



Headquarters, PO Box 3000
Johnstown Castle Estate
County Wexford, Ireland
Y35 W821

Ceanncheathrú, Bosca Poist 3000
Eastát Chaisleán Bhaile Sheáin
Contae Local Garman, Éire
Y35 W821

T: +353 53 9160600
F: +353 53 9160699
E: info@epa.ie
W: www.epa.ie

Mr Aidan Foley,
Director, MetroLink
Transport Infrastructure Ireland
Parkgate Business Centre
Parkgate Street
Dublin 8
D08 DK10

Via email to: aidan.foley@tii.ie

19 March 2024

Re: By-product Notification relating to MetroLink Project (Reference ART27-2538)

Dear Mr Foley,

A by-product notification (reference ART27-2538) was received by the EPA on 21 November 2021 from ARUP on behalf of Transport Infrastructure Ireland. The notification relates to a very significant quantity of excess soil and stone, in the region of 7.5 million tonnes, that the MetroLink project is expected to generate arising from both tunnel bore machine spoil and mechanical excavation.

In the intervening period, the EPA has progressed the assessment of the notification, including issuing two detailed consultation letters (January 2022 and April 2023) to seek further information and clarification. In addition, a meeting took place in December 2022 at EPA Headquarters, attended by representatives from TII and ARUP.

The EPA has a substantial programme of work underway in the Circular Economy Programme, which supports circular economy ambitions of government, industry, and businesses. We encourage the reuse of resources through waste prevention rather than being discarded and managed as waste. To this end, we published national end-of-waste criteria for recycled aggregates and national by-product criteria for site-won asphalt in 2023. We are currently working towards finalising national by-product criteria for greenfield soil and stone, which we expect to publish in mid-2024. We support the efforts

by developers of large-scale projects, such as MetroLink, to maximise the volume of excess material beneficially reused as by-product, as long as regulatory requirements are met.

We have given significant time and resource to the assessment of ART27-2538. The assessment is informed by guidance published by the EPA in 2019 on soil and stone by-products¹, which specifically requires demonstration that the notified soil and stone is uncontaminated, in that it is essentially, virgin soil and stone or equivalent to virgin soil and stone. In relation to ART27-2538, please note the following:

- It is acknowledged that a very large number of sample results have been provided; however, given the scale of the material notified, it cannot be stated with a sufficient degree of certainty that the sample data is representative of the entire volume.
- A review of the data indicates that contamination occurs in some areas within the subject notification, for example the presence of organic contamination such as Polycyclic Aromatic Hydrocarbons (PAH) is recorded.
- It is noted that a set of “environmental acceptance criteria” or limits has been proposed by which the soil and stone arising from the project will be categorised, with the proposed limits utilised to determine whether the material is suitable for use as by-product.
- A number of shortcomings have been identified in the DQRA presented in support of the said proposed environmental acceptance criteria, including *inter alia*:
 - a combination of background concentrations for the destination site, Huntstown, along with published soil trigger levels for this location have been proposed as generic assessment criteria;
 - where background concentrations have been proposed, they are based on maximum recorded concentration whereas best practice set out in EPA guidance (2020²) is to use the 98th percentile concentrations; and,
 - the selection of the compliance point in the scenarios presented in the DQRA is not in accordance with EPA guidance (EPA, 2011³).

Based on the above, the EPA is not satisfied that the risk assessment presented is sufficiently robust and provides the necessary assurances that the entire quantity of notified material is uncontaminated.

In order to optimise the potential for reuse of material from the project, it is our recommendation that the current notification be withdrawn. Instead, we invite separate notifications for suitable uncontaminated subsets of the material to be submitted. Future notifications must demonstrate compliance with the requirements for by-product in accordance with Regulation 27 of the Waste Directive Regulations 2011-2020. This will ensure the maximum amount of suitable material is reused by way of separate notifications for discrete batches of material arising from the project.

I trust that the above clarifies the position of the EPA.

¹ Guidance on Soil and Stone By-products (EPA, 2019)

² Guidance on waste acceptance criteria at authorised soil recovery facilities (EPA, 2020)

³ Guidance on the Authorisation of Discharges to Groundwater (EPA, 2011)

Yours sincerely,



Warren Phelan
Programme Manager
Circular Economy Programme

cc. Engin Sinopluoglu, Project Manager, TII (Engin.Sinopluoglu@tii.ie)
Sean Mason, Director, ARUP (Sean.Mason@arup.com)