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## **Section 49 of the Planning and Development Act 2000, as amended Supplementary Development Contribution Scheme - Luas Cross City**

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Section 49 of the Planning and Development Act 2000, as amended provides for the making of a Supplementary Development Contribution Scheme which allows a Planning Authority to attach a condition to a planning permission, for development which benefits from public infrastructure, requiring payment of a financial contribution in respect of the provision of that infrastructure. Such infrastructure can include rail or other transport infrastructure, as defined in the Act.

This infrastructure can be provided or carried out by the Planning Authority or pursuant to an agreement entered into by the authority with another person/agency.

Luas Cross City (LCC) is a 6km line extension of the Luas system to the north of the city centre, providing an interchange between the existing Red and Green Luas lines. LCC serves 13 new Luas Stops located at

- Dawson Street
- Trinity College
- Westmoreland Street
- O'Connell Street (GPO)
- Marlborough Street
- O'Connell Street (Upper)
- Parnell Street
- Dominick Street
- Broadstone (DIT)
- Grangegorman
- Phibsborough
- Cabra
- Broombridge

LCC is a significant step in the creation of an integrated public transport system for Dublin, providing an effective link between the main city centre shopping districts at Henry Street and Grafton Street, linking the central city business precincts and providing access to the city centre for the communities of Phibsborough and Cabra as well as providing an interchange with the Irish Rail system at Broombridge. Its delivery and successful operation will be an essential component in securing a consolidated and sustainable city while also contributing significantly to the revitalisation and re-development of the city.

I am proposing to advertise a Supplementary Development Contribution Scheme in relation to the provision of LCC. The Scheme would affect all new development within 1km either side of the LCC line. The Scheme being prepared would not have any adverse impact on development in the City. It is likely to raise approximately

€27.026m over a thirty year period, a period which is deemed to be reasonable for a capital infrastructural project of this type.

I am bringing the matter to the attention of the members at this stage. You will be aware that the adoption of a scheme is a Reserved Function. Prior to it coming to the Members for a decision a scheme must be prepared, published and advertised stating;

- (a) that a draft scheme has been prepared,
- (b) giving details of the proposed contributions under the draft scheme
- (c) indicating the times at which, the period (which shall be not less than 6 weeks) during which, and the place where, a copy of the draft scheme may be inspected, and
- (d) stating that submissions or observations may be made in writing to the planning authority in relation to the draft scheme, before the end of the period for inspection.

Not later than 4 weeks after the expiration of the period for making submissions a report is submitted to the members. The members then consider the report and make the scheme unless by resolution they decide to vary or modify the scheme or decide not to make the scheme.

It is intended to put a draft on display on Monday 9<sup>th</sup> January, 2016 for a period of 6 weeks. A copy of the Draft Scheme is attached for the Members information.

The report on the submissions received on the Draft Scheme will come before the members most likely in April for a decision.

**Jim Keogan**  
**Assistant Chief Executive**

**24<sup>th</sup> November 2016**

## DUBLIN CITY COUNCIL

### SUPPLEMENTARY DEVELOPMENT CONTRIBUTION SCHEME (under Section 49, Planning & Development Act, 2000 as amended)

#### LUAS CROSS CITY (ST. STEPHEN'S GREEN TO BROOMBRIDGE LINE)

##### 1. Definition of Project

The Luas Cross City (LCC) is set out in the Government's capital framework for transport for the period 2006 to 2015 and was authorised by Railway Order of An Bord Pleanála in 2012. LCC is a 6km line extension of the Luas system to the north of the city centre, providing an interchange between the existing Red and Green Luas lines. LCC serves 13 new Luas Stops located at

- Dawson Street
- Trinity College
- Westmoreland Street
- O'Connell Street (GPO)
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##### 2. Policy Framework

The provision of quality public transport is central to Government policy on sustainable development as expressed in the Government document 'Sustainable Development - a Strategy for Ireland' and in the National Transport Authority's Integrated implementation plan 2013-2018.

It is the policy of Dublin City Council as set out in successive Development Plans to support the sustainability principles set out in the National Spatial Strategy, the National Transport Authority's integrated implementation plan 2013-2018 and the Regional Planning Guidelines for the Greater Dublin Area. The Dublin City Development Plan 2016-2022 through its vision and policies supports the provision of LCC.

The overall vision for the city outlined in the plan states:

*“Within the next 25 to 30 years, Dublin will have an established international reputation as one of Europe’s most sustainable, dynamic and resourceful city regions. Dublin, through the shared vision of its citizens and civic leaders, will be a beautiful, compact city, with a distinct character, a vibrant culture and a diverse, smart, green, innovation-based economy. It will be a socially inclusive city of urban neighbourhoods, all connected by an exemplary public transport, cycling and walking system and interwoven with a quality bio-diverse greenspace*

*network. In short, the vision is for a capital city where people will seek to live, work and experience, invest and socialise, as a matter of choice.”*

Chapter 8 of the Development Plan addresses transportation issues within the context of infrastructure provision. The development plan proposes to increase capacity on public transport in order to promote modal change to more sustainable modes.

*Policy MT2 : ...to continue to promote modal shift from private car use towards increased use of more sustainable forms of transport such as cycling, walking, and public transport and to co-operate with the NTA, Transport Infrastructure Ireland (TII) and other transport agencies in progressing an integrated set of transport objectives. Initiatives contained in the Government’s ‘Smarter Travel’ document and in the NTA’s Draft Transport Strategy are key elements of this approach.*

In relation to public transport the Development Plan fully supports the further enhancement of Luas, Quality Bus Corridor and other projects, with the overall aim of achieving a fully integrated transport network for Dublin. A number of policies are in place to promote and support the development of this infrastructure including:

*Policy MT3 – To support and facilitate the development of an integrated public transport network with efficient interchange between transport modes, serving the existing and future needs of the city in association with relevant transport providers, agencies and stakeholders.*

*Policy MT4 - To promote and facilitate the provision of Metro all heavy elements of the DART Expansion Programme including DART Underground (rail interconnector), the electrification of existing lines, the expansion of Luas and improvements to the bus network in order to achieve strategic transport objectives*

The delivery and successful operation of LCC will be an essential component in securing a consolidated and sustainable city. The Supplementary Development Contribution Scheme will assist in the funding of this key piece of infrastructure, thus significantly contributing to the revitalisation and re-development of the city.

### **3. Legal Basis**

The legal basis for a supplementary development contribution scheme is set out in Section 49 of the Planning and Development Act 2000, as amended. This allows a Planning Authority to attach a condition to a planning permission for development that will benefit from a specified public infrastructure service or project, requiring payment of a financial contribution in respect of it in line with a supplementary development contribution scheme made by the Authority. A public infrastructure service or project is defined in Section 49 (7) to include the *"provision of particular rail, light rail or other public transport infrastructure, including car parks and other ancillary development..."*

The public infrastructure project or service can be provided by another person, pursuant to an agreement with the Planning Authority.

The supplementary development contribution scheme must specify the particular public infrastructure service or project and the area within the functional area of the Planning Authority to which it relates and must set out the basis on which the contributions have been determined.

The legislation allows for different rates of contribution to be applied to different classes or descriptions of development. It also allows for exemptions for specified classes of development.

Provision is made in the legislation for public consultation in relation to a proposed Section 49 scheme.

#### **4. Agreement of Transport Infrastructure Ireland.**

The detailed implementation of a Section 49 scheme is subject to an agreement between the Planning Authority and the provider of the public infrastructure service or project, in this case TII.

#### **5. Project Programme**

LCC was authorised by Railway Order granted by An Bord Pleanála in 2012 and is currently under construction. It is intended to commence operations before the end of 2017.

#### **6. Extent of Scheme**

An area extending 1km either side of the LCC line is identified as the transportation corridor within which benefit will accrue to development. A line has been drawn defining the corridor that rationalises the 1km distance to nearby features such as roads and other boundaries.

The catchment area is considered to represent a reasonable walking distance to stations along the proposed line.

The project benefits the scheme area, enables its development in a sustainable manner with higher densities in accordance with the City Development Plan and the Residential Density Guidelines. The project improves the attractiveness and marketability of the scheme area for residential, commercial and retail development.

The area of the scheme is identified on the accompanying scheme map.

#### **7. Discounting of Benefit to Existing Development**

The total area of land within the scheme area which is zoned for development is 312.05 hectares. This excludes any land within the overlap with the Line C1 Section 49 scheme. It is estimated that the land with potential for development or re-development is 57.05 hectares. The balance of 255 hectares is considered to be existing development. Under a Section 49 Scheme benefit that accrues to existing development must not be included in the determination of the contributions. The Planning Authority, in making this scheme, has had regard to the benefit estimated to accrue to property likely to be developed or redeveloped in the Scheme Area and not to existing development.

#### **8. Cost of Project**

The approved budget based on the updated detailed business case is. €368 Million, including detailed design, acquisition of property, diversion of utilities, provision of track and stops, power and control systems, surfacing car parks, other ancillary development and rolling stock.

#### **9. Quality of Service**

When completed, LCC will extend the existing Luas Green line from its existing terminus at Stephen's Green through the city centre to Broombridge. It will provide convenient interchange with the Red Luas line and with the Maynooth rail line at Broombridge. This extension will have all the positive features of the existing Luas system including a frequent

level of service and reliable journey times. It is expected that the extension will add 10 million extra trips per annum to the Luas system.

## 10. Rate of Levy

In determining appropriate rates of levy for the Scheme, consideration was given to the quality of service that will be provided by LCC, to the objective of avoiding the diversion of development from the area due to excessive rates of levy and to the estimated benefit to different classes of development.

A scheme may make provision for payment of different contributions in respect of different classes or descriptions of development. Three different classes of development have been identified requiring the payment of contributions, namely Residential, Commercial and Retail. The rates of levy to be applied to each class of development reflect the relative benefits which accrue to that class.

In the Dublin city area where densities for residential and commercial development are likely to be high and in many cases sites for development will be small, it is considered that, given the inherent attractiveness of the city centre for investment, it is appropriate to formalize the contribution in terms a rate per unit of residential development, and in the case of retail and commercial development, in terms of rates per square metre.

Accordingly the following rates of supplementary development contributions are proposed for the specified land uses;

<b>Residential:</b>	<b>€2,000 per unit</b>
<b>Commercial:</b>	<b>€38 per square metre</b>
<b>Retail:</b>	<b>€43 per square metre</b>

These rates are subject to review at the end of Year 2 and at two-yearly intervals thereafter. If no revision occurs, the then existing rates shall continue.

The contributions must be paid prior to commencement of development or on a phased basis agreed with Dublin City Council, at the rate in effect at the time of commencement.

## 11. Exemptions

The following categories of development will be exempted from the requirement to pay development contributions under the Scheme:

- *Permissions for a change of use from one commercial use to another are exempt. Any net additional floorspace will be charged at the commercial rate;*
- Domestic extensions;
- Development in receipt of a disabled persons' grant;
- Social housing units, including those which are provided in accordance with an agreement made under Part V of the Planning & Development Act 2000, as amended or which are provided by a voluntary or co-operative housing body, which is recognised as such by Dublin City Council;
- Non-fee paying primary schools and secondary schools;
- Not-for-profit, community-run childcare facilities;
- Development to be used for social, recreational or religious purposes and not to be used for profit or gain;

- Development to be used as a workshop, training facility, hostel or other accommodation specifically for persons with disabilities and not to be used for profit or gain;
- The non-built elements of recreational facilities (eg. Playing pitches, golf courses)
- Works to, and change of use from residential use to commercial and vice versa, of buildings included in the Record of Protected Structures. Protected Structure refers to the actual structure(s) and does not include development within its curtilage;
- Ancillary uncovered surface car parking;
- Residential ancillary car parking;
- Masts and antennae, dish and other apparatus/equipment for communication purposes that form part of the National Broadband Scheme (NBS) as defined by the Department of Communication, Energy and Natural Resources (DCENR)
- Renewable Energy (RE) development with a capacity up to 0.5MW will be exempt. Larger capacity RE development will be charged at €1,000 per each 0.1MW above an installed capacity of 0.5MW.
- For clarification purposes, the following development will not be exempt from the requirement to pay development contributions;
  - Third level educational institutions and student accommodation
  - Fee paying schools
  - Hospitals, medical facilities, primary care centres and similar developments including any ancillary buildings

## 12. Reductions

The following categories of development will be liable for a reduced rate of development contributions under the Scheme:

- Where an applicant is granted permission to demolish in part or in full an existing building and replace with another, then the development contribution payable is to be charged on the net additional floorspace created
- In the case of a change of use from residential use to commercial and vice versa, development contributions will be calculated at 50% of the applicable rate. Where development contributions under a Section 49 Scheme were paid in respect of the former use, the contribution payable on the new proposal will be net of the quantum of development previously paid for. The Development Contribution Scheme does not provide for any rebate or refund in this regard. Agents/applicants should provide evidence of prior payment at application stage in order to expedite assessment and avail of this provision.
- Permissions for minor extensions to Protected Structures shall be calculated at 50% of the applicable rate of contribution. For the purposes of this Scheme, minor extension is defined as a new extension which is no greater than 50% of the extent of the total floorspace of the Protected Structure. Protected Structure refers to the actual structure(s) and does not include development within its curtilage.

- Open storage/hard surface commercial space development, other than car parking, shall be liable for development contributions at one third of the commercial rate
- Ancillary non-surface, non-residential car parking will be calculated at 50% of the applicable rate of contribution
- Ancillary undercroft car parking will be calculated at 50% of the applicable rate of contribution.
- Temporary permissions shall be liable for development contributions at one-third of the applicable rate of contribution. Further temporary permissions granted for the same development will not be charged provided they are granted within 5 years from the expiry date of the original temporary grant of permission (a maximum of one such additional temporary permission will apply). In cases where a subsequent full planning permission is granted for the same development the contribution payable on the new proposal will be net of the amount already paid.

### **13. Retention Permissions**

Exemptions and Reductions shall not apply to permissions for retention of development.

### **14. Economic Impact of Levy**

Levies collected under the proposed scheme will capture a relatively modest proportion of the enhanced property value brought about by the introduction of LCC.

The economic analysis of enhanced property values in the catchment area of LCC assessed the contribution made by the following factors;

- an increased density of residential and commercial development;
- potential uplift in property values due to the presence of the light rail infrastructure; and
- wider economic benefits such as environmental improvements and the opening up of additional regional accessibility.

The underlying demographic, socio-economic and commercial trends point to continued investment in the catchment area, with a continuing requirement for housing and employment opportunities. Wider connectivity and the proximity to the city centre will further add to the attractiveness of the area.

LCC will add to the supply of residential and commercial property in the city through increasing the potential for facilitating high density development. This has been estimated as being approximately 937 residential units and 47,604sqm of office floorspace. In addition, the introduction of LCC supports developments such as the consolidation of Dublin Institute of Technology on their campus at Grangegorman.

Experience internationally and for other public transport projects in Ireland identifies that there is a high probability of significant price increases attributable to the delivery of the improved public transport infrastructure and services.

The estimated impact of LCC on the value of new residential development in the catchment is €75.4m. The increase comprises increased profits from increased densities and from the price premium brought about by LCC.



Similarly, the value of new commercial (office) development in the scheme area is estimated to be €41.3m. Price premiums and additional profits from increased densities are the underlying reasons for this increase.

The total estimated impact of LCC on the value of new development in the catchment area is €116.7m, made up of €75.4m from residential development and an additional €41.3m from commercial (office) development.

Wider Economic Benefits from the scheme will also contribute to its success. These include the potential for agglomeration, benefits to the city's tourism and public image, improvements to the local physical environment and social benefits in serving a wider area with quality high public transport options.

The economic and financial assessment indicates the proposed levy scheme will recoup approximately 7% of the total development costs of the scheme. The estimated yield from the scheme amounts to a modest proportion of the increased property values. The rate of contribution is set at a level that is not expected to significantly impact on the decision to invest along the corridor of the LCC route.

## **15. Estimate of Levy Income**

It is estimated that the yield from the LCC Section 49 levy will be €27.026 million. No allowance has been made for possible increases in the levy amount following the 2 yearly review. This equates to approximately 7% of the capital cost of the project.

It is estimated that the benefits to the value of €116.7 million will accrue to developments that will be subject to the levy. These benefits arise due to increased density of development and enhanced property and rental values because of LCC. The projected yield from the levy scheme is of the order of 23% of the financial benefits that arise.

## **16. Administration of Levy**

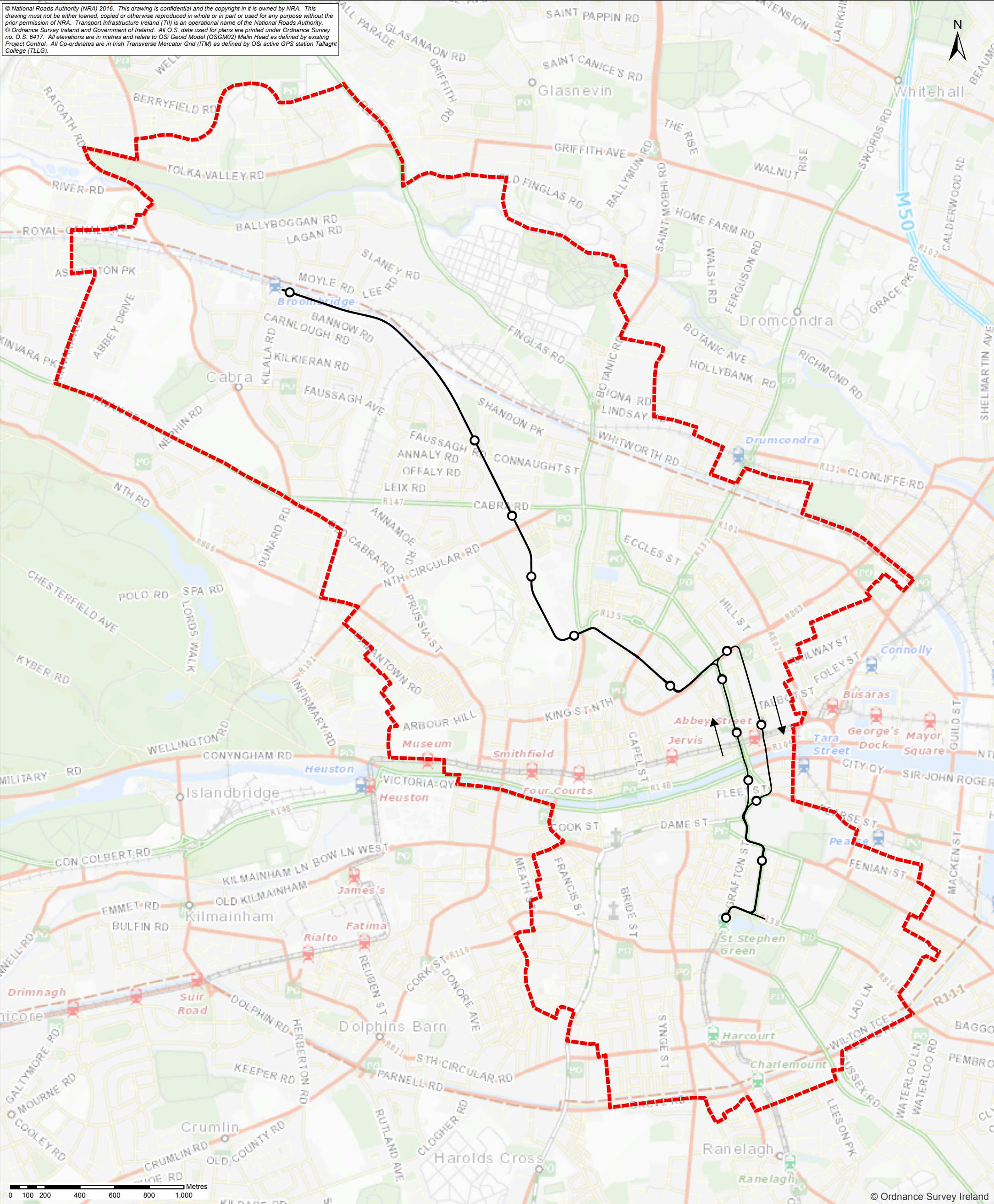
The scheme will apply from the date it is made until the 30<sup>th</sup> anniversary of that date. The scheme may be reviewed periodically by the planning authority having regard to circumstances prevailing at that time.

Dublin City Council will receive the contributions to be made under this scheme and pay them to TII in accordance with an agreement to be made with it. Pending completion of that agreement Dublin City Council will retain the contributions collected and pay to TII when the agreement is concluded. The agreement with TII will provide that the contributions received by Dublin City Council under this scheme shall only be used for the LCC project.


## **17. Areas of Overlap with other Section 49 Supplementary Development Contribution Schemes**

Where the area of this scheme overlaps with another Section 49 Supplementary Development Contribution scheme in respect of a Luas or Metro railway, any development within such area of overlap shall only be charged a levy under the provisions of this Scheme, with the exception of development within the area of the DCC Luas C1 Docklands Scheme ("the C1 Scheme"). The C1 Scheme shall be the only Section 49 scheme to apply to development within the area covered by that scheme until such time as the C1 Scheme expires, or is otherwise terminated, Upon the expiry, or other termination, of the C1 Scheme the provisions of this Scheme shall apply in relation to development in the area formerly covered by the C1 Scheme.


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- Luas Cross City Section 49 Levy Scheme Area
- Luas Cross City Alignment
- Luas Cross City Stop Location



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LOCATION: Dublin City

MAP TITLE:  
**Luas Cross City  
Section 49 Levy Scheme Area**

PREPARED: COF	REVIEWED: DW	APPROVED: POD
	CHECKED: DW	DATE: 24/11/2016
		SCALE: 1:20,000

AREA NO.      PLAN NO.      SUBJECT.