



An
Coimisiún
Pleanála

Inspector's Report PL-501361-KY-26

Development	Construction of 6 dwelling, shed/ home office, service road and connection to public services together with all associated site works.
Location	Killowen , Kenmare , Co. Kerry
Planning Authority	Kerry County Council
Planning Authority Reg. Ref.	2560480
Applicant(s)	Kevin O'Reilly
Type of Application	Permission
Planning Authority Decision	Grant Permission + Conditions
Type of Appeal	Third Party Normal Planning Appeal
Appellant(s)	Pat Henderson
Observer(s)	None
Date of Site Inspection	25/08/2026
Inspector	Irené McCormack

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1.0 Site Location and Description

- 1.1. The site is located within the development boundary of Kenmare, c. 600m to the east of the town centre. The site is c.160 meters north of the (R569) and 200 meters east of the Pat Scarteen Road in Kenmare. It is accessed from the R569 via an existing private access road.
- 1.2. This land is currently used for the overwintering and light grazing for horses. While the site is predominately grassland with some mature trees, gorse and hedgerows, there are large patches of scrub species of mainly Willow and Gorse throughout the site. The majority of the trees within the application area are growing on an hedgerow running in an east to west direction through the northern third of the site. There are occasional individual trees of Oak, Ash and Willow in the northern third of the site and there is one significant oak tree on the southeast corner of the site
- 1.3. The southern two thirds of the lands where sites 1 to 4 are located are relatively level. The northern third of the site where sites 5 to 6 slope in a south to north direction with an average height difference of approximately 1.5m. The application has a stated site area of 1.130ha.
- 1.4. The general area is characterised by residential development. There is a service station located to the immediate northeast at the entrance onto the R569. There is a residential estate on the adjoining lands to the east and there is a 2-storey dwelling under construction on the adjacent site to the south.

2.0 Proposed Development

- 2.1. The development comprises:
 - (a) permission to construct 6 no. detached two storeys;
 - b) permission to construct a new service road and footpaths with all associated site services to serve the development;
 - (c) permission to upgrade the existing service road including the construction of new footpaths and all associated site services; and,
 - (d) permission to connect to all public utility services and permission for all associated site works.

- 2.2. Further information was requested on 28th July 2025 a request to extend by 3 months was received by the PA on 6th January 2026. A response was received on the 21st March 2026. This was readvertised as 'Significant Further Information' and revised notices submitted on the 27th March 2026. The further information response included permission to construct a detached shed/home office at the rear of sites Nos 2, 3, 4, 5 and 6. The FI notices include an expanded development description.

3.0 Planning Authority Decision

3.1. Decision

Kerry County Council issued a decision to grant permission subject to 22 no. conditions

3.1.1. The following conditions are noted:

11. (a) The development shall be connected to the public water and public foul sewerage system to the satisfaction of Uisce Eireann. No development shall commence until such time as the developer has obtained and signed a Connection Agreement with Uisce Eireann for the provision of water and sewerage services necessary to enable the proposed development. The developer shall adhere to the standards and conditions set out in that agreement.

(b) There shall be no build-over of public infrastructure from the proposed development. Separation distances as per Uisce Eireann Standards, Codes and Practices shall be achieved where public infrastructure is in-situ within and/or adjacent to site boundaries.

(c) The development shall not impact public drinking water sources and/or abstraction points and/or abstraction infrastructure.

Reason: In the interests of public health.

14. (a) Prior to commencement of construction, the exact location of the storm water attenuation tank, oil bypass/grp separator and discharge pipe are to be agreed with Kerry County Council (KCC) to allow for the design of the Kenmare FRS currently at design stage. At minimum, the proposed location of the attenuation tank will need to be setback to the edge of the hammer head. Final design levels and location of the

storm discharge pipe to be agreed with KCC.

(b) In the event an infiltration system is proposed for discharging attenuated flows to ground, the applicant will be required to confirm infiltration rates with site percolation tests in accordance with BRE Digest 365.

(c) A Developed Operation and Maintenance Plan and Schedule for the storm drainage and SUDS infrastructure needs to be provided and agreed with the Council prior to commencement of construction. It is the responsibility of the applicant to keep this plan updated through the construction phase of the development and beyond when construction is complete, and the system is operational. It will be the responsibility of the applicant to address the immediate and long-term requirements of operating and maintaining the proposed drainage systems including site specific inspection regimes for each element, details on their lifetime expectancy, replacement requirements, landscape management, waste management associated with contaminated silt and other materials etc. It is the responsibility of the applicant to ensure that the operation and maintenance of all aspects of the stormwater management system of the proposed development is carried out on a regular and frequent basis and in accordance with best practise for the various elements of the system to ensure the satisfactory performance of the drainage system and to keep appropriate records of the operation and maintenance of the system.

(d) The applicant shall submit a report certifying the quality of the completed works to the Planning Authority with associated as built records. The report shall be prepared by a competent third-party consulting engineer with evidence of professional indemnity insurance.

Reason: To prevent flooding and in the interest of surface water management.

15. (a) Provision of a 'space for nature' riparian buffer strip with a minimum width of 10m to be provided along the Kealnagower stream to the north of the landholding. The establishment of native trees shall be enabled within this space.

(b) Proposals for improved fish passage / habitat along the Kealnagower stream.

Reason: In the interests of biodiversity and the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The initial Planning Report sought further information relating to:

- Sightlines and Road Safety Audit.
- Flooding - Storm water drainage and the location of phase 2 in flood zone A noted.
- Archaeological Impact Assessment.
- Tree Survey and biodiversity enhancements.
- Geotechnical Report noting significant settlements occurred on the adjoining estate to the east of the site when developed.
- Relocation of Open Space.
- Confirmation of Feasibility from Uisce Eireann.

Subsequent to the response to the RFI and documents received, it was considered that the issues raised in the further information had been addressed. The positive reports from the relevant internal Departments were noted and the Council considered that, subject to compliance with the conditions, the proposed development would constitute an acceptable density of development in this urban location, would not seriously injure the residential or visual amenities of the area or properties in the vicinity, would be acceptable in terms of layout, traffic, pedestrian safety and convenience. The proposed development would be in accordance with the relevant policies, objectives and development standards of the Kerry County Development Plan 2022-2028 and the Kenmare Municipal District Local Area Plan 2024-2030. Therefore, in light of the above and having regard to the urgent need for housing supply, the proposed development would be in accordance with the proper planning and sustainable development of the area, and that a grant of permission is therefore warranted.

3.2.2. Other Technical Reports

County Archaeologist – Following receipt of the further information response and no

mitigation required.

Environmental Assessment Unit – Concerns raised about the loss of trees and the that it appears the scheme was designed without regard to the landscape features and the Arboriculture Assessment was prepared after the design was prepared. Refusal recommend. Conditions set out in the event of a grant.

Flooding, Coastal and Marine Unit – Following receipt of the further information no objection subject to conditions.

Housing Estate Unit - Following receipt of the further information no objection to the proposed development.

Area Engineer – Roads - Following receipt of the further information no objection to the proposed development.

3.3. **Prescribed Bodies**

Transport Infrastructure Ireland (TII) – *‘With reference to the further information submitted in connection with the above planning application, I wish to advise that the Authority's position remains as set out in our letter of 17-Jun-2025.’*

3.4. **Third Party Observations**

Pat Henderson, Faha East, Killarney – Submission raises concerns regarding the validity of planning permission granted to Uisce Eireann to upgrade Kenmare wastewater Treatment Works. This submission refers to a previous application Planning Register Reference Number 22/55 and the validity of that decision and its implications for the current application.

4.0 **Planning History**

Site -None

Lands to the south

KCC 24/60424 – Permission for dwelling house withdrawn.

KCC 21/668 – Permission granted to construct a dwelling house.

Lands to the southeast

KCC 23/212 - Permission granted to construct a dwelling house.

5.0 Policy Context

5.1 Development Plan - Kerry County Development Plan 2022-2028

Volume 6 – Chapter 2 -Land Use Zoning

Zoning

The site is zoned R1 New/Proposed Residential - Provide for new residential development in tandem with the provision of the necessary social and physical infrastructure.

Description – For new residential areas/town extensions to ensure the provision of high quality new residential environments. Provide an appropriate mix of house sizes, types and tenures in order to meet household needs and to promote balanced communities. May also include a range of other ancillary uses for residential, particularly those that have the potential to foster the development of new residential communities.

Part of the site is also zoned G4 Active Open Space - Intended solely for the provision of recreational use.

Volume 1 – Written Statement

Chapter 3 - Core & Settlement Strategy

- Kenmare is identified as a Regional Town in the settlement hierarchy.

Chapter 4 – Town and Villages

Section 4.2.4 Placemaking

KCDP 4-10 - Ensure the creation of attractive, liveable, well designed, high-quality urban places that are home to diverse and integrated communities that enjoy an enhanced quality of life and well-being.

KCDP 4-17 Facilitate the development of sustainable compact settlements with the “10-minute” town concepts, whereby, a range of community facilities and services are accessible in short walking and cycle timeframes from homes, with walkways and link routes to Greenways or are accessible by high quality public transport services connecting people to larger scaled settlements delivering these service.

KCDP 4-18 To prioritise walking routes and to deliver a high level of priority and permeability for walking, cycling and public transport modes, in accordance with the principles of movement, place and permeability as laid out in the Design Manual for Urban Roads and Streets 2019, to ensure the creation of accessible, permeable links to places of work, retail, services, educational and community facilities

KCDP 4-22 Protect, enhance and ensure that existing and proposed developments located within or adjacent to areas of Green Infrastructure incorporate any important biodiversity features into the overall development in a sustainable manner.

KCDP 4-23 Encourage and facilitate, in consultation with relevant stakeholders, the development of green infrastructure that recognises the synergies that can be achieved with regard to the following: • Provision of open space amenities • Sustainable management of water • Protection and management of biodiversity • Protection of cultural heritage • Protection of protected landscape sensitivities.

Section 4.3 Active Land Management -Objective KCDP 4-26 - KCDP 4-39

Residential Densities and Building Heights -It is an objective of the Council to: KCDP 4-40 Ensure that developments have regard to the Ministerial Guidelines, Sustainable Urban Housing: Design Standards for New Apartments - Guidelines for Planning Authorities the DHPLG (2020), Urban Development and Building Heights – Guidelines for Planning Authorities DHPLG (2018) and Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (Cities, Towns & Villages) DEHLG (2009).

Section 4.4.4.1.2 Regional Towns

Chapter 6 - Sustainable Communities

This chapter targets the requirements for establishing and maintaining healthy, sustainable and inclusive communities through the provision of community and social infrastructure, appropriate housing and broader social inclusion policy across a range of sectors.

Chapter 7 -Housing for All

This chapter deals with Housing Policy based on the housing needs identified in the Housing Needs Demand Assessment and Housing Strategy for Kerry in Volume 6 of

the Plan.

Housing Policies

KCDP 7-6 - Facilitate the housing needs of people in their local communities through actively providing / assisting the provision of housing in settlements as identified in the Settlement Strategy and the Housing Strategy.

KCDP 7-7 Ensure that arrangements for the provision of Social Housing are made having regard to the current Housing Strategy in accordance with Part V of the Planning & Development Act 2000 as amended.

KCDP 7-8 Have regard to and promote increased residential densities in the towns and other appropriate locations in accordance with the policies of the NPF, RSES, Housing for All and the 'Sustainable Residential Development in Urban Areas' Guidelines 2009 (DoEHLG).

KCDP 7-10 Ensure that housing developments are completed to a standard that is in accordance with Kerry County Council's Taking in Charge Policy for Private Housing Developments.

Water & Waste Management

Section 13.2.4 Storm Water Management -Objectives KCDP 13-21 – KCDP 13-26

Chapter 11- Environment

Section 11.2.6 Green and Blue Infrastructure - Ecological Corridor states –'A primary threat to biodiversity both within and outside protected areas is habitat degradation, fragmentation and loss of these ecological corridors. The cumulative impact of loss of ecological corridor features on an incremental or site-by-site basis over time can have significant repercussions for biodiversity in the County, including both designated and non-designated habitats and species.'

KCDP 11-27 Support the preservation and enhancement of the general level of broadleaf tree cover throughout the County in both urban and rural areas and ensure that development proposals satisfactorily retain existing trees and/or provide additional native planting. A Tree Survey Report shall inform applications where appropriate.

Section 11.5 Land Use & Flood Risk Management states –‘It is critical for the long-term sustainable management of flood risk that planning decisions take full account of existing and potential future flood risk to avoid or minimise the creation of new flood risks that could otherwise arise through inappropriate future development.’

Volume 6 – Section 1 relates to Development Management Standards & Guidelines

Section - 1.3.2 Ecosystem Services Approach and Green Infrastructure

- The landscape plan submitted with an application should clearly illustrate how existing green infrastructure, and opportunities to create more linkages outside the site, have informed and been incorporated into the development layout. Green corridors are not considered to form part of the public open space provision of a development.
- The Planning Authority will encourage the protection and integration within an overall site green infrastructure network, of existing mature trees, watercourses and hedgerows which occur on proposed development sites, and where feasible, along roads. Where possible, all trees, hedgerow and landscape features to be retained shall be identified and retained in planning applications.

Section 1.5 Residential Development - This section sets out the Development Management Standards for residential development in towns and villages.

Section 1.4 Design General

Section 1.5 Residential Development

Section 1.5.1 Urban Design /Section 1.5.1.1 Design Statements

Section 1.5.2 Density

Section 1.5.4 General Residential Development Design Standards

Section 1.5.4.2 Estate Design

Section 1.20.6 Parking in Residential Areas

In general, residential layouts should not be dominated by car parking along access roads. New residential development should take account of the following criteria:

- The design standards and guidance set out in the Design Manual of Roads and

Streets DMURS (as amended).

Volume 6 – Section 3 Biodiversity Action Plan

5.1. Kenmare Municipal District Local Area Plan 2024-2030

- The site is identified in the LAP as part of KE-9

Kenmare – Settlement Capacity Audit of Zoned Land										
ID	Zoning	Road Access	Footpaths	Public Lighting	Foul/storm Sewer	Water Supply	Tier	Area (ha)	Estimated Density Units p/ha	Potential Yield
KE-9	R1	✓	✓	✓	✓	✓	1	4.71	20-35	94-165

- Section 3.2.2.10 relates to Water & Wastewater Management

Water & Wastewater Management Objectives	
Objective No.	It is an objective of the Council to:
 KENMD-KE-28	Support the timely provision of adequate water supply and wastewater treatment facilities to ensure that the town can achieve its potential and realise its aims and objectives over the lifetime of this Plan.
 KENMD-KE-29	Facilitate Uisce Éireann Investment in capital projects, subject to environmental assessment.

- Section 3.2.2.11 relates to Flood Risk Management

5.2. National

5.2.1. National Planning Framework (2025)

The National Planning Framework 2025 sets out that the ‘major policy emphasis on renewing and developing existing settlements established under the NPF 2018 will be continued, rather than allowing the continual expansion and sprawl of cities and towns out into the countryside, at the expense of town centres and smaller villages.’

Relevant Policy Objectives include:

- National Policy Objective 7: Deliver at least 40% of all new homes nationally, within the built-up footprint of existing settlements and ensure compact and sequential patterns of growth.

- National Policy Objective 9: Deliver at least 30% of all new homes that are targeted in settlements other than the five Cities and their suburbs, within their existing built-up footprints and ensure compact and sequential patterns of growth.
- National Policy Objective 11: Planned growth at a settlement level shall be determined at development plan-making stage and addressed within the objectives of the plan. The consideration of individual development proposals on zoned and serviced development land subject of consenting processes under the Planning and Development Act shall have regard to a broader set of considerations beyond the targets including, in particular, the receiving capacity of the environment.

5.2.2. Climate Action Plan,2025

- Climate Action Plan 2025 (CAP25) is the third statutory annual update to Ireland's Climate Action Plan under the Climate Action and Low Carbon Development (Amendment) Act 2021. Climate Action Plan 2025 builds upon last year's Plan by refining and updating the measures and actions required to deliver the carbon budgets and sectoral emissions ceilings and it should be read in conjunction with Climate Action Plan 2024.
- Implements carbon budgets and sectoral emissions ceilings and sets a roadmap for taking decisive action to halve our emissions by 2030 and reach net zero no later than 2050. By 2030, the plan calls for a 40% reduction in emissions from residential buildings and a 50% reduction in transport emissions. The reduction in transport emissions includes a 20% reduction in total vehicle kilometres, a reduction in fuel usage, significant increases in sustainable transport trips, and improved modal share.

5.2.3. Delivering Homes, Building Communities 2025 - 2030

The government's housing Action Plan on housing supply and targeting homelessness to 2030. Delivering Homes, Building Communities aims to accelerate the delivery of new homes, to deliver 300,000 by the end of 2030.

5.2.4. National Biodiversity Action Plan (NBPA) 2023-2030

The 4th NBAP strives for a "whole of government, whole of society" approach to the governance and conservation of biodiversity. The aim is to ensure that every citizen, community, business, local authority, semi-state and state agency has an awareness

of biodiversity and its importance, and of the implications of its loss, while also understanding how they can act to address the biodiversity emergency as part of a renewed national effort to “act for nature”.

This National Biodiversity Action Plan 2023-2030 builds upon the achievements of the previous Plan. It will continue to implement actions within the framework of five strategic objectives, while addressing new and emerging issues:

1. Objective 1 - Adopt a Whole of Government, Whole of Society Approach to Biodiversity
2. Objective 2 - Meet Urgent Conservation and Restoration Needs
3. Objective 3 - Secure Nature’s Contribution to People
4. Objective 4 - Enhance the Evidence Base for Action on Biodiversity
5. Objective 5 - Strengthen Ireland’s Contribution to International Biodiversity Initiatives

5.3. Section 28 Ministerial Guidelines

- 5.3.1. The following Section 28 - Ministerial Guidelines are considered of relevance to the proposed development. Specific policies and objectives are referenced within the assessment where appropriate.

- Sustainable Residential Development and Compact Settlements - Guidelines for Planning Authorities (2024).

Kenmare would represent a ‘Small and Medium Sized Towns (1,500 – 5,000 population)’ as set out in the guidelines.

Table 3.6 Areas and Density Ranges Small to Medium Sized Towns

Small / Medium Town Edge -The edge of small to medium sized towns are the lower density housing areas constructed around the centre, while urban extension refers to greenfield lands at the edge of the built-up area that are zoned for residential or mixed-use (including residential) development. It is a policy and objective of these Guidelines that densities in the range 25 dph to 40 dph (net) shall generally be applied at the edge of small to medium sized towns.

Section 4.0 relates to **Quality Urban Design and Placemaking**

Section 5.0 relates to **Development Standards for Housing**

- Policy and Objective 5.1 - Public Open
- The Planning System and Flood Risk Management Guidelines (2009)
A core objective of the Guidelines includes - Avoid new developments increasing flood risk elsewhere, including that which may arise from surface water run-off.

5.4. **Other Guidance**

- Design Manual for Urban Roads and Streets (DMURS) (2019).

5.5. **Natural Heritage Designations**

5.5.1. The site is not located within or adjacent to any designated Natura 2000 site. The nearest Natura 2000 site(s) are as follows:

- Special Area of Conservation: Kenmare River SAC (Site Code 002158) at c. 805m

6.0 **EIA Screening**

6.1.1. 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.

7.0 **The Appeal**

7.1. **Grounds of Appeal**

One no. appeal received from Mr. Patrick Henderson. The following concerns were raised:

- Concern is raised that the PA erred in the assessment of the application.
- This appeal centres around the concerns raised in ABP 313364 22 /KCC 22/55 relating to ongoing matters regarding the ownership/relevant consent for Uisce Eireann which the current application proposes connect to. While the text refers to ongoing legal matters which the Commission is not privy to or part of, it would appear the appellant is concerned about consenting to development where

such legal matters remain unresolved.

- The applicant argues that any person who makes a false or misleading statements in connection with a planning application, may be prosecuted under the Criminal Justice Act and obtaining planning permission where such matters are on-going is a gain for the applicant as the applicant benefits from the permission until it is challenged or potentially revoked.
- The appeal queries the validity of the planning permission for the Kenmare WWTP currently under construction.

7.2. Applicant Response

In response the applicant sets out that following:

- It is argued that the matters raised by the appellant are entirely unrelated to the proposed development and do not constitute material planning considerations relevant to the determined of this application.
- Reference is made to section 5.13 of the Development Management Guidelines.

7.3. Planning Authority Response

None

7.4. Observations

None

8.0 Assessment

8.1. Introduction

- 8.1.1. The case involves the original application and the revised proposal submitted as further information. Unless otherwise stated, my assessment and any references hereafter to the 'proposed development/scheme' are based on the revised scheme submitted as further information, that being the scheme on which the KCC decision is based.
- 8.1.2. Having inspected the site and examined the application details and all other documentation on file, including all the submissions received in relation to the appeal,

and having regard to relevant local/national policies and guidance, I consider that the main issues can be addressed as follows:

- Principle of Development
- Open Space and Landscape Strategy
- Drainage
- Other Matters

Note: The Commission may consider 'Density', 'Open Space and Landscape Strategy' and 'Drainage - Flood Risk' as New Issues.

8.2. Principle of Development

Proposed Development

- 8.2.1. Permission is sought to construct 6 no. detached two storeys with rear shed/ home office, service road and connection to public services together with all associated site works
- 8.2.2. Access to the site will be from the R569 Kenmare to Kilgarvan Regional Road via an existing cul-de-sac private roadway serving a number of existing dwelling and then by an unsurfaced track Sight distance details were submitted. Drawings submitted in response to RFI identify that 60m sightlines can be provided on both sides of the junction of the access road with the public road and the introduction of a pedestrian crossing provided at the junction of the access road and the R569.

Zoning

- 8.2.3. The site is zoned R1 New/Proposed Residential - Provide for new residential development in tandem with the provision of the necessary social and physical infrastructure in the Kenmare Municipal District Local Area Plan 2024-2030 and the Kerry County Development Plan 2022-2028. Lands zoned R1 New/Proposed Residential are described as 'for new residential areas/town extensions to ensure the provision of high quality new residential environments. Provide an appropriate mix of house sizes, types and tenures in order to meet household needs and to promote balanced communities. May also include a range of other ancillary uses for residential, particularly those that have the potential to foster the development of new residential communities.' The proposed residential units are 'Permitted in Principle' on

residentially zoned 'R' lands.

- 8.2.4. Section 3.10.2 Settlement Hierarchy of the Kerry County Developmental 2022-2028 establishes that Kenmare is identified as a 'Regional Town' in the Development Plan - Towns which provide a housing, employment, or service function serving a local region within the county'.
- 8.2.5. In addition, the provision of residential development on lands zoned 'R1' would be consistent with the policies of the Planning Authority as set out in section 4.3 Active Land Management of the Development Plan and Policy Objective KCDP 4-27 to prioritise the regeneration of underused town centre and brownfield / infill lands in order to achieve the sustainable delivery of new housing within the existing urban footprint of settlements in the County.
- 8.2.6. Therefore, having considered the available information, including the site context, I am satisfied that the overall principle of residential development is considered in accordance with the zoning objectives as identified in Kenmare LAP Kenmare Municipal District Local Area Plan 2024-2030.

Density

- 8.2.7. The population projections for County Kerry are set out in the Core and Settlement Strategy of the KCDP. The KCDP is aligned, in so far as is practicable, with the national and regional policy objectives set out in the NPF and RSES. Table 2.5: KCDP 2022-2028 Core Strategy Table sets out a housing requirement of 240 units in Kenmare. Volume 1, Chapter 3 (Core Strategy) and Chapter 4 (Towns & Villages) establishes a plan led approach to residential development. The Settlement Capacity Audit KE-9 sets out an estimated density range of 20-35uph for the proposed site.
- 8.2.8. The Development Plan does not set out any numerical limitations on density rather the CDP (Volume 6 – Section 1.5.2) establishes that in general, the number of units to be provided on a site should be determined with reference to the Guidelines for Planning Authorities on 'Sustainable Residential Development in Urban Areas' (2009) or any update thereof. It is set out that the Plan seeks to promote the development of 'live work' communities by promoting sustainable development by creating compact, high-quality developments. Higher residential densities will be encouraged within walking

distance of town and village centres and public transport infrastructure..

- 8.2.9. I refer the Commission to the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024) which replaced the 'Sustainable Residential Development in Urban Areas' (2009). Table 3.6 *Areas and Density Ranges Small to Medium Sized Towns* of the Compact Settlement Guidelines set out that the edge of small to medium sized towns are the lower density housing areas constructed around the centre, while urban extension refers to greenfield lands at the edge of the built-up area that are zoned for residential or mixed-use (including residential) development. It is a policy and objective of these Guidelines that densities in the range 25 dph to 40 dph (net) shall generally be applied at the edge of small to medium sized towns.
- 8.2.10. The proposed density at c. 5.3uph (inclusive of access roads) is well below the 25uph as set out in the Compact Settlement Guidelines and the 20-35uph as set out in the Settlement Capacity Audit for Kenmare.
- 8.2.11. Section 3.3.6 *Exceptions* of the Compact Settlement Guidelines establish that 'in the case of very small infill sites that are not of sufficient scale to define their own character and density, the need to respond to the scale and form of surrounding development, to protect the amenities of surrounding properties and to protect biodiversity may take precedence over the densities set out in this Chapter'.
- 8.2.12. Whilst I am of the opinion that the site can accommodate a lower density development in accordance with Section 3.3.6 *Exceptions* the Compact Settlement Guidelines 2024 and the provisions of Volume 2 Section 1.5.2 Density of the Development Plan, this can only apply where the design and layout responds to the surrounding context and seeks to protect biodiversity, which is not the case in this instance. In this case the applicant has had little regard to the characteristics of the site, in particular, the retention and integration of existing landscape features. I refer the Commission to section 8.3 of this report. As such the proposed density has not been justified in the context of the design and layout of the proposed development and in my opinion would be contrary to Section 3.3.6 *Exceptions* the Compact Settlement Guidelines 2024 and the provisions of Volume 2 Section 1.5.2 *Density* of the Development Plan.
- 8.2.13. The Commission may consider this a new issue and the Commission may wish to

seek the views of the parties.

Archaeology

- 8.2.14. The Commission will note that the testing established that there were no archaeological features in the trenches excavated within the subject site.

Geotechnical Assessment

- 8.2.15. The in response to the RFI the applicant has submitted an Interpretative Ground Investigation Report The report states that during the ground investigation a programme of intrusive investigation was undertaken to determine the subsurface conditions at the proposed site. I refer the Commission to section 5.0 *Recommendation & Conclusions* of the report which concludes that the application area is not affected by the same issues as occurred in the adjoining development.

Conclusion

Having regard to the above I am satisfied that the principle of the proposed development is in accordance with the zoning objective for the site. In summary, the site of the proposed development is on serviceable lands, within the development boundary of Kenmare.

The Commission will note that the issue of residential density is interrelated with section 8.3 of this report.

8.3. Open Space & Landscape Strategy

Open Space

- 8.3.1. In response to the RFI the Commission will note that the applicant has redesigned the site layout plan to amend the location of public open space. The revised site layout provides for two open spaces. The first open space is located adjoining the access road to the south of the proposed dwelling houses. The second open space is located to the west of the turning head at the northern end of the service road. The PA in their assessment note that while the location of these open spaces may not be ideal, they would be much more accessible than the open space originally proposed which was isolated and removed from the houses to the north of the site and they would benefit from passive surveillance.

- 8.3.2. While I agree that the revised locations are more accessible, the location and design of the open space to the south does not lend itself to a natural useable open space and by virtue of its location does not reflect quality placemaking and appears to reinforce the haphazard and uncoordinated approach to the overall development of the lands. In this context, the Commission will also note that part of this open space occupies a portion of lands previously identified for a dwelling house and later withdrawn KCC 24/60424.
- 8.3.3. In my opinion the proposed open space by reason of location and failure to integrate the layout with the existing landscape and biodiversity features on site (I refer the Commission to section commencing 8.3.4 below) would be contrary to Section 5.3.3 *Public Open Space* of the Compact Settlement Guidelines which states that ‘there is a need to focus on the overall quality, amenity value and biodiversity value of public open spaces. The spaces should integrate and protect natural features of significance and green and blue infrastructure corridors within the site and should support the conservation, restoration and enhancement of biodiversity. The public open spaces should also form an integral part of the design and layout of a development..’

Trees

- 8.3.4. I draw the Commission’s attention to the Arboriculture Impact Assessment. It is set out that 45 no. trees were assessed and it is proposed to remove 42 no. trees. The Commission will note that only one tree is identified for removal for sound arboriculture reasons and 41 identified for removal to facilitate the development. Site inspection also determined that the trees of site contribute to an established biodiversity network in and around the site.
- 8.3.5. Section 11.2.6 *Green and Blue Infrastructure - Ecological Corridor* of the KCDP states ‘A primary threat to biodiversity both within and outside protected areas is habitat degradation, fragmentation and loss of these ecological corridors. The cumulative impact of loss of ecological corridor features on an incremental or site-by-site basis over time can have significant repercussions for biodiversity in the County, including both designated and non-designated habitats and species.’
- 8.3.6. I draw the Commission’s attention to the report from the Ecologist in the Environmental Assessment Unit (EAU) of KCC who concerns regarding the extensive removal of and

recommended permission be refused noting that it appeared the scheme was designed without regard to the incorporation of the trees into the design and the arboriculture assessment was prepared after the design was decided rather than in advance to inform the design. On the basis of the Arboriculture Assessment, I would agree.

- 8.3.7. Section 4.4 *Key Indicators of Quality Design and Placemaking* of the Compact Settlement Guidelines set out an number of key principles that should be applied in the preparation of local plans and in the preparation and consideration of individual planning applications including (iii) *Green and Blue Infrastructure* – which sets out that ‘New development should seek to protect and enhance important natural features (habitats and species) within and around the site, should avoid the degradation of ecosystems and include measures to mitigate against any potential negative ecological impacts.’
- 8.3.8. This concept is further support by the Development Plan Objective KCDP 11-27 which seek to ‘support the preservation and enhancement of the general level of broadleaf tree cover throughout the County in both urban and rural areas and ensure that development proposals satisfactorily retain existing trees and/or provide additional native planting.’. In addition, Section 1.3.2 *Ecosystem Services Approach and Green Infrastructure* of Volume 6 – Section 1 - Development Management Standards & Guidelines sets out that a landscape plan submitted with an application should clearly ‘illustrate how existing green infrastructure, and opportunities to create more linkages outside the site, have informed and been incorporated into the development layout’ and that the PA will ‘encourage the protection and integration within an overall site green infrastructure network, of existing mature trees, watercourses and hedgerows which occur on proposed development sites. Where possible, all trees, hedgerow and landscape features to be retained shall be identified and retained in planning applications.’
- 8.3.9. This is not that case in this instance as the scheme provides for the removal of all existing trees within the site with the exception of three. While the applicant has argued biodiversity enhancements including the planting of 50 no. trees, these trees will take a substantial period of time to grow and does not account for the loss of biodiversity

network and established ecosystem as a result of tree and surrounding scrub removal. This is a wholly unacceptable approach to the development of this low density residential scheme and would be contrary to the KCC Development Plan and the Compact Settlement Guidelines as set out above. Furthermore, the applicant has failed to take account of the National Biodiversity Action Plan (NBPA) 2023-2030 in this regard.

Site Levels

- 8.3.10. I draw the Commission's attention to the drawing no. MOL054-25-10 A-As *Constructed Site Plan* which identifies existing site levels including lows of c. 7.8mOD and 8.02 mOD to the northeast of the site and rising in a south-westerly direction and Drawing no. MOL054-25-18 O – *Proposed Site Section A-A and Proposed Contiguous Elevation* which identifies FFL of 9.85 mOD to 10.3 mOD. No east-west cross-section drawings have been submitted and while the applicant has identified that it is proposed to raise the ground levels the resultant impact on adjoining lands/development cannot be assessment on the basis of the documentation on file. In any case significant manipulation of the landscape to accommodate the development would not be appropriate. I refer the Commission to section 8.4 below which identifies proposals to raise the ground levels to address potential flood risk at sites no. 5 and 6.

Conclusion

- 8.3.11. Having regard to the above, in my opinion, the proposed development represents an uncoordinated and haphazard from of development at this backland location and fails to adequately engage with the characteristics of the site including the vegetation on site, in particular, the mature trees on site, the site levels and fails to provide a quality and integrated public open space. As such the proposed development would be contrary to Section 5.3.3 *Public Open Space* and Section 4.4 *Key Indicators of Quality Design and Placemaking* of the Compact Settlement Guidelines and Objective KCDP 11-27, Section 1.3.2 *Ecosystem Services Approach and Green Infrastructure* of Volume 6 – Section 1 - Development Management Standards & Guidelines of the Kerry Development Plan as they relate to tree preservation, landscape preservation and green infrastructure. Permission should be refused for this reason.
- 8.3.12. The Commission may consider this a new issue and the Commission may wish to

seek the views of the parties.

8.4. Drainage

Public Water

- 8.4.1. It is proposed to provide a 75mm internal diameter HDPE connection to tie into the existing 75mm public main located at the internal road junction and to provide associated valves and metering requirements. Internally within the development it is proposed to provide associated hydrants, sluice valves, scour valve, metering etc. in accordance with Uisce Éireann requirements. Water distribution supply to each building will be sized to cater for the requirements of those particular uses. Metered connections will be made to the main in accordance with Irish Water specifications and details. I refer the Commission to drawing MOL054-25-22 PROPOSED WATERMAIN LAYOUT Rev. A. All works will be in accordance with Irish Water Code of Practice for Water Supply & the Water Infrastructure Standard Details Document Number: IW-CDS-5020-01
- 8.4.2. I draw the Commissions' attention to the report received from Uisce Eireann (UE) dated 12/01/2026 which accompanied the applicants RFI response. In relation to Water the COF states a connection is feasible subject to upgrades. It notes that *'the public water supply could facilitate this connection based on the estimated demand and the potential future capacity of the supply, subject to capacity upgrades'.... 'site investigations will confirm if a viable public source is available, the potential available capacity and water quality from the new source, details on the required capital works to bring the new source into full compliance and increase the available capacity in the public water supply network. Further confirmation will also be required regarding licencing agreements and transfer of ownership of the new source to Uisce Eireann. Subject to successful capacity increase, development connections will be accepted in this area sequentially on a first come basis as part of our normal connection application process.'*
- 8.4.3. While the capacity issues are noted the Commission will note the UE did not object to the proposed development and attached a number of conditions to ensure adequate provision and protection of water and wastewater facilities including that where' the applicant seeks a connection to the public network, the applicant shall enter into a

connection agreement with Uisce Éireann prior to the commencement of the development and adhere to the standards and conditions set out in that agreement’.

- 8.4.4. Having regard to the submission form UE dated 12/01/2026 which raised no objection to the principle of water connection, I am satisfied that the proposed development is acceptable subject to subject to a condition regard connection agreement. I am further satisfied this will ensure no development can connect to the public water supply until such times as there is suitable capacity. Should the Commission be minded to grant planning permission I recommend a suitable condition be attached to any grant of planning permission.

Wastewater

- 8.4.5. It is proposed to connect to the existing Uisce Eireann (UE) foul sewer system. I refer the Commission to revised drawing MOL054-25-20 PROPOSED FOUL WATER DRAINAGE SYSTEM LAYOUT (Rev. A) which shows a proposed layout of the foul water drainage system. This includes relocating the proposed pumping station. This is in response to the confirmation of feasibility Uisce Éireann state 21/03/2026 which sets out that “consideration should be given to the possibility of a gravity solution from the site to the inlet of the Oakwood Manor WWPS. This can be confirmed at the Application stage”.
- 8.4.6. The applicant states that the design of the foul water drainage network within the proposed development will be agreed with Uisce Éireann at connection stage as per their request and this will also include providing sewer connections to existing site not owned by the applicant, but which will accessed via the appeal site by gravity at the main road junction.
- 8.4.7. A review of the Uisce Eireann (UE) capacity register on 20/08/2026 noted that the WWTP serving the Kenmore agglomeration is subject to ongoing upgrade works from completion in 2026.

Surface Water Management

- 8.4.8. The principles of a SuDS treatment train were used during the design of the surface water drainage system. The SUDS treatment train is a series of interconnected sustainable drainage features designed to manage stormwater progressively as it

moves through an urban landscape. The attenuation strategy for the site is for the detention of flows in attenuation tanks. Control of runoff by attenuation methods requires a hydraulic control to restrict the magnitude of flows passing downstream, together with an upstream storage capacity to contain the volume of runoff held back by the hydraulic control. All flow velocities within the proposed surface water drainage network fall within the limits of 0.8m/sec to 3m/sec, when flowing half full as set out in “Recommendations for Site Development Works” as published by the Department of Environment. The storm water network and infiltration basin are designed to accommodate the 100-year return period plus an additional 20% to account for the effects of climate change.

- 8.4.9. A Stormwater Management Plan was submitted in response to RFI. In order to reduce the effects of the surface runoff on potential flooding. Stormwater management will be applied to surface water discharges into adjacent watercourses to control the rate of runoff from the proposed development.
- 8.4.10. There is no outfall pipe on the applicant’s lands. The water from the attenuation tank will discharge into an existing open surface water drain which connects to the Kealnagower stream. Once the water enters the existing open surface water drain within the planning boundary it will flow naturally via this drain to the stream. The maximum permitted surface water outflow from the proposed development is to be restricted to that of the existing greenfield site by the usage of attenuation storage. There are no works proposed to the existing open surface water drain.

Flood Risk

- 8.4.11. I refer the Commission to drawing MOL054-25-60 *Proposed Site Layout Plan Flooding Impact Assessment 1-In-100 Possibility In Any Year*, which shows the flood extent of a 1-in-100-year flood event superimposed onto the proposed site layout plan. The applicant states that this data was taken from the revised flood risk maps prepared under the Kenmare Flood Relief Scheme. (A review of floofinfo.ie on 20/8/2026 indicated that the Kenmare Flood Relief Scheme is currently a Stage 1, this is the scheme development and preliminary design stage and is expected to run until the first quarter of 2027). As noted on the drawing, the proposed development will not be affected by a 1-in-100-year flood event.

8.4.12. I refer the Commission also to drawings MOL054-25-61 *Proposed Site Layout Plan Flooding Impact Assessment 1-In-1000 Possibility In Any Year* & MOL054-25-62 *Proposed Site Layout Plan Flooding Impact Assessment 1-In-1000 Possibility In Any Year (Levels)*, which shows the flood extent of a 1-in-1000-year flood event superimposed onto the proposed site layout plan. This drawing indicates that sites 5 & 6 are partially affected, the following mitigation measures will be implemented to ensure that the proposed development will not be affected by flooding:

1. The proposed finished floor level of houses 5 and 6 will be 10.000mOD, while the finished floor level of the shed/office buildings will be 10.300mOD. The level of the amenity spaces around the houses and shed/office building will be on average 9.850mOD. On the flood probability map 0.1% AEP prepared under the Kenmare Flood Relief Scheme, the level of flood water closest to the development at location ID21KEAL00783 shows a maximum flood height of 8.48Mod. The flood water depth as noted on the 0.1% AEP map prepared under the Kenmare Flood Relief Scheme was reviewed against the topographical survey levels recorded, the highest water level noted above existing site levels was 9.023mOD.

2. To create sites 5 & 6 it is proposed to raise the ground levels by importing inert material from flood zone A located within the applicant's lands. It is set out that by removing material from flood zone A and depositing it in sites 5 & 6, any water displacement will be balanced out.

8.4.13. I note the PA raised no concerns as regards flood risk and while the measures above may reduce the flood risk on the appeal site the resultant impact of the proposed altering of the ground levels in some case by c. 2m (as discussed in section 8.3 of this report) have not been adequately assessed in my opinion including the changes in land management as a result of the importing inert material from the adjacent flood zone A and depositing it on sites 5 & 6. The argument made that 'by removing material from flood zone A and depositing it in sites 5 & 6, any water displacement will be balanced out' have not been supported by any evidence. A core objective of the Flood Risk Management Guidelines is to ensure that measures to deal with flood risks to an area proposed for development can satisfactorily reduce the risks to an acceptable level while not increasing flood risk elsewhere. In my opinion there is insufficient to

determine that the development will not result in an increased risk of flood elsewhere. Permission should be refused for this reason.

Conclusion

- 8.4.14. The submission by Uisce Eireann raised no objection to the water supply and foul drainage proposals subject to conditions. I further note the PA raised no objections to the site services and surface water proposals. However, I am not satisfied on the basis of the documentation on file that the applicant has adequately demonstrated that the proposed development works, namely the altering of land levels would not result in an increased flood risk elsewhere.
- 8.4.15. The Commission may consider Flood Risk a new issue and the Commission may wish to seek the views of the parties.

9.0 Other Matters

Legal Matters

- 9.1.1. The appeal from Mr. Patrick Henderson centres around the concerns raised in ABP 313364 22 /KCC 22/55 relating to ongoing matters regarding the ownership/relevant consent for Uisce Eireann to carry out upgrade works to the treatment plant which the current application proposes connect to.
- 9.1.2. The appellants is concerned with ongoing legal matters regarding the above and has raised concern about consenting to development where such legal matters remain unresolved.
- 9.1.3. As the Commission is aware the planning system is not designed as a mechanism for resolving disputes about title to land or premises or rights over land; these are ultimately matters for resolution in the Courts. The matters raised and any resolution thereto are not relevant to this application.

10.0 AA Screening

- 10.1. I have considered the appeal in light of the requirements of Section 177U of the Planning and Development Act 2000, as amended.
- 10.2. The proposed development is located within the town centre of Kenmare, Co. Kerry. The Kenmare River SAC (Site Code 002158) is located c. 805m to the west of the

appeal site.

10.3. Having considered the nature, scale and location of the proposed development, I am satisfied that it can be eliminated from further assessment as it could not have any effect on a European Site. The reason for this conclusion is as follows:

- The location of the development in a serviced urban area.
- The nature and extent of the proposed development.
- The distance to the nearest European Site.

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

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

11.0 Water Framework Directive

11.1. An assessment of the proposed development has been undertaken with regard to the objectives set out in Article 4 of the EU Water Framework Directive.

11.2. Having considered the nature, scale, and location of the proposed development, it is concluded that the proposal will not result in any risk of deterioration in the status of any water body, including surface waters (rivers and lakes), groundwater, transitional waters, or coastal waters. This applies to both qualitative and quantitative status, and in respect of temporary and permanent effects.

11.3. In addition, the proposed development will not adversely affect the achievement of established environmental objectives, including the protection, maintenance, and improvement of water body status, as required under the Directive.

11.4. Accordingly, the proposed development is considered to be compliant with the requirements of Article 4.

12.0 Recommendation

12.1. It is recommended that the proposed development is refused for the reasons and considerations as set out below

13.0 Reasons and Considerations

1. Having regard to the low residential density proposed and the design and layout of the proposed development, it is considered that the proposed development represents an uncoordinated and haphazard form of development at this backland location and fails to adequately engage with the characteristics of the site including the established biodiversity, in particular, the proposal to remove 42 of the 45 no. trees on site, site levels and the failure to provide a quality and integrated public open space.

As such the proposed development would be contrary to Section 3.3.6 *Exceptions* the Compact Settlement Guidelines 2024 and the provisions of Volume 2 Section 1.5.2 *Density* of the Kerry County Development Plan 2022-2028 as they relate to exceptions to density standards and Section 5.3.3 *Public Open Space* and Section 4.4 *Key Indicators of Quality Design and Placemaking* of the Compact Settlement Guidelines 2024 and Objective KCDP 11-27, Section 1.3.2 *Ecosystem Services Approach and Green Infrastructure* of Volume 6 – Section 1 - Development Management Standards & Guidelines of the Kerry County Development Plan 2022-2028 as they relate to biodiversity and green infrastructure, tree preservation and landscape preservation. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

2. Having regard to the nature and extent of site works proposed to accommodate the development including the changes in land management as a result of the importing inert material from the adjacent flood zone A and depositing it on sites 5 & 6, the potential impact of any water displacement has not been adequately addressed. On the basis of the evidence submitted, the Commission cannot be satisfied that the proposed development will not result in an increased risk of flood elsewhere. The proposed development would therefore be contrary to the proper planning and sustainable development of the area

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought

to influence me, directly or indirectly, following my professional assessment and recommendation set out in my report in an improper or inappropriate way.

Irené McCormack
Senior Planning Inspector
31st August 2026

Appendix 1: Form 1 EIA Pre-Screening

Case Reference	PL-501361-KY-26
Proposed Development Summary	Construction of 6 dwellinghouses.
Development Address	Killowen, Kenmare, 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)	☒ Yes, it is a 'Project'. Proceed to Q2. ☐ 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)?	
☐ Yes, it is a Class specified in Part 1. EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.	
☐ 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?	
☐ 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.	

☐ Yes, the proposed development is of a Class and meets/exceeds the threshold. EIA is Mandatory. No Screening Required	
☒ 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) >500 dwellings

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 ☐	
No ☒	Pre-screening determination conclusion remains as above (Q1 to Q3)

Appendix 2: Form 2 - EIA Preliminary Examination

Case Reference	PL-501361-KY-26
Proposed Development Summary	Construction of 6 dwellinghouses
Development Address	Killowen, Kenmare, 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).	The proposal is for residential units in a built up urban area. The increased height and scale are not considered to result in significant environmental effects. Construction materials and activities would be typical for an urban residential development of this nature and scale. The use of fuels and materials would be typical for construction sites. Construction impacts would be local and temporary in nature and could be suitably managed through a Construction Environmental Management Plan. In terms of accidents, no significant risk is anticipated having regard to the nature and scale of the development. Any risk arising from construction will be localised and temporary in nature. No existing or permitted developments have been identified in the immediate vicinity that would give rise to significant cumulative environmental effects with the subject project.
Location of development (The environmental sensitivity of geographical areas likely to be affected by the development in	The area is mixed use in nature with residential being a significant use. The development would conform to the residential nature of the locality. There would be no significant impact on any protected areas, protected views,

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).	built or natural heritage or European Sites.
Types and characteristics of potential impacts (Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).	All development has the potential for some impacts/disturbance during the construction phase such as noise, vibration, dust, air quality and traffic. However, these impacts would be short term and temporary and can be appropriately managed and mitigated by way of conditions and the implementation of a detailed Construction Environmental Management Plan. Given the nature of the development and the site/surroundings, it would not have the potential to significantly affect other significant environmental sensitivities in the area. It is noted that the site is not designated for the protection of the landscape or natural heritage and is not within an Architectural Conservation Area.
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.