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26th August 2015
The Secretary
An Bord Pleanala
64 Marlborough Street
Dublin 1

Planning and Development Acts 2000-2014 Notice of Direct application to An Bord Pleanala in respect of Strategic Infrastructure development.

Date of application: 3rd July 2015

SID Application Reference No: PL06D. PA 0042

Planning Authority: Dun Laoghaire Rathdown Co Co.

Case type: S.37E application

Location: St Michaels Pier, Marina Eastern Breakwater, Dun Laoghaire Harbour, Harbour Road, Dun Laoghaire, Co Dublin.

Applicant: Dun Laoghaire Harbour Company

Description of Development: 8 year planning permission for a cruise berth facility consisting of both maritime and landside development works including suspended piled quay, pier structures of 435m overall length, consisting of a new quay 120m long X 20m wide quay, 175m long by 9.1m wide access causeway, 140m long by 1.2m wide suspended metal access walkways with a deck level +6.9m above Chart Datum (+4.39mODM, ancillary infrastructure including piles fenders and facing panels, 8No. 3m diameter monopole mooring dolphins, hand railings, feature lighting, 12m high quay lighting masts, emergency access ladders, bin storage area, maritime furniture and associated development; Provision of an underpass beneath the proposed access causeway to cater for passage of low headroom vessels; Alterations and new piling to a section of the eastern breakwater with new underwater scour protection mattress plus rip rap system; Minor repair of underwater masonry blocks on the West Pier Roundhead a protected structure and replacement with the patent masonry block retrieved from the seabed where practicable; outside of the normal cruise season it is planned that the new berth could be used for a range of harbour and amenity related activities including berthing of other vessels and boat storage; dredging of an access channel from deep water in Dublin Bay to St Michaels's Pier/ Marina Eastern Breakwater including approximately a 500m diameter turning circle situated outside the Harbour mouth an access channel of 1,150m in length outside the Harbour walls and a channel of approx. 850m inside the Harbour involving the removal of material to a depth of -10.5m below Chart Datum (-13.01mODM) total length approx. 2500m . The access channel outside the harbour will have a navigable width of 120m. The total dredged volume is 710,000 cubic metres. The proposal also involves the infilling of an existing scour hole within the Harbour with approx. 20,000 cubic metres of dredged material. A system of new navigation aids placed outside and within the harbour walls. An approx. 7m wide shared use pedestrian and vehicle access zone located adjacent to the existing Marina connecting the Marina Eastern Breakwater to Harbour Road and provision of 3 No. Pedestrian Crossings. A 27 coach and mini bus drop off / Pick up area and taxi parking area within a dedicated section of the HSS marshaling area including a new approx. 6m wide raised pedestrian area; Reconfiguration of existing vehicle entrance to the coach parking area on Harbour Road, reconfiguration of existing Terminal exit on Harbour Road for two way traffic and removal of one vehicle exit on Harbour Road and reconfiguration of pay and display car parking off Harbour Road resulting in a net increase of nine pay and display spaces; Temporary closure during the construction of the public pedestrian walkway to the Eastern Breakwater with reinstatement on completion; A new single storey security kiosk and office building and a new security gate on the eastern breakwater reuse of the existing motorist's building for cruise meeting point, information centre, passenger welfare facilities and bin storage area. Works at Accommodation Road including modifications to an existing retaining wall

and kerbing adjoining the car park and provision of a new pedestrian crossing located adjacent to the Old Quay area west of the Harbour. A coach overflow area within Accommodation Walk west of the Harbour, relocation locally on the eastern breakwater of an existing monument and relocation locally at the Old Quay car park of an existing Plaque. Demolition of certain harbour infrastructure including the boundary wall along the HSS yard boundary the Motorist's administration building a section of the Porte Cochere Canopy structure railings and gates; removal and replacement of existing pavements, removal of existing lighting poles of signage and tree removal; Provision of new buried utilities and services watermain connection lighting columns feature lighting and signage for vehicles and non motorized users; all ancillary site development and landscape works; All of the above on a total site of 53.5 Ha. A separate Waste License, Dumping at sea License and Foreshore License will be required. An Environmental Impact Statement and Nature Impact Statement have been prepared and accompany the application.

Appellant

Dear Sir/Madam:

We act on behalf of the following:

- Dublin Bay Sailing Club (DSBC), 96 Georges Street Upper, Dun Laoghaire.
- Dun Laoghaire Motor Yacht Club (DMYC), West Pier, Dun Laoghaire
- The National Yacht Club (NYC), East Pier, Dun Laoghaire
- The Royal Alfred Yacht Club (RAYC PO Box 7512, Glenageary Post Office Glenageary, Co Dublin
- The Royal Irish Yacht Club (RIYC), Harbour Road, Dun Laoghaire
- The Royal St. George Yacht Club (RSGYC), Harbour Road, Dun Laoghaire

All of which have agreed to hereinafter be referred to as The Dun Laoghaire Combined Clubs (DLCC).

Any correspondence in respect of this submission should be sent to the offices of Reid Associates, 2 Connaught Place, Crofton Road, Dun Laoghaire, County Dublin.

We hereby make submissions in respect of the above direct application to An Bord Pleanála in respect of Strategic Infrastructure Development, **SID Application Reference No: PL06D. PA 0042.**

We enclose a cheque for €50.

This submission has been prepared with input from the Consultant Team as follows:

Conservation:	James Howley, Howley Hayes Architects
Coastal Processes:	Adam Cronin
Economic Review:	Pat McCloughan PMC
NIS :	Brendan O'Connor Aquafact
Photomontages;	Design Strategies
Sailing	DLCC

The grounds of our submission are set out as follows:

1 ORAL HEARING

Notwithstanding our contention that the application is invalid and without prejudice to such contention we hereby request an Oral Hearing under Section 134 of the Planning Acts in respect of the proposed development.

The need for an oral hearing is substantiated on the basis of the entirety of the case set out before the Board wherein there are significant issues of public interest that both need and may be only properly examined by way of oral hearing.

The oral hearing process provides an expeditious planning focussed hearing to examine the matters of public interest raised which could avoid the necessity for judicial review proceedings at a later date.

The issues raised in this appeal are of very great public importance not just for the local area and the countywide context but also for proper public consultation in accordance with the Aarhus Convention. *“The combination of aesthetic, historical, scientific and social significance, that is imbued within the historic fabric of Dun Laoghaire Harbour, make it a cultural landscape of immense significance to the Irish people, who value its importance without exception. Any threat to this significance will undermine a very important part of our history and how we understand ourselves in the early twenty-first century.”*

Public consultation is embedded as a core part of the EIA process and the EIS Directive incorporates the principles on public participation with the Aarhus Convention in decision-making and access to justice in environmental matters.

Article 6(3) of the Habitats Directive provides for obtaining the opinions of the general public where an appropriate assessment is necessary.

The Bord Pleanála Guidance in respect of SID highlights that an oral hearing is normally held in such SID cases.

The scale of the project within the confines of a Heritage Harbour and Architectural Conservation Area warrants the holding of an oral hearing.

The project is of significant public interest. Over 1 million people walk in Dun Laoghaire Harbour and enjoy the amenity of Dun Laoghaire Harbour every year.

Dun Laoghaire Harbour is the hub for sailing and sailing regattas not just within the Dublin region but nationwide; a potential sailing footfall of 350,000 people participate in sailing in Dun Laoghaire.

This continues a tradition established in the early 1840s .

Dún Laoghaire Harbour, comprising the East and West Piers and several of the internal historic marine structures, buildings and artefacts, is of high architectural quality both in design and, foremost, construction. Both structures and buildings include those designed by architects and engineers of note (both Rennies and Skipton Mulvaney, amongst others). In terms of scale and quality the Harbour can be considered of International Architectural Importance rating.

“Dun Laoghaire Harbour significance as an historic harbour and port as one of the largest artificial harbours within the Western world when constructed, if not the largest, it remains impressive in scale to this day. In this regard it is of National Importance.”

Dun Laoghaire Harbour is a structure of international importance due to its scale, the quality of its construction, including the collection of significant buildings, monuments,

industrial (marine) heritage artefacts and, its remarkable history. It is also an area of beauty, of maritime history, a cultural centre of numerous water and land-based recreational activities, a transport hub; it is, and has been, a place of work, of play and of relaxation.”

Additionally, the issues of foreshore are some of the most complex issues concerning planning and development to be dealt with.

2 BACKGROUND

The Dun Laoghaire Combined Clubs (DLCC) act to provide a unified coherent and cohesive voice to represent the interests of sailing in Dun Laoghaire. Dun Laoghaire Harbour is the gateway for sailing not just for Dun Laoghaire and Dublin Bay but for mounting sailing events at international level.

Dun Laoghaire Harbour is the jewel in the crown for the citizens of Dun Laoghaire and for the sailing community nationwide. Dun Laoghaire Harbour is to sailing what Croke Park is to the GAA - A symbol of tradition, a beacon of hope for the future, its identity, home. True to its original purpose, Dun Laoghaire Harbour is an asylum harbour, a refuge. A heritage, tradition and a future legacy, a privilege to pass on to future generations.

Dun Laoghaire Harbour provides a unique sailing amenity in Ireland and is a national and international centre of sailing excellence. The coastline of Dublin Bay offers no natural safe protected area of water, therefore the importance of Dun Laoghaire Harbour for sailing is unrivalled and unequalled. The established investment in sailing infrastructure located within the harbour and the logistics for use of Dun Laoghaire Harbour as an international sailing event centre highlight its role and potential as an international sailing destination and hub.

Sailing and recreational use within the Harbour has been a tradition in Dun Laoghaire Harbour since the harbour's earliest inception.

“The Harbour became a place of marine leisure activity. The Royal St George Yacht Club was established in 1843 (the world's second oldest yacht club, after Cobh), followed not long after by the Royal Irish Yacht Club (1850), with the National Yacht Club clubhouse built in 1870.

The Piers themselves were used from the outset as promenades (which early illustrations show) and the late 19th century Bandstand and Shelter on the East Pier provided a focus for seaside entertainment as again visible in some of the early photographs digitally available in the National Photographic Archives (www.nli.ie) and also contained in the Heritage Management Plan (Appendix 5.11.1). Over the years, small boating, fishing, diving are all related leisure activities, which happen either within or out of the Harbour”.¹[Environmental Impact Statement (“EIS”)]

The Volvo Regatta, a 4 day sailing event contributes in the region of €2.3m to the economy. The regatta, which takes place over 4 days, attracted 21,000 visitors to Dun Laoghaire with a total spend of €511,350 into the local retail economy over the period of the regatta.²

The appeal is based not on an objection to cruise tourism per se but is based on a fundamental objection to the proposed cruise berth infrastructure, which is designed to

¹ 5.11.4 Shaffrey Associates

² A Case Study of The Socio Economic Significance of the Volvo Dun Laoghaire Regatta, 2009 Irish sea.org

facilitate super cruise ships, which would segment the harbour in two. This would have devastating impacts on sailing and other harbour uses. It would significantly injure its heritage character, value and amenity undermining the very asset that such amenity is predicated upon.

Currently there is a balance of uses within the Harbour and the vision for the long term future of the Harbour is predicated on its amenity value, supporting Dun Laoghaire as an international sailing venue, leisure, recreation and sustainable tourism, an integrated waterfront and town centre.

At the very outset it is critical to differentiate between the mass tourism of the new generation cruise ships with 3,500 plus passengers which require a massive scale of supporting infrastructure and sustainable tourism.

*“Mass-market tourism is focused on quantity; it is also about environments that are artificial, homogenized, generic, and formulaic. In contrast, sustainable tourism is about high quality; its focus is places that are authentic, specialized, unique, and homegrown.”*³

Faillte Ireland and the Irish Sailing Association (ISA) have identified Dun Laoghaire Harbour as a world class sailing venue which is based on its unique amenity attributes.⁴

Based on the DKM Report submitted by the applicant, there is no demonstrable need or economic case for the proposed development. The recent permission for cruise berth infrastructure at Dublin Port addresses any tourism demand for cruise ship infrastructure for Dublin providing an optimal strategic location in the national interest in a Tier 1 Port in accordance with National Ports Policy.

The range of issues covered in this submission is not confined to a single interest but encompasses the broad range of environmental and planning considerations both technically and legally necessary to ensure the proper planning and sustainable development of the world heritage asset that is Dun Laoghaire Harbour and to ensure its future for marine leisure in accordance with the development plan objective.

3 SUMMARY OF LIKELY CONSEQUENCES FOR PROPER PLANNING AND SUSTAINABLE DEVELOPMENT

The proposed development by virtue of the location of the new pier in the middle of the harbour extending a distance of 430m within 221m of the harbour mouth which effectively severs the harbour in two and by virtue of the size, scale and operational requirements of the vessels would be incompatible with and undermine the existing use of the Harbour, would prevent the effective and safe use of the Harbour for leisure and recreational use and consequently the proposed development would be contrary to the Dun Laoghaire Rathdown Development Plan objectives and policies for Dun Laoghaire Harbour and would be contrary to the proper planning and sustainable development of the area.

The proposed development of a of a new pier and quay berth measuring over 430m in length within Dun Laoghaire Harbour represents a strategic transport infrastructure development. There is no provision for such transport objective within the development plan. The proposed development would therefore materially contravene the Dun Laoghaire Rathdown Development Plan 2010-2016 for the zoning of land for the use solely or primarily to provide for Waterfront Development and Harbour related uses. The proposed new berth quay structure threatens the fundamental marine character of the harbour as it segments the Harbour into two zones thereby materially undermining the marine entity and the essential nature of the Harbour

³ ULI Ten principles of sustainable tourism.

⁴ Failte Ireland 2009 Determination of Waters of National Tourism Significance – 2009: ISA ABP Submission

and would materially affect the recreational use of the Harbour for sailing. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

The berthing of the super cruise liner in the harbour represents a structure the mass and bulk of which exceeds the scale of any comparable structure within the town centre of Dun Laoghaire. Its height rises to the equivalent of a 14-storey building similar to Liberty Hall, and more than twice the height of the town hall and the Lexicon in Dun Laoghaire. (The length of the ship in harbour is 340m. It would form a towering and overwhelming presence within the harbour obstructing amenity views over clear water for more than two thirds of the projection of the harbour, extending from the marshalling yard to within 221m of the harbour mouth. The presence of the ships within the harbour over the course of the entire day would transform completely the character of the open amenity views across the water transforming it into an industrial dock-like area while obstructing the views of the two lighthouses, which create such a unified symmetry within the harbour and a significant landmark and a strong sense of identity. Therefore the proposed development both in the pier structure and the presence of cruise liners when docked would create an overwhelmingly negative impact on the visual amenity and attractiveness of the harbour. It would change significantly the character of the amenity views across open water and would therefore affect materially the character of a unique protected structure destroying much of the visual amenity of the harbour area.

The proposed development materially and significantly contravenes the objectives and vision statement of Dun Laoghaire Harbour Master Plan. The proposed development of a new 430m quay down the middle of the harbour to facilitate mass tourism in the form of super cruise liners does not make Dun Laoghaire a destination of international calibre it transforms an already elegant and beautiful harbour into an industrial back end port area thereby destroying its very uniqueness and identity and marine ambience. The proposed development therefore is not plan led in accordance with Dun Laoghaire Harbour Master Plan but comprises ad hoc speculative development that would be contrary to the proper planning and sustainable development of the area.

The strategy to detour super cruise passenger ships to Dun Laoghaire rather than proceeding to Dublin Port is directly contrary to the NRA Smarter Travel Policy and objectives to minimize the demand for travel. It effectively brings passengers to a subsidiary port of call where a transport mode interchange to bus/taxi is necessary to transport passengers on the final part of their trip. This places unnecessary demand and pressure on congested local roads during peak travel times in the morning and evening. Therefore the strategy to divert cruise passengers to Dun Laoghaire is fundamentally unsustainable and would materially contravene national transport policy to minimise the demand for travel. It would also place additional pressure on an already congested road system and would thereby reduce efficiency in the transport network and by the reliance on fossil fuels give rise to additional unnecessary transport emissions.

The proposed development would materially undermine national policy for prioritization of transport investment in smarter travel as set out in the Infrastructure and Capital Investment Programme 2012-2016 and the proposal to locate bus parking along the route of the Metals an historic heritage route would contravene a specific local Development Plan objective (No. 93) for the promotion and development of the Sutton to Sandycove promenade and cycle way along the route of the Metals in the harbour area. The introduction of coaches into this important historic track way will radically affect its historic character and compromise an important historic record about how the harbour was built. Use as a combined cycle lane and pedestrian route would not compromise the character of this important historic place.

The land use implications of creating a transport mode change within the harbour for cruise ship passengers would disaffect cycling and walking within this high amenity area and would thereby prejudice a key objective of Smarter Travel to embrace cycling and walking as the best way of arresting unsustainable transport trends.

There is a fundamental conflict with the National Port Policy 2013 in the proposal to locate transport infrastructure of national scale within a regional port. Therefore Dun Laoghaire Harbour which is designated a Tier 3 port is an inappropriate and unsustainable location for the development of transport infrastructure of national scale which is appropriately located in a Tier 1 Port. The proposed development would materially contravene the designated hierarchy of the National Ports Policy to *“consolidate resources to achieve optimum efficiencies of scale”*.

4. THE STRATEGIC INFRASTRUCTURE DEVELOPMENT (SID) DECISION

4.1 Decision not determinative of legal or planning issues

It appears that the applicant is relying on certain determinations by Board in respect of the SID predetermination and on documentation sought and submitted to the Board as part of this process and the applicant appears to be of the view that the Board have made certain determinations in respect of the development.

The Board has significant conflicts in respect of the function it must now exercise in determining whether or not to grant permission and the function of determining whether the development comes within the remit of SID.

The fundamental tests for An Bord Pleanála (“the “Board”) in considering the proposed Strategic Infrastructure Development (“SID”) under the Planning and Development Acts 2000 – 2014 (the “Planning Acts”) is to assess the “*likely consequences*”⁶ for the area of the proposed development for proper planning and sustainable development and any likely effects on the environment or on a European site.

This is a broad remit for the Board as the consequences of the development for proper planning and sustainable development are wide ranging. Of necessity the development requires an Environmental Impact Assessment (“EIA”) and an Appropriate Assessment (“AA”).

In this regard our client is particularly concerned at the submission of the DKM Economic Report 2015 (the “economic report”) where the Board has already determined the issue that the project is of social economic importance in circumstances where our client was not afforded the opportunity to rebut such a contention. The Board is now being asked to adjudicate on this very issue. We would ask the Board to confirm that it will proceed on the basis that none of the findings made will be relied upon and that any findings of the Board in the context of its determination that the development constitutes SID are of no legal effect..

Insofar as the Board has made any determination relating to the social and economic importance of the proposed development we would ask the Board to confirm at the outset that insofar as any of these issues are properly the subject matter of environmental impact assessment that it accepts that no regard can be had to any previous determinations.

The decision by the Board⁸ to accept the application for cruise berth infrastructure as a SID application was based largely on the scale of the project.

The scale of the proposed quay exceeds the relevant threshold set out in the 7th Schedule of the *Strategic Infrastructure Act, 2006*, as amended by the *Planning and Development (Amendment) Act, 2010*, Class 3 (c) *Transport infrastructure* as it would:

c) involve the construction of one or more quays which or each of which would exceed 100 metres in length, or

d) enable a vessel of over 1350 tonnes to enter within it.

The Board Inspector stated that he was satisfied the criteria set out in section 37A(2)(a) of the Planning Acts were met:

(a) *The development would be of strategic economic or social importance to the State or the region in which it would be situate.*

⁶ Section 37G of the Planning Acts

⁸ An Bord Pleanála Ref: 06D.PC0155

It was also considered in the Inspector's Report that the project did not satisfy the second category:

(b) the development would contribute substantially to the fulfilment of any of the objectives in the National Spatial Strategy or in any regional planning guidelines in force in respect of the area or areas in which it would be situated,

confirmed by the judgement in the *Callaghan v An Bord Pleanála* case.⁹ Ms. Justice Costello determined that the decision to classify the relevant development as SID did not determine the merits of the project as a strategically economically important project.

The Callaghan case challenges the exclusion of the public from the initial pre-application consultation process with the Board. The High Court certified the following point as a point of law of exceptional public importance on the 24th July 2015 to be determined by the Court of Appeal:

"Is the statutory scheme contained in the Planning and Development (Strategic Infrastructure) Act 2006, when construed in the light of Sections 50(2) and 143 of the Planning and Development Act 2000 such that:- (a) it is necessary to read into the scheme a right for interested members of the public to be heard prior to An Bord Pleanála reaching an opinion pursuant to Section 37A of the Planning and Development Act 2000..."¹⁰

This has significant implications for the validity of the pre-application consultation process and the decision reached by the Board in respect of this proposed development. The outcome of this case will ultimately affect the very core of the Strategic Infrastructure Development process.

4.2 Public Consultation

The question of scale was a critical issue during the Public Consultation. The documentation issued by the Dun Laoghaire Harbour Company ("DLHC"), the presentations made by DLHC and the images in particular, which were used were seriously misleading in terms of scale. A careful analysis of what is now proposed shows that there was a vast difference between what was presented to the public and is now proposed.

[We have commissioned a scaled drawing of the extent of the super cruise liner which has been superimposed on the images issued by the DLHC as part of the Public Consultation process.] [INCLUSION FOR DISCUSSION]

It is evident from the comparison of the two images the Corrected scale and the Public Consultation image that there is a vast difference in the appreciable scale of the proposed development.

The Public consultation process was therefore, we respectfully submit, fundamentally flawed and misleading.

There were other major problems such as:

- The timing of the consultation, which took place over a two-week period during the Easter Holidays;
- The lack of availability of background research documentation;
- The lack of availability of any economic cost benefit analysis of the project;

⁹ [2015] IEHC 493

¹⁰ Callaghan v An Bord Pleanála, Ireland and the Attorney General [2015] IEHC 493, judgment of Ms. Justice Costello delivered on the 24th day of July, 2015

- The consultation took place subsequent to the determination of the Board that the project constitutes SID.

The manner in which DLHC has conducted public consultation to date is wholly unsatisfactory and fundamentally flawed and is not consistent with the Aarhus Convention.¹²

Public consultation is embedded as a core part of the EIA process and the EIA Directive (as amended) incorporates the principles on public participation and aligns the decision-making process and access to justice in environmental matters with the Aarhus Convention.

The preface to the EIA Directive (as amended) states at recital 7:

Development consent for public and private projects, which are likely to have significant effects on the environment, should be granted only after an assessment of the likely significant environmental effects of those projects has been carried out. That assessment should be conducted on the basis of the appropriate information supplied by the developer, which may be supplemented by the authorities and by the public likely to be concerned by the project in question.

In this case the public transparency of the decision-making process is questionable and the mis-information from the applicant during the course of the public consultation process has undermined the entirety of the consultation process.

The breaches of the Aarhus Convention to date and the significant impacts this has had on delivering mis-information to the public in terms of the scale of the proposed development means that the public participation in the planning process is a flawed procedure. The basis of the SID application and EIS and the NIS to the Board therefore further compounds a flawed process.

DLHC failed in its duty to engage in a meaningful and effective public consultation process and to facilitate public participation. In particular, it failed to use the knowledge of the local community in information gathering or in assessing in any meaningful way the extent of impacts arising or the constraints arising. This failure was further compounded in the response to the public consultation process wherein DLHC failed to engage in a meaningful assessment of the issues raised and instead of addressing the issues raised relied on what they referred to as normal restrictions in the harbour to suggest that the harbour was a place of transit in terms of sailing activity and racing activity was dependent on the Notice of the Harbour Master. It is noted that notwithstanding the flawed process 139 submissions were made, comprising 104, which raised serious objections while 22 raised important environmental questions, which have not been answered. In this context we attach a copy of the DLCC submission, which raised significant environmental questions for the applicant, which have not been answered to date and have not been addressed in the EIS [or the NIS?].

The DLHC response was to ignore the substance of the concerns raised in the submissions and to proceed to lodge a planning application directly to the Board without first addressing the issues raised in the public consultation in the first instance.

The application itself is incorrect in the facts presented. It misrepresents the tradition of sailing, which has engaged in racing in the harbour since its earliest completion in the 1840s.

“Traditionally, there has been very little ‘racing’ inside the harbour, other than by the Water Wags, DBSC and the DMYC Winter Series and this has been ‘by permission’ only.”(DLHC)¹⁴

The land use strategy, as set out in the development plan is a balanced marine leisure strategy. This is reinforced by the National Ports Policy 2013 for Dun Laoghaire Harbour and

¹² The United Nations Economic Commission for Europe (UNECE) Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters

¹⁴ DLHC Response to Public Consultation

by the DLHC Harbour Masterplan 2011 (the “Masterplan”) where the future relationship of land uses in the harbour highlights the prominence of sailing. Containment and artificial restriction of sailing within the harbour area and exclusion of sailing from the fairway area in the central area of the harbour would materially conflict with the leisure and amenity functions of the harbour.

The functions and powers in respect of the Dun Laoghaire Harbour under the Harbours Act 1996 (as amended)¹⁵ are to be transferred to Dun Laoghaire Rathdown County Council.

Established traditional sailing access and routes and public policy as expressed within the Development Plan 2010 - 2016, and National Ports Policy 2013 (wherein the Minister for Transport, Tourism and Sport and Minister for Public Expenditure and Reform are currently the owner of the DLHCshareholding¹⁶) provides a more accurate understanding of the relationship of uses within the harbour.

The reality is that the proposals for restriction of access within the fairway would sound the death knell for sailing in Dun Laoghaire. The EIS attempts to suggest that there is no material change and in this the objectivity of the EIS is seriously in question, as this is demonstrably not the case.

A more correct understanding of the position is that permission for sailing in the harbour is traditional and part of its unique cultural heritage from the time of the completion of the Harbour. The Royal St Georges Yacht Club was in situ on the completion of the harbour. A balance of sailing and other uses within the harbour has always been maintained.

The failure of the public consultation process is problematic and failure to consult in any meaningful way fundamentally undermines the EIA process. Furthermore, there has been no real consideration of alternatives. The pre-application consultation, the obligation to meaningfully identify parties likely to be affected and engage with the public and with stakeholders, is a critical part of the EIA Directive and requires an identification in accurate and comprehensive terms of what is being proposed, real engagement with the concerns raised and abandonment of the project or at the very least modification of the proposed project in light of these inputs.

The EIA Directive does not allow for window dressing or mere token compliance and certainly does not, as is the case here, provide for misleading and inaccurate representation of what is being proposed and the pre-application considerations required by the EIA Directive have not been complied with.

4.3 Transport Infrastructure class

The proposed development falls within the ‘transport infrastructure’ category for the purpose of the SID process. Whereas the established primary use of the harbour is leisure, not transport. This established use is supported by the relevant public policy documents below. This is in stark contrast to the proposed development, which contravenes/does not conform with the relevant national, regional or local policy documents.

4.4 National Policy Priorities for Investment

National projects of national economic social importance are set out clearly in the **Infrastructure and Capital Investment Programme 2012-2016**.

“The country’s infrastructural and capital investment needs are a function of broad societal and economic developments. This review assesses the existing capacity of Ireland’s infrastructure and identifies remaining gaps which must be addressed to aid

¹⁵ Harbours Act 1996 (as amended)

¹⁶ Section 2 of the Harbours Act 1996 (as amended by section 2 of the Harbours (Amendment) Act 2009)

economic recovery, social cohesion and environmental sustainability.”¹⁸

The proposed cruise berth infrastructure for Dun Laoghaire Harbour is not included. This is because it is not a project of national or social economic importance to the state.

“Given the reduced level of resources available, sharp prioritisation of investment is paramount...”

There is a need to *“maximise efficiency and effectiveness in infrastructure development”...*

and

“infrastructure spending should be deferred, as investment during the boom years means that there are few bottlenecks”¹⁹

Over €70 bn was invested in capital infrastructure from 2000 to 2008.²¹ It is notable that there is no provision for ports investment within the programme.

“For the medium-term, the core focus of capital investment must be the upkeep of existing infrastructure so as to protect the value of previous investments. In many cases, this will represent a better return on investment than new projects... Maximising value for money and economic and social impact should always be paramount objectives of public policy. In times of particularly scarce public resources - such as these - the need to make the most impactful spending decisions is all the more important.”²²

In light of the above priorities as set out in the Infrastructure and Capital Investment Programme 2012-2016 there can be no case for the proposed development in Dun Laoghaire Harbour either alone or in addition to the consented cruise berth development in Dublin Port.

Not only is the subject project not included in the programme but it would also represent an inefficient diversion of scarce national resources contrary to national investment priorities.

NewERA (the New Economy and Recovery Authority) have responsibility for reviewing capital investment plans of commercial semi-State companies from a shareholder perspective. The proposed project would conflict with the priorities as set out in the Infrastructure and Capital Investment Programme 2012-2016.

Transport Investment priorities of relevance within the programme for Dun Laoghaire Harbour include “Smarter Travel”:

“Funding is provided in this Investment Framework for the development of Smarter Travel initiatives including cycle lanes and cycle ways, pedestrianisation projects”.²³

The proposed development is in conflict with the national priorities for investment insofar as it identifies cycleways, the Sandycove Sutton Cycleway, as a strategic priority and the proposed development would prevent implementation of this strategic objective, thereby prejudicing strategic national investment priority. There can be no basis for the proposed development,

¹⁸ Infrastructure and Capital Investment Programme 2012-2016, page iii

¹⁹ Infrastructure and Capital Investment Programme 2012-2016, page iv and 4

²¹ Infrastructure and Capital Investment Programme 2012-2016, page 3

²² Infrastructure and Capital Investment Programme 2012-2016, page 5 - 6

²³ Infrastructure and Capital Investment Programme 2012-2016, page 19

which is not even included as a transport infrastructure objective in the development plan, to be considered as being of national social economic importance when it precludes implementation of a designated nationally socially important objective..

5 VALIDITY OF THE APPLICATION

There is an onus on the Board to determine the validity of the SID application and EIS by examining the plans and particulars lodged.

The application must comply with the Planning and Development Regulations 2001 (as amended) (the "Planning Regulations")²⁴ and compliance with these Regulations must be strictly enforced.

Any reasoned examination of plans and particulars lodged will lead to the conclusion that there is material non-compliance with the Planning Regulations.. The Board must not consider the application further where the application or the EIS is "inadequate" or "incomplete".²⁵

It is fundamental to any planning application that the site of the development is identified and the location of the proposed development is identified in red. It is, furthermore, required that all wayleaves and rights of way are identified in yellow, and all other land in the ownership of the applicant is identified in blue.

These separate and distinct requirements of the Planning Regulations have not been complied with. In the absence of compliance with these fundamental statutory requirements it is not possible to make substantive submissions on a range of planning issues for which the availability of this information is critical.

Separately, the public notice is inadequately and inappropriately titled, misleading and is seriously deficient in terms of its form and content and fails to adequately describe the nature and extent of the proposed development.

The Regulations are very specific in respect of plans and particulars to be lodged with any planning application. They indicate minimum requirements in respect of scale, particular dimensions, the nature of the plans, elevations and sections that are required to be submitted in such form and manner as to be easily legible and accessible and understood by members of the public who may have no training in planning or design.

It is almost impossible based on the submitted plans to gain a coherent view or understanding of what is being proposed. The plans are at a scale and in a form that make it impossible to properly and accurately analyse the full extent of the development. Had the requirements of the Regulations and in particular Articles 22 and 23²⁶ been complied with, this would not have occurred and our client would not now be seriously prejudiced.

The applicants do not have sufficient interest in the land to make the application. They are in breach of the legal principle set out in *Frescati Estate Ltd. v Walker*²⁷ and the requirements of the Planning Regulations in this regard.

On this basis also the application is invalid.

²⁴ S.I. No. 600 of 2001

²⁵ Section 37E(2) of the Planning Acts

²⁶ Relating to the content of planning applications generally and requirements for plans, drawings and maps contained in the planning application

²⁷ [1975] IR 177

We respectfully submit that the Board can make no determination except that the application is invalid and respectfully request that the Board determine the validity of the application as a preliminary issue.

We hereby request the Board not to proceed to an Oral hearing or the consideration of the substantive issues until, this matter has been determined.

6 THE EIS

6.1 Inadequacy

The applicant asserts that the development will require a number of additional consents and in particular indicates that a Waste License, Consent for Dumping at Sea and a Foreshore License will be required. The applicant has not identified the impacts that will arise in respect of these elements of the project, indicating that they will be dealt with at a later stage. The EIS contains no, or no adequate, information in respect of many of these issues and the approach adopted by the prospective applicant is fundamentally in breach and contrary to the EIA Directive.

The EIA requires an identification of all of the likely significant effects, including both direct and indirect, long term, medium and short term effects. Where adverse effects are identified, appropriate mitigation measures must be formulated and appropriate information must be submitted to allow for the identification of all of these matters, not just for the Board but for the public. If all the effects and appropriate mitigation measures proposed are not considered, the proposed development is contrary to the EIA Directive.

No reasonable person who was aware of the nature and extent of this development could, on the basis of the information submitted in the EIS, be in a position to identify the likely significant effects on the range of factors identified in the EIA Directive. Therefore, such person could not identify the likely adverse effects or the mitigation measures necessary and as a result, the Board is not in a position, based on the documentation submitted to the Board, to carry out an EIA. Nor is any third party facilitated in commenting on these issues.

The Board must as a preliminary matter consider the information submitted and identify a range of matters for which a revised EIS will be required to be prepared.

Until an EIS that complies with Irish Domestic Law is submitted, the application remains invalid.

The EIA Directive for the assessment of projects of this scale requires the assessment of the constituent parts of a wider project as a whole or, in other words, the cumulative impact of the development. It is submitted that the application, EIS and NIS should have included appropriate information on the likely impacts on the environment and on the relevant European sites of the proposed cruise berth infrastructure at Dun Laoghaire Harbour in combination with the permitted development of cruise berth infrastructure at Dublin Port and the overall likely wider effects on Dublin Bay.

If the Board were to accept the approach by the applicant it would not only fundamentally fly in the face of the EIA Directive but would condone and facilitate project splitting.

These are matters that should be addressed before any substantive consideration of the application is embarked upon.

6.2 Consideration of Alternatives

The proposed project is put forward in the DKM economic report as a quasi-public infrastructure project and in that context a real and meaningful consideration of alternative options is required. The EIS submitted with the planning application merely considers alternative berth locations in the harbour. Among the alternatives is whether the proposed development could be more appropriately situated in Dublin Port.

The permitted cruise berth facilities at Dublin Port provides a sustainable viable alternative to the proposed development.

It is significant that the Board raised the issue of **“the relationship with proposals for a cruise facility in Dublin Port”** with the applicant during the pre-consultation process.²⁸

However the evaluation of the Dublin Port facility as a real alternative has not been considered. The reason is that the Dublin Port facility obviates the need for the proposed development.

The critical planning benefit is that the alternative of Dublin Port allows for the avoidance of the environmental impacts arising from the proposed project at Dun Laoghaire Harbour.

In strategic planning terms there is therefore no justifiable or sustainable planning need for the development.

The proposed berth infrastructure at dun Laoghaire Harbour has a built in obsolescence as it cannot accommodate future growth in ship size.

The planning provision for accommodation of cruise berth infrastructure has been satisfied within Dublin Port which can accommodate both current and future projected demand in a location which minimises the demand for travel.

It is acknowledged by the applicant that cruise passengers to Dun Laoghaire do so in order to visit Dublin, the Capital City, which has an international Market. This necessitates bus transport onwards to the city centre through congested peak hour traffic. This approach to cruise berth infrastructure is contrary to NTA policy and objectives to minimise the demand for travel. The stop-over in Dun Laoghaire stops cruise traffic short of their ultimate destination and necessitates an unnecessary change in transport mode rather than providing direct access to Dublin city places undue pressure on the congested urban transport system.

The Board Inspector's Report on pre-consultation (section 4.3) highlights that rather than considering Dublin Port as an option as is warranted in the evaluation of such major projects within the EIS the applicant DLHC relied upon largely unsubstantiated projected growth in the cruise market to justify both proposals.

The schedule of cruise arrivals to Dublin Port for 13th August 2015 recorded the arrival of 4 cruise ships with 13,000 passengers all arriving between 3am and 7am.

“Placed end to end, the four cruise ships would stretch to more than one kilometer” [Royal Princess (330m long), Celebrity Silhouette (319m long), MV Horizon (208m long) and Magellan (222m long) cruise ships].

The Royal Princess and the Celebrity Silhouette had to manoeuvre stern first ('reverse') into Dublin Port this morning given their lengths. This complex manoeuvre was coordinated by the port's Harbour Master, Capt. David Dignam, and the port's pilots with the assistance of tugs Shackleton and Beaufort.

With Dublin Port Company's ABR Project recently approved by An Bord Pleanála, this practice will no longer be required as larger ships will be able to routinely call at Dublin, turn within the expanded Alexandra Basin West and berth as far upriver as East Link Bridge.²⁹

“The ABR Project will cost an estimated €200 million and Dublin Port Company has the financial resources to fund the project.”³⁰

²⁸ An Bord Pleanála Inspector's Report

²⁹ Dublin Port website, 23 July 2015

³⁰ Irish Building Magazine, 7 March 2014

The Alexandra Basin Redevelopment Project is located within a landscape character area identified as “**Harbour Based Industrial Landscape**”. This landscape character area has been identified as having a low sensitivity to change. The magnitude of landscape resource change will be low and the significance of landscape impact will be slight negative.³¹

This contrasts significantly with the landscape character of Dun Laoghaire Harbour, an Architectural Conservation Area containing over 29 protected structures with the harbour water forming the curtilage to the protected structures of the harbour piers.

Dublin Port’s cruise schedule is targeting a record year in 2015 with nearly 100 cruise ships bringing 200,000 visitors to Dublin expected for the full year. This contrasts with the Dun Laoghaire schedule which has declined to only 9 ships this season.

It should be noted that in the case of Dun Laoghaire it is proposed that the super cruise ships of 330m will have to enter the enclosed harbour without the assistance of pilots or tugs and reverse stern out without the assistance of port pilots or tugs.

The requirements in respect of alternatives has not been adequately considered and as such is a breach of the EIA Directive.

6.3 Health & Safety Risks / Disaster Planning

There are no comprehensive major incidents and disaster planning assessment included in the EIS. Incidents, such as the “Costa Concordia” running aground in shallow water, collisions with harbour walls, accidents with small pleasure craft, fuel spills and ship fires or emergencies have not been comprehensively addressed in the EIS.

6.4 Landscape Visual impact

A review of the application documentation, and the landscape and visual assessment of the proposed development has been undertaken.

We are gravely concerned about the methodology, used for assessment of the development proposals and the conclusions drawn. We submit that the applicant has not followed best practice in assessing the landscape and visual impact assessment, let alone complied with the requirements of the EIA Directive.

The applicant has relied upon poor quality photomontages of the development which are a guidance for judgement in these matters but should not be relied upon to such extent as the applicant has in circumstances where the quality of the light within the photomontages is such to mask the clarity of the development, the angle of view taken is to block the foreshortened view by buildings and screening.

This is in circumstances where there is empirical evidence of the extent of the visual impact of the HSS quay development within the harbour as a comparison to provide an empirical judgment context for any conclusions. The methodology has assumed the removal of the HSS infrastructure which removal would be subject to a separate planning process and therefore such assumption has resulted in an unsound methodology.

The Choice of views were based on the views selected as part of the Harbour Masterplan process, a non statutory document within different objectives and the views do not address the the full extent of impact on protected views from Crofton Road or from the harbour piers. In the context that the piers are listed as protected structures there is an onus to consider a series of views all along the pier to understand the changing nature of the open view over the harbour. Fig 5.8.8. is seriously deficient in analysing the near views and leaves out the entire section of the piers from beyond the marshalling yard to the lighthouses.

³¹ EIS Non Tech Summary RPS Dublin Port ABR

There are no views from the sea. The long distant view from Killiney Hill is from lower down the Hill and not from the highest point where the full extent of the sculptural form of the harbour piers is evident. The potential impacts identified are not based on empirical assessment and reference to the new quay as a *'relatively low level structure' whereby its nature and structure would not be considered alien and would not be expected to obstruct views* does not take cognisance of the scale of the structure inserted within clear open water in the harbour area or the level of the structure relative to low water mark.

The location of extensive waste refuse areas on the quayside in prominent view is not mentioned. The function of the quay as a service road for the cruise ships is not mentioned and the visual impact of traffic within the inner sanctum of the harbour open water area is not addressed.

In considering the works analysed there is no assessment of the impact of the changes to the Metals for use for bus parking or the use of the car park at the Coal harbour for bus parking or the changes to the public realm in the vicinity of a number of protected structures.

There is no assessment of the impact of the development on the numerous protected structures most notably the piers and the yacht clubs and most particularly the RIYC which is closest to the proposed development. The question of curtilage of the protected structures has not been addressed.

The do nothing approach employs inconsistent reasoning referring to the degradation of harbour facilities without considering similar scenarios for the proposed harbour facilities within a similar short life span. The existing HSS infrastructure has been in situ for only 18 years and forms the single largest intervention in the harbour in over 100 years. The proposed new quay by its very length 435m will greatly exceed the scale of the HSS intervention in the harbour and it's location will segment the harbour. There is no assessment of this fundamental issue in either landscape visual or sustainability terms.

The reference to the fact that the *'current Cruise Berth proposal is an objective of the Dun Laoghaire Masterplan 2011-2030'* is factually incorrect and misleading and undermines the entirety of the assessment process. A *potential* cruise pier structure is shown in the Masterplan, which is of radically different scale. There is no objective to provide a cruise berth as shown in the current form of the subject application.

The cumulative impacts are inadequately addressed and the conclusions therein are questionable. The grounds for suggesting in section 5.8.3.3 that the arrival of a cruise ship 70m high and 435m long into the harbour with the attendant noise, traffic emissions from the engine running and overbearing visual and overshadowing impact would be expected to enhance the experience of the beach pool is not credible.

The assessment of the construction phase does not differentiate that the proposed developemnt is located in the highest amenity area candidate Architectural Conservation Area within the Dun Laoghaire frequented by over 1m pedestrians p.a..

The operational phase recognises there is no mitigation possible but suggests that impacts are transient. The impact of the industrialisation of a wide swathe of the harbour open water area is not a transient impact.

The landscape character assessment lacks objectivity. This lack of objectivity runs throughout the entirety of the assessment and we respectfully submit that there can be no reliance by the Board on this assessment.

The suggestion that the:

"docked ship is of course a 'natural' and appropriate aspect of the harbour and its backdrop - the expanse of sea around it. It is an expected feature and affirms the purpose of the harbour. The scale and finish of the cruise ships provided for is impressive and could not generally be considered negative"

shows an absence of understanding of the scale of the proposed ship within the context and confines of the enclosed Tier 3 harbour area, which is specifically protected under a range of policy documents.

For an appreciation of relative scale we refer to the photomontages prepared by Design Strategies which show the relative and overpowering and dominant scale. It could never have been expected that a ship of that scale would berth in Dun Laoghaire an asylum harbour where the purpose of the harbour would be compromised by the very scale of both the ship and the infrastructure.

The conclusions on the assessment of the views are profoundly flawed and should not be relied upon.

7 THE NIS –Impact on a European Site

Scientific certainty

The NIS fails to have appropriate regard to the type of information that is now required following the recent judgment in the European Court and in particular the case of the Advocate General and the court in *Sweetman v Ireland*³². The applicant has not shown that it has met the test set out therein. In our submission the impacts have not been properly or fully identified, the relevant information in respect of their characteristics have not been adduced and the full effects of the development on the Rocakabill to Dalkey SAC have not been described, much less assessed, and the appropriate standard now required has not been applied. In those circumstances therefore the Board is not in a position to engage in or carry out an AA and cannot do so until this information has been submitted. The Board should defer any further consideration of the application pending the submission of this necessary information. Our client is significantly prejudiced in making any substantive submission on this part of the process until such information is provided.

The substantive submission below is made without prejudice to the contention that the application is invalid and that the EIS is inadequate and does not comply with the Planning Acts or the EIA Directive. Having regard to the information submitted with the applications and the approach adopted, the Board is not capable of carrying out an AA.

³² Case C-258/11

8 KEY ISSUES RAISED BY AN BORD PLEANÁLA

8.1 Key issues

The Board raised with the applicant, DLHC, in their pre-application consultation concerning:

- How the proposed development would fit with the application within Dublin Port for cruise berth infrastructure
- The status of the Harbour Masterplan
- Berthing
- The effects of the proposed development on any other uses in the harbour
- Dredging and disposal of dredged material
- Potential effects on historic pier structures
- Potential effect on the designated SAC Rocakbill to Dalkey.

These issues are of further significance in determining the validity of the application and the adequacy of the EIS and the Natura impact statement (“NIS”).

None of the issues identified have been adequately addressed either in the plans, application or EIS or NIS.

Section 37E of the Planning Acts (as amended) specifically provides that the Board may refuse to deal with an application where the application is incomplete or has not adequately addressed the concerns raised in the consultations. There are substantive grounds that these issues raised by the Board have not been adequately addressed and on this basis the application documentation is inadequate for the purposes of the Board assessment of the proper planning and sustainable development of the area.

8.2 Dublin Port/ Lack of Need for the development

In respect of the issue of Dublin Port this matter has been inadequately addressed.

The applicant has relied almost entirely on an economic impact report prepared by DKM to justify the development which is reliant on cooperation with Dublin Port notwithstanding the extant permission for cruise berth development at Dublin Port. The application was lodged prior to the decision from the Board in relation to the grant of permission for Dublin Port and did not address the cumulative impact of the Dublin Port Development and the proposed development as is required by the EIA Directive and as transposed into domestic law. There is an onus on the applicant to assess the cumulative impact of cruise berth development on Dublin Bay.

This report does not address the substance of the issue raised by the Board or the sustainability of proposing and developing two such cruise berth infrastructure projects in neighbouring ports. The requirements of the Habitats Directive have not been satisfied.

Our client commissioned an Economic review of the DKM Economic report by PMCA which highlights the proposed growth scenario for the two ports is unsustainable.

The PMCA report demonstrates that the proposed development would not fit with the Dublin Port permission. Notwithstanding the fact that the DKM economic analysis is reliant on the two ports cooperation to develop Dublin Bay as a cruise destination this is unlikely as the two ports are separate competitive entities. The PMCA report identifies *inter alia* the following points which are of significance for the proper planning and sustainable development and the requirements regarding impact assessment under the EIA Directive.

“... Dublin Port is planning to develop cruise facilities as part of its master-plan. But

this competitive threat to DLHC's cruise plans is not considered in the DKM report".

Importance of Scale

To accommodate cruise vessels (of the sort of scale envisaged in the DKM report), appropriate infrastructure needs to be in place, including transport links (passengers will only really be interested in visiting Dublin City centre and this would require onward transport links, requiring major planning).

City Centre Effect

DLH is not close to Dublin city centre and this would tend to work against the proposed project, necessitating transport links to convey passengers into the city centre and the main tourist attractions, in which the visitors would be interested."

[There is furthermore] the potential for the proposed project, if realised, to displace existing leisure activities in-and-around DLH, such as yachting/sailing and other water sports. This includes the Volvo DL Regatta, which has developed into one of the biggest sporting events in the country and this year was held during 9-12 July. The event occurs at DLH and brings together a number of yachting clubs in the area (these are among the largest and best known clubs of their kind in the country). According to a socio-economic study for the initiative carried out in 2009 (not by PMCA), the major event exerts an important impact socially and economically in the DL area, bringing in many hundreds of visitors from abroad during the event with significant direct spend in the region of €2m in that year, adding significantly to the local economy during the weekend and helping to support various local jobs.

According to DL International Sailing Events, DL has identified a range of major sailing events that it would like to attract to the harbour in the coming years, including the possibility of the Youth Olympic Games in 2022, with the economic prize of an estimated 750,000 participants and visitors to the event.

The same DL International Sailing Events publication also estimates an economic impact of almost €10m from DLH hosting international sailing and sporting events during 2014-2022. The wider economic effects, stemming from the international coverage of the area, are estimated in the publication to average well over €10m per year between 2014 and the end of the decade, with the hosting of the Youth Olympics estimates to have an international media coverage impact of €75m in 2022.

The attraction and success of DLH as a national centre for excellence in sailing is based on multiple features, including:

Home to the four leading sailing clubs in Ireland (4 premises-based clubs and 2 race-organising clubs) with well over 5,000 members, including over 1,000 children involved in youth sail training;

Ease of access nationally and internationally;

Large protected bay for multiple race areas;

Large harbour with 800 berth marina facilities;

Extensive onshore facilities.

Sailing at DLH – for which the area is world-renowned – takes place all year round, with activities peaking in the summer. The past record is that DLH would host typically 5 major international sailing events per year, with each such event occurring over 1 week with over 100 boats and in the region of 1,000 visitors, mostly from overseas. The natural advantages of the harbour area as a sailing destination include:

40 square mile race area;

6 race courses possible;

Sheltered waters (natural amphitheatre) located in a beautiful part of the capital/Ireland, with the view across to Howth Head and the scenic backdrop of the Dublin and Wicklow Mountains; and

Proven track record, demonstrating DLH's ability to successfully host such events."

There will be a significant adverse economic effect on the existing use of the Harbour, therefore, if the development proposed were to proceed.

8.3 Need for the development

The economic reports, over the course of the ABP pre-consultation changed their emphasis. (These reports are not available on line) Not only were the alternatives not properly considered but the need for two projects of such magnitude and scale were not evaluated. Therefore the cumulative impact of two such projects within the Dublin region is not properly assessed although this issue was a key issue raised by the Board in the pre- application consultation process.

Instead, of evaluating the alternatives, the DKM report modelled growth trajectories within the cruise industry based on positive growth assumptions. However such growth assumptions are not justified within the vagaries of the overall global cruise industry.

The applicant took the projected growth for Dublin Port of 147 ships by 2033, suggested that this was a capacity constraint when compared to the cruise traffic in Copenhagen of 285 calls per season and posed the Copenhagen scenario as the growth model for Dublin.

The growth model for Dublin Port was based on extrapolation of historic growth trends into the future allied to capture of market share and opportunistic scenarios.

The DKM inverted logic was used to avoid consideration of the viable alternative of Dublin Port. Instead DKM concentrated on unsustainable growth scenarios postulated as the Copenhagen model and predicated on co-operation between Dublin Port and Dun Laoghaire although there is no evidence of such co-operation.

The scale of the project and the scale of the existing permitted facilities at Dublin Port is driving the economic analysis to find solutions for growth to sustain two ports rather than one but these models as they relate to Dun Laoghaire are merely speculation and conjecture. They are predicated on market capture for Dun Laoghaire equal to the entire scenario for Dublin Port until 2033.

The sustainable growth model acknowledges that Dublin Port is the optimal location to serve the cruise tourism market and there is no need for a second port.

This approach to assessment of alternatives, and need for the development which is interrelated to the economic impact of the development is fundamentally flawed.

Modelling and projections are only as good as the assumptions upon which they are based. The DLHC and DKM case is largely based on assumptions:

- Positive growth in the cruise tourism market.
- The extent of capacity within Dublin Port will limit growth in the cruise market.
- The Copenhagen model is attainable in Dun Laoghaire which is not a key port of call but is secondary to Dublin.
- Added benefit rather than diverted benefit

None of these assumptions have been challenged or substantiated and in the light of the

failure to conduct a proper cost benefit analysis of the project they are not sustainable.

Growth in the cruise tourism market

The DLHC informed the Board there were 25 cruise ships booked to call in 2015 whereas only 9 are currently scheduled for the 2015 season. This illustrates a sharp decline and illustrates the vulnerability of the market. It also shows the track record of the applicant.

Dun Laoghaire is vulnerable to the control of the Cruise Liners none of which are based in Dun Laoghaire unlike Copenhagen which has a tradition and history shipping is home to Maersk Shipping and cruise tourism since the 1850's.

This tradition does not exist in Dun Laoghaire and the historic function of Dun Laoghaire Port has always been as a refuge for Dublin. The subject application retains that subsidiarity in that all the documentation in relation to the Cruise industry and projected growth and demand relates to Dublin and is predicated upon co-operation with Dublin.

This is particularly the case where elements of permanent infrastructure are predicated on such positive assumptions. This is more particularly the case where such permanent infrastructure interventions are within a candidate Architectural Conservation Area where the conservation principles of reversibility apply. The principles of sustainability in such location require economic certainty as to the need for the development in that specific location.

This was the case at the time of the HSS infrastructure development wherein there was a signed agreement in place for the use of the infrastructure. However notwithstanding such agreement the length of tenure of the agreement or use of that infrastructure is clearly unsustainable a mere 18 years over the life time of the project. This track record raises significant concerns in regard to the sustainability of the proposed project in the longer term.

If €22m is invested in the cruise berth infrastructure there is no guarantee that the cruise business will materialize in Dun Laoghaire and the indications are that Dun Laoghaire is a subsidiary location to Dublin City.

In terms of the cruise market analysed it is clear that any cruise stop over or port of call is based on a visit to Dublin as a capital city. It has the marque which creates the demand for cruise operators to include it on their itinerary. There is no evidence of any pent up demand for stop over or Port of Call cruise ships to visit Dun Laoghaire as a town in its own right. It is envisaged 80% of passengers will be bused to the city and 20% will be bused to Wicklow.

In the context of the applicants own contention and the nature of the SID process there is an onus on the applicant and, we respectfully submit, on the Board to consider the real alternative of Dublin Port which has secured planning permission for cruise berth infrastructure and can serve any demand in the market for cruise berth infrastructure.

Failure to properly consider the alternative provided by developing the proposed project at Dublin Port within the EIS is a fundamental flaw with major environmental and legal consequences and the cumulative impact of the development has not been considered, described or assessed.

David Simm of Gehl Architects world renowned urban designers was consulted in regard to the reference to the Copenhagen model of cruise shipping made by the applicant. He advised that it would be inappropriate and unwise to rely on the Copenhagen model, which in terms of both the marine environment and the built environment is very different and the historical evolution of both harbours is very different. The extent to which the Copenhagen model has been relied on is fundamentally flawed and undermines the whole basis of the developer's application.

8.4 The status of the Harbour Masterplan 2011

The Development Plan does not support the proposed development. The applicant therefore seeks to make the case that the proposed development finds favour in the non-statutory

Harbour Master Plan. It is significant that the Harbour Master Plan post dates the current Development Plan but notwithstanding this the Draft Development Plan is entirely silent in respect of development of the type and scale now being proposed.

The status the Harbour Masterplan has not been addressed in the subject application. It is of no statutory effect. The local objective 13 to facilitate the development of the harbour in accordance with a Harbour Masterplan to be undertaken by the Harbour Board does not and cannot confer any statutory status on the Harbour Masterplan.

Notwithstanding, the proposed development does not comply with the objectives of either the Development Plan or the Masterplan. The application documentation is seriously misleading in this regard. It must be remembered that the DLHC is not a planning authority and its remit for the harbour can never aspire to that of a planning authority. This differs fundamentally from Dublin Docklands for example and the former DDDA and there can be no comparison or aspiration for the Masterplan beyond the functional role of the DHLC as set out in law.

The applicant accepts the vision statement of the plan which supports the development of Dun Laoghaire as a world class sailing venue and they are bound by the statements in their own plan:

“Dún Laoghaire Harbour will be recognised as an exciting marine, leisure and tourism destination of international calibre; one which elegantly integrates the local town with an historic 200 year old harbour, and which offers a striking blend of modern amenities mixed with a traditional marine ambience in a Dublin Bay setting, making it one of the most beautiful man-made harbours in the world.”

The proposed development however materially and significantly contravenes the objectives and vision statement of Dun Laghaire Harbour Master Plan. The proposed development of a new 430m quay down the middle of the harbour to facilitate mass tourism in the form of super cruise liners does not make Dun Laoghaire a destination of international calibre it transforms an already elegant and beautiful harbour into an industrial back end port area thereby destroying its very uniqueness and identity and marine ambience. The proposed development therefore is not plan led in accordance with Dun Laghaire Harbour Master Plan but comprises ad hoc speculative development that would be contrary to the proper planning and sustainable development of the area.

8.5 Berthing

The pre-consultation revolved around two ships berthing at the proposed quay structure and the discussions and Memo of Minutes highlighted that the industry standard is for the provision of two berths of the size proposed. The applicant has also indicated that they are actively seeking a new ferry operator. The potential for all berths to be operational at the one time highlights the cumulative impacts of the industrialisation of the harbour.

The applicant has brought the application to the Board on the basis of a single berth in circumstances where there is potential for two berths. This has not addressed the concerns raised by the Board and has profound problems for assessment of the cumulative impact of the development. In these circumstances the EIA is fundamentally flawed.

It should be noted that in the case of Dun Laoghaire it is proposed that the super cruise ships of 330m will have to enter the enclosed harbour without the assistance of pilots or tugs and reverse stern out without the assistance of port pilots or tugs. This contrasts with Dublin Port where cruise ships are guided and assisted by pilots and tugs.

A Royal Institute of Navigation lecture, given to the Chatham Naval Officers Assoc (June 2012) by a Capt. Beetham, an expert witness at the Maritime Court in London, demonstrated that at Barcelona, a Terminus Port, Cruise Lines cannot on occasion berth and must abandon docking procedures in favour of other, less wind constrained, ports, such as, in the case in question, Majorca. This has already happened at Dun Laoghaire, in favour of Dublin Port.

8.6 The effects of the proposed development on any other uses in the harbour

The EIS assessment of the effects of the development on other uses in the harbour is fundamentally flawed. The impact of the proposed development on sailing is set out in detail at section

While the structure includes a proposed navigation underpass at the landside end of the access causeway, to provide navigation access to small vessels, the details of this underpass are limited and as the deck of the causeway does not open, sailing vessels will not be able to pass under the structure.

The applicant has deliberately and mistakenly equated navigational priority as set out in the Mariner's Notice with use. The two are not the same and the entirety of the application and the EIS, particularly those sections dealing with socio economic impact, human beings, navigation and risk is predicated on a false premise.

The applicant has misconstrued the use of the central area of the harbour by reference to the Mariner's Notice and the priority afforded to commercial vessels. This area of the harbour is and always has been critical and essential and enjoyed ongoing intensive use for sailing and leisure marine activity.

The sailing section of this report outlines the extent of such sailing use and the critical nature of the central area of the harbour referred to by the applicant as the fairway, inter alia for racing within the harbour for training for children, youth, disabled, w/ racing, moth racing, Olympic training, frostbite series and quick entry and access to Dublin Bay sailing arena within 10 minutes to racing start area. There has never been a conflict between the various different uses of the Harbour and, in fact, the existing uses successfully co-exist and all statutory plans and policies are predicated upon the existing leisure uses of the harbour being protected. The reference to the Mariner's Notice is fundamentally misconceived. The argument posed by the applicant is that the proposed development would bring about no significant change.

This is demonstrably not the case here. In fact, this proposal will destroy any use of the Harbour for recreational and amenity purposes and it will cease to be used for those purposes and that is implicitly accepted in the applicant's submission and in its reference to the Mariner's Notice.

While the argument is disingenuous it holds no credibility and undermines the value of the EIS and the objectivity of the entirety of the assessment, which even permeates the conservation section.

The reality is that the intensive cruise schedule necessary to justify the capital investment as posed by the applicant would result in the central area of the harbour becoming a fairway over the course of the entire day as the cruise ships enter the harbour early morning and leave early evening conflicting with prime sailing activity both in the harbour and within the bay as the manoeuvring of the ship within the turning area and the cross-over of the shipping lane across sailing buoys would significantly impede access to and from Dublin bay for all boats both for racing and cruising and would undermine the bay as a world class race sailing venue.

The manner in which the Harbour is to be used and the proper planning and sustainable development of the area is solely vested in An Bord Pleanála, which is the final arbiter for the resolution of conflicts in respect of landuse planning.

The competent authority for the purposes of authorising any development of this area is An Bord Pleanála and in respect of any proposed development all rights and duties are dependent upon any development being permitted by the Board. It is only subsequent to that authorisation that Mariner's Notices or any other regulatory provision becomes relevant.

8.7 Dredging and disposal of dredged material

Dredging

The application contemplates a deepening of the Harbour, which would involve the dredging of very significant quantities of materials.

The application is 'silent' on this critical and inherent element of the project. The application, EIS and NIS should have included detail and information in respect of all aspects of the proposed dredging process, including the transportation, disposal and disposal location of the dredged materials, these are required as part of the EIS, NIS and the documentation that is required to be lodged with the application. The impacts of this element of the project have not been adequately considered. This amounts to a breach of Irish domestic law, the EIA Directive and the Habitats Directive.

8.8 Potential effects on historic pier structures

The potential effects on the historic pier structures have not been adequately identified, described or assessed. Significant issues arise in respect of heritage, visual impact and amenity, recreational amenity and pier structural stability. These issues are interrelated.

The land use zoning objectives and policies need to be considered within the context of the heritage objectives and policies for the harbour.

The designation of the harbour as a candidate Architectural Conservation Area (cACA) and the designation of 29 separate structures within the harbour area as protected structures demonstrates the importance and significance of the architectural heritage. It is a unique concentration of heritage structures located within a unique sculptural harbour form defined by the historic pier structures. The international significance and importance of the harbour is catalogued by Shaffrey Associates Architects in the Dun Laoghaire Harbour Heritage Management Plan 2011 (the "Shaffrey Heritage Management Plan") as of international importance as follows:

*"Dun Laoghaire Harbour is a structure of national and international importance due to its scale, the quality of its construction and its remarkable history. It is also an area of beauty, of maritime history, a centre of numerous water-based activities, a transport hub; it is a place of work, of play and of relaxation. It is important both in its role as a repository of historical information and cultural memory, in addition to forming a vital part of the town of Dún Laoghaire."*⁴⁴

This remarkable heritage provides the backdrop and framework within which any sustainable planning decisions must be considered. The harbour came into being on the construction of the historic piers.

The prominence of the seafront location and the sculptural form of the granite piers means that in planning terms the sum of the parts are more important than the individual structures. In this context the relationship to the water enclosed spatially within the harbour piers provides the curtilage to the protected structures of the piers. They are an integral part of the one and the same entity which is Dun Laoghaire Harbour. The piers have no function without the enclosed water and their architectural importance is integral to the relationship and setting with the water.

In this context the Shaffrey Heritage Management Plan defines three character areas within

⁴⁴ Dun Laoghaire Harbour Heritage Management Plan 2011, page iii

the harbour water excluding the fairway. We respectfully submit that this is ill considered and fails to appreciate the integrity and intrinsic character of the harbour as a single unified entity. The open water enclosed within the harbour forms the main area of curtilage to the harbour piers. It is the area immediately associated with the pier structures and there is a direct functional and historical relationship.

There can be no doubt that in planning terms and heritage importance the relationship to the water is central.

The proposed development fundamentally alters the unique relationship of the historic granite harbour piers in that the projection of an elevated 430m concrete pier structure within the central area of the harbour, the curtilage of a protected structure. The proposed development provides a barrier both visual, physical and functional to the unified relationship of the granite harbour pier walls one to the other and effectively creates a strategic severance of the harbour dividing it into two separate harbour areas. The projection of the new pier within 221m of the harbour mouth the confluence of the two pier structures and lighthouses which together form such a wonderful gateway to the bay fundamentally undermines the symmetry of this relationship and the unity of the harbour, the harbour piers, the lighthouses and the enclosed water and the bay beyond and would materially and adversely affect the character of the historic piers which are designated protected structures.

The Board highlighted the potential impacts on historic pier structures as a key issue to be addressed by the applicant. We respectfully submit that direct physical impacts on the pier structure itself is not the only issue. The pier structures cannot be isolated from the harbour setting and the severance of the harbour is a major and profound adverse impact on the setting character and visual amenity of the pier structures.

The intrusion of the proposed pier which is elevated and the obstruction to views by the proposed super cruise ships when they are in harbour will materially and adversely affect the views within the harbour from the piers. There are a series of views that change and deflect along the entire length of the historic piers.

These views have an unobstructed view out over clear water once the viewer is past the line of the existing HSS infrastructure. The proposed elevated pier will create a significant intrusion in that view and will create a barrier to the visual unity of the clear expanse of water on both sides of the piers which will extend from the edge of the St Michael's marshalling yard to within 221m of the harbour mouth thereby changing profoundly the nature of the spatial experience within the harbour from one of open sea views over the wide expanse of the majority of the harbour area of 55 ha to an enclosed segmented and severed harbour section which is defined and enclosed by a utilitarian industrial concrete pier structure with eight additional mooring dolphins and associated lighting standards over 12m in height.

The industrial appearance of the pier structure and the ancillary services and service uses provided therein change the open aspect and marine recreational use of this area to that of industrial transport infrastructure. This is a material and profound impact, which would significantly and adversely affect the amenity of views along the entire length of the harbour piers which views are designated for protection within the current statutory Dun Laoghaire Rathdown County Development Plan 2010-2016. Notwithstanding the location of the listed view designation logo on the development plan map at the end of the piers it is clear that in the context of the piers as designated protected structures and the context of the location of the proposed development forming the curtilage to that protected structure east and west it is clear that having regard to the guidelines as set out in the Architectural Heritage Guidelines 2004 the views from the protected structure across the extent of the curtilage of such protected structure must also be protected.

The berthing of the super cruise liner in the harbour comprises a structure of mass and bulk of the scale that greatly exceeds any comparable structure within the town centre of Dun Laoghaire and its height is the equivalent of a 14 storey building of comparable height to Liberty Hall and it exceeds the height of the town hall and the Lexicon by a factor of two, the length of the structure is such that it extends beyond the distance of the street formed from

Connaught Place to Marine Road.

It would form a towering and overwhelming presence within the harbour such that it would obstruct amenity views over clear water for over two thirds of the depth of the harbour from the marshalling yard edge to within 221m of the harbour mouth. The presence of the ships within the harbour over the course of the entire day would radically transform the character of the open amenity views across the water to an industrial back end port type area and it would obstruct the views of the lighthouses which create a unified symmetry within the harbour and form a significant landmark and sense of identity.

The proposed development therefore both the pier structure and the presence of the boat while docked would create an overwhelmingly negative impact on the visual amenity and attractiveness of the harbour area, the piers and entire harbour. It would significantly change the character of the amenity views across open water over two thirds of the harbour area. The proposed development would therefore materially affect the character of a protected structure and its curtilage and would profoundly adversely affect the visual amenity of the harbour area.

In addition the Shaffrey Heritage Management Plan highlights the construction methodology for the piers as extending the pier foundation a width of 90m under water. The dredged area extends to within 50m of the pier structure wall, however the slope of the dredged area under water is 1:5 and not the more robust 1:15 as set out in the Dublin Port planning application for stabilising dredged material. In the context of the wider slope necessary it is evident that the dredging of the channel and the slope therein will impact on the foundation of the pier structure which is likely to extend 45m either side of the centre line of the pier.

No consideration has been given, or presented in the application in relation to existing energy dissipation (Wave Train Energy) from the entry and exit of vessels from the harbour, including the HSS, over the past, (say) 20 years. This is a baseline, which must be used to assess what may happen when these large vessels might commence services as a result of the new cruise ship berth.

The issue concerns existing damage to both the outer pier walls and the existing dock facilities and would include the effects of propeller (and bow thruster) 'scour' in the existing harbour and their effects before any new commercial activity can be considered. This is particularly true for the current maintained state, as maintained by DLHC, and forms a baseline for continued maintenance of the harbour.

The application should therefore have contained detailed baseline studies which demonstrated an active maintenance schedule of the port infrastructure, together with a future plan, which would in a predictive scenario, maintain facilities both existing and proposed, in the new arrangement. This is an unanswered question in relation to a harbour which was built for sailing and paddle steamer ships, the harbour walls of which remain substantially unmaintained over the past 10 years, and which is now subject of an application for a massive increase in capacity. This must also be understood in the context of the harbour being, not adjacent to, but beside a Special Conservation Area (SAC) and also in its status in terms of it being a Candidate Architectural Conservation Area of some considerable importance.

This is a major unprecedented impact on the historic structure which has been ignored both in the application and the EIS which is inadequate in this respect. This was flagged as a major issue to address in the application and the applicant has not only failed to address the issue but it is evident that the proximity of the pier structure and the proximity of the dredging channel and the depth and width of the excavation for dredging will materially and adversely undermine the stability and structure of the foundations to the pier structures which are designated protected structures.

Article 7 of the Burra Charter states simply "*a place should have a compatible use*".⁴⁵ The proposed development is not a compatible use or structure.

⁴⁵ Dun Laoghaire Harbour Heritage Management Plan 2011, page 17

8.9 Potential effect on the designated SAC Rocakbill to Dalkey

The issue raised in relation to the potential effect on the European site is dealt with mainly below in the following section. The key concern is however that the project has been proposed in isolation from the port development at Dublin Port and therefore the cumulative effects of the proposed development within the wider context of Dublin Bay and the likely combined effects on the designated SAC Rockabill to Dalkey have not been considered contrary to the requirements of the EIA Directive and the Habitats Directive.

Considering the entirety of the issues raised by the Board, the applicant's failure to address these issues contributes substantive grounds for invalidating the planning application. There are further substantive reasons therein for refusal of permission.

9 NATIONAL OBJECTIVES AND POLICY

9.1 National Ports Policy

It is a key objective of the National Ports Policy to differentiate a spatial and functional hierarchy of port infrastructure and function in order to optimise resource efficiency and rationalise investment strategy.

"The *laissez-faire* policy which operated since 1997 where 'one size fits all' is no longer appropriate."

"National Ports Policy introduces clear categorisation of the ports sector into Ports of National Significance (Tier 1), Ports of National Significance (Tier 2) and Ports of Regional Significance."

Tier 1 ports "*lead the development of future port capacity*". There is potential for capacity building at Tier 2 ports of national significance but Tier 3 ports of regional significance no longer have significant transport hub roles and the Government is divesting itself of such ports in line with the designated functions to only retain ports with national functions.

The National Ports Policy clearly defines the role and land use function of Dun Laoghaire Harbour as a Regional Tier 3 port, whose main function is marine leisure and maritime tourism.

"It is clear that there is no longer a role for central Government in ports that fulfil a regional or local need. The longer-term development of these ports is best placed within their regional and local communities to allow both develop in a manner that is mutually beneficial".⁴⁷

In this context, it is critical to understand the nature of the development proposal as a major element of national transport infrastructure. This is the reason the project has been accepted as an SID project. It would be a misunderstanding to consider the project as a tourist-related project. There are already smaller cruise ships which access Dun Laoghaire and these form part of the established tourist industry of a regional port. The purpose of the proposed infrastructure and the scale of the infrastructure proposed is to accommodate the berthing of super cruise liners which have not even been constructed to date and operate at a global level. The National Ports Policy is clear that infrastructure of national scale is to be located within Tier 1 ports in the first instance and they are to lead in such development. There is no such role envisaged for regional ports.

The subject project is for transport infrastructure of national scale as proposed by the applicant and as decided by the Board in their decision to accept the proposed development as an SID

⁴⁷ National Ports Policy 2013 Minister's Foreward

application and EIS direct to the Board.

The scale of the project is that it comprises transport infrastructure appropriate to a port of national standing rather than a port of regional significance with Tier 3 status.

There is a fundamental conflict with the National Port Policy 2013, therefore, in the proposal to locate national scale transport infrastructure within a regional port. Therefore Dun Laoghaire Harbour, which is designated a Tier 3 port, is an inappropriate and unsustainable location for the development of transport infrastructure of national scale and the proposed development would materially contravene the designated hierarchy of the National Ports Policy to *“consolidate resources to achieve optimum efficiencies of scale”*.

The National Ports Policy further recognises and acknowledges the limitations of Dun Laoghaire Harbour’s town centre location as a transport hub.

“The location of the port so close to the centre of Dún Laoghaire town greatly limits its future potential as a major transport hub. The port was once central in the traffic of freight and passengers between Ireland and the United Kingdom, but it now handles little or no freight, while ferry services have been greatly reduced. Since the port is located close to a town centre and is a major local amenity as well as a tourist attraction, it would not be appropriate to re-establish large-scale handling of freight traffic through the port, and there are more suitable alternatives within the Greater Dublin Area.

In this context Dublin Port provides a sustainable location in line with the National Ports Policy 2013 for the provision of cruise berth infrastructure of national scale. The recent permission for cruise berth infrastructure of sufficient scale to accommodate super cruise liners enables Dublin to compete globally for cruise tourism within the super liner class.

“While the port’s location in the heart of Dún Laoghaire limits its potential as a transport hub, it provides significant opportunities. It has become increasingly clear over the past decade that the long-term future of Dún Laoghaire Harbour Company will be in terms of marine leisure, maritime tourism, cultural amenity and urban redevelopment.”⁴⁸

We respectfully submit that in line with the National Ports Policy the future of Dun Laoghaire lies in sailing. Dun Laoghaire Harbour currently provides world class sailing infrastructure.

“Dun Laoghaire is a World Class Sailing Venue both on and off the water.”⁴⁹

9.2 Protection of the Public interest and Public accountability as provided for in the National Ports Policy

“The relationship and interaction between the commercial ports sector and the planning and development system is extremely important in ensuring continued sustainable development of the ports sector.”

It is clear that the planning and development of large-scale infrastructure (such as the proposed development)

“demands a long term vision and operational and financial resources to ensure the public interest is protected and enhanced.”⁵⁰

There is no such logistical framework in place for Dun Laoghaire Harbour and the immediate plan to divest responsibility for the Harbour to Dun Laoghaire Rathdown County Council is primarily a recognition of the decline of such transport-related port functions. The long term vision for the harbour as set out in the National Ports Policy is in management of the key resource for marine leisure uses. The Council is viewed as the more appropriate body for

⁴⁸ National Ports Policy 2013 Section 2.7.2 Page 31

⁴⁹ ISAF The International Sailing Federation,

⁵⁰ National Ports Policy Ministers Foreword

governance of the Harbour in the long term where marine leisure and recreational amenity and regeneration are the primary functions. *“In recent years the harbour has moved away from commercial port- related business and is increasingly viewed as a centre for marine-related tourism and recreational activities.”*

The National Ports Policy is clear and we refer to the previous extract from the policy document:

*“The longer-term development of these ports is best placed within their regional and local communities to allow both develop in a manner that is mutually beneficial”.*⁵¹

This has not happened in this case and the subject application is an attempt to by-pass the local community and present a *fait accomplis* when the DHLC is eventually dissolved.

This poses major planning uncertainty as it is likely, given the above scenario, that the applicant may not be in a position to complete the project if it is commenced.

There is a further cross over with planning and development functions whereby the dissolution of the DLHC in the short term means the applicant will not have sufficient legal interest to carry out the development and will not then be in a position to implement or complete the development. This is of critical public importance in proposing major national scale infrastructure within Dun Laoghaire Harbour which is technically currently owned by the Department of Transport, Tourism and Sport and is therefore in public ownership.

Under Article 22(1)(g) of the Planning Regulations, the written consent of the owner is required to make the application where the applicant is not the legal owner of the land or structure concerned. The Minister for Transport, Tourism and Sport is a shareholder of the DLHC alongside the Minister for Public Expenditure and Reform.⁵² In the absence of consent from both the Minister for Transport, Tourism and Sport and Minister for Public Expenditure and Reform accompanying the application, the application is not in compliance with the Planning Regulations.

Hazardous trading losses on dissolution of the DHLC could prejudice future public ownership of the harbour as non-payment of capital loans could attract vulture funds to buy out the loans on the basis of securing ownership of the harbour asset.

This would amount to unsustainable guardianship of major public assets and resources contrary to the common good and the public interest and contrary to public policy as set out in the National Ports Policy.

9.3 National Transport Policy

There is an inherent conflict between the transport principles which underlie this proposal, for example the detour of cruise ships from the marque destination of Dublin City and the use of coach and taxis, is incompatible with the proper planning and sustainable development and the national transport policy. Furthermore, the proposed development is equally incompatible with Smarter Travel Policy which places an emphasis on less polluting fuels I.

National Transport Policy is set out in the NRA strategy document “Smarter Travel: A Sustainable Transport Future” (the “NRA Smarter Travel Policy”). Key tenets of that strategy are the need to minimise the demand for travel and the need to be smarter in how we travel.

⁵¹ National Ports Policy 2013: Minister’s Foreword

⁵² Section 2 of the Harbours Act 1996 (as amended by section 2 of the Harbours (Amendment) Act 2009

“Transport and travel trends in Ireland are unsustainable, as outlined in Chapter 1 of this Policy. Even with the much needed investment in Transport 21, if we continue with present policies, congestion will get worse, transport emissions will continue to grow, economic competitiveness will suffer and quality of life will decline.”⁵³

The key objectives of the NRA strategy are:

- (i) to reduce overall travel demand,*
- (ii) to maximise the efficiency of the transport network,*
- (iii) to reduce reliance on fossil fuels,*
- (iv) to reduce transport emissions and*
- (v) to improve accessibility to transport.*

Central to achievement of this strategy is the alignment of land use planning decisions with transport policy. In other words to be effective land use planning decisions must mirror transport policy and ensure that overall travel demand is minimized.

The attraction of cruise ship passengers or the interest of the Cruise Line companies to include Dublin within their potential itineraries is because of its marquee as a capital city.

The strategy to detour cruise passenger ships to Dun Laoghaire rather than proceeding to Dublin Port is directly contrary to the NRA Smarter Travel Policy and objectives to minimize the demand for travel. It effectively brings passengers to a subsidiary port of call where a transport mode interchange to bus/taxi is necessary to transport passengers on the final part of their trip. This places unnecessary demand and pressure on congested local roads during peak travel times in the morning and evening. Therefore, the strategy to divert cruise passengers to Dun Laoghaire is fundamentally unsustainable and would materially contravene national transport policy to minimise the demand for travel. It would also place additional pressure on an already congested road system and would thereby reduce efficiency in the transport network and by the reliance on fossil fuels give rise to additional unnecessary transport emissions.

The land use implications of creating a transport mode change within the harbour for cruise ship passengers would disaffect cycling and walking within this high amenity area and would thereby prejudice a key objective of Smarter Travel to embrace cycling and walking as the best way of arresting unsustainable transport trends.

In relation to climate change as set out in Smarter Travel Action 28 seeks to ensure less polluting fuels are used.

“Action 28

We will engage positively at international level to ensure that less polluting fuels, such as low-sulphur distillates, are used in maritime transport and we will work positively in the development of instruments or mechanisms to reduce emissions from the maritime transport sector”.

To date this has not been implemented in Ireland and the proposed development has significant consequences for transport emissions contrary to the NRA Smarter Travel Policy emissions objectives.

Firstly, Ireland has not signed up to the use of low distillate fuels and so cruise ships accessing Dun Laoghaire Port will use the cheaper higher sulphate fuels. There is no provision of an electricity substation to provide energy needs for the ship in port and therefore for the entire duration of the ship stay in port the ship engines will run generating significant polluting transport emissions. The cruise berth infrastructure permission for Dublin Port provides access to electricity connection for the cruise ships, thereby avoiding such transport emissions.

⁵³ NRA Smarter Travel: A Sustainable Transport Future 2009-2020, Executive Summary

The proposed transport emissions arising from the proposed development are therefore an unnecessary contribution to transport emissions from the maritime transport sector and the proposed development would thereby materially undermine a key objective of the NRA Smarter Travel Policy to reduce emissions from the maritime transport sector.

A key objective of National Transport Policy for ports is to maximise efficiency. Provision of competing cruise berth infrastructure in Dun Laoghaire and Dublin Port would materially contravene this objective.

Smarter Travel calls for a better integration of land use and transport planning. It is clear that the proposed development is a case in point where strategically the entirety of the project concept is unsustainable and contrary to national transport policy as set out in the NRA Smarter Travel Policy .

9.4 Regional Planning Guidelines

The key policy tenet of the Regional Planning Guidelines (“RPG”) regarding Dun Laoghaire Harbour requires that the Development Plan recognises the role of the harbour and support options for economic activity that is sustainable, integrated and suitable for the port and for the surrounding area.⁶¹

The role of the harbour is defined in the National Ports Policy as a regional Tier 3 harbour and the Development Plan Policy objectives are for the use of the harbour for marine leisure, recreational activity and tourism. The scale of the proposed berth infrastructure is unsustainable in the context of the regional function of the port and it fails to integrate with other harbour uses.

The proposed development therefore does not comply with the objective of economic sustainability set out in the RPG for Dun Laoghaire Harbour.

10 DEVELOPMENT PLAN POLICY DUN LAOGHAIRE RATHDOWN DEVELOPMENT PLAN 2010- 2016

10.1 Land use and Zoning Objective

The land based area of Dun Laoghaire Harbour is designated as zoning objective “W” “to provide for Waterfront development and harbour related uses.”

The DLHC Harbour Masterplan 2011 examines a number of successful case studies of waterfront development in Bristol, Brighton, and Liverpool Docks and how they benefited sustainable development. The case studies focus on regeneration of existing waterfront areas.

The development plan highlights that “*the purpose of land use zoning is to indicate the planning control objectives of the Council for all **lands** in its administrative area*”.⁶²

The water area of the harbour is unzoned in its entirety indicating its unsuitability for development. It is simply an established principle of the development plan that this area is not developable and it is inconceivable that it should be so.

The uses permitted in principle and open for consideration within the land based harbour zone do not include major transport berthing quay infrastructure.

Table 18.12 outlines the uses as follows:

⁶¹ RPG Sec 6.3.4

⁶² DLRDP Sec 18.2

TABLE NO. 18.12
ZONING OBJECTIVE 'W'
"To provide for waterfront development and harbour related uses".
Permitted In Principle
Carpark, Community Facility, Cultural Use, Industry-Light, Offices less than 200sqm., Open Space, Public Services, Restaurant, Transport Depot.
Open For Consideration
Advertisements and Advertising Structures, Craft Centre/Craft Shop, Crèche/Nursery School, Doctor/Dentist, Education, Enterprise Centre, Hotel/Motel ⁶³ , Office Based Industry, Offices, Off-License ⁶³ , Place of Public Worship, Public House ⁶³ , Sports Facility, Residential, Residential Institution, Retirement Home, Science and Technology Based Industry, Shop-Specialist Shop Neighbourhood, Tea Room/Café, Travellers Accommodation.
K: Uses Open for Consideration in Dún Laoghaire Harbour area only.
Note:
An objective of this Plan is to protect the harbour/marine entity of Dún Laoghaire Harbour by facilitating harbour-related uses, but not to confine permitted uses in the harbour to a degree that exclusively attracts those with an interest in active maritime recreation. Any development proposal should seek to ensure public accessibility to the harbour and shorefront.

It is important to consider the range of uses referred to therein. In particular, the proposed cruise berth transport infrastructure to serve super cruise liners is not included in either category.

The reason for this is straightforward in that the development plan does not envisage a scenario where major transport infrastructure and berthing quays would be developed within the existing harbour. The harbour is planned for as an entity and it is not envisaged that the essential nature of the harbour would change and certainly the development plan would not allow such a scenario.

Specifically, the Dun Laoghaire Rathdown Development Plan 2010-2016 land use zoning notes the following:

*"An objective of this Plan is to protect the **harbour/marine entity** of Dún Laoghaire Harbour by facilitating harbour-related uses, but not to confine permitted uses in the harbour to a degree that exclusively attracts those with an interest in active maritime recreation. Any development proposal should seek to ensure public accessibility to the harbour and shorefront".⁶³*

The meaning of "entity" in this case is a reference to the harbour's existence and its essential

⁶³Dun Laoghaire Rathdown Development Plan 2010-16

Table 18.12 Land Use Zoning

nature.

Section 18.5 of the Dun Laoghaire Rathdown Development Plan 2010-2016 clearly states that:

“Uses which are not indicated as “Permitted in Principle” or “Open for Consideration” will not be permitted.”

There is therefore a fundamental conflict in that the proposed development does not comply with the development plan zoning objective of the development plan and would materially contravene that zoning objective contrary to the principles to maintain the entity of the harbour.

The proposed new berth quay structure threatens the fundamental marine entity of the harbour as it segments the harbour into two parts thereby materially undermining the marine entity of the harbour and its essential nature. The segmentation of the harbour and the restriction of the use of the fairway of the harbour to facilitate the cruise ship schedule as proposed would materially contravene the zoning objective *“To provide for waterfront development and harbour related uses”*. The development plan never envisaged development within the open water area of the harbour and specifically precludes such development. Waterfront development is land based development, and such land based development is restricted to uses which are related to the harbour.

It is an entirely different scenario to propose development within the middle of the harbour open water area as is the subject case and this is specifically precluded by the development plan land use and zoning objectives and policies.

The suggested use of the open water of the harbour as proposed in the application would materially restrict public access within the central area of the harbour waterway to the objective of the development plan to ensure public accessibility to the harbour and shore front. It would create a major intervention within the harbour which would effectively privatise significant areas of harbour water and shorefront contrary to the public interest and the common good.

10.2 Urban Framework Plan Dun Laoghaire Draft Development Plan 2016-2022

The Urban Framework Plan Dun Laoghaire Draft Development Plan 2016-2022 sets out the Development Plan policies and objectives for the harbour waterfront area. It is significant that there is no inclusion of cruise berth infrastructure.

One of the key objectives is to reconnect the town centre to the sea.

The proposed development materially and significantly undermines that objective. The Mass tourism project for super cruise lines necessitates significant berth infrastructure projecting into the sea but unconnected to the town centre. The contrary occurs in that the significant bus traffic and taxi traffic generated by the proposed development would create severance of the harbourfront area from the town centre. The proposed quay is effectively a service roadway in the sea to support super cruise line ships of massive scale whose passengers disembark mainly to buses with 80% of passengers routed to Dublin City Centre and the remaining 20% routed to Wicklow and very few walking to the town centre.

The relevant extracts from the Urban Framework Plan highlight the need for public accessibility and coherent design and landscaping.

The application fails on all three counts as it excludes the public from a major area of the seafront and excludes the public from major areas of the waterfront. There has been no reference in the application to security measures and it could be anticipated that a security zone around the ship could be necessary thereby further excluding the public from access to and use of the sea and waterfront.

As highlighted already the Sandycove to Sutton Cycleway would be precluded by the proposed development.

In identifying the ferry terminal for potential development the development envisaged is land based and not water based and the development is envisaged as revitalising the waterfront and increasing public permeability. The proposed development lacks coherence and the design and layout of the marshalling yard and the relationship to the seafront is bus based design, the antithesis of good urban design layout of the public realm. The local objectives are about creating pedestrian linkages, good urban design and public realm and development in accordance with a Harbour Masterplan. The plan does not provide for a strategic transport infrastructure proposal and the scale of such proposal militates against the achievement of the broader based regeneration and public realm objectives for the waterfront area.

“4.2 Reconnecting the Town Centre to the Sea

Dún Laoghaire is characterized by the separation between the town and the waterfront, which is the primary amenity of the area and which gives the town its unique sense of place. This separation is created by the DART, which is in open cut, and by Crofton and Queen’s Road, where limited crossing points primarily serve traffic. This plan seeks to overcome this by strengthening the links between the town centre and the waterfront, including a revitalized public realm. A high quality network of streets and public spaces will reinforce the connection between the town and the sea by facilitating easy pedestrian access to the town centre. The creation of these links and routes will be a guiding principle for new development, as will architectural design that provides interest and scale, together with appropriate uses to animate these routes.

*The development of a **coastal walk/cycle path through this area** is both an objective of the County Development Plan and an objective of this Framework Plan. A coordinated landscaping scheme will be sought in terms of design, pattern and materials, using a consistent design language both along the waterfront and linking with the core of the Town Centre.”*

“4.3.1 The Harbour

Dún Laoghaire harbour historically was an important freight port, but this function has changed in recent times. The port is now primarily used as a passenger ferry port and for recreational sailing. The objective of this Plan is to protect the harbour for harbour-related uses, but not to confine permitted uses in the harbour to a degree that exclusively attracts those with an interest in active maritime recreation. There is a need to encourage public accessibility and to attract uses that cater for a broader spectrum of the population of Dún Laoghaire. Development that benefits from the coastal setting and that provide surveillance, vitality and a mix of uses within the harbour proper shall be encouraged as a means of revitalizing the seafront.

In visual terms, it is considered that the central harbour area, i.e. at the ferry terminal, has the greatest potential to accommodate new development.

Enhance the range of uses along the waterfront and encourage activities which create increased attraction for the general public.

Improve physical linkages and accessibility between the Town Centre and waterfront.

Improve and enhance existing visual amenity and streetscape within the Plan area.

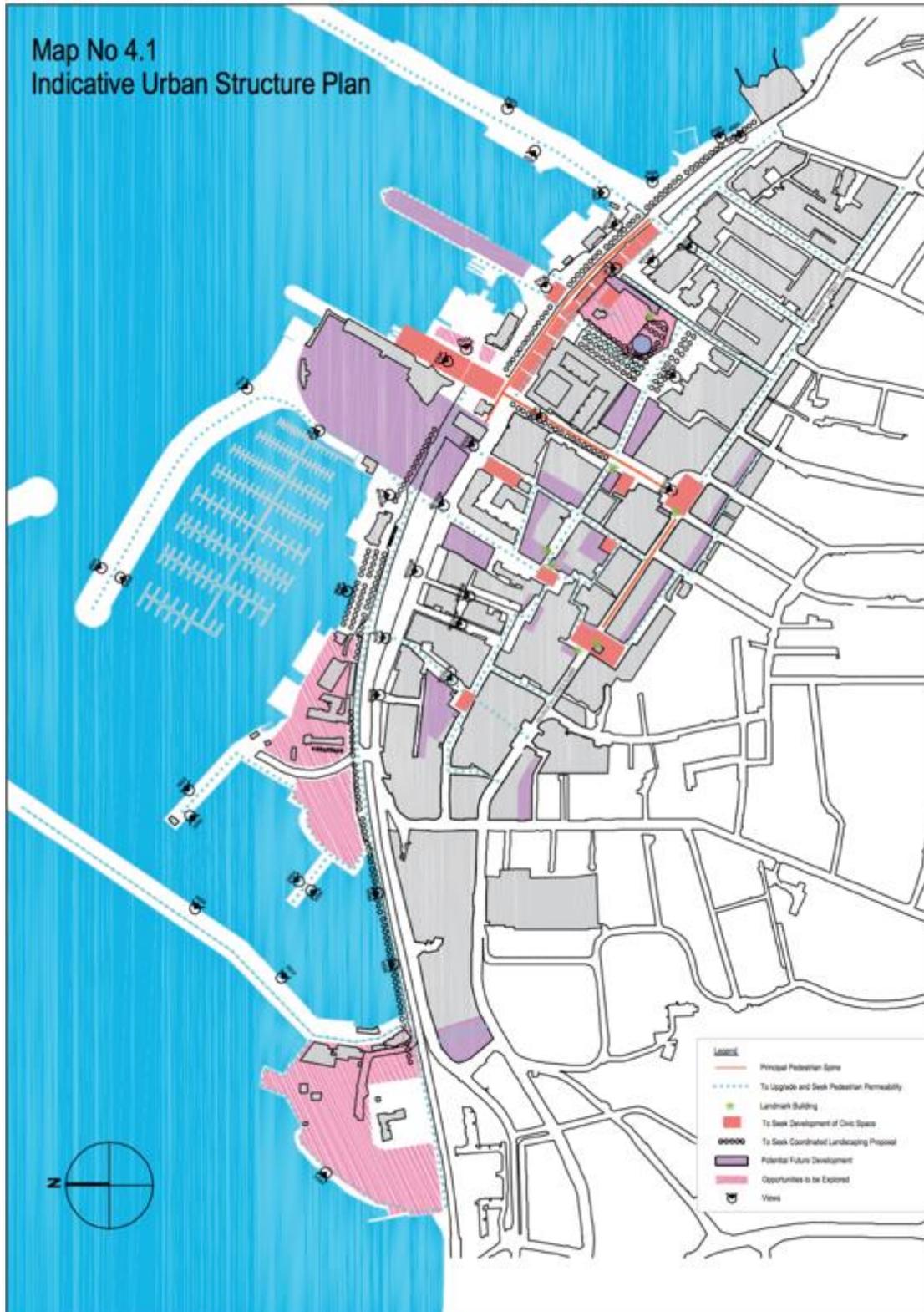
Plan and implement a coherent landscaping scheme along both the waterfront

SLO 13: *Development of the Harbour in accordance with a Harbour Masterplan Any approved Masterplan must adhere to the overall zonings, policies and objectives of the Development Plan.”*

SLO 93: *Sandycove to Sutton Promenade and Cycleway (S2S)”*

Map 4.1 of the Urban Framework Plan (Sec 4 of the Development Plan) presents an indicative framework for achievement of the policies and objectives set out for the waterfront area.

It is notable that there is no provision of any new pier structures within the harbour water area. The overarching approach is for consolidation and revitalisation of the existing asset while creating linkages and connections to the town centre.



Extract from the Dun Laoghaire Rathdown Development Plan 2010-2016

The Draft Development Plan 2016-2022 Urban Framework Plan consolidates the above strategy and objectives and provides for increased public access at the proposed development site.



Extract from Draft DLR Development Plan 2016-2022

The Draft Urban Framework Plan 2016-2022 shows the importance of the cycleway connecting strategically along the seafront and the potential for pedestrian permeability and linkage at the subject site which is shown as an opportunity site.

The use of the opportunity site for bus parking contravenes the draft Urban Framework Plan and the subdivision of the site in an ad hoc manner as shown in the site layout militates against achievement of pedestrian permeability and linkage both on the waterfront and connecting back to the town centre.

The proposed development would materially contravene the policies and objectives of the Urban Framework Plan for Dun Laoghaire as set out in both the current plan and the Draft Development Plan 2010-2016 in that it obviates against the creation of a public realm that is permeable and connected to the town centre. It would permanently militate against the improvement of public access to the waterfront at this location. The location of bus parking in a random layout on an opportunity site and the extended location of bus parking at the Metals and the Coal Harbour would result in an intensification of bus traffic along what is intended as a pedestrian cycle route in the development plan and the proposed development would therefore materially conflict with the objectives of the development plan as set out in the Urban Framework Plan 2010-2016.

10.4 Urban Design

There is no overall urban design coherence to the proposed development. The scale of the project and the consequential bus parking demand has undermined any public realm strategy and fundamentally undermines the Sandycove to Sutton Cycleway.

The layout of the design and the ad hoc layout of bus parking on the Heritage Metals route allied to bus manoeuvres for access and turning will compound problems of severance of the harbour area from the town centre.

The bus parking will pose a conflict and public safety hazard for pedestrian accessibility particularly to the west pier and coal harbour.



Extract from site layout plan

The thrust of the Development Plan and Master Plan policies and objectives are to develop Dun Laoghaire as a unique waterfront destination based on the high amenity value of the harbour.

The proposed cruise ship infrastructure is designed to provide for mass tourism which is all about quantity and bringing large ships and high numbers of passengers which travel in a number of buses to other places which are all the same.

In contrast, sustainable tourism is about high *quality*; its focus is about connected walkable urban neighbourhoods.”⁶⁴

10.5 Conservation Impact

“Of the twenty nine protected structures in the harbour, two of the three yacht club buildings are amongst the oldest of their type in the world. The anemometer on the East Pier is also the oldest of its type in the world.”

“The visual and physical impact of the new pier and its adjoining infra-structure is considerable. When not occupied by large cruise liners it will present as an unsightly visual barrier, stretching out and to effectively divide approximately two thirds of the water area contained within the

⁶⁴ ULI ten Principles for Responsible Tourism **Edward T McMahon August 10, 2015**

harbour. This will destroy the sense of space presented by the harbour as it stands, which is one of its greatest attractions both from the land and from the two great enclosing piers.”⁶⁵

“The largest cruise liners will have a greater volume than the largest building yet constructed in Ireland, including sports stadia. They will have a profound adverse impact on the scale and historic character of the harbour.”

The test set within the development plan for proper planning and sustainable development in respect of conservation is that development must preserve or enhance the character of the environment. Clearly the proposed development fails that test.

We respectfully submit that the proposed development would therefore materially contravene the policies of the Dun Laoghaire Rathdown Development Plan 2010-2016 in respect of Policy AR7 Protection of Coastline Heritage and Policy AR10 in respect of Candidate Architectural Conservation Areas where all proposals for new development should preserve or enhance the character of the environment.

10.6 The Dun Laoghaire Rathdown Development Plan would have needed to specify a clear and unambiguous objective for transport infrastructure

The Dun Laoghaire Rathdown Development Plan 2010-2016 would have needed to specify a clear and unambiguous objective for the provision of national transport infrastructure in the form of a major pier development in excess of 430m length located within the central area of the harbour to bring the proposed development under the auspices or legal framework of the Development Plan the Urban Framework Plan 2010-2016 and the Harbour Masterplan 2011.

The First Schedule to the Planning Acts sets out the purposes for which objectives may be included within a development plan. Part V refers to infrastructure and transport and section 1 includes reserving land for transport networks, including roads, rail, light rail and air and **sea transport**.

In the subject case, the scale and environmental significance of the proposed transport infrastructure and scale of investment needed and its location within the middle of the public harbour is such that it warrants a clear and unambiguous objective within the development plan.

There is no such Strategic Transport objective within the development plan.

There is no such Strategic Transport objective within the Harbour Masterplan.

Reference to *“Accommodation of cruise facilities”* is not the same thing.

In land use terms, accommodation of cruise liners is very different to provision of strategic transport infrastructure.

10.7 The Development Plan is in the nature of an environmental contract

We refer to the case of Attorney General (McGarry) v Sligo County Council⁶⁷ wherein it was established that the development plan was in the nature of an environmental contract with the public and in that case the development of a waste disposal facility adjacent to an important archaeological site could not have been understood or anticipated from the Development Plan. Sligo County Council had materially contravened their own development plan in that instance.

The proposed development of a strategic transport infrastructure development of a new pier

⁶⁵ Howley Hayes Conservation Report page 20

⁶⁷ [1991] 1 IR 99

and quay berth of over 430m within Dun Laoghaire Harbour where the development plan has not specifically included such a strategic objective within the development plan for the provision of such strategic transport infrastructure would materially contravene the Dun Laoghaire Rathdown Development Plan 2010-2016 and the development would contravene materially a development objective indicated in the development plan for the zoning of land for the use solely or primarily to provide for Waterfront development and harbour related uses.

Notwithstanding the fact that the Board may decide under section 37G(6) to grant permission for development which materially contravenes the development plan we refer the Board to section 37G(2) which stipulates that the "*Bord shall consider the provisions of the development plan for the area.*"

We respectfully submit that there is an onus on the Board to consider the development plan and in the context of the Dun Laoghaire Development Plan 2010-2016 the plan sets out the policies and objectives for the proper planning and sustainable development of the area.

There would need to be grave and serious grounds to contravene the development plan in this instance where the harbour, which is of significant public interest, is at stake.

We respectfully submit that there are no such reasons.

Firstly, as highlighted in our earlier section the proposed transport infrastructure is not included in the Capital Budget Programme and therefore it is not of strategic national significance.

Secondly, there is no need for the development as Dublin Port have already secured permission for the provision of cruise berth transport infrastructure in Dublin Port, a national Tier 1 Port under the National Ports Policy 2013.

Thirdly, the proposed development would contravene National Ports policy by the location of national transport infrastructure within a regional Tier 3 port contrary to the designated hierarchy of the National Ports Policy 2013.

Fourthly, the development plan is in the nature of an environmental contract.

Fifthly, the proposed development would prejudice other harbour users and more sustainable development within the harbour.

Finally *the proposed new cruise berth represents ...the greatest threat that the harbour has faced during its long and distinguished history*⁶⁸.

10.8 Dun Laoghaire Harbour Masterplan 2011

The Dun Laoghaire Harbour Masterplan 2011 (the "Masterplan") does not have statutory application and at the time the current plan was adopted it was an aspiration "*to be prepared*" rather than a concrete objective. The Council, in adopting the development plan, could not have known what would be in the Masterplan. Notwithstanding, the development plan local objective is prescriptive in requiring the Masterplan to adhere to the overall zonings, policies and objectives of the development plan. The Masterplan is subservient to the development plan and the water area remains undevelopable and unzoned. The Masterplan produced in October 2011 is to be interpreted within that statutory framework and within the context of the need for it to comply with the development plan.

The Heritage Management Plan 2011 for Dún Laoghaire Harbour is a parallel document informing the Masterplan.

⁶⁸ Howley Hayes Conservation Report, page 21

“Of twenty six Cultural Heritage Views and Prospects, within the harbour that are illustrated in the Dun Laoghaire Harbour Heritage Management Plan of November 2011, no fewer than fifteen will be changed utterly when a large cruise ship is berthed”⁶⁹.

In this context, it is significant that the Masterplan highlights the Heritage importance of the harbour and in terms of land use strategy promotes a mixed use waterfront development strategy as set out in Objective 6.

“Promote a sustainable mix of uses including residential and major visitor attractions, which will contribute to an 18-hour day and contribute to the vitality and vibrancy of the town”.⁷⁰

With regard to land use, the strategic objectives of the Masterplan seek to:

Promote Dún Laoghaire Harbour as a major **marine leisure facility** and a destination for tourism and recreation, while minimising the impact upon designated habitats. (obj 19)

Facilitate sailing, boating and other forms of marine leisure activities. (obj 21)

Promote the use of the harbour by sports and sailing clubs, community organisations and other stakeholders.

Maximise public access to the waterfront and enhance the public realm wherever possible. (obj 23)

(Our Emphasis in Bold)

The promotion of a cultural facility, the Diaspora Centre on the Carlisle pier is identified as the main cultural investment focus of the Masterplan and it is suggested that this could do for Dun Laoghaire what the Guggenheim did for Bilbao. The main economic benefit associated with the Harbour Plan derives from the Diaspora Centre.

“Develop landmark attractions, including a world-class Irish international Diaspora Centre, restaurants, destination retailing and waterfront buildings and uses. (obj 20)”

In that context the Masterplan objective for cruise tourism is **functional** and not developmental or part of a major investment strategy. It is included under the objectives for harbour functions which include ensuring the safe operation of the harbour and its approach waters for ships and marine activities and:

“accommodation of cruise liner facilities, having regard to the needs of other harbour users, potential environmental impacts and the feasibility of providing such facilities. (obj 5)

“Facilities” under the normal definition of the word means services and can be understood as the provision of services to support cruise tourism.

Cruise ship tourism is identified as one element of an integrated strategy for a sustainable future for the harbour within the Masterplan.

⁶⁹ Ibid

⁷⁰ DL Harbour Masterplan Strategic Objectives

It is critical to understand the scale of cruise ship tourism that is envisaged within the Masterplan, as this contrasts significantly with the nature and scale of the cruise berth infrastructure proposed in the subject SID application and EIS.



In the Masterplan, marine infrastructure is consolidated within the established zone of activity. There are no strategic objectives for infrastructure. Pedestrian and cycling permeability are paramount within the harbour area.

“Water Space Strategy

A new cruise ships pontoon berth is illustrated. The feasibility of the cruise ship initiative is undergoing separate assessment. Berth 4 will be decommissioned as a ferry berth so this conspicuous mooring will be available for visiting and/or historic ships thus emphasising the leisure and tourism dynamic of the harbour.”

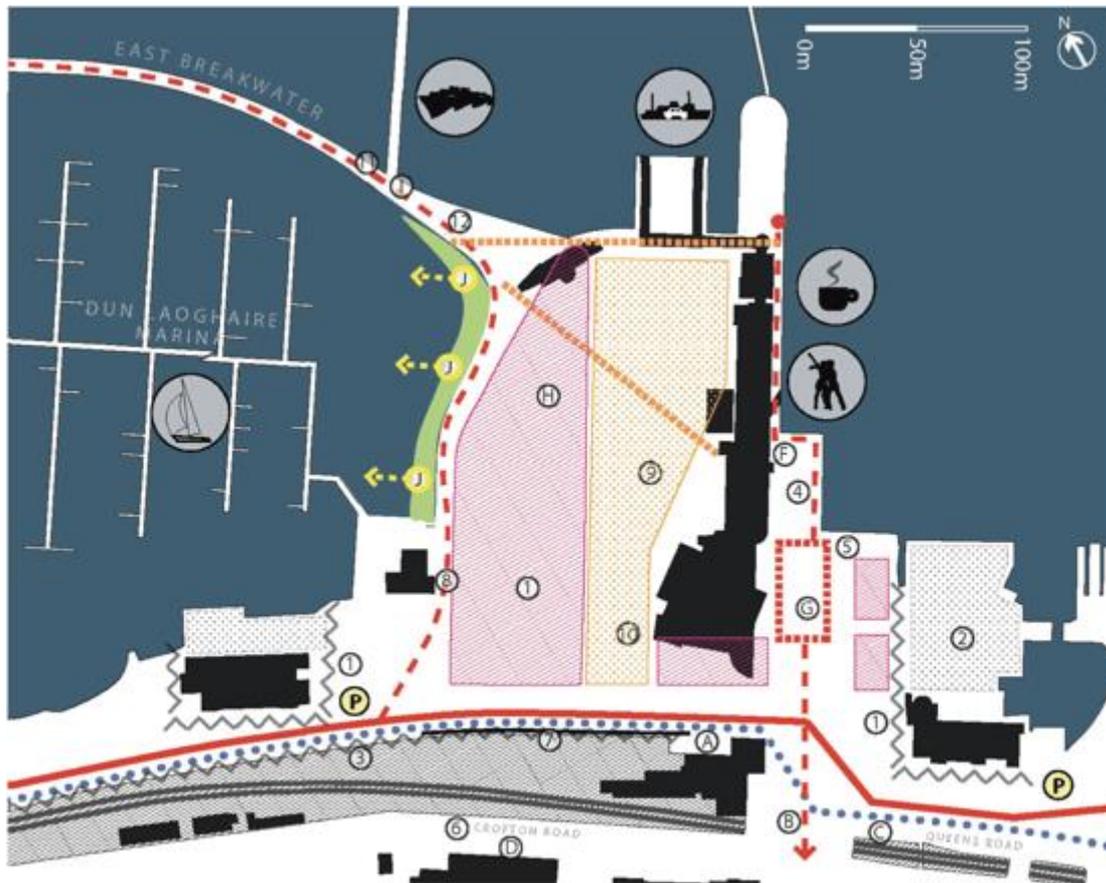


Figure 05.107 - Opportunities and constraints

A cruise ships pontoon berth is shown as a **potential** and this potential is dependent on a feasibility assessment. A cruise berth does not therefore form part of the Masterplan and is under question and examination. The extent of the scale of the pontoon potential is comparable to the scale of the Carlisle pier and bears no reference to the scale of the proposed 430m long quay to accommodate super cruise liners of 340m long and 14 storeys high.

There is therefore no justification within the Masterplan for the proposed cruise berth infrastructure and the water space strategy emphasises the leisure and tourism dynamic of the harbour.

The cruise mooring is seen as an incidental use within the overall waterfront regeneration scheme showing mixed uses and permeable pedestrian plazas and consolidation rather than major strategic development.

The proposed infrastructure is of a scale to turn the Masterplan on its head. It would so overwhelm the nature and function of the harbour area that the other objectives would no longer be tenable.

The proposed development provides a new fixed quay of over 430m in length and the marshalling area is occupied by bus parking. Therefore bus parking replaces the waterfront regeneration objectives. The proposed transport infrastructure dominates the scale of the entirety of the waterfront dominating the land use character and urban design and permeability objectives contained in the Masterplan.

The Masterplan includes for the provision of parking in a single deck under the standage area facilitating its amenity and development potential.

This compares to the current proposal for a sea of surface bus parking. The difficulty with such parking proposals is that they set the tone for future development scenarios. The bus parking in and of itself conflicts with a sustainable design for parking strategy for the area and the proposed development would impede the realisation of the waterfront objectives of the Masterplan.

The proposed development would provide for the industrialisation of the harbour at the expense of the other uses and users and it would prejudice the implementation of the waterfront development envisaged in the Masterplan.

The Masterplan is predicated on a public realm of high quality linking and integrating with the town centre. The proposed development focus is on bus parking and the nature of the bus traffic would create significant severance between the harbour and the town centre.

We refer to the plan of the harbour undertaken by our client which shows the use of all of the berths for shipping which is the logical outcome of the proposed development.

The applicant has indicated their intention to retain the ferry berth and to use the new berth quay for other ships, out of the cruise season. It was also originally intended to use the berth for two ships at a time. This was changed during the course of the consultation with the Board but the intention of the applicant is clear in that their economic model demands it.

The proposed quay could potentially accommodate freight ships and other commercial shipping which is entirely at odds with the Harbour Masterplan.

10.10 Development projects

DLHC has currently **six development projects** on-hand including the subject application;

The Urban Beach Project, D13A/0682, ABP Ref: PL06D.244306 for which planning permission has been received. The arrival of super cruise liners of 70m height would significantly undermine the amenity potential of this development. The noise from engines and air pollution from running the engines, the very size and scale of the ship at 340m length and 70m height would obstruct views and create a towering overwhelming presence giving rise to overshadowing and wind turbulence effect.

Diaspora Centre (Carlisle Pier), announced in 2011 but unimplemented. This is the landmark project and should form the planning priority. It is inconceivable how this project can form the stimulus for regeneration when it remains down the list of priorities. A comparison with Bilbao would be if the city of Bilbao decided to build a car park instead of the Guggenheim as the priority project as the stimulus to regeneration. The scale of the proposed cruise ship infrastructure, the scale of the super cruise liners and the ancillary scale for the bus parking and utility waste refuse, and back end port activities required for such a large piece of port infrastructure will fundamentally undermine the amenity and the pedestrian accessibility and permeability of the location for the proposed Diaspora Centre. Attraction of such a cultural Diaspora Centre to Dun Laoghaire will be a competitive process and the proposed development will fatally undermine that process.

St Michaels Wharf (residential), the waterfront amenity of this location will be significantly undermined and materially affected by the proposed development. The scale of the Super cruise liners will obstruct views and the emissions from engines, noise and servicing would materially injure the residential amenity potential of this area.

Coal Harbour Marina Project, Tendered in 2012 and, to date, unimplemented. The viability of such a project would be significantly undermined as sailing will be significantly impacted upon. Boat owners will move from the marina if they have delays or difficulty of access either within or outside the harbour. If Dun Laoghaire can no longer operate as a Gateway for sailing in the bay boat owners will no longer sail out of Dun Laoghaire and the

viability of the existing marina would be jeopardised let alone the viability of the future marina compromised.

Marina Village Residential Project (West Pier), tendered in 2011 and, to date, unimplemented. The Marina village would be similarly jeopardised and undermined by the proposed commercialisation of the harbour.

Added to this list is the Cruise Ship Pier Project, to accommodate up to two vessels of +-340m in length. Apart from the volume of these projects, there is a substantial overlap in terms of the facilities being suggested; for example, in various proposals;

- The Diaspora Centre will be located on the Carlisle Pier or at St Michaels Wharf.
- St Michaels Wharf currently is a ferry terminal and berth (and there are no indications that it will not remain so),
- a proposed residential development, will also be a location for the Diaspora Centre and,
- in the subject application, it will host a cruise ship bus collection for of the Order 94 buses (4700 passengers and crew x 50 per coach) per ship's visit.

The subject application is an ill-conceived proposal which implicitly and by stealth provides for the industrialisation of a heritage harbour contrary to the objectives of the Dun Laoghaire Development Plan 2010-2016, the DLHC Harbour Masterplan 2011 and contrary to the policy direction and objectives of National Port Policy 2013.

Consideration of the proposed development in isolation from the other projects envisaged and planned for within the Masterplan would fundamentally undermine the coherence of the Masterplan strategy and be inconsistent with the principles of plan led development. It would amount to project splitting and would avoid the assessment of the totality of the development and the assessment of the cumulative impact of the development as required under the EIA Directive and the planning legislation.

10.6 Dun Laoghaire LAP

There is no statutory Dun Laoghaire LAP.

10.7 Sandycove to Sutton Cycleway

The Sandycove to Sutton Cycleway is a national transport investment priority.

It is included as a specific Development Plan Objective, No 93 on Map 3 of the current Dun Laoghaire Rathdown Development Plan 2010-2016 and is also included as an objective in the Draft Development Plan 2016 -2022 and the non-statutory Harbour Masterplan 2013.

The route of this cycle way is located within the harbour and is indicated as running along the line of the historic Heritage Metals route.

The proposed development does not show how the Sutton to Sandycove Cycle way route could be progressed in the context of the new cruise berth infrastructure.

The increased traffic within the harbour and the bus traffic in particular would militate against the safe and secure routing of the cycle way within the harbour.

The proposed use of the Metals line, referred to as "Accommodation Road" within the harbour for the parking of buses would directly impede the implementation of this specific development plan objective and national priority investment as the Metals path is indicated as the indicative route for the Sandycove to Sutton cycle route as it traverses the harbour area.

The proposed development would therefore materially conflict with the Development Plan

Objective 93 and would also materially conflict with the National Infrastructure and Capital Investment Programme 2012-2016 priorities for investment by diverting infrastructure funding away from the proposed cycle way and diverting the land use from cycleway in accordance with Smarter Travel policy priorities to bus parking.

The proposed development would materially undermine national policy for prioritisation of transport investment in Smarter Travel as set out in the Infrastructure and Capital Investment Programme 2012-2016 and the proposal to locate bus parking along the route of the Metals a historic heritage route would contravene a specific local Development Plan Objective 93 for the promotion and development of the Sutton to Sandycove promenade and cycle way along the route of the Metals.

The Dun Laoghaire Harbour Masterplan 2011 similarly incorporates an objective to:

“Facilitate the Sutton to Sandycove (S2S) cycleway through the harbour area”⁷¹ (obj 14).

The proposed development would contravene the objective of the Dun Laoghaire Harbour Masterplan 2011 for the provision of the Sutton to Sandycove (S2S) cycleway through the harbour area.

11 8 YEAR PLANNING PERMISSION

11.1 Uncertainty would sterilise development within the Harbour

The application for an 8 year planning permission is unsustainable in the context of the arguments advanced in the DKM report that the need for the development is immediate to take advantage of a window of opportunity pending Dublin Port development of cruise berth infrastructure.

The rationale in the DKM report outlines that the development is opportunistic rather than opportune in the context of the National Ports Policy to desingate Dun Laoghaire as a Tier 3 Regional Port and represents at best an attempt to circumvent this designation.

The 8 year time framework sought is unsustainable in the light of the Harbour Masterplan strategic objectives to secure a mixed use waterfront development of the harbour based upon a vision of marine leisure. The proposed development would cast a cloud of uncertainty over the planned land use strategies and the potential integration or viability or overlapping nature of the proposed development which provides a competing and contradictory land use strategy for commercialisation of port activities in terms of the harbour its land and water resources and ultimate function and relationship to Dun Laoghaire.

The uncertainty of tenure of the applicant with the imminent dissolution of the DLHC and the legal uncertainty as to their legal interest to carry out the development is problematic. This uncertainty would sterilise development within the harbour over the extent of the duration of the planning permission. There is no funding in place for the proposed development and in the light of the changed direction in National Ports Policy and the need to promote the marine leisure use of the harbour the extended duration of any permission would prejudice sustainable development of the area in the longer term contrary to the proper planning and sustainable development of the area.

11.2 Permanent & Temporary Facilities

The applicant has made an application for a permanent and irreversible pier in the middle of the harbour but the application includes a significant number of temporary shore-side facilities.

⁷¹ Harbour Masterplan DLHC 2011 Strategic Objectives

Included in the application is temporary bus parking, temporary bollards to define coach turning circle, temporary taxi and mini bus parking, temporary seating area, temporary coffee shop and local information centre for passenger information, temporary bin store etc. The Carlisle pier is also to be used as a temporary bus marshalling area. The accommodation Road is to be used for temporary bus parking.

The subject application for permanent major infrastructure where the supporting shore side facilities are of a temporary nature is unsustainable and an extended duration of planning permission would allow such uncertainty prevail undermining the potential regeneration of the Harbour area.

11.3 Lack of necessary support shore side infrastructure to meet Industry Standards

The proposal does not meet current Industry standards for Cruise Ships. It is not long enough for the new generation of Cruise Ship, which are now 380m long (not 340m as per the Freedom Class ship). The berth will be quickly obsolete, as it is not future proofed. It is not capable of simultaneously accommodating two ships at once. The berth does not have the necessary support infrastructure for a floating town of 5,000 people.

There is no sufficient electric shore power (up to 10 megawatts required), no foul sewerage outlet connection to mains drainage, no water to meet the volumes required (40 tons per hour), no water storage provision, no water pressure necessary sufficient for fire fighting purposes and no evidence of consultation with Irish Water. There is no refuelling capability, except from large fuel tankers on the landside dock.

There is no disaster-planning infrastructure for fires, fuel spills or possible collisions with the harbour walls (Costa Concordia) or collision with small craft in the Harbour or at the approaches. This proposal seems reliant for safety at sea on the RNLI Lifeboat, a voluntary institution.

There are no grounds for an extended duration of planning permission as the subject application does not meet minimum standards.

12 THE FUNDAMENTAL QUESTION IN SUSTAINABLE PLANNING TERMS IS A QUESTION OF SCALE

The fundamental question in sustainable planning terms is a question of scale, namely the scale of the infrastructure provision and the scale of the cruise ships, or other ships served by the proposed infrastructure, within the enclosed space of Dun Laoghaire Harbour.

It is difficult to comprehend the scale of the proposed development. The public notice and the plans are impenetrable on this point. There is no comprehensive drawing, which shows the scale of the proposed quay within the context of the overall harbour or where it is located exactly within the harbour relative to the two piers.

For this very reason, we have commissioned a scaled drawing of the quay berth in relation to the scale of the cruise ships it is designed to accommodate, in the context of the harbour and the town centre.

A scaled drawing of the "Allure of the Seas" super cruise liner shows the relative height and mass and bulk of the ship in harbour in relation to the major urban landmarks of Dun Laoghaire, the Town Hall and the Lexicon.

The height of the super cruise liner is higher than Liberty Hall (60m) and over twice the height of the Lexicon and the Town Hall. The mass and length of the super cruise liner is such that it dwarfs the existing urban landmarks. The length of the proposed quay, 430m and super cruise liners is similar to the distance from Marine Road to the Peoples Park.

Therefore in terms of scale it is comparable to a 14 storey building extending from Marine Road to the People's Park except it is located within the central area of the harbour where it takes up the entire central zone of the harbour to within 221m of the harbour mouth. It extends over two thirds of the depth of the harbour from the eastern breakwater to the harbour mouth.

The quay berth extends 435m from the eastern breakwater so that it will be located just 221m from the entrance to the harbour mouth. It will definitively split the harbour into two. The width of the boat is such that its passage through the harbour mouth leaves **a narrow gap** to either side of the entrance.

The proposed quay is an elevated structure **over 6.1m over** low water mark emphasising the severance within the harbour and the disruptive nature of the proposed Quay.

The scale of the proposed super cruise liners exceeds the height of Liberty Hall, is twice the height of the Lexicon and the town Hall. The mass and bulk is the equivalent of an entire street. It is an overwhelming and dominant structure to be docked within the enclosed and confined central area of the harbour. The scale and mass is such that it will have a dominant and overwhelming presence within the harbour obstructing the view of open water and the lighthouses.

13 CONSERVATION

James Howley, Howley Hayes Architects were appointed to provide an expert opinion on the conservation importance of the harbour and the impact of the proposed development. Their report is included in full in the appendix.

The summary of their conclusions is as follows:

Dun Laoghaire Harbour defines the town of Dun Laoghaire and its hinterland in a way that is unique in Ireland and rare internationally, it became the catalyst for Ireland's first railway line and the thriving Victorian seaside town that sprang up around it.

Constructed from granite quarried locally, the harbour extended out into Dublin Bay, in the form of two elegant, almost embracing arms, it is a magnificent example of early nineteenth-century engineering and innovative construction.

The sense of *local distinctiveness* in Dun Laoghaire is all pervading and no structure represents this better than the grey/brown Leinster granite of the stone used to construct the harbour, which grows seamlessly from the exposed granite of the adjoining shoreline.

Few functional structures ever constructed in Ireland have had such a wide influence on their surroundings, while at the same time providing such an attractive focal point and distinctive landmark.

Driven by commercial and humanitarian impulse, the history of the harbour has been told in the scholarly publications of several eminent authors from Peter Pearson to John de Courcy Ireland. It was also praised by numerous contemporary topographical writers during the nineteenth century.

Intended originally as a harbour of refuge, the local citizens were quick to appreciate the amenity value of the harbour, for walking, angling and sailing. The relatively small public area provided by the two piers, is one of the most popular and densely used places in Ireland.

Of the twenty nine protected structures in the harbour, two of the three yacht club buildings are amongst the oldest of their type in the world. The anemometer on the East Pier is also the oldest of its type in the world.

This combination of aesthetic, historical, scientific and social significance, imbued within the historic fabric of Dun Laoghaire Harbour, make it a cultural landscape of immense significance to the Irish people and an historic place of international cultural significance.

The twentieth-century accretions into the harbour from Berth Number 1, to the ferry terminal to the marina, have been of poor quality design, with little attempt to reflect local distinctiveness or the historic character of the place.

The steady diminution of the spread of water within the harbour has been most damaging as have the impacts of the visually intrusive ferry terminal, which on its construction blocked many historic views out into the harbour from the shoreline.

The proposed new cruise berth if constructed will be the largest intervention ever carried out in the harbour since it was constructed, projecting some 435m out into the water effectively dividing the harbour into two halves.

The design of the new pier is crude and utilitarian, with little finesse nor reference to the historic character or local distinctiveness of the historic structures. The design and detail of the associated access road, coach park, timber fence and timber decked seating area, are equally poor in concept, detail and choice of materials.

The pier is effectively a 7m wide road that will be used to transfer passengers too and from cruise ships to the floor, its utilitarian purpose and complete disregard for aesthetic impact is perhaps best illustrated by the proposal to locate a “bin/skip temporary holding area” at the termination of the new pier.

The scale of the thirty-four berth coach park and the impact of the overflow coach parking on the historic coal harbour and “metals” are quite inappropriate and will have a detrimental impact on the setting of the harbour.

Of twenty-six *Cultural Heritage Views and Prospects*, within the harbour illustrated in the *Dun Laoghaire Harbour Heritage Management Plan of November 2011*, no fewer than fifteen will be changed utterly when a large cruise ship is berthed.

Distant protected views of the harbour identified in the Dun Laoghaire Rathdown Development Plan will also be compromised when large cruise ships are in the harbour.

The largest cruise liners will have a greater volume than the largest building yet constructed in Ireland.

The Architectural Heritage section of the Environmental Impact Statement submitted by the applicants makes reference to two documents – the Burra Charter published by the International Council on Monuments and Sites and the Architectural Heritage Guidelines, produced by the Department of the Environment. It is my opinion that these proposals do not reflect the principles and guidelines contained in these two important documents.

Neither does the concept, nor the design of the proposed new cruise berth reflect the principles set out in the *Dun Laoghaire Harbour Heritage Management Plan of November 2011*, commissioned by the applicant and produced by the architects of the scheme.

The recent record of intervention by the Dun Laoghaire Harbour Company, as represented by the construction of the ferry terminal and the new marina, and the demolition of the historic structure on the Carlisle Pier, does not engender much confidence in their understanding of, and sensibility to the cultural significance and historic qualities that make the harbour such a special place.

The proposed new cruise berth represents a continuation of this short-sighted attitude and represents the greatest threat that the harbour has faced during its long and distinguished history.

A more sensible solution would be to abandon this proposal and to target smaller ships that could bring the ferry terminal back into regular use, while leaving the largest cruises to occupy some of the new cruise berths recently approved in Dublin Port.

14 TRANSPORT

The Harbour Masterplan comprises of approximately 75,000sq.m. of development including residential, retail, museum/cultural, leisure facilities and cafes.

A formal transport and traffic assessment of the proposed development has not been undertaken a formal TIA are unsustainable.

The cumulative impact of the proposed development was not considered in the context of the envisaged potential development provided for in the Master Plan.

The passenger and crew capacity of the larger ships are in the order of 5000 persons which greatly exceeds the relevant thresholds referred to for example residential development of 200 dwellings/retail development exceeding 1000sq.m.

The specific nature of the traffic arriving and leaving at peak demand periods for the surrounding transport network were not considered.

The TIA is predicated upon a comprehensive traffic management plan which will be implemented by DLHC and will provide marshals to monitor and supervise coach and other traffic arriving and departing the harbour area. The DHLC will not be in force to operate such traffic management plan.

The spread of demand for transport over the day is not in line with empirical evidence where platoons of buses emerge to take passengers as soon as the ship docks during the peak morning period so tourists have a full day in Dublin.

The transport demand also necessitates two trips to cover the demand in other words coach buses have to travel to Dun Laoghaire to meet disembarking passengers and transport them onwards to Dublin City or Wicklow.

The TIA calculations show arrival of two cruise ships in contradiction of other sections of the application and EIS.

The funding of shuttle bus services has not been identified or costed and the reliance on shuttle buses should be discounted.

The extent of pedestrian traffic envisaged 1431 passengers is unrealistic.

Notwithstanding there is an increased loading on pedestrian facilities in line with increased pressure from traffic.

The spread of traffic between Harbour Road and the Coal Harbour by virtue of the bus parking location exacerbates the traffic impact of the proposed development on pedestrians using the harbour and turns the entire harbour area into an open bus car park.

The TIA while referring to the Sandycove Sutton Cycleway does not identify the conflict with the subject development which will impede its implementation.

Furthermore the TIA does not identify the pedestrian conflict with bus traffic at the Crofton Road Junction and the Access along the Coal Harbour.

There is no reference to service traffic for the cruise ships such as refueling, supplies etc.

Pedestrian connectivity to the west pier and coal harbour is poor.

The TIA which was undertaken is inadequate and the methodology is questionable.

The traffic counts were undertaken in December 2013. The ferry traffic and the arrival and departure times of the ferry traffic by reference to the previous planning permission for the HSS infrastructure were planned to avoid peak traffic periods on the overall road network.

While there is no ferry service at present the applicant has indicated that they are actively seeking a ferry operator and in such circumstances reducing the associated traffic impact is not warranted.

Traffic peaks in Dun Laoghaire during the summer season as a result of day trippers to the harbour, promenade etc which coincides with the proposed cruise ship season. Therefore the worst case scenarios have not been considered.

The AM and PM peak periods are skewed by the inadequate traffic counts and do not conform to standard practice.

In particular the baseline review does not take account of the scope of the traffic impact of the use of all existing berths and the cumulative impact of the implementation of the Masterplan development scenario.

The stage 1 traffic safety audit is inadequate. There are serious traffic conflicts arising from the interaction of pedestrian traffic and proposed bus traffic at the Crofton Road Accommodation Road junction and for pedestrians access the west pier. The manoeuvring of buses in and out of temporary parking areas will pose a serious traffic conflict with both pedestrians cyclists and other road users.

15 MARITIME ISSUES AND COASTAL PROCESSES

Section 3.3 and 4.3 of this submission dealing with the EIS and Berthing has raised a number of critical concerns in relation to maritime issues and coastal processes, namely *Health and Safety Risks Disaster Planning, Berthing without tugs, reversing out of the harbour, safety, the impact of the turning circle and wind and tidal conditions on both berthing and the pier structures, narrow entrance into the harbour and narrow overall depth of the harbour in relation to the length of the berth etc.*

Cronin Millar Consulting Engineers, who are specialists in Maritime Engineering were appointed to conduct a review of the application documentation and EIS. This review is included in full in the Appendix.

The main points of their report are as follows:

15.1 Design obsolescence

The inability of the proposed facility to accommodate more than a single vessel at a time will, in our opinion, be detrimental to the viability of the project as almost all other ports in Europe competing for cruise liner business have the ability to accommodate more than one vessel at a time, thus being viewed as more attractive destinations by the cruise line companies.

The proposal as submitted to An Bord Pleanála has only been designed to facilitate vessels up to Freedom Class size. Given that there are two vessel classes larger than the Freedom Class (Oasis Class and Quantum Class), it is our opinion that the development as proposed is

obsolete as cruise line companies require port facilities that can accommodate the full range of cruise liners. Given that the historic trend is for cruise liners to increase in size, it is likely that this will continue and the proposed development therefore has a built in obsolescence.

15.2 Navigation Analysis Report

The report used a wind speed of 15 knots rather than the potential 25 knots thus not simulating potential weather conditions.

Water currents were not included in the modelling.

A design wave with a Hs of 0.4m was used. In our opinion, this appears to be low.

Maximum size vessel modelled was Freedom Class.

The report recognizes that the metocean data used should be improved, with local data required.

The recommendation that the entrances to the turning basin from the approach channel be tapered (widened) was not followed and the application drawings as submitted show the original narrower entrances. Based on our review of the proposed navigation facilities (Approach channels, turning basin), and taking into account of the current standards and guidelines we have concerns that the width and depth of the facilities are inadequate. We are not satisfied that all of the potential factors that impact on a ships navigation and manoeuvring characteristics have been addressed.

15.3 Navigation Impact Assessment

The application navigation risk matrix and assessment primarily recommends that risk be mitigated by way of harbour management in the form of Notices to Mariners. The report does not take account of the Hierarchy of Risk Control/Mitigation. This hierarchy lists the following controls in order of effectiveness:

- Elimination or Removal
- Substitution
- Engineering/Isolation
- Awareness/Training/Administrative
- Protective Equipment

It is essential that this hierarchy is applied to all potential risks and an attempt made to apply the most effective measure possible. The reports proposal to attempt to mitigate almost all of the risks by way of Notices to Mariners would equate to No. 4 on the hierarchy of control. In our opinion, this approach is flawed and does not comply with the ethos of risk management.

The navigation assessment report does not address the substantial impact that the development of a long quay structure in the centre of Dun Laoghaire Harbour will have on other users, particularly the rowing and yacht clubs and the marina users. It is obvious that the development of the quay structure will sever the harbour and have a detrimental impact on sailors, rowers and other leisure boat users who use the harbour. Furthermore, when a large cruise liner is berthed at the facility, changes to the local wind environment, albeit temporary events will affect sailing.

15.4 Proposed Dredging

The interpretative geotechnical report was not submitted with the planning application. The

borehole results indicate that the majority of the material to be developed is sand, with some overlying silt in the inner harbour area where the berth pocket will be dredged. No report justifying the design of the proposed dredged channel side slopes was contained within the planning application.

15.5 Proposed Channel Side Slopes

Based on our preliminary assessment of the factual geotechnical data provided and taking into account the environmental factors listed above, especially for the exposed turning basin and outer approach channel, it is our opinion that the proposed side slopes of 1:5 are not viable. Given the composition and strength parameters of the seabed material, and taking into account the environmental factors a slope of 1:8 (7°) to 1:10 (5.7°) would be required to ensure long term stability of the slopes.

15.6 Impact of Dredging on Existing Structures

The proposed dredging works, using a side slope of 1:5, results in significant underwater excavation in close proximity to a number of existing structures. The areas include the existing roundhead structures at the harbour entrance, the landside end of the marina breakwater and other existing pier structures. The submitted proposal includes mitigation measures including localised remodelling of the rock armour at the end of the marina breakwater and the installation of anti-scour (concrete mattress) structures.

In our opinion, there is insufficient information provided to be able to make a determination in relation to the extent and effectiveness of the proposed anti-scour protection measures. Given the weak nature of the seabed material, as determined in the site investigation we would be concerned as to the viability of the proposed anti –scour measures. It is obviously preferable that there are no modifications of or adjacent to the existing structures.

Of particular concern is the potential impact to the existing breakwater roundhead structures. Based on the submitted proposed navigation channel cross sections, with a 1:5 side slope, the top edge of the cut channel is dredged to within 30m of the face of the roundhead structures. This is the visible face of the structure and the cross section does not depict the size, depth or location of the roundhead and breakwater foundations. Even with the proposed side slope of 1:5 there may be a risk to the stability of the roundhead structures. If a flatter side slope is dredged, as outlined in Section 4.1.1 of this report then the risk to these structures increases. In our opinion, the proposal to dredge to -10.5m CD in close proximity to the roundhead/breakwater structures will place these structures at risk unless substantial engineering mitigation measures, such as underpinning of the structures is implemented.

The submission did not, in our opinion, adequately address the risk of scour to the existing structures from ships thrashers and/or AZ iPods.

15.7 Flooding

The assessment included in the submitted EIS does not, in our opinion, comply with The Planning System & Flood Risk Management – Guidelines for Planning Authorities (November 2009) and is deficient in a number of areas. It is usual for a separate flood risk assessment to be carried out and a stand-alone report contained in the appendix to the EIS. The potential flooding mechanisms and impacts have not been addressed as per the 2009 guidelines.

There are questions as to whether the proposed structure is fit for purpose.

15.8 Waves Generated by Cruise Ships

The issue of waves generated by the large cruise liners within the harbour was not included in the flood risk assessment.

Large cruise ships produce bow waves as they move through the water. These waves are usually long period waves that increase in height as vessel speed increases. The proposed development does not intend to use tugboats for assistance during the vessel manoeuvring procedures. To ensure steer ability of the vessels without tug boat assistance, especially the traditional stern driven vessels, the ships will need to maintain a higher speed. This has the potential for ship waves to be generated within the harbour. In our opinion additional analysis of this issue is required with respect to potential flooding and indeed impacts on other harbour users.

Our primary concern relating to the proposed structure is its length and intrusion into the centre of the harbour. The pier/quay will effectively divide the harbour in two, from a navigation and visual impact perspective. If the pier/quay is constructed, the ability of leisure and commercial vessels to navigate freely through the harbour will be significantly curtailed. Under the Foreshore Acts a foreshore lease is required. Section 10 of the Foreshore Acts prevents any person from erecting a structure on State Foreshore without a lease. Section 10(2) of the Acts state that the Minister shall not refuse the granting of a lease unless the development impacts on navigation, fishing or the environment. In our opinion, the proposed development will impact significantly on both navigation and the environment.

16 SAILING

The final section of the submission reviews the impact of the proposed development within the context of the foregoing policy context and design deficiencies within the application.

The key policy context is set out in the Draft Development Plan 2016-2022 Urban Framework Development Plan, which states:

“It is an objective of this Framework Plan to strengthen Harbor related uses including recreational sailing.”

This section has been reserved as the final section in order to allow for sailing to be considered as the final synthesis of the assessment of the impact of the proposed development on harbour users and the likely consequences of the development for the proper planning and sustainable development of the area.

The proposed development by virtue of the location of the new pier in the middle of the harbour extending a distance of 430m within 221m of the harbour mouth which effectively severs the harbour in two and by virtue of the size, scale and operational requirements of the vessels would be incompatible with and undermine the existing use of the Harbour, would prevent the effective and safe use of the Harbour for sailing, leisure and recreational use and consequently the proposed development would be contrary to the proper planning and sustainable development of the area.

A summary of the main points of the sailing report are set out below while the full report which has been compiled as a collaborative research exercise by DLCC is included in the Appendix.

16.1 Strategic National Importance of Dun Laoghaire Harbour for sailing

Dun Laoghaire harbour has strategic national importance as the main centre for sailing and boating in Ireland and as an established world-class venue for international sailing events.

Almost 25% of all Irish Sailing Association (ISA) membership is based in organisations operating in Dun Laoghaire.

Dun Laoghaire harbour provides a unique sailing amenity in Ireland and is a national and international centre of sailing excellence

- Easy International and National Access
- Four of the finest yacht clubs in Ireland

- Large protected bay for multiple race areas
- Large marina with 800 berths
- Additional Swing moorings
- Extensive onshore facilities

It is estimated that the potential footfall for sailing in Dun Laoghaire is of the order of 175,000 to 350,000 and this figure would significantly increase with expanded international sailing events.

The Figaro Stopover, MODA70 Regatta have each attracted over 100,000 visitors to Dun Laoghaire for each of these events.

16.2 Stakeholders

The DLCC and associated clubs, with their property ownership and the importance and value of sailing leisure activities, are significant stakeholders in Dun Laoghaire Harbour.

16.3 Vision

Dun Laoghaire Harbour is a world class sailing resource.(ISAF) The ambition is to host a major international sailing event in Dun Laoghaire every two years. The planned approach is to secure pinnacle events like the ISAF World Championships worth €25m to the host country and to bid for the youth Olympic Games 2022.

This vision is predicated on retaining the existing amenity and accessibility within the harbour for all sailing activities.

DLCC have an established reputation for successfully hosting managing and promoting international sailing events out of Dun Laoghaire Harbour. DLCC have developed race management skills and resources (experienced organisers, rescue and support boats and equipment) to run the highest-level international events, as well as general club competitions.

These events promote the vitality and vibrancy of Dun Laoghaire Harbour as a unique amenity both for sailing and for the public who are attracted to Dun Laoghaire Harbour to view such events.

The Harbour is an amphitheatre, viewable from all sides. It is among the best locations to handle the fast growing spectator friendly forms of the sport. Most other locations only provide one dimensional viewing (from a shore line). There are few harbours with this potential. Dun Laoghaire is ideal for viewing of international and national competitive sailing events and such spectacles as the Tall Ships visits.

These events generate significant economic benefits for Dun Laoghaire, the table below shows an estimate of these benefits of €8.7m over the period. This does not take cognisance of additional multiplier effects.

The location of the proposed new cruise berth in the middle of the harbour and the operational requirements of cruise vessels would undermine the potential of Dun Laoghaire as a world class sailing venue.

ATTRACTING MAJOR INTERNATIONAL SAILING EVENTS TO IRELAND

- 4 of the finest sailing clubs in Ireland
- Easy National & International access
- Large protected bay for multiple race areas
- Large harbour with 800 berth marina
- Extensive onshore facilities



THE ECONOMIC VALUE

OF THE INTERNATIONAL EVENTS OVER A 10 YEAR PERIOD 2014-2024

	Optimist Championship	La Solitaire du Figaro	North Pole Race	Route des Princes	Topper World Championships	ISAF World Cup	Moth European Championships	SAF World Championship	Youth Olympics
	2014	2014	2015	2015	2016	2016	2017	2022	2022
Overseas Visitors/ Participants	500	500	500	500	540	600	200	2,750	25,000
No. of Boats	300	50	15	11	190	275	150	900	2500
Stopover Duration	10 days	4 days	4 days	4 days	7 days	7 days	7 days	14 days	20 days
Bednights	6,300	2,000	2,000	2,000	3,780	4,200	1,400	38,500	500,000
Average Daily Spend Per Overseas Visitor	€77	€77	€77	€77	€77	€77	€77	€77	€77
Economic Value of Overseas Visitors/ Participants	€485,100	€154,000	€154,000	€423,500	€291,060	€323,400	€107,800	€2,964,500	€3,850,000
TOTAL:	<< €8.72m >>								
Local Visitors	50,000	95,000	95,000	150,000	50,000	50,000	100,000	75,000	750,000
Estimated Value of International Media Coverage	€2.5m	€4.1m	€30m+	€7.7m	€2m	€3m	€4.2m	€25m	€75m

UPCOMING OPPORTUNITIES: 2014-2024	
THE EVENT	Number of Overseas Visitors/Participants
Optimist European Championships 2014	500
2014 La Figaro	500
North Pole Race - 2015	500
Route des Prince Tour - 2015	500
Volvo Dún Laoghaire Regatta 2015	1000
ISAF World Cup - 2016	600
Topper World Championships - 2016	2500
Moth European Championships - 2017	2000
ISAF World Championships - 2022	2750
Youth Olympic Games - 2022	25,000
TOTAL	35,850

A critical advantage at present is Dun Loaghaire Harbour allows sailing access to race areas in Dublin bay within 10 minutes. This would no longer be possible as the operational requirements of the cruise vessels, the timing and the intensity of the cruise schedule, wind shadow effects and the turning area for cruise ships located at the harbour mouth would impede sailing access both within and from the Harbour. This would mean it would no longer be possible to run international events out of Dun Laoghaire. There is no feasible alternative for hosting such events. The adverse visual impact arising from the quay infrastructure and from the overpowering scale of the vessels would diminish the attractiveness and amenity of Dun Laoghaire as a world class sailing venue.

16.4 Harbour advantages

It is the only large open protected sailing harbour of over 1.1 million square metres (250 acres) within Dublin Bay on the East Coast of Ireland. It is a natural safe protected area of open water. It is a large open recreational facility.

In adverse weather conditions, being able to sail within the confines of the harbour is a significant advantage, both in training sailors, Olympic hopefuls, junior sailors and sail ability sailing and in Match and Team racing. The latter are among the fastest growing derivatives of the sport, now Olympic events.

The prevailing southwesterly wind enables the Bay to provide excellent shelter for all sailing activities, even in adverse weather conditions. This is evident from the success of the training programmes, for junior sailors, saleability, moth and Olympic sailors.

The harbour gives access to Dublin Bay, which has sizeable capacity for running race events, whether local, national or international.

The Harbour allows 12 month year round water sports, sailing and racing of all types, Wag class sailing, junior sailing, sailing for disabled sailors, special needs sailing, USail adult training, public sailing schools, Olympic academy training, team racing, international match racing, Skif & Moth sailing, power boat courses, rib driving & training, harbour rowing, sea scouts, canoeists, boarders and even swimmers etc. It is a vibrant and thriving water sports & recreational harbour.

Proximity to Dun Laoghaire town facilities, and easy access to and from the capital city centre and conurbation, are key attributes of Dun Laoghaire Harbour. They render the harbour attractive and accessible to Dublin, Irish and visitor sailors and spectators.

The beauty of the harbour and surrounding environment, and the leisure attractions of the harbour and piers, add to its attractiveness for the sailing fraternity at home and abroad.



Laser sailing in the harbour and across the harbour mouth . This contrasts with Fig 5.1.2 in the EIS which suggests the sailing area is restricted to the west bight.

16.5 Sailing Activity

DLCC have 5000 members, with 700 keel boats and 1000 dinghies. Club racing takes place 3-4 evenings per week, during the April to October season. This involves up to 400 boats and 2,500 people per week.

The Combined Clubs organise a Dun Laoghaire Regatta every two years, which attracts up to 500 boats, 3000 participants over the 4-day long event. About 35% of the participants are from outside Dublin.

The DLCC organise many regional, national and international sailing events. They are held over periods of 1 weekend to 2 weeks. They bring up to 600 international visitors to the harbour/town. Examples are:

- ISAF World Youth Sailing Championships 2012.
- Volvo Dun Laoghaire Regatta 2011 (biennial event).
- La Solitaire du Figaro 2011.
- Star Class European Championships 2011.

- U.K. National Squib Championships 2010.
- Irish Cruiser Racing Association National Championships 2010.
- Laser SB3 World Championships 2009.

The DLCC organise youth sail training during school holidays catering for up to 1,000 trainees aged between 5 and 18. These courses are not just for children of members, but are offered to local schools and sailors from other clubs.

Sail training for special needs sailors is catered for, in association with Dun Laoghaire Marina. The RSGYC hosted sailing aspects of the Special Olympics in 2003. The DLCC, in association with Dun Laoghaire Marina, run an “*Access to Sailing*” programme providing boats and coaching for children with disabilities.

Sailing and youth coaching run through the winter months, with lower participation levels.

The clubs contribute directly to the harbour economy by way of premises rentals, boat-mooring fees, use of harbour paid car-parking. The clubs and the sailing fraternity (regular users and national and international visitors) contribute to the economy of the harbour and Dun Laoghaire town, with spin-off expenditure in boat maintenance and repair industries, boat and equipment purchase, use of pubs, restaurants, cafes, hotels, chandleries, shops, general leisure facilities.

International sailing events, through the actual visits of participants and supporters and television coverage promote Dun Laoghaire, Dublin and Ireland as a tourist destination. For example, the recent Figaro single-handed yacht race saw Dun Laoghaire featured in households throughout France, where sailing is a national sport.

In summary, leisure sailing is an activity that has taken place in Dun Laoghaire for over 150 years. It contributes to the recreation/sport/leisure amenities of Dun Laoghaire-Rathdown. It generates revenue for the harbour and the wider town economy. It has potential for further development. It is suggested that the sailing environment warrants protection.

16.6 Sailing Impacts

There are major impacts arising from both the pier infrastructure and the operation of the vessels across all sailing activities both inside and outside the harbour.

16.7 Junior Sailing

Dun Laoghaire harbour provides sheltered conditions within the harbour. Dun Laoghaire is the only safe protected open water area in south county Dublin to learn sailing. Sailing inside the Harbour means that sailors are able to sail in a much wider range of conditions than would normally be the case if the sailing were to take place outside the harbour.

Dun Laoghaire Harbour is ideal water for young sailors to learn to sail. It is the most intensively used junior sailing facility in Ireland. “***Dun Laoghaire is a spectacular world class sailing venue both on and off the water***” Göran Petersson, president of the International Sailing Federation (ISAF). A number of years ago the Harbour Company sponsored prizes for “Junior Dinghy Racing” organized by the 4 waterfront clubs for junior sailors on Friday evenings, during the summer. The event has continued ever since. Dun Laoghaire Harbour provides a unique sailing amenity in Ireland and is a national and international centre of sailing excellence. There is no other comparable facility in Dublin Bay or on the East coast of Ireland. It will not be possible to move junior sailing to another location in Dublin Bay and as a result junior sailing will be seriously disadvantaged and it’s future will be in doubt in Dublin.

The proposed large cruise berth structure extends 435m in length across the centre of the harbour from the existing ferry terminal and will cut the available sailing area in two. The remaining areas available for junior sailing will be too small to teach juniors to sail and race. The adverse impact on junior sailing and racing is estimated to be substantial and irreversible.

Junior Summer Sailing Courses are run by the NYC, RIYC, RStGYC and DMYC on week days during June, July and August. In the region of 1,000 young sailors participate in these courses each summer. This is generally the first opportunity for young sailors to learn to sail. The courses are run to a curriculum designed by the Irish Sailing Association.

The sailing area remaining after the construction of the cruise berth and when the cruise ships are in harbour will not be sufficient to accommodate all of these sailors. (See diagrams in appendix showing how sail training areas in the harbour are removed by the cruise ship berth).

The sailing clubs run winter coaching clinics and Irish Sailing Association squad clinics on Saturdays and Sundays and some Wednesday and Friday afternoons during term time for more experienced sailors to develop their skills in advance of the summer season. This is only possible because of the sheltered conditions within the harbour.

Similarly national ISA squads traditionally travel to Dun Laoghaire to benefit from the sheltered conditions allowing for training in weather when it may not be possible to train outside the harbour. Approximately 170 sailors participate in winter training during the months of October to March.

Friday Night Racing for juniors has been run inside the harbour only on all Fridays in May and June for a number of years with first gun at 6pm and in July with first gun at the earlier time of 3pm during school holidays. It is organized jointly by all of the clubs. Approximately 80 sailors compete in the 2 -3 races each evening. The advent of the cruise ships will mean the cancellation of the Friday Night Racing as it will not be possible to set a race course in the area remaining after the construction of the cruise ship berth. In addition it will not be safe to sail inside the harbour during the time the cruise ships depart which is expected to be early evening (5 – 7pm). (See diagrams below showing how race areas in the harbour are removed by the cruise ship berth).

Additionally, upwards of 220 boats (500 junior sailors & volunteers) have participated in three to four junior regattas held each year in Dun Laoghaire Harbour, where entries from a wide range of sailing & boating clubs throughout Ireland are represented. Again the entourage of parents and minders swell these numbers to well over 1,000 for each of these annual Dun Laoghaire events. (4,000pa).

The September Series of races is also organised jointly by all of the clubs. Approximately 160 sailors compete each Sunday afternoon with first gun at 2pm and 3 races from the last Sunday in August until the end of September (a total of 4 – 5 weeks). The purpose of this series is to give the young sailors who have learned to sail during the summer courses to opportunity to practice their newly acquired skills. Again the cruise ship berth will reduce the size of the available sailing area to an unusable size and will result in the cancellation of this important series.

On Wednesdays in July each of the clubs hosts a junior sailing regatta. These regattas are open to all junior sailors and typically attract sailors from clubs along the east coast. Two race areas accommodate the different skill levels with the most junior sailors racing inside the harbour and the older more experienced sailors racing outside the harbour. The available sailing area after the construction of the cruise berth and when the cruise ships are in harbour will not be sufficient to race the harbour fleets making the transition to racing outside of the harbour unmanageable for many junior sailors.

Teenage sailors compete in team racing events run irregularly throughout the year on the east side of the harbour. Team Racing differs from usual racing as referred to above and typically consists of several teams each of three boats competing against each other. It is a fast paced, each race lasts about 20 minutes with many races over the course of a day deciding the event and depends on excellent boat handling skills and rapid tactical decision making. It will no longer be possible to run team racing competitions during the summer months when cruise ships are docked due to the wind shadow from these large ships and the associated air pollution.

The winter frost bite race series run each Sunday October to December and January to March by DMYC with 150 entries and the summer Tuesday evening race series run by Dublin Bay Sailing club, DBSC, include more experienced junior competitors and are run in the harbour using the full extent of the existing available water. The reduction in size of the race area will mean that it will not longer be possible to run these races in their current format.

In summary, if the cruise berth is built and used as proposed the primary use of the Harbour will be for commercial shipping in the form of cruise ship berthing at the expense of long established and future development of junior sailing activities. This will result in the immediate severe curtailment and possible demise of junior sailing in Dun Laoghaire.

16.8 Impacts on disabled sailors in the Harbour

Sail ability Dun Laoghaire is a combined initiative of the four Dun Laoghaire waterfront clubs, which provides sailing for children with disabilities throughout the summer months. This takes places in various forms, every Sunday morning from RStGYC and a number of full day weeklong courses organised by NYC and RIYC. At all times the sailing takes place inside the harbour and in most cases due to the often very delicate nature of some of the participants it is required to sail as close to the host Club as possible.

The programme, which was started 6 years ago, has greatly expanded over the past few years and now has 40 plus participants. The initiative has been recognised by the County Council and the Clubs as a great success and a worthy voluntary venture. Sailing is one of the few sports that children with disability can participate in on the same basis as abled bodied children. There are no other centres for disabled sailing in Dublin or indeed Leister

This year Dun Laoghaire Saleability are delighted to be hosting the President's Cup from RIYC in August which will involve regional teams from the four provinces sailing in four different fleets with at least 35 participants both disabled adult and children. Racing over the two days will take place entirely inside the harbour.

If the cruise berth is built as planned it would remove completely the ability to provide safe sailing for children with disabilities in Dun Laoghaire and deprive children and their parents of the opportunity that they greatly enjoy and value.

It would also destroy the voluntary participation of Club members and instructors, which the County Council recently recognised.

It would certainly eliminate the possibility of Sailibility Dun Laoghaire hosting an event such the Presidents Cup and the Hansa (specially designed dinghy for disabled sailing) National Regatta, which took place in the harbour 2years ago. The hosting of these events is evidence that Dun Laoghaire is a recognised centre for major national events for disabled sailing and the loss would be felt by disabled sailing countrywide

16.9 Heritage Sailing, Wags in Dun Laoghaire Harbour

The Water Wags sailing association has been actively and continuously sailing their traditional craft in Dun Laoghaire Harbour since 1887. The Water Wags have the unique distinction of being the oldest "one design" class in the World. They are credited with being the "founding father" of modern Olympic one design racing. The Wags, 128 years later, still uphold their tradition – for €20 - of finding ways for persons of modest means to take part in sailing in Dun Laoghaire Harbour.

DBSC (Dublin Bay Sailing Club) is an institution of Dun Laoghaire. DBSC has been a feature of the Harbour since its formation in 1884. DBSC is the "glue" that binds the sailing community (junior & senior) together in Dun Laoghaire. DBSC is today Europe's largest sail racing organisation with over 350 boats, 1,300 members and 300 volunteers actively involved every week, 5 days a week. DBSC arranges yacht racing, both in the harbour and in Dublin Bay, for juniors and seniors for 19 different classes and boat size. In the 2015 summer sailing season (April to September), DBSC has a schedule of over 830 races, spread over Tuesday to Sunday each week. DBSC uses the Harbour for dingy and smaller craft racing.

16.10 Sailing courses / tracks

Sailing in Dun Laoghaire Harbour is generally in one, two or three person dinghies.

Sail racing has two basic types of sailing courses. A 3 leg triangular course or a 2 leg sausage course – see the attached map. Courses are sailed around three buoys which are temporarily laid within the harbour for the duration of each race, which usually takes about one hour duration, and are then removed when the race series is complete. Race series can vary from 1 – 10 races, depending on the event.

The positioning of the buoys within the Harbour is entirely dependent on the wind direction and wind strength on the day. A large space of uninterrupted open water is necessary to cater for the potential changes in wind direction. It is not unusual to have the windward leg for Race 1 starting at the West Pier and the windward leg for Race 2 having to start at the East Pier, in completely opposite direction due to a change in the wind direction. Sailing is dependent on the wind. Courses are set to avoid unpredictable anomalies caused by wind blocking and wind shadowing effects from any large object, such as harbour walls, a building or a ship.

For the triangular course – see the attached map - boats start at mark 3 and zig zag to windward towards the wind for Leg 1, then tack turn to have the wind direction coming from 60 degrees to 120 degrees off the Right hand side of the boat for leg 2, then gybe turn to have the wind direction coming from 90 degrees to 180 degrees on the Left hand side of the boat. This course is from mark 3, to mark 1, to mark 2 and back to mark 3. This course is repeated 3 or 4 times in a race, with each leg up to one kilometre in length.

For the 2 leg sausage course – see the attached map - from the start mark, boats zig zag to windward towards the wind for Leg 1 (just like the triangular course), then tack turn or turn gybe at a mark to have the wind direction coming from directly behind the boat at 180 degrees for leg 2. The course is from mark 1 to mark 2 and back to mark 1. This course is repeated 3 or 4 times in a race, with each leg up to one kilometre in length.

For each of these courses, all of the current open water space within the harbour is fully used up. Larger classes of dingy and keelboat cruiser classes require bigger open water spaces, which necessitates sailing outside the harbour, weather permitting

The DMYC Frostbite is run over 20 weeks. Again as will be seen from the course charts below it covers all the Harbour area. Competitors are taken outside the Harbour when conditions (Wind strength, tide, daylight, sea state, air and water temperature, etc) permit. These conditions over the last 25 years occur about 5 times a year. Over the last 5 years they have averaged out to be on only 2 or 3 occasions each year.

Note the predominating winds. The winds suitable for dinghies to safely race during winter are East or West. (E to SE and NW to N, being the most frequent).

Diagrams 4: DMYC Frostbites: Race Course for various wind directions.



“N”



“NE”



”



“SE”



“S”



“SW”



NW”

Some points to note from above diagrams:

The length and number of legs of the race course are determined by the length of time it will take for the first fleet to complete the course and the number of fleets / classes that must be started (before the first fleet completes the first lap).

Again, for safety, convention and for the clear clean and efficient application of racing rules / 'right of way' when two sailing boats meet, a racecourse is normally set in an anti-clockwise direction.

As all races must start "into the wind", the course layout within the harbour is constrained by the harbour walls, other structures, ground chain for mooring boats (ability to lay and retrieve marks without getting them snagged / entangled with the ground chain) and the fact that all structures (including the walls) create a wind shadow which effectively reduce the usable racing area.

The diagrams show the usual course layout for various wind directions. The "Zig Zag" leg is to show the normal route a boat has to take when trying to sail to windward.

The diagrams show how the currently proposed Cruise Liner Berth will cut right across any racecourse, apart from only one specific wind direction. The prevailing wind directions during frostbites are West / North West / East / North East and South East. (underlined occurring most frequently)

Boat race courses are always laid out with the first leg of the course directly into the wind. It is usual to place the first mark of a race course directly up-wind from the starting line. There are many reasons for this but suffice it to say that this makes the application, adherence & observance of "Racing Rules/Rules of the Sea", (like rules of the road - who needs to give way to whom), easier to administer, to be understood and to be adjudicated on.

Depending on the number of boats or the number of boats and the number of 'fleets' being started, the rest of the race course can have 2,3 or 4 'legs'.

When setting a race course with say 2 fleets or 2 different classes of boat taking part, then the length of the race course must be such, that the first fleet to start should not be capable of starting their second "Lap" before the second fleet have started their first lap. Otherwise the second fleet would interfere with the second fleets start.

16.11 Some paramount safety issues from combining an industrial berth with tourism and leisure activities

By their nature harbours are places where valuable equipment and potentially hazardous facilities (forklifts, cranes, slipways) and activities occur, not to mention areas, which are required for security, customs and other purposes. This is both explicitly and implicitly recognised in the many barriers, physical and natural, that exist within any harbour, and are a feature of harbours worldwide.

Whatever anyone might wish, there will always be both security and Health and Safety issues which any owner of property, whether DLHC or otherwise, will need to address. Unfettered access not only gives rise to liability concerns, it also fails to recognise the basic need to provide security to property and equipment, whether publicly or privately owned.

There are serious Health & Safety issues. Vessel safety requirements by Cruise Companies will restrict boat & sailing movements within the harbour and within the approach (and departure) channels in Dublin Bay. The presence of these massive 70m high (14 stories) x 340m long cruise ships within Dun Laoghaire Harbour during daylight hours (6am to 9pm and longer) during the height of the sailing season will severely restrict the use of the harbour for other uses and by other users. There is the further possibility of two cruise ships berthing.

Health & Safety legislation will require adequate safety clearances by all sailors, particularly when ships are idling with their engines on to retain power for the vessel while berthed in port. We would have serious concerns for small craft and sailors sailing in the vicinity of these cruise ships. Equally H&S legislation will necessitate timing restrictions in seaways reserved for these ships at least one hour before and after arrival and departures.

Arriving and departing cruise ships of this size, with limited ability to manoeuvre in confined spaces, need a minimum speed of 6 knots entering and leaving the berth just to manoeuvre.

They require 8 knots and higher speeds in stormy weather conditions with high winds, big waves and rough sea states. For ships of this size, it is just not possible for them to stop from these speeds in confined spaces within the Harbour without causing damage or disturbance to the seabed, to the marina breakwaters, to the Piers and to the harbour walls and roundheads?

The cruise ships have no ability to avoid becalmed small craft movements or potential collision dangers inside the Harbour. Despite everybody's best efforts, it is inevitable that over time, some inexperienced or unwary sailors will stray into the path of these ships in the Harbour, possibly with fatal consequences. This is an accident waiting to happen. Dublin Port have a back up service infrastructure of pilots and tugs to guide cruise ships safely to berth and dock. There is no such facility in Dun Laoghaire and the consequence of the proposed development is to give rise to a major public safety hazard.

The HSS was much smaller, more manoeuvrable and unrestricted by draft (depth) with a Captain that understood sailing and winds.

Juniors will be forced to sail in unsafe waters outside the Harbour: With the 435m pier structure in the harbour, the harbour sailors will be forced to sail in restricted and congested areas within the harbour or go outside the harbour for less safe open water. Going outside the Harbour will expose young trainees to the full unpredictability of winds, waves, sea state, tides, visibility and fog in Dublin Bay.

Dependent on the wind conditions and tidal surges it can be difficult for young trainee sailors to get out of the harbour without capsizing. The Harbour provides a safe and ultimately more managed and controlled arena for sailing instruction in conditions where there is excellent back up rescue facilities, which encourages progression and development of sailing skills. The Health & Safety risks to life for inexperienced sailors sailing in open waters outside the harbour are significant and can be extreme if the weather changes, or rain and fog obscure visibility.

Dun Laoghaire Harbour – the refuge Harbour was the base for the implementation of the *National Emergency Disaster Plan* on 7 July 2007, when over 150 junior sailors were unexpectedly caught out in a sudden squall in Scotsman's Bay outside the Harbour and had to be rescued and towed into the shelter of the harbour. Easy access in and out of the Harbour is critical to ensuring the National Emergency Plan will work in the future. The timing involved for mobilisation of the National Emergency Disaster Plan was critical to its overall effectiveness of implementation and avoiding risk to life. Delays in rescue craft, life boats accessing and entering the harbour or encountering a super cruise ship reversing out of the harbour or on turning manoeuvres in the mouth of the Harbour could impede timely and safe implementation of the National Emergency Disaster Plan in the future. This is a very significant consequence of the proposed development and it has far wide and overarching implications for all activities and uses both inside the Harbour and within Dublin Bay.

From the empirical evidence of sailing disasters and safety it may be more likely that the cruise ship could encounter safety problems in accessing or reversing out of the harbour in windy or storm conditions. If a super cruise ship tilted or crashed in the harbour entrance it could block the harbour entrance preventing access or egress to or from the harbour. The Concordia accident occurred within sight of shore and the risk scenarios are heightened at entering the harbour and docking and on leaving the harbour. The cruise time schedules are determined by the cruise line and this could have very serious consequences for other harbour uses primarily sailors but including all activities engaged upon in the harbour.

It will not be safe to have junior sailing inside the harbour during the time these cruise ships arrive (6am – 9am) and depart (3pm and 7pm). While the ships remain in the harbour during the day they will create and overwhelming towering and terrifying presence for junior sailors. The scale of the ships the equivalent of a 14 storey tower building extending the length of a comparable street from Connaught Place to the Railway Station (which is exactly 400m) would dominate the space within the harbour and the use and amenity of that space.

With this proposal for a 435m pier in the middle of the harbour, it is doubtful if any form of sailing (junior sailing or senior sailing – in big or small boats) will be permitted at all in the harbour, on Health & Safety grounds, while these enormous 70m high x 340m long ships are

idling, with their engines on, in the cruise berth for the duration of their 12 hour stay in the Harbour from 6am to 6pm.

Such severe curtailment of sailing in the Harbour, and particularly junior sailing, could result in the effective demise of traditional junior sailing and harbour sailing as we know it, in Dun Laoghaire Harbour.

16.12 Mariners Notices

The approach of DLHC and the Harbour Master to navigational jurisdiction has been to restrict sailing by means of the issue of Mariner's Notices in order to facilitate the proposed development. The two uses, which have co-existed over the centuries, are no longer compatible in those circumstances. The consequence of the development therefore is to restrict sailing in the Harbour to the point of extinction.

Should this trend be permitted to continue, the economic consequences for Dun Laoghaire Harbour and Dun Laoghaire Town would be profound and devastating. The assessment of this issue in the EIS is totally inadequate and is based on a misinterpretation of the current use profile and balance and co-existence of use within the Harbour notwithstanding the issue of the Mariners' Notice 2015. The Harbour Company proposes to adhere to this approach as will be noted from its Response to Public Commentary, dated May 2015 where as a preliminary response it is stated "It is worth highlighting that activities are carefully managed and controlled in line with long established rules, referred to as Notices to Mariners and the Harbour bye-Laws". It is contended that these archaisms were first introduced by the British authorities during the Napoleonic War era and are long due replacement by a system of administration reflective of more democratic practices.

Such balance between sailing and other uses of this Asylum Harbour has existed since the Harbour was first constructed. The Human Beings section and the socio economic assessment of the EIS are fundamentally flawed in relying on the Mariners Notice as the baseline conditions. Again the Mariners Notice is a reflection of navigational jurisdiction and principles of priority afforded historically to naval ships as it provided refuge to such ships.

The 2015 Mariners Notice is no reflection of the current or the historic use of the Harbour for sailing. In the absence of any HSS ferry activity within the Harbour there has been an opportunity for sailing to blossom and go from strength to strength. The 2015 Mariner's Notice is a reflection of intent to commercialise the harbour to the detriment of all other harbour users most particularly sailing. The consequence of the proposed development therefore is to provide for a mono use harbour solely for commercial use whether this be for cruise ships or other ships berthed at the proposed quay. In minutes of meeting (MoM), 10/5/13, part of the pre-consultation process with the Board, the applicant stated that it was industry standard that harbour be simultaneously capable of facilitating two cruise ships [of 340m length].

The Proposal will severely restrict the sailing areas for small craft in the Harbour – Harbour Masters Notice to Mariners No 4 (2015) - This proposal for a 435m pier in the middle of the harbour, will result in the residual sailing areas being too small and too congested. It will not be possible to safely accommodate the volume of learner and beginner sailors in the residual space available for sailing and racing in the Harbour

Rules & Regulations will destroy Harbour Sailing - The 345m pier and the 65m high x 340m long cruise ships will completely destroy sailing in the harbour. If the scale of the vessels do not do it, the Health & Safety regulations, the necessary harbour restrictions (- per notice to Mariners No 4 (2015), the required exclusion zones around the ship and seaways, the time delays forced on sailors by "keep Clear" regulations awaiting shipping movements or ultimately the Maritime Regulations for the Prevention of Collisions at Sea (Colregs), will effectively destroy sailing in the harbour.

16.13 Wind Shadow caused by these enormous cruise ships will destroy Harbour Sailing and DBSC Sailing in Dublin Bay –

Sailing is always at the mercy of the wind. Yachts need wind to sail. Sailing in the harbour in any meaningful way will be entirely compromised and impossible caused by the wind shadow created by the pier structure and the sheer scale of these massive 70m high x 340m long ships

while berthed in the Harbour. These ships are enormously high and long. There will effectively be no wind on the leeward side of the ship (at the West Pier side) for the entire day the ship is berthed in Dun Laoghaire harbour and the wind pattern on the windward side of the ship (the East Pier side) will be greatly disturbed, as to render useless any hope of fair racing or sailing in a steady wind in the Harbour.

Wind shadow will prevent small craft without motors from sailing or manoeuvring out of the way of oncoming ships, entering and exiting the Harbour. The very thought of junior crew in a small craft with no steerage or no speed (because they have no wind) in the vicinity of massive cruise ships is frightening to contemplate.

The Cruise season (April to October) coincides with the peak sailing season (April to October), making meaningful sail racing impossible in the Harbour, particularly in small and restricted sailing areas in the North Bite – per MN 4 (2015) - where there will be little or no wind on the leeward side of the ships in the prevailing South West winds.

The EIS and the application is premised on a false understanding of the nature of sailing within the harbour and the argument is advanced that the area allocated to sailing within the harbour remains relatively the same in percentage terms when consideration of the Fairway for shipping is taken into account. These arguments, which seem initially persuasive to public but could not be further from the point. The central area of the harbour is critical to sailing for access and egress to Dublin Bay within 10 minutes for sail racing within the bay and for routing sail training, courses and racing to benefit from wind direction. The EIS is therefore fundamentally flawed in both its analysis of harbour uses and activities, assessment and mitigation and is misleading in its conclusions.

The EIS states that the development “ is not predicted to be a significant impact.” The proposed new pier will prevent safe use of the harbour for Water Wags and for Frostbiting in almost all wind directions including the prevailing south westerly wind in the winter and the prevailing easterly wind in the summer. The EIS also states “Wind shadow will not prevent sail training or racing”. This is factually incorrect.

- i) Small keelboats without engines will not be able to sail from their moorings or shore berths to the harbour mouth. Will such boats be required to adopt engines, in which case they will be un-saleable to ports other than Dun Laoghaire.
- ii) Junior sailing will not be safe due to downdrafts caused by a ship berthed in the harbour.
- iii) Water Wag sailing will not be possible in the zones allocated for sailing in the Planning application, if there is no wind in these areas.
- iv) Adult sail training will not be possible in the zones allocated for sailing in the Planning application, if there is no wind in these areas.
- v) If Dun Laoghaire harbour is in a wind shadow, the harbour will no longer be considered as an appropriate venue for leisure sailing.
- vi) If Dun Laoghaire harbour is in a wind shadow, Dun Laoghaire will no longer be considered as an appropriate venue for major international yachting events such as Dun Laoghaire Regatta, Star European Championships, ISAF team racing championships, ISAF games, etc.

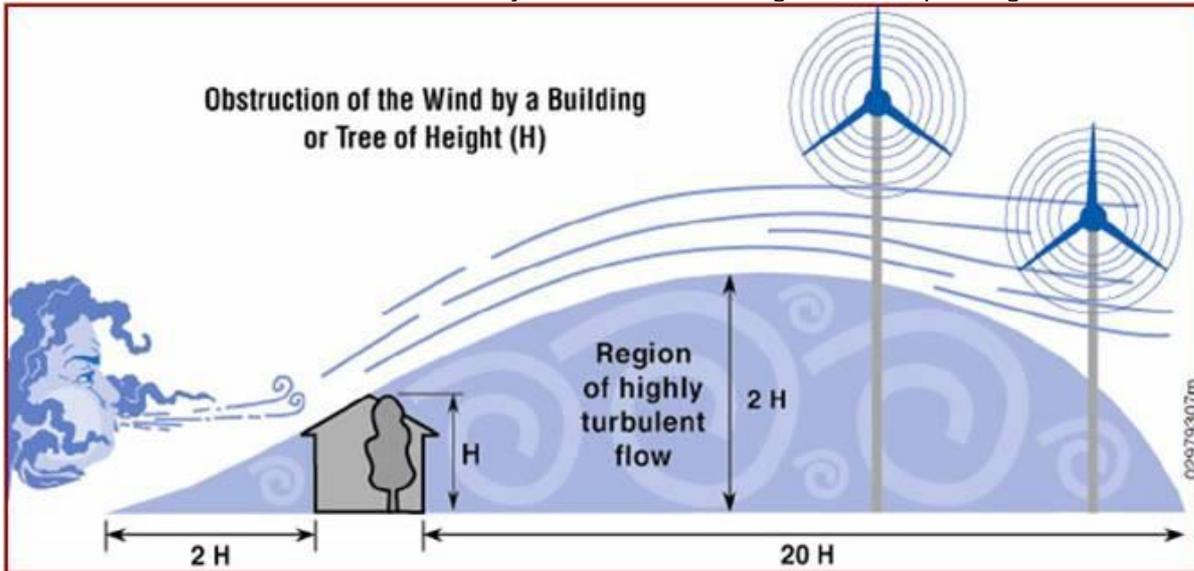
In addition, a significant consideration is that the wind shadow from the large structure and from these huge vessels will completely destroy any stable wind within the harbour.

It is assessed that Wind shadow / turbulences will impact very negatively on sailing within the harbour walls. The DLHC “consultation plans” make no mention what so ever of the height of the next generation mega cruise ships, which the proposed development aims to cater for. The DLHC seems to ignore – it certainly omits to take cognisance of the elementary fact - that a “sailing area” requires water -but also wind. Taking the example of a “typical” next generation cruise-ship (see article here: <http://www.examiner.com/article/msc-cruises-announces-construction-of-two-new-generations-of-cruise-ships>)

LOA = 1060 feet = 323m
Beam = 135 feet = 41m
Height = 230 feet = 70m!!!!

Diagram 4

The wind turbulences created by an obstruction of height “H” is as per diagram below:



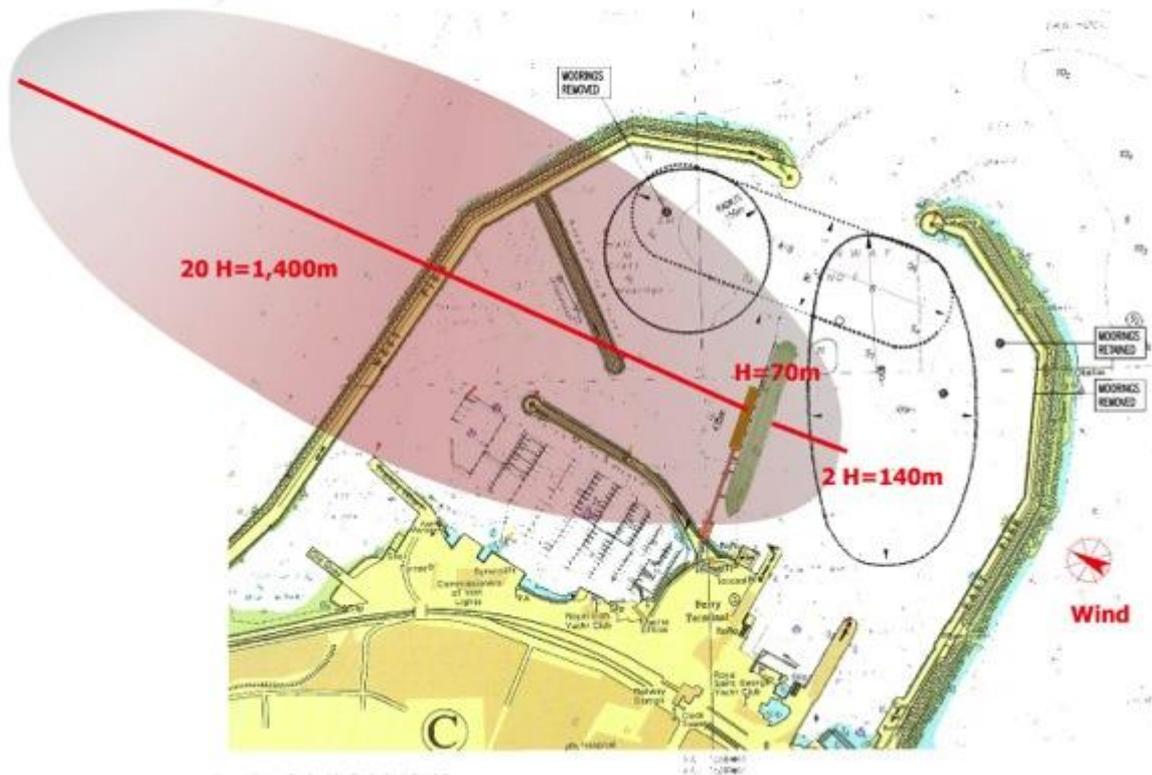
(Various sources dealing with the positioning of wind turbines away from wind obstructions agree to the same 2H and 20H lateral disturbances)

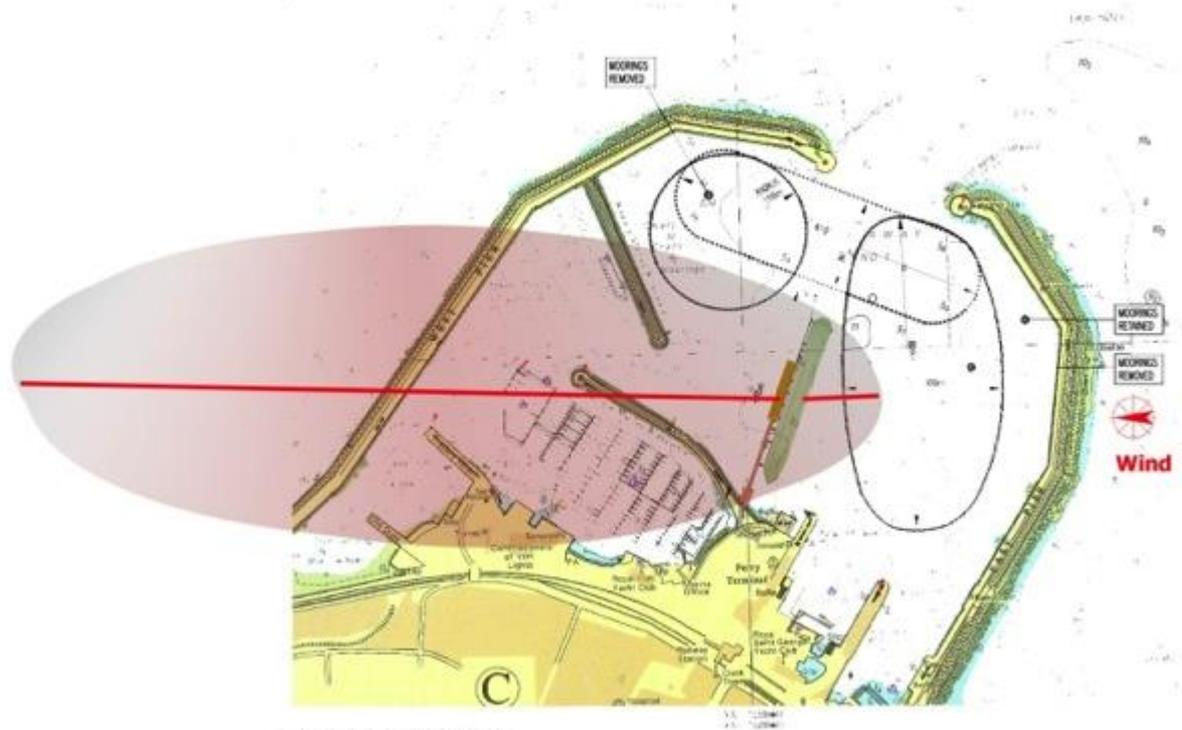
The prevailing wind conditions in Dun Laoghaire are E-SE and W-NW

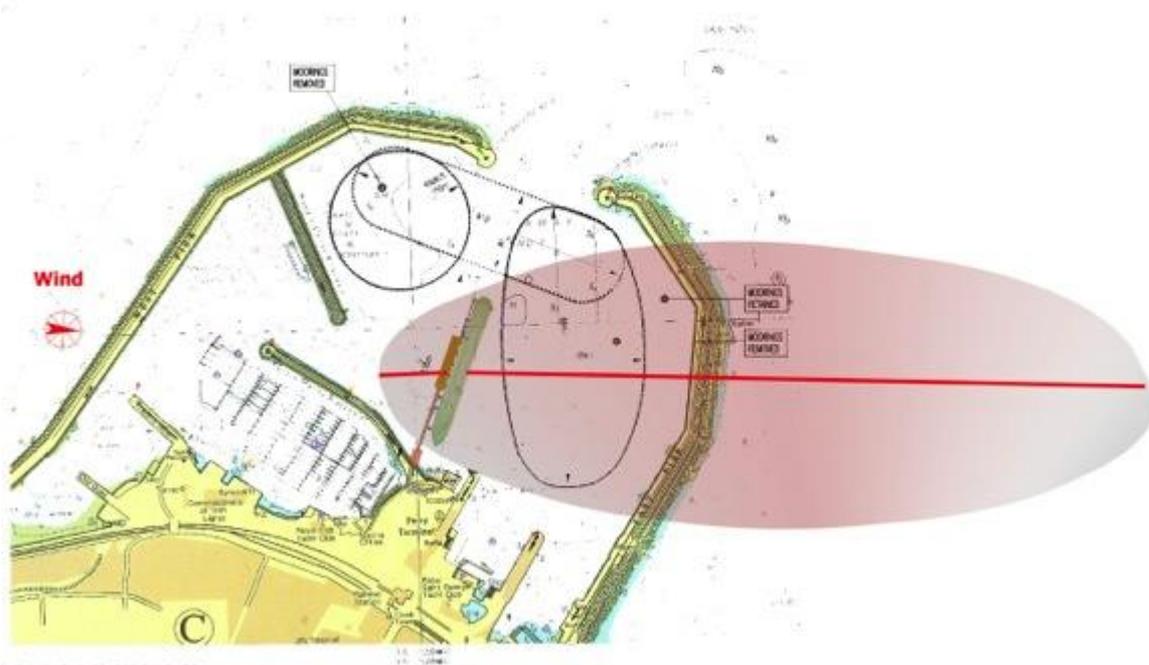
Following the same turbulences “rules” the affected areas (affected = rendered useless for sailing purposes) under the 4 dominant wind directions are as follows:

Diagrams

5







Wind shadow will prevent small craft without motors from sailing or manoeuvring out of the way of oncoming ships, entering and exiting the Harbour. The very thought of junior crew in a small craft with no steerage or no speed (because they have no wind) in the vicinity of massive cruise ships is frightening to contemplate. The Cruise season (April to October) coincides with the peak sailing season (April to October), making meaningful sail racing impossible in the Harbour, particularly in small and restricted sailing areas in the North Bite – per MN 4 (2015) - where there will be little or no wind on the leeward side of the ships in the prevailing South West winds.

Outside the harbour and for up to 5 kilometres from the Harbour, the wind shadow effect, the bow wake / wave turbulence and the disturbance caused by the propeller track (or azipod jets) from these enormous 70m high x 340m long deep cruise ships approaching and departing Dun Laoghaire Harbour will have a huge impact on the two DBSC (Dublin Bay Sailing Club) racing areas in Dublin Bay

Wind Shadow caused by these enormous cruise ships will destroy Harbour Sailing and DBSC Sailing in Dublin Bay. Sailing in the harbour in any meaningful way will be entirely compromised and impossible caused by the wind shadow created by the pier structure and the sheer scale of these massive 70m high x 340m long ships while berthed in the Harbour. These ships are enormously high and long. There will effectively be no wind on the leeward side of the ship (at the West Pier side) for the entire day the ship is berthed in Dun Laoghaire harbour and the wind pattern on the windward side of the ship (the East Pier side) will be greatly disturbed, as to render useless any hope of fair racing or sailing in a steady wind in the Harbour.

This wind shadow effect from the proposed cruise ships crossing the Dublin Bay Sailing racing arena will impact on the ability of Dublin Bay to attract large International, National and Local yachting events for the area. World and European events require uninterrupted and open sailing areas for multiple appropriately length racing courses. ISAF (the International Sailing Federation) has endorsed Dun Laoghaire and Dublin Bay as a world class venue for World and European championships. The consequence of the proposed development is that it would impose significant wind shadow effects from cruise ships, which would mean that the endorsement of Dun Laoghaire and Dublin Bay as a world class venue for international sailing events would be lost.

16.14 The broader consequences on sailing in Dublin Bay

The impact of such huge vessels on existing Dublin Bay Race activities, which take place at precisely the time of departure of these vessels (Tuesday, Wednesday and Thursday evenings and at weekends), is also significant. It will mean that, during the departure and arrival of these ships, other vessels will likely be prohibited from accessing the Harbour mouth or area outside the Harbour necessary for such ships to turn.

Event planning will be compromised by Harbour restrictions imposed for cruise ships. As with any sports, major international sailing events are planned months and even years, in advance. Sponsors are secured and Capital spending commitments are also made well in advance, to guarantee the event.

Harbour restrictions imposed on event organisers and sailors during these events will not be possible. Either the International event will have to be cancelled or the cruise ship visit will have to be cancelled. The reality is that both cannot co-exist. ISAF regulations require that shipping movements, wind shadow effects, wave turbulence and propeller disturbance across the race course are not allowed to affect International sailing events. If they do, ISAF will not award the event to Dun Laoghaire.

This includes the Volvo DL Regatta, which has developed into one of the biggest sporting events in the country and this year was held during 9-12 July. The event occurs at DLH and brings together a number of yachting clubs in the area (these are among the largest and best known clubs of their kind in the country). According to a socio-economic study for the initiative carried out in 2009, the major event exerts an important impact socially and economically in the DL area, bringing in many hundreds of visitors from abroad during the event with significant direct spend in the region of €2m in that year, adding significantly to the local economy during the weekend and helping to support various local jobs.

16.15 Shipping Lanes & ColRegs:

These restricted navigational seaways, called "Shipping Lanes", are just like the M1 or M50 motorway corridors in the Roads /NRA context. Shipping Lanes are the invisible roads in the sea for commercial shipping traffic. They exist at every port and at the approaches to ports close to land and in restricted areas. They are generally marked by red and green channel buoys on either side of the shipping lane.

In this case, the necessary shipping lane must be the dredged channel, otherwise the ship will go aground. Shipping Lanes are "no go" areas for sailing boats and pleasure craft, except at designated points and in a restricted way. Sailing and pleasure craft are restricted from entering or crossing these shipping lanes by the International Regulations for the Prevention of Collisions at Sea 1972 (COLRegs).

The impact on sailing caused by the legal restrictions applying to the shipping lanes both inside and immediately outside the harbour, and for up to 5 kilometres out into Dublin Bay (a safe distance), will be enormous for all sailing and for all local, National and International sailing events in Dublin Bay. This will be especially so if the full quota of 168 cruise ships (per DKM's Copenhagen Scenario) are coming and going from Dun Laoghaire Harbour during the peak sailing season, which is also the peak Cruise season in Northern Europe.

There is an existing shipping lane into Dublin Port running from the Bailey Lighthouse off Howth head, past the Poolbeg Lighthouse and the Bull Wall, up to the Toll Bridge in Ringsend at the Alexander Basin (beside the Point Depot). For over 100 years, sailing in Dublin Bay has happily co-existed with this navigational restriction into Dublin Port. Sailing in the north side of Dublin Bay (on the Howth / Sutton side) is restricted.

Dublin Bay has a 40 sq. mile race area with 6 Race Courses possible. Waters are sheltered with Dun Laoghaire Harbour as an ideal centre for water-based racing sports. It is accessible by land and sea and has World Class Race Resources & Facilities including:

- 5 World Standard Race Officers in Ireland
- Club Facilities – €20m invested in facilities

It has the reputation as a yacht sailing and racing area unique in Ireland. Many important international sailing events have been held there, attracting numerous competitors and their entourages, and contributing hugely to the local economy.

There is constant land to sea activity from the clubs, with launches, dinghies and yachts sailing to and from them, the highest levels of activity in the April to October summer season. DBSC has been running races on Tues/Thurs/Saturdays at the same time proposed for cruise ship's departure. DBSC contributes its expertise to the critical role the Harbour has for race management, scheduling, event management. It is a cause of some concern that no discussion has taken place between the DLHC/SID/DLRCC and the officers as to how of the order of 400 yachts racing in the Bay can be safely accommodated to these departures.

- DBSC marks are under the jurisdiction of Dublin Port – see notice to mariners.
- Hundreds of boats for the DBSC races will be streaming out of the Harbour at 6.30pm – just as the cruise ship is preparing to depart.

Conclusions re impact on sailing

The consequence of the proposed development is to undermine the sailing assets currently in Dun Laoghaire harbour.

The termination of racing in the harbour: proper courses are a necessary prerequisite for any level of sail training. As indicated above in Diagrams 1, 3, 4 and 5 sailing Courses / Racing tracks will not be able to be accommodated in the Harbour if the berth goes ahead. With the 435m pier structure in the harbour, it will not be possible to have In-harbour sailing or racing. The necessary racing course layouts and course lengths will not be possible. The extent of open water required for sailing is dependent on the wind direction which can change through 360 degrees of the compass from day to day. Sufficiently sized courses are required for windward/ gybe/ leeward triangle courses or windward / leeward sausage courses, depending on the wind direction.

Junior Sailing will be eliminated inside the Harbour . There are over 1,000 junior sailors taking sailing course over the 10 weeks of the summer months. They have extensive junior sailing and racing each day in the harbour during these courses and again on Friday evenings and at weekends. It is not possible to move junior sailing to another safe location within Dublin Bay. There really is nowhere else to go. Logically, with no junior sailing today, there will be no senior sailing in 5 years' time. This will lead to the gradual demise of the yacht clubs and ultimately to the ruination of sailing in Dun Laoghaire Harbour, with the consequent loss of significant economic benefit from sailing to Dun Laoghaire town.

The impact on sailing caused by the legal restrictions applying to the shipping lanes both inside and immediately outside the harbour, and for up to 5 kilometres out into Dublin Bay (a safe distance), will be enormous for all sailing and for all local, National and International sailing events in Dublin Bay.

17 CONCLUDING STATEMENT

The classification of the proposed development as a SID project does not impute or imply any national economic or social importance attaches to the project in terms of the proper planning and sustainable development of the area. The proposed cruise berth infrastructure for Dun Laoghaire Harbour is not included in the **Infrastructure and Capital Investment Programme 2012-2016**. Therefore the proposed development does not comprise a project of national or social economic importance to the state.

There are extensive grounds to support the case that the subject application is invalid as there is material non-compliance with the Planning and Development Regulations 2001 as amended.

The public notice is inadequately and inappropriately titled and misleading and is seriously deficient in terms of its form and content and fails to adequately describe the nature and extent of the proposed development.

The Public consultation process as we respectfully submit fundamentally flawed and misleading and is not consistent with the Aarhus Convention. In this case the public transparency of the decision making process is questionable and the mis-information from the applicant during the course of the public consultation process has undermined the entirety of the consultation process.

The combination of aesthetic, historical, scientific and social significance, that is imbued within the historic fabric of Dun Laoghaire Harbour, make it a cultural landscape of immense significance to the Irish people, who value its importance without exception. Any threat to this significance will undermine a very important part of our history and how we understand ourselves in the early twenty-first century.

The lack of proper public consultation, the complexity of the project and the importance of the public interest and the importance of Dun Laoghaire Harbour substantiate a need for an oral hearing in this case.

The failure to consult in any meaningful way fundamentally undermines the EIA process as these flawed assumptions pertaining to baseline conditions prejudice the findings of the EIS and has obscured the fact that there has been no real consideration of alternatives.

The EIA does not include an assessment of the cumulative impact of the development and there is evidence of project splitting.

The application and EIS should have included appropriate information on the likely impacts of the proposed cruise berth infrastructure on the permitted development of cruise berth infrastructure at Dublin Port and the overall likely wider effects on Dublin Bay.

There are no comprehensive major incidents and disaster planning assessment included in the EIS. Incidents, such as the "Costa Concordia" running aground in shallow water, collisions with harbour walls, accidents with small pleasure craft, fuel spills and ship fires or emergencies have not been comprehensively addressed in the EIS.

The landscape and visual impact assessment in the EIS is inadequate.

The Transport Impact Assessment is inadequate.

The permission for Dublin Port redevelopment of the Alexandra Basin Berths which includes provision for cruise ships obviates the need for the proposed development, *it is doubtful whether the proposed project would be viable in the long-run with a second cruise terminal upstream at Dublin Port, and closer to the city centre.*

The proposed development would displace existing leisure activities in-and-around DLH, such as yachting/sailing and other water sports. This includes the Volvo DL Regatta, which has developed into one of the biggest sporting events in the country, bringing in many hundreds of visitors from abroad during the event with significant direct spend in the region of €2m in adding significantly to the local economy during the weekend and helping to support various local jobs.

According to DL International Sailing Events, DL has identified a range of major sailing events that it would like to attract to the harbour in the coming years, including the possibility of the Youth Olympic Games in 2022, with the economic prize of an estimated 750,000 participants and visitors to the event. *The same DL International Sailing Events publication also estimates an economic impact of almost €10m from DLH hosting international sailing and sporting events during 2014-2022. The wider economic effects, stemming from the international coverage of the area, are estimated in the publication to average well over €10m per year between 2014 and the end of the decade, with the hosting of the Youth Olympics estimates to have an international media coverage impact of €75m in 2022.*

Without prejudice to the above case that the subject application is invalid and the EIS is inadequate and we request that these matters be determined as a preliminary matter.

Notwithstanding our contention that the application is invalid and the EIS and NIS inadequate we set out substantive grounds for refusal of permission and request the Board to refuse permission based on this substantive grounds set out below.

1. The proposed development by virtue of the location of the new pier in the middle of the harbour extending a distance of 430m within 221m of the harbour mouth which effectively severs the harbour in two and by virtue of the size, scale and operational requirements of the vessels would be incompatible with and undermine the existing use of the Harbour, would prevent the effective and safe use of the Harbour for leisure and recreational use and consequently the proposed development would be contrary to the proper planning and sustainable development of the area.
2. The proposed development of a of a new pier and quay berth measuring over 430m in length within Dun Laoghaire Harbour represents a strategic transport infrastructure development. There is no provision for such transport objective within the development plan. The proposed development would therefore materially contravene the Dun Laoghaire Rathdown Development Plan 2010-2016 for the zoning of land for the use solely or primarily to provide for Waterfront Development and Harbour related uses. The proposed new berth quay structure threatens the fundamental marine character of the harbour as it segments the Harbour into two zones thereby materially undermining the marine entity and the essential nature of the Harbour and would materially affect the recreational use of the Harbour for sailing The proposed development would therefore be contrary to the proper planning and sustainable development of the area.
3. The proposed use of the Metals line, referred to as "Accommodation Road" within the Harbour for the parking of buses would directly impede the implementation of the specific development plan objective for the promotion and provision of the Sandycove to Sutton Cycle way as the Metals path is indicated as the indicative route for the Sandycove to Sutton cycle route as it traverses the Harbour area.
4. The proposed development would materially undermine national policy for prioritization of transport investment of smarter travel as set out in the Infrastructure and Capital Investment Programme 2012-2016 and the proposal to locate bus parking along the route of the Metals a historic heritage route would

contravene a specific local Development Plan objective no 93 for the promotion and development of the Sutton to Sandycove promenade and cycle way along the route of the Metals.

5. The strategy to detour cruise passenger ships to Dun Laoghaire rather than proceeding to Dublin Port is directly contrary to the NRA Smarter Travel Policy and objectives to minimize the demand for travel. It effectively brings passengers to a subsidiary port of call where a transport mode interchange to bus/taxi is necessary to transport passengers on the final part of their trip. This places unnecessary demand and pressure on congested local roads during peak travel times in the morning and evening. Therefore the strategy to divert cruise passengers to Dun Laoghaire is fundamentally unsustainable and would materially contravene national transport policy to minimise the demand for travel. It would also place additional pressure on an already congested road system and would thereby reduce efficiency in the transport network and by the reliance on fossil fuels give rise to additional unnecessary transport emissions.
6. The land use implications of creating a transport mode change within the harbour for cruise ship passengers would disaffect cycling and walking within this high amenity area and would thereby prejudice a key objective of Smarter Travel to embrace cycling and walking as the best way of arresting unsustainable transport trends.
7. The proposed transport emissions arising from the proposed development are therefore an unnecessary contribution to transport emissions from the maritime transport sector and the proposed development would thereby materially contravene a key objective of Smarter Travel A Sustainable transport Policy to reduce emissions from the maritime transport sector.
8. The proposed development alters fundamentally the unique relationship between the historic granite harbour piers and the central area of the harbour by projecting an elevated 430m concrete pier structure into the heart , of a protected structure. This creates a visual barrier between the two historic piers, and a physical barrier creating an unsatisfactory division within the hitherto unified expanse of water contained within them. This effectively creates a strategic severance of the harbour by dividing it into two separate harbour areas. The projection of the new pier to within 221m of the harbour mouth at the confluence of the two pier structures and their lighthouses, which form such a wonderful gateway between the bay and the harbour, undermining the symmetry of this relationship and the unity of the harbour, the piers, the lighthouses and the enclosed water within. Such an impact would materially and adversely affect the character of the historic piers, which are protected structures.
9. The proposed development would have a major unprecedented impact on the historic structure of the Harbour Piers which issue has been ignored both in the application and the EIS which is inadequate in this respect. This was identified as a major issue to address in the application and the applicant has not only failed to address the issue but it is evident that the proximity of the pier structure and the proximity of the dredging channel and the depth and width of the excavation for dredging will materially and adversely undermine the stability and structure of the foundations to the pier structures which are designated protected structures.

10. The berthing of the super cruise liner in the harbour comprises a structure of mass and bulk of the scale that greatly exceeds any comparable structure within the town centre of Dun Laoghaire and its height is the equivalent of a 14 storey building of comparable height to Liberty Hall and it exceeds the height of the town hall and the Lexicon by a factor of two, the length of the structure is such that it extends beyond the distance of the street formed from Connaught Place to Marine Road. It would form a towering and overwhelming presence within the harbour such that it would obstruct amenity views over clear water for over two thirds of the depth of the harbour from the marshalling yard edge to within 221m of the harbour mouth. The presence of the ships within the harbour over the course of the entire day would radically transform the character of the open amenity views across the water to an industrial back end port type area and it would obstruct the views of the lighthouses which create a unified symmetry within the harbour and form a significant landmark and sense of identity. The proposed development therefore both the pier structure and the presence of the boat while docked would create an overwhelmingly negative impact on the visual amenity and attractiveness of the harbour area, the piers and entire harbour. It would significantly change the character of the amenity views across open water over two thirds of the harbour area. The proposed development would therefore materially affect the character of a protected structure and its curtilage and would profoundly adversely affect the visual amenity of the harbour area.
11. The proposed development would materially contravene the policies of the Dun Laoghaire Rathdown Development Plan 2010-2016 in respect of Policy AR7 Protection of Coastline Heritage and Policy AR10 in respect of Candidate Architectural Conservation Areas where all proposals for new development should preserve or enhance the character of the environment.
12. The proposed development taken in isolation from the other projects envisaged and planned for within the Masterplan would fundamentally undermine the coherence of the Masterplan strategy and be inconsistent with the principles of plan led development. It would amount to project splitting and would avoid the assessment of the totality of the development and the assessment of the cumulative impact of the development as required under the EIA Directive and the planning legislation.
13. The proximity of the proposed new pier structure to the historic granite piers which are constructed of stone masonry and the proximity of the dredging channel and the depth and width of the excavation for dredging will materially and adversely undermine the stability and structure of the foundations to the pier structures which are designated protected structures. The proposed development would be therefore contrary to the proper planning and sustainable development of the area.
14. The proposed development materially and significantly contravenes the objectives and vision statement of Dun Laoghaire Harbour Master Plan. The proposed development of a new 430m quay down the middle of the harbour to facilitate mass tourism in the form of super cruise liners does not make Dun Laoghaire a destination of international calibre it transforms an already elegant and beautiful harbour into an industrial back

end port area thereby destroying its very uniqueness and identity and marine ambience. The proposed development therefore is not plan led in accordance with Dun Laghaire Harbour Master Plan but comprises ad hoc speculative development that would be contrary to the proper planning and sustainable development of the area.

Yours sincerely

Ann Mulcrone