



An
Coimisiún
Pleanála

Inspector's Report

ABP-322564-25

Development	Construct dwelling house with parking to rear, including connection to existing onsite public sewerage and mains water connections and all necessary site works
Location	Main Street, Annascaul, Co Kerry
Planning Authority	Kerry County Council
Planning Authority Reg. Ref.	2560017
Applicant(s)	Emma Kennedy.
Type of Application	Permission.
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Gearoid Kennedy
Observer(s)	None

Date of Site Inspection

1st July 2025

Inspector

Ann Bogan

1.0 Site Location and Description

- 1.1. The site, which is 0.18ha in area, is located on the Main Street in the village of Annascaul, 17kms from Dingle and 31km from Tralee. The village consists mainly of one and two-storey terraced and detached dwellings and commercial properties, positioned on either side of the N86 National Secondary Road. The site is a vacant 'gap' site located on the northern side of the street, between a newly constructed two storey detached dwelling to the west (also constructed by the applicant) and an existing dwelling to the east.
- 1.2. The land falls steeply to the rear (north) of the site, and is bounded by a tributary of the Owenascaul river. There is existing rock armour along river bank capped with concrete slab, and a concrete block wall approximately 1.6m high runs along the site boundary with the river.

2.0 Proposed Development

- 2.1. The proposed development consists of:
 - construction of a two-storey four bedroomed house, 109.12sqm in area
 - car parking to rear of dwelling
 - connection to public sewer and watermain
 - additional site works include raising the ground level, particularly to rear of dwelling, to create parking area and yard, and to construct retaining wall to rear of this area. Site will slope down from proposed retaining wall to existing wall/rock armour along river bank.

Further information received proposed lowering stone wall and installing railing on top of lowered wall, in front of neighbouring house in applicant's ownership, to improve sight distance for access to proposed parking area.

Further information also proposed surface water to discharge to a drain which will link to existing surface water drain to west, instead of onsite soakaway initially proposed.

3.0 Planning Authority Decision

3.1. Decision

Grant permission subject to six, largely standard, conditions.

Condition 1: construction in accordance with documents submitted

Condition 2: Requiring financial contribution

Condition 3: Relating to details and finishes of dwelling

Condition 4: Connection to public water and sewerage services to satisfaction of Uisce Eireann

Condition 5: Road opening licence required for cutting of public road

Conditions 6 relating to making good road and footpath etc

3.2. Planning Authority Reports

3.2.1. Planning Reports

- Initial report recommended further information in relation to:
 - demonstrate no interference or impact on river channel or riparian corridor, and to consider erosion risk and any mitigation measures to remove such risk
 - Submit revised map indicating sightlines at entrance to parking area; confirm if it will be shared entrance with neighbouring house
- Second report following receipt of further information concluded FI was satisfactory. Proposal for dwelling on the infill plot will add to streetscape and have favourable visual impact. Noted two requests for report made to Uisce Eireann but no report received. Annascaul sewage treatment plant is operating at capacity. However, Uisce Eireann practice has been “to permit

connections to public sewerage systems operating at capacity for single houses". Permission recommended subject to conditions.

- Appropriate Assessment Screening: concluded proposed development would not be likely to have a significant effect on any European sites and Stage 2 screening not required
- EIA preliminary examination: Concluded based on nature, scale and location of proposed project this proposal is not one which requires EIA screening or EIA.

3.2.2. Other Technical Reports

- Flooding Coastal and Marine Unit: Site is outside flood risk zone. but adjoins river. Request FI to demonstrate no interference to river channel or riparian corridor and consider potential of erosion risk and mitigation measures to reduce or remove erosion risk. Following review of FI, concluded no further comment or condition required
- County Archaeologist: No recorded monuments in proximity to development site; no mitigation required
- Kerry North RDO: proposal does not conflict with N86 Dingle to Annascaul to Gortbreagoge to Camp Road Improvement Scheme
- Roads Section: FI requiring revised site layout indicating sightlines, and confirmation if site entrance to be shared with adjoining property. No parking permitted at front of property. Following FI: sightlines adequate with reduced height of existing stone wall. Recommended conditions relating to footpath and road reinstatement, any relocation of utility infrastructure etc.

3.3. Prescribed Bodies

TII: Requests Planning authority to have regards to provisions of official policy for development impacting national roads i.e. to the DoECLG Spatial Planning and National Roads Guidelines for Planning Authorities.

3.4. Third Party Observations

Three submissions were made objecting to the proposed development. Issues raised in summary:

- Does not accept public sewer and water connections have already been made to the site. Clarity should be sought from Irish Water.
- Irish Water Treatment Plant in village is unfit for use and is polluting the river; deemed unsustainable in 2019
- Concern re impact of construction on village and walkers, local children and elderly; footpath disrupted by applicant for lengthy period in recent development
- Great need for family houses in area, proposed development likely to be an investment property/ Air BnB, as are other properties applicant owns
- Existing parking already creating a bottleneck, parking from the development will add to the problem on the street
- Questions whether effective soakpit can be created where shown on drawings as water would overflow down bank and pollute river and erode bank.

4.0 Planning History

21/375: Permission applied for demolition of existing shed and construction of two dwellings, including connections to public sewerage system. FI sought, deemed withdrawn.

03/306: Planning Permission granted for demolition of shed and erection of two dwellings including connections to public sewer.

Adjoining site: 22/1149 Permission granted to demolish existing shed, construct dwelling house, including driveway to access parking at rear, connection to public sewerage system.

5.0 Policy Context

Development Plan

The Development Plan pertaining to the area is the Kerry County Development Plan 2022-2028, which was adopted on 4th July 2022.

Corca Dhuibhne Electoral Area Plan 2021-2027 contains the Local Area Plan for Annascaul:

- Site is located on land zoned M 'Village Centre' which allows for a mix of uses, including residential,
- Site is within the Annascaul Architectural Conservation Area.

Relevant Overall Objectives:

- "AN-OO-1 Promote the rejuvenation of the main street and facilitate public realm enhancement.
- AN-OO-2 Retain a compact and sustainable village structure. New development shall contribute towards a compact settlement structure by making effective use of backland and infill sites.
- AN-OO-3 Facilitate and support the upgrading of wastewater and drinking water treatment infrastructure in a timely manner to ensure the sustainable development of the area".

Infrastructure

"The existing sewerage treatment plant consists of Primary Treatment (an Imhoff Tank) which is presently operating at capacity. A new waste-water treatment unit is recommended to treat current and future loading".

5.1. Natural Heritage Designations

- Dingle Peninsula SPA, 1.7m south of site
- Castlemaine Harbour SPA, 2km south of site

6.0 EIA Screening

- 6.1. The proposed development has been subject to preliminary examination for environmental impact assessment (see 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 significant and realistic doubt regarding the likelihood of significant effects on the environment is no real likelihood of significant effects on the environment. The proposed development, therefore, triggers a requirement for environmental impact assessment screening and an EIAR would be required.

7.0 The Appeal

7.1. Grounds of Appeal

- No indication on file that clarity was sought from Irish Water as to whether there is an existing connection on the site
- Planner did not heed fact that wastewater treatment facility is over capacity and endangering public health and polluting river
- Permission refused for application: Ref 19/384 (for glamping pods and holiday and leisure visitor centre) and Ref 25/1 on 27th February 2025 (for wellness centre). In both cases refusal reasons related to the proposals being premature pending improvements to capacity of Annascaul wastewater treatments plant. Contrasts this with grant of permission in this case on 24th April 2025.
- Refers to Inland Fisheries Ireland (IFI) submission on Planning Ref 25/1, which raises objection to increased overloading of public sewer. Alleges IFI not requested to look at current application
- Concern re use of neighbouring house and possible use of proposed house as Air B&B. Questions why applicants son, who it is stated will occupy house, cannot occupy existing house to west. Would be a local living in village and not have another tourist house with associated overloading of sewer

- In relation to parking, contends points raised in submission to Planning Authority were ignored. Notes parking area has not been provided to rear of house to west, which is a breach of planning and that the section provided for new house is not accurate. Notes that retaining wall proposed has not been built to rear of house to west
- At present occupants of house to west can park beside the house, but when second house is built there will be double the vehicles and less than half space
- PA did not request section through site to show significant slope to north, or that retaining wall stops between the houses and no request for swept path analysis
- PA ignored point made of car coming onto footpath blind, endangering pedestrians
- In summary, proposed building should have been refused as will increase risk to public health and marine life and lack of parking will endanger road and footpath users.

7.2. Applicant Response

- Alleges appeal is a vexatious objection, in response to applicant objecting to development by appellant at his home, which is next door to applicant's home, 4km from current site
- Re existing services, applicant was asked by Kerry County Council if they could provide connections to the site, in advance of major street and footpath works planned for the village to avoid excavations on the street following the works, and they installed connections to a number of properties in the village
- Re alleged Air B&B to west of site, questions where has appellant got his information on who lives there
- Re parking: parking facilities on site to west will be completed when building construction is completed

- Public safety issue re sightlines was resolved in further information response, as were surface water issues
- Proposed dwelling is for applicant's son and his family.

7.3. **Planning Authority Response**

- None

7.4. **Observations**

- None

7.5. **Further Responses**

None

8.0 **Assessment**

8.1. Having examined the application details and all other documentation on file, including the appeal documentation, the report of the local authority, having inspected the site, and having regard to the relevant local and national policies and guidance, I consider that the substantive issues to be considered in this appeal are as follows:

- Compliance with Local Area Plan policy
- Water and sewerage services
- Car parking provision
- Other Issues
- Appropriate Assessment Screening
- Water framework Directive Screening

8.2. **Compliance with Local Area Plan**

8.2.1. The proposed residential use of the site is compatible with the zoning of the site as 'M2 Village Centre', in the Corca Dhuibhne Electoral Area Local Area Plan 2021-

2027, which allows for mixed uses including residential uses. The applicant states that the dwelling will be used to house her son and his family.

- 8.2.2. The appellant asserts the existing house to the west developed by the applicant, is in use for short-term letting and suggests that house could be used to house her son, instead of constructing a second house as proposed. However, I am satisfied that the stated use of the proposed house is in keeping with the zoning objective for the area and note that the use of the existing house is not a matter for consideration by the Commission as part of this appeal.
- 8.2.3. The site is within the Annascaul Architectural Conservation Area. I consider that the redevelopment of the vacant infill site with a two-storey dwelling as proposed is in keeping with the character of the area and will enhance the streetscape of the village. It is also in accordance with Local Area Plan Objectives AA-OO-1 and AA-OO-2, which seek to rejuvenate the main street, retain a compact village structure and make effective use of infill sites.

8.3. Water and Sewerage Services

- 8.3.1. Water supply to the proposed development is to be from the existing public water main and it is also proposed to connect the development to the public sewer. In the cover letter received with the application, the agent for the applicant states: "prior to construction of new footpaths and surfacing of the street, connections to the public sewer and mains water were put in place for this site". It is not possible to confirm this on site. It is assumed the watermain runs along the front of the site as there is an Uisce Eireann manhole adjacent to the footpath in the right of way to west of site. As the public sewer runs at a deep level through the rear of the site, it is unclear if (or why) an advance connection would have been put in place (as it would be unlikely to have any implications for the street works).
- 8.3.2. In any case, Uisce Eireann were notified by the Planning Authority of the application (letter dated 22/01/2025) but no submission/observation was received. I note there does not appear to have been a Confirmation of Feasibility Report from Uisce Eireann submitted with the application.
- 8.3.3. It is noted from the site inspection that the adjacent house to the west has been connected to the foul sewer to the rear of the site. In a submission on the application for that house (Ref 22/1149), which was also developed by the applicant, Uisce

Eireann recommended further information be sought due to presence of sewer and watermain passing through the site. Following a further information request, the applicant submitted a copy of Uisce Eireann Confirmation of Feasibility Report, which concluded that water and wastewater connections were feasible without infrastructure upgrade. It also included, in the context of the services running through the site, a requirement that the development must not affect the operation of the watermain or the sewer and if they wish to divert either they must have entered into a diversion agreement prior to commencing.

- 8.3.4. From the drawings submitted with the current application the existing public sewer runs to the rear of the proposed building at a deep level and construction would be unlikely to impact on it, however if permission is granted, it may be appropriate to include a condition requiring the sewer to be protected and that any diversion warranted to facilitate the development should be subject of a diversion agreement with Uisce Eireann in advance of development commencing.
- 8.3.5. The appellant raises concerns that the Annascaul wastewater treatment plant is over capacity and endangering public health and polluting the river, and references a recent planning application in the village which was refused permission (as was an earlier application for a glamping and tourist visitor centre in the village, Ref 19/384). The recent application referred to was for a wellness centre including treatment rooms, hot and cold therapy pools and 4 no. bedroom pods, to the rear of an existing 10 bed hostel, (Ref 25/1). Inland Fisheries Ireland objected to the proposal due to concerns re overloading of the public sewer which is at capacity, and that the proposal is hydrologically connected to the Owenascaul River, which has a 'high status' water quality objective. Permission for the development was refused by the Planning Authority on the basis that it would be premature pending the carrying out of capacity improvements to the wastewater treatment plant.
- 8.3.6. I note Inland Fisheries Ireland was notified of the current application by the Planning Authority, but made no submission or observation on it.
- 8.3.7. In the current application the Planning Authority Planner's report notes that the wastewater treatment plant is operating at capacity and states: "However, it has been the practice of Irish Water/Uisce Eireann to permit connections to public sewerage systems operating at capacity for single houses". I accept that the

proposal is significantly smaller in scale and nature than the Wellness Centre referred to above and less likely to significantly increase the loading on the WWTS or result in the type of peak loading which might occur in a use such as the wellness centre.

- 8.3.8. However, the Uisce Eireann Wastewater Treatment Plant Capacity Register indicates that the Annascaul plant is “• Red = no spare capacity available at present”, and does not indicate that a wastewater project is planned or underway to upgrade the plant. In the absence of available capacity, it is not possible to demonstrate that overloading of the facility will not occur, potentially causing an adverse impact on the environment, including the Owenascaul river waterbody. In this context, and having regard to the planning history referred to above, a Water Framework Directive Screening is set out in section 10.0 below.

8.4. Car Parking and Sightlines

- 8.4.1. The application proposes to provide one parking space to the rear of the dwelling, accessed via a right of way to the west. The site falls away steeply to the rear and will require significant infilling to create a level area to provide a parking space. The right of way access would also serve a planned parking space to the rear of the dwelling to the west, which has yet to be provided. The applicant in response to the appeal indicates that the car parking space to the west will be provided as part of completion of construction works on that site. In any case enforcement of same would be a matter for the Planning Authority rather than the Commission.
- 8.4.2. There is very limited on-street parking in this part of Annascaul and the provision of one parking space onsite meets the Development Plan requirements and is acceptable. I am satisfied that the provision of adequate sightlines at the junction with the public road can be achieved by the proposal submitted by way of further information to the Planning Authority to reduce the height of the front wall bounding the site to the west.

8.5. Other issues

- 8.5.1. I am satisfied that the issues of surface water disposal and protection of the river bank from erosion, which were not raised in the appeal, were adequately addressed by the further information submitted to and agreed by the Planning Authority.

9.0 AA Screening

- 9.1. I have considered the proposed development in light of the requirements S177U of the Planning and Development Act 2000 as amended. The subject site is not located within a designated site but is located approximately 1.7km from the Dingle Peninsula SPA and 2km from the Castlemaine Harbour SPA.
- 9.2. The proposed development comprises construction of a dwelling, with parking to the rear and connection to public sewerage and mains water services.
- 9.3. It is proposed to link the dwelling to the Annascaul wastewater treatment plant, which is identified on the Uisce Eireann Wastewater Treatment Plant Register as being at capacity 'with no spare capacity available at present', and there is no certainty as to when improvements to capacity will be delivered. Concerns have been raised in the appeal that there is a risk of overloading of the plant resulting in pollution to the nearby Owenascaul River. The river discharges to the sea circa 2km from the village, at a point adjacent to the European sites referred to above.
- 9.4. The Planning Authority Appropriate Assessment Screening concluded the proposed development would not be likely to have a significant effect on any European sites and Stage 2 screening not required. However, while the Planner's report acknowledged that the wastewater treatment plant is over capacity at present, the AA assessment did not address the potential risk of it overloading and resultant potential impact on the receiving environment, which is hydrologically linked to the European sites, nor did the application documentation provide information to allow these issues to be properly assessed.
- 9.5. Having considered the nature, scale and location of the project, and the information available with the application and appeal, I am not satisfied it can be eliminated from further assessment as it cannot be established based on the available information that it could not have any effect on a European Site.
- 9.6. I conclude, therefore, that there is insufficient information on the file to determine that there are no likely significant effects on the SPAs in the absence of mitigation. Having regard to the substantive reason for refusal recommended in this case, a request for further information in this regard is not recommended.

10.0 Water Framework Directive Screening

- 10.1. The subject site is located within the settlement of Annascaul. The site is bounded by the Owenascaul River waterbody (010). The proposed development comprises the construction of a new dwelling with connections to the Annascaul Agglomeration wastewater treatment plant
- 10.2. The Annascaul Agglomeration wastewater treatment plant is identified as being at capacity with “no spare capacity available at present”. There are no confirmed plans for the upgrade of this plant. Concerns have been raised in the appeal with regard to potential for the deterioration in water quality as a result of additional loading to the treatment plant.
- 10.3. I have assessed the proposed development 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 & 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 project, I am not satisfied that it can be eliminated from further assessment because there is a risk to the quality of surface water bodies.
- 10.4. The reason for this conclusion is as follows:
- Nature of the proposed development with proposed connection to mains sewerage services.
 - The lack of capacity at the agglomeration wastewater treatment plant to adequately treat wastewater flows from the settlement; and
 - The absence of certainty with regard to any measures to overcome such capacity constraints within a reasonable timeframe.
- 10.5. Conclusion

I conclude that on the basis of objective information, the proposed development has the potential to contribute to a risk of deterioration in the quality of the Owenascaul River Waterbody and jeopardises the achievement of the WFD objectives for the water body.

11.0 Recommendation

11.1. Refuse Permission

12.0 Reasons and Considerations

Having regard to the Kerry County Development Plan 2022-2028 and the Irish Water Wastewater Capacity Register, the development is proposed to connect to the wastewater treatment plant where there is no spare capacity and where certainty of available capacity to facilitate the proposal cannot be demonstrated and that overloading of the facility will not occur, potentially causing an adverse impact on the receiving environment. The proposal would be premature due to the deficiency of the wastewater treatment facility to serve the development, and therefore be prejudicial to public health and the proper planning and sustainable development of the area.

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

Ann Bogan
Planning Inspector

14th July 2025

Appendix 1 - Form 1 EIA Pre-Screening

Case Reference	ABP 322564-25
Proposed Development Summary	Construct dwelling house, parking to rear, connection to public water and sewerage services
Development Address	Main Street, Annascaul, 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, further action required.
2. Is the proposed development of a CLASS specified in <u>Part 1</u>, 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.	State the Class here
<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	

<p>proposed road development under Article 8 of the Roads Regulations, 1994.</p> <p>No Screening required.</p>	
<p><input type="checkbox"/> Yes, the proposed development is of a Class and meets/exceeds the threshold.</p> <p>EIA is Mandatory. No Screening Required</p>	<p>State the Class and state the relevant threshold</p>
<p><input checked="" type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold.</p> <p>Preliminary examination required. (Form 2)</p> <p>OR</p> <p>If Schedule 7A information submitted proceed to Q4. (Form 3 Required)</p>	<p>State the Class and state the relevant threshold</p> <p>Class 10(b)(i) Residential Development: Threshold 500 dwellings and</p> <p>Class (b) iv) Urban Development: Threshold 10 hectares</p>

<p>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)?</p>	
<p>Yes <input type="checkbox"/></p>	
<p>No <input checked="" type="checkbox"/></p>	<p>Pre-screening determination conclusion remains as above (Q1 to Q3)</p>

Inspector: _____Ann Bogan_____ Date: 14/07/2025_____

Form 2 - EIA Preliminary Examination

Case Reference	ABP 322564-25
Proposed Development Summary	Construct dwelling house, parking to rear, connection to public water and sewerage services.
Development Address	Main Street, Annascaul, 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).	Briefly comment on the key characteristics of the development, having regard to the criteria listed. The development has a modest footprint, consisting of a single dwelling on an infill site in an urban setting and will be connected to the public sewerage and water system. However, the public sewer discharges to the Annascaul wastewater treatment plant which is defined as 'red – with no spare capacity at present' on the Uisce Eireann Wastewater Treatment Plant Capacity Register. The development does not require demolition works, does not require the use of substantial natural resources.
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, cultural or archaeological significance).	Briefly comment on the location of the development, having regard to the criteria listed The development is situated in a village on a brownfield/infill site. It is not located within a designated site and is 1.7 km from the Dingle Peninsula SPA and 2km from the Castlemaine Harbour SPA. Surface water discharges to an existing surface water drain adjacent to the site, which discharges to a tributary of the river Owenascaul. The Owenascaul river had a water quality status of 'Good' in 2016-2021, down from 'High' in 2013-2018, and is a 'High' status objective river. The site is elevated above the river and is located outside any flood risk area.

<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 characteristics of the development and the sensitivity of its location, consider the potential for SIGNIFICANT effects, not just effects.</p> <p>The development is proposed to connect to Annascaul wastewater treatment plant which is at capacity and there is an absence of certainty that measures are planned to improve treatment capacity within a reasonable timeframe. Overloading of the plant cannot therefore be ruled out, nor can resulting risk of environmental pollution, such as impact on water quality of the Owenascaul River, or impact on SPAs downstream at the coast. Based on the information available, therefore it is not possible to conclude that there is no potential for significant effects on the environmental factors listed in section 171A of the Act.</p>
Conclusion	
Likelihood of Significant Effects	Conclusion in respect of EIA
There is no real likelihood of significant effects on the environment.	EIA is not required.
There is significant and realistic doubt regarding the likelihood of significant effects on the environment.	Schedule 7A Information required to enable a Screening Determination to be carried out.
There is a real likelihood of	EIAR required.

significant effects on the environment.	
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Inspector: Ann Bogan

Date: 14/07/2025 _____

DP/ADP: _____ **Date:** _____

(only where Schedule 7A information or EIAR required)