



COMHAIRLE | CLARE
CONTAE AN CHLÁIR | COUNTY COUNCIL

AN BORD PLEANÁLA	
LDG-	022318-19
ABP-	
10 DEC 2019	
Fee: €	110
Type:	clapw
Time:	-
By:	Reg. Post.

An Bord Pleanála
64 Marlborough Street
Dublin 1

Date: 4th December 2019

**Section 5 referral Reference R19-53 in the name of Cruzco Adventure Ltd
Whether the temporary provision and operation of a wake park in Kilrush Marina, Kilrush, Co. Clare, along with the use of the ground floor of Creek Lodge for reception/changing facilities, is or is not development and is or is not exempted development.**

A Chara,

In accordance with Section 5(4) of the Planning and Development Act, 2000, as amended, Clare County Council requests a declaration from An Bord Pleanála in respect of the following:

"Whether the temporary provision and operation of a wake park in Kilrush Marina, Kilrush, Co. Clare, along with the use of the ground floor of Creek Lodge for reception/changing facilities, is or is not development and is or is not exempted development."

I attach the appropriate fee of €110 for the declaration request.

If you have any queries regarding the above or attached details please contact this office.

Mise, le meas,



Thomas Hogan
Senior Staff Officer
Planning Department
Economic Development Directorate

An Roinn Pleanála
An Stúirthóireacht Forbairt Gheilleagrach
Áras Contae an Chláir, Bóthar Nua, Inis, Co. an Chláir, V95 DXP2

Planning Department
Economic Development Directorate
Áras Contae an Chláir, New Road, Ennis, Co. Clare, V95 DXP2



COMHAIRLE CONTAE AN CHLÁIR
CLARE COUNTY COUNCIL

NEW ROAD,
ENNIS,
CO. CLARE.

REMITTANCE ADVICE / FAISNÉIS ÍOCAÍOCHTA

AN BORD PLEANALA
64 MARLBOROUGH ST
DUBLIN 1
CO DUBLIN
Ireland

Cheque No. 233961
Supp ID / Uimh. Aitheantais 109621
Date / Dáta 02/12/2019
Page / Leathanach 1/1

Your Ref/ Bhur dTagairt	Inv Date/ Dáta Sonraisc	Our Ref/ Ár dTagairt	AMOUNT/ SUIM EUR	Payable Iníoctha EUR
Sec 5 Referral Fee	19/11/2019	30597468	110.00	110.00
<div style="border: 2px solid red; padding: 5px; width: fit-content; margin: auto;"> <p>AN BORD PLEANÁLA</p> <p>10 DEC 2019</p> <p>LTR DATED _____ FROM _____</p> <p>LDG- _____</p> <p>ABP- _____</p> </div>				
PAGE TOTAL / IOMLÁN AN LEATHANAIGH		EUR	110.00	110.00
GRAND TOTAL / MÓRIOMLÁN		EUR	110.00	110.00

AN BORD PLEANAIA
10 DEC 2018
LTD DATED FROM
LOG
APP.

**CLARE COUNTY COUNCIL
SECTION 5 DECLARATION OF EXEMPTION APPLICATION
PLANNERS REPORT**

FILE REF:	R19-53
APPLICANT(S):	Cruzco Adventure Ltd
REFERENCE:	Whether the temporary provision and operation of a wake park in Kilrush Marina, Kilrush, Co. Clare, along with the use of the ground floor of Creek Lodge for reception/changing facilities, is or is not development and is or is not exempted development.
LOCATION:	Creek Lodge & Kilrush Marina, Cappagh Road, Kilrush, Co. Clare.

Introduction

Clare County Council received a Section 5 declaration from Cruzco Adventure Ltd, with respect to proposed works in Kilrush, Co. Clare. In accordance with Section 5(4) of the Planning and Development Act 2000 (as amended), Clare County Council requests a declaration from An Bord Pleanála in respect of the following:

Whether the temporary provision and operation of a wake park in Kilrush Marina, Kilrush, Co. Clare, along with the use of the ground floor of Creek Lodge for reception/changing facilities, is or is not development and is or is not exempted development.

Site Location

The subject site is located at Cappagh Road, Kilrush. It consists of a detached 2-storey building known as Creek Lodge, and the adjoining body of water, Kilrush Creek. It is located immediately west of the R473 (Cappagh Road). There is a car-park between the building and the R473. The area to the south and west of the site contains the Kilrush Marina Boatyard.

The land-based area of the subject site is within the settlement boundary of Kilrush and is zoned Mixed Use in the Kilrush Settlement Plan (Clare County Development Plan 2017 -2023, Volume 3D West Clare Municipal District).

The Kilrush Settlement Plan designates the site as an Opportunity Site (OP6) with the following text included in the plan:

OP6: Former Harbour Restaurant

"This site lies at the mouth of the Wood River in Kilrush Creek Marina. The mixed use zoning on the site facilitates a wide range of uses and, in the context of its location, would favour various uses within the hospitality sector (including a restaurant), hostel-style development to facilitate school tours, waterbased activity centre and marine-related development that would add to the tourism product. Any proposals regarding this site must be accompanied by a Flood Risk Assessment (FRA) and screening for appropriate assessment. The Council will seek to facilitate the future development of the marina in a comprehensive manner, in a form which complements the mixed use facilities in the town centre. The Council will actively pursue the re-use of the subject site during the lifetime of the Plan".

AN BORD PLEANÁLA

10 DEC 2019

LTD DATED FROM
LDC
LBB

LTD DATED
LDC
LBB

Planning History

94/1228 Permission granted by Kilrush Town Council for a new building comprising Restaurant (entire ground floor) and hostel (entire first floor);

95/1277 Permission granted by Kilrush Town Council for a new building comprising Restaurant (part of ground floor) sail training activity centre (part of ground floor), hostel (entire first floor and second floor) That permission amended 94/1228 in respect of the proposed building. Commencement of the construction of the building was in January 1996;

04/31028 Permission granted by Kilrush Town Council for change of use of first and second floors of the Creek Lodge from holiday hostel (bedrooms and toilets) to eight 2- storey town houses with entrances at first floor level.

Enforcement History

None

Referral History

R18-63:

"Whether the temporary provision and operation of an inflatable aqua park in Kilrush Marina, Kilrush, Co. Clare, along with the use of the ground floor of Creek Lodge for reception/changing facilities is or is not development and is or is not exempted development".

Clare County Council concluded on 9th January 2019 that:

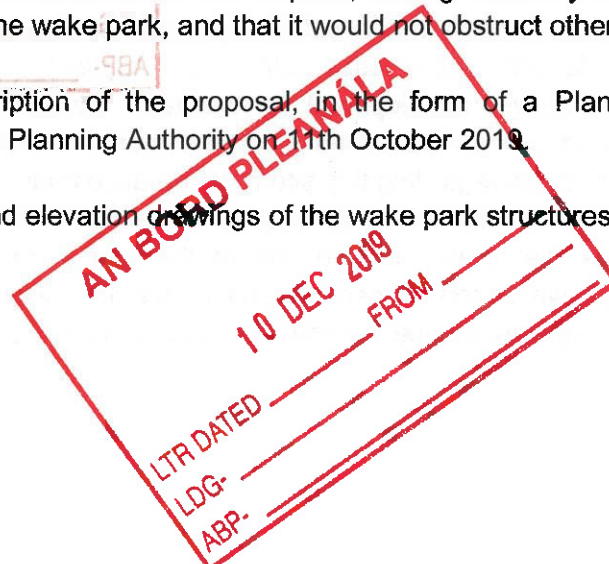
The temporary provision and operation of an inflatable aqua park in Kilrush Marina, Kilrush, Co. Clare, along with the use of the ground floor of Creek Lodge for reception/changing facilities does not constitute development as defined within the Planning & Development Acts, 2000 (as amended) and associated regulations.

Background to Referral

This Referral under Section 5(1) of the Planning and Development Act 2000 (as amended) has been made by Cruzco Adventure Ltd. It is stated in the Request for Declaration form that the applicant company holds a leasehold on the ground floor of the Creek Lodge building. A letter from the owner of the marina waterbody (Kilrush Maritime Ltd.) has been submitted with the request, stating that they have no objection to the introduction of the wake park, and that it would not obstruct other users of the harbour.

A written description of the proposal, in the form of a Planning Report, has been submitted to the Planning Authority on 11th October 2019.

A layout plan and elevation drawings of the wake park structures has been submitted.



Statutory Provisions

Planning and Development Act, 2000 (as amended)

In order to assess this proposal, regard has to be had to the *Planning and Development Act 2000, as amended*.

S.3.(1) In this Act, "development" means, except where the context otherwise requires, the carrying out of any works on, in, over or under land or the making of any material change in the use of any structures or other land.

'Works' are defined in Section 2 of the *Planning and Development Act 2000, as amended* as follows:

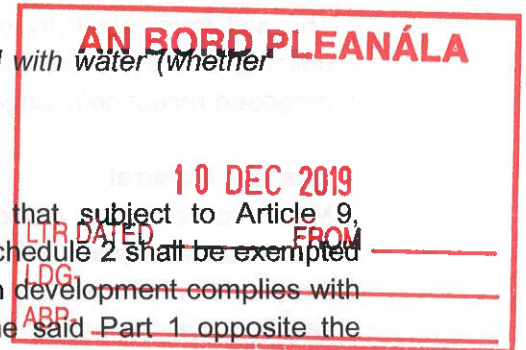
"works" includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal and, in relation to a protected structure or proposed protected structure, includes any act or operation involving the application or removal of plaster, paint, wallpaper, tiles or other material to or from the surfaces of the interior or exterior of a structure.

'Land' is defined in Section 2 of the *Planning and Development Act 2000, as amended* as follows:

"land" includes any structure and any land covered with water (whether inland or coastal);

Planning & Development Regulations, 2001, as amended

Article 6 refers to Exempted Development and states that subject to Article 9, development of a class specified in column 1 of Part 1 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1.



Background

The Planning Authority wish to seek a determination from An Bord Pleanála with regard to the works as outlined above, which consist of the operation of a wake park and the use of a building for a reception/changing area. The Planning Authority previously issued a declaration for an inflatable aqua park under R 18-63, and did not consider that the works constituted development.

Wake Park

The proposed wake park will consist of two pylon structures of 9.85m in height, placed 181m apart and linked by cables strung between the tops of the pylons. Both pylons will stand on the floor of the marina waterbody, and will be anchored to the floor by a cable that will link the top of the pylons with a concrete block underwater on the floor of the marina. The purpose of the structures is allow wakeboarding on the surface of the water by persons who will be propelled by holding onto the cable as it is pulled along the 181m course.

The wake park equipment will be powered by an electrical connection. It is explained in the submitted documentation that the motor which powers the equipment will be mounted on top of one of the pylons. The motor will be connected to mains electricity via a cable to a point within the building. This connection will be plugged out every day when the facility is not in use.

The structures will be removed from the water outside of the season when the wake park will operate, which is stated to be May to September. This has been done in the case of the aqua inflatable park that occupied adjoining waters in recent months.

Use of Creek Lodge Building

This will involve the use of part of the ground floor of the Creek Lodge building as a reception and changing area associated with the wake park. It will not involve any works, and no works have been implemented to the building beyond what has been permitted under 95/1277 and the subsequent 04/31028 which authorised the use of the upper floors of the building as apartments.

The permission granted under 95/1277 authorised the construction of the overall building, with the ground floor to be used for a restaurant in the front section facing Cappagh Road and a sail training/activity centre at the rear in the section of the building oriented east-west.

The sail training/activity centre section has a door from the footpath directly into the building and therefore the restaurant premises is not to be used for access to the proposed reception/changing facilities associated with the wake park.


Basis of Referral

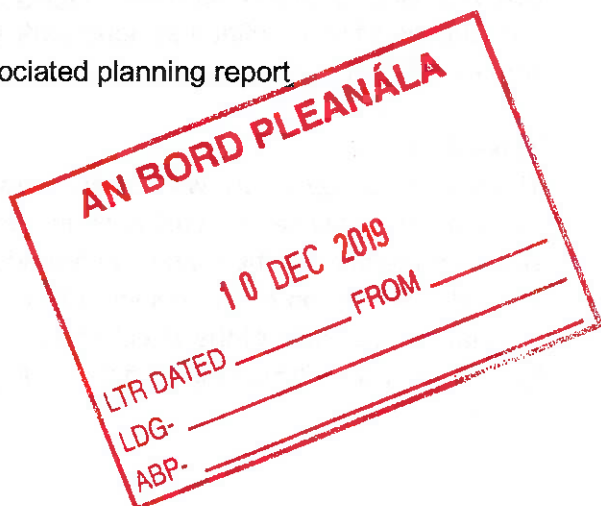
Notwithstanding that a declaration has previously been issued by the Planning Authority for an inflatable park, a declaration from the Board with regard to the above, in particular the provision of a wake park is now being sought (the Planning Authority are generally satisfied that the use of the creek lodge building would not constitute development. Of particular relevance is the definition in the Act of 'land' and whether the works to the wake park, fall within "any land covered with water (whether inland or coastal)", and whether in turn the works constitute development within the meaning of the Act.

Attached:

Planning Fee €110

Copy of Declaration as received and associated planning report


Garreth Ruane
A/Senior Executive Planner
Date: *24/11/19*



P07

**CLARE COUNTY COUNCIL
COMHAIRLE CONTAE AN CHLÁIR**

Planning Department,
Economic Development Directorate,
Clare County Council,
New Road, Ennis,
Co. Clare.
V95DXP2

Telephone No. (065) 6821616
Fax No. (065) 6892071
Email: planoff@clarecoco.ie
Website: www.clarecoco.ie



R19-53

**REQUEST FOR A DECLARATION ON DEVELOPMENT AND EXEMPTED DEVELOPMENT
(Section 5 of the Planning & Development Act 2000 (as amended))**

FEE: €80

This following form is a non-statutory form which has been prepared by Clare County Council for the purpose of obtaining the necessary information required for a declaration to be made under Section 5 by the Planning Authority

1. CORRESPONDENCE DETAILS.	
(a) Name and Address of person seeking the declaration	<p>CRUZCO ADVENTURE LTD</p> <p>Unit 4 Limerick Business Complex</p> <p>Ratheen Business Park</p> <p>Ratheen</p> <p>Limerick</p>
(b) Telephone No.:	<p>287 295 8080</p> <p>Wendy Lavery</p>
(c) Email Address:	<p>[Redacted]</p>
(d) Agent's Name and address:	<p>DAVID MULCATHY PLANNING CONSULTANTS LTD</p> <p>67 Old Mill Race</p> <p>ATHLOUGH</p> <p>NEWBRIDGE</p> <p>Co. KILDARE</p>

AN BORD PLEANÁLA

10 DEC 2019

2. DETAILS REGARDING DECLARATION BEING SOUGHT

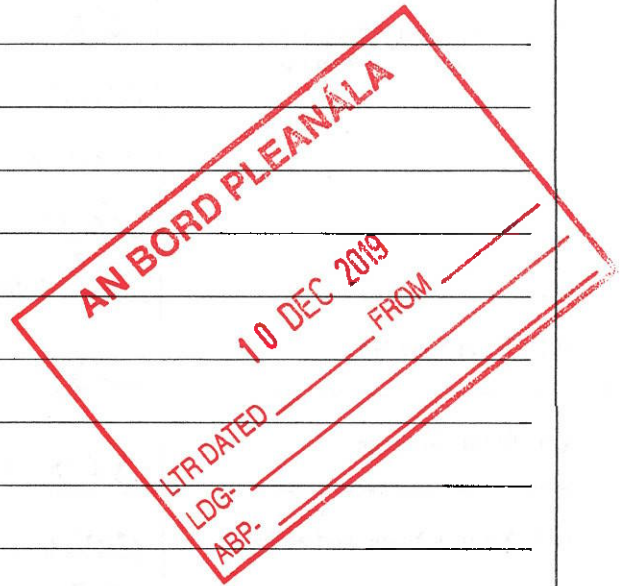
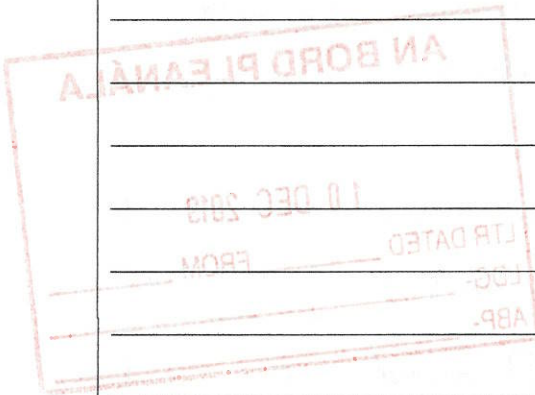
(a) PLEASE STATE THE SPECIFIC QUESTION FOR WHICH A DECLARATION IS SOUGHT
Note: only works listed and described under this section will be assessed.

Sample Question: Is the construction of a shed at 1 Main St., Ernis development and if so is it exempted development?

See planning report attached - Query relates to use of Wake Park in the Marina and use of existing nature centre for reception /catering facilities

(b) Provide a full description of the question/matter/subject which arises wherein a declaration of the question is sought.

See planning report attached




(c) List of plans, drawings etc. submitted with this request for a declaration:
(Note: Please provide a site location map to a scale of not less than 1:2500 based on Ordnance Survey map for the areas, to identify the lands in question)

OS Maps, Planning report
Wake Park diagram

3. DETAILS RE: PROPERTY/SITE/BUILDING FOR WHICH DECLARATION IS SOUGHT	
(a) Postal Address of the Property/Site/Building for which the declaration sought:	Creek Lobe Cappell Road Kilrust Co Done
(b) Do the works in question affect a Protected Structure or are within the curtilage of a Protected Structure? If yes, has a Declaration under Section 57 of the Planning & Development Act 2000 (as amended) been requested or issued for the property by the Planning Authority?	NO
(c) Legal interest in the land or structure in question of the person requesting the declaration (Give Details):	less than of creek lobe Ground Floor
(d) If the person in (c) above is not the owner and/or occupier, state the name and address of the owner of the property in question: <i>Note: Observations in relation to a referral may be requested from the owner/occupier where appropriate.</i>	Louis Keating Kilrust Marina LTD Kilrust Marina Kilrust, Co Done
(e) Is the owner aware of the current request for a Declaration under Section 5 of the Planning & Development Act 2000 (as amended)?:	yes
(f) Are you aware of any enforcement proceedings connected to this site? If so please supply details:	NO
(g) Were there previous planning application/s on this site? If so please supply details:	95/1277
(h) Date on which 'works' in question were completed/are likely to take place:	March 2020

AN BORD PLEANÁLA
 LTR DATED 10 DEC 2019
 LDG- FROM
 ABP.

SIGNED: 

DATE: 10-10-19

GUIDANCE NOTES

This following are non-statutory advice notes prepared by Clare County Council for the purpose of advising people what information is required for a decision to be made under Section 5 by the Planning Authority

- (i) The request for a declaration under Section 5 must be accompanied by 2 copies of site location map based on the Ordnance Survey map for the area of a scale not less than 1:1000 in urban areas and 1:2500 in rural areas and should clearly identify the site in question.
- (ii) The request for a declaration under Section 5 must be accompanied by the required fee of €80.00.
- (iii) If submitting any additional plans/reports etc. as part of the request for a declaration, please submit 2 copies.
- (iv) The request for a declaration should be sent to the following address:

Planning Department,
Economic Development Directorate,
Clare County Council
Aras Contae an Chlair,
New Road,
Ennis,
Co. Clare
V95DXP2

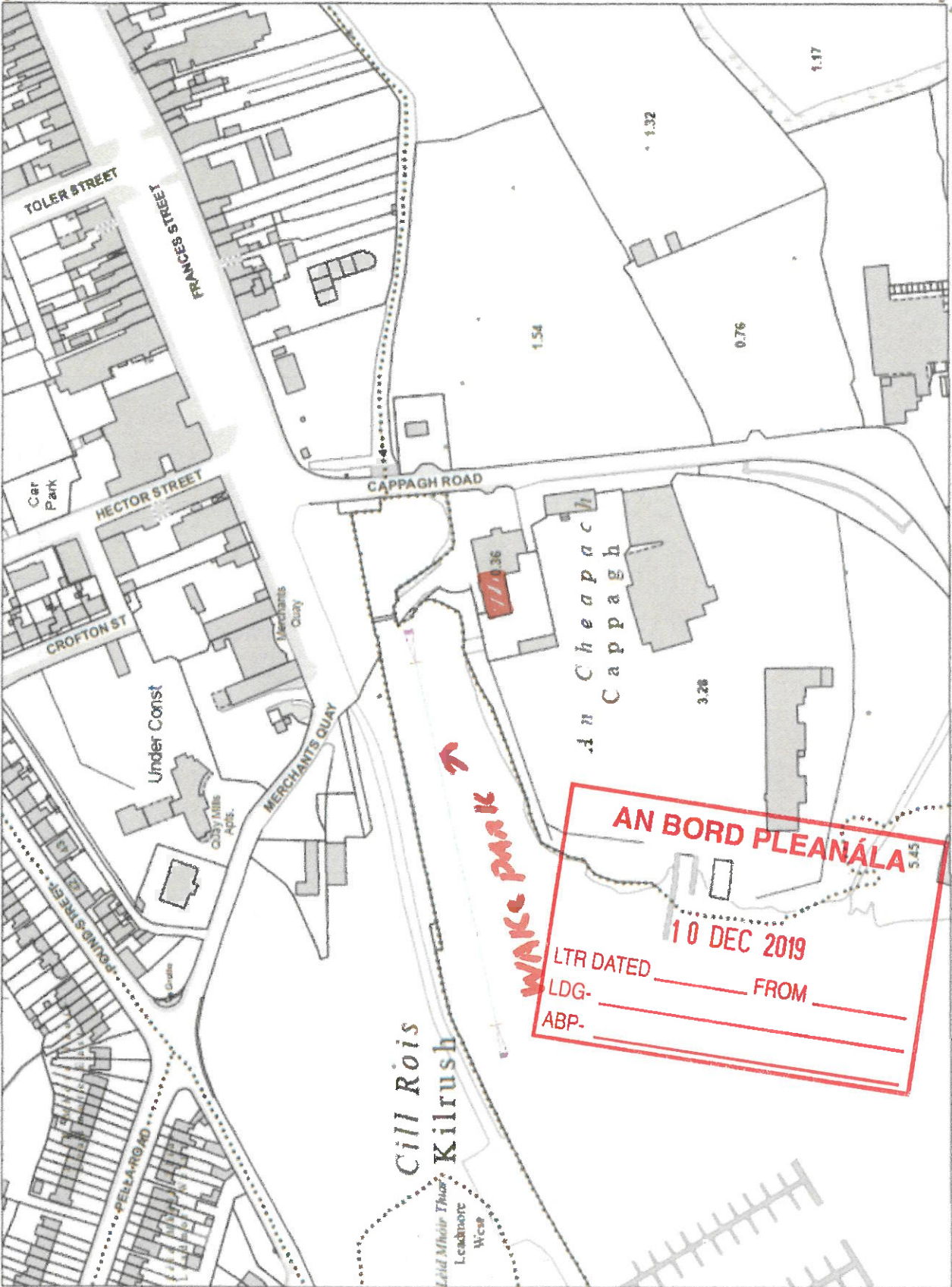
- (v) Notwithstanding the completion of the above form, the Planning Authority may require the submission of further information with regard to the request in order to enable the Authority to issue a declaration on the question.
- (vi) The Planning Authority may also request other persons to submit information on the question which has arisen and on which the declaration is sought

FOR OFFICE USE ONLY

Date Received:	Fee Paid:
Date Acknowledged:	Reference No.:
Date Declaration made:	CEO No.:
Decision:	



OSi PLACE Map



CENTRE COORDINATES:
ITM 499155.054872

PUBLISHED: 11/12/2018
ORDER NO.: 50036336_2

MAP SERIES: 1:1,000
MAP SHEETS: 4728-19
1:1,000 4728-20

COMPILED AND PUBLISHED BY:
Ordnance Survey Ireland,
Phoenix Park,
Dublin 8,
Ireland.

Unauthorised reproduction
infringes Ordnance Survey Ireland
and Government of Ireland
copyright.

All rights reserved.
No part of this publication may
be copied, reproduced,
or transmitted in any form
or by any means without the prior
written permission of
the copyright owners.

The representation on this map
of a road, track or footpath
is not evidence of the existence
of a right of way.

Ordnance Survey maps
never show legal property
boundaries, nor do they
show ownership of
physical features.

© Suirbhreacht Ordnáis Éireann,
2018
© Ordnance Survey Ireland, 2018
www.osi.ie/copyright

LEGEND:
<http://www.osi.ie>
search_large Scale Legend'

CAPTURE RESOLUTION:
The map objects are only accurate to the
resolution at which they were captured.
Output scale is not indicative of data capture scale.
Further information is available at
<http://www.osi.ie>, search 'Capture Resolution'

OUTPUT SCALE: 1:2,500





Kilrush Marina,
Kilrush Maritime Ltd,
Kilrush, Co Clare.

Phone 065 9052072
Email info@kilrushmarina.ie
Web www.kilrushmarina.ie

10/10/2019

Dear Planner,

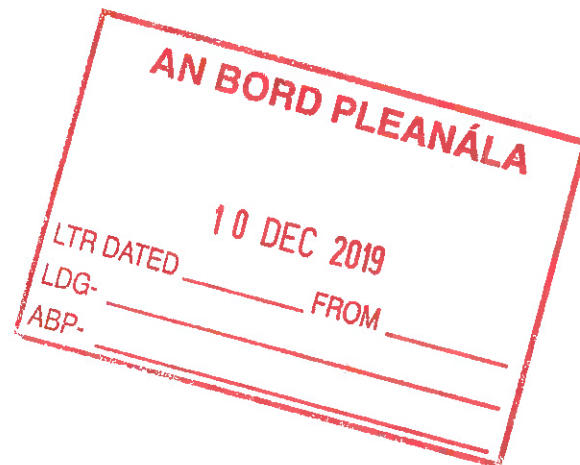
Kilrush Maritime Ltd T/A Kilrush Marina have no objection to the introduction of a 'Wake Park' within the marina. We are fully satisfied that the 'Wake Park' will not interfere with any other users of the marina.

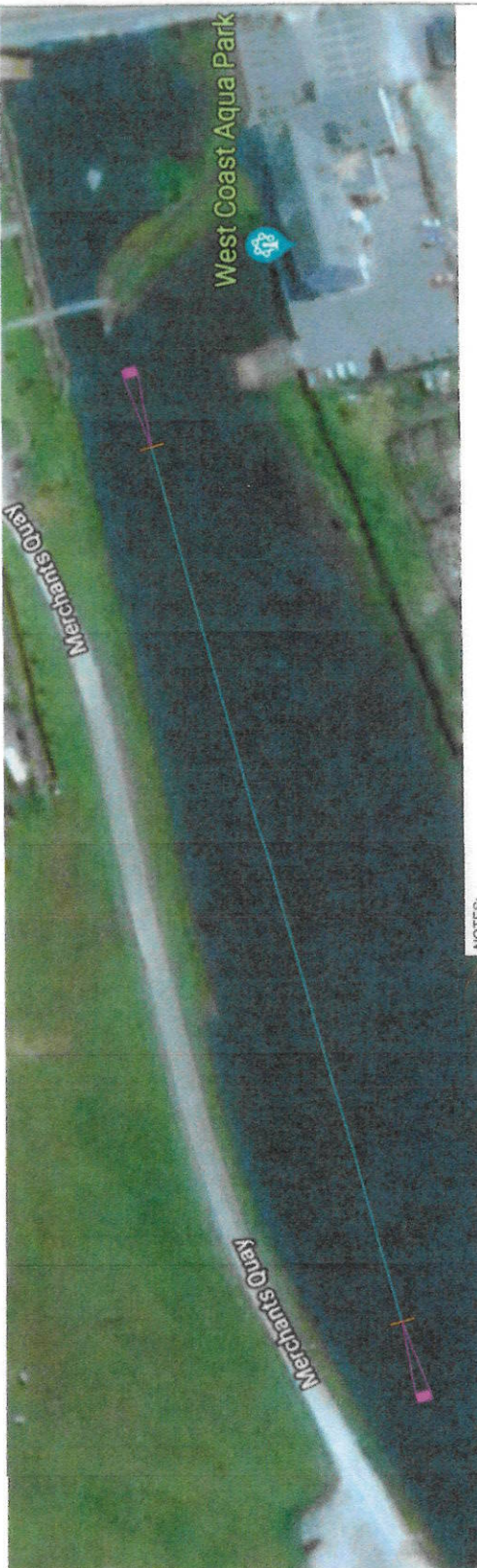
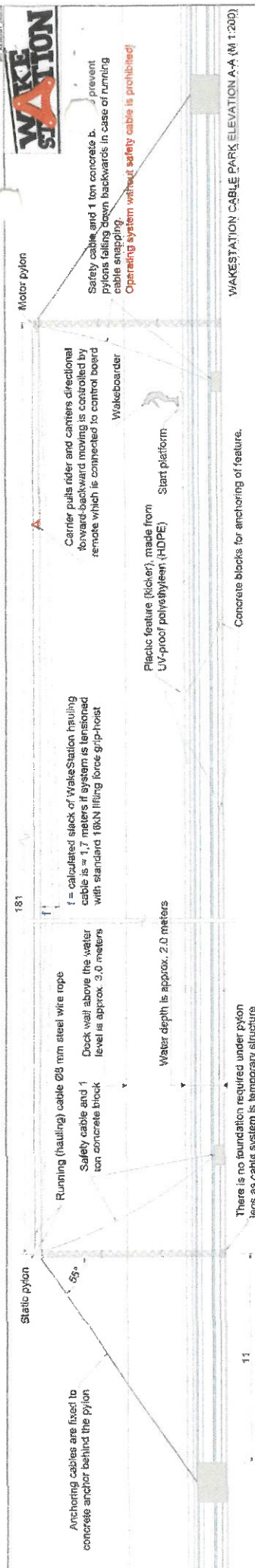
Yours Sincerely

A handwritten signature in black ink, appearing to read "Simon McGibney", written over a horizontal line.

Simon McGibney

Marina and Property Manager





FEATURES SPECIFICATION

No	Name	Shape	Dimensions, mm
1	Kicker 80		3000 x 2000 x 800
2	Kicker 110		4000 x 2000 x 1100
3	Flat Box II		2000 x 1000 x 500
4	3D Incline		10000 x 1000 x 1100
5	Flat Pipe II		20000 x 2000

- NOTES:
1. Designed cable park will have one track with WS985 pylons (h = 9.85 m).
 2. Ground under pylon feet have to be in same horizontal level and it must have equal bearing capacity for preventing uneven subsiding of feet. Motor pylon and static pylon ground level difference can not be more than 0.25 meters per 100 m distance between pylons.
 3. WakeStation cable system each basic anchor should weight at least 9 tons. Indicated basic anchor weights are for anchors which are placed in the ground. If anchors are on the ground or in the water their weight must be heavier. Always contact with WakeStation manufacturer or your local distributor for ground or water anchorage. Anchor distance from pylon = pylon height * 1.3. If anchor top surface is higher or lower level from pylon feet plates then the level difference must be deducted (if higher) or added (if lower) to keep the anchoring cables angle 55° degrees from vertical pylon to anchoring block.
 4. Electrical connection for control box will be placed inside the main building. Control box plug type is 3P-HH-E, IP44, 16A, 346...415 V. Power supply must be 3 x 23A, 400V, 50Hz.
 5. It's strictly forbidden to be behind pylons or to do there any activities. Area behind pylons is hazard zone. If there will be improper circumstances and pylon will fall down then risk of casualties is very high. Therefore hazard zone behind pylon must be surrounded with fence or similar and there must be placed signs that it is hazard zone and it's illegal to stay there. All pylons must be equipped with safety cable when catches the pylon if running cable snaps. Safety cables and earth screw anchors for them are included in WakeStation set. Change safety cable after each pylon fall or after 2 years. Without safety cables it's prohibited to use WakeStation cable system!
 6. WakeStation features are made from UV-proof HDPE (high-density polyethylene). All features are made from full plastic - no metal frame, no plywood used. It means that inner structures - sides, bottom and top are also made from same plastic and welded together with UV proof welding rod. Features can be made also according to Clients sketches and needs.
 7. Maps used in this project are properties of Google Maps.
 8. All units are in meters



Scale: According to drawing

Project: Kilrush, Ireland

Drawing: WAKESTATION CABLE PARK SITE PLAN

Paper size: A3

Approved by: T. Oliver

Checked by:

Designed by:

Drawing No.: 07/10/2019

Sheet: 1.1

Stage: WS

Tag: PD

Project No.: 190501

Client: Snow & Wakeboard Solutions LLC

Phone: +372 51 65 819

www.wakestation.com

sales@wakestation.com

reg. code: 12084902

Current operating in respect of Snow & Wakeboard Solutions LLC. Therefore any kind of insurance covering or distribution without written permission from Snow & Wakeboard Solutions LLC is strictly prohibited.

DM

**DAVID MULCAHY
PLANNING CONSULTANTS LTD**

67 The Old Mill Race, Athgarvan, Co. Kildare

PH: 045 405030/086 350 44 71
E-mail: david@planningconsultant.ie
www.planningconsultant.ie

Company No: 493 133 Directors: D. Mulcahy & M. Mulcahy

PLANNING REPORT

AN BORD PLEANÁLA

10 DEC 2019

LTR DATED _____ FROM _____

LDG- _____

ABP- _____

TO SUPPORT SECTION 5
APPLICATION FOR

WAKE PARK

AT

KILRUSH MARINA, KILRUSH, CO. CLARE

9th October 2019

Executive Summary

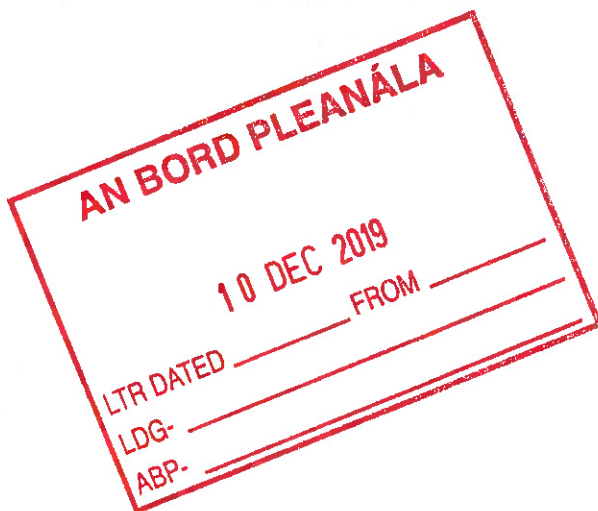
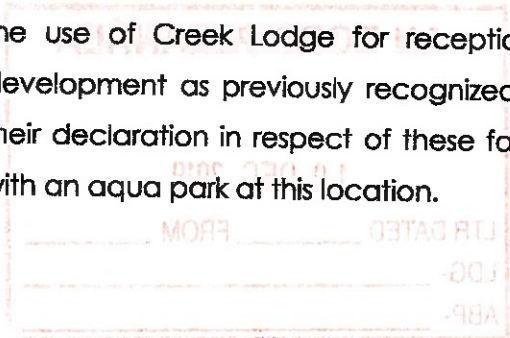
Operation: Recreational activity involving anchored static pylon and use of a former sailing activity centre for reception/changing facilities.

Location: The wake park will be exclusively on water in Kilrush, Co. Clare. The reception/changing facility will be in a former sailing activity centre in Creek Lodge.

Development: Wake Park: No works involved, no material change of use involved.

Reception/

Changing Facility: The use of Creek Lodge for reception/changing is not development as previously recognized by the Council in their declaration in respect of these facilities associated with an aqua park at this location.



1.0 INTRODUCTION

David Mulcahy Planning Consultants Ltd have been instructed by **Cruzco Adventure Ltd** to prepare a planning report to support a section 5 application in relation to a wake park at Kilrush Marina, Kilrush, Co. Clare.

A declaration is sought under Section 5 of the Planning and Development Act 2000 (as amended) from Clare County Council to establish:

"Whether the temporary provision and operation of a wake park in Kilrush Marina, Kilrush, Co. Clare, along with the use of the ground floor of Creek Lodge for reception/changing facilities, is or is not development and is or is not exempted development".

This report will clearly demonstrate that the temporary provision and operation of a wake park, along with changing facilities, **is not development**.

This report should be read in conjunction with the Section 5 Application form and associated OS Maps.

AN BORD PLEANÁLA

10 DEC 2019

LTR DATED _____ FROM _____

LDG- _____

ABP- _____

2.0 SITE LOCATION & DESCRIPTION

2.1 Site Location

The subject site is located in Kilrush Marina, Kilrush, Co. Clare, on the west side of the Cappagh road (R473) – see maps submitted with the application and Fig No.1 below.

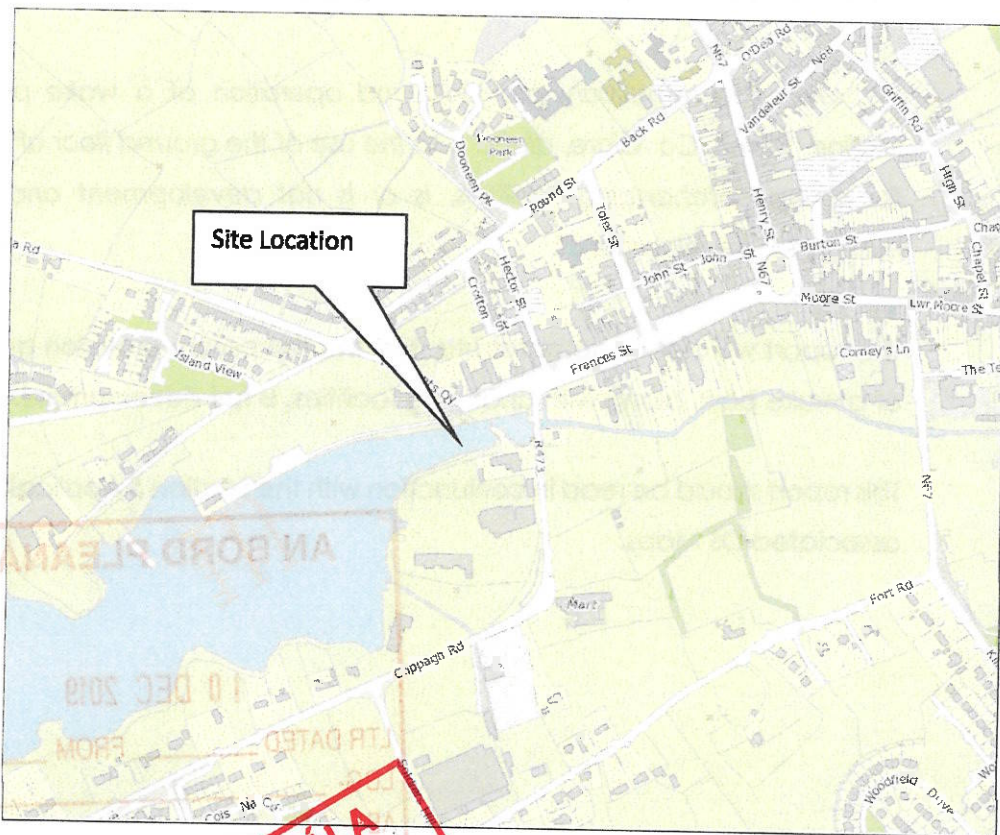


Fig No.1 Site Location Map (source: Myplan.ie - OSI Licence No.EN 00809115).

2.2 Site Description

The subject site consists of part of the water within Kilrush Marina and a former activity centre located on the ground floor at the western end of the Creek Lodge building.

The said waters are firmly established for **recreational use**, primarily sailing, but also canoeing, paddle boarding etc. The activity centre obtained planning permission for a sailing training/activity centre in 1995 (see details below).

2.3 Natura 2000 Site

The subject site is not located in or adjoining a Natura 2000 site. The closest Natura 2000 sites are River Shannon & Fergus Estuaries SPA and Lower River Shannon SAC at a distance of approximately 0.9km from the site.

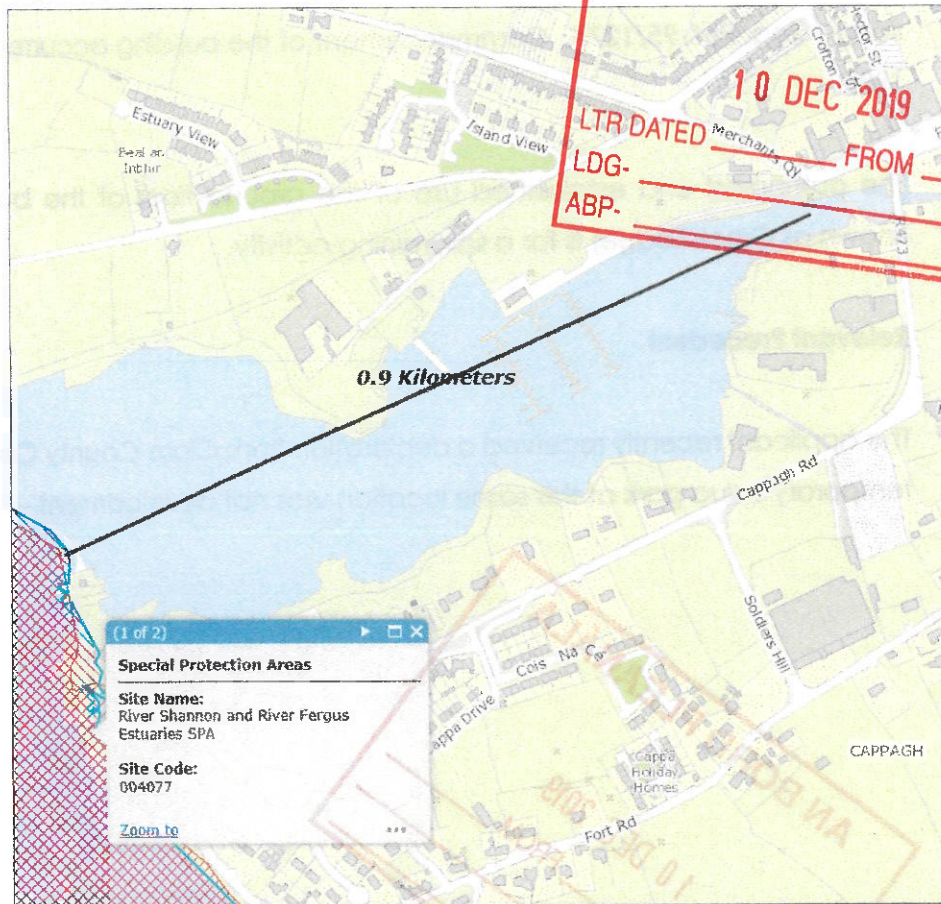


Fig No.2 Diagram showing distance to closest Natura 2000 site (source: Myplan.ie - OSI Licence No.EN 0080915).

3.0 PLANNING HISTORY

3.1 Subject Site

There is no planning history associated with the water element of the site given it is located entirely within the water of the marina.

In relation to the activity centre, planning permission was granted by Kiltrush Town Council for a new building comprising restaurant (part of ground floor) sail training activity centre (part of ground floor), hostel (entire first floor and second floor) – Reg. Ref. 95/1277. Commencement of the building occurred in January 1996.

The authorised and established use of the ground floor of the building (now known as Creek Lodge) is for a sail training activity.

3.2 Relevant Precedent

The applicant recently received a declaration from Clare County Council that a temporary aqua park at this same location was not development – ref. **R18-63**.



4.0 DESCRIPTION

4.1 Introduction

A Wake park consists of two legs positioned in the water which are temporarily anchored. A cable line then runs between these two legs which pulls a rider on a wakeboard along the surface of the water. The wake line will measure 181m between the two cable legs. The pylons measure 9.85m high (7.85m above water) and are notably slender.

Wakeboarding is an environmentally friendly watersport as it allows wakeboarding to be carried out without the need for speed boats to pull the riders.

Please find **enclosed** a site plan including the notes about the electrical connection. For clarity, both legs and anchors will be in the water.

The electrical box associated with the wake will be situated inside the reception building and plugged and unplugged from the system daily using extended wakes. This will also serve as a good safety measure as it will not be possible for any unauthorised use of the machine out of hours due to it being disconnected.

The installation of the wake system will involve both legs and anchoring blocks in the water (similar to how the aquapark is currently anchored) so no part of the setup would be interfering with the land or bankside.

Careful consideration has been given to the location to ensure the wake park will not disrupt any existing activities or infrastructure (water access, slipway etc) – see letter from Kilrush Marina **enclosed**. The wake park will not prohibit or obstruct other users from using the slipway adjacent to the wake park as this is a

private slipway and the use of it and the water around our wake park is for our client's exclusive use.

Our clients have examined the need for a foreshore licence but the marina is actually private foreshore which does not require a foreshore licence. Kiltrush Marina own the water and land.

It is further noted that:

1. The Wake park wake legs are temporary structures and can be assembled / removed in a day.
2. We aim to operate from May-Sep each year then remove the wake park for the months of Oct-April just like we do with the aqua park.
3. Customers will use the existing adventure centre for check in/change and parking facilities.
4. The wake legs are free standing in the water. No concrete foundation or fixing is required under the leg.
5. The features are all free floating anchored with ropes and weights in the same way as the current Aquapark.
6. The Wake park is environmentally and ecologically positive. It provides towed water-sports activities for the local community of all ages without the need for petrol driven boats or other pollutants.
7. The whole system is driven by a single 5kw silent 3phase electric motor.
8. A great progressive and safe sport that the local community can get involved with and keep coming back to.
9. The Wake park product is fully TUV and CE certified for safety.

The wake park will operate from May 1st to September 31st annually and will be disassembled after September 31st each year.

The management team behind this project has over 50 years combined experience working within the outdoor adventure industry having opened and successfully ran Basecamp Adventure park in county Limerick since 2001.

Working within the adventure industry for that length of time they have acquired knowledge of key areas such as health and safety, personnel management, customer service and community partnering.

Once the season finishes, the cable line and all associated elements will be removed from the water. Set up and take down can be done quickly over a single day.

Car parking is available at the front of the activity centre.



AN BORD PLEANÁLA

10 DEC 2019

LTR DATED _____ FROM _____

LDG- _____

ABP- _____

Fig Nos.3,4 Typical images of a wake park.

5.0 RELEVANT LEGISLATION

5.1 Development

Section 3(1) of the Planning and Development Act, 2000 (as amended) defines 'development' as:-

"the carrying out of any works on, in, over or under land or the making of any material change in the use of any structures or other land".

5.2 Works

"Works" are defined at Section 2 (1) of the Act as

"any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal..."

5.3 Land

"land" is stated in the PDA 2000 (as amended) to include *"any structure and any land covered with water (whether inland or coastal)"*

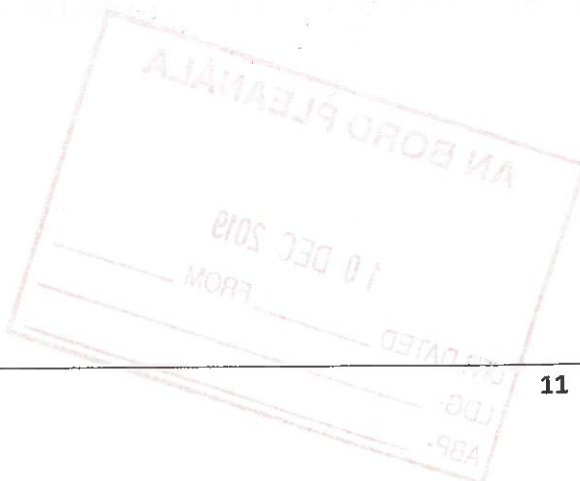
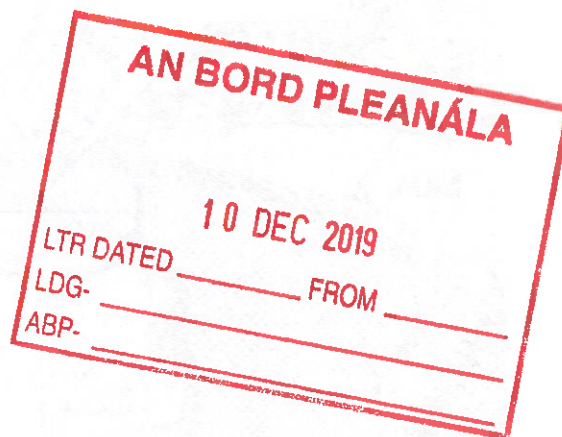
5.4 Recreation

CLASS 37

Development consisting of the use of land for any fair, funfair, bazaar or circus or any local event of a religious, cultural, educational, political, social, recreational or sporting character and the placing or maintenance of tents, vans or other temporary or movable structures or objects on the land in connection with such use.

-
1. The land shall not be used for any such purposes either continuously for a period exceeding 15 days or occasionally for periods exceeding in aggregate 30 days in any year.
 2. On the discontinuance of such use the land shall be reinstated save to such extent as may be authorised or required by a permission under the Act.

For clarity, the period of the wake park would exceed 15 days and is not located on land and thus this exemption cannot be availed of.



6.0 DEVELOPMENT PLAN

6.1 Clare County Development Plan 2017-23

There is no zoning associated with the water element of the subject site given it is located on the water within the marina.

The Creek Lodge building is zoned 'Mixed Use'. The site is located inside the Harbour Area and the wider area is identified as an Opportunity Site.

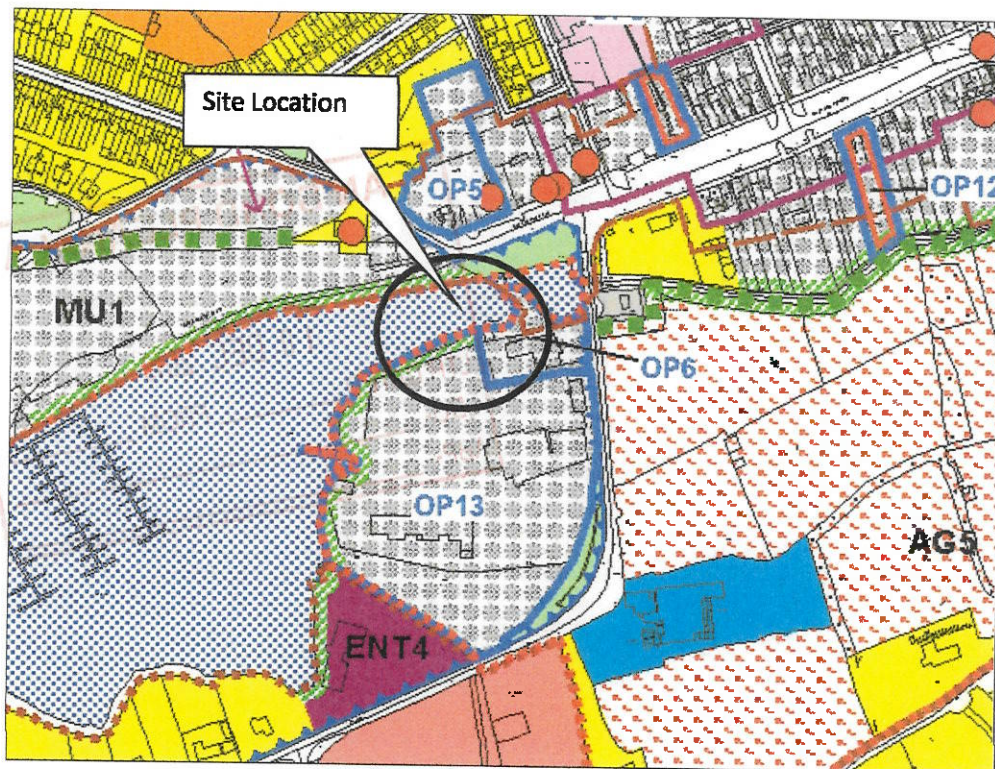
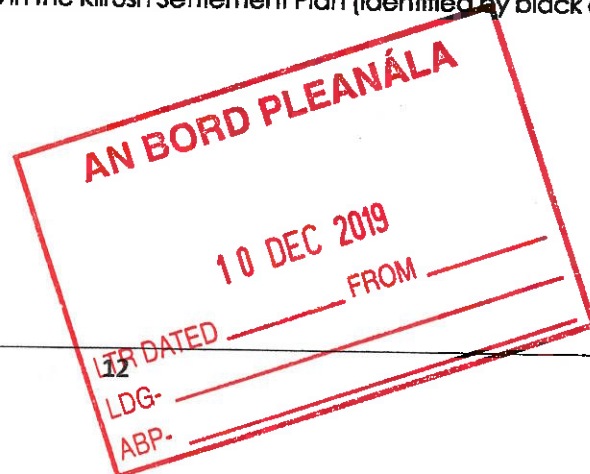


Fig No.5 Extract from Map No.3 in the Kiltrush Settlement Plan (identified by black coloured circle)



7.0 ANALYSIS

9.1 Introduction

The question before the Council is "Whether the temporary provision and operation of a wake park in Kilrush Marina, Kilrush, Co. Clare, along with the use of the ground floor of Creek Lodge for reception/changing facilities, is or is not development and is or is not exempted development".

Wake Park

The recreational activity involved consists of the provision of a static wake line and associated elements on the waters within the marina.

The first question that arises is if development has occurred (works or change of use).

It is submitted to the Council that ~~no~~ works have occurred. The definition of works involves any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal. The provision of a wake park on water does not constitute works.

In relation to the issue of a change of use, we submit in the first instance that this only applies to the use of land in its ordinary sense as understood by the public and does not arise in relation to the use of water. We further submit that the established use of Kilrush marina is for recreational activity and the proposed activity is consistent with this established use.

We therefore submit that **no development occurs.**

The issue of whether the activity is exempted development or not does not arise and likewise the issue of Appropriate Assessment Screening does not arise.

Reception/Changing Facilities

The proposed reception/changing facilities will be located in the ground floor of a building that has planning permission for a sail training activity centre. The activity centre use includes reception and changing facilities. The Council have previously determined in respect of the aqua park that no development occurs.

We therefore submit that **no development occurs**.

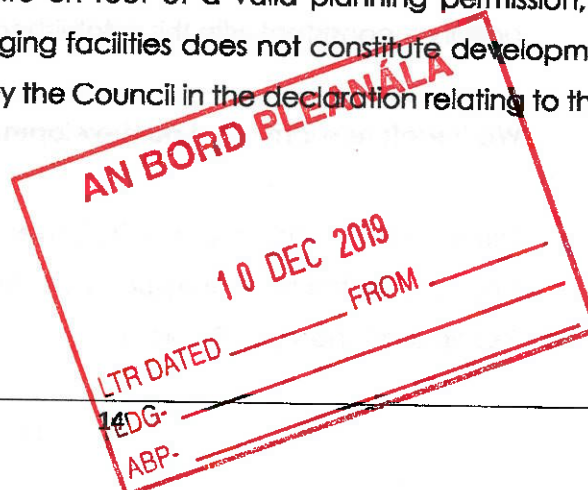
8.0 CONCLUSION

The question before the Council is *"Whether the temporary provision and operation of a wake park in Kilrush Marina, Kilrush, Co. Clare, along with the use of the ground floor of Creek Lodge for reception/changing facilities, is or is not development and is or is not exempted development"*.

It is submitted to the Council that the temporary provision and operation of a wake park in Kilrush Marina does not constitute works or a change of use and therefore does not constitute development under the Planning and Development Act 2000, as amended.

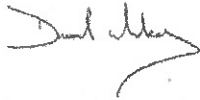
The Council are therefore requested to issue a Section 5 declaration that the aqua park is not development.

The use of the ground floor of Creek Lodge, which previously operated as a sailing training activity centre on foot of a valid planning permission, for the purpose of reception/changing facilities does not constitute development - as previously acknowledged by the Council in the declaration relating to the aqua park at this location.



The Council are therefore requested to issue a Section 5 declaration that the use of the ground floor of Creek Lodge which has permission for a sailing training activity centre as a reception/changing facility is not development.

Signed:



David Mulcahy
BA (Mod. Natural Sciences), MRUP, MSc. Urban Design, MIPI, MRTPI
David Mulcahy Planning Consultants Ltd

