



Wicklow County Council,
Planning and Development Department,
County Buildings,
Wicklow,
County Wicklow.

Córas Iompair Éireann

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Date: 24th March 2016

RE: Notice in accordance with Section 14(1) of the of the Planning and Development Act
2000 (as amended)
Written Submissions/Observations of Córas Iompair Éireann and Iarnrod Eireann –
Irish Rail.

Dear Sirs,

We refer to the notice received by CIE Group Property Manager on the 11th of February
2016.

Please find our clients written submissions and observations in this matter

Yours faithfully

A handwritten signature in cursive script that reads 'Colm Costello'.

Colm Costello
CIE Group Solicitor.

ATURNAE GHRÚPA CUIDEACHTAÍ CIE
Colm MacCoistealbha
CIE GROUP OF COMPANIES SOLICITOR
Colm Costello

**RE NOTICE UNDER SECTION 14(1) OF THE PLANNING AND DEVELOPMENT
ACT 2000AS AMENDED**

**PUBLIC RIGHTS OF WAY IN THE DRAFT WICKLOW COUNTY
DEVELOPMENT PLAN 2016-2022**

I PRELIMINARY

1. This is a submission by Coras Iompair Eireann/Iarnrod Eireann – Irish Rail [hereinafter ‘C oras Iompair  ireann’] in response to the notice of the Council dated 6th February 2016 issued pursuant to section 14(1) of the Planning and Development Act 2000 as amended, for the inclusion of purported public rights of way in the Draft Wicklow County Council Development Plan 2016-2022, in particular PROW 5 and PROW 6.

2. C oras Iompair  ireann’strongly objects to the inclusion of an objective for the preservation of such purported public rights of ways, on grounds, *inter alia*, that no such public right of way exists. C oras Iompair  ireann holds the freehold title to a substantial portion of the lands which are the subject matter of PROW 5 and the title documents are inconsistent with the existence of such public right of way. The map attached with the notice relating to proposed PROW 6 is wholly inadequate and it is difficult to ascertain route of the same and whether such lands are in the ownership of C oras Iompair  ireann’. However, it is clear that both PROW 5 and PROW 6 traverse a railway line and for the reasons which are set out in this submission, a public right of way cannot exist over such railway line. In addition to all of the above, (and without admission of the existence of a public right of way) even if a public right of way exists (and they do not) the inclusion of such public right of way in the development plan should also be counterbalanced by expressly recognising by including a provision that the preservation of any public right of way should be subject to operational interest of C oras Iompair  ireann’over the railway, including safety considerations and more generally the operation of the railway which is in the public interest.

II PROPOSED PROWs

3. The notice issued by Wicklow County Council refers to Section 10.3.8 (Table 10.3) of the Draft Plan which outlines a list of nine amenity route ways which have been identified by the Council for preservation as public rights of way. The notice states that the reason why the planning authority had included an objective in the draft plan for the preservation of the means of access passage listed in Table 10.3 as public rights of way is due to their long habitual use by the public “as of right”. The notice then refers to section 33 of the Land and Conveyancing Law Reform Act 2009 where the term “as of right” refers to “means use or enjoyment without force, without secrecy and without the written consent of the servient owner.” The notice says that the planning authority proposes to include the route identified as PROW 5 (Bray to Greystones Cliff walk) and PROW 6 (the Murrough- Tinakelly to the former Newcastle Railway Station) in Table 10.3 of the draft development plan for preservation as a public right of way. The notice says that while the planning authority has noted that CIE is not registered as the owner of any parcels of land, it is of the opinion that certain sections of the lands encompassed by the routes might be held by CIE under Registry of Deeds.
4. The notice referred to the content of Section 10.3.8 and the relevant map from 10.12 in Chapter 10 were of relevance. It is noted that section 10.38 states that the inclusion of PROW objective for their preservation provides greater protection for such route-ways under the development management provisions of planning legislation whilst also restricting the scope of certain exempted development. It further cites the case of *Walsh v Sligo County County* [2013] IESC 48, where it says it “confers the unrestricted right of the general public to pass and re-pass at all times of the day or night and at all seasons without notice to, or permission from the landowner over whose lands the way runs.” It then says that the common physical characteristics of PROWs have been identified as:
 - It follows a defined route which may be sub-divided amongst different branches
 - The route normally runs between two public places, such as public roads as defined under roads legislation or landscapes of special amenity such as a beaches, woodlands or lakes.

5. Table 10.3 Public Rights of Way sets out which public right of way which include:

PROW5 Bray/Greystones Cliff Walk which it describes as:

“From the southern end of Strand Road/the Promenade in Bray, via the townlands of Newcourt, Ballynamuddagh, Rathdown Upper and Rathdown Lower, to two separate termini in the Greystones harbour area namely: the north beach and Beach Road, respectively”.

PROW6 Newcastle/The Murrrough which is described as:

“Coastal Walk. From the eastern end of Sea road, Newcastle to Tinakelly Murrrough in Wicklow Town (linking up with PROW1)”

NH45 and NH46 then set out certain public right of way objectives.

III GROUNDS OF OBJECTION

6. In setting the grounds of objection, the submission will set out the following:

- 1. Inadequacy of Maps*
- 2. Nature of Public Rights of Way*
- 3. Title of Córas Iompair Éireann*
- 4. Level Crossing*
- 5. Protecting the Interests of the Railway*

1. Inadequacy of Maps

- 7 The maps attached to the notice relating to the proposed PROW 5 and PROW 6 are inadequate, in particular PROW 6. The map route for PROW 6 makes it particularly difficult for Córas Iompair Éireann to ascertain the extent to which it holds title to the lands and indeed to raised issues or objections relating to the route, in the absence of the same. Córas Iompair Éireann therefore object to the inclusion of PROW 6 on the grounds that the map is therefore entirely inadequate. It should further be said if the Council were to confirm the inclusion of PROW 6 in these circumstances would be a breach of fair procedures and a failure to respect the property rights of Córas Iompair Éireann (insofar it is affects the lands of Córas Iompair Éireann).

2. Nature of Public Rights of Way

8. The notice says that the preservation of the means of access passage listed in Table 10.3 as public rights of way is due to their long habitual use by the public “as of

right”. The notice then refers to section 33 of the Land and Conveyancing Law Reform Act 2009 where the term “as of right” refers to “means use or enjoyment without force, without secrecy and without the written consent of the servient owner.”

9. The above description is incorrect and misconceived. A public right of way cannot arise simply by virtue of long habitual user. Equally the reference to section 33 of the 2009 is misguided insofar as the reference to the same arises in the context of easements or private rights of way.

10. In *Walsh v Sligo County Council* [2013] 4 IR 417, the Supreme Court stated at pg. 424:

“[3] A public right of way is a highway. The general public has the right to pass and repass at all times across the land over which the way runs....

[5] Even if it is not maintained by the public road authority, a public right of way is in law a highway. It confers the unrestricted right of the general public to pass and repass at all times of the day or night, and at all seasons without notice to, or permission from, the landowner over whose land the way runs.

[6] The landowner must yield to and respect the rights of the public and must accept any consequent invasion of his right to undisturbed privacy and the enjoyment of his property.

[7] The law of public rights of way is of ancient origin. Except where it can be shown to have existed from time immemorial, or is created by statute, a public right of way is established by proof that the landowner dedicated the way to the public. Dedication may be inferred from a consideration of all the circumstances.

11. Whether there has been a dedication to the public is a question of fact and as will be set out in the next section there is no evidence of dedication to the public either by C oras Iompair  ireann or its predecessors in title in respect of PROW 5 or indeed PROW 6. In *Walsh*, the Supreme Court further stated at para. 66:

“It is a constant theme that whether or not there has been dedication is a question of fact to be decided upon a consideration of all the evidence....

[68] The burden of proof of dedication lies on the person alleging it. The matter cannot be decided without consideration of the whole body of evidence.

Also at para. 75:

“[75] In many of the cases it is said that dedication will be “presumed”, but that does not mean that there is a presumption of law. It is always a question of fact, to be decided in the light of all the evidence.

12. A public right of way cannot arise by way of prescription or simply by long user.

Again in the *Walsh* case, the Supreme Court stated at para. 199/200:

[199] It is not the law that evidence of long user ever mandates or compels a court to find that dedication of a public right of way has taken place. It is inconsistent with the constant refrain of the authorities that evidence of long user may lead a court to make a finding of dedication but that, as stated, for example, by Lord Blackburn in *Mann v. Brodie* (1885) 10 App. Cas. 378 , at p. 386, that “it [user] is not conclusive evidence, but evidence on which those who have to find the fact may find that there was a dedication by the owner whoever he was”.

[200] The trial judge was in error in approaching the question of whether there had been dedication by assuming that the evidence of long user created an “irresistible inference”. That is not the law. The law is that whether dedication has taken place is a question of fact to be decided, as the trial judge himself said elsewhere at several points and, in particular, at para. 28, on a consideration of all the facts”.

13. Wicklow County Council has not adduced evidence whether in the notice or otherwise of the extent user or long user by the public in respect of PROW 5 and PROW 6 and so it is difficult to respond to the same. However, even if there has been long user by the public in respect of PROW 5 and PROW 6, this does not in itself mean that there is a public right of way. There is no factual evidence of a dedication to the public and as will be set out below, the evidence is entirely contrary to the existence of such dedication to the public.

14. A public right of way cannot arise simply because a way has been used regularly by the public over a significant period of time without force, without secrecy and without permission. Under common law a public right of way only arise based on the *intention* of the landowner to *dedicate* a public right of way - this dedication may be express or implied.

3. *Title of Córas Iompair Éireann*

15. Córas Iompair Éireann holds the title to substantial portion of lands, the subject matter of the proposed PROW 5 which is delineated with the map attached to the notice and which will further be described herein. As regards PROW 6, as noted above, the inadequacy of the maps makes it difficult to ascertain the extent of ownership of the lands, the subject matter of PROW 6 and so it is not possible to outline its title.

16. With respect to PROW 5, the extent of Córas Iompair Éireann's title is outlined in a map attached at **Appendix 1** which is divided into particular sections which are described below.

(i) *Section Marked A to B*

17. These lands were the subject matter of a conveyance from Charles Putland to Wicklow and Wexford Railway 1850 which conveyed the freehold to the railway company, the predecessor in title of Coras Iompair Eireann. The land were licenced in 1932 to Bray Urban District Council. A copy of this licence agreement is attached at **Appendix 2**. Paragraph 3 of such agreement states:

“The grant or letting of the said premises so drawn and described on the map annexed hereto as aforesaid shall be deemed to commence on the first day of January on thousand nine hundred and thirty one and shall be subject to determination at any time by either party on giving to the other six month's notice in writing of their intention so to do PROVIDED ALWAYS that the Company shall have power and be entitled to resume possession of the whole or of any part or parts of the said premises at any time for the purpose of their railway works or undertaking upon giving to the Council one month's previous notice in writing under the hand of their Secretary specifying in case the Company do not require possession of the while the part of part which they intend to resume possession”

Therefore while there is permission for the council to use for public benefit, it was expressly provided that this can be revoked with the take back of the lands as provided for in the licence agreement..

18. Paragraph 7 stated that it is hereby declared that the park:

“...shall be used by the Council solely as a public park or ground for recreation purposes for the people or general public and the same shall not be

adapted or utilised by the Council for any other object whatsoever except with the sanction of the Company in writing and it is further declared that the public shall at all times have free and unfettered right or liberty to pass and re-pass through the said Park by the Path or roadway leading round Bray Head to Greystones subject always to such bye-laws rules and regulation as may from time to time be made by the Council with the approval of the Company for the property use management conduct and care of said Park by the public..”

It is therefore evident from the above that there was a licence agreement of the lands to the Council and as a condition of such agreement was that the public were to have unfettered right or liberty to pass and re-pass through the park or roadway leading round Bray Head to Greystones subject to compliance bye-law and regulations made by the Council. This is clearly not a dedication of a public right of way to the public but is in the context of the licence agreement to the Council and must be read subject to the entitlement of CIE to terminate the licence agreement under Paragraph 3 which would also consequently terminate any entitlement of the public to pass and re-pass. This is again further confirmed by Paragraph 11 and 12 of the licence agreement stated:

“11. The Company reserve to themselves their successors and assigns full and free right of roadway or passage and liberty of ingress, egress and regress for them their agents, engineers and workmen from time to time and at all times hereafter to enter pass and re-pass into over and upon all parts of the said Park and gatehouse or lodge or any part thereof for the purposes of the Company’s business or for other necessity”

12. The Company further reserve to themselves their successor and assigns full liberty to erect or provide a Station or halt in connection with the line of railway upon any part of the said Park and to make a road or path through the said Park from the esplanade Bray to the said Station or Halt when erected. And they further reserve to themselves the right to permit said road or path to be at all times or at such times as the Company may determine freely and fully used by the public or by such members thereof as they the Company may think well.”

19. This reservation in particular under Paragraph 12 is wholly inconsistent with the dedication of a public right of way as it reserves the entitlement of Córas Iompair Éireann to erect or provide a station or halt in connection with the line of the railway “upon any part of the said Park”, which would therefore include the route of the alleged right of way.

Section B to C

20. In the section marked B to C, CIE owns the freehold at two particular points (a) and (b) which correspond with tunnel headwalls through the cliff. There is no public right of way held over these portions of the land although the Earl of Meath holds a right of way over these small points/strip.

Section C to D

21. C oras Iompair  ireann holds the freehold title with respect to these lands. The path and the wasteland either side of the road is leased to the Earl of Meath by way of demise dated 18th September 1861, forever or until the rail company needs them back. See attached at **Appendix 3**. The Earl of Meath was to build a gate lodge and employ a gate keeper to control public access to the road. Access is to be given Sunday and three other days, to be determined by the company. The deed makes clear that no dedication of a public right of way is to be allowed although the Earl of Meath is to allow the public to pass insofar as it states that the Earl of Meath

“...and will forever hereafter but without dedicating the same to the public so as to allow them to acquire a right of way thereon licence permit and suffer the public to pass along to and fro to use and enjoy the such permission the said road hereby demised continuously and together with the road confirmation thereof through the townland of Ballinamuddagh property of the Earl of Meath to its junction with the townland of Newcourt four days in each week one of the said days to be Sunday and the other three days should be from time to time named by the said company or by writing under the hand of their secretary for the time being or by their successors or assigns provided always and these presents are upon the express condition that in case of the breach of non-observance and non-performance of any of the covenants hereinbefore contained on the part of the said Earl of Meath his heirs and assigns to be paid observed and performed then and which case it shall and may be lawful and for the said company their successors and assigns if they shall so elect at any time hereafter unto the said premises hereby demised or any part thereof in the name of the whole to re-enter and the same to have again re-possess and enjoy as in their former estate herein contained to the contrary...”.

Again the above is wholly inconsistent with the existence of a public right of way.

Section D to E

22. In respect of the sections marked D to E, it is not clear whether CIE might own the freehold and a more enhanced map would be required to determine matters more fully.

23. Sydenham in *Public Rights of Way and Access to Land* (4th. Ed.) states at pg. 47

“An implied dedication will not arise if the existence of a highway would be incompatible with the purposes of a corporation or other body or person in possession of land for public or statutory purposes”

The purposes and statutory context of Córas Iompair Éireann and its predecessors, means that there can no inference that Córas Iompair Éireann or any of its predecessor companies ever had an intention to dedicate a public right of way on the lands in question and any such intention is negated by the title documents described above. Córas Iompair Éireann has also on occasion sought to the close or restrict public access along the route of the purported public right of way which is also incompatible with the dedication to the public of a public right of way.

4. Level Crossings

24. Both PROW 5 and PROW 6 traverse level crossings over the railway. Under the proposed PROW 5 the public will traverse the railway line at XR012 using the pedestrian stiles and walkway. See photo of such level crossing attached at **Appendix 4**. The level crossing at Ennis Lane (XR012) between Bray and Greystones is on the DART line which is a high frequency service. There have been a number of near misses involving pedestrians at this location. The crossing does not cater for mobility impaired users accessing the lands on the seaward side of the railway at present. Also with respect to PROW 6, there have been problems for IE at various locations where the public have made unofficial crossing points across the railway line and trespassed on the railway line at this locations to gain access to the beach.. Attempts were made by Córas Iompair Éireann’to negotiate with Wicklow County Council to obtain their co-operation as the public were gaining access over land in the control of the Council which needed to have boundaries secured etc. However, no such co-operation was achieved.

25. A public right of way cannot arise over a level of crossing. This is not compatible with the notion of public right of way as conferring

“... the unrestricted right of the general public to pass and repass at all times of the day or night, and at all seasons without notice to, or permission from, the landowner over whose land the way runs”.

The public does not have unrestricted right to pass and repass at all times over the railway.

26. In addition, to the above, is a criminal offence to trespass on a railway and this has been the case since at least the 19th century under different legislation which applied to the Dublin to Wicklow railway. For example, section 23 of the Regulation of the Railway Act 1868 states:

“If any Person shall be or pass upon any Railway, except for the Purpose of crossing the same at any authorized Crossing, after having received Warning by the Company which works such Railway, or by any of their Agents or Servants, not to go or pass thereon, every Person so offending shall forfeit and pay any Sum not exceeding Forty Shillings for every such Offence”.

Section 2 states

“The Term “Railway” means the whole or any Portion of a Railway or Tramway, whether worked by Steam or otherwise:

Section 26 of the Dublin, Wicklow and Wexford Act 1900

“And whereas great risk to the safety of the traffic on the railways of or worked by the Company is caused by persons trespassing on such railways and interfering with the signals and works of the Company and accidents have been occasioned in consequence of such trespassing and persons trespassing have been killed or seriously injured and it is expedient to make more effectual provision for preventing such trespassing Therefore any person who shall trespass upon any of the railways of or worked by the Company shall without having received any personal or other warning than hereinafter mentioned forfeit and pay by way of penalty any sum not exceeding forty shillings for every such offence and such penalty shall upon conviction be recoverable summarily.”

27. Section 62 of the Transport Act 1944 states:

“(1) If any person trespasses upon any of the railways of, or worked by, the Company, he shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding two pounds.

(2) Where a person is charged with an offence under this section in respect of a trespass—

(a) the fact that he had not received a personal warning against the trespass shall not be a ground of defence,

(b) he shall not, in any case, be convicted of the offence unless the Company proves to the satisfaction of the Court that, at the date of the trespass, there was affixed, at the station of the Company and at the level crossing nearest to the spot where the trespass is alleged to have been committed, a notice (painted on boards or printed, painted or enamelled on enamelled or other iron or any other material) in legible characters warning persons not to trespass on the railways of the Company.

(3) No person lawfully crossing the railway of the Company at any level crossing or by means of any accommodation works maintained in pursuance of section 68 of the Railways Clauses Act, 1845, shall be liable to any fine under this section.

(4) An offence under this section may be prosecuted by the Company.

Section 59 of the Transport Act 1950 states:

“(1) If any person trespasses on any of the railways of or worked by, the Board, such person shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding two pounds.

(2) Where a person is charged with an offence under this section in respect of a trespass—

(a) the fact that he had not received a personal warning shall not be a ground of defence,

(b) he shall not, in any case, be convicted of the offence unless the Board proves to the satisfaction of the Court that, at the date of the trespass there was affixed at the station of the Board and at the level crossing nearest to the spot where the trespass is alleged to have been committed, a notice (painted on boards or printed, painted or enamelled, on iron or any other material) in legible characters warning persons not to trespass on the railways of the Board.

(3) No person lawfully crossing the railway of the Board at any level crossing or by means of any accommodation works maintained in pursuance of section 68 of the Railways' Clauses Consolidation Act, 1845, shall be liable to any fine under this section.

(4) An offence under this section may be prosecuted by the Board.

28. Section 131 of the Railway Safety Act 2005 amended the 1950 Act by inserting a new section 59(1) into the 1950 which states:

“A person who trespasses on any of the railways of or worked by the Board is guilty of an offence and is liable on summary conviction to a fine not exceeding €1,000.”

The Railway Safety Act 2005 (Fixed Payment Notice) Regulations 2006, S.I. No. 576/2006, allows a member of Garda Síochána to issue a fixed payment penalty in respect of certain offences which includes trespassing of a railway under section 59 of the 1950 Act as amended.

29. The statutory context demonstrates that:

- a. It is a criminal offence for members of the public to trespass on a railway and
- b. The public are only authorised to cross a railway at dedicated level crossings.

It is therefore clear that the notion of a public right of way over a railway is wholly incompatible with the statutory history and context of crossing at railway. PROW 5 and PROW 6 therefore wholly ill-conceived insofar as they purported to delineate a public right of way crossing a railway line.

5. *Protecting the Interests/Operation of the Railway*

30. Without admission of the existence of a public right of way, the existence or inclusion of the purported public rights of way are not consistent with the particular interests or operation of the adjacent railway. Further or in the alternative, if the preservation of such purported public rights of way are to be included in the Development Plans, there should also be express provision to the effect that the public rights of way should not adversely impact on the operation or safety of the adjacent railway.

31. In this respect particular matters which require to be considered and highlighted with respect to PROW 5 include:

- The masonry wall on the Cliff Walk is maintained by the local authority and is in poor condition in places. There is a history of vandals dislodging capping stones from the wall and projecting them into the railway cutting. One such incident

resulted in the derailment of a passenger train in 2014 where a DART train was derailed by a stone from the cliff walk wall which had been dislodged by vandals, fell down onto the track and derailed the train when it got lodged under a wheel. The responsibility for the maintenance of the wall lies with Wicklow County Council (successors to Bray Town Council). See photographs attached at **Appendix 5**

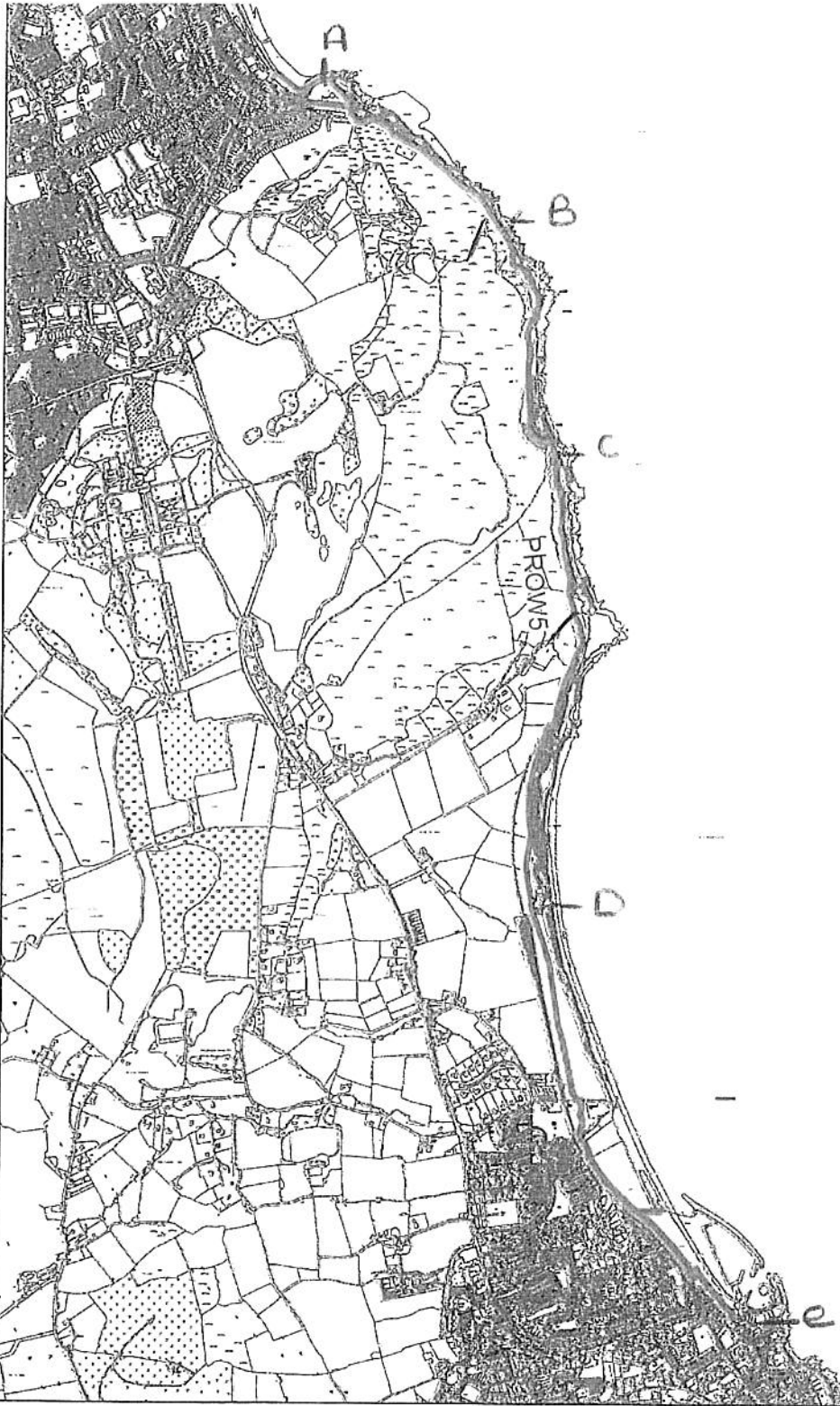
- There is a serious ongoing issue of storm water being drained / diverted by third parties onto Córas Iompair Éireanns lands causing deterioration of the railway cutting. The photo of a derailment near Wicklow town in November 2009 caused by a landslide where drainage had been interfered with by an adjacent landowner. It is the risk of this sort of incident on Bray Head which Córas Iompair Éireann want to highlight particularly due to the County Council haphazardly draining surface water down embankments from the Bray Head Walk. See photographs attached at **Appendix 5**.

32. As regards PROW 6, as noted it has not been possible to ascertain the extent of Córas Iompair Éireann ownership of the lands along the route indicated by the council due to the quality of the route plan provided the nature and terrain of the property in question. However, with respect to the general location of this proposed PROW 6, Córas Iompair Éireann would like to highlight the following:

- Córas Iompair Éireann have ongoing concerns that footfall on the natural sand bank between the railway and the beach is exacerbating the erosion problem where there is no formal coastal defence structures in place. See photos attached at **Appendix 6**.
- Córas Iompair Éireann have concerns regarding future access for coastal defence works to be carried out by IÉ or the Local Authority.
- Córas Iompair Éireann also have concerns regarding trespass issues on the railway or increasing the risk profile at level crossings.

CONCLUSION

33. Córas Iompair Éireann are opposed to the inclusion of the purported public rights of way (PROW5 and PROW6) in the Draft Wicklow County Council Development Plan 2016-2022 for the reasons set out in this submission.



Public Rights of Way

DRAFT WICKLOW COUNTY
DEVELOPMENT PLAN 2016-2022

 Public Rights of Way



Wicklow County Council
Planning Department

Maps Not To Scale

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2015/35/CCMA/Wicklow County Council

N.W. 111370

Deed of Conveyance 1932

Book 3, Page 1256

THE GREAT SOUTHERN RAILWAYS COMPANY

- with -

THE URBAN DISTRICT COUNCIL OF BRAY

AGREEMENT

*W. J. McDonald
Feb 66*

*Noted for
sent to
3/1/32*

John J. McDonald,
Solicitor,
Kingsbridge Station,
DUBLIN.

*Portion of the history handed
to the Urban District Council by
W. J. McDonald dated 4/1/1932*

13/1/32



101/

MEMORANDUM OF AGREEMENT made this *thirtyfirst* day of *March*.
One thousand nine hundred and thirty-two B E T W E E N THE GREAT SOUTHERN RAILWAYS COMPANY (hereinafter called "the Company") of the one part ^{*Patrick J. Maghera B.E. B.Sc. the person appointed to perform the duties of*} A N D THE URBAN DISTRICT COUNCIL OF BRAY in the County of Wicklow (hereinafter called "the Council") of the other part WHEREAS by Agreement dated the fourteenth day of December One thousand nine hundred and twenty eight and made between the Company and the Council the Company let to the Council the premises hereinafter described AND WHEREAS the Company have agreed to cancel the Agreement dated the fourteenth day of December One thousand nine hundred and twenty eight as from the thirty-first day of December One thousand nine hundred and thirty and to re-let the said premises to the Council on the following terms and conditions NOW IT IS HEREBY AGREED between the parties hereto as follows :-

1. The Council doth hereby surrender unto the Company all their estate right title and interest in the premises comprised in the said Agreement of the fourteenth day of December One thousand nine hundred and twenty-eight.
2. The Company shall let and the Council shall take ALL THAT park or field (hereinafter referred to as "the said Park") situated at Bray Head Bray in the County of Wicklow as more particularly drawn and described on the map or plan No. 568/98 annexed hereto and therein coloured red together with the path running from Gunn's Bridge to the entrance to the demesne of the Earl of Meath also drawn on the said Map and thereon coloured brown and also including the strip of ground on the South West side of the railway adjoining Gunn's Bridge as shown in blue on said plan which said strip of ground shall be utilised by the Council if they so desire as an alternative route to the said Park from Putland Road when properly fenced off (all which premises are hereafter referred to as "the said premises").
3. The grant or letting of the said premises so drawn and described on the map annexed hereto as aforesaid shall be deemed to commence as on the first day of January One thousand nine hundred and thirty-one and shall be subject to determination at any time by either party on giving to the other six months' notice in writing of their intention

2/13/3

so to do PROVIDED ALWAYS that the Company shall have power and be entitled to resume possession of the whole or of any part or parts of the said premises at any time for the purpose of their railway works or undertaking upon giving to the Council one month's previous notice in writing under the hand of their Secretary specifying in case the Company do not require possession of the whole the part or parts of which they intend to resume possession.

4. The Council shall pay to the Company on the signing hereof the sum of THIRTY POUNDS as rent of said premises for the year ending the thirty-first day of December One thousand nine hundred and thirty one. The Council shall as and from the first day of January One thousand nine hundred and thirty two pay to the Company a yearly rent or sum amounting to forty per cent. of the total amount received by the Council on the sub-lettings of any part or parts of the said premises as hereinafter mentioned the minimum payment in any year to be the sum of Thirty Pounds while the Council exercise the option of sub-letting and receive rents from such subletting such payments to be made half yearly on every first day of January and first day of July and shall be paid clear of all rates taxes charges assessments and other outgoings whatsoever (saving and excepting landlord's proportion of Income Tax) which are now or may hereafter be imposed charged or assessed upon the said premises or upon the owner or occupier thereof and the Council hereby undertake and agree to indemnify the Company against the payment of all such rates taxes charges assessments or other outgoings Provided always that in the event of the Council not subletting the said premises or not deriving any rents therefrom then in such event the rent payable by the Council to the Company shall be the sum of One Pound per annum.

5. The Gatehouse or lodge adjoining the entrance to said Park shall continue to be occupied as at present by a tenant of the Company but the said tenant shall at all times observe perform and obey the directions or orders of the Council with respect to the hours of opening and closing the gates of the said Park and shall not erect on said Park any building or fence nor be deemed to have any rights over the remainder of the said Park save those of a member of the public.

6. In the event of the said Gatehouse or lodge being vacated by the

tenant of the Company at any time hereafter during the continuance of this Agreement same shall be deemed to be included in the letting hereby made and possession thereof shall thereupon be handed over to the Council PROVIDED ALWAYS that in such event the Council shall pay to the Company an additional rent of TEN POUNDS per annum in respect of the said gatehouse or lodge such additional rent to be payable by half yearly instalments on every first day of January and first day of July in each year the first payment thereof to be made on the next day next after the date upon which the Council shall have obtained possession of same. Such additional rent to be paid clear of all rates taxes charges assessments and other outgoings which may be imposed charged or assessed upon the said gatehouse or lodge or the owner or occupier thereof against payment of which the Council hereby agree to indemnify the Company as in the case of the rates taxes charges assessments or outgoings referred to in Clause 4 (Income Tax only excepted).

7. It is hereby provided and declared that the said Park is granted to the Council upon the express condition that the same shall be used by the Council solely as a public park or ground for recreation purposes for the people or general public and same shall not be adapted or utilised by the Council for any other object whatsoever except with the sanction of the Company in writing and it is further declared that the public shall at all times have free and unfettered right or liberty to pass and re-pass through said Park by the Path or roadway leading round Bray Head to Graystones subject always to such bye-laws rules and regulations as may from time to time be made by the Council with the approval of the Company for the proper use management conduct and care of said Park by the public PROVIDED ALWAYS that the Council shall be at liberty to continue the sub-letting of the portion of the said Park hatched on the Plan attached for the purpose of a Holiday Camp until the thirtieth day of April One thousand nine hundred and thirty-four the date on which the Agreement under which said sub-letting is made expires AND on the expiration of the sub-letting of the said portion of said Park the terms of Clause 4 hereof as to rent shall also apply to said site. The Council shall not assign or sub-let any portion of the said premises coloured red

without first submitting full particulars of the proposed sub-lettings to the Secretary of the Company for the approval of the Company and the latter reserve to themselves the absolute right to approve or disapprove of any such sub-lettings. The said Holiday Camp or any other lettings shall be properly fenced off by the Council to the satisfaction of the Company's Engineer and shall not be conducted in any manner which would create a nuisance or interfere with the enjoyment by the public of the rights and liberties hereinbefore referred to and the Council shall also be at liberty whenever they shall use or permit to be used the said Park for the purposes of public fetes band promenades fireworks or similar entertainments or undertakings or at such other times as may be agreed upon between the Company and the Council to close the entrance or entrances to said premises and to collect or to permit the promoters of such entertainments or undertakings to collect a reasonable entrance fee or to ask for voluntary contributions so as to defray the cost of the said entertainment or undertaking etcetra.

8. The Council hereby undertake and agree at their own cost and expense to maintain the said Park and pathways together with the fences thereon and the stone bridge over the railway and also the said gatehouse or lodge if transferred to the Council as provided for in Clause 6 hereof in as good order and repair as the said Park pathways and fences are now in, and in as good order and repair as the said gatehouse or lodge shall be in when transferred to the Council and so to deliver up the same AND the Council shall at all times during the continuance of this Agreement keep the said premises in a clean and tidy condition free from waste paper refuse and the like and carryout all requirements of the Company in connection with the use of same PROVIDED ALWAYS that any repairs rendered necessary to the said premises or any part thereof by reason of land slips or the falling of rocks or malicious damage or damage caused by fire to fences or bridge shall not be regarded as ordinary maintenance or repair nor shall the Council be held liable for same nor require to repair any damage to the property of the Company or third parties or costs arising therefrom.

9. The Council shall be at liberty to provide an alternative pathway

or passage to the said Park from Putland Road over and along the strip of ground on the South West side of the railway adjoining Gunn's Bridge as shown in blue on the Plan attached hereto and in the event of their electing to provide such alternative pathway or passage shall at their own cost and expense perform and execute all works necessary to define and form the said strip of ground into a passage or pathway of eight feet in width with suitable fences on either side all such work and fencing to be carried out to the satisfaction of the Company's Engineer for the time being.

10. In the event of the rent or additional rent hereby reserved being in arrear for the space of six months or if the Council fail or neglect to observe or perform any of the covenants agreements or conditions herein contained the Company shall be at liberty to terminate this Agreement by giving to the Council one month's previous notice in writing under the hand of their Secretary (anything hereinbefore contained to the contrary notwithstanding) and also to proceed by the usual remedies to recover payment of such arrears of rent from the Council.

11. The Company reserve to themselves their successors and assigns full and free right of roadway or passage and liberty of ingress egress and regress for them their agents engineers and workmen from time to time and at all times hereafter to enter pass and re-pass into over and upon all parts of said Park and gatehouse or lodge or any part thereof for the purposes of the Company's business or for other necessity.

12. The Company further reserve to themselves their successors and assigns full liberty to erect or provide a Station or halt in connection with the line of railway upon any part of the said Park and to make a road or path through the said Park from the esplanade Bray to the said Station or Halt when erected And they further reserve to themselves the right to permit said road or path to be at all times or at such times as the Company may determine freely and fully used by the public or by such members thereof as they the Company may think well.

13. The Company hereby covenant and agree with the Council that the Council paying the said rent or rents hereinbefore reserved and

observing the covenants and conditions hereinbefore contained may peaceably and quietly hold and enjoy the said premises for the purposes hereinbefore more particularly specified and described until said letting is determined as aforesaid without any lawful interruption or disturbance by the Company otherwise than as hereinbefore provided for.

14. The costs of and incident to the preparation and execution of this agreement in duplicate to be paid by the Council.

IN WITNESS whereof the parties have hereunto affixed their respective Seals the day and year first herein WRITTEN _____

PRESENT when the Seal of the Company)

was affixed: the words "Patrick J. Meghan B.E.
B.Sc. the person appointed to perform the duties of:"
having been first inserted in line 4 of the first
page hereof.

Patrick J. Meghan
Secretary

PRESENT when the Seal of the Council)

was affixed:

Syad Longsoo
Joseph Longsoo
Hona Ni Campbell
Joseph

Patrick J. Meghan

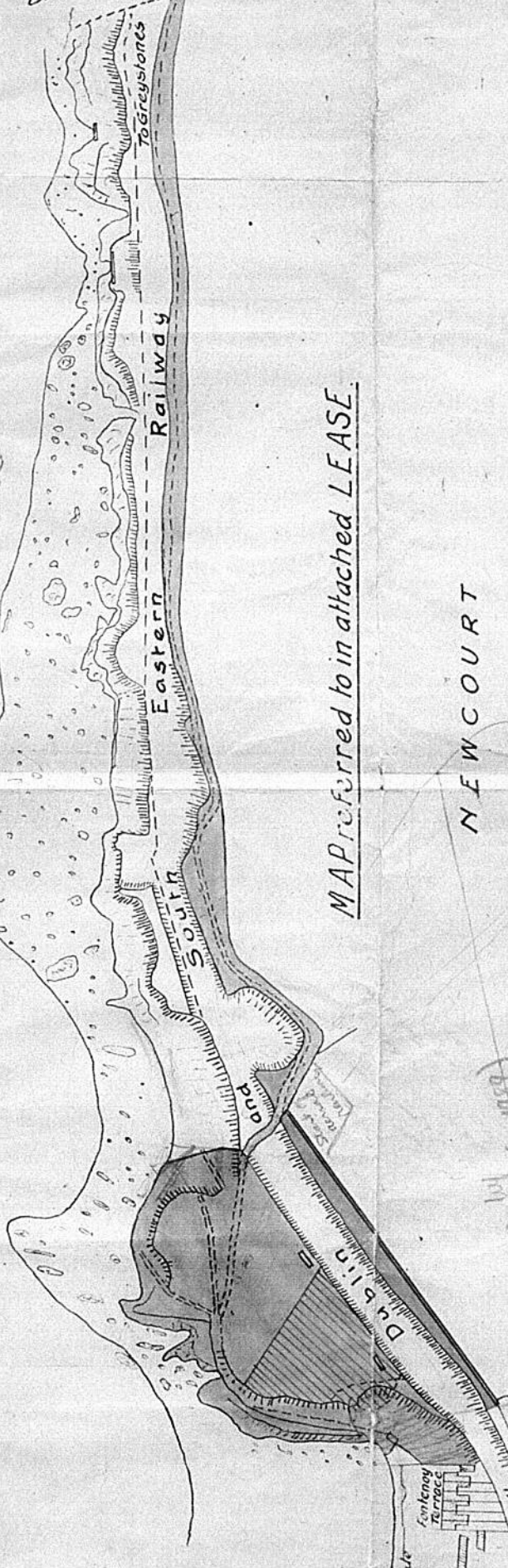
U.S. RAILWAYS
4- JAN 1937
From Mr. Lacle
FILE NO. 28516
CHIEF ENGINEER

U.S. RAILWAYS
DEPARTING OFFICE
1 JAN 1937
588-98
CHIEF ENGINEER

BALLYNAMUDUAC

Sea

The



MAP referred to in attached LEASE.

NEW COURT

Parish of Bray

URBAN DISTRICT OF BRAY

COUNTY OF WICKLOW.

Handwritten note:
New Court
Bray
Dublin
to Greystones

Scale. 25.344 ins to 1 St. Mile.

Appendix III

THIS INDENTURE made the 19th day of September one thousand eight hundred and sixty one made between the Dublin Wicklow and Wexford Railway Company incorporated by the several Acts of Parliament and hereinafter called the Company of the one part and the right Honourable William Earl of Meath of the other part Witnesseth that in consideration of the yearly rent and covenants hereinafter contained on the part of the said Earl of Meath his heirs and assigns to be paid observed and performed the day the said company by these presents to demise grants set and to farm let unto the said Earl of Meath his heirs and assigns **ALL THAT** road or passage leading from the point denoted by the letter A on the map hereunto annexed in the townland of Rathdown Upper to the point on the map denoted by the letter B at the junction of the townland of Ballinamuddagh with the said townland of Rathdown Upper together with the wasteland adjoining the said road which said road and wastelands are parts of the townland of Rathdown Upper and are delineated on the map to these presents annexed and thereon coloured red with all premises contain in the whole thirty seven acres three roods and thirty perches statute measure or thereabouts and are situate in the barony of Rathdown in the county of Wicklow

TO HAVE AND HOLD the said demised premises for the appurtenances unto the said Earl of Meath his heirs and assigns forever he the said Earl of Meath his heirs and assigns yielding and paying unto the said company their successors and assigns therefore and there out forever the yearly rent or sum of one shilling payable on the first day of January and each year over and above all taxes charges assessments landlord's portion of poor rate and income tax which are all to be paid by the said Earl of Meath his heirs and assigns and the said Earl of Meath doth hereby himself his heirs and assigns covenant promise and agree to and with the said company their successors and assigns that he the said Earl of Meath his heirs and assigns shall will on the 1st day of January each year of every year forever hereafter pay or cause to be made unto the said company their successors and assigns the reserved yearly rent or sum of one shilling rent above all taxes charges in positions whatsoever and shall and will pay all such taxes charges and assessments and all such probate and income taxes by shall be assessed charged or made payable for or in respect of the said premises as well or on the part of the landlord to the tenant and also with the said Earl of Meath his heirs and assigns shall and will repair forever thereafter maintain and keep in good and substantial order repair and condition the said road and wastelands hereby demised and all improvements and buildings now made or hereafter to be made or erected thereon except boundary fences and walls which are to be kept in repair by the said company and at the end or other determination of this demise shall and will so yield and deliver same to the said company successors and assigns and further that the said Earl of Meath his heirs and assigns shall from time to time and at all times hereafter at his or their cost and expense provide and keep a gatekeeper and porter

the ground hereby demised at the said point marked A and also that he will the said Earl of Meath his heirs and assigns shall and will forever hereafter but without dedicating the same to the public so as to allow them to acquire a right of way thereon licence permit and suffer the public to pass along to and fro to use and enjoy the such permission the said road hereby demised continuously and together with the road confirmation thereof through the townland of Ballinamuddagh property of the Earl of Meath to its junction with the townland of Newcourt four days in each week one of the said days to be Sunday and the other three days should be from time to time named by the said company or by writing under the hand of their secretary for the time being or by their successors or assigns provided always and these presents are upon the express condition that in case of the breach of non-observance and non-performance of any of the covenants hereinbefore contained on the part of the said Earl of Meath his heirs and assigns to be paid observed and performed then and which case it shall and may be lawful and for the said company their successors and assigns if they shall so elect at any time hereafter unto the said premises hereby demised or any part thereof in the name of the whole to re-enter and the same to have again re-possess and enjoy as in their former estate herein contained to the contrary in any wise notwithstanding and it is also agreed that the said company their successors and assigns shall and may from time to time and at all times hereafter have the full benefit of the foregoing proviso in case of any breach of any covenant herein contained notwithstanding that they their successors or assigns shall from time to time heretofore acquired in the breach of all or any of the said covenants by the said Earl of Meath his heirs and assigns and this is hereby further agreed and declared that the said company their successors and assigns shall and may be at liberty from time to time whenever they shall require to make use of the said road hereby demised for any purpose in connection with their roadway and in case they shall require the said wastelands adjoining said road or any part or parts thereof for the purposes of their railway resume possession thereof and to re-enter and the same to have again possess and enjoy in their former estate anything being contained to the contrary notwithstanding **IN WITNESS WHEREOF** the said Dublin and Wicklow Company have hereunto set their common seal the said right Honourable William Earl hath hereunto subscribed his title of honour and affixed his seal the day and year first in these presents

Company Seal

Meath Seal

Appendix 4



Level Crossing at Ennis Lane between Bray and Greystones.

Appendix 5





Derailed rail car which occurred in July 2014



A derailment near Wicklow town in November 2009

APPENDIX 6



Newcastle to Wicklow



Newcastle to Wicklow