



An
Bord
Pleanála

Inspector's Report

ABP-319706-24

Development	Demolition of derelict building and construction of 4 single storey, semi-detached dwellings, car parking, services connections and all associated site works.
Location	Ballincur, Kinnitty, Co. Offaly
Planning Authority	Offaly County Council
Planning Authority Reg. Ref.	2460046
Applicants	Nando Properties Ltd
Type of Application	Permission.
Planning Authority Decision	Refuse Permission.
Type of Appeal	First Party
Appellants	Nando Properties Ltd
Observer	Tony Bergin
Date of Site Inspection	13 th September 2024
Inspector	Dolores McCague

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1.0 Site Location and Description

- 1.1.1. The site is located at Ballincur, Kinnitty, Co. Offaly.
- 1.1.2. The village of Kinnitty is an attractive settlement at the foot of the Sliabh Bloom Mountains. It is described in the Development Plan as strategically positioned to act as a tourism hub for exploring the Sliabh Bloom Mountains.
- 1.1.3. Kinnitty is defined as a village in the Offaly County Development Plan 2021-2027, which includes a plan for the settlement. The site is on the outskirts of the village on un-zoned land.
- 1.1.4. The site adjoins a scheme of dwellings to the west. To the north and east it adjoins recently constructed / under construction development of a retirement village: a nursing home, and dwellings restricted to use by persons over 55. The access proposed to serve the subject development is the access to the adjoining retirement village. The site is currently in use as a construction compound.
- 1.1.5. The regional road to the south is a restricted route in the development plan. On the opposite side of the regional road there are a number of individual dwellings.
- 1.1.6. A derelict building occupies the site, a roofless structure.
- 1.1.7. The site given as 0.165ha.

2.0 Proposed Development

- 2.1.1. The proposed development as described in the public notices comprises demolition of derelict building and construction of 4 single storey, semi-detached dwellings, car parking, services connections and all associated site works.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The planning authority (PA) decided to refuse permission for two reasons:
 - 1 The site is located in open countryside within an area of the county that is designated as an Area of Special Control. It does not comply with SSP-27

2 Lack of evidence of the availability water supply and sewage disposal.

3.2. Planning Authority Reports

3.2.1. Planning Reports

3.2.2. The planning report, 15th April 2024, recommending refusal, for the two reasons as stated in the decision, includes:

Reference to the Offaly County Development Plan 2021-2027, core strategy, section 2.4.5 strategic approach to future growth, and section 2.4.7 rural development. It notes that the development will not form part of the retirement village and would constitute a stand-alone residential development of 4 individual dwellings.

It notes the technical reports advising on the need for further information.

Appropriate assessment screening was carried out.

3.2.3. Other Technical Reports

3.2.4. Roads Section, 2nd April 2024-

- Further Information is required. The applicant is requested to address comments and resubmit proposals as follows:
 - 1) The applicant has not indicated proposals for the entrance to the development from the R421. Please resubmit the site layout clearly indicating the proposed entrance to the development.
 - 2) In support of point 1 above the applicant is requested to submit a revised site layout map detailing the full extent of the required sightlines of 2.4m x 90m in both directions.
- Note; If the applicant intends to access the development via the entrance proposed in planning file ref. 21/131, this application may be considered premature pending the construction and completion of the access road permitted under planning file ref. 21/131.
- Please also refer to Area Engineers report in relation to this application.
- The R421 between Kinnitty and Ballincur is a restricted regional road under table 8.4 of the county development plan (carrying capacity & amenity). It is

not anticipated that the proposed development will adversely impact the carrying capacity of the R421.

3.2.5. Water Services, 22nd March 2024:

Water Supply - The applicant has indicated that the proposed source of water supply will be from the existing public water supply. The applicant is requested to engage with Uisce Eireann by submitting a completed Pre -Connection Enquiry form.

Upon completion of the Confirmation of feasibility process, the applicant is requested to submit the fully completed detailed water main supply design drawings and documents to Offaly County Council, as part of the planning application, together with the Uisce Eireann Confirmation of Feasibility letter from Uisce Eireann.

The watermain layout should be detailed on a separate watermain layout drawing which shall clearly indicate the location of the connection to the existing public main.

Foul Sewer - The applicant has indicated that the proposed development will connect to the existing foul sewer. The applicant is requested to engage with Uisce Eireann by submitting a completed Pre -Connection Enquiry form. Upon completion of the Confirmation of feasibility, the applicant is requested to submit the fully completed detailed foul sewer design drawings and documents to Offaly County Council, as part of the planning application, together with the Uisce Eireann Confirmation of Feasibility letter from Uisce Eireann.

The foul sewer layout should be detailed on a separate foul sewer layout drawing which shall clearly indicate the location of the connection to the existing foul sewer.

Surface Water - All existing/proposed surface water drainage routes should be shown on a separate drainage layout plan, to include discharge routes, etc

The applicant is requested to submit design calculations and longitudinal sections for the surface water system serving the proposed site and on all land within the Applicant's ownership at the proposed development location. The applicant should assess the proposed development site/the entire site for the use of additional SUDS methods (permeable paving, rainwater harvesting, etc - refer to CIRIA SUDS Manual 2015) and design details for additional SUDS methods to be installed should be indicated on a revised drainage layout plan. Storm water attenuation should restrict surface water run-off from the impervious areas (i.e. roofs, roads, paved areas etc.)

so that the ultimate discharge is equivalent to the green field run-off from an equal area. The applicant should calculate the greenfield run-off rate in accordance with the Institute of Hydrology Report 124 as referenced in the Greater Dublin Drainage study (GDSDS). The applicant should submit design calculations of the required storage for a 1, 30 and 100-year storm event using the revised permissible discharge rates for each event to include a climate change factor of 20% (Met Éireann) for rainfall in the attenuation calculations.

3.2.6. Area Engineer, 12th April 2024:

Application is premature until access road is constructed.

If the application is allowed to proceed, standard conditions to apply and in addition the existing dropped kerb and footpath shall be removed and replaced with new raised herb and footpath similar to adjacent footpath; in the interest of orderly development, quality control and health and safety.

3.3. Third Party Observations

3.3.1. Third party observations on the file have been read and noted. Issues raised include:

Overcapacity of local sewerage system.

Acting in concert and should not be able to avail of Part V exemption.

Not in keeping with area given the alignment of road & visual impact.

Overdevelopment.

Does not form part of the retirement village.

Proximity to the road and impact on their amenities.

Excessive speed on the road.

4.0 Planning History

21/131 to north east - Ronan Garry - permission granted for the construction of 18 single storey retirement units with 6 x 1 bed units and 12 x 2 bed units, a proposed site entrance and all associated site works and services.

Condition 2

- a) The occupation of the retirement units within the proposed development shall be restricted to the age cohort 55 and over, and the retirement units shall not be sold, let or otherwise transferred or conveyed away from its residential care use without prior planning permission. The proposed retirement units shall remain in the ownership of the Management Company/Developer and shall not be sold to private individuals as habitable dwellings.
- b) No material change of use of any of the buildings in the proposed development shall take place without prior planning permission.

Reason: In the interests of clarity.

The first planning report on the file noted that the site was white land that is lands immediately adjacent to (and generally outside of) the delineated boundary of the county's settlements; where a retirement home/village is listed as a land use open for consideration.

The second planning report on the file noted that the previous county development plan had been superceded by the Offaly County Development Plan 2021-2027. Under the current plan the site is located on unzoned lands.

The planning authority considers the subject site as a suitable location for the proposed development, based on the planning history associated with the lands, the nature of the proposal ie. retirement units, the residential developed lands to the west, and location within / proximity / connectivity to Kinnitty Village.

95/42 - Keith Garry – permission granted for the development of a single storey over semi-basement 60 bed nursing home to form part of a proposed retirement complex in conjunction with the proposed adjoining retirement units, new entrance and all associated site works.

09/540 - Keith Garry – permission granted for the construction of 18 single storey retirement units to form part of a proposed retirement complex in conjunction with the proposed adjoining nursing home and all associated site works.

EX/15/008 permission granted for an extension to the appropriate period of planning permission 09/540; revised date 11th July 2020.

04/219 - John Garry - permission granted for the construction of a care village consisting of 24 no. 2 bed retirement houses and a 50 bed room single storey

nursing home with additional lower ground floor service rooms and parking to rear. The proposal included parking facilities, a proprietary effluent treatment plant and other ancillary services.

01/119 - John Flaherty - permission granted for the construction of 16 dwellings.

99/1393 - John Flaherty - outline permission granted for a nursing home and 40 dwellings.

Enforcement:

Ongoing UD files associated with the site, including: UD21/11 and UD22/56 (non-compliance with conditions of 21/131).

5.0 Policy Context

5.1. Offaly County Development Plan 2021-2027

5.2. This is the operative plan and came into effect 22nd October 2021. Relevant provisions include:

Settlement strategy policies:

Countywide:

SSP-01 It is Council policy to develop the county in accordance with the Settlement Hierarchy and to require future residential development to locate at and be of a scale appropriate to the settlement tiers and levels identified in the Core Strategy Table.

Villages (listed in the Settlement Hierarchy):

SSP-17 It is Council policy to support housing and repopulation taking place within villages in a consolidated, sustainable and sequential manner, and to promote the provision of serviced sites supported by Irish Water in order to attract people to build their own homes and live in villages as an alternative to one-off housing, whilst also managing the levels of growth at an appropriate scale to ensure compliance with the Core Strategy Table.

SSP-18 It is Council policy to facilitate the expansion of and provision of new mixed-use and employment-generating development within villages at an appropriate size and scale subject to normal planning requirements.

SSP-27 Having regard to the need to protect County Offaly's natural resources, environment, landscape and infrastructure, it is Council policy to consider a single dwelling for the permanent occupation of an applicant in Rural Areas under Strong Urban Influence and Stronger Rural Areas and Areas of Special Control where all of the following (1-4) can be demonstrated.

For the purpose of this policy, the rural area is taken to include 'Villages' listed in the Settlement Hierarchy, but excludes Tullamore, etc (i.e. the Key Town, Self-Sustaining Growth Town, Self-Sustaining Towns, Towns and Smaller Towns listed in the Settlement Hierarchy

Vision as per the National Planning Framework

The vision for our housing future aims to balance the provision of good quality housing that meets the needs of a diverse population, in a way that makes our towns, villages and rural areas good places to live now and in the future.

Chapter 2 Core Strategy, Settlement Strategy and Housing Strategy Development Plan

SSP-03 It is Council policy to strengthen the core of settlements and encourage the compact growth of settlements by way of the development of infill sites, brownfield lands, under-utilised land / buildings, vacant sites, and derelict sites within the existing built-up footprint of the settlements, and develop outwards from the centre in a sequential manner.

2.7 Housing Policies

HP-02 It is Council policy to seek to ensure that groups with special housing needs, such as older people (in accordance with the Age Friendly Strategy for Offaly 2018-2021 and any subsequent editions), single person households, persons with physical and / or learning disabilities, the homeless, the travelling community, asylum seekers and refugees, and those in emergency accommodation are accompanied in a way suitable to their specific needs.

HP-07 It is Council policy to ensure that a mixture of house types, tenures and sizes is developed to reasonably match the requirements of different categories of households, and ensure that the special requirements of older persons, persons with

disabilities and persons with learning difficulties are developed in convenient, easily accessible and permeable locations.

Replacement of Derelict Dwelling in the Open Countryside

Refurbishment and / or Reuse of and Existing Structure as a Dwelling in the Open Countryside

SSP-30 It is Council policy to favourably consider applications (policies SSP27 and SSP-28 do not apply) for the refurbishment and/or reuse of older building stock subject to fulfilling the following criteria:

The external walls and roof are substantially intact, etc

SSP-31 It is Council policy to favourably consider applications for the replacement of derelict dwellings in the open countryside (SSP-27 and SSP-28 do not apply) subject to fulfilling the following criteria:

The derelict building was last used as a dwelling house which exhibits all the essential characteristics of a dwelling house;

The siting of a replacement dwelling should be within the same curtilage as the existing building;

The derelict dwelling or parts of the derelict dwelling is not of special, architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest; and

The derelict dwelling was not inappropriately sited in the first instance; for example, located in an area at flood risk or located in an area which would result in public health or traffic hazard issues. Natural Heritage Designations

- 5.2.1. Kinnitty Village Plan is part of the county development plan: volume II settlement plans. It includes zoning for the village which includes the land to the west of the subject, although a considerable distance from the main village zoning. The subject site and the adjoining lands to the north and east are not zoned.

5.2.2. Settlement Objectives

SO1 To ensure that future growth is balanced and sustainable and is appropriate to the scale, size and character of the existing village.

5.3. Natural Heritage Designations

- 5.3.1. The nearest Natura site is Bloom Mountains SPA (site code 004160) located c2km straight line distance from the site.

5.4. EIA Screening

- 5.4.1. The proposed development is a sub-threshold development (under article 93 and class 10 (b)(i) of Part 2 of schedule 5 of the Planning and Development Regulations) for development: 'construction of more than 500 dwelling units'.
- 5.4.2. Based on a preliminary examination of the nature, size or location of the development, there is no likelihood of significant effects on the environment. Appendices 1 and 2 attached to this report refer.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. This is a first party appeal against the PA decision to refuse permission. The grounds include:

Responding to reason no. 1 - It is not in the open countryside but is an infill brownfield site within a village setting

Responding to reason no. 2 - There is sufficient wastewater and water in the village of Kinnitty.

Reason no. 1

It has been designated open countryside because it does not fall within the outline boundary of Kinnitty village. It is not in the open countryside but is an infill brownfield site within a village setting. It is a brownfield site which was the house, of a named person, who vacated many years ago after the Council provided her with a new house nearby. The site had been occupied by an additional temporary dwelling which has now been removed.

A map showing the National Statistical Boundary Mapping of settlements is provided and the grounds states that the applicant site is well within the settlement outline of the village.

There is a long history of permitted planning permissions on the overall original landholding and in the vicinity.

The planning history is referred to.

Reason no. 2

NANDO properties (applicants) are currently building a retirement village and have a connection agreement with Uisce Éireann. They believe that there is sufficient network and treatment capacity in the village to cater for this development.

County Development Plan Review

SSP-03 is referred to re compact growth. 2.1.4 is referenced re brownfield sites.

2.4.5 is referenced re strategic approach to future growth.

They consider SSP-27 irrelevant. The intentions of the limitations of SSP-27 are to restrict the construction of single dwellings where there are no public services, such as water or sewage disposal.

SSP-13 is referred to re. replacement of derelict dwellings.

The roads engineer's comments were unhelpful, indicating that the development was premature until the access road is constructed, despite the fact that the retirement village and its access road are under construction.

In six months time this derelict site will sit as an island of dereliction surrounded by existing residential to the east south and west and a retirement village to the north. It is good planning to revitalise this site and complete the frontage of the site to an appropriate standard that is suitable for the beautiful village.

6.2. Planning Authority Response

- 6.2.1. The Planning Authority has responded to the grounds of appeal referring the Board to the technical reports on the file and requesting the Board to support its decision.

6.3. Observations

- 6.3.1. A third party observation on the file has been received from Tony Bergin. It includes:

The council is of the opinion that an application for a development at this location is premature.

Their roads department is of the opinion that the access has not been adequately dealt with.

The engineering & water divisions reference that the information provided by the applicant is unsatisfactory.

The planner's report is of the opinion that the proposed development is not in line with the county development plan. It is speculative in nature and not in line with the 'local need' principle.

Per his previous submission to the PA which he attaches:

Overcapacity of local sewerage system.

Acting in concert and should not be able to avail of Part V exemption.

Not in keeping with area given the alignment of road & visual impact.

Overdevelopment.

7.0 Assessment

- 7.1.1. I consider that the main issues which arise in relation to this appeal are appropriate assessment, the principle of the development and infrastructural services and the following assessment is dealt with under those headings.

7.2. AA Screening

- 7.2.1. In accordance with obligations under the Habitats Directives and implementing legislation, to take into consideration the possible effects a project may have, either on its own or in combination with other plans and projects, on a Natura 2000 site, there is a requirement on the Board, as the competent authority in this case, to consider the possible nature conservation implications of the proposed development on the Natura 2000 network, before making a decision.

7.2.2. Appendix 2 to this report details my assessment under this heading.

7.2.3. There is no likelihood of impact on any Natura site.

7.3. The Principle of the Development

7.3.1. The site is located in rural county Offaly, in a scenic area in the foothills of the Sliabh Bloom Mountains. The site is close to the village of Kinnitty, west of the village core, which is about half a kilometre to the east. On the adjoining landholding a retirement village is currently under construction. A housing development of relatively recent origin, located across the stream to the north from the adjoining landholding, is also associated with the adjoining landholding. To the west there is a scheme of bungalow type housing, probably local authority housing, which is not of recent origin.

7.3.2. A Village Plan for Kinnitty in part of the settlement plans in Volume II of the County Development Plan. It includes a village boundary and zoning objectives. In addition to the village core and immediately surrounding land there the boundary encompasses two areas which are removed from the village, ie the residential developments to the north and west. The retirement village is not included within the zoned lands, nor is the subject site included within the village boundary.

7.3.3. The development on the adjoining site to the north includes housing for the over 55s and a nursing home. Construction is underway on these developments.

7.3.4. A substantial planning history to the adjoining lands, includes 21/131. The history files supplied to the Board, as part of the documents sought in connection with the subject appeal, includes 21/131, wherein the planning reports detail that in the previous county development plan, this area was zoned or described as 'white land'. These were lands immediately adjacent to (and generally outside of) the delineated boundary of the county's settlements. The planner's report noted that a retirement home/village was listed as a land use open for consideration on such land. There is no such term or zoning in the current Offaly County Development Plan.

7.3.5. The Board should note that the current Offaly County Development Plan 2021-2027 is the operative plan and came into effect 22nd October 2021.

- 7.3.6. The grounds of appeal states that, although the planner's report states that it has been designated open countryside because it does not fall within the outline boundary of Kinnitty village, it is not in the open countryside but is an infill brownfield site within a village setting. The grounds of appeal interprets the policies for compact growth etc, as supporting the proposed development.
- 7.3.7. The boundary of Kinnitty village is defined in the Offaly County Development Plan 2021-2027. Notwithstanding that there are a few areas which are outliers to the village core and its surrounding area included in the zoning, the subject site is not included. To include the lands between the village and these outliers would be to conceive of Kinnitty becoming a much larger settlement, which is not envisaged in the current Offaly County Development Plan. The settlement strategy in the Offaly County Development Plan is to channel residential development in a strategic manner to support the development of larger towns, where services are available, and where private car journeys are minimised. The role for smaller towns and villages is to support their rural hinterlands, with limited residential development envisaged. The proposed development is not an extension of the adjoining retirement village. It involves rural housing development which, in accordance with the County Development Plan policies, is to be managed based on need.
- 7.3.8. SSP-27 states that having regard to the need to protect County Offaly's natural resources, environment, landscape and infrastructure, it is Council policy to consider a single dwelling for the permanent occupation of an applicant in Rural Areas under Strong Urban Influence and Stronger Rural Areas and Areas of Special Control where all of the following (listed as 1-4) can be demonstrated: ie. rural need. The proposed development is not supported by any information on rural need.
- 7.3.9. The subject development is in a high amenity rural area where local need is the measure by which rural housing is evaluated, per policy SSP-27 County Development Plan. No evidence of 'local need' has been supplied. In my opinion the proposed development is unacceptable in principle and should be refused for that reason.

7.4. Infrastructural Services

- 7.4.1. Reason No. 2 of the decision states that there is lack of evidence of the availability water supply and sewage disposal for the proposed development.
- 7.4.2. In response the applicant states that NANDO properties are currently building a retirement village and have a connection agreement with Uisce Éireann. They believe that there is sufficient network and treatment capacity in the village to cater for this development. A connection agreement regarding the existing development underway is attached.
- 7.4.3. The observer refers to overcapacity of the local sewerage system.
- 7.4.4. The further information request recommended by Water Services Section was not issued. It is therefore not clear whether or not there is any deficiency in water or wastewater services. Nor is there clarity regarding surface water provision.
- 7.4.5. Even if it were established that there is not deficiency in water or wastewater services, such services could be required to serve the development of zoned land, rather than a development which is not provided for in the County Development Plan.
- 7.4.6. In the absence of sufficient information I do not consider that a refusal based on infrastructural services should issue, i.e. reason no 2.

8.0 Recommendation

- 8.1.1. In accordance with the foregoing I recommend that planning permission be refused for the following reasons and considerations.

9.0 Reasons and Considerations

The subject site is located in a rural area which is designated as an area of 'Special Control' in the Offaly County Development Plan 2021-2027. In such areas it is development plan policy that only certain categories of applicant, which are defined in policy SSP-27 of the County Development Plan, will be given a positive presumption for the development of a permanent rural home. The proposed development of four dwellings on this site does not comply with the above policy and

accordingly the proposed development would materially contravene the 2021-2027 Offaly County Development Plan and would be contrary to the proper planning and sustainable development of the area.

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.

Planning Inspector

27th September 2024

Appendix 1 EIA screening

Appendix 2 AA screening

Appendix 3 Photographs

Appendix 4 Offaly Development Plan 2021 – 2027 extracts.

Appendix 1 - Form 1

EIA Pre-Screening

An Bord Pleanála Case Reference	319706		
Proposed Development Summary	Demolition of derelict building and construction of 4 single storey, semi-detached dwellings, car parking, services connections and all associated site works		
Development Address	Ballincur, Kinnitty, Co. Offaly		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	/
		No	No further action required
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes		Class.....	EIA Mandatory EIAR required
No	/		Proceed to Q.3
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?			
		Threshold	Comment (if relevant)
No		N/A	
Yes	/	10 (b)(i) Construction of more than 500 dwelling units.	Proceed to Q.4

4. Has Schedule 7A information been submitted?

No	/	Preliminary Examination required
Yes		Screening Determination required

Form 2

EIA Preliminary Examination

Bord Pleanála Case	319706		
Development Summary	Demolition of derelict building and construction of 4 single storey, semi-detached dwellings, car parking, services connections and all associated site works		
Examination			
			Yes / No / Uncertain
1. Is the size or nature of the proposed development exceptional in the context of the existing environment?			No
2. Will the development result in the production of any significant waste, or result in significant emissions or pollutants?			No
3. Is the proposed development located on, in, adjoining or have the potential to impact on an ecologically sensitive site or location*?			No
4. Does the proposed development have the potential to affect other significant environmental sensitivities in the area?			No
Conclusion			
Based on a preliminary examination of the nature, size or location of the development, is there a real likelihood of significant effects on the environment?			
There is no real likelihood of significant effects on the environment	EIAR not required	Yes	
There is significant and realistic doubt in regard to the likelihood of significant effects on the environment	Screening Determination required	No	
	Sch 7A info submitted?		No
There is a real likelihood of significant effects on the environment	EIAR is required	No	

Inspector: _____

Date: _____

Appendix 2

Template 2: Screening the need for Appropriate Assessment Screening Determination

I have considered the project: demolition of derelict building and construction of 4 single storey, semi-detached dwellings, car parking, services connections and all associated site works, in light of the requirements S177U of the Planning and Development Act 2000 as amended.

The subject site is located at Ballincur, Kinnitty, Co. Offaly.

The proposed development comprises demolition of derelict building and construction of 4 single storey, semi-detached dwellings, car parking, services connections and all associated site works in a rural area close to the village of Kinnitty.

No nature conservation concerns were raised in the planning appeal.

Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any European Site. The reason for this conclusion is as follows:

- Nature of works: small scale and nature of the development]
- The serviced nature of the brownfield site.
- Taking into account screening report and determination by PA

I conclude that on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects.

Likely significant effects are excluded and therefore Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act 2000) is not required.