

An
Bord
Pleanála

Board Order ABP-310570-21

Planning and Development Acts 2000 to 2020

Planning Authority: South Dublin County Council

Application for permission under section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016, as amended, in accordance with plans and particulars, lodged with An Bord Pleanála on the 18th day of June 2021 by Cairn Homes Properties Limited care of McGill Planning Limited, 45 Herbert Lane, Dublin.

Proposed Development comprises of the following:

Construction of a residential scheme comprising 421 number residential units, offices (circa 376 square metres), retail units (three number of circa 285 square metres, circa 252 square metres and circa 182 square metres) and a residential amenity area (circa 555 square metres), within nine number blocks ranging in height from one to thirteen storeys.

The residential component will include 126 number one-bed units, 267 number two-bed units, 28 number three-beds all with associated private balconies and terraces to the north, south, east and west elevations.

The proposal will include 289 number car parking spaces (181 number at basement and 108 number at surface level) along with 650 number bicycle parking spaces.

The development will provide public and communal open spaces throughout including a public plaza adjoining Fortunestown Luas stop. Provision of vehicular, pedestrian, and cyclist accesses to the site, including pedestrian bridge to the public park (under construction) to the east.

The application includes for all landscaping, Electricity Supply Board substations, plant areas, bin storage, surface water attenuation and all other site development works, and site services required to facilitate the proposed development.

The proposed development seeks to amend Strategic Housing Development permission An Bord Pleanála Reference Number ABP-302398-18 (under construction to the west), replacing 32 number permitted duplex apartments along with associated amendments to internal roads and open spaces. The current proposal also replaces permission South Dublin County Council Register Reference SD16A/0078 previously granted on this site all located at Cooldown Commons and Fortunestown, Citywest, Dublin 24 (on lands located north of the Luas red line and Fortunestown Luas stop).

Decision

Grant permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

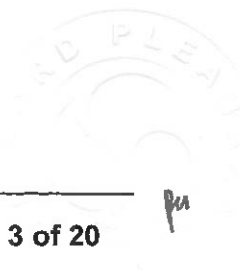
Matters Considered

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

Reasons and Considerations

In coming to its decision, the Board had regard to the following:

- (a) The policies and objectives set out in the Project Ireland 2040 National Planning Framework and the Eastern and Midland Regional Assembly Regional Spatial and Economic Strategy 2019-2031;
- (b) The policies and objectives as set out in the South Dublin County Development Plan 2016-2022, as varied;
- (c) The policies and objectives as set out in the Fortunestown Local Area Plan 2012-2022, as extended;
- (d) The provisions of Rebuilding Ireland Action Plan for Housing and Homelessness 2016;
- (e) The provisions of the Urban Development and Building Heights Guidelines for Planning Authorities, issued by the Department of Housing, Planning and Local Government in December 2018;
- (f) The provisions of the Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March 2019, as amended;
- (g) The provisions of the Guidelines for Sustainable Residential Developments in Urban Areas and the accompanying Urban Design Manual, A Best Practice Guide, issued by the Department of the Environment, Heritage and Local Government in May 2009;
- (h) The provisions of the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities issued by the Department of Housing, Planning and Local Government in December 2020;
- (i) The provisions of the Planning System and Flood Risk Management for Planning Authorities (including the associated Technical Appendices), issued by the Department of the Environment, Heritage and Local Government in 2009;
- (j) The nature, scale and design of the proposed development;



- (k) The availability in the area of a range of social, community and transport infrastructure;
- (l) The pattern of existing and permitted development in the area;
- (m) The planning history of the site and within the area,
- (n) The submissions received from observers and prescribed bodies,
- (o) The Chief Executive's Report of South Dublin County Council, and
- (p) The report of the Planning Inspector.

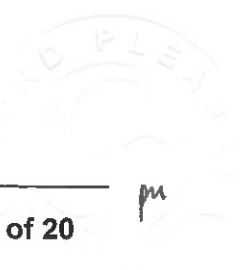
Appropriate Assessment Screening

The Board completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on designated European Sites, taking into account the nature, scale and location of the proposed development within a zoned and serviced urban site, the information for the Screening Report for Appropriate Assessment submitted with the application, the Inspector's Report, and submissions on file. In completing the screening exercise, the Board adopted the report of the Inspector and concluded that, by itself or in combination with other development in the vicinity, the proposed development would not be likely to have a significant effect on any European Site in view of the conservation objectives of such sites, and that a Stage 2 Appropriate Assessment is not, therefore, required.

Environmental Impact Assessment

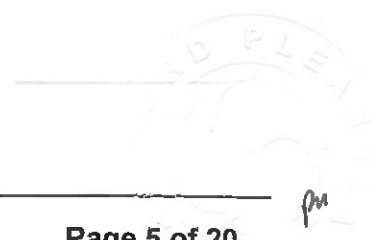
The Board completed an environmental impact assessment of the proposed development, taking into account:

- (a) The nature, scale, location and extent of the proposed development;
- (b) The environmental impact assessment report and associated documentation submitted with the application;
- (c) The submissions received from the observers, planning authority, and prescribed bodies; and
- (d) The Inspector's report.



The Board agreed with the summary of the results of consultations and information gathered in the course of the environmental impact assessment, and the examination of the information contained in the Environmental Impact Assessment Report and the associated documentation submitted by the developer and the submissions made in the course of the application as set out in the Inspector's report. The Board is satisfied that the Inspector's report sets out how these various environmental issues were addressed in the examination and recommendation and are incorporated into the Board's decision.

The Board completed an environmental impact assessment in relation to the proposed development and concluded that, subject to the implementation of the mitigation measures proposed, as set out in the environmental impact assessment report and, subject to compliance with the conditions set out herein, the effects on the environment of the proposed development by itself and cumulatively with other development in the vicinity would be acceptable. In doing so, the Board adopted the report and conclusions of the reporting Inspector.



Reasoned Conclusions on the Significant Effects

The Board considered that the environmental impact assessment report, supported by the documentation submitted by the developer provided information which is reasonable and sufficient to allow the Board to reach a reasoned conclusion on the significant effects of the project on the environment, taking into account current knowledge and methods of assessment. The Board is satisfied that the information contained in the Environmental Impact Assessment Report is up to date and complies with the provisions of EU Directive 2014/52/EU amending Directive 2011/92/EU. The Board considered that the main significant direct and indirect effects of the proposed development on the environment to be positive, neutral and if negative to decrease to imperceptible through the implementation of the targeted mitigation measures. The significant effects are as follows:

- On population and human health arising from the creation of a new community through the provision of residences, services, places for employment and recreational activities;
- On the landscape through the permanent change from a greenfield site to an urban environment with buildings of scale and height, and the creation of public open spaces with hard and soft landscaping;
- On material assets including the components of traffic and transportation, water services, and waste management due to an increase in vehicular, pedestrian and cycle activity on the surrounding road network; in demand for public transport services; in demand on the existing water services systems and additional surface water run-off; and in demand for the disposal of construction and operation waste;
- On land and soils at surface through site clearance, soil removal, hardstanding and buildings; and at subsurface through the construction of the basement level and the surface water drainage and storage system;
- On biodiversity through the loss of localised habitats and disturbance of bat populations, and creation of landscaped areas of public open space including a biodiversity corridor along the Baldonnell Upper Stream; and
- On hydrology through the construction of the pedestrian bridge over the Baldonnell Upper Stream.

Conclusions on Proper Planning and Sustainable Development

The Board considered that, subject to compliance with the conditions set out below that the proposed development would constitute an acceptable quantum and density of development in this accessible urban location, would not seriously injure the residential or visual amenities of the area, would be acceptable in terms of urban design and building height, and would be acceptable in terms of pedestrian, traffic and aviation safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

The Board considered that, while a grant of permission for the proposed Strategic Housing Development would not materially contravene a zoning objective of the statutory plans for the area, a grant of permission would materially contravene the South Dublin County Development Plan 2016-2022 and the Fortunestown Local Area Plan 2012-2022 with respect to building height; the South Dublin County Development Plan 2016-2022 and the Fortunestown Local Area Plan 2012-2022 with respect to residential density; and the Fortunestown Local Area Plan 2012-2022 with respect to residential unit mix, size, and typology.

The Board considers that, having regard to the provisions of section 37(2)(b)(i), (ii), (iii) and (iv) of the Planning and Development Act 2000, as amended, the grant of permission in material contravention of the development plan and local area plan would be justified for the following reasons and considerations:

- (a) It is considered that the proposed development is of strategic or national importance by reason of its potential to contribute to the achievement of Government policy to increase delivery of housing set out in Rebuilding Ireland Action Plan for Housing and Homelessness 2016; its compliance with Government policies as set out in the Project Ireland 2040 National Planning Framework, in particular National Policy Objective 13 and National Policy Objective 35, to facilitate the achievement of greater density and height in residential development in an urban centre close to public transport and centres of employment; and due to the location of the site within the South-West Corridor in the Metropolitan Area Strategic Plan for Dublin City and suburbs within the Eastern and Midland Regional Assembly Regional Spatial and Economic Strategy 2019-2031;

- (b) It is considered that permission for the proposed development should be granted having regard to the national planning guidance set out in section 28 Ministerial Guidelines including in the Guidelines for Sustainable Residential Developments in Urban Areas and the accompanying Urban Design Manual, A Best Practice Guide, issued by the Department of the Environment, Heritage and Local Government in May 2009, the Urban Development and Building Heights Guidelines for Planning Authorities, issued by the Department of Housing, Planning and Local Government in December 2018, in particular Specific Planning Policy Requirement 3 and Specific Planning Policy Requirement 4, and the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities issued by the Department of Housing, Planning and Local Government in December 2020, in particular Specific Planning Policy Requirement 1 and Specific Planning Policy Requirement 3; and
- (c) It is considered that the proposed development is consistent with the pattern of development, existing and permitted, which has become established in the Citywest area in terms of building heights, residential densities, and residential unit mixes, sizes and typologies.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development, and the development shall be carried out and completed in accordance with the agreed particulars. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

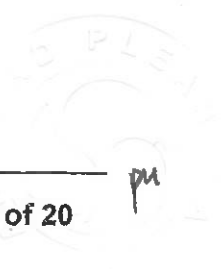
Reason: In the interest of clarity.

2. Mitigation and monitoring measures outlined in the plans and particulars, including the Environmental Impact Assessment Report, as set out in Chapter 16 of the Environmental Assessment Impact Report 'Schedule of Mitigation Measures' submitted with this application, shall be carried out in full, except where otherwise required by conditions attached to this permission. The developer shall appoint a person with appropriate ecological and construction expertise as an environmental manager to ensure that the mitigation measures identified in the Environmental Impact Assessment Report are implemented in full.

Reason: In the interest of protecting the environment and in the interest of public health.

3. Details of the materials, colours and textures of all the external finishes to the proposed buildings shall be as submitted with the application, unless otherwise agreed in writing with, the planning authority prior to commencement of development. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of visual amenity.



4. The use of the three retail units at ground floor levels of Blocks D3 and E1 shall be within the definition of 'shop' in the Planning and Development Regulations 2001, as amended.

Reason: In the interests of clarity and to protect the amenity of the area.

5. Details of external shopfront, lighting, security shuttering and signage for the retail and office units shall be submitted to and agreed in writing with, the planning authority prior to occupation of the retail and office units.

Reason: In the interests of the amenities of the area and of visual amenity.

6. No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas, or equipment, unless authorised by a further grant of planning permission.

Reason: To protect the residential amenities of property in the vicinity and the visual amenities of the area.

7. Proposals for a development name, retail and office unit identification and numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all such names and numbering shall be provided in accordance with the agreed scheme.

Reason: In the interest of urban legibility.

8. Proposals for an estate and street name, dwelling numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and dwelling numbers, shall be provided in accordance with the agreed scheme. The proposed name(s) shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements or marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

Reason: In the interests of urban legibility and to ensure the use of locally appropriate place names for new residential areas.

9. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development or installation of lighting. The agreed lighting system shall be fully implemented and operational, before the proposed development, including the retail and office units, are made available for occupation.

Reason: In the interests of amenity and public safety.

10. All service cables associated with the proposed development such as electrical, telecommunications and communal television shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

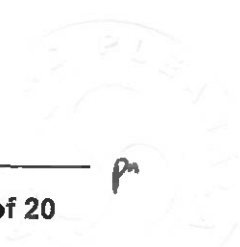
Reason: In the interests of visual and residential amenity.

11. (a) The car parking facilities hereby permitted shall be reserved solely to serve the proposed development. 278 number clearly identified car parking spaces shall be assigned permanently for the residential development and shall be reserved solely for that purpose. These residential spaces shall not be utilised for any other purpose, including for use in association with any other uses of the development hereby permitted, unless the subject of a separate grant of planning permission.
- (b) Prior to the occupation of the development, a Parking Management Plan shall be prepared for the development and shall be submitted to and agreed in writing with the planning authority. This plan shall provide for the permanent retention of the designated residential parking spaces and shall indicate how these and other spaces within the development shall be assigned, segregated by use and how the car park shall be continually managed.

Reason: To ensure that adequate parking facilities are permanently available to serve the proposed residential units, the remaining development, and also to prevent inappropriate commuter parking.

12. 650 number bicycle parking spaces shall be provided within the site. Details of the layout, marking demarcation and security provisions for these spaces shall be as submitted to An Bord Pleanála with this application, unless otherwise agreed in writing with, the planning authority prior to commencement of development.

Reason: To ensure that adequate bicycle parking provision is available to serve the proposed development, in the interest of sustainable transportation.

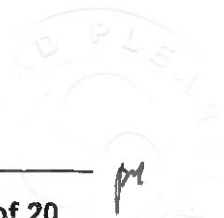


13. The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs, and cycle lanes shall be in accordance with the detailed construction standards of the planning authority for such works and design standards outlined in Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March 2019, as amended and the National Cycle Manual issued by the National Transport Authority. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of sustainable transportation.

14. Prior to the opening or occupation of the development, a Mobility Management Plan shall be submitted to and agreed in writing with the planning authority. This shall provide for incentives to encourage the use of public transport, cycling, walking, and carpooling by residents, occupants and staff employed in the development and to reduce and regulate the extent of parking. The mobility strategy shall be prepared and implemented by the management company for all units within the development.

Reason: In the interest of encouraging the use of sustainable modes of transport.



15. A minimum of 10% of all car parking spaces should be provided with functioning electric vehicle charging stations or points, and ducting shall be provided for all remaining car parking spaces, facilitating the installation of electric vehicle charging points or stations at a later date. Where proposals relating to the installation of electric vehicle ducting and charging stations or points have not been submitted with the application, in accordance with the above noted requirements, such proposals shall be submitted and agreed in writing with the planning authority prior to the occupation of the development.

Reason: To provide for and or future proof the development such as would facilitate the use of electric vehicles.

16. The areas of public open space shown on the lodged plans shall be reserved for such use and shall be levelled, contoured, soiled, seeded, and landscaped in accordance with the Landscape Design report and associated plans and particulars submitted to An Bord Pleanála with this application, unless otherwise agreed in writing with the planning authority. This work shall be completed before any of the dwellings are made available for occupation and shall be maintained as public open space by the developer until taken in charge by the local authority or management company.

Reason: In the interests of nature conservation, residential amenity, and to ensure the satisfactory development of the public open space areas and their continued use for this purpose.

17. A schedule of landscape maintenance shall be submitted to, and agreed in writing with, the planning authority prior to occupation of the development. This schedule shall cover a period of at least three years and shall include details of the arrangements for its implementation.

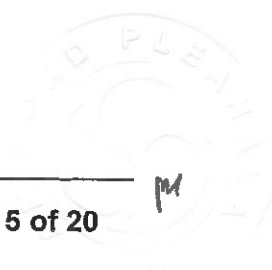
Reason: To provide for the satisfactory future maintenance of this development in the interest of visual amenity.

18. (a) The communal open spaces, including hard and soft landscaping, car parking areas and access ways, communal refuse and bin storage, and all areas not intended to be taken in charge by the planning authority, shall be maintained by a legally constituted management company.
- (b) Details of the management company contract and plans and particulars describing the parts of the development for which the company would have responsibility, shall be submitted to, and agreed in writing with, the planning authority before any of the residential units are made available for occupation.

Reason: To provide for the satisfactory future maintenance of this development in the interest of residential amenity.

19. (a) A plan containing details for the management of waste and, in particular, recyclable materials within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities for each apartment unit shall be submitted to, and agreed in writing with, the planning authority not later than six months from the date of commencement of the development. Thereafter, the waste shall be managed in accordance with the agreed plan.
- (b) This plan shall provide for screened communal bin stores, the locations and designs of which shall be included in the details to be submitted.

Reason: In the interest of residential amenity, and to ensure the provision of adequate refuse storage.



20. (a) Drainage arrangements including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.
- (b) All foul sewage and soiled water shall be discharged to the public foul sewer; only clean, uncontaminated storm water shall be discharged to the surface water drainage system.

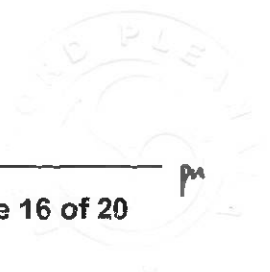
Reason: In the interest of public health and surface water management.

21. (a) Prior to commencement of development, the developer shall enter into water and or wastewater connection agreement(s) with Irish Water.
- (b) The developer shall provide, prior to commencement and to the satisfaction of Irish Water, evidence of permission(s), a capacity and condition report, or other such report, indicating the sufficiency of the third party infrastructure which the proposed development shall be connected to and served by.

Reason: In the interest of public health.

22. (a) Prior to commencement of development, the developer shall obtain consent from the Office of Public Works through a Section 50: Arterial Drainage Act 1945 licence for the construction of the pedestrian bridge crossing over the Baldonnell Upper Stream.
- (b) Prior to construction of the bridge, the developer shall consult with Inland Fisheries Ireland in relation to a method statement for construction in line with best environmental practice.

Reason: In the interests of public health and to protect river water quality.



23. (a) Prior to commencement of development written agreement shall be obtained from Transport Infrastructure Ireland in respect of access, investigative, or any other such facilitating works adjacent to Luas infrastructure.
- (b) The construction of the proposed development shall comply with Transport Infrastructure Ireland's Code of Engineering Practice for works, on, near, or adjacent the Luas Light Rail system.

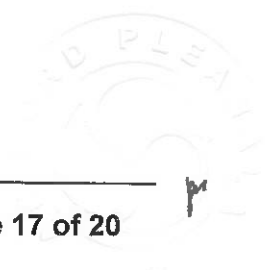
Reason: In the interest of public safety and to prevent obstruction or interference with the operation of the LUAS system.

24. Prior to commencement, the developer shall consult with the Irish Aviation Authority in respect of the crane operations proposed on site including a marking and lighting scheme for construction cranes and any such information as may be required by the Irish Aviation Authority including crane type, elevation, dimensions, ground elevation and location co-ordinates. A minimum of 30 days written notification with regard to the use of (a) proposed crane(s) shall be provided to the Property Management Branch, Department of Defence and the Tallaght Hospital, Health Service Executive.

Reason: In the interests of aviation and public safety.

25. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including noise and dust management measures, and off-site disposal of construction and demolition waste.

Reason: In the interests of public safety and residential amenity.

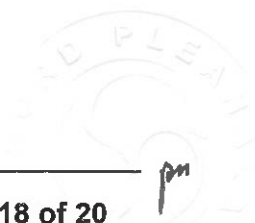


26. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Saturdays inclusive, and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

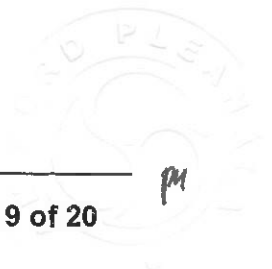
27. Prior to commencement of development, the developer or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.



28. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.



29. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.



Paul Hyde

**Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.**

Dated this 6th day of September 2021