

Minutes of Board Meeting

Held on Friday 15th November 2013

At 10.30am in NTA Offices on Harcourt Lane

Present: Mr John Fitzgerald (Chairperson), Mr Gerry Murphy (CEO), Mr Hugh Creegan (Director of Transport Investment and Taxi Regulation), Mr Owen Keegan (Dublin City Manager), Mr Frank King, Ms Linda Saunders, Dr Berna Grist, Ms Valerie O'Reilly, Mr Daithí Alcorn.

Apologies: Mr Damian Usher, Mr James Deegan, Ms Margaret O'Shaughnessy.

Staff in attendance: Mr Philip L'Estrange (Item 3), Ms Anne Graham (Items 1 to 5), Mr Michael Warnock Smith and Mr Jeremy Ryan (Item 5) and Mr Karl Seeber (Minutes).

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1. Minutes of previous meeting

The draft minutes of the meeting held on 18th October 2013 were agreed without amendment.

2. CEO Report

The Chief Executive updated the Board on a number of developments including:-

- the Authority's review of DART fleet management;
- provision of an off-street coach parking area in Dublin city centre;
- the Authority's staffing situation;
- planned major public transport advertising campaign and associated re-design of the *Transport for Ireland* website;
- Google link-up with National Journey Planner;
- the establishment of rural transport co-ordination units;
- planned new cycle planner app and website.

Board members raised a number of issues including the delay in finalising an NTA pension scheme, the funding of accessibility improvements, bus shelters and a contractual issue relating to Leap card.

3. Financial Report

Mr L'Estrange provided an update on the Authority's management accounts to the end of September 2013 which are broadly in line with projections. He also drew attention to the charging of staff costs and responded to a query concerning the apportionment of bank interest earned by the Authority. He indicated that the Authority's draft budget for 2014 will be brought to the Board for consideration at its December meeting.

4. Taxi Regulation

Mr Creegan explained that in accordance with section 34 of the Taxi Regulation Act 2003 the Authority was proposing to make the Taxi Regulation Act 2003 (Local Area Hackney) Regulations

2013 to give effect to the recommendations of Action 46 of the Taxi Regulation Review Report published by the Government in January 2012.

Following discussion the Board agreed that the proposed Regulations be made in the form of the draft Regulations presented to it subject to the following amendments:

- i. In the first line of Regulation 6, the word “may” to be replaced by “shall”; and
- ii. The addition of a Regulation 21 stating: “21. In the issue or renewal of any local area hackney licence, the Authority shall specify the relevant area in respect of which the local area hackney licence is being granted.”.

Mr Creegan noted that the Authority is in the process of finalising consolidated regulations in respect of the small public service vehicle sector. As provided for in the recently enacted Taxi Regulation Act 2013 the Authority will arrange to put the consolidated Regulations out to public consultation in advance of their consideration by the Board.

5. Direct Award Bus Contracts

The Chief Executive made a detailed presentation to the Board in which he recalled the actions already taken by the Authority in its consideration of arrangements for the procurement of subsidised public bus services in the State following the expiry next year of Dublin Bus and Bus Éireann’s Direct Award contracts in respect of those services. He also explained the timescale within which a decision must be made by the Board.

He then outlined the outcome of the Authority’s recent consultations with interested parties, including Dublin Bus and Bus Éireann, regarding the Authority’s proposals to put a limited number of bus services currently provided by the companies out to competitive tendering.

Following a detailed discussion, the Board made a Decision on the Award of a Public Bus Services Contract to Dublin Bus from 1 December 2014, as set out in the attached document.

In relation to the decision on Award of Public Bus Services Contract to Bus Éireann from 1 December 2014, it was decided that the Chief Executive should review the procedural issues associated with the 12th November submission from Bus Éireann and revert to the Board on its implications.

6. Draft Integrated Implementation Plan

Mr Creegan outlined the outcome of the public consultation process undertaken by the Authority in respect of the draft Plan and next steps. Following a discussion the Board agreed to adopt the draft Integrated Implementation Plan with the amended changes as presented to it, subject to the replacement of Table 9 (Funding Profile for the Integrated Implementation Plan by Sub-Programme) with the updated table presented at the meeting.

7. Dublin Cycle Planner

This item was postponed and will be considered at a future meeting.

8. Any other business

None.

Next Meeting: Friday 13 December 2013 @ 10.30am in NTA Offices.

Signed: _____
John Fitzgerald, Chairperson

Dated: _____



Decision on Award of Public Bus Services Contract to Dublin Bus from 1st December 2014

Published Proposals

On 11th September 2013 the National Transport Authority published four documents in relation to whether it would:

- (i) enter into another direct award contract with Dublin Bus in 2014;
- (ii) change that direct award contract so that in 2016 the services contemplated by that contract would be reduced by approximately 10%; and
- (iii) seek to have those removed services provided through a separate contract or contracts following a competitive tender process.

The four published documents were:

1. Consultation Paper;
2. Technical Report on Contract Options;
3. Economic analysis of a direct award bus contract in the Dublin bus market (prepared by Ernst and Young for the Authority);
4. Report on operation of the 2009 direct award contract with Dublin Bus.

Legislation

The legislative background to this matter is as follows.

The Dublin Transport Authority Act 2008 provides, at section 52(6)(c), that:

- (i) *Subject to subparagraph (ii), the Authority may enter into direct award contracts subsequent to those which subsection (3) applies.*

- (ii) *Where the Authority proposes to enter into direct award contracts subsequent to those referred to in subsection (3)(a), it may only do so where it is satisfied that the continued adequacy of the public bus services to which the contracts relate can only be guaranteed in the general economic interest by entering into such direct award contracts.*

In other words, on expiry of the current Direct Award contract with Dublin Bus on 30th November 2014, the Authority may enter into a subsequent direct award contract. This entitlement is subject to the requirements of section 52(6) of the Act.

These requirements include:

- being satisfied that the continued adequacy of the public bus services can only be guaranteed in the general economic interest by entering into such direct award contract (section 52(6)(c)(ii));
- inviting and considering submissions from the holder of the direct award contract and from other interested parties (including users of the public bus services the subject of the contract) (section 52(6)(d)); and
- preparing and publishing a report relating to:
 - the operation of the public bus services to which the original direct award contracts relate;
 - the consideration of any submissions made to it under section 52(6)(d); and
 - among other things, the reasons for entering into the subsequent direct award contract (section 52(6)(e)).

Regulation EU 1370/2007, in Article 7(2), also places an obligation on the Authority to ensure that “... *at least one year before the launch of the invitation to tender procedure or one year before the direct award*” that a notice is placed in the Official Journal describing the type of award envisaged and the services and areas potentially covered by the award.

Consultation

Through advertisement in the national press, the Authority invited submissions on its proposals from the public, encompassing interested parties and users of the public bus passenger services and from Dublin Bus (the holder of the Direct Award contract in question).

The period for receipt of submissions was 11th September to 11th October 2013.

These submissions are available on the Authority's website at www.nationaltransport.ie.

Consideration and decision

The National Transport Authority in exercise of the powers conferred on it by the Dublin Transport Authority Act 2008, as amended, having considered:

- the proposal, as set out in the Consultation Paper together with the supporting documents published on 11th September 2013, on a new Direct Award Public Bus Services Contract to Dublin Bus to commence on 1st December 2014;
- the public submissions received in relation to this proposal, including from users of the services in question;
- the views of Dublin Bus, the operator of the direct award contract in question;
- the general objectives -of the Authority which it is obliged to seek to achieve (in accordance with section 10 of the Act), including but not limited to:
 - the development of an integrated transport system which contributes to environmental sustainability and social cohesion and promotes economic progress,
 - the provision of a well-functioning, attractive, integrated and safe public transport system for all users,
 - improved access to the transport system and, in particular, to public passenger transport services by persons with disabilities,
 - increased use of the public transport system,
 - regulated competition in the provision of licensed public bus passenger services in the public interest,
 - value for money,
- the strategic importance of the public bus system for both regional and national economic performance and social cohesion and the role of the Direct Award contracts in protecting the continued adequacy of the public bus passenger services in the general economic interest,

has decided and determined that:

1. it is satisfied that that the continued adequacy of the public bus services to which the direct award contract relates can only be guaranteed in the general economic interest by entering into a subsequent direct award contract;
2. the Authority shall enter into a direct award contract (the “**2014 direct award contract**”) in accordance with section 52(6) of the Act to Dublin Bus;
3. the 2014 direct award contract to Dublin Bus will consist of two elements:
 - a. the direct award of certain routes (the current list of which is specified in Table A1 of Schedule 1) for the five year period up to 30th November 2019 except to the extent such routes fall within paragraph 3b. in which case paragraph 3b. applies; and
 - b. the direct award to Dublin Bus of certain routes (the current list of which is specified in Table A2 of Schedule 1) for a period not greater than two years;

4. the Chief Executive Officer is:
 - a. to conclude the 2014 direct award contract on behalf of the Authority, including settling the terms of the 2014 direct award contract; and
 - b. without prejudice to the generality of (a), if necessary in his opinion to reflect customer needs and trends, to modify the routes that are the subject of the 2014 direct award contract or a particular element of the 2014 direct award contract; and
5. the resolution at 3 is without prejudice to the powers of the Chief Executive pursuant to section 19 of the Act, and to the extent required is to be construed as the conferral of an “other function” on the Chief Executive for then purposes of section 19(2) of the Act.

In relation to the routes contemplated by Table A2 of Schedule 1, the Authority notes that its current intention is for such routes to be the subject of competitive tendering, with the aim of services being commenced in 2016.

Schedule 1: Services to be contained within Direct Award Contract commencing in December 2014

- A. The direct award contract will provide Dublin Bus with the exclusive right to operate public bus passenger services in accordance with the provisions of section 7 of the Transport Act 1958 and section 8 of the Transport (Re-organisation of Córas Iompair Éireann) Act 1986 within the city of Dublin and the counties of Fingal, South Dublin and Dún Laoghaire-Rathdown and contiguous areas.
- B. The list of the Services to be operated under the direct award contract will be:
 - a. those set out in Table A1 below (i.e. those included in the current contract) for a period of 5 years except to the extent such routes fall within paragraph b. in which case b. applies and
 - b. those set out in Table A2 for a period not greater than 2 years for each service.

Table A1:**Bus services to be within the Direct Award contract as of 1st December 2014**

Table A1: Services for 2014 Direct Award	
Route	Description
1	Santry (Shanard Rd.) Towards Sandymount (St. John's Church)
4	From Harristown Towards Monkstown Avenue
7	From Mountjoy Sq. Towards Loughlinstown/Cherrywood
7b	From Mountjoy Sq. Towards Shankill
7d	From Mountjoy Sq. Towards Dalkey
8	From Mountjoy Sq. Towards Dalkey
9	From Charlestown Towards Limekiln Ave.
11	From Wadelai Park Towards Sandyford Industrial Estate
13	From Harristown Towards Grange Castle
14	From Beaumont (Ardlea Rd.) To Dundrum Luas Station
15	From Clongriffin Towards Ballycullen Rd.
15a	From Grand Canal Dock (Benson St.) Towards Limekiln Ave.
15b	From Grand Canal Dock (Benson St.) Towards Stocking Ave.
16	From Dublin Airport Towards Ballinteer (Kingston)
17	Rialto to Blackrock
17a	From Blanchardstown Centre Towards Kilbarrack
18	From Palmerstown (Old Lucan Rd.) Towards Sandymount
25	Merrion Sq. Towards Lucan (Dodsboro)
25a	Merrion Sq. Towards Lucan (Esker Church)
25b	From Merrion Sq. Towards Adamstown Rail Station
25x	From UCD Belfield Towards Lucan
26	From Merrion Sq. Towards Palmerstown (Cemetery)
27	From Clare Hall Towards Jobstown
27b	Eden Quay Towards Harristown
27a	From Eden Quay Towards Blunden Drive
27x	From UCD Belfield Towards Clare Hall
29a	From Lwr. Abbey St. Towards Baldoyle (Coast Rd.)
31/a	From Lwr. Abbey St. Towards Howth Summit
31b	From Lwr. Abbey St. Towards Howth Summit
32	From Lwr. Abbey St. Towards Malahide
32x	From Malahide Towards UCD Belfield
33a	Swords to Skerries / Balbriggan
33	From Lower Abbey St. Towards Balbriggan
33b	Swords to Portrane
33d	From Custom House Quay / St. Stephen's Green Towards Portrane
33x	From Custom House Quay / St. Stephen's Green Towards Skerries
37	From Baggot St. / Wilton Terrace Towards Blanchardstown Centre

Table A1:
Services for 2014 Direct Award

Route	Description
38	From Burlington Rd. Towards Damastown
38a	From Burlington Rd. Towards Damastown
38b	From Burlington Rd. Towards Damastown
39	From Burlington Rd. Towards Ongar
39a	From UCD Belfield Towards Ongar
40	From Finglas Village Towards Liffey Valley Shopping Centre
40b	From Parnell St. Towards Toberburr
40d	From Parnell St. Towards Tyrrelstown
41	Lower Abbey St. to Swords Manor
41b	From Lower Abbey St. Towards Rolestown
41c	Lower Abbey St. to Swords Manor
41x	From UCD Belfield Towards Swords
42	From Eden Quay To Sand's Hotel (Portmarnock)
43	From Eden Quay Towards Swords Business Park
44	From Larkhill Towards Enniskerry
44b	Dundrum Luas Station Towards Glencullen
45a	Dún Laoghaire (Rail Station) Towards Ballywaltrim
46a	Phoenix Park Towards Dún Laoghaire
46e	From Blackrock Station Towards Mountjoy Sq.
47	From Fleet St. Towards Belarmine
49	From Pearse St. Towards Tallaght (The Square)
51d	From Hawkins St. / Waterloo Rd. Towards Clondalkin
51x	From Dunawley Towards UCD Belfield
53	From Talbot St. Towards Dublin Ferryport
54a	From Pearse St. Towards Ellensborough / Kiltipper Way
56a	From Ringsend Rd. Towards Tallaght (The Square)
59	Dún Laoghaire to Mackintosh Park
61	From D'Olier St. Towards Whitechurch
63	From Dun Laoghaire Towards Kilternan
65	From Hawkins St. Towards Blessington / Ballymore
65b	From Hawkins St. Towards Citywest
66	From Merrion Sq. Towards Maynooth
66a	From Merrion Sq. Towards Leixlip (Captain's Hill)
66b	From Merrion Sq. Towards Leixlip (Castletown)
66x	From UCD Belfield Towards Maynooth
67	From Merrion Sq. Towards Maynooth
67x	From UCD Belfield Towards Celbridge (Salesian College)
68	From Hawkins Street Towards Newcastle / Greenogue Business Park
69	From Hawkins St. Towards Rathcoole
69x	From Hawkins Street Towards Rathcoole
70	From Burlington Rd. Towards Dunboyne
75	The Square Tallaght to Dun Laoghaire

Table A1:
Services for 2014 Direct Award

Route	Description
76a	From Blanchardstown Centre Towards Tallaght (The Square)
76	From Chapelizod Towards Tallaght (The Square)
77a	From Ringsend Rd. Towards Citywest
77x	From Tallaght Towards UCD Belfield
79/a	Aston Quay to Spiddal Park / Park West (79a)
83	From Harristown Towards Kimmage
84/a	From Blackrock Towards Newcastle
84x	From Trinity College Towards Newcastle / Kilcoole
90	From Heuston Station Towards International Financial Services Centre
102	Sutton Station to Dublin Airport
104	Clontarf Rd. (Conquer Hill) Towards Santry (Shanard Rd.)
111	Loughlinstown Park to Dún Laoghaire
114	From Ticknock Towards Blackrock Station
116	From Parnell Sq. to Whitechurch
118	From Kilternan towards D'Olier St.
120	From Parnell St. Towards Ashtown Rail Station
122	From Ashington Towards Drimnagh Rd.
123	From Walkinstown (Kilnamanagh Rd.) Towards Marino
130	From Lwr. Abbey St. Towards Castle Ave.
140	From Palmerston Park Towards Finglas (Ikea)
142	Rathmines (Palmerston Park) Towards Portmarnock
145	From Heuston Rail Station towards Kilmacanogue
150	From Fleet St. Towards Rossmore
151	From Docklands (East Rd.) Towards Foxborough (Balgaddy Rd.)
161	From Dundrum Luas Station Towards Rockbrook/Tibradden
184	From Bray Rail Station Towards Newtownmountkennedy
185	Bray Rail Station Towards Shop River
220	From Ballymun (Shangan Rd.) Towards Lady's Well Rd.
236	From Blanchardstown Centre Towards Ballycoolin
238	From Tyrrelstown Towards Lady's Well Rd.
239	From Blanchardstown Centre Towards Liffey Valley Shopping Centre
270	From Blanchardstown Centre Towards Dunboyne

**Table A1:
Services for 2014 Direct Award - Nitelink**

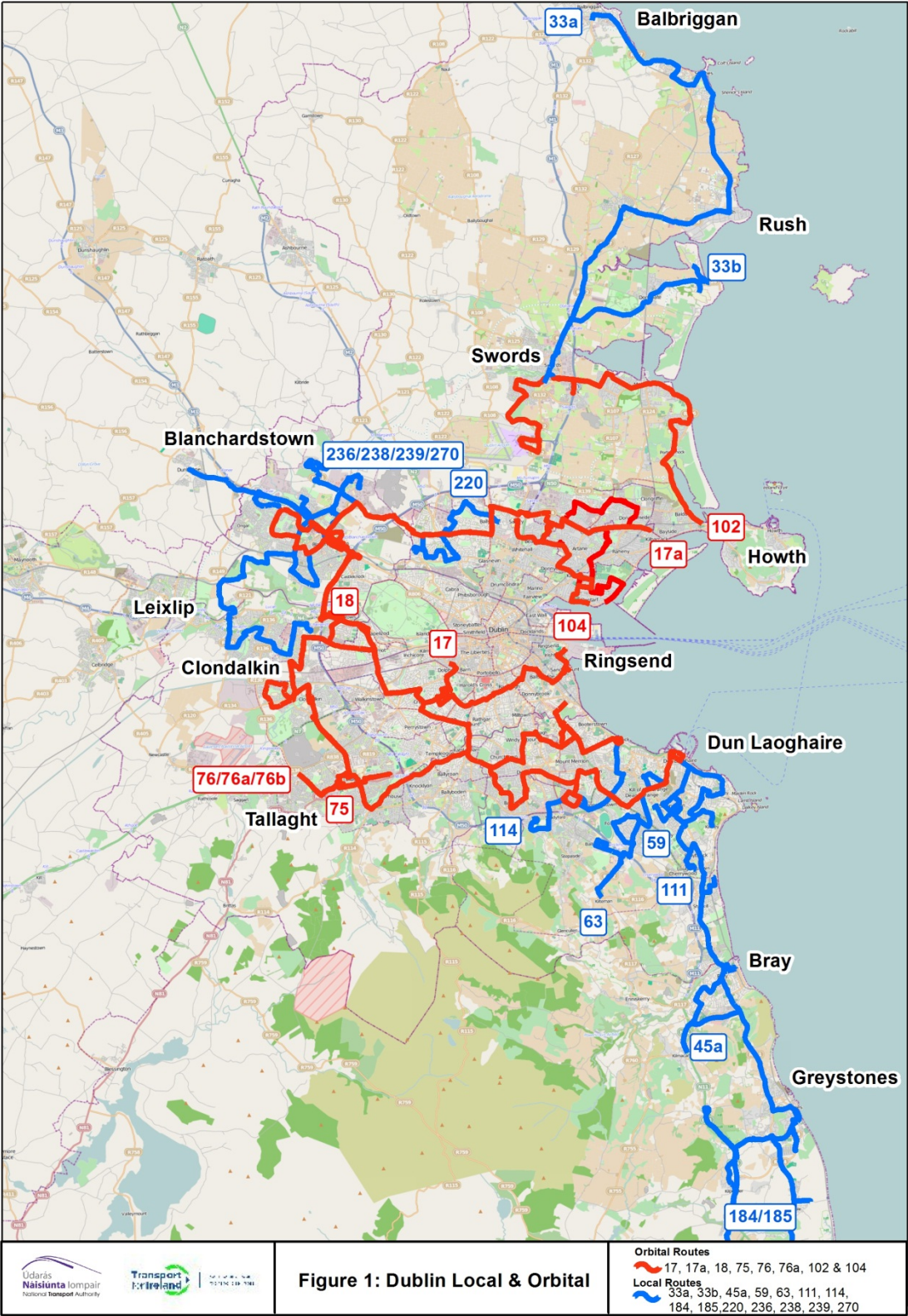
Route	Description
7n	From D'Olier St. Towards Shankill
15n	From D'Olier St. Towards Ellensborough
25n	From Westmoreland St. Towards Adamstown
29n	From D'Olier St. Towards Baldoyle Road
31n	From D'Olier St. to Howth
33n	From Westmoreland St. to Balbriggan
39n	From Westmoreland St. Towards Tyrrelstown
41n	From Westmoreland St. Towards Swords Manor
42n	From D'Olier St. Towards Portmarnock
46n	From D'Olier St. Towards Dundrum
49n	From D'Olier St. Towards Tallaght (Kilnamanagh)
66n	From Westmoreland St. Towards Leixlip (Louisa Bridge) via Glen Easton
67n	From Westmoreland St. Towards Celbridge / Maynooth
69n	From Westmoreland St. Towards Saggart
70n	From Westmoreland St. Towards Dunboyne
77n	From D'Olier St. Towards Tallaght (Westbrook Estate)
84n	From D'Olier St. Towards Greystones
88n	From Westmoreland St. Towards Ashbourne

Table A2:

Bus services which will only remain within the Direct Award Contract until end 2016 and which will be competitively tendered and thereafter removed from the Direct Award and provided under a separate contract by end 2016

Table A2: Local and orbital routes for Competitive Tendering for operation by successful tenderer in 2016	
Route	Description
	Orbital Routes
17	Rialto - Blackrock
17a	Blanchardstown Centre - Kilbarrack
18	Palmerstown (Old Lucan Rd.) - Sandymount
75	The Square Tallaght - Dun Laoghaire
76	Chapelizod - Tallaght (The Square)
76a	Blanchardstown Centre - Tallaght
102	Sutton Station - Dublin Airport
104	Clontarf Rd (Conquer Hill) - Santry (Shanard Road)
	Local Routes
33a	Dublin Airport - Skerries
33b	Swords - Portrane
45a	Dún Laoghaire (DART Station) - Ballywaltrim
59	Dún Laoghaire - Mackintosh Park
63	Dun Laoghaire - Kilternan
111	Loughlinstown Park - Dún Laoghaire
114	Ticknock - Blackrock Station
161	Dundrum Luas Station - Rockbrook/Tibradden
184	Bray Rail Station - Newtownmountkennedy
185	Bray Rail Station - Shop River
220	Ballymun (Shangan Rd.) - Lady's Well Rd.
236	Blanchardstown Centre - Ballycoolin
238	Lady's Well Rd. - Tyrrelstown
239	Blanchardstown Centre - Liffey Valley Shopping Centre
270	Blanchardstown Centre - Dunboyne

Illustrative map of Services in Table A2



Schedule 2: Points noted by the National Transport Authority

In relation to the Economic Analysis and Consideration of General Economic Interest

The Authority noted that the consideration of the General Economic Interest and the supporting economic analysis was adequately set out in the proposal documents and in sufficient depth for the Authority to make the decision of the next Direct Award Contract and the proposal to tender some of Dublin Bus Services, with such services to commence in 2016.

Common features shared by all Services of General Economic Interest (SGEIs) include:

- a) The economic nature of the service provided;
- b) The imposition of public service obligations;
- c) The overall public good delivered;
- d) The SGEI's universal nature, continuity, quality and affordability and
- e) The protection the SGEI affords both users and consumers.

The concept of "general economic interest" is a dynamic concept, sector specific and is capable of evolving over time. The Authority, in considering that a Direct Award, with an early release of certain services to competitive tendering, best maintained the important continuity of the public transport services option in the "general economic interest" took account of all the features above. Public transport both performs a social and an economic function within the State and its importance to the economic activity of the state means that it cannot be impaired.

The Authority noted that the value that can be accrued for the State from competition includes the potential savings that would come from a successful tenderer and the future benchmarking of the cost of services. This has to be considered in light of a) the efficiencies that may have already been achieved by the incumbent b) the cost of the competition and c) the ability of the incumbent to reduce overheads associated with the services if not successful in the competition.

The Authority noted that general economic interest necessitated that the impact on the operator currently operating all the services had to be considered. The resultant financial impact on Dublin Bus needs to be such that the network of services can be fully maintained for the public.

The Authority noted the international experience of other authorities in gradually opening up their public transport markets to competition. It considered that its decision to commence with a modest opening of the Irish market, which would not undermine the financial stability of the incumbent operator and which would adequately protect the public good in the transition to competitively tendered contracts, accorded with international practice that had delivered overall value for money.

It was also noted that the competition for the local and orbital routes will allow benchmarking of both of cost data and operational performance.

In relation to the service to the consumer

The Authority noted that key objectives in entering any public bus services contract include improving the customer experience of public transport and ensuring that public transport integration is not compromised. The Authority has worked to bring the information on the services being provided into one digital location for the public transport customer. Therefore when considering a subsequent direct award contract to Dublin Bus and the introduction of competition, the Authority notes that it will continue to integrate services for the benefit of the consumer, regulate and restructure all public transport fares and ensure and oversee appropriate mechanisms in relation to each operator for complaint handling.

The Authority has invested in the technology behind the delivery of all the integrated products such as the National Journey Planner, Real Time Passenger Information and Leap Card. With Authority funding support, Dublin Bus has also invested in the operational technology that supports these integrated products. The Authority will ensure that in the event of the entry of a new operator technology will operate so that the customer's experience remains unaffected.

The Authority noted that it would devise the tender competition/s so that the net effect for the consumer should be that no diminution would occur in the quality and integration of bus services notwithstanding who the contractual parties are. The Authority also noted that procuring services through competition will not result in any change in either determining the need for the provision of socially necessary services or in providing such services, subject to the availability of State funds. The Authority will continue to define the services and contractually required services may only be changed with the approval of the Authority.

In relation to the services to be included in a tender competition

The Authority noted that the Local and Orbital Routes offer significant opportunities to the successful tenderer/s to apply their operational expertise to routes which have potential to grow in the near future as the outer regions of the city respond to an increase in economic activity. The locations of many large educational and employment attractors along these corridors, along with well-designed integrated connections to radial services, offer excellent opportunities for growth.

The Authority noted that the majority of the Dublin Bus services in the city cross the line of the proposed Luas Cross City in the central core of the city. While extensive planning has been done to mitigate the impact of the construction works on all traffic within the city including public bus services, there is no doubt that there will be some disruption that will reduce the efficiency of the service by lengthening journey times in the city centre. The Authority will have to manage dynamic service changes and also the reconfiguration of the radial network in the period 2014 to 2018 and noted that, in terms of risk management and based on practice in other countries, that the local and orbitals offered the most appropriate set of services for competitive tendering.

In relation to the tendering process to be conducted

The Authority noted that the fullest necessary information will be made available for the routes that are subject to a competitive tender. The Authority has patronage and ticket information and service performance information.

The Authority has continued to ensure that the costs and revenues are assigned in an appropriate manner by the incumbent operators and this is audited on an annual basis by the Authority's independent auditors.

The Authority also noted the indicative next steps following from their decision could be as follows:

Action	Indicative Dates
Publish notice in Official Journal of EU(OJEU) of the intention to enter into a Direct Award Contract with Dublin Bus (mandatory 1 year in advance)	End Nov 2013
Publish separate notice in OJEU of the intention to launch a tender competition for bus services (mandatory 1 year in advance)	End Nov 2013
Publish Pre-Qualification Notice/s for Tender Competition/s for Local and Orbital bus services and commence tender procedure/s	End Nov 2014
Award Direct Award Contract to Dublin Bus	1/12/14
Award Contract/s for tendered local and orbital services	Dec 2015
Commence operation of tendered services by awarded operator/s	August 2016

In relation to the accessibility of services

The Authority noted that the level of accessibility that applies at the time of the award of a competitively tendered Public Services contract will not be reduced in any way. This will be guaranteed by supplying the fleet that the incumbent currently uses to the successful tenderer, if different from Dublin Bus. As the Dublin city services bus fleet is fully wheelchair accessible, the newly tendered services fleet will also be fully accessible for these services.

The Authority noted that a programme of upgrading bus stops for wheelchair accessibility is being developed at present. This programme's available funding will be rolled out based on the Authority's assessment of the greatest need and would be independent of who is operating the service.

The Authority will include in all Public Transport Service Contracts, whether directly awarded or tendered, an obligation that all relevant staff undergo disability equality training.

In relation to the employment conditions of the staff of the incumbent

In the case of the incumbent operator not being successful in the competitive tender staff of the incumbent operator would be subject to the European Communities (Protection of Employees on Transfer of Undertakings) Regulations 2003 (the "Transfer Regulations" or "TUPE").

The Authority noted that under these regulations that the rights and obligations arising from the contract of employment of each employee working in an identifiable business that is being transferred will automatically transfer from the transferor entity to the transferee with effect from the effective date of the transfer of the business. This protection is significant for the staff. The Authority noted that an exception to this general transfer of rights and obligations under "TUPE" is that existing pension benefits arising on normal retirement, invalidity benefits and death in service benefits that form part of an occupational pension scheme do not transfer.



Decision on Award of Public Bus Services Contract to Bus Éireann from 1st December 2014

Published Proposals

On 11th September 2013 the National Transport Authority published four documents in relation to whether it would:

- (i) enter into another direct award contract with Bus Éireann in 2014;
- (ii) change that direct award contract so that in 2016 the services contemplated by that contract would be reduced by approximately 7% to 10%. Due to the extent and variety of services provided by Bus Éireann a number of options were under consideration. The services for tendering were to be drawn from a combination of the following:
 - a. all city services in Waterford
 - b. some city services in Cork
 - c. some rural stage carriage services in the south east region
 - d. certain Dublin commuter services;
- (iii) seek to have those removed services provided through a separate contract or contracts following a competitive tender process.

The four published documents were:

1. Consultation Paper;
2. Technical Report on Contract Options;
3. Economic analysis of a direct award bus contract in the bus market outside Dublin (prepared by Ernst and Young for the Authority);
4. Report on operation of the 2009 direct award contract with Bus Éireann.

On 21st November the Authority published a Supplemental Consultation Paper identifying a set of alternative Dublin commuter routes that were being considered in substitution for the Dublin

coastal commuter services i.e. those routes serving Athy, Clane, Celbridge, Edenderry, Kildare, Naas, Newbridge and Sallins.

Legislation

The legislative background to this matter is as follows.

The Dublin Transport Authority Act 2008 provides, at section 52(6)(c), that:

- (i) Subject to subparagraph (ii), the Authority may enter into direct award contracts subsequent to those which subsection (3) applies.*
- (ii) Where the Authority proposes to enter into direct award contracts subsequent to those referred to in subsection (3)(a), it may only do so where it is satisfied that the continued adequacy of the public bus services to which the contracts relate can only be guaranteed in the general economic interest by entering into such direct award contracts.*

In other words, on expiry of the current Direct Award contract with Bus Éireann on 30th November 2014, the Authority may enter into a subsequent direct award contract. This entitlement is subject to the requirements of section 52(6) of the Act.

These requirements include:

- being satisfied that the continued adequacy of the public bus services can only be guaranteed in the general economic interest by entering into such direct award contract (section 52(6)(c)(ii));
- inviting and considering submissions from the holder of the direct award contract and from other interested parties (including users of the public bus services the subject of the contract) (section 52(6)(d)); and
- preparing and publishing a report relating to:
 - the operation of the public bus services to which the original direct award contracts relate;
 - the consideration of any submissions made to it under section 52(6)(d); and
 - among other things, the reasons for entering into the subsequent direct award contract (section 52(6)(e)).

Regulation EU 1370/2007, in Article 7(2), also places an obligation on the Authority to ensure that “... at least one year before the launch of the invitation to tender procedure or one year before the direct award” that a notice is placed in the Official Journal describing the type of award envisaged and the services and areas potentially covered by the award.

Consultation

Through advertisement in the national press, the Authority invited submissions on its proposals from the public, encompassing interested parties and users of the public bus passenger services and from Bus Éireann (the holder of the Direct Award contract in question).

The period for receipt of submissions was 11th September to 11th October 2013.

The Authority carried out a Supplemental Consultation with the publication of information and the seeking of submissions on the possible tendering of Dublin Commuter services on the western corridor into Dublin city. That period of consultation was from 21st November to 27th November 2013.

The submissions received are available on the Authority's website at www.nationaltransport.ie.

Consideration and decision

The National Transport Authority in exercise of the powers conferred on it by the Dublin Transport Authority Act 2008, as amended, having considered:

- the proposal, as set out in the Consultation Paper together with the supporting documents published on 11th September 2013 and as augmented by the publication of the Supplemental Consultation paper on 21st November 2013, on a new Direct Award Public Bus Services Contract to Bus Éireann to commence on 1st December 2014;
- the public submissions received in relation to this proposal, including from users of the services in question;
- the views of Bus Éireann, the operator of the direct award contract in question;
- the general objectives -of the Authority which it is obliged to seek to achieve (in accordance with section 10 of the Act), including but not limited to:
 - the development of an integrated transport system which contributes to environmental sustainability and social cohesion and promotes economic progress,
 - the provision of a well-functioning, attractive, integrated and safe public transport system for all users,
 - improved access to the transport system and, in particular, to public passenger transport services by persons with disabilities,
 - increased use of the public transport system,
 - regulated competition in the provision of licensed public bus passenger services in the public interest,
 - value for money,
- the strategic importance of the public bus system for both regional and national economic performance and social cohesion and the role of the Direct Award contracts in protecting

the continued adequacy of the public bus passenger services in the general economic interest,

has decided and determined that:

1. it is satisfied that the continued adequacy of the public bus services to which the direct award contract relates can only be guaranteed in the general economic interest by entering into a subsequent direct award contract;
2. the Authority shall enter into a direct award contract (the “**2014 direct award contract**”) in accordance with section 52(6) of the Act to Bus Éireann;
3. the 2014 direct award contract to Bus Éireann will consist of two elements:
 - a. the direct award of certain routes (the current list of which is specified in Table A1 of Schedule 1) for the five year period up to 30th November 2019 except to the extent such routes fall within paragraph 3b. in which case paragraph 3b. applies; and
 - b. the direct award to Bus Éireann of certain routes (the current list of which is specified in Table A2 of Schedule 1) for a period not greater than two years. These routes comprise the Waterford City services including the route to Tramore, along with a number of Commuter services to Dublin from the commuter area to the west of the city (Kildare, Offaly, Laois, Westmeath);
4. the Chief Executive Officer is:
 - a. to conclude the 2014 direct award contract on behalf of the Authority, including settling the terms of the 2014 direct award contract; and
 - b. without prejudice to the generality of (a), if necessary in his opinion to reflect customer needs and trends, to modify the routes that are the subject of the 2014 direct award contract or a particular element of the 2014 direct award contract; and
5. the resolution at 3 is without prejudice to the powers of the Chief Executive pursuant to section 19 of the Act, and to the extent required is to be construed as the conferral of an “other function” on the Chief Executive for then purposes of section 19(2) of the Act.

In relation to the routes contemplated by Table A2 of Schedule 1, the Authority notes that its current intention is for such routes to be the subject of competitive tendering, with the aim of services being commenced in 2016.

Schedule 1: Services to be contained within Direct Award Contract commencing in December 2014

- A. The direct award contract will provide Bus Éireann with the exclusive right to operate public bus passenger services that it currently provides in accordance with the provisions of section 7 of the Transport Act 1958 and section 8 of the Transport (re-organisation of Córas Iompair Éireann) Act 1986..
- B. The list of the Services to be operated under the direct award contract will be:
 - a. those set out in Table A1 below (i.e. those included in the current contract) for a period of 5 years except to the extent such routes fall within paragraph b. in which case b. applies; and
 - b. those set out in Table A2 for a period not greater than 2 years for each service.

Table A1:**Bus services to be within the Direct Award contract as of 1st December 2014****Table A1: Regional city services**

Location	Regional City Route No.	Route Description
Cork City	201	Mayfield - Blackpool - Knocknaheeny - Bishopstown
	202	Knocknaheeny - City Centre - Mahon
	203	Ballyphehane - City Centre - Farranree
	204	St Patricks St - Friars Walk
	205	CIT - St Patrick St - Kent Station
	206	Grange - South Douglas Road - South Mall
	207	Donnybrook - City Centre - Ballyvolane - Glen Heights Park
	207A	Well Rd - City Centre - Montenotte
	208	Mayfield - City Centre - Bishopstown
	208A	Lottamore - St Patrick St
	209	Pouladuff - St Patrick St - Audley Place
	212	Merchants Quay - Glenthorn
	214	St Patrick St - Cork University Hospital
	215	Cloghroe - Blarney - City Centre - Mahon Point
	216	Cork University Hospital - City Centre - Mount Oval
	219	Mahon - Douglas - Ballyphehane - Bishopstown
	221	Cork - Riverstown - Knockraha
	222	Cork - Carragaline - Crosshaven - Fountainstown
	223	Cork - Monkstown - Ringaskiddy - Haulbowline
	226/226A	Kent Stn - City Centre - Cork Airport - Kinsale
Limerick City	301	Regional Hospital - City Centre - Westbury
	302	Caherdavin - Cratloe Rd(LIT, Thomond Pk.) - City Centre
	303	Pineview - City Centre - O'Malley Pk
	304	UL - City Centre - Raheen - Ballycummin
	305	St Mary's Pk - City Centre - Lynwood Pk
	306	Edward St - City Centre - Ballynanty

Galway City	401	Salthill - Eyre Square
	402	Merlin Pk - Eyre Sq - University Rd (NUIG) -Seacrest
	403	Eyre Sq - Castlepark - Parkmore Rd
	404	Eyre Sq - University Rd (NUIG) -Newcastle
	405	Ballybane - Eyre Sq - University Rd (NUIG)- Ragoon
	407	Eyre Sq - Bothar an Choiste
	409	Parkmore - Dublin Rd (GMIT) -Eyre Sq
	410	Eyre Sy - Dublin Rd (GMIT)- Oranmore
Waterford City	601	Ballybeg - The Quay
	602	St Johns Pk - Patrick St
	603	WIT - The Quay
	604	Carrickphierish Rd - The Quay
	605	Oakwood - The Quay - Waterford Regional Hospital

Table A1 continued: Regional town services

Location	Regional Town Route No.	Route Description
Balbriggan	104	Balbriggan Rail Station - Drogheda Street - Millfield Shopping Centre
Navan	110	Shopping Centre - St Oliver's Church/Hospital/ Kilcarne Bridge
Drogheda	173	NORTHSIDE SERVICE West Street - Brookville - Bóthar Brugha SOUTHSIDE SERVICE: West Street - Rathmullen Park - Rathmullen Rd
Dundalk	174	Bus Station/Long Walk - Bay Estate/Fatima
Athlone	459/459A	Monksland/Bus Station - Athlone I. T. - Garrycastle
Sligo	478	Bus Station - I.T. Sligo - Carraroe Retail Park
	478A	Bus Depot - Oakfield Cross - Carrowmore

Table A1 continued: Dublin commuter belt services

Route No.	Commuter Route Description
65	Galway - Roscommon - Athlone - Longford (Rail Station) -Cavan - Monaghan - Armagh - Lurgan -Belfast
70	Galway - Athlone - Mullingar - Navan- Drogheda (Bus Station) -Dundalk
100	Drogheda - Dunleer Castlebellingham - Dundalk - Newry
101	Dublin - Airport - Balbriggan - Drogheda - Termon Abbey
101X	Wilton Tce - Balbriggan -Drogheda - Termon Abbey
103	Dublin - Ashbourne - Kilmoon - Duleek /Ratoath
105	Dublin - Blanchardstown Shopping Centre -Ashbourne - Ratoath
107	Dublin - Ashbourne -Navan - Nobber - Kingscourt - Kells
108	Dublin - Kells - Baileboro
109	Dublin - Blanchardstown S. C. -Dunboyne - Dunshaughlin - Navan - Kells - Cavan
109A	DCU - Airport - Ashbourne -Ratoath - Dunshaughlin - Navan - Kells
111	Wilton Tce - Blanchardstown SC - Trim - Athboy -Cavan
115/115A	Dublin - Lucan - Maynooth - Enfield - Kinnegad - Mullingar - Longford
120	Dublin - Lucan - Celbridge - Clane - Prosperous - Edenderry/Tullamore
123	Dublin - Celbridge -Clane - Prosperous - Naas - Robertstown - Newbridge
124	Dublin -Naas - Newbridge -Kildare - Portlaoise
126	Dublin - Kill Village -Naas - Newbridge - Kildare
130	Dublin - Naas -Kilcullen - Athy
132	Dublin - Tallaght (Hospital) -Blessington -Tullow - Carnew - Enniscorthy -Wexford -Rosslare Europort
133	Dublin Airport - Dublin -Bray -Kilmacanogue -Newtownmountkennedy - Ashford - Wicklow
134	Navan - Dunsany - Dorey's Forge
135	Scurroughstown - Navan
136	Ross Cross - Navan
161	Dundalk - Greenore - Carlingford - Omeath - Newry
162	Cavan (Bus Station) - Clones - Monaghan - Dundalk
163	Dublin - Drogheda - Donore
166	Dundalk - Carrickmacross - Cavan
167	Dundalk - Louth - Ardee
168	Dundalk - Castlebellingham - Anagassan
175	Monaghan - Cootehill - Rockcorry -Cavan
177	Dublin - Airport - Drogheda -Ardee - Carrickmacross -Monaghan
182	Drogheda - Collon - Ardee
187	Kells - Virginia - Ballyjamesduff - Oldcastle
188	Drogheda - Slane - Navan - Trim
189	Drogheda - Baltray - Termonfeckin - Clogher Hd - Grangebellew
190	Drogheda - Bettystown - Laytown

Table A1 continued: Stage carriage services

Route No.	Stage Carriage Route Description
66	Westport - Castlebar - Ballina - Sligo - Enniskillen
72	Limerick - Nenagh -Borrisokane - Birr - Athlone
73	Waterford - Kilkenny (Rail Stn) - Carlow (Bus Park) - Portlaoise - Athlone - Longford
232	Cork - Ballincollig
233	Cork - Ballincollig - Macroom
235	Cork - Blarney - Stuaque - Rylane
236	Cork - Bandon - Bantry - Glengarriff - Castletownbere
237	Cork - Cork Airport -Bandon- Clonakilty - Skibbereen - Schull - Goleen
239	Cork - Bandon - Courtmacsheery - Butlerstown
240	Cork - Cloyne - Ballycotton
241	Cork - Midelton - Whitegate - Trabolgan
243	Cork - Mallow - Buttevant - Newmarket
245	Cork - Fermoy - Mitchelstown
246	Cork - Glanmire - Sallybrook - Sarsfield Court
248	Cork - Mallow Road Barracks - Carriganavar - Glenville
252	Cork - Cork Airport - Kinsale - Bandon - Clonakilty - Skibereen - Glengarriff - Kenmare
257	Macroom - Millstreet - Killarney
258	Macroom - Rylane Lower
259	Macroom - Renanirree
260	Cork - Youghal - Ardmore
261	Cork - Carrigtwohill - Midelton - Ballinacurra
270	Sneem - Kenmare - Killarney
271	Tralee - Kerry Airport - Killarney
272	Tralee - Listowel - Ballybunion - Moyvane - Tarbert
273	Tralee - Castlegregory - Cloghane
274	Tralee - Ballyheigue - Ballyduff
275	Tralee - Dingle
276	Dingle - Ballyferriter - Dunquin
277	Dingle - Ballydavid
278	Tralee - Kilfenora -Fenit
279	Killarney - Killorglin - Tralee
280	Ring of Kerry: Tralee - Killarney - Killorglin - Cahersiveen- Waterville - Sneem - Kenmare
281	Killarney - Inch - Dingle
282	Castletownbere - Kenmare - Killarney
284	Tralee -Farranfore - Killarney
285	Tralee - Kerry Airport -Farranfore - Firies -Killarney (Bus Station)
313	Limerick - Ardnacrusha
314	Limerick - Foynes - Tarbert - Ballybunion
320	Limerick - Croom - Charleville
321	Limerick - Rathkeale - Newcastle West
322	Lorrha - Terryglass - Coolbawn - Nenagh
323	Limerick - Killaloe - Newport - Nenagh - Borrisokane - Birr

Route No.	Stage Carriage Route Description
324	Kilbarron - Borrisokane - Nenagh
328	Limerick - Hospital - Galbally/Mitchelstown
329	Limerick - Meanus - Bruff - Kilfinane
332	Limerick - Newport - Rearcross - Cappamore - Cappawhite - Dundrum /Rearcross
333	Limerick - Ennis (Bus Station) - Miltown Malbay - Doonbeg
334	Crosses of Annagh - Kilmaley - Ennis
336	Limerick - Ennis - Kilrush - Kilkee
337	Limerick - Ennis - Lisdoonvarna - Doolin
341	Shannon - Limerick - Newport - Cappamore - Bilboa Cross
343	Limerick - Shannon Airport
344	Ennis - Newmarket-on-Fergus - Shannon - Shannon Airport
345	Scariff - Killaloe - Limerick
346	Limerick - Tulla - Scariff - Whitegate
347	Limerick - Oola - Limerick Junction - Tipperary
348	Scariff - Flagmount - Feakle - Tulla - Ennis
349	Scariff - Feakle - Gort
360/360A	Waterford - WIT - Tramore
362	Waterford - Dungarvan
365	Waterford - Thomastown
366	Waterford - Dungarvan - Cappoquin - Lismore
367	Waterford - Carrick-on-Suir - Clonmel
370	Waterford - WIT - New Ross - Duncannon - Wexford - Rosslare Europort
371	New Ross - Foulksmills - Adamstown - Wexford
372	New Ross - Foulksmills - Wellington Bridge - Wexford
373	New Ross - Fethard on Sea - Wellington Bridge - Wexford
374	New Ross - Inistioge - Kilkenny
375	New Ross - Kiltealy - Enniscorthy
377	Wexford - Enniscorthy
378	Wexford - Churchtown
379	Wexford - Curracloe - Kilmuckridge - Gorey
380	Wexford - Ferrycarrig - Crossabeg
381	Wexford - Blackhall
382	Wexford - Adamstown - Wexford
383	Wexford - Kilmore Quay
384	Dublin - Arklow - Gorey
385	Wexford - Rosslare Strand - Rosslare Europort
416	Galway - Spiddal - Carna
417	Galway - Corofin
419	Galway - Oughterard - Recess - Clifden
421	Galway - Oughterard - Recess - Clifden - Westport
420	Galway - Cong
422	Westport - Castlebar - Claremorris - Tuam - Galway
423	Galway - Galway GMIT - Kinvara - Lisdoonvarna - Doolin - Cliffs of Moher
424	Galway - Spiddal - Carraroe - Lettermullen
425/425A	Galway - Claregalway - Mountbellew - Roscommon - Longford
429	Galway - Claregalway - Tuam - Ballyhaunis - Castlerea

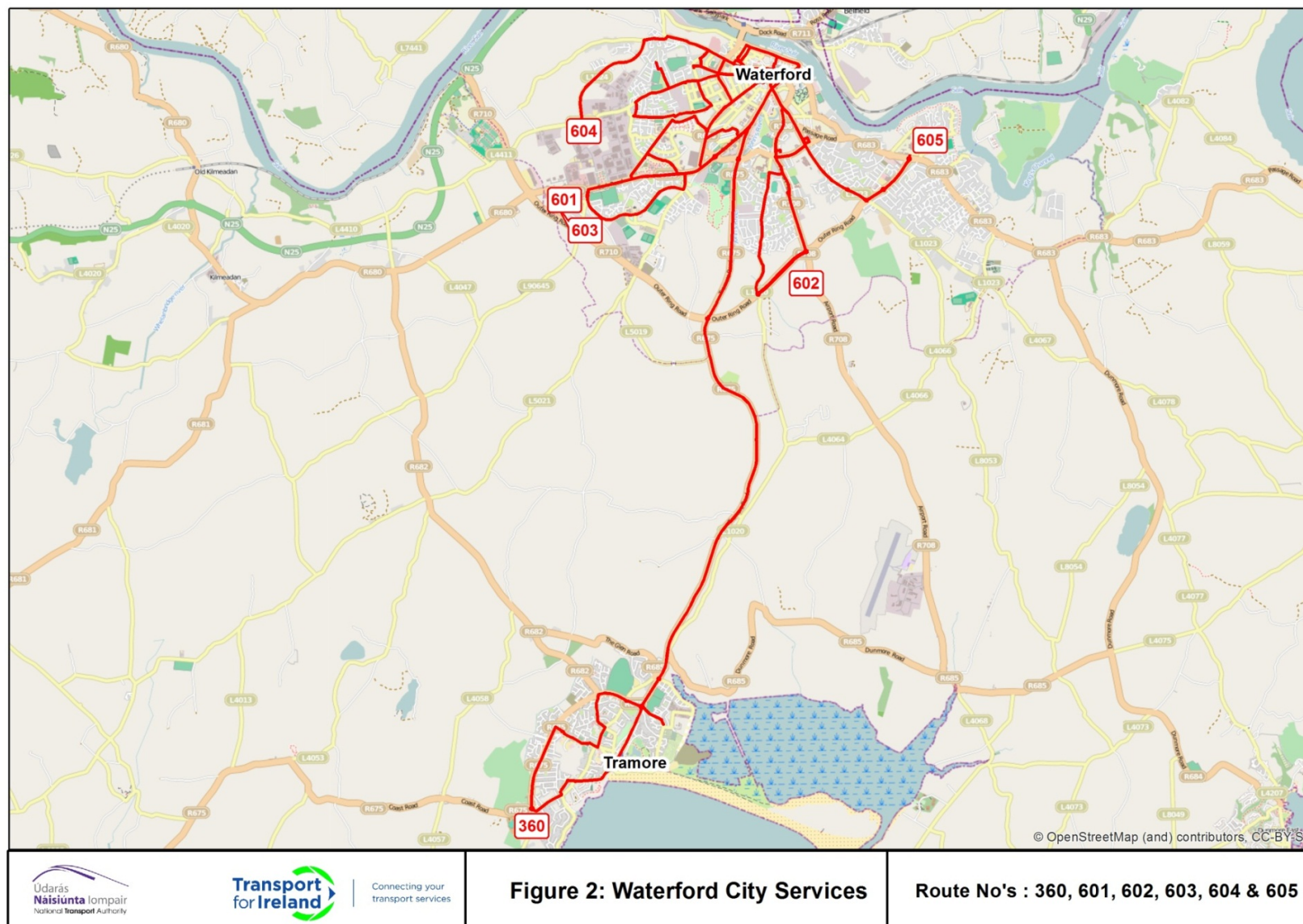
Route No.	Stage Carriage Route Description
432	Galway - Cong
434	Galway - Oranmore- Kinvara- Gort
439	Ballina - Swinford- Castlebar - Westport
440	Ireland West Airport - Castlebar - Westport - Dooagh(Achill Island)
442	Charlestown - Kiltimagh - Castlebar - Westport
443	Ballina - Cooneal - Farragh Cross
444	Ballina - Dromore West
445	Ballina - Killala - Ballycastle
446	Ballina - Belmullet- Blacksod
447	Finea - Castlepollard - Mullingar
450	Westport - Louisburgh - Killadoon
451	Ballina - Charlestown - Longford
454	Ballina - Crossmolina - Lahardane - Castlebar - Westport
455	Ballina - Moygownagh - Crossmolina
456	Galway - Cong -Ballinrobe - Westport - Castlebar - Ballina
457	Castlerea - Ballintubber - Roscommon
458	Sligo - Enniscrone - Ballina
460	Sligo - Castlerea
461	Roscommon - Athlone
462	Sligo - Ballinamore - Carrigaleen
463	Carrigaleen - Longford
464	Carrigaleen - Enniskillen
465	Carrigallen - Ballyconnell- Cavan
466	Athlone - Ballymahon- Longford
467	Longford - Lanesboro - Roscommon
468	Strokestown - Elphin - Carrick on Shannon
469	Sligo - Drumkeeran - Drumshambo - Carrick on Shannon- Mohill-Longford
470	Sligo - Manorhamilton - Glenfarne - Dromahair
471	Sligo - Ballymoate - Riverstown
472	Sligo - Strandhill
473	Sligo - Rosses Pt
474	Sligo - Maugherow
475	Sligo - Ballisodare - Collooney - Coolaney
476	Tubbercurry - Killavil - Bunninadden - Ballymoate
479	Aclare - Tourlestrane - Coolaney - Sligo
480	Sligo - Bundoran - Ballyshannon- Donegal - Ballybofey - Letterkenny/Derry
483	Ballyshannon - Kinlough - Ballintrillick - Sligo
485	Ballyshannon - Bundoran
486	Ballyshannon- Enniskillen- Lough Derg
487	Strabane - Raphoe - Letterkenny
489	Letterkenny - Carrigans - St Johnston - Strabane
490	Donegal - Killybegs - Glencolumbkille
491	Letterkenny - Ballybofey
492	Donegal - Glenties - Dungloe
494	Strabane - Lifford - Ballybofey
495	Ballyshannon - Bundoran- Kinlough - Manorhamilton

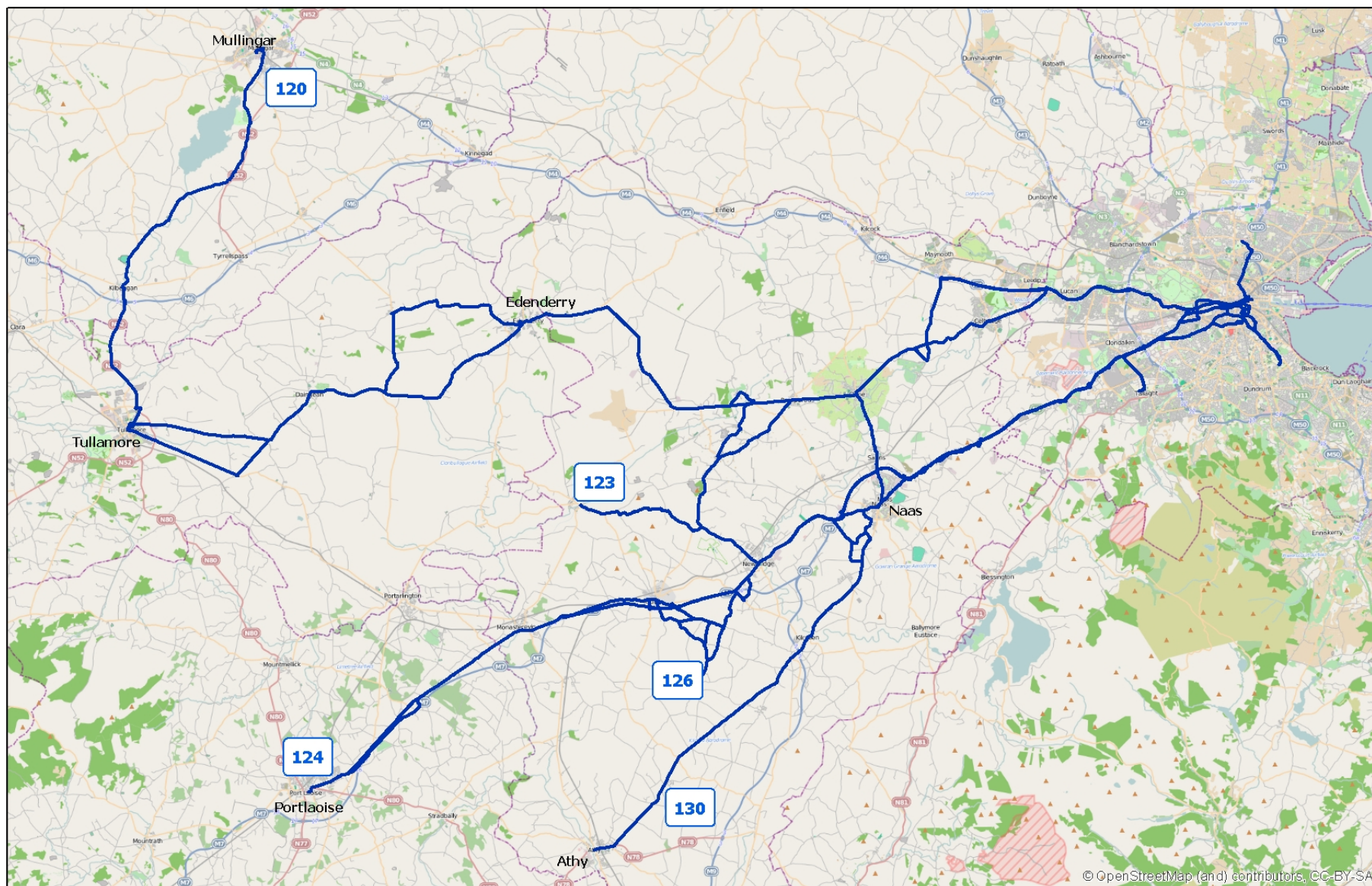
Table A2:

Bus services which will only remain within the Direct Award Contract until end 2016 and which will be competitively tendered and thereafter removed from the Direct Award and provided under a separate contract by end 2016

Table A2: Routes for Competitive Tendering, for operation by successful tenderer in 2016		
Waterford City and Tramore	601	Ballybeg - The Quay
	602	St Johns Pk - Patrick St
	603	WIT - The Quay
	604	Carrickphierish Rd - The Quay
	605	Oakwood - The Quay - Waterford Regional Hospital
	360/360A	Waterford - WIT - Tramore
Dublin Commuter	120	Dublin- Celbridge – Clane - Edenderry- Tullamore
	123	Dublin – Celbridge – Clane – Naas - Newbridge
	124	Dublin – Naas – Newbridge - Portlaoise
	126	Dublin – Kill – Naas – Newbridge - Kildare
	130	Dublin – Naas – Kilcullen - Athy

Illustrative maps of Services in Table A2





Schedule 2: Points noted by the National Transport Authority

In relation to the Economic Analysis and Consideration of General Economic Interest

The Authority noted that the consideration of the General Economic Interest and the supporting economic analysis was adequately set out in the proposal documents and in sufficient depth for the Authority to make the decision of the next Direct Award Contract and the proposal to tender some of Bus Éireann Services, with such services to commence in 2016.

Common features shared by all Services of General Economic Interest (SGEIs) include:

- a) The economic nature of the service provided;
- b) The imposition of public service obligations;
- c) The overall public good delivered;
- d) The SGEI's universal nature, continuity, quality and affordability and
- e) The protection the SGEI affords both users and consumers.

The concept of "general economic interest" is a dynamic concept, sector specific and is capable of evolving over time. The Authority, in considering that a Direct Award, with an early release of certain services to competitive tendering, best maintained the important continuity of the public transport services option in the "general economic interest" took account of all the features above. Public transport both performs a social and an economic function within the State and its importance to the economic activity of the state means that it cannot be impaired.

The Authority noted that the value that can be accrued for the State from competition includes the potential savings that would come from a successful tenderer and the future benchmarking of the cost of services. This has to be considered in light of a) the efficiencies that may have already been achieved by the incumbent b) the cost of the competition and c) the ability of the incumbent to reduce overheads associated with the services if not successful in the competition.

The Authority noted that general economic interest necessitated that the impact on the operator currently operating all the services had to be considered. The resultant financial impact on Bus Éireann needs to be such that the network of services can be fully maintained for the public.

The Authority noted the international experience of other authorities in gradually opening up their public transport markets to competition. It considered that its decision to commence with a modest opening of the Irish market, which would not undermine the financial stability of the incumbent operator and which would adequately protect the public good in the transition to competitively tendered contracts, accorded with international practice that had delivered overall value for money.

It was also noted that the competition for the local and orbital routes will allow benchmarking of both of cost data and operational performance.

In relation to the service to the consumer

The Authority noted that key objectives in entering any public bus services contract include improving the customer experience of public transport and ensuring that public transport integration is not compromised. The Authority has worked to bring the information on the services being provided into one digital location for the public transport customer. Therefore when considering a subsequent direct award contract to Bus Éireann and the introduction of competition, the Authority notes that it will continue to integrate services for the benefit of the consumer, regulate and restructure all public transport fares and ensure and oversee appropriate mechanisms in relation to each operator for complaint handling.

The Authority has invested in the technology behind the delivery of all the integrated products such as the National Journey Planner, Real Time Passenger Information and Leap Card. With Authority funding support, Bus Éireann has also invested in the operational technology that supports these integrated products. The Authority will ensure that in the event of the entry of a new operator technology will operate so that the customer's experience remains unaffected.

The Authority noted that it would devise the tender competition/s so that the net effect for the consumer should be that no diminution would occur in the quality and integration of bus services notwithstanding who the contractual parties are. The Authority also noted that procuring services through competition will not result in any change in either determining the need for the provision of socially necessary services or in providing such services, subject to the availability of State funds. The Authority will continue to define the services and contractually required services may only be changed with the approval of the Authority.

In relation to the services to be included in a tender competition

The Authority noted that tendering the Dublin commuter routes complemented the tendering of the local and orbital routes of Dublin city. Prospective operators would be able to tender for a significant quantum of routes, in whatever tender format they are packaged for concurrent tendering by the Authority that would aggregate to over 100 peak hour buses. The Authority noted that this overall size of market opening in the Dublin region was likely to attract competition from both inside and outside of the State.

In considering the particular Dublin commuter routes to be tendered, the Authority noted the submission of Bus Éireann and the financial points they raised in relation to the efficiency of those services that were proposed to remain within the direct award contract until 2019. The Authority considered the impact of the removal of services on the efficiency of those Direct Award services remaining with Bus Éireann until November 2019. In particular the Authority noted the potential resultant negative impact on the maintenance facilities overheads and vehicle/ driver efficiencies. Having considered the relative impacts of the removal of the Kildare Corridor routes compared to the Coastal Corridor routes, the Authority decided in the general economic interest that the Kildare Corridor routes would be tendered. The Board excluded the 126N service from the services to be tendered noting that it was a licensed service rather than a public service obligation service.

With regard to the Waterford services, the Authority noted the simplicity of a comprehensive city operation (while noting that there is a private operator already operating in the city) and size of the

tender package would make it attractive to the market and that it would offer the future opportunity to the Authority to benchmark a regional city bus operation

In relation to the tendering process to be conducted

The Authority noted that the fullest necessary information will be made available for the routes that are subject to a competitive tender. The Authority has patronage and ticket information and service performance information.

The Authority has continued to ensure that the costs and revenues are assigned in an appropriate manner by the incumbent operators and this is audited on an annual basis by the Authority's independent auditors.

The Authority also noted the indicative next steps following from their decision could be as follows:

Action	Indicative Dates
Publish notice in Official Journal of EU(OJEU) of the intention to enter into a Direct Award Contract with Bus Éireann (mandatory 1 year in advance)	End Nov 2013
Publish separate notice in OJEU of the intention to launch a tender competition for bus services (mandatory 1 year in advance)	End Nov 2013
Publish Pre-Qualification Notice/s for Tender Competition/s for bus services and commence tender procedure/s	End Nov 2014
Award Direct Award Contract to Bus Éireann	1/12/14
Award Contract/s for services	Dec 2015
Commence operation of tendered services by awarded operator/s	August 2016

In relation to the accessibility of services

The Authority noted that the level of accessibility that applies at the time of the award of a competitively tendered Public Services contract will not be reduced in any way. This will be guaranteed by supplying the fleet that the incumbent currently uses to the successful tenderer, if different from Bus Éireann.

As the regional city services bus fleet is fully wheelchair accessible, the newly tendered services fleet in Waterford will also be fully accessible for these services. Where services are being tendered that are currently being delivered by coaches, the Authority will ensure that as a minimum, the percentage of wheelchair accessible coaches in the new contract is the same as the percentage that applies for Bus Éireann's coach fleet at the time of award of the contract.

The Authority noted that a programme of upgrading bus stops for wheelchair accessibility is being developed at present. This programme's available funding will be rolled out based on the Authority's assessment of the greatest need and would be independent of who is operating the service.

The Authority will include in all Public Transport Service Contracts, whether directly awarded or tendered, an obligation that all relevant staff undergo disability equality training.

In relation to the employment conditions of the staff of the incumbent

In the case of the incumbent operator not being successful in the competitive tender staff of the incumbent operator would be subject to the European Communities (Protection of Employees on Transfer of Undertakings) Regulations 2003 (the “Transfer Regulations” or “TUPE”).

The Authority noted that under these regulations that the rights and obligations arising from the contract of employment of each employee working in an identifiable business that is being transferred will automatically transfer from the transferor entity to the transferee with effect from the effective date of the transfer of the business. This protection is significant for the staff. The Authority noted that an exception to this general transfer of rights and obligations under “TUPE” is that existing pension benefits arising on normal retirement, invalidity benefits and death in service benefits that form part of an occupational pension scheme do not transfer.