



An
Coimisiún
Pleanála

Inspector's Report ABP-322072-25

Question

Whether the refurbishment and construction works are exempted development and whether the temporary change of use from farmhouse/B&B to house international protection/temporary protection refugee and asylum seekers is or is not development or is or is not exempted development.

Location

Laune Valley Farmhouse B&B,
Bansha, Killorglin, Co. Kerry

Declaration

Planning Authority

Kerry County Council

Planning Authority Reg. Ref.

EX1314

Applicant for Declaration

Killorglin Westfield Ltd.

Planning Authority Decision

Is not exempted development

Referral

Referred by

Killorglin Westfield Ltd.

Owner/ Occupier

None

Observer(s)

None

Date of Site Inspection

16th January 2026

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1.0 Site Location and Description

- 1.1. The referral site is located approximately 2km to the northeast of Killorglin town centre, Co. Kerry.
- 1.2. The subject site is situated in a rural area and there is established residential accommodation on the site which provides accommodation for persons seeking international protection.
- 1.3. The existing accommodation comprises of two separate buildings located adjacent to the vehicular entrance serving the site.
- 1.4. The building the subject of this referral is located to the east of the two buildings referred to above. The referral building has been recently refurbished and renovated for residential accommodation. The building was unoccupied during my site inspection.
- 1.5. The referral building is single storey in height, and the layout of the building comprises of 7 no. bedrooms, a common kitchen and common sitting room.
- 1.6. The referral building includes a 5 sq. m. single storey extension service room.

2.0 The Question

- 2.1. The questions for consideration are as follows.
 1. *Whether the refurbishment and construction work carried out to Laune Valley Farmhouse B&B is or is not development and is or is not exempted development.*
 2. *Whether the temporary change of use from Farmhouse B&B to house international protection/temporary refuge and asylum seekers is or is not development and is or is not exempted development.*

3.0 Planning Authority Declaration

- 3.1. On the 23rd of December 2024 a request for a Declaration in accordance with Section 5(1) of the Planning and Development Act, 2000, as amended, was received by Kerry County Council from Killorglin Westfield Ltd.
- 3.2. The Planning Authority issued a declaration on the 4th of March 2025, to the effect that the works carried out to Laune Valley Farmhouse B&B constitute works within the scope of section 2(1) of the Act, and therefore constitute development within the meaning of section 3(1) of the Act and the nature and extent of the development is not exempted development provided under section 4(1)(h) of the Act, or Class 1, Part 1, Schedule 2 of the Planning and Development Regulations, 2001 (as amended).
- 3.3. The Planning Authority's declaration also determined that the temporary change of use would constitute a material change of use that would come within the scope of section 3(1) of the Act, and that the change of use would not fall under any exempted development provisions of the Act or the Regulations as the change of use relates to an unauthorised structure arising from recent refurbishment works without the benefit of planning permission.

3.4. Planning Authority Reports

3.4.1. Planning Reports

3.4.2. The Planner's Report, dated 23rd of January 2025, can be summarised as follows:

- There is no recent planning history on the subject site.
- The works to the subject property relate to the refurbishment and reroofing and also includes the following;
 - Removal of two chimney stacks and barges
 - Alteration to internal layout inclusive of floor areas
 - Construction of 5 sq. m. service room to rear of farmhouse
 - Removal of doors and windows, addition of windows and modification of existing window sizes and level

- Partial demolition of external walls due to structural health and safety concerns.
- The applicant claims that the above works are exempt having regard to section 4(1)(h) of the Act, and Class 1 of the Regulations, and exempted under S.I. 306/2022.

3.4.3. The Planning Officer's report recommended that the following be addressed by way of further information.

1. Detailed floor plans and elevations demonstrating the extent of all the refurbishment works.
2. Details of alterations to the floor areas.
3. Clarify whether the height of the roof has been raised.
4. Clarification whether the PA are required to make an assessment on whether temporary change of use from Farmhouse B&B to house international protection/temporary refuge and asylum seekers is exempted development.
5. Clarify the Eircode of the site.

3.4.4. The Planning Officer's report assessed the further information received as follows:

- The extent of new block construction carried out to the majority of western and eastern elevations, and the entire south elevation, are not reflected on the submitted drawings received on 12th February 2025.
- Due to substantial rebuilding the accumulative refurbishments and rebuilding work are outside the scope of section 4(1)(h) of the Act.
- Schedule 2, Part 1, Class 1 offers exemption for construction of extension to rear of a dwelling. The side of the building is the northern gable elevation, and the service room is situated to the western side of the building.
- A substantial amount of demolition and rebuilding of the existing structure has taken place, as such new construction of the building has been undertaken.
- The development undertaken is not exempted development.
- The proposed change of use from Farmhouse B&B to house international protection/temporary protection refugee and asylum seekers cannot be

considered as the building itself is unauthorised due to extensive refurbishment works.

3.4.5. Other Technical Reports

- None

4.0 Planning History

4.1.1. The following planning history relates to the referral site.

- L.A. Ref. 1617/92 – Planning permission **granted**, subject to 10 no. conditions, on the 24th of August 1993, for the retention of a house as constructed and change of use to hostel. Note: This permission relates to the two-storey building situated to the west of the referral building on the site.

4.1.2. Concurrent case to the referral property.

- PL.500495-KY-25 (P.A. Ref. 2560592) – Third party appeal received by ACP on the 18th of December 2025. Appeal undecided. The P.A. **granted** retention permission, subject to 7 no. conditions, on the 25th of November 2025, for
 - a. the demolition works that have taken place to part of the existing building
 - b. replacement of the demolished works with new structure
 - c. elevational changes to the existing building,
 - d. alterations to internal floor levels within the existing building,
 - e. 5 sq. m. service room extension to the rear of the existing building and all associated site works.

Condition no. 3 of this permission states as follows.

The new building on site shall be used as a B&B/guesthouse. No further change of use shall take place without a prior grant of planning permission.

Reason: *In the interest of the amenities of the area and to regulate and control the use of the development.*

5.0 Policy Context

5.1. Kenmare Municipal District Local Area Plan, 2024-2030

5.1.1. Killorglin is a designated Regional Town within the Kenmare Municipal District LAP.

5.1.2. The referral site is located outside the settlement boundary of the LAP and is not zoned.

5.1.3. A key objective of the LAP is KENMD-KG-2, which states as follows,

‘Support and facilitate the Killorglin Town Centre Smart Regeneration Project as set out under the RRDF application which seeks to address the physical enhancement and improvement of the town centre through sustainable urban design measures and improved traffic management in the town’.

5.2. Natural Heritage Designations

- Castlemaine Harbour SAC (site code 000343) – 1.3 km west
- Castlemaine Harbour SPA (site code 004029) – 860m northwest
- Castlemaine Harbour pNHA (site code 000343) – 1.5 km west

6.0 The Referral

6.1. The following is a summary of the referrer’s case

Introduction

- The existing pre-1963 Farmhouse B&B forms part of the Laune Valley Farm Hostel complex.
- The property has been sympathetically refurbished and re-roofed to meet modern standards.
- The Farmhouse B&B is located adjacent to the Laune Valley Farm Hostel complex.
- The Laune Valley Farm Hostel complex is contracted to house International Protection Applicants.

- The Hostel and B&B are exempt having regard to (S.I. No. 582/2015) Class 14 (h) of Part 1, Schedule 2 of the Planning and Development Regulations, 2001 (as amended).

The refurbishment and construction works.

- The following modifications / alterations are exempted development having regard to Section 4(1)(h) of the Act of 2000, and S.I. 306/2022.
 - Alterations to the side and rear elevation namely the removal and inclusion of doors and windows and modifications to existing window sizes and levels. Exempted development under S.I. 306/2022.
 - Alterations of front elevation namely the removal of doors and windows, addition of windows and the modification of existing window sizes and level.
 - It is argued that the character and external appearance of the building have been retained, and additional windows do not affect or overlook third parties. Exempted development under SI 306/2022.
 - Alteration to the internal layout inclusive of floor levels.
 - Removal of two chimney stacks and barges.
 - Partial demolition of external walls due to structural health and safety concerns and the rebuilt. Exempted development under SI 306/2022.
- The construction of 5 sq. m service room to the rear of farmhouse B&B is exempted development having regard to Class 1, Part 1 of Schedule 2 of the Planning and Development Regulations.

Temporary change of use from farmhouse B&B to house international protection / temporary protection refugee and asylum seekers

- The change of use is exempted having regard to Class 14(h) of Part 1, Schedule 2 of the Regulations (S.I. No. 582/2015).
- The pre 1963 B&B is on a contracted hostel site exempt under Class 14(h).

- S.I. no. 306/2022 of European Union (Planning and Development) (Displaced Persons from Ukraine Temporary Protection) Regulations, 2022, is relevant as Section 3(1) of the Act shall not apply.

Conclusion - the refurbishment and construction work

- The development would not constitute works and would not come within the scope of section 2(1) of the Act.
- The external appearance of the Pre 1963 Farmhouse B&B has not been materially altered and there is no effect on any neighbouring properties as a result of the refurbishment.
- The works do not constitute development within the scope of section 3(1) of the Act. There was no material change of use.
- The nature and extent of the works do fall for consideration under exemptions provided at Section 4(1)(h) of the Act and Class 1, Part 1, Schedule 2 of the Planning and Development Regulations, 2001.

Conclusion - Temporary change of use from farmhouse / B&B to house international protection / temporary protection refugee and asylum seekers

- The proposed change of use would not constitute a material change of use that would come within the scope of development.
- The temporary change of use does fall for consideration under the exempted development provisions of the Act and the Regulations.
- The proposed development does not constitute a change of use of an unauthorised structure arising from recent refurbishment works carried out to the structure without the benefit of planning permission.

Other Issues

- The Board are requested to have consideration to ABP ruling in relation to Planning Register Ref. no. R85524 regarding elevational changes and change of use.

7.0 **Statutory Provisions**

7.1. **Planning and Development Act, 2000, as amended.**

7.1.1. Section 2(1) of the Act states the following:

- 'development' has the meaning assigned to it by Section 3;
- 'works' includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal'

7.1.2. Section 3(1) states that:

- 'development' means, except where the context otherwise requires, the carrying out of works on, in, over or under land or the making of any material change in the use of any structures or over land'.

7.1.3. Section 4(1) of the Act sets out various forms and circumstances in which development is exempted development for the purposes of the Act, including Section 4 (1)(h) which provides for the carrying out of works for the maintenance, improvement or alteration of any structure that only affect the interior of the structure, or which do not materially affect the external appearance so as to render it inconsistent with the character of neighbouring structures.

7.1.4. Section 4(2) of the Act provides that the Minister may, by regulations, provide for any class of development to be exempted development.

7.1.5. Section 4(4) provides that development shall not be exempted development if an Environmental Impact Assessment (EIA) or an Appropriate Assessment (AA) of the development is required.

7.2. Planning and Development Regulations, 2001, as amended.

7.2.1. Article 6(1) of the Planning and Development Regulations 2001, as amended, provide that ‘subject to article 9, development of a class specified in column 1 of Part 1 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1’.

7.2.2. Schedule 2 of Part 1 to the Regulations set out the classes of exempted development, including ‘Class 14’ allowing for ‘development consisting of a change of use’: - ‘

‘(h) from use as a hotel, motel, hostel, guesthouse, holiday accommodation, convent, monastery, Defence Forces barracks or other premises or residential institution providing overnight accommodation, or part thereof, or from the change of use specified in paragraph (i) of the said premises or institution, or part thereof, to use as accommodation for protected persons,

(i) from use as a hotel, motel, hostel, guesthouse, holiday accommodation, convent, monastery, Defence Forces barracks or other premises or residential institution providing overnight accommodation, or part thereof, or from the change of use specified in paragraph (h) of the said premises or institution, or part thereof, to use as an emergency reception and orientation centre for protected persons’.

7.2.3. Statutory Instrument 376 of 2023 titled Planning and Development (Exempted Development) (No. 4) Regulations 2023 is an amendment to the 2001 Regulations which inserted a new Class 20F to Part 1 of Schedule 2 of the 2001 Regulations. Class 20F is set out as follows:

Class 20F	Conditions and Limitations
Temporary use by or on behalf of the Minister for Children, Equality, Disability, Integration and Youth to accommodate or	1. The temporary use shall only be for the purposes of accommodating displaced persons or for the purposes of accommodating persons seeking international protection.

<p>support displaced persons or persons seeking international protection of any structure or part of a structure used as a school, college, university, training centre, social centre, community centre, non-residential club, art gallery, museum, library, reading room, sports club or stadium, gymnasium, hotel, convention centre, conference centre, shop, office, Defence Forces barracks, light industrial building, airport operational building, wholesale warehouse or repository, local authority administrative office, play centre, medical and other health and social care accommodation, event and exhibition space or any structure or part of structure normally used for public worship or religious instruction</p>	<p>2. Subject to paragraph 4 of this class, the use for the purposes of accommodating displaced persons shall be discontinued when the temporary protection introduced by the Council Implementing Decision (EU) 2022/382 of 4 March 2022¹ comes to an end in accordance with Article 6 of the Council Directive 2001/55/EC of 20 July 2001.</p> <p>3. The use for the purposes of accommodating persons seeking international protection shall be discontinued not later than 31 December 2028.</p> <p>4. Where the obligation to provide temporary protection is discontinued in accordance with paragraph 2 of this class, on a date that is earlier than 31 December 2028, the temporary use of any structure which has been used for the accommodation of displaced persons shall continue for the purposes of accommodating persons seeking international protection in accordance with paragraph 3 of this class.</p> <p>5. The relevant local authority must be notified of locations where change of use is taking place prior the commencement of development.</p> <p>6. ‘displaced persons’, for the purpose of this class, means persons to whom temporary protection applies in accordance with Article 2 of Council Implementing Decision (EU) 2022/382 of 4 March 2022.</p> <p>7. ‘international protection’, for the purpose of this class, has the meaning given to it in section 2 (1) of the International Protection Act 2015 (No. 66 of 2015).</p> <p>8. ‘temporary protection’, for the purpose of this class, has the meaning given to it in Article 2 of Council Directive 2001/55/EC of 20 July 2001.</p>
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7.2.4. Article 5 of the Regulations sets out certain definitions, the following of which are relevant to the referral question:-

7.2.5. For the purposes of Schedule 2, the Regulations provide the following definition of a 'protected person' –

(a) a person who has made an application to the Minister for Justice and Equality under the Refugee Act of 1996 or the Subsidiary Protection Regulations 2013 (S.I. No. 426 of 2013),

(b) a person who falls to be considered or has been considered under section 3 of the Immigration Act of 1999, or

(c) a programme refugee within the meaning of section 24 of the Refugee Act of 1996.

7.2.6. As provided for in Article 9(1)(a), the development to which article 6 relates, shall not be exempted development, under certain circumstances and the restrictions and limitations are outlined in this Article.

7.2.7. Article 10 provides exemptions for change of uses in Part 4 of Schedule 2 of the Regulations. Article 10(4) provides an exemption for development consisting of the use of not more than 4 bedrooms in a house, where each bedroom is used for accommodation of not more than 4 persons as overnight guest accommodation

7.3. The European Union (Planning and Development) (Displaced Persons from Ukraine Temporary Protection) Regulations 2022 (S.I. No. 306/2022)

7.3.1. Section 3(1) provides that the Act of 2000 (other than sections 181A to 181C) shall not apply to the classes of development specified in the Schedule carried out by, or on behalf of, a State authority during the relevant period for the purposes of providing temporary protection to displaced persons.

7.3.2. Section 3(2) provides a reference to "proposed development" in sections 181A to 181C of the Act of 2000 shall include a reference to development of a class specified in the Schedule to which section 181A(1) of the Act of 2000 would apply if it was

development of a class specified in regulations made under section 181(1)(a) of the Act of 2000.

7.3.3. Schedule – Classes of Development - Article 3

1. Reception and integration facilities.
2. Residential accommodation, including ancillary recreational and sporting facilities.
3. Medical and other health and social care accommodation.
4. Education and childcare facilities, including ancillary recreational and sporting facilities.
5. Emergency management coordination facilities.
6. Structures or facilities ancillary to development referred to in paragraphs 1 to 5, including administration and storage facilities.
7. Infrastructure and other works ancillary to development referred to in paragraphs 1 to 6.

8.0 Relevant Referrals

- 8.1.1. ABP-321373-24: The Board determined on the 14th of April 2025 that the use of a guesthouse at Dun a Ri House Hotel, Kingscourt, County Cavan, to provide accommodation for persons seeking international protection, is development and is exempted development. The Board determined that the change of use from guesthouse to provide accommodation for persons seeking international protection constitutes a material change of use and therefore development, having regard to Class 6 of Part Four of Schedule 2 of the Planning and Development Act, 2001 (as amended) which does not include the provision of accommodation for international protection applicants as a use in that Class. Further the Board noted that the change of use from guesthouse to the provision of accommodation for International Protection Applicants has been specifically provided for as a class of exempted development in the legislation.
- 8.1.2. ABP-318709-23: The Board determined on the 17th of February 2025 that the use of the buildings/properties/structures located at the Former Great Southern Hotel, for

the purposes of accommodating persons seeking international protection is development and is not exempted development.

- 8.1.3. In this case works on a permitted use on site, i.e. nursing home, had commenced but was not completed in its entirety as permitted. The Board determined that the completion of such works to the building/properties/structures on site for any use other than a nursing home would, therefore, (i) contravene a condition attached to a permission under the Planning and Development Act, 2000, as amended, and (ii) be inconsistent with a use specified in a permission under that Act, and be de-exempted under Article 9(1)(a)(i) of the Planning and Development Regulations, 2001, as amended, and pending the completion of these works, there are no other exemptions available.
- 8.1.4. ABP-320219-24: The Board determined on the 20th of November 2024 that the proposed change of use of former medical centre to temporary hostel use, to accommodate displaced persons or persons seeking international protection is development and is exempted development and Class 20F of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001 (as amended) is the relevant exemption. The Board also determined that works consisting of the replacement of a window with two new windows, blocking up of a door, removal of a window and its replacement with a new door is development and is exempted development.
- 8.1.5. ABP-320031-24: The Board determined on the 19th of November 2024 that the change of use of a dwelling house to accommodation, where care is not provided, for protected persons is development and is not exempted development. The Board concluded that a change of use from a dwelling house to provide accommodation, for protected persons is material change of use.
- 8.1.6. ABP-307077-20: The Board determined in December 2020 that the use of the premises at Cannaboe Street, Ballinamore, County Leitrim as apartments, including residential accommodation for protected persons, is not development. The Board determined that the permitted use of the apartments was not abandoned and the current use of the premises as apartments, and not as a facility for the reception and care of protected persons, does not constitute a change of use from the permitted use and, therefore, does not constitute development.

8.1.7. RL17.RL2748: The Board determined on the 10th day of September 2010 the replacement and/or alterations of windows and doors at 'The Mews', Ballinlough, Dunshaughlin, County Meath is exempted development as they come within the scope of Section 4(1)(h) of the Act. In this particular case the Planning Inspector's report notes that the alterations are relatively minor, and replace like with like in terms of size and design within existing opes. Furthermore, the Inspector's Report notes that the main changes to most of the windows is the material of the frame, namely from timber framed to PVC and a change from single glazed to double glazed.

9.0 **Assessment**

9.1. **Introduction**

9.1.1. It should be stated at the outset that the purpose of this referral is not to determine the acceptability or otherwise of the subject building use in respect of the proper planning and sustainable development of the area, but rather whether or not the matter in question constitutes development, and if so falls within the scope of exempted development.

Question 1

9.1.2. *Whether the refurbishment and construction work carried out to Laune Valley Farmhouse B&B is or is not development and is or is not exempted development.*

9.2. **Is or is not development**

9.2.1. Section 2(1) of the Planning and Development Act, 2000, as amended, defines "works" as including any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal.....'.

9.2.2. Section 3(1)(a) of the Act defines development as the carrying out of any works in, on, over or under land, or the making of any material change in the use of any land or structures situated on land and in effect relates to both works and the material change in the use of land or structures.

9.2.3. The drawings submitted to the PA that accompanied the Section 5 application indicate the extent of refurbishment and construction undertaken at the Laune Valley Farmhouse B&B. It is evident from these submitted drawings that the act of alterations, to the elevations, and construction (service room) has taken place. The alterations and construction constitute works and as such falls under the definition of development under Section 3(1)(a) of the Act.

9.3. **Is or is not exempted development**

9.3.1. Development can be exempt from the requirement for planning permission by either Section 4 of the Planning and Development Act, 2000, as amended, (hereafter referred to as the Act) or by Article 6 of the Planning and Development Regulations, 2001, as amended (hereafter referred to as the Regulations). Section 4(1) of the Act has primacy over the exempted development provisions of the Regulations.

9.3.2. The referrer is claiming an exemption for the refurbishment and construction work on the basis of Section 4(1)(h) of the Act and Class 1, Part 1, Schedule 2 of the Regulations.

9.3.3. Section 4(1)(h)

Section 4(1)(h) of the Act provides an exemption for,

'development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures'.

9.3.4. The referral property is located in a rural area with no neighbouring structures in the immediate vicinity of the property. Therefore, and having regard to section 4(1)(h) of the Act, the key consideration in this referral is whether the refurbishment and construction work would *'materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure'*.

9.3.5. I would have regard to relevant case law and also referral precedent case RL17.RL2748, in interpreting Section 4(1)(h) of the Act. In Simons on Planning Law (2021), Browne refers to the case law, Cairnduff v O'Connell, as it relates to the

interpretation of Section 4(1)(h) of the Act. The judgement in this court case relates to works which were carried out to a terraced house that includes a side window, the replacement of a window with a door and the construction of a balcony and staircase.

- 9.3.6. Browne refers that the Supreme Court (Finlay C. J.) considered that the works did materially affect the external appearance of the structure, but this did not render the appearance inconsistent with the character of the structure or neighbouring structures. The development was therefore, considered to be exempt. Additionally, I note that Browne infers that the findings of the Chief Justice concluded that the character would be more dominantly affected by its street appearance rather than its rear appearance. Browne also notes, the judgement concluded that character must relate in general, to the shape, colour, design, ornamental features and layout of the structure concerned.
- 9.3.7. Furthermore, I would note that in a previous referral case, RL17.RL2748, the Board determined that the replacement and/or alterations of windows and doors to a single storey property is exempted development having regard to Section 4(1)(h) of the Act. I would acknowledge that the Inspector's Report notes that the replacement and alterations to the windows and doors are relatively minor in nature, modest in scale and are essentially replacing almost like with like in terms of size and design within existing opes.
- 9.3.8. Further the Inspector's Report submits that the main changes to most of the windows is the material of the frame, from timber framed to PVC and a change from single glazed to double glazed and concluded that the works would not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures.
- 9.3.9. The drawings submitted to the PA in respect of this current referral before the Commission illustrate the front and rear elevations prior to 2024, and also the respective elevations 'As Built', and therefore allow for a comparison of the original and current external appearance of the structure.
- 9.3.10. In respect of the original west facing elevation, prior to 2024, I would note that this elevation had 6 no. windows and 1 no. door, whereas the 'As Built' west facing elevation has 8 no. windows and 3 no. doors. As outlined in the submitted drawings

five of the windows along the western elevation on the 'As Built' elevation are new opes, due to the introduction of new window opes and relocation of existing window opes, and the elevation also includes the introduction of 2 no. doors.

9.3.11. Further changes to the west elevation include two velux roof windows. The 'As Built' western elevation also includes a 5m sq. metre extension for the service room. Furthermore, the scale of the window serving the sitting room has changed from a standard window size to a floor to ceiling height window.

9.3.12. Therefore, I would consider, having regard to the extent and quantum of alterations to the western elevation, and also noting that the elevation is visible from the public road, that the alterations would materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure.

9.3.13. In respect of the east facing elevation, the original elevation contained 6 no. windows and 2 no. doors, whereas the 'As Built' elevation includes 10 no. windows and no door. The alterations include the introduction of 3 no. window opes, and a window ope replacing a door. In addition, and as the case with the western elevation, the eastern elevation is visible from the public road. Furthermore, I note that two chimneys and concrete barges are removed from the roof level.

9.3.14. The removal of two doors from the elevation and the addition of 3 new window opes, increasing the number of windows from six to ten would, in my view, materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure.

9.3.15. I would also consider that the 2 no. doors removed would change the character of the elevation and the operating function of the eastern elevation as the main building would no longer be accessible from the eastern elevation. I acknowledge that a door remains to the south of the eastern elevation, however this door provides access to the 'Wash House' only, which is not connected to the main building. The external appearance of the eastern elevation would be affected by the removal and relocation of external doors.

- 9.3.16. The referrer submits that Planning Register Reference no. R85524¹ which relates to elevational changes is relevant to the current referral before the Commission. I have referred to this case above in section 8.0 of this report, and although I note that the Board concluded that certain elevational changes were exempted development having regard to Section 4(1)(h) of the Act, I would consider that the scale of elevation changes in the case ABP-320219-24, which relate to the replacement of a window with two new windows, blocking up of a door, removal of a window and its replacement with a new door would be entirely different in scale to the current case where there are wholesale changes to the western and eastern elevations.
- 9.3.17. Furthermore, the changes to the elevations in respect of ABP-320219-24 relate to either the eastern side or northern rear elevations, and none of these elevations are visible from the front elevation or the public realm. I would therefore not consider that ABP-320219-24, determined by the Board in November 2024, would act as a precedent case for the current referral before the Commission.
- 9.3.18. Therefore, having regard to the above considerations, the cumulative impact of the alteration and refurbishment works would, in my view, materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure. I therefore consider that the extent of the external works undertaken to the original building on this site are such that they do not fall within the scope of Section 4(1)(h) of the Planning and Development Act 2000, as amended. I therefore consider that the said works are not exempted development.
- 9.3.19. Class 1, Part 1, Schedule 2
- 9.3.20. The referrer argues that the construction of a 5 sq. m. service room situated to the rear of the Farmhouse B&B is exempted development having regard to Class 1 of Part 1, Schedule 2 of the Regulations. Class 1 provides exemptions for an extension to the rear of a house under specified conditions and limitations.
- 9.3.21. The PA in their assessment of the Class 1 exemption cast some doubt as to whether the 5 sq. m. service room is located to the rear elevation, which is required to avail of this exemption.

¹ ABP-320219-24

- 9.3.22. I acknowledge that the submitted drawings illustrate that the northern gable elevation faces onto the public road, and that the east elevation is indicated as the front of the building. Notwithstanding the submitted drawings and as outlined in para. 9.3.15 above, the extent of alteration and refurbishment works has, in my view, affected the elevations of the building to such an extent that it is unclear whether the western elevation can be categorised as the rear elevation for this building.
- 9.3.23. The submitted 'As Built' eastern elevation illustrates that the two entrance doors have been removed from the original elevation prior to 2024, and as noted above there is therefore no access to the building from the eastern elevation. Furthermore, it is evident from the submitted 'As Built' elevation that the primary access to the referral building is from the western elevation, providing access to the sitting room and kitchen and the bedrooms, via the kitchen.
- 9.3.24. As such, and although the submitted drawings label the western elevation as the 'rear elevation', I would consider, having regard to the extent of alterations and modifications to the building, that the character of the western elevation is functioning as the front elevation
- 9.3.25. Further to the nature and extent of the alterations to the elevations, the submitted Site Layout Plan² indicates that the western elevation of the referral building is operating as the front of the building, in terms of vehicular access to the building and its relationship with the overall site which includes the Laune Valley Farm Hostel, situated immediately to the west.
- 9.3.26. I would conclude, based on the submitted drawings and a site assessment, that the primary orientation of the building is west facing, having regard to both the access and the operating nature of the building. On this basis the proposed service room extension which is situated along the western elevation is not located to the rear of the building. I would therefore share similar concerns to the PA in respect of the 5 sq. m. service room extension and given its location to the front of the building cannot therefore avail of the Class 1 of Part 1, Schedule 2 of the Regulations.
- 9.3.27. An issue not addressed by the parties is the question of use and whether a B&B would qualify for an exemption in Class 1 of Part 1, Schedule 2 of the Regulations

² Drawing No. P010

which relates solely '*to development within the curtilage of a house*'. I would consider that the Class 1 exemption would be available to a B&B on the basis that the regulations afford an exemption to a house to provide for guest accommodation in accordance with Article 10(4) of the Regulations, and on this basis a house can operate as a B&B and thus avail of the Class 1 exemption which relates to development within the curtilage of the house.

9.3.28. Notwithstanding the above considerations, I have outlined below, under restrictions on exempted development, that given that the alterations and refurbishment works are not exempted development and do not have the benefit of planning permission, the as built structure, is unauthorised development and as such the exemption in Class 1 of Part 1, Schedule 2 of the Regulations, would not be available for the 5 sq. m. service room extension.

9.4. **Restrictions on exempted development**

9.4.1. I have noted above that the available exemption in Class 1, Part 1, of Schedule 2 of the Regulations is not applicable in respect of Question 1 of the referral before the Commission. Notwithstanding, and should the Commission consider otherwise, I would acknowledge that Article 9 of the Planning and Development Regulations, 2001 (as amended), refers to restrictions on exempted development.

9.4.2. In this respect I have assessed the referral building and the refurbishment and alteration works to same and having regard to the relevant Article 9 restrictions, I would conclude Article 9 (1) (a) (viii), which states '*consist of or comprise the extension, alteration, repair or renewal of an unauthorised structure or a structure the use of which is an unauthorised use*' would apply in this instance. I would consider that given that the alterations and refurbishment works are not exempted development and do not have the benefit of planning permission, that the as built structure on the referral site, is an unauthorised structure.

9.4.3. Accordingly, should any exemption be available, which in my opinion there is not, for the development in respect of Question 1 then Article 9 would de-exempt any exemptions, having regard to the planning status of the subject building.

9.4.4. **Question 2**

9.4.5. *Whether the temporary change of use from Farmhouse B&B to house international protection/temporary refuge and asylum seekers is or is not development and is or is not exempted development.*

9.5. **Is or is not development**

- 9.5.1. Section 2(1) of the Planning and Development Act, 2000, as amended, defines “works” as including any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal.....’.
- 9.5.2. Section 3(1)(a) of the Act defines development as the carrying out of any works in, on, over or under land, or the making of any material change in the use of any land or structures situated on land and in effect relates to both works and the material change in the use of land or structures.
- 9.5.3. The drawings submitted to the PA, dated 23rd December 2024 and 17th February 2025, both indicate the extent of refurbishment and construction undertaken at the Laune Valley Farmhouse B&B. It is evident from these submitted drawings that the act of alterations, to the elevations, and construction of the service room has taken place to facilitate the proposed change of use. These alterations and construction constitute works and as such falls under the definition of development under Section 3(1)(a) of the Act.
- 9.5.4. Further to the development that facilitates the proposed change of use, I would consider that change of use from Farmhouse B&B to provide accommodation for persons seeking international protection constitutes a change of use. A B&B, although not defined in the Regulations or the Act, operates primarily as residential in character whereby guest accommodation is ancillary to the main use and are typically located in residential areas and the accommodation is short term in nature. Whereas, based on my site assessment and information on the file, I am of the view that the proposed use, for residential accommodation persons seeking international protection, is not that of a dwelling house. The proposed accommodation is different in character to an individual dwelling house, with a large number of individuals sharing communal facilities, as opposed to each household living in one individual

dwelling unit. The proposed use has one communal kitchen, sitting room and an external laundry room. There is also an on-site manager and security. I would consider that the proposed accommodation for persons seeking international protection is more akin to a hostel or other institutional use and is therefore a material change of use from an individual dwelling house.

- 9.5.5. I would also note a precedent Board decision in respect of ABP-321373-24, as referred to in para. 8.1.1. above, when the Board determined that change of use from guesthouse to accommodation for persons seeking international protection constitutes a material change of use, on the basis that Class 6 of Part Four of Schedule 2 of the Planning and Development Act, 2001 (as amended) provides for guest house and does not include the provision of accommodation for international protection applicants as a use in that Class. Further the Board noted that the change of use from guesthouse to the provision of accommodation for International Protection Applicants has been specifically provided for as a class of exempted development in the legislation.
- 9.5.6. On the basis of the above considerations, I would consider that the proposed change of use is a material change of use and therefore falls under the definition of development under Section 3(1)(a) of the Act.

9.6. **Is or is not exempted development**

- 9.6.1. The referral before the Commission asks the question whether a change of use from an established Farmhouse B&B, which according to the referrer has pre 1963 status, to residential accommodation to provide for protected persons is or is not exempted development.
- 9.6.2. The referrer claims the Class 14(h) of Part 1, Schedule 2 of the Regulations provides an exemption for a change of use from Bed and Breakfast to use as accommodation for protected persons. For clarity, Class 14(h) of the Regulations states the following
- from use as a hotel, motel, hostel, **guesthouse**, holiday accommodation, convent, monastery, Defence Forces barracks or other premises or residential institution providing overnight accommodation, or part thereof, or from the*

change of use specified in paragraph (i) of the said premises or institution, or part thereof, to use as accommodation for protected persons,

- 9.6.3. The referral property is a former farmhouse B&B and according to information on the file has not operated as a B&B for some time. Notwithstanding I would acknowledge that Bed and Breakfast is not listed above under the Class 14(h) exemptions and therefore an issue not addressed by the PA or the referrer is whether the planning legislation has different interpretations in respect of a Bed and Breakfast establishment and a Guesthouse, and as such if there are any implications for the potential exemption available in Class 14(h), Part 1, Schedule 2 of the Regulations. I note in respect of the concurrent application, now before the Commission as a third-party appeal (PL.500495-KY-25) which is undecided, that the issue in relation to the status of the guest accommodation was raised by the PA in an additional information request (item no. 5) and the applicant in response submitted that the B&B was pre-1963, however no supporting documentary evidence was included.
- 9.6.4. Firstly, I note that neither guest house or bed and breakfast are defined in the planning legislation. I would note that Article 10(1) of the Regulations, in accordance with Part Four (Exempted Development – Classes of Use) of Schedule 2, allows exemptions for change of use within any one of the classes of use specified in Part 4 of Schedule 2. The specific use category in Class 6 of Part Four of Schedule 2 is '*Use as a residential club, a **guest house** or a hostel (other than a hostel where care is provided)*'.
- 9.6.5. It is also worth noting that the Kenmare Municipal District Local Area Plan, 2024-2030, identifies uses that are normally permitted, open for consideration and not permitted within specific land-use zoning objectives, in Appendix B of the LAP. A specific use listed is '*Club/Guest House/Hostel (Class 6) & Hotel*', which notably has a specific reference to Class 6, Part Four of Schedule 2 of the Regulations.
- 9.6.6. Furthermore, Article 10(4) of the Regulations refers to guest accommodation in the context of an exemption. In this regard Art. 10(4) provides an exemption for development consisting of the use of not more than 4 bedrooms in a house, where each bedroom is used for accommodation of not more than 4 persons as overnight guest accommodation.

- 9.6.7. Art. 10(4) therefore affords an exemption to any house to provide guest accommodation of up to 4 bedrooms. An important issue to clarify, in my view, is whether a B&B can avail of the Class 14(h) exemption. Having regard to the nature of the exemption (maximum 4 bedrooms) envisaged in Art. 10(4) the scale of this guest accommodation would be small, and more typically aligned with a Bed and Breakfast establishment. In addition, I would consider that the intention of the Art. 10(4) exemption is that the principal use of the property remains as a house, and that the guest accommodation is ancillary. Whereas a guest house which is listed as a use category in Class 6, of Part 4, Schedule 2 of the Regulations, as referred to above, can typically be larger in scale than that envisaged in Art. 10(4), and I note from a standard dictionary definition that Guest House is defined as '*kind of small hotel*'.
- 9.6.8. Further to the above considerations, I would consider that should a Bed and Breakfast be considered an applicable use for Class 14(h), then the implication of the exemption in Art. 10(4) would effectively mean that any house could in theory avail of the Class 14(h) exemption on the basis that it has availed of the Art. 10(4).
- 9.6.9. I would consider that given that a house, or residential generally, is not listed in Class 14(h), that it is the intent of the legislation that a house, or residential generally, cannot avail of the exemption under Class 14(h).
- 9.6.10. I would be of the view based on the above considerations that there is a distinction in planning legislation in relation to a Bed and Breakfast establishment, which can be smaller in scale and more residential in character, compared with a Guesthouse, and that Class 14(h), Part 1, Schedule 2 of the Regulations is clear in terms of the available exemptions and Bed and Breakfast is not listed as an exempted use.
- 9.6.11. However, should the Commission reach a different conclusion and take the view that the subject referral building can be classified as a Guesthouse, or that a Bed and Breakfast establishment is an applicable use in Class 14(h) then the change of use at the referral property to residential accommodation providing for persons seeking international protection would be exempted development in accordance with Class 14(h), Part 1, Schedule 2 of the Regulations.
- 9.6.12. I would note that the referrer also argues that S.I. 306 of 2022 – the European Union (Planning and Development) (Displaced Persons from Ukraine Temporary

Protection) Regulations, 2022, provides an exemption for the proposed development.

9.6.13. However, I would note that the relevant provisions of this exemption apply to residential accommodation carried out by, or on behalf of, a state authority. Based on the correspondence on the file between the Department of Children, Equality, Disability, Integration and Youth (DCEDIY) and the applicant, it is evident that DCEDIY has removed the referral property from the appraisal process until such time that outstanding enforcement issues on the site are addressed.

9.6.14. In addition, the file documentation includes an Agreement between DCEDIY and the applicant, however this relates to Laune Valley Hostel, located adjacent to the referral property. I would therefore consider that the exemption available in S.I. 306 of 2022 would not apply to the referral property in this instance.

9.7. Restrictions on exempted development

9.7.1. I have noted above that the available exemption in Class 14(h), Part 1, Schedule 2 of the Regulations is not applicable in respect of Question 2 of the referral before the Commission. Notwithstanding, and should the Commission consider otherwise, I would acknowledge that Article 9 of the Planning and Development Regulations, 2001 (as amended), refers to restrictions on exempted development.

9.7.2. In this respect I have assessed the referral building and the refurbishment and alteration works to same and having regard to the relevant Article 9 restrictions, I would conclude Article (1) (a) (viii), which states *'consist of or comprise the extension, alteration, repair or renewal of an unauthorised structure or a structure the use of which is an unauthorised use'* would apply in this instance.

9.7.3. Accordingly, should any exemption be available, which in my opinion there is not, for the development in respect of Question 2 then Article 9 would de-exempt any exemptions, having regard to the planning status of the subject building.

10.0 EIA Screening

10.1. 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 **Appropriate Assessment**

11.1. I have considered case ABP-322072-25 in light of the requirements S177U of the Planning and Development Act 2000, as amended.

11.2. The closest European Sites, part of the Natura 2000 Network, is the Castlemaine Harbour SAC (site code 000343) located approximately 1.3 km west of the referral site, and Castlemaine Harbour SPA (site code 004029) situated approximately 860m to the northwest of the referral site.

11.3. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because it could not have any effect on a European Site.

11.4. The reason for this conclusion is as follows:

- The minor nature and scale of the development.
- The absence of any ecological pathway from the development site to the nearest European Site.
- Location-distance from nearest European site.

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

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

12.0 **Water Framework Directive**

12.1.1. I have individually assessed the subject development use and have considered the objectives as set out in Article 4 of the Water Framework Directive which seek to

protect and, where necessary, restore surface and ground water waterbodies in order to reach good status (meaning both good chemical and good ecological status), and to prevent deterioration. Having considered the nature, scale and location of the subject use, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any surface and/or groundwater water bodies either qualitatively or quantitatively.

The reason for this conclusion is as follows.

- The minor nature and scale of development.
- The absence of any hydrological connections.

12.1.2. I conclude that on the basis of objective information, that the subject development will not result in a risk of deterioration on any water body (rivers, lakes, groundwaters, transitional and coastal) either qualitatively or quantitatively or on a temporary or permanent basis or otherwise jeopardise any water body in reaching its WFD objectives and consequently can be excluded from further assessment.

13.0 Recommendation

13.1. I recommend that the Commission should decide this referral in accordance with the following draft order.

WHEREAS a question has arisen as to whether the refurbishment and construction work carried out to Laune Valley Farmhouse Bed and Breakfast, Bansha, Killorglin, Co. Kerry, is or is not development and is or is not exempted development, and

Whether the temporary change of use from Farmhouse Bed and Breakfast to house international protection/temporary refuge and asylum seekers is or is not development and is or is not exempted development:

AND WHEREAS Killorglin Westfield Ltd. requested a declaration on this question from Kerry County Council and the Council issued a declaration

on the 4th of March 2025 stating that the matter was development and was not exempted development:

AND WHEREAS Killorglin Westfield Ltd. referred this declaration for review to An Coimisiún Pleanála on the 12th day of March 2025:

AND WHEREAS An Coimisiún Pleanála, in considering this referral, had regard particularly to –

- (a) Section 2(1) of the Planning and Development Act, 2000, as amended,
- (b) Section 3(1) of the Planning and Development Act, 2000, as amended,
- (c) Section 4(1)(h) of the Planning and Development Act, 2000, as amended,
- (d) Section 4(2) of the Planning and Development Act, 2000, as amended,
- (e) Section 4(3) of the Planning and Development Act, 2000, as amended,
- (f) article 5, article 6(1), article 9(1) and article 10(4) of the Planning and Development Regulations, 2001, as amended,
- (g) Parts 1 and 4 of Schedule 2 to the Planning and Development Regulations, 2001, as amended,
- (h) Relevant case law
- (i) The documentation on the file, including the submission on behalf of the requestor Killorglin Westfield Ltd,
- (j) the pattern of development in the area:
- (k) the report and recommendation of the Inspector:

AND WHEREAS An Coimisiún Pleanála has concluded that:

- (a) The alterations and refurbishment to the Laune Valley Farmhouse Bed and Breakfast, Bansha, Killorglin, Co. Kerry, constitutes development, as it involves the carrying out of 'works',
- (b) The alterations and refurbishment to the former Farmhouse Bed and Breakfast does not come within the scope of Section (4)(1)(h) of the Planning and Development Act, 2000, as amended, and are not considered to be exempted development,
- (c) the restrictions on exemption contained in Article 9 (1) (a) (viii) of the Planning and Development Regulations, 2001, as amended, applies as the alterations and refurbishment to the Farmhouse Bed and Breakfast structure are unauthorised, and accordingly the 5 sq. m. service room extension is not considered to be exempted development,
- (d) the change of use of the Farmhouse Bed and Breakfast to provide accommodation for persons seeking international protection constitutes a material change of use and involves the carrying out of works and therefore is development as defined under Section 3(1)(a) of the Planning and Development Act, 2000, (as amended),
- (e) the change of use of a Farmhouse Bed and Breakfast to provide accommodation for persons seeking international protection is not exempted development as it does not come within the scope of Class 14 – Part 1 of Schedule 2 – 'Exempted Development - General' inserted by The Planning and Development (Amendment) (Number 4) Regulations 2015 (S.I No 582/2015),
- (f) In any event, the restriction on exemption provided for in Article 9 (1) (a) (viii) of the Planning and Development Regulations 2001, (as amended), applies as the alterations and refurbishment to the structure is unauthorised.

NOW THEREFORE An Coimisiún Pleanála, in exercise of the powers conferred on it by section 5 (4) of the 2000 Act, hereby decides that the alterations and refurbishment to the Farmhouse Bed and Breakfast and the change of use from Farmhouse Bed and Breakfast to provide accommodation for persons seeking international protection is development and is not exempted 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 me, directly or indirectly, following my professional assessment and recommendation set out in my report in an improper or inappropriate way.

Senior Planning Inspector

17th February 2026

Form 1 - EIA Pre-Screening

Case Reference	ABP-322072-25
Proposed Development Summary	Whether the refurbishment and construction works are exempted development and whether the temporary change of use from farmhouse B&B to house international protection/temporary protection refugee and asylum seekers is or is not development or is or is not exempted development.
Development Address	Laune Valley Farmhouse B&B, Bansha, Killorglin, Co. Kerry.
In all cases check box /or leave blank	
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (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.
2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?	
<input type="checkbox"/> Yes, it is a Class specified in Part 1. EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.	
<input checked="" type="checkbox"/> No, it is not a Class specified in Part 1. Proceed to Q3	
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?	

<input type="checkbox"/> No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road development under Article 8 of the Roads Regulations, 1994. No Screening required.	
<input type="checkbox"/> Yes, the proposed development is of a Class and meets/exceeds the threshold. EIA is Mandatory. No Screening Required	
<input checked="" type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold. Preliminary examination required. (Form 2) OR If Schedule 7A information submitted proceed to Q4. (Form 3 Required)	Class 10(b)(i) of Part 2: threshold 500 dwelling units.

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)?	
Yes <input type="checkbox"/>	Screening Determination required (Complete Form 3)
No <input checked="" type="checkbox"/>	Pre-screening determination conclusion remains as above (Q1 to Q3)

Inspector: _____ Date: _____

Form 2 - EIA Preliminary Examination

Case Reference	ABP-322072-25
Proposed Development Summary	Whether the refurbishment and construction works are exempted development and whether the temporary change of use from farmhouse B&B to house international protection/temporary protection refugee and asylum seekers is or is not development or is or is not exempted development.
Development Address	Laune Valley Farmhouse B&B, Bansha, Killorglin, Co. Kerry.
This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.	
Characteristics of proposed development (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).	<p>The development involves alterations and modifications to a farmhouse B&B both internally and externally to provide accommodation for persons seeking international protection.</p> <p>During the construction phase in respect of the alterations / modifications the development would generate waste. However, given the moderate size of the development, I do not consider that the level of waste generated would be significant in the local, regional or national context. No significant waste, emissions or pollutants would arise during the construction or operational phase due to the nature of the use. Any potential contamination arising from the existing use would be limited in scale, having regard to the modest scale of the use and would have a localised impact. The development, by virtue of its residential type, does not pose a risk of major accident and/or disaster, or is vulnerable to climate change.</p>
Location of development (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,	<p>The subject site is not located within or adjoins any environmentally sensitive sites or protected sites of ecological importance, or any sites known for cultural or historical significance.</p> <p>The nearest designated European Sites to the referral site are the Castlemaine Harbour SAC (site code 000343) located approximately 1.3 km west of the referral site, and Castlemaine Harbour SPA (site code 004029) situated approximately 860m to the northwest of the referral site.</p>

<p>cultural or archaeological significance).</p>	<p>Given that there are no hydrological connections I have concluded in my AA Screening that the development would not likely have a significant effect on any European site.</p> <p>I consider that there is no real likelihood of significant cumulative impacts having regard to other existing and/or permitted projects in the adjoining area.</p>
<p>Types and characteristics of potential impacts</p> <p>(Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).</p>	<p>Having regard to the scale and nature of development in question, its location removed from any sensitive habitats / features, the likely limited magnitude and spatial extent of effects, and the absence of in combination effects, there is no potential for significant effects on the environment.</p>
<p>Conclusion</p>	
<p>Likelihood of Significant Effects</p>	<p>Conclusion in respect of EIA</p>
<p>There is no real likelihood of significant effects on the environment.</p>	<p>EIA is not required.</p>
<p>There is significant and realistic doubt regarding the likelihood of significant effects on the environment.</p>	<p>N/A</p>
<p>There is a real likelihood of significant effects on the environment.</p>	<p>N/A</p>

Inspector: _____ Date: _____
DP/ADP: _____ Date: _____

(only where Schedule 7A information or EIAR required)