

BANGALORE METRO RAIL PROJECT – LINE R6

INDIA

Complaint SG/E/2019/08

Complaints Mechanism - Complaints Mechanism - Complaints Mechanism - Complaints Mechanism

DISPUTE RESOLUTION REPORT

14 June 2021¹

¹ The report contains events until 13 March 2021.

Prepared by

The Complaints Mechanism

External Distribution

Complainants

Promoter

Internal Distribution

Secretary General

Inspector General

EIB services concerned

The EIB Complaints Mechanism

The EIB Complaints Mechanism is designed to provide the public with a tool enabling alternative and pre-emptive resolution of disputes in cases in which members of the public feel that the EIB Group has done something wrong, i.e. if they consider that the EIB has committed an act of maladministration. When exercising the right to lodge a complaint against the EIB, any member of the public has access to a two-tier procedure, one internal – the Complaints Mechanism Division – and one external – the European Ombudsman (EO).

Maladministration means poor or failed administration. This occurs when the EIB Group fails to act in accordance with the applicable legislation and/or established policies, standards and procedures, fails to respect the principles of good administration or violates human rights. Some examples, as set out by the European Ombudsman, are: administrative irregularities, unfairness, discrimination, abuse of power, failure to reply, refusal to provide information, unnecessary delay. Maladministration may also relate to the environmental or social impacts of the EIB Group's activities and to project cycle-related policies and other applicable policies of the EIB.

The EIB Complaints Mechanism is designed not only to address non-compliance by the EIB with its policies and procedures but also to endeavour to solve the problem(s) raised by complainants such as those regarding the implementation of projects.

For further and more detailed information regarding the EIB Complaints Mechanism please visit our website: <http://www.eib.org/en/about/accountability/complaints/index.htm>

GLOSSARY

| | |
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| ASC | All Saints Church |
| BBMP | Bruhat Bengaluru Mahanagara Palike |
| BMRL | Bangalore Metro Rail Corporation Ltd. |
| CHMP | Cultural Heritage Management Plan |
| COVID-19 | Coronavirus Disease 2019 |
| CM | Complaints Mechanism |
| DPR | Detailed Project Report |
| E&S | Environmental and social |
| EIB | European Investment Bank |
| EMPRI | Environmental Management Policy Research Institute |
| EO | European Ombudsman |
| ESG | Environment Support Group |
| EU | European Union |
| FPIC | Free, prior and informed consent |
| IAR | Initial Assessment Report |
| IIM | Indian Institute of Management, Bangalore |
| KIAD Act | Karnataka Industrial Areas Development Act |
| KIADB | Karnataka Industrial Areas Development Board |
| km | kilometre |
| KTCP Act | Karnataka Town and Country Planning Act, 1961 |
| m | metre |
| RAP | Resettlement Action Plan |

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EXECUTIVE SUMMARY

The EIB Complaints Mechanism (EIB-CM) received a complaint from a member of the congregation of All Saints Church (the Complainant), supported by the Environment Support Group as adviser. The complaint concerns the alleged negative impact of the Bangalore metro rail project line R6 – an EIB-financed operation – on the All Saints Church (ASC). Following its initial assessment, the EIB-CM recommended that the Complainant and other concerned congregation members together with the Bangalore Metro Rail Corporation Ltd. (BMRCL) engage in a joint consultation to openly share and discuss concerns. The facilitation process was moderated and documented by two local facilitators under the supervision of the EIB-CM between August 2020 and February 2021.

The EIB-CM highly appreciates the active participation of the congregation members and the representatives of BMRCL in the facilitation process. The process provided a forum for dialogue and exchange and an opportunity to better understand the concerns and limitations of each party. Overall, the EIB-CM believes that the merits of the process were to (i) foster the relationship between the concerned congregation members and BMRCL; (ii) facilitate a two-way exchange of information and concerns; and (iii) enable the development of an additional option that further reduces the impact on church land. Some concrete actions have been agreed as an outcome of the consultation process:

- **Right to pray:** BMRCL committed not to carry out works creating noise pollution in the vicinity of the church between 8 am and 4 pm on Sundays so that prayer activities can take place without disturbance. It will also ensure that no such activity takes place during other services such as marriages, if informed 24 hours in advance.
- **Continued dialogue:** the parties agreed that they will start a dialogue concerning the improvement of the junction (Shoolay Circle/Vellara Junction), notably concerning the movement of pedestrians, vehicle traffic and multi-modal transit facilities at the metro station.
- **Name of the station:** BMRCL assured that the final name of the station will not be “Vellara Junction”.
- **Consideration for proposed alternatives:** BMRCL showed willingness to modify the design of Vellara station and proposed alternatives with different impacts on the ASC land in order to accommodate, to the extent possible, the concerns of the congregation members group. BMRCL will need to inform the congregation members group in a timely manner of the final decision on the option chosen and the accompanying environmental and social mitigation measures.
- **Public disclosure and consultation:** BMRCL shared documentation with the congregation members group prior to and during the facilitation process. The parties exchanged views in a constructive way. The EIB-CM welcomes that both parties are willing to continue the constructive dialogue, e.g., to improve the junction.

At the same time, the EIB-CM acknowledges that the parties did not come to an agreement on all points during the facilitation process. The lack of a final agreement encompassing all issues appears to be partly a result of the scope of the process given the absence of the church authorities and other stakeholders, which BMRCL has to equally take into consideration. The EIB-CM made some suggestions for follow-up and monitoring actions by the EIB services regarding specific issues raised by the complaint as outlined in section 6 of the present report.

Taking into account the actions agreed between the parties, the establishment of a direct line of communication between the parties, the additional actions performed by BMRCL after the issuance of the IAR to address the concerns in the complaint, and the monitoring planned by the EIB services, the EIB-CM closes this process in line with Article 2.5.6 of the EIB-CM Procedures. The EIB-CM will monitor the implementation of the suggestions and commitments of the EIB services within 12 months after the issuance of this Dispute Resolution Report.

DISPUTE RESOLUTION REPORT

Complaint: SG/E/2019/08

Confidentiality: No

Date received: 7 June and 8 July 2019

Complainant: a member of the congregation of All Saints Church, supported by the Environment Support Group as adviser (ESG)

Parties to the facilitation process: the Complainant, ESG and other concerned congregation members (congregation members group); the Bangalore Metro Rail Corporation Ltd. (BMRCL or the Promoter)

1. THE COMPLAINT

On 7 June 2019, a member of the congregation of All Saints Church² (the Complainant) lodged a complaint with the EIB Group Complaints Mechanism (EIB-CM) on behalf of concerned congregation members in relation to alleged negative impacts of the Bangalore metro rail project – line R6³ – an EIB-financed operation in India (the Project). On 8 July 2020, a more detailed version of the complaint was submitted, supported by the Environment Support Group as adviser (ESG)⁴. The complaint concerns the alleged negative impact of the Project on the All Saints Church (ASC), a Christian church situated at the intersection of Hosur Rd and General KS Thimayya Rd, as a consequence of the intended construction of the Vellara metro station. The main allegations relate to a lack of proper public disclosure and consultation, environmental and social concerns, the failure to consider different design and alignment options, non-compliance with local laws by the Promoter, the Bangalore Metro Rail Corporation Ltd. (BMRCL or the Promoter), and the improper implementation of the first phase of the Project.

2. THE PROJECT

The Project concerns the construction of a metro line (Reach 6) of about 22 km in length with 18 stations and the related purchase of a fleet of about 96 metro cars in the city of Bangalore, in the State of Karnataka in Southern India. The Project is an element of phase II of the construction of a longer network of metro lines in the city of Bangalore. Phase I of the metro system was not financed by the EIB. The EIB is providing an investment loan for the Project of up to EUR 500million. The loan to the Republic of India was approved by the EIB's Board of Directors in July 2017. The Project is being implemented by the BMRCL, jointly owned by the central government of the Republic of India and the Government of Karnataka.

² <https://www.allsaintscsi.org/>.

³ Further information on the Project is available on the EIB's website:

<https://www.eib.org/en/projects/pipelines/all/20160816>.

⁴ <https://esgindia.org/>.

3. THE INITIAL ASSESSMENT

- 3.1. Following the admissibility of the complaint, the EIB-CM carried out an initial assessment aiming to clarify the concerns raised by the Complainant and determining if further work by the EIB-CM would be necessary to address the issues raised by the Complainant. An Initial Assessment Report (IAR) was issued by the EIB-CM on 30 October 2019. This report was produced following a site visit by the EIB-CM in September 2019 and discussions with a wide variety of stakeholders. During its mission, the EIB-CM met with the Complainant and other congregation members as well as members of the ESG, the Promoter and the Karnataka Industrial Areas Development Board (KIADB), the Bishop of the Karnataka Central Diocese, the presbyter in charge of ASC, the Indian Institute of Management of Bangalore (IIM) in charge of the Resettlement Action Plan (RAP) at the time, and the EIB services' consultant for environmental and social monitoring.
- 3.2. It emerged from the initial assessment that many of the concerns raised would benefit from additional information and clarification. In light of this, the IAR tried to provide some additional clarification. During its mission, the EIB-CM had initially proposed to pursue a multi-party dialogue process involving the church authorities, the Complainant and other concerned congregation members and the Promoter to discuss concerns and solutions for Vellara station. The church authorities, however, declined to participate in such a process. Given the Complainant's and the Promoter's willingness to continue the exchange, the EIB-CM proposed to facilitate further information sharing between these two parties. According to the EIB-CM procedures, facilitation of information sharing aims at a better understanding of project impacts and seeks to effectively address the concerns put forward. As part of such information sharing process, the EIB-CM recommended that the Complainant and other concerned congregation members together with the Promoter engage in a joint consultation to openly share and discuss concerns. The consultation was proposed to be hosted, moderated and documented by an external third party. At the same time, the EIB-CM acknowledged that the Promoter has to take various interests into account. In particular, the Promoter needs to ensure that the proposed changes also meet the interests of the legal representatives of ASC.
- 3.3. Two allegations regarding the free, prior and informed consent (FPIC) requirement and phase I of the Bangalore metro project were found to be not eligible for further assessment.

4. THE FACILITATION PROCESS

- 4.1. Following the publication of the IAR and the parties' acceptance to participate in the dialogue facilitation, the EIB-CM initially proposed an independent facilitator to manage the process but the proposal was not accepted by one of the parties. Both parties subsequently agreed to appoint the Environmental Management Policy Research Institute (EMPRI)⁵ as an independent third party. Two local facilitators of EMPRI were in charge of the process with a view to engaging the parties in a constructive dialogue about the issues raised in the complaint.
- 4.2. Due to the ongoing COVID-19 health crisis, the EIB-CM was not in a position to travel again after the initial assessment. The dispute resolution team started the preparatory phase through written communication and online preparatory meetings with the parties. The local facilitators were introduced to the parties and the preparatory meetings continued with the participation of the local facilitators. In this phase, on 20 August 2020, one online preparatory meeting was held between the Complainant (who was assisted by other concerned members

⁵ <https://www.karnataka.gov.in/empri/Pages/home.aspx>.

of the congregation and the ESG, hereinafter referred to as congregation members group), the facilitators and the dispute resolution team of the EIB-CM. Similarly, on 18 August 2020, one online preparatory meeting was held between the Promoter, the facilitators and the dispute resolution team.

- 4.3. Following these preparatory meetings, an agenda for the facilitation was prepared by the facilitators based on the IAR and the parties were asked to comment on the agenda. The congregation members group also prepared a list of documents that they wished to obtain from the Promoter. The Promoter provided the documents it deemed possible to share with the congregation members group.
- 4.4. The joint consultation meetings of the parties started on 10 October 2020. The parties met four times in joint meetings. The last meeting took place on 21 November 2020. Following the receipt of the facilitation report, in February 2021 the EIB-CM held separate final closure meetings with the parties to solicit feedback and questions.

5. SUMMARY OF DISCUSSION BETWEEN THE PARTIES

The following section summarises the main elements of exchange and consultation by the Promoter and the congregation members group during the facilitation process and is presented with their consent.

5.1. All Saints Church (ASC): heritage value and public concerns

The congregation members group expressed its view that the ASC building has heritage value because of its age and the purpose it serves. Furthermore, the congregation members group explained that the space surrounding the building is sacred (called sacred grove) and should therefore be preserved.⁶ The Promoter acknowledged the concerns of the congregation members group, notably as far as the sacred grove is concerned, and appealed to the congregation members group to continue supporting the Project.

5.2. Design, structural and technical concerns for Vellara station

- 5.2.1. The congregation members group requested that the plan for the Vellara station be reconsidered and questioned the deviation from the original Detailed Project Report (DPR). The group further suggested that some of the facilities could also be placed in the neighbouring military land already acquired for the Project, thus preserving the sacred grove. No land from the church should be acquired on a permanent or temporary basis and the group suggested various alternative possibilities to this end, notably that a multi-level station box similar to Ashram Road Station in Delhi could be used to preserve the church land and take into consideration the concerns of the congregation members; shifting the station 16 m to the south into military land or move it north of Vellara Junction (Johnson Market). They also mentioned that the cost itself should not be the factor that determines the changes to be brought. The group also made several suggestions which it believes would make it possible to forego the acquisition of any land from the church, and mentioned that in the past there have been instances of moving projects to avoid existing structures such as shrines or temples. The group stressed again that none of the options that require acquisition of ASC land is acceptable

⁶ During the consultation of the Dispute Resolution Report, the congregation members group raised the point that the All Saints Church is not merely the structure but the entire campus, which should be considered as a “heritage”.

to them. Lastly, the group expressed concerns with the level of noise from the fans and questioned the need for Vellara station to be less than a kilometre from Langford station.

- 5.2.2. The Promoter presented options 1 and 2 (see annex) and explained that option 2 would bring down the amount of land needed from 4 500 m² to 654.59 m² while keeping the school for special educational needs intact. It also explained that the tunnelling work had already been altered and had started from the opposite side (Shivaji Nagar) in order to accommodate the concerns of the congregation members group. The Promoter also volunteered to perform any landscaping work after the works are finished, if desired by the congregation members group. The Promoter stressed that while it has tried to accommodate the concerns of the concerned congregation members group, the Vellara station will need to be built. The Promoter further noted that part of the station will be on the adjacent military land. The Ashram Road Station model would increase the time and cost and might result in compromising safety standards. The Promoter also elaborated that the original DPR envisaged a 236 m long station and that it had been reduced to 170 m in length to reduce the amount of land acquired from the church. The Promoter further stated that even though in the original DPR the station was in the middle of the road, the service road would have to pass through ASC land, thus requiring a larger amount of land from the church to be acquired on a permanent basis. The Promoter stressed that the DPR is only an indicative design bereft of details that is subject to modification wherever necessary. The Promoter explained the difficulties with the implementation of some of the suggestions presented by the congregation members group. The Promoter also shared a layout plan of a metro station and explained the various functionalities needed to operate the station, including all the safety requirements. The Promoter stressed that there is great pressure when trying to accommodate all the features of the station while maintaining the safety standards in a reduced station and highlighted that this is a very complex exercise. Vellara station was also compared with other stations (Langford Town and Dairy Circle) and the reduction of size to accommodate the congregation members group's concerns was discussed. The different technical aspects were also discussed.
- 5.2.3. Following the discussion on the technical aspects, the Promoter proposed a third option (option 3, see annex), whereby a further portion of the land needed from the church would be used on a temporary basis and would be returned to the church upon completion of the Project (654.59 m²). With this option, only 228.41 m² would need to be swapped (in a different location) with the land already acquired on a permanent basis on the church land.

5.3. **Efficient transport mechanism and traffic density in the vicinity of Vellara station**

- 5.3.1. The congregation members group expressed willingness to work with the Promoter to find better alternatives to efficiently tackle the traffic congestion issue in such a way that there would be no need to acquire any land from the church. The congregation members group made some proposals concerning traffic diversion and questioned the need to have a bus bay next to the metro station. The congregation members group expressed willingness to work with the Promoter to discuss future traffic arrangements in the vicinity of Vellara station.
- 5.3.2. The Promoter stressed the difficulties of the roads in Bangalore for pedestrians and cyclists, which make it necessary to have a multi-modal integrated transport system. According to the Promoter, the metro rail is a public necessity and requires the acquisition of land. The Promoter explained that in broader terms, this is a question of balance between private rights and public rights. The Promoter further explained the reasons for the necessity of a bus bay at Vellara station and the difficulties with traffic diversion. It welcomed the congregation members group's suggestion to work together on this matter.

5.4. **Environmental and biodiversity concerns**

- 5.4.1. The congregation members group made a presentation concerning the shrinkage of greenery in Bangalore, including a presentation on the biodiversity in the ASC compound (based on a diversity study of the ASC compound prepared by ESG which was made available to the parties of the facilitation process). The congregation members group argued that the construction of the metro station would cause irreplaceable damage to such biodiversity. The group argued that the rate of survival of transplanted trees is low and it will not be possible to transplant the older trees within the compound since they have roots deeper than 3 m. The congregation members group argued that the removal of trees from the sacred grove would lead to a loss of the sense of sacredness of the space and insisted that every effort should be made not to interfere with the space.
- 5.4.2. The Promoter committed to transplanting and replanting as many trees within the compound as possible and stressed that the number of trees affected would be significantly reduced with the last option proposed (from 40 originally to 16 in options 2 and 3). The Promoter also stressed that the assessment of trees to be felled and replanted or transplanted will be done by the Tree Committee appointed by the High Court of Karnataka. The Court has ordered that 10 trees will have to be planted for each tree removed. For this purpose, 1 000 seedlings were planted and will be relocated once the Project is completed. The Promoter confirmed that the deep-rooted trees will have to be transplanted and explained that the rate of survival of transplanted trees is 89%. The Promoter committed to do its best to replant trees within the limits of Bruhat Bengaluru Mahanagara Palike (BBMP) and as close as possible to Bangalore and will try its best to enhance the environment by improving the landscape of ASC upon completion of the Project. The Promoter also explained that the entire metro line was planned in consultation with the various authorities and departments, and that while trying to accommodate all sustainable development issues it also has to work within a defined parameter of constraints.

5.5. **Change of land use**

The congregation members group argued that according to the judgment of the High Court of Karnataka of 16 November 2010 in WP 13241/2009, metro rail projects must comply with the Karnataka Town and Country Planning Act (KTCP Act). It was further argued that the Promoter cannot rely upon a legal opinion given by the Advocate General which, according to the congregation members group, is contrary to the judgment of the High Court. The Complainant argued that the Promoter, as a special purpose vehicle, does not have the power to unilaterally change the usage of the land for the metro rail. The Promoter denied having violated any laws and asserted that all its actions are based on the legal opinion rendered by the State's highest law officer, the Advocate General, and that as a state entity, it is required to follow the legal advice. The Promoter believes that the Advocate General took into consideration the judgment of the High Court when producing the legal opinion. The Promoter also explained that the metro rail project helps industry and is considered as industrial infrastructure. The congregation members group and the Promoter agreed to disagree on this point but stated that the facilitation process is not the right forum to find out the legality of any actions.

5.6. **Right to pray**

The congregation members group stated that the ongoing works are causing enormous disturbance during prayer time, even more so as some members of the congregation follow the service from the sacred grove when there is not enough room inside the church. The

Promoter understands these concerns and has therefore committed to suspend the works with immediate effect during prayer time, i.e. on Sundays from 8 am to 4 pm.

5.7. School for special educational needs and old people's home

The congregation members group expressed its concerns that the works will have an impact on the physical and mental wellbeing of the children and older people occupying the facilities, especially as they will not be able to do their normal outdoor activities. The works are generating a lot of noise and dust pollution and it will therefore be difficult for the children and older people to live through the construction phase. The Promoter committed to making every effort to ensure that noise and dust pollution is reduced. The Promoter also offered to temporarily relocate the classes during the construction phase and bring them back after the works, if that is a solution that is acceptable for those concerned⁷.

5.8. Stakeholder participation in the decision-making

The congregation members group, while stating that they do not oppose the metro project, stressed that the public should have been involved in the decision-making process. In particular, a development plan should have been shared for consultation to understand the concerns of the public, including the congregation members. The congregation members group expressed appreciation for the current facilitation process, but requested that its suggestions be considered and an alternative plan be prepared taking into account the concerns expressed. In the group's opinion, public participation in the decision-making process so far has been minimal and an open forum should be created for the public to have the possibility to provide ideas and suggestions. The Promoter stated that it is trying to maximise the welfare of the general public while minimising the impact on various stakeholders, including (future) commuters and the members of the congregation. In addition, it has taken into consideration the concerns of the congregation members, which is why it developed option 2 and 3 during the facilitation process. The Promoter also stated that it engaged in a meaningful dialogue with several stakeholders, including the congregation members, even in the design phase.

5.9. Sustainable development

The congregation members group recalled the glory of Bangalore since the time of the ancient Chola and how the governance of Bangalore involved sustainable development and maintaining greenery. In its opinion, development and town planning should be done on the basis of the precautionary principle. The Promoter highlighted that since ASC was built, the population of Bangalore has multiplied by 80, and that this adversely affects pedestrians and cyclists and hence the need for the metro project. The Promoter asserted that it has tried its best to balance the different interests by proposing different options for ASC.

5.10. Exchange of documents

Following the exchange of documents prior to the start of the facilitation process, the congregation members group reiterated its request for some documents that the Promoter did not provide, notably a letter from the church authorities regarding ownership of the land and the structural drawings and layout plan. The Promoter explained that it was not in a position to share a third-party document, but highlighted that this letter was of no consequence to the present process since the ownership of the land will be decided by the

⁷ For instance, the school management.

court⁸. As far as the layout plan is concerned, the Promoter expressed its willingness to share it once one of the options proposed is accepted, following which the plan will need to be modified and can be shared.

5.11. **Impact on the groundwater level**

The Promoter committed to ensuring that all measures will be put in place to prevent any adverse impact on the groundwater level. Following a structural study of the reservoir conducted by the University Visvesvaraya College of Engineering, the Promoter explained in detail the measures that will be implemented (reinforcement pipes, pouring concrete, etc.) to secure it. An additional cost of INR 1.78 crore⁹ has been allocated for ensuring the safety of the reservoir.

5.12. **Name of the station**

The congregation members group questioned why the metro station is called “Vellara Junction”. The Promoter explained that it is merely referred to as “Vellara Junction” at the moment, but agreed with the congregation members group and assured them that this will not be the final name of the station.

5.13. **Other queries and concerns**

Making reference to other projects financed by the EIB in Europe, the congregation members group questioned whether the EIB applies the same standards in Europe and in India.¹⁰

6. **SUMMARY OF OUTCOMES AND SUGGESTIONS**

The EIB-CM notes that various concrete actions have been agreed as an outcome of the consultation process. In addition, following the issuance of the IAR in October 2019, the Promoter undertook various steps to address environmental and social concerns beyond the facilitation process. The following section summarises the remaining open questions, the agreed or committed actions by the parties and suggestions for specific actions by the EIB services to further address the concerns in the complaint.

6.1. **Dialogue for improvement of the junction**

The Promoter and the congregation members group agreed that they will start a dialogue concerning the improvement of the junction (Shoolay Circle/Vellara Junction), notably concerning the movement of pedestrians, vehicle traffic and multi-modal transit facilities at the metro station.

6.2. **Name of the station**

The Promoter has assured that the final name of the station will not be “Vellara Junction”.

⁸ It is understood that this refers to a dispute over land ownership between the Ministry of Defence and the ASC.

⁹ INR 17 800 000 or about EUR 200 000.

¹⁰ The EIB-CM replied to this question by email on 3 February 2021, stating that the EIB Statement of Environmental and Social Principles and Standards provides that for projects outside the EU, the EIB applies the legal principles and standards of the EU equally as the benchmark.

6.3. Change of land use

The Promoter asserted that all its actions are based on the legal opinion rendered by the State's Advocate General, and that as a state entity, it is required to follow the legal advice. The EIB-CM notes that the legal opinion rendered by the State's Advocate General provides that *"as of now there seems to be no impediment for the implementation of the Metro Rail Project from the Angle of KTCP Act"*. Furthermore, it also provides that when land is acquired by Karnataka Industrial Areas Development Board (KIADB), the State Government can declare this area as an industrial area and notify it under Section 3(1) of the Karnataka Industrial Areas Development Act (KIAD Act). The legal opinion also provides that according to the zoning of land use and regulations under the Revised Master Plan 2015, in a residential zone, commercial zone, industrial zone, public and semi-public zone, metro stations are permissible land use, i.e. they do not require a change of land use. The facilitation process could not address the question of legality of the change of land use. In light of the Promoter's contractual obligation to adhere to national laws, the EIB-CM has referred this issue with the allegations, the legal opinion by the State's Advocate General and the judgment of the High Court invoked by the congregation members group, as well as a note prepared by the congregation members group shared with the EIB-CM on 18 February 2021 elaborating the group's own position concerning the High Court judgement and the Advocate General opinion, to the EIB services for their information and possible follow up.

6.4. Consideration for proposed alternatives¹¹

The EIB-CM takes note that during the facilitation process, the Promoter examined the alternatives proposed by the congregation members group and provided the reasons why they are not achievable. The Promoter also showed willingness to modify the design of Vellara station and proposed alternatives with different impacts on the ASC land in order to accommodate, to the extent possible, the concerns of the congregation members group. Regarding the choice of the different options presented, the Promoter will also have to take other stakeholders' views and concerns into account, including those of the church authorities. The EIB-CM expects the Promoter to inform the congregation members group in a timely manner of the final decision on the option chosen and the accompanying environmental and social mitigation measures in line with standard 10 of the EIB Environmental and Social Handbook. The EIB-CM will monitor that this information is provided in a timely and clear manner.

6.5. Public disclosure and consultation

The EIB-CM notes that the Promoter shared documentation with the congregation members group in advance of and during the facilitation meetings. The parties of the facilitation process exchanged views in a constructive way. Over four consultation sessions, the parties engaged with each other in a meaningful way and the Promoter took the concerns raised into account to develop an additional option to further mitigate the impact of the Project on the congregation members. In particular, the EIB-CM welcomes that both parties are willing to continue the constructive dialogue, e.g., as mentioned above, to improve the junction.

6.6. Detailed Project Report (DPR)

The EIB-CM notes, based on the explanation of the Promoter, that under the original DPR, the ASC land would have still been impacted due to the then necessary relocation of the road. As

¹¹ For the avoidance of doubt, the term 'alternatives' here refers to the suggestions made by the Complainant and other interested parties and does not necessarily reflect the use of the term in the EIB E&S standards.

noted already during the initial assessment, the decisions concerning the exact design of the Project rest with the Promoter. The EIB only has to agree to material deviations from the project description. Changes in the design, however, need to be properly reflected in the environmental and social documentation provided. In this regard, the EIB-CM notes that at the time of the draft Resettlement Action Plan (RAP), the alignment of the corridor at Vellara station had been determined and the premises of ASC were therefore duly included in the RAP survey. The EIB services still need to approve the final RAP, which is being finalised by the Promoter following various previous revisions. The EIB-CM suggests that the final RAP be prepared and published as soon as possible and no later than the end of May 2021.¹² The EIB services agree to monitor that the latest design regarding Vellara station is properly taken into account when the RAP is finalised.

6.7. Cultural heritage

The Promoter ensured that all options are at least 21.8 m away from the ASC building. Furthermore, the Promoter committed to perform a structural study of the church. The Promoter tried to take the concerns of the congregation members into account when developing new options, including option 3 proposed during the facilitation process, which further limits the impact on church land. Following the issuance of the IAR, the Promoter has drafted a Cultural Heritage Management Plan (CHMP), which needs to be revised by the EIB services and potentially expanded by the Promoter. The EIB services agree to continue working with the Promoter to improve the CHMP and to properly reflect the remaining impacts of the chosen option on cultural heritage. The EIB services will monitor the implementation of the finalised CHMP and the execution of the structural study of the church as well as the implementation of possible recommendations by the study, for instance, through the semi-annual project progress report.

6.8. Trees

- 6.8.1. As part of options 2 and 3, the Promoter put forward a proposal that would reduce the number of trees affected on the ASC premises from 40 to 16. Furthermore, it committed to transplant the affected trees, where feasible, on the premises of ASC or close by and agreed to compensatory plantation in a ratio of 1 to 10 for trees that cannot be saved, according to the guidelines of the Ministry of Environment, Forests and Climate Change. The congregation members group's concerns about the survival rate of transplanted trees could be monitored by including information on the survival rate of the trees in the periodic environmental and social reporting which the Bank receives. The EIB-CM further notes that following the issuance of the IAR, the Promoter prepared a management plan for tree cutting and transplantation following the recommendations of the special trees committee. Lastly, the EIB-CM notes that the Promoter committed to fully follow the Karnataka Preservation of Trees Act and the directions of the courts, including with regard to obtaining the Tree Officer's permission to fell trees.
- 6.8.2. The EIB services agree to (i) follow up with the Promoter on the improvement of the management plan for the felling of trees; (ii) request that the survival rate is properly documented and any potential problems adequately addressed; and (iii) for the trees on the territory of the ASC, monitor compliance with the applicable laws and regulations with regards to tree felling, e.g. obtain the Tree Officer's permission to fell and plant other trees, for instance, through the semi-annual project progress report.

¹² The RAP was published during the consultation of the Dispute Resolution Report and is available at: <https://www.eib.org/en/registers/all/141776212>.

6.9. **School for special educational needs and old people's home**

As part of options 2 and 3, the Promoter proposed changes to avoid the destruction of the school building entirely. Furthermore, it proposed to temporarily relocate the school's activities for the duration of the works. If the church authorities prefer the original proposal, the Promoter proposed to create an alternative facility to host the children during the construction period and to rebuild the school at the end of the construction and temporary occupation period. The EIB-CM notes that the old people's home will not be directly affected by the construction works and that the reduced impact on the garden in front of the ASC building also reduces the negative impact on the residents of the old people's home. The EIB-CM suggests that the EIB services, monitor the situation, in particular that the Promoter and its contractors put in place sufficient protection measures to ensure the safety and security of the children and residents of the old people's home, for instance, through the semi-annual project progress report.

6.10. **Right to pray**

The Promoter committed not to carry out works creating noise pollution in the vicinity of the church between 8 am and 4 pm on Sundays so that prayer activities can take place without disturbance. It will also ensure that no such activity takes place during other services such as marriages, if informed 24 hours in advance. The construction company has been instructed accordingly. Furthermore, the Promoter provided the church authorities with the contact details for advance notice of such activities. Option 2 and 3 completely spare the area in front of the church building, which is used for seating on special occasions. As a result of these actions, the impact on prayers and festivities has been significantly reduced.

6.11. **Groundwater level**

Following the IAR, a structural study of the reservoir was conducted by the University Visvesvaraya College of Engineering, which suggested adding reinforcement to all the pipes and other appropriate measures. The EIB services agreed to request that the Promoter considers and reports on the implementation of the relevant recommendations.

* * *

The EIB-CM welcomes the active participation of the congregation members group and the Promoter in the facilitation process. The process provided a forum for dialogue and exchange and an opportunity to better understand the concerns and limitations of each party. Overall, the EIB-CM believes that the merits of the process were to (i) foster the relationship between the concerned congregation members and the Promoter; (ii) facilitate a two-way exchange of information and concerns; and (iii) enable the development of an additional option that further reduces the impact on church land. At the same time, the EIB-CM acknowledges that the parties did not come to an agreement on all points during the facilitation process. The lack of a final agreement encompassing all issues appears to be partly a result of the limited scope of the process given the absence of the church authorities and other stakeholders, which the Promoter has to equally take into consideration.¹³

¹³ The EIB-CM in this regard notes that there appear to be various opinions and possibly preferences among the different stakeholders of the church.

Taking into account the actions agreed between the parties, the establishment of a direct line of communication between the parties, the additional actions performed by the Promoter after the issuance of the IAR to address the concerns in the complaint, and the monitoring planned by the EIB services, the EIB-CM closes this process in line with Article 2.5.6 of the EIB-CM Procedures. The EIB-CM will monitor the implementation of the above suggestions and commitments of the EIB services within 12 months after the issuance of this Dispute Resolution Report.

Head of Division
Complaints Mechanism
14 June 2021

Head of Unit
Dispute Resolution
14 June 2021

Annex 1: Overview of options for land acquisition / temporary occupation of ASC premises

Rows 1–4 are based on Annex 1 of the Initial Assessment Report.

Row 5 is based on an additional option presented during the consultation. A detailed drawing of option 3 (row 5) was shared during the consultation meeting.

| No. | Area in m ² | | Number of trees affected | Minimum distance from station box to church entrance in metres | Minimum distance from station box to school in metres | Remarks |
|-----|------------------------|-----------|--------------------------|--|---|--|
| | Permanent | Temporary | | | | |
| 1 | 228.88 | 4 480.57 | 45 | 21.8 | School building needs demolition. | Original proposal by BMRL (Annexure 1). |
| 2 | 228.88 | 3 797.27 | 41 | 21.8 | School building needs demolition. | Temporary hall area adjacent to entry gate on north side (from Thimmaiah Rd) left out, gate and entry on north side left out based on the suggestions from the church/congregation members (Annexure 2). |
| 3 | 228.41 | 1 140.00 | 26 | 27.5 | 22.9 | Option 1: This is one of the two options now offered by BMRL. Here, the Environmental Control System Plant room of size 22.45 m x 15.55 m (approx. 350 m ²) is brought to ground level and the station box length is consequently reduced to 193.90 m. The building housing the school on north side is totally avoided. The entry from Hosur Rd to the church premises remains intact. The tree grove in front of the church is partly affected. Temporary area is reduced from 3 797 m ² to 1 140 m ² . The permanent area remains the same at 228 m ² ; however, a change of location is proposed. In this option the circulating area at the entry level gets reduced (Annexure 3). |

| | | | | | | |
|---|--------------------|--------|----|------|----|--|
| 4 | 228.41 & 654.59 | 0.00 | 16 | 27.5 | 38 | <p>Option 2: This is the second option now offered by BMRCL. Here, along with the Environmental Control System Plant room other rooms i.e. store room, security room, maintenance room and DB rooms of size 14.50 m x 11.88 m (approx. 172 m²) are also brought to ground level and consequently the station box length is further reduced to 178.90 m. The building housing the school on north side is totally avoided. The entry from Hosur Rd to the church premises remains intact. The tree grove in front of the church remains entirely unaffected. The land requirement in this case is 654 m² on a permanent basis in addition to 228 m² already in process for which a change of location is proposed. In this option the circulating area at the entry level gets further reduced (Annexure 4).</p> |
| 5 | 228.41 | 654.59 | 16 | 27.5 | 38 | <p>Option 3: This is the third option now offered by BMRCL, essentially based on option 2 with the major difference being the rearrangement of some of the rooms at ground level and the displacement of the ventilation shaft away from the school. This move would no longer require the demolition of the school. Furthermore, the area of 654.59 m² initially required under a permanent basis under option 2 would only be needed on a temporary basis, and would thereafter be returned to the church.</p> |