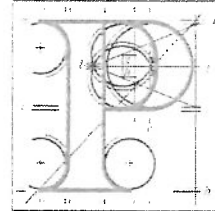


Our Case Number: ABP-320164-24

Your Reference: Mgt Committee - Members of Sutton Golf Club



**An
Bord
Pleanála**

O'Neill Town Planning
Planning & Development Consultants
Oakdene
Howth Road
Howth
Co. Dublin
D13 DK31

Date: 30 October 2024

Re: DART + Coastal North Railway Order 2024 - Northern Line between Dublin City Centre and Drogheda including the Howth Branch
Dublin City Centre and Drogheda, located in counties Dublin, Meath and Louth

Dear Sir / Madam,

An Bord Pleanála has received your recent letter in relation to the above mentioned case. The contents of your letter have been noted. Please accept this letter as a receipt for the fee of €50 that you have paid.

More detailed information in relation to strategic infrastructure development can be viewed on the Board's website: www.pleanala.ie.

If you have any queries in relation to the matter please contact the undersigned officer of the Board at laps@pleanala.ie

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

Yours faithfully,



Aisling Reilly
Executive Officer
Direct Line: 01-8737131

RA03

Teil	Tel	(01) 858 8100
Glao Áitiúil	LoCall	1800 275 175
Facs	Fax	(01) 872 2684
Láithreán Gréasáin	Website	www.pleanala.ie
Riomhphost	Email	bord@pleanala.ie

64 Sráid Maoilbhríde Baile Átha Cliath 1 D01 V902	64 Marlborough Street Dublin 1 D01 V902
---------------------------------------------------------	-----------------------------------------------

The Secretary,
An Bord Pleanála,
64 Marlborough Street,
Dublin 1, D01 V902.

October 14, 2024.

Re: Application for Railway Order - DART + Coastal North Railway Order 2024 - Northern Line between Dublin City Centre and Drogheda including the Howth Branch, by Córas Iompair Éireann (Reg.Ref. NA29N.320164)

A Chara,

We have been commissioned by our clients, The **Management Committee on behalf of the Members of Sutton Golf Club, Cush Point, Burrow Road, Dublin D13EIH5**, to make the following observation on the proposed Application for Railway Order - DART + Coastal North Railway Order 2024, as set out above. While we note the wider objectives of the Railway Order our clients are primarily concerned with the impact the proposal would have on their members' golf club and its environs, including the impact same would have on the club members and staff, and in particular their right to enjoy their chosen amenity pursuit, namely the game of golf, and to play it safely and in a reasonable timescale and also maintain the club's lands which are divided by the Iarnród Éireann railway line which our client's members have to cross at Cosh Level Crossing (No. 915). Our clients own two areas of land, hereafter called the golf club lands, which are divided by the railway line, and are shown below.

Sutton Golf Club is not only a golf club, but it is also a thriving local enterprise with twenty-two employees. The club makes a very significant contribution to the local economy in terms of employment but also as a tourist destination bringing in tourists and visitors from all over the world, many of whom want to enjoy the home club of one of Ireland's foremost golfers, i.e. Joe B. Carr. Because the golf course is divided into two sections by the railway line, the only viable access between the two sections is across the Cosh Level Crossing. The club house is located at the northernmost point of the northern section of the lands and the club also occupies an extensive storage area and machinery and equipment sheds at the easternmost point of the southern section of its lands. This leads to heavy operation and maintenance traffic between northern and southern sections of the club's lands. Any changes to the operation of this crossing must be seen as a real threat not only to the viability and sustainability of the club, but also to the club's ability to hold golfing events on the club grounds.

BACKGROUND

Córas Iompair Éireann (CIÉ) is making the application under Section 37(1) of the Transport (Railway Infrastructure) Act 2001 (as amended and substituted) for the DART+ Coastal North Railway Order. The consent of the National Transport Authority for making the DART+ Coastal North Railway Order application was included in the enclosures to the Bord. The DART+ Coastal North Railway Order application relates to a railway that is designated as a heavy railway.

The Railway Order will, if granted, authorise the railway works necessary to enable CIÉ to significantly increase rail capacity on the Northern Line between Dublin City Centre and Drogheda, and the Howth Branch. This will be achieved by extending the electrification of the rail line between Malahide and Drogheda, as well as reconfiguration of the existing track layout and infrastructure in the vicinity of Drogheda MacBride, Malahide, Clongriffin, and Howth Junction & Donaghmede Stations.



In their accompanying letter to the Bord, the applicants state the following:-

An over-riding objective of the DART+ Coastal North project has been to consider all environmental aspects of the project in a holistic manner and to design the scheme, in such a manner, as to have the least overall residual impact on the environment during construction and operation. In this regard, DART+ Coastal North has been the subject of extensive optioneering and constraint studies, design assessments and environmental appraisals. Feedback from extensive stakeholder and public consultations has also informed the design of the scheme. The engineering design and the construction methodologies for DART+ Coastal North, presented in the Environmental Impact Assessment Report, are considered to strike the best balance between technical and engineering constraints, environmental issues and local community concerns.



Aerial photo of the approximate lands in the ownership of Sutton Golf Club outline in red dashed line.
Cush Level Crossing highlighted with an X

OUR CLIENT'S CONCERNS

Sutton Golf Club has been in existence since 1890, a period of 134 years. Since then it has been a private members' club which is engaged in the playing and promotion of the game of golf. The lands in the ownership of the club includes two parcels of land on either side of the railway line. As can be seen from the google map above there are two areas of land – one to the north of the Railway Line, and one to the south of the Railway line. The southern part of

the golf course is accessed by crossing the railway line via a level crossing – the Cosh Level Crossing – which is marked on the map above with an X.

The golf course consists of nine holes in total. Six of these (hole nos. 1, 2, 6,7,8,9) are on the north side of the railway line and three (hole nos. 3, 4, 5) are on the south side. Members cross the railway line twice when playing nine holes and four times if playing eighteen holes – after the second and fifth hole if playing nine holes, and after the second, fifth, eleventh, and fourteenth hole if playing eighteen holes.

Only on the west side of Lauder's Lane is there a pedestrian footpath running the full length of the road. There is also a footpath on the southern side of Burrow Road, just north of the level crossing. Cosh Level Crossing is the only crossing between the clubs two sections of land, and golfers use this crossing regularly throughout the day.

FINGAL COUNTY DEVELOPMENT PLAN 2023 -2029



The subject Sutton Golf Club lands are within the functional area of Fingal County Council, and are therefore governed by the objectives, policy and Development Control Standards as set out in the statutory Development Plan for the area, which is the Fingal County Development Plan 2023-2029. The specific thrust of the policy for the general area is to protect the quality of the natural and built environment.

The lands are covered by one zoning objective, i.e. **'OS' zoning objective, which is to: "Preserve and provide for open space and recreational amenities.**



Extract from the Fingal County Development Plan 2023 -2029 showing the zoning on the golf club lands

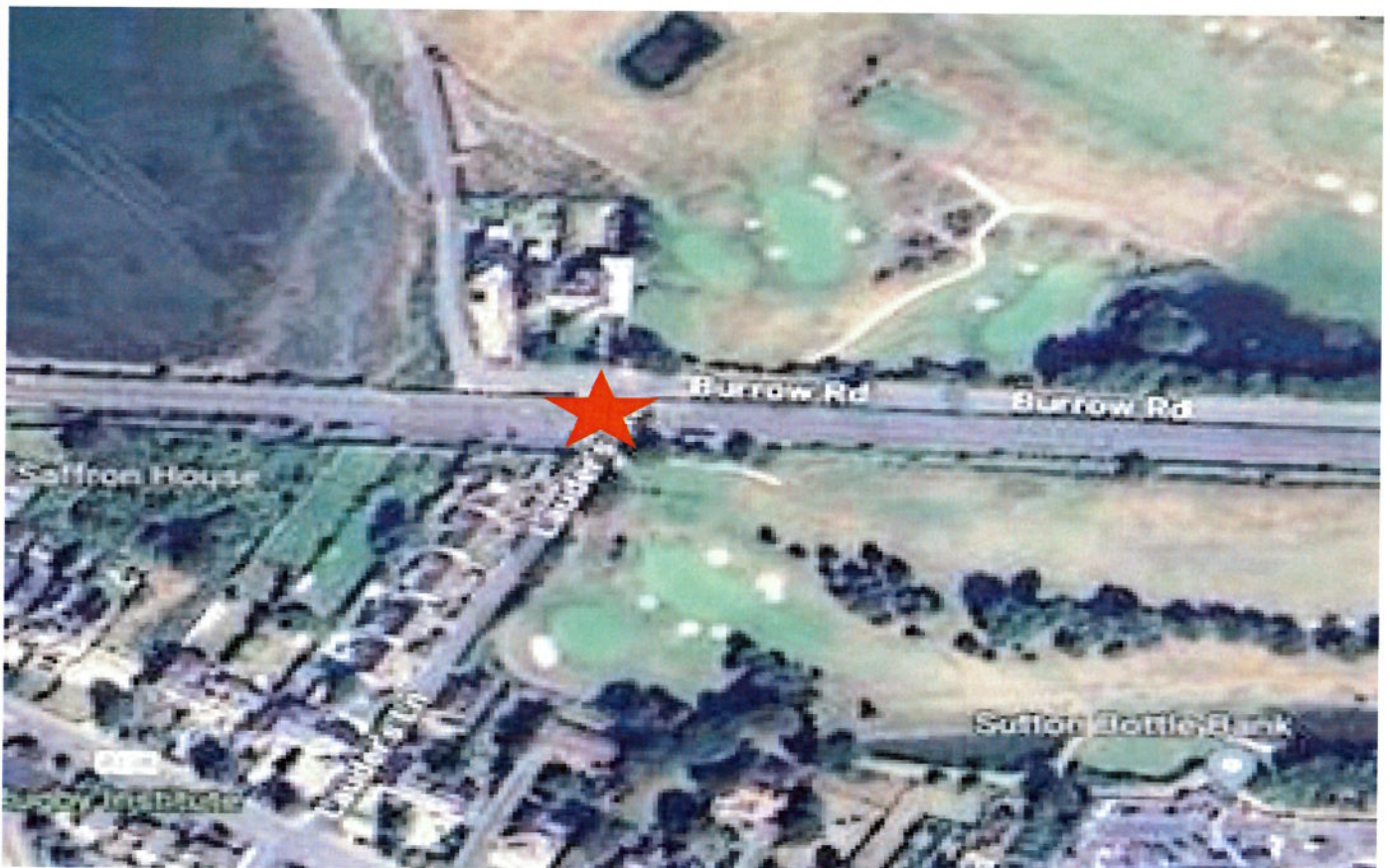
The vision for the lands is, *"To Provide recreational and amenity resources for urban and rural populations subject to strict development controls. Only community facilities and other recreational uses will be considered and encouraged by the Planning Authority."*

The following use classes are permitted in Principle under the zoning:- **Community Facility, Golf Course, Open Space, and Recreational/Sports Facility**. As can be seen from the above, the lands have very limited development potential which highlights the fact that the operation of a golf club is consistent with the planning objectives of the Planning Authority in terms of its sustainability and continuance.

PROJECT ASSESSMENT

In this section we will review both the research undertaken by the applicants and the outcomes that they predict will occur if the changes made to the operation of the line come to fruition in the future. In many ways the two events are interlinked with the impacts of the proposed changes being potentially catastrophic for our client going forward.

In order to understand the potential damage that the proposed significantly longer closures of Cosh Level Crossing would have on our client's operation one has to look at the evidence produced by the applicants as part of their submitted application before looking at the analysis carried out on our client's behalf.



By way of background our client engaged a traffic consultancy firm - Traffinomics - to undertake a survey of the actual operation of the Cosh Level Crossing as opposed to that claimed by the applicant as their baseline closure times on two consecutive date 2nd and 3rd of August 2024, a Friday and Saturday in order to capture data for a weekday and a weekend.

The purpose of this survey was to establish if the figures presented in the application for closures were consistent with the actual figures, and if incorrect, what, based on the applicant's projections, would the closure regime become in future based on actual current closure times pro-rataed using the applicant's projections. was the actual situation on the ground and based on the applicant's projections in the future, what would be the impact on the forecasted figures produced by the applicants be when using the actual closure figures. Both analyses looked solely at closure times on the Cosh Level Crossing which is the principal crossing affecting the movement of golfers and staff between the two sections of the course, but also affecting the journey times of members and visitors to, and from, the club during the day.

COSH LEVEL CROSSING (915) PEDESTRIAN ASSESSMENT

The applicant produced Table 5.3 in the Appendix, reproduced below which shows the study projections made by the applicants,, level crossing closures at Cosh Level Crossing will increase from approximately three or four times per hour to six to twelve times per hour when the shuttle

Table 5.3 Comparison of Level Crossing Closure Times – Cosh (915)

Cosh (915) Level Crossing	Number of closures per hour	Total closure time per hour	Minimum closure time	Maximum closure time
Baseline 3TPH per direction	3	00:11:13	00:02:16	00:05:13
Proposed 6TPH TSS1C	6 or 12	00:17:58 to 00:30:03	00:02:30	00:05:01

service is introduced. Clearly such a change would increase the likelihood for a pedestrian, cyclist, or vehicle encountering a level crossing closure. Of import is the wait time during these closures and the applicants have forecast that this will be between two and five minutes. These modelled results are summarised in the extract from Table 5.3. of the applicant's report which is shown above. The baseline shown in Table 5.3 is based on the applicant's target times not the actual closure times.

Table 2 Traffinomics Comparison of Level Crossing closure Times – Cosh Level Crossing

Location	Number of Closures Per hour	Total Closure time per hour	Minimum single closure time	Maximum single closure time	Average time
Baseline Cosh (915) Level Crossing	6	00:20:35	00:02:05	00:06:12	00:03.32
Proposed Cosh (915) Level Crossing	6 or 12	00:32:58 to 00:55:09	00:04:35	00:09:14	00:06:29

Source: Traffinomics study 2024¹

¹ A detailed analysis of the figures from the Traffinomics report are set out in the report which is included in the Annex.

On Sutton Golf Club's behalf Traffinomics undertook a survey of the actual closure times of Cosh Level Crossing. There is a wide discrepancy between the baseline (i.e. not measured) figures quoted in the submission by the applicants for the number, and extent, of closure times at Cosh Level Crossing and the actual (i.e. measured) number, and extent, of closure times measured there by Traffinomics. The figures for actual number, and extent, of closure are presented in the Table above as are the projected closures using a pro rata of the applicant's algorithm but using the actual figures as the basis.

Clearly the actual number, and extent, of closures found by our client's consultants are far greater than those put forward by the applicants. The actual number of closures is, in fact, 6 in the space of one hour and the closure time per hour of 20 mins and 35 secs is almost twice that presented by the applicant in Table 5.3 of 11 mins and 13 sec, but, of course the figure provided by the applicant is not based on any measured figure but on a theoretical "baseline".

The estimated forecasted closures in the Table based on the data provided by Traffinomics are calculated using pro rata figures based on those used by the applicant. This is a reasonable approach because the applicant's failure to meet its baseline targets has been exposed. Why the applicant did not use actual figures is a matter for conjecture. However, being that as it may, extrapolating from the observed closures established that the total calculated forecasted closure time per hour varied from approximately thirty-three minutes to fifty five minutes per hour, as opposed to the applicants view of closure lasting only eighteen minutes to thirty minute per hour.

On this basis our client's pursuit of their amenity activity and the required maintenance and repair functions would be rendered impractical as queuing at the Cosh Level Crossing would be such as to at least double the acceptable period for a nine or eighteen hole round of golf. This would inevitably lead to a mass outmigration of members from the club and its effective closure as soon as the changes to the operation of Cosh Level Crossing proposed in this application were put in place and is a clear existential threat to Sutton Golf Club. A more detailed assessment of the proposed closure regime and its effects is presented in Appendix B. The figures produced by Traffinomics are provided in Appendix C.

RIGHT OF WAY

Another matter that must be put forward is the right of way our clients and their members enjoy across the railway line. Sutton Golf Club Members and Staff have been using Cosh Level Crossing for 134 years. The level of usage intensified in 1969, 55 years ago, when a lease was executed with Dublin County Council allowing SGC to develop the area known as Connors Field as an additional area of play for the Golf Club. There have been a significant number of precedent judgements upholding the rights of people who habitually use a corridor across land or between two areas. One of these cases is included in the report which forms part of the Appendices. In particular enterprises which have been split by a railway's permanent way have successfully defended their rights where attempts have been made to curtail those rights by the operators of trains running on the permanent way.² From an analysis of these judgements it is clear that our clients are entitled to seek to uphold their right to continuance, without further interference, of their right of way across the permanent way. This right has been enjoyed for 134 years, in

² In Appendix F report the judgement laid down in October 2009 in a case known as Kavanagh & Ors V CIE (IEHC624) involving just such a case where an enterprise (a farm) was split by the permanent way and the defendant attempted to restrict the rights of the plaintiff to continue the operation of the entries in question is included.

pursuit of their chosen amenity usage and maintaining the lands to enable that usage of safe and clear to the extent necessary of unobstructed passage between their two parcels of land.

A more detailed presentation of this aspect of the Sutton Golf Club observation is presented in Appendix F.

SUMMARY AND APPENDICES

Appendix A to this observation contains the details of Sutton Golf Club's determination that this ROA is premature on the basis that the applicant has proposed options for the operating regime in particular for the Howth Junction/Donoghmede to Howth line.

Appendices B and C to this observation contains the findings of the specialist consultants which Sutton Golf Club went to the expense of engaging to provide evidence based information on the existing situation and also regarding the additional closure of their right of way between the two sections of their course under the regiment proposed in this application by Iarnroid Eireann.

From the extensive and detailed analysis carried out by the consultants on behalf of Sutton Golf Club of the current and projected closure times for Cosh Level Crossing two clear concluding comments can be made:-

1. The Iarnroid Eireann figures seriously underestimate the time delays being experienced under the current operating regime due to the closures of the barriers at Cosh Level Crossing, As the closures forecasted by Iarnroid Eireann are estimated based on the underestimates provided for the current barrier closure regime at Cosh then these forecasts are also underestimated. When a pro rata approach is applied to the data for the actual closures provided by the consultants to Sutton Golf Club as presented in the Table above it is clear that the Iarnroid Eireann forecasts significantly underestimate the closure periods.
2. On the basis of the foregoing the only reasonable conclusion is that Iarnroid Eireann's forecasted closure times are underestimated. From a perusal of the application presented by Iarnroid Eireann it is also clear that the applicant has taken no account of the effect of a realistic estimate of the forecasted closure times on Sutton Golf Club and the existential threat which this poses to Sutton Golf Club and the pursuit of the leisure activity of golf. This being an amenity pursuit is entirely consistent with the zoning and planning objectives for this area.

Appendix D to this observation contains the details of the lack of consultation by the applicant of those affected by the ROA in particular in regard to responses by Sutton Club if which the applicant clearly took no consideration.

Appendix E to this observation contains details of the clear lack of consideration by the application of the effects on those whose activities take place in the vicinity of the Howth Junction to Howth railway line.

Appendix F to this observation contains details of the right of way that has been enjoyed by the members and staff of and visitors to Sutton Golf Club for 134 years and precedents that have been set defending such rights.

Potential Solutions

Precedents elsewhere have provided solutions to similar existential threats posed to Golf Clubs whose playing areas have been dissected by the railway permanent way and which the applicant has sought to modify the operating regime thereon. Sutton Golf Club is eager, and by its engagement in the albeit deficient consultation process conducted by the applicant, has proven

its willingness to consider reasonable proposals by Córas Iompair Éireann to meet the applicant's objectives.

One way to ensure a reasonable and realistic level of accessibility for our clients between their two parcels of land would be for the applicants to offer, or An Bord Pleanála to condition, an underground tunnel linking the two parcels of land in a way that would not hinder the movement of golfers and their equipment between the two land areas. This has been the chosen and optimal solution in many similar circumstances.³

CONCLUSIONS

Sutton Golf Club has been in existence since 1890, a period of 134 years. Its members, visitors and staff have been engaged in pursuit and facilitation of their chosen leisure activity since then. The Railway Order Application submitted by Córas Iompair Éireann threatens the rights of the members and staff of, and visitors to, Sutton Golf Club to continue their activities.

Sutton Golf Club urges An Bord Pleanála to reject the aspects of the Railway Order application made by Córas Iompair Éireann because, for the reasons detailed above, the assessment of the implications of the closure regime proposed for Cosh Level Crossing barriers is clearly deficient.

For all of these valid and justifiable reasons contained in this submission the members and others concerned about its effects on Sutton Golf Club urge An Bord Pleanála to reject those aspects of the Railway Order Application which have been identified in our submission as threatening Sutton Golf Club's very existence.

We attach the fee of €50.00 to cover the cost of this observation and ask that all correspondence relating to the above be sent to this address.

Yours Sincerely,



Michael A. O'Neill MIPI

³ We note that this arrangement is already in operation on a number of golf courses, e.g. Woodbrook GC and Dun Laoghaire GC.

ANNEX

Appendices A,B,C,D,E,F.

Premature Nature of Aspects of Railway Order Application

The major substance of this Railway Order Application (ROA) relates to the extension of Dart services along the north coast and a detailed analysis of this aspect is presented in the supporting documentation by IE. However the ROA does not contain any intelligible final details of the changes proposed to services between Howth Junction/Donoghmede and Howth Dart Stations (HJDH) implementing a new shuttle service between these stations. Since CIE have not provided the final details of the proposed service but merely hypothesised on a number of options it is not possible to assess what the future holds for users of the service and those who have a legitimate and established right through historic usage to continue to enjoy the amenities of the area in the vicinity of the permanent way between HJDH. On this basis the applicant has not provided enough detail to allow observers to comment with certainty on the proposed services scheme on the proposed "shuttle" line because options are presented and not a final scheme. This is clear because Table 4.29 from the ROA which refers to a future 6 or 12 in the column "Number of Closures per hour". Clearly the applicant is not able to provide a final scheme and so the inclusion of the shuttle service proposal in the application is premature.

Table 4.29 Comparison of Level Crossing Closure Times – Cosh (915)

Location	Number of Closures per hour	Total closure time per hour	Minimum single closure time	Maximum single closure time	Assessed Timetable
Baseline Cosh (915) Level Crossing	3	00:11:13	00:02:16	00:05:13	00:03:44
Proposed Cosh (915) Level Crossing	6 or 12	00:17:58 to 00:30:03	00:02:30	00:05:01	00:05:01 6 times per hour

APPENDIX B

Deficient Analysis by the Proposer

Despite the premature nature of the applicant's proposal and the failure of IE and their consultants to take proper account of the difficulties that the proposed operating regime would cause, Sutton Golf Club (SGC) had no other option but to have carried out at SGC's members expense a survey of the current closure regime by an independent consultant, Traffinomics in order to determine the actual operating regime at Cosh Level Crossing. The survey was carried out on Friday 2nd and Saturday 3rd August to cover a weekday and a weekend day. Reproduced below is Table 4.29 from page 38 of 04.5 Environmental Impact Assessment Report (EIAR) Volume 4 Appendices; Appendix A6.1: Dart+ Coastal North Level Crossing Assessment, (A6.1) part of the documentation submitted by CIE in its ROA. Cosh Level Crossing (915) CLC is the level crossing at which Staff, members, and visitors to Sutton Golf Club are subject to the closure regime of CLC. Members and visitors exercise their right of way in accessing the SGC premises four times during a full round of golf. Staff, depending on the tasks in hand, may have to traverse many multiples of this during the working day.

Table 4.29 Comparison of Level Crossing Closure Times – Cosh (915)

Location	Number of Closures per hour	Total closure time per hour	Minimum single closure time	Maximum single closure time	Assessed Timetable
Baseline Cosh (915) Level Crossing	3	00:11:13	00:02:18	00:05:13	00:03:44
Proposed Cosh (915) Level Crossing	6 or 12	00:17:58 to 00:30:03	00:02:30	00:05:01	00:05:01 6 times per hour

This table states that the current number of closures of CLC is 3 although the accompanying text states this is approximately 3 or 4, yet another illustration of the vagueness of the significant statistics provided in the ROA which exposes the fudging of the real situation by the applicant. The table states that this would increase to 6 or 12 under the proposed ROA figures with which thankfully the accompanying text actually agrees in this instance.

SGC decided the only way to get real figures regarding the current closure regime of CLC was to commission its own survey

The Survey showed that the baseline (target) depicted by the applicant in Table 4.29 is far from what is actually happening, On the weekday, there were, in fact, 6 closures between the times of 10 and 11 O'Clock on rather than the 3 noted in Table 4.29 above. Between 09.00 and 10.00 the total closure time was 20mins and 24secs not the 11mins and 13secs quoted by the applicant. When the extent by which the applicant misses the target figures is quantified it becomes clear why no survey of the actual closure times at CLC was taken by the applicant. Maximum single closure time was 06mins and 12 on 2/8/24secs at 16.40.48 not the 05mins and 13secs quoted by the applicant.

Clearly therefore the applicant does not meet the number of events or times which it states as its baseline for COSH Level Crossing. In fact at one of the meetings held with SGC, the applicant's representatives stated as much. The maximum total closure time measured is actually almost twice that quoted by the applicant as its baseline. Only for 1 daylight hour between 06.00 and 07.00 on the weekday did the applicant not exceed its baseline maximum closure time. Only for 2 daylight hours between 06.00 and 08.00 on the weekend day did the applicant not exceed its baseline maximum closure time. It must be said that this comes as no surprise to regular users of Cosh Level Crossing who have become inured to waiting at the closed CLC for periods well in excess of the applicant's claims.

The foregoing shows clearly the applicant's cavalier attitude to meeting its baseline commitments, when pressed as to why the applicant did not meet its targets the vague generalisation was offered that it was for safety and marshalling reasons. The foregoing clearly proves that the applicant has complete disregard for its baseline targets for CLC and likewise for the inconvenience which it causes to users of the level crossing, as regular users had always been suspected.

This then raises the issue of the veracity of the applicant's proposed events and closure times of CLC and how likely it is that there will be a any change of attitude if the ROA were granted. SGC has demonstrated the discrepancy between the baseline figures and the times and events currently achieved by the applicant.

It is natural therefore that SGC has very significant reservations regarding the numbers presented by the applicant as those which would be achieved under the proposed operating regime.

Given its current performance assurances by IE that of course it will meet its new proposed baseline for closure regime are unconvincing. Safety procedures at all level crossings are vital but it appears that the applicant is using these as an excuse for not achieving anywhere near its current targets.

If the applicant were to miss the closure time figures it now proposes in the ROA by the same pro rata amount that it misses its current targets then the total closure time in one hour that the applicant would achieve with 6 closures in one hour will be 32mins and 41secs; if there were 12 closures in one hour then the total closure time in one hour would be a staggering 54mins and 39secs. The maximum single closure time would not be 05mins and 01secs but would be 05mins and .55secs.

One would be entitled to raise the question why would the applicant bother raising the barriers at Cosh Level Crossing at all?

Effect on Users of Cosh Level Crossing

The obvious deficiency in the proposal is the glaring omission of any real analysis of the effect of the proposed changes on all of the people affected by the proposed alteration of operation between HJDH which appears to reduce service and increase the closure regime of 3 of the 4 level crossing barriers on the IE permanent way.

Indeed buried within the documentation in A6.1 is the only section of the ROA which makes any reference to the changes to the closure regime and purports to carry out any analysis of the level crossings at Cosh and Claremont. The analysis does not reflect anything of the real impact of the proposed closure times on the users of the level crossings.

A6.1 refers to a qualitative analysis of the use of these level crossings the deficiencies laid bare by SGC's analysis show why the applicant only carrying out a qualitative analysis is clearly insufficient and shows why the applicant did not carry out a proper quantitative analysis. The reason appears to be that the applicant chose purposely to limit its analysis as if it had carried out a thorough analysis the applicant would have had to accept the potential deleterious impact of the proposed closure regime on users of these level crossings.

The extract below from Section 5 A6.1 graphically illustrates how poorly the analysis by the applicant and its Consultants has been carried out. It states the following:

"The likelihood of vehicles incurring delay at the level crossing will increase due to the increased frequency of level crossing closures. It was also found that there will be an impact on queue lengths. in the study area – in some cases queue lengths may reduce, while, in other cases queue lengths may increase." No detailed analysis can be found in this document which presents an adequate assessment of the effects of the results of the proposed operation of the HJDH line.

"Queues may occasionally block back along the Kilbarrack southbound and northbound arms in the AM and PM peak hours depending on the vehicle arrival pattern and/or the train timetable scenario. Similarly, the likelihood for pedestrians to incur delay at a level crossing will increase."

This is all presented with the justification that: "When the frequency and number of level crossing closures, in the TSS1C is considered, relative to existing level crossing operations

across the DART network, the frequency and duration of closure in the future scenario on the Howth Branch, is in line with the existing level crossings on the DART+ West or the DART+ Coastal South line.”

A reasonable interpretation of this conclusion is as follows: it doesn't matter what the ongoing activities around the HJDH line are, or the self-evident fact that those activities may have to stop, the imposition on those who are merely pursuing their right to legitimate activities leisure, or otherwise, can be justified on the basis that people who live, work, or pursue activities in other areas near to the Dart are already having to put up with similar restrictions. It is quite galling to read these “Conclusions” in A6.1 which the applicant has put into the public domain as part of the submission in favour of the ROA using these as justification for the imposition of draconian changes to the lives and lifestyle of the people affected by the proposed alterations to the closure regime.

Tables showing the statistics collected by Traffinomics Ltd. for Sutton Golf \Club are included in Appendix C

APPENDIX C

Figures from Traffinomics Report

CORR (PLS) LEVEL CROSSING EVENTS		TRAFFINOMICS MAPPING		AUGUST 2024			
LEVEL CROSSING BARRIER CLOSURES		08/2024		TRM/24/1110			
TYPE	Level Crossing Name	DATE	DAY	Price	Hourly Total	Claimed IE	0.10.44
LOCATION	Looney's Lane, Sutton Dublin 13						
Roll No	Barrier Close	Barrier Open	Duration				
1	06:01:56	06:23:22	00:21:26				
2	06:24:38	06:27:08	00:02:30				
3	06:41:04	06:43:17	00:02:13				
4	06:43:50	06:46:01	00:02:11				
5	07:01:15	07:04:49	00:03:34		0:05:25	0:00:00	
6	07:21:06	07:23:29	00:02:23				
7	07:30:44	07:33:12	00:02:28				
8	07:41:37	07:45:54	00:04:17		€ 12:23	0:02:09	Red grants: 0ha: Claimed IE
9	08:01:03	08:02:14	00:01:11				
10	08:21:10	08:26:31	00:05:21				
11	08:41:50	08:43:27	00:01:37		€ 11:02	0:04:10	
12	09:01:08	09:05:44	00:04:36				
13	09:20:58	09:23:21	00:02:23				
14	09:32:57	09:35:46	00:02:49				
15	09:49:50	09:52:10	00:02:20				
16	09:53:27	09:55:50	00:02:23		€ 36:24	0:09:40	
17	10:06:48	10:09:12	00:02:24				
18	10:06:48	10:09:31	00:02:43				
19	10:23:02	10:24:36	00:01:34				
20	10:28:02	10:29:34	00:01:32				
21	10:31:13	10:33:57	00:02:44				
22	10:42:17	10:46:14	00:03:57		€ 17:20	0:06:26	
23	11:00:58	11:05:49	00:04:51				
24	11:20:53	11:23:35	00:02:42				
25	11:28:04	11:29:52	00:01:48				
26	11:27:13	11:29:28	00:02:15		€ 14:50	0:04:06	
27	12:01:12	12:03:31	00:02:19				
28	12:06:02	12:08:30	00:02:28				
29	12:22:34	12:27:05	00:04:31				
30	12:40:54	12:44:53	00:03:59		€ 12:45	0:03:01	
31	13:02:50	13:06:18	00:03:28				
32	13:06:18	13:08:56	00:02:38				
33	13:21:09	13:24:19	00:03:10				
34	13:28:06	13:31:39	00:03:33				
35	13:41:07	13:45:45	00:04:38		€ 17:12	0:06:29	
36	14:02:46	14:06:57	00:04:11				
37	14:22:30	14:26:50	00:04:20				
38	14:41:47	14:45:45	00:03:58		€ 17:21	0:01:40	
39	15:02:59	15:07:07	00:04:08				
40	15:21:29	15:23:32	00:02:03				
41	15:29:55	15:29:55	00:00:00				
42	15:41:11	15:43:42	00:02:31				
43	15:44:10	15:47:35	00:03:25		0:16:37	0:05:13	
44	16:00:26	16:00:37	00:00:11				
45	16:11:21	16:24:06	00:12:45				
46	16:26:16	16:29:43	00:03:27				
47	16:41:06	16:47:09	00:06:03		€ 18:06	0:07:22	
48	17:00:49	17:03:25	00:02:36				
49	17:20:42	17:23:00	00:02:18				
50	17:32:10	17:38:07	00:05:57				
51	17:41:19	17:43:31	00:02:12				
52	17:46:01	17:49:44	00:03:43				
53	18:01:33	18:04:12	00:02:39		€ 14:36	0:03:17	
54	18:06:58	18:11:31	00:04:33				
55	18:22:42	18:26:03	00:03:21				
56	18:23:56	18:26:21	00:02:25				
57	18:43:02	18:46:04	00:03:02		€ 17:33	0:06:19	
58	18:50:06	18:53:26	00:03:20				
59	19:12:27	19:15:17	00:02:50				
60	19:17:05	19:21:07	00:04:02				
61	19:21:05	19:23:49	00:02:44				
62	19:41:02	19:46:35	00:05:33		€ 20:35	0:09:51	
63	20:01:58	20:05:33	00:03:35				
64	20:26:47	20:29:51	00:03:04				
65	20:31:10	20:33:41	00:02:31				
66	20:38:07	20:40:31	00:02:24				
67	20:43:13	20:47:11	00:03:58		€ 18:22	0:05:48	
68	21:05:41	21:07:34	00:01:53				

TRAFFICOMICS LIMITED

CSH (D15) LEVEL CROSSING XQ003
LEVEL CROSSING BARRIER CLOSURES

AUGUST 2024
TRA/24/118

SITE Level Crossing XQ003

DATE 3rd August 2024

LOCATION Lavelle's Lane, Sutton, Dublin 13

DAY: Sunday Hourly Total Claimed IE 0:10:44

Roll No:	Barrier Close	Barrier Open	Duration	Hourly Total	Claimed IE
	HH:MM:SS	HH:MM:SS	HH:MM:SS		
1	06:21:37	06:34:45	00:03:08		
2	06:46:02	06:48:38	00:02:36		
3	06:56:52	07:00:52	00:04:00	0:09:44	0:01:00
4	07:10:57	07:20:20	00:09:23		
5	07:25:08	07:27:44	00:02:36		
6	07:44:40	07:46:34	00:01:54	0:09:33	0:01:11
7	08:00:41	08:03:05	00:02:25		
8	08:15:44	08:19:30	00:03:46		
9	08:25:32	08:29:18	00:03:29		
10	08:41:36	08:44:55	00:03:20		
11	08:51:51	08:54:33	00:02:42		
12	09:01:03	09:04:37	00:03:34	0:14:38	0:04:04
13	09:20:47	09:23:25	00:02:38		
14	09:27:34	09:31:32	00:03:58		
15	09:51:14	09:55:03	00:03:49	0:12:57	0:02:13
16	10:03:32	10:08:31	00:04:59		
17	10:28:02	10:28:32	00:00:30		
18	10:31:16	10:34:45	00:03:29		
19	10:51:33	10:54:19	00:02:46		
20	10:54:26	10:58:07	00:03:21	0:15:42	0:05:58
21	11:05:20	11:12:54	00:07:34		
22	11:14:07	11:17:18	00:03:11		
23	11:28:13	11:30:52	00:02:39		
24	11:35:22	11:38:10	00:02:48		
25	11:50:47	11:53:23	00:02:36	0:14:56	0:04:12
26	12:01:15	12:04:54	00:03:39		
27	12:28:09	12:30:29	00:02:20		
28	12:33:31	12:36:13	00:02:42		
29	12:53:14	12:56:57	00:03:43	0:11:50	0:02:10
30	13:03:08	13:06:40	00:03:32		
31	13:22:41	13:26:11	00:03:30		
32	13:34:25	13:38:13	00:03:48		
33	13:50:46	13:53:28	00:02:42	0:02:23	0:02:44
34	14:00:51	14:04:24	00:03:33		
35	14:26:01	14:28:35	00:02:34		
36	14:44:54	14:48:28	00:03:34		
37	14:59:14	15:06:11	00:06:57	0:14:28	0:04:44
38	15:21:45	15:24:26	00:02:41		
39	15:31:25	15:35:40	00:04:15		
40	15:48:38	15:51:23	00:02:45		
41	15:54:36	15:58:59	00:04:23	0:13:16	0:02:34
42	16:05:47	16:09:40	00:03:53		
43	16:24:04	16:26:47	00:02:43		
44	16:29:39	16:33:59	00:04:20		
45	16:43:42	16:46:43	00:03:01	0:13:51	0:03:09
46	17:04:43	17:08:21	00:03:38		
47	17:19:10	17:21:39	00:02:29		
48	17:38:52	17:42:14	00:03:22		
49	17:50:00	17:52:58	00:02:58		
50	17:59:53	18:03:59	00:04:06	0:14:13	0:04:22
51	18:11:30	18:13:45	00:02:15		
52	18:21:30	18:25:07	00:03:37		
53	18:34:15	18:36:57	00:02:42		
54	18:46:13	18:49:45	00:03:32		
55	18:59:41	19:07:18	00:07:37	0:15:24	0:04:42
56	19:08:54	19:12:31	00:03:37		
57	19:20:06	19:22:32	00:02:26		
58	19:29:13	19:33:05	00:03:52		
59	19:40:19	19:42:39	00:02:20	0:12:37	0:01:52
60	20:05:11	20:08:32	00:03:21		
61	20:17:30	20:19:01	00:01:31		
62	20:35:47	20:39:49	00:04:02		
63	20:47:12	20:49:48	00:02:36		
64	20:50:37	20:54:07	00:03:30	0:16:20	0:05:36
65	21:03:01	21:05:36	00:02:35		

TRAFFINOMICS LIMITED

**COSH (915) LEVEL CROSSING XQ003
LEVEL CROSSING BARRIER CLOSURES**

**AUGUST 2024
TRA/24/118**

SITE: Level Crossing XQ003

DATE: 2nd August 2024

LOCATION: Lauder's Lane, Sutton, Dublin 13

DAY: Friday

DESCRIPTION:	HH:MM:SS	SAMPLE
Total Closure Time	03:59:46	68
Average Closure Time - 06:00 - 21:00	00:03:32	68
Average Closure Time - AM Peak (07:00 - 10:00)	00:04:02	12
Average Closure Time - Inter Peak (11:00 - 14:00)	00:03:31	13
Average Closure Time - PM Peak (16:00 - 19:00)	00:03:34	15
Minimum Closure	00:02:05	
Maximum Closure	00:06:12	

DATE: 3rd August 2024

DAY: Saturday

DESCRIPTION:	HH:MM:SS	SAMPLE
Total Closure Time	03:27:57	65
Average Closure Time - 06:00 - 21:00	00:03:12	65
Average Closure Time - AM Peak (07:00 - 10:00)	00:03:07	12
Average Closure Time - Inter Peak (11:00 - 14:00)	00:03:06	13
Average Closure Time - PM Peak (16:00 - 19:00)	00:03:11	14
Minimum Closure	00:02:18	
Maximum Closure	00:04:59	

APPENDIX D

Lack of any “Real” Consultation

The statutory consultation conducted by IE and its consultants is demonstrably ineffective, as for example, no consideration of the feedback from the representatives of SGC on behalf of its members has been taken into account. Representatives of SGC met with and discussed the perceived implications of the ROA for SGC and also entered into correspondence regarding these. Unfortunately the inevitable conclusion that must be drawn is that, the applicant and its consultants have chosen to ignore the results of its own consultation process with its eye on the larger project. This may have also been the experience of other groups who would be affected if permission is granted for this ROA. T

As part of the process of submitting a proposal for the granting of a Railway Order IE carries out a consultation process. A consultation process is one in which a prospective proposer consults with interested parties who may be affected by the process so that their concerns and the feedback therefrom can be addressed to the extent possible and can be incorporated in the proposed project, The illustration of the consultation with SGC is clear from a perusal of the document A6.1: Section 4.5 Qualitative Assessment of Cosh (915) (XQ003) and Claremont ((13) XQ004) Level Crossings. This section contains a few lines which have remained unaltered from earlier versions produced prior to the consultation with SGC. At least 2 such meetings were held with SGC after which correspondence was exchanged. SGC can vouch for the fact that the ROA ignores any of the justifiable concerns raised by SGC. The proof of this is clear from the fact that the text to which reference is made above has remained unchanged. SGC is extremely disappointed at the casual manner in which its legitimate concerns flagged at the earliest possible stage in the planning process in order to facilitate consideration by the applicant and its consultants have been totally ignored.

Presumably having completed its statutory box ticking requirement on consultation, the applicant and its consultants decided that it was entirely appropriate to carry on regardless with its demonstrably deficient analysis and ignore the established rights of use of those in the vicinity of its level crossings in these high amenity areas which also are designated as EU recognised SAC.

This Appendix contains a copy of correspondence from SGC to the applicant dated 11th August 2023 from the Golf Club's then Chairperson showing SGC's willingness to engage and pointing out the Club's concerns regarding the proposal for the ROA and its potential deleterious impact on the Club's operations, none of which have been properly considered by applicant.

Fri, 11 Aug
2023, 15:12

Roddy Guiney <roddy.guiney@gmail.com>

to Christopher.bradish, patrick.conway1, Garry.Keegan, Niamh, me, Jim

Christopher,

Many thanks for your recent mail. I have discussed at length with Brian Cole, whom you will remember was at our meeting in Sutton Golf Club, as indeed was our Financial Lead John O'Mahony along with Patrick and Garry. I have copied them all on this note. Much of what we have previously said to you at that meeting remains the case from a Sutton GC perspective.

As far as Sutton GC is concerned the Dart + Coastal North proposal as envisaged will have serious impacts for our club both as a major sporting facility for our members (in the main residents in the immediate area) and also for our business which employs many local people and also sources products from local suppliers.

In fact we would go further and say the changes envisaged at the Lauder Lane level crossing could have a devastating impact on the club. This level crossing effectively divides our playing area in half. The changes proposed involve considerable additional closure times of this level crossing which already under its current operating regime causes major delays to our members and indeed to the general public attempting to cross Lauder's Lane and reach Burrow Road. **Irish Rail has already admitted that the current closure times of this level crossing do not meet its stated target times which is a further cause for concern.**

The members of Sutton Golf Club therefore see the Dart + Coastal North proposal as an existential threat to the continued enjoyment of our facilities and to the Club itself, due to the additional delays proposed in the current plan -with the additional concern that the targets as set out in the proposal document will prove as nebulous as the current ones which are apparently being ignored by the operator on a daily basis.

Sutton Golf Club intends to do its utmost to ensure that the existential threat posed to it by Dart + Coastal North and likewise to the accustomed enjoyment by the general public of all the current amenities in the vicinity of the club is defeated or modified to remove the deleterious effects -that pose a threat to the club and its general environment.

To us that has meant wide consideration of all options whereby the threat to the club can be ameliorated sufficiently to allow both ourselves and Dart Plus to coexist. Arising from that we have concluded that the development of an underpass may provide the means to reduce the dramatic effect on the club which would result from the current proposal being implemented as is.

Underpasses have provided solutions to similar problems in recent years - the Aviva Stadium being one example Woodbrook Golf Club also provides another good example in our own sport showing how an underpass can be used to everyone's advantage .

The club, working together with Irish Rail, would like to explore an underpass option as a solution at the earliest opportunity in order to determine how the interests of all parties can be taken into account and full consideration given to the benefits of this novel idea necessitated in order to facilitate the changes proposed to the railway infrastructure by Dart + Coastal North."

I look forward to hearing from you in relation to the above.

Roddy Guiney
Chairman
Sutton Golf Club

APPENDIX E

Lack of Proper Consideration of Impact

i. Sutton Golf Club

The submission contains no assessment of the Impact of the proposed ROA on SGC, a local enterprise employing 22 members of staff which is dissected by the HJDH permanent way. No satisfactory analysis has been undertaken by the applicant of the impact of the projected increase in, and periods of, closures of the Cosh Level Crossing (915) barriers (CLC) on the members and staff of, and visitors to SGC arriving at, or pursuing, their sport since its foundation in 1890.

ii. Public Access to the Howth/Sutton Special Area of Conservation

The proposed closure regime for CLC will have an enormous effect on the legitimate and historic access of the general public both as pedestrians and in vehicular traffic in the vicinity of the Baldoyle Sutton Howth Special Area of Conservation (SAC). Indeed the proposed closure regime for Claremont Level Crossing (913) will have a similar impact as that on the members, staff and visitors to the Golf Club however it is not feasible for SGC to address that in any detail in this observation by SGC.

iii. Safety and Emergency Services

Under the proposed closure regime for CLC there is an increased likelihood of delay in emergency services in reaching difficult locations, particularly during the summer months when Burrow Road due to the numbers of pedestrian and vehicular traffic becomes nigh impassable. This constitutes a direct threat to people caught up in emergency situations in the vicinity including the general public and members of and visitors to SGC alike.

i Sutton Golf Club

The concerns of the members of SGC raised by its representatives in the meetings with the applicant included:

Failure by the applicant to meet its current baseline regime for Cosh Level Crossing which currently disrupts the normal activities associated with the operation of the golf club. SGC is split in 2 parts by the IE permanent way HJDH, the club house and car park are located close to the shore at Cush (Origin of Cosh level crossing name) Point at the northernmost extent of the club's lands. Golf has been played continuously in Sutton since 1890. The club's playing area was extended in 1969 when it was granted a lease by then Dublin County Council over an area on the southern side of the IE permanent way. The club also occupies an extensive storage area and has equipment and machinery sheds located at the easternmost point of lands on the south side of the IE permanent way.

The golf course in SCG consists of 9 holes in total. Six of these (holes 1, 2, 6,7,8,9 are on the north side of the railway permanent way and 3 (holes 3, 4, 5) are on the south side.

In approaching and departing from the SGC Clubhouse members, visitors and employees traverse the Cosh Level Crossing. In order to maintain the golf club the greenkeeping staff could have to traverse Cosh Level Crossing at least 20 times in a working day and sometimes multiples of this depending on the task in hand. Playing a full round of golf a player must cross the railway line four times.

Even currently the haphazard nature (as demonstrated in this observation) of the closure regime of CLC causes problems. The applicant continually fails to meet the baseline times which it has set out with consequent deleterious impact on the necessary maintenance activities and of those attempting to play a round of golf on the course. The current system being used by the applicant does not appear to utilise up to date technology. The closure regime dictates that CLC is closed before a Dart train travelling in direction Dublin-Howth has arrived in Sutton station. A recent experience by SGC members illustrates the effect of this, On Sat 17th August the CLC was closed significantly longer than required as the train travelling from Howth into Dublin was stopped about 200 metres short of the CLC, the train could not continue into Sutton station because the barriers on Station Rd were still open.

Even though SGC has had no choice but to tolerate the haphazard closures of CLC in the interest of the travelling public there is a limit to that tolerance. The closure proposed in the ROA potentially extends the number and closure times of CLC and as calculated in Appendix 1 could lead to a farcical scenario where the barriers could remain closed for almost 55 mins in an hour if the closure regime remains as unpredictable as is the status quo.

The proposed closure regime for CLCb would have direct impact on all users of the level crossing. It would cause further delay and inconvenience to law abiding citizens by obstructing further than is now the case of users this level crossing. This includes the staff of SGC pursuing their daily activities and others workers and contractors who would be directly affected.. It also includes those members of the general public who merely wish to continue without further hindrance their chosen leisure amenity and also the members of SGC who are continuing to exercise their established rights of access which have continued unbroken since 1890. It would also obstruct residents of Burrow Road and also members of the general public who wish to continue the pursuit of their leisure activities in visiting the SAC with its fine beaches and amenities.

APPENDIX F

Right of Way

SGC Members and Staff have been using Cosh Level Crossing for 134 years. SGC is not only a member's golf club but it is also a thriving local enterprise with 22 employees and also which makes a very significant contribution to the local economy bringing in tourists and visitors from all over the world. The level of usage intensified in 1969, 55 years ago, when a lease was executed with Dublin County Council allowing SGC to develop the area known as Connors Field as an additional area of play for the golf Club. The IE HJDH Permanent Way splits Sutton Golf Club into two sections. the only viable access to go between the two sections is across the Cosh Level Crossing. SGC has justifiably characterised the proposed IE ROA as an existential threat to its continued operation.

The obstruction of the rights of people who habitually use a corridor between two areas have been upheld as can be seen from precedent judgements under the legal process, this includes access by the general public and private users.

In particular enterprises which have been split by the railway permanent way have successfully defended their rights where attempts have been made to curtail those rights by the operators of trains running on the permanent way.

This Appendix contains the judgement laid down in October 2009 in a case known as Kavanagh & Ors V CIE (IEHC624) involving just such a case where an enterprise (a farm) was split by the permanent way and the defendant attempted to restrict the rights of the plaintiff to continue the operation of the enterprise in question. The precis of the case provided includes some of the issues raised and dealt with in this very relevant High Court case which provides a legal precedent for SGC in the circumstances in which it will find itself if aspects of the ROA with regards to the proposed closure regime at CLC are granted. With this and other legal precedents applicable SGC and its members will have no other option but to seek to enforce its right of way over Cosh Level Crossing in the event that it considers that the closure regime of CLCb as proposed in the ROA by the applicant would, if granted, present an existential threat to SDC,

Precis of Kavanagh & ORS V CIE (IEHC 624)

High Court grants declaration that the plaintiffs were entitled to the use of a level crossing over the defendant's railway line.

Easement - right of way across railway line - obligation to keep use of level crossing available to users of right of way - interlocutory relief - accommodation way - whether use of way limited to farming activities - whether right to use level crossing terminated - whether use of way necessary for use of land - s 68, Railway Clauses Consolidation Act 1845 - whether right to use level crossing confirmed in correspondence.