens Media Ltd. and Bissett Engineering on B2 lands.

8.43. The Oral Hearing concluded on the third day with parties making their closing statements. This included statements from the observers.

9.0 **Assessment**

9.1. In preparing this report, I have had due regard to the provisions of the Act and Regulations, and to relevant local, regional and national policies, strategies and guidelines. I have carefully considered all of the documentation supplied by the Development Agency, all of the written submissions on the file and the proceedings of the Oral Hearing.

9.2. The development agency for the SDZ is Dublin City Council. The Draft Planning Scheme has been appealed by four parties, namely, the Receiver for Becbay and Fabrizia; Sandymount and Merrion Residents Association; Lens Media Ltd, who are seeking the development of film studios on part of the site; and John Bissett Ltd. an engineering firm who occupy part of the site leased from Dublin Port Company. Dublin Port Company and Ms. Lorna Kelly made observations on appeals and presented at the Oral Hearing. Evidence was also heard at the Hearing from Transport Infrastructure Ireland, Irish Water, the Irish Glass Bottle Housing Action Group, and a number of public representatives. From the outset, it should be

emphasised that all of the parties to the appeal were supportive of the Draft Planning Scheme save for certain modifications outlined within appeal submissions and at the Oral Hearing.

9.3. This assessment addresses the pertinent issues arising with the Draft Planning Scheme from strategic down to site specific level having regard to its main elements, the site location and context, grounds of appeal, observations from site visits and Oral Hearing discussions. The main headings of the assessment are as follows:

- Development Principle, Compliance with Statutory Instrument and Policy and Overall Content of the Planning Scheme;
- Eastern Bypass Reservation;
- Land Uses:
 - Retail,
 - Community and Education Uses,
 - Open Space and Recreation,
 - Mixed use and Industrial/ Port uses,
 - Residential and Commercial Uses.
- Layout and Urban Design;
- Scale, height and capacity of development – maximising development potential and land use efficiency;
- Transport, Movement and Permeability;
- Social and Affordable Housing;
- Other Issues Raised in Appeals and at the Oral Hearing:
 - Land contamination,
 - Flooding,
 - District Heating,
 - Water Supply and Wastewater.
- Strategic Environmental Assessment; and

- Appropriate Assessment.

9.4. Development Principle, Compliance with Statutory Instrument and Policy and overall Content of the Planning Scheme

- 9.4.1. The Planning and Development Act 2000 (Designation of Strategic Development Zone: Poolbeg West, Dublin City) Order 2016 (S.I. No. 279/2016) designates Poolbeg West as a Strategic Development Zone for a mixed use development which may principally include residential development, commercial and employment activities including office, hotel, leisure and retail facilities, port related activities and the provision of educational facilities, transport infrastructure, emergency services and the provision of community facilities as referred to in Part III of the First Schedule to the Act, including health and childcare services, as appropriate.
- 9.4.2. This designation takes into account (a) the National Spatial Strategy 2002-2020 which identifies the city of Dublin as a gateway, (b) the Regional Planning Guidelines for the Greater Dublin Area 2010-2022 which emphasise the consolidation of the metropolitan area, (c) the Dublin Port Masterplan 2012-2040, (d) the core strategy and objectives of the Dublin City Development Plan 2011-2017, and (e) wider Government policy to support economic development.
- 9.4.3. The Draft Planning Scheme sets out a template for the mixed use development of the SDZ lands in both specific and general formats for different parts of the site taking into account the preferred locations for different use types. The uses listed within the designating order are facilitated within an overall layout framework that attempts to arrange the placement of uses in close proximity, whilst having regard to their sensitivities and potential impacts. The layout and uses within the Draft Planning Scheme are also defined by road reservation and ownership limitations and the strategic nature of the lands partly within Dublin Port. Provision is therefore made for the continued operation and expansion of port related activities, with adjoining commercial development proposed to buffer more sensitive residential and neighbourhood uses. The SDZ lands and the Draft Planning Scheme are of a significant scale, strategically located and comprising appropriate uses that are of economic and social importance to the State.

- 9.4.4. It should be noted that much of the policy documentation taken into account when designating the SDZ has been superseded. Project Ireland 2040 - The National Planning Framework (NPF) and the National Development Plan 2018-2027 (NDP) replace the National Spatial Strategy and represent the Government's high-level strategic plan for shaping future growth to 2040. The NPF recognises the requirement to focus on a number of large regeneration and redevelopment projects in Dublin on underutilised lands, facilitated through well-designed higher density development. It also states that the growth of Dublin Port, through greater efficiency, limited expansion into Dublin Harbour and improved road access, particularly to/from the southern port area, should be facilitated. Under the NDP, the "M50 Dublin Port south access" is one of a number of sections of the national road network that will be progressed through pre-appraisal and early planning during 2018 to prioritise projects which are proceeding to construction.
- 9.4.5. The Regional Planning Guidelines for the Greater Dublin Area, 2010-2022 will be replaced by a Regional Spatial and Economic Strategy (RSES), which will include a spatial strategy, an economic strategy and a Dublin Metropolitan Area Strategic Plan to plan for the future sustainable growth of the capital city region as set out in the NPF. The RSES Issues Paper has been published to inform the initial consultation period.
- 9.4.6. A review of the Dublin Port Masterplan 2012-2040 was published in April 2018, and this revises the 30-year average annual port growth rate upwards. Thus, the part of the SDZ lands previously indicated in the masterplan for other development/amenity uses is now committed as core lands to support the operational activities and growth of the port.
- 9.4.7. The Dublin City Development Plan 2016-2022 came into effect on October 2016 and now sets out three strongly interwoven strands that translate the long-term vision and core strategy. These are a compact, quality, green and connected city; a prosperous, enterprising and creative city; and creating sustainable neighbourhoods and communities. A number of guiding principles for Poolbeg West are now included in the current Development Plan relating to social and economic matters, use and urban form, movement and sustainability, and environment. The indicative alignment for the Eastern Bypass is shown differently

in a position located closer to the East Link Bridge and slightly to the east at the point where the alignment traverses the eastern part of the SDZ lands.

9.4.8. It is stated under Section 168 (2) of the Planning and Development Act, 2000 (as amended) that a draft planning scheme shall consist of a written statement and a plan indicating the manner in which it is intended that the site or part of the site designated as a SDZ to which the scheme relates is to be developed and in particular:

- (a) the type or types of development which may be permitted to establish on the site (subject to the order of the Government under section 166),
- (b) the extent of any such proposed development,
- (c) proposals in relation to the overall design of the proposed development, including the maximum heights, the external finishes of structures and the general appearance and design,
- (d) proposals relating to transportation, including public transportation, the roads layout, the provision of parking spaces and traffic management,
- (e) proposals relating to the provision of services on the site, including the provision of waste and sewerage facilities and water, electricity and telecommunications services, oil and gas pipelines, including storage facilities for oil or gas,
- (f) proposals relating to minimising any adverse effects on the environment, including the natural and built environment, and on the amenities of the area, and
- (g) where the scheme provides for residential development, proposals relating to the provision of amenities, facilities and services for the community, including schools, crèches and other education and childcare services.

9.4.9. The sections of the assessment hereunder shall consider the above points in greater detail to establish the acceptability or otherwise of the Draft Planning Scheme and to provide the Board with the necessary information to decide whether to approve the making of the Planning Scheme with or without any modifications, or to refuse to approve the making of the Planning Scheme. I would be satisfied, however, that the Draft Planning Scheme contains a written statement and plans

that generally indicate the types, extent and design of development, proposals for servicing and accessing the site, and the provision of amenities and facilities for residential development, together with an assessment of impacts on the environment. In this regard, the Draft Planning Scheme is accompanied by an SEA Environmental Report that identifies, describes and evaluates the likely significant effects on the environment of implementing the Planning Scheme and reasonable alternatives in accordance with Article 179 of the Planning and Development Regulations, 2001 (as amended)

9.4.10. Overall, I would be satisfied that adequate provision is made for the establishment of development and uses of the nature identified within the order designating the site as a SDZ. The content of the Draft Planning Scheme is generally in compliance with the appropriate sections and articles of the Act and Regulations and in principle, the Scheme is acceptable within the context of the Development Plan core strategy and Housing Strategy.

9.4.11. The following sections of this assessment shall have regard to Section 169(8) of the Planning and Development Act, 2000 (as amended) which provides that in considering a draft planning scheme the Board shall consider the proper planning and sustainable development of the area, the provisions of the Development Plan, the provisions of the Housing Strategy, the conservation and preservation of any European Site and, where appropriate, the effect on any neighbouring land to the land concerned and the effect on any other consideration relating to development outside the area of the planning authority.

9.5. Eastern Bypass Reservation

9.5.1. It is an objective of Dublin County Council (MTO32) “to protect the routes of the proposed eastern by-pass from existing Dublin Port tunnel to Poolbeg, also referred to as the Southern Port Access Route, and in the longer term to provide a route corridor between Poolbeg and the Southern Cross/ South Eastern Motorway (in accordance with the NTA Strategy for the Greater Dublin Area 2016 – 2035). The preferred route for DCC is by means of a bored tunnel, under Sandymount Strand and Merrion Strand and will be subject to full statutory Environmental Assessment, together with an Appropriate Assessment for the entire proposed routes, in

accordance with the Habitats Directive, together with a full consultation process” (See Map J, Dublin City Development Plan, 2016-2022).

- 9.5.2. The Draft Planning Scheme accommodates the Eastern Bypass reservation corridor within the SDZ to comply with the National Transport Authority’s Transport Strategy for the Greater Dublin Area, 2016-2035 and the above objective. Figure 6.3 of the Draft Planning Scheme shows the extent of the reservation corridor through the SDZ, as extracted from the Eastern Bypass Corridor Protection Study. The section of the route from Dublin Port Tunnel to the South Port area (South Port Area Route - SPAR) is included for delivery within the NTA Transport Strategy period, and whilst the remainder of the route is not proposed for development before 2035, the retention of the route corridor for this scheme is recommended within the Strategy.
- 9.5.3. It is noted in the Draft Planning Scheme that the SPAR scheme would either terminate at Seán Moore Roundabout or at a new junction further east and this will have an impact on potential land uses within the SDZ. However, the development of the Planning Scheme is not contingent on the construction of the Eastern Bypass from the east end of South Bank Road southwards. Notwithstanding this, the Draft Planning Scheme recognises that the Southern Port Access Route and the Eastern Bypass reservation corridor have the effect of shaping and directly impacting on land use decisions, and in particular two major sites within the SDZ.
- 9.5.4. The area of proposed green space (Port Park) to the east of the housing area forms part of the Eastern Bypass reservation corridor and is therefore not considered suitable within the Draft Planning Scheme for any type of permanent development. Furthermore, the reservation corridor continues east over all of the B2 lands designated as “Mixed Use – Commercial, Creative Industries, Industrial (including Port Related) Activities”.
- 9.5.5. The development limitations brought about by the Eastern Bypass and SPAR reservation corridor formed one of the main grounds of appeal submitted by three of the parties. Becbay Ltd. (In Receivership) and Fabrizia Developments Ltd. (In Receivership) are seeking modifications of the Draft Planning Scheme to bring clarity with respect to the width and alignment of the corridor and confirmation that

the reservation does not impact on the portion of the SDZ lands to the south of South Bank Road

- 9.5.6. John Bissett Ltd. whose business is situated in the proposed Port Park area and therefore entirely within the corridor, requests that the actual land area should be defined. Reference is made to a detailed study of the Eastern Bypass through Booterstown and Sandyford in 2011 that has enabled a more defined alignment and has resulted in significant reduction in blight. Lens Media Ltd. also sought clarity on the exact status of the Eastern Bypass given the need for certainty in the SDZ Planning Scheme.
- 9.5.7. Having regard to the above concerns, Transport Infrastructure Ireland (TII) was invited to appear at the Oral Hearing to outline the current status of the Eastern Bypass and Southern Port Access Road. It was confirmed that the M50 Dublin Port South Access Road (previously referred to as SPAR), will be progressed through pre-appraisal and early planning during 2018 and there is currently no alignment for this project. The Dublin Eastern Bypass Corridor Protection Study Section A: Dublin Tunnel to Sandymount Strand will continue to afford protection for the M50 Dublin Port South Access within the Eastern Bypass corridor until planning approval is obtained for the future M50 Dublin Port South Access road project. TII advised that the residential components of the Draft Planning Scheme (A1-A4, Figure 9.2: Phasing Areas) can be developed, whilst still allowing provision for, and protection of, the development of the Eastern Bypass including the M50 Dublin Port South Access.
- 9.5.8. During questioning, TII indicated that the detailed alignment of the M50 Dublin Port South Access that will be brought to An Bord Pleanála could take a year to two years due to the complexity of the area. Discussions took place on the part of the A2 lands that are shown within the South Port Access/ Eastern Bypass Corridor. TII confirmed that a further study of this area took place and design drawings were produced that examined options for removing this triangle of land from the reservation corridor, in view of the importance of this land as part of the housing and mixed use zonings.
- 9.5.9. TII confirmed that any permanent building on the B2 lands would not be compatible with the corridor reservation. However, any temporary structure, such as

warehousing that is easily dismantlable, would be acceptable along the corridor reservation. In this regard, it is noted in the Draft Planning Scheme that any permanent structure in the South Port Access Road/Eastern By-Pass Corridor would be subject to the agreement of TII. It should also be noted that during the consultation stage of the previous Section 25 Draft Poolbeg Planning Scheme, the (then) National Roads Authority made a submission that the deliverability of the Eastern Bypass would not be possible as a result development in line with the (then) Draft Planning Scheme.

- 9.5.10. The argument put forward by the promotor of the film studios on the B2 lands is that the working draft SDZ Planning Scheme is particularly silent on what is to happen within the B1 and B2 sectors owned by Dublin Port to the north and east of the SDZ. It is submitted that a planning scheme shall include the type and extent of development, as well as proposals in relation to overall design, transport, services, etc. The appellant points out that there is insufficient detail with respect to the B2 lands in terms of land use designation, SuDS, phasing, urban grain, etc. It is considered that a detailed Urban Form Development Framework is required for these lands to provide the requisite level of detail and certainty.
- 9.5.11. Clearly, the Eastern Bypass corridor reservation has a significant impact on the development potential of the SDZ lands. This project was formulated in the 1970's and whilst there are indications from TII that a detailed alignment for this route could be brought before the Board within two years, I consider that it would not be appropriate to delay the main aspects of the Draft Planning Scheme or to declare it premature pending the planning approval of the M50 Dublin Port South Access.
- 9.5.12. Notwithstanding the merits or otherwise of the entire Eastern Bypass as a roadway project, the length of time that has passed since its inception, and realisations in terms of road policy with regards to the inability of road building to combat congestion, it remains the case that the Eastern Bypass continues to be TII, and therefore Government policy, for providing additional strategic north-south access across the city, in view of the finite capacity of the M50 and the constrained nature of alternative routes. The section of this route from the Dublin Port Tunnel to the South Port Area is included for delivery within the NTA's Strategy and must therefore be considered in the formulation of the Planning Scheme for Poolbeg West. One of the main purposes of this Strategy is to provide a transport planning

policy around which other agencies involved in land use planning, environmental protection, and delivery of other infrastructure such as housing, water and power, can align their investment priorities.

9.5.13. In my opinion, the proposal put forward in the Draft Planning Scheme is the only feasible option at this time for strategic development to occur on any part of these lands. Development potential is curtailed and the intensive and permanent development of the former Irish Glass Bottle site and Fabrizia lands can only be accommodated at this time. There are certain arguments that the B1 and B2 lands should have been excluded from the Draft Planning Scheme altogether. However, there are clear benefits and indeed necessities associated with their inclusion to develop an appropriate form of buffering between the residential neighbourhood and its port surroundings.

9.5.14. Modifications to the text of the Draft Planning Scheme were agreed by the Development Agency and I would consider these to be acceptable:

Amend Section 6.2 (3rd bullet point): The eastern By-Pass reservation corridor needs to be accommodated within the SDZ to comply with the NTA Transport Strategy for the Greater Dublin Area 2016-2035. The section of the Bypass route extending from the southern end of the Port Tunnel to the South Port area (i.e. SPAR, **now referred to as M50 Dublin Port South Access**) is to be delivered within the lifetime of the NTA Transport Strategy for the Greater Dublin Area. This will have an impact on potential land uses within the SDZ, **however, it should not impact on lands to the south of South Bank Road, and development can proceed in this area in advance of any further route selection studies.** The development of the Planning Scheme is not contingent on the construction of the Eastern bypass from the east end of South Bank Road southwards.

Amend Section 6.5: Planned strategic route investment for the area includes the Eastern bypass (alignment preservation) and associated South Port Access route, and the Dodder Bridge. Important for the long-term development of this area is the protection of an alignment for the South Port Access Route protected within the Eastern Bypass corridor and is similarly protected for the future in accordance with the National Transport Authority Transport Strategy for the Greater Dublin Area. **Dublin City Council will also work with Transport Infrastructure Ireland and**

the National Transport Authority to refine the route of the South Port Access/ Eastern Bypass Corridor Reservation. The SPAR scheme would either terminate at Seán Moore Road roundabout or at a new junction further east. Because the South Port Access route will not be delivered for some time, the matter of heavy traffic on South Bank Road needs to be addressed. In this regard it is intended to provide in the short term a new access as an 'Alternative (South) Port Access Route' to the south port area north of the proposed new junction of Seán Moore Road/South bank Road.

9.6. Land uses

- 9.6.1. As noted above, under Section 168(2) of the Planning and Development Act, 2000 (as amended), a Draft Planning Scheme shall consist of a statement and plan indicating the manner in which the SDZ is to be developed. Proposals in relation to the overall design of the proposed development, including the maximum heights, the external finishes of structures and the general appearance and design should form part of the Scheme, together with types and extent of development. The Draft Planning Scheme should therefore set out a reasonable template to guide development, and where future proposals are consistent with the Planning Scheme, they will be granted permission and no party may appeal a decision of Dublin City Council.
- 9.6.2. The main emphasis of the Draft Planning Scheme is the creation of a quality urban living environment and Chapter 3 sets out what is considered to be an appropriate mix of housing, building heights and block layout, proposals for creating an inclusive and socially balanced community and proposals for sustainable building design and quality housing. In addition, the aim is to centre the new neighbourhood around an urban village core with supporting community facilities, modern services and local employment.
- 9.6.3. The overall land use mix is formulated in response to the need to provide new housing, whilst accommodating the continued operation and expansion of Dublin Port. Figure 9.1 illustrates the layout of land uses and Figure 9.2 shows how these are to be phased. The housing and mixed use zoned land will be the first to be developed along South Bank Road, commencing at the Seán Moore Road end (A1-

A2). This will be followed by the housing and community/ education areas on the north-western side of Village Green (A3) and finally the housing area to the south adjoining Seán Moore Park and Coastal Park (A4). Phase B1 lands are shown for commercial uses along South Bank Road, with the industrial and port zone to the rear (north-east) continuing up to the SDZ boundary along Pigeon House Road. The majority of the B2 lands to the east are shown for “mixed use – commercial, creative industries, industrial (including port related) activities”. This zoning also applies to an existing business (John Bissett Ltd.) to the west of the B2 lands surrounded to the north and east by a “development infrastructure/ open space” zoning (Port Park). A “parks and recreational” zoning extends along the coastal frontage and in between B2 and A2 lands and also within Village Green.

9.6.4. The following sub-sections assess the suitability of each of the proposed land uses within the scheme in turn, whilst addressing any appeal issues relating to a particular use.

9.6.5. **Retail**

9.6.5.1. At a more detailed level, Figure 11.2 shows land uses in conjunction with movement proposals, focusing more at street level and in particular retail lands and retail frontages/ supplementary retail frontages. Retail frontages are shown around the neighbourhood centre with supplementary frontages along the north-eastern side of Central Boulevard, the corners of blocks A3 and A4 facing the neighbourhood centre and along Coastal Park. At the Oral Hearing, the Development Agency confirmed that restaurant and café uses and occasional shops would be accommodated along the coastal frontage. Ground floor ceiling heights of up to 4m along Central Boulevard can facilitate change of use applications in the event that further expansion of retail is required. However, the Development Agency envisage that a neighbourhood centre would be appropriate to serve the development, with retail provision of c. 5,000 sq.m. and containing 1-2 supermarkets. The Development Agency did not carry out a specific retail assessment for the Scheme. I would consider this to be acceptable in view of the fact that Poolbeg has a district level designation within the Development Plan and provision is being made for a smaller neighbourhood centre with expansion of retail as needed.

9.6.6. Community and Education Uses

- 9.6.6.1. In terms of the provision of community uses, all proposals for large scale residential and/ or mixed use schemes (50 units or 5,000 sq.m.) are required to submit community audits of existing facilities in the area. The Draft Planning Scheme also requires all developments over 200 residential units/ 10,000 sq.m. to provide 5% social, community, creative and artistic space(s) in the SDZ in tandem with the needs identified in the cultural and community audits (Objective CD8). The objective also states that the scheme shall aim to provide for 10-20 artists' studios in one or more clusters, delivering a minimum of 40 such studios of varying sizes.
- 9.6.6.2. The Receiver for Becbay/ Fabrizia has appealed the Draft Planning Scheme seeking omission of any reference to the 5% provision of community, creative and artistic space requirement for developments over 200 residential units/ 10,000 sq.m. of floorspace as being inappropriate, excessive and unnecessary. The Receiver also sought to reduce the floor area threshold by half. In response, the Development Agency consider that it is inappropriate to remove the 5% requirement having regard to the evolution of this policy (originally 5% per 50 units/ 5000 sq.m.). Bullet points under Section 9.3 are suggested ways of meeting this objective and include cultural features or uses /artistic installations within the parks; social spaces available to the community that can be used by local clubs/organisations to promote cultural or artistic events/projects; provision of artistic studio spaces within the SDZ; and space within the public realm for art installations.
- 9.6.6.3. I concur with the Development Agency that it is appropriate to include a requirement to provide 5% social, community, cultural, creative and artistic space(s) for all developments over 200 units/ 10,000 sq.m. In my opinion, this is particularly important in a new build area such as this SDZ where such social infrastructure is essential for the evolution of a fledgling residential area. The 5% figure sets an actual target to work towards and allows for hard infrastructure space to be made available to facilitate soft infrastructure in advance of the occupation and establishment of the community.
- 9.6.6.4. It should also be noted that Section 4.4.2 refers to the 5% allocation of space for "social, cultural, creative and artistic purposes" and Policy CD8 refers to "social,

community, creative and artistic space(s).” There was no objection to the insertion of the word “community” within Section 4.4.2 and I consider that the word “cultural” should also be included in Objective CD8(i) as follows:

Amend second paragraph of Section 4.4.2:

The planning scheme will seek to ensure that developments in Poolbeg West contribute to the 5% allocation of space in the docklands area to be used for social, **community**, cultural, creative and artistic purposes.

Amend CD8 (i) To require all developments over 200 residential units/10,000 sqprovide 5% social, community, **cultural**, creative and artistic space(s) in the SDZ as identified in an updated 2015 Cultural and Community Audit, to be completed within 6 months. This space can be provided in tandem with needs identified through the cultural and community audits to achieve viable economies of scale. Each application must demonstrate how this is to be provided for as part of the implementation of the SDZ scheme set out in Chapter 12. The scheme shall aim to provide for artists’ studios comprising 10 – 20 studios in one or more clusters, delivering a minimum of 40 artist studios of varying size.

- 9.6.6.5. During the Oral Hearing, the Development Agency was asked to explain how this can be administered, how the areas might be brought together and would it be possible that such social/ community/ cultural space may not be provided in the event that development occurs in smaller parcels. The Development Agency stated that this method of providing social space was derived from its experiences with the North Lotts Grand Canal Planning Scheme and invariably, all of the Poolbeg West Planning Scheme would be developed in portions of 200 residential units/ 10,000 sq.m. or more. Engagement with local organisations and sports bodies will be carried out in order to provide an implementable range of spaces, both indoor and outdoor, and the Arts Council will be consulted with regards to provision of cultural space. An audit of all community facilities in the area will be updated within 6 months and this will be used to inform the needs of the area.
- 9.6.6.6. The appeal on behalf of the Receivers for Becbay/ Fabrizia sought modifications to the height of the Scheme at specific locations and this is addressed in further detail

in Section 9.9 below. One such location where increased height and amendment is sought is at the location of the proposed community/ education uses at the corner of Village Green and Seán Moore Park. Modifications are sought to Figures 11.3 so that the community/ education block is illustrated as a complete plot with height of 8-9 storeys to allow for community/ education uses at ground level and lower floors, with apartments or commercial uses above.

- 9.6.6.7. The Development Agency agreed that there is a strong urban design argument for higher buildings on school/ community sites. A design solution similar to that presented by the appellant at London King's Cross could be implemented subject to the requirements of the Development of Education and Skills. The Development Agency stated that Section 11.3.4 and Figure 11.3 may be amended at the Board's discretion and I agree that it is appropriate in this case from an urban design and capacity perspective. Section 11.3.4 should read as follows:

New community facilities and a primary school are to be provided to the south-west of the site near the Clanna Gael GAA Club, to enable the co-sharing of facilities. The location of community facilities and the school is fixed to this location. The final form of the school and community facilities is however flexible and will be determined in consultation with the Department of Education and Skills. **The provision of a school and community facilities on the ground/ lower levels may include residential uses above, subject to adequate and appropriate area being made available for educational and/ or community requirements and subject to the protection of the amenities of the school and residents above. Upper floor uses shall be restricted to residential or community uses. If agreement cannot be reached for a mixed use development model on the school site, a height limit of up to 5 storeys shall apply to the site.** In determining the final form of the school and community facilities, including a sports facility, regard will **also** be had to the possibility of the development of such a facility being undertaken in collaboration with local sporting clubs.

- 9.6.6.8. The appellant notes that Section 9.3 of the Draft Planning Scheme allows the school and community block to be relocated one block to the east. It is considered that any relocation of the community block should be to the west to provide better

integration with established communities towards Seán Moore Road. The Development Agency agreed that this should be amended at the Board's discretion. I concur with the following amendment as Village Green lies immediately to the east of the community/ education block.

Amend 6th Paragraph of Section 9.3: If, following future analysis, it is decided not to take up these lands for education/ community uses, such uses must then be provided in the next block(s) immediately to the ~~east~~ **north-west** and the designated site used for housing.

9.6.6.9. The Development Agency was asked at the Oral Hearing about secondary school capacity. In response, it was noted that a site has recently been acquired nearby at Roslyn Park in Sandymount for a secondary school and the Department of Education and Skills are satisfied that this site and the proposed primary school are sufficient to serve Poolbeg West.

9.6.7. **Open Space and Recreation**

9.6.7.1. The Draft Planning Scheme includes three main areas of public open space shown as Coastal Park, Village Green and Port Park. These parks are well connected with each other and with surrounding public open spaces. Coastal Park links Seán Moore Park with Port Park and Irishtown Nature Reserve, and Village Green opens out onto Seán Moore Park. Green links are shown through the main neighbourhood as desire lines from Coastal Park north-west through Irishtown and onto Ringsend Park.

9.6.7.2. A cross section of Coastal Park shown on Figure 11.7 shows this new open space as a widening to the existing embankment above Beach Walk. It is stated in the Draft Planning Scheme that this park will form an important green corridor in the city, offering new amenities and recreational routes and using existing areas of nature, green amenities and industrial heritage.

9.6.7.3. Village Green is intended as an outdoor recreational amenity area with multifunctional spaces incorporating nature play facilities and formal design layouts. This park will act as a focal point for the neighbourhood by providing public space to meet and socialise. Active ground floor uses will face onto the park along its northern and adjoining boundaries.

- 9.6.7.4. Port Park will act as a buffer between the housing and port uses and will include screening to mitigate against noise and other port activities. The park will also be more sport and active leisure orientated, focusing on supporting local initiatives and clubs.
- 9.6.7.5. Communal/ semi-private open space will be provided in the form of central courtyard spaces within perimeter block developments, taking into account sunlight and daylight access, planting and play arrangements. It is stated that communal open space requirements will be based on the projected size and density of individual development plots and Development Plan standards.
- 9.6.7.6. During the course of the Oral Hearing the Development Agency was asked to explain how the quantum of public and communal open space was calculated. In response, it was submitted that the central park (Village Green), together with the upper level promenade (Coastal Park) equate to 11-12% of the overall area, and Port Park, which is proposed as open space in the short to medium term pending the development of the Eastern Bypass, would bring the percentage of the site used for public open space up to 15%. No figures were made available as to the quantum of communal open space provision within courtyards. However, it was noted that the dimensions of these courtyards are approximately 28-30m x 65-70m.
- 9.6.7.7. Questions were also asked of the Development Agency regarding the use of public open spaces, in particular Village Green. This area is proposed to be approximately 50m wide, flaring out to 75m at its south-western end and its length would appear to be c. 200m. I estimate that the Village Green will have an area of 1.25 hectares and is therefore substantial in size. No detailed designs or layout have been prepared for this area and no pedestrian desire lines are indicated to Village Green through Seán Moore Park. At the Oral Hearing, the Development Agency was asked if there are any proposals to provide access for pedestrians and cyclists between the two pitches in Seán Moore Road from Beach Road/ Sandymount. It was stated that to a certain degree this is outside the scope of the Scheme but the potential desire line was nonetheless acknowledged.
- 9.6.7.8. Further detail was also sought at the Oral Hearing from the Development Agency on ground floor uses, night time uses, lighting proposals, safety and security and wind moderation measures. It was confirmed that the predominant ground floor use

around the Village Green would be residential, with supplementary retail towards the northern end and community/ educational uses to the south-western side. The Development Agency will work with the Parks and Recreation Department in formulating proposals for all public realm areas as part of an updated Cultural and Community Audit. The Development Agency envisage that Village Green will be an extensively used urban park comprising a range passive and active uses, that will include a playground and SuDS, and which will all be subject to detailed design.

- 9.6.7.9. Finally, in this regard, the Development Agency was also asked if it may have been appropriate to incorporate a more detailed landscaping and public realm masterplan into the Draft Planning Scheme at this stage. In response, reference was made to Objective PR1 which requires the preparation of an Overall Public Realm Masterplan. It is considered that more detailed landscaping and public realm proposals are not appropriate at this stage having regard to the need to consult with the Docklands Oversight and Consultative Form and other bodies with an interest in public realm provision.
- 9.6.7.10. It is an objective of the Draft Planning Scheme (PR1) *“that an Overall Public Realm Masterplan is prepared for this Planning Scheme within one year of the publication of the Planning Scheme, based on Dublin City Council’s public realm strategy in consultation with the Docklands Oversight and Consultative Forum addressing in detail public realm design, including inter alia, materials, planting and street furniture, for key components of the development lands, including (i) major streets; (ii) minor streets; (iii) parks, open space and green routes and screening; and (iv) courtyards.”*
- 9.6.7.11. This objective also requires owners of landbanks to prepare individual public realm masterplans for adoption into the overall masterplan. Prior to preparation of the overall masterplan, the exact layouts and widths of streets and spaces within the SDZ area are to be confirmed and agreed with relevant agencies and Dublin City Council.
- 9.6.7.12. In my opinion, an overall public realm and landscaping masterplan should form part of the Planning Scheme at an early stage, with only individual site masterplans to follow. It is difficult to assess this aspect of the Draft Planning Scheme as it currently stands and to form an opinion as to the suitability of the overall open

space layout. It is acknowledged that there is a generous provision of public open space with good connections and locations. However, there is insufficient detail on how these areas will be treated, most notably within Village Green. Furthermore, it is difficult to determine if the site is being developed to its maximum potential when there are no clear figures with respect to the quantum of open space provision and whether it is capable of serving any increased density of development. I would also have concerns that whilst the open space is well connected and linear, there is little detail to suggest that these spaces can become destinations in their own right. Wide open passive green spaces do not attract and retain people on a regular basis. It may therefore be the case that proposed open spaces in the neighbourhood are in fact too large but again it is difficult to quantify to decide if detailed design can render these parks as intimate people friendly places. A series of pocket parks may better serve the proposed neighbourhood rather than a large village green. This is discussed further in Section 9.8 below.

- 9.6.7.13. There is potential conflict with the use of Port Park on the one hand as an area of screening between housing and port uses, and on the other, as an open multifunctional playing pitch. I am also not totally clear as to how Coastal Park will connect the Scheme to the seafront and how the built edge of this linear park will interact with the public realm. Overall, open spaces are not fully classified, described or quantified and there is little in the way of detail or guidance to the character and function of these parks and the role they will play within the Scheme. It should be acknowledged that pedestrian desire lines are well considered throughout the site apart from Beach Road to the Village Green through the centre of Seán Moore Park.
- 9.6.7.14. The Board may consider it appropriate to seek to modify the Draft Planning Scheme so that an Overall Public Realm Masterplan is prepared before approval of any planning applications throughout the Scheme. Alternatively, the Board conditioned as part of the approval of the Cherrywood SDZ, the preparation of an Urban Form Development Framework by the Development Agency as a pre-requisite to the approving any planning applications. Such a framework could address other shortcomings with the Draft Planning Scheme as discussed further below.
- 9.6.7.15. Under Section 169(7)(b) of the Planning and Development Act, 2000 (as amended), the Board shall not approve a planning scheme with a modification where it

determines that the making of the modification would constitute the making of a material change in the overall objectives of the planning scheme concerned. In my opinion, the preparation of any Public Realm Masterplan or Urban Form Development Framework subsequent to the adoption of the Scheme but before the approval of any planning application does not represent a material contravention of the Scheme provided that it does not change the overall objectives of the Scheme. In this regard, the Draft Planning Scheme provides an overall template that will not be materially altered.

Proposed modification of Objective PR1 (see Section 9.8 below)
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9.6.8. **Mixed use and Industrial/ Port uses**

- 9.6.8.1. Phasing Area B includes the “Industrial and Port Zone” (B1) to the north and the area to the east designated as “Mixed Use - Commercial, Creative Industries, Industrial (including Port Related) Activities” (B2).
- 9.6.8.2. B1 lands will continue to be used for mostly port activities and Dublin Port Company propose to relocate the existing load on – load off container terminal further east outside the SDZ, replacing it with a roll on – roll off facility. It is considered that this will result in an improvement in amenity for new residential communities. In the longer term, there are proposals to develop approximately 30-50,000 sq.m. of commercial development along the north-eastern side of South Bank Road, where space is available, taking into account the final layout of the M50 Dublin Port South Access. In the interim, a landscaped buffer is proposed along this side of the road. An alternative means off access to the port is also proposed for HGV’s to Block B1 via Pigeon House Road and this will help to reduce traffic on more sensitive/intensely developed areas along South Bank Road.
- 9.6.8.3. South Bank Road is currently aligned with stacked containers on its north-eastern side up to five units high. The Draft Planning Scheme refers to the storage of up to 3 containers high and the Development Agency indicated during the Oral Hearing that it was amenable to omitting this specific height restriction, as an overall 28m height limit applies to this area. I agree that this modification is appropriate and consistent with the wider aims of these sectors.

Amend Section 11.3.5: An urban envelope has been determined for these areas which allows for a range of uses and buildings including the predominant use for cargo storage and container storage ~~up to 3 containers high.~~

- 9.6.8.4. Dublin Port Company were asked during the Oral Hearing if there were any further proposals to improve the visual appearance of the B1 lands along South Bank Road in the interim. Information was sought on the stacking arrangements for containers and whether the existing stepped placement of containers aligning South Bank Road is a permanent or semi-permanent fixture. Dublin Port Company were asked if the containers themselves could be used to provide an attractive edge in the form of an art installation, e.g. patterned layout or painted containers.
- 9.6.8.5. In response, Dublin Port Company confirmed that the containers are not placed in any particular arrangement to form an edge to South Bank Road and are positioned for ease of access to empty handler units. There are no proposals to improve the appearance of these container units or to form any type of permanent boundary, as the units are moved quite often.
- 9.6.8.6. As noted above, the M50 Dublin Port South Access reservation affects a large part of the B1 lands and all of the B2 lands. In the meantime, the continued operation of Dublin Port activities on B1 lands is largely unaffected by the reservation; however, it is stated in the Draft Planning Scheme that any intensification of these lands shall occur at a general maximum height limit of 28m, not including ancillary port structures. Any permanent structure on the by-pass reservation is subject to agreement with TII. Having regard to the nature of port activities, it is possible that port related structures, such as storage tanks, containers, cranes, etc. are capable of being dismantled and relocated and therefore will have no permanent impact on the bypass reservation.

John Bissett Ltd.

- 9.6.8.7. The future short, medium and longer term use of the B2 lands is one of the main grounds of appeal by two affected parties and this topic also occupied a large part of the Oral Hearing discussion. It is noteworthy that the B2 lands are largely unoccupied at present. One of the actual occupants, John Bissett Ltd, a precision engineering company with a long leasehold on a site to the west of these lands, has

appealed the Draft Planning Scheme primarily on the grounds that this property lies on the Eastern Bypass reservation and there should be a better defined alignment for this route. As noted above, TII confirmed that any refinement of the bypass corridor is not possible at this time and in my opinion, the Draft Planning Scheme should not be delayed until planning approval for the M50 Dublin Port South Access when the main part of the Scheme can be provided without impacting on the reservation corridor. It should be noted the Bissett site is centrally located within the bypass reservation.

- 9.6.8.8. The other main contention put forward on behalf of John Bissett Ltd. is that the permissible height of 28m for the site is unduly restrictive. It is considered that this site is well suited to accommodate a landmark building of up to 18-20 storeys having regard to its pivotal position between two land bodies and with its southern aspect across Dublin Bay. Reference is made to the statement in the National Planning Framework that a general restriction on building height may not be applicable in all circumstances in urban areas and should be replaced with performance related criteria. Moreover, it is noted that the Development Plan height strategy allows for high rise buildings 50m+ in the Docklands Cluster within which the SDZ is located.
- 9.6.8.9. In response, the Development Agency submitted that provision has already been made in the Draft Planning Scheme for an 18 storey landmark building where the shoreline pivots from the Coastal Park towards Poolbeg Peninsula, and there is more certainty at this location for such a building in terms of deliverability outside the bypass reservation. It is also considered that a height limit of 28m (7-storeys commercial/ 9 storeys residential) is adequate for this location.
- 9.6.8.10. The existing site and buildings occupied by John Bissett Ltd. in their current form would provide an unattractive feature at a location that would seriously impact on the amenities of future adjoining residents. Moreover, this site is surrounded on all sides by open space zonings. An earlier draft of the Planning Scheme showed the Port Park occupying all of this area including the Bissett site. However, this site was later designated mixed-use in order to safeguard the established use.
- 9.6.8.11. It would appear that the appellant is seeking an increase in height at this location in order to replace the existing building with a higher rise structure. On the one hand,

this may have the effect of substituting the existing structures with a more attractive landmark building. On the other hand, however, the location of the site within the bypass reservation limits the type of building that can currently be built at this location, and given the timeframe for the M50 Dublin Port South Access, it is unlikely that any potential redevelopment of the site will occur for some time. In addition, a higher building would also have the effect of shadowing the Port Park and would also give rise to wind turbulence at ground level given its location and isolation from other structures. Any tall building at this location would be better placed at the northern end of the Port Park to screen and buffer uses to the north.

- 9.6.8.12. In my opinion, there is no long term advantage to a mixed use zoning for this site and it only serves to protect what can only be considered an unsuitable industrial use when viewed within the proposed context. I would therefore be of the opinion that this site should be zoned as open space. There is no reason why the existing use cannot continue to operate in the interim. However, an industrial use at this location erodes the integrity of developing a new residential neighbourhood with reasonable levels of amenity and protection from port uses.
- 9.6.8.13. I would also be of the opinion that the mixed use zoning at this location undermines the potential and limits the extent of the open space. A full size multi-functional playing pitch cannot be accommodated in this area, largely because of the placement of this zoning. At the Oral Hearing the Development Agency acknowledged that the existing layout only accommodates a pitch with dimension of 120m by 80m. The existing pitches used by Clanna Gael GAA Club have dimensions of 140m x 85m and 145m x 90m and dimensions within the range would be necessary for any pitch to be fully multi-functional.
- 9.6.8.14. The Development Agency was also asked at the Oral Hearing how it is proposed to reconcile the provision of an open pitch at this location and the use of Port Park as a buffer between residential and port uses. In response, it was noted that approximately two thirds of this area would be occupied by the playing pitch with the other third to the west to be used for planting and possibly club houses. To some degree, I would be in agreement with an appellant who highlighted that Port Park would not adequately screen the view of the port from upper levels of new residential buildings within Blocks A4 and A2.

9.6.8.15. Overall, I would have concerns that the Draft Planning Scheme gives permanence to the mix use zoning in the middle of one of the main active amenity areas of the SDZ. It should be noted, however, that the rights of Bissett Engineering Ltd. with respect to the long term leasing of Dublin Port lands was acknowledged at the Oral Hearing but that Dublin Port Company will not support any application outside the use clauses of this lease.

Amend all relevant figures:

Remove mixed use zoning within Port Park and amend to 'development infrastructure/ open space'.

Lens Media

9.6.8.16. The principal objective of the appeal submitted on behalf of Lens Media Ltd. is to ensure that the adopted Planning Scheme is capable of supporting a world class film production facility at Poolbeg. It is submitted that the Draft Planning Scheme does not reflect the clear direction given by the comprehensive cross-council support to facilitate the provision of the film studio initiative on B2 lands. Furthermore, the appellant considers that the Scheme does not adequately set out a number of the details required under subsection 2 of Section 168 of the Act in that there is no clear blueprint for the development of Block 2 in relation to the quantity of development prescribed for each use, or overall design considerations. It is therefore considered essential that the Scheme makes specific reference to the designation of B2 lands for creative industries, which will facilitate film and television production activities.

9.6.8.17. The appeal submission and the presentation at the Oral Hearing focused on the assertion that the film studio proposal promotes development of economic and social importance to the State in accordance with Section 166 of the Planning and Development Acts 2000-2017. Reference is made to the potential of Dublin Bay Studios to create 1,800 jobs relating to studio production; 1,000 jobs via digital production and post production; and 1,800 jobs indirectly in shops, hotels and restaurants. Conceptual images of the proposed studios were prepared and it is estimated that the facility could accommodate eight sound stages, associated

workshops, post production and digital services, rehearsal space, backlot and ancillary support and admin buildings.

- 9.6.8.18. Information was sought at the Oral Hearing from the promoter of Dublin Bay Studios on the scale of the proposed initiative and how much of the B2 lands would be required. It was confirmed that the proposed facility would occupy 18 acres of the 22 acre site and that a facility of this scale is necessary so that more than one project can be handled at any one time. It was stated that an average TV show or movie might occupy two to three stages for 12 months and that a facility with eight stages is important to maintain output and continuity. The promoters also highlighted that an urban site is preferred and that they are not aware of any other suitable and available sites elsewhere in the city¹.
- 9.6.8.19. As noted, the B2 lands east of the proposed Port Park and on the Bissett site are zoned "Mixed Use - Commercial, Creative Industries, Industrial (including Port Related) Activities". This zoning therefore makes provision for film studios. However, it is stated elsewhere in the Planning Scheme that the B2 site is proposed for utilised cargo storage in the long term, with a commercial element on the western boundary facing onto the buffer park zone, which could consist of hotel, office or other commercial and/or leisure and limited retail/cafe type uses. This reflects the Dublin Port Masterplan Review where it is noted that the B2 lands are required for cargo handling. Dublin Port Company was asked at the Oral Hearing if they were amenable in any way to accommodating Lens Media Ltd. and Bissett Engineering on the B2 lands. Dublin Port Company confirmed that it was not willing to accommodate Lens Media Ltd. in any way, shape or form in circumstances where they have no interest in the lands.
- 9.6.8.20. Lens Media Ltd. would prefer three separate blueprints for development on B2 lands as either commercial, port related or as creative industries to reflect the zoning designation for the site and to give greater clarity and certainty to potential developers. The consultant for Lens Media Ltd. therefore seeks the preparation of an Urban Form Development Framework for the B2 lands having regard to the fact that there is a lack of detail compared the Becbay/ Fabrizia lands to the west. In

¹ Notification of decision to grant permission for film studios at Ashford (65,600 sq.m. GFA on 39.81-hectare site) appealed to An Bord Pleanála. Decide by date: 13/08/2018 (Ref: 301391).

this regard, it is submitted that the Draft Planning Scheme shows insufficient detail in terms of layout, urban grain, phasing, imagery, architectural design and SuDS.

- 9.6.8.21. The approach emphasised at the Oral Hearing by the Development Agency for the B2 lands, however, is that it would be inappropriate to include more specific details regarding these lands until the alignment the M50 Dublin Port South Access is progressed from its current reservation. As noted in the Draft Planning Scheme, an urban envelope has been determined for B1 and B2 lands which allows for a range of uses and buildings including the predominant use for cargo and container storage. Furthermore, it is considered that there is no requirement to set out the various options for each type of mixed use and such an approach would ignore the fact that the use is mixed for these matters and not for these as alternatives to each other. Furthermore, it was emphasised that a height of 28m over 8 hectares offers flexibility over this part of the SDZ.
- 9.6.8.22. I would be in full agreement that the use of this site as planned for unitised cargo storage represents an under-utilisation of a potentially attractive seafront, south-facing, well connected site that enjoys good views and immediate access to amenities in proximity to the city centre. In my opinion, there is long term potential for this site to also be buffered from port uses by commercial development along its northern fringe, and for higher-rise water-front development to occur along its length. The proposed designs submitted by the appellant for Dublin Bay Studios may also be an attractive proposition if they did not occupy so much of this prime space.
- 9.6.8.23. Notwithstanding the above, port related activities are of wider national importance, and having regard to the requirement of Dublin Port Company to utilise its available landholding in a more intensive manner, it is essential that priority is given to the use of B2 lands for port expansion to accommodate the projected growth outlined in the Dublin Port Masterplan Review. Furthermore, and as noted above, port uses are flexible and can easily be dismantled and are therefore appropriate for the M50 Dublin Port South Access reservation.
- 9.6.8.24. The question arises as to the level of detail within the Draft Planning Scheme for the B2 lands. I would be in agreement with the Development Agency in their closing submission at the Oral Hearing, that the Eastern Bypass reservation

impacts on the extent to which it would be appropriate to include the level of detail regarding the development lands affected by the road reservation. There is no immediate certainty with respect to these lands and in my opinion, the only option is to apply the mixed use zoning as proposed. I consider that the principal focus of the Draft Planning Scheme should be to ensure that industrial lands are adequately screened and safeguarded from the neighbourhood in the interim period.

9.6.8.25. Finally, it is noted in the Draft Planning Scheme that the B2 lands directly impacted by the transport corridor reservation will be reviewed following resolution of the reservation. In this regard, it was stated by the Development Agency at the Oral Hearing that the Planning Scheme itself could be reviewed in the future with respect to the use of B2 lands for cargo storage if the road reservation is refined.

9.6.9. Residential and Commercial Uses

9.6.9.1. The main body of the SDZ to the south-west of South Bank Road is to be developed at an approximate ratio of 80-85% residential and 15-20% commercial uses. The resident and working populations (c. 8,000 and 8,000 respectively) will also be supported by complementary uses throughout, including the 5% contribution towards social, cultural, community, creative and artistic purposes. In the longer term, there is the possibility of an additional 30-50,000 sq.m. of office space to the north-east of South Bank Road.

9.6.9.2. As noted above, commercial development will act as a buffer between residential and port uses. Commercial development will also provide employment opportunities for the resident population, thereby introducing a degree of self-sufficiency for the new city quarter and reducing the need to travel. Local employment may also be created within support services in the neighbourhood for resident and working populations. The presence of a substantial resident population can also bring about activity and a continual presence on the streets during the day and at evening times.

9.6.9.3. A proportion of either the resident or working populations will also work/ live elsewhere. The proximity of the SDZ to the city centre and east coast transport links will facilitate ease of access to/ from the site. In general, I consider that the ratio of residential to commercial development, whereby equal numbers of people will be accommodated in both sectors, represents a sustainable approach to the

creation of a new city quarter. The neighbourhood will be compact and multi-use with many people attracted there for different reasons.

Residential

- 9.6.9.4. The residential component of the scheme is assessed in further detail below with respect to of urban design, overall layout, potential capacity and social housing provision. Issues in the Draft Planning Scheme that are covered here under land use include unit types and sizes, mix of tenure, residential layout and residential amenity.
- 9.6.9.5. There are no sample residential layouts for blocks or individual units within the Draft Planning Scheme and therefore dwelling units or apartment blocks cannot be assessed in terms of floor areas, amenity levels, etc. It is an objective of the Draft Planning Scheme, however, that residential proposals shall comply with the policies and objectives of the Development Plan in relation to quality, daylight, open space and residential amenity, etc.
- 9.6.9.6. In terms of dwelling type and sizes, all residential units within the Scheme will comprise of apartments made up of 25-30% 1 bed units (up to a quarter of which may be studios) and a minimum 15% 3+ bed units, with the balance, up to 60% 2 bed units. This reflects the mix of unit types set out in the Development Plan, with an allowance for some student accommodation. Allowance is also made for a higher percentage of one bed and studio apartments within a build to rent scheme and/ or shared living accommodation. Objective H5 states that such build to rent proposals shall be limited to one scheme in the range of 100-150 units within each urban block. The breakdown of unit types within build to rent schemes is a maximum 50% studio apartment/ one bed units/ shared living (30% max), 15% 3+bed units, with 2-bed units making up the balance. I recommend that Objective H5 is clarified to emphasise that only one scheme will be permitted in each of the four main blocks of development rather than the individual blocks.

Amend Objective H5: Where the scheme is a dedicated build-to-rent proposal including studios/shared accommodation, the mix shall comply with table 3.2. To avoid domination of any particular unit mix or tenure, any such build to rent proposal shall be limited to one scheme in the range of 100-150 units **within each of the four urban blocks.**

- 9.6.9.8. At the Oral Hearing, the Development Agency presented a housing based demand analysis to justify the housing mix sought. An assessment was carried out of housing tenure and other statistics from the Pembroke East A electoral division within which the SDZ is located and which also includes established housing (2,071 households in 2011). There is a higher than city average number of households renting from the local authority (22.3% with 11.5% in Dublin City), and the age profile shows a high proportion within the 25-44 age cohort (42%). Approximately half of families were 2-person families and a quarter were 3 person families, and this suggests to the Development Agency a relatively high demand for 2-bed units.
- 9.6.9.9. I note from the 2016 Census that there were 609 no. 2-person families, 304 no. 3-person families, 212 no. 4-person families, 76 no. 5-person families and 26 no. 6 or more person families² within Pembroke East A. Assuming that the remainder are single persons, this would equate to approximately 31% single persons, 24 % in 2-person families, 18% in 3-person families, 17% in 4-person families, 7% in 5 person families and 3% in 6 or more person families.
- 9.6.9.10. These figures might suggest that the Draft Planning Scheme is under provided for in terms of 3-bed dwellings. However, it should be noted that the housing profile of the remainder of the electoral division does not necessarily represent the future population of the proposed new neighbourhood. Whilst average household sizes actually increased in the State between 2011 and 2016, there is a general trend towards falling household sizes and the Republic of Ireland has one of the highest average household sizes in Europe. Furthermore, recent research by Eurostat indicates that approximately 70% of people in the State are living in under-occupied homes, with these figures rising to 91% for those aged over 65. At some point in the future there will be an increase in the available stock of larger dwellings.

² Geohive - Families, Family Members and Children in Families, by Size of Family, Electoral Division, Census 2016, Theme 4.1, Ireland, 2016, CSO & OSi

- 9.6.9.11. The Board is required to have regard to the “Sustainable Urban Housing: Design Standards for New Apartments” and to apply any specific planning policy requirements (SPPRs) of the guidelines over any conflicting Development Plan policies and objectives, local area plans and strategic development zone planning schemes. SPPR 1 states that *“apartment developments may include up to 50% one-bedroom or studio type units (with no more than 20-25% of the total proposed development as studios) and there shall be no minimum requirement for apartments with three or more bedrooms. Statutory development plans may specify a mix for apartment and other housing developments, but only further to an evidence-based Housing Need and Demand Assessment (HNDA), that has been agreed on an area, county, city or metropolitan area basis and incorporated into the relevant development plan(s).”*
- 9.6.9.12. Having regard to the above, and to the Housing Needs Demand Analysis presented at the Oral Hearing, together with the estimated dwelling sizes set out in the Housing Strategy, I agree that the proposed breakdown of apartment unit types is appropriate in this case and will satisfy Objective H1 which seeks *“to provide high quality, environmentally sustainable, adaptable homes, providing for a range of household types including single occupants, couples, families, students, older persons and those with disabilities.”*
- 9.6.9.13. With respect to the layout of the proposed apartments, a perimeter block model of development is proposed throughout, with entrances facing the street edge and internal rear courtyards acting as communal open space. It was confirmed at the Oral Hearing that these blocks will have internal courtyard areas of between 1,800 and 2,100 sq.m. The outer dimensions of the perimeter blocks will be approximately 60m x 100m. and the inner courtyard provides adequate separation between dwellings in the order of 26-30m. This compares to international and local norms, e.g. c. 120m x 120m external and 70m x 70m internal in L’Eixample, Barcelona and 80 x 70m and 60 x 50m in Ashtown, Dublin 15. The Development Agency also confirmed that it had examined perimeter block layouts elsewhere in the Docklands and in Hamburg, Amsterdam and Stockholm.
- 9.6.9.14. The Receiver for Beccay/ Fabrizia has submitted in the appeal that Poolbeg West would benefit from a variety of housing typologies, including courtyard schemes and mansion blocks. In response, the Development Agency highlights that the

perimeter block model has been successfully implemented throughout the Docklands area and has created a vibrant built environment via the applied architectural language (articulation, fenestration, materials and finishes).

9.6.9.15. In terms of residential amenity, it is proposed that the south-western side of the perimeter block will be lowered in some cases to allow better internal daylight/sunlight access to the courtyard and windows. The height along this side is shown in Figure 11.3 to be up to 4-5 storeys and up to 7-8 and 8-9 storeys along the other 3 sides. It is proposed that perimeter blocks will have open sides facing towards Coastal Park to avoid a monolithic appearance and improve views and daylight along this particular frontage. Single storey pavilions/ podium structures are proposed to complete the perimeter block on the south-eastern side. It is also proposed to lower the edge along Seán Moore Road to 4-5 storeys.

9.6.9.16. The overall height throughout the Draft Planning Scheme and any urban design issues with perimeter block development will be assessed in further detail below. In terms of residential amenity and the provision of a good standard and quantity of apartment accommodation, I would be satisfied that the perimeter block model results in a high density, legible layout that facilitates on-street activity and provides for secure communal space of good size that can foster community cohesion. This model has been successfully implemented in other parts of the Docklands and internationally, and represents one of the optimum methods for the provision of higher density residential accommodation in the space allocated for this use.

Commercial

9.6.9.17. Commercial uses primarily in the form of offices are to align the south-western side of South Bank Road. There are longer term proposals to develop the north-eastern side of South Bank Road and the western end of the B2 lands with commercial uses; however, these lands are affected by the M50 Dublin Port South Access reservation.

9.6.9.18. As mentioned above, commercial uses are positioned to act as a buffer between industrial/ port uses and the new neighbourhood. The primary aim of this land use, however, is to provide employment space for the local community and Docklands, and also to contribute to the economic development and employment generation potential of the wider city.

- 9.6.9.19. It is noted in the Draft Planning Scheme that typical office occupiers have an average floorspace requirement of between 2,000 and 4,000 sq.m. and therefore flexible floorspace solutions are important. Poolbeg West is considered to be well positioned to take advantage of the strong enterprise culture in the Docklands. Synergies between multi-national enterprises and small medium enterprises are highlighted in the Draft Planning Scheme, along with the need to provide mid-range office space and incubator units, or larger multi-tenanted spaces with shared services.
- 9.6.9.20. The appeal on behalf of the Receivers for Becbay/ Fabrizia seeks modifications relating to urban structure and design to provide flexibility in relation to development plots and development capacity. The capacity of the site is assessed in further detail below. With respect to the commercial blocks indicated on Figure 11.3 as perimeter blocks, the Receivers suggest that these blocks could be based on a full site coverage incorporating an atrium. Modifications are also sought to the heights of the south-western elements of the blocks facing South Bank Road to facilitate the potential range of configurations of commercial floor plates.
- 9.6.9.21. In response, the Development Agency highlighted that the rear building line of each office block is shown as flexible, meaning that it could extend further into the interior of the block to provide larger floor plates. It is suggested that additional text could be added to the Planning Scheme to clarify this. I concur that the following clarification, agreed by the Development Agency, should be added to Section 11 of the Planning Scheme:

Amend Section 11.5.2: A greater range of block layouts may be considered in commercial areas, the Neighbourhood Centre and **Community Hub** where public access may be desirable to all sides of the building. **Commercial blocks may also be based on full site coverage incorporating an atrium, to enable larger floor plates.**

- 9.6.9.22. Overall, I would be of the opinion that the proposals for the SDZ provide for an appropriate ratio of residential to commercial land uses. The uses are positioned in an optimum manner to buffer residential from port uses and also for commercial uses to benefit from ease of access to the neighbourhood square and Village

Green. All in all, the mix of land uses and ancillary uses within this portion of the site will work well and the uses should complement one another.

9.7. Layout and Urban Design

- 9.7.1. The layout and urban design of a planning scheme represents one of the most fundamental considerations when formulating a new place. Figure 26 of the Development Plan shows an indicative layout for the Poolbeg West SDZ. The proposed layout presented on Figure 9.1 of the Draft Planning Scheme loosely follows the Development Plan indicative layout with a number of differences. Most notably, the indicative central green space is shown in an irregular shape internal to the residential area rather than the proposed Village Green connected to Seán Moore Park. The proposed layout does, however, replicate the indicative school location and the mix of uses along South Bank Road to Irishtown Nature Park. Port Related Uses are also included to the north of the Draft Planning Scheme layout.
- 9.7.2. The layout of the neighbourhood is centred on the Village Green and neighbourhood centre. The Village Green flares out to the south-west and all perimeter blocks are aligned in a north-east to south-west axis. This arrangement of building blocks and open space will give rise to good access to sunlight and the aspect is enhanced with the Village Green opening out onto Seán Moore Park. On the face of it, the juxtaposition of the Village Green and neighbourhood square may enhance the usage of each of these spaces and will define a clear visual spine through the site to assist with legibility.
- 9.7.3. The alignment of perimeter blocks and streets also allows for the creation of frontage development along the south-eastern facing coastal strip bounding the SDZ. An elevated linear coastal park is proposed along this development edge, turning the corner east and continuing onto Irishtown Nature Park. Perimeter blocks are laid out in more of a 'C' pattern on this frontage to break up any monolithic appearance when viewed from Sandymount Strand and down the coastline. The narrow side of the perimeter block will face towards the coast and this allows for more street openings that will also break up the massing of development. Variety will be promoted further with differing building heights throughout (examined in more detail below).

9.7.4. As noted in Section 9.7.7 above, I would have concerns that such a quantum of public open space is being proposed without any detail on the landscape design of these areas. From a layout and urban design perspective, the park areas are largescale and may therefore be devoid of a certain intimacy required for interaction at a human scale. The quality of the surrounding edges of a public area is an essential component for attracting people and the scale of Village Green in particular may be such that most of the park does not experience the spill out or passive surveillance effect that edges offer. Edges are also the places where people like to stop to observe things and where they feel comfortable. Large spaces can become impersonal and formal and their success can be difficult to gauge at this stage without knowing the potential usage and movement patterns within and around these areas. It is important that these spaces are designed so that at least a small amount of people are utilising them most of the time. Open spaces are one of the essential building blocks of the Scheme and in my opinion should be afforded the same level of design detail as the dwelling blocks. This should be reflected in the Urban Form Development Framework.

9.7.5. Notwithstanding the lack of open space detail, I would be satisfied that the perimeter block model of development and the indicative building height can create the necessary critical mass of people in the area to support regular activity in the public realm. Perimeter blocks will also overlook the street from upper floors and will create activity by way of street access at ground level. Street activity, however, is also dependant on the quality of the public realm; there are many poor examples of high density developments that do not attract and maintain people on the street owing to poor quality urban design. There are also some other known criticisms of the perimeter block development, such as the possibility that it undermines legibility and reduces variety. The fact the neighbourhood is being developed in blocks rather than streets may have the effect of producing individual structures of similar bulk and appearance rather than well-defined and active streets.

9.7.6. As noted, the designers of the Scheme have used varying building heights and landmark structures to improve the legibility of the neighbourhood. This helps to create discernible focal points, thereby reinforcing a sense of place. The variety and distinctiveness of the Scheme will also be facilitated through flexible building lines on local streets/ shared streets to allow variations in street alignment, provided

the perimeter block is maintained to create a continuous urban edge and strong sense of enclosure.

- 9.7.7. Distinctiveness is also encouraged in a proposal that successfully exploits views into and out of the site and in this regard the site benefits from views over Dublin Bay to the south. The main views into the site are from Sandymount Strand and Seán Moore Park to the south-west. At the Oral Hearing, the Development Agency was asked to explain the visual positioning and off-centring of the landmark building when viewed from the south-west. In response, it was stated that the staggering of blocks is to facilitate traffic calming and also be prevent views through the site, particularly from the south-west, to port activities to the rear. It was also noted that the staggering of blocks will help to shield the internal part of the site from north-eastern winds.
- 9.7.8. The Village Green Montage on Figure 11.5 shows that the landmark building does not capture the vista when viewed from the south-west. However, I would be satisfied that the off-centred location of this building is counter-balanced by the 18 storey building on the northern corner of Block A4. Both buildings should have the effect of highlighting the centre of the neighbourhood from within and when viewed from outside of the scheme. I would be concerned, however, that the landmark 20 storey building standing alone in the neighbourhood square would have an adverse and over-domineering and overshadowing effect on the space and buildings to the northern side of the square. It was acknowledged by the Development Agency at the Oral Hearing that this building could be incorporated into the adjoining block. The following modification is therefore proposed:

Amend all relevant figures: 20-24 storey landmark building shall be relocated north-east to form part of or replace adjacent 8-9 building.
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- 9.7.9. A coherent streetscape is experienced at eye level and therefore the importance of the ground level should not be underestimated. In this regard, the Draft Planning Scheme offers little detail on the ground floor usage and appearance, other than the indication of retail/ supplementary retail frontages on Figure 11.2. There is a risk when creating new neighbourhoods that non-prescriptive ground uses, floor areas and shopfronts can create large ground floor units with uniform facades and few

doors. The development of the Scheme as individual blocks may also have an uncoordinating and disjointed effect on the street.

- 9.7.10. The ground floor frontages of residential units also play an important role in creating activity on the street. It is stated in the Draft Planning Scheme that ground floor residential accommodation should provide for 1m plus defensible space to the front and Figure 11.11 shows a number of street interface options, none of which would appear to encourage residents to spend time in these soft edges. In my opinion, further detail by way of examples and indicative designs should be provided within an Urban Form Development Framework to encourage the creation of active soft edges to the front of ground floor residential units. These semi-private spaces are essential for facilitating a degree of personalisation between the dwelling and footpath, whilst encouraging outdoor activity and a more interesting experience at eye-level for passing pedestrians. Passing pedestrians are more likely to acknowledge residents spending time in their 'defensible space' and personal contact like this manifests a sense of community and safety. Moreover, ground floor outdoor spaces tend to be used more than balconies.
- 9.7.11. I note that the Draft Planning Scheme does not include a development code or city block structure. By way of comparison, the North Lotts Grand Canal Planning Scheme contained a development code for 23 individual city blocks containing a synopsis of the existing context, including relevant history; the block specific objectives for use mix, height range, public realm and infrastructure provision; and a plan of the relevant city block. I consider that a similar development code could be produced as part of an Urban Form Development Framework to include ground floor sample elevations for different uses to give a clearer picture of the on-street experience.
- 9.7.12. Above ground level, and when the proposed neighbourhood is experienced at more of a distance, it is important that there is a continuity of pattern running along streets. A coherence of architectural language can help to define the character of the area and for all blocks of development to form part of a whole. This is recognised in Section 11.5.3 of the Draft Planning Scheme where it is stated that *"buildings in Poolbeg West should be collectively designed to the highest quality, displaying innovative and distinctive qualities unique to Poolbeg West, yet draw*

references and inspiration from the urban design and architectural qualities of existing neighbouring districts. A key challenge will be to ensure that a highly varied design approach is applied throughout Poolbeg West to break up the bulk and scale of buildings, whilst ensuring that an overall level of coherency and consistency is achieved between the design of new blocks and buildings, particularly if different developers are engaged.”

- 9.7.13. An Architectural Design Statement is to be submitted for any application relating to one block or more and/ or buildings greater than 20m in height to ensure that a holistic and coherent architectural design approach is achieved. The Statement should encourage each block to be expressed along its frontage as a number of different individual buildings, rather than a single expansive building, with an emphasis on vertical features and own door access.
- 9.7.14. I note that there is no specific objective in this regard in the Draft Planning Scheme and given its importance for creating an identity and character for the area, I consider that an objective seeking an Architectural Concept Statement that includes all of the development area should be included as a modification to the Scheme. Individual Architectural Design Statements should refer to their context where a number of such statements will make up the streetscape. This is to ensure uniformity of design on the one hand, yet variation and avoidance of blandness on the other. The following modification is proposed:

Add Objective US6: The Development Agency shall prepare an overarching Architectural Concept Statement for Poolbeg West and shall require individual ‘Architectural Design Statements’ to be submitted with all planning applications to ensure a holistic and coherent architectural design approach for all buildings and streets in Poolbeg West. Architectural Design Statements should be prepared in cooperation with adjoining applications within an individual block and within the context of all blocks within a street to forge an individual street identity with emphasis on vertical features and own door access.

- 9.7.15. Overall, the layout and urban design of the Scheme, together with the proposed mix of uses and density of development, provides a good template for the creation of an active and vibrant neighbourhood. I have concerns, however, that whilst the critical mass and uses will be present for people to carry out their everyday business in

convenience, there is an absence of finer detail throughout the Scheme to demonstrate that the public realm will be attractive for people to linger. As noted above, it only takes a small number of people spending time to enliven a place and not necessarily large numbers moving through a place at one particular time. The success of Poolbeg West as a neighbourhood to a large degree depends on people recreating in public spaces and in my opinion further design detail is required so that these spaces do not become left over. It is essential that this is addressed within the Urban Form Development Framework set out as follows:

Replace Objective PR1 with the following:

An Urban Form Development Framework shall be prepared for the neighbourhood (A1-A4 lands and associated roads and public spaces) by the Development Agency in accordance with the Poolbeg Planning Scheme and in consultation with the relevant landowners and the Docklands Oversight and Consultative Forum as a pre-requisite to the approval of any planning applications with the SDZ. The purpose of the Urban Form Development Framework is to provide clarity and to assist the assessment of whether planning applications are consistent with the objectives of the Planning Scheme

The Framework shall, as a minimum, include the following:

- An open space strategy to fully classify, describe and quantify parks and to set out their character and function;
- A landscape masterplan including detailed design for all open spaces and proposals for creating small, intimate spaces within larger open spaces;
- An overall strategy and detailed measures to encourage people to spend time and enliven public spaces;
- A micro-climate assessment and proposals for moderating the impact of wind in public places;
- Detailed proposals for soft edges or 'defensible spaces' where all buildings meet the public realm (Amendment to Figure 11.11 – Street Interface Options).
- Public realm design details including inter alia, surfacing, materials, planting,

street furniture for key components of the development lands, including (i) major streets, (ii) minor streets (iii) parks, open space and green routes and screening and (iv) courtyards.

- Detailed proposals for the design and layout of the neighbourhood square to include plans, elevations, photomontages and sketches illustrating the relationship of surrounding buildings to ground space, typical ground floor uses and frontages, night time uses, proposals for creating edges attractive to people, access arrangements, formal and informal pedestrian facilities, ground levels and finishes, street furniture, planting, lighting, etc. The neighbourhood square may include outdoor market space, features such as fountains/ sculptures, art installations, outdoor games, meeting places, etc.
- Provision of development codes for each block to include specific objectives for use mix, height range, public realm and infrastructure provision; ground floor sample elevations, and a plan of the relevant block.
- Car parking strategy including exact numbers of on-street and off-street car parking spaces, together with details of on-street parking, time limitations, parking costs, access to car parks, allocation of spaces for shared vehicles, electric vehicle charging points, loading spaces, disabled spaces, alternative temporary uses for parking spaces, design of parking spaces and surroundings, etc.

Unless agreed otherwise, owners of landbanks within the SDZ area will prepare public realm masterplans for their respective areas, for adoption into an ~~Overall Public Realm Masterplan~~ **the Urban Form Development Framework** for the entire SDZ area, to be approved by Dublin City Council. Prior to the preparation of this ~~Overall Masterplan~~ **Framework**, the exact layouts and widths of streets and spaces within the SDZ area are to be confirmed and agreed with relevant agencies and Dublin City Council.

9.8. Scale, height and capacity of development – maximising development potential and land use efficiency

- 9.8.1. Land is a scarce resource and should be used as efficiently as possible. A new sustainable neighbourhood must therefore make optimum use of land by maximising densities. The SDZ is 'brownfield' land, which is considered within the Sustainable Residential Development: Guidelines for Planning Authorities to be appropriate for higher densities, particularly where it is close to existing or future public transport corridors. Furthermore, the National Planning Framework (NPF) recognises that most development takes the form of greenfield sprawl and a preferred approach would be compact development that focuses on reusing 'brownfield' land. This is reflected in National Policy Objective 3b which seeks to *“deliver at least half (50%) of all new homes that are targeted in the five Cities and suburbs of Dublin, Cork, Limerick, Galway and Waterford, within their existing built-up footprints”*.
- 9.8.2. The NPF notes that planning policies and standards need to be flexible to enable brownfield development. In this regard, it is stated that the focus should be on design-led and performance based outcomes rather than specifying absolute requirements. In particular, it is emphasised that general restrictions on building height may not be applicable in all circumstances in urban areas.
- 9.8.3. Figure 11.9 of the Draft Planning Scheme illustrates building heights throughout the neighbourhood in 3D perspective. Minimum and maximum building heights are indicated with lower heights of 4-5 storeys along Seán Moore Road, on the southern side of blocks and around the community hub. The landmark building in the neighbourhood square is up to 20 storeys and taller buildings of up to 12, 16 and 18 storeys are to be located as gateway structures and around areas of open space. Buildings of up to 12 stories are to be located along South Bank Road, which will otherwise be 6-7 storeys, and buildings of up 8-9 storeys are aligned on main movement corridors.
- 9.8.4. The minimum and maximum building heights are designed to accommodate 3,000-3,500 dwellings; commercial uses of between 80,000 to 100,000 sq.m.; a 5,000 sq.m. neighbourhood centre; and a community/ school hub. A general maximum height limit of 28m is proposed for Blocks B1 and B2 for industrial/ port and mixed

uses. There is also potential for a further 30-50,000 sq.m. of office space along South Bank Road within B1 lands.

- 9.8.5. Building heights are design-led in the sense that the overall height strategy is intended to create a visually engaging skyline and to minimise the impacts of overshadowing. Higher buildings accommodated at a specific number of locations will address major access routes and viewpoints, and will frame larger spaces. A strong sense of enclosure is encouraged along the major movement corridors, and where the height of a building exceeds the street width (other than landmark or gateway buildings), upper storeys may need to be set back. The Draft Planning Scheme also allows for an additional set back storey above maximum height (excluding landmark/ gateway buildings) to add variety.
- 9.8.6. It should be noted, however, that no minimum height has been set for landmark or gateway buildings other than the requirement that they should be of sufficient height (compared to adjacent buildings) to ensure legibility and diversity of skyline. At the Oral Hearing the Development Agency was asked if there is a possibility that taller buildings, including the 20-storey landmark building, may not achieve their intended height due to construction costs, structural limitations, etc. The Development Agency acknowledged that the taller buildings may not achieve these heights but would otherwise be acceptable if they stood out as landmark structures.
- 9.8.7. I would be of the opinion that the height strategy for the neighbourhood can fulfil its stated aims provided that the buildings are developed to the heights set out in Figures 11.3 and 11.9 as a minimum. Any development of landmark or gateway buildings less than the maximum height indicated would completely undermine any sense of urban structure, variety, legibility and distinctiveness throughout the neighbourhood. In theory, a building that is intended to stand out and act as a way-finder may only be developed at a storey or two higher than surrounding buildings. There is also the possibility that the height strategy as drafted could impede the development of taller and potentially iconic buildings within the neighbourhood node.
- 9.8.8. The removal of limitations up to a certain height for taller buildings in the Draft Planning Scheme would be more consistent with the NPF National Policy Objective 13 which states that *"in urban areas, planning and related standards, including in*

particular building height and car parking will be based on performance criteria that seek to achieve well-designed high quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected.

9.8.9. Notwithstanding, and given the nature of a Planning Scheme where a degree of certainty is necessary in view of the fact that there is no right to appeal, I consider that taller buildings should be developed at minimum heights with allowances for an additional two storeys for 12 storey buildings, an additional storey for 16 and 18 storey buildings and an additional 4 storeys for the landmark building. I would be satisfied that building heights throughout the neighbourhood can be controlled at planning application stage by adhering to this range and by applying certain design safeguards and qualitative standards to ensure the efficient use of land whilst avoiding overdevelopment.

9.8.10. The following modifications are therefore proposed:

Amend Figures 11.3 and 11.9 and all relevant text so that taller buildings are indicated as follows:

12-14 Storeys

16-17 Storeys

18-19 Storeys

20-24 Storeys

Amend Section 11.5.1, last bullet point: ~~Whilst no minimum height has been set for~~ Where Landmark or Gateway buildings ~~where such buildings are required they~~ shall be of sufficient height (compared with adjacent buildings) **and consistent with the height strategy** so as to ensure legibility throughout the SDZ and to enhance the diversity of the skyline, particularly when viewed from surrounding areas.

Amend Section 3.4 (2nd paragraph): Buildings will be predominantly 4-9 storeys 28m in height. ~~i.e. 4-7 storey commercial and up to 9 storeys residential.~~ Midrise **and taller** heights of up to **50+m** can also be accommodated at a limited number

of locations.

Amend all relevant figures:

- Buildings in B1 & B2 lands shall have height limit of 28m.
- All modifications to building height as illustrated should be reflected throughout the document text.

9.8.11. Consequently, I would also be of the opinion that all references in the Draft Planning Scheme which limit the scale of the neighbourhood in quantifiable terms should be omitted. The neighbourhood should be limited by design safeguards rather than a specified range of residential and commercial development. The removal of references to the capacity of development would also address the uncertainty that arose at the Oral Hearing with respect to development capacity. In my opinion it is sufficient to stipulate the heights for the 4-5, 6-7 and 8-9 storey buildings and any taller buildings should be considered within their surrounding context and the range indicated above. I do, however, consider that the stipulation for 15-20% commercial 80-85% residential ratio of development should remain. I would therefore propose the following modification:

Remove all references to residential potential of 3,000 to 3,500 dwelling units and the range of commercial office/ enterprise space of 80,000 to 100,000 sq.m. Residential/ Commercial development shall be based on an 80-85%/ 15-20% split and shall be limited by the height ranges indicated in the Planning Scheme height strategy, together with design safeguards and surrounding context, to include assessments of shadow, wind, residential amenity and visual impacts.

9.8.12. What is clear from the appellants and Development Agency is that the proposed neighbourhood will deliver in the ballpark a residential provision of c. 3,000-3,500 residential units and c. 100,000-120,000 sq.m. of commercial development. The Development Agency acknowledged at the Oral Hearing that the Scheme would not be completely restricted by these limits and that approximate figures could be included. It would appear that there is sufficient infrastructure to serve any marginal increase above these figures and the capacity of the Scheme can therefore be derived from building heights and block layout having regard to the sufficient

research that has been carried thus far in terms of capacity when formulating the Scheme.

- 9.8.13. The Receiver for Becbay/ Fabrizia is seeking a number of modifications to the Draft Planning Scheme in relation to building height for the purposes of delivering the intended capacity. I shall treat these proposed modifications individually rather than for the purpose of arriving at an intended capacity.
- 9.8.14. The areas where the appellant is seeking increased heights are along Seán Moore Road, Seán Moore Park and the community/ education block, South Bank Road, the southern element of commercial plots and an increase in the central landmark building to 20+ storeys.
- 9.8.15. In response, the Development Agency agreed that there is a strong urban design argument for additional height along the edge of Seán Moore Park and within the community/ education block, as it will reinforce the urban edge and increase surveillance of Seán Moore Park and the Village Green. It is also acknowledged that the width of the street and commercial/ industrial nature of South Bank Road allow for increased height. An increase in height along this road will also increase the effectiveness of the commercial buffer between port and residential areas.
- 9.8.16. The Development Agency submitted an amended block form and building heights layout which shows 8-9 storey buildings along the south-western side of South Bank Road, together with the community/ education block forming an 8-9 storey frontage onto the Village Green and a part 8-9/ part 6-7 storey frontage onto Seán Moore Park. The other sides of this block to the north-east and north-west are shown as 6-7 storey blocks and a central block is 4-5 storeys.
- 9.8.17. I would have no objection to these height increases for the reasons stated by the Development Agency above and agree that Figures 11.3 and throughout the document text should be modified to reflect same:

Amend Figures 11.3 to show increased building height aligning the south-west side of South Bank Road and within the community/ education block in accordance with Figure 1 of the Development Agency's response to the Becbay/ Fabrizia (In Receivership) received by An Bord Pleanála on 5th December 2017.

- 9.8.18. The Development Agency did not agree that building heights along Seán Moore Road should be raised from 4-5 storeys to 6-7 storeys. It was submitted that the 4-5 storey height was employed as a transitional measure to reduce the visual impact on the established residential community immediately to the west. At the Oral Hearing the representatives of the Irish Glass Bottle Housing Action Group also spoke against any increase in height along Seán Moore Road.
- 9.8.19. The Development Agency also opposed any increase in height along the southern side of commercial blocks as it would result in excessive height along minor streets, thereby creating a canyon-like effect. Any increase to the central landmark to 20+ storeys was opposed on the grounds that it would create an open ended height limit at this location. Finally in this regard, the Development Agency resisted any proposal for two setback storeys instead of one. As noted above, I consider that minimum heights should be imposed on taller buildings in the scheme, and such heights should be assessed having regard to design safeguards and the surrounding context.
- 9.8.20. The architect for Becbay/ Fabrizia (In Receivership) presented the case at the Oral Hearing for increased heights along Seán Moore Road. The modification seeks heights of 6-7 storeys, with up to two additional storeys at appropriate locations. It is submitted that the dimensions of Seán Moore Road and the fragmented character of its north-western side will make it difficult to transform this road from an urban motorway to a city street. A strong and distinctive edge is therefore proposed by the appellants to allow Seán Moore Road to become an urban boulevard with a sense of architectural enclosure proportionate to its width, and with the beneficial effect of surveillance and busyness.
- 9.8.21. In some respects, I would be in agreement with the appellants that Seán Moore Road is capable of accommodating increased heights having regard to the separation distances between proposed and existing buildings. The closest building on the north-western side of Seán Moore Road to the site boundary is at a distance of approximately 32m and a 9-storey residential edge will have a height of c. 28m. However, it is advised in Sustainable Residential Development in Urban Areas: Guidelines for Planning Authorities that *“as a general rule, where taller*

buildings are acceptable in principle, building heights should generally taper down towards the boundaries of a site within an established residential area.”

9.8.22. Notwithstanding the distance between the existing 3-storey dwellings to the north-western side of Seán Moore Road, it may be the case that a 9-storey frontage sitting opposite would appear stark and imbalanced. I do, however, agree with the appellants that the incorporation of an additional set-back storey (two in total) above the maximum height (excluding landmark/ gateway building) would promote flexibility and diversity, and facilitate increased height along Seán Moore Road. As noted by the appellant, this will also allow the potential to reduce as well as increase height, thereby creating a balance between continuity of urban form and essential particularity. For this to work properly, it would be necessary to apply minimum heights to landmark/ gateway buildings as suggested so as not to blur the distinction between 4-9 storey buildings with setback storeys and taller buildings. Furthermore, there should be variation in the height of setback storeys and this can be implemented at planning application stage. The following modification is therefore proposed to Section 11.5.1:

An additional **one to two** setback storeys, above the Maximum Height (but excluding landmark/gateway buildings), may also be permitted to add further variety, subject to detailed urban design, shadowing analysis and **height variation**.

9.8.24. With respect to the appellant's proposal to increase the south-eastern elements of the commercial blocks from 4-5 storey to 6-7 storeys, I would share the Development Agency's concern regarding the impact this would have on narrow local streets and the potential for creating a canyon-like effect. It is also noted that these blocks are mixed use and may therefore contain a residential element. Any increase in height may give rise to overshadowing and overbearing impacts and the creation of a local environment that is not of human scale. Increased heights at this location may also erode the prominence of Central Boulevard and other higher order streets.

9.8.25. In general, I consider that the scale, height and capacity of development, subject to modification, is such that it can maximise the development potential and land use

efficiency of the site. The height strategy is designed to highlight nodes, frame views and encourage legibility. There is good height variation throughout the site and a certain order that is reflective of the street function. It is preferable, however, that the proposed heights for taller buildings are reinforced and that greater variation is allowed in parapet height and setback for lower buildings throughout the scheme to give a greater sense of diversity and to break up the bulk of block form.

9.9. Transport, Movement and Permeability

- 9.9.1. This section looks at street surface layout and design throughout and around the proposed neighbourhood in terms of the on-street experience for transport modes, ease of movement, desire lines, potential conflicts, etc.
- 9.9.2. A street hierarchy for the SDZ is set out in the Appendices to the Draft Planning Scheme, together with indicative street cross sections and layouts. Circulation diagrams are also included for pedestrians/ cyclists, public transport and private vehicles. From the outset, it should be noted that the grid iron layout of the neighbourhood allows for good permeability and ease of movement for all modes of transport. Ease of movement, however, can lead to conflict between modes. Put simply, the greatest threat to the on-street environment within a high density neighbourhood would be an omnipresence of the private car and the greatest opportunity for the success of a neighbourhood is a greater on-street presence of people walking, standing, resting, exercising or cycling.
- 9.9.3. During the course of the Oral Hearing, a Transport Assessment for the Poolbeg West SDZ prepared by Dublin City Council and the National Transport Authority (December 2016) was made available to participants. The purpose of this document was to carry out a high-level assessment to determine the travel demand associated with the proposed land uses and to develop modal share targets. Modelling assessments show that with improved pedestrian and cycle facilities, the extension of existing bus services and the provision of a core bus corridor via the proposed Dodder Bridge, the daily sustainable modal share for trips from the Poolbeg SDZ would be 72.6%, (increasing to 77.2% and 84% AM & PM peaks).

- 9.9.4. At the Oral Hearing, the Development Agency was asked to provide greater detail on the number of cars that will be present in the neighbourhood area and how it would be possible to achieve an estimated car modal share of 22.8% (AM peak) and 16.1% (PM peak). In response, the Development Agency noted that the site is in proximity to major employment centres in the city centre and Ballsbridge and is therefore within walking and cycling distance of these areas. It was also pointed out that planning applications will be accompanied by travel plans that will be required to comply with Development Plan car parking standards. Development Plan standards are maximum standards and the ambition is to have a standard of below 0.5 spaces per dwelling and towards zero for commercial development. The Development Agency confirmed that all local streets will have a degree of on-street car parking but that the number of spaces had not been calculated in detail.
- 9.9.5. I would have some concern that planning applications subsequent to the adoption of the Planning Scheme may still allow for excessive car parking in the absence of a stronger policy and a clearer indication of the actual number of cars using the area. As noted by the Development Agency, the SDZ is located so that car ownership can be avoided by a large proportion of the people living and working in Poolbeg West. In these circumstances, individual car ownership can be largely limited to people with disabilities and those regularly carrying three or more people. Any on-street car parking should primarily be occupied by shared vehicles, service and delivery vehicles and short term parking.
- 9.9.6. In view of the street space occupied by moving and stationary vehicles, and the potential impact of such on the new urban neighbourhood, I consider it appropriate that a car parking strategy should form part of the Urban Form Development Framework. This strategy should identify all car parking spaces to be provided, as well as access to car parks, time limitations, space for shared cars, loading spaces, electric vehicle charging points, alternative temporary use for spaces, etc.
- 9.9.7. The achievement of a low level of car usage and parking/ storage also relies on dependable public transport alternatives and a safe and convenient on-street experience for pedestrian and cyclists. In terms of public transport provision in the short to medium term, it is proposed to extend bus services with a 10-minute frequency into the area. It was confirmed at the Oral Hearing that there are options

to service up to one third of the site using bus services in advance of the future operation of a quality bus corridor to the city centre via a new public transport/ pedestrian/ cycle bridge over the mouth of the River Dodder. This bridge is currently at design stage and it was confirmed by the Development Agency at the Oral Hearing that the intention is to have the bridge commissioned within next two to three years.

9.9.8. In the longer term, it is stated in the National Transport Authority's Transport Strategy for the Greater Dublin Area that it is intended to extend the Luas Red Line south of the River Liffey at, or close to, its eastern end to serve the future development of Poolbeg, in addition to Ringsend and Irishtown. At the Oral Hearing, it was confirmed by the Development Agency that the Luas stop at Seán Moore Road would be a termination point and that potentially the existing Luas could be extended over the East Link Bridge or via the Samuel Becket Bridge and the proposed Dodder Bridge.

9.9.9. In terms of cycling provision, Figure 6.2 illustrates planned cycle routes to serve the area at a more strategic level, including links to the proposed Dodder Greenway and East Coast Trail. Within the SDZ a 2-way cycle route will be provided along the main boulevard, segregated from vehicular traffic. Segregated cycle lanes are also shown within street hierarchy imagery along both sides of South Bank Road. No cycle provision is shown along the South Bank Link (indicated as optional). In the interests of consistency and safety, and the importance of this route as a desire line, I consider that segregated cycle lanes should be installed along South Bank Link Road to protect cyclists from motor vehicles including buses. The following modification is therefore proposed:

Amend Street Hierarchy, Cross Section and Layout (Appendix 2): South Bank Link Street shall include cycleway provision segregated from the carriageway/ bus route.

9.9.10. All other streets are local in nature with low traffic volumes and do not therefore require dedicated cycling facilities. Surface materials are nonetheless an important consideration in delineating the status of these streets and to place the private

vehicle at the bottom of the movement hierarchy. Samples should be outlined in the Urban Form Development Framework.

- 9.9.11. With respect to walking, there will be good provision within the Draft Planning Scheme for pedestrians and the perimeter block layout facilitates direct pedestrian desire lines. Footpaths are sufficiently wide for the level of pedestrian activity that can be expected on the type of street within the street hierarchy. Footpath edge and adjoining uses also appear to comply with the Design Manual for Urban Roads and Streets, with pedestrians being well separated from the carriageway on main roads.
- 9.9.12. Some concern was expressed to the Development Agency at the Oral Hearing on carriageway widths and the presence of long straight sections of roadway along Central Boulevard that might encourage speeding. The Development Agency stated that carriageway widths could be reduced to the minimum 6m along Central Boulevard, South Bank Road and the South Bank Link Street and that widths of up to 6.5m were envisaged to allow buses to pass one another with ease. The Development Agency stated that according to the NTA, a 6m width would be satisfactory to accommodate buses. It was also submitted that the character of Central Boulevard would change around the neighbourhood square, with different surface treatments and possibly a change in level as a vertical deflection, and this would act as a traffic calming measure.
- 9.9.13. Notwithstanding the above, I would still have concerns that there are sections of Central Boulevard that could facilitate undue traffic speeds in excess of the 30kph design speed. The section from Seán Moore Road to the neighbourhood square measures approximately 200m and Figure 11.4 – Central Boulevard Montage illustrates the clear forward visibility available to a motorist on the carriageway. I would also have some concern that a typical boulevard design and width (c. 27m) introduces a degree of severance between both sides of the street owing to the width of the street itself, as well as the actual carriageway, and to other linear features including the bikeway and planted strip. The treatment of the boulevard is an important consideration given its status at the top of the street hierarchy. There should be ample opportunities for people to move across this street and car space

should be tightened to the minimum. I would therefore propose that carriageway widths are amended in all figures within the Draft Planning Scheme as follows:

Amend Street Hierarchy Figures (Appendix 2): Carriageway widths along Central Boulevard, South Bank Road and South Bank Link Street shall be no more than 6m.

- 9.9.14. It is advised in the Design Manual for Urban Roads and Streets that raised tables or platforms promote lower design speeds, slow turning vehicles at junctions and enable pedestrians to cross the street at grade. Having regard to the long straight nature of Central Boulevard, and to the limited opportunities for pedestrians to cross, I consider that the following modification should be included in the Draft Planning Scheme:

Amend all relevant figures and text: Raised tables or platforms shall be placed at all junctions with side streets along Central Boulevard, South Bank Road and South Bank Link Street. These tables shall incorporate opportunities for pedestrians to cross in all directions.

- 9.9.15. I note that the staggered perimeter blocks defining lower level streets will allow for an off-setting of junctions to create a change in alignment and therefore act as a traffic calming measure. Proposed junction/ crossing upgrades along Seán Moore Road and at the junction of South Bank Road and White Bank Road will also allow for improved pedestrian/ cyclist safety.
- 9.9.16. In my opinion, the treatment of the neighbourhood square is a vital consideration for the success of the neighbourhood and it appears that the design of this space has been largely overlooked within the Draft Planning Scheme. There will be a certain degree of complexity and movement conflicts within this space having regard to the presence of the landmark building, retail frontages, the bus route with bus gate, major SuDS features and key pedestrian/ cycle routes. At the Oral Hearing, the Development Agency confirmed that the neighbourhood centre would work as a shared space and that surface treatment would be looked at in the public realm strategy.

- 9.9.17. I would be of the view that the design and surfacing of the neighbourhood square should be explored in more detail within the Urban Form Development Framework. The requirements of the proposed public realm masterplan should generally be incorporated into the Urban Form Development Framework. It is noted in the Draft Planning Scheme that this masterplan is to be prepared within one year of the publication of the Planning Scheme and shall address, inter alia, materials, planting and street furniture, and will guide the design of socially inclusive and universally acceptable urban spaces and streets, thereby encouraging pedestrian movement and sustainable transport uses. I consider that this is the type of detail required in advance of approval of any planning application, particularly in view of the importance of the public realm that is being proposed to serve the first phases of development.
- 9.9.18. The Receiver for Bectay/ Fabrizia requested that the junctions with east-west streets can be staggered and the section between the junction can be relocated up to 20m east or west. In response, the Development Agency stated that there will be a number of off-sets provided at junctions, similar to the '3-way off-set' street illustrated on Figure 3.22 of DMURS. I would be in agreement that a 20m off-set is unnecessary and that any proposed individual variations can be considered on merit. The status of the north-west to south-east local streets is such that traffic calming by way of building deflection is not essential.
- 9.9.19. The appellant also sought modifications to improve key desire lines between Poolbeg West and Irishtown/ Sandymount. In particular, it is suggested that Figure 2.1 – Concept Plan should be amended to extend the sustainable transport corridor south to Beach Road. Furthermore, it is requested that there should be a continuous promenade connection towards Sandymount. The Development Agency submitted in response that sustainable transport links are proposed to the south for pedestrians and cyclists and that road infrastructure for public transport would be an intrusive element through Seán Moore Park. I would be in agreement that proposed public transport arrangements and coastal treatments for the Scheme are sufficient and any modifications proposed by the appellant would be of limited benefit. Improved connections to the north-west to Irishtown/ Ringend Park will be facilitated through junction/ crossing upgrades at Bremen Road and Pine Road along Seán Moore Road.

- 9.9.20. The appellants proposed the inclusion of a Transport and Infrastructure masterplan for phasing area A and the Development Agency accepted that such a reference could be included as a modification under Section 9.4 – Sequencing of Development.

Add new point to number list at Section 9.4:

A transportation and infrastructure masterplan shall be developed for Area A and submitted as part of the first planning application, which may be for infrastructural elements only. This is to recognise that infrastructure, transport connectivity, utilities and public realm are required to be dealt with at site level.

- 9.9.21. The representative for Sandymount and Merrion Residents Association expressed concern at the Oral Hearing that there is no coherent plan for increased traffic volumes and that for significant parts of the day existing roads are completely congested.
- 9.9.22. I would be of the view that the impact of the proposed neighbourhood on the overall road network would be positive if car parking provision is heavily curtailed. There is no need for daily car use for the majority within this model of development and it should therefore be prioritised and encouraged over suburban development that encourages car use. In my view, the proposed development should not be traffic assessed in terms of its impact on immediately surrounding junction capacity but rather in terms of the impact on the wider road network of providing a high proportion of homes and jobs and a low volume of traffic. Poolbeg West has the potential to become a largely car free and people friendly urban quarter that will not contribute further to the extremely negative effects that excessive car ownership, storage and usage is having on the surrounding urban environment. The reduction of private car use is evident in other parts of the Docklands; however, it is more essential that efforts are put in place to restrict car parking in Poolbeg West in view of the fact that it is more distant from the city centre and may have greater potential to attract visitors given its coastal location.

9.10. Social and affordable housing

- 9.10.1. It is stated in the Draft Planning Scheme that of the 3,500 homes permissible on site, 900 will be delivered as social and affordable units, with a minimum of 350 delivered as social housing in accordance with the requirements of Part V of the Planning and Development Act, 2000 (as amended). A commercial agreement with confirmed funding is to be entered into, prior to commencement of development between Dublin City Council, the Department of Housing, Planning, Community and Local Government and the owner/ developers of the residential element of the SDZ, which it is intended, will ensure the delivery of the balance of social/ affordable homes.
- 9.10.2. The Receiver for Becbay/ Fabrizia appealed the Draft Planning Scheme on the grounds that any such agreement may be voluntarily entered into for the provision of additional units over 10% maximum, and should be dealt with outside the adopted Planning Scheme in line with the Receiver's statutory powers. An opinion of Senior Counsel submitted with the appeal states that the requirement to provide 'a minimum' of 10% social and/ or affordable housing is unlawful; there is no legal basis upon which the Council could rely to require the Receiver to enter into a separate social and affordable housing agreement; and the Council is not entitled to override a statutory provision that caps Part V housing at 10%.
- 9.10.3. A number of submissions were received during the Oral Hearing from observers and public representatives in relation to the provision of social and affordable housing. The Irish Glass Bottle Housing Action Group offered its support for the provision of 900 social and affordable homes and public representatives highlighted the considerable effort that has been made into reaching agreement, submitting that this should be honoured and the agreed number of social and affordable homes should be provided.
- 9.10.4. Notwithstanding this, it is noted that the Receiver has been working with Dublin City Council and the Department of Housing, Planning and Local Government on a binding commercial agreement with confirmed funding for additional units (up to 550 for affordable homes) at commercial rates outside of the Planning Scheme. The agent on behalf of the Receiver in his closing statement confirmed that a

proposed modification to Section 3.3 of the Planning Scheme had been agreed with Dublin City Council, together with a consequential amendment to Section 3.5.

9.10.5. The Development Agency stated in its concluding statement at the Oral Hearing that the Council is strongly of the opinion that Poolbeg West must have a diversity of tenure and housing sizes, including 900 social and affordable housing units. However, the Development Agency welcomed the commitment given by the Receiver at the Oral Hearing. It was also stated that it is not the Council's intention, in seeking to copperfasten the commitment to a commercial agreement in the Scheme, to use the term 'prior to commencement' to appropriate the Section 34 process to require a condition of planning permission, but to ensure that the commercial agreement was entered into at an early stage. It was also the Council's clear intention to ensure there would be a policy mechanism to deliver additional affordable housing.

9.10.6. Having regard to the negotiations that were taking place during the course of the Oral Hearing, and to the fact that the Board cannot impose any agreement outside the scope of Part V of the Planning and Development Act, 2000 (as amended), I consider that the following modifications as suggested by the Receiver for Becbay/ Fabrizia should be incorporated into the Planning Scheme:

Add to Section 3.3 - A flexible approach will be taken to social and affordable housing mix, to reflect need in respect of units provided under Part V of the Planning and Development Act, 2000 (as amended), and additional units provided to Dublin City Council and/ or the Department of Housing, Planning and Local Government under any commercial agreement voluntarily entered into to provide up to a maximum of 15% of units outside of the Planning Scheme on commercial terms, and this will not have any consequential impact on the housing mix on the balance of the Planning Scheme area.

9.10.7. I consider that the proposed consequential modification to Section 3.5 should be included to reflect the proposal to omit any references to the residential potential of 3,000 to 3,500 dwelling units within the Scheme. The modification shall therefore read as follows:

Amend Section 3.5: ~~Of the 3,500 new homes permissible on the site under this Planning Scheme, 900 will be delivered as either social and/or affordable units including units for senior citizens. A minimum~~ **maximum** of 10% of new homes permissible on site under this Planning Scheme will be delivered as social housing in accordance with the provisions of Part V of the Planning and Development Act 2000, (as amended). In addition, ~~given public investment in enabling infrastructure for the area and~~ in order to ensure a proper and sustainable tenure mix, **it is intended that** a commercial agreement¹ with confirmed funding will be entered into, prior to commencement of development, between Dublin City Council, the Department of Housing, Planning, ~~Community~~ and Local Government and the owners/developers of the residential element of the overall SDZ area ~~which will ensure~~ **with the aim of ensuring** the delivery of the balance of the ~~social/affordable homes~~ additional homes for affordable use. These additional homes will provide 15% of final permissible units within the SDZ area for affordable use and a total of 25% for social and affordable use, in combination with the Part V provision.

~~This objective takes account of and implements Government Policy as set out in the 'Action Plan on Housing and Homelessness Rebuilding Ireland' including Actions 2.4 and 2.8 (delivery of additional social housing over and above Part V through a variety of means), Action 2.16 (housing for older people, including assisted living), Action 3.1 (Local Infrastructure Housing Activation Fund - LIHAF) and Action 4.6 affordable rental), together with policies promoting tenure diversity in the City Council's Housing Strategy. In addition, Dublin City Council will be given an option, as part of the SDZ to acquire at market rate, 100 housing units.~~

¹ **Outside of the Planning Scheme.**

9.11. Other issues raised in appeal submissions

9.11.1. The following issues were raised within appeal submissions and at the Oral Hearing that also warrant attention within this assessment:

- Land contamination;
- Flooding;

- District Heating;
- Water supply and wastewater.

9.11.2. Land contamination

- 9.11.2.1. A Contamination and Remediation Assessment was carried out as part of the Strategic Environmental Assessment Environmental Report accompanying the Draft Planning Scheme. This report provides a high-level qualitative risk assessment to establish low, medium and high risk areas and to outline remediation measures for contaminated land. This is a strategic assessment prepared on the understanding that site specific desk studies and intrusive investigations will be carried out as part of detailed design and consent procedures for each site.
- 9.11.2.2. A baseline study concluded that Poolbeg Peninsula consists mainly of reclaimed land with fill material coming from seabed dredging and domestic waste from use of much of the peninsula as a domestic landfill up until 1978. High ground water levels are likely and foundation design will not be straightforward owing to the nature of soil conditions. Significant piling will likely be required and de-watering could be a serious issue.
- 9.11.2.3. The previous history of landfilling and the heavy industrial uses that have been present on the peninsula give rise to a certainty that some level of ground contamination and landfill gas will be encountered. Detailed assessments will be required to determine if soil and groundwater within each site are contaminated and options for dealing with contaminants will have to be decided upon. This may include soil removal and possibly exportation.
- 9.11.2.4. It is recognised that geotechnical and soil contamination issues raise serious concerns that will have to be fully explored but there do not appear to be any constraints that would prevent development from taking place.
- 9.11.2.5. The Environmental Assessment of Contamination and Remediation Report divides the SDZ into five distinct areas of use to include the former Irish Glass Bottle site, Dublin Port lands to the north, the Fabrizia site, eastern lands and shore lands. A conceptual site model of contamination risk identifies the former IGB site as being of low risk due to completion of substantial decontamination. However, the Fabrizia site has a medium risk owing in part to the use of this site for IGB waste disposal.

There are unknown risks regarding the shore lands, as this strip is likely to contain landfill edging material. Port lands to the north and east are of high risk.

- 9.11.2.6. The conclusion of the report indicates how the consideration of the issue of contamination should influence the development of the SDZ. In this regard, it should be accepted that the entire site has the potential for legacy effects or contamination. Specifically, it is advised that there should be provision of basement space to create a wide a ventilated physical barrier between existing legacy fill and future habitable space. Furthermore, the proposed land uses should be compatible with the potential risks identified in the risk assessment; developers shall prepare a site remediation report; and a contamination interception, monitoring and mitigation management system shall be implemented.
- 9.11.2.7. It should be noted that Objective IU11 requires that all undeveloped sites shall be remediated to internationally accepted standards prior to development and all applications shall be accompanied by a report from a qualified, expert consultant detailing compliance with remediation measures as outlined in the Remediation Measures Report.
- 9.11.2.8. I proposed that this Objective be amended to better reflect the specific recommendations of the Environmental Assessment of Contamination Remediation Report as follows:

Amend Objective IU11 That all undeveloped sites be remediated to internationally accepted standards prior to redevelopment. **Proposed land use types shall be compatible with potential risks identified within the Conceptual Site Model of Contamination Risk. Developers will be required to carry out a full contaminated land risk assessment and to implement a contamination interception, monitoring and mitigation management system.** All applications shall be accompanied by a report from a qualified, expert consultant detailing compliance with the remediation measures as outlined in the Remediation Measures Report. The remediation shall incorporate international best practice and expertise on innovative ecological restoration techniques including specialist planting and green initiatives that create aesthetically improved sites, healthy environments and contribute to the provision of new green open spaces as integral parts of newly created areas. Treatment/management of any contaminated material

shall comply as appropriate with the Waste Management Act 1996 (waste licence, waste facility permit) and under the EPA Act 1992 (Industrial Emissions licensing, in particular the First Schedule, Class 11 Waste). These measures will ensure that contaminated material will be managed in a manner that removes any risk to human health and ensures that the end use will be compatible with any risk.

9.11.3. **Flooding**

- 9.11.3.1. A Strategic Flood Risk Assessment (SFRA) has been undertaken as part of the Strategic Environmental Assessment accompanying the Draft Planning Scheme. The Stage 1 SFRA (flood risk identification) identifies that there are potentially elevated levels of coastal flood risk along the southern boundary of the SDZ, with areas across the SDZ being at risk of pluvial flooding.
- 9.11.3.2. A Stage 2 SFRA (Initial Flood Risk Assessment) was undertaken to confirm sources of flooding, appraise the adequacy of existing information and scope the extent of flood risk through preparation of flood zone maps.
- 9.11.3.3. It was determined that the development of the site would have no impact on the flood risk associated with neighbouring development as flood risk at the SDZ is tidal. Only the coastal park is proposed within Flood Zones A and B and therefore a justification test is not required. Coastal areas, however, are highly sensitive to climate change impacts from increases in flooding and allowances have been factored in for future development scenarios.
- 9.11.3.4. Section 4 of the SFRA for Poolbeg West contains recommendations made by the SFRA process and integrated into the Planning Scheme. These relate to land uses; minimum floor levels; minimum levels of site protection during construction; site defences; and other measures, including site specific flood risk assessments, water conservation, compliance with the Greater Dublin Strategic Drainage Study and SuDS. There are also a number of other measures relating to flood risk contained within the Development Plan and these shall apply where not specifically addressed in the Planning Scheme.
- 9.11.3.5. It is an objective of the Draft Planning Scheme (IU1) to require all proposed developments to carry out a site specific Flood Risk Assessment demonstrating compliance with Guidelines and the Development Plan. For clarity, I consider that

this objective should be expanded to state that all developments must comply as relevant with the measures included within Section 4 – Recommendations of the SFRA.

Amend Objective IU1 To require all proposed developments to carry out a site specific Flood Risk Assessment (SSFRA) that shall demonstrate compliance with:

- The Planning System and Flood Risk Management, Guidelines for Planning Authorities (Department of the Environment, Heritage and Local Government, November 2009, as may be revised/updated).
- The prevailing Dublin City Development Plan.
- **Recommendations contained within Section 4 of the Strategic Flood Risk Assessment for the Poolbeg West Planning Scheme**

9.11.4. District Heating

- 9.11.4.1. It is recognised in the National Planning Framework that multi-storey and terraced buildings in close proximity require less energy and make renewables based systems of energy distribution, such as district heating, more feasible. It is also an objective of the Dublin City Development Plan (SIO33) *“to support the development of energy efficient initiatives such as use of District Heating and Combined Heat and Power, and to promote the use of CHP in large developments.”*
- 9.11.4.2. A district heating system is planned for Dublin Docklands and Poolbeg peninsula, and the Dublin Waste to Energy Plant has been identified as the primary source of heat. An additional heat source in the form of a peak boiler station with heat storage to provide back up and boost the heat output during periods of peak demand would also be required in close proximity to the Waste to Energy Plant in B2 lands. It is an objective of the Draft Planning Scheme (IU10) *“to investigate the feasibility of providing a district heating boiler station in the eastern/industrial portion of the SDZ area”*.
- 9.11.4.3. The Development Agency recommended at the Oral Hearing that the wording of Objective IU9 be amended to take account of recent progress on district heating planning. The existing wording for Objective IU9 states *“that all proposed developments of an appropriate scale be district heating-enabled in order to provide*

an environmentally sustainable option for heating and cooling.” I agree that the following medication should be adopted:

Replace Objective IU9 – That all developments shall be District Heating enabled and this shall be demonstrated through compliance with the Dublin City document “Dublin District Heating System – Technical Information Park for Developers”, (Feb. 2018) and future updated versions of this document.

9.11.4.4. At the Oral Hearing, the Development Agency was asked about the actual enabling infrastructure for this system that can be put in place during development. It was confirmed that all streets will have outgoing and ingoing pipes with connections that can be availed of by each individual developer. Pipework within buildings can also be easily converted for district heating use.

9.11.5. **Water Supply and Wastewater**

9.11.5.1. A presentation was made to the Oral Hearing by a representative of Irish Water focusing on water supply and wastewater network requirements for the SDZ. Drawings and schedules were presented at the Oral Hearing setting out Irish Water’s requirements for local network infrastructure to accommodate the potential phasing of build out for the SDZ. It was submitted that the water supply and wastewater collection trunk networks in the vicinity of the SDZ are deemed to be adequate to cater for the demand and load generated by the SDZ.

9.11.5.2. It should be noted that Irish Water has recently submitted a planning application to the Board to raise the capacity of the Ringsend Wastewater Treatment Plant to 2.4m p.e. and to provide more advanced treatment technology in lieu of the previously proposed long sea outfall discharge. The SDZ will have a p.e. of 14,000 and Irish Water confirmed that the incremental loading will have a negligible impact on the overall load to the treatment plant.

9.11.5.3. Irish Water outlined a number of requirements for developers that should be included within the Final Planning Scheme. These can be included as a modification to Objective IU5 as follows:

Amend Objective IU5 To ensure that development is permitted in tandem with

available waste water, surface water and water supply, and to manage development, so that new schemes are permitted only where adequate water supply resources exist or will become available within the life of a planning permission.

Developers shall prepare and implement local network plans for water supply and wastewater treatment in accordance with the requirements and subject to the approval of Irish Water. Provision shall be made within SDZ lands for an easily accessible below ground wastewater pumping station and associated above ground kiosk, with flexibility as to the precise location, subject to the approval and designed in accordance with Irish Water standards.

The build out of the Planning Scheme shall ensure that all critical infrastructure is not built over and appropriate clearance is made available to facilitate maintenance.

9.12. Strategic Environmental Assessment (SEA)

9.12.1. Pursuant to Section 168(3) of the Planning and Development Act, 2000 (as amended) and Article 179A of the Planning and Development Regulations, 2001 (as amended), the Draft Planning Scheme is accompanied by a SEA Environmental Report, including non-technical summary, and a SEA Statement. The stated purpose of these documents is to provide a clear understanding of the likely environmental consequences of decisions regarding the adoption and implementation of the Planning Scheme.

9.12.2. Article 179C of the Regulations sets out that the content of an environmental report shall identify, describe and evaluate the likely significant effects on the environment of implementing the Planning Scheme and reasonable alternatives taking account of the objectives and geographical scope of the Scheme. It is stated under Article 179C(2) that an environmental report shall include the information that may reasonably be required taking account of (a) current knowledge and methods of assessment; (b) the contents and level of detail in the planning scheme; (c) the stage of the planning scheme in the decision-making process; and (d) the extent to

which certain matters are more appropriately assessed at different levels in the decision-making process in order to avoid duplication of environmental assessment.

9.12.3. The Environmental Report submitted with the Draft Planning Scheme contains a description of the environment and the key environmental issues; a description of the assessment of alternatives for the Draft Planning Scheme; an assessment of the provisions of the Draft Planning Scheme; and mitigation measures which set out to aid compliance with environmental protection legislation, e.g. Water Framework Directive, Habitats Directive, and which avoid/ reduce the environmental effects of implementing the Planning Scheme.

9.12.4. The environmental baseline set out in Section 3, together with Strategic Environmental Objectives, are used to identify, describe and evaluate the likely environmental effects of implementing the Planning Scheme and to determine appropriate monitoring measures, encompassing the following components:

- Biodiversity and flora and fauna
- Population and human health
- Soil
- Water
- Air and climatic factors
- Material assets
- Cultural heritage
- Landscape
- Inter-relationship between these factors.

9.12.5. Section 4 of the Environmental Report includes a description of alternative development scenarios to comply with the SEA Directive. These include a high, medium and low quantum of development across the site. Significant positive effects and potential significant adverse effects common to all alternatives were evaluated. The emerging alternative scenario was for a medium quantum of development having regard to the environmental effects identified by the SEA and planning, including social and economic effects relating to the site's potential. It is concluded that with appropriate mitigation measures, potential adverse

environmental effects which could arise as a result of implementing this development scenario would likely be avoided, reduced or offset.

- 9.12.6. Section 5 summarises the measures that will mitigate the potential effects. It is concluded that the Scheme will contribute towards sustainable mobility and avoid the need to develop more sensitive greenfield lands; the Scheme will contribute towards the protection of amenity and ecological resources along the coastal edge of the SDZ; the Scheme, subject to mitigation measures will not affect the integrity of the Natura 2000 network of designated sites; development will not be located within areas of elevated flood risk and the Scheme will contribute to flood risk management; and appropriate provisions have been integrated into the Planning Scheme in order to manage remediation of contaminated lands at project level.
- 9.12.7. Finally, Section 6 of the Environmental Report includes mitigation measures and a programme of monitoring that will be undertaken alongside the implementation of the Planning Scheme.
- 9.12.8. Overall, it can be considered that the Environmental Report satisfies the requirements of Article 179 of the Planning and Development Regulations and complies with the guidance contained in the document “Implementation of SEA Directive (2001/42/EC): Assessment of the Effects of Certain Plans and Programmes on the Environment Guidelines for Regional Authorities and Planning Authorities”.
- 9.12.9. A number of modifications are being recommended for the Board’s consideration on foot of this Assessment. Under Section 179I(2) of the Regulations, where the Board approves the making of a planning scheme with modifications, it shall indicate in its decision any amendments required to the statement referred to in article 179G(1) arising from modifications and shall direct the planning authority to amend the statement accordingly. It would not appear, however, that any amendments of a substantial nature are required in view of the proposed modifications.

9.13. Appropriate Assessment

- 9.13.1. Section 168(3A) of the Planning and Development Act, 2000 (as amended) requires that screening for appropriate assessment and, if required, an appropriate

assessment of a draft planning scheme shall be carried out in accordance with Part XAB. The Draft Planning Scheme is accompanied by a Natura Impact Assessment and an Appropriate Assessment Conclusion Statement.

Stage 1: Screening

- 9.13.2. The first stage of the Appropriate Assessment process is the screening exercise where it should be decided if the effects of a development on a European site are likely and whether or not the effects are significant in light of the Conservation Objectives for the site. The precautionary principle should apply if there are significant effects that cannot be excluded, or where the likelihood is uncertain.
- 9.13.3. The first step of this stage is to identify all European sites which could potentially be affected using the Source-Pathway-Receptor model. Having regard to the nature and scale of the proposed development and the implications and receiving environment, it is reasonable in this instance to evaluate sites within a 15km radius for the purposes of identifying sites that could potentially be affected. These are summarised as follows:

European Site	Site Code	Distance from appeal site	Direction from appeal site
South Dublin Bay and River Tolka Estuary SPA	4024	0km	South
North Bull Island SPA	4006	2.67km	North-east
Baldoyle Bay SPA	4016	8.1km	North-east
Dalkey Islands SPA	4172	9.5km	South-east
Howth Head Coast SPA	4113	10km	North-east-east
Ireland's Eye SPA	4117	11.4km	North-east
Wicklow Mountains SPA	4040	12.2km	South-south-west
Broadmeadow/Swords Estuary SPA	4025	12.4km	North-north-east
South Dublin Bay SAC	210	0km	South
North Dublin Bay SAC	206	2.7km	North-east
Rockabill to Dalkey Island SAC	3000	7.3km	East
Howth Head SAC	202	8km	North-east
Baldoyle Bay SAC	199	8.2km	North-east
Ireland's Eye SAC	2193	11.km	North-east
Malahide Estuary SAC	205	11.7km	North-east
Wicklow Mountains SAC	2122	11.9km	South-south-west

Glenasmole Valley SAC	1209	13.5km	South-west
Knocksink Wood SAC	725	13.8km	South
Ballyman Glen SAC	713	14.5km	South

- 9.13.4. Appendix II of the Natural Impact Report sets out the Conservation Objectives for each of the above European Sites.
- 9.13.5. The next step of the screening process is to identify the potential (a) likely and (b) significant effects (direct or indirect) of the project alone on the European site(s) solely within the context of the site's conservation objectives in light of best scientific knowledge in the field.
- 9.13.6. The provisions within the Planning Scheme that could potentially give rise to significant effects on European Sites are residential development; the development of community facilities; commercial development; increases in public service facilities; and provision of roadway/ footpath improvements, etc.
- 9.13.7. Table 3.2 of the Natura Impact Report describes the likely significant effects resulting from the implementation of the Planning Scheme having regard to the sensitivity and reported threats to the European Site, together with the individual elements of the Planning Scheme and the potential effect they may cause on the site. Sites were screened out where there are no pathways for effects; the site is located at such a distance that effects are not foreseen; and where known threats and vulnerabilities cannot be linked to potential impacts that may arise.
- 9.13.8. All construction phase works have the potential to effect the special qualifying interests/ special conservation interests of the South Dublin Bay and River Tolka Estuary SPA and the South Dublin Bay SAC notwithstanding that there will be no direct habitat loss. There also is potential for effects during the operational phase through increased amenity usage of these European Sites. There is a hydrological link and contamination may arise if efficient pollution control measures are not put in place.
- 9.13.9. It is foreseen that the Planning Scheme has the potential to have in-combination effects to the special conservation interests of the North Bull Island SPA through disturbance and contamination.

- 9.13.10. Threats to Annex I habitat within the North Dublin Bay SAC could be caused by digging and contamination due to the proximity and the hydrological link with the Planning Scheme. Due to the sensitivities of the qualifying interests of Baldoyle Bay SAC and the hydrological link and proposed digging within the Planning Scheme, a precautionary approach has been adopted in bringing this European Site to Stage 2. Baldoyle Bay SPA is sensitive to pollution and further investigation into hydrological links may also be required. However, it is not expected that the Planning Scheme will effect these European sites due to the distance (8.13km) and nature of the Scheme.
- 9.13.11. There were no other pathways for significant effects for the remaining European Sites within 15km of the SDZ and these sites were screened out. I would also be satisfied that the remaining sites are located at such a distance from the SDZ that effects are not foreseen.
- 9.13.12. The next step of the screening process is to Identify the potential (a) likely and (b) significant effects (direct or indirect) of the project in combination with other plans or projects on the European site(s) solely within the context of the site's conservation objectives in light of best scientific knowledge in the field.
- 9.13.13. Section 3.4 of the Natura Impact Report lists all relevant plans and projects that were reviewed for in-combination effects. Possible significant effects and risks of significant in-combination effects were identified within Table 3.3 of the Natura Impact Report from the Fingal Development Plan, 2017-2023, the Dublin City Development Plan, 2013/2022, Dublin Port Masterplan, 2012-2040, North Lotts Grand Canal SDZ Planning Scheme (2013), Dublin Port 6-Year Dredge Plan, S2S – Dollymount Promenade and flood protection project, Dublin Eastern Bypass project, Wastewater Treatment Plan Extension Works at Ringsend, Alexandra Basin Redevelopment Project, Water Supply Project Eastern and Midland Region and the Greater Dublin Area Cycle Network Plan.
- 9.13.14. Having regard to the above, it can be concluded that the Planning Scheme may have significant impacts on six European Sites, and applying the precautionary principle, and in accordance with Article 6(3) of the Habitats Directive, I concur that a Stage 2 appropriate assessment is required for these sites. It can therefore be determined that likely significant effects, either individually or in combination with

other plans or projects, on any European Site cannot be reasonably ruled out in this case on the basis of objective scientific information. A Stage 2 Appropriate Assessment must be carried out to establish if the project will adversely affect the integrity of any European site, either individually or in combination with other plans and project, in view of the sites' conservation objectives.

Stage 2 – Appropriate Assessment

- 9.13.15. The purpose of the Stage 2 Appropriate Assessment is to establish if the plan or project will adversely affect the integrity of the European site, either individually or in combination with other plans and project, in view of the site's conservation objectives. The Stage 2 Appropriate Assessment should consider mitigation measures where appropriate, both those proposed by the applicant and those that may be considered necessary to be required by the Board.
- 9.13.16. The six European Site identified from the Stage 1 screening exercise to have potential for adverse effects as a result of implementation of the Planning Scheme alone or in-combination with other plans or projects are South Dublin Bay SAC, North Dublin Bay SAC, Baldoyle Bay SAC, South Dublin Bay & River Tolka Estuary SPA, North Bull Island SPA and Baydoyle Bay SPA.
- 9.13.17. According to NPWS GIS mapping, small sections of the South Dublin Bay SAC and the South Dublin Bay & Tolka River Estuary SPA appear to overlap with the SDZ lands. However, the SDZ boundary is shown along the seaward side of the existing coastal path in places. It is stated in the Natural Impact Report that no provisions within the Planning Scheme are likely to cause direct or indirect habitat loss to any European Site.
- 9.13.18. Each of the qualifying interests/ special conservation interests (QI's/ SCI's) of each of the European Sites brought forward from Stage 1 are set out in Table 4.2 and Appendix 1 of the Natural Impact Report. Table 4.3 gives a detailed analysis of impacts that could potentially occur through implementation of the Planning Scheme with reference to the QI's/ SCI's of all European Sites brought forward from Stage 1.
- 9.13.19. Mitigation is required to minimize noise pollution and amenity use effects, vibrations and sediment release, and adherence to best practice guidelines will be necessary. There is potential for disturbance to bird species within the adjoining SPA through

increased noise, vibrations and increased visitor numbers. Temporary disturbance may also occur to wading wintering bird populations commuting between Dublin Bay north and south. In terms of fragmentation, it is stated that barriers to species movement will be temporary and occurring during the construction phases by way of noise. The area is urbanised and this effect is considered to be low. Implementation of the Planning Scheme could result in alterations to the hydrological regime or physical environment due to vibrations, alteration of flow regime and sediment dynamics, and discharge of pollutants to water.

- 9.13.20. Section 9.1 of the SEA Environmental Report also sets out mitigation measures envisaged to prevent, reduce and offset any significant adverse impact on the environment from implementing the Planning Scheme. Table 5.1 of the Natura Impact Report includes those measures from both the Planning Scheme and Development Plan relevant to safeguarding all European Sites.
- 9.13.21. Mitigation measures take the form of higher level policies and objectives developed in an iterative manner during preparation of the Draft Planning Scheme. The Natura Impact Report recognises that the policies and objectives that make up the Planning Scheme are strategic and the impact assessment can at best be generalised. It should be noted, however, that each individual planning application will be screened for Appropriate Assessment, and mitigation and avoidance measures implemented at project level, having regard to the fact that they cannot be predicted at Plan level. Moreover, the Appropriate Assessment and Strategic Environmental Assessment of the Planning Scheme have resulted in the development and amendment of a number of policies and objectives to strengthen the protection of European Sites.
- 9.13.22. A programme of monitoring of environmental effects of the Planning Scheme is included in Section 10 of the SEA Environmental Report, and this will allow for unforeseen adverse effects to be met with appropriate remedial action. Table 5.2 of the Natura Impact Report sets out indicators for various environmental components to be monitored with accompanying targets, source data and frequency.
- 9.13.23. Overall, I consider that it is a suitable approach in this case to incorporate measures into the Planning Scheme to mitigate against potential effects on European Sites in an iterative manner that prioritises the avoidance of effects in the

first place and mitigates against these where they cannot be avoided. Measures to protect water quality and habitats and species are set out clearly in the Planning Scheme in the form of higher level policies and objectives. It should be noted that the Planning Scheme will be a lower tier plan of the Dublin City Development Plan, which also contains measures to protect the environment that must also be adhered to. Finally, all developments proposed under the Planning Scheme will themselves be subject to appropriate assessment when further details of design and location are known.

9.13.24. Under Section 169(7A), before deciding if any modification to the Scheme constitutes a material change but would not constitute a change in the overall objectives of the Planning Scheme, the Board shall determine whether the extent and character of the modification it is considering is such that the modification, if it were made, would be likely to have a significant effect on the environment (within the meaning of Annex II of Directive 2001/42/EC) or on a European site. Existing mitigation measures within the Planning Scheme are seen to be robust and therefore the effects arising from the modifications are considered to be low in the context of the wider Scheme. Any modifications proposed under this assessment are not of a nature or scale that would be likely to have a significant effect on a European Site.

9.13.25. I consider it reasonable to conclude on the basis of the information on the file, which I consider adequate in order to carry out a Stage 2 Appropriate Assessment, that the Planning Scheme, individually or in combination with other plans or projects would not adversely affect the integrity of the European site No's: 4024, 4006, 4016, 210, 206 and 199, or any other European site, in view of the site's Conservation Objectives.

10.0 Conclusions and Recommendation

10.1. The Draft Poolbeg Planning Scheme has been prepared in response to the Government's designation of the area as an SDZ and the opinion that its development is of economic and social importance to the State. I would be satisfied that adequate provision is made for the establishment of development and

uses of the nature identified within the designating order. The content of the Draft Planning Scheme is generally in compliance with the appropriate sections and articles of the Act and Regulations and is acceptable within the context of the Development Plan core strategy and Housing Strategy.

- 10.2. The Draft Planning Scheme sets out a reasonable template for the mixed use development of the SDZ lands, the formation of a new neighbourhood, the creation of employment opportunities and the continued operation of Dublin Port. Development is limited by the corridor reservation for the M50 Dublin Port Access to the former Irish Glass Bottle site and Fabrizia lands at this time. These lands are nonetheless still capable of being developed into a high quality coastal and city quarter comprising a good mix of residential, retail and community/ education uses, buffered from industrial / port uses by commercial blocks and open spaces.
- 10.3. I am satisfied that in general, the scale, height and capacity of development are such that the development potential and land use efficiency of the site can be maximised. The height strategy is designed to highlight nodes, frame views and encourage legibility. There is good height variation throughout the site, as well as a certain order that is reflective of the street function. It is preferable, however, that the proposed heights for taller building are emphasised and that greater variation is allowed in parapet height and setback for lower buildings throughout the scheme to give a greater sense of diversity and legibility, and to break up the bulk of block form. References to the capacity of the site in terms of exact number of dwellings and floor space are unhelpful. The capacity and height of the neighbourhood should be limited by design safeguards and surrounding context rather than a specified range of residential and commercial development.
- 10.4. I have serious concerns that whilst the critical mass and uses will be present for people to carry out their everyday business in convenience, there is an absence of finer detail throughout the Scheme to demonstrate that the public realm will be attractive for people to stay and enliven outdoor places. New developments can emerge as sterile, cold and uninviting places and the success of Poolbeg West as a neighbourhood to a large degree depends on the presence of people in well designed and intimate urban spaces. I propose that this be addressed by way of an Urban Form Development Framework to include a landscape masterplan, an open space strategy, proposals for enlivening spaces and edges, public realm design

details, development codes for blocks and detailed proposals for the design, layout and usage of the neighbourhood square.

- 10.5. Poolbeg West is located in proximity to the city centre but will still require sufficient public transport and cycle linkages, together with safe and attractive pedestrian environments to discourage private car use. There must be a definitive policy on car parking so that Poolbeg West can become a largely car free and people friendly urban quarter, devoid of the negative effects of excessive car ownership, storage and usage. A car parking strategy should also form part of the Urban Form Development Framework.
- 10.6. With respect to the provision of social and affordable housing, I would be in agreement that an inclusive and socially balanced community should be encouraged through provision of a variety of housing types and tenures. The Board, however, cannot impose any agreement outside the scope of Part V of the Planning and Development Act, 2000 (as amended). Notwithstanding this, it appears that a commercial agreement will be entered into between the Receivers, the Department of Housing Planning and Local Government and Dublin City Council to provide additional social and affordable housing of up to 25% of units proposed.
- 10.7. A number of other issues were raised by appellants regarding proposals for Dublin Port lands within the Eastern Bypass corridor reservation. These proposals, however, would not be compatible with the requirements of Transport Infrastructure Ireland, and furthermore, Dublin Port require all of their lands for port consolidation in view of revised growth figures for the port.
- 10.8. There may be serious issues with respect to land contamination and stability that will have to be addressed before any development can take place on site. Developers will be required to carry out a full contaminated land risk assessment and to implement a contamination interception, monitoring and mitigation management system, with all sites being remediated to acceptable standards. Each individual planning application must also be screened for Appropriate Assessment, and mitigation and avoidance measures implemented at project level.
- 10.9. Finally, Poolbeg West has the potential to become high quality living and working environment, an attractive destination for Dublin and a gateway between the city

and the sea. The Development Agency have put together a template for development that can successfully deliver such a place. However, it is essential that Poolbeg West becomes a place for people. This will ensure that a new community can be established in an environment that is safe, pleasant and inviting for everyday life and where places are enlivened by people walking, talking, exercising and resting.

10.10. Having regard to the above, I recommend that the Poolbeg West Draft Planning Scheme is approved with modifications. I do not consider that any of the proposed modifications would constitute a material change in the overall objectives of the Planning Scheme. If the Board determines that certain modifications constitute a material change but would not constitute a change in the overall objectives of the Planning Scheme, I consider that the extent and character of any modification would not be likely to have a significant effect on the environment (within the meaning of Annex II of Directive 2001/42/EC) or on a European Site.

11.0 Reasons and Considerations

Having regard to:-

- the provisions of Part IX of the Planning and Development Act, 2000 (as amended);
- the designation by the Government of this area as a Strategic Development Zone by S.I. No. 279/2016, Planning and Development Act, 2000 (Designation of Strategic Development Zone: Poolbeg West, Dublin City) Order 2016;
- national and strategic policy and guidelines as set out in Project Ireland 2040 - The National Planning Framework (NPF) and the National Development Plan 2018-2027 (NDP), the Regional Planning Guidelines for the Greater Dublin Area 2010-2022, the National Transport Authority's Transport Strategy for the Greater Dublin Area, 2016-2035, and the Dublin Port Masterplan 2012-2040 and Dublin Port Masterplan Review published in April 2018;

- the provisions of the Dublin City Development Plan, 2016-2022 and the current Housing Strategy for the area;
- the existing pattern of development in the area, the effect the scheme would have on any neighbouring lands and the effect the scheme would have on any place which is outside the area of the planning authority;
- the documentation and submissions on file; and
- the report of the Inspector, who conducted an oral hearing,

the Board considered that, subject to the modifications set out below, the draft Planning Scheme complies with the relevant statutory requirements and provides for the comprehensive planning and sustainable development of the site in accordance with the requirements of the Strategic Development Zone designation, and would therefore be in accordance with the proper planning and sustainable development of the area.

Strategic Environmental Assessment

The Board noted the Strategic Environmental Assessment process followed in the development of the Planning Scheme and noted the content of the Environmental Report. The Board took the foregoing into account in considering the draft Planning Scheme and agreed that the relevant requirements of the Planning and Development Acts and the Planning and Development Regulations have been fulfilled with the regard to the Strategic Environmental Assessment process.

Appropriate Assessment

Stage 1:

The Board considered the Screening Report for Appropriate Assessment, the Natura impact statement and all other relevant submissions and carried out an appropriate assessment screening exercise and an appropriate assessment in relation to the potential effects of the proposed development on designated European Sites. The Board noted that the proposed development is not directly connected with or necessary for the management of a European Site and considered the nature, scale and location of the proposed development, as well as the report of the Inspector.

The Board agreed with the screening assessment and conclusion carried out in the Inspector's report that South Dublin Bay SAC (Site Code: 210), North Dublin Bay SAC (Site Code: 206), Baldoyle Bay SAC (Site Code:4016), South Dublin Bay & River Tolka Estuary SPA (Site Code: 4024), North Bull Island SPA (Site Code: 4006) and Baydoyle Bay SPA (4016) are the European Sites for which there is a likelihood of significant effects.

The Board was satisfied that all other European Sites could be screened out of any further assessment because of the nature of the European Site, the absence of an aquatic connection between the European Site and the SDZ site, or the location of the European Site located at such a distance from the SDZ that effects are not foreseen.

Stage 2:

The Board considered the Natura impact statement and all other relevant submissions and carried out an appropriate assessment of the implications of the proposed development for European Sites in view of the sites' conservation objectives (South Dublin Bay SAC (Site Code: 210), North Dublin Bay SAC (Site Code: 206), Baldoyle Bay SAC (Site Code:4016), South Dublin Bay & River Tolka Estuary SPA (Site Code: 4024), North Bull Island SPA (Site Code: 4006) and Baydoyle Bay SPA (4016)). The Board considered that the information before it was adequate to allow the carrying out of an Appropriate Assessment.

In completing the assessment, the Board considered, in particular, the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects, the mitigation measures which are included as part of the current proposal and the conservation objectives for these European Sites, the iterative manner of assessment that prioritises the avoidance of effects in the first place and mitigates against these where these cannot be avoided, and the fact that the Planning Scheme is a lower tier plan of the Dublin City Development Plan, and that all developments proposed under the Planning Scheme will themselves be subject to appropriate assessment when further details of design and location are known.

The Board considered the modifications below and determined that these modifications do not constitute material changes and would not constitute a change

in the overall objectives of the Planning Scheme. It is also considered that the extent and character of any modification would not be likely to have a significant effect on the environment (within the meaning of Annex II of Directive 2001/42/EC) or on a European Site.

In completing the Appropriate Assessment, the Board accepted and adopted the Appropriate Assessment carried out in the Inspector's report in respect of the potential effects of the proposed development on the aforementioned European Sites, having regard to the sites' conservation objectives. In overall conclusion, the Board was satisfied that the Planning Scheme (including modifications), by itself and in combination with other plans and projects, would not adversely affect the integrity of any European Sites in view of the sites' conservation objectives.

The Board, therefore, approves the Draft Planning Scheme, subject to the modifications set out below.

12.0 Modifications

1. A copy of the consolidated Planning Scheme, hereby approved and as modified by this order, shall be prepared by the Development Agency prior to the publication of notice of approval of the Scheme as required under section 169(7)(b) of the Planning and Development Act, 2000 (as amended). The consolidated Planning Scheme shall be used by the planning authority in assessing all planning applications in the Scheme area.

Reason: In the interests of clarity and public information.

2. The Strategic Environmental Assessment Statement for the Draft Planning Scheme and all accompanying reports shall be amended to reflect the modifications (below) applied by this order. This includes the following Objectives from Table 2.1 Mitigation Measures; Objective IU11 (Modification 33), Objective IU1 (Modification 34), Objective IU9 (Modification 35), and Objective IU5 (Modification 36).

Reason: In the interests of clarity and to comply with the provisions of article 179I(2) of the Planning and Development Regulations 2001-2013.

3. Replace Objective PR1 with the following:

An Urban Form Development Framework shall be prepared for the neighbourhood (A1-A4 lands and associated roads and public spaces) by the Development Agency in accordance with the Poolbeg Planning Scheme and in consultation with the relevant landowners and the Docklands Oversight and Consultative Forum as a pre-requisite to the approval of any planning applications with the SDZ. The purpose of the Urban Form Development Framework is to provide clarity and to assist the assessment of whether planning applications are consistent with the objectives of the Planning Scheme

The Framework shall, as a minimum, include the following:

- An open space strategy to fully classify, describe and quantify parks and to set out their character and function;
- A landscape masterplan including detailed design for all open spaces and proposals for creating small, intimate spaces within larger open spaces;
- An overall strategy and detailed measures to encourage people to spend time and enliven public spaces;
- A micro-climate assessment and proposals for moderating the impact of wind in public places;
- Detailed proposals for soft edges or 'defensible spaces' where all buildings meet the public realm (Amendment to Figure 11.11 – Street Interface Options).
- Public realm design details including inter alia, surfacing, materials, planting, street furniture for key components of the development lands, including (i) major streets, (ii) minor streets (iii) parks, open space and green routes and screening and (iv) courtyards.
- Detailed proposals for the design and layout of the neighbourhood square to include plans, elevations, photomontages and sketches illustrating the relationship of surrounding buildings to ground space,

typical ground floor uses and frontages, night time uses, proposals for creating edges attractive to people, access arrangements, formal and informal pedestrian facilities, ground levels and finishes, street furniture, planting, lighting, etc. The neighbourhood square may include outdoor market space, features such as fountains/ sculptures, art installations, outdoor games, meeting places, etc.

- Provision of development codes for each block to include specific objectives for use mix, height range, public realm and infrastructure provision; ground floor sample elevations, and a plan of the relevant block.
- Car parking strategy including exact numbers of on-street and off-street car parking spaces, together with details of on-street parking, time limitations, parking costs, access to car parks, allocation of spaces for shared vehicles, electric vehicle charging points, loading spaces, disabled spaces, alternative temporary uses for parking spaces, design of parking spaces and surroundings, etc.

Unless agreed otherwise, owners of landbanks within the SDZ area will prepare public realm masterplans for their respective areas, for adoption into an ~~Overall Public Realm Masterplan~~ **the Urban Form Development Framework** for the entire SDZ area, to be approved by Dublin City Council. Prior to the preparation of this ~~Overall Masterplan~~ **Framework**, the exact layouts and widths of streets and spaces within the SDZ area are to be confirmed and agreed with relevant agencies and Dublin City Council.

Reason: In the interests of clarity and to ensure that the Poolbeg West neighbourhood is developed as a high quality people-focused urban quarter.

4. Replace all references to the overall public realm masterplan with Urban Form Development Framework.

Reason: In the interests of clarity and consistency.

5. Chapter 11: Add to Objective US6: The Development Agency shall prepare an overarching Architectural Concept Statement for Poolbeg West and

shall require individual 'Architectural Design Statements' to be submitted with all planning applications to ensure a holistic and coherent architectural design approach for all buildings and streets in Poolbeg West.

Architectural Design Statements should be prepared in cooperation with adjoining applications within an individual block and within the context of all blocks within a street to forge an individual street identity with emphasis on vertical features and own door access.

Reason: To facilitate the development of visually co-ordinated and coherent streetscapes.

6. Remove all references to residential potential of 3,000 to 3,500 dwelling units and the range of commercial office/ enterprise space of 80,000 to 100,000 sq.m. Residential/ Commercial development shall be based on an 80-85%/ 15-20% split and shall be limited by design safeguards and surrounding context, to include assessments of shadow, wind, residential amenity and visual impacts.

Reason: It is considered that the Draft Planning Scheme and supporting studies and indicative layout and building heights are adequate to demonstrate the range of development that can occur on site.

7. Add to Section 3.3: A flexible approach will be taken to social and affordable housing mix, to reflect need in respect of units provided under Part V of the Planning and Development Act, 2000 (as amended), and additional units provided to Dublin City Council and/ or the Department of Housing, Planning and Local Government under any commercial agreement voluntarily entered into to provide up to a maximum of 15% of units outside of the Planning Scheme on commercial terms, and this will not have any consequential impact on the housing mix on the balance of the Planning Scheme area.

Reason: To allow for a mix of tenure throughout the Scheme and in the interests of clarity and consistency.

8. Amend Section 3.5: ~~Of the 3,500 new homes permissible on the site under this Planning Scheme, 900 will be delivered as either social and/or~~

~~affordable units including units for senior citizens. A minimum~~ **maximum** of **10% of new homes permissible on site under this Planning Scheme** will be delivered as social housing in accordance with the provisions of Part V of the Planning and Development Act 2000, (as amended). In addition, ~~given public investment in enabling infrastructure for the area and in order to ensure a proper and sustainable tenure mix, it is intended that a commercial agreement¹ with confirmed funding will be entered into, prior to commencement of development, between Dublin City Council, the Department of Housing, Planning, Community and Local Government and the owners/developers of the residential element of the overall SDZ area which will ensure with the aim of ensuring the delivery of the balance of the social/affordable homes~~ additional homes for affordable use. These additional homes will provide 15% of final permissible units within the SDZ area for affordable use and a total of 25% for social and affordable use, in combination with the Part V provision.

~~This objective takes account of and implements Government Policy as set out in the 'Action Plan on Housing and Homelessness Rebuilding Ireland' including Actions 2.4 and 2.8 (delivery of additional social housing over and above Part V through a variety of means), Action 2.16 (housing for older people, including assisted living), Action 3.1 (Local Infrastructure Housing Activation Fund-LIHAF) and Action 4.6 (affordable rental), together with policies promoting tenure diversity in the City Council's Housing Strategy. In addition, Dublin City Council will be given an option, as part of the SDZ to acquire at market rate, 100 housing units.~~

¹ Outside of the Planning Scheme.

Reason: To comply with Part V of the Planning and Development Act 2000 and to facilitate affordable housing.

9. Amend all relevant figures: 20-24 storey landmark building shall be relocated north-east to form part of or replace adjacent 8-9 building.

Reason: To mitigate overshadowing and overbearing impacts on the neighbourhood square.

10. Amend Figures 11.3 and 11.9 and all relevant text so that taller buildings are indicated as follows:

12-14 Storeys

16-17 Storeys

18-19 Storeys

20-24 Storeys

Reason: To maximise development potential and land use efficiency and to allow for proper implementation of a height strategy that provides for sufficient height differentiation and legibility.

11. Amend Section 11.5.1, last bullet point: ~~Whilst no minimum height has been set for~~ Where Landmark or Gateway buildings ~~where such buildings are required they shall be of sufficient height (compared with adjacent buildings)~~ **and consistent with the height strategy** so as to ensure legibility throughout the SDZ and to enhance the diversity of the skyline, particularly when viewed from surrounding areas.

Reason: To maximise development potential and land use efficiency and to allow for proper implementation of a height strategy that provides for sufficient height differentiation and legibility.

12. Amend Section 11.5.1: An additional **one to two** setback storeys, above the maximum height (but excluding landmark/gateway buildings), may also be permitted to add further variety, subject to detailed urban design, shadowing analysis and **height variation**.

Reason: To allow for flexibility and variation in building height.

13. Amend Section 3.4 (2nd paragraph): Buildings will be predominantly 4-9 storeys ~~28m in height. i.e. 4-7 storey commercial and up to 9 storeys residential.~~ Midrise **and taller** heights of ~~up to~~ **50+m** can also be accommodated at a ~~limited~~ number of locations.

Reason: To maximise development potential and land use efficiency.

14. Amend Section 11.3.5: An urban envelope has been determined for these areas which allows for a range of uses and buildings including the

predominant use for cargo storage and container storage ~~up to 3 containers high.~~

Reason: In the interests of clarity and consistency.

15. Amend all relevant figures:

- Buildings in B1 & B2 lands shall have height limit of 28m.
- All modifications to building height as illustrated should be reflected throughout the document text.

Reason: In the interests of clarity and consistency.

16. Remove mixed use zoning within Port Park and amend to 'development infrastructure/ open space'.

Reason: In the interests of residential amenity.

17. Amend second paragraph of Section 4.4.2:

The planning scheme will seek to ensure that developments in Poolbeg West contribute to the 5% allocation of space in the docklands area to be used for social, **community**, cultural, creative and artistic purposes.

Reason: In the interests of clarity and consistency.

18. Amend CD8 (i) To require all developments over 200 residential units/10,000m² to provide 5% social, community, **cultural**, creative and artistic space(s) in the SDZ as identified in an updated 2015 Cultural and Community Audit, to be completed within 6 months. This space can be provided in tandem with needs identified through the cultural and community audits to achieve viable economies of scale. Each application must demonstrate how this is to be provided for as part of the implementation of the SDZ scheme set out in Chapter 12. The scheme shall aim to provide for artists' studios comprising 10 – 20 studios in one or more clusters, delivering a minimum of 40 artist studios of varying size.

Reason: In the interests of clarity and consistency.

19. Amend Section 11.3.4 as follows:

New community facilities and a primary school are to be provided to the

south-west of the site near the Clanna Gael GAA Club, to enable the co-sharing of facilities. The location of community facilities and the school is fixed to this location. The final form of the school and community facilities is however flexible and will be determined in consultation with the Department of Education. **The provision of a school and community facilities on the ground/ lower levels may include residential uses above, subject to adequate and appropriate area being made available for educational and/ or community requirements and subject to the protection of the amenities of the school and residents above. Upper floor uses shall be restricted to residential or community uses. If agreement cannot be reached for a mixed use development model on the school site, a height limit of up to 5 storeys shall apply to the site.** In determining the final form of the school and community facilities, including a sports facility, regard will **also** be had to the possibility of the development of such a facility being undertaken in collaboration with local sporting clubs.

Reason: To allow for greater flexibility in building formats and to foster community cohesion.

20. Amend Figures 11.3 to show increased building height aligning the south-west side of South Bank Road and within the community/ education block in accordance with Figure 1 of the Development Agency's response to the Becbay/ Fabrizia (In Receivership) received by An Bord Pleanála on 5th December 2017.

Reason: In the interests of clarity and consistency.

21. Amend 6th Paragraph of Section 9.3: If, following future analysis, it is decided not to take up these lands for education/ community uses, such uses must then be provided in the next block(s) immediately to the east **north-west** and the designated site used for housing.

Reason: In the interests of clarity and consistency.

22. Amend Section 11.5.2: A greater range of block layouts may be considered in commercial areas, the Neighbourhood Centre and

Community Hub where public access may be desirable to all sides of the building. **Commercial blocks may also be based on full site coverage incorporating an atrium, to enable larger floor plates.**

Reason: To allow for greater flexibility in office floorplates and areas.

23. Amend Objective H5: Where the scheme is a dedicated build-to-rent, proposals including studios/shared accommodation, the mix shall comply with table 3.2. To avoid domination of any particular unit mix or tenure, any such build to rent proposal shall be limited to one scheme in the range of 100-150 units **within each of the four urban blocks.**

Reason: To allow for a greater mix of tenure throughout the neighbourhood.

24. Amend Section 11.2.1(1st Paragraph): The main points of access to Poolbeg West are Seán Moore Road and South Bank Road via new **network of Local Access Streets/ Green Links.**

(2nd Paragraph):

The street hierarchy and street layouts have been developed in accordance with the Design Manual for Urban Roads and Streets (DMURS) to create self-regulating network that prioritizes the safety of vulnerable users and the movement of sustainable modes. **The street hierarchy, including indicative cross sections and layouts are illustrated in Appendix 2. This includes:** ~~The alignment and widths of Main Access Streets/Green Links/Boulevard are fixed and comprises; (see also Appendix 2—Street Hierarchy, Cross Sections & Layout).~~

A. ~~The~~ **A** new 27m wide Central Boulevard (+/- 2m depending on specific site circumstances) incorporating cycle lanes, together with wide footpaths and a treed lined landscape strip integrated with SUDS (See Figure 11.4 – Central Boulevard Photomontage). This central boulevard also serves the major function of linking the maritime character of the Bay back through Poolbeg West to Ringsend/ Irishtown. **The alignment and width of Central Boulevard is fixed.**

B. A new 20 m wide (+/- 2m depending on specific site circumstances)

South Bank link **Access** street located between blocks A1 and A2 and connecting to the retail hub/ Village Green area. **The alignment and width of the South Bank Access Street is fixed.**

C. A new 16m wide 'Green' coastal **and school access** route (+/- 2m depending on specific site circumstances) linking Seán Moore Road to the proposed school site, Village Green and on to the Coastal Park.

The alignment and width of the Coastal and School Route is fixed.

D. The alignment and widths of other ~~more~~ local streets (**i.e. Side Streets and Home Zones**) is flexible, provided a DMURS compliant grid like network is achieved.

Vehicular access to basement car parking should be discreet **and provided from Side Streets where possible.**

Reason: To provide a greater degree of clarity.

25. Amend Appendix 2 to reflect above changes.

Reason: In the interests of clarity and consistency.

26. Amend Section 6.2 (3rd bullet point): The eastern By-Pass reservation corridor needs to be accommodated within the SDZ to comply with the NTA Transport Strategy for the Greater Dublin Area 2016-2035. The section of the Bypass route extending from the southern end of the Port Tunnel to the South Port area (i.e. SPAR, **now referred to as M50 Dublin Port South Access**) is to be delivered within the lifetime of the NTA Transport Strategy for the Greater Dublin Area. This will have an impact on potential land uses within the SDZ; **however, it should not impact on lands to the south of South Bank Road, and development can proceed in this area in advance of any further route selection studies.** The development of the Planning Scheme is not contingent on the construction of the Eastern bypass from the east end of South Bank Road southwards.

Reason: In the Interests of clarity.

27. Amend Section 6.5: Planned strategic route investment for the area includes the Eastern bypass (alignment preservation) and associated South Port Access route, and the Dodder Bridge. Important for the long-

term development of this area is the protection of an alignment for the South Port Access Route protected within the Eastern by-Pass corridor and is similarly protected for the future in accordance with the National Transport Authority Transport Strategy for the Greater Dublin Area. **Dublin City Council will also work with Transport Infrastructure Ireland and the National Transport Authority to refine the route of the South Port Access/ Eastern Bypass Corridor Reservation.** The SPAR scheme would either terminate at Seán Moore Road roundabout or at a new junction further east. Because the South Port Access route will not be delivered for some time, the matter of heavy traffic on South Bank Road needs to be addressed. In this regard it is intended to provide in the short term a new access as an 'Alternative (South) Port Access Route' to the south port area north of the proposed new junction of Seán Moore Road/South bank Road.

Reason: In the interests of clarity.

28. Amend Street Hierarchy, Cross Section and Layout (Appendix 2): South Bank Link Street shall include cycleway provision segregated from the carriageway/ bus route.

Reason: In the interest of cyclist safety.

29. Amend Street Hierarchy Figures (Appendix 2): Carriageway widths along Central Boulevard, South Bank Road and South Bank Link Street shall be no more than 6m.

Reason: To limit motor vehicle speed and dominance in the interest of pedestrian and cyclist safety.

30. Amend all relevant figures and text: Raised tables or platforms shall be placed at all junctions with side streets along Central Boulevard, South Bank Road and South Bank Link Street. These tables shall incorporate opportunities for pedestrians to cross in all directions.

Reason: In the interest of pedestrian safety and convenience.

31. Amend Street Hierarchy, Cross Section and Layout (Appendix 2): Include site access to John Bissett Engineering site as per the Development

Agency's response received by An Bord Pleanála on 30th November 2017.

Reason: In the interest of clarity.

32. Add new point to number list at Section 9.4:

A transportation and infrastructure masterplan shall be developed for Area A and submitted as part of the first planning application, which may be for infrastructural elements only. This is to recognise that infrastructure, transport connectivity, utilities and public realm are required to be dealt with at site level.

Reason: In the interests of clarity and to facilitate comprehensive development.

33. Amend Objective IU11 That all undeveloped sites be remediated to internationally accepted standards prior to redevelopment. **Proposed land use types shall be compatible with potential risks identified within the Conceptual Site Model of Contamination Risk. Developers will be required to carry out a full contaminated land risk assessment and to implement a contamination interception, monitoring and mitigation management system.** All applications shall be accompanied by a report from a qualified, expert consultant detailing compliance with the remediation measures as outlined in the Remediation Measures Report. The remediation shall incorporate international best practice and expertise on innovative ecological restoration techniques including specialist planting and green initiatives that create aesthetically improved sites, healthy environments and contribute to the provision of new green open spaces as integral parts of newly created areas. Treatment/management of any contaminated material shall comply as appropriate with the Waste Management Act 1996 (waste licence, waste facility permit) and under the EPA Act 1992 (Industrial Emissions licensing, in particular the First Schedule, Class 11 Waste). These measures will ensure that contaminated material will be managed in a manner that removes any risk to human health and ensures that the end use will be compatible with any risk.

Reason: In the interests of public health and safety.

34. Amend Objective IU1 To require all proposed developments to carry out a site specific Flood Risk Assessment (SSFRA) that shall demonstrate compliance with:

- The Planning System and Flood Risk Management, Guidelines for Planning Authorities (Department of the Environment, Heritage and Local Government, November 2009, as may be revised/updated).
- The prevailing Dublin City Development Plan.
- **Recommendations contained within Section 4 of the Strategic Flood Risk Assessment for the Poolbeg West Planning Scheme.**

Reason: In the interests of clarity.

35. Replace Objective IU9 – That all developments shall be District Heating enabled and this shall be demonstrated through compliance with the Dublin City document “Dublin District Heating System – Technical Information Park for Developers”, (Feb. 2018) and future updated versions of this document.

Reason: In the interests of clarity and to provide for sustainable development.

36. Amend Objective IU5 To ensure that development is permitted in tandem with available waste water, surface water and water supply, and to manage development, so that new schemes are permitted only where adequate water supply resources exist or will become available within the life of a planning permission.

Developers shall prepare and implement local network plans for water supply and wastewater treatment in accordance with the requirements and subject to the approval of Irish Water. Provision shall be made within SDZ lands for an easily accessible below ground wastewater pumping station and associated above ground kiosk, with flexibility as to the precise location, subject to the approval and

designed in accordance with Irish Water standards.

The build out of the Planning Scheme shall ensure that all critical infrastructure is not built over and appropriate clearance is made available to facilitate maintenance.

Reason: In the interests of clarity and to ensure a proper standard of development.

. Donal Donnelly
Planning Inspector

3rd July 2018