



OPR Practice Note PN02

# Environmental Impact Assessment Screening



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Oifig an Rialaitheora Pleanála  
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\*herein referred to as the '2000 Act'.

# 1.0 Introduction

## The Purpose of this Practice Note

This practice note provides information and guidance on **screening** for Environmental Impact Assessment (EIA) by planning authorities.<sup>1</sup>

This practice note does not duplicate or replace any existing guidance or advice. Instead, it focuses on the EIA **screening exercise** that must be undertaken by planning authorities in carrying out their statutory functions. This practice note intends to assist staff in planning authorities, and to inform professionals, developers and their agents, and members of the public.

We hope that this practice note will promote greater consistency in the approach to carrying out screening, while providing clarity to applicants regarding the decision-making process. It utilises template forms, case studies and best practice examples, in addition to addressing issues that commonly arise.

**i** It should be noted that knowledge, understanding and application of all aspects of EIA are subject to emerging case law in the national and European courts. While the most relevant case law is reflected in this practice note, this is not exhaustive and the reader should also have regard to any subsequent case law or legislation.<sup>2</sup>

## Overview of Environmental Impact Assessment

EIA comes from EU environmental policy. The initial Directive of 1985 and its three amendments have been codified by **Directive 2011/92/EU** of 13 December 2011. Directive 2011/92/EU has been amended in 2014 by **Directive 2014/52/EU**. Together these comprise the EIA Directive. For detailed information please refer to: **Review of the EIA Directive**.

The EIA Directive aims to ensure a high level of protection for the environment and human health. It requires that an assessment of the likely significant effects a project will have on the environment is carried out, where relevant, before development consent is given.

The EIA Directive is transposed into Irish legislation by the Planning and Development Act 2000 (as amended)<sup>3</sup> and the Planning and Development Regulations 2001 (as amended).<sup>4</sup> Both the EIA Directive and Irish legislation set out in detail the entire EIA process.

<sup>1</sup> Although some reference is made to applications made to An Bord Pleanála, the primary focus is on the provisions relating to local authorities.

<sup>2</sup> For the purpose of this practice note reference to legislation should be taken to mean the Planning and Development Act 2000 (as amended) together with the Planning and Development Regulations 2001 (as amended).

<sup>3</sup> Herein after referred to as the 2000 Act.

<sup>4</sup> Herein after referred to as the Regulations.

The planning authority's first duty in this process is to consider whether they need to carry out an EIA, and whether the applicant needs to prepare an Environmental Impact Assessment Report (EIAR) as part of this process.

This practice note provides a step-by-step approach which explains this decision making process.

## Acronyms

<b>AA</b>	Appropriate Assessment
<b>ABP</b>	An Bord Pleanála
<b>CA</b>	Competent Authority
<b>CJEU</b>	Court of Justice of the European Union
<b>cSPA</b>	Candidate Special Protection Area
<b>DHLGH</b>	Department of Housing, Local Government and Heritage
<b>EC</b>	European Commission
<b>EIA</b>	Environmental Impact Assessment
<b>EIAR</b>	Environmental Impact Assessment Report
<b>EIS</b>	Environmental Impact Statement
<b>EPA</b>	Environmental Protection Agency
<b>EU</b>	European Union
<b>LRD</b>	Large-scale Residential Development
<b>NHA</b>	Natural Heritage Area
<b>NIS</b>	Natura Impact Statement
<b>NPWS</b>	National Parks and Wildlife Service
<b>OPR</b>	Office of the Planning Regulator
<b>OPW</b>	Office of Public Works
<b>pNHA</b>	Proposed Natural Heritage Area
<b>SAC</b>	Special Areas of Conservation: are sites designated under the Habitats Directive 92/43/EEC.
<b>SCI</b>	Special Conservation Interest(s): relates to birds species for which an SPA is selected.
<b>SEA</b>	Strategic Environmental Assessment
<b>SHD</b>	Strategic Housing Development
<b>SID</b>	Strategic Infrastructure Development
<b>SPA</b>	Special Protection Areas: are sites designated under the Birds Directive 79/409/EEC.

# 2.0 Key Concepts

## Competent Authorities

Competent authorities are those authorities which are designated for the purpose of carrying out EIA, screening for EIA and any other duties arising from the EIA Directive. In the planning system, the competent authorities are the planning authorities (the 31 local authorities) and An Bord Pleanála (ABP).

However, there are several other competent authorities for other consent regimes. These include the EPA (environmental licencing), the Minister for Agriculture, Food and the Marine (forestry, aquaculture and certain foreshore management), and certain state bodies that have the authority to undertake development.<sup>5</sup>

## Cumulative Effects

Cumulative effects can arise in two ways. Firstly, the addition of several minor or significant effects. These include the effects of other projects to create larger, more significant effects. While a single activity may itself result in a minor impact, it may, when combined with other impacts (minor or significant), result in an impact that is considered **cumulatively significant**.

Secondly, the combined effects of projects that exist or are permitted. For example, the cumulative noise effects of a proposed windfarm with other existing and/or permitted windfarms in the area.

## Indirect Effects

The indirect effects associated with a proposed development can relate to both inputs to the development (e.g. fuel source, utilities, infrastructure requirements), and outputs from the development (e.g. electricity outputs, land spreading associated with agricultural installations, disposal of wastes).

However, there must be a clear link between the proposed development and the potential indirect effect. For example, in the Edenderry power plant case,<sup>6</sup> the EIS identified the bogs where the peat was to be sourced. This peat was transported by a private rail link to the power plant. This meant that there were possible indirect effects on the environment from the extraction and use of peat from these bogs that had to be assessed.

## Likely Significant Effects

For the EIA, likely significant effects are based on a '*likelihood*' or '*possibility*' of significant effects on the environment occurring.

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<sup>5</sup> Under Part 9 of the Regulations.

<sup>6</sup> An Taisce v ABP & Others [2015] IEHC 633.

This is based on the precautionary principle. Whether the effect is significant will depend on factors such as the type, extent, duration, intensity, timing, probability, and cumulative effects of the potential impact, as well as the sensitivity of the environment. In this context, what may be significant in relation to one project may not be in relation to another. This underlines the importance of a case-by-case assessment. Box 1 explains this concept further.

### Box 1: Likely Significant Effects

#### 1. Are the effects identified likely to occur?

This refers to the effects that are expected to occur, those that can be reasonably foreseen as normal consequences of project construction and operation, including where relevant associated demolition, remediation and/or restoration.

#### 2. Are the effects, which are likely to occur, significant?

EPA draft guidelines define a '*significant effect*' as an effect, which, by its character, magnitude, duration or intensity alters a sensitive aspect of the environment. The same draft guidelines provide useful definitions in relation to quality of effects, significance of effects, context of effects, probability of effects and duration and frequency of effects.

#### 3. Will identified likely significant effects impact the environment?

Likely significant effects should cover the direct and indirect, cumulative, transboundary, short-term, medium-term and long-term, permanent and temporary, positive and negative effects of the project.

The factors of the environment to be described and assessed are:

- **population and human health;**
- **biodiversity, with particular attention to protected species and habitats;**
- **land, soil, water, air and climate;**
- **material assets, cultural heritage and the landscape; and**
- **the interaction between the factors.**

## Mitigation Measures

Measures to avoid, prevent or reduce any significant adverse impacts on the environment of implementing a project are commonly referred to as '*mitigation measures*'. Unlike screening for Appropriate Assessment (AA), screening for EIA can have regard to mitigation measures.

## Monitoring

Monitoring relates to development that has been the subject of EIA and is not relevant to the screening process. However, the screening process may refer to monitoring data collected from another relevant EIA.

## Precautionary Principle

Where risk is identified and where the most reliable information leaves doubt as to the absence of a significant effect(s), then the precautionary principle must be applied.

## Preliminary Examination

This is an examination of, at least, the nature, size or location of the development. It should be carried out for '*sub-threshold development*' where the application is not accompanied by an EIAR or Schedule 7A information.

## Project

For the purposes of the EIA Directive<sup>7</sup> '*project*' means either:

- a) the execution of construction works or of other installations or schemes, *or*
- b) other interventions in the natural surroundings and landscape including the extraction of mineral resources.

## Project Splitting

Project splitting or '*salami-slicing*' is the attempt by a developer to deliberately frame a single project as a series of projects, each or some of which fall below the relevant threshold for EIA. It is important to recognise that large developments will often be split into smaller parts with separate consents and this, in itself, is not problematic. The problem only arises where it has the effect of avoiding EIA where it is required under the EIA Directive.

This does not mean that the entire project must be treated as a single development subject to a single planning application. The project can be broken into small segments provided these segments are properly screened and assessed under the EIA Directive.

## Schedule 7 Criteria

Schedule 7 of the Regulations sets out the criteria that must be considered in determining whether '*sub-threshold*' projects should be subject to an EIA. These criteria relate to the characteristics of the development, the location of the development, and the type and characteristics of potential impacts.

## Schedule 7A Information

This refers to the information that the applicant must submit to the planning authority for the purposes of a screening determination. This information is required for all Section 42 applications for extension of duration<sup>8</sup> for sub-threshold development. The planning authority cannot carry out a screening determination without this information. This is sometimes referred to as an EIA screening report.

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<sup>7</sup> Article 1 Directive 2011/92/EU.

<sup>8</sup> Article 42 (ff) Planning and Development Regulations 2001, as amended.

## Box 2: Schedule 7A Information

Under the legislation it comprises:

- a) a description of the proposed development;
- b) a description of the aspects of the environment likely to be significantly affected by the proposed development; *and*
- c) a description of any likely significant effects of the proposed development on the environment.

Where relevant, the Schedule 7A information **must** be accompanied by:

- d) information on how the available results of other relevant environmental assessments have been taken into account (by the applicant). For example, the relevant results of a Strategic Environmental Assessment (SEA).

The applicant **may** also submit:

- e) a description of any features or measures envisaged to avoid or prevent a significant adverse effect on the environment, and these may be taken into account when determining whether an EIAR is required.

## Screening Determination

A screening determination is carried out by the planning authority to determine whether the proposal is likely to have significant effects on the environment and as such, whether an EIA must be carried out. The planning authority must undertake a screening determination for '*sub-threshold*' development if:

- a) Schedule 7A information is submitted by the applicant,

**or**

- b) if there is significant doubt regarding the likelihood of significant effects having undertaken a preliminary examination.

The planning authority cannot make a screening determination in the absence of Schedule 7A information.

## Source-Pathway-Target Model

The source-pathway-target model provides a way of assessing whether significant effects are likely to arise. It considers the source of likely impacts, the environmental factors that could potentially be affected, and the pathway by which those impacts may occur.<sup>9</sup>

<sup>9</sup> Guidelines for Planning Authorities and An Bord Pleanála on carrying out Environmental Impact Assessment, August 2018.

## Sub-threshold Development

A list of the types or classes of development that require EIA or screening for EIA is provided in Part 1 and Part 2 of Schedule 5 of the Regulations. '*Sub-threshold development*' comprises development of a type that is included in Part 2 of Schedule 5, but which does not equal or exceed a quantity, area or other limit (the threshold).<sup>10</sup>

## Transboundary Effects

This refers to the likely significant effects of a project on the environment beyond our national boundaries. Although these effects must be taken into account in the screening process, there is no requirement or provision in the legislation for consultation with other EU countries when screening. Since January 2021, the EIA Directive no longer applies to the UK (including NI), however, the UK is party to the Espoo Convention<sup>11</sup> on transboundary EIA that still applies.

## Section 176A Screening Determination

A Section 176A screening determination is a determination by the local planning authority, or ABP on review, as to whether a proposed '*sub-threshold development*' would give rise to likely significant effects on the environment (requiring EIA). Once the determination has been made it cannot be revisited during the planning application process.<sup>12</sup>



<sup>10</sup> Article 92 of the Regulations.

<sup>11</sup> Convention on Environmental Impact Assessment in a Transboundary Context (United Nations, 1991) ('the Espoo Convention').

<sup>12</sup> Article 103(5) of the Regulations.

# 3.0 Step-by-Step Approach to EIA Screening

This section provides a step-by-step approach to the process of screening for EIA. It brings together the specific legislative requirements in relation to the preliminary examination, and screening determination, with other relevant statutory provisions from the EIA Directive, the 2000 Act, and the Regulations.

**Step 1:** Understanding the proposal (non-statutory).

**Step 2:** Preliminary examination and conclusion (statutory).

**Step 3:** Screening determination (statutory).



**Figure 1. Step-by-Step Approach to EIA Screening for Development Proposals**  
(excluding retention situations)<sup>13</sup>



<sup>13</sup> See Appendix C which illustrates the step-by-step approach in retention situations.



## Step 1. Understanding the Proposal

Understanding the nature of the proposal is the first essential step in considering whether EIA is required. It is recommended as a non-statutory process to assist the decision maker in understanding whether a preliminary examination and/or a screening determination is required.

In applications (S42) for extension of duration,<sup>14</sup> the '*proposal*' means the remaining elements of the development that are incomplete and are the subject of the proposed extension of duration.

A sample form (**Form 1**) is provided at Appendix A and case studies using the form are included at Appendix B.

### A. Is the proposal a '*project*' within the meaning of the EIA Directive?

Most proposals put before a planning authority will comprise a project, however, there are instances where a proposal is not a project and the EIA Directive does not apply.

For example, the EIA Directive does not apply to minor changes of use that do not include works or interventions in natural surroundings and landscape. These are likely to coincide with proposals that may normally be considered exempted development or may need consent for another reason e.g. a use restriction in a special control area or a condition attached to a previous planning permission.

### B. Is the project a '*sub-threshold development*'?

- i) If the project **is not** of a class of development in Schedule 5, Parts 1 and 2, it is not '*sub-threshold development*', and no EIA or EIA screening is required. Examples may include solar farms,<sup>15</sup> shopfronts, small domestic extensions, small garages/garden sheds, underground cables and agricultural sheds where no part of the development is a class in Schedule 5. The conclusion should be documented and no further action is required.
- ii) If the proposed project **is** of a class set out in Schedule 5, Part 1 or Part 2 and **does** meet or exceed the relevant threshold, or where no threshold applies, a mandatory EIAR is required.
- iii) If the proposed project **is** of a class set out in Schedule 5, Part 2 but **does not** meet or exceed the relevant threshold, it is a '*sub-threshold development*' and must be screened for EIA.



Projects often consist of several elements, and any one element may be a class of development within Schedule 5. Each element of a proposed development should be examined. Furthermore, Schedule 5 classes of development can be broad, and careful consideration must be given to whether a particular class of development applies. For example, the proposed development of three wind turbines and a private road (2.2km). Although the windfarm element is '*sub-threshold*' (Part 2, Class 3 (i)), the private road exceeds the 2,000 metres in length threshold under Part 2 class 10 (dd). This project would, therefore, require a mandatory EIA.

<sup>14</sup> Where the development is of a class specified in Part 2 of Schedule 5 of the Planning and Development Regulations 2001 as amended, which proposed extension of the appropriate period does not equal or exceed, as the case may be a quality, area or other limit specified in that Schedule.

<sup>15</sup> Circular Letter: EUIPR 03/2020.

## C. Has Schedule 7A information been submitted by the applicant?

- i) Where the project is '*sub-threshold development*' and the application **is not** accompanied by an EIAR or Schedule 7A information, the planning authority must then move to the next step and carry out a preliminary examination of, at least, the nature, size or location of the development and come to a conclusion.
- ii) Where the project is '*sub-threshold development*' and Schedule 7A information **is** submitted by the applicant, the planning authority must carry out a screening determination, i.e. it cannot screen out the need for EIA at preliminary examination.<sup>16</sup>



### Step 2. Preliminary Examination

Where a development is '*sub-threshold*', and is not accompanied by an EIAR or Schedule 7A information, a *preliminary examination*, of, **at least, the nature, size or location of the development** to conclude if there is a likelihood of significant effects on the environment, must be carried out.

Preliminary examinations must consider **at least** the following:

- The **nature** of the development including the production of **wastes and pollutants**;
- The **size** of the development; *or*
- The **location** of the development including the potential to impact on certain **ecologically sensitive sites** (see Box 4) and the potential to affect other environmentally sensitive sites in the area. This will require consideration of the overlap with Appropriate Assessment (AA) and consideration will need to be given to hydrological and other connections to European sites.<sup>17</sup>

In some situations, there will be sufficient evidence to conclude that likely significant effects on the environment will not arise due to a combination of factors such as:

- The limited size of the development – e.g. a single house;
- The location of the site is removed from any sensitive locations or features;
- The absence of a pathway to any sensitive location in the vicinity;
- The development will not result in the production of any significant waste or result in emissions or pollutants; *or*
- The issues arising from the potential to impact on a European site can be adequately assessed under the requirements of the EU Habitats Directive (AA) and there are no other environmental receptors that may be subject to significant effects.

<sup>16</sup> Article 103(1B)(a) of the Regulations

<sup>17</sup> European sites comprise Special Areas of Conservation (SAC) and Special Protection Areas (SPA). The process for selecting areas as European sites, including mapping site boundaries, has many stages and involves notifying landowners and an appeals process. The National Parks and Wildlife Service (NPWS) oversees this process. The sites are formally designated by the relevant minister under a statutory instrument. Candidate sites (i.e. cSAC or cSPA) have the same level of protection as fully designated sites under Irish Law.

Consideration of the above must, however, have regard to the interaction between the scale and nature of the development, and the sensitivity of the site. Impacts of a smaller magnitude will have more significant effects on the environment where the receiving environment (i.e. the location) is more sensitive.

Following preliminary examination, the planning authority must **conclude** one of the following:

- i) that an **EIA is not required** based on the preliminary examination that **there is no real likelihood** of significant effects on the environment;<sup>18</sup>
- ii) there is **significant and realistic doubt** in regard to the likelihood of significant effects on the environment, and require the applicant to submit the information specified in **Schedule 7A** for the purposes of a screening determination,<sup>19</sup> *or*
- iii) **there is a real likelihood** of significant effects on the environment arising from the proposed development and require the applicant to submit an EIAR.<sup>20</sup>

### Recording Preliminary Examinations

The recording of the conclusion should be concise and adequate to inform the public. In many cases, the conclusion will be included in the planning report prepared by the planning authority.

A sample form (**Form 2 - Preliminary Examination and Conclusion**) is provided at Appendix A and case studies using the form are included at Appendix B.



### Step 3. EIA Screening Determination

Where the requirement to carry out EIA is not excluded at preliminary examination stage, or where Schedule 7A information has been submitted by the applicant, the planning authority must carry out a screening determination.

The screening determination can only be carried out on the basis of the Schedule 7A information which the planning authority must request if not already submitted.

In making its screening determination, the planning authority **must** have regard to:

- Schedule 7 criteria,
- Schedule 7A information,
- Any further relevant information on the characteristics of the development and its likely significant effects on the environment submitted by the applicant,
- Any mitigation measures proposed by the applicant,
- The available results, where relevant, of preliminary verifications or assessments carried out under other relevant EU environmental legislation, including information submitted by the applicant on how the results of such assessments have been taken into account (see Box 3), *and*
- The likely significant effects on certain sensitive ecological sites (see Box 4).

<sup>18</sup> Article 103(1)(b)(i) & 109(2)(b)(i) of the Regulations.

<sup>19</sup> Article 103(1)(b)(ii) & 109(2)(b)(ii) of the Regulations.

<sup>20</sup> Article 103(1)(b)(iii) & 109(2)(b)(iii) of the Regulations.

### Box 3: Other Relevant EU Assessments:<sup>21</sup>

- SEA Directive [2001/42/EC]
- Birds and Habitats Directives [79/409/EEC, 2009/147/EC & 92/43/EEC]
- Water Framework Directive [2000/60/EC]
- Marine Strategy Framework Directive
- Ambient Air Quality Directive and Heavy Metals in the Ambient Air Directive
- Waste Framework Directive
- Industrial Emissions Directive
- Seveso Directive
- Trans-European Networks in Transport, Energy and Telecommunication
- EU Floods Directive 2007/60/EC



### Box 4: Sensitive areas<sup>22</sup> include:

- i) a European site,
- ii) an area which is the subject of a notice under Section 16(2)(b) of the Wildlife (Amendment) Act 2000 (No. 38 of 2000),
- iii) an area designated as a Natural Heritage Area (NHA) under Section 18 of the Wildlife (Amendment) Act 2000),
- iv) land established or recognised as a nature reserve within the meaning of Section 15 or 16 of the Wildlife Act 1976 (No. 39 of 1976),
- v) land designated as a refuge for flora or as a refuge for fauna under Section 17 of the Wildlife Act 1976,
- vi) a place, site or feature of ecological interest, the preservation, conservation or protection of which is an objective of a development plan or local area plan, draft development plan or draft local area plan, or proposed variation of a development plan, for the area in which the development is proposed, *or*
- vii) a proposed Natural Heritage Area (pNHA).



## Recording Screening Determinations

The screening determination must be clearly recorded, and the conclusion should be concise and adequate to inform the public. In many cases, the conclusion will be included in the planning report.

<sup>21</sup> The most likely Directives to be relevant. This is not an exhaustive list.

<sup>22</sup> Article 103(3)(a)(v) of the Regulations.

All screening determinations must:

- ✓ Include the reasons and considerations on which the determination is based with reference to criteria in Schedule 7,
- ✓ Specify any mitigation features or design factors that inform the determination where EIA is determined not to be required,
- ✓ Consider potential significant impacts on sensitive areas, *and*
- ✓ Consider cumulative effects.

A sample form (**Form 3 - Screening Determination**) is provided at Appendix A and a case study using the form is included at Appendix B.

The planning authority's screening determination, including the main reasons and considerations, must be placed on the planning file and kept with the documents relating to the planning application.<sup>23</sup> Any notice to the applicant<sup>24</sup> must also be placed on the file.



<sup>23</sup> Article 103(3)(b) of the Regulations.

<sup>24</sup> Notice served under Article 103(1C)(c) of the Regulations.

# 4.0 Common Issues

## **What EIA projects are to be subject to preliminary examination and/or screening determination?**

Preliminary examination and/or screening determination is only required for '*sub-threshold development*'.

## **What documentation is required to carry out preliminary examination and/or screening determination?**

A planning authority can carry out the preliminary examination without any formal documentation provided by the applicant.

Where it is determined there is doubt over the likely significant effects, the planning authority must request Schedule 7A information by notice.<sup>25</sup> It is good practice to make such requests in tandem with any other further information requests under Article 33 of the Regulations.

In the case of an extension of duration application there is no preliminary examination, all applications for extension of duration of a sub-threshold development must include Schedule 7A information.

## **How should Masterplans be treated in screening?**

Where the project is part of an overarching masterplan and is '*sub-threshold*' for the purposes of EIA, it should primarily be considered in its own right. For example in the case of a multi-unit industrial development for which a masterplan has been prepared, the development of the first unit for which permission is sought could be operated as a single unit. Screening for subsequent units (if also '*sub-threshold*') will be required to have regard to the cumulative effects with the first phase. The project to be screened is, therefore, the first unit for which planning permission is sought.

If the masterplan has been prepared by the applicant, the EIA Directive only requires that the existing and approved projects be taken into account in the consideration of cumulative effects, however it may be good practice to consider subsequent phases in so far as this information is available and relevant. For example, where it is intended that construction of later phases or elements of the masterplan will occur simultaneously with the proposed development, the cumulative construction impacts may be relevant to screening.

In addition to the above, if the masterplan has been prepared by the planning authority, then it will have been screened for SEA and the outcome, where relevant, should be taken into account when having regard to the results of other relevant EU assessments as part of the screening determination.

## **How does the O'Grianna decision affect screening?**

Where developments are functionally interdependent, such as the grid connection for a proposed windfarm that would have no purpose or function in the absence of the windfarm, it should be considered as a single project for the purposes of EIA.<sup>26</sup> In the windfarm example, because the windfarm required a mandatory EIA, the grid connection was also subject to that assessment.

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<sup>25</sup> Article 103(1)(b)(ii) and Article 109(2)(b)(ii) of the Regulations.

<sup>26</sup> O'Grianna v An Bord Pleanála (No.1) [2014] IEHC 632 and O'Grianna v An Bord Pleanála No. 2 [2017] IEHC 7.

It should be noted that the relationship between a windfarm and grid connection differs from other types of development, except for other power generation projects, and the same logic may not be relevant, for example, to electricity or water supply to a housing estate.

## What is urban development?

EC Guidance recommends that an urban development project should be seen as a project that is urban in nature regardless of its location.<sup>27</sup>

Commonly understood urban developments, that should be considered in the context of Schedule 5 Part 2, 10(b)(iv), would include public realm improvement schemes many of which would be subject to the Part 8 process if EIA is not required.

The definitions in Schedule 5 Part 2, relevant to Class 10(b)(iv) Urban Development are as follows:

- *'Business district'* means a district within a city or town in which the predominant land use is retail or commercial use (defined within Class 10(b)(iv) itself).
- A *'city'* or *'town'* is as provided for in the Local Government Act, 2001.<sup>28</sup> The cities are Dublin, Cork, Limerick, Waterford and Galway.
- *'Built-up area'* means a *'city'* or *'town'* or an adjoining developed area.<sup>29</sup> An adjoining developed area can be taken to mean contiguous suburbs.
- *'Elsewhere'* is not defined but can be taken to mean any area outside of the above, including all towns not identified in the Local Government Act 2001.

The Central Statistics Office (CSO) also provides **urban and rural classification rules** that are useful in characterising a site location for the purpose of EIA screening.

## Should mitigation measures be taken into account?

Unlike AA, mitigation measures may be taken into account at screening stage. If mitigation measures are relevant to a screening determination, these must be stated by the planning authority in the screening determination.

## How does screening effect public consultation?

There is no requirement in the EIA Directive for public consultation in the screening process, similarly under Irish legislation there is no provision for third party consultation in the screening process with the exception of substitute consent applications.

## How can a screening determination by a planning authority be challenged or appealed?

*Planning Applications:* Screening determinations carried out as part of a Section 34 planning application can only be appealed to ABP by way of a Section 37 appeal of the entire decision of the planning authority.<sup>30</sup>

<sup>27</sup> Interpretation of definitions of project categories of annex I and II of the EIA Directive (European Union, 2015).

<sup>28</sup> Section 10(2) and (3).

<sup>29</sup> Defined in Article 3, of the Regulations.

<sup>30</sup> This only applies where an EIAR has not been provided with the application (Section 172 of the 2000 Act).

**Section 176A and Section 5:** Certain parties can seek a review by ABP of a screening determination made by the planning authority.

**Extension of Duration Applications:** A planning authority after making its decision to extend (or further extend) the appropriate period as regards an application will publish a notice to this effect. This notice will clearly outline that a person may question the validity of any decision of the planning authority by way of judicial review and set out where information on the review mechanism can be found.<sup>31</sup>

**Local Authority or State development:** Any person may refer a proposed local authority or State development to ABP for a screening determination within four weeks of the public notice.<sup>32</sup>

**Judicial Review:** Third parties may also question the validity of the screening determination by the planning authority or ABP by way of an application for judicial review.<sup>33</sup>

## **What are the requirements when there is a Waste, IPC or IE licence involved?**

Where a planning authority is carrying out a screening determination for '*sub-threshold development*' that requires from the EPA:

- a Waste Licence,
- an Integrated Pollution Control (IPC),
- a Waste Water Discharge Authorisation,
- an Industrial Emissions (IE) licence, *or*
- a review of any of the above;

the planning authority must request observations from the EPA to assist in its deliberations in relation to the determination, and to take any such observations into account when making the determination.<sup>34</sup>

The EPA is separately required to provide observations to the planning authority.

This applies to screening determinations only and not to preliminary examination.

## **Do changes, extensions and alterations to approved development require screening?**

Applications for alterations to approved development are common and subject to the same screening requirements as new development. Changes, extensions, development and testing are specified in Class 13 of Schedule 5, Part 2 and trigger an EIAR when the change or extension results in an increase in size greater than 25%, or an amount equal to 50% of the appropriate threshold, whichever is the greater.

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<sup>31</sup> Under Order 84 of the Rules of the Superior Courts (S.I. No. 15 of 1986), in accordance with sections 50 and 50A of the 2000 Act.

<sup>32</sup> Notice issued under Article 81(2) of the Regulations.

<sup>33</sup> Sections 50 and 50A of the 2000 Act

<sup>34</sup> Section 173A(5) & 173B(5) of the 2000 Act.

### Box 5: An existing suburban third level education institution on 12ha (permitted with an EIAR), seeks a 1.5ha extension to the area for education, sporting and parking purposes. Is an EIA required?

The following example illustrates the application of Class 10 (b)(iv) (Urban Development). The site is located in an area that constitutes '*other parts of the urban area*' and where the threshold is 10ha.

- 3ha and above will require EIA as this is 25% of the area.
- 5ha and above will require EIA as this is 50% of the 10ha threshold (other parts of a built-up area).
- A 1.5ha extension would not require mandatory EIA but is '*sub-threshold development*' that requires a preliminary examination and/or screening determination. Cumulative impacts with the existing institution, together with the nature, size or location, should be taken into account.

Notes:

**Careful consideration of all aspects of the development should be taken into account, so no part consists of a project that is listed in Schedule 5 Part 1 or meets or exceeds the thresholds in Part 2.**

### How does screening affect applications involving retention of development?

Planning permission under Section 34 (and Section 37 on appeal) cannot be granted for '*sub-threshold development*' where the application would have required either EIA or a screening determination at the time it was carried out.<sup>35</sup>

Where the application involves '*sub-threshold development*' that has been carried out post 1 February 1990 <sup>36</sup> a preliminary examination must be carried out.

If the preliminary examination concludes that there is doubt (i.e. that a screening determination is required), the planning authority must refuse to consider the application and the application must be returned to the applicant with the fee.<sup>37</sup>

The substitute consent process under Part XA of the 2000 Act may apply in such circumstances if the appropriate requirements are met.

See Appendix C for an illustration of the step-by-step approach to EIA screening for development proposals in retention situations.

<sup>35</sup> Development carried out post 1 February 1990.

<sup>36</sup> The date on which the EIA Directive came into effect in Ireland.

<sup>37</sup> Section 34(12) 2000 Act and Section 31(12A) provides for a limited exception to this provision.

# 5.0 Overview of the Implications for the Planning System

This section provides an overview of the implications of EIA screening for the local authority in carrying out its functions under planning legislation. While it addresses some consents and permissions by ABP, these are not covered in detail.

## Section 247 Pre-application Consultations

Pre-application consultations under Section 247 of the 2000 Act can involve discussion on the requirement for EIA. The planning authority may also advise on the scope and nature of documentation to be submitted such as Schedule 7A information or EIAR. This does not, however, constitute screening under the legislation.

Planning authorities are obliged to keep a consultation record of Section 247 meetings and therefore EIA issues will be noted.

## Planning Applications

### Validation and Referrals to Prescribed Bodies

Preliminary examination conclusions and screening determinations should not affect the administrative validation process of planning applications. However, the following is of note:

- Where a planning application is received for development that requires mandatory EIA but is not accompanied by an EIAR, it must be deemed **invalid**.<sup>38</sup>
- There is a requirement to notify the EPA where a screening determination is required for '*sub-threshold development*' that requires a Waste, Integrated Pollution Control (IPC) or Industrial Emissions (IE) licence, or a Waste Water Discharge Authorisation.<sup>39</sup> The EPA must be notified when the applicant submits Schedule 7A information either with the application or if it is required by the planning authority.
- Where a Section 176A screening determination has been obtained prior to the application being made this can be usefully flagged through the validation process. In such cases the determination cannot be revisited by the planning authority at the application stage.<sup>40</sup>

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<sup>38</sup> Article 99 of the Regulations.

<sup>39</sup> Section 173A(5), S173B(5) and S173(C)(8) of the 2000 Act.

<sup>40</sup> Article 103(5) of the Regulations.

## Applications Accompanied by an EIAR

Where an EIAR has been submitted with a planning application, Step 1 (understanding the project) should verify that the proposal is a class of development listed in Schedule 5 of the Regulations and if incorrectly applied, notify the applicant (e.g. a solar farm). It is good practice to clearly document these considerations in the planning report.

## Further Information and Screening

The receipt of further information will require the preliminary examination or screening exercise to be reviewed. Any changes to the proposed development project must be re-examined. A new screening may be required. This review should be documented in the planning report.

## Timelines for Planning Applications and Submission of Information in Schedule 7A

The screening determination must be notified to the applicant **within eight weeks of receiving the Schedule 7A information**.<sup>41</sup> In exceptional circumstances (including in relation to the nature, complexity, location or size of such development), this period may be extended and the parties notified of the reason.

See Appendix D for a summary of the key implications for Section 34 planning applications.

## Planning Appeals

Any Section 34 planning application which is appealed to ABP under Section 37 will be examined afresh by ABP. This includes the EIA screening aspects of the application, where the appeal relates to '*sub-threshold development*' and is not accompanied by an EIAR. ABP must notify the applicant of its screening determination within eight weeks of receiving Schedule 7A information. This is made publicly available following the decision on the appeal.

## Extension of Duration Applications

Section 42 of the 2000 Act provides for an application for an extension of duration.

This is where substantial works have been carried out during the period sought to be extended, and the remaining development will be completed within a reasonable time.

The planning authority is precluded from granting an extension of duration in circumstances in which an EIA or an AA, or both, are required in relation to the remaining elements of the development that are incomplete and are subject to the proposed extension of duration.

A decision to extend the appropriate period of a permission shall not be made more than twice under Section 42 and the combined duration cannot exceed five years.

Section 42 (1B) of the 2000 Act provides for the further extension of the appropriate period of a planning permission<sup>42</sup> by an additional period of up to two years or until 31 December 2023 whichever first occurs, subject to the planning authority being satisfied of a number of matters including:

- The development has commenced
- Substantial works have been carried out; and
- EIA and AA are not required for the proposed extension.

<sup>41</sup> Art 103(1C)(a) of the Regulations.

<sup>42</sup> For the avoidance of doubt, this provision is for the benefit of developments that have already availed of an extension of duration under Section 42, and any further extension under Section 42(1A).

The **European Union (Planning) (Habitats, Birds and Environmental Impact) (No.2) Regulations 2021** amends the planning regulations to introduce EIA (and AA) screening procedures in respect of all extension of duration applications, including further extension applications, and to set out additional publication requirements of screening determinations made to facilitate transparency in this process.

In particular, EIA screening (and AA screening) is required for all sub-threshold development extension of duration applications, including applications for further extensions under Section 42(1B) as referenced above. In the case of EIA screening this will require applications for extension of duration to provide environmental information, as set out in Schedule 7A, to the planning authority.

## Section 5 Declarations

Subject to Section 4(4) of the 2000 Act, development that cannot be screened out (i.e. where an EIAR must be prepared) **cannot** be exempted from the requirement for planning permission.

This includes any development that would otherwise be exempt under either Section 4 of the 2000 Act, or Article 6/Schedule 2 (*'works'*) and Article 10 (*'change of use'*) of the Regulations.

The procedural provision relating to screening and Section 5 declarations is complex and for this reason attention is drawn to the following:

- Where a Section 5 request is made to the planning authority, **a preliminary examination** (Step 2) must be carried out.<sup>43</sup>
- Where, following a preliminary examination of the Section 5 request, there is **uncertainty** in relation to the likely significant effects, Schedule 7A information must be requested from the person who has made the request.<sup>44</sup> Where the Schedule 7A information is not provided to the planning authority within four weeks the request is deemed to be withdrawn.
- The Schedule 7A information must be accompanied by any further relevant information on the characteristics of the relevant development and its likely significant effects on the environment. These include, where relevant, information on how the available results of other relevant assessments of the effects on the environment carried out pursuant to EU legislation other than the EIA Directive have been taken into account. Details of mitigation measures may also be submitted.
- A screening determination must be carried out where Schedule 7A information has been submitted to the planning authority.<sup>45</sup>
- Where a screening determination is being carried out, a copy of the Section 5 request must be sent to the person who owns or occupies the land where they are not the same as the person making the request.<sup>46</sup> A period of not less than three weeks must be given for submissions or observations.
- Where the planning authority determines that there is a real likelihood of significant effects on the environment arising from the relevant development, and an EIA is required, it must serve notice in writing on the person who has made the request.<sup>47</sup>

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<sup>43</sup> Article 132C(1) of the Regulations.

<sup>44</sup> Article 132C(2)(b) of the Regulations.

<sup>45</sup> Article 132G(1) of the Regulations.

<sup>46</sup> Article 132E(1) & (2) of the Regulations.

<sup>47</sup> Article 132G(2)(b) of the Regulations.

- Where a planning authority has made a screening determination, it must publish the decision in respect of the Section 5 declaration on its website, or in a newspaper circulating in the area, or both, stating that:
  - a) the declaration may be referred to ABP for review by either the person who made the request or the owner or occupier of the land, *and*
  - b) the validity of the screening determination may be questioned by way of an application for judicial review.
- Where the Section 5 declaration is referred to ABP, the matter of screening for EIA will be considered afresh.

## Local Authority and State Authority Development

Screening processes must also be followed for local and specified state authority development having regard to Part 10 of the Regulations.<sup>48</sup>

A preliminary examination must be carried out for all '*sub-threshold development*' that the local/state authority intends to carry out or be carried out on its behalf.

Where the preliminary examination indicates a doubt regarding the likely significant effects, Schedule 7A information must be compiled and a screening determination must be carried out by the authority. The local/state authority must publish a notice stating the outcome of the screening determination and make the determination publicly available for purchase and inspection.<sup>49</sup>

Any person may refer a proposed local/state authority development to ABP for a determination within four weeks of the public notice, stating the reasons for forming a view that the development would have likely significant effects on the environment.<sup>50</sup> ABP will request the relevant authority to provide Schedule 7A information, including information on other EU assessments and mitigation measures.

Where it is determined that there are likely significant effects in relation to a '*sub-threshold development*', an EIAR must be prepared and the local or state authority must apply to ABP for approval.<sup>51</sup>

## Strategic Housing Development (SHD)

This is a temporary provision for the duration of the SHD system. From 17th December 2021 a number of transitional arrangements in relation to the expiry of the SHD arrangements and their replacement by the new Large-scale Residential Development (LRD) planning regime were enacted.<sup>52</sup>

ABP is the authorising authority for SHD. Therefore, they are the competent authority for the purposes of EIA screening.

<sup>48</sup> Part XI of the 2000 Act and Articles 120 and 123A of the Regulations.

<sup>49</sup> Articles 82(2)& 87(3) of the Regulations.

<sup>50</sup> Articles 120(3) & 123A(3)(b) of the Regulations.

<sup>51</sup> Articles 120(1B)(b)(ii)(II) & 123A(5) of the Regulations.

<sup>52</sup> The Planning and Development (Amendment) (Large-scale Residential Development) Act 2021 (Commencement) Order 2021 (SI 715 of 2021) has been signed with an effective date of 17 December 2021.

## Large-scale Residential Development (LRD)

The Large-scale Residential Development (LRD) provisions and associated Planning and Development (Large-scale Residential Development) Regulations 2021 (SI 716 of 2021) has restored the two-stage planning process with decision making for LRD type applications returning to the local planning authority in the first instance, with the subsequent right of appeal to An Bord Pleanála (ABP).

Therefore, in the first instance it is the planning authority who are the competent authority for the purposes of EIA screening.

## Altering the terms of a Strategic Infrastructure Development (SID) Permission under Section 146B

ABP may alter the terms of a SID permission under Section 146B of the 2000 Act on request from the developer. In certain circumstances Schedule 7A information may be required as part of this process.

If the screening determination concludes that the extent and character of the proposed alteration would be likely to have significant effects on the environment an EIA must be prepared and the procedures under Section 146C of the 2000 Act apply.

## Substitute Consent

Substitute consent is a form of retrospective planning consent for development requiring EIA, a screening determination for EIA, or AA. The substitute consent procedure is set out in Part XA of the 2000 Act. Applications for substitute consent are made directly to ABP.

## Section 176A Screening Determination Request to Planning Authority

Anyone can make a request for a screening determination to the planning authority under Section 176A of the 2000 Act.

These provisions are recent and are still relatively rare. However, the following provisions are of note:

- Certain prescribed information, including Schedule 7A information, must be submitted with the application<sup>53</sup> including mitigation, if proposed.<sup>54</sup>
- The planning authority must consult with the landowner or occupier where they are not the applicant, with other bodies as appropriate (including prescribed bodies), and may also seek further information from the applicant.
- The planning authority must carry out the screening determination within **three weeks** of receiving further information, views or submissions or within **four weeks** if no further information, views or submissions are made.<sup>55</sup> In exceptional circumstances (including in relation to the nature, complexity, location or size of such development), this period may be extended and the parties notified of the reasons.

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<sup>53</sup> Section 176A(3) of the 2000 Act.

<sup>54</sup> Section 176B(3A) of the 2000 Act.

<sup>55</sup> Section 176B(2)(a) & (b) of the 2000 Act.

- The planning authority must carry out screening for AA at the same time as the EIA screening determination.
- The planning authority must publish a notice of its screening determination on its website and in a newspaper, in addition to issuing notices to the applicant, landowner and any other party consulted.
- The applicant, the owner or occupier can refer the screening determination to ABP to seek a review of the planning authority's decision, or where the planning authority has not made a decision.<sup>56</sup>
- The planning authority must enter in the register the screening determination made under Section 176A and the reasons for its decision.



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<sup>56</sup> Section 176C of the 2000 Act.

# Appendix A

## Templates for Screening

### Form 1

Establishing if the proposal is a 'sub-threshold development':	
Planning Register Reference:	
Development Summary:	
Was a Screening Determination carried out under Section 176A-C?	<input type="checkbox"/> Yes, no further action required <input type="checkbox"/> No, Proceed to <b>Part A</b>
<b>A. Schedule 5 Part 1</b> - Does the development comprise a project listed in Schedule 5, <b>Part 1</b> , of the Planning and Development Regulations 2001 (as amended)? (Tick as appropriate)	
<input type="checkbox"/> Yes, specify class ___[insert here]_____	<b>EIA is mandatory</b>  No Screening required
<input type="checkbox"/> No	Proceed to <b>Part B</b>
<b>B. Schedule 5 Part 2</b> - Does the development comprise a project listed in Schedule 5, <b>Part 2</b> , of the Planning and Development Regulations 2001 (as amended) <b>and</b> does it meet/exceed the thresholds? (Tick as appropriate)	
<input type="checkbox"/> No, the development is not a project listed in Schedule 5, Part 2	<b>No Screening required</b>
<input type="checkbox"/> Yes the project is listed in Schedule 5, Part 2 <b>and</b> meets/exceeds the threshold, specify class (including threshold): ___[specify class & threshold here]___	<b>EIA is mandatory</b>  No Screening required
<input type="checkbox"/> Yes the project is of a type listed <b>but</b> is <i>sub-threshold</i> : ___[insert here]_____	Proceed to <b>Part C</b>
<b>C. If Yes</b> , has Schedule 7A information/screening report been submitted?	
<input type="checkbox"/> Yes, Schedule 7A information/screening report has been submitted by the applicant	<b>Screening Determination required</b>
<input type="checkbox"/> No, Schedule 7A information/screening report has not been submitted by the applicant	<b>Preliminary Examination required</b> (Or in the case of S42 extension of duration applications request the Schedule 7A information/screening report to be submitted.)

## Form 2

<b>Preliminary Examination:</b>		
The planning authority shall carry out a preliminary examination of, at the <b>least, the nature, size or location of the development.</b>		
	<b>Comment:</b>	<b>Yes/No/ Uncertain:</b>
<p><b>Nature of the development:</b></p> <p><i>Is the nature of the proposed development exceptional in the context of the existing environment?</i></p> <p><i>Will the development result in the production of any significant waste, or result in significant emissions or pollutants?</i></p>		
<p><b>Size of the development:</b></p> <p><i>Is the size of the proposed development exceptional in the context of the existing environment?</i></p> <p><i>Are there cumulative considerations having regard to other existing and/or permitted projects?</i></p>		
<p><b>Location:</b></p> <p><i>Is the proposed development located on, in, adjoining or does it have the potential to impact on an ecologically sensitive site or location?<sup>1</sup></i></p> <p><i>Does the proposed development have the potential to affect other significant environmental sensitivities in the area?</i></p>		
<b>Preliminary Examination Conclusion:</b>		
Based on a preliminary examination of the <b>nature, size or location</b> of the development. (Tick as appropriate)		
<div style="text-align: center; margin-bottom: 10px;"><input type="checkbox"/></div> <p>There is <b>no real likelihood</b> of significant effects on the environment.</p> <p>EIA is not required.</p>	<div style="text-align: center; margin-bottom: 10px;"><input type="checkbox"/></div> <p>There is <b>real likelihood</b> of significant effects on the environment.</p> <p>An <b>EIAR is required.</b></p>	<div style="text-align: center; margin-bottom: 10px;"><input type="checkbox"/></div> <p>There is <b>significant and realistic doubt</b> regarding the likelihood of significant effects on the environment.</p> <p>Request the applicant to submit the <b>Information specified in Schedule 7A</b> for the purposes of a screening determination.</p> <p>Proceed to Screening Determination.</p>

<sup>1</sup> Sensitive locations or features includes European sites, NHA/pNHA, Designated Nature Reserves, land designated as a refuge for flora and fauna, and any other ecological site which is the objective of a CDP/LAP (including draft plans).

## Form 3

<b>Screening Determination:</b>		
<b>A. Case Details:</b>		
<b>Planning Register Reference:</b>		
<b>Development Summary:</b>		
	<b>Yes / No / N/A:</b>	<b>Comment (if relevant):</b>
Does the application include information specified in Schedule 7A?		
Other relevant information submitted:		
Does the application include a NIS and/or other reports to enable AA screening?		
Is an IED/IPC/Waste Licence or Waste Water Discharge Authorisation (or review of licence/ authorisation) required from the EPA for the subject development?		
If <b>YES</b> has the EPA been consulted?		
Have any other relevant <sup>2</sup> assessments of the effects on the environment been carried out pursuant to other relevant Directives – for example SEA or AA?		
<b>B. Examination:</b>		
<b>1. Characteristics of proposed development</b>		
<i>(including demolition, construction, operation, or decommissioning):</i>		
	<b>If relevant, briefly describe the characteristics of the development</b> (i.e. the nature and extent):	
(a) The size and design of the whole of the proposed development (including any demolition works):		
(b) Other existing or permitted projects (including under other legislation that is subject to EIA) that could give rise to cumulative effects:		

<sup>2</sup> Relevant assessments are those which have a significant bearing on the project.

<p>(c) Use of natural resources, in particular land, soil, water and biodiversity:</p> <p><i>Will construction or the operation of the proposal use natural resources such as land, soil, water, materials or energy, especially any resources which are non-renewable or are in short supply?</i></p>	
<p>(d) Production of waste:</p> <p><i>Will the proposal produce solid wastes during construction, operation, or decommissioning?</i></p>	
<p>(e) Pollution and nuisances:</p> <p><i>Will the proposal release pollutants to ground or surface water, or air (including noise and vibrations) or water, or lead to exceeding environmental standards set out in other Directives?</i></p>	
<p>(f) Major accidents and disasters:</p> <p><i>In accordance with scientific knowledge, is there a risk of major accidents and/or disasters which are relevant to the project, including those caused by climate change?</i></p>	
<p>(g) Risks to human health, for example due to water contamination or air pollution:</p>	
<p><b>2. Location of proposed development:</b></p>	
<p><b>The environmental sensitivity of geographical areas likely to be affected by the proposed development:</b></p>	<p><b>If relevant, briefly describe the characteristics of the location</b></p> <p>(with particular regard to the (a) existing and approved land use, (b) the relative abundance, availability, quality and regenerative capacity of natural resources, and (c) the absorption capacity of the environment):</p>
<p>(a) Generally describe the location of the site and its surroundings:</p>	

<p>(b) Is the project located within, close to or has it the potential to impact on any site specified in Article 103(3)(a)(v) of the Regulations:</p> <ul style="list-style-type: none"> <li>— <b>European site</b></li> <li>— <b>NHA/pNHA</b></li> <li>— <b>Designated Nature Reserve</b></li> <li>— <b>Designated refuge for flora or fauna</b></li> <li>— <b>Place, site or feature of ecological interest, the preservation, conservation, protection of which is an objective of a development plan/ local area plan/ draft plan or variation of a plan.</b></li> </ul>	
<p>(c) Are there any other areas on or around the location that are important or sensitive for reasons of their ecology e.g. wetlands, watercourses or other waterbodies (including riparian areas and river mouths), the coastal zone and the marine environment, mountains, forests or woodlands, that could be affected by the project?</p>	
<p>(d) Is the proposal likely to be highly visible to many people? Are there any areas or features of high landscape or scenic value on or around the location, or are there any routes or facilities that are used by the public for recreation or other facilities which could be affected by the proposal?</p>	
<p>(e) Are there any areas or features of historic or cultural importance on or around the location that could be affected by the project?</p>	
<p>(f) Are there areas within or around the location which are densely populated or built-up, or occupied by sensitive land uses e.g. hospitals, schools, places of worship, community facilities that could be affected by the proposal?</p>	
<p>(g) Are there any areas within or around the location which contain important, high quality or scarce resources e.g. groundwater, surface waters, forestry, agriculture, fisheries, tourism, minerals, that could be affected by the proposal?</p>	
<p>(h) Are there any areas within or around the location which are already subject to pollution or environmental damage, and where there has already been a failure in environmental standards that could be affected by the proposal e.g. the status of water bodies under the Water Framework Directive?</p>	

<p>(i) Is the site located in an area susceptible to subsidence, landslides, erosion, or flooding which could cause the proposal to present environmental problems?</p>		
<p>(j) Are there any additional considerations that are specific to this location?</p>		
<p><b>3. Types and characteristics of potential impacts:</b></p>		
<p><b>If relevant, briefly describe the characteristics of the potential impacts under the headings below.</b></p> <p>(including where relevant the magnitude and spatial extent of the impact (e.g. geographical areas and size of population likely to be affected), nature of impact, intensity and complexity of impact, probability of impact, and duration, frequency and reversibility of the impact):</p>	<p><b>If relevant, briefly describe any mitigation measures proposed to avoid or prevent a significant effect.</b></p>	<p><b>Is this likely to result in significant effects on the environment?</b></p>
<p><i>Population and human health:</i></p>		
<p><i>Biodiversity, with particular attention to species and habitats protected under the Habitats Directive and the Birds Directive.<sup>3*</sup></i></p>		
<p><i>Land, soil, water, air and climate:</i></p>		
<p><i>Material assets, cultural heritage and the landscape:*</i></p>		

<sup>3</sup> \* And with particular regard to areas specified in Article 103(3)(a)(v) of the Regulations.

<b>Cumulative effects:</b>		
<b>Transboundary effects:</b>		
<b>4. Additional Considerations:</b>		
Further relevant information, if any, relating to how the results of any other relevant assessments of the effects on the environment have been taken into account (e.g. SEA, AA screening, AA):		
<b>Other</b> relevant information/ <b>considerations of note:</b>		
<b>C. Determination:</b>		
<b>No real likelihood</b> of significant effects on the environment.	<input type="checkbox"/>	EIAR is not required
<b>Real likelihood</b> of significant effects on the environment.	<input type="checkbox"/>	<b>EIAR is required</b>
<b>D. Main Reasons and Considerations:</b>		
<p><b>Having regard to the criteria in Schedule 7, the information provided in accordance with Schedule 7A of the Planning and Development Regulations 2001, as amended, and the following:</b></p> <p>a) Set out the main reasons and considerations specific to the nature, size, or location of the proposed development, and the types and characteristics of potential impacts:</p> <p>b) Where relevant, reference any key mitigation measures of significance to the screening determination:</p> <p>c) Where relevant, reference the results of any other relevant assessments of the effects on the environment (e.g. SEA, AA screening, AA):</p> <p>d) Any other relevant information:</p> <p><b>It is considered that the proposed development would/would not be likely to have significant effects on the environment and that the preparation and submission of an environmental impact report is/is not therefore required.</b></p>		

# Appendix B

## Screening Case Studies/Examples

### Case Study 1.

**Where the proposal is not a *'sub-threshold development'*.**

**Neither preliminary examination nor screening determination required.**



## Form 1 - Case Study 1

<b>Establishing if the proposal is a 'sub-threshold development':</b>	
Planning Register Reference:	xxx
Development Summary:	<i>Solar PV energy development of maximum export capacity 4MW to include one ESB networks substation building, two transformer stations and solar PV panels. Access to the site is via an existing agricultural laneway. The overall site area is 10.11ha.</i>
Was a Screening Determination carried out under Section 176A-C?	<input type="checkbox"/> Yes, no further action required <input checked="" type="checkbox"/> No, Proceed to <b>Part A</b>
<b>A. Schedule 5 Part 1</b> - Does the development comprise a project listed in Schedule 5, <b>Part 1</b> , of the Planning and Development Regulations 2001 (as amended)? (Tick as appropriate)	
<input type="checkbox"/> Yes, specify class __[insert here]_____	<b>EIA is mandatory</b>  No Screening required
<input checked="" type="checkbox"/> No	Proceed to <b>Part B</b>
<b>B. Schedule 5 Part 2</b> - Does the development comprise a project listed in Schedule 5, <b>Part 2</b> , of the Planning and Development Regulations 2001 (as amended) <b>and</b> does it meet/exceed the thresholds? (Tick as appropriate)	
<input checked="" type="checkbox"/> No, the development is not a project listed in Schedule 5, Part 2	<b>No Screening required</b>
<input type="checkbox"/> Yes the project is listed in Schedule 5, Part 2 <b>and</b> meets/exceeds the threshold, specify class (including threshold): __[specify class & threshold here]__	<b>EIA is mandatory</b>  No Screening required
<input type="checkbox"/> Yes the project is of a type listed <b>but</b> is <i>sub-threshold</i> : __[insert here]_____	Proceed to <b>Part C</b>
<b>C. If Yes</b> , has Schedule 7A information/screening report been submitted?	
<input type="checkbox"/> Yes, Schedule 7A information/screening report has been submitted by the applicant	<b>Screening Determination required</b>
<input type="checkbox"/> No, Schedule 7A information/screening report has not been submitted by the applicant	<b>Preliminary Examination required</b> (Or in the case of S42 extension of duration applications request the Schedule 7A information/screening report to be submitted.)

## Case Study 2.

**Where the proposal is '*sub-threshold development*',  
and a preliminary examination is required.**



## Form 1 - Case Study 2

<b>Establishing if the proposal is a 'sub-threshold development':</b>	
Planning Register Reference:	xxx
Development Summary:	<p><i>Conversion of former convent (protected structure) into 12 apartments and construction of 56 houses in the curtilage. Associated site works and landscaping.</i></p> <p><i>The proposal is the second phase of a previously permitted development comprising a 100 bed nursing home, also within the curtilage of the former convent building.</i></p>
Was a Screening Determination carried out under Section 176A-C?	<input type="checkbox"/> Yes, no further action required <input checked="" type="checkbox"/> No, Proceed to <b>Part A</b>
<b>A. Schedule 5 Part 1</b> - Does the development comprise a project listed in Schedule 5, <b>Part 1</b> , of the Planning and Development Regulations 2001 (as amended)? (Tick as appropriate)	
<input type="checkbox"/> Yes, specify class ___[insert here]_____	<b>EIA is mandatory</b>  No Screening required
<input checked="" type="checkbox"/> No	Proceed to <b>Part B</b>
<b>B. Schedule 5 Part 2</b> - Does the development comprise a project listed in Schedule 5, <b>Part 2</b> , of the Planning and Development Regulations 2001 (as amended) <b>and</b> does it meet/exceed the thresholds? (Tick as appropriate)	
<input type="checkbox"/> No, the development is not a project listed in Schedule 5, Part 2	<b>No Screening required</b>
<input type="checkbox"/> Yes the project is listed in Schedule 5, Part 2 <b>and</b> meets/exceeds the threshold, specify class (including threshold): ___[specify class & threshold here]___	<b>EIA is mandatory</b>  No Screening required
<input checked="" type="checkbox"/> Yes the project is of a type listed <b>but</b> is <i>sub-threshold</i> :  <i>Part 5 Schedule 2, 10 (b) Construction of more than 500 dwelling units.</i>	Proceed to <b>Part C</b>
<b>C. If Yes</b> , has Schedule 7A information/screening report been submitted?	
<input type="checkbox"/> Yes, Schedule 7A information/screening report has been submitted by the applicant	<b>Screening Determination required</b>
<input checked="" type="checkbox"/> No, Schedule 7A information/screening report has not been submitted by the applicant	<b>Preliminary Examination required</b> (Or in the case of S42 extension of duration applications request the Schedule 7A information/screening report to be submitted.)

## Form 2 - Case Study 2

<b>Preliminary Examination:</b> The planning authority shall carry out a preliminary examination of, at the <b>least, the nature, size or location of the development.</b>		
	<b>Comment:</b>	<b>Yes/No/ Uncertain:</b>
<b>Nature of the development:</b> Is the nature of the proposed development exceptional in the context of the existing environment? Will the development result in the production of any significant waste, or result in significant emissions or pollutants?	<p><i>The site is located in an established residential area which is well served by public transport and social infrastructure.</i></p> <p><i>The removal of topsoil and small amounts of C&amp;D waste will be managed in accordance with the submitted Waste Management Plan. Localised construction impacts will be temporary.</i></p>	No
<b>Size of the development:</b> Is the size of the proposed development exceptional in the context of the existing environment? Are there cumulative considerations having regard to other existing and/or permitted projects?	<p><i>The size of the development is not exceptional in the context of the existing built-up urban environment.</i></p> <p><i>Construction of the permitted nursing home (phase 1) has commenced. The phasing of the proposed development will commence as a subsequent phase using the same area to the north of the site access as a construction compound. There is no real likelihood of significant cumulative effects with the permitted nursing home.</i></p>	No
<b>Location:</b> Is the proposed development located on, in, adjoining or does it have the potential to impact on an ecologically sensitive site or location? <sup>1</sup> Does the proposed development have the potential to affect other significant environmental sensitivities in the area?	<p><i>There are no ecologically sensitive locations in the vicinity of the site. The nearest European site is located 12 km to the east.</i></p> <p><i>The convent is a protected structure and the site is located within an ACA. An Architectural Impact Assessment report has been submitted and this issue can be adequately dealt with under the planning assessment.</i></p>	No

<sup>1</sup> Sensitive locations or features includes European sites, NHA/pNHA, Designated Nature Reserves, land designated as a refuge for flora and fauna, and any other ecological site which is the objective of a CDP/LAP (including draft plans).

<b>Preliminary Examination Conclusion:</b>		
Based on a preliminary examination of the <b>nature, size or location</b> of the development. (Tick as appropriate)		
<div style="text-align: center; margin-bottom: 10px;"><input checked="" type="checkbox"/></div> <p>There is <b>no real likelihood</b> of significant effects on the environment.</p> <p>EIA is not required.</p>	<div style="text-align: center; margin-bottom: 10px;"><input type="checkbox"/></div> <p>There is <b>real likelihood</b> of significant effects on the environment.</p> <p>An <b>EIAR is required.</b></p>	<div style="text-align: center; margin-bottom: 10px;"><input type="checkbox"/></div> <p>There is <b>significant and realistic doubt</b> regarding the likelihood of significant effects on the environment.</p> <p>Request the applicant to submit the <b>Information specified in Schedule 7A</b> for the purposes of a screening determination.</p> <p>Proceed to Screening Determination.</p>



## Case Study 3.

**Where the proposal is *'sub-threshold development'*,  
and a screening determination is required.**



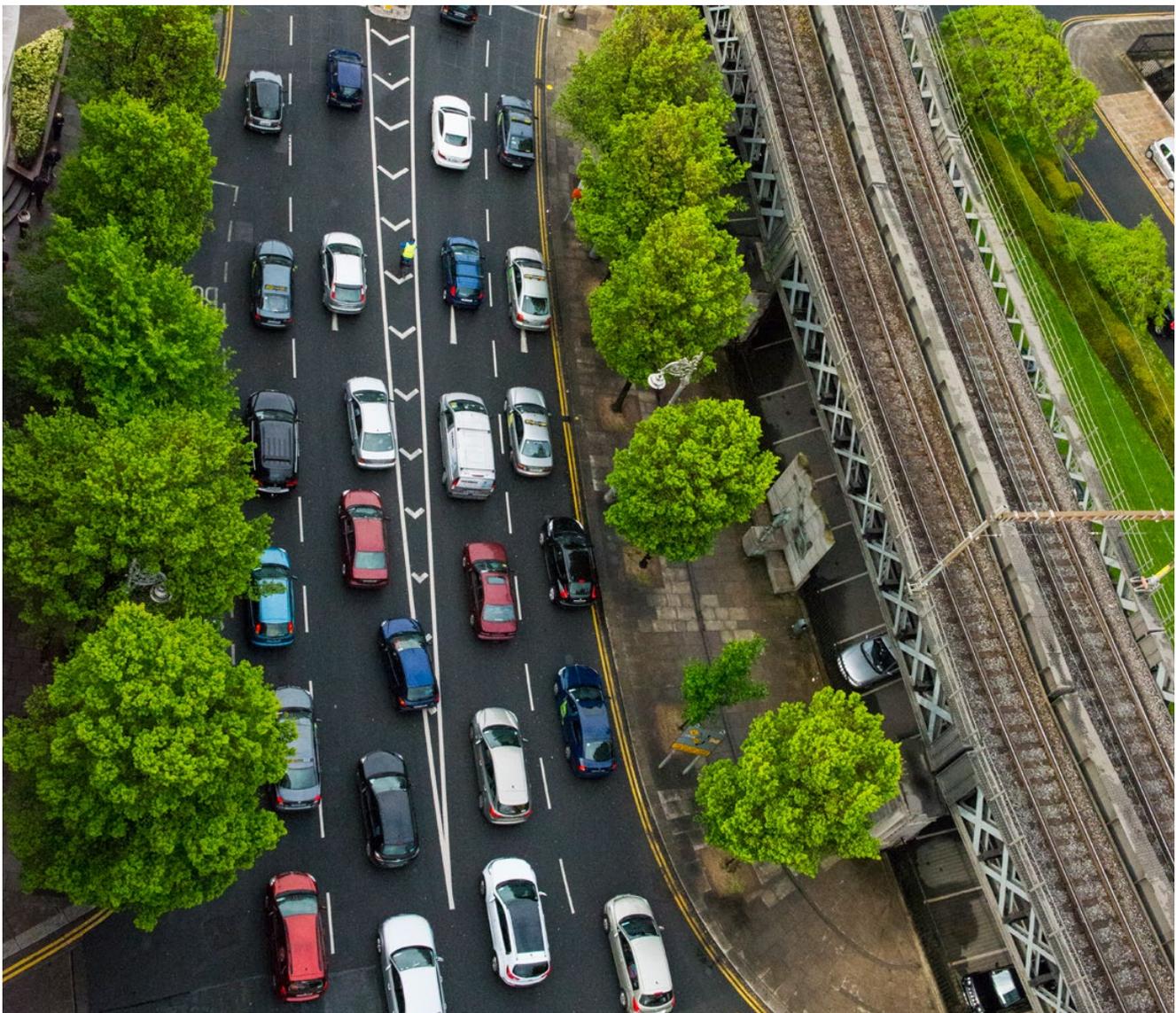
## Form 1 - Case Study 3

<b>Establishing if the proposal is a 'sub-threshold development':</b>	
Planning Register Reference:	xxx
Development Summary:	<p><i>A single three blade wind turbine to include turbine transformer, base foundation, hardstand and temporary set down area, access track, on-site drainage management works, ancillary works including general and excavation works.</i></p> <p><i>8 new surface car parking spaces to serve the adjoining manufacturing facility are also proposed.</i></p> <p><i>The overall site area is 16ha.</i></p>
Was a Screening Determination carried out under Section 176A-C?	<input type="checkbox"/> Yes, no further action required <input checked="" type="checkbox"/> No, Proceed to <b>Part A</b>
<b>A. Schedule 5 Part 1</b> - Does the development comprise a project listed in Schedule 5, <b>Part 1</b> , of the Planning and Development Regulations 2001 (as amended)? (Tick as appropriate)	
<input type="checkbox"/> Yes, specify class __[insert here]_____	<b>EIA is mandatory</b>  No Screening required
<input checked="" type="checkbox"/> No	Proceed to <b>Part B</b>
<b>B. Schedule 5 Part 2</b> - Does the development comprise a project listed in Schedule 5, <b>Part 2</b> , of the Planning and Development Regulations 2001 (as amended) <b>and</b> does it meet/exceed the thresholds? (Tick as appropriate)	
<input type="checkbox"/> No, the development is not a project listed in Schedule 5, Part 2	<b>No Screening required</b>
<input type="checkbox"/> Yes the project is listed in Schedule 5, Part 2 <b>and</b> meets/exceeds the threshold, specify class (including threshold): __[specify class & threshold here]__	<b>EIA is mandatory</b>  No Screening required
<input checked="" type="checkbox"/> Yes the project is of a type listed <b>but</b> is <i>sub-threshold</i> :  <i>Part 5 Schedule 2, 3 (i) Wind farms with more than 5 turbines or having a total output greater than 5 megawatts.</i>	Proceed to <b>Part C</b>
<b>C. If Yes</b> , has Schedule 7A information/screening report been submitted?	
<input checked="" type="checkbox"/> Yes, Schedule 7A information/screening report has been submitted by the applicant	<b>Screening Determination required</b>
<input type="checkbox"/> No, Schedule 7A information/screening report has not been submitted by the applicant	<b>Preliminary Examination required</b> (Or in the case of S42 extension of duration applications request the Schedule 7A information/screening report to be submitted.)

## Form 3

<b>Screening Determination:</b>		
<b>A. Case Details:</b>		
<b>Planning Register Reference:</b>	xxx	
<b>Development Summary:</b>	<p><i>A single three blade wind turbine to include turbine transformer, base foundation, hardstand and temporary set down area, access track, on-site drainage management works, ancillary works including general and excavation works.</i></p> <p><i>Hub height 65m, with maximum rotar diameter of 56m, maximum tip height of 88.5m.</i></p> <p><i>The turbine will serve an existing window and door fabrication facility which is located in a large industrial development campus on the urban edges of a large regional town. Surplus electricity will feed into the grid via an existing substation within the industrial estate (via a 22m underground cable).</i></p> <p><i>8 new surface car parking spaces to serve the adjoining manufacturing facility are also proposed.</i></p> <p><i>The overall site area is 16.1ha, although the works and footprint of the development comprise 1.6ha.</i></p>	
	<b>Yes / No / N/A:</b>	<b>Comment (if relevant):</b>
Does the application include information specified in Schedule 7A?	Yes	<p><i>Advised at S247 pre-application consultation due to doubt over the likelihood of significant effects.</i></p> <p><i>[See S.247 pre-app file attached.]</i></p>
Other relevant information submitted:	Yes	<p><i>Planning and Environmental Report including:</i></p> <ul style="list-style-type: none"> <li><i>- Visual Impact Assessment</i></li> <li><i>- Noise Impact Assessment</i></li> <li><i>- Ecological Impact Assessment</i></li> </ul> <p><i>CEMP - Construction and Environmental Management Plan (including traffic management and haul routes).</i></p>

Does the application include a NIS and/or other reports to enable AA screening?	Yes	<i>NIS submitted.</i>
Is an IED/IPC/Waste Licence or Waste Water Discharge Authorisation (or review of licence/ authorisation) required from the EPA for the subject development?	No	<i>The existing manufacturing activity on site is not a licensable activity.</i>
If <b>YES</b> has the EPA been consulted?		<i>N/A</i>
Have any other relevant <sup>2</sup> assessments of the effects on the environment been carried out pursuant to other relevant Directives –for example SEA or AA?		<i>The site is zoned for Industrial use in the County Development Plan which was subject to SEA, AA and SFRA.</i>



<sup>2</sup> Relevant assessments are those which have a significant bearing on the project.

<b>B. Examination:</b>	
<b>1. Characteristics of proposed development</b> <i>(including demolition, construction, operation, or decommissioning):</i>	
	<b>If relevant, briefly describe the characteristics of the development</b> (i.e. the nature and extent):
(a) The size and design of the whole of the proposed development (including any demolition works):	<p><i>The site area is small (1.6ha) and is located within a large serviced industrial area. The height of the turbine means that it will be clearly visible in the immediate area.</i></p> <p><i>The turbine will be connected to the on-site substation located at a 35m distance via an underground 20 kV electricity cable. Fibre optic cables will connect the turbine to the existing manufacturing building.</i></p> <p><i>A temporary construction compound is located in the northern corner of the site and will be resurfaced as 8 additional car parking spaces for the manufacturing facility.</i></p> <p><i>Surface water drainage during construction and operation will be attenuated onsite via a hydrocarbon interceptor and to allow for silt or sediment settlement prior to controlled release via a number of soakaways.</i></p> <p><i>It is proposed to access the site from the LXX. The construction entrance will be reduced to 4m following construction and will be used in connection with the maintenance and operation of the turbine only. The car parking will be accessed via the existing industrial estate.</i></p> <p><i>Construction is expected to take approx. 4 months.</i></p> <p><i>The proposed turbine is to have a potential lifespan of 30 years. Following the end of its useful life, the turbine may be replaced, subject to planning permission being obtained, or the proposed development may be decommissioned fully.</i></p> <p><i>No demolition works are required.</i></p>
(b) Other existing or permitted projects (including under other legislation that is subject to EIA) that could give rise to cumulative effects:	<p><i>There are no other wind turbines in the vicinity. The main potential for cumulative effects is with the existing industrial estate and the manufacturing facility.</i></p> <p><i>There are no relevant permitted developments in the area.</i></p>

<p>(c) Use of natural resources, in particular land, soil, water and biodiversity:</p> <p><i>Will construction or the operation of the proposal use natural resources such as land, soil, water, materials or energy, especially any resources which are non-renewable or are in short supply?</i></p>	<p><i>The site is currently grassland the loss of which will be permanent.</i></p> <p><i>There will be the biodiversity loss of 15m of hedgerow to provide road access during construction. This will be replanted after construction with the exception of the entrance and visibility splays to be retained (7m).</i></p>
<p>(d) Production of waste:</p> <p><i>Will the proposal produce solid wastes during construction, operation, or decommissioning?</i></p>	<p><i>The site area is relatively small/modest. Topsoil and limited C&amp;D waste will be disposed of in accordance with the submitted CEMP.</i></p> <p><i>Future decommissioning of the turbine and hardstanding will involve recycling or reuse where possible with residual disposal to a licenced facility.</i></p>
<p>(e) Pollution and nuisances:</p> <p><i>Will the proposal release pollutants to ground or surface water, or air (including noise and vibrations) or water, or lead to exceeding environmental standards set out in other Directives?</i></p>	<p><i>Potential noise and shadow flicker from the operation of the turbine.</i></p> <p><i>Surface water runoff during construction and operation will be managed on site in accordance with the CEMP and discharged to groundwater via soakaways at greenfield rates.</i></p> <p><i>Potential dust and noise pollution during construction, including construction related traffic.</i></p>
<p>(f) Major accidents and disasters:</p> <p><i>In accordance with scientific knowledge, is there a risk of major accidents and/or disasters which are relevant to the project, including those caused by climate change?</i></p>	<p><i>None. No COMAH sites in vicinity.</i></p>
<p>(g) Risks to human health, for example due to water contamination or air pollution:</p>	<p><i>Construction impacts including noise, dust, construction and haulage traffic.</i></p> <p><i>The proposed turbine could give rise to noise and shadow flicker which may affect human health.</i></p>
<p><b>2. Location of proposed development:</b></p>	
<p><b>The environmental sensitivity of geographical areas likely to be affected by the proposed development:</b></p>	<p><b>If relevant, briefly describe the characteristics of the location</b></p> <p>(with particular regard to the (a) existing and approved land use, (b) the relative abundance, availability, quality and regenerative capacity of natural resources, and (c) the absorption capacity of the environment):</p>

<p>(a) Generally describe the location of the site and its surroundings:</p>	<p><i>The site is located immediately adjacent to an existing industrial estate c. 1.5km from the centre of the town. There is an existing telecommunication tower within the industrial estate.</i></p> <p><i>It comprises improved grassland with existing hedgerows along the road boundary. The site is relatively flat with an elevation generally less than 30mAOD.</i></p> <p><i>The site can be accessed from the LXX local road which is connected to the outer ring road some 750m to the west.</i></p> <p><i>There are no other wind turbines in the vicinity.</i></p>
<p>(b) Is the project located within, close to or has it the potential to impact on any site specified in Article 103(3)(a)(v) of the Regulations:</p> <ul style="list-style-type: none"> <li>— <b>European site</b></li> <li>— <b>NHA/pNHA</b></li> <li>— <b>Designated Nature Reserve</b></li> <li>— <b>Designated refuge for flora or fauna</b></li> <li>— <b>Place, site or feature of ecological interest, the preservation, conservation, protection of which is an objective of a development plan/ local area plan/ draft plan or variation of a plan.</b></li> </ul>	<p><i>The site is located 1.8 km to the south of a Special Area of Conservation (SAC) and Special Protection Area (SPA). The Conservation Objectives for these areas relate to wintering wetland birds and coastal habitats. A ground/ surface water pathway has been identified.</i></p> <p><i>The application has been accompanied by a NIS: which concludes that the proposed development will not adversely affect the integrity of the European sites.</i></p>
<p>(c) Are there any other areas on or around the location that are important or sensitive for reasons of their ecology e.g. wetlands, watercourses or other waterbodies (including riparian areas and river mouths), the coastal zone and the marine environment, mountains, forests or woodlands, that could be affected by the project?</p>	<p><i>Groundwater at the site lies within the catchment of the X River, which converges with the estuary (designated SAC and SPA) at a distance of 1.8 km from the site.</i></p>
<p>(d) Is the proposal likely to be highly visible to many people? Are there any areas or features of high landscape or scenic value on or around the location, or are there any routes or facilities that are used by the public for recreation or other facilities which could be affected by the proposal?</p>	<p><i>The proposed turbine will be highly visible over a wide area, including the town centre.</i></p> <p><i>The landscape is relatively flat and is characterised as 'Urban/ Industrial' in the CDP. Land in the wider vicinity is characterised as 'Agricultural, arable and pasture'.</i></p> <p><i>There are no tourist centres in the vicinity, although the estuary and X River are used for local recreational fishing. The nearest tourist centre is the coastal village of X located 10 km to the north east.</i></p>

<p>(e) Are there any areas or features of historic or cultural importance on or around the location that could be affected by the project?</p>	<p>No</p>
<p>(f) Are there areas within or around the location which are densely populated or built-up, or occupied by sensitive land uses e.g. hospitals, schools, places of worship, community facilities that could be affected by the proposal?</p>	<p><i>The site is located in an established industrial area. The closest sensitive receptor is a series of 6 roadside dwellings located over 500m to the east of the site. Two national schools are located in close proximity to each other c.1.2km to the east.</i></p>
<p>(g) Are there any areas within or around the location which contain important, high quality or scarce resources e.g. groundwater, surface waters, forestry, agriculture, fisheries, tourism, minerals, that could be affected by the proposal?</p>	<p><i>No. The bedrock underlying the site is classified as 'PI Poor Aquifer - Generally Unproductive except for Local Zones'. The groundwater vulnerability is Moderate. There are no source protection zones in the vicinity of the site.</i></p>
<p>(h) Are there any areas within or around the location which are already subject to pollution or environmental damage, and where there has already been a failure in environmental standards that could be affected by the proposal e.g. the status of water bodies under the Water Framework Directive?</p>	<p><i>No. The WFD groundwater quality status is 'Good'. The X River has a similar Good status.</i></p>
<p>(i) Is the site located in an area susceptible to subsidence, landslides, erosion, or flooding which could cause the proposal to present environmental problems?</p>	<p>No</p>
<p>(j) Are there any additional considerations that are specific to this location?</p>	<p><i>There are telecommunications links going through the site from the existing telecommunication mast on the industrial estate.</i></p>

<b>3. Types and characteristics of potential impacts:</b>		
<b>If relevant, briefly describe the characteristics of the potential impacts under the headings below.</b>	<b>If relevant, briefly describe any mitigation measures proposed to avoid or prevent a significant effect.</b>	<b>Is this likely to result in significant effects on the environment?</b>
<i>Population and human health:</i>		
<p>(including where relevant the magnitude and spatial extent of the impact (e.g. geographical areas and size of population likely to be affected), nature of impact, intensity and complexity of impact, probability of impact, and duration, frequency and reversibility of the impact):</p> <p><i>There may be possible short term nuisances to human beings from noise and dust during the construction phase. These are not likely to be at such a quantity or of such a significance that would warrant the completion of a sub-threshold EIAR. Noise and dust or pollution will be subject to standard mitigation measures as per typical construction projects.</i></p> <p><i>Potential impacts on human health from noise and shadow flicker are limited due to the separation distance to sensitive receptors. A noise impact assessment is submitted which shows that the predicted levels are within the relevant best practice guidance noise criteria curves.</i></p> <p><i>A shadow flicker study submitted shows that no existing dwelling or other affected residential property will experience shadow flicker. The positioning of windows in the industrial units to the east is such that the only shadow flicker that will be experienced is at the warehouse associated with the existing manufacturing facility. The turbine has been sited so as to ensure that this will be less than the 30 minutes per day or 30 hours per year threshold.</i></p>	<p><i>Mitigation measures are set out in the CEMP.</i></p> <p><i>No mitigation proposed.</i></p>	<p><i>No. The residual construction impacts are temporary and are not considered to be significant.</i></p> <p><i>The operation impacts are not likely to be significant due to the separation distances, location and design of the turbine.</i></p>

<i>Biodiversity, with particular attention to species and habitats protected under the Habitats Directive and the Birds Directive: *</i>		
<i>Groundwater in the area is hydrologically connected to the estuary that is designated as a SAC and SPA. These areas are of international and national importance for wintering wetland birds and for coastal habitats.</i>	<i>The likely significant effects on the conservation objectives of the European sites are assessed in the NIS. Mitigation measures to control pollutants, including silt and sedimentation during construction, and hydrocarbons from the car park, are proposed. These represent best practice measures that are well established and known to be effective.</i>	<i>This issue can be adequately dealt with under the AA and planning assessment.</i>
<i>Impacts on bird populations from loss/ fragmentation of habitat, disturbance, displacement or risk of collision with the proposed turbine.</i>	<i>Bird surveys were carried out as part of the NIS and other ecological surveys. Bird populations of greater than Local and County importance were not identified either on the site or as part of the flight path for wintering bird populations using the SPA. No bats were encountered during the surveys.</i>	<i>This issue can be adequately dealt with under the AA and planning assessment.</i>
<i>The removal of hedgerow to provide vehicular access will result in the loss of habitat.</i>	<i>It is proposed to replace 8m of lost hedgerow habitat (15m) post construction. Although this will take a number of years to establish, the extent of the impact will be mitigated.</i>	<i>No. The residual impact is not considered to be significant.</i>

<i>Land, soil, water, air and climate:</i>		
<i>The loss of grassland is not considered to be significant.</i>	<i>N/A</i>	<i>No</i>
<i>The flat nature of the land and ground conditions mean that there is no likelihood of soil erosion or impact on soil stability. Construction will be at near surface reducing the need for large scale excavation.</i>	<i>N/A</i>	<i>No</i>
<i>Potential risk to water quality of groundwater and the estuary.</i>	<i>Surface water runoff and sources of contaminants during construction will be managed in accordance with the mitigation measures set out in the CEMP. Silt and sedimentation will be settled prior to controlled discharge via soakaways at greenfield rates.  No refuelling will take place on site during construction to mitigate the risk of hydrocarbon spillage.  Surface water from the hard standing and new car park will be attenuated via a hydrocarbon interceptor prior to controlled discharge via soakaways at greenfield rates.</i>	<i>No. The residual risk is considered to be low once mitigation measures are implemented.</i>
<i>The closest residential properties are located 560m from the turbine. A noise impact assessment is submitted which shows that the predicted levels will not exceed 43dB(A) for both day and night.</i>	<i>No mitigation proposed.</i>	<i>This issue can be adequately dealt with under the AA and planning assessment.</i>
<i>Beneficial impact on air quality and climate arising from reduced use of fossil fuel generated electricity.</i>	<i>N/A</i>	<i>Positive</i>

<b>Material assets, cultural heritage and the landscape:*</b>		
<p><i>The site context, the nature (industrial), scale and form of existing development including the existing telecommunication mast, mean that the proposal, whilst visible, does not have a significant impact.</i></p> <p><i>The site is easily accessed from the existing road network.</i></p> <p><i>There are telecommunications links going through the site from the existing telecommunication mast on the industrial estate that could be affected.</i></p>	<p><i>No mitigation proposed.</i></p> <p><i>The application includes a traffic management plan for the construction phase, including haul routes for the turbine which avoid the town centre.</i></p> <p><i>The turbine is sited to avoid the signal paths from the mast.</i></p>	<p><i>No. Residual impacts during the construction phase are not considered to be significant</i></p>
<b>Cumulative Effects:</b>		
<p><i>No cumulative effects are identified.</i></p>	<p><i>N/A</i></p>	<p><i>No</i></p>
<b>Transboundary Effects:</b>		
<p><i>The site is remote from any transboundary location and the nature of the development is such that any impact would not effect a large geographical area.</i></p>	<p><i>N/A</i></p>	<p><i>No</i></p>

<b>4. Additional Considerations:</b>		
<p>Further relevant information, if any, relating to how the results of any other relevant assessments of the effects on the environment have been taken into account (e.g. SEA, AA screening, AA):</p>	<p><i>The site is zoned industrial in the CDP which was subject to SEA. No likely significant effects on the environment arising from this zoning objective were identified through that process.</i></p> <p><i>The site was not identified as flood zone A or B in the SFRA.</i></p>	
<p><b>Other</b> relevant information/ <b>considerations of note:</b></p>	<p><i>None</i></p>	
<b>C. Determination:</b>		
<p><b>No real likelihood</b> of significant effects on the environment.</p>	<input checked="" type="checkbox"/>	<p>EIAR is not required</p>
<p><b>Real likelihood</b> of significant effects on the environment.</p>	<input type="checkbox"/>	<p>EIAR is required</p>

## D. Main Reasons and Considerations:

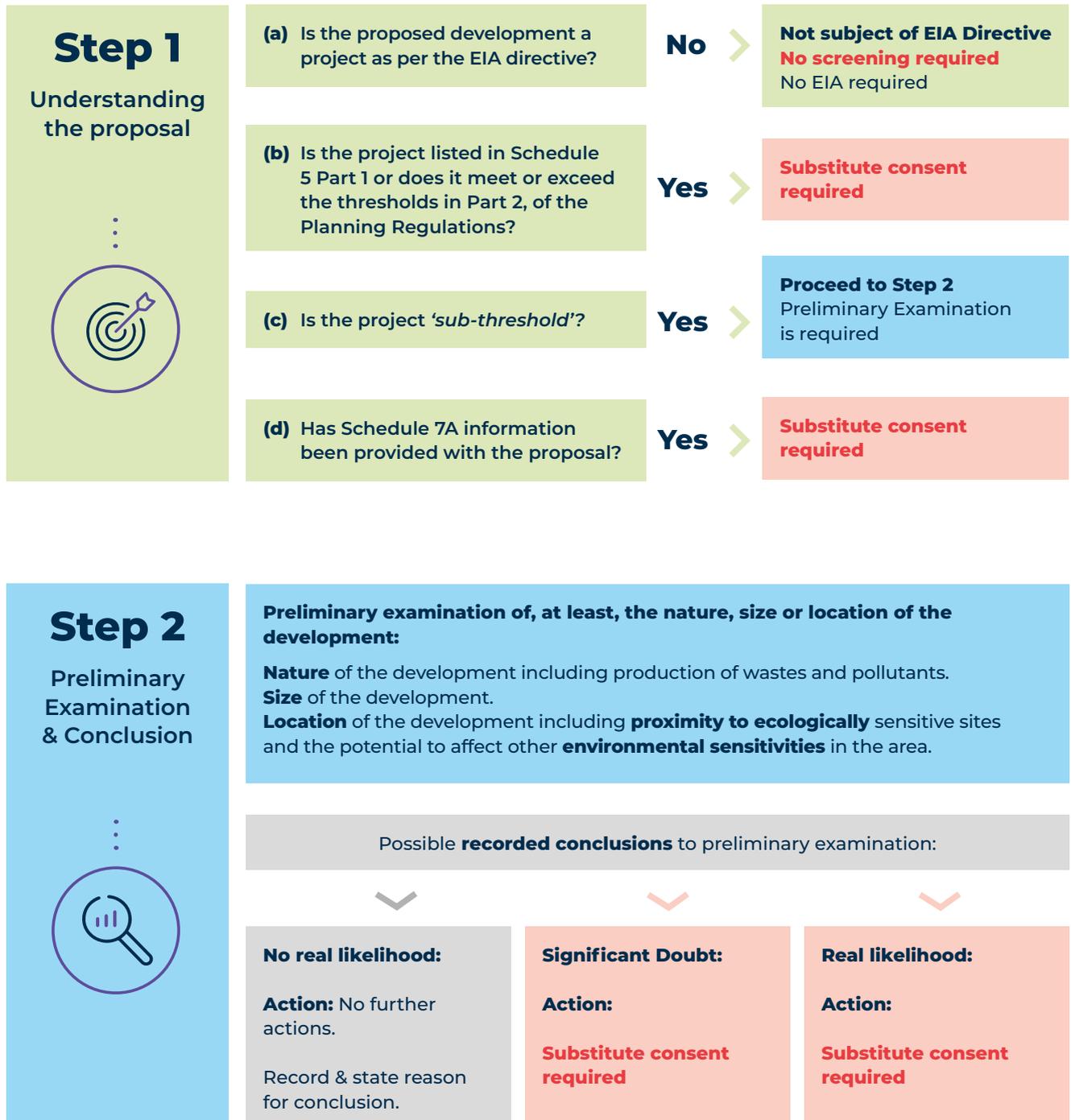
**Having regard to the criteria in Schedule 7, the information provided in accordance with Schedule 7A of the Planning and Development Regulations 2000, as amended, and the following:**

- (a) The nature and scale of the proposed development, which is significantly below the threshold in respect of Class 3(i) (Energy Industry – wind farms) of the Planning and Development Regulations 2001 (as amended),*
- (b) The location of the site on lands that are zoned for industrial use under the provisions of the XX Development Plan 20XX-20XX and the results of the strategic environmental assessment of this Plan undertaken in accordance with the SEA Directive (2001/42/EC),*
- (c) The location of the site in an established industrial area and the existing pattern of development in the vicinity,*
- (d) The location of the site outside of any sensitive location specified in Article 103(3)(a) of the Planning and Development Regulations 2001 (as amended),*
- (e) The appropriate assessment to be carried out of likely significant effects on European sites,*
- (f) The separation distance between the site and the nearest residential properties or other sensitive receptors, and the information submitted in the planning report with regard to visual, noise, and shadow flicker impacts,*
- (g) The mitigation measures set out in the Construction and Environment Management Plan, including traffic management and haulage routes,*
- (h) The guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage and Local Government (2003).*

It is considered that the proposed development **would not** be likely to have significant effects on the environment and that the preparation and submission of an environmental impact report **is not** therefore required.

# Appendix C

**Figure 2. Step-by-Step Approach for EIA Screening for Development Proposals (Retention)**



# Appendix D

## **Summary of the Key Implications for Section 34 Planning Applications (excluding retention applications)**



	<b>Scenarios:</b>	<b>Action by the Planning Authority:</b>	<b>Relevant Regulations &amp; Timeframe:</b>
<b>1.</b>	<p><b>EIA is mandatory:</b> the proposal is a project listed in Schedule 5 Part 1 or equals/ exceeds the thresholds in Part 2, of the Regulations</p> <p><b>and</b></p> <p>Where an EIAR has <b>not</b> been submitted with the application.</p>	Invalidate the application	Article 99
<p><b>Preliminary Examination</b></p> <p>Where the preliminary examination conclusion is:</p>			
<b>2.</b>	<p><b>‘No real likelihood’</b></p> <p>[Article 103. (1) (b)(i)]</p>	<p>Undertake preliminary examination in tandem with preparation of the planning report.</p> <p>Document the preliminary examination conclusion in planning report.</p>	There is <b>no</b> requirement to notify the applicant within 8 weeks of the conclusion where there is no real likelihood of any significant effects on the environment.
<b>3.</b>	<p><b>‘Significant Doubt’</b></p> <p>[Article 103. (1) (b)(ii)]</p>	<p>Undertake the preliminary examination in tandem with the preparation of the planning report.</p> <p>Document the preliminary examination conclusion in the planning report.</p> <p>Send a notice in writing to the applicant requesting the information specified in Schedule 7A.</p>	<p>There is no set timeframe under Article 103(1)(b)(ii) to require Schedule 7A information. However, best practice would streamline this request with any other further information requests required under Article 33.</p> <p>The request/order issued to the applicant should refer to Article 103 and Article 33 (if other FI is necessary).</p> <p>On receipt of the Schedule 7A an information screening determination is necessary – see scenarios 5 and 6 below.</p>

<p><b>4. 'Real Likelihood'</b></p> <p>[Article 103. (1) (b)(iii)]</p>	<p>Undertake the preliminary examination in tandem with the preparation of the planning report.</p> <p>Document the preliminary examination conclusion in the planning report.</p> <p>Serve a notice in writing requesting the applicant to provide an EIAR.</p>	<p>There is <b>no</b> timeframe within which to serve this notice. However best practice would streamline this request with any other further information requests required under Article 33.</p> <p>Therefore, this would occur within 8 weeks of receipt of the application.</p> <p>The request/order issued to the applicant should refer to Articles 103, 105 and Article 33 (if other FI is necessary).</p>
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	Scenarios:	Action by PA:	Relevant Regulations & Timeframe:
	<p><b>Screening Determination:</b> Where the determination is screening the determination is:</p>		
<p><b>5. 'No real likelihood'</b></p>	<p>As recommended in this practice note the template forms in Appendix A, or similar, should be used to document the screening determination.</p> <p>A determination of no real likelihood should be documented in the planning report.</p>	<p>There is <b>no</b> requirement to notify the applicant within 8 weeks of the determination where there is no real likelihood.</p> <p>The screening determination will be placed on the planning file and made available at the decision stage with all other reports pertaining to the application.</p> <p>The determination may form part of the planning decision or may be a separate document.</p>	

<p><b>6. 'Real likelihood'</b></p>	<p><b>(a)</b> where the applicant submitted the Schedule 7A information with the application, the screening determination must be carried out as part of the first assessment of the application, i.e. within the first 8 weeks from receipt of the application.</p> <p><b>or</b></p> <p><b>(b)</b> where the Schedule 7A information is submitted following an Article 103(1) (b)(ii) request as per scenario 3 above, the screening determination must be carried out within 8 weeks from receipt of the information.</p> <p>As recommended in this practice note the template forms in Appendix A, or similar, should be used to document the screening determination.</p>	<p>In the case of <b>(a)</b> the planning authority must notify the applicant of the determination within <b>8 weeks of receipt of the Schedule 7A information</b>, which in this scenario is 8 weeks from receipt of the application.</p> <p>An EIAR may also be requested at this point. The request/order issued to the applicant should reference Articles 103, 105 and 33 (if other Further Information is necessary).</p> <p>Under <b>(b)</b> where Schedule 7A information was requested in tandem with other requests for Further Information (Article 33), <b>the applicant must be notified of the determination within 8 weeks from receipt of the Schedule 7A information.</b></p> <p>Assuming, in practice, the applicant submits the Schedule 7A information with other further information responses. The planning authority has 4 weeks to decide on the application (normally) and 8 weeks if the application includes a NIS.</p> <p>Therefore, the 8 weeks [required by Article 103(1C)] is always likely to be met in this streamlined approach.</p> <p>There is also provision for further information on the EIAR only thereafter in such cases.</p>
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# Appendix E

## Case Law and References

Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment (as amended by Directive 2014/52/EU) see informal consolidation

Draft Guidelines on the information to be contained in Environmental Impact Assessment Reports (2017)

Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development, Department of the Environment, Heritage and Local Government (2003)

Environmental Impact of Projects - Guidance on Screening, European Commission (2017)

Guidelines for Planning Authorities and An Bord Pleanála on carrying out Environmental Impact Assessment, Department of Housing Planning and Local Government (2018)

Interpretation of Definitions of Project categories on Annex I and Annex II of EIA Directive European Commission (2015)

Kavanagh v An Bord Pleanála & Ors [2020] IEHC 259

Fitzpatrick and Daly v An Bord Pleanála [2019] IESC 23 ('Apple Case')

O'Grianna v. An Bord Pleanála (No.1) [2014] IEHC 632

O'Grianna v. An Bord Pleanála (No. 2) [2017] IEHA 7

An Taisce v. Kilkenny Cheese Manufacturing Plant [2021] IEHC 254 [2022] IEHC 8

# Revisions Table

Version	Date of Amendment	Summary (Page No.)
i	02.09.2022	Update to text (pages 8, 12, 13, 18, 20, 23, 24, 25 and 26) and Appendix A (page 28) and Appendix E (page 59) to reflect numerous changes to planning legislation particularly those in relation to Section 42 Extension of Duration applications, see <b>Circular Letter EUIPR 01/2021</b> and Large-scale Residential Development applications see <b>Circular Letter PL13/2021</b> .

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Disclaimer: Issued June 2021.

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