



An  
Bord  
Pleanála

## Inspector's Report ABP-321837-25

<b>Development</b>	Construction of 45 apartments in two 5 and 4 storey apartment blocks and all associated site works. Natura Impact Statement included with application.
<b>Location</b>	Site at Metges Road, Johnstown, Navan, Co. Meath
<b>Planning Authority</b>	Meath County Council
<b>Planning Authority Reg. Ref.</b>	2360441
<b>Applicant(s)</b>	Byrnell Developments Ltd.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Grant with Conditions
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Byrnell Developments Ltd.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	8 <sup>th</sup> May 2025.
<b>Inspector</b>	Lucy Roche

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## 1.0 Site Location and Description

- 1.1. The subject site is located on the western side of the Metges Road, in an area known as Johnstown in Navan, Co. Meath, c3km southeast of Navan Town Centre.
- 1.2. The site has a stated area of 0.462ha and comprises a roughly rectangular shaped parcel of undeveloped land currently overgrown with trees and shrubs, forming a woodland. The site benefits from approximately 140m of road frontage along the Metges Road and is approximately 30m in width. The topography of the site is relatively flat.
- 1.3. The site is bounded by undeveloped lands to the north and south, lands to the north are the subject of a separate application / appeal for a retail scheme (ABP-321847-25). Further north lies the 'Bailis Village', an apartment scheme ranging in height from three to six storeys and beyond that, at the junction of Metges Road and Bothar Sion, is the Johnstown Shopping Centre which contains a number of commercial units including a SuperValu supermarket, a pub, gym and HSE facility. Lands to the east, on the opposite side of the Metges Road are in residential use, comprising mainly two storey conventional houses laid out in a suburban pattern. A large public open space associated with this residential area is located directly opposite the subject site. The IDA Business Park is situated on lands to the west of the site. These lands are accessed from the Metges Road, c130m south of the proposed development site.
- 1.4. The Metges Road (L-5055-5) is the primary spine of the Johnstown neighbourhood. Its design includes a footpath and cycle path along both sides of the road. The site is within the 50km/h speed limits. There is a Bus Éireann bus stop at the southern end of the site, with a bus stop on the opposite side of the road. There is also a bus stop on both sides of the road north of the site at Johnstown Neighbourhood Centre.
- 1.5. There are no Protected Structures or Recorded Site/ National Monument on or adjoining the application site and the site is not located within a Zone of Archaeological Notification. Available sources indicate that the southwestern portion of the site is located within a Flood Zone on account of the open drain/watercourse which forms the western site boundary. A portion of the subject lands (lands adjacent to the Metges Road) are in the ownership of Meath County Council who have provided a Letter of Consent for the application.

## 2.0 Proposed Development

2.1. The proposal is for a residential scheme of 45 no. apartments in two blocks, one five storey block and one four storey block. The proposal also includes a substation, bins store, communal garden and all associated site works.

2.2. The following details are noted:

<b>Site Area</b>	0.462ha
<b>Floor Area</b>	3,258.90
<b>No. Of Residential Units</b>	45 apartments
<b>Housing Mix</b>	36no one-bedroom apartments (80%) and 9no two-bedroom apartments (20%)
<b>Density</b>	98 dwellings per ha
<b>Height</b>	5-storey apartment block: 16.274m 4-storey apartment block: 13.50m
<b>Dual Aspect</b>	36no. units
<b>Access</b>	Single vehicular access from Metges Road, 2 no. pedestrian entrances
<b>Car Parking</b>	56 no. spaces
<b>Cycle Parking</b>	114 no. storage space
<b>Open Space</b>	523.6 sq.m of communal open space

2.4. Significant further information/revised plans were submitted on this application. The further information submitted included: details of revised landscaping and boundary treatment; revised car parking layout, bicycle storage details, pedestrian routes, truck routes; revised surface water drainage design / report; revised site-specific flood risk assessment and drawings; details of ground floor and site levels; an energy statement and, details and design of public lighting. The surface water drainage

design was revised at RFI stage to include underground storage within the car park area in place of attenuation storage within permeable paving.

2.5. The application is accompanied by (inter alia):

- Screening Report for appropriate Assessment and Natura Impact Statement
- Design Statement
- Engineering Planning Report
- Outline Construction Management Plan
- Outline Construction and Demolition Waste Management Plan
- Stage 1 Road Safety Audit
- Traffic and Transport Assessment
- Mobility Management Plan
- Outline Operational Waste Management Plan
- Ecological Impact Assessment Report
- Site Specific Flood Risk Assessment (updated at RFI Stage)
- Bat survey
- Arboricultural Report
- Building Lifecycle Report
- Letter of consent from Meath County Council (as owner of lands within the development site)
- Outdoor Light report (submitted at RFI Stage)
- Energy statement (submitted at RFI Stage)

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

Following an initial request for further information, Meath County Council decided on the 15<sup>th</sup> of January 2025 to grant permission for the proposed development subject

to 26no. conditions. This first-party appeal relates to Condition 7 which reads as follows:

- (a) The Applicant has submitted an agreement with the IDA to enable the applicant to desilt part of the Athlumney Stream and has submitted a map showing the extent of the agreed works. The Applicant shall resubmit an amended agreement with the IDA before the commencement of development on the site that will enable the applicant to clear and regrade the Athlumney Stream adjacent to the subject site such that the watercourse can accommodate critical flood flows in the channel. The design and extent of the works on this agreement shall be to the written agreement of the planning Authority.
- (b) Prior to the commencement of any development on site, the applicant shall submit for the written agreement of the Planning Authority a Maintenance Plan for the maintenance of the Athlumney Stream adjacent to the subject site. The applicant shall include relevant consent letters from the 3rd party landowners.
- (c) Prior to the commencement of any development on site, the applicant shall submit a revised surface water system to be constructed as part of this development, which shall be to the written agreement of the Planning Authority. This revised surface water system shall be in accordance with the Greater Dublin Strategic Drainage Study (GDSDS) Regional Drainage Policies Volume 2, for New Developments and the Greater Dublin Regional Code of Practice for Drainage Works Volume 6.
- (d) Prior to the commencement of any development on site, the applicant shall submit for the written agreement of the Planning Authority a revised layout for the proposed diversion of the two existing surface water outfalls that currently cross the subject site. The proposed layout is not acceptable to the planning authority as it increases the flood risk on the public road, where there have been localised flooding issues.
- (e) Prior to the commencement of any development on site, the applicant shall submit for the written agreement of the Planning Authority a redesign of the Culvert at the IDA Entrance such that it can accommodate drainage from the

subject site. This redesigned culvert shall be constructed by the applicant. The Applicant shall submit a third-party agreement with the owners of the relevant lands to enable the applicant to carry out these works.

- (f) The Applicant shall submit a third-party agreement with the owners of the relevant lands to enable the applicant to carry out any drainage works on these lands including for the headwall construction on the drain adjacent to the western boundary.
- (g) Prior to the commencement of any development on site, the applicant shall agree in writing with the planning authority, suitable compensatory storage for the storage area removed by the southwestern part of the proposed carpark.

**Reason:** To ensure orderly disposal of surface water and in the interests of road safety and environmental protection.

## **3.2. Planning Authority Reports**

### **3.2.1. Planning Reports**

#### Initial Report – February 2024

- The initial report of the Case Planner has regard to the locational contest and planning history of the site, to relevant local and national planning policy and to the third-party submission and departmental reports received.
- The assessment considers: - the principle of development; siting, design & layout; landscaping & boundary treatments; access, traffic & parking; site services and flooding; archaeology & cultural heritage; tree removal & natural heritage; public & environmental health; childcare facility and social infrastructure; Part V; appropriate assessment and EIA.
- On issues relating to flooding and surface water treatment and disposal, the Case Planner refers to the report of the Environmental Section (Water Drainage and Flooding) and notes that further information is required to address the issues raised.

- The report concludes with a recommendation that further information be sought on 11no. items. Item 3 addresses the issue of surface water drainage, and requests that the applicant submit a revised surface water design for the site, in accordance with Greater Dublin Strategic Drainage Study (GDSDS). Item 4 addresses the issue of flood risk and requests that the applicant apply the 'development management Justification Test', as set out in Chapter 5 of the Flood Risk Management Guidelines to rigorously assess the appropriateness of the proposed development. The applicant was also requested to: (i) use a minimum of three methods to calculate the flow rate for the existing watercourses. (ii) submit a plan showing the location of the cross sections of the Athlumney stream in relation to the subject site. (iii) provide confirmation there is no increase in flood risk to the surrounding area from the proposed development (iv) submit details of a blockage analysis on the culvert at the entrance to the IDA Business Park.

Note: Following a request to do so, the planning authority agreed to extend the appropriate period for receipt of further information to 1<sup>st</sup> November 2024.

#### Further Information Report – January 2025

- The second report of the Local Authority Case Planner considers the further information received on the 24<sup>th</sup> of October 2024, with regard to the third-party submissions and internal reports received.
- The report concludes with a recommendation to refuse permission on two grounds relating to surface water drainage and flood risk as follows:
  1. *The Planning Authority is not satisfied, on the basis of the information submitted, that the development would provide satisfactory arrangements for the orderly collection, treatment and disposal of surface water. The proposed development, if permitted, would be contrary to the Greater Dublin Strategic Drainage Study (GDSDS) Regional Drainage Policies Volume 2, for New Developments and the Greater Dublin Regional Code of Practice for Drainage Works Volume 6 and would materially contravene*



*policy INF POL 16 of the Meath County Development Plan 2021-2027, “To ensure that all planning applications for new development have regard to the surface water management policies provided for in the GDSDS”. The development proposed would set an undesirable precedent for future development and would be contrary to the proper planning and sustainable development of the area.*

2. *It is an objective of the Meath County Council Development Plan 2021-2027 to implement the “Planning System and Flood Risk Management – Guidelines for Planning Authorities” (DoEHLG/OPW, 2009)(INF OBJ 20) and to require that a Flood Risk Assessment is carried out for any development proposal, where flood risk may be an issue in accordance with the “Planning System and Flood Risk Management – Guidelines for Planning Authorities” (DoECLG/OPW, 2009). This assessment shall be appropriate to the scale and nature of risk to and from the potential development and shall consider the impact of climate change (Policy INF POL 20). Based on the information submitted, the Planning Authority is not satisfied that the proposed development would not give rise to flooding. It is considered that the proposed development would be contrary to the aforementioned Guidelines which have been issued under Section 28 of the Planning and Development Act 2000-2022 and would materially contravene Objective INF OBJ 20 and Policy INF POL 20 of the Meath County Development Plan 2021-2027. The development proposed would set an undesirable precedent for future development and would be contrary to the proper planning and sustainable development of the area*

Addendum Report of the A/Senior Planner, endorsed by the Director of Services (Jan. 2025):

- The addendum report notes the recommendation to refuse planning permission but considers that the items raised can be addressed by way of condition. The addendum report notes that grant of permission will be reliant on the applicant obtaining consent and carrying out of works to address the issues raised in the Environment Report in relation surface water management.

- The addendum report has regard to:
  - The planning history of the site, in particular the decision by An Bord Pleanála under ABP304840 to grant permission for 104 no. apartments etc on site and considers that the principle of residential and commercial development been accepted and permitted on this site.
  - The location of the development on fully serviced and highly accessible residential zoned lands immediately adjoining Johnstown Neighbourhood Centre.
  - The policies and objectives of the Meath County Development Plan 2021-2027 (as varied)
  - The inclusion of the lands on the Residential Zoned Land Tax Map for Meath 2025.
  - National (NPF), Regional (RSES) and Local (Meath CDP 2021-2027) objectives to deliver at least 30% of all new homes in urban areas within the existing built-up footprint of settlements (CS OBJ 5).
- Considers that lands consist of an infill site within the existing built-up footprint of Navan and will therefore contribute to compact growth.
- Considers that the proposed development is in accordance with the policies and objectives of the Meath County Development Plan 2021-2027 (as varied) and the Government Housing Strategy, Housing for All (2021).
- The addendum report concludes with a recommendation to grant permission subject to 26no. conditions, including Condition 15 the subject of this appeal.

### 3.2.2. Other Technical Reports

- ***Environment Flooding Surface Water Section*** – Initial report (31<sup>st</sup> January 2024) requests further information on items relating to both flood risk and surface water drainage. Subsequent report (14<sup>th</sup> January 2025) includes a detailed assessment of the proposed scheme in relation to flooding and surface water drainage. It concludes with a recommendation that planning permission be refused.

- **Environment Waste Section:** Reports cite no objection subject to condition.
- **Transportation Department:** Initial report (1<sup>st</sup> February 2024) requests further information. Subsequent report (10<sup>th</sup> Dec. 2024) cites no objection subject to condition.
- **Public Lighting:** - Recommends conditions.
- **Broadband Officer:** Initial report (Dec.23) requests further information. Subsequent report cites no objection subject to condition.
- **Fire Officer:** - Notes the requirements for a Fire Safety Certificate
- **HSE – Environmental Health:** - Initial Report (Jan. 2024) makes observations on matters relating to open space, landscaping, measures to address nuisance complaints during construction, waste, ventilation and energy efficiency. Subsequent report (Nov. 2024) comments on the further information received raising no further issues.

### 3.3. Prescribed Bodies

None

### 3.4. Third Party Observations

The planning authority received submissions on behalf of the residents of the Priory and Millbrook Estates at both initial application stage at further information stage.

The issues raised can be summarised as follows:

- **Environmental, Climate and Sustainability concerns:** - Impacts on biodiversity, loss of trees and habitats for birds, bats and mammals. The site would be better served as a nature reserve. Proximity to the stream raises concerns of pollution and flood risk. Lack of set back from important natural assets. Development may contravene MCC Climate Action Strategy; the NIS is inadequate.
- **Inappropriate development:** - The site is not suited to high density development. The proposal constitutes an overdevelopment of the subject lands and is incoherent with established built form of Johnstown. There is no

need for apartments/unit types in Johnstown. Development should be placed on brownfield site closer to Navan than rather than a green space.

- *Traffic*: - the proposal will lead to new access points and additional traffic on Metges Road which is already congested. Disagree with the findings of the traffic survey.
- *Residential Amenity*: - Impact on persons right to light in the Priory Estate. Impacts during construction.
- *Inadequacies in physical and social infrastructure* to cater for the development.
- *Legal and procedural and other matters*: Serial applications on site, lack of consistency in the in decision making process, risk of subsequent planning applications, lack of clarity in the documentation submitted. Developer and Housing Association has no local connection to the site/area.

## 4.0 Planning History:

### 4.1. Appeal Site including adjoining lands to the north:

ABP-304840-19

Strategic housing development. Permission GRANTED (October 2029) for 104 apartments, 1,536 sqm of commercial facilities to include crèche, sports club and offices, together with all associated site works.

The following condition is noted:

- c.10. (a) Water drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services. The following specific requirements shall be submitted to and agreed in writing with the planning authority prior to commencement of development, unless otherwise stated:
- (b) Revised drawings shall show the inner ditch that lies alongside the Athlumney Stream to remain open and not be filled with a filter drain,

unless otherwise agreed in writing with the planning authority prior to commencement of development.

**Reason:** In the interest of public health.

#### 4.2. **Adjoining lands to the immediate north of the application site:**

MCC Ref:2360440

MCC decided on the 15<sup>th</sup> of January 2025 to GRANT permission to Byrnell Developments Limited (the applicants in this case) for the construction of a single storey retail food store of 1,840 sq. (1315 sqm net retail) with ancillary off-licence sales area and incorporating an external service area; associated signage, parking and all associated site works.

Note: The decision is currently the subject of a First Party appeal under ABP-321847-25

### 5.0 **Policy Context**

#### 5.1. **Development Plan**

- 5.1.1. The Meath County Development Plan 2021-2027 (incl. variations 1 & 2) adopted on the 13<sup>th</sup> of May 2024, is the operative plan for the area. Chapter 6 Infrastructure Strategy is of reference to this appeal. The Meath County Development Plan 2021-2027 (MCDP) includes in Appendix 2, a written statement and Land Use Zoning and Cultural and Natural Heritage Maps for Navan.

Zoning: The appeal site is zoned 'A2 New Residential' with the objective to provide for new residential communities with ancillary community facilities, neighbourhood facilities as considered appropriate.

Relevant Policies / Objectives:

It is the policy of the Council:

- INF POL 16 To ensure that all planning applications for new development have regard to the surface water management policies provided for in the GDSDS.
- INF POL 20 To require that a Flood Risk Assessment is carried out for any development proposal, where flood risk may be an issue in accordance with the “Planning System and Flood Risk Management – Guidelines for Planning Authorities” (DoECLG/OPW, 2009). This assessment shall be appropriate to the scale and nature of risk to and from the potential development and shall consider the impact of climate change.
- HER POL 31 To ensure that the ecological impact of all development proposals on habitats and species are appropriately assessed by suitably qualified professional(s) in accordance with best practice guidelines – e.g., the preparation of an Ecological Impact Assessment (EclA), Screening Statement for Appropriate Assessment, Environmental Impact Assessment, Natura Impact Statement (NIS), species surveys etc. (as appropriate).

It is an objective of the Council:

- INF OBJ 15 To require the use of SuDS in accordance with the Greater Dublin Regional Code of Practice for Drainage Works for new developments (including extensions).
- INF OBJ 16 To ensure that all new developments comply with Section 3.12 of the Greater Dublin Regional Code of Practice for Drainage Works V6 which sets out the requirements for new developments to allow for Climate Change.
- INF OBJ 19 To ensure that developments permitted by the Council which involve discharge of wastewater to surface waters or groundwaters comply with the requirements of the EU Environmental Objectives (Surface Waters) Regulations and EU Environmental Objectives (Groundwater) Regulations.
- INF OBJ 20 To implement the Planning System and Flood Risk Management-Guidelines for Planning Authorities (DoEHLG/OPW 2009) or any

updated guidelines. A site-specific Flood Risk Assessment should be submitted where appropriate.

HER OBJ 33 To ensure an Appropriate Assessment in accordance with Article 6(3) and Article 6(4) of the Habitats Directives (92/43/EEC) and in accordance with the Department of Environment, Heritage and Local Government Appropriate Assessment of Plans and Projects in Ireland – Guidance for Planning Authorities, 2009 and relevant EPA and European Commission guidance documents, is carried out in respect of any plan or project not directly connected with or necessary for the management of the site but likely to have a significant effect on a Natura 2000 site(s), either individually or in-combination with other plans or projects, in view of the site's conservation objectives.

## **5.2. National Policy and Guidelines**

- The Planning System and Flood Risk Management - Guidelines for Planning Authorities (Nov 09)
- Development Management Guidelines for Planning Authorities, June 2007

## **5.3. Natural Heritage Designations**

The site is not on or directly adjacent to any designated site. The River Boyne and River Blackwater SAC (Site Code: 002299) and SPA (Site Code: 004232) are located approx. 350m and 450m to west of the appeal site respectively. The Boyne Woods proposed NHA is located c4km to the northeast.

# **6.0 The Appeal**

## **6.1. Grounds of Appeal**

This is a first party appeal lodged against the decision of Meath County Council to grant permission for development at Metges Road, Johnstown, Navan, Co. Meath. The appeal relates to Condition 7 parts (d), (e) and (g).

The grounds of appeal (GoA) can be summarised as follows:

- It is contended that the works required under Condition 7 parts (d), (e) and (g) are onerous and unnecessary and the drainage issues identified can be addressed without the specified works.
- The GoA refer to the planning history of the site and states that many of the identified surface water drainage and flooding issues were previously reviewed by An Bord Pleanála when considering the application approved under ABP-304840 (Oct. 2019)
- The GoA note that when ABP-304840 was being considered by the Board the presence on the site of the two pipes which convey surface water runoff from Metges Road to the Althlumney stream had not been identified.
- The Engineering report accompanying this appeal has sought to demonstrate that the proposed development can accommodate the discharge from these pipes within the development surface water drainage network.
- It is contended that there is a viable and practical alternative solution i.e., that the surface water runoff from Metges Road at this location be piped along Metges road and discharged into the Athlumney Stream to the south of the IDA entrance Road.
- This condition is as a direct result of the planning authority allowing surface water runoff from Metges Road to drain into the subject site within any means of treating or determining how surface water could be treated within the subject site.
- The surface water modelling software used to model the road drainage is an industry standard software.
- Regarding Condition 7 (e) which requires the redesign of the existing culvert under the IDA entrance, the GoA note that Hydraulic modelling of the culvert demonstrates that it can accommodate all the surface water discharge from the site without altering the culvert with or without the development, and with the culvert capacity reduced by 66% as a result of a blockage. The modelling also clearly demonstrates that with or without development, any increase in



the water level can stay within the existing stream banks and no third-party lands are impacted.

The appeal Documentation includes:

- An Engineering Report from Muir Associates Ltd. This report addresses Part (d), (e) and (g) of condition 7 in turn.
- Microdrainage Model Output
- Tailte Eireanm Land Registry Map
- A copy of letter from Triturus Environmental Services which was submitted at request for further information stage (RFI stage). This letter includes a review of the proposed channel desilting and the existing box culvert. It contends that removing the silt from the drainage channel to increase the hydraulic storage capacity and maintaining the box culvert at its current invert level under the IDA entrance Road will continue to prevent untreated surface water runoff from Metges Road and from existing Priory residential development to the east of Metges Road discharging directly downstream.

## **6.2. Planning Authority Response**

- The planning authority is satisfied that all matters outlined in the submission were considered over the course of their assessment of the application. They request that the Board uphold their decision and retain Condition 7.

## **6.3. Observations**

None

## **7.0 Assessment**

### **7.1. Introduction**

- 7.1.1. This first party appeal has been brought to An Bord Pleanála under the provisions of section 139 of the Planning and Development Act 2000 (as amended). Section 139 of the Act, allows, where an appeal is brought against a decision of the planning

authority to grant permission and only relates to a condition then, if the Board is satisfied having regard to the nature of the condition or conditions, that the determination by the Board of the relevant application as if it had been made to it in the first instance would not be warranted, in its absolute discretion, give the relevant authority such direction it considers appropriate relating to the attachment, amendment or removal by that authority either of the condition or conditions to which the appeal relates or of other conditions.

7.1.2. In this case, the first party appeal relates to Condition 7, Condition 7 comprises measures to address outstanding issues identified in the assessment of the application relating to surface water drainage and flood risk. The appeal relates specifically to parts (d), (e) and (g); however, given the nature of the condition I consider that a de-novo assessment of all issues relating to surface water drainage and flooding is warranted in this case.

7.1.3. I consider the issues can be addressed under the following headings:

- Flooding
- Surface Water Drainage
- Consideration of Condition 7

## **7.2. Flooding**

7.2.1. It is proposed to construct an apartment scheme on greenfield lands to the west of the Metgres Road in Navan. With reference to OPW CFRAM flood mapping and Meath County Council Map Info flood mapping for the relevant area, the proposed development site is partially situated in Flood Zone A where the probability of flooding is greater than 1% from fluvial flooding, i.e., it is at high risk of flooding and Flood Zone B where the probability of flooding is between 0.1% and 1% from fluvial flooding, i.e., it is at medium risk of flooding

7.2.2. A Site-Specific Flood Risk Assessment (SSFRA) was submitted with the application. This document was updated at RFI stage to include, inter alia, a Development Management Justification Test as per the requirements of The Planning System

Flood Risk Management Guidelines for Planning Authorities. The following assessment is informed by the updated SSFRA.

- 7.2.3. The SSFRA considers the possible flooding mechanisms of the proposed development site and identifies a possible fluvial flood event in the Athlumney Stream as a potential flood risk to the proposed development site. The report also recognises that the blockage of the of the 1500 mm x 600 mm concrete culvert downstream at the IDA Business Park access road, due to human/mechanical failure, would result in flooding but that the overland route would be southward across the IDA access road to re-join the stream with no impact on the proposed development.
- 7.2.4. CFRAM mapping indicates flooding within the Athlumney Stream with a maximum flood level of 45.0m AOD for the 0.1% AEP immediately to the south of the proposed development site. The SSFRA notes that the proposed development is entirely within Flood Zone C except for an area of surface car parking in the southwest corner of the site, where a change in ground level is proposed. The SSFRA states that the lowest proposed finished ground level at the proposed development site is 46.0m AOD, leaving a minimum freeload of 1m above the 0.1% AEP event.
- 7.2.5. The SSFRA includes hydraulic analysis to estimate the peak flow and maximum flood levels in the Athlumney Stream for the 100 year and 1000-year return period events and to assess the impact of these flows on the development site. It considers 3 methods for assessing Critical Flow rates and uses the Rational Equation Method. This approach was deemed appropriate by the Environment Section of MCC. The SSFRA considers critical flood levels for the following scenarios:
- With development and without development for the 1% and 0.1% AEP events
  - With development and without development for the 1% and 0.1% AEP events and the culvert under the IDA Business Park Access Road 66% blocked.
- 7.2.6. The results indicate that there is no increase in flood risk to the surrounding area from the proposed development in the scenarios modelled. However, it is noted that the modelled 'with development' scenarios are based on a lowered channel level

within the Athlumney Stream, approximately from the location of the proposed surface water outfall to the upstream side of the existing culvert under the IDA Business Park access road. Works to lower this section of the stream have not been included as part of the application and relate to third party lands outside of the application red line boundary.

7.2.7. In terms of the Development Management Justification Test, the SSFRA notes that:

1. The subject lands are zoned C1 – Mixed Use with an objective to provide and facilitate mixed residential and business use in the MCDP 2021-2027.

However, it is noted that the subject lands are zoned 'R – Residential' in the MCDP 2021-2027 with an objective to provide for new residential communities with ancillary community facilities, neighbourhood facilities as considered appropriate. The proposed residential scheme would accord in principle, with the zoning objective.

2. (i) The hydraulic modelling of the Athlumney Stream has demonstrated that the proposed development will result in a marginal increase in the flood water levels of 12mm in the 1% AEP event and 8mm in the 0.1% AEP event. However, such increases in predicted flood levels will have no practical impact on downstream lands.

(ii) The proposed finished floor levels are set at least 500 millimeters above the maximum predicted 0.1% flood water level which will protect the property and its occupant's access to and from the development will not be impacted they predicted flood water levels

(iii) the hydraulic model assessment has been based on a conservative runoff calculation and the finished floor levels of the buildings has been set at least 500 mm above the predicted 0.1% AEP event and access to the development will not be impacted by predicted flood levels

(iv) proposed development represents a high-quality architectural design which includes active streetscapes.

7.2.8. The conclusions of the SSFRA, as set out in Section 5.8 of the report, are that: The proposed development is appropriate in terms of meeting the flood risk and stormwater impact policies and objectives of the County Development Plan and that the proposed development is:

- Considered to have the required level of flood protection.
- Does not increase in the flood risk to other third parties or lands.
- Meets the various requirements of the OPW Guidelines in relation to flood risk.

7.2.9. As noted above, the findings and conclusions of the SSFRA are based on a modelling scenario where a section of the Athlumney Stream, outside of the site, is lowered by desilting the channel bed. Correspondence submitted with this application at RFI stage, indicates that the applicant has obtained the agreement in principle of the landowner to the south of the proposed development (IDA Ireland) to undertake desilting/regrading works to the stream within their lands via a licence arrangement with the applicant's contractor. The agreement is subject to final IDA Board approval and to various terms and conditions. However, I am not satisfied that this arrangement, which is subject to third party approval etc is sufficient to ensure that the necessary works to the stream can and will be implemented.

7.2.10. Further to the above, I note that the Environment Flooding- Surface Water Section of MCC, as set out in their report to the planning authority (dated 14/01/2025) are not satisfied that the extent of agreed desilting works to the stream channel is sufficient to facilitate the drainage and conveyancing necessary to convey critical flood flows. They consider that the stream channel will have to be substantially deepened in places and trees be removed to accommodate critical flood flows and to ensure that the proposed development does not result in increased flood risk elsewhere.

7.2.11. I note that the planning authority in their decision to grant permission for the proposed development were satisfied that outstanding issues relating to the works to the Athlumney Stream necessary to facilitate the development of this site could be addressed by way of condition (Condition 15). However, I do not agree with the approach taken by the planning authority in this regard. In my opinion all works

necessary to facilitate the proposed development should be included as part of the application and assessed accordingly.

#### Flooding on Metges Road:

7.2.12. The report of the Environment Flooding- Surface Water Section also refers to past flooding events on the Metges Road adjacent to the proposed development entrance, where surface water from the roadway has not drained freely to the Athlumney stream. This is attributed to the invert level of the existing surface water outfall pipe from the roadside drainage being lower than the invert of the downstream culvert, resulting in sedimentation on the said outfall pipe inhibiting free drainage from the Metges Road. They consider that as the proposed outfall from the Metges Road drain to the Athlumney stream is proposed at a lower level than what exists presently, the risk of sedimentation in the outfall pipe increases, as does the risk of flooding on Metges Road. On this basis, the Environment Section was not satisfied that the proposal met the Development Management Justification Test. The lack of compensatory storage for the storage area removed by the southwestern part of the proposed carpark was also raised as a concern.

7.2.13. I note that Condition 7 as attached to the planning authority's grant of permission includes measures to address flooding on the Metges Road and the provision of compensatory flood storage. I intend to consider these measures and the applicant's submission in respect of same in more detail later in this report.

### **7.3. Surface Water Drainage**

7.3.1. There are two parallel open drains running in a north south direction along the western boundary of the site, merging into a single channel towards the southwest of the site. The eastern side drain (unnamed) is within the boundaries of the site while the western side drain, referred to as the Athlumney Stream, is outside the red line boundary of the site. At present, two drains convey surface water runoff across the site from Metges Road to the eastern side drain on the site which in turn discharges to the Athlumney Stream.

- 7.3.2. On the date on inspection, water was present in the merged channel at the southern end of the site, in the vicinity of the existing surface water outfall and downstream to existing culvert under the IDA Business Park access road. The eastern drain, upstream of the surface water outfall was relatively dry (mud).
- 7.3.3. The applicant proposes to fill the eastern side drain on the site and to discharge the storm water runoff from the proposed development to the Athlumney Stream. It is also proposed to divert the two existing surface water drains on the site into one 225mm diameter pipe. The surface water drainage system is designed to reduce the rate of run-off to 2.3 l/s/ha for the proposed development site.
- 7.3.4. The applicants original surface water drainage system for the site was deemed unacceptable by the planning authority, in part, because it was considered constrained by the existing invert levels of the Athlumney stream and the existing downstream culvert at the entrance to the neighbouring IDA lands. A revised system in accordance with Greater Dublin Strategic Drainage Study (GDSDS) was requested at RFI stage.
- 7.3.5. The applicant's response to the RFI request refers to correspondence with Meath County Council (MCC) in which it is stated that MCC expressed the opinion that the Athlumney Stream needed to be regraded from the site outfall location to the culvert and that the culvert needed to be lowered to achieve satisfactory pipe gradients and pipe cover within the proposed development. This would correspond with the information provided by MCC's Environmental Flooding – Surface Water Section, in their report to the planning authority (dated 14/01/2025) which also states that the applicants were advised of concerns relating to their proposal to divert the two existing storm water drains into one 225mm diameter pipe, on the grounds that this may contribute to flooding on the Metges road.
- 7.3.6. The applicant's response to the RFI request confirmed a significant build-up of silt in the Athlumney Stream. To address this issue the applicant obtained an agreement in principle with the relevant landowner (IDA Ireland) to undertake desilting/regrading works to the stream via a licence arrangement with the applicant's contractor (Donnelly Civil Engineering). It is stated in the RFI response that these works will be

undertaken subject to a successful grant of permission and taking due cognisance of the appropriate environmental approvals. To clarify, works to the Athlumney Stream are not proposed as part of the application.

7.3.7. The applicant's response to the RFI request included a revised surface water drainage design incorporating underground storage within the car park area in place of attenuation storage within permeable paving. Revised outputs from the MicroDrainage software are also presented. The response did not include proposals to lower the existing culvert at the IDA entrance road nor did it address the concerns relating to the proposed diversion of the two existing storm water drains.

7.3.8. I note that the applicants revised surface water drainage design is based on a lowered channel level within the Athlumney Stream. The development is therefore reliant on works on third party lands outside of the application site boundary. These have not been included within the application and would require detailed consideration including in respect of Appropriate Assessment and the Water Framework Directive. I recommend that planning permission be refused on this basis.

#### **7.4. Consideration of Condition 7**

7.4.1. Meath County Council decided to grant permission for the proposed residential scheme subject to condition. Condition 7, the subject of this first party appeal, includes measures to the address outstanding issues identified in the planning authority's assessment of the application, relating to the treatment and disposal of surface water and to flooding. The full text of condition 7 is provided in Section 3.1 of this report. I note that the first-party grounds of appeal raise issue with parts (d), (e) and (g) of condition 7, only; however, in the interest of completeness I consider it appropriate to address each part, as follows:

##### Condition 7 parts (a) and (b)

7.4.2. Condition 7 parts (a) and (b) relate to works to the Athlumney Stream deemed necessary to facilitate the proposed development. The applicant is required to enter into an agreement with the relevant landowner (IDA Ireland) to enable the applicant



to carry out works to the stream sufficient to ensure that it can accommodate critical flood flows and to ensure the maintenance of the stream. In my opinion, these conditions, which relate to and require works on third-party lands, outside of the control of the applicant are unreasonable and I am not satisfied that the applicant has sufficient control over the necessary lands to ensure that the conditions are fully complied with.

#### Condition 7(c)

- 7.4.3. Condition 7 (c) requires that the applicant submit a revised surface water system for the development in accordance with the Greater Dublin Strategic Drainage Study (GDSDS) Regional Drainage Policies Volume 2, for New Developments and the Greater Dublin Regional Code of Practice for Drainage Works Volume 6. I note that the proposed surface water system includes an attenuation storage system that has been deemed unsuitable by MCC's Environment Section. Notwithstanding, broader concerns relating to the applicants' proposals for surface water drainage for the site, I am satisfied that an agreement on the redesign of the attenuation system for the site is feasible, and I note that the applicants have not raised any issue in relation to compliance with condition 7(c). Therefore, I have no objection in principle to this condition.

#### Condition 7(d) - Appealed

- 7.4.4. Condition 7 (d) requires a revised layout for the diversion of the two existing surface water outfalls that currently cross the subject site. The applicant has requested that the Board omit this condition on the grounds that the existing layout would not result in an increased risk of flooding on Metges Road.
- 7.4.5. The grounds of appeal in respect of Condition 7(d) notes that both the existing and proposed outfall arrangements have been modelled using MicroDrainage software for the 1% AEP storm event and that modelling indicates that while the capacity of the existing 225mm diameter outfall pipe is marginally less than the calculated flow, there is no predicted flooding on Metges Road. Notwithstanding, the applicants have

indicated that they would be willing to increase the outfall pipe diameter to 300mm to eliminate the capacity deficiency. They have also modified the proposal so that the invert level of the new outfall arrangement to the Athlumney Stream is at the same level as the current outfall. Submitted MicroDrainage modelling for the proposed outfall arrangement with a larger pipe diameter indicates that there is no surface flooding on Metges for the scenario with the proposed development.

- 7.4.6. While I note that applicant's submission in respect of Condition 7(d), as the modelling presented with the application and appeal appears to be based on the lowering of the existing stream channel by at least 0.5m and given the uncertainty that exists regarding the applicant's ability to carry out these works, as they relate to third party lands, I do not recommend that condition 7(d) be omitted.

Condition 7(e) - Appealed.

- 7.4.7. Condition 7 (e) requires the applicant to redesign of the existing Culvert at the IDA entrance road, such that it can accommodate drainage from the subject site. The condition stipulates that the redesigned culvert be constructed by the applicant. It also requires the applicant to submit a third-party agreement with the owners of the relevant lands consenting to carry out the works.
- 7.4.8. It is the contention of the applicant, as set out in the grounds of appeal, that redesign of the culvert at the IDA entrance is unnecessary. The applicant's contention in this regard is based on the findings and conclusions of the Site-specific Flood risk Assessment and on the opinion of Ross Macklin Triturus Environmental Services, that removing the silt from the drainage channel to increase the hydraulic storage capacity and maintaining the box culvert at its current invert level under the IDA access road would contribute to preventing untreated surface water runoff from Metges Road and from the existing Priory residential development to the east of Metges Road discharging directly downstream. A copy of a related letter from Ross Macklin of Triturus Environmental Services has been included as part of the appeal documentation.

7.4.9. However, given that the SSFRA and the opinion of Ross Macklin Triturus Environmental Services, are based on a lowered channel level within the Athlumney Stream and given the uncertainty that exists regarding the nature and extent of the works and the applicant's ability to carry out same, I am not satisfied that the proposed development, in the absence of a redesigned culvert would not result in flooding.

7.4.10. Further to the above, I note that Condition 7 (e) requires works on third party lands outside of the application (red line) boundary. I therefore have concerns regarding the applicant's ability to comply with the requirements of this condition.

Condition 7 (f)

7.4.11. Condition 7 (f) requires the applicants to submit a third-party agreement with the owners of the relevant lands to enable the applicant to carry out any drainage works on third party lands including for the headwall's construction on the drain adjacent to the western boundary.

7.4.12. It is stated in the first-party grounds of appeal that the applicant's ownership extends to the centre of the channel (Athlumney Stream) and thus no third-party consents are required to construct the outfall. The applicants have submitted a Tailte Eireann Registration Map as evidence of their land ownership.

Condition 7 (g) Appealed.

7.4.13. Condition 7 (g) requires the applicant to agree in writing with the planning authority, suitable compensatory storage for the storage area removed by the southwestern part of the proposed carpark. It is the contention of the applicant that compensatory storage is unnecessary. The applicant's argument is again based on the findings of the SSFRS which show that the proposed development would result in only a minor increase in water levels (4mm) immediately upstream of the culvert under the IDA entrance Road, and that such an increase would not increase the extent of flooding. However, given that the SSFRA is based on a lowered channel level within Athlumney Stream and given the uncertainty that exists in relation to the applicant's

ability to carry out these works. I would not recommend that that condition 7(g) be removed.

Conclusion:

- 7.4.14. The Site-Specific Flood Risk Assessment and surface water drainage design for this development are based on a lowered channel level within a section of the Athlumney stream. This would require works on third-party lands outside of the application boundary. While I note that the applicant has obtained an agreement in principle with the relevant landowner to carry out the works, I am not satisfied that this is sufficient to ensure the necessary works can and will be implemented nor am I satisfied that this matter can be addressed by way of condition as per the decision of the planning authority. I therefore recommend that permission for this development be refused.

## **8.0 Water Framework Directive**

- 8.1. I have considered the proposed development in terms of the Water Framework Directive (See Appendix 4 WFD Impact Assessment Stage 1 – Screening). The proposed development comprises a residential scheme of 45no. apartments. The subject site is located on the western side of the Metges Road in Navan. The site is bounded to the west by the Athlumney Stream which drains the site. The Athlumney Stream forms part of the river waterbody – Boyne\_120 (Code: IE\_EA\_07B041700) and is a tributary of the River Boyne.
- 8.2. It is proposed to discharge the storm water runoff from the proposed development to the Athlumney Stream. It is also proposed to divert the existing drains on the site which currently convey the surface water runoff from a section of the Metges Road to the Athlumney Stream. The development as proposed is reliant on works (desilting/regrading) to the Athlumney stream. Condition 7 (a) of the PA decision requires the Applicant to submit amended proposals (subject to agreement with the IDA, as landowner) that will enable the applicant to clear and regrade the Athlumney Stream adjacent to the subject site such that the watercourse can accommodate critical flood flows in the channel. The full nature and extent of the works required has not been fully determined.

8.3. I have assessed the proposed residential scheme and have considered the objectives as set out in Article 4 of the Water Framework Directive which seeks to protect and, where necessary, restore surface & groundwater waterbodies in order to reach good status (meaning both good chemical and good ecological status), and to prevent deterioration. Having regard to the lack of detail in the information submitted with the planning application and the appeal documentation, as to the full nature and extent of the works required and the associated effects requiring mitigation measures, I am not satisfied that the project can be eliminated from further assessment as there remains a risk to the surface water body – the Boyne\_120 (code: IE\_EA\_G\_002).

8.4. This conclusion is based on the following:

- The proposed development is reliant on works (desilting / regrading etc) to the Athlumney Stream, part of the water body, Boyne\_120 (code: IE\_EA\_G\_002),
- The full nature and extent of the necessary works to the Athlumney Stream has not been established.
- The works to the Athlumney Stream necessary to facilitate the development may give rise to potential effects on Boyne\_120 (Code IE\_EA\_G\_002) requiring mitigation.

I conclude that on the basis of objective information, that the proposed development has the potential to result in the deterioration of the river water body, the Boyne\_120 (IE\_EA\_G\_002), which may jeopardise the potential of the watercourse in reaching its WFD objectives.

## 9.0 **AA Screening:**

9.1. The Habitats Directive deals with the conservation of Natural Habitats and of wild fauna and flora throughout the European Union. Article 6(3) of this Directive requires that any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. The

competent authority must be satisfied that the proposal will not adversely affect the integrity of the European site.

Stage 1- Screening Determination for Appropriate Assessment

- 9.2. See Appendix 2 - Screening for Appropriate Assessment on file. In accordance with Section 177U of the Planning and Development Act 2000 (as amended) and on the basis of objective information provided by the applicant, I conclude that the proposed development could result in significant effects on The River Boyne and River Blackwater SAC (code 002299) and The River Boyne and River Blackwater SPA (code 004232) in view of the conservation objectives of a number of qualifying interest features of those sites.
- 9.3. It is therefore determined that Appropriate Assessment (stage 2) [under Section 177V of the Planning and Development Act 2000] of the proposed development is required.

Stage 2 – Conclusion for Appropriate Assessment

- 9.4. In carrying out an Appropriate Assessment (Stage 2) of the project (included in Appendix 3 of this report), I have assessed the implications of the project on the River Boyne and River Blackwater SAC (code 002299) and the River Boyne and River Blackwater SPA (code 004232) in view of their conservation objectives. I have had regard to the applicants Natura Impact Assessment and all other relevant documentation and submissions on the case file. I am not satisfied that the information provided is adequate to allow for Appropriate Assessment nor am I satisfied that all aspects of the project which could result in significant effects are considered and assessed in the NIS and mitigation measures designed to avoid or reduce any adverse effects on site integrity are included and assessed for effectiveness. There remains significant reasonable scientific doubt that the proposed development would not adversely impact on the integrity of the River Boyne and River Blackwater SAC (code 002299) and the River Boyne and River Blackwater SPA (code 004232) and these matters cannot be addressed by way of planning conditions. In such circumstances, the Board is precluded from granting permission.

9.5. Therefore, on the basis of the information provided with the application and appeal, including the Natura Impact Statement, and in light of the assessments carried out in respect of this development, I am not satisfied that the proposed development individually, or in combination with other plans or projects would not adversely affect the integrity of European sites, the River Boyne and River Blackwater SAC (code 002299) and River Boyne and River Blackwater SPA (code 004232), in view of the site's Conservation Objectives. In such circumstances the Board is precluded from granting approval/permission under the provisions of Article 6(3) of the Habitats Directive (92/43/EEC).'

9.6. This conclusion is based on the following:

- The proposed development is reliant on works (desilting / regrading etc) to the Athlumney Stream, that provides hydrological pathway to the River Boyne, part of the River Boyne and Blackwater SAC and SPA
- The full nature and extent of the works to the Athlumney Stream necessary to facilitate the development of the site as proposed has not been clearly established.
- The works to the Athlumney Stream necessary to facilitate the development may give rise to potential effects on the River Boyne and River Blackwater SAC (code 002299) and / or River Boyne and River Blackwater SPA (code 004232) which have not been considered as part of the Stage 1 Screening or Stage 2 AA.

## 10.0 EIA Screening

The proposed development has been subject to preliminary examination for environmental impact assessment (refer to Form 1 and Form 2 in Appendices of this report). Having regard to the characteristics and location of the proposed development and the types and characteristics of potential impacts, it is considered that there is no real likelihood of significant effects on the environment. The proposed development, therefore, does not trigger a requirement for environmental impact assessment screening and an EIAR is not required.

## 11.0 Recommendation

I recommend that permission for the proposed development be refused for reasons outlined below.

## 12.0 Reasons and Considerations

1. On the basis of the information submitted with the application and appeal, it is considered that the development of this site as proposed would be reliant on works which are on third party lands outside of the application site (red line) boundary. In such circumstances, the board cannot be satisfied that the relevant works can be implemented in full. To permit this development where such uncertainty exists would be contrary to proper planning and development.
2. Having regard to the lack of detail in the information submitted with the planning application, the appeal documentation and the NIS, as to the full nature, extent and scale of the works required to facilitate the development of this site as proposed and the associated effects of the works requiring mitigation measures to protect the integrity of the River Boyne and River Blackwater SAC (code 002299) and River Boyne and River Blackwater SPA (code 004232), the Board cannot be satisfied that the proposed development, individually, or in combination with other plans and projects would not be likely to have an adverse effect on the River Boyne and River Blackwater SAC (code 002299) and River Boyne and River Blackwater SPA (code 004232) in view of the sites conservation objectives. There remains significant reasonable scientific doubt that the proposed development would not adversely impact on the integrity of the SAC and / or SPA (downstream) and these matters cannot be addressed by way of planning conditions. In such circumstances, the Board is precluded from granting permission.
- 3 The development of this site as proposed is reliant on works (desilting/regrading) to the Athlumney stream, part of the Boyne River



Catchment, (Boyne\_120, Code: IE\_EA\_G\_002). Having regard to the lack of detail in the information submitted with the planning application and the appeal documentation, as to the full nature, and extent of the works required and the associated effects of the works requiring mitigation measures to protect the waterbody. The Board is not satisfied that the development will facilitate compliance with Article 4(1) of the water framework directive. To permit the development in such circumstances would be contrary to proper planning and development.

*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.*

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Lucy Roche  
Planning Inspector

26 May 2025

## Appendix 1 - Form 1 - EIA Pre-Screening

<b>Case Reference</b>	ABP-321837-25
<b>Proposed Development Summary</b>	Residential scheme of 45 apartments.
<b>Development Address</b>	Site at Metges Road, Johnstown, Navan, Co. Meath
	<b>In all cases check box /or leave blank</b>
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b>  (For the purposes of the Directive, "Project" means: - The execution of construction works or of other installations or schemes,  - Other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources)	<input checked="" type="checkbox"/> Yes, it is a 'Project'. Proceed to Q2.
	<input type="checkbox"/> No, No further action required.
<b>2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?</b>	
<input type="checkbox"/> Yes, it is a Class specified in Part 1.  <b>EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.</b>	State the Class here
<input checked="" type="checkbox"/> No, it is not a Class specified in Part 1. Proceed to Q3	
<b>3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?</b>	
<input type="checkbox"/> No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road	

<p>development under Article 8 of the Roads Regulations, 1994.</p> <p><b>No Screening required.</b></p>	
<p><input type="checkbox"/> Yes, the proposed development is of a Class and meets/exceeds the threshold.</p> <p><b>EIA is Mandatory. No Screening Required</b></p>	<p><b>State the Class and state the relevant threshold</b></p>
<p><input checked="" type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold.</p> <p><b>Preliminary examination required. (Form 2)</b></p> <p><b>OR</b></p> <p><b>If Schedule 7A information submitted proceed to Q4. (Form 3 Required)</b></p>	<p>Class 10 Infrastructure</p> <p>(b)(i): Construction of more than 500 dwelling units</p> <p>(b)(iv): Urban Development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere</p>

<p><b>4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?</b></p>	
<p>Yes <input type="checkbox"/></p>	<p><b>Screening Determination required (Complete Form 3)</b></p>
<p>No <input checked="" type="checkbox"/></p>	<p><b>Pre-screening determination conclusion remains as above (Q1 to Q3)</b></p>

Inspector: \_\_\_\_\_ Date: \_\_\_\_\_

## Form 2 - EIA Preliminary Examination

<b>Case Reference</b>	ABP-321837
<b>Proposed Development Summary</b>	Residential scheme of 45 apartments.
<b>Development Address</b>	Site at Metges Road, Johnstown, Navan, Co. Meath
<b>This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</b>	
<b>Characteristics of proposed development</b>  (In particular, the size, design, cumulation with existing/ proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).	321
<b>Location of development</b>  (The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).	<p>The site is not located within or immediately adjacent to any designated site. A hydrological connection between the development site and the River Boyne and River Blackwater SAC (Site Code: 002299) and SPA (Site Code: 004232) exists via the Athlumney Stream which drains the site. An NIS has been submitted with the application. Potential impacts on designated European site can be addressed under Appropriate Assessment. Compliance with Article 4(7) of the Water Framework Directive will also be considered as part of the application.</p> <p>The site is situated to the north of lands within Flood Zones A and B, where there is a medium to high risk of flooding. A Site-Specific Flood Risk Assessment (updated at FI stage) has been submitted with the application.</p> <p>The proposed development would use the public water and wastewater services of Uisce Eireann, upon which its effects would be marginal.</p>

<b>Types and characteristics of potential impacts</b>	Having regard to the nature of the proposed development, its location removed from sensitive habitats / features, likely limited magnitude and spatial extent of effects and absence of in combination effects, there is no potential for significant effects on the environmental factors listed in section 171A of the Act.
(Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).	
<b>Conclusion</b>	
<b>Likelihood of Significant Effects</b>	<b>Conclusion in respect of EIA</b>
<b>There is no real likelihood of significant effects on the environment.</b>	EIA is not required.

**Inspector:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**DP/ADP:** \_\_\_\_\_ **Date:** \_\_\_\_\_

(only where Schedule 7A information or EIAR required)

## Appendix 2 - Screening for Appropriate Assessment

### Step 1: Description of the project and local site characteristics

Case file: ABP-321837-25

<b>Brief description of project</b>	Residential scheme of 45 apartments
<b>Brief description of development site characteristics and potential impact mechanisms</b>	<p>The site comprises a roughly rectangular plot of land of 0.46 ha. The site is presently wooded with deciduous trees. 1996 and 1999 Ordnance Survey imagery suggests the land was in agricultural use (grassland) up to the 1990s.</p> <p>The site is bounded to the west by the Athlumney Stream which drains the site. The Athlumney Stream flows southwards and merges with the River Boyne at Kilcarn. Sections of the Metges Road surface water drainage system discharge to an open ditch on the site and this in turn discharges to the Athlumney Stream on the western boundary of the site.</p>
<b>Screening report</b>	Yes
<b>Natura Impact Statement</b>	Yes
<b>Relevant submissions</b>	Third party submissions to the planning authority raise concerns regarding the impact of the development on the natural environment and habitat. They consider the NIS to be inadequate.

### Step 2. Identification of relevant European sites using the Source-pathway-receptor model

European Site (code)	Qualifying interests <sup>1</sup> Link to conservation objectives (NPWS, date)	Distance from proposed development (km)	Ecological connections <sup>2</sup>	Consider further in screening <sup>3</sup> Y/N
River Boyne and River Blackwater SPA (Site Code: IE0004232)	Kingfisher (Alcedo atthis)	c. 450m	Indirect Hydrological connection between the project site and the SPA via the Athlumney	Yes

			Stream, with a channel distance of just less than 1,000 m between the two locations.	
River Boyne and River Blackwater SAC (Site Code: IE0002299)	<ul style="list-style-type: none"> <li>Alkaline fens</li> <li>Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (Alno-Padion, <i>Alnion incanae</i>, <i>Salicion albae</i>)</li> <li><i>Lampetra fluviatilis</i> (River Lamprey)</li> <li><i>Salmo salar</i> (Salmon)</li> <li><i>Lutra lutra</i> (Otter)</li> </ul> <a href="https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO002299.pdf">https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO002299.pdf</a>	c.360m	Indirect Hydrological connection between the project site and the SAC via the Athlumney Stream, with a channel distance of just less than 1,000 m between the two locations.	Yes

<sup>1</sup> Summary description / **cross reference to NPWS website** is acceptable at this stage in the report

<sup>2</sup> Based on source-pathway-receptor: Direct/ indirect/ tentative/ none, via surface water/ ground water/ air/ use of habitats by mobile species

<sup>3</sup>if no connections: N

### Further Commentary / discussion

The AA screening report notes that while the proposed development site has theoretical connectivity, via the River Boyne, with other European sites downstream of Drogheda town, namely Boyne Coast and Estuary SAC (code 001957) and Boyne Estuary SPA (code 004080), there is a channel distance of approximately 35 km between the Metges Road site and the two European sites. Due to the geographical separation and allowing for an enormous volume of mixing water within the river, the report concludes that there is no realistic prospect that the proposed development at Metges Road could have impacts on these two sites. I would agree with this conclusion.

### Step 3. Describe the likely effects of the project (if any, alone or in combination) on European Sites

#### AA Screening matrix

Site name Qualifying interests	Possibility of significant effects (alone) in view of the conservation objectives of the site*	
	Impacts	Effects

<b>Site 1: River Boyne and River Blackwater SPA (Site Code: IE0004232)</b>	<p><u>Direct:</u> None</p> <p><u>Indirect:</u></p>	<p>A decline in water quality would undermine the conservation objectives set for water quality targets and to prey availability</p>
<p>Kingfisher (<i>Alcedo atthis</i>)</p>	<p>During the Construction Phase, potential sources for water pollution from the construction site to local drains and the Athlumney Stream include:</p> <ul style="list-style-type: none"> <li>• Suspended solids derived from soil excavation and movement within site.</li> <li>• Run-off from wet cement surfaces which can result in alkaline water with high pH.</li> <li>• Leakages and spillages of hydrocarbons.</li> </ul> <p>The proposed development is reliant on works (desilting / regrading) to the Athlumney Stream outside of the site. Works to the stream while not proposed as part of the planning application are required by way condition as per the PA decision. The full nature and extent of works required is unclear however such works have the potential to result in changes in hydromorphology and in the water quality of the stream by way of</p> <ul style="list-style-type: none"> <li>• disturbance of sediment in the stream</li> <li>• release of contaminants from disturbed sediment,</li> <li>• spillages from machinery etc</li> </ul>	



	During the Operation Phase, potential leakage of petrol/diesel fuel from vehicles in parking areas could result in the entry of petroleum products to local watercourses.	
	Likelihood of significant effects from proposed development (alone): <b>Yes</b>	
	If No, is there likelihood of significant effects occurring in combination with other plans or projects?	
	<b>Impacts</b>	<b>Effects</b>
<b>Site 2:</b>  <b>River Boyne and River Blackwater SAC (Site Code: IE0002299)</b>  <b>QI list</b> <ul style="list-style-type: none"> <li>• Alkaline fens</li> <li>• Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (Alno-Padion, <i>Alnion incanae</i>, <i>Salicion albae</i>)</li> <li>• <i>Lampetra fluviatilis</i> (River Lamprey)</li> <li>• <i>Salmo salar</i> (Salmon)</li> <li>• <i>Lutra lutra</i> (Otter)</li> </ul>	As above	<p>In the absence of mitigation, the input of potential pollutants to the River Boyne and River Blackwater SAC, via the Athlumney Stream, could have potential effects on the following qualifying interests of the SAC:</p> <ul style="list-style-type: none"> <li>• 1099 River lamprey</li> <li>• 1106 Salmon</li> <li>• 1355 Otter</li> </ul> <p>Negative effects on the two qualifying habitats, alkaline fen and Alluvial forests are unlikely due to the following:</p> <ul style="list-style-type: none"> <li>• The main areas of alkaline fens are located c.30km to the north and upstream of the proposed development site.</li> <li>• The closest wet woodland is located in the vicinity of Drogheda c35 km downstream.</li> </ul>

	Likelihood of significant effects from proposed development (alone):	Yes
	If No, is there likelihood of significant effects occurring in combination with other plans or projects?	

#### **Step 4 Conclude if the proposed development could result in likely significant effects on a European site**

Based on the information provided in the screening report, site visit, review of the conservation objectives and supporting documents, I consider that in the absence of mitigation measures beyond best practice construction methods, the proposed development has the potential to result significant effects on the River Boyne and River Blackwater SAC (code 002299) and River Boyne and River Blackwater SPA (code 004232). I concur with the applicants' findings that such impacts could be significant in terms of the stated conservation objectives of the SAC and SPA when considered on their own and in combination with other projects and plans in relation to pollution related pressures and disturbance on qualifying interest habitats and species.

#### **Screening Determination**

In accordance with Section 177U of the Planning and Development Act 2000 (as amended) and on the basis of objective information provided by the applicant, I conclude that the proposed development could result in significant effects on the River Boyne and River Blackwater SAC (code 002299) and River Boyne and River Blackwater SPA (code 004232) in view of the conservation objectives of a number of qualifying interest features of those sites.

It is therefore determined that Appropriate Assessment (stage 2) [under Section 177V of the Planning and Development Act 2000] of the proposed development is required.

## Appendix 3 - Appropriate Assessment

The requirements of Article 6(3) as related to appropriate assessment of a project under part XAB, sections 177V [or S 177AE] of the Planning and Development Act 2000 (as amended) are considered fully in this section.

Taking account of the preceding screening determination, the following is an appropriate assessment of the implications of the proposed residential development in view of the relevant conservation objectives of the River Boyne and River Blackwater SAC (code 002299) and River Boyne and River Blackwater SPA (code 004232) based on scientific information provided by the applicant.

The information relied upon includes the following:

- Natura Impact Statement prepared by BioSphere Environmental Services
- Ecological Impact Assessment Report prepared by BioSphere Environmental Services
- Letter from Triturus Environmental Ltd, submitted with the application and appeal.

I am **not** satisfied that the information provided is adequate to allow for Appropriate Assessment nor am I satisfied that all aspects of the project which could result in significant effects are considered and assessed in the NIS and mitigation measures designed to avoid or reduce any adverse effects on site integrity are included and assessed for effectiveness.

It is proposed to discharge the storm water runoff from the proposed development to the Athlumney Stream which extends along the western boundary of the site, outside of the application redline boundary. During the planning authority's assessment of the application, it was established that works to desilt / re-grade the Athlumney stream would be required to increase its hydraulic storage capacity, to ensure the provision of satisfactory arrangements for the management of surface water and to prevent flooding. This would necessitate works on third party lands, outside of the application redline boundary.

In accordance with the information on file, the applicant obtained the agreement in principle of the relevant landowner (IDA Ireland) to undertake desilting/regrading works to the stream within their lands via a licence arrangement with the applicant's contractor (Donnelly Civil Engineering). As per the details provided at RFI stage, these works are to be undertaken subject to a successful grant of permission, taking due cognisance of the appropriate environmental approvals. The necessary works to the stream have not been included as part of the application nor have they been considered in the applicant's Appropriate Assessment Screening document or NIS.

MCC's Environment Flooding-Surface Water Section in their report to the planning authority (14/01/205) stated their opinion that the extent of the desilting works agreed between the applicant and the IDA would not be sufficient to facilitate the required drainage and

conveyance necessary to convey critical flood flow. In their opinion, it would be necessary to substantially deepen the channel in places and to remove mature trees from the channel base to accommodate flood flows.

Condition 7 (a) as attached to the grant of permission of MCC requires that the applicant submit an amended agreement with the IDA before the commencement of development on the site. Said works should be sufficient to enable the applicant to clear and regrade the Athlumney Stream such that the watercourse can accommodate critical flood flows in the Channel. The design and extent of the works are to be agreed with the planning authority. Condition 7 also requires a redesign of the culvert at the entrance to IDA lands to accommodate drainage from the subject site.

In my opinion, proposals put forward in compliance with Condition 7 may give rise to potential effects on European sites which have not been considered in the applicants Appropriate Assessment screening report in the NIS.

I note that consent can only be given after Appropriate Assessment of the implications of a project on a European site, having determined that the proposed development would not adversely affect the integrity of the site in view of its Conservation Objectives (where Article 6(4) does not apply). All aspects of the proposed development which can, by itself or in combination with other plans and projects, adversely affect the European site in light of its Conservation Objectives should be subject to detailed assessment.

#### **Submissions/observations**

N/A

#### **Public observations**

- Inadequacy of the NIA
- Impacts on habitats and species

#### **River Boyne and River Blackwater SAC (code 002299):**

#### **Summary of Key issues that could give rise to adverse effects (from screening stage): [examples]**

##### **(i) Water quality degradation (construction and operation)**

<b>Qualifying Interest features likely to be affected</b>	<b>Conservation Objectives Targets and attributes (summary- inserted)</b>	<b>Potential adverse effects</b>	<b>Mitigation measures (summary)</b>
			NIS SECTION 3

Lampetra fluviatilis (River Lamprey) [1099]	Restore favourable conservation condition  No decline in extent and distribution of spawning beds	Water quality degradation would undermine conservation objectives	Best practice pollution control measures  Application of industry standard controls,  CEMP
Salmo salar (Salmon) [1106]	Restore the favourable conservation condition  Water quality At least Q4 at all sites sampled by EPA	Water quality degradation would undermine conservation objectives	Sustainable Urban Drainage System (SuDS).
Lutra lutra (Otter) [1355]	Maintain favourable conservation condition  (Fish biomass available)	Significant degradation of water quality may adversely affect foraging/ fish biomass	

#### Other QI's

<ul style="list-style-type: none"> <li>• Alkaline fens</li> <li>• Alluvial forests with Alnus glutinosa and Fraxinus excelsior</li> </ul>	Not at risk – Outside the zone of influence
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#### River Boyne and River Blackwater SPA (code 004232):

#### Summary of Key issues that could give rise to adverse effects (from screening stage): [examples]

##### (i) Water quality degradation (construction and operation)

Kingfisher (Alcedo atthis) [A229]	Maintain favourable conservation condition  Water Quality	Decrease in water quality	As Above
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Note: The submitted NIS does not identify the relevant attributes and targets of the Qualifying Interests. The information provided in relation to same is based on my own review of the Conservation Objective documents available on the NPWS website.

#### Assessment of issues that could give rise to adverse effects view of conservation objectives

**Water quality degradation:**

Good quality water is necessary to maintain the populations of the Annex I and II species listed. Decrease in water quality would compromise conservation objectives for Annex II species listed and increase sedimentation could alter habitat quality for spawning or nursery grounds. Ecological surveys at the site showed that the channel of the Athlumney Stream alongside the site is not suitable for kingfisher Alcedo or otter as the stream in this section does not support fish or other aquatic species.

**Mitigation measures and conditions**

The mitigation measures outlined in Section 3 of the NIS focus on preventing ingress of pollutants and silt into local drains, the Athlumney Stream and ultimately the River Boyne during construction and operational phases. I am satisfied that the preventative measures which are primarily aimed at interrupting the source-pathway-receptor are targeted at the key threats to protected aquatic species and by arresting these pathways or reducing possible effects to a non-significant level, adverse effects can be prevented.

**Works to the Athlumney Stream:**

The development of this site as proposed is reliant upon works to the Athlumney Stream (desilting, regrading etc) outside of the site. Insufficient information has been submitted with the planning application, the appeal documentation and the NIS, as to the full nature, extent and scale of the works required and the associated effects requiring mitigation measures to protect the integrity of the River Boyne and River Blackwater SAC and SPA.

I am not satisfied that the mitigation measures outlined in the NIS would prevent adverse effects for this aspect of the development.

**In-combination effects**

I am not satisfied that in-combination effects has been assessed adequately in the NIS.

**Findings and conclusions:**

The applicant determined that the information contained in the NIS will enable the competent authority to ascertain that the proposed development, alone or in combination, with other plans and projects, will not adversely affect the integrity of any of the European Sites concerned.

However, having regard to the lack of detail in the information submitted with the planning application, the appeal documentation and the NIS, as to the full nature, extent and scale of the works required and the associated effects requiring mitigation measures to protect the integrity of the River Boyne and River Blackwater SAC and SPA, I am not satisfied that effects arising from aspects of the proposed development can be excluded for the European sites considered in the appropriate Assessment. There remains significant reasonable scientific doubt that the proposed development would not adversely impact on the integrity of the River Boyne and River

Blackwater SAC and SPA and these matters cannot be addressed by way of planning conditions. In such circumstances, the Board is precluded from granting permission.

### **Appropriate Assessment Conclusion: Integrity Test**

In screening the need for Appropriate Assessment, it was determined that the proposed development could result in significant effects on the River Boyne and River Blackwater SAC (code 002299) and River Boyne and River Blackwater SPA (code 004232). in view of the conservation objectives of those sites and that Appropriate Assessment under the provisions of S177U/ 177AE was required.

On the basis of the information provided with the application and appeal, including the Natura Impact Statement, and in light of the assessment carried out above, I am not satisfied that the proposed development individually, or in combination with other plans or projects would not adversely affect the integrity of European sites, the River Boyne and River Blackwater SAC (code 002299) and River Boyne and River Blackwater SPA (code 004232), in view of the site's Conservation Objectives.

In such circumstances the Board is precluded from granting approval/permission under the provisions of Article 6(3) of the Habitats Directive (92/43/EEC).'

This conclusion is based on the following:

- The proposed development is reliant on works (desilting / regrading etc) to the Athlumney Stream, that provides hydrological pathway to the River Boyne, part of the River Boyne and Blackwater SAC and SPA
- The full nature and extent of the necessary works to the Athlumney Stream has not been established.
- The works to the Athlumney Stream necessary to facilitate the development may give rise to potential effects on a European site which have not been considered as part of the Stage 1 Screening or Stage 2 AA.

## Appendix 4 - WFD IMPACT ASSESSMENT STAGE 1: SCREENING

### Step 1: Nature of the Project, the Site and Locality

<b>An Bord Pleanála ref. no.</b>	<b>321837</b>	<b>Townland, address</b>	Johnstown, Navan, Co. Meath
<b>Description of project</b>		Residential scheme comprising 45no. units in two blocks with connections to Uisce Eireann Wastewater and Drinking water infrastructure.	
<b>Brief site description, relevant to WFD Screening,</b>		<p>The site is presently almost totally wooded with deciduous trees. It falls from north to south and the existing levels on the site vary from a high of about 46m AOD at the northern boundary to a low of about 45m AOD at the southern boundary.</p> <p>The site is bounded to the west by the Athlumney Stream which drains the site.</p> <p>The Athlumney Stream flows southwards and merges with the River Boyne at Kilcarn.</p> <p>Sections of the Metges Road surface water drainage system discharge to an open ditch on the western side of the site and this in turn discharges to the Athlumney Stream on the western boundary of the site. The proposed development is entirely within Flood Zone C, with the exception of an area of the surface car park in the southwest corner of the site, which is in Flood Zone A and B</p>	
<b>Proposed surface water details</b>		SuDS Measures. Condition 7(b) of the PA decision requires that the applicant submit a revised surface water drainage system in accordance with GDSDS etc.	



	<p>It is proposed to discharge the storm water runoff from the proposed development to the Athlumney Stream. It is also proposed to divert the existing drains on the site which currently convey the surface water runoff from a section of the Metges Road to the Athlumney Stream. The development as proposed is reliant on works to desilting/regrading the Athlumney stream. Condition 7 (a) of the PA decision requires the Applicant to submit amended proposals (subject to agreement with the IDA, as landowner) that will enable the applicant to clear and regrade the Athlumney Stream adjacent to the subject site such that the watercourse can accommodate critical flood flows in the channel. The full nature and extent of the works required is unknown.</p>
<b>Proposed water supply source &amp; available capacity</b>	Public Mains. The application includes confirmation from Uisce Eireann that a water connection is feasible without infrastructure upgrade
<b>Proposed wastewater treatment system &amp; available capacity, other issues</b>	Public Mains. The application includes confirmation from Uisce Eireann that a connection is feasible without infrastructure upgrade
<b>Others?</b>	No
<b>Step 2: Identification of relevant water bodies and Step 3: S-P-R connection</b>	

Identified water body	Distance to (m)	Water body name(s) (code)	WFD Status	Risk of not achieving WFD Objective e.g.at risk, review, not at risk	Identified pressures on that water body	Pathway linkage to water feature (e.g. surface run-off, drainage, groundwater)
Athlumney Stream	Adjacent to the western boundary	Boyne – 120 Code: IE_EA_07B0417 00	Moderate	At Risk	Agriculture	Yes – discharge to stream surfacewater run off
Groundwater	Underlying site	Trim IE_EA_G_002	Good	At risk	DWTS, unknown, agriculture	High Water Table.

Step 4: Detailed description of any component of the development or activity that may cause a risk of not achieving the WFD Objectives having regard to the S-P-R linkage.							
CONSTRUCTION PHASE							
No.	Component	Water body receptor (EPA Code)	Pathway (existing and new)	Potential for impact/ what is the possible impact	Screening Stage Mitigation Measure*	Residual Risk (yes/no) Detail	Determination** to proceed to Stage 2. Is there a risk to the water environment? (if 'screened' in or 'uncertain' proceed to Stage 2.
1.	De-silt / regrading of Athlumney Stream	Boyne_120 IE_EA_07B04 1700	Direct – works to stream. Full nature and extent of works required - unknown	Changes to hydromorphology; water quality impacts	uncertain	uncertain	<b>Screened In</b>  Full nature and extent of the works to the Athlumney Stream necessary to facilitate the development of this site is unknown. On this basis and given that the works relate to third party lands outside of the application boundary it is possible to address the risk through mitigation.

2.	Filling in of drainage ditch that discharges to Athlumney Stream	Boyne_120 IE_EA_07B04 1700	Surface water to discharge directly to Athlumney Stream		Standard construction practice CEMP		Screened Out
3.	Site clearance/construction	Boyne_120	Existing proximity to stream	Spillages	Standard construction practice CEMP		Screened Out
4.	Site clearance/construction	Trim IE_EA_G_002	existing – proximity to stream	Spillages	Standard construction practice CEMP		Screened Out
<b>OPERATIONAL PHASE</b>							
4.	Surface Water discharge	Boyne_120 IE_EA_G_002	Discharge to surface water stream	Spillages	SUDs Features	No	Screened Out
5.	Discharges to Ground	Trim IE_EA_G_002	Pathway exists	Spillages	SUDs Features	No	Screened Out
<b>DECOMMISSIONING PHASE</b>							

5.	N/A	N/A	N/A	N/A	N/A	N/A	N/A
<b>Conclusion</b>							
<p>Having regard to the lack of detail in the information submitted with the planning application and the appeal documentation, as to the full nature, extent and scale of the works required to the Athlumney Stream necessary to facilitate the development of this site as proposed / permitted and the associated effects requiring mitigation measures, It cannot be determined that the development would facilitate compliance with Article 4(1) of the Water Frameworks Directive. Consequently, the proposed scheme cannot be excluded from further assessment.</p>							