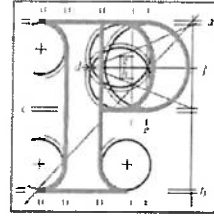


**Our Case Number:** ABP-317742-23

**Your Reference:** Bastille Realty Limited



**An  
Bord  
Pleanála**

Kieran O'Malley & Company Limited  
2 Priory Office Park  
Stillorgan Road  
Blackrock  
Co. Dublin

**Date:** 13 October 2023

**Re:** BusConnects Bray to City Centre Core Bus Corridor Scheme  
Bray to Dublin City Centre.

Dear Sir / Madam,

An Bord Pleanála has received your recent submission in relation to the above mentioned proposed road development and will take it into consideration in its determination of the matter.

Please note that the proposed road development shall not be carried out unless the Board has approved it or approved it with modifications.

If you have any queries in relation to this matter please contact the undersigned officer of the Board at [laps@pleanala.ie](mailto:laps@pleanala.ie)

Please quote the above mentioned An Bord Pleanála reference number in any correspondence or telephone contact with the Board.

Yours faithfully,

Sarah Caulfield  
Executive Officer  
Direct Line: 01-8737287

HA03

Tel	Tel	(01) 858 8100
Glaó Áitiúil	LoCall	1800 275 175
Facs	Fax	(01) 872 2684
Láithreán Gréasáin	Website	<a href="http://www.pleanala.ie">www.pleanala.ie</a>
Ríomhphost	Email	<a href="mailto:bord@pleanala.ie">bord@pleanala.ie</a>

64 Sráid Maoilbhríde  
Baile Átha Cliath 1  
D01 V902

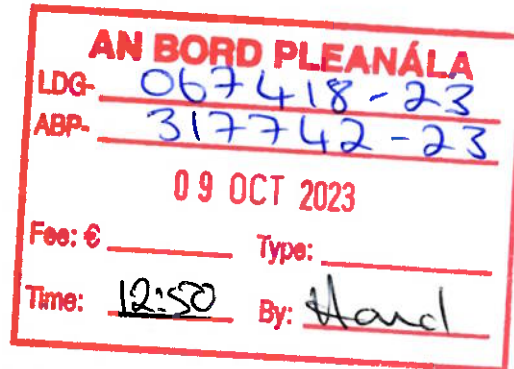
64 Marlborough Street  
Dublin 1  
D01 V902

DIRECTORS: JOHN O'MALLEY BA BAI MRCP Dip EIAMgt Dip Env Eng. MIEI, MIPI, MRTPI  
RAYMOND O'MALLEY BA BAI MURP Dip EIAMgt MIEI

Tel: + [REDACTED]  
[REDACTED]  
[REDACTED]

9<sup>th</sup> October 2023

An Bord Pleanála  
(Strategic Infrastructure Division)  
64 Marlborough Street  
Dublin 1  
D01 V902



Ref.: HA27.317742  
Proposal: BusConnects Bray to City Centre Core Bus Corridor Scheme  
Date Lodged: 4<sup>th</sup> August 2023  
Submissions By: 10<sup>th</sup> October 2023

**Re: LANDOWNER SUBMISSION**

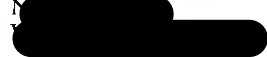
Dear Sir or Madam,

We have been instructed by *Bastille Realty Limited, 8 The Mall, Lucan, Co. Dublin, K78 R8N2* (hereinafter referred to as "Bastille Realty" or "our client") owner of No. 2, Donnybrook Road, Dublin 4 to make a submission in respect of an application for the approval of what appears to be designated as a road scheme under Section 51 of the Roads Act 1993 (as amended). Our client owns No. 2 Donnybrook Road, Dublin 4, D04 NN50, which is a three storey office building with 4 no. car parking spaces at the front of the property. It is proposed to compulsory purchase part of our client's property<sup>1</sup> thus no fee is required for this submission.

The proposed scheme is entitled "The Bray to City Centre Core Bus Corridor Scheme" and has an overall length of c. 18.5 km and in addition, the section of Stonebridge Road included in the design measures c. 200m. The proposed scheme is routed along R138 and commences at the junction of Leeson Street Lower and Earlsfort Terrace at St. Stephen's Green. It runs along Leeson Street Lower and Upper, Sussex Road, and then continues along Morehampton Road and Donnybrook Road, through Donnybrook Village and on to the Stillorgan Road, serving the UCD Interchange via the Stillorgan Road Overbridge at Belfield.

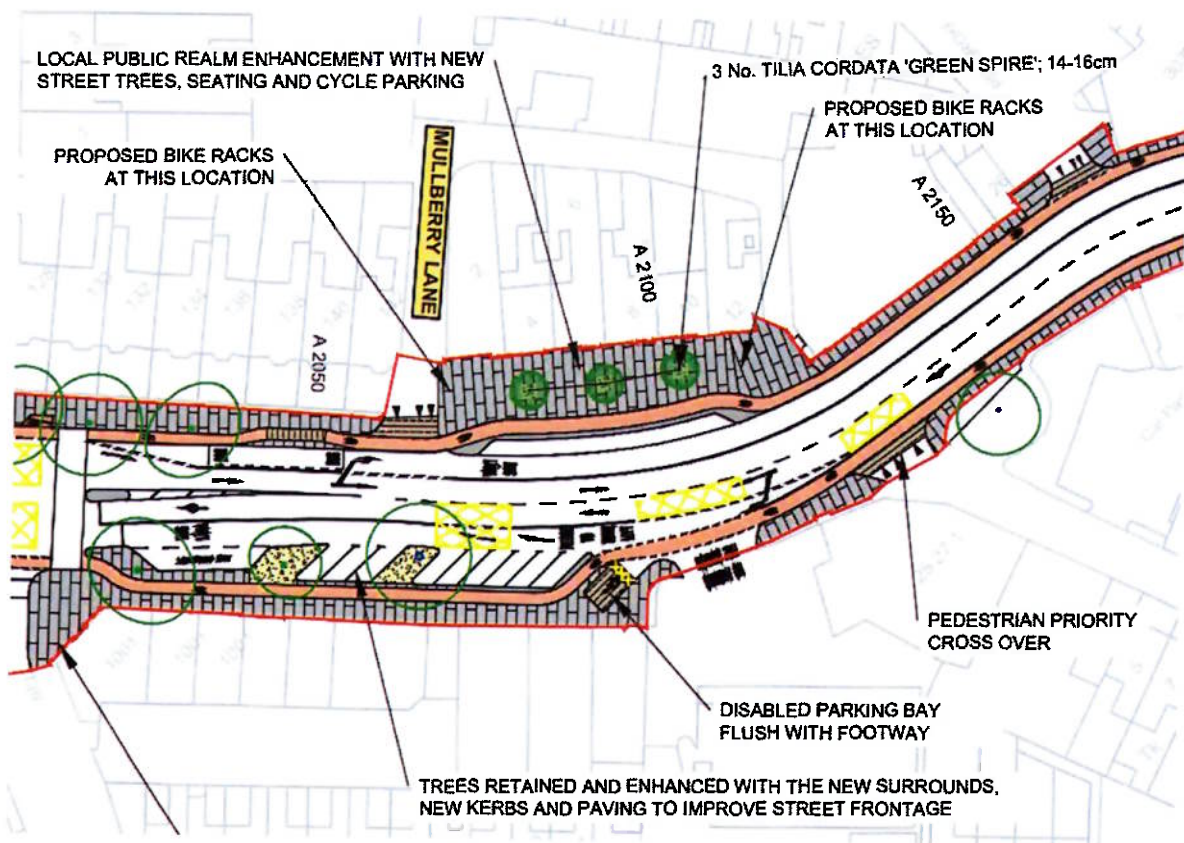
The route then continues on the Stillorgan Road (N11), which carries on to the Bray Road to Loughlinstown Roundabout. From Loughlinstown Roundabout it runs along the Dublin Road (R837) to St. Anne's Church and then south through Shankill village along the R119. It then passes through Wilford Junction and along the Dublin Road until it terminates on Castle Street in Bray, on the north side of the River Dargle crossing. The application is accompanied by an Environmental Impact Assessment Report ("EIAR"), Appropriate Assessment Report (AA), and Natura Impact Statement (NIS) all prepared by Jacobs, ARUP and Systra.

<sup>1</sup> A separate objection to the proposed CPO, is also being filed to An Bord Pleanála.



The part of the proposed scheme that concerns our client and to which they object to is the inclusion of part of their land at No. 2 Donnybrook Road to form part of what's described as "local public realm enhancement with new street trees, seating and cycle parking" in front of Nos. 2 - 12 Donnybrook Road. As proposed, the scheme would result in the permanent loss of all 4 no. car parking spaces at No. 2 Donnybrook Road. Having regard to the emergence of several substantial developments that are under construction in Donnybrook including *Plan No. 3301/20* (a mixed-use building of part 3 to part 7 storeys in height, above basement level at the former Kiely's Public House), *Plan No. 3513/20* (an 8-storey mixed-use development at 25-27 Donnybrook Road), and *ABP Ref. TA29S.307267* (a residential development of 148 no. apartments rising in height from 3 to 12 storeys over basement), the loss of land would also have a significant adverse impact on the future potential of No. 2 Donnybrook Road.

The following is an extract of the Local Public Realm Enhancement from Drg. No.: BCIDB-JAC-ENV\_LA - 0013\_XX\_00 -DR-LL -0007 Rev M01: Bray To City Centre Core Bus Corridor Scheme Landscaping Design:



This is the most information that we can find in respect of the local public realm enhancement at Donnybrook Road. From our review of the EIAR and accompanying documents, we have been unable to find any detailed drawing of the local public realm enhancement and specifically, no further drawing or information about the proposed bike racks that would be positioned on our client's land. There is a singular reference to Bike Racks in Chapter 04 Proposed Scheme Description in the EIAR is in section 4.6.3 Bicycle Provision where it states "Bike racks will generally be provided, where practicable, at Island Bus Stops and key additional locations as noted in the Landscaping General Arrangement drawings (BCIDB-JAC-ENV\_LA-0013\_XX\_00-DR-LL-9001) in Volume 3 of this EIAR".

There is no Drg. No. DR-LL-9001 in Volume 3 of the EIAR and critically, there is no detailed drawing of the proposed bike racks. In other words, we have no idea what is being proposed on our client's land. Further, the EIAR does not list the location of the proposed bike racks even in Chapter 06 Traffic and Transport which lists existing Sheffield Stands within the red line scheme boundary and close to the proposal. Bike racks or stands are also not mentioned in the statutory site and newspaper notices. The Board is referred to following extract from Photomontage 24b, Figure 17.2 of Appendix 17 of the Local Public Realm Enhancement at Donnybrook that does not show the proposed bike racks in front of Nos. 2 or 12 Donnybrook Road:



Is there really a proposal or requirement for bike racks at No. 2 Donnybrook Road or has the National Transport Authority (NTA) merely shown them at that location as a means to pursue an otherwise unjust acquisition of part of our client's land? The total lack of detail in respect of the proposed bike racks undermines the basis of the EIAR and it provides a fundamental and insurmountable difficulty for our client and the Board to assess the necessity and justification for them on our client's land and as part of a local public realm enhancement at Donnybrook Road.

Photomontage 24b is also misleading in respect of the proposed trees at this location. 3 no. Tilla Cordata are proposed as per the Landscape Design drawings with Chapter 04 of the EIAR. This species grows to between 20 and 40 metres in height with a trunk up to 1 metre in diameter, so they are misrepresented in the photomontage. Also, they are entirely inappropriate at this location and would result in a loss of passive solar gain, they would overshadow Nos. 2 – 12 Donnybrook Road, and would be visually dominant at the local public realm and Nos. 2 – 12 Donnybrook Road to the detriment of all the occupiers.

Set against the information vacuum about what's actually being proposed at Donnybrook Road, it is submitted that the EIAR fails to adequately consider all potential impacts on our client's property from the proposed scheme through a combination of neglect, misinformation, conflicting information, under estimating the magnitude of any impact, and a failure to consider mitigation measures or alternatives including the omission of our client's land from the proposed scheme.

As already stated to the Board, there is a distinct lack of information and inconsistent information in the EIAR and other documents about what's proposed at No. 2 Donnybrook Road. There is a statutory obligation to include a comprehensive description of the proposal in the EIAR. This has not been done as the document has neglected to detail what is proposed at Nos. 2-12 Donnybrook Road with specific regard to the proposed bike racks. From a review of the landscape drawings for the entire scheme, 7 no. bike racks are identified of which 5 would be in Donnybrook. If one excludes or relocates the proposed bike racks in front of No. 2, there is no requirement to include our client's land to implement the proposed Bus Connects scheme.

The EIAR also includes misinformation with respect to the existing car parking in front of No. 2 Donnybrook Road. In section 6.3.2.5 Parking and Loading, our client's privately owned car parking spaces are under counted and they are not specifically identified instead they are grouped in the following misleading and imprecise summary of private car parking spaces within the boundary of the proposed scheme:

*"15 commercial (business) parking spaces these are located adjacent to R138 Donnybrook Road northbound carriageway between Eglinton Road and Brookvale Road and adjacent to R138 Donnybrook Road southbound carriageway between Mulberry Lane and The Crescent."*

It is only from the summary of the proposed impact on parking and loading in section 6.4.6.1.2.4 of the EIAR is it explained that the 15 no. commercial (business) parking spaces comprise of 6 at Fast Fix, 6 at First Stop, and three adjacent to R138 Donnybrook Road southbound carriageway between Mulberry Lane and The Crescent (MOLA Architecture). The three adjacent to the R138 Donnybrook Road southbound refer to our client's private parking but the Board should note that there's sufficient room for 4 no. cars to park on our client's property and not three.

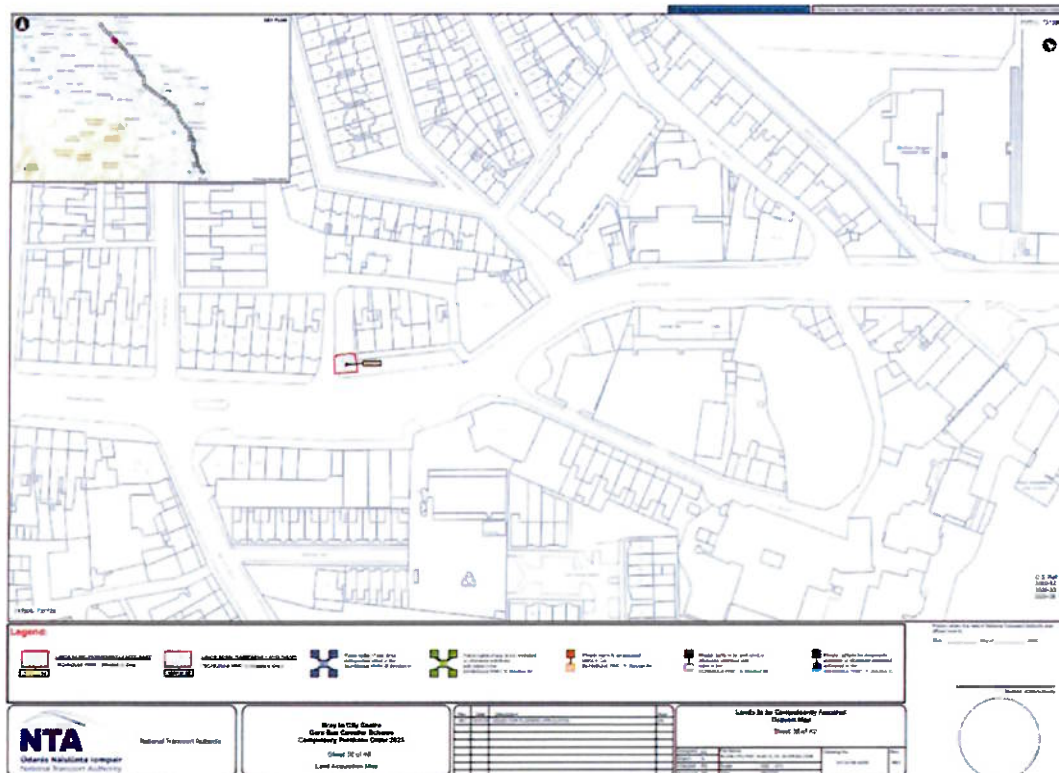
This collective summary description of private car parking spaces that are up to 350 metres apart is misleading and an inappropriate method to assess the impact on our client's property and for that matter, at Fast Fix and First Stop. It results in the next and inevitable error in the EIAR which is the assessment of the impact on all 15 no. spaces as a collective entity as opposed to the impact on the respective properties. The following is the text from the final bullet point in section 6.4.6.1.2.4 of the EIAR:

*"There are currently 15 commercial (business) parking spaces located along R138 Donnybrook Road. Of the 15 spaces, 12 spaces are adjacent to the northbound carriageway between Eglinton Road and Brookvale Road (six at Fast Fit and six at First Stop) and three are adjacent to R138 Donnybrook Road southbound carriageway between Mulberry Lane and The Crescent (MOLA Architecture). It is proposed to remove a total of ten spaces (three spaces at MOLA Architecture, five spaces at Fast Fit and two spaces at First Stop). The impact of this loss is considered to be **Negative, Moderate and Long-term.**"*

If the proposed scheme is approved and constructed, our client will permanently lose all four private car parking spaces at No. 2 Donnybrook Road and the future development potential of the property would be adversely compromised. These are the only car parking spaces for that building and they form an essential part of the facilities associated with the office space at No. 2 Donnybrook Road. It is not relevant to our client what the individual or collective impact is at Fast Fit and or First Stop nor should it have any influence on the weighing of the impact significance at No. 2 Donnybrook Road.

It is submitted and the Board is invited to agree that the collective assessment of the loss of private car parking has resulted in a misleading and material underestimation of the true impact at our client's property. From section 6.2.4.5 Determining the Significance of Effects in the EIAR, the predicted impact of the loss of all 4 car parking spaces at No. 2 Donnybrook Road should be **Negative, Profound, and Long-Term** and not negative, moderate, and long-term. From Table 6.5 EIAR Impact Significances, profound is described as "An effect which obliterates sensitive characteristics", which is the appropriate classification for the permanent loss of the only 4 car parking spaces at No. 2 Donnybrook Road. Any impact at Fast Fit and or First Stop should be ignored and discounted in the EIAR's assessment of the impact at No. 2 Donnybrook Road.

The next section of the EIAR to ignore our client's property is the assessment in Chapter 10 Population. Under the construction and operational phase assessments for Commercial Land Use and Accessibility in Chapter 10, there is no mention whatsoever of No. 2 Donnybrook Road (or MOLA, who are our client's tenant). This is an astonishing omission in the EIAR when our client's land is the only land to be subject of the CPO for the 400 metres stretch of the Proposed Scheme between 114 Morehampton Road and Donnybrook Rugby Ground as shown on the following CPO map:

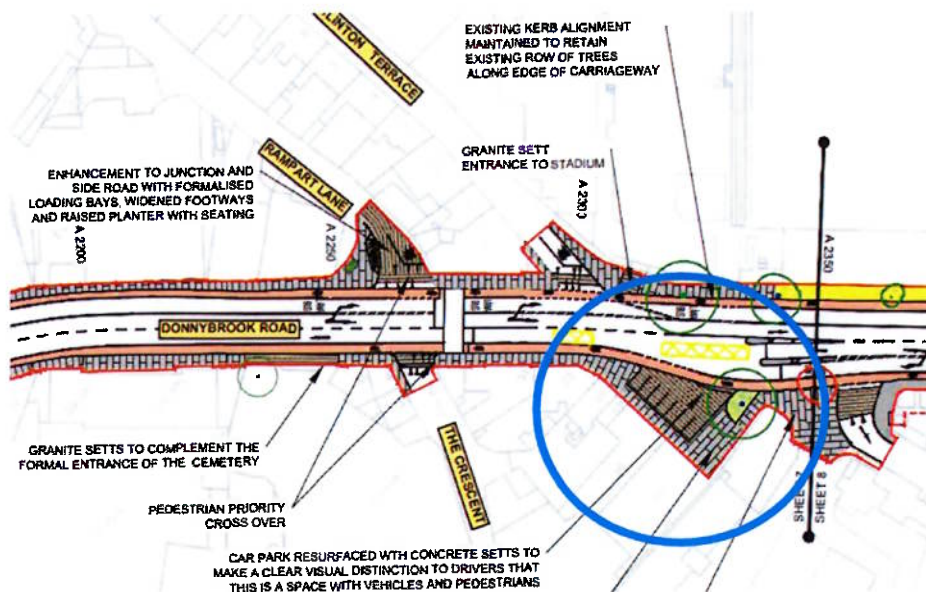


The summary text beneath Table 10.10: Land Take Impacts on Commercial Receptors during the Construction Phase includes three properties in Donnybrook, namely the Circle K Filling Station, First Stop and Fast Fit, which are expected to experience a Negative, Significant, Short-Term land take effect during the construction phase. The same construction phase **Negative, Significant, Short-Term** land take impact will arise at No. 2 Donnybrook Road but the EIAR has completely ignored it. Further and as would be expected because it was ignored at the construction phase, the operational phase impact also ignores the permanent loss of land at No. 2 Donnybrook Road. In fact, the summary text in section 10.4.4.2.2.1 does not actually address the impact of land take on commercial premises in Donnybrook instead it references "community areas".

In terms of accessibility in Chapter 10, the EIAR again fails to address the impact on No. 2 Donnybrook Road. In section 10.4.4.2.2 it concludes that *"The impact on access to commercial businesses along the Proposed Scheme for private vehicles is considered to be Positive, Moderate and Long-Term."* This statement is manifestly false with respect to our client's property because the proposal would result in the permanent loss of 4 no. private car parking spaces thus detrimentally affecting access to No. 2 for private vehicles.

There is a constitutional and legal onus on the NTA to make the case that adverse impacts are the minimum necessary and the Board must be satisfied that the NTA has included in the EIAR measures envisaged to avoid, prevent or reduce, and if possible, offset likely significant adverse effects on the environment. A review of Chapter 03 Consideration of Reasonable Alternatives will confirm that the NTA has not considered any alternatives to avoid, prevent or reduce the impact at No. 2 Donnybrook Road. This is reflective of the EIAR failure to properly identify and assess the potential impacts on the our client's property, in particular, the provision of 4 no. private car parking spaces associated with it and its future development potential.

The Board is requested to contrast the approach taken by the NTA to car parking outside Caffe Nero which is also in Donnybrook and about 230 metres from No. 2 Donnybrook Road. The following extract (with blue circle added) from Drg. No.: BCIDB-JAC-ENV\_LA -0013\_XX\_00 -DR-LL -0007 Rev M01: Bray To City Centre Core Bus Corridor Scheme Landscaping Design confirms the proposal to retain most of the car parking while providing vehicular access across the proposed re-aligned cycle lane:



Applying this layout approach at Nos. 2-12 Donnybrook Road, which would be a reasonable alternative to what's proposed and consistent with the NTA's statutory obligations under the EIAR legislation, would enable the NTA and the Board to exclude our client's property from the proposed scheme without affecting the transport need for the scheme as set out in Chapter 02 of the EIAR.

There is a complete failure in the EIAR to properly address and consider the impact on our client's land. This failure starts with the abject lack of detail in respect of the proposed works at No. 2, the total absence of any detail of the proposed bike racks, the lack of any justification for bike racks at this location, inconsistent information about the bike racks, and zero consideration of any reasonable design alternatives including

those that are proposed nearby in Donnybrook that would prevent the negative, profound and long-term impact on our client's property. It is compounded by a collective assessment of the loss of commercial car parking in Donnybrook and the total failure to include the land take and impact on accessibility in the EIAR. Our client's land is not required to facilitate the proposed scheme, which can be fully implemented without any loss of land at No. 2 Donnybrook Road.


As stated by Douglas Hyde B.L in the Irish Planning & Environmental Law Journal (Vol. 29, Number 3, page77);

*"There is a constitutional and legal onus on the applicant/developer (that is, the NTA, in the case of the BusConnects Dublin CBC scheme) to make the case that adverse impacts are the minimum necessary; the Board must be satisfied that the NTA has included in the EIAR an adequate description of the features of the project and/or measures envisaged in order to avoid, prevent or deduce and if possible offset likely significant adverse effects on the environment; the Board must satisfy itself that the NTA properly discharged the function of generation and assessment of an appropriate range of reasonable, viable alternatives."*

It is submitted that the NTA has failed in its constitutional and legal onus to make the case that adverse impacts are the minimum necessary on our client, who's land is not required for the proposed **Bus Connects** scheme. The EIAR is a fundamentally flawed with respect to its assessment of the impact on our client's property that would be a **negative, profound and long-term**. There is no justification or necessity to include our client's land in the local public realm enhancements at Donnybrook Road. The Board is therefore invited to confirm the proposed scheme with a modification that excludes our client's land at No. 2 Donnybrook Road from it. Finally, our client requests an oral hearing is held on the proposed scheme.

Please acknowledge receipt of this submission and direct all future correspondence to this office.

Regards,



**Raymond O'Malley**

Kieran O'Malley & Co. Ltd.

ROM: rom