



An
Bord
Pleanála

Inspector's Report ABP-315053-22

Development	Demolition of buildings. Construction of 24 storey mixed use building with all ancillary site works. NIS and EIAR submitted to PA
Location	Site bound by City Quay to the north, Moss Street to the west & Gloucester Street South to the south, Dublin 2. The site includes 1-4 City Quay (D02 PC03), 5 City Quay and 23-25 Moss Street (D02 F854)
Planning Authority	Dublin City Council South
Planning Authority Reg. Ref.	4674/22
Applicant(s)	Ventaway Limited
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Ventaway Limited
Observer(s)	Office of Public Works Irish Life Assurance plc

City Quay National School
Grant Thornton

Date of Site Inspection

6th October 2023

Inspector

Rachel Gleave O'Connor

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1.0 Site Location and Description

- 1.1. The subject site is situated in Dublin City Centre, to the south of the River Liffey and east of Tara Street DART Station. The site itself is bounded by City Quay to the north, Moss Street to the west and Gloucester Street South to the south. To the east there is the Citytest Testing Centre, Immaculate Heart of Mary Catholic Church and City Quay National School.
- 1.2. The site has frontage to the River Liffey and is currently occupied by buildings up to three storeys in height that have fallen into disrepair, a surface car park is also situated on the site.
- 1.3. The St. George's Quay office building 6-13 storeys in height, is situated to the west of the site on the opposite side of Moss Street. The Grant Thornton building is situated to the east of the site within the same city block, extending to 5-9 storeys in height. The Custom House and IFSC are located to the north of the site on the opposite side of the River Liffey. A commencement notice has been served for the below ground levels of the permitted 23 storey office and retail/restaurant development located to the west of the site on Tara Street adjacent to the station. Apollo House is next to the Tara Street tower site and is also under construction for 22 storeys, with build-to-rent to occupy the tower element of that scheme. To the south of the site there is an 8 storey hotel.
- 1.4. The subject site is located approx. 165m east of Tara Street Rail Station, 250m south of Busáras Bus Station / Luas Stop and 400m south of Connolly Rail and Luas Station. There are a number of Dublin Bus stops immediately adjacent to the site.

2.0 Proposed Development

- 2.1. The proposed development comprises an application for a ten year permission for the following:
 - Demolition of the existing buildings and structures;
 - Construction of a building up to 24 storeys in height over a double basement including arts centre, offices, gym and ancillary uses;
 - The arts centre is contained at basement -1, ground and first floor level;
 - The gym is proposed at ground level onto Moss Street;

- The offices are proposed from ground to 23rd floor (24th storey) with terraces to all elevations;
- The double basement provides for 11 car parking spaces and 424 bicycle spaces;
- The overall gross floor area of the development comprises 35,910sqm including 1,404sqm arts centre, 22,587sqm offices and 244sqm gym;
- All ancillary and associated works and development including plant, temporary construction works, public realm, landscaping, utilities connections and infrastructure.

2.2. An Arts Centre is proposed to occupy three floors (front of basement -1 level to first floor level) fronting onto the river. It is formed of an adaptable exhibition / performance / workshop space at basement, exhibition space and public space at ground level and administration, workshops and studios at first floor level. This incorporates 12 no. art studios which are proposed to be rented out on an individual basis. A gym is also proposed on part of the ground level fronting Moss Street and part of basement -1 level. Vehicular access is proposed at ground level from Gloucester Street South. Car parking and plant areas are proposed at basement -2 level, and bike and scooter storage at the rear of basement -1 level. Office use is proposed from part first floor to twenty third floor level, with access to the office floors proposed to be via the Arts Centre.

2.3. The proposed building fronts onto the river up to 6 storeys in height (+27.980m AOD), then is set back at 7 and 8 storey level (+35.930m AOD), with a further set back up to the 24th storey level (99.905m AOD). A roof plant level is situated above this (+103.520m AOD). The roof parapet extends at an angle above the building, with the lowest point at +103.520m AOD, the southern parapet at +107.480m AOD and the northern parapet (maximum height) at +111.440m. The parapet is formed of an extension of the aluminium façade material for the building as described below.

2.4. The lower floors (6 storeys) of the proposed building are clad in a black brick fame with glazing infill. The majority of the proposed building (7 to 24 storeys) is then proposed to be finished in glazed curtain walling with continuous aluminium bands. This fenestration pattern is proposed to extend to the roof top level (parapet), with glazing bands replaced by concave perforated aluminium panels, proposed to be lit at night.

- 2.5. The proposed building is modulated in its form, incorporating angled facades and a 'diamond' shape plan form. A scalloped and fluted profile is also proposed to be included to part of the north western façade and extends from the ground to the top of the building.
- 2.6. The proposed building has a maximum height of 108.390m from ground level, varying between +103.520m (AOD) and +111.440m (AOD), and a shoulder height to the river of +27.980m AOD.

3.0 Planning Authority Decision

3.1. Decision

3.2. The planning authority issued a Notification of Decision to REFUSE permission on 11th October 2022 for the following reasons:

1. Having regard to the prominent and sensitive location of the subject site by reason of its important location within the historic City core fronting onto the River Liffey, its proximity to The Custom House and having regard to Policy SC7 & SC17 of the Dublin City Development Plan 2016-2022 which seeks to protect and enhance the skyline of the inner city, and to ensure that all proposals for mid-rise and taller buildings make a positive contribution to the urban character of the inner city, the proposed development due to its scale, bulk and height would seriously detract from the setting and character of The Custom House and environs. In addition the proposal would have a significant and detrimental visual impact on the River Liffey Conservation Area and important views and vistas, including those views from The Custom House environs, Amiens Street, Mountjoy Square, Gardiner Street Lower, Trinity College Campus and views westward from the River Liffey. Moreover, due to the excessive scale of the proposed building and its proposed location, removed from the permitted buildings at Tara Street Station and Apollo House, the proposed building would stand apart as an overly assertive solo building which would not form part of a coherent cluster. The proposal would therefore have a significant and detrimental visual impact on Dublin's historic skyline, by reason of fragmentation and visual intrusion and would thereby seriously injure the urban character of the City Centre skyline, would create a

precedent for similar type undesirable development and would be contrary to the proper planning and sustainable development of the area.

2. Taking into account, the scale of the proposed building and the impacts on the surrounding receiving urban environment, it is considered the scheme is likely to have noticeable and detrimental overbearing and overshadowing impacts on neighbouring property. The Overshadowing Study indicates a proposed building of overwhelming scale, mass and height that will undoubtedly cast a significant shadow and have an overbearing impact on the surrounding environment, including the Church and the public space to the front, the nearby school and associated grounds and public space to the front of the adjacent office building. The proposed development would therefore constitute an overdevelopment of the subject site, would seriously injure the amenities of neighbouring property, would devalue property in the vicinity, create a precedent for similar type undesirable development and would be contrary to the proper planning and sustainable development of the area.

3.3. Planning Authority Reports

3.3.1. Planning Reports

3.3.2. The following is a summary of relevant comments within the Local Authority Planner's Report. It should be noted that the at the time of drafting the Planner's Report, the relevant policy related to the Dublin City Development Plan 2016-2022.

- The proposal is in accordance with the Z5 zoning for the site.
- Demolition of existing buildings on the site may be appropriate to allow for appropriate redevelopment of the subject site.
- With reference to the historic City Arts Centre use on the site, it is appropriate that any replacement building provide a cultural space.
- With reference to the assessment criteria outlined in the Building Height Guidelines:-
- The site is located in a central accessible location, within 200m of one of the city's busiest DART stations at Tara Street which is also proposed to be the location of the only future MetroLink and DART interchange in the city centre. The site is

proximate to LUAS lines and bus stops. The site is suitable for higher density development.

- In relation to the context of the area, there are elements and aspects of the site's receiving environment which are of high sensitivity, including The Custom House, the Liffey Corridor and key views, such as from Gardiner Street, Kildare Street and Trinity College. There is serious concern that the photomontages provided do not give a true reflection of the proposed schemes visual impact on the skyline. In many of the photomontages the scheme has a blue/clear sky background, and the proposed building, including facades, appear to lack definition. In reality, tall buildings, particularly those with large glazed facades, do not fully integrate into a picturesque blue/clear sky and the glazed materiality is actually reflected in a dark tone. It is considered that the submitted photomontages somewhat misrepresent how the scheme will appear and although the photos do give a sense of the scale, it is considered that they do not give a true representation of the visual impact of the proposed building.
- Reference to the expired George's Quay LAP and Policy SC17 of the 2016-2022 Development Plan. Setting aside the height of the proposed development, there will likely be a positive change at street level, with the replacement of the existing vacant and underutilised buildings with a modern mixed use development. The proposal would cause a significant change in the character to the Talbot Bridge, George's Quay, City Quay and surrounds, becoming the focal point of the view when crossing the bridge and in views along Moss Street / Shaw Street with a strong place-making effect.
- The proposed building is an interesting modern and assertive design which exhibits the use of high quality materials and finishes and if viewed in isolation and not taking into account the sensitivities of the surrounding context, the scheme has significant positive attributes. The Planning Department has serious concerns regarding the dramatic and cumulative impacts of a building of such height, scale and mass at this location. Distance views (23, 24, 28, 31, 34, 35, 36, 37, 38, 39, 40, 44, 45, 46, and 47) give a clear indication of the significant visual impacts of the proposed scheme. There are serious reservations however regarding not only the height of the proposed scheme and its dramatic cumulative impact on Dublin's

skyline but also the somewhat isolated nature of the building, in comparison to the 2 permitted tall buildings at Tara Station and Apollo House.

- One of the key themes of the Georges Quay LAP was the inclusion of a tall building at Tara Street Station. Planning permission was approved for an 88m residential tower at this location. Approval subsequently granted for an 82.5m residential tower, within the Apollo redevelopment scheme, opposite Tara Street Station. It is important to acknowledge that the Apollo Building, is not only a residential scheme, but also maintains the hierarchy of scale and height within the vicinity and is subservient to the Tara Office Building. The Tara St. Tower was intended to be the tallest building within, not only the Georges Quay LAP area but also the local area.
- The current scheme is not subservient in scale, mass or height to the permitted Tara Street Tower and is approximately 20m higher. Furthermore, it is considered that the location of the subject site is somewhat removed from the 2 permitted buildings at Tara Street Station and Apollo House. It appears isolated and set apart and this becomes apparent in the photomontages submitted (7, 10, 11, 23, 24, 31, 32, 33, 34, 45, 36, 37, 38, 39 40, 41, 44 and 45) the building appears solo in comparison to the aforementioned towers. The perception of a solitary tall building can also be seen in views from Trinity College. It could be argued that the views from Trinity college will be compromised by the permitted tall buildings at Tara Street Station and Apollo House, however views 13, 14, 16, 18, 19 and 20 clearly showcase the isolated nature of the proposal in comparison to the clustered nature of the Tara Street and Apollo towers.
- It is considered that a building of such height, scale and mass at this location would have a detrimental, dramatic and cumulative visual impact on the Dublin skyline. Given the prominent and sensitive location of the subject site by reason of its important location within the historic city core, its relationship to the River Liffey, and its proximity to the The Custom House and having regard to Policy SC7 and Policy SC17, as set out in the Dublin City Development Plan 2016-2022. It is considered that the proposed development, due to its excessive height, scale and bulk, would seriously detract from the setting and character of the The Custom House, one of the city's most important architectural set pieces, and would also adversely affect the River Liffey Conservation Area.

- The scheme would by reason of visual intrusion, have a significant and detrimental visual impact on a number of important views and vistas in the city, as referenced in the Dublin City Development Plan 2016-2022 Key Views and Prospects (Fig.4), including views from Amiens Street, Mountjoy Square, Gardiner Street Lower, The Custom House environs, Trinity College Campus and views westward from the River Liffey. In particular, the views from Gardiner Street (35, 38 and 39) and Mountjoy Square (37) illustrate the stark reality a proposed building of such scale and mass will have on the Dublin skyline and the corresponding detrimental visual impacts on the integrity of the historic The Custom House building.
- The proposed development would seriously injure the urban character and visual amenities of the historic city core, would create a precedent for similar type undesirable development and would be contrary to the proper planning and sustainable development of the area.
- The impact of the proposal on views from the The Custom House environs, The Custom House Quay, Mountjoy Square and Kildare Street would indicate an unacceptably negative impact on the skyline from these historic locations. In addition, there appears to be equally dramatic and piercing views from Pearse Street, Lombard Street East, Townsend Street, Eden Quay, Amiens Street and the Five Lamps and the proposal appears to be overly assertive in terms of its influence on Dublin's historic skyline.
- It should be noted that any intervention in the proposed scheme to address the fundamental concerns, set out above by way of condition would likely result in a significant material amendment to the scheme that would require a redesign of the building and as such could not be overcome via an Additional Information Request or by attached conditions.
- The proposed development would provide for a significantly enhanced public realm and pedestrian access to the proposed development, particularly along Moss Street and City Quay. The proposed development will increase the accessibility and permeability of the subject area thus improving the resilience of locations in terms of public access and egress at surface level. The proposal responds to its overall natural and built environment and makes a positive contribution to the urban neighbourhood and streetscape.
- The proposal will redefine and improve the streetscape.

- The reservations expressed regarding the height, scale and mass of the scheme have been set out, however it is not considered that the proposed building is overly horizontal and it would appear that the materials are of the highest quality and are generally well considered.
- The podium level of the proposed scheme will enhance the presentation of the site to the Quay and Moss Street by redefining the street edge with active uses and enhance the public realm.
- Legibility of the space will improve significantly from the present situation.
- A modern building on the site would be considered a positive intervention which will enhance the urban grain along this streetscape and locality.
- The proposed development will enhance the uses on site which is currently significantly underused given the site's location.
- Proposed cultural uses will enhance the mix of uses on offer in the area, and office use will provide for large floor plates, creating economic activity, animation and vibrancy.
- With respect to daylight and sunlight, cumulatively the scheme is likely to have a noticeable impact on neighbouring property. As shown in the Overshadowing study, the building will undoubtedly cast a shadow on the surrounding environment, including the public space to the front of the church to the east, the nearby school, and associated grounds and public space to the front of the Grant Thornton Building. Ideally, an excise should be completed by the applicant which compared the existing VSC with the impact of a more modest building on the subject site at between 9-13 storeys, to give greater clarity.
- In relation to open space, the development would regenerate a site long suffering underutilisation with high quality office and cultural spaces, in accordance with policy CEE11 in the Development Plan 2016-2022.
- As a direct result of the proposed development of the subject site the envisioned increase in footfall, vibrancy and functionality is likely to have a significant economic benefit for the local area and the City. The proposed development will significantly regenerate and likely rejuvenate an underutilised site in close proximity to public transport connections and the proposal will deliver in a number of the core objectives of the Plan.

- With reference to policies in the 2016-2022 Development Plan concerning culture, the proposed uses will provide for animation at street level and create vibrancy and vitality for long periods of the day and into the evening. Significant improvement on the existing building.
- The finding of the Wind Tunnel Study are considered acceptable.
- Transportation Planning Division comments are noted in the report. No significant matters raised, with the exception of concern with the location of the vehicular access and servicing access on Gloucester Street South adjoining a school, conditions recommended.
- Appropriate Assessment: the submitted Natura 2000 Impact Screening Report concluded mitigation measures must be in place to ensure that there are no significant impacts on surface water that leads to Dublin Bay. Following the implementation of the mitigation measures, the demolition, construction works and operation of the proposed development would not be deemed to have a significant impact on the River Liffey which is seen as a direct pathway to four Natura 2000 sites. Based on the screening report it is considered that no significant effects are likely on Natura 2000 sites, their features of interest or conservation objectives, the proposal will not adversely affect the integrity of European sites, Stage 2 AA not required.
- EIA: Information submitted in the EIAR is reasonable and sufficient to allow the Planning Authority to assess the scheme, complying with relevant Directives.
- Summary: The Planning Authority has no issue with the appropriate development of the subject site and it may be the case that a more appropriately scaled building could be accommodated at this location, however if any such building was to be constructed, given the sensitive and historic nature of the subject site and views from the surrounding context, it should be subservient to the Tara Street Stower, should be more reflective and sensitive in terms of scale and impacts on the surrounding context and be of the highest architectural quality to justify any breaking of the skyline.

3.3.3. Other Technical Reports:

- Archaeology Section: Notwithstanding the suggested mitigation in the submitted Archaeology Assessment, recommended that a condition for an

archaeological test trenching and excavation be attached to any grant of planning permission.

- **Transportation Planning Division:** No works to take place within the public realm without the prior written consent of the Planning Authority, condition requested. Revised basement layout to be requested by condition to show detailed piling proposals to demonstrate that the proposal will not impact on the public footpath, nor the building overhang the public footpath. Concern regarding vehicular access adjoining a school and particularly its use for servicing, request a Road Safety Audit with recommendations to be incorporated into the design, by condition. No concerns raised with respect to car parking or cycle parking. Request a Servicing Management Plan, Mobility Management Plan and Final Construction Traffic Management Plan and Construction Environmental Management Plan by condition. Further detail in relation to sustainable mobility facilities for construction staff to be requested by condition.
- **Drainage Division:** No objection, subject to conditions relating to drainage details, surface water details and flood risk assessment.

3.4. Prescribed Bodies

- **An Taisce:** The proposal does not comply with George's Quay LAP which allows for a height and massing of 6 storeys at the City Quay / Moss Street corner site. The proposal is not sensitive to the quays contrary to policy. The proposal is not sensitive to The Custom House contrary to policies in the Plan and Building Height Guidelines. Inclusion of tower approved at the corner of George's Quay and Tara Street in contextual views questionable as may not be constructed. Enormous energy use required to control solar gain. Huge environmental and energy consumption costs of high buildings compared to lower ones. High buildings are unsuitable for the climate and latitude of Northern European cities, created down-drafts, wind tunnels and overshadowing. Query if fire services equipped to deal with high buildings.
- **Department of Defence:** comments relating to use of obstruction lights to be visible to night vision equipment and coordination with Air Corps Air Traffic Services.

- Office of Public Works: The Customs House has a rating of international significance on the National Inventory of Architectural Heritage in Ireland. Submitted photomontages place little emphasis on the impact of the proposed 24 storey building on the Custom House as viewed from the river, other than view 47 taken at a distance. The dome of the Custom House is a focal point from Gardiner Street Lower and from Amiens Street Lower, concern that the loss of the view of the dome could lead to erosion of the Custom House as a focal point in the cityscape of Dublin. Concern regarding overshadowing of the Custom House, interrupting the regarding of the elevation as a whole, with Portland stone seen at best in sunlight.
- Transport Infrastructure Ireland: Request condition to apply the Section 49 Luas Line Levy if the development is not exempt.

3.5. Third Party Observations

- 6 observations in support commending the architectural design and economic benefits of the proposal, and with reference to the need for modern, sustainable, energy efficient office accommodation in the city.
- 5 observation in objection to the height of the proposal. With resulting impact on the setting of Georgian Dublin, protected structures, The Custom House and Trinity College, and the precedent it would set. Impact from overshadowing and upon the daylight received to adjacent buildings. Impact on community. Loss of privacy. Impact upon the public realm. Predominant office use / lack of mixed use. Disturbance due to construction with reference to 10yr permission requested. Impact on adjacent school and school children in attendance. Plot ratio in excess of standards. Adverse impact on adjacent properties in terms of inadequate separation and lack of transition in scale. Microclimatic effect. Lack of planning gain or engagement with community. Fire and public safety.

4.0 Planning History

4.1. Subject site:

4.1.1. Reg. Ref. 4065/21: Planning permission REFUSED on 11/02/2022 for; Demolition of the existing 3 storey building and its foundations; Demolition of the existing single storey structure located within the yard and its foundation; Demolition of existing boundary walls including wall foundations and entrance archway; Removal of slab and foundations of previously demolished structures that are present on site; Hoarding to boundaries; All ancillary and associated works. Refused for one reason relating to the resulting empty site which would be harmful to the streetscape and Liffey Conservation Area.

4.1.2. Reg. Ref. 3255/01: Planning Permission GRANTED on 22/02/2002 for four storey plus penthouse over basement, atrium office building (4,566 sq.m.) incorporating office and ancillary accommodation with part ground floor Cafe/Retail unit (194 sq.m.) with 18 No. car parking spaces at basement level all on existing surface car park/derelict site.

4.2. Tara Street:

4.2.1. Reg. Ref. 3165/20 / ABP-308481-20: Planning Permission GRANTED 11/03/21 on first party appeal to An Bord Pleanála for amendments to previously permitted development, Reg. Ref. 3794/18 / ABP Ref. 302980-18 comprising change of use of lower levels from hotel to restaurant/café/retail and office, new mezzanine level, internal reconfiguration, modified colonnade to Tara Street, reduced car parking, revisions to hard and soft landscaping necessary, overall increase in gross floor area from 16,557 to 16,961 sq.m. (including basement) comprising of 14,185 sq.m. office use and 1,071 sq.m. of cafe/retail/restaurant use.

4.2.2. Reg. Ref. 4054/19: Planning Permission GRANTED 07/01/2020 for amendments to previously permitted development, Reg. Ref. 3794/18 / ABP Ref.302980-18 comprising 1 additional hotel floor and mezzanine, internal reconfiguration, increase in hotel bedrooms to 157, modifications to façade detail, modifications to colonnade to Tara Street, reduced car parking and ancillary works. Max height 23 storeys.

4.2.3. Reg. Ref. 3794/18 / ABP-302980-18: Planning Permission GRANTED on first party appeal to An Bord Pleanála 02/04/2019 for demolition of existing Tara House Office Building (1,417 sq. metres) and associated buildings at 2-16 Tara Street, Dublin 2, D02 W597. Construction of a new 22 storey landmark office and hotel development with a rooftop restaurant over 2 no. levels of basement accommodation with an overall gross floor area of c. 16,557 sq. metres and to include an upgraded public concourse

serving Tara Street Station. The maximum height of the building is 88 metres above ground level. Commencement notice has been served for below ground levels (basement 1 and 2).

4.2.4. Reg. Ref. 2856/17 / ABP-248941-17: Planning Permission REFUSED on first party appeal to An Bord Pleanála 15/03/18 for demolition of existing Tara House Office Building (1,417 sq. metres GIA) and associated buildings at 2-16 Tara Street, Dublin 2, D02 W597. Construction of a new 22 storey land mark office and hotel development with a rooftop restaurant over 3 levels of basement accommodation with an overall gfa of c. 18,451 sq. metres and to include an upgraded public concourse serving Tara Street Station. The maximum height of the building is 88 metres above ground level. Permission refused for one reason relating to the scale and bulk of the building that would detract from the setting and character of the Custom House and adversely affect the River Liffey Conservation Area and the O'Connell Street and Environs Architectural Conservation Area. As well as detrimental impact on important views.

4.3. College House/Apollo House

4.3.1. 3684/21 – Planning Permission GRANTED on 25/04/22 for amendments and additions to the previously permitted redevelopment of the former College House and the former Screen Cinema (DCC Reg. Ref: 3637/17, ABP Ref: PL29S.300709) and the former Apollo House (DCC Reg. Ref.: 3036/16, ABP Ref: PL29S.247907) and as amended by DCC Reg. Ref.: 2415/19, DCC Reg. Ref.: 4170/19, ABP Ref: PL29S.306335 and DCC Reg. Ref.: 2583/20. Increasing overall height from permitted 21 storeys to 22 storeys (82.1m above street level). Increasing the no. of residential units from 54 no. build-to-rent units (45 no. 1 bedroom and 9 no. 2 bedroom) to 58 build-to-rent no. units (48 no. 1 bedroom and 10 no. 2 bedroom). Works are substantially progressed on site.

4.3.2. 2583/20 - Planning Permission GRANTED 02/12/20 for development at a site of 0.66 ha at the former Apollo House, Tara Street (D02 N920); 9-15 Townsend Street and 31-33 Tara Street, incl. The former Long Stone Pub (D02FE00) and the Brokerage Apartment Building; the former College House, Nos. 2-3 Townsend Street, (D02 F990), and the former Screen Cinema, 16-19 Hawkins Street (D02 DP65), Dublin 2. The site is bounded by Townsend Street to the south, Tara Street to the east, Hawkins Street to the west, Hawkins House to the north and west and Poolbeg Street to the north. The development consists of addition to and the amendment of previous

permissions relating to the former College House and former Screen Cinema (DCC Reg. Ref. 3637/17 ABP Ref:PL29S.300709) and the former Apollo House (DCC Reg. Ref.: 3036/16, ABP Ref: PL29S.24907) and as amended by DCC Reg. Ref.: 2415/19 and DCC Reg. Ref.: 3668/19, ABP Ref: PL29S.305652.

4.3.3. 4170/19 / ABP-306335-20 Planning Permission GRANTED 15/09/20 on third party appeal to An Bord Pleanála for amendments to previous permissions and proposed additional build to rent residential accommodation on previously permitted College House and the former Screen Cinema (DCC Reg. Ref: 3637/17, ABP Ref: PL29S.300709) and the former Apollo House DCC Reg. Ref.: 3036/16, ABP Ref: PL29S.247907) and as amended by DCC Reg. Ref.: 2415/19. Increased max height to 21 storeys for build-to-rent element.

4.3.4. 3668/19 / ABP-305652-19 – Planning Permission GRANTED 28/01/20 on third party appeal to An Bord Pleanála for amendment of previous permissions relating to College House and the former Screen Cinema (DCC Reg. Ref. 3637/17 ABP Ref: PL29S.300709) and the former Apollo House (DCC Reg. Ref.: 3036/16, ABP Ref: PL29S.247907) and as amended by DCC Reg. Ref.: 2415/19.

4.3.5. 2907/19 / ABP-304950-19 Planning Permission GRANTED on third party appeal to An Bord Pleanála on 08/11/19 for amendment of previous permissions relating to College House and the former Screen Cinema (DCC Reg. Ref. 3637/17, ABP Ref: PL29S.300709) and the former Apollo House (DCC Reg. Ref.: 3036/16, ABP Ref: PL29S.247907).

4.3.6. 3036/16 / 247907 – Planning Permission GRANTED 14/06/17 on first and third party appeal for the demolition of the existing Apollo House located on Tara St. and Poolbeg St., and the Long Stone Pub on Townsend St., Dublin 2 and construction of a commercial office building ranging in height from 5 storey to 12 storeys (including one level of plant). The total gross floor area above ground of this building will be circa 16,205 sq.m. The ground floor includes office entrance and foyer of 245 sq.m, 2 no. café / restaurant / retail units (160 sq.m respectively) and 1 no. bar / café / restaurant unit of 460 sq.m. Access to the level basement will be via a ramp onto Townsend St., basement -2 contains 40 no. car parking spaces and associated plant and basement -1 contains 174 no. cycle spaces and associated shower & toilet facilities, plant area and 2 no. ancillary storage spaces of approx. 280 sq.m and 60 sq.m. cycle access to the basement will be via a dedicated, access controlled cycle stair accessed from the

new civic space. Roof terraces are provided on the west and south elevation at tenth floor level, on the east elevations at eight floor level, on the west elevation at sixth floor level and on the south elevations at fifth floor levels. The development will also consist of a new civic space onto Poolbeg St. including proposed hard and soft landscaping features and boundary treatment to adjoining Hawkins House. The proposed development also includes for the provision of green roofs; retail / café / restaurant signage; a new ESB substation; associated site servicing (foul and surface water drainage and water supply); and all other associated site excavation and site development works above and below ground.

5.0 Policy Context

5.1. National Planning Policy

5.1.1. National Planning Framework

5.1.2. The National Planning Framework (NPF) published in February 2018 is a strategic planning framework to guide development and investment over the coming years. Compact growth forms a key component of the approach set out in the framework. A number of National Policy Objectives (NPO) are of relevance in the NPF, including:

- NPO 5: Develop cities and towns of sufficient scale and quality to compete internationally and to be drivers of national and regional growth, investment and prosperity.
- NPO 11: In meeting urban development requirements, there will be a presumption in favour of development that can encourage more people and generate more jobs and activity within existing cities, towns and villages, subject to development meeting appropriate planning standards and achieving targeted growth.
- NPO 13: In urban areas, planning and related standards, including in particular building height and car parking will be based on performance criteria that seek to achieve well-designed high quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected.

5.1.3. Other relevant national guidance (not exhaustive):

- Climate Action Plan 2023 December 2022.
- Urban Development and Building Heights December 2018.
- Architectural Heritage Protection Guidelines October 2011.
- Guidelines for Planning Authorities and An Bord Pleanála on carrying out Environmental Impact Assessment August 2018.

5.2. Regional Planning Policy

5.2.1. The Eastern and Midland Regional Assembly Regional Spatial and Economic Strategy 2019-2031 sets out the Guiding Principles for growth of the Dublin Metropolitan Area in section 5.3, including the following:

“Increased employment density in the right places – To plan for increased employment densities within Dublin City and suburbs and at other sustainable locations near high quality public transport nodes, near third level institutes and existing employment hubs, and to relocate less intensive employment uses outside the M50 ring and existing built-up areas.”

5.2.2. The plan describes a focus on integrated land use and transportation, encouraging the compact growth of cities and urban areas in a manner that promotes sustainable transport modes.

5.3. Local Planning Policy

5.3.1. At the time of the local planning authority Notification of Decision, the relevant Development Plan for area was the Dublin City Development Plan 2016-2022. Dublin City Council adopted a new Development Plan at a Special Meeting on 2nd November 2022, and on 14th December 2022 the Dublin City Development Plan 2022-2028 came into effect. It now describes the local planning policies applicable to the subject site.

5.3.2. A summary of the most relevant matters under the Dublin City Development Plan 2022-2028 is set out below, note this is not an exhaustive list:

5.3.3. The site is zoned Z5 City Centre, with the Land-Use Zoning Objective ‘To consolidate and facilitate the development of the central area, and to identify,

reinforce, strengthen and protect its civic design character and dignity.’ Cultural uses, office, sports facility and recreational uses are permissible uses under the zoning.

5.3.4. The site is also partially within the River Liffey Conservation Area, as well as bounding a zone of Record of Monuments and Places (RMP). There are no protected structures located on the site itself, however adjacent to the site to the east are protected structures at 9, 10-12 City Quay, being the St. Mary’s Church, belfry, boundary walls, railings and Presbytery building. There are several other protected structures in the wider vicinity, including most prominently, the Customs House on the opposite side of the river.

5.3.5. Chapter 1 of the plan sets out the strategic context and vision for the city. The vision for Dublin refers to a compact city, a vibrant culture, where people seek to live, work, experience, invest and socialise as a matter of choice.

5.3.6. Chapter 2 sets out the core strategy, including the employment strategy for the city in section 2.5. The economic strategy seeks to continue the shift from low intensity, more land-extensive employment uses towards more intensive office, service, retail, tourism and culture related employment activity. Compact growth is promoted via appropriate infill and brownfield development and targeted growth along key transport corridors.

5.3.7. Chapter 3 concerns climate action. Policy CA8 ‘Climate Mitigation Actions in the Built Environment’ sets out how new development should respond in addressing climate action. It supports the transition towards more sustainable modes of movement and transport and the decarbonisation of transport.

5.3.8. Chapter 4 describes the shape and structure of the city, including the creation of a more compact city where development is closely aligned and integrated with existing and proposed public transport. Policy SC1 ‘Consolidation of the City’ promotes compact growth and maximising opportunities provided by public transport. Policy SC2 ‘City’s Character’ including encouraging sustainable building heights to ensure efficient use of resources, services and public transport infrastructure that protects the heritage of the city. Section 4.5.4 ‘Increased Height as Part of the Urban Form and Spatial Structure of Dublin’ states that the appropriateness of building heights is also a key consideration within the historic core, particularly in key sensitive areas of the city such as the Georgian core, the Liffey Quays and medieval centre. Proposals for increased height in these areas must demonstrate that they do not have an adverse impact on these sensitive environments and that they make a positive contribution to the historic

context. Proposals for landmark/tall buildings must respect their context and address the assessment criteria set out in Appendix 3. Policies SC14-SC18 are of relevance in assessing applications for increased building height including landmark / tall buildings. Figure 4-1 'Key Views and Prospects' identifies the location of landmarks and protected views across the city. Policies SC19-SC23 concern building design.

- 5.3.9. Chapter 6 relates to the city economy and enterprise, it promotes strategic and targeted employment growth of Dublin's role as a national economic engine, and facilitating foreign investment. Policy CEE3 states that a positive and proactive approach will be taken when considering the economic impact of major planning applications. Policy CEE21 facilitate the supply of larger office plates and promotes the re-development of obsolete office stock.
- 5.3.10. Chapter 8 relates to sustainable movement and transport. It promotes a modal shift towards sustainable modes of transport with reference to the compact city model. Figure 8-1 identifies Tara Street as the city centre interchange between the existing DART services and proposed Metrolink. The approach to pedestrian environment, car parking and the bus network is also described.
- 5.3.11. Chapter 11 concerns built heritage and archaeology. Policy BHA2 requires development to conserve and enhance protected structures, their curtilage and settings. Policy BHA7 requires the protection and enhancement of the setting of architectural conservation areas. Policy BHA9 relates to the development within, or affecting a conservation area. Figure 11-2 'Dublin's Historic Core' identifies the Customs House and Trinity College as a city landmarks, and the Georgian Core (which does not including the subject site location).
- 5.3.12. Chapter 12 concerns culture. Policy CU4 supports the development of new cultural resources and facilities.
- 5.3.13. Chapter 13 relates to Strategic Development Regeneration Areas (SDRA). The subject site forms part of SDRA 6 Docklands. SDRA 6 is described from section 13.8 and Figure 13-6 identifies the location of locally higher buildings and landmark buildings in SDRA 6, with the subject site identified as appropriate for a locally higher building.
- 5.3.14. Chapter 15 sets out the development standards for the area. Appendix 3 identifies the height strategy for the city and the criteria under which higher buildings will be assessed.

5.4. Natural Heritage Designations

5.5. The subject site is located approximately 2km to the west of the European site at South Dublin Bay and River Tolka Estuary SPA (site code 004024). Potential impact on European sites is set out in section 9 of this report below.

6.0 The Appeal

6.1. First Party Appeal

6.1.1. A first party appeal against the decision to refuse permission was received by the Board on 7th November 2022. The appeal is accompanied by the following documentation supporting the grounds of appeal:

- Appendix 2: Daylight & Sunlight Assessment Addendum prepared by Digital Dimensions;
- Appendix 3: Architect's Response to Planning Refusal prepared by Mahoney Architecture;
- Appendix 4: Report on Townscape and Visual Impact for 1st Party Appeal prepared by Modelworks;
- Appendix 5: Urban Strategies Inc. Appeal Response including resubmission of Appendix 1 submitted with the application;
- Appendix 6: Cover letter prepared by Byrne Looby including the following appendices:
 - Appendix A: Drawings;
 - Appendix B: Delivery and Servicing Management Plan;
 - Appendix C: Stage 1 Road Safety Audit;
 - Appendix D: Public Transport Capacity Assessment;
 - Appendix E: Updated Outline of Construction Management Plan.
- Pedestrian Realm People Flow Study prepared by Bakkala Consulting Engineers;
- City Quay Additional Verified Photomontages prepared by Digital Dimensions.

6.1.2. At the time of submission of the appeal, and the determination of the application subject to this appeal by the Local Authority, the proposed development was subject to the provisions of the Dublin City Development Plan 2016-2022. However, the Draft Dublin City Development Plan 2022-2028 was published on the 25th November 2021, with public consultation ending on the 14th February 2022. The Plan was adopted on the 2nd November 2022 and came into effect on 14th December 2022. The appellant therefore refers to the Draft Dublin City Development Plan 2022-2028, which it is acknowledged will be in effect at the time a decision is made on the appeal.

6.1.3. The appeal provides a detailed description of the site and comprehensive explanation of the proposed development. The appeal states that a 10 year permission is sought having regard to the complexities around the delivery of a landmark building and current impacts on the supply chain being experienced by the construction industry.

6.1.4. A summary of the main points in response to the reasons for refusal as set out in the first party appeal is set out below:

- In relation to the first reason for refusal concerning the impact of the proposed development upon the setting and character of the Custom House and the River Liffey Conservation Area, a supporting architectural document and additional townscape and visual impact assessment (TVIA) is submitted with the appeal.
- The development should be assessed in accordance with the overarching national policies and objectives set out in the NPF, the Urban Development and Building Height Guidelines, the Draft Dublin City Development Plan 2022-2028 and the strategic importance of the location of the subject site in close proximity to a major public transport hub at the existing Tara Street Dart Station and proposed future Metrolink Station.
- The designation of a site or otherwise, for a locally higher building does not preclude proposals for a landmark building provided the Table 3 and 4 criteria are satisfied (which provided criteria for the assessment of taller and landmark buildings).

- The benefits of the scheme to the City which were recognised by the City Council, were not given significant weight as part of a balanced judgement in refusing permission.
- The additional TVIA submitted addresses the prominent location of the site and impact of the proposed development upon the River Liffey and the Custom House.
- Dublin is an international city and gateway to the European Union, a major economic driver for the country. The TVIA identifies the evolution of the townscape in response to the presence of a custom House is not unique to Dublin and provides examples of international cities which have had a similar evolution (i.e. Sydney).
- For Dublin to compete as a 'global city of scale' as set out in section 6.1 of the Draft Development Plan, commercial buildings of this scale should be encouraged within the city centre, given the location of the site in the centre and close to Tara Street Station.
- The reason for refusal identifies a number of important views which are impacted by the proposed development. The TVIA Appeal Response provides an assessment of the impact the proposed development has on each of the views stated in the reason for refusal.
- The most important views of the Custom House are viewed from the front, in which the proposed development is not visible.
- With reference to the reason for refusal stating that the site is removed from permitted tall buildings, the subject site is located c.160m from the permitted building at Tara Street Station. This is addressed in the TVIA Appeal Response and additional response from the architects. The site is suitably located in close proximity to Tara Street Station to be considered as part of the emerging cluster of tall buildings at this city centre location, developing similar to other clusters around major transport hubs in the city centre. The two permitted buildings do not form a cluster alone.
- With reference to reason for refusal no.2 and overshadowing/overbearing impact, shadow diagrams are included with the application. An additional Daylight and sunlight Assessment has been prepared and submitted with the

appeal. An additional document prepared by the architect is also submitted with the appeal and addresses neighbouring amenity impact.

- 6.1.5. A response to concerns raised in relation to access and servicing in the DCC Planner's Report is included in a Delivery and Service Management Plan. A Stage 1 Road Safety Audit has been submitted. Construction related concerns raised by 3rd parties are also addressed in the response documentation.
- 6.1.6. Third party concerns are responded to in submitted additional documentation. It is noted that impact on daylight, particularly to surrounding commercial buildings must be considered against the current low height of the existing buildings, which is inconsistent with the vision for the area. A building of similar scale to that of the buildings of the third-party observations would not have a significantly dissimilar impact to that from the subject landmark building.
- 6.1.7. In terms of policy framework, the appeal grounds states that the proposed development is compliant with the National Planning Framework 2040. Reference is made to Objectives 4, 5, 10, 11 and 13 of the NPF. The appellant states that the proposed development is located close to one of the main transportation hubs in the country. The subject site is situated c.160m from the existing Tara Street Dart Station which is one of the main public transport nodes in the city. In addition, the Tara Metrolink Station will be the only interchange between the Dart and Metro in the city centre. The long-term development of the subject site is considered important in allowing it to play a vital role in the long-term development of Dublin City as a compact city where public transport plays a major role. The proposed development will act as a key destination for employment within the city therefore consolidating urban development close to this key public transport location which is considered to be compliant with the policies and objectives of the NPF.
- 6.1.8. The appeal grounds include an assessment of how the proposed development complies with criteria set out in the Urban Development and Building Heights Guidelines 2018 ('the Building Height Guidelines'). The appeal states that it is notable that the City Council in their Planner's Report assess the development against these criteria and consider the development satisfies them, with the exception of visual impact.
- 6.1.9. The appeal provides details of how the proposed development complies with the Dublin City Development Plan 2022-2028 as follows: In relation to zoning and the land

uses proposed; The identification of a 'locally higher building' on the site as part of SDRA 6 and that this designation does not preclude a landmark building; Policies relating to the city economy and enterprise (namely CEE2, CEE20 and CEE21); Policies which relate to conservation areas (namely BHA9 and BHA10); policies concerning culture (namely CU2, CU4, CU12, CUO22, CUO23 and CUO27); In relation to height, density and scale an assessment of how the proposed development complies with Appendix 3 of the Plan is presented which outlines performance criteria for assessing increased height; The incorporation of public realm improvements, active frontages and additional space at ground (policies CCUV37-CCUV39); High quality design, materials and finishes (policies SC19 and SC21); Energy efficiency (policy QHSN11); Response to archaeological heritage (policy BHA26), and; The incorporation of car and bicycle parking in accordance with policies Appendix 5 of the Plan.

6.1.10. Appendix 2 of the appeal is a Daylight & Sunlight Assessment Addendum, presenting an assessment of the impact of the proposed development upon the daylight and sunlight to neighbouring buildings. The methodology for the analysis is described in accordance with the BRE guidelines, including reference to an alternative target VSC. The results of testing to the following neighbouring properties is described: Social housing on Gloucester Street; Presbytery City Quay; Petersons Court; National School Gloucester Street; Hotel at junction of Moss Street and Gloucester Street; Office buildings 1GQ; 7/8 City Quay; and Grant Thornton. Overall, there would be a moderate reduction to the daylight to the directly adjacent buildings however the majority of the windows to the buildings facing the proposed development retain a VSC in excess of 9%, in line with the possible reduction of a building similar in massing to the surrounding building and as set out in the local area plan.

6.1.11. Appendix 3 of the appeal is the Architect's response to the planning refusal, with detailed commentary in relation to reason for refusal no.1. It concludes that the subject site is the ideal location for a tall building taking into account its proximity to public transport, riverside location at a key river crossing, arrival point for traffic arriving in the city centre from north of the river, focal-point in views, position across from the Custom House historic centre of trade and commerce and location of a developing tall building cluster.

6.1.12. Appendix 4 is a Report on Townscape and Visual Impact (TVI). The report refers to the Local Authority's reasons for refusal (focusing on reason no.1) and key points from

the DCC Planner's Report. The report addresses the prominent and sensitive location as stipulated in reason for refusal no.1. It states that the site has considerable potential to contribute to place-making/legibility, regeneration and overcoming the physical and visual barrier between the old city and the Docklands. The report outlines in detail the characteristics of surrounding buildings of architectural and heritage note, highlighting that there is no uniformity in development era, building typology, form, scale or architecture, stating that the proposed development is a natural progression and could take its place comfortably (albeit prominently) in this character area. Examples of change (i.e. a concentration of commerce and related development) around a custom house are provided, with reference to London, Sydney, Glasgow, New York, Toronto and Belfast.

6.1.13. The Townscape and Visual Impact (TVI) addendum report addresses the contribution of the proposed development to the urban character of the inner City with reference to the wording of reason for refusal no.1. It states that (with reference to policies under the Development Plan) that the proposed development is a deliberate expression of innovation on a scale intended to be significant at national/international level. Its architecture also displays respect for the historic elements of its context (for example by turning its axis in order to address the Custom House and views from Gardiner Street, setting back the tower to respect the building line of the church, design references to Busáras and Liberty Hall etc.). Impact on the setting and character of the Custom House and environs and the Liffey River Conservation Area is also addressed. The report states that the photographs and photomontages show that the proposed development would cause no greater impact on views than the existing and permitted buildings in the Custom House environs. Visual impact upon the skyline from views from Amiens Street, Mountjoy Square, Gardiner Street Lower, Trinity College Campus, and westward from the River Liffey.

6.1.14. Appendix 5 is an Appeal Response from Urban Strategies Inc. addressing the reasons for refusal. It concludes that objections to the proposal rest heavily on the perceived impact on Dublin's unique and distractive historic character, however the report details that there is no negative or intrusive impact. It is noted that the site is not in the historic core nor in a designated conservation area or immediately surrounding the Custom House. The economic development importance of the proposal, its excellent transport connectivity, accommodation of an arts centre, is given little weight. The proposal meets both the broad and particular objectives of national, regional and

city planning policy. Appendix 1 of the document sets out how the proposal addresses the performance criteria for landmark buildings. It should be noted that the document submitted with the appeal includes material relating to an unrelated site towards the end of Appendix 1.

6.1.15. Appendix 6 is the cover letter and enclosures prepared by Byrne Looby in response to the consultation response provided by the DCC Roads Streets and Traffic Department – Road Planning Division on the application. Appendices are included with the response to address the delivery/servicing and traffic safety matter raised. A Public Transport Capacity Assessment is also included outlining the capacity of public transport nodes proximate to the site to serve the proposed development, with reference to both existing and future planned and upgraded services. An Outline Construction Management Plan is also included in response to third party concerns raised in observations on the application.

6.1.16. Appendix 7 is a pedestrian realm people flow study. The study responds directly to performance criteria for the assessment of proposals for landmark tall buildings in the City Centre, set out in Appendix 3 of the Development Plan, and specifically the criterion that 'Entrances, access routes, and ground floor uses should be designed and placed to allow for peak time use and to ensure there is no unacceptable overcrowding in the surrounding area.' The study results suggest that with the future increase of pedestrian traffic in the area, there is a potential for high pedestrian density on the corner of George's Quay at the pedestrian crossing at the north end of Moss Street. It recommends that this can be improved through modifications to road markings and safety railing to increase the width of the existing pedestrian crossing through Moss Street from the current 2m to 3m. Overall, it is concluded that the proposal will not lead to unacceptable overcrowding in the surrounding area.

6.1.17. Appendix 8 comprises additional verified photomontages of the proposed development.

6.1.18. The appeal requests that the Board grant planning permission for the proposed development.

6.2. Planning Authority Response

6.2.1. None received.

6.3. Observations

6.3.1. Office of Public Works: The OPW concurs with DCC that the subject development could bring a positive change at street level, with the replacement of existing vacant buildings. However, overall, the OPW agrees with DCC that due to its scale, bulk and height, the proposed scheme would seriously detract from the setting and character of the Custom House and environs. OPW concerns are not allayed by the additional photomontages and reports provided with the appeal. A building of this scale and magnitude is inappropriate at this historically sensitive location. OPW agrees with DCC that the proposal would have an adverse visual impact on important views and vistas. OPW reiterate its concern about the potential for this scheme to negatively affect the internationally important classical Portland stone façade of the Custom House due to overshadowing. The civic, architectural and historic importance of the Custom House needs to strongly inform An Bord Pleanála's assessment of this 1st party appeal.

6.3.2. Irish Life Assurance plc owners of 'blocks C and D, 1 George's Quay, Dublin 2: The aforementioned building is an office complex located to the immediate west of the proposed development. The observation notes concern regarding potential negative impact on their property, namely overbearing and loss of light. Asserted that the proposal will overwhelm Moss Street. In relation to daylight and sunlight, a second opinion was sought, and is attached at Appendix 1 of the response, from consultant engineers. This concludes that there will be a significant effect to over 50 windows facing onto Moss Street, and not a small percentage of the façade as categorised by the applicant.

6.3.3. City Quay National School: The proposed development is on lands directly to the west of the school. The proposal will have a major negative impact on the ability to deliver a high-quality education to pupils at the school. Do not consider that the appeal submission and documents make any attempt to address any of the legitimate issues raised by objectors. No modifications proposed to the development and concerns of the local community have been ignored. Therefore, the original objection remains. A 10 year permission is unnecessary and unreasonable, creating significant uncertainty and disruption to the operation of the school. The scheme is not a mixed-use development and is contrary to the principle of the zoning objective. The proposal is far in excess of the plot ratio under the development plan. The proposal fails to satisfy

criteria under the Building Height Guidelines, with context being fundamental to decision making. Reduction in daylight, whilst not below 80% of the existing value, is not acceptable as the school already suffers from limited available sunlight and daylight due to the proximity of adjoining development. The school building and yard are also frequently used after 3pm and also concern regarding down-draughts. Future of Metrolink project is uncertain. There is no attempt to include an appropriate transition in building height to the school and the proposal does not comply with the criteria for tall buildings in the plan. No planning gain for the community and no attempt to reach out to the local community. Concern regarding fire and general public safety during construction and operation.

6.3.4. Grant Thornton: Concerns remain as outlined in original submission on the application and concern the following: Overshadowing of public plaza, external terraces and on the City Quay National School; Overbearing impact upon the school; Daylight impact on surrounding windows, analysis suggests 80 out of 82 windows in the Grant Thornton building facing the development site will not meet the target of 80% pre-development VSC.

7.0 Assessment

7.1. I have examined the file and the planning history, considered national and local planning policies and guidance and inspected the site. I have assessed the proposed development including the various submissions from the applicant, the planning authority, the prescribed bodies and the Observer's. With regard to the issues raised in submissions and the reasons for refusal set out in the Local Authority's notification to refuse permission, I have identified the key matters to be assessed in this appeal, and I will address each in turn as follows:

- Land use zoning;
- Visual and heritage impact;
- Height and architectural design;
- Impact upon the amenity of adjoining occupiers;
- Transportation; and
- Other matters.

7.2. Following my assessment of the proposed development and planning policies under the above headings, I undertake an Environmental Impact Assessment in section 8 and an Appropriate Assessment in section 9 of this report.

7.3. Land Use Zoning

7.3.1. I note third party submissions in relation to the lack of mixed use provided as part of the proposed development. It is contended that the proposed development comprises a speculative office development with a very minor amount of non-office floorspace. It is also asserted that the proposal amounts to a material contravention of the land use zoning in this regard.

7.3.2. The Planner's Report for the application states that the proposed mix of uses, which includes office, cultural and recreation, is in accordance with the Z5 zoning.

7.3.3. The site is zoned Z5 City Centre, with the associated Land-Use Zoning Objective 'To consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and protect its civic design character and dignity.' The proposed development includes cultural floorspace, gym and office, which are permissible uses under the zoning.

7.3.4. Chapter 14 of the Dublin City Development Plan 2022-2028 addresses Land-use Zoning and identifies the primary purpose of Zone Z5 to 'sustain life within the centre of the city through intensive mixed-use development. It is also stated on page 535 of the Plan in relation to Zone Z5 that *'Ideally a mix of uses should occur both vertically through floors of buildings as well as horizontally along the street frontage...'* and *'In the interests of promoting a mixed-use city, it may not be appropriate to allow a mono office use on Z5 zoned lands, particularly on large scale development sites... Therefore, where significant city centre sites are being redeveloped, an element of residential and other uses as appropriate should be provided to complement the predominant office use in the interests of encouraging sustainable, mixed-use development.'*

7.3.5. The above quoted text is explanatory in nature and does not form a prescriptive policy or objective under the Plan. The proposed development incorporates a mix of uses, and while office floor space forms the predominant use in the proposal, this is still compatible with the land use zoning. There is no policy or objective under the plan prescribing a specific break down of uses within proposals in the Z5 zoned area. The lower floors of the proposed building include the cultural and gym uses (basement to

first floor) and therefore a mix of uses is included both vertically and horizontally in the proposed building. While I note concern that these non-office uses are minimal, as previously identified, there is no prescription under the development plan with respect to the proportion of floorspace that should form non-office use. I note that the text under the plan (page 535 quoted above), states that mono office use 'may' not be appropriate on Z5 zoned lands. The incorporation of the word 'may' indicates flexibility and discretion in this regard. In addition, while the text states that residential and other uses should be provided, I am satisfied that given the lack of any prescriptive policy/objective or other standard under the plan requiring a particular break down of uses, or specifically residential use in the Z5 zoned area, that there is no strict proportional requirement under the plan. The intention of the land use zoning is that significant development proposals incorporate a mix of uses, and the proposed development satisfies the zoning in this regard, which is also the conclusion reached by the Local Planning Authority. I also note in relation to the proposed office use, that the Development Plan promotes employment growth in Dublin. Policy CEE3 states that a positive and proactive approach will be taken when considering the economic impact of major planning applications and policy CEE21 facilitates the supply of larger office plates. The application includes an Economic Impact Assessment which outlines the substantial economic benefits that would arise for the proposed development in relation to the local and wider economy and the potential to create a broad range of employment opportunities.

7.3.6. In relation to the proposed arts centre I note Objective CUO25 'SDRAs and large Scale Developments' which states that all new regeneration areas (SDRAs) and large scale developments above 10,000sqm must provide a minimum of 5% community, arts and culture spaces including exhibition, performance, and artist workspaces. The proposed development is formed of 1,404sqm arts centre, 22,587sqm offices and 244sqm gym, amounting to a total internal floorspace for these uses of 24,235sqm, of which, the arts centre (including exhibition / performance / workshop and studios) equates to 5.79%, and in compliance with the requirement under CUO25.

7.3.7. I also note that SPPR 2 of the Building Height Guidelines requires an appropriate mixture of uses in driving increased building heights and policy SC15 of the Development Plan refers to the same. As described above, I am satisfied that the proposed development incorporates an appropriate mix of uses in consideration of the land use zoning of the site.

7.4. Visual and Heritage Impact

7.4.1. Observations received raise concern regarding the height, scale and mass of the proposed development, and resultant impact upon built heritage in the surrounding area, specifically in relation to the Customs House.

7.4.2. The Planning Authority's reason for refusal no.1 relates to the prominent and sensitive location of the site, being situated within the historic city core fronting the River Liffey and proximity to the Customs House. The reason for refusal states that the proposal would have a significant and detrimental visual impact on the River Liffey conservation Area and important views and vistas. It goes onto state that the proposal would have a significant and detrimental visual impact on Dublin's historic skyline.

7.4.3. Policy SC17 'Building Height' of the Development Plan states that all proposals for enhanced scale and height in the inner city must demonstrate sensitivity to the historic city centre, including (but not limited to) the River Liffey and quays, as well as Trinity College. Proposals for increased height or landmark/tall buildings must also satisfy the performance criteria identified in tables 3 and 4 in Appendix 3 of the Plan, and which I have had regard to in my assessment. I also note that Appendix 3 includes 'Section 6 Guidelines for Higher Buildings in Areas of Historic Sensitivity' which relates back to the Building Height Guidelines, and notes that developments of significant height and scale are generally not considered appropriate in historic settings including conservation areas, architectural conservation areas, the historic city centre, the River Liffey and quays, Trinity College etc. However, it goes onto state that while the purpose of conservation designations is to protect and enhance the special character of such areas, this does not preclude any appropriate forms of new development. Policy BHA9 states that development within or affecting conservation areas must contribute positively to their character and distinctiveness. Enhancement opportunities include contemporary architecture of exceptional design quality, which is in harmony with the conservation area.

7.4.4. Figure 4-1 'Key Views and Prospects' of the Development Plan identifies landmarks and views to be considered in the city. This includes views of the Customs House from the north from Gardiner Street, along the River Liffey from the east looking west towards the Customs House and the subject site, and from the west looking in the direction of the subject site. The Customs House is identified as a landmark in figure 4-1.

7.4.5. The application included a Landscape and Visual Impact Assessment (LVIA) as part of the submitted EIAR which I have regard to in my assessment below. This section of my report should be read in conjunction with section 8 and my EIA, as it also addresses views assessed in the LVIA. The appeal also includes a Report on Townscape and Visual Impact (TVI) and additional verified photomontages which have informed my assessment alongside documents and the verified photomontages submitted with the application.

7.4.6. The site is partially within the River Liffey Conservation Area, as well as bounding a zone of Record of Monuments and Places (RMP). There are no protected structures located on the site itself, however bounding the site to the east are protected structures at 9, 10-12 City Quay, being the St. Mary's Church, belfry, boundary walls, railings and Presbytery building. There are several other protected structures in the wider vicinity, including most prominently, the Customs House on the opposite side of the river, and Trinity College further to the south of the site. There are also Architectural Conservation Areas in the wider setting at Mountjoy Square and O'Connell Street. The site is therefore located in a sensitive location in the context of the scale proposed and the presence of heritage assets in the wider area.

7.4.7. The Architectural Heritage Protection Guidelines highlights in section 13.8 that new development adjacent to, and at a distance from, a protected structure or Architectural Conservation Area (ACA) can affect its character and special interest. The extent of this impact will depend upon the location of the development, the character and quality of the protected structure and its setting, or the ACA. This can be particularly the case with large buildings, which should not have an adverse effect on the special interest of the protected structure or character of an ACA.

7.4.8. Reason for refusal no.1 states that the site is situated within Dublin's historic city core, and the appellant asserts that this is inaccurate. Figure 11-2: 'Dublin's Historic Core' in the Development Plan does not include the subject site within the historic areas identified (i.e. Walled City, Medieval City and Georgian Core), however it is located within the 1840 Municipal Boundary Line. While the site is located in the historic municipal boundary line, it is not situated in the Georgian Core, Medieval City or Walled City. Other areas included within the historic municipal boundary include the Docklands, East Wall and Dolphins Barn, which would not be considered synonymous with 'historic cores' of the city. While the site is located within a sensitive context, given its greater proximity to the Georgian Core and protected structures, and it is also

prominently positioned on the river, its position within the historic municipal boundary does not in itself convey a specific sensitivity.

7.4.9. With reference to the prominent and sensitive historical context of the site, reason for refusal no.1 identifies a number of sensitive viewpoints where it is concluded there will be 'a significant and detrimental visual impact' as a result of the proposed development. I address these below:

7.4.10. River Liffey Conservation Area & Views westward from the River Liffey

7.4.11. The front portion of the subject site lies within the designated area for the River Liffey Conservation Area. This conservation area extends along the length of the River Liffey, from towards to the end of the Docklands area to the city boundary beyond Chapelizod. The built edge to the river varies in period and architectural character across the conservation extent. The Customs House and Four Courts mark two of the more architecturally historically significant points along this edge, however generally there is no uniform character to buildings, which vary in scale, material and style.

7.4.12. With specific regard to the River Liffey Conservation area itself, a number of verified photomontages are submitted from viewpoints along the river and aid assessment of the extent of potential impact. Views 28, 29, 30, 31, 32, 33, 45, 46 and 47 are particularly useful in this regard. Views 28 to 31 are taken from the west looking east along the river towards the subject site and illustrate how the proposal would be viewed alongside other structures of scale visible along the river edge in this direction, including permitted towers of a similar scale at Tara Street and Apollo House, as well as existing structures such as O'Connell Bridge House and George's Quay. The Customs House is also evident in view 31. Views 32(&b) and 33(&b) illustrate how the proposed six storey shoulder height to the development ties in with the scale of existing adjacent buildings fronting the river, and how the high quality architectural design and finish to the proposed tower would enhance the setting of the river, and with a scale that contributes to a more appropriate level of enclosure at this point where the river begins to broaden in width as it extends towards the Docklands. Views 45, 46 and 47 are taken from the east looking west along the river towards the subject site and illustrate how the proposal would be viewed alongside other structures of scale visible along the river edge, including permitted towers of a similar scale as the proposal at Tara Street and Apollo House, as well as existing structures such as Liberty Hall and the dome to the Customs House.

7.4.13. Overall, the character of the River Liffey Conservation Area is one that reflects the built evolution of the city. In this sense, the character of the conservation area is robust and would not be harmed by continued built evolution along its extent, where development is appropriate and of sufficient quality. The proposed development is for a tower of exceptional architectural quality (see section 7.5 below for a detail assessment of design) and will positively contribute towards the character of the conservation area. There are however more sensitive parts of the conservation area, such as the Customs House highlighted above, and I specifically consider impact on its environs below.

7.4.14. The Custom House environs & Gardiner Street Lower

7.4.15. I note the observations received from An Taisce and the Office of Public Works (OPW) with respect to potential negative impact upon the Customs House.

7.4.16. The Customs House has a rating of international significance on the National Inventory of Architectural Heritage (NIAH) in Ireland. It is a protected structure and zoned Georgian Conservation Area under the Development Plan. It is dated between 1780 and 1930 and is appraised on the inventory as a 'magnificent Neo-Classical essay in civic building'. The inventory appraisal states that:

"The emphasis of design was laid on the south river front, executed entirely of Portland stone and surmounted by an ambitious dome with a mirrored rear elevation in a slightly more restrained style.... Standing as one of Ireland's most accomplished Neo-Classical buildings, the troubled history of the structure and its current context, having substantial twentieth-century buildings to two sides, has not diminished its impact or its status as one of Dublin's key architectural set-pieces..."

7.4.17. It has been restored at various points, most prominently in 1929 following extensive fire damage during the War of Independence. It was restored again by the OPW in the 1980s.

7.4.18. As identified in the appraisal, the front of the Customs House is as it faces the river, with the design intending that its presence was most prominent in those views across the river. The appraisal also identifies the large scale 20th century structures that now reside to either side of the Customs House (north side of the river). For example, when looking from the south riverbank towards the Customs House, Liberty Hall is situated to the west and the IFSC House and associated buildings are situated to the east of

the Customs House. However, the appraisal concludes that the presence of these 20th century structures has not diminished the status of the Customs House.

7.4.19. The proposed development is situated to the south, and therefore would not be visible in views of the Customs House when looking directly towards it across the river. The proposed development would however be visible in views from the north, looking south and towards the rear of the Customs House, as well as in views east and west along the river towards the Customs House. In this regard, I note that Figure 4-1: Key Views and Prospects of the Development Plan identifies views from the north looking south towards the Customs House (from Gardiner Street) and views from the east and west along the river.

7.4.20. Gardiner Street is a Conservation Area, extending to and including the Customs House, zoned Georgian Conservation Area, and occupied by numerous protected structures, it is also partially within an Architectural Conservation Area.

7.4.21. From the west looking east along the river, view no.29 illustrates how the curvature of the river impacts the perspective at this point, with the dome for the Customs House appearing towards the centre of the view, and the proposed development set in the backdrop to the O'Connell Bridge House building. Similarly, views 30 and 31 from the north bank of the river looking towards the Customs House, demonstrate the extensive separation that the river provides between the dome for the Customs House that appears in these views and the proposed development. These views also demonstrate how the proposed development will be read as part of a cluster of emerging approved tall buildings in the area (cumulative views). From the east looking west towards the Customs House, views no.45, 46 and 47 again demonstrate the significant separation between the proposed development and the Customs House in these views. The presence of Liberty Hall in the setting of the Customs House is also readily apparent in these views. I note that the OPW state dissatisfaction with the extent of views in this direction, and the appellant provides additional view no.51 with the appeal. This additional view reinforces the separation between the Customs House and the proposed development in these views along the river, and the existing presence of Liberty Hall in the immediate context of the Customs House. These views demonstrate the existing and emerging contemporary context that currently characterises the southern river edge, which the proposed development would contribute towards. View no.45 particularly demonstrates how there would be no harm to the setting of the Customs House in views from this direction. While the proposed development would

appear as a prominent new tall building, contextually it successfully integrates with the existing and emerging character of the area. I am satisfied with reference to the foregoing, that the proposed development does not intrude upon the setting of the Customs House in these views from the east and west.

7.4.22. Views from the north towards the Customs House are also highlighted by the Local Authority and the OPW as having a negative impact upon the Customs House. The Planner's Report states that:

"... the views from Gardiner St (View No. 35, 38 & 39) and Mountjoy Square (View 37) illustrate the stark reality a proposed building of such scale and mass will have on the Dublin skyline and the corresponding detrimental visual impacts on the integrity of the historic Custom House building."

7.4.23. The OPW states that there is concern that the proposed development would lead to the loss of the view of the dome and erode the Customs House as a focal point in the cityscape of Dublin.

7.4.24. View 35 shows the proposed development in the backdrop to the Customs House, with the tower projecting behind the main building extent of the Customs House, while view 35b shows the tower set directly behind the dome for the Customs House. I am satisfied that both of these views demonstrate that the proposed development would be read as a distinct form to the Customs House, aided by both the degree of separation and the variation in material between the two forms.

7.4.25. The proposed development appears as a backdrop element in these views, with the primary form remaining the Customs House due to its architectural design, site coverage extent and dominant position at the traffic interchange. The Customs House is an important and striking landmark, as recognised in its NIAH appraisal, and it achieves this status through architectural finesse, and not height, relative to the height of contemporary structures that now appear alongside it. The features that make the Customs House a landmark are therefore not intruded upon by the appearance of more contemporary higher rise buildings in its context, which is also recognised in the appraisal set out in the NIAH as referenced above. I also note that the Tara Street tower will also appear in the backdrop to the Customs House as demonstrated in cumulative view no.35, and depending upon locational perspective, the position at which any tower situated to the south, will appear in the context of the Customs House dome will change. I also observed during my site visit how the position of Liberty Hall

in the backdrop to the Customs House and its dome changes, depending upon perspective, with reference to positions adjacent to the IFSU building looking towards the Customs House. However, I note that the importance of the view looking south towards the Customs House, and with reference to views 35 and 35b I am satisfied that the proposed development would not obscure or overwhelm the Customs House or appreciation of its dome, which would remain the prominent foreground features, while the proposed development forms a backdrop element befitting of a city centre location. This type of impact is readily absorbed in to cityscape skylines where views are formed of the layering of built forms, often varying in terms of architectural character and period.

7.4.26. View 38 shows the proposed development on the approach to the city centre looking south on Gardiner Street and with the Customs House to its right/west. Views 37, 38B, 49 and 50 also show the proposed development from this perspective at varying points on Gardiner Street. The views show that the proposed development would be a prominent feature, forming a landmark for the city centre. In the existing view on Gardiner Street, there is nothing as striking as the proposed building. While the dome for the Customs House is present, it is not the focal point of the view, which is characterised by the buildings framing the street. In view no.38 the Customs House dome appears beyond the railway bridge and immediately in line with the existing Georgian terrace on the road. The perception of the dome alongside the terrace reduces its visual presence in this view. In view no.39 the dome to the Customs House moves further towards the centre of the view and can be appreciated as a distinct landmark, however the railway bridge and associated advertisements are situated in its foreground. In the proposed condition, the proposed tower appears alongside the dome, but does not obscure or detract from the dome, which as a result of its robust and distinct material finish, continues to stand out in the view. I observed on my visit to the site, that as the viewer progresses further south, the Customs House dome becomes more evident, before being obscured by the railway bridge. Depending upon the side of the road the viewer is, the perspective also alters, and how central the dome appears in the view alters. Beyond the bridge, the building can be appreciated fully, and the views assessed in the previous paragraph consider the impact of the proposal from this point in more detail.

7.4.27. I noted on my visit to the site that in the current situation, the viewer, when standing on the west side of Gardiner Street and close to the intersection with Sean

Macdermott Street or Railway Street, can look in either direction, north or south, without any clear appreciation of which direction the city centre is. This is due to the lack of any prominent landmark in this perspective towards the southern end of Gardiner Street, and because the Customs House in the existing condition, is not highly visible in this perspective. The prominence of the Customs House is more evident on the east side of Gardiner Street and increases as you progress closer to it towards the end of Gardiner Street, with this prominence then being diminished somewhat by the existing railway bridge and associated advertisements.

7.4.28. When considering the views presented of the proposed development from Gardiner Street, it is evident that the proposed development would clearly punctuate the skyline and announce the location of the city centre. The vista presented looking south on Gardiner Street in the proposed condition is striking, with the existing Georgian terraces on either side of the street framing the view of the proposed tower. The character of Georgian Conservation Area itself is not harmed in this view, with the tower clearly appearing outside of the extent of the conservation area and a more contemporary feature in the distance, being contextually appropriate for the city centre, and as previously highlighted, the city centre will generally be characterised by a layering of buildings from different periods as the city evolves. I am satisfied that the views presented do not demonstrate any infringement on the setting of the Customs House from Gardiner Street.

7.4.29. I note that the appellant references the natural evolution of trade and commerce functions and associated buildings, in the context of historical Customs House buildings internationally. Reference images are provided of Sydney, London, Glasgow, Belfast, New York and Toronto (pages 8-9 of the Report on Townscape and Visual Impact for 1st Party Appeal). These are useful reference points when considering how city townscapes and skylines evolve. The preservation of historic centres of commerce in architecturally and historically fine buildings, does not need to be at the expense of continuing development of commercial activity which encourages investment in locations which have historically been defined by economic progression. Overall, I am satisfied that the proposed development would not harm the setting of the Customs House and its environs, and that it would contribute positively to the skyline when viewed in context with the Customs House.

7.4.30. Mountjoy Square

7.4.31. Reason for refusal no.1 includes reference to impact upon views from Mountjoy Square. Mountjoy Square and the roads adjoining it are a Conservation Area and Architectural Conservation Area. The Local Authority Planner's Report refers to view 37, which is taken from the corner of Mountjoy Square South road and Gardiner Street. In this view, the dome to the Customs House is more prominent in the far view, due to the higher ground level when compared to locations moving down Gardiner Street. The dome is still however a distant feature and due to its perceived scale, it does not a key element of the view, which is largely formed by the red brick buildings (Georgian and more modern additions) framing the street. With the proposed development in place, the framing of the buildings draws focus to the proposed tower which as a result of its scale and architecture, has a striking impact in the view, and in turn draws greater attention to the dome which appears alongside it, but clearly distinct from the proposed development.

7.4.32. The appellant has also provided additional views from both with Mountjoy Square, and alongside it on Gardiner Street, as part of the appeal. View no.48 demonstrates that the proposed development will not be visible from this point within the Square itself. Views no.49 and 50 are taken from alongside Mountjoy Square on Gardiner Street. In the existing views, the dome to the Customs House is not the focus of the view and forms a peripheral feature. I am satisfied that the proposed development has no negative impact upon the Customs House in these views, or upon views from Mountjoy Square in general.

7.4.33. Amiens Street

7.4.34. The Local Authority Planner's Report raises concern of dramatic and piercing views from Pearse Street, Lombard Street East, Townsend Street, Eden Quay, Amiens Street and the Five Lamps. Reason for refusal no.1 refers to Amiens Street specifically. With respect to the other views mentioned here, I agree with the Planner's Report that the building will dramatically change the view, however following my assessment of these views, this is not a negative impact. I address the proposed design in section 7.5 below, in summary, the proposed building has a high architectural finish as a result of the proposed plan form, elevational design and material treatment. While the proposed building will be highly visible from the streets referred to in the Planner's report, the fact that it will be prominently visible does not translate to a negative impact, with consideration first required of what the viewer sees (refer to view no's 6, 7, 10 and 31). The proposed building is assertive and of

significant scale, commensurate with the location at the centre of a capital city, however the high-quality architectural design ensures that its contribution to these views is positive. The location of the site is suitable for a tall building (see section 7.5 below) and the proposed scale can therefore be absorbed without negative impact. In short, while the change in the view is dramatic, the impact is positive (see also section 8 below with respect to the LVIA as part of the submitted EIAR).

7.4.35. With specific reference to views from Amiens Street and view no.'s 41, 42 and 43, these views demonstrate that the proposed development increases in visual prominence on the approach to the city centre, contributing towards the legibility of this approach to the centre. The proposed building expands upon existing more contemporary built forms such as the IFSU building and does not detract from the view. From the Five Lamps (a protected structure) specifically (view no.43), the proposed development has less visual prominence, appearing only above roof tops, while the approved Tara Street and Apollo House towers form the most prominent landmarks for the city centre at this point. View no.43 demonstrates how clusters of tall buildings in city skylscapes work together in informing views and contributing towards legibility, depending upon the perspective of the viewer.

7.4.36. Trinity College Campus

7.4.37. Trinity College is situated in a Conservation Area, has a Georgian Conservation area zoning, is formed of numerous protected structures and is situated partially within a zone of Record of Monuments and Places. The college buildings and campus are an important heritage asset for the city. The Local Authority Planner's Report highlights the concern that negative impact results upon views from Trinity College. It states:

"It could be argued that the views from Trinity College will be compromised by the permitted tall buildings at Tara St Station and Apollo House, however views 13, 14, 16, 18, 19 and 20 clearly showcase the isolated nature of the proposal in comparison to the clustered nature of the Tara and Apollo developments."

7.4.38. Policy SC17 'Building Height' requires proposals to demonstrate sensitivity to Trinity College. There are 10 viewpoints included in the application to convey the visual impact that would result to the Trinity Campus area.

7.4.39. In view no's.12 and 15 the proposed development will not be visible, while the permitted towers will appear above the parapets to Trinity's buildings. In view no.'s 13, 14, 16, 18, 19, 20 and 21 the proposed development is also visible above parapets for

Trinity buildings and appears in context with the permitted towers. In view no.17 none of the buildings (proposed or permitted) are visible.

7.4.40. The views show that the proposed development will be visible from Trinity College in various locations, and more obscured in other locations. The approved Tara Street and Apollo Houses are similarly visible. There is no policy in the Development Plan prohibiting the appearance of tall/landmark buildings in views from Trinity College, with policy SC17 requiring sensitivity. Therefore, an assessment is required of what will be perceived in these views with the proposed development in place.

7.4.41. While the reason for refusal states that the proposed development does not form a cluster with the approved towers, it is clear from the cumulative views presented (no.'s 13, 14, 16, 18, 19, 20 and 21) that the proposed development will be received as part of a group of taller buildings of similar scale, at a similar backdrop position from the college, and therefore forming a cluster in these views. The context of campus location, in the city centre, is also important in considering these views, and creates an environment where the visibility of taller buildings in the back-drop to the college would not be unusual. In this regard, I note that the permitted Tara Street and Apollo Towers are under construction (construction notice serviced for below ground levels for the Tara Street tower and substantial works on site as part of the Apollo House tower) and will change the current back-drop from the college. The proposed development would therefore be received in that context. The Trinity buildings remain the prominent structures in the views presented, as a result of their foreground position and fine architecture. The distinction between the proposed development and the Trinity buildings is also ensured through the differing material finish. This ensures that the Trinity buildings remain visually separate and therefore appreciable in the view and the proposed development does not therefore diminish or distort how the Trinity buildings are received. The roofline for the Trinity buildings remains legible with the proposed building in place. Overall, the proposed development comprises a back-drop feature, of high-quality architectural design, and as part of a group of emerging taller buildings in this back-drop. In this context, there is no negative impact upon the setting of Trinity College as a result.

7.4.42. Conclusion on Visual and Heritage Impact

7.4.43. As a result of the detailed assessment of views set out above, I am satisfied that the proposed development would not have an adverse effect on the special interest of

the protected structures or the character of the ACA's identified as being in the vicinity of the site. I am also satisfied that the proposed development would not have a significant and detrimental visual impact on the River Liffey Conservation Area, or important views and vistas, including those views from The Custom House environs, Amiens Street, Mountjoy Square, Gardiner Street Lower, Trinity College Campus and views westward from the River Liffey.

7.5. Height and Architectural Design

7.5.1. Observations received raise concern regarding the height, scale and design of the proposed development.

7.5.2. The Planning Authority's reasons for refusal relate to visual and heritage impact which I address above in section 7.4 and here in section 7.5, as well as overbearing and overshadowing impact which I deal with as part of section 7.6 below. The Planning Authority raise significant concern with respect to the proposed height of the proposal, relating this concern back to the sensitive context of the area where the site is located. Reason for refusal no.1 states that the proposed building is excessive, and removed from permitted tall buildings in the area, resulting in an overly assertive solo building that does not form part of a coherent cluster, and would create a precedent for similar undesirable development.

7.5.3. National planning policy encourages a compact growth approach in urban areas. The NPF is clear that the assessment of building height should be based on performance criteria that seek to achieve well-designed high quality outcomes. The Building Height Guidelines outline a performance criteria approach to be applied alongside statutory development plans. Appendix 3 of the Dublin City Development Plan 2022-2028 sets out performance criteria for the assessment of height. The aforementioned policy documents and associated performance criteria has informed my assessment of the proposed development as described below.

7.5.4. A key consideration in the siting of a tall building is the locational context. Policy SC1 of the Development Plan promotes compact growth and the maximisation of opportunities provided by existing and proposed public transport. Policy SC11 expands upon this, promoting the intensification of brownfield lands on public transport corridors. Policies SC14-SC18 concern building heights, including requiring adherence to the Building Height Guidelines and the performance criteria in Appendix 3 of the Plan. SPPR 1 of the Building Height Guidelines supports increased building height and

density in locations with good public transport accessibility, particularly in city cores. Policy SC16 of the Plan recognises the potential and need for increased height in appropriate locations including the city centre and Strategic Development Regeneration Areas (SDRA).

7.5.5. The proposed development is situated in the city centre, adjacent to Dublin Bus stops, approximately 160m away from Tara Street DART Station, approximately a 5 minutes walk to the Busáras Central Bus Station and less than a 10 minutes walk to Luas stations at Trinity and Connolly. The subject site is also situated within an SDRA. As such, the location of the subject site is appropriate for increased height in principle, however this is still subject to a wider assessment of other contextual characteristics, visual and amenity impacts.

7.5.6. As highlighted above, the site is located in SDRA 6 Docklands. Figure 13-9 of the Plan identifies the location of locally higher buildings and landmark buildings in SDRA 6, with the subject site identified as appropriate for a locally higher building. Appendix 3 of the Plan categorises 'locally higher buildings' as 'buildings that are significantly higher than their surroundings and are typically up to 50 metres in height. Higher buildings can act as Local or District landmarks.' The subject site is not identified as a site for a landmark/tall building which is also categorised under the Plan. The Local Authority Planner's Report stipulates in its concluding paragraphs, that in their view a more appropriately scaled building could be accommodated on the site and should be subservient to the permitted Tara Street tower, which should set the maximum height for the area. Therefore, whilst the subject site is identified as appropriate for increased height and complies with both national and local planning policy approaches in relation to broad locational characteristics, a key consideration in the determination of this appeal is whether the extent of height proposed (at c.108m from ground) is acceptable. The performance criteria under both the Building Height Guidelines and the City Development Plan are therefore of relevance in this regard and I consider this in further detail below in consideration of visual effect upon the skyline.

7.5.7. Section 3 of the Guidelines identify Development Management Criteria (section 3.2) that should be satisfied. This criteria was addressed as part of the application documents originally submitted and the Local Authority Planner's Report also addresses the criteria. I have set out my assessment of the proposal with reference to the criteria at section 3.2 of the Building Height Guidelines below.

7.5.8. At the scale of the city, the first criterion under section 3.2 relates to whether the site is served by public transport with high capacity, frequent service and good links to other modes of public transport. As outlined above, the site is proximate to a range of public transport options, most notably DART services at Tara Street Station and Dublin Bus Stops both adjacent to the site and a short walking distance away at Busáras Central Bus Station. Luas Stations are also a short walk from the site. The Greater Dublin Area Transport Strategy 2022 suggests DART services are high capacity on page 121, and rail and light rail are high frequency forms of public transport on page 227. Inner-city bus routes also have services available frequently proximate to the site (i.e. between 1.5 to 2 mins for combined bus routes, page 121 of the Greater Dublin Area Transport Strategy 2022). The DART, Luas and bus connections available to the site also provide onward connection to other modes of public transport, as well as Connolly Rail and Luas interchange station being proximate to the site.

7.5.9. The appeal also includes a Public Transport Capacity Assessment as part of Appendix 6 of the submission (specifically forming Appendix D of Appendix 6). The survey was undertaken when public transport user numbers had reduced in the post covid lockdown periods, however it still provides an indication of available services. The assessment identifies that the proposed development would have a limited impact upon bus network capacity for routes serving the site, with spare capacity remaining, and that in the event that capacity became more restricted, the 'NTA Measure Bus5' set out in the Greater Dublin Area Transport Strategy 2022 identifies an action to enhance or amended networks in Dublin as appropriate. Future infrastructure enhancements would further benefit the site in terms of the capacity and frequency of public transport in relation to BusConnects, DART+ and Metro, however I have concluded that the site is already served by high capacity, frequent services in the existing condition.

7.5.10. The second criterion under section 3.2 relates to the integration into, and enhancement of, the character of the area, with specific reference to architecturally sensitive areas, setting of key landmarks and protection of key views. The application included a LVIA as part of the submitted EIAR and the appeal includes a Townscape and Visual Impact report (TVI) which also relates back to this criterion. I address the submitted LVIA in detail in section 8 of this report below as part of my environmental

impact assessment of the scheme. An additional Report on Townscape and Visual Impact was also submitted with the appeal.

7.5.11. The site is located in a prominent riverfront location, and the front part of the site is situated within the River Liffey Conservation Area. The subject site itself is not located within one of Dublin's Georgian Conservation Areas, but there are a number of Georgian Conservation Areas, protected structures and landmark buildings in the wider area. The most prominent of these proximate to the site, being the Customs House situated on the opposite side of the River Liffey to the site. Given the scale of the proposed building for the site, the visual impact will range across a wider area surrounding the site. I consider potential visual and heritage impact in more detail in section 7.4 above, however, in summary, the subject site is situated within a prominent and architecturally sensitive area, in the setting of the Customs House which is a key landmark for the city and within the range of key views identified under the Development Plan (figure 4-1). However, this contextual architectural sensitivity does not preclude the situation of a tall building on the site, with consideration first required of what the resulting impacts are of this building scale, with regard to the architectural design and appearance in the skyline.

7.5.12. The proposed building can be broken down into three main vertical massing forms, i.e. the base, middle and top. The base being the bottom 6 storey presentation to the river edge; the middle being the main tower element in a diamond type plan form and presenting its narrow end to the river; and the top formed of vertical projecting panels defining the upper extent of the building. This plan form and vertical arrangement provides a variation in how the building is viewed depending upon whether you are situated to the north, east, west or south of the site. The middle and top of the building being most prominent in far views.

7.5.13. From the north looking south towards the site, as illustrated in views from Gardiner Street and one of the main routes into the city, the building presents its most slender side, but will still appear at a significant mass in the far view. The glazed and aluminium cladding reflect high quality materials, which inherently reflect a commercial/office character. The building in these views represents a marker for the commercial / city centre character of the area in which it is located, in comparison to the lower scale, historic Georgian and more mixed residential character of Gardiner Street itself. This juxtaposition of different characters in Dublin City centre is one that is reflected across European cities, reflecting the evolution of architecture over

different periods. The appellants Appendix 4 Report on TVI and examples of architectural evolution around other custom houses illustrates this effectively (with reference to London, Sydney, Glasgow, New York, Toronto and Belfast). I have considered the potential heritage impact upon the Customs House in more detail above in section 7.4 and below as part of my EIA in section 8, and found this to be acceptable. With regards to the design of the proposal itself, the grain of the building increases in close proximity, with a scalloped edge providing further variation and interest in closer views from the north looking south.

7.5.14. From the west looking east towards the subject site, both north and south of the river, the building presents its widest extent. The diamond shape plan form will however still assist in breaking down the mass and bulk of the building depending upon the viewpoint in these directions. At the top, the buildings vertical projections vary in length, creating additional visual interest.

7.5.15. The Local Authority Planner's Report states (page 22):

"It should be noted that the proposed building is an interesting modern assertive design which exhibits the use of high-quality materials and finishes and if viewed in isolation and not taking into account the sensitivities of the surrounding context, the scheme has significant positive attributes..."

7.5.16. In my view, while I note that the site is undoubtedly located in a sensitive area, that does not preclude the situation of an appropriate building of scale given the locational characteristics which support the siting of a tall building. Specifically, being in the city centre, proximate to public transport hubs and in an SDRA, where policy guides the locating of higher buildings. Cities across Europe are characterised by the visual interplay between the historic built environment and modern building additions, and this enriches the character and identity of these cities. The architectural design is also of high quality and therefore mitigates the visual impact. While visually, the building would form a dominant and significant form in the skyline, the design benefits from variations to the building mass, both in plan form and vertically, and the use of high-quality materials reflecting the commercial/office nature of the building, which would form an appropriate landmark for the city centre. I agree with the appellant, that while a landmark building is not identified on the site as part of SDRA 6, that does not preclude the siting of such a building where a proposal satisfies the performance

criteria outlined in national and local planning policy. In this regard, I continue my assessment below.

7.5.17. The third criterion under section 3.2 of the guidelines relates to contribution to place-making, variety in scale and form and creation of visual interest in the streetscape. I have already outlined above why I consider that the proposed design incorporates variety in both plan form and vertically. In more proximate views of the proposal, the variation of height is more apparent, with a 'shoulder' height to the river at 6 storeys, a set back to 7th and 8th storey level, and further set back to the 24th storey level. The south west corner of the proposal is also set in from 7th storey level, at an angle and reducing the bulk of the building when perceived from the ground at this corner. The roof parapet then extends beyond 24th storey. I note observer concern that the proposal does not incorporate sufficient transition in scale with regard to the lower rise buildings immediately adjacent. The Planning Authority's reason for refusal no.2 relates to a noticeable and detrimental overbearing and overshadowing impacts on neighbouring property, with reference to amenity impact and I consider this further in section 7.6 below. In terms of the design, in my opinion, this has responded to the immediate context, with the 6 storey frontage finished in a brick frame, and reflecting a lower scale and use of brick that is evident to many existing buildings onto the river front. The proposal also steps in the plan form away from the adjacent buildings to the east (the school and Church) by c.5m at 7th storey level (c.3m to the middle section of the plan). It would be inappropriate on a city centre site in my view to dictate a transition in scale solely in regard to the visual relationship with lower rise adjacent buildings, and this would also be contrary to the approach outlined in the Building Height Guidelines which seek to move away from restrictive approaches that have displaced needed economic development to other locations not best placed to accommodate it (para.2.6). Therefore, I am satisfied that the proposal does incorporate sufficient variety in scale, however consideration of wider amenity impact is still required and I set out my assessment of this in section 7.6 below.

7.5.18. In relation to place-making and visual interest in the streetscape, the proposed design represents a significant improvement upon the existing street condition for the site onto all of the streets which it adjoins. Currently, blank and derelict frontages are presented to the street, and these would be replaced with active uses (gym, arts centre, office) accessed from the river front (City Quay) and Moss Street, with

servicing and vehicular access accommodated to ground floor on Gloucester Street South, with fenestration from first floor level.

7.5.19. Of particular importance in considering a tall building and potential impact at the scale of the city, is visual effect on the skyline. The proposed development at a height of c.108m from ground would be one of the city's tallest buildings and would be visible in wide ranging views. To give this some context, Liberty Hall is c.59m and Capital Dock is c.79m high. The tower permitted at Tara Street station is c.88m high (commencement notice served for below ground floors), and adjacent to this is the c.82m high building at Apollo House which is under construction (substantial works progressed on site). The proposed building would undoubtedly form a substantial addition to Dublin's skyline as a result. The Local Authority Planner's Report states in its reason for refusal no.1 that "*...removed from the permitted buildings at Tara Street Station and Apollo House, the proposed building would stand apart as an overly assertive solo building which would not form part of a coherent cluster...*".

7.5.20. The subject site is situated c.160m away, or around a 3 minute walk, to the Tara Street Station tower site, which is itself adjacent to the Apollo House site. It is situated in an adjacent urban block to the Station, separated by Luke Street, the 1 Georges Quay building and Moss Street. There is no strict definition of how close buildings need to be to be considered a 'cluster' which will depend upon the scale of the area in which they are located. In my opinion, for a city centre, being situated less than 200m apart would reasonably indicate a sufficient degree of proximation to be considered a group. This is particularly the case when there are similarities in scale, which when viewed in the surrounding area, creates a visual relationship between the blocks. In short, I do not agree with the Planning Authority that the subject site is isolated from the tall buildings approved and under construction at Tara Street and Apollo House. This is readily apparent in verified views provided in the application and appeal, including cumulative views 28, 29 and 30. Indeed, the views also demonstrate that other buildings in the context also contribute to this cluster, including George's Quay, the Customs House, Liberty Hall and O'Connell Bridge House (refer to cumulative views 30, 45, 46, 47, as well as Aerials 01, 02 and 03 albeit noting that aerial views do not present a human scale view).

7.5.21. The Planner's Report refers to some isolated viewpoints in close proximity to the subject site in support of their assessment, however this is a selective approach, which discounts the impression provided in other views. There is also reference in the

Planner's Report to views which I consider demonstrate that the proposal is a part of an emerging cluster of buildings, particularly cumulative views presented (such as no.'s 36 and 45), and I therefore disagree with the Planner's assessment in this regard. There are of course views where the proposed development will be seen without the approved Tara Street and Apollo House towers, which is the nature of perspective, proximity and context in informing any particular viewpoint. Indeed, some of the views presented demonstrate that the Tara Street and Apollo House tower will not always be viewed together depending upon perspective (no.'s permitted 3, 4, 14 and 40). It should also be noted that the field of view presented is narrower in photomontages, than what may be perceived in reality to a viewer on the street.

7.5.22. It would be unreasonable in my opinion to only consider buildings immediately adjacent to one another as forming a cluster. Indeed, requiring the cluster of tall buildings to be immediately adjacent in all cases would likely lead to unfavourable microclimate conditions. The overall effect when reviewing all of the views presented, is that the proposed development will contribute towards an existing and emerging cluster of higher/tall buildings in the area.

7.5.23. The Planner's Report also suggests that had the proposed development been subservient to the approved Tara Street tower then it may have been considered acceptable, (page 23 of the report states that Tara Street tower is intended to be the tallest building in the local area). Incidentally, I notice that this part of the Planner's Report effectively acknowledges that the site is in the local area to Tara Street tower, and that it will be viewed together with that tower (and the approved Apollo House tower), equating to a cluster in my view. In terms of the planning policy concerning height on the subject site and the Tara Street tower site, Figure 13-6 of the Development Plan identifies the subject site as appropriate for a locally higher building and the Tara Street Station site as appropriate for a landmark building, the Plan states on page 448 that:

"In some more limited locations where the planning context is suitable, locally higher buildings of greater height and landmark buildings can be appropriate, and positions for these buildings are clearly described for key sites. All new development of increased height compared to the existing context must accord with the specific performance criteria as set out in Appendix 3 of this development plan."

7.5.24. Appendix 3 of the Plan also includes a description of locally higher and landmark buildings as follows:

“Locally Higher Buildings: These are buildings that are significantly higher than their surroundings and are typically up to 50 metres in height. Higher buildings can act as Local or District landmarks.

Landmark/Tall Buildings: A landmark or tall building is one that is a significant intervention in the cityscape and skyline. They are typically located in an area that denotes a specific function such as a public transport interchange or a key urban quarter/ regeneration site. Landmark/tall buildings are typically in excess of 50 metres in height, of exceptional architectural quality, can help people navigate through the City and form memorable reference points.” (Pages 213-214).

7.5.25. The proposed building therefore reflects the scale of a landmark building and not a local higher building with reference to the descriptions set out above. However, the appellant argues that Figure 13-6 does not preclude a landmark building on the subject site, with the key assessment being related to compliance with the performance criteria set out in Appendix 3 (which I address in detail below). The Local Authority Planner’s Report gives reference to the Georges Quay LAP in terms of justifying the need for the tallest building in the area to be on the Tara Street Station site, however this expired in July 2022.

7.5.26. With reference to the description in the Plan to what comprises a landmark building as set out above, the subject site is situated in a key urban quarter/regeneration site (i.e. SDRA 6), at the southern junction for the Talbot Memorial Bridge, marking a key vehicular entrance to the city centre. The subject site is also proximate to tall buildings approved and under construction (at Tara Street and Apollo) and these buildings would combine, to form a memorable reference point for the city centre and the area of the Tara Street Station. As such, I agree with the appellant that the subject site may be suitable for a landmark building where performance criteria is satisfied and that while a locally higher building is identified on the site in Figure 13-6, this does not preclude a landmark building where policy/performance criteria is satisfied as set out in the Development Plan.

7.5.27. The proposed building would not be viewed as a solo building in the Dublin skyline, and the subject site can be considered appropriate for a tall building, where national and local performance criteria is satisfied. As such, I will continue my assessment

below with respect to the criteria at section 3.2 of the Building Height Guidelines. (I address the performance criteria under Appendix 3 of the Development Plan further below).

7.5.28. At the scale of the district/neighbourhood/street, and the fourth criterion of section 3.2 of the guidelines, consideration is required of the response of the proposal to the natural and built environment, and positive contribution to the urban neighbourhood and streetscape. I have described above how the proposal will improve upon the current condition of the site in relation to contribution to the urban streetscape. I give detailed consideration to how the proposal responds to the historic built environment in section 7.4 above. In general, the proposal has incorporated a high quality architectural finish, which is appropriate to its prominent position on the river. The incorporation of a 6 storey shoulder height and brick finish to that level, also successfully ties the development in with adjacent buildings, reflecting the scale of more modern development on the river, with a brick finish in a nod to the more historic (and protected structures) immediately to its east.

7.5.29. With reference to the next criterion, the proposed development incorporates variation both vertically and horizontally in the building design (as described above in this section 7.5) and does not include long uninterrupted walls or slab block forms. The main materials to the tower are formed of glazing and aluminium, while the 6 storey frontage is formed of a brick frame, and the overall effect is of high quality architecture that while comprising a substantial building form, is not a visually negative monolithic structure.

7.5.30. The next criterion relates to the enhancement of public spaces, key thoroughfares and inland waterway frontage. The proposed building significantly improves upon the current setting of Moss Street and Gloucester Street South. The proposed presentation to the river frontage is also an enhancement and is a positive contribution towards addressing the river edge, with an appropriate shoulder height in reflection of adjacent buildings, and a general scale, that encloses this edge appropriately.

7.5.31. In relation to legibility of the site and integration with the area (another criterion under section 3.2), the proposed building would form a landmark for this part of the river, adjacent to a key vehicular (and pedestrian) bridge route into and out of the city centre. The views provided with the application and appeal clearly identify the prominence of the proposal in wider views on the approach to the city, particularly

from Gardiner Street in the north which is a key inter-city vehicular route. The proposed building would also be viewed cohesively alongside the Tara Street and Apollo House towers, which would combine to form a cluster of taller buildings of similar scale marking this part of the city centre.

7.5.32. The proposal also contributes positively to the mix of uses in the area, incorporating an Arts/Cultural use that reflects historic use of the subject site, as well as office floorspace which is appropriate for the city centre location. These uses also compare favourably, and diversify upon the intended uses at Apollo House, which includes residential, as well as complimenting office and retail/restaurant uses at the permitted Tara Street tower.

7.5.33. At the scale of the site/building, the section 3.2 criteria under the Building Height Guidelines refers to the appropriate and reasonable regard of quantitative performance approaches to daylight provision, with a need to minimise overshadowing. I set out a detailed assessment of daylight, sunlight and overshadowing effects in section 7.6 below.

7.5.34. Lastly, the Building Height Guidelines describe the need for specific assessments commensurate to the scale of the building proposed, including micro-climatic effects, consideration of bird/bat flight lines and retention of important telecommunication links. In relation to micro-climatic effect a Wind Microclimate Assessment has been provided. This shows that the wind conditions on and around the site will be suitable for pedestrian activity in summer. During winter, wind mitigation measures are described in Appendix C of the assessment and include the use of planting and/or sculptures to reduce wind exposure, particularly at the doorway and at ground level. A Telecommunications Report is also provided and recommends mitigation in the form of the inclusion of antennas and dishes (along with ancillary equipment) to the roof of the proposed building to allow for retention of telecommunication channels. This can be incorporated behind the roof level plant screen on the proposed building and therefore will have no impact upon its design or aesthetics. An Aeronautical Assessment Report outlines consideration of aviation flight paths over Dublin and how the proposal responds to this during construction and operation. PV panels are not proposed to the roof (they are proposed to the elevation) and therefore a glint and glare study is not required, as the PV strips to the façade will not give rise to reflections that would impact aviation. In addition, the modulation of the building does not give rise to any other glint or glare concerns. My Appropriate Assessment in

section 9 of this report below considers potential impact upon bird flight lines, and concludes that no significant adverse impact is expected. In relation to bats, the EIAR submitted with the application confirms that there is no evidence of current or past bat roosts in structures on the site and foraging activity was not present, as such no negative impact is anticipated.

7.5.35. Overall, I am satisfied that the proposed development successfully incorporates the development management criteria set out in section 3.2 of the Building Height Guidelines. It is also necessary however, to address the performance criteria set out in Appendix 3 of the Dublin City Development Plan 2022-2028, and I address this specifically below.

7.5.36. Policy SC17 'Building Height' of the Development Plan, requires proposals for enhanced scale and height to follow a design-led approach, make a positive contribution to the urban character of the city and context, deliver vibrant, equitable, walkable, compact, green, accessible, mixed and balanced neighbourhoods, without negative affect upon aircraft operations and having regard to the performance-based criteria set out in Appendix 3. Sensitivity to the historic city centre is also required, and I address this in detail in section 7.4 above. Throughout this section, I have already described why I am satisfied that the proposed development would be a positive contribution to the neighbourhood, reflecting the principles of compact growth, with an appropriate mix of uses and with a high-quality architectural design. Policy SC18 'Landmark/Tall Buildings' promotes the locating of landmark/tall buildings through SDRA principles to prevent visual clutter, and in compliance with the performance criteria set out in Appendix 3. I have already set out my consideration of the suitability of the site for a tall/landmark building in principle above, while I address the performance criteria in Appendix 3 in detail below.

7.5.37. Table 2 of Appendix 3 sets out indicative plot ratio and site coverage figures, however the text immediately below the table states that higher plot ratio and site coverage may be permitted in certain circumstances, including adjoining major public transport corridors. Site coverage standards are 90% for Z5 and plot ratio standards are 2.5-3.0 for Z5. The site coverage for the proposed development is stated as 83% and within this threshold, while the stated plot ratio for the development is 14.4:1, and thus higher than the indicative figures for Z5. However, I note that the Planner's Report (page 37) states that each proposal is to be assessed on its own merits, and I concur that the Development Plan does not set an upper limit for plot ratio and a merit

based assessment is required. This is facilitated by the performance criteria set out in Appendix 3 which I address below.

7.5.38. Table 3: ‘Performance Criteria in Assessing Proposals for Enhanced Height, Density and Scale’ contains the objectives and criteria to be considered in the assessment of buildings of increased scale. I have regard to each of these criteria in my table 7.1 below, for ease of presentation I address the detailed criteria in the assessment column of the table, with reference to the overarching objective and without repeating the criteria themselves. To avoid repetition, I cross reference to any matters that overlap with my assessment set out elsewhere in this report where relevant. The applicant also addresses the performance criteria set out in the Plan in their Appendix 5: Urban Strategies document.

Table 7.1: An Assessment of the Proposal Against Table 3, Appendix 3 Performance Criteria of the Dublin City Development Plan

Objective	Assessment
1. To promote development with a sense of place and character.	I have described in sections 7.5.10-7.5.17 above, how the proposal complements the existing character and context of the area. Section 7.4 above also provides a detailed consideration of how the proposal responds to built heritage. Sections 7.5.17-7.5.18 also considers how the proposal contributes to place-making. Throughout my assessment in section 7.5 I describe why the proposal can be considered to be to a high architectural design standard, with a distinctive plan form and appearance. Sections 7.5.4-7.5.9 above address in detail why the subject sites locational characteristics are appropriate for a tall building, with particular reference to public transport accessibility. In Sections 7.5.12 and 7.5.17 I describe how the proposed development incorporates variation in scale and form and transition in scale to the adjacent sites to the east. Section 7.5.29 also concludes that the proposal is not monolithic and avoids slab blocks, and section 7.5.17 specifically addresses how set-back floors contribute positively to the design.

<p>2. To provide appropriate legibility.</p>	<p>Section 7.5.31 outlines how the proposal will contribute toward legibility in the area. In addition to providing a visual landmark in long views, the proposal will also contribute to legibility along the river frontage, with provision of a publicly accessible arts/cultural centre and forming a key destination in the scheme. The proposal also creates a stronger edge to Moss Street, including an entrance to the proposed gym there, as well as improving the streetscape to Gloucester Street South. These contributions to the street edge will improve permeability in the area, by creating an environment where people feel safer and more secure on the streets adjacent to the proposal, thereby increasing footfall.</p>
<p>3. To provide appropriate continuity and enclosure of streets and spaces.</p>	<p>Section 7.5.30 above outlines that the proposal will provide appropriate enclosure to the river frontage, and I set out in the above row in response to objective 2, the contribution of the proposal to the other streets it fronts onto. The increased scale proposed will greatly improve the setting of these streets, which currently lack appropriate enclosure, particularly on Moss Street. The set back at 7th storey level (as described in section 7.5.17 above) ensures that the full bulk of the tower does not fill the site at lower levels, preventing a ‘canyon’ or ‘overbearing’ effect. The incorporation of a shoulder height to the proposal (as described in 7.5.17) also assist in giving a human-scale to the building. The building height ratio reflects the intention that the proposal form a landmark/tall building structure and therefore conventional parameters would not be reflected, however the specific criteria relevant to the assessment of such buildings is addressed further below in table 7.2. I also address in section 7.5.18 above the active frontages presented by the proposal to the street, and this will also contribute towards passive surveillance of these streets.</p>
<p>4. To provide well connected, high quality</p>	<p>The proposal will enhance the public realm by improving the streetscape onto all streets that it fronts (cross ref. to response to objective 2 above). The applicant also confirms that the</p>

<p>and active public and communal spaces.</p>	<p>proposal incorporates public realm improvements, that can be delivered in agreement with the City Council, and to the Councils requirements. The envelope of the building at ground floor has been pulled back from the boundary line at the northwest corner to increase the size of the open space at the main entrance. A detailed assessment of daylight, sunlight and overshadowing is set out in section 7.6 below. A Wind Microclimate Assessment also concluded that with mitigation, conditions on adjacent streets would be suitable for pedestrian activity (see section 7.5.34).</p>
<p>5. To provide high quality, attractive and useable private spaces.</p>	<p>The criteria under objective 5 are largely related to residential developments, however in general, the incorporation of glazed facades maximises daylight penetration into the proposed tower. Microclimate conditions are also addressed in section 7.5.34 above and section 7.6 below.</p>
<p>6. To promote mix of use and diversity of activities.</p>	<p>The criteria under objective 6 relates to residential developments. The proposal incorporates an appropriate mix of uses as outlined in section 7.3 above.</p>
<p>7. To ensure high quality and environmentally sustainable buildings.</p>	<p>I address amenity impact and potential effect on the daylight, sunlight and overshadowing of adjacent buildings/spaces in section 7.6 below. There are no minimum requirements for daylight within general office buildings under the BRE Guidelines. The proposed plan form is large, open and organised around a central core, and therefore flexible, allowing for future adaptation if required. The proposal includes plant at the lower basement level, thereby minimising plant at roof level. The proposed materials, being mainly brick, aluminium and glazing, are appropriate to the building use and robust. PV panels are proposed to the south east and south west facades. The panels are incorporated into the glazing bays, appearing as dividing horizontal rows between the aluminium curtain glazing system (drawing no.2106-MA-01-ZZ-DR-A-0436). A Climate</p>

	<p>Action and Energy Statement is provided with the application which describes how the design and proposed materials are energy efficient and climate resilient. PV panels combined with a heat pump system is proposed to meet energy requirements. A connection will be left available for connection to the proposed Dublin District heating scheme. The glazing is proposed to be selected so as to reduce solar gains, while not unduly limiting natural light. The lower basement in the proposed building incorporates flood defence barriers and water tanks in reflection of SUDS requirements. A Flood Risk Assessment is included in the submitted EIAR.</p>
<p>8. To secure sustainable density, intensity at locations of high accessibility.</p>	<p>I address the locational characteristics in terms of accessibility (particularly public transport) in sections 7.5.4-7.5.9. The subject site is situated in a highly accessible city centre location proximate to a variety of public transport nodes and walking distance to key services. In addition, car parking is proposed to be minimised and incorporated at basement level to maximise efficiency and minimise visual intrusion. Servicing and access is proposed to be from Gloucester South Street. I address transportation in section 7.7 below.</p>
<p>9. To protect historic environments from insensitive development.</p>	<p>I set out a detailed assessment of potential impact upon the historic built environment and context surrounding the site in section 7.4 above, including reference to submitted verified views with the application and appeal.</p>
<p>10. To ensure appropriate management and maintenance.</p>	<p>The applicant confirms that the proposed development would include a facilities management company that will provide 24/7 management and security services for the building. The entrance lobby will include a security presence and the office reception will include personal. Access to the lifts serving the office floors will be controlled by a series of turnstiles positioned close to the reception desk. Cycle and car parking facilities will be CCTV monitored. The Arts Centre will be administered and curated by</p>

	a separate specialist studio provider. The provider will manage leasing of the artist studios and access to the centre will be independent to the office use.
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7.5.39. In addition, performance criteria are specifically provided in Table 4, Appendix 3 of the Development Plan for the assessment of proposals for Landmark Tall Buildings, and I address this in my table 7.2 below, again, cross referencing if/where the criteria is already addressed elsewhere in this report.

Table 7.2: An Assessment of the Proposal Against Table 4, Appendix 3 Performance Criteria of the Dublin City Development Plan for Landmark Tall Buildings

Objective	Assessment
1. Exemplary Architecture.	The application and appeal is accompanied by a comprehensive suite of documents outlining the proposed design and materials, as well as photomontages and views. I note that the Local Authority Planner's Report stated that there are reservations as to whether the submitted photomontages give a true representation of the visual impact of the proposed building. However, I am satisfied that the submitted photomontages achieve the intended purpose required for this planning assessment, communicating the scale and resulting visual impact that would result from the proposed development. The Planner's Report suggests that the building appears 'faded' in some views. I note that the nature of highly glazed towers is that they will vary in appearance, in terms of the reflectiveness and tone of the glass, depending upon the sky conditions and the glazed material used. The tower will appear darker in an overcast sky, and lighter in a brighter sky. The glazing will also vary in blue and green tones depending upon tints and solar protection incorporated into the material. I am satisfied that the largely aluminium curtain glazed walling finish to the facades will appear appropriate and as a robust, high quality material finish in all conditions. While the building will be more prominent depending upon the position of

the sun and weather conditions, I have assessed the submitted views with an understanding of this variation and concluded that the impact will be acceptable and a positive addition to the city centre skyline.

The unique plan form proposed will impact how the proposed tower is appreciated in different views, and I address this in sections 7.5.12-7.5.14 above. The 'diamond' plan form changes how slender or wide the proposal will be viewed depending upon the angle of the viewer to the site. As such, a slenderness ratio calculation would not accurately translate how the mass of the proposed building would be perceived in all views. The ratio outlined in the Plan of 3:1 is also identified as being desirable, and not rigidly applicable. Such ratio calculations are more readily applicable to traditional square plan forms, which might otherwise lack the variety and interest represented in the proposed design.

Sections 7.5.16-7.5.17 outline how the facades are articulated and animated, with use of high quality materials and depth of expression provided through variety in both plan form and vertically in the building, as well as through the scalloped edge to the river and projecting fins at the top level. Sections 7.5.10-7.5.17 also address how the proposed building responds to the surrounding context and transitions in scale to the lower rise context.

The proposed building includes lighting at night time to highlight its presence in views in the dark. A Site Lighting Report has been submitted with the application which describes luminaire selection and lighting to create a pleasant environment for pedestrians and those accessing the building. Upward spill of lighting is limited, and the lux levels are to be selected in accordance with current regulations and standards. LED fittings are intended to maximise energy efficiency.

	<p>The roof of the proposed building is visually interesting, extending the fenestration pattern to the roof top level (parapet), with glazing bands replaced by concave perforated aluminium panels, proposed to be lit at night. This is intended to lighten the building in the skyline and emphasis its verticality. The result is a distinctive ‘top’ to the building that would be a recognisable and positive addition to Dublin’s skyline.</p>
2. Sustainable Design and Green Credentials.	<p>A Climate Action and Energy Statement submitted with the application provides detail on the energy efficiency of the design and materials, and associated features. The proposed façade specification will limit heat loss in winter, heat gain in summer and improve air tightness. High efficiency plant is proposed, as are PV panels. As outlined in table 7.1 above in response to objective 7, I am also satisfied that the design is flexible and could be adapted over time.</p>
3. Public Realm.	<p>I have addressed the proposals response to the public realm and permeability in table 7.1 above in response to objectives 2, 3 and 4 as well as in section 7.5 above.</p>
4. Environmental Impacts.	<p>Section 7.5.34 outlines the specific assessments submitted in relation to microclimate and environmental effects. Section 7.6 specifically addresses daylight, sunlight and overshadowing. Section 8 below also sets out an Environmental Impact Assessment and is informed by the Environmental Impact Assessment Report (EIAR) submitted with the application.</p>
5. Public Safety and Functional Impacts.	<p>I address transport arrangements (servicing, vehicular access etc) in section 7.7 below. Two of the eight lifts in the building serve as fire fighting lifts with dual access to the main lift lobby and fire fighting core. A sprinkler system is also incorporated. A Flood Risk Assessment is submitted with the application and considered as part of my EIA in section 8 below. An Aeronautical Assessment Report, Telecommunications Assessment and Pedestrian Realm People Flow Study is also included in the application/appeal. Section 7.5.34 refers to these reports further.</p>

	<p>A Transport and Mobility Statement is also included with the application. Transportation is addressed in sections 7.7 and 8 below.</p>
<p>6. Visual Impact and Cityscape Analysis.</p>	<p>The application is accompanied by a Landscape and Visual Impact Assessment, and this is expanded upon further in the appeal submission. A comprehensive selection of views and photomontages is also provided. I have addressed in section 7.5 above how the proposal responds to the context of the surrounding area in both closer and wider range views. I specifically address legibility in section 7.5.31. 3D illustrations of the proposed building alongside surrounding built form is also included as image ‘diagrams’ in the architect’s response to the appeal. I also specifically address the contribution of the proposal to a cluster of tall buildings in the locality in sections 7.5.19-7.5.27 above. With reference to the historic built context, a detailed assessment is set out in section 7.4 above.</p>
<p>7. Tall Building Clusters.</p>	<p>As set out in the row above, I specifically address the matter of tall building clusters in the context of the site, in sections 7.5.19-7.5.27 above. The proposed building will not be viewed in isolation. It is proximate to the approved towers at Tara Street and Apollo House and will have a clear visual relationship as buildings of a similar scale in the same area. Other buildings in the area also contribute towards this cluster including Liberty Hall, the Customs House, George’s Quay and O’Connell Bridge House. This is evident in cumulative views 28, 29, 30, 45, 46, 47 and Aerials 01, 02 and 03 provided in the application and appeal. These buildings are however located on distinct sites, and therefore have not been designed specifically as a group, which would require the coordination of height at the ‘centre’ in accordance with this objective in the Plan. Particularly the tallest structures being the proposal on the subject site, Tara Street Station site, and Apollo House, are individual, and therefore there is no ‘centre’. The perception of height across the sites as a</p>

	<p>group will vary depending upon the location of the viewer. Instead, the cluster reflects an evolution of built form at this point in the city centre and with similarities in height and scale that allow the buildings to be visually received as a collective composition in the skyline. Additional buildings of scale would be expected to continue to evolve in appropriate locations in the city centre and therefore the centre of any particular group would invariably change over time. The proposal itself is not for a new cluster of buildings, but for an individual building, contributing to, and expanding upon, an existing cluster of buildings which is in the process of evolving.</p>
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7.5.40. Page 236 of The Development Plan in Appendix 3, goes on to state that there is a general presumption against landmark/tall buildings outside of the locations specifically identified as being suitable for the provision of the same in the Plan, or in LAPs/SDZs, unless in exceptional circumstances, where it can be demonstrated by the applicant that there is a compelling architectural and urban design rationale for such a development. Criteria is then outlined that must be demonstrated in such cases. This criteria is presented separately to the performance criteria identified in tables 3 and 4 of Appendix 3.

7.5.41. The subject site is located in the city centre and SDRA 6. Policy SC16 'Building Height Locations' in the Development Plan recognises the need for increased height in appropriate locations, including the city centre and SDRAs. As such, the Development Plan identifies the location of the subject site as suitable for increased height. With respect to landmark/tall buildings specifically, policy SC18 'Landmark/Tall Buildings' promotes a co-ordinated approach to the provision of landmark/tall buildings, through LAPs, SDZs and the SDRA principles. The text for the guiding principles set out in chapter 13 of the Development Plan for SDRA 6, do not specifically address height on the subject site (or in the area local to the subject site), with more general guidelines described with respect to height, including that:

"In some more limited locations where the planning context is suitable, locally higher buildings of greater height and landmark buildings can be appropriate, and positions for these buildings are clearly described for key sites. All new development of

increased height compared to the existing context must accord with the specific performance criteria as set out in Appendix 3 of this development plan.” (Page 448).

7.5.42. Figure 13-6 identifies the subject site as suitable for increased height and the Tara Street Station site as suitable for a landmark/tall building.

7.5.43. As a result, the site may be considered ‘exceptional’ with reference to the text on page 236 of the Development Plan, and therefore I have had regard to the additional criteria on page 236 of the Plan. However, it should be noted that the assessment set out throughout this report has already clearly identified the rationale for locating a landmark building on the site, and that this would comply with the locational requirements set out in both local and national planning policy. The site is situated in the city centre, an SDRA, immediately proximate to public transport, and on a site with river frontage adjacent to a busy vehicular bridge which forms a key route into the city centre. While the specific location of the subject site is not identified for a landmark building in figure 13-6 of the Development Plan, in my opinion, the site is not an exceptional choice for locating such a building. The subject sites locational characteristics clearly align, not only with planning policy requirements for the appropriate location for increased height, but also in terms of urban design and architectural considerations, which have already been highlighted throughout this report.

7.5.44. With respect to the ‘exceptional’ criteria outlined on page 236 of the Plan, I have addressed this below, again cross referencing if/where matters are addressed elsewhere in this report to reduce undue repetition.

- That the landmark/tall building complies with all of the performance criteria set out in Table 4.

Response: As set out in table 7.2 above, the proposed development complies with the performance criteria set out in Table 4 of the Development Plan.

- The landmark/tall building/s will emphasise a point of particular civic or visual significance and that such a proposal will contribute in a meaningful way to the legibility of the city and contribute positively to the skyline. Any such proposal for a landmark/tall building must be supported by a detailed spatial analysis demonstrating that the design and location of the landmark/tall building is appropriate and optimal.

Response: I have set out in sections 7.5.4-7.5.11 the locational characteristics of the site and how they comply with policy requirements for the locating of taller buildings. The subject site is situated adjacent to Talbot Memorial Bridge, a key route into the city centre, and also fronts onto the River Liffey. The proposal includes a new Arts/Cultural Centre that will be publicly accessible, creating a civic destination on the site. I have outlined the visual contribution to the skyline in sections 7.5.19-7.5.27, and legibility in section 7.5.31. I have also referenced the detailed analysis submitted to support the application and appeal, including photomontages, views, and supporting documentation, including TVI and LVIA, throughout this report.

- The landmark/tall building will act as a strategic intervention, a catalyst for regeneration and make a significant economic or cultural contribution. The landmark/ tall building proposal must also demonstrate that it is economically viable and implementable in the lifetime of the plan.

Response: The proposed development will involve the demolition of existing derelict and vacant buildings / surface car parking, which currently do not significantly contribute economically or culturally to the area. The proposed development will regenerate the site, which forms a contribution to wider renewal and improvement in the Strategic Development Regeneration Area where it is located. The proposed development includes a new Arts/Cultural Centre and high-quality office floorspace which will meet the needs of multinational companies, attracting investment into the area. Chapter 5 of the submitted EIAR identifies positive economic impacts that would result from the proposed development (section 5.5.2.1 EIAR).

I note that this criterion also states that the proposal should demonstrate that it is economically viable and implementable in the lifetime of the plan. The application was submitted under the previous Development Plan, which did not include this requirement. While the appellant has sought to address policies as published in the draft plan (at that time) in the appeal submission, the appellant has not addressed this particular criterion. However, the applicant has confirmed from paragraph 6.82 of the appeal statement, that there is limited supply of large footplate offices outside of the Docklands, Heuston and suburbs in Dublin. The submitted Economic Impact Assessment

with the application also confirms that demand for high-quality office space in central areas of the city is strong, and that the proposal would contribute significantly to the local economy and job creation. The proposed development therefore provides increased choice of high-quality commercial floorspace in the city centre, within a notable landmark building, and therefore represents an economically viable proposition in this regard.

The application requests a 10 year consent, which would mean that if permission was granted on that basis, the permission would extend beyond the lifetime of the plan, which is until 2028. The applicant has requested a 10 year consent in this case for the following reason:

“A 10 year planning permission is sought: having regard to the complexities around the delivery of a landmark building and current impacts to the supply chain being experienced by the construction industry. The extended duration of the permission would allow for such potential constraints on the delivery of the development it permitted.”

This appeal is being considered when there are 5 years remaining in the lifetime of the Plan and should the Board determining that planning permission should be granted, the consent can be limited to the normal 5 year term should the Board consider that to be appropriate. In my view, limiting a planning consent for the proposed development to the normal 5 year term is not necessary in this case, and I address this in more detail in section 7.6 below in relation to potential construction impact; it should also be noted that if limited to 5 years, it would be open to the developer to apply to extend the duration of the permission if commenced in that 5 year period. However, with respect to the criterion under Appendix 3 of the Plan and that the development be implementable in the lifetime of the plan, this has not been demonstrated by the applicant in this case. However, on balance, I am not concluding that the application should fail on this basis. I recognise the requirements under the Development Plan to meet the performance criteria in Appendix 3 with respect to buildings of increased height and landmark buildings. I have set out a comprehensive assessment against the criteria in Tables 3 and 4 of Appendix 3 in my report in tables 7.1 and 7.2 above. It would be unreasonable in my view, to refuse permission purely on the basis on the uncertainty of whether the development could be delivered in the

lifetime of the Plan. There is no 'harm' (in the sense of what would normally be recognised within a planning framework), resulting from the lack of certainty around this issue in my view. The planning permission process is controlled through the time limitation associated with consents, and I have set out why in this case I consider a normal 10 year timeframe to be appropriate in section 7.6 below. I am satisfied that extending the consent beyond the lifetime of the Plan, would not result in planning harm, given that it would ultimately expire if unimplemented. I am also satisfied that a material contravention does not result in relation to this matter as the exceptional criteria I am addressing here, is distinct to the performance criteria which is clearly identified in tables 3 and 4 of Appendix 3. The performance criteria in tables 3 and 4 being specifically linked to policies/objectives in the Development Plan.

It is worth noting in my view, that this criterion is especially difficult to overcome for large scale developments, which by nature, involve complex funding arrangements over a long-term delivery period. It would be particularly difficult to overcome towards the end of the life of the Plan. Application of this criterion could in that sense, sterilise the ability of sites to be bought forward for landmark buildings, which, by nature of the scale of development, are challenging to deliver during a relatively short construction timeframe. In any case, in my view and for the reasons outlined above, the proposed development should not be rejected on this basis.

- That the landmark/tall building is located in an area with excellent high frequency, high capacity public transport accessibility and excellent pedestrian and cyclist infrastructure. The onus will be on the applicant to demonstrate the capacity of public transport and the quality of existing links between public transport and walking and cycling infrastructure and the site.

Response: This criterion has already been addressed in sections 7.5.8 and 7.5.9 above. The EIAR also includes a Traffic and Transportation assessment which specifically addresses existing pedestrian and cycle infrastructure serving the site, which will remain within capacity with the development in place (section 13.6 and 13.7 page 2, chapter 13 EIAR).

- The landmark/tall building will bring significant planning gain to the community including measures such as:

- substantial upgrades to the public realm;

Response: The proposed development includes proposals for upgraded public realm adjacent to the site. The design includes a set-back at ground level to the northwest corner to give over additional space to the public realm at the entrance to the building. A granite bench is proposed to be situated in the space creating a feature and meeting point at the front of the building. Proposals also include the upgrading of footpaths along the west side of the building to DCC standards and continuation of this into the area adjacent to the entrance, with the use of brass pavement studs to demarcate the ownership line, ensuring consistency in material finish and a minimal visual marker of the delineation between public and private ownership. Upgrade to footpaths to the north of the building are also proposed to DCC standards. All works outside of the application boundary (works to DCC lands) will require consent and agreement with DCC. I am satisfied that the set back of the building to provide additional space can be considered a substantial contribution to the public realm.

- environmental enhancements including open space and green infrastructure to be enjoyed by residents and the wider community;

Response: This criterion is applicable to residential schemes which are required to incorporate open space and external amenity space. The proposed development includes a new Arts/Cultural Centre which can be enjoyed by the public and proposals to upgrade the public realm, which are enhancements commensurate to the form of development proposed.

- significant new social and community infrastructure for the benefit of the wider area;

Response: The proposed development includes the demolition of existing buildings on the site, formally in use as a cultural space, and replacement with a modern, high-quality, cultural space, art gallery and artist studios. I note that the Local Authority Planner's Report notes that

this new arts centre is fit for purpose and can become a significant part of the Dublin City community, and I concur with this.

- where the landmark/tall building is for residential use, the provision of a broad range of accommodation for people living in different household sizes and throughout various life cycle stages.

Response: This criterion is applicable to residential schemes only.

7.5.45. Section 6 of Appendix 3 sets out 'Guidelines for Higher Buildings in Areas of Historic Sensitivity' and section 7.4 of my report sets out a detailed assessment in this regard.

7.5.46. Conclusion on Height and Architectural Design

7.5.47. I am satisfied that the proposed development successfully incorporates the criteria in section 3.2 of the Building Height Guidelines and the performance criteria described in Appendix 3 (particularly tables 3 and 4) of the Dublin City Development Plan 2022-2028. The subject site is situated in an area where both national and local planning policies support the locating of taller buildings, being highly accessible by a range of sustainable transport modes, in the city centre, a regeneration area, and with river frontage adjacent to the Talbot Memorial Bridge which forms a key route into the city centre. The modulation and massing of the proposed development has been formulated to respond to the setting of the site. The proposed development is for a tower, with a design and finish that is to a high architectural quality, and which will contribute positively to both the Dublin city skyline and the streetscape. The proposal will form a striking landmark at a key entrance to the city centre, improving legibility, placemaking and contributing to the existing and emerging cluster of higher buildings in this location.

7.6. **Impact Upon the Amenity of Adjoining Occupiers**

7.6.1. Daylight, Sunlight and Overshadowing

7.6.2. I note that observers raise concern regarding overshadowing and loss of daylight as a result of the proposed development. Specifically, the office complex situated to the west of the site, City Quay National School immediately bounding the subject site to the east and Grant Thornton situated to the east of the site and bounding the school, all raise concerns regarding the potential for loss of light/overshadowing. The OPW

also raise concern regarding the overshadowing of the Portland stone façade of the Customs House and how this would impact the visual appreciation of the building.

7.6.3. The Local Planning Authority also highlights this matter in its Reason for refusal no.2, with reference to the scale of the proposed building and detrimental overshadowing impacts on neighbouring property. They state that the proposal will cast a significant shadow and have an overbearing impact on the surrounding environment, including the Church and the public space to the front, the nearby school and associated grounds and public space to the front of the adjacent office building. As a result, they conclude that the proposed development would constitute an overdevelopment of the subject site, and seriously injure the amenities of neighbouring property.

7.6.4. I note that the performance criteria in Appendix 3 of the Dublin City Development Plan refer to consideration of daylight/sunlight/overshadowing in the assessment of tall buildings. Criteria under section 3.2 of the Building Height Guidelines also include reference to minimising overshadowing and loss of light. The Building Height Guidelines refer to the Building Research Establishments (BRE) 'Site Layout Planning for Daylight and Sunlight – A guide to good practice (2nd edition)' and ask that '*appropriate and reasonable regard*' is had to the BRE guidelines. I also note reference to British Standard (BS) 8206-2:2008 'Lighting for buildings - Code of practice for daylighting', which has subsequently been withdrawn and replaced by BS EN 17031:2018 'Daylight in buildings'. While the Building Height Guidelines refer to the 2nd edition BRE guidance, I note that a more recent edition ref. BR 209 2022 was published last year, however this has not altered the methodology for the assessment of neighbouring occupiers' daylight, sunlight and overshadowing, and my assessment will refer to the most recent guidelines published in 2022 (3rd edition). These standards have therefore informed my assessment of potential daylight and sunlight impact as a result of the proposed development. However, it should be noted that the standards described in the BRE guidelines are discretionary and not mandatory policy/criteria.

7.6.5. Section 5 of the BRE guidance notes that other factors that influence layout include considerations of view, privacy, security, access, enclosure, microclimate etc. In addition, industry professionals would need to consider various factors in determining an acceptable layout, including orientation, efficient use of land and arrangement of open space, and these factors will vary from urban locations to more suburban ones.

7.6.6. The BRE guidelines state that in relation to daylight to existing buildings:

“The guidelines given here are intended for use for rooms in adjoining dwellings where daylight is required, including living rooms, kitchens, and bedrooms. Windows to bathrooms, toilets, storerooms, circulation areas, and garages need not be analysed. The guidelines may also be applied to any existing non-domestic building where the occupants have a reasonable expectation of daylight; this would normally include schools, hospitals, hotels and hostels, small workshops, and some offices.” (para.2.2.2)

7.6.7. As such, the application of the guidelines is usually intended with respect to potential impacts upon residential dwellings, with application to certain non-domestic buildings to be determined on a case-by-case basis.

7.6.8. The guidelines states with respect to testing that:

“Loss of light to existing windows need not be analysed if the distance of each part of the new development from the existing window is three or more times its height above the centre of the existing window. In these cases the loss of light will be small...” (para. 2.2.4)

7.6.9. The guidelines also states that if a proposed development is taller or closer than this, a 25° line can be drawn from 1.6m above ground from adjacent properties, and if the proposed development is below this line, then it is unlikely to have a substantial effect on the diffuse skylight enjoyed by the existing building.

7.6.10. In relation to existing properties that could potentially be impacted, the BRE guidelines recommend that a proposed development does not reduce daylight levels to a VSC (vertical sky component) of less than 27%, or where this is the case, not less than 0.8 times its former value. The guidelines state that if with a new development in place, the VSC to an existing neighbouring property *‘is both less than 27% and less than 0.8 times its former value, occupants of the existing building will notice the reduction in the amount of skylight.’* Therefore, the preservation of a minimum VSC of 27% and/or reductions no more than 20% the former value, illustrate acceptable daylight conditions to existing properties (albeit noting that the setting of alternative target values as outlined in Appendix F of the guidelines and referenced below would alter this approach). In relation to sunlight to windows, the BRE guidelines refer to a test of Annual Probable Sunlight Hours (APSH) to windows. This checks main living rooms of dwellings, and conservatories, if they have a window facing within 90° of due south. If with the development in place, the centre of the window can receive more

than one quarter (25%) APSH, including at least 5% of APSH in the winter months between 21st September and 21st March, then the room should still receive enough sunlight. In relation to overshadowing, BRE guidelines recommend that at least 50% of existing properties rear gardens or other public / communal amenity areas, should receive at least 2 hours of sunlight on the 21st March, or not be reduced by more than 20% of the former value.

7.6.11. The application includes a Sunlight and Daylight Assessment. This describes potential effect upon the daylight, sunlight and from overshadowing upon the following properties and amenity spaces: social housing on Gloucester Street; Presbytery City Quay; Petersons Court; National School Gloucester Street; Hotel at junction of Moss Street and Gloucester Street; Office Buildings 1GQ, 7/8 City Quay; and Grant Thornton. An Addendum Daylight and Sunlight Report is also submitted with the appeal.

7.6.12. The applicants Daylight and Sunlight Assessment explains the methodology for the analysis presented. This refers to the BRE guidelines target values for daylight, sunlight and with respect to overshadowing, as described above, and goes on to refer to Appendix F of the BRE guidelines. Paragraph 2.2.3 states:

“Note that numerical values given here are purely advisory. Different criteria may be used based on the requirements for daylighting in an area viewed against other site layout constraints. Another important issue is whether the existing building is itself a good neighbour, standing a reasonable distance from the boundary and taking no more than its fair share of light. Appendix F gives further guidance.”

7.6.13. Appendix F ‘Setting alternative target values for skylight and sunlight access’ on page 85 of the guidelines, highlights that different targets may be used based on the special requirements of the proposed development or its location. One such case is highlighted in paragraph F5, in the case of an existing building with windows unusually close to the site boundary and taking more than their fair share of light from an adjoining site. In such circumstances, a hypothetical ‘mirror-image’ building of the same height and size of the neighbouring existing property, imagined on the subject site, can be used to set VSC and APSH targets. The presented analysis also compares the existing and proposed scenarios against results for the massing of the heights set out in the George’s Quay LAP (equating to a maximum 10 storey building), notwithstanding that the LAP is now expired. Reference is also made to Table F1 in

the BRE guidelines which gives alternative VSC values based upon established obstructing angles demonstrated to buildings in an area. With reference to the established obstructing angles for more recent developments in the area of the subject site, an alternative VSC target of 9% is presented by the applicant as reflective of the inner city location. I discuss the analysis results with reference to each of the properties tested below in turn, firstly with respect to daylight, and subsequently in relation to sunlight and overshadowing:-

7.6.14. City Quay National School: The results for 24 no. windows is presented. Of these, 9 windows would fall below both a VSC of 27% and retain a ratio less than 0.8 times its former value. The most impacted windows are situated on the boundary with the subject site. In this location the proposed plan form is stepped in from the boundary, however the resulting VSC is 0% for these 6 windows. The analysis also demonstrates almost exactly the same result arising from the LAP massing on the site, equating to a 10 storey building. While the LAP is expired, the results demonstrate that even a building significantly reduced in scale from the that proposed in the appeal scheme, would continue to result in daylight loss to these 6 windows, as well as VSCs of between c.14-19% / ratios of c.57-67% to 3 other windows. The 6 worse effected existing windows for the school are situated on the boundary with the subject site, and are described in the submitted assessment as high level windows that are either a second window to a class room or a window to ancillary facilities. In the current condition, there are no buildings on this part of the subject site, and therefore these existing windows are currently largely unobstructed. As a result of the position of these windows to the school, on / very close to the boundary with the subject site, any construction on the subject site at an urban scale will result in significant loss of light to the windows. The BRE guidelines reflects on this type of relationship with reference to whether adjoining buildings are 'good neighbours' or taking more than their fair share of light from a site (Appendix F). In this case, the applicant has not presented a 'mirror-image' scenario, but instead presents the results of an imagined max 10 storey building on the site which results in the same extent of daylight loss to these 6 windows.

7.6.15. The Presbytery City Quay: Of the 7 no. windows tested, all have existing VSCs less than 27%. In the proposed condition, 1 retains a VSC of at least 80% its former value. The remaining windows have VSCs of between c.1.5-13.8%. There are 2 windows with a VSC of less than 9% (with a reduction of more than 20% the former value) in

the proposed condition. When compared to the results for the LAP equivalent max 10 storey building on the site, similar results are presented, however there is some improvement on the proposed scheme, with 2 windows retaining a VSC of at least 80% the former value, and 1 window falling below a 9% VSC. This needs to be balanced against wider considerations as set out further below in my conclusion on daylight, sunlight and overshadowing. Similar to the National School, the affected windows for the Presbytery building currently benefit from the underdeveloped character of the subject site. Any construction on the subject site reflecting its inner-city character and zoning, will result in similar daylight loss to the Presbytery as the proposed development, as demonstrated by the hypothetical max 10 storey building on the site presented by the applicant.

7.6.16. Housing Block on Gloucester Street: Results are presented for the social housing apartment block situated to the south of the site on Gloucester Street South. Of the 28 no. windows tested, there are 4 with a VSC in excess of 27% in the existing condition. Of the 4, 1 is reduced to less than 27% in the proposed condition, with a resulting VSC of 26.72%, and therefore marginally below the general target level. The remaining 24 no. windows will have a VSC both less than 27% and reduced by more than 20% the former value in the proposed condition. In the existing condition, these 24 no. windows have VSC levels of between 5.3-12.1%, and in the proposed condition, levels would change to between 3.9-9.1%, with reductions to between 59-76% the former value. When compared to the LAP max 10 storey building on the site, similar reductions are demonstrated, with 4 no. windows retaining a VSC over 27% and an additional window below 27% but reduced by not more than 20% its former value. For the remaining 23 no. windows, these are similarly impacted by an imagined max 10 storey building on the site, with VSC levels / ratio reductions of similar proportions when compared to the proposed development.

7.6.17. With reference to paragraph 2.2.13 of the BRE guidelines, the applicant has also presented the results (existing/proposed) with balconies to the social housing block removed. This shows increased VSC levels to all windows, with a VSC over 15% in the proposed condition in all cases. The applicant therefore asserts that the balconies are the main cause of low daylight availability to these windows.

7.6.18. Staycity Apart-hotel Gloucester Street: The results for 84 no. windows are presented. Of these, 14 no. have either a VSC of at least 27% or not reduced by more than 20% the former value in the proposed condition. For the remaining 70 no.

windows, 29 have a resulting VSC of less than 9% in the proposed condition. These results are largely replicated for an imagined max 10 storey building on the site (the LAP scheme), with only slight variation between the VSC levels and reduction levels demonstrated overall. The same number of windows have a resulting VSC of at least 27% or not reduced by more than 20% the former value, as well as a resulting VSC not less than 9%. It should be noted that as this building is in hotel use, there is discretion in the application of the BRE guidelines, which normally applies to residential dwellings.

7.6.19. Petersons Court: No perceivable change, with BRE target levels exceeded in all cases.

7.6.20. The results for a number of commercial / office buildings are also presented in the submitted assessment. It should be noted that as non-residential uses, daylight and sunlight analysis would not normally be required to be presented in the assessment of a planning application. This is because the BRE Guidelines would not ordinarily apply, and I am satisfied that there is no specific requirement for daylight for these commercial / office buildings in this case (refer to paragraph 2.2.2 of the guidelines as extracted above). This is because the type of office/commercial uses in these buildings is not unusual or in need of enhanced natural light when compared to general office/commercial use. However, as the application includes the analysis, I have included this in my assessment.

7.6.21. 7-8 City Quay: The results of 8 no. windows are presented, all have VSCs less than 27% in the proposed condition and of these, 2 retain a VSC of at least 80% the former value. All windows have a VSC exceeding 12% in the proposed condition.

7.6.22. 1GQ: Of the 89 no. windows tested, 57 no. have a resulting VSC of both less than 27% and a reduction of more than 20% its former value with the proposed development in place. 40 no. windows have a VSC less than 9%. I note that a consultant report was submitted with the observation from 1GQ. This outlines the view that the 9% VSC is not an appropriate target and that loss of light to 1GQ is substantial. However, I have presented analysis in recognition of the standard 27% VSC target and note that the BRE Guidelines do not apply to office use as standard (as outlined above).

- 7.6.23. Grant Thornton: Of the 82 no windows tested, 2 no. retain a VSC of either at least 27% or reduced by not more than 20% its former value, of the remaining 80 no. windows, 1 no. is reduced to less than 9% VSC.
- 7.6.24. The results for the LAP max 10 storey building on the site demonstrate similar results for the foregoing commercial / office buildings.
- 7.6.25. In relation to sunlight, the BRE Guidelines recommendations for existing properties relates to assessing main living rooms and conservatories if they have a window wall facing within 90° due south. There is no loss of sunlight to the windows for residential properties as the proposed development does not extend due south, of south facing living room / conservatory windows.
- 7.6.26. The BRE Guidelines also set targets relating to the overshadowing of external amenity areas, including gardens, communal gardens, roof terraces, children's playgrounds, parks, recreation water, sitting out areas such as those between non-domestic buildings and in public squares. The submitted Daylight and Sunlight Assessment assesses impact from overshadowing upon amenity areas at the adjacent National School and Presbytery as a result of the proposed development. It should be noted that in the existing condition, sunlight to amenity areas assessed is generally limited, which is reflective of the inner-city location of the area, where increased overshadowing levels would be expected. However, for both areas tested at the school and Presbytery, they retain over 80% of the former value (being 93.7% and 87.7% respectively), experiencing only marginally increases in overshadowing with the proposed development in place, and within the BRE target recommended levels for overshadowing.
- 7.6.27. In response to observations, the appellant has provided additional assessment of the amenity spaces to the Grant Thornton building. This comprises a public plaza and two roof terrace areas towards the northern end of the building fronting the river. As would be expected given the northerly position and inner-city location of these spaces, existing sunlight is limited, particularly to the public plaza and lower terrace areas. In the proposed condition, there is no change to the level of overshadowing experienced by the public plaza, which continues to be heavily shaded. For the lower roof terrace area, this currently has 6.2% of its area in sunlight for 2 hours on the 21st March, and this will reduce to 0% in the proposed condition. This is compared to hypothetical impact that would be experienced by an imagined max 10 storey building on the

subject site, which would reduce sunlight to 1.4% of the area on the 21st March (equating to a ratio of 22.5% of the former value). For the upper terrace area, this currently receives sunlight to 51.2% of its area on the 21st March, and this would be reduced to 49.2% in the proposed condition, equating to 96% of the former value and within the target levels recommended in the guidelines. Therefore, of the three areas tested, one will experience noticeable increase in overshadowing in the proposed condition. However, this impact should be balanced against the non-domestic use of the property, and the existing condition, which reflects extensive overshadowing without the proposed development in place. I also note that even with a max 10 storeys on the subject site, this lower terrace would experience similar increases in overshadowing.

7.6.28. Overshadowing of Customs House: Shadow diagrams were submitted with the application, and additional diagrams have been provided for the appeal. These demonstrate that there would be minimal additional shading to the Custom House elevation generated by the proposed development, and that any additional shading would affect only a small area of the Customs House façade, as well as being transient in character. The diagrams also demonstrate that the permitted tower under construction at Tara Street will generate a similar level of overshadowing towards the Customs House. I am satisfied that there would be no significant impact upon the Customs House resulting from overshadowing by the proposed development.

7.6.29. Conclusion on daylight, sunlight and overshadowing: The analysis presented above demonstrates that there will be daylight and overshadowing impact upon adjacent properties as a result of the proposed development. The proposal has not demonstrated that it is able to fully to meet all the requirements of daylight provisions, however this has been clearly identified above, with a rationale described with reference to the comparative impact of an imagined max 10 storey building on the subject site. This has demonstrated that even if the proposed development was significantly reduced in scale, it would still result in similar daylight, sunlight and overshadowing affects. This impact has therefore been demonstrated to arise from the lower storeys of the proposal, rather than the upper storeys. The proposed development also results in the regeneration of this current derelict site in use for car parking and therefore not contributing to the current streetscape. The proposed development would significantly improve the streetscape, and with a high quality architectural design and finish proposed (refer to sections 7.4 and 7.5 above), that

would be a significant positive contribution to both the streetscape and the skyline of the city. The 'Architect's Response to Planning Refusal' submitted for the appeal, also outlines how the design responds to the adjacent school with reference to overshadowing impact. The eastern façade bordering the school is set back and includes a planted trellis, greening the view from the school site, alongside measures to ensure privacy. The massing of the proposed building is also set back on the east side to reduce impact upon the adjacent school and church. Set backs are also incorporated to the west and north of the building in response to the urban context. The proposed materials are also reflective, softening and lightening the impact of the tower in the skyline. I am satisfied that these measures described in the Architect's response form compensatory design solutions, as referenced in the Building Height Guidelines.

7.6.30. Potential Overbearing/Overwhelming Impact and Devaluation of Adjacent Properties

7.6.31. I note concern raised in observations regarding overbearing impact, as well as an associated devaluation in property in the vicinity of the proposed development. The Local Authority's Reason for refusal no.2 also refers to overbearing and overwhelming impact, resulting in a devaluation of adjacent properties.

7.6.32. While the proposed development is of significant scale, the subject site is located in an inner-city area where buildings of scale are most appropriately located. City areas are characterised by built scale and proximities between blocks, which would not be suitable in other more suburban or rural locations. Constraining scale in the city on the basis of existing adjacent buildings alone, could stymie development in the city. The proposed development would be prominent, but this prominence is not overbearing or overwhelming. Not only is the presence of tall buildings an anticipated feature in an inner-city area, importantly, the proposed development has mitigated visual and amenity impacts through its proposed design. As such, the overall impact does not overwhelm or overbear the streetscape or adjacent properties.

7.6.33. I have set out a detailed visual assessment in sections 7.4 and 7.5 above. When closer to the proposed development, the extent of scale will be evident, but is well modulated and sufficiently varied, to ensure that the overall effect is not overwhelming. The high-quality finish of the proposed design and materials ensure that the proposal will be a positive addition to the streetscape, even at a significant scale. View no.'s 1,

2, 3, 4, 5, 6, 7, 8, 9 and 10 illustrate this affect and how the proposal contributes positively to the streetscape. I also set out a detailed assessment of daylight, sunlight and overshadowing impact above in this section 7.6.

7.6.34. There is no evidence to suggest that the proposed development would result in the devaluation of properties in the vicinity of the site, and the submitted EIAR concludes that positive economic impact is anticipated. An Economic Impact Assessment was also submitted with the Planning Application and outlined the positive economic gains that are anticipated to result to the area following construction of the proposed development. I am satisfied that high quality architectural buildings of scale in appropriate locations can act as drivers for investment and that devaluation of properties in the area is not anticipated to result.

7.6.35. Construction Impact

7.6.36. Representations have been received regarding adverse impact from the proposed development during construction, particularly as a consequence of the 10-year consent sought. The applicant states that a 10 year consent is requested due to the complexities around the delivery of a landmark building and current impacts to the supply chain in the construction industry.

7.6.37. An Outline Construction Management Plan has been submitted with the application. An updated Outline Construction Management Plan is also included in the appeal and includes undertaking early engagement with neighbouring property owners to limit the impact of the proposed works on nearby sensitive receptors. Measures for the management of noise and suppression of dust are described. Vehicle site traffic management, deliveries and access is also addressed. I also address construction impact in detail in sections 8 and 9 of this report as part of my EIA and Appropriate Assessment below.

7.6.38. A condition could secure these arrangements, with the submission of a final Construction Environmental Management Plan for approval by the Planning Authority, should the Board determine to grant consent. With the application of mitigation measures, I have no concerns regarding construction impacts (or construction transport impacts) resulting from the proposed development. I acknowledge that the application will result in some disturbance to adjacent residents, which would be for an extended period, however given the large scale of development and in light of the rationale provided by the appellant, this extended period is reasonable in my view.

Typically permissions with an extended consent period would not start immediately, and this reflects the applicants highlighted concern with respect to the supply chain in the construction industry. Impact would be on a temporary basis and the extent of impact (i.e. noise etc) will change as the works progress. Therefore, impact would not be constant on the site for the whole 10 year period. This type of disturbance is an inevitable and typical consequence of any development. All contractors on the site will be required to adhere to mitigation described in the Construction Environmental Management Plan.

7.6.39. I note specific concern from the City Quay National School in relation to the construction works and the requested 10 year consent. The construction works proposed on the subject site will generate a temporary period of noise and disturbance to adjacent uses, as outlined in the previous paragraphs. For the school, there is concern that this disturbance would disrupt their operations. I have already described why I consider a 10-year consent appropriate in this case. In general terms, it should be recognised that the school is located in an inner-city area, and a regeneration area, where construction works are to be expected in the surrounding area. The subject site is zoned for development, and construction works associated with any development on the site (at a scale appropriate for the city centre location) would invariably lead to similar levels of noise and disturbance. It would not be possible to deliver the benefits of regeneration for the area, including the revitalisation of derelict sites such as the subject one, without periods of temporary disruption caused by construction works.

7.7. Transportation

7.7.1. Section 8 of this report includes consideration of transportation as part of the EIAR presented, while this section of my report concerns detailed comments raised on the application. The Local Authority's Transportation Planning Division raised a number of matters in consultation on the application, which the appellant has sought to address through details submitted with the appeal. I address each of these matters separately below.

7.7.2. Revised basement plan to demonstrate no impact on the footpath

7.7.3. A basement plan is provided drawing no. S020 rev.02 detailing the extent of basement piling. It demonstrates that the piling is entirely within the site boundary and does not encroach upon the public space or footpath.

7.7.4. Site layout plan to show no overhang/encroachment on the public footpath

7.7.5. Drawing no. S021 rev.00 also includes topographical survey information, illustrating that the proposed development does not encroach or overhang the public space or footpath.

7.7.6. Information on proposed car lift

7.7.7. The car lift serves 11 no. spaces, with access to be limited and controlled by the Facilities Management Team, ensuring that daily use and access is staggered to avoid queuing. If required, the current on-street parking bays along Gloucester Street are proposed to be removed (in agreement with the Council), to allow two-way traffic on Gloucester Street, and allow suitable manoeuvring of vehicles. Further detail is set out in relation to servicing and delivery management as discussed below.

7.7.8. Detail of servicing proposals from Gloucester Street South

7.7.9. A Delivery and Servicing Management Plan for the proposed operation and functioning of the development has been provided. This describes the approach to servicing and deliveries, with a dedicated Facilities Management Team responsible for implementation and coordination of the plan during operational phase.

7.7.10. It is proposed that the development be serviced from Gloucester Street South, where access to a loading bay is included in the submitted design. The loading bay is adjacent to the reception area and lift core, where a service lift provides access to all floors above ground.

7.7.11. Access for cars and motorbikes is via a car lift next to the loading bay. Cyclists can also utilise the car lift, and an alternative cycle route is also proposed via double-width stairs with wheel tracks giving access to the upper basement. Fire fighting access points are to the north and south of the lift core and stairs which exit onto Moss Street and Gloucester Street South.

7.7.12. Swept Path Analysis is detailed in drawing no. B1876-XX-XX-C-SK-0004 rev.03 for a standard car and light goods vehicle. The Delivery and Servicing Management Plan anticipates the number of servicing and delivery movements that will be attracted to the proposed development, and outlines measures to manage these, including discouraging servicing and delivery during peak hours, school drop off and collection times. Queuing is also not anticipated on Gloucester Street South with respect to access to the car park, given the small number of spaces proposed (11) and with access to spaces being limited and controlled by Facilities Management to stagger

access times. However, should queuing occur, proposals include the removal of on street parking bays to facilitate the two-way traffic flow on Gloucester Street South and better manoeuvrability. It is proposed that final arrangements are agreed in discussion with the Council. An Operational Waste Management Plan has also been included in the application submission and waste collection arrangements are described in the Delivery and Servicing Management Plan. Refuse collection will be undertaken outside of peak hours, school drop off and collection times where possible, however specific collection times are to be arranged with private waste management contractors. Prior to waste collection time, the waste contractor or facilities management will transfer bins to a staging area at ground level at the entrance to the loading bay via the car lift. The staging area has been located to ensure that it will not obstruct traffic or pedestrians. Following emptying by the waste contractor, the bins will be returned to the storage area. Any special / large deliveries would need to be arranged with site management in advance.

7.7.13. I am satisfied that the submitted Servicing and Delivery Management Plan provides a good overview of the anticipated servicing / delivery arrangements for the proposed development and that undue negative impact is not expected to result. Specifically, I am satisfied that undue negative impact will not result to the school, as delivery and servicing to the proposed development will be managed in a way to minimise impacts, particularly upon the school. However, in my view further detail should be sought on arrangements, particularly for waste collection, prior to occupation of the development. For waste, this would ensure that the responsibility for transferring waste for collection, the location of the staging area for collection, times of collections, and the responsibility for returning bins following collection, is clearly finalised, and will prevent conflict with pedestrian and traffic movements on the street. Final details of servicing and delivery management should be agreed in discussion with the Council, particularly in relation to proposals for Gloucester Street South, and this can be secured by a condition should the Board determine to grant planning permission and agree with this approach.

7.7.14. Road Safety Audit (RSA)

7.7.15. A Stage 1 Road Safety Audit for the proposed development has been provided. The following findings of the report are proposed to be implemented as part of the proposed development.

- All footpaths surrounding the development shall be formed such that pedestrians have priority, especially with respect to vehicular access from Gloucester Street South whereby a continuous footpath shall be provided with a bevelled kerb detail at the vehicle entrance.
- Visibility of pedestrians shall be managed via suitable controls on the pull out location of vehicles, which shall ensure suitability visibility. This shall be detailed and agreed with the DCC Roads, Streets and Traffic Department prior to implementation.
- The existing uncontrolled crossing on Gloucester Street South, at the junction with Moss Street shall be retained. Further discussions with DCC Roads Department shall be arranged to examine options for suitable signal controlled pedestrian crossing locations.

7.7.16. I am satisfied that with implementation of the recommendations set out in the RSA the proposed will not generate undue negative impact or create an unsafe environment with respect to pedestrians and traffic movements in the area, with specific regard to pupils accessing the adjacent school. A key recommendation is the inclusion of a continuous footpath across the loading bay access, to ensure pedestrian priority in this location. A condition can be included, should the Board determine to grant consent, requiring final confirmation of the incorporation of the RSA recommendations into the proposed development, and in agreement with the Local Planning Authority.

7.7.17. Signalised pedestrian crossing on Gloucester Street South

7.7.18. As outlined above, it is intended that suitable locations for a signalised pedestrian crossing be discussed and agreed with DCC Roads, Streets and Traffic Department and incorporated into the proposed development.

7.8. Other Matters

7.8.1. I note observations that state there is no planning gain for the community as a result of the proposed development. The proposed development incorporates a new Arts/Cultural centre which is a significant benefit to both the local and wider community of the area, particularly the arts community, and appropriate given the historical use on the site. The Planning Authority placed little weight on this aspect of the proposal in their assessment, however I note that the inclusion of this use responds positively to a

number of policies and objectives in the Development Plan, including CU12, CUO25 and CUO31. The proposed Arts/Cultural centre is a benefit of the proposed development and contributes towards how the proposed building would be received. The centre will be a contemporary space, fit for modern day requirements and attracting public footfall to the area and public engagement with the building.

7.8.2. I also note third party concern regarding fire and general public safety during construction and operation. I have already outlined above in section 7.6 proposals for the management of construction works on the site, and my EIA in section 8 below also considers impact in this regard. With mitigation in place, no significant negative impact is anticipated. With respect to measures to ensure fire safety, these are secured through Building Regulations and separately to Planning Legislation. However, the proposed operational arrangements are described briefly in application documents including part 16 of the Architects Report. Fire fighting access is provided from Moss Street and Gloucester Street South via stair and lift cores. Two of the lifts are dual access and serve as fire fighting lifts for all floors above ground. An additional fire escape stairs is located at the north east corner of the building. Separate escape stairs serve the basement levels with independent exit onto city Quay, Moss Street and Gloucester Street South. The entire building will be sprinklered with water tanks included at basement level.

8.0 Environmental Impact Assessment (EIA)

8.1. This section sets out an Environmental Impact Assessment (EIA) of the proposed project. The development provides for construction of a building up to 24 storeys in height (108m from ground over double height basement) comprising 35,910sqm of floorspace including 1,404sqm arts centre, 22,587sqm offices and 244sqm gym, and all ancillary works on a 0.22 hectares site. The site is located within the area of Dublin City Council. A number of topics and issues raised by observers that concern environmentally related matters have already been addressed in the wider planning assessment described above, and where relevant I have cross-referenced between sections to avoid unnecessary repetition.

8.2. The proposed development does not comprise a project listed under Annex I of the EIA Directives and is below the relevant thresholds as set out in the Planning and Development Regulations 2001 for Annex II projects, with a site area of 0.22 hectares.

However, in light of the proximity to the Customs House, a protected structure with a rating of international significance on the National Inventory of Architectural Heritage (NIAH) in Ireland, and the potential for visual impact, the applicant has decided to voluntarily prepare an Environmental Impact Assessment Report (EIAR).

8.3. The EIAR comprises a non-technical summary, a main volume and supporting appendices. Chapter 1 of the main volume identifies the contributors to the report and their expertise in the preparation of the EIAR, and a description of mitigation measures is set out in each chapter.

8.4. As is required under Article 3(1) of the amending Directive, the EIAR describes and assesses the direct and indirect significant effects of the project on the following factors: (a) population and human health; (b) biodiversity with particular attention to the species and habitats protected under Directive 92/43/EEC and Directive 2009/147/EC; (c) land, soil, water, air and climate; (d) material assets, cultural heritage and the landscape. It also considers the interaction between the factors referred to in points (a) to (d). Article 3(2) includes a requirement that the expected effects derived from the vulnerability of the project to major accidents and / or disasters that are relevant to the project concerned are considered.

8.5. I am satisfied that the information contained in the EIAR has been prepared by competent experts and complies with article 94 of the Planning and Development Regulations 2000, as amended. The EIAR would also comply with the provisions of Article 5 of the EIA Directive 2014. This EIA has had regard to the information submitted with the application and appeal, including the EIAR, and to the planning assessment completed in section 7 above, as well as the submissions received from the prescribed bodies and members of the public which are summarised in sections 3 and 6 of this report above.

8.6. Vulnerability of Project to Major Accidents and/or Disaster

8.7. Chapter 5 Population and Human Health in section 5.5.1.7 considers impact from unplanned events upon health and safety, and specifically from paragraph 5.83 potential impact from natural disasters. The EIAR confirms the application of health and safety planning in the development works and that there is negligible to no risk of natural disasters occurring given the characteristics of the site and with reference to landslides, seismic activity, volcanic activity and sea level rise/flooding. With the

implementation of mitigation measures, risk of accidental leaks/spills is also low, with imperceptible effects anticipated.

8.8. Having regard to the location of the site and the existing land use as well as the zoning of the site, I am satisfied that there are unlikely to be any effects deriving from major accidents and or disasters.

8.9. Alternatives

8.10. Chapter 3 Alternatives in the submitted EIAR considers the reasonable alternatives that have been considered. Consideration is given to the do-nothing alternative, which was concluded would not observe the requirements of planning policy for the site and the applicable zoning. In relation to alternative locations, the subject site is zoned Z5 City Centre, with the Land-Use Zoning Objective 'To consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and protect its civic design character and dignity.' The site is also located in Strategic Development Regeneration Area (SDRA) 6. The EIAR identifies that the 2022 Department of Housing Planning and Local Government (DHPLG) Guidance notes that consideration of alternative locations may not be appropriate in all cases. The location of the proposed development has been chosen to complement associated proximal developments (i.e. Tara Street and Apollo House), proximity to public transport and other exiting residential, commercial and amenity developments in the city centre, creating positive synergies between uses, particularly in relation to employment opportunities. The EIA concludes that the subject site is an appropriate location for the proposed development. In relation to alternative design and layouts, the EIAR includes figure 3.3 to describe the evolution of the design of the proposal. The potential for alternative processes and mitigation is also addressed. The proposed development is considered in the EIAR to be the optimal design solution for the site, with a design that responds to the context of the surrounding area, seeks to minimise negative impacts, while maximising the development potential of the site.

8.11. Overall, I am satisfied that, the Directive requirements in relation to the consideration of alternatives have been satisfied.

8.12. Consultations

8.13. I am satisfied that the participation of the public has been effective, and the application has been made accessible to the public by electronic and hard copy means with adequate timelines afforded for submissions.

8.14. Likely Significant Direct and Indirect Effects

8.15. The likely significant indirect effects of the development are considered below and reflect the factors set out in Article 3 of the EIA Directive 2014/52/EU.

8.16. Population and Human Health

8.17. Population and Human Health is considered in Chapter 5 of the EIAR. This chapter describes the baseline characteristics of the study area in terms of population demographics, socioeconomics, health, social infrastructure, landscape amenity and tourism and natural resources. Potential impact is then described in section 5.5 during both construction and operation. Mitigation is described in section 5.6 and relates to a range of construction related remedial and mitigation measures. During operational phase, apart from measures to combat wind, no specific mitigation is required having regard to impacts that are either not significant or positive or cannot be mitigated further. Residual impact is outlined in section 5.8. During demolition/construction positive, moderate and short-term economic and employment effects on business and residences is anticipated. With the application of mitigation, no significant residual effect upon human health / safety is expected with respect to air quality, material assets, traffic and unplanned events. No likely significant effect is expected on local amenities and tourism. Negative, moderate to significant, short-term impact is anticipated with respect to noise and vibration, and Chapter 10 considers this in more detail. During operational phase, positive, long term and significant economic and employment effects are expected with respect to businesses and residences, and upon local amenities and tourism. No significant residual impact upon human health / safety are predicted with respect to air quality, noise and vibration, material assets, traffic, unplanned events, loss of sunlight/daylight, or wind with the application of mitigation.

8.18. With respect to potential cumulative impact, permitted / under construction developments within the surrounding area are identified in the EIAR (section 2.8.1). No significant residual impacts are identified with respect to population and human health in section 5.7 of the EIAR.

8.19. Overall, I concur with the conclusions of the EIAR with respect to population and human health.

8.20. Biodiversity

- 8.21. Chapter 6 of the EIAR considers potential impact upon biodiversity. It describes desktop studies and field surveys of the site to identify the ecological characteristics of the site, including habitat and flora survey, bat survey and wintering bird and flightline assessment.
- 8.22. It is noted in the EIAR that the site is located approximately 15m away from the River Liffey and the nearest European sites are situated at South Dublin Bay and Tolka Estuary SPA, 1.9km downstream of the site. The nearest pNHA is Royal Canal pNHA (located 0.7km away) and the nearest Ramsar site is Sandymount Strand/Tolka Estuary (located 2.9km downstream). I consider potential impact upon European sites separately below in section 9 and as part of my Appropriate Assessment.
- 8.23. Habitat and species surveys of the site did not reveal any species or habitats of conservation importance, rare / threatened species or invasive species. There was no evidence of current or past bat roosts in the structures on the site and foraging activity was not present. No amphibians/reptiles or terrestrial mammals observed on the site. Herring gull (Amber listed) was observed on the site, no rare or bird species of conservation value were noted on the site. The site is not seen as an important wintering bird site as it comprises entirely of built lands and survey results suggest that the site is not a regular flightline path for bird species of significant interest, including Brent Geese.
- 8.24. Potential effects are outlined in section 6.6 of the EIAR. In the absence of mitigation, dust during demolition/construction phase and surface water runoff in operational phase could potentially impact on the River Liffey and downstream conservation sites, with water quality impact. This could consequently impact aquatic biodiversity. No other significant impact is anticipated. Mitigation is set out in section 6.7 and includes consultation with a project ecologist. Assessment for land contamination will also be undertaken following clearance of the site and prior to any site discharge. Standard construction phase control measures are outlined to ensure that the proposed project does not impact on species or habitats of conservation importance, conservation areas or watercourses. Demolition works will be carried outside bird nesting season or after a check by a qualified ecologist. A pre-demolition/construction survey for bats will be carried out. The engineering report sets out standard operational mitigation measures to protect surface water networks from pollution.

8.25. With the application of mitigation, no significant environment impacts are likely in relation to the construction of the proposed development. There will be no significant ecological impact arising from the operation of the development. Standard operational phase control measures are outlined and the proposed project does not impact on species or habitats of conservation importance, conservation areas or watercourses. No significant environmental impacts are likely in relation to the operation of the proposed development. In relation to cumulative impact, this is outlined in section 6.10 and identifies that no significant in combination effects will occur. I concur with the conclusions reached in the EIAR with respect to biodiversity as summarised here.

8.26. Land, soil, water, air and climate

8.27. Land, soils, geology & hydrogeology is set out in Chapter 7 of the EIAR. The existing receiving environment is described as underlain made ground. The EIAR describes site investigations carried out over the area. No groundwater source protection zones are identified under the site or in the immediate vicinity, and there are no karst features in the area. The EIAR identifies that the geological features at the site are rated as low importance and hydrogeological features at the site are rated as medium importance, in recognition of a locally important aquifer over part of the site. The proposed development includes a double height basement, and it is illustrated through schematic cross sections that excavations associated with this will not extend into the limestone bedrock layer beneath the site, which is at a depth greater than 9m. Potential impacts during the construction phase will be associated with excavation, infilling, basement construction and accidental leaks/spillages. An impact assessment has been undertaken to assess the likely impact on the existing water regime during and post construction of the basement. The main construction works for the basement comprise the installation of an embedded pile retaining wall. Once piling is installed, there will be limited groundwater to dewater due to enclosing of potential water bearing strata. Mitigation is set out in section 7.7 and focuses around the implementation of a Construction Environmental Management Plan for the works. Measures are also described to protect water quality and with respect to fuel and chemical handling. During operational phase, measures involve the implementation of an environmental management plan and surface water management, including SuDS). With the application of mitigation, short-term, imperceptible significance, neutral impacts are anticipated during construction, and long term, neutral, imperceptible significance impacts during operation.

8.28. Chapter 8 of the EIAR concerns hydrology. The subject site is located within Hydrometric Area no.9 (Liffey and Dublin Bay Area of the Irish River Network). It is within the Dodder Sub-Catchment (Dodder_SC_010) which is part of the River Liffey catchment. With reference to the Water Framework Directive (WFD) the Liffey Estuary Upper is rated 'Moderate' due to the waterbody being classed as 'Potentially Eutrophic', however this improves further downstream after the Talbot Memorial Bridge where it is rated 'Intermediate'. In terms of surface water quality, the River Liffey is classed as 'Poor' at the closest river station to the site. In relation to water supply and foul sewage / drainage, there is existing networks in the vicinity of the site, and it is envisaged that a connection agreement will be made with Irish Water. In terms of flood risk, the site is within zones A, B and C. A Flood Risk Assessment has been undertaken. The proposed commercial and art centre uses are 0.5% AEP coastal flood level with allowance for climate change and freeboard, with other less vulnerable uses at existing streetscape level. The proposed development will not impact flood extent, depth, risk or flood routes elsewhere. A justification test for the proposed development has been undertaken demonstrating that it is appropriate. Hydrological features at the site are rated medium importance. During construction phase, potential impact arises from increased run-off, sediment loading, uncontrolled discharges, fuel and other accidental spills and wastewater. During operational phase, potential impact relates to surface water run-off, uncontrolled discharges, fuel and other accidental spills, foul water and water supply. During construction, mitigation includes application of measures through a Construction Environmental Management Plan, as well as measures for the management of sediment loading and water quality, and fuel and chemical handling. During operation, the development will comply with the Greater Dublin Strategic Drainage Study, mitigation measures include minimising the likelihood of spills entering watercourses and operation of the development in accordance with foul water license, as well as monitoring of potential water supply leakage. With the application of mitigation short-term, imperceptible effect with a neutral impact on quality is anticipated during construction, and long-term imperceptible effect with a neutral impact on quality is predicted during operation.

8.29. Air quality and climate impacts is addressed in Chapter 9 'Air Quality' of the EIAR. This describes the baseline air quality and climate characteristics for the area and relevant policy and legislative framework, including the Climate Action Plan. During construction phase potential impact is associated with dust emissions and greenhouse

gas emissions into the atmosphere. During the operational phase, traffic-related air emissions and the need to respond to climate change related weather is identified, as well as the need to reduce impact to the climate through sustainable design. Associated impact upon human health is highlighted. Mitigation measures include control of dust and dust minimisation through the application of measures in a Construction and Environmental Management Plan. In relation to climate impacts, good practice measures are described to prevent idling of vehicles, maintenance of equipment and minimisation of waste. During operation, no site specific mitigation measures are required due to design-led features and the operational phase energy usage in the proposal. Residual impact is set out in section 9.7. During construction, in light of the adjacency of the school to the subject site, a detailed dust management plan has been formulated to mitigate potential dust impacts. With the application of these measures, dust impact will be short-term, negative, localised, non-significant and imperceptible. With the application of mitigation, predicted impact upon climate is described as short-term, non-significant, neutral and imperceptible. Impact on human health is negative, short-term, non-significant and imperceptible. During operational phase, impact to air quality as a result of increased traffic volumes would be a localised, neutral, non-significant, imperceptible and long-term impact. There is no potential for significant impacts to climate as a result of traffic related to the proposed development. Impact is categorised as neutral, imperceptible and long-term. In addition the proposed development has been designed to reduce the impact to climate where possible. In relation to human health, emissions are significantly below the ambient air quality standards for protection of human health, and impact would be long-term, neutral, non-significant and imperceptible.

8.30. No significant cumulative effects are highlighted with respect to land, soil, water, air and climate in the EIAR.

8.31. I concur with the conclusions of the EIAR with respect to lands, soils, geology, hydrogeology, hydrology and air quality as described above, and consider that with the application of mitigation as described, impact will be within acceptable parameters.

8.32. Noise and vibrations

8.33. Chapter 10 'Noise' of the EIAR addresses noise and vibration and includes description of a baseline noise survey of the site, as well as relevant applicable guidance with respect to noise and vibration.

8.34. The highest potential noise and vibration impact of the proposed development will be during the construction phase, with impact anticipated to last c.32-36 months. The nearest sensitive receptors for the site are the adjacent City Quay National School to the east and an aparthotel and residential block to the south, as well as the Georges Quay office development to the west. The highest noise levels are likely to be associated with activities involved with site enabling, demolition and ground breaking, with a noise level range of 80 to 90 dB LAEQ at 10m. As the basement level is above the underlying bedrock, there is no requirement for rock breaking, crushing or extraction envisioned. The construction of piling, structural works, retaining structures and basement foundations will have a noise level range of 70 to 80 dB LAEQ at 10m. Lower noise levels are anticipated for superstructure works.

8.35. The EIAR presents indicative construction noise calculations for the surrounding sensitive noise receptors. It is anticipated that the highest noise levels will be experienced at the upper floor levels of the adjacent school building, residential building, aparthotel and commercial building. Calculated noise levels are in exceedance of the CNTs for these buildings without mitigation, with noise reducing at further distance from the subject site. The increase in traffic noise associated with the construction phase is predicted to be less than 1dB. The main source of vibration during the construction phase is associated with piling and ground breaking activities. The EIAR outlines that vibrations levels at very close distances to the piling rigs are low, and as such, vibration levels at surrounding buildings will not pose any significance in terms of cosmetic or structural damage, and are below the criteria set for significant effects to people within buildings.

8.36. During the operational phase, the main potential sources of outward noise will be from traffic flows to and from the development and mechanical and electrical plant. In terms of traffic, volume increase is expected to result in a change of noise levels of less than 1.5dB, equating to a negligible change. In relation to plant, final section of plant, its location, number and design, will seek to ensure acceptable noise levels to surrounding sensitive noise receptors.

8.37. Mitigation is set out in section 10.6. During construction, measures include adherence to noise abatement measures, and recommendations of BS 5228-1 (BSI 2014a) and S.I. No. 241/2006 – European Communities (Noise Emissions by Equipment for Use Outdoors) (Amendment) Regulations 2006. It is also intended to adhere to Dublin City Councils good practice measures for noise control. Other measures include selection of

quiet plant, control of noise sources, screening, hours of works, liaison with the public and monitoring. During the operational phase, best practice measures relating to building services plant will be taken to ensure no significant noise impact on adjacent sensitive noise receptors. In addition, the loading bay will be operated to not result in significant noise impacts to adjacent sensitive noise receptors. With mitigation in place, impact during construction is predicted to be negative, moderate to significant and temporary impact in relation to noise. There are no residual significant vibration impacts. During operation, residual effect is neutral, not significant and long-term with respect to plant and negative, not significant and long-term with respect to traffic.

8.38. Cumulative impact is considered in section 10.9. The EIAR highlights that for any cumulative effect to occur with respect to noise, the noise from other construction sites would have to be equal to the levels associated with the proposed development, and that noise from development will be most dominant for noise sensitive receptors at the site's boundaries. The combination of distance and screening by intervening buildings / structures will limit noise impact from surrounding development sites. As a result, cumulative noise impact will not be significant. In addition, no cumulative vibration during construction or operational noise impact is anticipated.

8.39. I concur with the conclusions of the EIAR in relation to noise and vibration impacts from the proposed development during both construction and operational phases. In my opinion, it is clear that there is likely to be disruption to users and occupiers of the area surrounding the subject site during the construction of the proposed development, however this will be temporary and incorporate mitigation to limit the degree of disturbance. In my view, it would be inappropriate to stifle development opportunity on this land zoned for development, in the city centre and in a strategic regeneration area, because of these temporary, managed, disturbances from construction activities. The application of mitigation measures can be secured through conditions, particularly through the application of a final Construction Environmental Management Plan for the proposed development. With the application of these mitigation measures and in consideration of the temporary nature of the construction works, I am satisfied that impacts from noise resulting from the proposed development are within acceptable limits.

8.40. Material assets - Transportation

8.41. Chapter 13 of the EIAR addresses Traffic and Transportation. This outlines the traffic implications of the proposed development on the local road network during construction and operation. It also describes the baseline public transport accessibility of the site. Tara Street DART Station is situated c.200m to the west and Pearse railway station is located approximately 500m southeast from the development serving DART and national rail networks, Connolly is situated approximately 500m to the north. Dublin bus stops are also located on Moss Street and Townsend Street immediately adjacent to the site, and pedestrian crossings are situated on City Quay, Moss Street and Gloucester Street South. The subject site is also situated approximately 500m northeast of the George's Dock Luas Stop on the Luas Red Line and 500m southeast of the Trinity Luas Stop on the Luas Green Line. As noted in section 7.5 of this report, a capacity assessments submitted with the application demonstrates sufficient capacity to accommodate future pedestrian, cyclist and public transport trips associated with the proposed development. Future transport infrastructure is also highlighted which, if implemented, would benefit the site, including the Liffey Cycle Route, MetroLink (Tara Street) and BusConnects.

8.42. The EIAR includes an analysis of existing traffic volumes in the area and traffic flow on the adjacent road network. In terms of potential impacts, during construction traffic associated with the proposed development will include light and heavy goods vehicles associated with transporting of construction materials/waste, as well as construction staff working at the site. Access is proposed from City Quay or Moss Street. The EIAR includes consideration of other committed developments in the vicinity of the site in predictions of traffic growth, including developments at Tara Street, Hawkins House, College House, Apollo House and Exo House. During operation, road capacity has been assessed in the surrounding area, including for Memorial Talbot Bridge, City Quay, George's Quay, Moss Street, Townsend Street, Shaw Street, Gloucester Street and Prince Street South, including assessment of future traffic growth and capacity. The EIAR concludes that for both the cycling and pedestrian network, an imperceptible impact is predicted as a result of the proposed development during both construction and operation. Similarly, access to public transport options serving the site will not be impacted by the development during either construction or operation phase. The proposed development incorporates 11 car parking spaces, and this low number, alongside the high accessibility characteristics of the site and in consideration of other parking options in the area, it is expected that sustainable transport modes will be

promoted, and this will in turn reduce car use. The EIAR concludes that for the local road network, there will be an imperceptible impact on link and junction capacity in each of the assessment years (including future years/growth).

8.43. I concur with the conclusions of the EIAR in relation to traffic and transport impact arising from the proposed development during both construction and operational phases, and I am satisfied that no significant adverse impact is predicted.

8.44. Material assets – Archaeology and cultural heritage

8.45. The EIAR describes Archaeological, Architectural and Cultural Heritage in chapter 12. This describes a detailed description of the archaeological heritage of the site and surrounding area. The site is situated within the zone of archaeological potential for Dublin City, which is a recorded monument (DU018-020) and while there are no individual recorded monuments known within the site boundary, eight specific sites are listed within 250m, the nearest comprising City Quay (DU018-020479) to the immediate north. The EIAR identifies the closest Architectural Conservation Area c.360m to the west and 23 protected structures within a 200m study area surrounding the site. The EIAR states that there is potential for a section of a disused underground stream called the 'Gallows Stream' to cross the proposed development area. Previous archaeological excavations at the site and surrounding areas are also described. The River Liffey and its quays are described as the most prominent items of cultural heritage which form part of the riverside vista. The Talbot Memorial Bridge, Matt Talbot Statue on City Quay, a bronze sculpture 'The Linesman', and the Famine Memorial on the Customs House Quay are also highlighted.

8.46. Potential impact is identified in section 12.6. During the demolition, remediation and construction phase, impact upon archaeology and architecture could result. This is in relation to as yet undisturbed archaeological remains on the site, and with respect to clearance of the existing 19th and 20th century buildings on the site, as well as disruptive construction activities on the site. During operation, potential archaeology impact upon City Quay (RMP DU018-020458) and the visibility of the proposed tower in the skyline is highlighted. Mitigation is set out in section 12.7 and concerns implementation of archaeological testing and mitigation during the construction phase, as well as a photographic and built heritage survey of existing buildings on the site preserving a record of the history of the Dublin Quays. During the operational phase, no mitigation is proposed. With the implementation of mitigation, no residual impact on

archaeological heritage is anticipated to result. There is no negative impact caused by the removal of the historic derelict buildings due to the creation of a detailed record prior to their demolition. There will be slight and moderate residual negative effects upon the architectural heritage resource during the operation of the development, due to the visibility of the proposed tower.

8.47. In relation to cumulative impact, the EIAR acknowledges that the combination of tall buildings (the proposed development alongside permitted structures at Tara Street and Apollo House) will result in negative impacts upon the setting of some surrounding structures of architectural heritage significance, including the Customs House, and the River Liffey Conservation Area. However, as these buildings, and particularly the Customs House, are already surrounded by modern development, and given the nature of the receiving environment, this impact does not elevate beyond moderate negative.

8.48. I concur with the conclusions of the EIAR in relation to Archaeological, Architectural and Cultural Heritage Impact arising from the proposed development, and I am satisfied that adequate mitigation is included to limit impact with respect to archaeology to acceptable parameters. With respect to architectural heritage, I have set out a detailed assessment of this above in section 7.4 of my report. While when viewed in isolation, and from a historical standpoint alone, moderate negative impact can be perceived, it is necessary to consider the existing and emerging context of the site. Particularly in light of how the area has evolved to date and the positive impact to visual and social amenity that would result from the proposed development. On balance, impact will be acceptable in light of these contextual characteristics and no long term significant negative impact would result.

8.49. Material assets - Waste

8.50. Chapter 15 describes Waste Management. During construction, activities such as excavation and demolition works will generate waste streams. In the lack of waste management, these activities have the potential to have short and long term, significant and negative impact. During the operational phase, waste will be generated by the different occupiers and users of the site. In the absence of mitigation, there is potential that lack of management of these waste streams would lead to short and long-term, significant and negative effects. Mitigation is described in section 15.6 and during construction forms implementation of a Resource & Waste Management Plan to ensure effective waste management and minimisation. Waste management will also be

undertaken in accordance with best practice construction management measures. During the operational phase, an Operational Waste Management Plan will be implanted to ensure a high level of recycling, reuse and recovery at the site. Additional best practice measures are also described in the EIAR as part of operational waste management. With mitigation in place, residual impact is predicted to be over the short and long term, imperceptible and neutral. Cumulative impact is considered in section 15.9, with no significant negative effects identified.

8.51. I concur with the conclusions of the EIAR in relation to predicted impact arising from the proposed development during both construction and operational phases upon waste.

8.52. Landscape and visual

8.53. A landscape and visual impact assessment is described in Chapter 11 of the EIAR. This describes the existing baseline condition of the site and surrounds. Surrounding sensitive receptors are identified and an analysis of potential impacts is undertaken with reference to verified views, as presented in the verified photomontages document for the application. I have already described an assessment of visual impact with reference to the proposed design as well as heritage considerations, in section 7.4 and 7.5 above, and those sections of my report should be read alongside this section of my EIA.

8.54. The EIAR notes the existing characteristics of the site, being situated in the city centre and a few minutes walk to key destinations such as retail cores at O'Connell Street and Grafton Street, office districts including the Docklands and IFSC, Trinity College, the Convention Centre, 3 Arena, Bord Gáis Energy Theatre, Abbey Theatre, numerous hotels and other venues. This is in addition to the high public transport accessibility of the site which has been outlined elsewhere in this report (section 7.5 and transport section of this EIA). The site also occupies a strategic position in the road network where Talbot Memorial Bridge meets the junction of George's Quay and City Quay, and which is an arrival point into the city centre for traffic from the north, and offers routes east and west onwards to the historic city centre and Docklands areas. The subject site is also described in the EIAR as being located in a transition zone between the Old City and the Docklands, and at a pivotal point along the Liffey River Corridor, where the river changes in width, narrowing as it progresses further into the city and away from the Docklands. The existing built form also changes with contemporary buildings

situated to the east in the Docklands and older buildings to the west. The EIAR identifies a lack of connection between the Old City Centre and Docklands as a result of various factors, including the Loopline rail bridge creating a physical barrier, the lack of enclosure at the rivers edge in the Docklands exaggerating the openness of the river, a lack of active uses and entrance to buildings on the quays, and lack of place-making identity.

8.55. The subject site is considered in the EIAR part of a number of townscape character areas, including the Customs House area, the George's Quay area as part of the wider Docklands, emerging cluster of high density around Tara and Connolly Stations, the Liffey River corridor and Dublin City Centre as a whole. The Customs House to the north west of the site and diagonally across the Liffey (c.135m away) is identified as one of the city's most important and valued architectural features. Two key thoroughfares entering the city centre from the north converge on Beresford Place where their traffic is channelled around the Customs House and over Talbot Bridge to arrive onto the south side of the Liffey in front of the subject site. The Customs House, while of national heritage significance, is characterised by an eclectic mix of built form in the surrounding area. A detailed description of the townscape character areas surrounding the site is set out in the EIAR. The elements of the site's receiving environment that are of high sensitivity to change are highlighted as the Liffey corridor, the Customs House and key views such as the views from Gardiner Street, Kildare Street and Trinity College. This balanced alongside the characteristics of the townscape that indicate capacity for significant change on the subject site, the requirement of change in light of the sites current condition, as well as planning policy drivers supporting significant change on the site. As a result, the townscape sensitivity of the receiving environment overall, is classified as 'medium'. (Definition: Areas where the townscape has certain valued elements, features or characteristics but where the character is mixed or not particularly strong, or has evidence of alteration, degradation or erosion of elements and characteristics. The townscape character is such that there is some capacity for change. These areas may be recognised in policy at local or county level and the principle management objective may be to consolidate townscape character or facilitate appropriate, necessary change).

8.56. The EIAR describes potential impacts of the proposed development in section 11.5. During demolition, remediation and construction phases, temporary negative visual impact of moderate significance in the immediate environs of the site would be

experienced, reducing with increased distance from the site. The EIAR notes that construction is a constant and necessary process in the urban environment, and therefore while unsightly, it is generally accepted and tolerated by visual receptors given its temporary character.

8.57. During operation, the effect of the proposed development on views is described in detail in the EIAR. In summary, while there are highly sensitive views that will be impacted and the proposed development results in a high magnitude of change, the impact is moderate or significant and positive for most of these views. This is a result of the existing characteristics of the views, with capacity for change, with several large contemporary buildings already in existing views or emerging in views. While the proposed building is a prominent addition and becomes the focal point in some views, it is of appreciably high quality in design and materials and elevates the status and quality of the place and surrounding townscape. The scale of the building also generates a high degree of lateral enclosure, in a suitable location adjacent to the river. The proposal also results in the replacement of derelict buildings (and the car park use which does not positively contribute visually or socially to the area), with active and public ground floor uses.

8.58. Consideration is given in views of the cumulative impact of permitted towers at Tara Street and Apollo House which are also represented in the submitted photomontages. In further views, such as from Trinity College, from the east and west on the Liffey and from the north, the design quality of the proposed building contributes to the emerging cluster of taller buildings and adds visual interest, enhancing the skyline of the inner city. It also would function as a distinctive and recognisable landmark for the city centre. The EIAR identifies one viewpoint no.46 where a moderate negative effect is anticipated. This arises due to a lack of visual interest in the view and the relatively stark appearance of the proposed development when viewed in isolation. However, views further to the east and west (no.'s 45 and 47) illustrate greater variation in the skyline and positive impact as a result. View no.46 is also perceived differently cumulatively with the Tara Street tower and categorised as significant neutral as part of that cluster. I am satisfied that as a commencement notice for the below ground levels of the Tara Street tower has been served, the view illustrated here of the proposal in isolation is unlikely to be realised. I also note that the works are substantially progressed as part of the development of the Apollo Tower. No other negative impacts upon views are identified in the submitted Landscape and Visual Impact Assessment,

either of the proposed building in isolation or cumulatively with other emerging buildings in the skyline. No additional mitigation is proposed, beyond that already embedded into the proposed design and resulting high quality appearance of the building.

8.59. I concur with the conclusions of the EIAR in relation to predicted effects arising from the proposed development in relation to landscape and visual assessment. No significant negative permanent impact is identified, with short-term temporary negative impact predicted during the construction phase only, which is consistent with the impact resulting from any development site in an urban area. I agree with the EIAR that the proposed development will in result in neutral or positive impact upon the visual and townscape character of the area, and I am satisfied that the design appropriately responds to surrounding sensitive receptors.

8.60. The interaction between the above factors

8.61. Chapter 16 of the submitted EIAR is entitled 'Interactions' and highlights interactions which are considered to potentially be of a significant nature. The majority of interactions are assessed as neutral. While the EIAR identifies moderate to significant demolition/construction noise impacts to the upper floors of the City Quay National School, this will be short-term and temporary. While reduction in light will also occur to some windows, a rationale is presented with reference to alternative target values with reference to Appendix F of the BRE Guidelines. Moderate negative effect is also identified with respect to archaeological or architectural heritage impact on the River Liffey Conservation Area, City Quay, the Presbytery, Church and the Customs House. However, the site is demonstrated to be well-suited for a landmark building and will have a positive effect overall when considering the overall quality and character of the townscape where it is located.

8.62. I have considered the interrelationships between factors and whether these might as a whole affect the environment, even though the effects may be acceptable on an individual basis. Having considered the mitigation measures contained in the EIAR, and the additional mitigation I suggest in my recommendation, I am satisfied that residual impact resulting from interaction between all factors is minimised.

8.63. Cumulative impacts

8.64. The proposed development would occur in tandem with the development of other sites that are zoned in the area. Such development would reflect land uses envisaged under the city development plan which has been subject to Strategic Environment

Assessment. A number of developments in the surrounding area have been specifically identified as being considered in Chapter 1 of the submitted EIAR.

8.65. Each topic chapter in the submitted EIAR has considered cumulative impacts and I have highlighted these where most relevant to my assessment. The potential cumulative impacts primarily relate to traffic, dust, noise and other nuisances from the construction of the development, with other planned or existing projects, and each of the EIAR chapters has regard to these in the assessment and mitigation measures proposed. The proposed land use of the development is in keeping with the zoning of the site. It is therefore concluded that the culmination of effects from the planned and permitted development and that currently proposed would not be likely to give rise to significant effects on the environment, other than those that have been described in the EIAR and considered in this EIA.

8.66. Reasoned Conclusion on the Significant Effects

8.67. Having regard to the examination of environmental information contained above, and in particular to the EIAR and supplementary information provided by the applicant, and the submissions from the planning authority, prescribed bodies and observers in the course of the application and appeal, it is considered that the main significant direct and indirect effects of the proposed development on the environment are as follows:

8.68. **Population and human health** – During both demolition/construction and operation phases positive economic and employment effects on business and residences is anticipated. With the application of mitigation, largely comprising implementation of a Construction Environmental Management Plan, no significant residual effect upon human health / safety is expected, with the exception of negative, moderate to significant, short-term impact anticipated from noise and vibration during construction and as addressed separately as part of the considerations of noise in the EIAR. Impact from construction upon population and human health will be within acceptable limits considering the city centre location of the site, with the application of mitigation.

8.69. **Biodiversity** – With the application of mitigation, including consultation with an ecologist, works carried out outside bird nesting season, a pre-demolition/construction survey for bats and implementation of a Construction Environmental Management Plan, no significant environment impacts are likely in relation to the construction of the proposed development. There will be no significant ecological or environmental impacts arising from the operation of the development. Standard operational phase control

measures are outlined and the proposed project does not impact on species or habitats of conservation importance, conservation areas or watercourses.

8.70. Land, soils, geology, water, air quality or climate - With the implementation of mitigation through management measures in a Construction Environmental Management Plan, as well as surface water management, attenuation and drainage of foul waters, there is no risk of significant negative impacts. While construction works invariably lead to some disturbance, this is short-term and reflective of impact that would generally be experienced across brownfield development sites in the city.

8.71. Noise and vibration – Mitigation includes adherence to regulations for the control and abatement of noise during construction and the implementation of a Construction Environmental Management Plan. During construction and with mitigation in place, impact is predicted to be negative, moderate to significant and temporary. There are no residual significant vibration impacts. During operation, residual effect is neutral, not significant and long-term with respect to plant, which will be selected and located to minimise noise impact. Negative, not significant and long-term impact is also predicted with respect to traffic during operation. Impact from construction upon noise sensitive receptors is considered to be acceptable considering the city centre location of the site and short-term nature of construction activities.

8.72. Material Assets – Transportation – Imperceptible impact is predicted for both the cycling and pedestrian network, during both construction and operation. Similarly, access to public transport options serving the site will not be impacted by the development during either construction or operation phase. There will also be an imperceptible impact on the road network, in terms of link and junction capacity for the operational and future years accounting for cumulative traffic growth. No mitigation is required.

8.73. Material Assets – Archaeology and cultural heritage –With the implementation of mitigation, comprising archaeological monitoring and investigation/protection, no residual impact on archaeological heritage is anticipated to result. There is no negative impact caused by the removal of the historic derelict buildings due to the creation of a detailed record prior to their demolition. There will be slight and moderate residual negative effects upon the architectural heritage during the operation of the development, due to the visibility of the proposed tower. However, the subject site is demonstrated to be well-suited for a landmark building and will have a positive effect

overall when considering the overall quality and character of the townscape where it is located.

8.74. **Material Assets – Waste** - Mitigation comprises implementation of a Construction Waste Management Plan and Operational Waste Management Plan which will minimise waste production and maximise waste recycling. With mitigation in place, residual impact is predicted to be over the short and long term, imperceptible and neutral.

8.75. **Landscape and visual impacts** – There is no mitigation proposed beyond that already embedded in the design and high-quality architectural finish proposed. No significant negative permanent impact is identified, with short-term temporary negative impact predicted during the construction phase only, which is consistent with the impact resulting from any development site in an urban area. The proposed development will in result in neutral or positive impact upon the visual and townscape character of the area, and the design appropriately responds to surrounding sensitive receptors.

8.76. Having regard to the above, the likely significant environmental effects arising as a consequence of the proposed development have been satisfactorily identified, described and assessed in this EIA. I also consider that the EIAR is compliant with Article 94 of the Planning and Development Regulations, 2001, as amended.

9.0 Appropriate Assessment (AA)

9.1. This section of the report considers the likely significant effects of the proposal on Natura 2000 European sites with each of the potential significant effects assessed in respect of each of the European sites considered to be at risk and the significance of same. The assessment is based on the submitted Appropriate Assessment Screening & Natura Impact Statement submitted with the application.

9.2. I have had regard to the submissions of third parties, prescribed bodies and the Planning Authority in relation to the potential impacts on European sites, as part of the Natura 2000 Network of sites.

9.3. The Project and Its Characteristics

9.4. See the detailed description of the proposed development in section 3.0 above.

9.5. The European Sites Likely to be Affected (Stage I Screening)

9.6. The subject site is situated in Dublin City and urban in character, bound by City Quay to the north, Moss Street to the west and Gloucester Street South to the south. The site is c.15m away from the River Liffey, separated from the river by footpaths and roadways. The subject site is brownfield and formed of derelict buildings fronting City Quay and Moss Street as well as surface car park area. The site itself is not situated within a European site, the closest Natura 2000 site being 1.9km away at South Dublin Bay and River Tolka Estuary SPA.

9.7. I have had regard to the submitted Appropriate Assessment Screening Report, which identifies that while the site is not located directly within any European site, there are a number of European sites sufficiently proximate or linked to the site to require consideration of potential effects, including in consideration of hydrological connections via the River Liffey. These are listed below with approximate distance to the application site indicated:

- South Dublin Bay SAC (2.8km);
- North Dublin Bay SAC (4.8km);
- Baldoyle Bay SAC (9.8km);
- Howth Head SAC (10.5km);
- Rockabill to Dalkey Island SAC (10.7km);
- Wicklow Mountains SAC (12.1km);
- Glenasmole Valley SAC (12.4km);
- Malahide Estuary SAC (12.8km);
- Ireland's Eye SAC (13.7km);
- South Dublin Bay and River Tolka Estuary SPA (1.9km);
- North Bull Island SPA (4.8km);
- Baldoyle Bay SPA (10km);
- Wicklow Mountains SPA (12.4km);
- Malahide Estuary SPA (12.8km);
- Dalkey Islands SPA (12.8km);

- Irelands Eye SPA (13.5km);
- Howth Head Coast SPA (13.7km).

9.8. The specific qualifying interests and conservation objectives of the above sites are described below. In carrying out my assessment I have had regard to the nature and scale of the project, the distance from the site to European sites, and any potential pathways which may exist from the development site to a European site, as well as the information on file, including observations on the application made by prescribed bodies and Third Parties, and I have also visited the site.

9.9. The qualifying interests of all European sites considered are listed below:

Table 9.1: European Sites/Location and Qualifying Interests

Site (site code) and Conservation Objectives	Qualifying Interests/Species of Conservation Interest (Source: EPA / NPWS)
<p>South Dublin Bay SAC (0210)</p> <p>To maintain the favourable conservation condition of qualifying interests/species of conservation interest for which the SAC has been selected.</p>	<p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Annual vegetation of drift lines [1210]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Embryonic shifting dunes [2110]</p>
<p>North Dublin Bay SAC (0206)</p> <p>To maintain or restore the favourable conservation condition of qualifying interests/species of conservation interest for which the SAC has been selected.</p>	<p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Annual vegetation of drift lines [1210]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Atlantic salt meadows (<i>Glauco-Puccinellietalia maritima</i>) [1330]</p> <p>Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]</p> <p>Embryonic shifting dunes [2110]</p> <p>Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120]</p>

	<p>Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]</p> <p>Humid dune slacks [2190]</p> <p>Petalophyllum ralfsii (Petalwort) [1395]</p>
<p>Baldoyle Bay SAC (0199)</p> <p>To maintain the favourable conservation condition of qualifying interests/species of conservation interest for which the SAC has been selected.</p>	<p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Atlantic salt meadows (Glauco-Puccinellietalia maritima) [1330]</p> <p>Mediterranean salt meadows (Juncetalia maritimi) [1410]</p>
<p>Howth Head SAC (0202)</p> <p>To maintain the favourable conservation condition of qualifying interests/species of conservation interest for which the SAC has been selected.</p>	<p>Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]</p> <p>European dry heaths [4030]</p>
<p>Rockabill to Dalkey Island SAC (3000)</p> <p>To maintain the favourable conservation condition of qualifying interests/species of conservation interest for which the SAC has been selected.</p>	<p>Reefs [1170]</p> <p>Phocoena phocoena (Harbour Porpoise) [1351]</p>
<p>Wicklow Mountains SAC (2122)</p> <p>To maintain or restore the favourable conservation condition of qualifying interests/species of</p>	<p>Oligotrophic waters containing very few minerals of sandy plains (Littorelletalia uniflorae) [3110]</p> <p>Natural dystrophic lakes and ponds [3160]</p> <p>Northern Atlantic wet heaths with Erica tetralix [4010]</p> <p>European dry heaths [4030]</p>

<p>conservation interest for which the SAC has been selected.</p>	<p>Alpine and Boreal heaths [4060]</p> <p>Calaminarian grasslands of the <i>Violetalia calaminariae</i> [6130]</p> <p>Species-rich <i>Nardus</i> grasslands, on siliceous substrates in mountain areas (and submountain areas, in Continental Europe) [6230]</p> <p>Blanket bogs (* if active bog) [7130]</p> <p>Siliceous scree of the montane to snow levels (<i>Androsacetalia alpinae</i> and <i>Galeopsietalia ladani</i>) [8110]</p> <p>Calcareous rocky slopes with chasmophytic vegetation [8210]</p> <p>Siliceous rocky slopes with chasmophytic vegetation [8220]</p> <p>Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles [91A0]</p> <p><i>Lutra lutra</i> (Otter) [1355]</p>
<p>Glenasmole Valley SAC (1209)</p> <p>To restore the favourable conservation condition of qualifying interests/species of conservation interest for which the SAC has been selected.</p>	<p>Semi-natural dry grasslands and scrubland facies on calcareous substrates (<i>Festuco-Brometalia</i>) (* important orchid sites) [6210]</p> <p><i>Molinia</i> meadows on calcareous, peaty or clayey-silt-laden soils (<i>Molinion caeruleae</i>) [6410]</p> <p>Petrifying springs with tufa formation (<i>Cratoneurion</i>) [7220]</p>
<p>Malahide Estuary SAC (0205)</p> <p>To maintain or restore the favourable conservation condition of qualifying</p>	<p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p><i>Salicornia</i> and other annuals colonising mud and sand [1310]</p> <p>Atlantic salt meadows (<i>Glauco-Puccinellietalia maritimae</i>) [1330]</p>

<p>interests/species of conservation interest for which the SAC has been selected.</p>	<p>Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]</p> <p>Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120]</p> <p>Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]</p>
<p>Ireland's Eye SAC (2193)</p> <p>To maintain the favourable conservation condition of qualifying interests/species of conservation interest for which the SAC has been selected.</p>	<p>Perennial vegetation of stony banks [1220]</p> <p>Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]</p>
<p>South Dublin Bay and River Tolka Estuary SPA (4024)</p> <p>To maintain the favourable conservation condition of qualifying interests/species of conservation interest for which the SPA has been selected.</p>	<p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]</p> <p>Oystercatcher (<i>Haematopus ostralegus</i>) [A130]</p> <p>Ringed Plover (<i>Charadrius hiaticula</i>) [A137]</p> <p>Grey Plover (<i>Pluvialis squatarola</i>) [A141]</p> <p>Knot (<i>Calidris canutus</i>) [A143]</p> <p>Sanderling (<i>Calidris alba</i>) [A144]</p> <p>Dunlin (<i>Calidris alpina</i>) [A149]</p> <p>Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157]</p> <p>Redshank (<i>Tringa totanus</i>) [A162]</p> <p>Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179]</p> <p>Roseate Tern (<i>Sterna dougallii</i>) [A192]</p> <p>Common Tern (<i>Sterna hirundo</i>) [A193]</p> <p>Arctic Tern (<i>Sterna paradisaea</i>) [A194]</p> <p>Wetland and Waterbirds [A999]</p>
<p>North Bull Island SPA (4006)</p> <p>To maintain the favourable conservation condition of qualifying interests/species</p>	<p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]</p> <p>Shelduck (<i>Tadorna tadorna</i>) [A048]</p> <p>Teal (<i>Anas crecca</i>) [A052]</p> <p>Pintail (<i>Anas acuta</i>) [A054]</p> <p>Shoveler (<i>Anas clypeata</i>) [A056]</p>

<p>of conservation interest for which the SPA has been selected.</p>	<p>Oystercatcher (<i>Haematopus ostralegus</i>) [A130] Golden Plover (<i>Pluvialis apricaria</i>) [A140] Grey Plover (<i>Pluvialis squatarola</i>) [A141] Knot (<i>Calidris canutus</i>) [A143] Sanderling (<i>Calidris alba</i>) [A144] Dunlin (<i>Calidris alpina</i>) [A149] Black-tailed Godwit (<i>Limosa limosa</i>) [A156] Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157] Curlew (<i>Numenius arquata</i>) [A160] Redshank (<i>Tringa totanus</i>) [A162] Turnstone (<i>Arenaria interpres</i>) [A169] Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179] Wetland and Waterbirds [A999]</p>
<p>Baldoyle Bay SPA (4016)</p> <p>To maintain the favourable conservation condition of qualifying interests/species of conservation interest for which the SPA has been selected.</p>	<p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046] Shelduck (<i>Tadorna tadorna</i>) [A048] Ringed Plover (<i>Charadrius hiaticula</i>) [A137] Golden Plover (<i>Pluvialis apricaria</i>) [A140] Grey Plover (<i>Pluvialis squatarola</i>) [A141] Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157] Wetland and Waterbirds [A999]</p>
<p>Wicklow Mountains SPA (4040)</p> <p>To maintain or restore the favourable conservation condition of qualifying interests/species of conservation interest for which the SPA has been selected.</p>	<p>Merlin (<i>Falco columbarius</i>) [A098] Peregrine (<i>Falco peregrinus</i>) [A103]</p>
<p>Malahide Estuary SPA (4025)</p>	<p>Great Crested Grebe (<i>Podiceps cristatus</i>) [A005] Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]</p>

<p>To maintain the favourable conservation condition of qualifying interests/species of conservation interest for which the SPA has been selected.</p>	<p>Shelduck (<i>Tadorna tadorna</i>) [A048] Pintail (<i>Anas acuta</i>) [A054] Goldeneye (<i>Bucephala clangula</i>) [A067] Red-breasted Merganser (<i>Mergus serrator</i>) [A069] Oystercatcher (<i>Haematopus ostralegus</i>) [A130] Golden Plover (<i>Pluvialis apricaria</i>) [A140] Grey Plover (<i>Pluvialis squatarola</i>) [A141] Knot (<i>Calidris canutus</i>) [A143] Dunlin (<i>Calidris alpina</i>) [A149] Black-tailed Godwit (<i>Limosa limosa</i>) [A156] Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157] Redshank (<i>Tringa totanus</i>) [A162] Wetland and Waterbirds [A999]</p>
<p>Dalkey Islands SPA (4172)</p> <p>To maintain or restore the favourable conservation condition of qualifying interests/species of conservation interest for which the SPA has been selected.</p>	<p>Roseate Tern (<i>Sterna dougallii</i>) [A192] Common Tern (<i>Sterna hirundo</i>) [A193] Arctic Tern (<i>Sterna paradisaea</i>) [A194]</p>
<p>Ireland's Eye SPA (4117)</p> <p>To maintain or restore the favourable conservation condition of qualifying interests/species of conservation interest for which the SPA has been selected.</p>	<p>Cormorant (<i>Phalacrocorax carbo</i>) [A017] Herring Gull (<i>Larus argentatus</i>) [A184] Kittiwake (<i>Rissa tridactyla</i>) [A188] Guillemot (<i>Uria aalge</i>) [A199] Razorbill (<i>Alca torda</i>) [A200]</p>
<p>Howth Head Coast SPA (4113)</p>	<p>Kittiwake (<i>Rissa tridactyla</i>) [A188]</p>

<p>To maintain or restore the favourable conservation condition of qualifying interests/species of conservation interest for which the SPA has been selected.</p>	
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9.10. The above Table 9.1 reflects the EPA and National Parks and Wildlife Service (NPWS) list of qualifying interests for the SAC/SPA areas requiring consideration.

9.11. Potential Effects on Designated Sites

9.12. The submitted report identifies any pathways or links from the subject site to European Sites considered in this screening assessment, and I summarise this below.

9.13. The subject site does not overlap directly with any European site and therefore there is no risk of direct habitat loss or fragmentation to occur as a result of the proposed development. The subject site does not support populations of any fauna species linked to the qualifying interest (QI) populations of European sites and this is supported by site surveys summarised in the submitted screening report. There is potential for a hydrological pathway via the River Liffey from the subject site and potential surface water discharge during construction and operational phases, to South Dublin Bay SAC, South Dublin Bay and River Tolka Estuary SPA, North Dublin Bay SAC, and North Bull Island SPA. While there is also a hydrological pathway to Baldoyle Bay SAC, Howth Head SAC, Rockabill to Dalkey Island SAC, Malahide Estuary SAC, Ireland’s Eye SAC, Baldoyle Bay SPA, Malahide Estuary SPA, Dalkey Islands SPA, Ireland’s Eye SPA and Howth Head Coast SPA, given the distance to these European sites, any silt or pollutants will settle, be dispersed, or diluted within the marine environment. It is also noted that the qualifying interest (QI) for Howth Head SAC are terrestrial habitats and the Harbour Porpoise (a QI for Rockabill to Dalkey Island SAC) is a mobile species that would avoid water impacted by surface water contamination. There is no direct or indirect pathway to Wicklow Mountains SAC, Glenasmole Valley SAC and Wicklow Mountains SPA.

9.14. The submitted report states that mitigation measures are required to prevent silt, hazardous materials and petrochemicals entering the River Liffey, which has a direct pathway to European sites at South Dublin Bay, North Dublin Bay and North Bull

island. This is specifically in light of the close proximity of demolition works to the River Liffey (15m). The potential is noted for dust and surface water runoff to enter the River Liffey with the potential for downstream impacts on the qualifying interests of the aforementioned European sites. The report notes that extensive mitigation measures are required to ensure that dust and contaminated surface water runoff does not enter the River Liffey. The report also notes that the works will be carried out within an extensive urban environment with existing disturbance and traffic noise impacts, in addition to a busy working port with vessel activity and noise would not be seen to be significant in the context of this highly disturbed environment. However, mitigation is also stated to be required to prevent heightened noise levels produced by construction and operational phases of development impacting on the protected bird species at South Dublin Bay and River Tolka Estuary SPA, and North Bull Island SPA.

9.15. I note that while the Local Authority acknowledged the applicants proposed mitigation to prevent significant impact on surface water that is linked to European sites via the River Liffey, it concluded that based upon the submitted Screening Report, no significant effects are likely on European sites, their features of interest or conservation objectives and the project will not adversely affect the integrity of European sites, as such a Stage 2 Appropriate Assessment would not be required.

9.16. I also note that the incorporation of measures to prevent contamination of surface waters is applied as standard for development works, particularly at the scale of the proposed development. During both the construction and operational phase, the implementation of best practice measures will prevent dust and harmful discharges into the hydrological network, and most of the measures comprise best practice measures rather than being specifically designed to react to unique construction related impacts arising from the proposed development. These measures are not designed or intended specifically to mitigate any putative potential effect on European sites. They constitute the standard approach for construction works in an urban area and are incorporated into development design as part of necessary surface water management systems including SuDS. However, the applicant has stated that 'out of an abundance of caution' it is considered that there is the potential for contaminated surface water runoff to enter the River Liffey during construction and operation and impact on the integrity of Natura 2000 sites located within Dublin Bay. As a result, specific mitigation is required given the site-specific circumstances of this individual project, at significant scale and proximate to a river with a direct hydrological link to European sites, and I discuss this

further as part of my stage 2 Appropriate Assessment below. As a result of this requirement for specific mitigation, I disagree with the Local Authority conclusion in relation to screening for AA as set out above and in section 3.3.

9.17. However, during operation, the measures described relate to surface water management in the form of SuDS. The inclusion of SuDS measures in the design of development would be necessary for any large-scale development regardless of proximity or connections to any European site or any intention to protect a European site. While the subject site is situated 15m away from the River Liffey, the intervening area is formed of hardstanding footpath and roadways (including street drains) where discharges would disperse during operation. Any discharges would also be further diluted and dispersed in the marine environment in the event that there was escape into the river, noting that the inclusion of SuDs will prevent and treat discharges to prevent contamination. In other words, these measures would be applied to any similar project of the scale of the proposal, regardless of proximity to rivers with hydrological links to European sites. As such a stage 2 Appropriate Assessment is not required in relation to surface water discharges during operation.

9.18. In relation to protected bird species associated with European sites, the Appendix II of the submitted report includes a Winter Bird Survey and Flightline Assessment. This presents the results of surveys undertaken at the site which demonstrate that the site is not an ex-situ foraging or roosting site for species of qualifying interest from nearby Special Protection Areas (SPA's) European sites. The results also support a conclusion that the site is not a regular flightline path for species such as Brent Geese or other species of significant interest. The report concludes that Brent Geese follow the Tolka River from the coast as a route to navigate towards feeding grounds inland and therefore are some distance from the subject site. It is also outlined in table 2 of the submitted report that the design of the proposed building is 'bird friendly' with applied etching and/or printed lamination the glazed elements, providing visual cues that help birds read the surface as solid, and therefore avoid. These visual cues are difficult to read from a distance and therefore do not impact the overall aesthetic of the proposal, whilst also forming part of the solar control measures for the building.

9.19. In relation to the suggestion in the submitted screening report that mitigation is required to prevent heightened noise levels produced by construction and operational phases of development, with resultant impact on the protected bird species, (table 2 European sites 4020 & 4006), this is not carried through to the conclusion of the

screening report, nor is it reflected in impacts or mitigation set out in the submitted NIS. The submitted EIAR sets out mitigation required with respect to noise and impact upon noise sensitive receptors, largely formed of surrounding residential and educational uses. The measures described in the submitted EIAR to prevent and control noise levels during construction and operation are not designed to prevent impact upon QIs for European sites. In my view, the site is situated in the centre of a capital city where noise from traffic and other urban activities, including construction, are an ever-present feature. Surveys submitted with the application demonstrate that the site is not situated on a flightline or form an ex-situ habitat for protected bird species / QIs of European sites, and therefore stage 2 Appropriate Assessment is not required with respect to this issue in my view.

9.20. The submitted report does not directly address wastewater treatment, however the EIAR in chapter 6 and submitted Engineering Report confirms proposals for discharge to Ringsend Wastewater Treatment Plant (WwTP). Emissions from the plant have been recorded as not being in compliance with the Urban Wastewater Treatment Directive. However, the increase in loading to the WwTP as a result of the proposed development would be insignificant in terms of the overall scale of the WwTP (as outlined in the submitted Engineering Assessment and EIAR). Such an increase would also not have the capacity to alter the effluent released for the WwTP to such an extent as to result in likely significant effects on the European sites connected hydrologically with the WwTP. In addition, upgrade works are currently on-going at Ringsend WwTP. The Ringsend WwTP has been granted permission under section 37G of the Planning and Development Act 2000 (Board Order ABP-301798-18), 10-year permission for development comprising revisions and alterations to the existing and permitted development at the Ringsend Wastewater Treatment Plant and for a new Regional Biosolids Storage Facility, being two components of an integrated wastewater treatment facility. These works will bring the capacity of the Wastewater Treatment Plant from its current 1.9 million PE to 2.4 million PE. It should also be noted that regardless of the completion of these works, the proposed development is not anticipated to have significant impact on European sites.

9.21. AA Screening Conclusion

9.22. I concur with the conclusion of the applicant's screening, in part, with respect to the possibility for significant effects on European sites at South Dublin Bay SAC, South

Dublin Bay and River Tolka Estuary SPA, North Dublin Bay SAC, and North Bull Island SPA with respect to the following:

- The potential for contaminated surface water runoff to enter the River Liffey during construction, with the potential for downstream impacts on the qualifying interests of the aforementioned European sites. This is specifically in light of the close proximity of demolition works to the River Liffey (15m) and the scale of the project proposed.

9.23. The specific conservation objectives and qualifying interest of the habitats for the potentially effected European sites relate to range, structure and conservation status. The specific conservation objectives for the species highlighted for the potentially effected European sites relate to population trends, range and habitat extent. Potential effects arising from emissions associated with the construction of the proposed development have been highlighted above, which have the potential to affect the conservation objectives supporting the qualifying interest / special conservation interests of the European sites identified. As such, likely effects on South Dublin Bay SAC, South Dublin Bay and River Tolka Estuary SPA, North Dublin Bay SAC, and North Bull Island SPA cannot be ruled out, having regard to the sites' conservation objectives, and a Stage 2 Appropriate Assessment is required.

9.24. I am satisfied that other potential impacts can be discounted upon South Dublin Bay SAC, South Dublin Bay and River Tolka Estuary SPA, North Dublin Bay SAC, and North Bull Island SPA, as the incorporation of standard surface water management/SuDS measures through the design of the proposed development will prevent contaminated discharges during operation, and given the characteristics of the site, no specific noise mitigation is required to prevent impact upon QIs of European sites. In this sense, I disagree with the applicant's submitted screening report.

9.25. In relation to the remaining SAC areas considered, taking into consideration the distance between the proposed development site to these designated European sites, the lack of a direct hydrological pathway with the potential to facilitate significant effect, or any other pathway or link to these European sites, as well as the dilution and dispersal effects, it is reasonable to conclude that on the basis of the information on file, which I consider adequate in order to issue a screening determination, that the construction and operation of the proposed development, individually or in combination with other plans or projects, would not be likely to have an adverse effect on the

conservation objectives or features of interest of Baldoyle Bay SAC, Howth Head SAC, Rockabill to Dalkey Island SAC, Malahide Estuary SAC, Ireland's Eye SAC, Baldoyle Bay SPA, Malahide Estuary SPA, Dalkey Islands SPA, Ireland's Eye SPA and Howth Head Coast SPA. Furthermore, there is no direct or indirect pathway to Wicklow Mountains SAC, Glenasmole Valley SAC and Wicklow Mountains SPA. Therefore, I agree with the applicant's submitted screening report that a Stage 2 Appropriate Assessment is not required with respect to these aforementioned European sites.

9.26. Stage 2 – Appropriate Assessment

9.27. The submitted NIS identifies the potential for negative effects upon South Dublin Bay SAC, South Dublin Bay and River Tolka Estuary SPA, North Dublin Bay SAC, and North Bull Island SPA as a result of the proposed development. I have already outlined above why I consider that only effects relating to construction and potential surface water discharges should be considered as part of an Appropriate Assessment of the proposed development.

9.28. The site-specific conservation objectives and qualifying interests / species of conservation interests of South Dublin Bay SAC, South Dublin Bay and River Tolka Estuary SPA, North Dublin Bay SAC, and North Bull Island SPA are summarised above in table 9.1. The NIS provides a description of South Dublin Bay SAC, South Dublin Bay and River Tolka Estuary SPA, North Dublin Bay SAC, and North Bull Island SPA and the potential effects of the proposed development, alongside any required mitigation to avoid adverse effects. A conclusion on residual impact is then provided. A summary of this assessment is set out below.

9.29. South Dublin Bay SAC: The site lies south of the River Liffey and extends from the south wall to the west pier at Dun Laoghaire. It is an intertidal site with extensive areas of sand and mudflats. The sediments are predominantly sands but grade to sandy muds near the shore at Merrion Gates. The main channel which drains the area is Cockle Lake. It is an important site for waterfowl. The site is a fine example of a coastal system, with extensive sand and mudflats, and incipient dune formations. It is an internationally important bird site.

9.30. South Dublin Bay and River Tolka Estuary SPA: The site is an important site for wintering waterfowl, being an integral part of the internationally important Dublin Bay complex. It regularly has internationally important populations of birds.

9.31. North Dublin Bay SAC: The site covers the inner part of north Dublin Bay, the seaward boundary extending from the Bull Wall lighthouse across to the Martello Tower at Howth Head. The site is an excellent example of a coastal site with all the main habitats represented. The site holds good examples of nine habitats that are listed on Annex I of the EU Habitats Directive; one of these is listed with priority status. Several of the wintering bird species have populations of international importance, which some of the invertebrates are of national importance. The site contains a number of rare and scarce plants including some of which are legally protected.

9.32. North Bull Island SPA: The site is internationally important for waterfowl on the basis that it regularly supports excess of 20,000 waterfowl. It is an excellent example of an estuarine complex and is one of the top sites in Ireland for wintering waterfowl.

9.33. Potential effects are set out in table 8 of the submitted report. Demolition works have the potential for downstream impacts on aquatic biodiversity through the introduction of silt and petrochemicals. Existing drainage networks on site, surface water runoff, haulage, storage of topsoil or works in the vicinity of the drainage networks onsite could lead to dust, hazardous material, soil or silt laden runoff entering the adjacent River Liffey with downstream impacts on European sites at Dublin Bay. Concrete production (if required on site) or cement works, use of plant and machinery and storage of construction materials, oils, fuels and chemicals, could lead to pollution of adjacent watercourses. In the absence of mitigation measures there is the potential to impact on the distribution number and range of qualifying interests for European sites at Dublin Bay.

9.34. Table 9 outlines proposed mitigation measures. The measures described relate to a range of precautions and management measures to be implemented as part of demolition and construction works on the site, and are largely best practice measures, to be undertaken as part of a Construction and Environmental Management Plan for the proposed development. In addition to this, the following site-specific mitigation measures are outlined:

- A project ecologist will be appointed and consulted in relation to all onsite drainage during works. Consultation with the project ecologist will not involve the formulation of new mitigation measures for the purposes of protecting any European Site, and relate only to the implementation of those mitigation

measures already stated in the submission of the formulation of mitigation for other purposes.

- All demolition and site clearance works methodologies will have prior approval of a project ecologist.
- Staging of the project will be carried out to reduce risks or onsite drainage to the River Liffey and subject to approval of project ecologist.
- Upon lifting of the concrete slab/hard standing and removal of the building on site, the soils will be assessed for contamination prior to any site discharge.
- Local drainage connections, gullies and watercourses will be protected from dust, silt and surface water throughout the works.
- All onsite drainage network connections will be blanked off and sealed at the first phase of the demolition works.
- There will be no entry of solids or petrochemicals to the drainage network during works.

9.35. With the application of the mitigation measures outlined in the NIS and summarised above, the NIS concludes that the project will not, alone or in-combination with other plans or projects, result in adverse effects to the integrity and conservation status of European Sites. I am satisfied with the data presented in the submitted NIS and concur with the conclusions reached with regard to the proposed mitigation measures and the overall potential significance of impact to South Dublin Bay SAC, South Dublin Bay and River Tolka Estuary SPA, North Dublin Bay SAC, and North Bull Island SPA

9.36. In-combination Effects

9.37. The submitted report considers planning applications listed as granted or decision pending located in close proximity to the subject site in table 4. Two large scale applications are specifically highlighted (2711/17 and 4805/19), which included screenings for AA which concluded that no significant impact would arise upon European sites. The report concludes in combination effects would be unlikely, neutral, not significant and localised. Therefore, no significant effects on European sites will be seen as a result of the proposed development in combination with other projects.

9.38. I am satisfied that there are no projects or plans which can act in combination with this development that could give rise to any significant effect to any European Sites.

9.39. AA determination – Conclusion

- 9.40. The proposed development has been considered in light of the assessment requirements of Sections 177U and 177V of the Planning and Development Act 2000 as amended.
- 9.41. Having carried out a Stage 1 Appropriate Assessment Screening of the proposed development, it was concluded that likely adverse effects on South Dublin Bay SAC, South Dublin Bay and River Tolka Estuary SPA, North Dublin Bay SAC, and North Bull Island SPA could not be ruled out, due to proximity to these European sites and potential hydrological links to the subject site. Consequently, an Appropriate Assessment was required of the implications of the project on the qualifying features of those sites in light of their conservation objectives.
- 9.42. Following a Stage 2 Appropriate Assessment, with submission of a NIS, it has been determined that subject to mitigation (which is known to be effective) relating to protecting water quality during construction, the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of the European sites, South Dublin Bay SAC, South Dublin Bay and River Tolka Estuary SPA, North Dublin Bay SAC, and North Bull Island SPA, or any other European site, in view of the sites Conservation Objectives.
- 9.43. This conclusion is based on a complete assessment of all aspects of the proposed project, both alone and in combination with other plans and projects, and it has been established beyond scientific reasonable doubt that there will be no adverse effects.

10.0 Conclusion

- 10.1. The proposed development is for a landmark tower on a city centre site situated within a SDRA, where Policy SC16 under the Dublin City Development Plan 2022-2028 supports increased height in appropriate locations. The proposed development conforms with the land use zoning for the site and incorporates a new Arts/Cultural Centre in accordance with policies/objectives CU12, CUO25 and CUO31 in the Development Plan. The proposed development would also result in positive economic impact and provide modern office floorspace in accordance with policies CEE3 and CEE21 of the Development Plan.

10.2. The proposed tower successfully incorporates criteria under section 3.2 of the Building Height Guidelines and accords with performance criteria set out in tables 3 and 4 of Appendix 3 of the Dublin City Development Plan 2022-2028. The proposed high quality architectural design and finish ensure that the overall visual contribution to Dublin's city skyline will be positive and contribute to the cluster of existing and emerging higher buildings in the area where the site is situated. While of a significant scale, the proposal will not overwhelm or overbear surrounding areas. It is situated on a site that is appropriate for a taller building, and with modulation to both its plan form and vertically across the structure to create visual interest in its built form. The proposal therefore accords with policies SC17 and SC18 of the Development Plan. A detailed assessment of visual and heritage impact has been carried out and determined that overall, there will be no harm to the setting and/or character of heritage assets in the area, and particularly the Customs House, in accordance with policy SC17 of the Development Plan, as well as the Architectural Heritage Protection Guidelines. While increased overshadowing and loss of daylight will result in some cases to surrounding areas, this reduction in light and increased shading is commensurate with the impact that would be experienced even if the proposed development were at a significantly reduced scale. The proposal also incorporates compensatory design measures, contributes towards regeneration of the area, renewal of the subject site which is derelict, and contributing positively to the repair of the streetscape in accordance with criteria under section 3.2 of the Building Height Guidelines.

10.3. An Environmental Impact Assessment and Appropriate Assessment has been carried out and determined that with the incorporation of mitigation, no significant negative impact results with respect to environmental considerations, and there would be no harm to the integrity of any European site.

10.4. Overall, the proposed development conforms with national, regional and local planning policies.

11.0 Recommendation

11.1. I recommend permission be GRANTED subject to the following conditions.

12.0 Reasons and Considerations

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

(a) the location of the site in the established city centre area of Dublin City in an area zoned Z5 City Centre, where the proposed arts/cultural centre, gym and office use are permissible uses under the zoning. As well as the location of the site in Strategic Development Regeneration Area (SDRA) 6 Docklands.

(b) the policies and objectives of the Dublin City Development Plan 2022-2028;

(c) Urban Development and Building Heights Guidelines for Planning Authorities, prepared by the Department of Housing, Planning and Local Government in December 2018;

(d) Architectural Heritage Protection- Guidelines for Planning Authorities 2011;

(e) The nature, scale and design of the proposed development and the availability in the area of public transport and services;

(j) The planning history of the area, as well as the pattern of existing and permitted development in the area;

(k) The context of the area, and consideration of Protected Structures in, and proximate to, the site (particularly the Customs House);

(l) The submissions and observations received;

(m) The report of the inspector.

The Board considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure amenity in the area, would be appropriate to the city centre and historic context of the site and would otherwise be acceptable in terms of pedestrian and traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment: Stage 1

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 area, the Screening for Appropriate Assessment and Natura Impact Statement Report 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 an adverse effect on any European Site in view of the conservation objectives of such sites, other than South Dublin Bay SAC, South Dublin Bay and River Tolka Estuary SPA, North Dublin Bay SAC, and North Bull Island SPA, which were European sites where the likelihood of adverse effects could not be ruled out.

Appropriate Assessment: Stage 2

The Board considered the Natura Impact Statement and all other relevant submissions on the file and carried out an Appropriate Assessment of the implications of the proposed development on South Dublin Bay SAC, South Dublin Bay and River Tolka Estuary SPA, North Dublin Bay SAC, and North Bull Island SPA, in view of those sites conservation objectives. The Board considered that the information before it was adequate to allow the carrying out of an Appropriate Assessment.

In completing the appropriate assessment, the Board considered, in particular, the following:

- a) the site-specific conservation objectives for the European site,
- b) the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects, and in particular the risk of impacts on water quality,
- c) the mitigation measures which are included as part of the current proposal.

In completing the Appropriate Assessment, the Board accepted and adopted the Appropriate Assessment carried out in the Inspector's report in respect of the potential effects of the proposed development on the aforementioned European Site, having regard to the site's conservation objectives.

In overall conclusion, the Board was satisfied that the proposed development, by itself or in combination with other plans or projects, would not adversely affect the integrity of the European Site in view of the site's conservation objectives. This conclusion is based on a complete assessment of all aspects of the proposed project and there is no reasonable scientific doubt as to the absence of adverse effects.

This conclusion is based on the measures identified to control the quality of surface water discharges which provide for the interception of silt and other contaminants prior to discharge from the site during construction phase.

Environmental Impact Assessment

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

- (a) the nature, scale and extent of the proposed development,
- (b) the Environmental Impact Assessment Report and associated documentation submitted in support of the application,
- (c) the submissions from the Planning Authority, the observers and prescribed bodies in the course of the application,
- (d) the Inspector's report.

The Board considered that the Environmental Impact Assessment Report, supported by the documentation submitted by the applicant identifies and describes adequately the direct, indirect and cumulative effects of the proposed development on the environment. The Board is satisfied that the information contained in the Environmental Impact Assessment Report complies with the provisions of EU Directive 2014/52/EU amending Directive 2011/92/EU.

The Board agreed with the summary and examination, set out in the Inspector's report, of the information contained in the Environmental Impact Assessment Report and associated documentation submitted by the applicant and submissions made in the course of the application. The Board is satisfied that the Inspector's report sets out how these were addressed in the assessment and recommendation (including environmental conditions) and are incorporated into the Board's decision.

Reasoned Conclusion on the Significant Effects

Having regard to the examination of environmental information contained above, and in particular to the EIAR and supplementary information provided by the developer, and the submissions from the planning authority, prescribed bodies and observers in the course of the application and appeal, it is considered that the main significant direct and indirect effects of the proposed development on the environment are as follows:

Population and human health – During both demolition/construction and operation phases positive economic and employment effects on business and residences is anticipated. With the application of mitigation, largely comprising implementation of a Construction Environmental Management Plan, no significant residual effect upon human health / safety is expected, with the exception of negative, moderate to

significant, short-term impact anticipated from noise and vibration during construction and as addressed separately as part of the considerations of noise in the EIAR. Impact from construction upon population and human health will be within acceptable limits considering the city centre location of the site, with the application of mitigation.

Biodiversity – With the application of mitigation, including consultation with an ecologist, works carried out outside bird nesting season, a pre-demolition/construction survey for bats and implementation of a Construction Environmental Management Plan, no significant environment impacts are likely in relation to the construction of the proposed development. There will be no significant ecological or environmental impacts arising from the operation of the development. Standard operational phase control measures are outlined and the proposed project does not impact on species or habitats of conservation importance, conservation areas or watercourses.

Land, soils, geology, water, air quality or climate - With the implementation of mitigation through management measures in a Construction Environmental Management Plan, as well as surface water management, attenuation and drainage of foul waters, there is no risk of significant negative impacts. While construction works invariably lead to some disturbance, this is short-term and reflective of impact that would generally be experienced across brownfield development sites in the city.

Noise and vibration – Mitigation includes adherence to regulations for the control and abatement of noise during construction and the implementation of a Construction Environmental Management Plan. During construction and with mitigation in place, impact is predicted to be negative, moderate to significant and temporary. There are no residual significant vibration impacts. During operation, residual effect is neutral, not significant and long-term with respect to plant, which will be selected and located to minimise noise impact. Negative, not significant and long-term impact is also predicted with respect to traffic during operation. Impact from construction upon noise sensitive receptors is considered to be acceptable considering the city centre location of the site and short-term nature of construction activities.

Material Assets – Transportation – Imperceptible impact is predicted for both the cycling and pedestrian network, during both construction and operation. Similarly, access to public transport options serving the site will not be impacted by the

development during either construction or operation phase. There will also be an imperceptible impact on the road network, in terms of link and junction capacity for the operational and future years accounting for cumulative traffic growth. No mitigation is required.

Material Assets – Archaeology and cultural heritage –With the implementation of mitigation, comprising archaeological monitoring and investigation/protection, no residual impact on archaeological heritage is anticipated to result. There is no negative impact caused by the removal of the historic derelict buildings due to the creation of a detailed record prior to their demolition. There will be slight and moderate residual negative effects upon the architectural heritage during the operation of the development, due to the visibility of the proposed tower. However, the subject site is demonstrated to be well-suited for a landmark building and will have a positive effect overall when considering the overall quality and character of the townscape where it is located.

Material Assets – Waste - Mitigation comprises implementation of a Construction Waste Management Plan and Operational Waste Management Plan which will minimise waste production and maximise waste recycling. With mitigation in place, residual impact is predicted to be over the short and long term, imperceptible and neutral.

Landscape and visual impacts – There is no mitigation proposed beyond that already embedded in the design and high-quality architectural finish proposed. No significant negative permanent impact is identified, with short-term temporary negative impact predicted during the construction phase only, which is consistent with the impact resulting from any development site in an urban area. The proposed development will in result in neutral or positive impact upon the visual and townscape character of the area, and the design appropriately responds to surrounding sensitive receptors.

13.0 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.
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	<p>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, or as otherwise stipulated by conditions hereunder, 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.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>The period during which the development hereby permitted may be carried out shall be 10 years from the date of this order.</p> <p>Reason: Having regard to the nature of the development, the Board considers it appropriate to specify a period of validity of this permission in excess of five years.</p>
3.	<p>Mitigation and monitoring measures outlined in the plans and particulars, including the Environmental Impact Assessment Report submitted with this application, shall be carried out in full, except where otherwise required by conditions attached to this permission.</p> <p>Reason: In the interest of protecting the environment and in the interest of public health.</p>
4.	<p>Details of the materials, colours and textures of all the external finishes to the proposed building shall be presented and 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.</p> <p>Reason: In the interest of visual amenity.</p>
5.	<p>Details of all security shuttering, lighting and signage shall be as submitted to An Bord Pleanála with this application unless otherwise submitted to, and agreed in writing with, the planning authority prior to-occupation of the development units.</p>

	<p>Reason: In the interest of the amenities of the area/visual amenity.</p>
6.	<p>No advertisement or advertisement structure shall be erected or displayed on the building (or within the curtilage of the site) in such a manner as to be visible from outside the building, unless authorised by a further grant of planning permission.</p> <p>Reason: In the interest of visual amenity.</p>
7.	<p>Prior to any additional development taking place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, details to be submitted to, and approved in writing by, the Planning Authority.</p> <p>Reason: To protect the visual amenities of the area.</p>
8.	<p>Comprehensive details of the proposed public lighting system to serve the development shall be submitted to and agreed in writing with the planning authority, prior to commencement of development/installation of the lighting. The agreed lighting system shall be fully implemented and operational, before the proposed development is made available for occupation.</p> <p>Reason: In the interest of public safety and visual amenity.</p>
9.	<p>Public realm works, footpaths and kerbs, and access to the service area and the underground car park, shall be in accordance with the detailed construction standards of the planning authority for such works. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.</p> <p>Reason: In the interest of amenity and of traffic and pedestrian safety.</p>
10.	<p>A minimum of 20% of all car parking spaces should be provided with EV charging stations/points, and ducting shall be provided for all remaining car</p>

	<p>parking spaces facilitating the installation of EV charging points/stations at a later date. Where proposals relating to the installation of EV ducting and charging stations/points has not been submitted with the application, in accordance with the above noted requirements, the development shall submit such proposals shall be submitted and agreed in writing with the Planning Authority prior to the occupation of the development.</p> <p>Reason: To provide for and/or future proof the development such as would facilitate the use of Electric Vehicles.</p>
11.	<p>Details to be submitted to the Planning Authority and approved in writing prior to commencement of the development, confirming the incorporation of recommendations set out in the RSA submitted with the appeal.</p> <p>Reason: In the interest of amenity and of traffic and pedestrian safety.</p>
12.	<p>A final Delivery and Servicing Management Plan to be submitted to, and approved in writing, by the Local Planning Authority prior to commencement of the development. The plan should include proposals for arrangements on Gloucester Street South.</p> <p>Reason: In the interest of amenity and of traffic and pedestrian safety.</p>
13.	<p>Details to be submitted to the Planning Authority and approved in writing prior to commencement of the development, confirming the incorporation of recommendations set out in the Wind Microclimate Assessment submitted with the application.</p> <p>Reason: In the interest of amenity and pedestrian comfort/safety.</p>
14.	<p>Drainage arrangements including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p>Prior to commencement of development the developer shall submit to the Planning Authority for written agreement a Stage 2 - Detailed Design Stage Storm Water Audit.</p>

	<p>Upon Completion of the development, a Stage 3 Completion Stormwater Audit to demonstrate Sustainable Urban Drainage System measures have been installed, and are working as designed and that there has been no misconnections or damage to storm water drainage infrastructure during construction, shall be submitted to the planning authority for written agreement.</p> <p>Reason: In the interest of public health and surface water management.</p>
15.	<p>(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 approved use, shall be submitted to, and agreed in writing with, the planning authority not later than 6 months from the date of commencement of the development. Thereafter, the waste shall be managed in accordance with the agreed plan.</p> <p>(b) This plan shall provide for transportation of bins from basement level to street level for collection, and provision to ensure that the holding area at street level for collection will not obstruct pedestrian movement.</p> <p>Reason: In the interest of residential amenity, and to ensure the provision of adequate refuse storage.</p>
16.	<p>Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006.</p> <p>Reason: In the interest of sustainable waste management.</p>

17.	<p>The construction of the development shall be managed in accordance with a Construction and Environmental 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 (but not limited to):</p> <ul style="list-style-type: none"> a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse; b) Location of areas for construction site offices and staff facilities; c) Details of site security fencing and hoardings; d) Hours of development and building works, and periods when high noise generating activities will be undertaken, with a view to mitigating impact upon the adjacent National School and residential uses; e) Details of on-site car parking facilities for site workers during the course of construction; f) Details of a mobility management plan for construction workers to encourage the use of sustainable transport modes when commuting to and from the site; g) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site, and to specifically mitigate impact upon the adjacent National School; h) Measures to obviate queuing of construction traffic on the adjoining road network; i) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network; j) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works; k) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels; l) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater; m) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil; n) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains. o) A record of daily checks that the works are being undertaken in accordance with the Construction and Environmental Management Plan shall be kept for inspection by the planning authority. <p>Reason: In the interest of amenities, public health and safety.</p>
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18.	<p>The developer shall enter into water and/or waste water connection agreement(s) with Irish Water, prior to commencement of development.</p> <p>Reason: In the interest of public health.</p>
19.	<p>The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:</p> <p>(a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and</p> <p>(b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.</p> <p>The assessment shall address the following issues:</p> <p>(i) the nature and location of archaeological material on the site, and</p> <p>(ii) the impact of the proposed development on such archaeological material.</p> <p>A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.</p> <p>In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.</p> <p>Reason: In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.</p>

20.	<p>Prior to commencement of works, the developer shall make a record of existing structures on the site. This record shall include:</p> <p>(a) a full set of survey drawings to a scale of not less than [1:50] to include elevations, plans and sections of the structure, and</p> <p>(b) a detailed, labelled photographic survey of all internal rooms (including all important fixtures and fittings), the exterior and the curtilage of the building.</p> <p>This record shall be submitted to the planning authority prior to commencement of development and one copy of this record and a full set of drawings of the proposed works shall be submitted to the Irish Architectural Archive.</p> <p>Reason: In order to establish a record of existing historical structures on the site to be demolished.</p>
21.	<p>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.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with</p>

	the Development Contribution Scheme made under section 48 of the Act be applied to the permission.
22.	<p>The developer shall pay to the planning authority a financial contribution in respect of the LUAS Line levy, in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to the 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 the Board to determine the proper application of the terms of the Scheme.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission</p>

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Rachel Gleave O'Connor

Senior Planning Inspector

12th October 2023