

Bangalore metro rail project – line R6

Complaint SG/E/2019/08

Complaints Mechanism - Complaints Mechanism - Complaints Mechanism - Complaints Mechanism

INITIAL ASSESSMENT REPORT

30 October 2019¹

¹ The report contains events until 24 September 2019.

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The EIB Complaints Mechanism

The EIB Complaints Mechanism is intended to provide the public with a tool enabling alternative and pre-emptive resolution of disputes in cases where the public feels that the EIB Group has done something wrong, i.e. if a member of the public considers 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 (EIB-CM) – and one external – the European Ombudsman (EO).

Complainants who are not satisfied with the outcome of the procedure before the EIB-CM or with the EIB Group’s response have the right to lodge a complaint of maladministration against the EIB with the EO.

The EO was “created” by the Maastricht Treaty of 1992 as an EU institution to which any EU citizen or entity may appeal to investigate any EU institution or body on the grounds of maladministration. 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 cited by the EO, 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-CM is intended 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-CM, please visit our website: <https://www.eib.org/en/about/accountability/complaints/index.htm>

The Initial Assessment Report

As outlined in the EIB-CM Procedures², the initial assessment generally aims to:

- Clarify the concerns raised by the complainant, to better understand the complainant’s position as well as the views of other project stakeholders (project Promoter, national authorities, etc.);
- Understand the validity of the concerns raised;
- Assess whether and how the project stakeholders (e.g. complainant, the relevant EIB Group services and the project Promoter) could seek resolution of the issues under complaint;
- Determine if further work by the EIB-CM is necessary and/or possible (investigation, compliance review or mediation between the parties) to address the allegation or resolve the issues raised by the complainant.

In line with the proposed way forward in section five, this Initial Assessment Report is also intended to already contribute to information sharing between the parties.

² Available at: <https://www.eib.org/en/publications/complaints-mechanism-procedures.htm>.

GLOSSARY

AIIB	Asian Infrastructure Investment Bank
ASC	All Saints Church
BMRCL	Bangalore Metro Rail Corporation Ltd.
CM	Complaints Mechanism
CSI	Church of South India
DPR	Detailed Project Report
E&S	Environmental and social
EIA	Environmental Impact Assessment
EIB	European Investment Bank
EMP	Environmental Management Plan
EO	European Ombudsman
ESG	Environment Support Group
EU	European Union
FPIC	Free, prior and informed consent
IIM	Indian Institute of Management, Bangalore
KIADB	Karnataka Industrial Areas Development Board
km	kilometre
KTCP Act	Karnataka Town and Country Planning Act, 1961
m	metre
MoEFCC	Ministry of Environment, Forests and Climate Change
RAP	Resettlement Action Plan

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INITIAL ASSESSMENT REPORT

1. THE COMPLAINT

On 7 June 2019, the EIB-CM received a complaint regarding the Bangalore metro rail project submitted by a member of the congregation of All Saints Church (the Complainant) on behalf of concerned congregation members. The EIB-CM acknowledged receipt and confirmed the admissibility of the complaint on 21 June 2019. On 8 July 2019, the Complainant submitted a revised and more detailed version of the complaint supported by the Environment Support Group (ESG).³ The EIB-CM bases this report on the revised and more detailed complaint and the concerns expressed by the concerned congregation members during the EIB-CM site visit.

The complaint concerns the impact of the Bangalore metro rail project – line R6 – on the All Saints Church (ASC), a Christian church⁴ 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 of the Complainant are:

- the Promoter violates various applicable national laws including the Karnataka Town and Country Planning Act;
- BMRCL has not taken proposed alternatives sufficiently into account;
- the Project did not follow the required public disclosure and consultation process;
- BMRCL has not properly implemented phase I of the metro construction and similar shortcomings are to be expected for phase II;
- temporary acquisition of part of the premises of ASC is not in accordance with the law;
- deviation from the Detailed Project Report (DPR) and unclear decision-making regarding the land requirements for Vellara station;
- the works at Vellara station impact the cultural heritage of ASC;
- the temporary occupation would destroy important biodiversity by felling old trees;
- the temporary occupation would impact a school as well as the residents of an old people's home on the premises of ASC;
- violation of the right to pray *inter alia* due to the impact of the works on the garden of ASC which is used in the event that the church cannot host all attendants;
- the impact of the Project on the reservoir adjacent to the ASC and overall groundwater levels of the city.

2. BACKGROUND INFORMATION

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.⁵ The Project is a major element of phase II of the construction of a longer network of metro lines in the city of Bangalore. Phase I of the metro

³ <https://esgindia.org/>.

⁴ <https://www.allsaintscsi.org/>.

⁵ Further information is available on the EIB's website:
<https://www.eib.org/en/projects/pipelines/all/20160816>.

system, comprising two intersecting lines of 42 km in length, became fully operational in the second quarter of 2017.

The EIB is providing an investment loan for the Project of up to EUR 500 million. The loan to the Republic of India was approved by the EIB's Board of Directors in July 2017. The operation is being jointly financed with the Asian Infrastructure Investment Bank (AIIB).

The Project is being implemented by the Bangalore Metro Rail Corporation Ltd. (BMRCL or the Promoter). BMRCL is jointly owned by the central government of the Republic of India and the Government of Karnataka.

3. WORK PERFORMED BY THE EIB-CM

As part of its initial assessment, the EIB-CM held a first meeting with the EIB services involved on 3 July 2019 and a second meeting on 24 July 2019 following the monitoring mission of the EIB services and the receipt of the revised complaint. Further, the EIB-CM reviewed key project documentation. The EIB-CM had preparatory telephone/Skype calls with the Complainant and BMRCL. During these calls, both the Promoter and the Complainant expressed their willingness to engage in a dialogue.

From 12 to 16 September 2019, the mediation function of the EIB-CM went on a site visit to Bangalore to meet with different stakeholders and assess the possible way forward. During its mission, the EIB-CM met with the Complainant and other congregation members as well as members of 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), and ERM⁶, which is the EIB services' consultant for environmental and social (E&S) monitoring. The EIB-CM thanks all its interlocutors for their time and for sharing their perspectives.

The EIB-CM wishes to note that in addition to the visit by the EIB-CM, a monitoring mission by the EIB services including social and engineering experts took place from 5-7 July 2019. During their monitoring mission, the EIB services met with the Complainant and other concerned congregation members on the premises of ASC. In addition, ERM India – the EIB services' consultant for E&S monitoring – met with the Complainant and other concerned congregation members during their second E&S monitoring mission (3-5 July 2019).

⁶ <https://www.erm.com/>.

4. INITIAL ASSESSMENT

The findings of the EIB-CM's initial assessment, additional explanations and suggestions for future actions are presented below in the order of the main allegations listed under section 1 above.

4.1 *Violation of applicable national laws*

The EIB through its legal documentation requests that the Borrower and the Promoter adhere to the Republic of India's environmental and social laws and regulations and the EIB's environmental and social standards.⁷ While the Complainant argues that the Promoter is in breach of various national laws, BMRCL has provided information to the contrary including a legal opinion from the Advocate General of Karnataka. The Complainant, for instance, alleges that the proposed location of the Vellara station would require BMRCL to seek a change of land use. The legal opinion, however, states that no such change of land use is required since any land acquired by the Karnataka Industrial Areas Development Board (KIADB) is initially declared to be an industrial area and only thereafter acquired. The EIB-CM trusts that the legal opinion provided by the Advocate General of Karnataka provides adequate information regarding certain disputed legal aspects. Further, it is important to note that it exceeds the scope of this initial assessment report to judge the adherence of the Promoter to national laws.

4.2 *Alleged lack of consideration of proposed alternatives*

4.2.1 The complaint states that the Promoter ignores alternatives⁸ presented to it by the concerned congregation members. The EIB-CM notes that in trying to accommodate the congregation's concerns relating to the impact of the original design of Vellara station, the Promoter showed willingness to modify the design of the station and has consequently proposed two additional alternatives with different impacts on the land of ASC. These options include the shortening of the metro station and starting tunnelling from the other end of the section, i.e. Shivajinagar station. An overview of the various alternatives has been prepared by BMRCL and is annexed to this report. The two additional options as presented by the Promoter can be summarised as follows:

- **Option 1:** In this option, the amount of permanent acquisition remains at roughly 228 m² and the amount of temporary occupation is reduced from 3 797 m² to 1 140 m². The number of trees affected is reduced from 41 to 26 and the distance of the works from the church building is increased from 21.8 m to 27.5 m. This option would avoid totally the destruction of the school building and keep intact the access to ASC from Hosur Rd while a portion of the greenery in front of the church building and on one side of the gateway would be affected. The access to the school building and the parking space would also remain fully intact.
- **Option 2:** In this option, no temporary land is required. Due to the design change required for this option, more structures would need to come to ground level increasing the amount of required permanent acquisition by 654.59 m². The number of trees affected would be reduced from 41 to 16 trees and the distance of the works

⁷ According to Art. 6.5 (e) (ii) the Borrower shall procure that the Promoter undertake to implement and operate the Project in compliance with Environmental and Social Standards.

⁸ 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.

from the church building would be increased to 27.5 m (same as in option 1). This option would also avoid totally the destruction of the school building and keep entirely intact both sides of the gateway from Hosur Rd.⁹

- 4.2.2 In his complaint, the Complainant further proposes to move the station south to the land owned by the Ministry of Defence. The Promoter explained to the EIB-CM that this proposal is not feasible due to the already significant impact of the entire Langford station and part of the Vellara station on the Ministry's land.
- 4.2.3 During the visit of the EIB-CM, the Complainant referenced a metro station in Delhi (Delhi Ashram station) that is shorter than the new proposed design for Vellara station and according to the Complainant and other congregation members would be a technically feasible alternative for Vellara station. The Promoter argues that it has carefully studied all options to reduce the impact on the premises of ASC and that beyond the two new options described above no further reduction of the land requirement is possible.
- 4.2.4 The Complainant further raises the alternative to combine Vellara and Langford Rd stations. In this regard, the Promoter argues that it is not possible to combine the two stations because they cater to different commuters and therefore transport demand projections do not allow enable the two stations to be combined.
- 4.2.5 The EIB-CM notes that the exact number of stations has been studied and described in the DPR, which was elaborated by Delhi Metro Rail Corporation in 2011 on behalf of the Promoter. Both Vellara and Langford Rd stations were part of the original DPR. This suggestion by the Complainant therefore concerns the original decision of the metro corridor and the number of required stations outlined in the DPR. The DPR was shared with the EIB services during the appraisal of the Project and analysed by the technical experts of the EIB services. The DPR provides a detailed techno-economic analysis of the proposed corridor and stations. The DPR is based on household and traffic surveys and a transport demand model.
- 4.2.6 The EIB-CM notes that the decisions concerning the exact design of the project rest with the Promoter and need to be taken based on appropriate technical assessments. The EIB-CM acknowledges that when taking a decision on the design of the station and the consequent impact of the construction on the affected community, the Promoter has to take into account not only the views of the concerned congregation members but also the church authorities, other affected people (see section 4.9) and the wider community, including future commuters.
- 4.2.7 The EIB-CM notes that the Promoter's explanations regarding the alternatives suggested by the Complainant were provided to the Bishop of the Karnataka Central Diocese in a letter sent by BMRCL dated 29 June 2019. While shifting the station according to BMRCL is not possible, the described design changes allow for a significant reduction of the station length and therefore a reduction of the land requirements for Vellara station.
- 4.2.8 Following a suggestion by the EIB-CM, BMRCL explained the feasible alternatives during a multi-party consultation meeting on 17 August 2019 hosted by the Bishop of the Karnataka Central Diocese and attended by the presbyter in charge of ASC, the Complainant and other concerned congregation members. During its visit, the EIB-CM observed that there remain

⁹ The EIB-CM was made aware that as of the cut-off date of this report, BMRCL was in the process of analysing whether it would be possible under option 2 to return a portion of the land to ASC upon completion of the works.

doubts and misunderstandings about the two new options mentioned above including the location and impact of the ventilation system. The Complainant and other concerned congregation members raised a number of questions concerning the areas involved, the number of trees affected, as well as whether the distance of the works from the church building was enough to avoid damage to the building. At the request of EIB-CM, the Promoter has prepared the overview in Annex 1, which should address some of the questions.

4.3 *Lack of public disclosure and consultation*

4.3.1 The Complainant argues that the Promoter has employed secrecy in the decision-making related to the implementation of phase II of Bangalore Metro. The EIB-CM acknowledges that the Complainant and other congregation members would have liked more information on the Project and its impact on the premises of ASC. At the same time, the EIB-CM notes that the Promoter has shared information with church authorities and the Complainant on various occasions. An overview of the meetings held by the Promoter with church authorities and/or concerned congregation members is annexed to this report (Annex 2). Regarding the two new options presented, the Promoter further provided explanations on both options as well as detailed plans during the multi-party meeting of 17 August 2019. Following this meeting, the Promoter also marked both options on site for the community to visually grasp the differences.

4.3.2 The Complainant states that “*a series of public disclosures*” are required according to the KTCP Act. While the Promoter contests that the KTCP Act stated by the Complainant applies to the metro project, the EIB-CM notes that public consultation was part of the elaboration of the Resettlement Action Plan (RAP) undertaken by the IIM.¹⁰ For the underground section of the Project, five public consultations were held between the end of September and early November 2018 with between 100 and 200 participants each.¹¹ The consultation sessions were moderated by IIM. IIM also provided a summary of the issues brought up during the consultation sessions. Furthermore, the Environmental Impact Assessment (EIA) mentions an early formal public consultation held on 18 May 2017.

4.3.3 The Complainant makes reference to the principle of free, prior and informed consent (FPIC). While the EIB-CM did not assess the applicability of the FPIC principle as defined in national laws and regulations, it wishes to clarify that according to EIB’s E&S standards, the FPIC principle refers to indigenous communities. The EIB-CM has not been made aware of the existence of indigenous populations among the people affected by the project and therefore considers at this stage that the clauses of EIB’s E&S standards related to FPIC are not applicable.

4.4 *Concerns regarding the implementation of phase I*

The complaint makes reference to phase I of the Bangalore metro development and similar accounts were provided during the visit of the EIB-CM. The EIB-CM acknowledges that some congregation members and ESG raise serious concerns about the implementation of phase I and that such dissatisfaction leads to concerns about the proper implementation of phase II of the metro development. At the same time, the EIB-CM must clarify that the EIB was not involved in phase I of the metro development. The mandate of the EIB-CM is limited to lending

¹⁰ The EIB-CM has reviewed a draft version of the RAP. The final version will be made public on the EIB website.

¹¹ According to the RAP, public consultations were held at the KMF Auditorium on 29 September 2018 and 1 October 2018, at the Indian Social Institute on 6 and 17 October 2018 and at the Ruby Marriage Hall on 5 November 2019.

operations which the EIB has financed, approved or is at least actively considering financing.¹² The EIB-CM therefore has no remit to take into account grievances that address phase I of the Bangalore metro development. Allegations regarding phase I are therefore inadmissible.

4.5 *The disputed concept of temporary acquisition*

The Complainant claims that the temporary acquisition proposed for parts of the land of the ASC premises is an illegal process. It is the understanding of the EIB-CM that what BMRCL refers to as temporary acquisition constitutes a lease entered into voluntarily by two parties. The term “temporary acquisition” in the view of the EIB-CM is confusing as the underlying concept is rather a temporary occupation based on a voluntary lease. By making use of this lease option, BMRCL reduces the need for permanent acquisition in cases where the land is only required during the time of construction. Such lease option is supposed to limit the negative impact of the Project. The EIB-CM therefore finds this practice generally not objectionable. For the avoidance of doubt, the EIB-CM wishes to clarify that it is its understanding that for any voluntary transaction – including temporary lease and voluntary acceptance of the BMRCL compensation package in the case of permanent acquisition – the agreement of the church authorities as legal representatives would be required.¹³ The EIB-CM further acknowledges that where such voluntary lease option is not agreeable, BMRCL would move to permanent acquisition of the land.

4.6 *Deviation from the DPR and unclear decision-making regarding the land requirements for Vellara station*

4.6.1 The Complainant argues that for the construction of Vellara station, the Promoter unlawfully deviates from the DPR elaborated in 2011. Further, the complaint mentions that the stated land requirements for the construction are incoherent. The Complainant raises concerns that due to the deviations from the DPR the land acquisition process has been progressing without due care. The DPR states that Vellara station “*has been proposed under the middle and LHS [left hand side] of Hosur Road*”.¹⁴ It is the understanding of the EIB-CM that the current planning of Vellara station, however, provides for the station to be located further to the right of the original location.

4.6.2 The RAP mentions that the underlying principles for evaluation of the corridor are minimum private land acquisition, least disturbance to properties by acquiring government land wherever possible, preference for open land, minimum disturbance to people, ecology and biodiversity. The Promoter argues that the change to the station location was done to comply with these principles and to take more recent traffic information into account. In particular, the Promoter explained to the EIB-CM that the original DPR anticipated that Hosur Rd would be closed during construction, which allegedly is not a viable option any more due to current high traffic levels. According to BMRCL, following the DPR alignment – i.e. constructing the station below the road – would require traffic to be temporarily diverted during approximately four years of construction time on both sides of the existing road. This option supposedly would disturb the entire flow of traffic moving on Hosur Rd and the negative social impact would consequently be greater. In addition, the Promoter argues that even for deviation of

¹² Art. 4.3.12 of the EIB-CM policy, available at <https://www.eib.org/en/publications/complaints-mechanism-policy>.

¹³ The EIB-CM was made aware of an ongoing dispute over the rightful ownership of the land of ASC between the Ministry of Defence and the Karnataka Central Diocese. The EIB-CM does not take any view on such dispute and considers it to be without direct relevance for this report.

¹⁴ Page 22 of chapter 4 – Civil Engineering Works.

traffic, it would require land of the ASC premises for a temporary period. During its site visit, the EIB-CM observed that Hosur Rd indeed experiences very high traffic levels.

- 4.6.3 As mentioned under 4.2.6, the decisions concerning the exact design of the Project rest with the Promoter. According to the EIB services, the described deviation from the DPR for the exact location of Vellara station does not constitute a material deviation from the project description and therefore did not require EIB approval. In line with section 4.1, the EIB-CM did not review for the purpose of this report the administrative and legal steps required under national laws and regulations to deviate in this respect from the DPR.
- 4.6.4 The EIB-CM notes that the RAP, which includes the survey and consultation of affected people, was based not only on the original DPR but also on more recent information concerning the alignment of the metro corridor. The EIB-CM notes that at the time of the RAP, the alignment of the corridor at Vellara station was determined and consequently the premises of ASC were properly included in the RAP survey.
- 4.6.5 Concerning the uncertainties over the land requirements, the EIB-CM notes that the elaboration of options and especially the overview in Annex 1 provides further clarity on the exact land requirements.
- 4.7 *Impact on cultural heritage*
- 4.7.1 The Complainant states that ASC has been recommended as cultural heritage and therefore needs special protection. The Promoter argues that ASC has not been officially recognised as national heritage.
- 4.7.2 At the same time, the EIB-CM wishes to clarify that no proposal of the Promoter at any point provided for the destruction of the church building itself, contrary to statements in the complaint that mentions “*the destruction of the All Saints Church*”. According to Annex 1, all options are at least 21.8 m away from the ASC building.
- 4.7.3 Concerned congregation members as well as the Bishop of Karnataka Central Diocese¹⁵ have expressed worries about the strength of the church building and the possible impact of works (drilling, blasting, tunnel boring, trench cutting, etc.). BMRCL is confident that the metro station can be constructed without causing any damage to the church building and cites examples where similar works have been performed without damage to equally old buildings closer to the works. The Promoter has pledged to commission an independent study of the structure of the ASC building and to undertake any required strengthening of the church structure before starting works.
- 4.7.4 The complaint mentions that land of the ASC premises would be used for a “*shed for the construction equipment and also as a space to tunnel from*”. It is the understanding of the EIB-CM that this is not the case (any more). Tunnelling is no longer intended to begin at Vellara station and the options presented in Annex 1 do not anticipate any use of the land for a shed for construction equipment. According to BMRCL, the land is temporarily required solely for the construction of the station.
- 4.7.5 The Complainant mentions the festivities of the 150th anniversary of ASC to be celebrated in November 2019. The Promoter has notified the EIB-CM that any works on ASC’s land could

¹⁵ Letter dated 12 June 2019.

wait in order to allow the congregation to celebrate these festivities on its current premises without any restrictions.

- 4.7.6 One of the main requirements of Standard 5 of EIB’s E&S Standards on cultural heritage is the consultation of affected communities who use the cultural heritage mentioned under EIB Standard 5, points 19 and 20. The EIB-CM acknowledges that various meetings have been held between the Promoter and the church authorities as well as the Complainant and other concerned congregation members (see also Annex 2). The EIB-CM further notes that BMRCL has tried to take the concerns of the congregation members into account when elaborating new options. At the same time, the EIB-CM notes that to its knowledge a more formal consultation of the congregation members – beyond the public consultation mentioned under 4.3.2 – has not been undertaken.
- 4.7.7 The EIB-CM notes that the EIB services are well aware of the requirements of Standard 5 and the additional corrective actions of the Promoter. The EIB-CM trusts that the EIB services will follow up on this issue including the development of a Cultural Heritage Management Plan for Vellara station to be incorporated in the Environmental Management Plan (EMP). The Cultural Heritage Management Plan shall be developed before the start of works surrounding the ASC premises, latest within six months of the date of this report.
- 4.8 *Impact on trees on the ASC premises*
- 4.8.1 The Complainant states that the Promoter is in violation of national law for intending to cut trees on the premises of ASC. The EIB-CM acknowledges that any option that requires land from the ASC premises will most likely lead to trees being affected. At the same time, it is to be noted that the Promoter has significantly reduced the number of trees on the ASC premises that would be affected by the above-mentioned options to 26 and 16 trees (see Annex 1). The Promoter has assured that where feasible, the affected trees will be transplanted on the premises of ASC or, if feasible, close by.
- 4.8.2 Furthermore, the EIB-CM notes that the Promoter 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 (MoEFCC). Concerned congregation members raised questions about the proper maintenance of the trees planted as compensatory measures.
- 4.8.3 The EIB-CM notes that in February 2019, the High Court stayed all tree cutting/felling by BMRCL and directed that a special trees committee be put in place to assess the intensity of tree cutting and to put forward recommendations. BMRCL reiterated to the EIB-CM its commitment to follow the Tree Preservation Act and direction of the High Court. The EIB-CM understands that the Promoter is currently awaiting the recommendation from the special trees committee, which was convened recently.
- 4.8.4 The EIB-CM wishes to note that the EIB services are aware that the felling of trees has been a contentious issue among activists and citizens in Bangalore City. BMRCL will prepare a formal management plan for tree cutting and transplantation following the recommendations of the special trees committee. The EIB-CM trusts that the EIB services will follow up on the establishment of such management plan and the felling of trees in accordance with the guidance of the High Court. The EIB-CM expects that such management plan can be finalized within 6 months after the recommendations from the special trees committee have been issues.

4.9 *Impact of the Project on the Arpana school and the old people's home*

- 4.9.1 The Complainant raises concerns about a school for differently abled children, called the Arpana school, located on the premises of ASC. The two additional options proposed by the Promoter (as stated above) do not require the demolition of the school building. In fact, the new construction limits will be 22.9 m and 38 m away from the Arpana school.
- 4.9.2 If the original proposal were preferred e.g. by the church authorities, the Promoter has pledged to create an alternative facility to host the children during the construction period and to rebuild a school once the construction and hence the temporary occupation have ended.
- 4.9.3 The Complainant and the church authorities¹⁶ also raise concerns over the impact of the works on the residents of an old people's home on the ASC premises, in particular concerning their use of the garden. 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.
- 4.9.4 Since the children and teachers of the Arpana school and the residents of the old people's home are likely to still be impacted by the Project, the Promoter needs to take their views into account when evaluating the different design options and their respective impacts.

4.10 *Violation of the right to pray*

- 4.10.1 The complaint also mentions the worry of the community that their right to pray would be affected due to the works limiting the open space in front of the church building, which allegedly is used for seating purposes. Both additional options set out above allow most of the area in front of the church to be maintained for seating purposes. In addition, the Promoter has assured the EIB-CM that it will instruct the contractor to stop works during the times of church service.
- 4.10.2 Concerned congregation members in the past had also mentioned that the parish hall on the ASC premises, which is used for church activities and celebrations, would be affected.¹⁷ The EIB-CM wishes to clarify that according to its understanding the proposed options do not impact either the parish hall or the parking space in front of it.

4.11 *Impact of the Project on the reservoir adjacent to ASC and general groundwater levels*

- 4.11.1 During the EIB-CM site visit, concerned congregation members also raised worries about the impact of the metro works on the water reservoir of the Bangalore Water Supply and Sewage Board adjacent to the ASC premises. According to the concerned congregation members, the reservoir is prone to leaks and damages and could be affected during boring and drilling works. The Promoter has informed the EIB-CM that it is willing to accommodate the concerns of the congregation members in this regard by assessing the potential impact of the metro works on the reservoir.

¹⁶ Letter from the presbyter in charge of ASC dated 16 July 2018.

¹⁷ Mentioned also in the resolution of the Pastorate Committee dated 10 April 2019.

- 4.11.2 Furthermore, concerns about the overall impact of the Project on groundwater levels were raised during the EIB-CM visit. The EIB-CM notes that groundwater analysis was part of the EIA available on the EIB’s homepage.¹⁸ It is further noted that in the EIA it is proposed to use the stations’ rooftops as catchment areas for rain to augment the groundwater levels of the area.

5 PROPOSED WAY FORWARD

- 5.1 Based on the information available and its discussions with the Promoter and the Complainant as well as other concerned congregation members, the EIB-CM notes that there is an openness to engage in dialogue. In particular, the EIB-CM wishes to highlight that the Complainant and all congregation members consulted have expressed that they do not object to the metro project and many welcome the opportunity of metro transport significantly reducing commuting times. Further, the EIB-CM has perceived the Promoter to be taking the concerns of the Complainant and other concerned congregation members seriously and trying to accommodate where feasible their concerns. At the same time, the EIB-CM acknowledges 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.
- 5.2 It emerges from the above assessment that many issues would benefit from the Promoter providing additional clarifications to the Complainant and other concerned congregation members.
- 5.3 Given the involvement and say of other stakeholders on the issues raised, the EIB-CM proposed to pursue a multi-party dialogue process involving the church authorities, the Complainant and other concerned congregation members, and the Promoter to discuss current concerns, issues and solutions for Vellara station. The church authorities, however, declined to participate in such a process. Notwithstanding the decision taken by the church authorities, during the visit of the EIB-CM the Promoter and the Complainant expressed their continued readiness to engage.
- 5.4 The EIB-CM therefore proposes to facilitate further information sharing on the issues raised by the Complainant. 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. It is the hope of the EIB-CM that the present report already provides additional information and clarification. As part of such information sharing process, the EIB-CM recommends that the Promoter, the Complainant and other concerned congregation members engage in a joint consultation to share information and discuss the concerns. The EIB-CM proposes that such consultation be organised, hosted, moderated and documented by an external third party. In the view of the EIB-CM, the IIM would be an appropriate third party since it is already familiar with the Project and its impact from previous consultations. It is the current understanding of the EIB-CM that such consultation would also fall under the requirement of consultation of Standard 5 of the EIB’s E&S standards if it adequately covers concerns related to cultural heritage.
- 5.5 The external third party in close concertation with the Complainant and the Promoter shall prepare in advance an agenda for the meeting and agree with the parties on the date(s) and

¹⁸ <https://www.eib.org/en/projects/pipelines/all/20160816>.

duration of the consultation session(s). The EIB-CM advises that the consultation, all agreed actions and next steps be properly documented.

5.6 Following on from the above assessment and in light of the raised allegations, **the EIB-CM provides the following suggestions regarding such consultation:**

5.6.1 With regard to the two new design options for Vellara station and their respective land requirements, the Promoter should clarify any remaining doubts of the Complainant and concerned congregation members. Further, the EIB-CM suggests that BMRCL elaborate on any other possible impacts for each of the options, especially on the school and the residents of the old people's home as well as any mitigating measures that will be undertaken to reduce any negative impact, both during construction and during operation.

5.6.2 Since the options proposed by BMRCL provide both for temporary occupation and permanent acquisition, the Promoter should provide clarifications on the option and purpose of temporary acquisition, its legal base and documentation.

5.6.3 Regarding the DPR, the EIB-CM suggests that it be explained during the consultation which studies were carried out to assess the original design of the Project, including the number and location of stations. Furthermore, the Promoter could explain the technical limitations of the design of Vellara station, the reasons for deviating from the DPR and the process that was followed.

5.6.4 The EIB-CM suggests that the Promoter engage with the concerned congregation members and church authorities to evaluate the options for transplanting some of the affected trees on the premises of ASC. In addition, the EIB-CM suggests that the Promoter provide information regarding the proper maintenance of the compensatory trees.

5.6.5 The EIB-CM suggests that the parties discuss the timing and scope of the study of the structural strength of the ASC building and ways to assess the impact on the water reservoir as well as the instructions that need to be given to the contractor regarding the interruption of works during church service times (e.g. exchanging the agenda/timetable of church services and festivities).

5.6.6 In line with the recommendations by the EIB services' consultant, the EIB-CM suggests that BMRCL engage the congregation in the development of a Cultural Heritage Management Plan.

5.6.7 Regarding the concerns over groundwater levels, the EIB-CM recommends that the Promoter prepare a summary of the studies undertaken and their results regarding the impact of the Project on groundwater levels and measures to improve groundwater levels.

5.7 The EIB-CM encourages both parties to prepare the consultation, inter alia by exchanging written documentation. In the case of the Complainant, such documentation might include further information on the Delhi Ashram station (see section 4.2.3). The EIB-CM proposes that the Complainant or other concerned congregation members who have suggested examining the Delhi Ashram station as an example for an even shorter metro station provide a written

proposal to the Promoter. BMRCL can then study such proposal and explain which elements are transferable and can lead to further design changes of Vellara station and/or prepare explanations as to why similar design choices are not feasible at Vellara station. In the case of the Promoter, such additional documentation might include a description of the remaining impacts of the two options (suggestion 5.6.1) and a summary of the studies and measures undertaken regarding groundwater levels (suggestion 5.6.7).

- 5.8 The EIB-CM will support the parties in preparing the above suggested consultation in close concertation with the EIB services and follow-up on the consultation and any agreements found.
- 5.9 With the submission of this report, the Complainant and the Promoter are requested to reconfirm their willingness to engage in the described facilitation process. If deemed beneficial, the EIB-CM makes itself available to both parties to clarify the above proposal in further detail. After having heard from the Complainants and the Promoter, the EIB-CM will take a decision on whether there is agreement to initiate the above proposed process or, in the absence of such agreement, whether to continue with a compliance review of the allegations in the complaints at issue. The above suggested consultation process shall be envisaged to be carried out within three months after the communication of the agreement of both parties by the EIB-CM.
- 5.10 The EIB-CM notes that the allegations related to phase I of the Bangalore metro project and the FPIC requirements under the EIB's E&S standards are not eligible for further assessment.

S. Derkum
Head of Division
Complaints Mechanism
30.10.2019

Ph. Mueller
Mediation Officer
Complaints Mechanism
30.10.2019

Annex 1: Overview of options for land acquisition / temporary occupation of ASC premises (drafted by BMRCL)

Sl. 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 BMRCL (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 BMRCL. Here, the Environmental Control System Plant room of size 22.45 m x 15.55 m (approx. 350 m ²) is brought to the ground level and the station box length is consequently reduced to 193.90 m. The building housing the school for differently abled children 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 the ground level and consequently the station box length is further reduced to 178.90 m. The building housing the school for differently abled children 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>
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Annex 2: Overview of meetings with church authorities, the Complainant and other concerned congregation members (drafted by BMRCL)

Sl. No.	Date	Attended by		Remarks
		BMRCL	Church Authorities / congregation members	
1	27.11.2018	General Manager (Land)	Bishop (CSI)	
		Tahsildar (Land)	Treasurer (CSI)	
		Deputy Chief Engineer (UG)	Secretary (CSI)	
			Property Manager (CSI)	
2	12.03.2019	Executive Director (Civil)	Bishop (CSI)	
		General Manager (Land)	Treasurer (CSI)	
		Chief Engineer (UG)	Secretary (CSI)	
		Deputy Chief Engineer (UG)	Property Manager (CSI)	
			Pastor (ASC)	
			Secretary (ASC)	
3	11.04.2019	Executive Director (Civil)	Bishop (CSI)	
		General Manager (Land)	Treasurer (CSI)	
		Chief Engineer (UG)	Secretary (CSI)	
		Deputy Chief Engineer (UG)	Property Manager (CSI)	
			Pastor (ASC)	
			Secretary (ASC)	
			Pastorate Committee Members (ASC)	
	Congregation Members (ASC)			
4	May 2019	Executive Director (Civil)	Complainant & Others	
		Chief Engineer (UG)		
		Deputy Chief Engineer (UG)		
5	May 2019	Managing Director (BMRCL)	Complainant & Others	
		Executive Director (Civil)	Members from NGO, etc.	
		General Manager (Land)		
6	June 2019	Managing Director (BMRCL)	Pastorate Committee Members (ASC)	
		Executive Director (Civil)		

Sl. No.	Date	Attended by		Remarks
		BMRCL	Church Authorities / congregation members	
7	02.07.2019	Director (Project & Planning)	Representatives from CSI	Grievance Redressal Committee Meeting
		Executive Director (Civil)	Representative from ASC	
		General Manager (Land)		
8	17.08.2019	Managing Director (BMRCL)	Bishop (CSI)	
		Director (P&P)	Treasurer (CSI)	
		Executive Director (Civil)	Secretary (CSI)	
		General Manager (Land)	Property Manager (CSI)	
		Deputy Chief Engineer (UG)	Pastor (ASC)	
			Secretary (ASC)	
			Pastorate Committee Members (ASC)	
			Congregation Members (ASC)	
	Complainant			
9	14.09.2019	Executive Director (Civil)	Bishop (CSI)	in the presence of the EIB-CM
			Pastor (ASC)	