

MetroLink - Module 2

All Other Matters

Monday 25th March 2024

Witness Statement by Jerry Barnes on Behalf of Charlemont & Dartmouth Community Group in relation to Policy, Amenities, Construction Phasing, Property Issues

1. Introduction

This statement is submitted on behalf the Charlemont & Dartmouth Community Group (CDCG), which made submissions on behalf of

- Dartmouth Road Residents
- Dartmouth Square West Residents
- General Area

Those represented are listed in the original written submissions. This statement relates to procedural matters, policy, alternatives, impact on amenities, EIA adequacy and property Issues. Many of the issues relating to the specific impacts upon the properties on Dartmouth Road and Dartmouth Square West have been covered in Module 1. There are also expert statements for CDCG in relation to legal matters and transportation planning issues.

2. Qualifications, Jerry Barnes MRTPI, MIPI, MRICS, MSCSI

My name is Jerry Barnes and I am a director of MacCabe Durney Barnes planning and environmental consultants. I hold, inter alia, an MPhil in environmental planning and an MSc in Planning and Development Economics and am a chartered town planner and chartered surveyor.

I have 35 years' experience in the planning and development roles. I have worked for local authorities, including Dublin City Council, was a transportation/land use planner for the Dublin Transportation Office (the NTA's predecessor), and was a senior inspector for An Bord Pleanála providing on occasions specialist advice on transport aspects of major projects. I have advised private clients on wide range of projects. I also represented the residents of Dartmouth Square in relation to the appeal at the Carroll's Building (P.A Reg.Ref: 2373/27-ABP PL29S.300873).

3. Cross Reference with TII Response

The instructions accompanying the agenda for the oral hearing indicate that submissions shall comprise responses to the applicant's written response to the original submission and any information submitted at the hearing. In order to assist the Inspector and the Board, this

statement is broken down into themes and is cross referenced with the TII response to submissions. Repetition of previous submissions will be avoided where possibly, but may be required in certain circumstances to demonstrate the context of a particular point that is being made. The TII responses are as follows:

Dartmouth Road Submission (TII Response 40)

Dartmouth Square West Submission (TII Response 41)

CDCG General Submission (TII Response 42)

Themes	TII Response Item No.
Procedure	Arising from TII submissions to hearing
Overview and History	TII Submission 42- Points 3,4
Matters Falling within the Boards' Remit	TII Submission 42 – Point 2.
Policy	TII Submission 42- Points 1,2,20, 40-48, Response 40- Points
Alternatives	TII Submission 42- Points 4,5,6,8,9,21,22, 56,57
Interchange	TII Response 42- Points 4,50,51
Business Case	TII Response 42- Points 3, 34-39,49
Amenities	TII Response 42- Points 66,79, TII Response 40- Points 20, 25, 67
Construction	TII Response 42- Points 11-17, TII Response 40- Points 44-49
EIA Adequacy	TII Submission 42- Points 59,60,61,62
Property Issues	TII Response 40- Points 26,68,

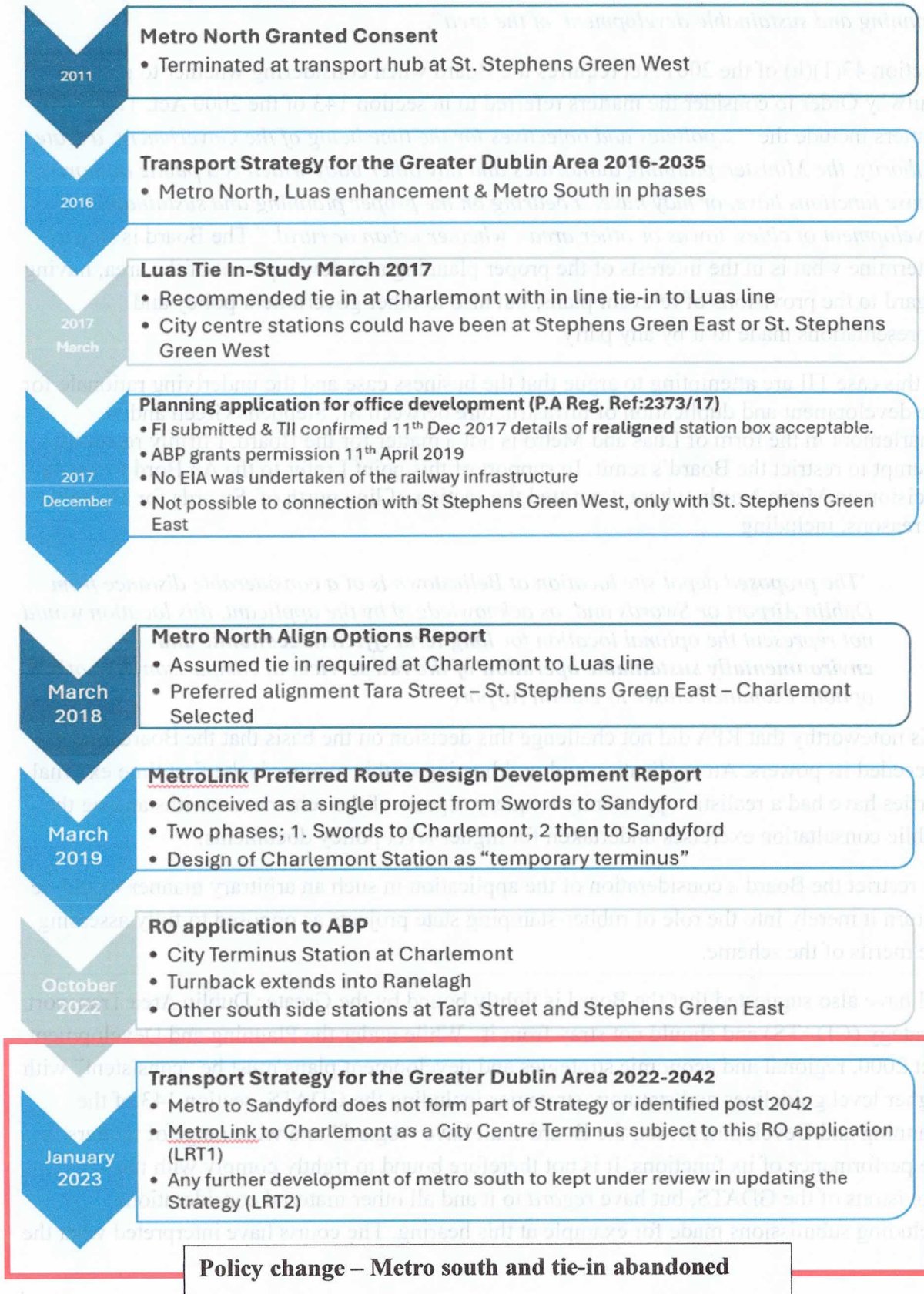
4. Procedures

It is noted that a significant volume of material has been presented to An Bord Pleanála at this hearing by TII, the applicant. The applicant, with the State's backing appears to have unlimited funds and very deep pockets. In comparison, the third parties and observers have to respond with limited resources and in particular time. The late nature of these submissions, many of which have been significant and material alterations to both the application and the EIAR and supporting documentation has put third parties at a significant disadvantage. As of Thursday 21st March, the applicant has submitted 175 additional documents to the hearing, which it is requesting the Board to take into account in its assessment of the RO. Changes have been made to assessments (e.g. noise and vibration) and has serious implications for individual property owners on Dartmouth Road, Dartmouth Square West and in the wider environs. It is also noted that there are third parties who may not have made initial submissions on the basis that they were not affected and who now, unbeknownst to them, are affected in a material way. This issue was raised in Module 1 and is raised here again as a significant procedural matter. It is evident that the original RO application as submitted was wholly inadequate.

This inadequacy, and the manner in which the applicant has attempted to feed material into the process, and those affected by the scheme, has resulted in additional and unreasonable costs being incurred. For these reasons, we are requesting costs to be awarded to CDCG under section 42(10) of the 2001 Act.

5. Overview and History

The following diagram illustrates the key points in the evolution of the project. Details are provided in the original submission.



6. Matters Falling within An Bord Pleanala's Remit

The TII responses suggest that An Bord Pleanala's remit in the assessment of the application cannot relate to economic matters and that *"It is solely responsible for assessing whether the Project is consistent with proper planning and sustainable development and that its effects on the environment are acceptable. It is highlighted that there is no definition of the "proper planning and sustainable development of the area"*.

Section 43(1)(h) of the 2001 Act requires the Board when considering whether to grant a Railway Order to consider the matters referred to in section 143 of the 2000 Act. These matters include the *"...policies and objectives for the time being of the Government, a State authority, the Minister, planning authorities and any other body which is a public authority whose functions have, or may have, a bearing on the proper planning and sustainable development of cities, towns or other areas, whether urban or rural."* The Board is free to determine what is in the interests of the proper planning and development of the area, having regard to the provisions of relevant plans, but also to other government policy and representations made to it by any party.

In this case TII are attempting to argue that the business case and the underlying rationale for the development and duplication of infrastructure between St. Stephens Green and Charlemont in the form of Luas and Metro is not a matter for the Board. I firmly reject this attempt to restrict the Board's remit. In support of this point I refer to the An Bord Pleanala decision on Metro North, where it omitted the section of line north of Swords for a number of reasons, including

"The proposed depot site location at Belinstown is at a considerable distance from Dublin Airport or Swords and, as acknowledged by the applicant, this location would not represent the optimal location for long term efficient economic and environmentally sustainable operation of the rail service, in comparison with other options examined closer to Dublin Airport"

It is noteworthy that RPA did not challenge this decision on the basis that the Board had exceeded its powers. An application and oral hearing of this manner is the first time external parties have had a realistic opportunity to query aspects of the scheme, notwithstanding the public consultation exercises undertaken for higher level policy documents.

To restrict the Board's consideration of the application in such an arbitrary manner would be to turn it merely into the role of rubber-stamping state projects as opposed to fully assessing the merits of the scheme.

TII have also suggested that the Board is tightly bound by the Greater Dublin Area Transport Strategy (GDATS) and should not stray from it. While under the Planning and Development Act 2000, regional and economic strategies and development plans must be "consistent" with higher level guidelines and statutory strategies including the GDATS, section 143 of the Planning and Development Act, the Board shall have "regard" to a wide range of matters in the performance of its functions. It is not therefore bound to tightly comply with the provisions of the GDATS, but have regard to it and all other material considerations, including submissions made for example at this hearing. The courts have interpreted what the

term “having regard to” means in *McEvoy v Meath County Council*, *Mayo County Council* and more recently in *Cork County Council V Office of the Planning Regulator*. “Having regard” implies looking at the matter concerned, and factoring in its relevance and/or weight, if any, as those matters appear to the decision-maker.

7. Policy

The illustration in section 5 above shows the evolution of the scheme relative to policy, with particular reference to the Greater Dublin Area Transport Strategy.

Greater Dublin Area Transport Strategy 2022-2042

Since the railway order was submitted, the GDATS has been adopted. This is issued by the National Transportation Authority, who have been joint promoters of the MetroLink project along with TII. It is therefore no surprise that the MetroLink is reflected in policy provisions of the Strategy, no matter how flawed the logic. It should be noted that the Strategy is not subject of any independent review by an external body with the appropriate expertise, in the case of, for example, development plans, which are reviewed by the Office of the Planning Regulator.

However, in considering how much weight should be applied to that policy, due consideration must be given to the actual policy provisions in the Strategy. There are a number of policies which I would like to highlight in this statement, which are somewhat ambiguous and, in some cases, conflicting.

In the first instance, the conversion of the Luas line to metro to the south of Charlemont does not form part of the strategy in any form. It is noteworthy that the Strategy did plan for longer term delivery of Luas post 2042 to Tyrellstown, Blanchardstown, Balgriffin, Clongriffin, Kimmage and UCD. The strategy does not however include for extension of the metro to Sandyford.

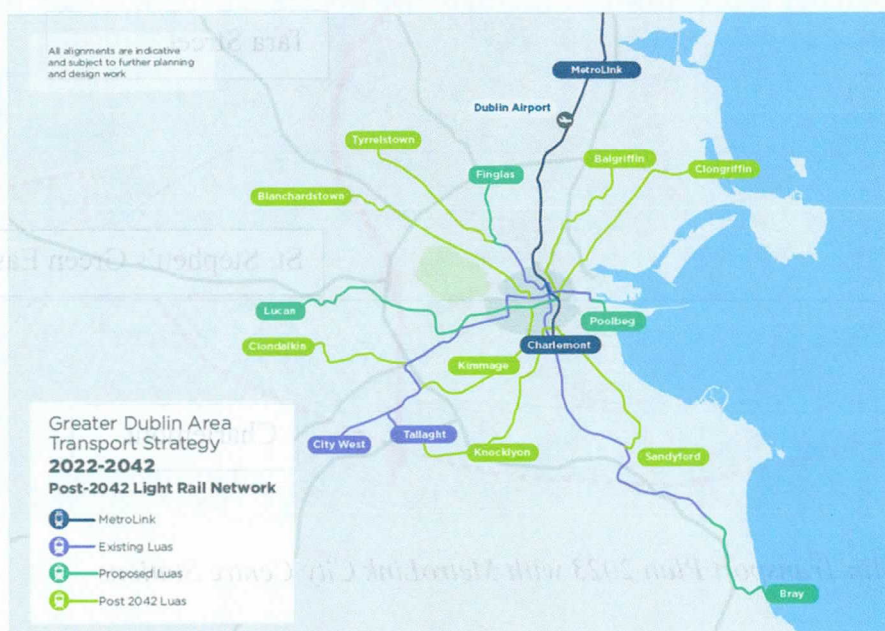


Figure 1: Light Rail Network Post 2042

Measure LRT1 – Metrolink states: “A Railway Order application for the MetroLink was made to An Bord Pleanála in 2022. Subject to receipt of approval, it is intended to proceed with the construction of the project.” The wording indicates that the delivery of the project is dependent upon approval by An Bord Pleanála. As part of that approval process, the Board must consider all material matters, including the logic of the scheme and the appropriate and reasonable alternatives for different aspects of the project. If the Board deems that it is not appropriate to terminate the line at Charlemont, or that there may be other more suitable city terminus station locations, it may refuse or amend the application. The Charlemont terminus location cannot in any way be taken as set in stone in policy terms and is all subject to this RO application process.

Section 12.3.2 of the GDATS states: “The proposal to serve the northern suburbs of Dublin City, Swords and Dublin Airport by a direct rail line from the City Centre has been a long-standing objective of transport planning in Dublin..... Between the Airport and the South City Centre terminus, there are also major population centres....” A city centre terminus should be located in the city centre. Charlemont does not fall within any definition of the city centre. The NTAs, own Draft Dublin Transport Plan 2023 identifies the city centre as being within the canal ring, with the inner core area centred around Dame Street, Grafton Street and Henry Street.

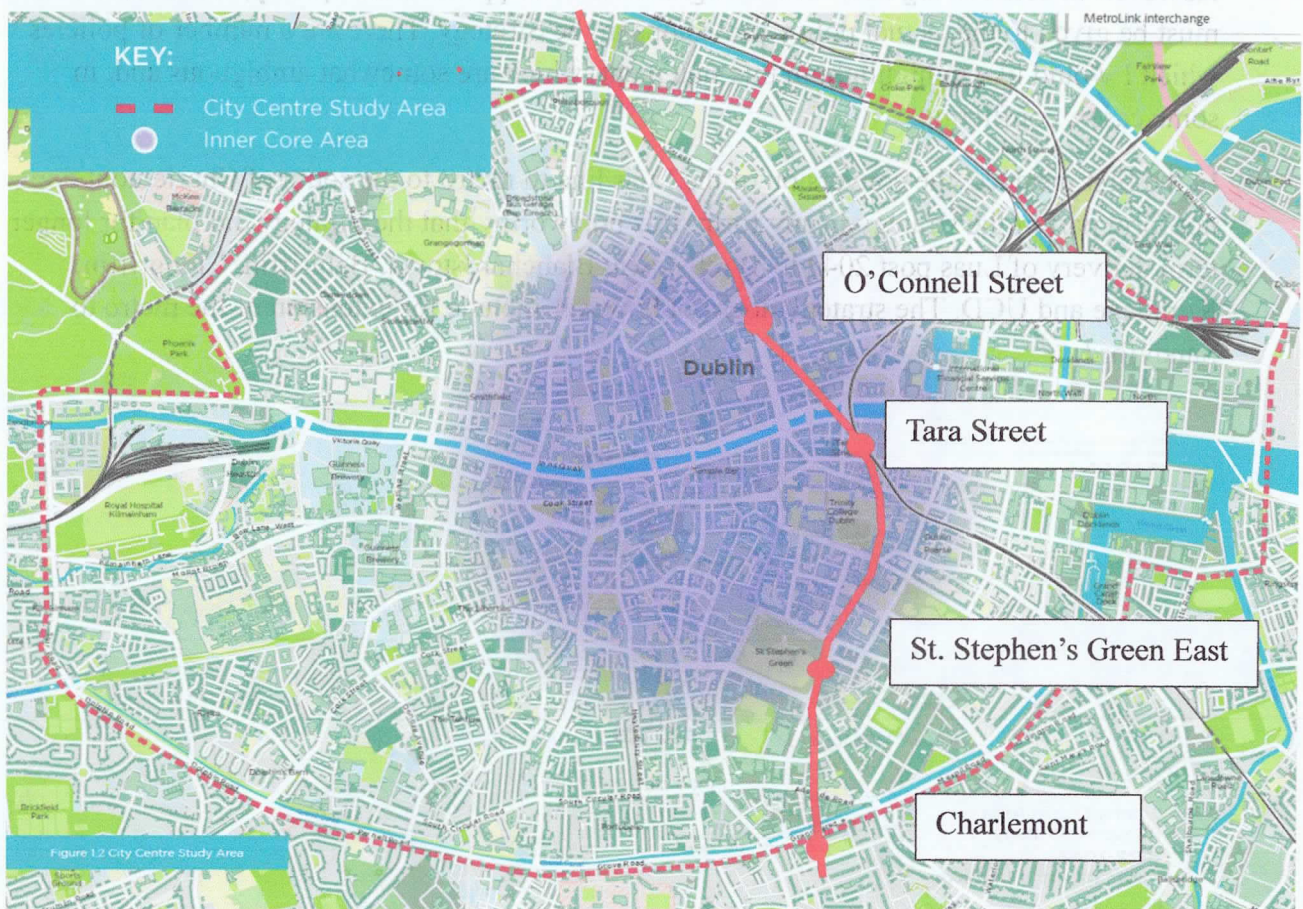


Figure 2: NTA Draft Dublin Transport Plan 2023 with MetroLink City Centre Stations

The alignment of MetroLink is avoiding the main city centre area on the south side of the Liffey. There are evident conflicts and inconsistencies in the rationale for the statements in the Strategy and the conclusion that Charlemont is an appropriate location of a city centre terminus. In applying relevant weight to these various policies and measures, the Board should consider these inconsistencies when having regard to them.

Critically, when external contributions to the formulation of the Strategy forced the dropping of the extension to metro to Sandyford, there was a failure on the part of TII to adapt and consider other alternative city centre terminus locations. We are effectively back to METRO North in policy terms.

TII are relying on the Measure LRT2 – which states: *“In reviewing and updating the Transport Strategy, which takes place every 6 years, the NTA will assess the requirement to provide additional Metro lines in the GDA based on updated forecast demand for travel and on emerging significant changes in land use and spatial policy, including previously considered options to extend Metrolink southwards towards UCD, or along the existing Luas Green Line, or towards South West Dublin”.*

It is quite clear that the extension of metro does not form part of the current strategy or the current long-term plans. Any future strategy will always be subject of review, taking into account factors applying at the time. Metro may go on any alignment in future, or the line to the Airport may be the only one delivered. It cannot, and should not, be taken that the Luas Green Line will be converted to metro at any stage. However, the TII response *“Whilst the strategy envisages that further extensions will be delivered after 2042, MetroLink which terminates at Charlemont allows for the possible extension of the metro in all the above directions.”* It is still assuming that there will be extensions to metro. This is not the case, as the policy indicates that it will assess any future requirements to determine if further extension is merited. In this context, I suggest the Board attaches very little weight to this provision. The further south the current metro line goes, the more that other options for radial connection to other quarters of the city (south east and south west) are prejudiced.

A key consideration that needs to be taken into account is interchange and mobility hubs. TII in its response (Response 42 -Item 2) relies on section 12.3.2 of the GDATS which states: *“Charlemont offers the optimal location for the primary interchange with the Green Line in response to growing demand in the longer term and is an appropriate location to facilitate any potential future metro extensions to serve the south west, south or south east of the city region should sufficient demand arise.”* Again, given the NTA and TII are promoting this, it is of no surprise that such a statement is in the Strategy. The TII Response to Submissions of Elected Representatives dated 4th March indicate that it is their view that *“Charlemont is at the heart of the integrated transport network for Dublin.”* This broad sweeping statement is clearly untrue. The only interchange is with Luas services going south. There is no interchange with bus services, no integration with DART underground, no integration with taxi set down, no kiss and ride facilities, no evident integration with cycle provision. However, an equal or better interchange with Luas can be provided at St. Stephens Green

West without duplicating light rail provision between St. Stephens Green and Charlemont which will occur with current proposal.

A key policy for the Board to have regard to is in relation to interchange. Measure INT5 – Major Interchanges and Mobility Hubs states: *“It is the intention of the NTA, in conjunction with TII, Irish Rail, local authorities, and landowners to deliver high quality major interchange facilities or Mobility Hubs at appropriate locations served by high capacity public transport services. These will be designed to be as seamless as possible and will incorporate a wide range of facilities as appropriate such as cycle parking, seating, shelter, kiosks selling refreshments plus the provision of travel information in printed and digital formats.”*

TII have argued that it a significant interchange, principally with Luas. However, the TII “Review of Charlemont Station” note submitted to the oral hearing, indicates that there will be 29,300 people using the Charlemont Station during a 12hr period, with only 8,000 (27%) of these accessing Luas. This leaves a total of 21,300 people (73%) wandering through the streets of this residential area seeking taxis, looking to be picked up, or walking some considerable distance to bus services.

The submission by Ciaran McKeon of Transport Insights to this hearing on behalf of CDCG clearly illustrates the poor level of interchange between different modes at the Charlemont station location, as it removed from bus interconnection and there is limited or no design provision for set down. The whole concept of a major interchange at Charlemont Station appears flawed, let alone representing *“...the heart of the integrated transport network for Dublin”*.

8. Alternatives

Key to the successful planning and delivery of major projects is the appropriate consideration of alternatives. It is both an appropriate planning matter and a consideration under the EIA Directive. Under Article 5(1)(d) of the EIA Directive there is a requirement upon the developer to provide a description of the ‘reasonable alternatives’ considered in the course of the application process. Annex IV of the Directive outlines the items which should be incorporated into the EIAR. This includes:

*“2. A description of the **reasonable alternatives** (for example in terms of project design, technology, location, size and scale) studied by the developer, which are relevant to the proposed project and its specific characteristics, and an indication of the main reasons for selecting the chosen option, **including a comparison of the environmental effects.**”*

Following the abandonment of the conversion of the Luas Green line to metro in the GDATS 2022-2042, it was reasonable to consider alternative terminus locations within the **city centre**. There has been an ad hoc presentation of alternatives during the course of preparing the EIAR and in particular at this oral hearing (e.g. TII Response to Submissions of the Elected Representatives at Charlemont Station, 4th March). However, there is no reasonable consideration of alternative terminus locations within the meaning of the Directive and no

“*comparison of the environmental effects*”. It is reasonable to expect any such information should be presented as part of the application and EIAR in a coherent and publicly accessible manner. TII responding in an ad hoc manner to various submissions made does not constitute an appropriate consideration of reasonable alternatives. For CDCG to respond to the TII submissions at this hearing, may be interpreted as giving some legitimacy to the process of somehow integrating this into the EIA undertaken by An Bord Pleanála.

Our original submission has presented a case for a terminus station at St. Stephens Green West. Others at this hearing have also indicated St. Stephens Green East.

This submission requests that the current Railway Order scheme is terminated at Tara Street, with allowance for turnback as required. It does not follow that this should be the entirety of the metro scheme, as we consider that the policy objective of serving the city centre is a reasonable and logical one. Such metro services should provide for maximum integration with other modes including DART overground, DART underground, Luas, bus, and taxi.

Reasonable alternatives that should be considered include, for example, a terminus at:

- Tara Street
- St. Stephens Green East
- St. Stephens Green West
- Charlemont

However, there has to be a structured consideration of these alternatives, providing a comparison of effects.

Alternative Station Design at Charlemont

Critically, given that the station box has been constructed, no alternative station design at Charlemont has been considered as part of the RO application. TII’s response (Response 42 – Item 16) suggests that the only way for there to be fewer constraints on the Carroll’s Building site was for the Board to have refused permission for the office development. This we fully concur with, and it was strongly argued that the Board should have refused permission, as it prejudiced the entire Metro scheme. This has proven to be correct. Inexplicably, TII engaged in detailed design for the station box as part of that development, fixing a key element of the overall project in advance of the statutory consideration of the railway order. TII appear to be more concerned that a refusal of permission for Two Grand Parade would sterilise the site from development rather than ensuring the proper planning and of what they maintain is a key element of the project. Response 40 – Item 49 states that “*The incorporation of a roof slab reduces constraints in this area, promoting the objectives of the EIA Directive. The only alternative with fewer constraints would have been if ABP had refused permission for Two Grand Parade, sterilising the site and frustrating the achievement of the zoning objective (which is set out in a Development Plan that had been subject to SEA).*” The above statement cross references the EIA Directive, yet these enabling works weren’t even the subject of an EIA screening. No doubt, if they had been it would have been determined as project splitting and the station box was an integral part of a railway project and not the office development and the station box on its own would likely to have triggered a sub-threshold

EIAR. An Bord Pleanála, in my view, has made a fundamental and seriously flawed decision which has risked the delivery of the entire project and the consideration of appropriate alternatives.

The above statement also suggests that Dublin City Council and An Bord Pleanála on appeal were obliged to grant permission due to the zoning provisions. The Board has in other scenarios refused development to protect underground DART alignments, as Iarnród Éireann (the DART underground promoter) had requested refusal. Refer to refusal of an office development at Sandwith Street under ABP Reg.Ref: ABP300446-17.

An alternative design of the station can be considered by An Bord Pleanála, which involves the demolition of the existing office building. There have been other proposed significant demolitions along the line (e.g. an entire city block at Tara Street). This may be viewed as an unreasonable alternative by An Bord Pleanála, given that it has just recently granted permission for the office development, in the full knowledge that a station was to be provided there as part of the MetroLink project. However, this merely demonstrates that the Board itself has prejudiced the appropriate consideration of alternatives.

We very much welcome TII's acknowledgement that *"The Board remains entitled to refuse permission for a station at this location or seek revised designs if it has any concerns with the effects of the MetroLink advanced enabling works on the environment."* It is difficult to see what revised design could at this stage be sought by An Bord Pleanála, as it has already fixed the station box. Refusal, or omission of the station, is a reasonable option.

Legal submissions will further elaborate on this matter.

9. Impact upon Amenities and the Character of the Area

Impact upon amenities is one of the principal reasons for objecting to the subject development. The area around Dartmouth Square is covered by the zoning objective **Z2:To protect and/or improve the amenities of residential areas**. We have made a large number of submissions in relation to the impact upon the residential amenities of residents in the area. It can be strongly argued that protection of amenities residential is more important than for amenities of other commercial areas, as it directly impacts upon significant aspects of their lives. With the exception of the Carroll's Building, the surrounding area on the south side of the Canal is an old established residential area. It cannot be classified as city centre, as suggested by the GDATS, or even as inner city as defined by the Dublin City Development Plan, as this area is within the canal ring.

This is a Victoria inner suburb wholly unsuited to accommodating a major terminus station. It is a designated Architectural Conservation Area (ACA). The summary character statement for the Dartmouth Square and Environs ACA highlights that it *"....is a quiet residential enclave...."* The updated Planning Report suggests that *"At Charlemont Station, the Proposed Project complements the character and distinctiveness of the ACA"* This is in my opinion demonstrably not the case, as the proposed terminus will detrimentally change the character of the area by introducing a very busy terminus station into a quiet residential neighbourhood fundamentally undermining its character.

The projected number of 21,300 people wandering the area, without any interchange facilities with other modes, will transform the residential character of the area. Our original submission highlighted the issues associated with antisocial behaviour, and disturbance late into the evening. All of these factors have a significant adverse impact on residential amenities.

The impact upon amenities arising from the construction phase have been well aired during Module 1. It is not the intention to repeat them here. However, I do think that it is of critical importance to highlight that significant effects arose in relation to airborne and groundborne noise and vibrations. TII recognise these impacts and in Response 41 – Item 48 state:

“However, while there is a strategic need for a MetroLink station at Charlemont, TII recognise that the short-term implications for local residents will be significant as the scheme progresses through the construction stage. TII are committed to working closely with local residents to ensure the required mitigation measures are put in place.” Critically, there are

significant to very significant residual effects on properties in Cambridge Terrace, Dartmouth Square and Dartmouth Road. The extent and duration of these effects and the impacts of construction were considered in some details in Module 1, along with the impacts upon human health, which is a key consideration in terms of amenities. These likely significant effects, which cannot be mitigated within the terms of the EIA Directive are reasons in their own right for either rejection of the Scheme or omission of the station and termination at an appropriate point further north. It is noteworthy that that monetary compensation cannot be deemed a mitigation measure under the Directive, as the effect remains unaltered.

10. Construction

The construction phase was considered in detail in Module 1. I would just like to highlight that TII confirmed a period of 8.5 years for the construction phase, which is a lengthy period of time for residents.

11. Property Issues

TII in its submission Response 42 – Item 70 acknowledge that the *“..impact of the proposed railway on amenity and devaluation of properties is a relevant consideration in ABP's consideration of the Railway Order application, but as outlined elsewhere, TII do not agree that the proposed railway works will cause anything other than a temporary loss of amenity and will not cause the devaluation of properties.”*

Evidence submitted at this hearing by affected parties, including valuer's reports, has illustrated that there will be a dramatic impact upon property values in the area, particularly during the extensive 8.5 year long construction period. This has the potential to leave property owners with significant levels of negative equity, unable to move owing to the project related devaluation in the value of their properties, yet having to endure the significant adverse effects of the development. TII on the other hand have submitted no valuers reports to support its contention that there will be no impact upon values. They merely say that there will be increase in value as a result of the project.

TII have acknowledged that there would be likely significant to very significant effects upon the environmental amenities, particularly in relation to noise. The issue of why certain properties were not included in the CPO process was considered in Module 1. TII responded that the demolition of properties on Dartmouth Road and Dartmouth Square West was not required to facilitate the scheme, and therefore they were not included in the CPO. This rationale, however, effectively transfers the costs of the significant environmental effects resulting from the development onto the residents of Dartmouth Square West and Dartmouth Road.

Planning decisions should not adversely affect third party amenities with any associated devaluation of property and Article 43 of the Constitution protects property rights. This development if permitted would infringe those rights.

12. Legal Matters

Damien Keaney, BL will address legal issues arising from the manner in which the applicant has brought the scheme forward. Also, other individual submissions by the residents of Dartmouth Square West and Dartmouth Road will elaborate on the legal points made by CDCG.

13. Inadequate EIA and Railway Order Application

The inadequacy of the EIA has been highlighted throughout the written submissions and oral submissions to this hearing. They are all on the record for the Inspector and the Board to consider. The applicant has attempted to address some of these deficiencies through the further information submitted to this hearing. The volume and significance of this material merely highlights the inadequacy of the railway order application documentation in its entirety. It would be reasonable to argue that the application should be withdrawn, the documentation properly compiled for public inspection and resubmitted.

14. Conclusions

MetroLink, as its name suggests, was conceived as a project which would link Swords with Sandyford. It has been pursued by TII on that basis with a tie-with the Luas Green Line and conversion to metro as an underlying objective. While the phased delivery of metro from Swords to Sandyford was a policy of the Transport Strategy for the Greater Dublin Area 2016-2035, there has been a policy decision to abandon the extension of metro to Sandyford under GDATS 2022-2042. The project has evidently failed to acknowledge or reflect this reality. In policy terms, we are back to **Metro North**. Charlemont, which had been strategically identified as a station for tie-in purposes on the longer MetroLink project to Sandyford, has now been left as a stranded terminus station, remote from the city centre which it claims to serve. From TII's own figures, over 70% of passengers at Charlemont are not interchanging with Luas and are left to wander the back roads of Ranelagh seeking remote bus services, with no promised seamless integration with other modes.

Given the policy decision to abandon MetroLink to Sandyford, there should have been a consideration of reasonable and appropriate alternative *city centre* terminus locations. As this submission maintains, Charlemont is not the city centre.

The manner in which the project has evolved to date, with the construction already completed of a key part of the overall scheme without due process, is the subject of this and other legal submissions. The prejudicial nature of those works have undermined the entire process. To grant permission for the submitted scheme would render it unsafe.

Key impacts upon the amenities of the residents of Dartmouth Road, Dartmouth Square West and the wider environs are also the subject of numerous submissions, and the applicant has acknowledged the *likely significant to very significant effects* arising from the construction of this project. These remain unmitigated effects. These impacts will result in devaluation of properties in the area.

The inadequacies of the EIAR submitted have been outlined in the various submissions.

The manner and volume of material which the applicant has submitted to this hearing, and the acceptance by the Board of this material, has put affected parties at significant disadvantage and prejudiced their ability and rights to full participation in the process.

The importance of MetroLink to the city is recognised, and prioritising investment in public transport is key if Dublin is to address its transport needs. CDCG and others have argued that the line should be terminated at Tara Street. This does not infer that the scheme should necessarily end there but that this would give an opportunity to properly assess alternative *city centre* terminus locations in a structured manner, rather than adhoc manner which has resulted from submissions made to this hearing. This would be the subject of an amending railway order application. If the Board deems that it is not possible to make the amendment, we contend that the scheme should be refused. This is not CDCG's preferred position, acknowledging how difficult and complex it is to get a project to this stage.

15. Requested Amendments

The following amendments are requested:

1. Omit from the Railway Order the section from Tara Street Station to Charlemont and associated onward tunnel and intervention tunnel.
2. Undertake a full review of interchange requirements and demands at city centre stations.

16. Request for Costs

CDCG request that costs for preparation and attendance at this hearing be covered under section 42 (1) of the Transport (Railway Infrastructure) Act, 2001.

Transport Statement for The Oral Hearing in Relation to Proposed MetroLink (Estuary to Charlemont) Project

on behalf of the Charlemont and Dartmouth Community Group



Final Report

March 2024

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3	Draft TII Response: CDCG Transport Statement v1.8	CMcK	22/02/2024
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Distribution

Item No.	Item Description	Approvers Initials	Date
1	Draft TII Response: CDCG Transport Statement v1.9	CMcK	23/02/2024
2	Draft Final TII Response: CDCG Transport Statement v2.1	CMcK	22/03/2024
3	Final TII Response: CDCG Transport Statement v2.2	CMcK	22/03/2024

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1 Introduction

1.1 Statement Overview

Transport Insights has been commissioned by Charlemont and Dartmouth Community Group (CDCG) to produce a Transport Statement in relation to the upcoming Oral Hearing regarding the Railway Order for the proposed MetroLink project, the alignment of which connects Estuary to Charlemont. The Oral Hearing is being held by An Bord Pleanála in relation to the above-mentioned scheme in accordance with Section 42(1) of the Transport (Railway Infrastructure) Act, 2001, as amended.

This Statement represents a reply to the Transport Infrastructure Ireland (TII) response to submissions by MacCabe Durney Barnes on behalf of CDCG made at the previous stage of the MetroLink Railway Order public consultation process, with both earlier submissions and subsequent TII response being summarised herein in Section 3.

1.2 Submitting Party

This Statement is made on behalf of the CDCG, c/o 33 Dartmouth Road, Ranelagh, D06 HY79, whose members are residents of Dartmouth Square West, Dartmouth Road, and elsewhere within the immediate vicinity of the proposed MetroLink terminus at Charlemont and will as a result be directly impacted by its planned delivery.

1.3 Statement Context

This Statement on behalf of CDCG relates primarily to two aspects of the proposed MetroLink project, namely the alignment of its southernmost section (south of the Tara Station) and the design and arrangements of the proposed southern terminus at Charlemont.

In accordance with the Oral Hearing guidelines included within the invitation letter, all points above are made in response to the Applicant's [i.e. TII's] written response to CDCG prior submissions by MacCabe Durney Barnes, with specific quotes reproduced and commented on in the remainder of this Statement.

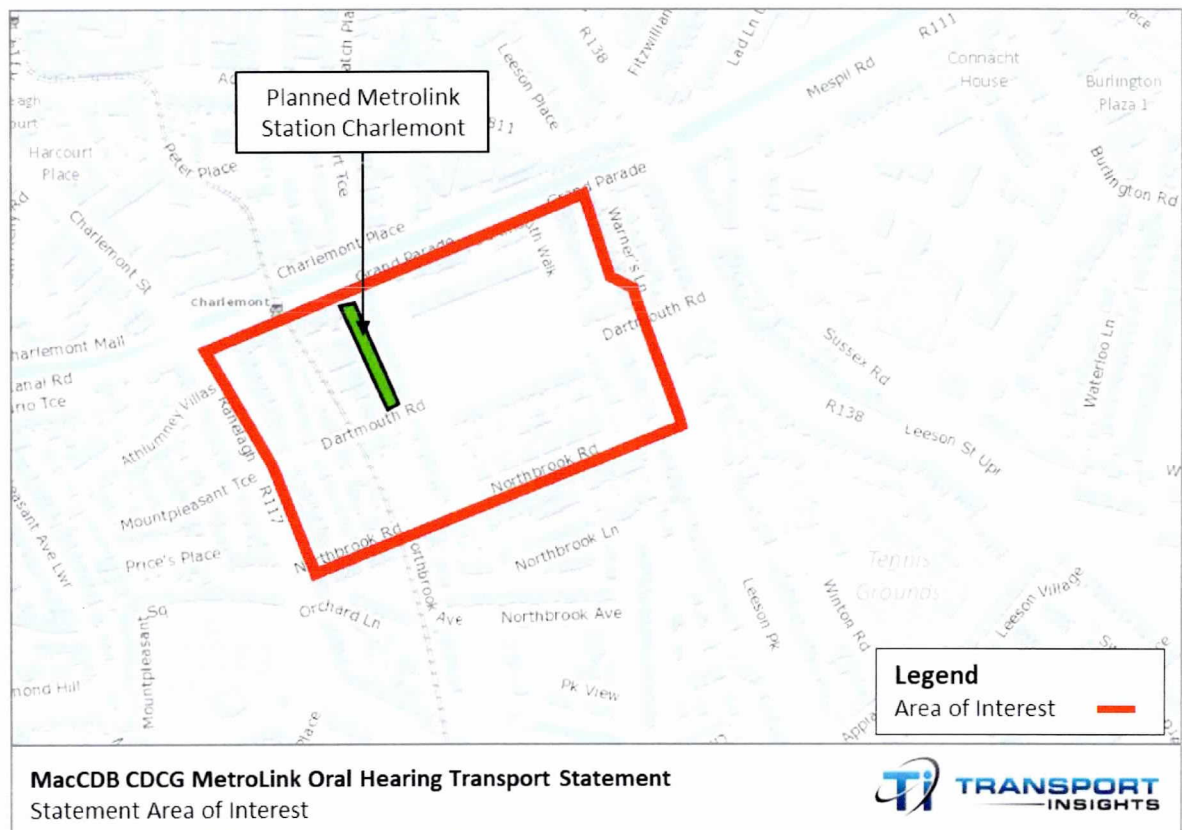
In this context, the Statement's Authors note that within the time constraints of preparing this Statement it has not been possible to undertake a full and detailed review of documents issued by TII during the Oral Hearing process, which were not made to public prior to the Hearing's commencement. None of these documents appear however to change the fundamental issue of Charlemont Station having been identified on the basis of its vicinity representing the most appropriate tie-in between the proposed underground City Centre metro alignment and the existing overground Luas Green Line alignment, and that any supporting rationale for the selection of Charlemont as the southern MetroLink terminus has only been provided retrospectively following the

decision not to proceed with southern section of MetroLink. Furthermore, none of the recently produced documents address serious concerns regarding the impact of car and taxi drop-off and pick-up trips to the southern terminus, and resulting severe negative impacts on residential amenity within the vicinity of the Charlemont Station.

1.4 Statement Area of Interest

The core focus area of this Statement, i.e. its 'Area of Interest', is the area of residence of the CDCG members. The Area of Interest is bounded by Grand Parade in the north, Northbrook Road in the south, Warren Lane and Leeson Park to the east, and Ranelagh Road to the west, and is illustrated in the following Figure 1.1. This Statement also concerns Dublin City Centre areas along the proposed MetroLink route from Tara Street to Charlemont, as relevant to the main subject matter hereof, i.e. the rationale for and impact of the proposed Charlemont MetroLink station.

Figure 1.1 Statement Area of Interest



1.5 Experience and Qualifications

The primary Authors of this Statement are Ciaran McKeon and Jurek Gozdek of Transport Insights. Details of their experience and qualifications are provided within Table 1.1 (overleaf).

Table 1.1: Statement Authors' Professional Qualifications

Name	Ciaran McKeon
Position at Transport Insights	Managing Director
Relevant Experience and Qualifications	<p>Civil engineer (BE (Civil) Hons; P. Grad Dip Project Management; MIEI; MTPS), with 25 years traffic and transport sector experience, in Ireland and internationally. Relevant project experience includes:</p> <ul style="list-style-type: none"> • Dublin City Centre on-street parking control scheme design/implementation (Dublin City Council) • Metro North Environmental Impact Assessment team member (Railway Procurement Agency) • Lead on strategic transport studies for Birmingham and Manchester (UK Department for Transport) • Project manager of demand and revenue forecasting and economic appraisal for phase 2 of UK's high-speed rail network (HS2 Limited) • Transport planning, modelling and cost-benefit analysis advisor/lead to various urban metro and metropolitan rail projects in Bucharest and Cluj-Napoca, Romania (Metrorex, Cluj-Napoca Municipality and European Investment Bank).
Name	Jurek Gozdek
Position at Transport Insights	Senior Consultant Transport Planner (Project Manager)
Relevant Experience and Qualifications	<p>Transport engineer (BSc Eng; and spatial data analyst MSc Geographic Information Science), with 6 years traffic and transport planning experience, in Ireland and internationally. Relevant project experience includes transport planning consultant and cost-benefit analyst lead of various urban metro and metropolitan rail projects in Bucharest and Cluj-Napoca, Romania (Metrorex, Cluj-Napoca Municipality and European Investment Bank).</p>

1.6 Statement Structure

The remainder of this Statement is structured as follows:

- **Chapter 2 – MetroLink Project and Proposed Charlemont Station Overview** sets out key attributes of the MetroLink project and the proposed Charlemont Station relevant to this Statement. The key findings of a site assessment within the Area of Interest are also presented for additional context.
- **Chapter 3 – Previous Submissions and TII Response Overview** provides a summary and overview of the MacCabe Durney Barnes submissions on behalf of CDCG in relation to the MetroLink project made at the earlier stage of the public consultation process, and of the TII response thereto.

- **Chapter 4 – Current Observations** provides a substantive response to the remarks made by TII in relation to the previous CDCG submissions, structured into several relevant themes.
- **Chapter 5 – Summary and Requested Amendments**, providing a summary of the preceding sections of the Statement, and setting out further recommended actions to address the previously presented observations.

2 MetroLink Project and Proposed Charlemont Station Overview

2.1 Introduction

This Section of the Statement presents an overview of the MetroLink Project and the proposed Charlemont Station insofar as deemed necessary to provide context for the subsequent parts of the document. Furthermore, observations gathered during a site assessment of the proposed station's surroundings undertaken by Transport Insights' project team in February 2024 are also included.

2.2 MetroLink Overview and Background

Project Overview and History

The proposed MetroLink project involves the construction of a grade-separated rapid transport system connecting Swords (Estuary) to the north with Charlemont to the south via Dublin Airport. While metro proposals for Dublin date back to at least 2001, the current proposal has been developed in accordance with the *Transport Strategy for the Greater Dublin Area 2016-2035 (TSGDA 2016)*, which provided for the following:

- **New Metro North (NMN)**, i.e. a high speed, high capacity and high frequency public transport link from Dublin City Centre to Dublin Airport and Swords, with the City Centre section underground; and
- **Upgrading the existing Luas Green Line to Metro standard** through the extension of NMN southwards, via a tunnel, and enabling through running of metro from Swords to Bride's Glen.

Subsequent design work on the NMN (subsequently renamed to MetroLink, with this name used hereinafter in the interest of simplicity) has been aligned with the above ambitions. A Luas tie-in optioneering study was completed in March 2017, recommending that the tie-in be provided just south of the existing Charlemont Luas stop. This recommendation was subsequently treated as a fixed constraint in the route alignment study produced by Arup in March 2018, meaning that all developed route alignment options were required to include a Luas tie-in at Charlemont¹.

Luas Green Line Tie-In Deferral and Abandonment

However, a decision was subsequently made in March 2019, as part of the Preferred Route Development, to defer the upgrade of the Luas Green Line to metro standard. At the time, it was intended that "*pending future extension of the MetroLink southwards, the station will now provide the temporary southern terminus for MetroLink*"². The rationale for this change is set out in Section 3.3.10 *Green Line Tie-In* of the Preferred Route Development Report (March 2019) and elaborated upon in

¹ *New Metro North Alignment Options Report*, Arup, March 2018, Section 2.3.1, p. 20

² *MetroLink Preferred Route Design Development Report*, Jacobs/ Idom, March 2019, Section 3.3.9, p. 23

Section 7.7.7 *Luas Green Line Deferral* of the submitted MetroLink EIAR. However, it should be noted that in the period after the preferred route had been selected, the delivery of any MetroLink extension to the south appears to have been abandoned. In particular, the MetroLink tie-in with the Luas Green Line has been omitted in the updated *Greater Dublin Area Transport Strategy 2022-2042 (GDA TS 2022)*, which only includes the section between Swords (Estuary) and south of Dublin City Centre (Charlemont) as a scheme to be delivered over the *Strategy* lifetime (*Measure LRT1*). Conversely, in *Measure LRT2*, the *Strategy* requires that the NTA should assess the requirement to provide additional metro lines, “including previously considered options to extend Metrolink southwards towards UCD, or along the existing Luas Green Line, or towards South West Dublin” as part of the periodic strategy reviews, however does not stipulate that any such additional metro network developments should definitely be completed at any time within the *Strategy* lifetime or indeed in the period thereafter. The Charlemont Station, previously intended as a temporary terminus only, has as a result become the de facto permanent southern terminus for the scheme, whereas the tie-in and Luas conversion to the metro standard have been, for all intents and purposes, rendered permanently abandoned.

Southern Terminus Location Selection

Section 7.7.8 *MetroLink Southern Terminus Location* of the MetroLink EIAR indicates that the termination location for the MetroLink has been selected among two options, namely St Stephen’s Green East and Charlemont, both being planned stations along the original MetroLink route. However, the comparative assessment of these alternative location presented in the MetroLink EIAR appears to have been produced retrospectively, given that the Preferred Route with the southern terminus at Charlemont had already been published in March 2019, and the *Preferred Route Design Development Report* includes no mention of any equivalent assessment being undertaken at the time.

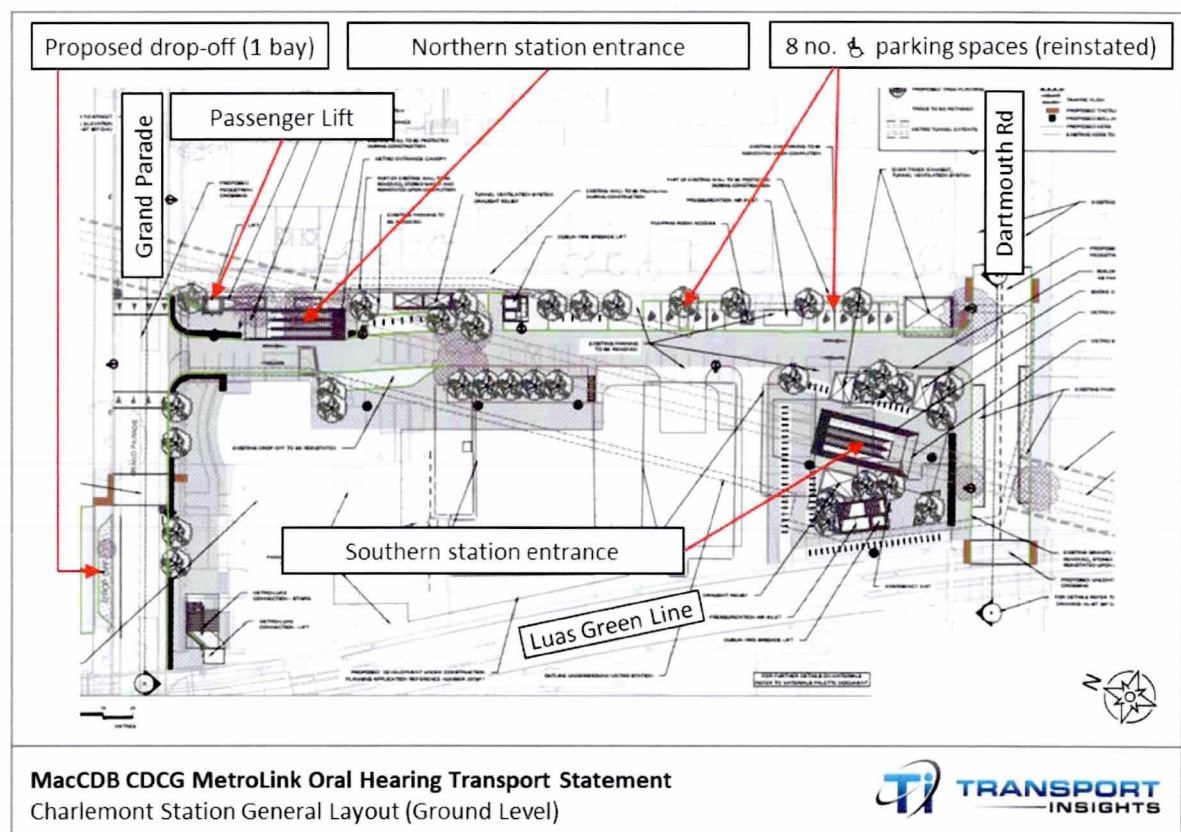
In the wider context, it should be noted that the station location at Charlemont had only been selected on the basis of it representing the optimum MetroLink to Luas Green Line tie-in point – a rationale that has been rendered obsolete by the decision to permanently abandon the tie-in (rather than for it to be deferred). On the other hand, the St Stephen’s Green East Station location had been “*determined primarily as an intermediate station location between two critical interchange points at Charlemont (tie in with Luas Green Line) and Tara Street (DART Interchange)*”, as per the EIAR Section 7.7.8 (p. 63), and dictated by restrictions on railway curvature between these interchange points. Thus, with the Charlemont Station location rationale being undermined, the rationale for the St Stephen’s Green East Station appears to equally lack both substance and sufficiently robust justification. Moreover, neither of the stations considered was designed as a permanent MetroLink terminus, with Charlemont planned, specified and designed as a temporary terminus only and St Stephen’s Green East being designed as an intermediate station rather than a terminus.

2.3 Charlemont MetroLink Station Overview

Station Location and General Layout

The currently proposed Charlemont MetroLink Station is located “in the area south of the Grand Canal and Grand Parade, east of the elevated section of the Luas Green Line at the Charlemont stop, west of the rear of the houses in Dartmouth Square, and north of Dartmouth Road.” The station will be fully underground, with passenger accessing via two entrances, one off Grand Parade and the other off Dartmouth Road. A single passenger lift will be provided between ground level and the station concourse and platform levels, in the vicinity of the Grand Parade entrance. The general layout of the ground-level station arrangement (excerpt from the Railway Order application documents) is presented in the following Figure 2.1.

Figure 2.1 Proposed Ground Level Arrangements at Charlemont MetroLink Station



Source: Railway Order Plans\Drawings Structures Details Book 2 of 3 MetroLink Stations Dublin City Council, with supplemental annotations by Transport Insights.

Relationship with Adjacent Development

The Charlemont MetroLink Station’s structure will utilise the roof slab and wall elements constructed as part of the adjacent Two Grand Parade office development, which is currently being delivered and will have been finished prior to the currently envisaged MetroLink project construction phase. The

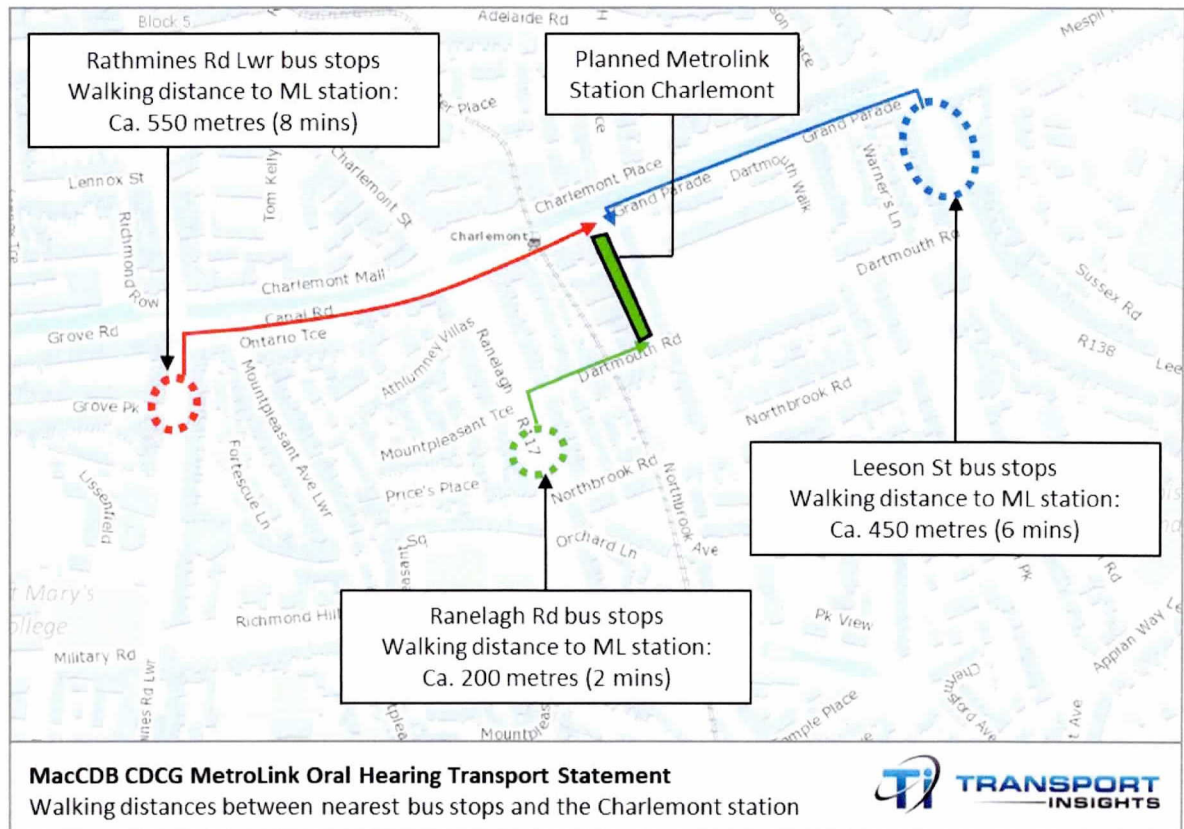
provision of the roof slab and any other features of the development meant to enable future construction of a metro station below it has been referred to as Charlemont Metro Enabling Works. The Two Grand Parade development (including the Metro Enabling Works) received a final grant of planning permission from An Bord Pleanála in April 2019, whereas the preferred route for the MetroLink had been published in March 2019. As per Appendix O to the *MetroLink Preferred Route Design Development Report*, the station box alignment, which in turn informed the design of the Metro Enabling Works, was decided upon and agreed with the Two Grand Parade developer as part of the elaboration of the MetroLink preferred route. As such, it was informed by the decision for the Luas tie-in to be deferred, however preceded the decision to permanently abandon the tie-in (see: Section 2.2).

Luas Interchange Arrangements

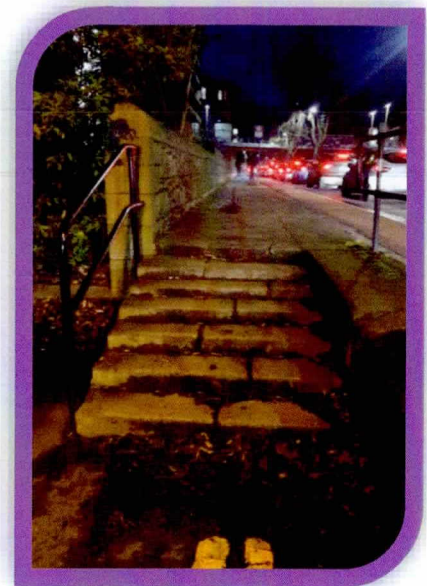
The MetroLink station will not be directly connected to the adjacent Charlemont Luas stop, with existing stairs and a passenger lift leading up from the ground level to the elevated southbound Luas platform being available ca. 75 metres to the west of the Grand Parade (i.e. northern) station entrance. Furthermore, a new additional set of stairs and a passenger lift between the ground level and the northbound Luas platform will be provided as part of the MetroLink project ca. 60 metres to the west of the northern MetroLink station entrance. However, only a single passenger lift will be provided to connect the ground level with the underground part of the station, located by the northern station entrance, with no alternative access options for individuals with reduced mobility (or with buggies or luggage, the latter of which is expected to be directly relevant given the high-quality service offer to Dublin Airport).

Bus Interchange

In terms of interchange between the MetroLink and local bus services, the location of the Charlemont Station with respect to the nearest bus stops is presented in Figure 2.2 (overleaf). As can be seen from this figure, the Charlemont Station is located in close proximity to bus stops on Ranelagh Road, located ca. 200 metres (ca. 2 minutes) away from the southern station entrance (or ca. 300 metres away from the lift at the northern entrance). Assuming that the BusConnects bus network is fully implemented prior to the commencement of MetroLink services, these stops will be served by bus services 86 (Ticknock – Mountjoy Sq), 87 (Belarmine – Mountjoy Sq), and 88 (Enniskerry – Mountjoy Sq). All such services will be low frequency routes, running at hourly or half-hourly schedules.

Figure 2.2 Charlemont Station Location with Respect to Nearest Bus Stops


Frequent 'spine' services will only be available at the stops located at Leeson Street (E Spine) or Rathmines Road Lower (A Spine), respectively ca. 450 metres (ca. 6 minutes) and ca. 550 metres (ca. 8 minutes) from the station's northern entrance. It should be noted that the pedestrian connection between the northern station entrance and Leeson Street bus stops is poor, with lack of continuous level footpath along the southern edge of Grand Parade (see figure to the right). While the footpath along the northern carriageway edge may be used instead, or the southern entrance of the station may be accessed via Dartmouth Road, either option will result in additional walk times, require unnecessary road crossings, therefore resulting in a poor user experience.



Ground Level Vehicular Infrastructure

As per the drawing reproduced in Figure 2.1, Charlemont Station design features reinstatement of a laneway connecting Grand Parade and Dartmouth Road. It is understood that vehicular through

movements along the laneway will be prevented by bollards or similar, however details of these arrangements do not appear to have been included in design drawings included within the EIAR. It should be noted that the EIAR includes no mention of the laneway being subject to filtered permeability arrangements, with the above information based on the TII response to CDCG submissions (see: Section 3.3).

Car Parking and Drop-Off Arrangements

No new car general use parking facilities of any kind are proposed to be provided at the Charlemont Station as part of the proposed MetroLink development. It is understood from the drawing presented in the EIAR (and reproduced in Figure 2.1 herein) that 8 no. wheelchair accessible spaces will be provided along the laneway above the station. However, it is also understood that these spaces would not represent new car parking provision, but instead they would have been originally provided as part of the Two Grand Parade development for its own uses. While these spaces would be reinstated following completion of the underground station, they are understood not to be available to the general public. The EIAR is noted to lack any detail on the function, access or rules of usage of these wheelchair accessible parking spaces, including whether they would be accessed off Grand Parade or off Dartmouth Road.

The station design includes a single drop-off bay to be provided adjacent to the eastbound lane of Grand Parade, opposite the northern station entrance. It should be noted that no drop-off facilities will be provided for westbound traffic on Grand Parade (i.e. directly adjacent to the northern station entrance), or at Dartmouth Road (i.e. in the vicinity of the southern station entrance). The EIAR does not specify how the Grand Parade drop-off bay would be used, however the TII response to CDCG submissions (see: Section 3.3) states that it would be available for individuals with reduced mobility only. It is unclear what signage would be used to this effect or equally as importantly, how such a restriction can be enforced. In addition, the proposed station includes no dedicated drop-off or waiting facilities for taxis. In light of Charlemont's functioning as the permanent southern terminus for the MetroLink project, the failure to provide adequate facilities for car and taxi drop-off and pick-up activities represents a major omission in the scheme's specification.

It is noted that the EIAR provides no quantification of likely car/ taxi or drop-off/ pick-up demand at the Charlemont Station. It states instead that non-provision of car parking or drop-off facilities should act as demand management measure, an assertion which is unsupported by any evidence.

Arising from the failure to provide appropriate car and taxi-drop off facilities, it appears highly likely that such demand will be accommodated elsewhere within the environs of the Charlemont Station,

including specifically within this Statement's Area of Interest, thereby giving rise to severe traffic and parking impacts, which have neither been considered nor assessed within the EIAR.

Cycle Parking

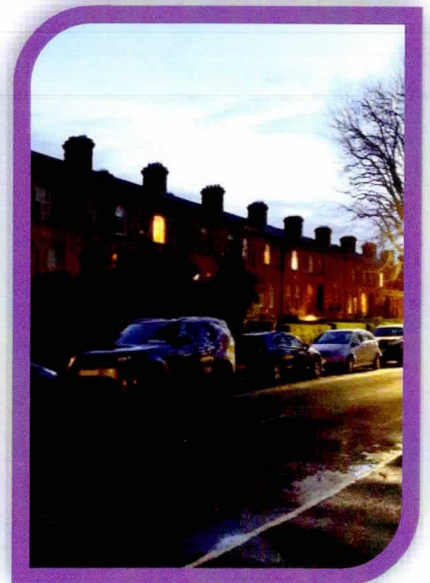
The station will feature 162 no. cycle parking spaces, the majority of which will be located in the vicinity of Dartmouth Road (i.e. southern) entrance. It is noted that the station design features no dedicated cycle links between proposed cycle parking facilities and the cycle route along Grand Parade.

2.4 Site Assessment and Its Findings

To improve our project team's understanding of the local context within the Area of Interest (as per Figure 1.1), a site visit was undertaken, involving a walk-through of relevant roads in that area and observations of on-street car parking usage. The site assessment was undertaken on Tuesday, 07 February 2024, commencing at 17:45hrs, with the assessment time period noted to correspond with the peak car parking occupancy period indicated by CDCG members.

Within the Area of Interest, on-street car parking is provided on most streets or parts thereof, including Dartmouth Square, Dartmouth Road, Cambridge Terrace, and Northbrook Road. On smaller laneways, including Dartmouth Place and Dartmouth Walk, double yellow lines were observed to be provided on both sides of the carriageway, indicating a restriction on car parking. All on-street parking in the area is Pay & Display and Permit Parking. As per Dublin City Council classification³, the area is demarcated as being in a Very High Demand Zone and warrants a tariff of €4 per hour from Monday to Friday between 08:00hrs and 18:30hrs, with parking being provided free of charge at other times.

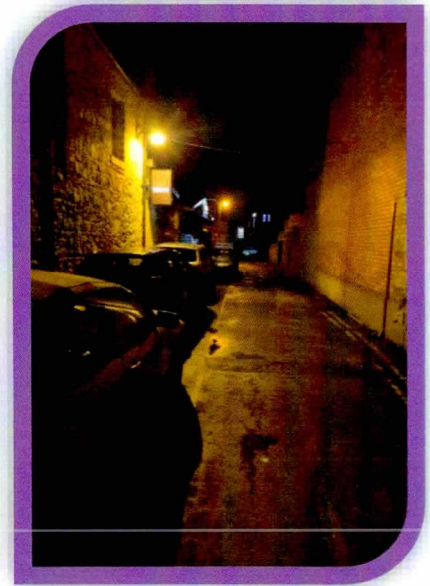
In this context, it should be noted that while some dwellings in the Area of Interest have private off-street parking, the residents of terraced houses surrounding Dartmouth Square



³ <https://www.dublincity.ie/sites/default/files/2023-12/parking-fees-map-2024.pdf>

rely solely upon on-street parking facilities for both car parking and storage, as no private parking spaces are available within the curtilage of their properties and provision of the same would be contrary to the relevant Dublin City Development Plan requirements. In this regard, Item 4.0 of Appendix 5 to the Plan (Transport and Mobility: Technical Requirements) states that *“proposals for off-street parking in the front gardens of single dwellings in predominantly residential areas will not be permitted where residents are largely reliant on on-street car parking and there is a strong demand for such parking.”* Based on the relevant Census 2022 records (for the Small Area A268128022) among the local households, it is noted that 12% do not own a car, while 46% own a single car, 36% own 2 cars, and the remaining 7% own 3 cars or more.

During the site visit, local on-street parking spaces were observed to be operating close to capacity, with only occasional spaces being available. Furthermore, limited further car parking activities was observed on road sections with double yellow lines, indicating that stricter enforcement of car parking restrictions would place the available on-street parking facilities under further pressure.



3 Previous Submissions and TII Response Overview

3.1 Introduction

This Section of the Statement provides an overview of the previous submissions by MacCabe Durney Barnes on behalf of the CDCG in relation to the statutory MetroLink project public consultation, focusing on mobility-related items. The TII response to those submissions has also been summarised herein, with the section concluding by setting out the key items of dispute, to which a further CDCG response is provided in the subsequent Section 4.

3.2 Previous CDCG Submissions Overview

CDCG has engaged in the MetroLink Railway Order planning process by filing three interconnected written submissions, which related to different aspects concerning the MetroLink project. The submissions are as follows:

- **Submission 1 (General)** – The submission relates to general policy and strategic matters and area-wide concerns;
- **Submission 2 (Dartmouth Road)** – This associated submission relates to the concerns of the residents on Dartmouth Road relating to impacts during the construction and operational phases of the project; and
- **Submission 3 (Dartmouth Square West)** – This associated submission relates to the concerns of the residents on Dartmouth Square West relating to impacts during the construction and operational phases of the project.

In the above submissions, a wide range of points were raised, which related to deficiencies in the EIAR with respect to transport, mobility and planning. These points have included, among others, the following:

- Insufficient consideration in the EIAR of alternative MetroLink southern terminus locations, including particularly St Stephen's Green East and West;
- Lack of car parking and drop-off facilities at the proposed Charlemont Station, likely to result in overspill car parking;
- Limited consideration of local traffic impact of the station due to both reduced Grand Parade capacity (with a new pedestrian crossing being proposed) and additional trips associated with drop-offs; and
- Insufficient consideration of car parking provision during both construction and operational phases.

In the submissions, it has been argued that the section of MetroLink south of the Tara Station should be excluded from the Railway Order, due to it functioning as the southern terminus pending determination of potential long-term MetroLink routing south of the City Centre following the omission of the Luas tie-in from the current proposed MetroLink scheme.

3.3 TII Response Overview and Items of Dispute

TII has provided responses to the three above-listed CDCG submissions within *MetroLink Railway Order Statutory Consultation document Section 5.2, Part 1 of 2 – TII Response to Submission No.'s 001-140*. In that document, the CDCG submissions have been recorded under numbers 42 (General Submission), 40 (Dartmouth Road Submission), and 41 (Dartmouth Square West Submission). The responses to each of the submissions have been provided in tabular format, with 73, 69, and 83 no. responses provided to each respective submission. In the interest of brevity, this Statement, which represents a direct response to TII's position, has instead been structured by theme or Key Item of Dispute.

The following **Key Items of Dispute** are covered in this Statement:

- MetroLink route alignment and southern terminus location;
- Charlemont Station function and design;
- MetroLink impact on traffic within the vicinity of Charlemont; and
- MetroLink impact on car parking within the vicinity of Charlemont.

Main TII response items relating to the above-mentioned Key Items of Dispute are listed in Table 3.1 below. While it is noted that the themes in question are also mentioned within several other TII responses, the ones listed in the table are deemed to robustly capture TII's position on key items relevant to MetroLink proposals in the vicinity of the Charlemont Station.

Table 3.1 Key TII Response Items Relevant to This Statement

Item of Dispute	TII Response Items		
	Response to Submission 1 (General Submission, recorded under no. 42)	Response to Submission 2 (Dartmouth Rd Submission, recorded under no. 40)	Response to Submission 3 (Dartmouth Sq West Submission, recorded under no. 41)
MetroLink route alignment and southern terminus location	1, 2, 5, 6, 21, 54, 60	1	-
Charlemont Station function and design	6, 51, 54, 63	1, 24, 25, 62, 63, 65, 66	36, 37, 69

Item of Dispute	TII Response Items		
	Response to Submission 1 (General Submission, recorded under no. 42)	Response to Submission 2 (Dartmouth Rd Submission, recorded under no. 40)	Response to Submission 3 (Dartmouth Sq West Submission, recorded under no. 41)
MetroLink impact on traffic within the vicinity of Charlemont	51, 63	23, 24, 25, 50, 61, 66	22, 23, 36, 69
MetroLink impact on car parking within the vicinity of Charlemont	51, 63	24, 25, 53, 61, 62, 66	24

As per the above TII response items, TII's position on the items of dispute can be summarised and commented on as follows.

MetroLink Route Alignment and Southern Terminus Location

- Charlemont was identified as the last station prior to the tie-in to the Luas Green Line in the New Metro North Alignment Options Report (March 2018). After a decision was subsequently made, as described in Chapter 7.7.7 of the EIAR, to omit the Luas tie-in, MetroLink's southern terminus location at Charlemont Station was selected, with St Stephen's Green East being the only alternative considered (as per Chapter 7.7.8 of the EIAR). As noted within Section 2.2 of this Statement however the St. Stephen's Green East Station location had been selected due to the prior identification of the southerly station location at Charlemont, with both locations unsupported by the decision to abandon the MetroLink-Luas Green Line tie-in.
- In the context of potential future MetroLink extension to the south, TII notes that "*Whilst the [GDATS 2022] envisages that further extensions will be delivered after 2042, MetroLink which terminates at Charlemont allows for the possible extension of the metro in all the above directions [i.e. to Dublin southwest, south or southeast].*" (Response to Submission 1, item 2). While this is presented as part of the rationale for the southern terminus location at Charlemont, the cited passage does not demonstrate that no other location would offer the same or better opportunities for a future MetroLink extension, and as such is deemed to represent a poor argument in support of Charlemont's selection as the southern terminus location.
- The proximity of the Charlemont MetroLink Station in relation to the A Spine and E Spine BusConnects routes is presented as an advantage, whereas St. Stephen's Green East is viewed unfavourably due to the allegedly excessive distance between MetroLink and Luas. According to TII response, the walking distance involved in transferring at St Stephen's Green would further

deteriorate the experience of “those with mobility or visual impairments as well as those travelling to/from the airport with luggage” (Response to Submission 1, item 2). However, in actual terms the distance between the station at Charlemont and the A Spine and E Spine bus stops is comparable to the distance between the station at St. Stephen’s Green East and the Luas Green Line stop at St. Stephen’s Green East, with all three requiring a ca. 450-550 metres walk (see: Section 2.3). This highlights an inconsistency in the comparative assessment of the two southern terminus location options presented in Section 7.7.8 of the EIAR.

- According to TII response, the section of MetroLink between St Stephen’s Green and Charlemont Stations is expected to significantly contribute to the overall benefits of the scheme, serving a significant area of the south Dublin City and attracting ca. 4,100 passengers (boarding and alighting) in the AM peak hour. However, it is understood that a route option excluding the Charlemont Station has not been subject to transport modelling, and as such there is no data to enable a robust performance comparison of MetroLink scenarios both with and without the section between St Stephen’s Green and Charlemont Stations. Therefore, the assertion that extending MetroLink to Charlemont is of central importance to the overall scheme benefits appears to be unsupported by evidence.
- As per TII response to Submission 1, item 5, which concerned a potential alternative location of the MetroLink terminus at St Stephen’s Green West, a station at that location is stated not to be preferred, because it would necessitate an additional intermediate intervention shaft and result in disadvantageous track alignment between Tara and Charlemont. However, the track alignment issue would appear to be irrelevant in the case of the Luas tie-in at Charlemont being dropped, as MetroLink would not need to continue south from St Stephen’s Green to Charlemont or could approach Charlemont at a different angle. Moreover, while the EIAR Chapter 7.7.9.4 includes a highly detailed optioneering of the MetroLink route between Tara Street and St Stephen’s Green East, an equivalent assessment of options for connection between Tara Street and St Stephen’s Green West does not appear to have been undertaken, and options to alter the alignment of Tara Street station for improved connectivity to St Stephen’s Green West appear to have not been explored. As such, the conclusion that St Stephen’s Green West is not a viable MetroLink station or terminus location appears insufficiently substantiated.
- In the context of the Metro Enabling Works and their impact on the preferred MetroLink route alignment, TII states, in response to Submission 1, Item 6, that “*The Charlemont Metro Enabling Works were constructed to enable the Charlemont Development to proceed whilst simultaneously ensuring there was an option available to construct a station at Charlemont that avoided unnecessary demolition, took advantage of an available site, provided infrastructure that is*

integrated with planned development rather than necessitating later changes and retrospective adjustments to a new development or even possible demolition of the new development, whilst providing protected provision for the future extension of the scheme south, if required.” It is understood that the delivery of the Enabling Works was permitted by an agreement between TII and the Two Grand Parade developer, made before March 2019, i.e. long before the decision was made to abandon (rather than defer) the MetroLink tie-in to Luas Green Line at Charlemont. The agreement has not been made public, therefore it is unclear whether any financial contribution has been made by TII to reimburse delivery of the Enabling Works, and whether any commitment was made by TII to the developer that the station will be constructed at Charlemont in accordance with the then-decided preferred route alignment. Furthermore, it is unclear whether the undertaken Enabling Works provide any flexibility in relation to the Charlemont station box alignment. It appears that all of these considerations could have had an impact on the selection of MetroLink’s southern terminus location and arrangements, and this therefore should be fully clarified.

Charlemont Station Design and Function

- TII response to Submission 2, item 62, which raised the concern in relation to limited drop-off provision and lack of car parking provision at Charlemont, states that *“TII have deliberately designed the Station with minimum set down space (with the exception of a drop-off on Grand Parade for persons of restricted mobility only) or room for taxi ranks so that it does not encourage the Station to be used as a terminus and pick-up point”*.
- In the same context, in response to Submission 2, item 66 and response to Submission 3, item 37 TII state that *“[The Charlemont Station] is not designed as a terminus station with drop-off and pick-up points for passenger journeys to the Airport and instead forms part of an integrated public transport network. The system is designed in an integrated manner so that people travelling from the area south of Dublin to access locations north of Charlemont, such as Dublin Airport, Mater, Swords etc. will utilise public transport to interchange with the MetroLink, or will walk or cycle to access their local station. The system is not designed to encourage people to drive to stations within the City and TII actively discourage people from doing so other than the Park & Ride station at Estuary.”*
- Considering the above TII responses, and in the context of no car parking and extremely limited drop-off facilities proposed at Charlemont, it should be noted that as a result of the abandonment of the Luas tie-in, the existing park and ride and drop-off facilities along the Luas Green Line will not be directly and conveniently available to MetroLink passengers. As discussed earlier, there are currently no plans for any extension of MetroLink south of Charlemont, which would provide

an opportunity for parking or drop-offs to be accommodated away from the City Centre. TII's ambition for the station at Charlemont not to be used as a terminus therefore appears to lack cognisance of wider public transport network characteristics, resulting in a failure of the remaining car parking and drop-off demand to be accommodated in the absence of systemic improvements to City-wide public transport over and above that currently planned.

- In response to Submission 1, item 51 and Submission 3, item 37, raising the subject of relatively limited interchange options at Charlemont, TII states that *"[The MetroLink project has been] designed to ensure maximum interchange with other modes of transport, specifically more sustainable modes of transport such as walking, cycling and public transport"*. However, as noted elsewhere herein, the design of the proposed Charlemont Station does not appear to be optimised for seamless multimodal interchange, with the lack of direct platform to platform interchange with Luas Green line and relatively long walk distances to high-frequency A spine and E Spine bus services.
- Overall, the design of the proposed MetroLink station does not appear to reflect its proposed role as the MetroLink southern terminus. This observation is indeed supported by how the Charlemont Station was described in the MetroLink Preferred Design Development Report, i.e. that it was only intended as a *"temporary southern terminus"*⁴ pending delivery of the Luas Green Line tie-in and conversion to the metro standard of the Luas section between Charlemont and Sandyford.

MetroLink Impact on Traffic in Vicinity of Charlemont

- In response to Submission 1, item 51, concerning limited interchange options and lack of car parking and drop off facilities at Charlemont, TII state that *"the modelling data shows that there will be significant growth in public transport usage in trips to and from the city centre area, resulting in an increase of up to 43,000 public transport trips over the 12hr day. There will be a corresponding reduction of over 14,000 car trips along the alignment from Northwood to Charlemont, reducing demand on the road network."* While positive impact of MetroLink on city-wide modal split is not disputed, consideration of local scale traffic impacts appears deficient.
- In response to Submission 2, item 61, Submission 3, item 69, and Submission 1, item 51, which concern limited provision of drop-off facilities at Charlemont, TII state that *"the provision of a drop off at this location is proposed for PRMs only. In this context, it is proposed that the number of drop offs will be minimal and as such will not impact traffic movements significantly. TII do not*

⁴ *MetroLink Preferred Route Design Development Report, Jacobs/ Idom, March 2019, Section 3.3.9, p. 23*

want to introduce further drop off points as they would attract vehicular traffic to the area which would potentially cause traffic congestion.” The cited passage indicates TII’s belief that non-provision of general use parking and drop-off facilities will fully suppress demand for use of the same, rather than resulting in a significant remaining demand being accommodated in an unplanned manner.

- As noted elsewhere herein, the omission of Luas tie-in results in the MetroLink passengers not being able to conveniently transfer from car or taxi to metro using the existing facilities at Luas Green Line stops. In light of this, the non-consideration of car parking and drop-off demand by TII appears to represent a key omission within the scheme’s planning but also within the EIAR. As a result, local traffic impact associated with additional cruising in search of car parking space in the station’s area and of vehicles potentially stopping on the main Grand Parade carriageway to drop off passengers has not been considered.

MetroLink Impact on Car Parking in Vicinity of Charlemont

- In response to Submission 2, item 51, and Submission 3, item 24, which raise the subject of insufficient consideration of the MetroLink station’s impact on car parking in the area, TII state that *“as identified in Appendix A9.5 Scheme Traffic Management Plan, the impact on parking and loading, and local access has been assessed on the following parameters and key performance indicators:*
 - *quantum of on-street parking removed - removal of >30% residential parking with 200m, or removal of >10% commercial parking within 200m;*
 - *quantum of loading bays and taxi bays removed- reduction of on-street loading facilities within 200m; and,*
 - *additional distance travelled due to diversions - diversion of over 2km for commercial access”.*

The above response is noted to lack a rationale for both the criteria selected and the numerical thresholds applied. Furthermore, the approach is noted to focus exclusively on the proposed scheme’s impact on car parking provision, with demand not being considered in any way. This may result in an inaccurate output picture, given that the impact of a removal of a certain proportion of car parking spaces in an area obviously depends on the degree of utilisation of the available car parking spaces in that area. Furthermore, the criteria selected fail to consider the impact of car/ taxi drop-off and pick-up demand within this Statement’s Area of Interest, which appears inevitable given:

- that Charlemont represents the proposed scheme’s southern terminus;

- that MetroLink provides a high-quality public transport connection to/ from Dublin Airport, and
 - the lack of appropriate car and taxi pick-up and drop-off facilities at the station.
- In the response to Submission 2, item 51, and Submission 3, item 24), in the context of very limited provision of drop-off facilities (a single bay only), TII state that *“transport modelling presented in EIAR Chapter 9, Traffic and Transport also indicates that the majority of passengers boarding and alighting at Charlemont will transfer from/to other forms of public transport, and therefore will not require drop-off facilities.”* It is noted that while *the majority* of passengers may not travel to and from the station by car or taxi, this implies that a certain minority will do so. However, the EIAR and TII responses appear to ignore the remaining car parking and drop-off demand, which is not quantified and no provisions are made in the station design for it to be accommodated in a planned manner.

4 Current Observations

4.1 Overview

This section of the Statement presents CDCG observations in response to TII's position summarised in the preceding Section 3. For clarity and consistency, the observations have been divided into headings corresponding to the Items of Dispute set out previously.

4.2 MetroLink Route Alignment and Southern Terminus Location

With regard to the MetroLink route alignment and the proposed southern terminus location at Charlemont:

1) Lack of clarity in relation to Luas tie-in status:

- a. Both the EIAR and the key policy document, namely the *GDATS 2022*, neither clearly identify timescales for potential MetroLink extension beyond Charlemont nor determine a preferred routing of such extension, which may or may not involve a Luas tie-in.
- b. At the same time, the EIAR (Section 7.7.7) states that there should be no need for the Luas Green Line conversion to the metro standard at least until 2042. As such, it is deemed that the current omission of the Luas tie-in is a permanent alteration of the original MetroLink project rather than representing a division of the MetroLink project into two phases.
- c. The TII response to previous CDCG submissions also indicates that there is currently no plan for any MetroLink extension beyond Charlemont (see: Section 3.3 herein).

2) Implications of the omission of the Luas tie-in:

- a. As noted in Section 2.2, the optimum Luas tie-in location has been identified to be in direct proximity of Charlemont, which is why any subsequently considered MetroLink route option was required to pass through a station at that location. Indeed, it was required for it to arrive at Charlemont at a specific angle to enable the tie-in.
- b. The constraints regarding Charlemont Station location and alignment have had knock-on effects on the location and alignment of other stations to the north, particularly those at St Stephen's Green and Tara Street. It should be noted that the station location at St Stephen's Green West has been deemed infeasible due to track curvature issues arising because of the required Charlemont Station alignment – such issues could likely be resolved, if the station at Charlemont were either aligned differently relative to the Luas tracks (however it is unclear if this is now feasible due to works completed underneath the Two Grand Parade office development as part of development works on that site) or relocated/eliminated entirely.

- c. With the tie-in being dropped, the above constraint for route options development was rendered redundant. This should have triggered a repeated route options development and appraisal with regard to the southern section of the proposed MetroLink scheme.
- 3) Insufficient consideration of alternative southern terminus location options:
- a. As route optioneering had not been repeated following the fundamental change in project assumptions, the number of southern terminus location options has been limited to the proposed station locations along the original MetroLink preferred route, with only two alternatives being considered: Charlemont and St Stephen's Green East.
 - b. Given that St Stephen's Green East was never considered as a potential terminus and main Luas transfer point, when MetroLink routing studies were undertaken, its location and alignment are obviously not optimal for that purpose. Indeed, they have been a by-product of the assumed tie-in location at Charlemont, as noted above. Due to this, the comparative assessment of St Stephen's Green East versus Charlemont predictably showed the former performing worse as a potential southern MetroLink terminus.
 - c. The above process has been presented in Section 7.7.8 of the EIAR as leading to the determination of the optimal terminus location, when in fact only a single station location, i.e. Charlemont, was selected and designed as an interchange point within that process. As such, the consideration of alternatives with regard to the southern MetroLink terminus is deemed to lack the required level of objectivity and robustness.

4.3 Charlemont Station Function and Design

With regard to Charlemont Station function and design, the following observations are made:

- 1) Lack of clarity in relation to Charlemont Station function as a terminus:
 - a. In TII's responses, the Charlemont Station is described as the southern terminus, and indeed it is selected as the southern terminus location in the EIAR Consideration of Alternatives chapter (notwithstanding the reservations regarding the process, described elsewhere herein). However, at the same time, TII has also stated that the Charlemont Station has been designed in such way that *"does not encourage the Station to be used as a terminus and pick-up point"*.
 - b. It should also be noted that, as elaborated upon in Section 2.2, Charlemont has originally been designated as a *temporary* terminus only, pending delivery of the Luas tie-in and conversion to the metro standard (at which point the southern terminus would be relocated to Sandyford). The implications of the change in Charlemont's designation from temporary to permanent terminus for station design requirements have not been discussed in the EIAR.

This is the case in spite of the fact that park and ride and drop-off facilities, which are provided at multiple Luas stations south of Charlemont, would now not be directly available to MetroLink passengers, with no alternative being offered.

- c. In light of the above, while the proposed MetroLink station at Charlemont has been selected as the termination point, TII appears to be aware that the station will not be capable of meeting all requirements of a metro terminus. Instead of this flaw being addressed, the deficiency in serving passengers wishing to transfer to metro from car or taxi has been downplayed.

2) Poor integration with Luas:

- a. Considering that MetroLink is to become a major mode of travel to and from Dublin Airport (with the station at the Airport serving the highest passenger volumes), a significant proportion of passengers are likely to be individuals with limited mobility due to carrying heavy and/ or bulky luggage. At the same time, fundamental design deficiencies can be identified at the proposed Charlemont Station, which will affect the capacity of the station to serve such passengers. The interchange between the MetroLink and Luas will be compromised due to the lack of direct lifts and/ or escalators between MetroLink and Luas platforms. Instead, the passengers wishing to avoid stairs due to limited mobility (including both individuals with disabilities and Airport-bound passengers carrying unwieldy luggage), will need to transfer between three different lifts to complete the interchange between tram and the metro. Travelators will not be provided between ground level and the elevated Luas platforms.

3) Poor integration with the bus:

- a. Distance of ca. 500 metres between St Stephen's Green East MetroLink Station and the St Stephen's Green (West) Luas stop has been deemed unacceptable for a major interchange, however similar distance between Charlemont and the nearest bus stops on BusConnects spine services is described as being favourable.
- b. Such distances are compounded by poor pedestrian infrastructure along Grand Parade, with a lack of continuous level footpath on the southern side.
- c. The station design includes no new bus stops/ lay-bys or other features that would allow for improved future bus routing to facilitate easier interchange.

- 4) Despite poor integration with alternative modes, it has been claimed by TII that the majority of passengers will arrive at the station either by walking/ cycling or by public transport, which has been presented as sufficient rationale for the lack of provision for car/ taxi drop-offs and pick-ups. It should be noted that neither the EIAR nor TII's responses to the previous CDCG submissions

- provide specific passenger numbers forecast to use the Charlemont Station by mode of arrival, which prevents a critical analysis of car parking/ drop-off/ pick-up demand versus available capacity from being undertaken.
- 5) This lack of detail also applies to the Review of Charlemont Station document issued by Jacobs in March 2024, which fails to directly address the forecast parking and drop-off demand. Instead, further unjustified assumptions are introduced in the document, including that those who now travel to the Airport by taxi (which includes 37% of Airport passengers coming from Dublin) are unlikely to instead be dropped off at a MetroLink station despite a significant cost and potentially also time advantage. Notably, no assessment appears to have been undertaken of whether provision of appropriate drop-off facilities at MetroLink stations would attract a more significant number of Airport-bound trips to use public transport for part of their trip.
 - 6) Overall, it is deemed that the EIAR and the subsequent TII responses downplay the function of the Charlemont Station as a terminus, which obscures the station's location and design deficiencies resulting in the station not being fit for purpose as a key node of Dublin's transport network. Indeed, TII appear to maintain that the MetroLink has been deliberately designed *without* a proper terminus to serve the southern part of Dublin, which would include transfer facilities such as car and taxi parking and drop-off facilities.
 - 7) With respect to the internal street between Grand Parade and Dartmouth Road, which will be located above the station, the TII response states that it would *"have barriered and controlled access, be speed restricted and traffic calmed, and be treated as a shared vehicular pedestrian space"*. Unless such a decision was made post the EIAR's publication, this statement appears to be factually incorrect, as the EIAR Chapter 4 makes no mention of traffic management on the internal street located above the proposed Charlemont Station. From the drawing presented therein, it is unclear if or where any barriers or bollards will be located.
 - 8) It is also noted that only one lift will be provided between ground level and the station's concourse level, introducing a major potential point of failure in access to the station. Should the lift be unavailable due to malfunction or planned maintenance, the station will become virtually inaccessible for individuals with reduced mobility. Furthermore, even with the lift operational, the capacity of the station to serve passengers with reduced mobility appears questionable. Despite the likely high proportion of passengers carrying heavy/ bulky luggage, it does not appear that a capacity assessment of the lifts has been undertaken. Insufficient lift capacity will result in increased station access/ egress time, queuing and overcrowding issues, and deteriorated passenger experience. Some of the passengers who would normally use a lift due to carrying

luggage may instead try to avoid the delay by using a travelator, introducing a tripping hazard to themselves and other passengers.

4.4 MetroLink Traffic Impact at Charlemont

With regard to the MetroLink route alignment and the proposed southern terminus location at Charlemont, the following observations are made:

- 1) While it is accepted that the opening of the MetroLink will result in a meaningful modal shift away from car at a city-wide level, it is deemed that the consideration of local traffic impacts during the MetroLink operational phase, as presented in the EIAR, has been insufficient. Particularly, the conclusion that traffic level of service will not be affected relies on the assumption that the station will not be accessed by car if no additional parking or drop-off spaces are provided. No justification for such assumption has been provided, and the railway order documents fail to elaborate on how informal drop-offs will be prevented.
- 2) Given the lack of drop-off facilities at the station (except for a single bay at the westbound side of Grand Parade, intended for individuals with reduced mobility), it is deemed likely that informal drop offs on Grand Parade will frequently occur, affecting the effective capacity of that key circular road and posing a traffic hazard.
- 3) While public car parking is provided on Dartmouth Road, and is intended to be reinstated following MetroLink completion, it is understood that it will continue to be available for general public and residents under regular rules (i.e. pay and display and permit parking). As such, based on the current occupancy observations, it is likely that those bays will be occupied through most of the day, with car and taxi drop-offs and pick-ups occurring on the carriageway, again resulting in reduced road capacity and traffic hazard.
- 4) As noted under item 6) under Section 4.3 of this Statement, it is unclear how traffic on the internal street between Grand Parade and Dartmouth Road will be managed, as the design drawings available to date include no filtered mobility measures, which are referred to in TII's response to the previous CDCG submissions. It is noted that 8 no. wheelchair accessible car parking spaces are proposed to be located along that internal street (as shown in Figure 2.2 herein), however it is unclear how access to these would be maintained if through traffic is restricted.
- 5) Overall, while it is welcomed that a construction phase mobility management plan has been produced, the lack of operational phase mobility management proposals for the station environs is a concern. It is deemed that operational phase mobility management measures should be developed and implemented to avoid local traffic impacts.

4.5 MetroLink Impact on Car Parking at Charlemont

With regard to the MetroLink impact on car parking at Charlemont, the following observations are made:

- 1) While the impact of the MetroLink construction on the car parking supply has been quantified in the EIAR, the assessment is deemed deficient in that current or future demand has not been considered. As demonstrated by the site assessment observations (see: Section 2.4), the existing car parking facilities at Charlemont currently operate at capacity, with overspill car parking observed within side lanes where parking is not legally permitted. With no alternative car parking or drop-off locations available close by, those issues will be exacerbated by any reduction in car parking provision during the MetroLink construction phase and any increase in car parking demand during the operational phase associated with car/ taxi pick-up (and to a lesser extent drop-off activity) within this Statement's Area of Interest due to the lack of suitable facilities at the Charlemont Station. In their response TII have presented no evidence that would substantiate their assumption in relation to future car parking demand, i.e. that non-provision of drop-off facilities will suffice as an effective demand management measure.
- 2) While it is generally agreed that long stay parking (e.g. associated with air travel from Dublin Airport) at MetroLink stations should be avoided and no long stay parking spaces should be provided in their proximity, it is deemed essential that suitable car/ taxi drop-off and pick-up facilities are provided at a designated terminus location, with appropriate restrictions and enforcement in place to ensure usage for such purposes. This is particularly relevant given the abandonment of the Luas tie-in, resulting in the existing drop-off and parking facilities along the Luas Green Line not being directly accessible by prospective MetroLink passengers. To enable this, the selected terminus location should be well connected to the road network and offer space for the facilities to be provided, with Charlemont having neither of these attributes.

5 Summary and Requested Amendments

5.1 Overview

This section of the Statement represents its conclusion, summarising key points made in the preceding sections and presenting recommended next steps.

5.2 Key Observations

The following key observations are made in this Statement, which have been substantiated and elaborated upon in the remainder of the document:

- 1) The rationale for MetroLink's proposed routing via Charlemont has been substantially weakened due to the omission of Luas Green Line tie-in, with a revised study concerning MetroLink routing and/ or southern terminus location not undertaken subsequently to reflect the fundamental change in the scheme assumptions.
- 2) The proposed design of the Charlemont Station does not reflect its role as the scheme's southern terminus due to the lack of drop-off facilities and poor integration with other modes of transport (particularly bus). It should be noted that Charlemont was only planned to be a temporary MetroLink terminus for a relatively short time pending delivery of the Luas Green Line's upgrade to metro between Charlemont and Sandyford, and it was never planned as a permanent southern terminus, as it now would be following abandonment of the Luas tie-in and upgrade.
- 3) In their responses to previous CDCG submissions, TII state that they "*have deliberately designed the Station with minimum set down space (...) or room for taxi ranks so that it does not encourage the Station to be used as a terminus and pick-up point*", that "[The Charlemont Station] *is not designed as a terminus station*" and that the TII "*does not [want to] encourage the station to be used as a terminus*". Such statements indicate that the MetroLink has been deliberately designed without a proper terminus to serve the southern part of Dublin, which appears to represent an extraordinary design flaw affecting the usability and accessibility of the scheme.
- 4) The assumptions underpinning the non-provision of general use drop-off facilities at Charlemont, focusing on the station being accessed by public transport and active modes only and disregarding access by car and taxi, appear excessively optimistic and indeed wholly unrealistic. This is highlighted by the lack of alternative stations along the MetroLink southern section that would offer convenient drop-off and pick-up facilities for those arriving as car or taxi passengers from a wide catchment area extending east, west and south of the station.
- 5) Should the above-mentioned assumptions regarding access not materialise, local residents at Charlemont will be strongly affected by increased car traffic and car parking demand, exacerbating existing observed capacity issues within on-street parking facilities in the local area. Furthermore,

it is noted that the assumptions regarding access mode shares also underpin analysis contained within the Environmental Impact Assessment Report (EIAR), thereby significantly undermining the robustness and value of its findings.

- 6) The EIAR's assessment of parking impacts lack a rationale for both the criteria selected and the numerical thresholds applied, with the approach noted to focus exclusively on the proposed scheme's impact on car parking provision, with demand not being considered in any way. Due to the lack of car/ taxi pick-up and drop-off facilities at the Charlemont Station, demand for such activities appears highly likely to be accommodated within local streets in this Statement's Area of Interest, negatively impacting on the amenity of local residents.

Overall, it appears that by the late-stage decision to abandon the MetroLink to Luas Green Line tie-in and Luas Green Line upgrade, the MetroLink project has been fundamentally changed, being left with no appropriate interfaces to accommodate travel demand originating from southern part of Dublin. The implications of this have not been properly assessed in the project EIAR, with the project excessively relying on the passengers transferring from other public transport modes onto metro at Charlemont, which is neither located in a place well served by public transport other than Luas Green Line nor designed as an optimised multimodal interchange point. As such, it is highly likely that a significant proportion of passengers will seek to access MetroLink by car or taxi, resulting in severe impact on the local population in the form of increased traffic and car parking demand in an area which has been observed to already experiences notable car parking pressures.

In the context of the identified concerns and considerations regarding the MetroLink design process and related decision making, the Authors note that within the time constraints of preparing this Statement it has not been possible to undertake a full and detailed review of documents issued by TII during the Oral Hearing process, which were not made to public prior to the Hearing's commencement.

None of the recently produced documents appear to change the fundamental issue of Charlemont Station having been identified on the basis of its vicinity representing the most appropriate tie-in between the proposed underground City Centre metro alignment and the existing overground Luas Green Line alignment, and that any supporting rationale for the selection of Charlemont as the southern MetroLink terminus has only been provided retrospectively following the decision not to proceed with southern section of MetroLink. Furthermore, none of the recently produced documents address serious concerns regarding the impact of car and taxi drop-off and pick-up trips to the southern terminus, and resulting severe negative impacts on residential amenity within the vicinity of the Charlemont Station.

5.3 Requested Amendments

Considering the observations included herein, it is recommended that a fundamental re-evaluation of the MetroLink project be undertaken, with the route selection assumptions being updated to reflect the abandonment of the Luas Green Line upgrade to metro. This should result in identifying a route alignment, station and terminus locations that would better integrate with both current and future land uses and current and future public transport networks, while also enabling convenient access for the minority of those who may need to access MetroLink by car or taxi. To this effect, it is recommended that the City Centre section of MetroLink from Tara Street to Charlemont be excluded from the current Railway Order. In doing so, it will enable a wider range of feasible future MetroLink route extension options to the south of the City to be considered, rather than the Luas Green Line upgrade being the default extension option.

Without prejudice to our case that the southern section of MetroLink needs to be fundamentally reviewed in light of the policy to abandon the Luas Green Line tie-in, at a minimum it is recommended that proposed stations be re-evaluated with a more realistic approach to the likely car/ taxi drop-off and pick-up demand, with appropriate facilities to accommodate such demand being provided without negatively impacting local residential amenity. Furthermore, operational phase traffic management plans for station environs should be produced and submitted to enable consideration by An Bord Pleanála of appropriate and effective measures to mitigate local traffic and parking impacts arising from the opening of MetroLink.

3.3

**IN THE MATTER OF AN APPLICATION TO AN BORD PLEANALA FOR
APPROVAL OF THE RAILWAY (METROLINK – ESTUARY TO CHARLEMONT
VIA DUBLIN AIRPORT) ORDER**

ABP-314724-22

**LEGAL SUBMISSIONS ON BEHALF OF
CHARLEMONT & DARTMOUTH COMMUNITY GROUP (“THE GROUP”)**

Introduction

1. Substantial aspects of what will become the metro station box for the proposed Charlemont metro stop were constructed in 2021/2022 on or about or under the site located at No. 2 Grand Parade, Dublin 6 by the Developer Hines/Grand Parade Property Trading Company DAC (“**Hines**”) on behalf of the NTA and/or TII.
2. The purported permission for those works is planning permission granted to Hines granted by An Bord Pleanála (“the Board”) on 11 April 2019. (DCC Planning Ref. 2373/17; ABP Ref. APB-300873-18). Paragraph 115 of TII’s submissions state:

“Included in the scope of that permission were certain enabling works comprising the construction of a structural deck founded on bored secant piles which forms part of the Charlemont station box roof slab which was designed to facilitate the possible construction of a Metrolink station at Charlemont”.

3. The use of the term “enabling words” downplays the significance of what has actually been constructed. In essence, the location of the Charlemont Metro stop has been defined, in circumstances where the roof slab of the station has been put in place. The works are described in the application documents as “advanced station box works”.
4. The works which have been carried out are described in the Environmental Impact Assessment Report (EIAR) at Chapter 7: *Consideration of the Alternatives*; at p.112, as follows:-

*“The station box layout has also been further developed to retain the ability to construct the full station box and internal fit-out in close proximity to the office development (currently in construction) overhead. The developer of the oversite development has carried out some **advanced station box works** on TII’s behalf to ensure a station can be safely constructed at a later date. A multi-disciplinary analysis was undertaken to identify the preferred option for a station at Charlemont.” [Emphasis added.]*

5. In section 5.10.13 of the EIAR, the works are described as “*a structural deck founded on bored secant piles which will form the central section of the Charlemont station box roof slab.*”

6. It is clear from these descriptions that the works which have been carried out are far removed from merely being “enabling works”. The extent of the works has been previously described in a legal opinion of senior counsel, previously presented on behalf of the Group:

“To build the 2.4m thick station box slab, it has been confirmed with the developer that two overnight concrete pours (continuous 16 hours - 8pm to 12 noon) were carried out on the 26th November 2021 and 21st January 2022. There was a significant increase in noise disturbance caused by the much deeper piling required for the secant walls of the metro station box. These substantial works prolonged the construction programme of the Hynes development.”

7. These are, on any account, significant and substantial works and are likely to have cost several million euro and are integral to the completion of the Charlemont metro station at this location. There is nowhere else that the station can be constructed in light of the works already undertaken. There is no information before the Board as to who paid for those works and, in particular, whether TII has reimbursed Hines for any works undertaken by it in connection with the advance station box works.

8. The Hines permission which TII says authorised these works, contained the following condition:

“3. (a) Prior to commencement of development, the developer shall enter into an agreement with Transport Infrastructure Ireland/ National Transport Authority in respect of those authorities’ requirements ... to accommodate the potential development, construction and operation of a metro or light railway on, at, or near the site of the approved development.”

9. This condition was not a warrant to construct part of the Charlemont metro station.
10. It is appropriate to note the then inspector’s reference to a submission made by TII at the oral hearing associated with the Hines planning application, at section 18.3 of his report:

“The inspector then requested that Ms. Aoife Carroll, barrister on behalf of the NTA and TII to make a closing submission. Ms. Carroll stated that the current application before the Board has nothing to do with the delivery of the Metro North project. This will be the subject of a separate Railway Order under the Transport Infrastructure Act 2001 (as amended). It is argued that the revised plans would not prejudice the Metro project and this is being supported by the experts presented at the oral hearing on behalf of the TII and NTA. It is also suggested that the proposal would have an acceptable impact on the Luas

operations provided the applicants comply with various protocols, guidelines and requirements of Transport Infrastructure Ireland and these can be adequately dealt with by way of condition. Any such conditions are a matter for the Board. However, the NTA and TII requirements should be included in the wording of any such conditions."

11. It is also important to note that insofar as information was provided to Dublin City Council at further information stage proposing to include the works described in the EIAR as *"a structural deck founded on bored secant piles which will form the central section of the Charlemont station box roof slab"*, such works were never the subject of environmental impact assessment or appropriate assessment.

Statutory basis on which railway works can be undertaken

12. Under the Transport (Railway Infrastructure) Act 2001 (as amended by s.115(6) of the Dublin Transport Authority Act 2008),*"railway works"* are deemed to be exempted development under the Planning and Development Act 2000 (*"the 2000 Act"*) and thus exempted from requiring planning permission under the 2000 Act.

"Exempted development.

38. (1) Each of the following shall be exempted development for the purposes of the Act of 2000:

(a) development consisting of the carrying out of railway works, including the use of the railway works or any part thereof for the purposes of the operation of a railway, authorised by the Board and specified in a railway order or of any incidental or temporary works connected with such development;

(b) development consisting of the carrying out of railway works for the maintenance, improvement or repair of a railway that has been built pursuant to a railway order.

(2) Part IV of the Act of 2000 does not apply and is deemed never to have applied to developments specified in subsection (1)."

13. The expression *"railway works"* is defined as follows in section 2(1) of the 2001 Act as meaning:

"any works required for the purposes of a railway or any part of a railway, including works ancillary to the purposes aforesaid such as parking by buses or by persons using vehicles who intend to complete their journey by railway, and relocation of utilities, and in this definition "works" includes any act or operation of construction, excavation, tunnelling, demolition, extension, alteration, reinstatement, reconstruction, making good, repair or renewal."

14. It is clear that the construction of a metro station box falls within the definition of “railway works”.

15. Section 37 (4) provides as follows:-

“The construction of railway works, the subject of an application for a railway order under this Part, shall not be undertaken unless [the Board] has granted an order under section 43.”

16. The authorisation to carry out “railway works” is a Railway Order, granted by the Board pursuant under s.43 of the 2001 Act. This is the process underway here, but the application proceeds on the basis that in respect of the Charlemont stop, part of the station is already in place, meaning that the prospective terminus of the rail line has not merely been identified, it has been presented as a *fait accompli*. If the rail line is to terminate at Charlemont, the location of the partially constructed station box has predetermined a fundamental aspect of the works.

17. An application for a Railway Order is required to be accompanied by an Environmental Impact Assessment Report (“EIAR”). Section 39(1) of the 2001 Act (as amended) provides as follows:

“(1) The applicant shall ensure that an environmental impact assessment report—

(a) is prepared by competent experts,

(b) subject to subsection (3), contains –

(i) a description of the proposed railway works comprising information on the site, design, size and other relevant features of the proposed works,

*(ii) a description of the likely significant effects of the **proposed railway works** on the environment,*

*(iii) the data required to identify and assess the main effects which the **proposed railway works** are likely to have on the environment,*

*(iv) a description of any features of the **proposed railway works**, and of any measures envisaged, to avoid, prevent or reduce and, if possible, offset likely significant adverse effects on the environment,*

*(v) a description of the reasonable alternatives studied by the applicant which are relevant to the **proposed railway works** and their specific characteristics, and an indication of the main reasons for the option chosen, taking into account the effects of the railway works on the environment, and*

(vi) a summary in non-technical language of the above information, and (c) takes into account the available results of other relevant assessments under European Union or national legislation with a view to avoiding duplication of assessments. [Emphasis added.]

18. The Group raises two fundamental complaints about the partially constructed station box. First, the Board did not have jurisdiction to permit those works as part of the Hines permission. That was an application for permission under Part III of the 2000 Act, rather than an application for a Railway Order under the 2001 Act. As such, the Board was not competent to grant permission for railway works.
19. Secondly, the works were purportedly consented to by the Board without an EIAR being submitted and an EIA being undertaken (or even a screening for same) and without any appropriate assessment (“AA”) screening or Stage 2 AA being undertaken in respect of those works. In the circumstances, and notwithstanding that the works are asserted to have been undertaken on foot of the Hines planning permission, they are unlawful as a matter of EU law. Furthermore, in considering this within application now under consideration, the Board is not in a position to consider all of the “*proposed railway works*” because a significant and key component of those railway works has already been undertaken. The effect of the unlawful works is to lock-in the location of the Charlemont terminus and, by virtue of its alignment, the route of the line proposed to run from St. Stephen’s Green East to Charlemont.
20. TII’s answer to the suggestion that the works are unlawful is to assert that same is a collateral attack on the lawfulness of the Hines permission. It is not. The Hines planning permission is not at issue herein; that related to an application made under the 2000 Act and did not and cannot have permitted anything outside the scope of that Act. Both TII and the Board must address the unlawfulness of the works. It is the Group’s submission that the current process does not readily or fairly afford either an opportunity to do so.
21. There is a suggestion in the TII submissions that the Charlemont station advance works are included as part of the EIAR. Paragraph 118 states that “*It should be noted that those enabling works have been included in the assessment for the purposes of the EIA to be completed by the Board (see, Chapter 4 of the EIAR which references the structural deck that forms part of the station box roof slab)*”. However, because those railway works are already carried out, their impact along with the proposed railway works the subject matter of this application cannot be properly assessed. The environmental impacts at the time when the Board purported to consent to the advance metro station works cannot now be assessed as the environmental baseline has changed.
22. Annex IV of the EIA Directive sets out the information which must be included in the EIAR, which includes the following:

“A description of the likely significant effects of the project resulting from, inter alia: ...

(e) the cumulation of effects with other existing and/or approved projects, taking into account any existing environmental problems relating to areas of

particular environmental importance likely to be affected or the use of natural resources; ... ”

23. Insofar as TII might assert that the Hines development, including that part of the Charlemont metro station box already constructed, will be assessed for EIA purposes as part of a cumulative assessment, a simple cumulative assessment will not suffice for the purposes of addressing the illegality, because that assumes that development consent for the advance metro station works was *preceded* by an EIA, when this is clearly not the case.
24. The effect of seeking to include Charlemont metro station box works within the ambit of the Hines planning application – albeit that such works were never part of the original planning application, were never screened for EIA or subject to an EIA, were never screened for AA or part of a Stage 2 AA and only came into being as part of a further information process that was never advertised or subject to proper public participation for EIA purposes – amounted to unlawful project splitting for EIA purposes. The unlawful railway works already carried out in connection with the partial construction of the Charlemont metro station box were sliced-off from the current project and consequently they were not subject to an assessment for the purpose of the EIA Directive. This is classic project-splitting and unlawful as a matter of EU law.
25. At paragraph 116 of TII’s submissions, it is suggested *“Insofar as complaint is made that it was not lawful for those works to be included within the scope of that planning permission, that is not correct. Moreover, this is not a contention which can be considered as part of the assessment being undertaken by the Board. The planning permission granted by the Board is valid and cannot be challenged as part of the approval process for this Railway Order”*. By way of reply, whilst the Group does not seek to challenge the Hines permission as part of this process, the illegality of the process is something that the Board must assess in its consideration of the Railway Order application, particularly as it is now raised by the Group.
26. In this respect, the Group submits that the Board is under a “remedial obligation” to address the fact that the works were carried out in the absence of an EIA or AA. As noted in the opinion of Senior Counsel previously furnished by the Group as part of its submission in this process, *“a whole series of valid questions and issues that ought to have been properly considered prior to construction have been ignored, including:-*
 - *Was the terrain suitable?*
 - *Was the position suitable?*
 - *What would happen if significant environmental damage was caused due to these enabling works?*
 - *When might such damage become manifest?*
 - *Was there a prior assessment of potential damage to nearby properties caused by the position, size and nature of the station box?*

- *When might any such damage become manifest?*
 - *What studies were carried out to ensure that the particularly deep piling necessary for the station box was safe?*
 - *How can the Board know that the station box that as built is compliant with requisite building standards and best practice for a metro station?*
 - *Was the design and construction approved by appropriate agencies?*
 - *Was it appropriately designed and built in accordance with regulations fit for that purpose?*
 - *Would the box assist in the minimization of vibrations and other potential adverse environmental consequences from the position and operation of the metro railway and metro station?*
 - *What alternatives were considered that might ameliorate any environmental impact?"*
27. An EIA carried out *in advance* of these works would have been in a position to consider reasonable alternatives, including the appropriate location of the terminus for the rail line. In the absence of such *advance* consideration, an EIA which meets the requirements of the EIA Directive has been rendered impossible.
28. Had the Charlemont metro station box advance works been included as part of this Railway Order application, as they ought in law have been, they would have been subject to full environmental impact assessment. By splitting them off through the side-wind of a further information response in the context of a planning application for a commercial development, the station box works were not subjected to any assessment for the purposes of the EIA Directive, even a preliminary examination or a screening. The effect is that an integral part of the metro system, has been constructed in breach of the EIA Directive.

Remedial Obligation

29. Essentially, a remedial obligation exists if a prior consenting process failed to implement the requirements of the EIA Directive. However, the real difficulty which the Board faces in this case is the fact that works have already been carried out in breach of the EIA Directive. This acts as a constraint on the Board in undertaking its obligations under the EIA Directive in the present context. On the basis of this application currently before the Board, if approval is granted, it can only be on the basis of a proposal already fixed-in-stone, brought about by the fact that the station box works have already been carried out without any prior EIA being undertaken.
30. In *Carrownagowan Concern Group v. An Bord Pleanála* [2023] IEHC 579, the concept of remedial obligation was addressed by the High Court. At §87, Humphreys J. identified the circumstances where a remedial obligation might arise:

*“87. The remedial obligation covers a multitude of concepts and needs to be understood as having at least four strands which need to be considered:
 (i) where a challenge is brought to a previous consent without assessment;
 (ii) where a project which has been consented without a full assessment is subject to a further consent application seeking extension or amendment of the previous permission;
 (iii) where the validity of the previous permission is not challenged but the State and relevant actors are not taking action to remedy, review or carry out the inadequate assessment; and
 (iv) where infringement proceedings are brought by the Commission”.*

31. In the present case, the second and/or third considerations are at play.

32. At §96, the Court described the remedial obligation in the following terms:

“The remedial obligation means that any effects of any breach of EU law should be rectified. That presupposes it being established that there has been such a breach, that there are effects of that breach, and that specified action is required to rectify those effects”.

33. In the present case, the breach is the fact that the advanced station box works, which are railway works, were consented to under an incorrect process without any regard being had to the requirements of the EIA Directive. The effects of that breach is that significant works have been undertaken without any prior assessment of the environmental impacts of same. Those works are now sought to be incorporated into or amalgamated with the railway works to be undertaken on foot of this process in the event that a Railway Order which permits the construction of the balance of the Charlemont metro stop is granted by the Board. It is submitted that the specified action required to rectify the defects could either involve demolition of the works or the exclusion of the Charlemont stop from the Railway Order, with the railway line terminating either at St. Stephen’s Green or Tara Street.

34. *Carrownagowan* makes clear that the decision-maker must be *called on* to exercise its remedial obligation functions in the context of the decision-making process. At §84, the Court noted, in respect of that case, that *“the applicants never called on anybody to carry out such a remedial procedure. They just presented themselves to the court where they made that complaint for the first time”*. At §94, the Court explained that *“even if [the remedial obligation issue] is resolved in favour of the applicants, they face an insurmountable stumbling-block which is that they didn’t call on the board to consider an extended form of assessment that would have identified and remediated any adverse effects on the Hen Harrier of forestry activity within the area overall since 1981”*.

35. In the present case, the Group expressly raises the Board’s remedial obligation, to avoid any complaint by the Board or TII in another forum that it should have been raised at this stage of the process.

36. Article 2(1) of the EIA Directive requires that *“Member States shall adopt all measures necessary to ensure that, before consent is given, projects likely to have significant effects on the environment by virtue, inter alia, of their nature, size or location are*

made subject to a requirement for development consent and an assessment with regard to their effects. Those projects are defined in Article 4". [Emphasis added.]

37. Railway works are an example of such projects; an EIAR in respect of same is required under s.39 of the 2001 Act and the Board is required to undertake an EIA before giving approval to a Railway Order.
38. The second recital to the EIA Directive notes that "*effects on the environment should be taken into account at the earliest possible stage in all the technical planning and decision making processes*".
39. The fundamental objective is that before development consent is given, projects likely to have significant effects on the environment by virtue, *inter alia*, of their nature, size or location should be made subject to a requirement for development consent and an assessment with regards to their effects.
40. Unless a planning applicant has applied for and obtained the required development consent and an EIA is undertaken prior to such consent being granted, the applicant cannot commence the works related to the project without being in breach of the requirements of the EIA Directive. In the present case, insofar as TII relies on the Hines permission as authorising the advance Charlemont station box works, which have resulted *inter alia* in the roof of the metro station being constructed, thus defining its immutable characteristics, there was no EIA undertaken as part of that process, meaning that the Hines permission (if it did or could in law include the railway works, which is denied) was in any case granted in breach of EU law. Insofar as TII might assert that an EIA was not required having regard to the nature and size of those works, then it is clear that the inclusion of the works in the Hines application amounted to project splitting, so as to avoid the requirements of the EIA Directive.
41. The Court of Justice of the European Union (CJEU) has identified in a number of cases that there is a continuing remedial obligation in the case of EIA which is derived from Member States' duty to effective or sincere cooperation under Article 4(3) of the Treaty on European Union. Every Member State is required to make good any harm caused by the failure to carry out an EIA. To that end, in this case, the Board as the competent authority, is obliged to take all general or particular measures for remedying the failure to carry out an EIA which should have been undertaken in advance of the Charlemont station box works.
42. In Case 215/06, *Commission v. Ireland* (the Derrybrien case), the CJEU noted at paragraph 57:

"While Community law cannot preclude the applicable national rules from allowing, in certain cases, the regularisation of operations or measures which are unlawful in the light of Community law, such a possibility should be subject to the conditions that it does not offer the persons concerned the opportunity to circumvent the Community rules or to dispense with applying them, and that it should remain the exception". [emphasis added]
43. In Case-348/15, *Stadt Wiener*, the CJEU noted that:

“43 However, a national provision under which projects in respect of which the consent can no longer be subject to challenge before the courts, because of the expiry of the time limit for bringing proceedings laid down in national legislation, are purely and simply deemed to be lawfully authorised as regards the obligation to assess their effects on the environment, which it is for the referring court to ascertain, is not compatible with that directive.

44 As the Advocate General noted, in essence, in points 42 to 44 of her Opinion, Directive 85/337 already precludes, as such, a provision of that nature, if only because that provision has the legal effect of relieving the competent authorities of the obligation to have regard to the fact that a project within the meaning of that directive has been carried out without its effects on the environment having been assessed and to ensure that such an assessment is made, where works or physical interventions connected with that project require subsequent consent (see, to that effect, judgment of 17 March 2011, Brussels Hoofdstedelijk Gewest and Others, C-275/09, EU:C:2011:154, paragraph 37).

45 Furthermore, it is the Court’s settled case-law that the Member State is likewise required to make good any harm caused by the failure to carry out an environmental impact assessment (judgment of 7 January 2004, Wells, C-201/02, EU:C:2004:12, paragraph 66).

46 To that end, the competent authorities are obliged to take all general or particular measures for remedying the failure to carry out such an assessment (judgment of 7 January 2004, Wells, C-201/02, EU:C:2004:12, paragraph 68).”

[emphasis added]

44. In the present case, the fact that the time limit for challenging the Hines permission has elapsed (even if this was a relevant issue, which is denied) does not render lawful the Charlemont station box works purportedly undertaken on foot of that permission, which was granted in contravention of the requirements of the EIA Directive.
45. In joint cases C-196/16 and C-197/16, *Comune Di Corridonia*, the CJEU makes clear that a remedial assessment must be both retrospective and prospective. It is not permissible to confine the assessment to the future effects of the project. Paragraph 44 of the CJEU judgment states that

“[...], an assessment carried out after a plant has been constructed and has entered into operation cannot be confined to its future impact on the environment, but must also take into account its environmental impact from the time of its completion.”

46. In Case C-411/17, *Inter-Environnement Wallonie*, the CJEU held that in the event of failure to carry out an assessment of the environmental impact of a project required under the EIA Directive, Member States are required to nullify the unlawful consequences of the failure. However, EU law does not preclude regularisation through the conducting of an assessment after the project has been completed, but this is subject to the requirement that the assessment carried out for regularisation purposes should not be conducted solely in respect of the project’s future environmental impact but must

also take into account its environmental impact since the time of the completion of the project.

47. In this present application, the information before the Board in the EIAR is entirely devoid any any assessment of environmental impact of the works already carried out since the time of the undertaking of those works.
48. To that end, the EIAR is defective and the Board cannot rely on same in order to lawfully carry an EIA which discharges its remedial obligation. Furthermore, there is no explanation from TII as to exceptional circumstances that exist which would permit the Board to grant permission which allows for the completion of a metro station at Charlemont where the advance works for that station, including the roof of same, was constructed in breach of EU law. In the absence of a clear explanation of exceptional circumstances, the Board must exclude the remaining Charlemont metro station from the scope of the Railway Order.

Alternatives

49. Article 5(1)(d) of the EIA Directive requires an environmental impact assessment report to include:

“a description of the reasonable alternatives studied by the developer, which are relevant to the project and its specific characteristics, and an indication of the main reasons for the option chosen, taking into account the effects of the project on the environment;”

50. Annex IV of the EIA Directive also requires that the following is included in an EIAR:

“A description of the reasonable alternatives (for example in terms of project design, technology, location, size and scale) studied by the developer, which are relevant to the proposed project and its specific characteristics, and an indication of the main reasons for selecting the chosen option, including a comparison of the environmental effects.”

51. The Group, through its planning consultant Mr Barnes, has made submissions about the lack of assessment of reasonable alternatives, particularly with regard to identifying other potential or appropriate termini. It is submitted that an examination of the environmental effects of other terminus points being chosen, in particular St. Stephen's Green and Tara Street, amounts to a significant gap in the overall environmental assessment. It also renders the EIAR deficient and insufficient to allow the Board to undertake a lawful EIA.

52. Furthermore, the fact that advance works for the Charlemont metro station have already been undertaken represents a fundamental impediment to the undertaking of a lawful EIA. It is not possible to identify reasonable alternatives (and the EIAR does not seek to do so) in circumstances where the Charlemont terminus at the location of the advance works is presented as a *fait accompli*. No other options have been presented for assessment of alternative station boxes/alignments at this site, other than indicating that they have evolved. In the circumstances, there can be no assessment of reasonable alternatives at the Charlemont location for the purpose of Article 5(1)(a) (and none are

offered in the EIAR) where the consequence of the advance works is to tie the Board's hands in its consideration of the application.

53. It is submitted that it will not be possible for the Board to conduct a lawful EIA which includes assessment of reasonable alternatives to the Charlemont metro station where TII pre-empted the process by already constructing part of the metro station or in the context of termini at earlier stations.

Fair Procedures

54. As it pointed out by the Group's planning consultant, it has a serious concern that the TII has uploaded a significant amount of additional documents to its website since this Oral Hearing commenced. Given the significant amount of information which has been produced between 19 February 2024 and now, it is unrealistic that any member of the public (including the Group, which is made up of individuals without finite financial resources or time) would have a reasonable opportunity to consider this information and / or make meaningful submissions on that information. Whilst some of the additional documents are net and relevant to specific issues there are a number of significant documents, for example, the AA Screening Update, which runs to 458 pages which was uploaded on 6 March 2024 (day 11 of the Oral Hearing). Each new document is required to be considered for relevance to the particular concerns of the Group.
55. As a matter of fair procedures and having regard to European law rights of effective public participation in matters which engage the EIA Directive and the Habitats Directive, it is imperative members of the public, who may not have attended the hearing, be made aware of this additional information by way of advertisement and afforded a reasonable period of time within which to consider this information and make submissions. The Board has the power to direct advertisement of this additional information and provision for further submissions under section 41(1) and (2)(a) of the 2001 Act and, it is submitted, is obliged to do to properly vindicate the European law rights of the public concerned to properly and effectively participate in the process.

Dated the 25th day of March 2024

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