

**Material Contravention Statement of the
Dublin City Development Plan 2016-2022 and the
Clongriffin Belmayne (North Fringe) Local Area Plan
2012-2018 (as extended to Dec 2022)
(And also the Draft Dublin City
Development Plan 2022-2028)**

In respect of

**‘Rosemount House’ Northern Cross, Malahide Road,
Dublin D17 NP20**

Prepared by

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On behalf of

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1.0 INTRODUCTION

- 1.1 This statement outlines the justification for the material contraventions of the Clongriffin Belmayne Local Area Plan 2012 (as extended to December 2022), The Dublin City Development Plan 2016-2022, and the Draft Dublin City Development Plan 2022-2028, for the mixed-use development on lands at 'Rosemount House', Northern Cross, Malahide Road, Dublin 17.
- 1.2 The **height** of the proposed development could be considered to be a material contravention of the Clongriffin Belmayne Local Area Plan 2012, which identifies a height of 3 storeys in *Figure 8.13 Indicative Heights* for this location. A justification of the proposed height is set out in this report in accordance with SPPR 3 of the Urban Development and Building Height Guidelines. Furthermore, the established pattern of permitted development in the area, which has been permitted over the course of the Local Area Plan, and also during the timespan of the current 2016-2022 city development plan, provides further grounds for the material contravention of the Local Area Plan, in addition to a number of inconsistencies identified within the Plan itself.
- 1.3 The **site coverage** for the proposed development is 57%. The indicative site coverage for Z14 lands is 50% in the current Dublin City Development Plan 2016-2022. The Development Plan lists standards to which a development would be required to adhere should it be in excess of the permitted site coverage. The proposed development is also considered to constitute a material contravention of the current Dublin CDP in terms of **unit mix**. This Contravention Statement provides a justification in terms of these policies.
- 1.4 The current Dublin City Development Plan 2016-2022 is under review and a draft version of the Dublin CDP 2022-2028 has been published, with the final plan expected to come into operation in December 2022. Therefore, this statement also includes assessment of contravention of policies in the published draft of Dublin City Development Plan 2022-2028 including **cultural space, unit size and mix and density** with a justification set out herein. Dublin City Council had published 'Proposed Material Amendments' to the draft Plan at the time of submission. In the situation these proposed alterations are adopted as part of the final version of the Plan, this document includes an assessment of a potential material contravention in relation to proposed material amendments policy on **universal design**.
- 1.5 The proposed development consists of the demolition of the existing 3,315 sq.m office block on site and the construction of a mixed-use block of 9 storeys over basement in a 4 sided block of 25,428 sq.m, consisting of 176 no. apartments with associated residential amenities, office and commercial use at Rosemount House, Northern Cross, Malahide Road, Dublin 17, on a site of 0.6462 ha. The full description of the proposed development is as follows:

"The proposed development shall consist of:

- Demolition of existing c. 3,315 sq.m, 3 storey office building on site and existing ancillary facilities and the construction of a single mixed-use block (Block A) of up to 9 storeys (over basement), consisting of a 4-sided structure based around a central courtyard area.*
- c. 1,050.8 sq.m. of office space at ground floor level with own door access and associated infrastructure including staff kitchen, meeting rooms and designated car parking (7 spaces) at basement level.*

- *A café unit of c. 143.7 sq.m at ground floor level with own door access to the south and east, accessed via proposed public open space.*
- *176 no. residential units from 1st to 8th floor level comprising 72 no. 1 bed units (41%), 57 no. 2 bed units (32%) and 47 no. 3 bed units (27%) [each with private amenity space in the form of balcony or terrace], with separate access to the proposed commercial uses at ground floor level.*
- *c. 1,846 sq. m. of communal open space at ground floor, first floor podium, 4th floor and 7th floor level, and public open space of c. 1,577 sq.m. at ground floor level, including a public courtyard area located to the southeast of the proposed block.*
- *Resident amenity and support services are proposed at ground floor level to include a cinema room, post room, games room, co-working spaces, gym and concierge services.*
- *134 no. car parking spaces, 7 of which are accessible, and 7 no. motorcycle parking spaces, located at basement level and accessed by a vehicular ramp via Mayne River Avenue to the west (with a vehicular set down areas fronting Mayne River Avenue), in addition to 2 no. car club spaces at the southern boundary.*
- *434 no. bicycle parking spaces, 426 of which at ground floor and at surface level and 8 no. spaces at basement level.*
- *All associated vehicular and pedestrian access routes (including links to the adjoining site to the north), external communal play facilities, E.S.B substation, Meter rooms, foul and surface water drainage, hard and soft landscaping, lighting, plant at basement level, bin stores, PV panels, green and blue roof, 2 no. telecommunications antenna at roof level and all associated and ancillary site works.”*

1.6 In Summary, this Material Contravention Statement outlines and addresses the following potential material contraventions:

Clongriffin Belmayne Local Area Plan 2012 (as extended)

- Building Height

Dublin City Development Plan 2016-2022

- **Section 16.7.2 of the Development Plan and Section 7.9 / Objective UD07 of the LAP** - Building Heights (plan details accordance with the LAP)
- **Section 16.10.1** - Unit Mix
- **Section 16.6** - Site Coverage

Draft Dublin City Development Plan 2022-2028

- **Section 12.5.3 CUO 22** - Provision of Community & Cultural Space
- **Section 15.5.5** – Density
- **Section 15.9.2** – Unit Size/Layout & **Section: 5.5.5** - Housing for All - Objective QHSNO10 Universal Design

1.7 For the reasons set out in a later section of this Statement, the Board is empowered to, and should, decide to grant permission for the proposed development pursuant to

the provisions of section 37(2)(b) of the Planning and Development Act 2000, as amended.

- 1.8 The Statement of Consistency and Planning Report accompanying this application demonstrates compliance with other relevant policies and objectives of the current City Development Plan, the current LAP, and the draft Development Plan 2022-2028. Significantly, the proposed SHD does not contravene either the current or draft Development Plan or any Local Area Plan in relation to the zoning of land, as the uses proposed are permissible under the Z14 zoning objective.
- 1.9 It is therefore respectfully submitted that there is sufficient justification for An Bord Pleanála to grant permission for the proposed development in the event that a decision on the application is made subsequent to the new Dublin City Development Plan 2022-2028 coming into effect, and it is determined that the proposed development materially contravenes the new Dublin City Development Plan 2022-2028.

Legislative Context

- 1.10 Section 9 of the Planning and Development (Housing) and Residential Tenancies Act, 2016, as amended ('the 2016 Act'), confers power on An Bord Pleanála to grant permission for a development which is considered to materially contravene a Development Plan or Local Area Plan, other than in relation to the zoning of land, is as follows:

'(6) (a) Subject to paragraph (b), the Board may decide to grant a permission for a proposed strategic housing development in respect of an application under Section 4 even where the proposed development, or part of it, contravenes materially the development plan or local area plan relating to the area concerned.

(b) The Board shall not grant permission under paragraph (a) where the proposed development, or part of it, contravenes materially the development plan or local area plan relating to the area concerned, in relation to the zoning of land.

(c) Where the proposed strategic housing development would materially contravene the development plan or local area plan, as the case may be, other than in relation to the zoning of the land, then the Board may only grant permission in accordance with paragraph (a) where it considers that, if Section 37(2)(b) of the Act of 2000 were to apply, it would grant permission for the proposed development'.

- 1.11 Section 37(2)(b) of the Planning and Development Act 2000, as amended, ('the 2000 Act') states:

'(2) (a) Subject to paragraph (b), the Board may in determining an appeal under this section decide to grant a permission even if the proposed development contravenes materially the development plan relating to the area of the planning authority to whose decision the appeal relates.

(b) Where a planning authority has decided to refuse permission on the grounds that a proposed development materially contravenes the development plan, the Board may only grant permission in accordance with paragraph (a) where it considers that –

(i) the proposed development is of strategic or national importance,

(ii) there are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned, or

- (iii) *permission for the proposed development should be granted having regard to regional spatial and economic strategy for the area, guidelines under section 28, policy directives under section 29, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government, or*
 - (iv) *permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan’.*
- 1.12 The Urban Development and Building Height Guidelines were adopted on 7th December 2018 under Section 28 of the Planning and Development Act 2000. The Guidelines set out 4 no. Specific Planning Policy Requirements (SPPR) objectives for the assessment of building height.
- 1.13 Section 28 (1) of the Planning and Development Act states that:
- “The Minister may, at any time, issue guidelines to planning authorities regarding any of their functions under this Act and planning authorities shall have regard to those guidelines in the performance of their functions”.*
- 1.14 In this case, the Section 28 Guidelines specifically promote the increase in building heights in appropriate urban locations and as such the policies set out in the Guidelines should be applied to the subject site area in this regard. Therefore, the proposed development at a maximum height of 33.975m is considered to be an appropriate building height for this location in accordance with the Urban Development and Building Height Guidelines.
- 1.15 In the event that the Board were to grant permission, the Board’s *“reasons and considerations”* would have to reference the matters under Section 37(2)(b) of the 2000 Act upon which it relies to justify the granting of permission in material contravention of the Development Plan. It is apparent from section 10(1)(3)(b) of the 2016 Act that such reasons and considerations must appear in the Board decision itself. Section 10(3) provides as follows:
- ‘(3) A decision of the Board to grant a permission under section 9(4) shall state-*
....
(b) where the Board grants a permission in accordance with section 9(6)(a), the main reasons and considerations for contravening materially the development plan or local area plan, as the case may be.’
- 1.16 Having regard to the analysis set out below of the compliance with the proposed development with national planning policy and section 28 guidelines, and having considered the strategic nature of the site and proposed development, it is considered that there is sufficient justification for An Bord Pleanála to grant permission for the proposed development, notwithstanding any material contravention of the City Development Plan, by reference to sub-paragraphs (i), (ii), (iii) and (iv) of Section 37(2)(b) for the reasons set out below.
- 1.17 It is requested that An Bord Pleanála have regard to the following justification for what might be considered to be a material contravention of the development plan and local area plan in terms of building height, on the basis that the policies and objectives stated in the Section 28 Government Guidelines, particularly *“Urban development and Building Height Guidelines 2018”*, and *“National Planning Framework 2040”*, “enable increased building height and residential densities on sites adjacent to quality public

transport routes and within existing urban areas. Furthermore, SPPR 3A facilitates such consideration in the light of the criteria set out under Section 3.2 of the Urban Development and Building Height Guidelines

2.0 DEVELOPMENT IS OF NATIONAL IMPORTANCE

2.1 The section below demonstrates how the proposed development is justified by reference to sub-paragraph (i) *'the proposed development is of strategic or national importance'* of Section 37(2)(b). It is respectfully submitted that the proposed development is of national importance for the reasons set out below. This justification applies to all of the potential material contraventions identified herein in this statement.

2.2 The Government's 'Housing for All – A New Housing Plan for Ireland 2021' contains a range of actions and measures to ensure over 300,000 new social, affordable, cost rental and private homes are built by 2030. The actions outlined in the Plan are backed by over €4 billion in annual guaranteed State investment in housing over the coming years, including through Exchequer funding, the Land Development Agency and Housing Finance Agency investment. The plan commits to over €20 billion in State investment in housing over the next five years. The plan is set out across four pathways to address the pressing housing challenges facing the State:

"Pathway to supporting homeownership and increasing affordability

Pathway to eradicating homelessness, increasing social housing delivery and supporting social inclusion

Pathway to increasing new housing supply

Pathway to addressing vacancy and efficient use of existing stock"

2.3 These pathways are underpinned by long-term actions to address systemic challenges. It aims to create a housing system which has environmental, social and economic sustainability at its heart and which meets the needs of all.

2.4 The proposed development will support the achievement of this Plan by providing housing at an appropriate scale and location including social housing. While the detail of this plan has yet to be fully developed, this application is in accordance with the intention and ambition of the plan.

2.5 The significant shortfall in housing output to address current and projected demand is a widely documented national issue, and this is particularly evident in the Dublin City area. The proposed development consists of 176 no. new apartments as part of a mixed use scheme which includes office and commercial space at ground floor level, which could help alleviate the demand for housing within the locality and within Dublin City as a whole. We would therefore submit that the proposed development is of national importance as it will deliver on national objectives to deliver housing by increasing housing supply.

Rebuilding Ireland – Action Plan for Housing and Homelessness

2.6 Rebuilding Ireland was launched in 2016 with the objective to double the annual level of residential construction to 25,000 homes and deliver 47,000 units of social housing in the period to 2021, while at the same time making the best use of the existing stock and laying the foundation for a more vibrant and responsive private rented sector.

2.7 Rebuilding Ireland is set around 5 no. pillars of proposed actions summarised as follows:

Pillar 1 – Address Homelessness: Provide early solutions to address the unacceptable level of families in emergency accommodation; deliver inter-agency supports for people who are currently homeless, with a particular emphasis on minimising the

incidence of rough sleeping, and enhance State supports to keep people in their own homes.

Pillar 2 – Accelerate Social Housing: *Increase the level and speed of delivery of social housing and other State – supported housing*

Pillar 3 – Build More Homes: *Increase the output of private housing to meet demand at affordable prices.*

Pillar 4 – Improve the Rental Sector: *Address the obstacles to greater private rented sector delivery, to improve the supply of units at affordable rents.*

Pillar 5 – Utilise Existing Housing: *Ensure that existing housing stock is used to the maximum degree possible – focusing on measures to use vacant stock to renew urban and rural areas.*

- 2.8 The proposed development is consistent with Pillars 2,3 and 4 to accelerate social housing, build more homes and improve the rental sector. The provision of the 176 no. residential units will substantially add to the residential accommodation availability in the Dublin 17 area and cater for the increasing housing demand. The proposed development will contribute to the quantum of new social housing units available to the Council through the Part V agreement which is consistent with Pillar 2. The scheme therefore delivers on the national objectives of Rebuilding Ireland and is of national importance.

National Planning Framework (NPF) 2040

- 2.9 The National Planning Framework (NPF) is the Government's plan to cater for the extra one million people that will be living in Ireland, the additional two thirds of a million people working in Ireland and the half a million extra homes needed in Ireland by 2040.
- 2.10 As a strategic development framework, Ireland 2040 sets the long-term context for our country's physical development and associated progress in economic, social and environmental terms and in an island, European and global context.
- 2.11 The compliance of the proposed development with specific criteria of the NPF is detailed below, with responses provided for each objective.
- 2.12 National Policy Objective 3a aims to "*Deliver at least 40% of all new homes nationally, within the built-up footprint of existing settlements*"
- 2.13 The proposed development will deliver residential units within the built up footprint of Northern Cross within the existing urban envelope of Dublin, on a site which is currently single use only and occupied by a standalone office unit.
- 2.14 We also note Objectives 32, 33 and 35.
- 2.15 NPO 32 aims to:
- 'To target the delivery of 550,000 additional households to 2040'.*
- 2.16 NPO 33 aims to:
- "Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location"*

2.17 NPO 35 aims to:

Increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.

2.18 The full title of the Planning and Development (Housing) and Residential Tenancies Act 2016 is as follows:

“An Act to facilitate the implementation of the document entitled “Rebuilding Ireland – Action Plan for Housing and Homelessness” that was published by the Government on 19 July 2016, and for that and other purposes to amend the Planning and Development Acts 2000 to 2015, the Residential Tenancies Acts 2004 to 2015 and the Housing Finance Agency Act 1981, to amend the Local Government Act 1998 in relation to the Local Government Fund and to provide for connected matters.”

2.19 Due to the national and strategic importance of larger housing developments designated as SHDs, the Government moved to introduce legislation under the 2016 Act, which would see such developments assessed in a similar manner to Strategic Infrastructure Developments.

2.20 The significant shortfall in housing output to address current and projected demand is a national problem, with lack of housing in the Metropolitan Dublin Area, having social and economic implications for sustainable national growth. The proposed development will enhance the housing tenure in the surrounding area and contribute social housing to the community. Recent ESRI figures (Quarterly Economic Commentary Summer 2022) noted in respect of housing completions state that *“What is notable from the geographic breakdown is that the Dublin and Mid-East region has experienced a notable moderation in the number of units completed while the rest of the country has experienced quite a pick-up in investment levels. Given the requirements for housing units in the capital city and surrounding areas, it is notable that these areas have experienced quite a slowdown over the past 12 months.”*

2.21 The subject site is located in a suitable area and constitutes the re-use of an underutilised site, and suitable for development having regard to the provisions of the Local Area Plan, delivering residential units on a site well served by high capacity public transport.

3.0 JUSTIFICATION OF MATERIAL CONTRAVENTION – CLONGRIFFIN – BELMAYNE LOCAL AREA PLAN

Building Heights

Material Contravention

3.1 The proposed height of the development ranges from 5 no. storeys to a maximum height of 9 no. storeys over basement (circa 33.975m). The Clongriffin-Belmayne Local Area Plan 2012 provides for 3 storeys at this location in *Figure 8.13 Indicative Heights* and therefore the proposed development may be considered to constitute a material contravention in this respect. Figure 8.13 of the LAP is shown below.

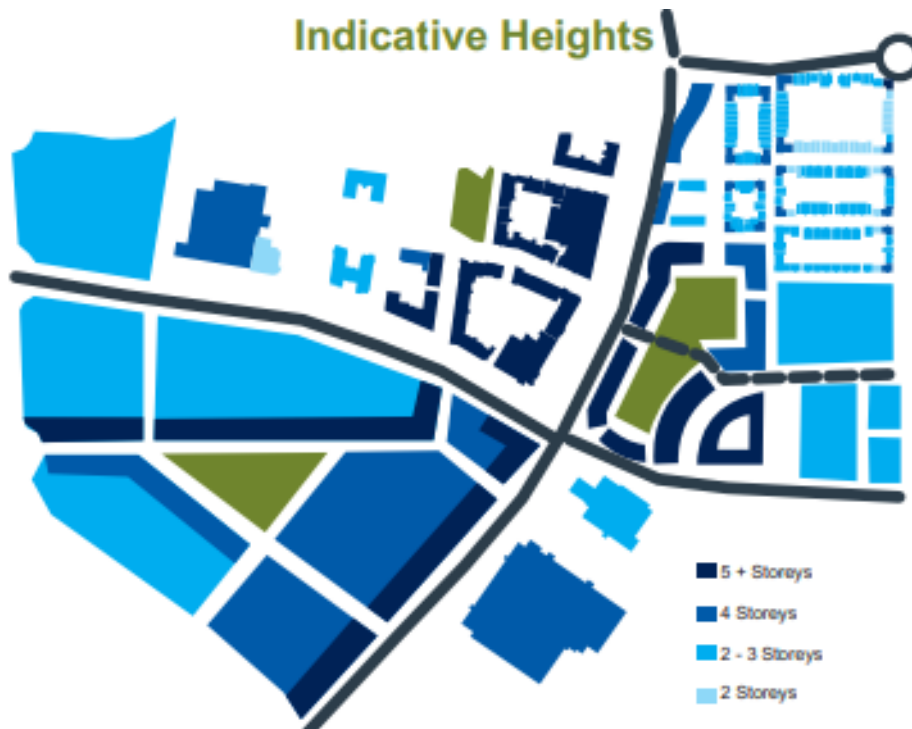


Figure 3.1: Figure 8.13 of the Clongriffin Belmayne Local Area Plan

- 3.2 A Strategic Housing Development was granted permission on Site 2 by An Bord Pleanála Ref: 307887-20 on the 1st December 2020 for development of 191 no. apartments in 1 no. block with a height up to 9 storeys over basement and lower basement structures – the adjacent site to the east. Given this development, it is our contention that An Bord Pleanála can grant planning permission that materially contravenes the development plan, having regard to the pattern of permitted development since the adoption of the development plan pursuant to Section 37(2)(b)(iv) of the 2000 Act.



Figure 3.2: Subject Site height in context of permitted and proposed surrounding development (Plus Architecture)

- 3.3 In addition, the current site is located within a Z14 zone which is identified as a regeneration area. The majority of the key sites located within this area, including the subject site form part of a Key District Centre (KDC) and a Strategic Development Regeneration Area. Lands within these designated areas are identified as key locations for increased densities having regard to the objective to create new district centres within these locations. The zoning of the site and the various designations as set out in the Development Plan therefore clearly support the provision of increased densities and redevelopment in the area.
- 3.4 The potential material contravention for building height is also considered to be justified having regard to Section 37(2)(b)(iii) of the Planning & Development Act 2000, as amended:

iii) permission for the proposed development should be granted having regard to regional planning guidelines for the area, guidelines under section 28 , policy directives under section 29 , the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government, or...”

- 3.5 This report sets out a justification for the heights proposed as part of this application and is supported by the criteria set out in SPPR3 and the general guiding principles set out in the Section 28 Urban Development and Building Height Guidelines 2018 and, in particular with the relevant criteria under Section 3.2 of the guidelines, which are considered below. This justification report should be read in conjunction with the Architectural Design Statement prepared by Plus Architecture and submitted as part of this application.
- 3.6 The Guidelines recognise the importance of increasing building height and compact urban development in existing urban areas and promote increased densities and heights. Section 1.4 of the guidelines state:

“However, in recent years, local authorities, through the statutory development and local area plan process, have begun to set generic maximum height limits across their functional area. Frequently, such limits have resulted from local level concerns, like maintaining the character of an existing built up area, for example. However, such limits, if inflexibly or unreasonably applied can undermine wider national policy objectives to provide for more compact forms of urban development as outlined in the National Planning Framework and instead continue an unsustainable pattern of development whereby many of our cities and towns continue to grow outwards rather than consolidating and strengthening the existing built up area. Such blanket limitations can also hinder innovation in urban design and architecture leading to poor planning outcomes”.

- 3.7 Section 1.20 and 1.21 of the Guidelines also acknowledge the importance of increased height and densities stating:

“A key objective of the NPF is therefore to see that greatly increased levels of residential development in our urban areas and significant increases in the building heights and overall density of development is not only facilitated but actively sought out and brought forward by our planning process and particularly so at local authority and An Bord Pleanála levels.

Increasing prevailing building heights therefore has a critical role to play in addressing the delivery of more compact growth in our urban area, particularly our cities and large

towns through enhancing both the scale and density of development and out planning process must actively address how this objective will be secured”.

- 3.8 The guidelines also state that *“development should include an effective mix of 2, 3 and 4 storey development which integrates will into existing and historical neighbourhoods and **4 storeys or more** can be accommodated alongside existing larger buildings, trees and parkland, river/ sea frontage and along wider streets”.*

- 3.9 The Guidelines also note that in assessing applications for increased heights the planning authority or the Board shall have a presumption in favour of buildings of increased height in urban locations with good public transport accessibility. Section 3.1 of the Guidelines states:

“In relation to the assessment of individual planning applications and appeals, it is Government policy that building heights must be generally increased in appropriate urban locations. There is therefore a presumption in favour of buildings of increased height in our town / city cores and in other urban locations with good public transport accessibility”.

- 3.10 As such, applying the content of the guidelines to the subject site is wholly appropriate on the basis of increased height in urban areas well served by quality public transport.

- 3.11 The proposed development of 176 no. apartments as part of a mixed use development is of strategic importance with respect to the delivery of urban housing and implementation of the current. ‘*Housing for All - A new Housing Plan for Ireland*’, the Government’s Action Plan for Housing and Homelessness – Rebuilding Ireland 2016, as well as urban housing related objectives in the National Planning Framework: Ireland 2040.

- 3.12 The Rebuilding Ireland Action Plan, and consequently the 2016 Act which refers to the plan, recognise the strategic and national importance of larger residential developments in addressing the ongoing housing and homelessness crisis, which effects communities across the country in an effort to increase housing supply. The proposed development will also provide housing in accordance with the Housing for All Plan published in September 2021 which sets ambitious targets for housing delivery up to 2030 and is supported by various national policies and section 28 guidelines which support the implementation of housing and compact growth at urban locations set out in the NPF and RSES as discussed below and in the accompanying JSA Statement of Consistency. Achieving greater building heights is a core tenet of providing for compact growth in urban areas.

- 3.13 Furthermore, the immediate area of Northern Cross has a number of existing, permitted and proposed structures of equal and greater height (the site under construction to the east and the proposed development to the north), further establishing the acceptability of the proposed height at this location.

- 3.14 Noting these conflicting policies, Section 1.21 of the Apartment Guidelines states that *“Accordingly, where SPPRs are stated in this document, they take precedence over any conflicting, policies and objectives of development plans, local area plans and strategic development zone planning schemes. Where such conflicts arise, such plans should be amended by the relevant planning authority to reflect the content of these guidelines and properly inform the public of the relevant SPPR requirements”.* In this context, it is further submitted that the proposed heights are acceptable, particularly in light of abiding by the relevant policies contained within the Apartment Guidelines.

3.15 SPPR3 (A) provides:

“It is a specific planning policy requirement that where:

(A). An applicant for planning permission sets out how a development proposal complies with the criteria above; and

2. the assessment of the planning authority concurs, taking account of the wider strategic and national policy parameters set out in the National Planning Framework and these guidelines;

Then the planning authority may approve such development, even where specific objectives of the relevant development plan or local area plan may indicate otherwise”.

- 3.16 In accordance with Part A of SPPR3, where a development complies with the relevant criteria and the planning authority agrees, then permission can be granted for the development notwithstanding conflicting development plan and local area plan policies. In this case, while it is noted that figure 8.13 of the LAP shows an indicative height of 2-3 storeys, Section 7.9 of the LAP directly contradicts this in stating that *“The LAP recommends that in general, minimum heights for new developments in the designated Key District Centres of five storeys and four to five storeys along the Main Street Boulevard are achieved. Allowance will be made for some buildings which, owing to their uses such as a community building, are lower than this height guidance subject to the building concerned being a focal point building on account of its use, its quality design, setting within the KDC or along Main Street provided it integrates successfully with the KDC and Main Street streetscape in urban design terms”.*

- 3.17 The guidelines set out the criteria for developments at the scale of the relevant city / town as follows:

The site is well served by public transport with high capacity, frequent service and good links to other modes of public transport.

- 3.18 The subject site is located in the Northern Cross area, which is well served by Dublin Bus with bus stops located on Malahide Road within 500 metres walking distance of the subject site. Five existing routes provide a peak frequency of a bus every 10 minutes, complemented by other services, as set out in the table below:

Transport Route	Frequency (peak)
Bus	
15 - Clongriffin to Ballycullen (Via Dublin City)	8-12 minutes
27 - Clare Hall to Jobstown (Via Dublin City)	10 minutes
27x - Clare Hall Towards UCD Belfield (Via Dublin City)	30 minutes
42 - Sand's Hotel (Portmarnock) Towards Talbot St.	20 minutes
43 - Swords Business Park Towards Talbot St.	10 Minutes Peak
Train	
DART	30 mins – Peak 10 mins
Commuter (Dublin-Dundalk)	2 Times Daily

- 3.19 The proposed Bus Connects will further enhance this service, with two more routes to be added, with a planning application currently pending for the works and the new bus stop on Malahide Road c. 350 metres from the site currently under construction following a grant of permission by Dublin City Council under the provisions of Part VIII of the Planning & Development Act 2000, as amended. A new bus interchange is to be provided, some 350 metres east of the site, ensuring that buses will serve this interchange every 15 minutes. These works are currently under construction, noted in Image 1 below, captured in August 2022 looking east from Malahide Road. The bus

service will also serve Clongriffin Dart Station, which provides access to heavy rail. The station is 10 minutes cycle from the site.



Image 1: Bus Connects construction works, August 2022 (Source: JSA)

- 3.20 The site is located within an 'Accessible Urban Location', as per the Apartment Guidelines, 2020. Dublin bus route nos. 15, 27, 27x, 42 and 43 run along the Malahide Road with the no. 15 bus service having peak frequencies of 8-12 minutes to Clongriffin Railway Station and Dublin City Centre while operating a 24-hour schedule. Bus stops are located within 500 metres walking distance of the subject site as detailed within the accompanying DBFL Traffic & Transport Assessment. The site is also located within 500 metres of a public transport corridor where minimum densities of 50 units per hectare are requirement under the Sustainable Residential Development in Urban Areas Guidelines 2009.
- 3.21 The site is adjacent to a number of proposed Bus Connects routes, including the D1, D2 and D3 Spine / Branch Routes which travel proximate to Northern Cross. Permission has been applied for by the NTA for a Bus Connects corridor, the Clongriffin to City Centre Core Bus Corridor Scheme, which was applied for on the 1st of April 2022 and is currently under consideration by the Board with a decision expected in October 2022. The proposal will provide a dedicated route directly from the Northern Cross/ Clarehall Junction to the City Centre.
- 3.22 The table reproduced below indicates the frequency of existing public transport proximate to the Subject Site.

Table 2.2 BusConnects: Proposed Bus Services in Application Site's Vicinity

Route No.	Route	Weekday Peak Frequency
D1	Clongriffin - City Centre - Grange Castle	15 minutes
D2	Clare Hall - City Centre – Citywest	15 minutes
D3	Clongriffin - City Centre - Clondalkin	15 minutes
N8	Blanchardstown SC - Dublin Airport - Clongriffin	30 minutes
20	Malahide - Kinsealy - City Centre	30 minutes
21	Swords Business Park - Kinsealy - City Centre	30 minutes
L80	Clongriffin - Beaumont Hospital – DCU	20 minutes

Figure 3.5: Frequency of Bus Connects proximate to subject site (Transport Insights)

- 3.24 In terms of existing capacity, the aforementioned report surveys the a.m. and p.m. peak capacities of the nearby bus-stops in relation to the proposed development. The report concludes in stating that “*Based on the findings of public transport occupancy surveys, mode share targets set out within the MMP, and analysis contained within this Report, it was found that the residents and staff of the proposed development would utilise 3.1% and 4.7% of the total capacity of existing AM and PM peak hour bus service capacities respectively in the proposed development’s assumed year of opening (2023). These figures rise to 3.4% and 5.0% respectively in 2028, due to the targeted increase in bus mode share as per the MMP. During the AM and PM peak hours, bus service excess capacities were found to be 67% and 17% respectively. As such, it is apparent that current public transport capacity is sufficient to accommodate the small additional demand generated by the proposed development*”.
- 3.25 As such, it is respectfully submitted that the existing public transport provision in the area of the subject site have sufficient capacity to cater for the proposed development and are of high frequency and can justify the proposed development in terms of height and density in the context of the Building Height Guidelines.

Development proposals incorporating increased building height, including proposals within architecturally sensitive areas, should successfully integrate into/ enhance the character and public realm of the area, having regard to topography, its cultural context, setting of key landmarks, protection of key views. Such development proposals shall undertake a landscape and visual assessment, by a suitably qualified practitioner such as a chartered landscape architect.

- 3.26 As noted in the accompanying Mitchell & Associates LVIA, the subject site is not located in a particularly architecturally sensitive area. The height in the immediate surrounding area, taking account of the emerging developments at Site 2 to the east (8 storeys), proposals for Site 10 (11 storeys) and existing development in the area (over 7 storeys) is of an urban, rather than suburban area. The architectural design takes a contemporary urban approach and building heights proposed are consistent with the prevailing heights in the area.
- 3.27 The accompanying elevations and sections and photomontages provided by Plus Architecture and the Verified Views prepared by Digital Dimensions illustrates the

proposed building height in the context of the existing urban environment. The series of photomontages indicate that the proposed development for an increase in height and unit numbers is in keeping with the surrounding context of the development in the immediate vicinity. It is clear that the proposed additional height can be accommodated in the context of the surrounding existing and permitted development. The proposed development sits comfortably in the wider context and streetscape and is therefore considered appropriate in this regard.

- 3.28 The development is considered to provide for an appropriate proportional framing of the proposed open space to the north and south of the block. The proposal enhances the sense of enclosure, resulting in open space enclosed on two sides by blocks of up to 9 (Block 2, under construction) and proposed of up to 11 storeys to the north, while providing a proportional framing of Mayne River Avenue to the south.

- 3.29 A Landscape and Visual Impact Assessment has been prepared by Mitchell & Associates to accompany the application. This LVIA concludes that *“the proposed development represents the continuing change in the planned and developing urban landscape of this area. It represents a clear increase in the scale, height and quantum of the building occupying the existing site, however it is in keeping with the trends in this regard for the area. The predicted effects on the local landscape are assessed however, as being of some positive benefit in how the proposed development relates to adjacent developments, to the emerging community and in how it addresses the introduction of new built elements in a developing, planned urban context. The architectural design of the proposed development is effective in mitigating its potential visual impact in this changing context”*.

On larger urban redevelopment sites, proposed developments should make a positive contribution to place-making, incorporating new streets and public spaces, using massing and height to achieve the required densities but with sufficient variety in scale and form to respond to the scale of adjoining developments and create visual interest in the streetscape.

- 3.30 The proposed development site extends to approximately c. 0.65 ha and is therefore not considered to constitute a ‘larger urban redevelopment site’. Notwithstanding this, the proposals are considered to make a positive contribution to place-making through a high-quality development and associated improvements to the public realm.
- 3.31 The proposed development will provide for a high-quality architectural design that will respond to and reflect the existing and permitted developments in the area. The proposed massing of the development has been carefully considered to create a presence on the street and to contribute to the emerging streetscape, while allowing sunlight to penetrate the proposed development.
- 3.32 The development creates visual interest at the site through a high-quality design which responds to the surrounding pattern of development. The northern frontage of the buildings, facing the future linear park along the riparian corridor of the River Mayne, is of a style and materiality consistent with that of adjacent blocks while providing a strong urban edge. Both the northern and southern frontages of the blocks have been designed as such to maximise light and provide a visually interesting façade, which while of similar style and materiality to the nearby residential and mixed use developments, has been carefully modulated and broken down to provide a sense of visual interest, while allowing for the introduction a centrally located plaza.
- 3.33 The scale of Northern Cross creates an environment capable of facilitating heights and densities at a scale as proposed. The context of the site with the emerging developments in the area which provide for greater heights and densities is evolving

and therefore there is a need to provide for an appropriate design response to this frontage to create a strong urban edge as part of this application.

- 3.34 The proposed development significantly increases the quality of the public realm and creates a sense of place within the scheme providing for commercial units at ground floor and new public realm, linking Rosemount House to its neighbour to the north, so a combined area of public open space can be created. It will make a positive contribution to the overall structure, form and connectivity of the development.
- 3.35 The materials and finishes proposed provide for a high impact visual amenity which enhances the overall quality and appearance of the street frontage making a positive contribution to the place-making of the area.
- 3.36 The guidelines further set out the criteria for developments at the scale of district/ neighbourhood / street context as follows:

The proposal responds to its overall natural and built environment and makes a positive contribution to the urban neighbourhood and streetscape;

- 3.37 As referred to above, the proposed development will sit more easily in the emerging building profile of area and contribute to improve public realm and enhanced local connections. The proposed development will significantly enhance the existing streetscape within Northern Cross. It will provide for high quality contemporary design at an appropriate location and make a significant positive contribution to the existing urban neighbourhood and streetscape at this location.
- 3.38 A review of the proposed development in the setting of the surrounding context is included in the Architecture Design Statement and CGI's and photomontages which sets out the appropriateness for the proposed height storeys in this regard. The photomontages submitted with this SHD application also illustrate how the proposed development incorporates into the surrounding streetscape. It is clear from the photomontages submitted that the proposed height is appropriate in the context of the surrounding area and streetscape.
- 3.39 It is considered that the proposal introduces a high-quality development at an underutilised site, which given its location, has potential to cater for a mixed used development at an increased density. The proposed development responds appropriately to the massing and scale of the surrounding urban pattern and scale, with higher built elements of the proposal to the central block edges.
- 3.40 In the context of the district of Northern Cross the environment is composed of five to eight storey dense urban blocks with strong street edges. Recent permissions at Site 2 for nine storeys and Site 5 for 8 to 12 storeys took consideration of the urban form of the location where buildings of such height could be successfully integrated into the streetscape. In this instance, where the two blocks would form the northern extent of Northern Cross as it relates to the river valley this presents a suitable context and prominence to accommodate signature buildings as proposed.
- 3.41 The proposals constitute the sustainable development of the site and will provide integration with the existing context and enhancing the urban realm at this location through the introduction of high-quality landscaping and public realm improvements which are accessible to the public. The access road for the development to the west and south of the proposed block incorporates and connects to the end of Mayne River Street to the east and Mayne River Avenue to the south. This will add positively to the quality and appearance of the KDC when viewed as a whole.

- 3.42 It is respectfully submitted that the proposed development has had regard to the planning policy framework as set out in the building height guidelines and National Planning Framework. The provision of residential development at this location at 9 no. storeys is supported by the height guidelines which encourages increased density and building heights. The proposed development complies with such objectives therefore is considered to be in accordance with the provisions of national policy guidelines.

The proposal avoids long, uninterrupted walls of building in the form of perimeter blocks or slab blocks with materials / building fabric well considered;

- 3.43 The proposal introduces apartment buildings to be constructed with high quality materials which relate well to the site's location and the style and palette of neighbouring properties. The use of a range of external finishes to the scheme provides for visually interesting facades, which creates the impression of reduced massing, while remaining sympathetic to the neighbouring developments to the east. The incorporation of cladding to the upper level in association with the vertical rise of the external surfacing serve to reinforce the vertical emphasis of the design.
- 3.44 The layout and siting of the development has been sensitively chosen to complement existing buildings within Northern Cross and to provide for a strong edge to Mayne River Street and Mayne River Avenue, whilst not being of an overbearing scale, imbuing a greater sense of place upon the development site area. Elevations have been carefully designed and introduce varied aspects, through materials and elements deviating from the dominant building line, particularly along the northern and southern elevations where the modulated design mitigates any potential long uninterrupted walls with cognisance taken to minimise any potential impacts upon permitted and proposed adjacent developments. This is complemented by a high quality hard and soft landscaping scheme, which further enhances the visual appeal of the proposals, as well as attracting public use and animation long the street frontage.
- 3.45 The proposal introduces a development which is compatible with its land use zoning and adjacent developments. The additional height for the proposed development makes optimal use of a presently unused area of land which benefits from a strategic location within both Northern Cross and the KDC as a whole. The layout of the blocks contributes to the enhancement of public open space while allowing for a high level of pedestrian permeability throughout the exterior of the proposal, with the café and office aspect encouraging regular use of the scheme throughout the day and furthering its integration into the established locality. Please refer to accompanying Landscape Masterplan and Landscape Report prepared by Plus Architects for further details
- 3.46 The design has been modulated and defined through the use of materials and articulation in the façade to create a distinction in the streetscape. The elevational treatment provides for greater height to the rear to create variation in roof profile.
- 3.47 The proposed architectural treatment creates an interesting façade treatment which avoids the creation of long uninterrupted walls of buildings. The variation in the building heights provides for visual interest to the development and avoids a monolithic visual appearance.
- 3.48 The materials and finishes have also been considered with regard to the surrounding existing pattern of development and material pallet in the locality. It is considered that the proposed development is in keeping with the character and building fabric of the area. For full details please refer to Plus Architecture's Design Statement.

The proposal enhances the urban design context for public spaces and key thoroughfares and inland waterway / marine frontage, thereby enabling additional height in development form to be favourably considered in terms of enhancing a sense of scale and enclosure while being in line with the requirements of the “the Planning System and Flood Risk Management Guidelines for Planning Authorities 2009;

- 3.49 The proposed development extends to 9 storeys, which is a height which is similar to that of the surrounding permitted and existing prevailing context and consistent with emerging trends as set out in the accompanying Mitchell & Associates LVIA. The introduction of the element of increased building height will strengthen the western extremity of the Key District Centre.

- 3.50 At the height proposed, the development will assist with wayfinding within Northern Cross as a whole, while also improving passive surveillance and perceived level of safety and security within the immediate area. A Site-Specific Flood Risk Assessment has been prepared by DBFL in accordance with the Planning System & Flood Risk Management Guidelines and accompanies this submission. Please refer to this document for details.

The proposal makes a positive contribution to the improvement of legibility through the site or wider urban area within which the development is situated and integrated in a cohesive manner.

- 3.51 The proposed development will add interest and articulation to the site and its context, while effectively breaking down the scale and massing of the scheme to ensure that it sits comfortably within its setting. It will make a positive contribution to the legibility of the area, the wider KDC, and the surrounding area.
- 3.52 The development will introduce a new residential population at the location who will benefit from the site's accessibility in terms of public transport and existing pedestrian links. The development will integrate successfully with the site's location and increase pedestrian movement and activity in the area, where currently footfall levels on internal routes within Northern Cross are low, and will encourage footfall through the provision of a commercial and office aspect to the development, while also providing for a degree of connectivity with the proposed site to the north.
- 3.53 The proposed development enhances the public realm and street frontage at this location. The proposed development improves the pedestrian quality of the development and creates new pedestrian connections. The Landscape Masterplan prepared by Plus demonstrates the positive contribution it makes to the Northern Cross area and enhances connections to adjoining sites.

- 3.54 The urban height guidelines lastly set out the following criteria for developments at the scale of the site / building:

The form, massing and height of proposed developments should be carefully modulated so as to maximise access to natural daylight, ventilation and views and minimise overshadowing and loss of light.

- 3.55 The proposed scale, massing and height of the development has been informed by the existing and emerging built environment in the surrounding area. The development introduces a slightly higher built element to the surrounding urban frame which seeks to optimise the site's location and position. The scale and height of the proposed

residential blocks take cognisance of the surrounding urban form, stepping down in height at the block edges with increased heights at centre. This is seen to integrate successfully with the urban environment whilst introducing an element of height which effectively responds to the site's prominent location, whilst minimising any potential negative effects to the surrounding context. The proposed building heights have been informed by the permitted 9 storey development at Site 2 to the east, with a taller 11-12 storey building proposed at Site 10 to the north.

- 3.56 A daylight / sunlight assessment has been prepared by OCSC and is submitted with this application. The report assesses a variety of different unit types and uses within the development, the common spaces and the impact of the adjacent development on the adjoining sites to the north and east. The proposed internal layout has been carefully considered with regard to the best possible results for daylight / sunlight levels. The orientation of the room layout has been carefully considered to ensure that the best amenity value is obtained for the residents.

Appropriate and reasonable regard should be taken of quantitative performance approaches to daylight provision outlines in guides like the Building Research Establishment's "Site Layout Planning for Daylight and Sunlight" (2nd edition) or BS 8206-2;2008 – "lighting for Buildings – Part 2; Code of Practice for Daylighting".

- 3.57 As mentioned above, a daylight / sunlight assessment has been prepared and is submitted with this application. The design, form and layout have been informed by achieving the best possible results for daylight/ sunlight within the development and the surrounding properties. The performance of the proposed development in terms of sunlight availability to the amenity areas has been considered to determine how they perform when assessed against the four standards for daylight and sunlight (including BRE *Site Layout Planning for Daylight and Sunlight* (3rd edition 2022)).
- 3.58 The ADF of all units within the development were assessed, with 100% compliance achieved under the BS 8206 methodology and 95% compliance achieved when assessed under the EN 17037 methodology prescribed in the BRE Guide 3rd Edition.
- 3.59 In relation to daylight impact to surrounding properties, the development under construction at Site 2 has been assessed for ADF, with just 1 no. unit failing to comply. In terms of sunlight to amenity spaces, the OCSC report notes that the proposed development will achieve 'excellent levels of sunlight' with 90% of communal amenity spaces achieving at least 2 hours of sunlight on 21st March, with 100% of public open space meeting this target. Neighbouring amenity space in Site 2 and Site 10 has also been assessed, with compliance demonstrated.
- 3.60 The full detailed results of these proposals are included within the conclusion section of the accompanying Daylight and Sunlight and Overshadowing Assessment prepared by OCSC.

Where a proposal may not be able to fully meet all the requirements of the daylight provisions above this must be clearly identified and a rationale for any alternative, compensatory design solutions must be set out, in respect of which the planning authority or An Bord Pleanála should apply their discretion, having regard to local factors including specific site constraints and the balancing of that assessment against the desirability of achieving wider planning objectives. Such objectives might include securing comprehensive urban regeneration and to an effective urban design and streetscape solution.

- 3.61 The proposed development achieves a dual aspect that exceeds the minimum of 33% in the Apartment Guidelines 2020 (42% dual aspect), for the redevelopment of urban site. It should be noted that the apartments are very generous in area, with minimum areas of 48 sq.m for a one-bedroom unit and 103 square metres for a three bedroom unit. Section 6.8 of the accompanying D/S Report sets out compensatory measures where target values are not fully achieved:

'It is important to note that even though the projection of balconies will impact the daylight reaching the windows in some areas, it will provide occupants with an outdoor amenity space that will receive excellent levels of sunlight. In addition, BRE Guidelines outline the difficulty in achieving the recommended targets within apartments and they recommend to aim for a good design to minimise the number of dwellings that are only facing north, north east or north west. This is unless there is some compensating factors such as an appealing view to the north for instance, which is the case for some units in the proposed development, which will have views into the green courtyard. In addition, all units will have access into the high quality amenity area.'

The proposed development includes compensatory design solutions through the significant regeneration of an underutilised site and provides a mixed-use development of high-quality architecture which will vastly enhance the visual appearance of the streetscape Northern Cross, provides permeability through the site for pedestrians and cyclists and includes well-lit public open spaces, improved public realm and publicly accessible facilities. This will assist in achieving the Z14 land use zoning objective for the site and the wider objective of the Strategic Development & Regeneration Area as specified within the current and draft Dublin City Development Plans.'

- 3.62 Specific assessment as set out in the Guidelines also include the following:

Specific Impact assessment of the microclimatic effects such as down draft. Such assessments shall include measures to avoid/ mitigate such microclimatic effects and where appropriate shall include an assessment of the cumulative micro-climatic effects where taller buildings are clustered.

- 3.63 The proposed development is not considered a tall building (i.e. in excess of 50m+ high rise category as indicated in the Development Plan height strategy) so as to fall under the category that may give rise to any significant concerns in terms of microclimatic effects. A Wind Microclimate Report accompanies this application which demonstrates that the proposed development will result in an acceptable design response in respect to the wind environment.

In development locations in proximity to sensitive bird and / or bat areas, proposed developments need to consider the potential interaction of the building location, building materials and artificial lighting to impact flight line and / or collision.

- 3.64 An ecological assessment report has also been prepared by Altermar and is included in the application, which assess the potential interaction of the proposed development with flora and fauna at the site. The EcIA concludes:

'The construction and operational mitigation proposed for the development satisfactorily addresses the mitigation of potential impacts on the sensitive receptors through the application the standard construction and operational phase controls. The overall impact on the ecology of the proposed development will result in a long term minor adverse not significant residual impact on the ecology of the area and locality'

overall. This is primarily as a result of the proposal to demolish existing buildings on site and the construction of new structures.”

- 3.65 In respect of flight line and / or collision this report notes that:

‘No bat roosts will be lost. No trees of bat roosting potential are noted on site. The proposed development will change the local environment as new structures are to be erected and some of the existing vegetation will be removed. However, the site is currently brightly lit and no foraging was noted on site. The potential for collision risk and impact on flight paths in relation to bats is considered low due to the low level of bat activity on site and the buildings would be deemed to be clearly visible to bats...’

The proposed development will change the local environment as new structures are to be erected. No impact is foreseen in relation to bird collision. The proposed development is within an existing brightly lit brownfield site proximate to additional tall buildings.”

An assessment that the proposal allows for the retention of important telecommunication channels, such as microwave links.

- 3.66 The proposed development has been assessed for any potential impacts on telecommunication channels in the area. In the report prepared by ISM they found that there was the potential for impacts on 2 no. identified radio frequency links. The ISM report contains mitigation measures to negate any impact on these radio frequencies, including the provision of radio antennae at roof level of the proposed block which have been included into the submitted plans. Specific details regarding the nature, scale and location of these antennae are included within the appendices of the aforementioned Telecommunications Report prepared by ISM and the architectural drawings prepared by Plus Architecture.

An assessment that the proposed maintains safe air navigation;

- 3.67 The Development Plan states that the Irish Aviation Authority should be notified in respect of buildings in excess of 45 m. The proposed development at 33.975m does not exceed this threshold. There is no likely impact on air navigation as the height of the building is below the construction threshold. IAA and DAA have been consulted in advance of this submission. The IAA response states that “*The heights /elevations of the proposed structure and associated construction craneage to be used associated with this project are noted and, in my assessment, do not affect flight procedures at Dublin Airport, provided that any craneage associated with this project does not exceed an Above Mean Sea Level (AMSL) elevation of 106m.*” The IAA response is appended to this document.
- 3.68 A glint and glare assessment has been undertaken by Modelworks and concludes:

‘there will not be any hazardous glint and glare effects upon the Dublin Airport aviation receptors identified as a result of the proposed roof-mounted solar PV panels’.

An urban design statement including, as appropriate, impact on the historic built environment;

- 3.69 A Planning Application Architectural Design Statement has been prepared by Plus Architecture which sets out the proposed development in urban design terms. There is no historic built environment in the immediate vicinity of the site. Plus Architecture have prepared an Architectural Design Statement. The subject site is not proximate to elements of the historic built environment.

Relevant environmental assessment requirements, including SEA, EIA, AA and Ecological Impact Assessment as appropriate.

- 3.70 An AA Screening and Natura Impact Statement has been prepared by Altermar and is submitted as part of this location. The AA and NIS states:

‘On the basis of the content of this report, the competent authority is enabled to conduct an Appropriate Assessment and consider whether, either alone or in combination with other plans or projects, in view of best scientific knowledge and in view of the sites’ conservation objectives, will adversely affect the integrity of the European site. No significant effects are likely on European sites, their features of interest or conservation objectives. The proposed project will not will adversely affect the integrity of European sites.’

- 3.71 An Environmental Impact Assessment (EIA) Screening report has been prepared by Enviroguide, and a Natura Impact Statement was prepared by Altermar, and are included with this application. The NIS in concludes that *“On the basis of the content of this report, the competent authority is enabled to conduct an Appropriate Assessment and consider whether, either alone or in combination with other plans or projects, in view of best scientific knowledge and in view of the sites’ conservation objectives, will adversely affect the integrity of the European site. No significant effects are likely on European sites, their features of interest or conservation objectives. The proposed project will not will adversely affect the integrity of European sites.”*

- 3.72 The Enviroguide EIA Screening Report concludes:

‘The Proposed Development has been assessed in accordance with the screening criteria set out in Annex III of the European Union ‘EIA Directive’ and Schedule 7 and Schedule 7A of the Regulations.

Having regard to:

- *the nature and scale of the Proposed Development on an urban site served by public infrastructure,*
- *the absence of any significant environmental sensitivities in the area, and*
- *the location of the development outside of any sensitive location specified in article 109(3) of the Planning and Development Regulations 2001 (as amended)*

The Proposed Development is not likely to have significant effects on the environment. Therefore, a mandatory Environmental Impact Assessment Report (EIAR) is not required for the Proposed Development.’

- 3.73 A Noise and Vibration Impact Assessment Report prepared by RedKite, accompanying this application, demonstrates that subject to mitigation measures the residential units will benefit from appropriate noise environments, taking into consideration the impact of local roads and flight paths to Dublin Airport. The assessment recommends the incorporation of acoustic glazing and insulated roof level ceilings, which are to be utilised during the construction stage of the proposed development. Overall, the assessment concludes that:

“The site is classified as low to medium noise risk rating from north to south for future residential development. Elevated noise is expected to occur at times during the temporary site development and construction phases however this will be controlled to comply with standard criteria for these phases of development. Therefore, no significant effects will occur on existing NSRs.”

- 3.74 Having regard to the assessment of the proposed development under the criteria under Section 3.2 in accordance with SPPR 3(A), as set out above, it is considered that the proposed development is compliant with the relevant criteria and the proposed height of 9 no. storeys is appropriate. If it is the Board's view that the proposed development was in breach of the building height provisions under the Local Area Plan, any such material contravention is justified by reference to the Building Height Guidelines and, in particular, SPPR 3(A) thereof, having regard to the provisions of Section 37(2)(b)(iii) and (i), as outlined above.

4.0 JUSTIFICATION OF MATERIAL CONTRAVENTION OF DUBLIN CITY DEVELOPMENT PLAN 2016-2022

- 4.1 The following items have been identified as potential material contraventions of the 2016-2022 CDP:

- **Section 16.7.2 of the Development Plan and Section 7.9 / Objective UD07 of the LAP - Building Heights** (plan details accordance with the LAP)
- **Section 16.10.1 - Unit Mix**
- **Section 16.6 – Site Coverage**

- 4.2 The following section details each of these items for which a potential contravention exists and provides a rationale for the acceptability of the proposals in light of these potential contraventions.

BUILDING HEIGHTS

Material Contravention

- 4.3 Chapter 16 of the Dublin City Development Plan 2016-2022 provides detailed development management standards for residential development and Section 16.7.2, in particular, provides height limits for development and sets out the areas designated for Low-Rise, Mid-Rise and Taller Development within the City.

- 4.4 Section 16.7.2 of the Development Plan states the following:

*“Planning applications will be assessed against the building heights and development principles established **in a relevant LAP/SDZ/SDRA. Proposals for high buildings should be in accordance with the provisions of the relevant LAP/SDZ/SDRA in addition to the assessment criteria for high buildings and development plan standards.** Chapter 15 provides guiding principles for the design of potential high buildings in SDRAs, where appropriate. All areas outlined in the table below are considered to be in the low-rise category unless the provisions of a LAP/SDZ/SDRA indicate otherwise” (emphasis added)*

- 4.5 Under Section 16.7.2 of the Development Plan, in general, 28 m equates to 9 storeys residential or 7 storeys office, 16 m equates to 5 storeys residential or 4 commercial generally, and 50 m is the equivalent to 16 storeys residential or 12 storeys commercial. Areas defined as ‘Low-Rise’ can achieve building heights of up to 16m (5 storey residential) in the outer city and up to 24m (8 storey residential) in the inner city. In ‘Mid-Rise’ areas, building heights of up to 50m (16 storeys residential) are permissible. In areas designated for ‘Taller Development’, building heights can exceed 50m.

- 4.6 The subject site is located within the North Fringe which is designated as being a mid-rise area under section 16.7.2 of the Dublin City Development Plan 2016-2022 where

building heights of up to 50m or 16 storeys residential can be achieved. See Figure 3.1 below.

- 4.7 However, as set out above, under Section 16.7.2 of the Development Plan development proposals for buildings with increased height should be in accordance with the provisions of the relevant LAP/SDZ/SDRA, therefore Section 7.9 / Objective UD07 of the LAP is applicable.

- 4.8 In Section 7.9 of the LAP, Objective UD07 states the following in relation to building height:

*“The height strategy for the LAP will seek positive integration of new building height with established character. **Locations identified for special height character are the designated Key District Centres (in general 5 storeys minimum) and the Main Street Boulevard axis (in general four to five storeys). Heights of 2-6 storeys (including a setback at the top floor of a 5/6 storey building) may be facilitated subject to quality design criteria and set back requirements along the river corridor** to complete the urban form of pavilion buildings to complete Marrsfield, one location for a landmark profiled building (10-14 storey office height equivalent) is designated adjacent to Clongriffin Rail Station. In other locations, where 4 storeys residential height is proposed, some flexibility will be allowed on the height equivalent(13m) to achieve design improvements to the façade.” (emphasis added)*

- 4.9 Section 7.9 of the LAP provides for a minimum building height of 5 storeys in the Key District Centres and one location for a landmark 10-14 storey (office height) building adjacent to Clongriffin Rail Station. In this respect, the proposal is consistent with the minimum building heights as set out in the LAP as a 9-storey building.

- 4.10 However, we note figure 8.13 of the LAP provides indicative heights for the subject site as 2-3 storeys, as reproduced below. In this regard the proposed development may constitute a material contravention of the LAP. While Figure 8.13 may be construed to illustrate the current heights of the block, given that this illustration provides indicative heights for sites yet to be development, it has been considered prudent to include a justification for the proposed building heights, should the Board find them to constitute a Material Contravention of the Development Plan or the LAP.



Figure 4.1: Figure 8.13 of the Clongriffin Belmayne Local Area Plan

Justification

National Planning Framework

- 4.11 The proposed development is aligned with the outcomes and objectives of the NPF. A core objective of the NPF is achieving compact growth and the Framework targets a 'significant proportion of future urban development on infill/brownfield development sites within the built footprint of existing urban areas'.
- 4.12 The NPF seeks to achieve "better use of under-utilised land and buildings, including 'infill', 'brownfield' and publicly owned sites and vacant and under-occupied buildings, with higher housing and jobs densities, better serviced by existing facilities and public transport". National Policy Objective 3a targets the delivery of at 40% of future housing development to be within the footprint of built-up footprint of existing settlements.
- 4.13 National Policy Objective 4 aims to 'ensure the creation of attractive, liveable, well designed, high urban places that are home to diverse and integrated communities that enjoy a high quality of life and well-being'.
- 4.14 National Policy Objective 6 seeks to 'Regenerate and rejuvenate cities, towns and villages of all types and scale as environmental assets, that can accommodate changing roles and functions, increased residential population and employment activity and enhanced levels of amenity and design quality, in order to sustainably influence and support their surrounding area'.
- 4.15 National Policy Objective 11 states that 'In meeting urban development requirements, there will be a presumption in favour of development that can encourage more people and generate more jobs and activity within existing cities, towns and villages, subject to development meeting appropriate planning standards and achieving targeted growth'.

- 4.16 The proposed development will provide residential units at an appropriate location, whilst increasing demand locally for shops and services which are within close walking distance, providing a boost to the immediate economy within Northern Cross while meeting targeted growth goals for the area as are outlined within the applicable Clongriffin-Belmayne LAP. The proposal will act also as an employment generator, during the construction process and during the operational phase also, due to the office and retail/commercial aspect proposed at ground floor level of the development.
- 4.17 The NPF advocates compact urban development and focuses maximising existing uses onsite and maximising potential with respect to connections to transport links. National Policy Objective 13 states that: *'In urban areas, planning and related standards, including in particular building height and car parking will be based on performance criteria that seek to achieve well-designed high-quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected.'*
- 4.18 National Policy Objective 27 seeks to *'Ensure the integration of safe and convenient alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility to both existing and proposed developments and integrating physical activity facilities for all ages'*.
- 4.19 The proposed development is located at a highly accessible urban location with access to a number of bus routes along the nearby Malahide Road QBC and Bus Connects proposals. Works are currently underway on the BusConnects stop on the eastern side of Malahide Road within c. 350 metres of the subject site, with works anticipated to begin on the pedestrian crossing at Mayne River Avenue in November 2022. The remainder of the works to implement BusConnects Spine D is due to be completed in 2023.
- 4.20 The scheme also provides access to existing cycle facilities on Malahide Road, which are destined to be upgraded under the forthcoming BusConnects proposals, while on site facilities in terms of ample bicycle parking and car sharing facilities included as part of the proposal helps to ensure sustained uptake in alternative transport methods.
- 4.21 National Policy Objective 33 seeks to *'Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location'*. The application site is within an existing area defined by residential apartment units in blocks of over 12 storeys in height, within Northern Cross itself and similarly at adjacent developments located at Clarehall, with an abundance of commercial, retail and sustainable transport nearby with well-established physical and social infrastructure within the surrounding area. Accordingly, the proposal of 176 no. units of residential apartments within 1 no. block of up to 9 storeys in height over basement is considered appropriate in light of this policy.
- 4.22 Objective 35 of the National Planning Framework aims to *'Increase residential density in settlements through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area of site-based regeneration and increased building heights.'*
- 4.23 It is considered that the current use of the subject lands constitutes an underutilisation of an urban space at a highly accessible location. The development of this site will provide additional uses from what is currently in place, and provides for increased building heights at a suitable and highly accessible location. This will optimise the use of the site and ensure sustainable development at an appropriate location in close

proximity to a range of services and public transport facilities. Given the provision of commercial and retail facilities within the Northern Cross area, the proposal will result in an increased provision of housing, increased provision of retail and a minor reduction in office space (noting the office use at ground floor), which is considered highly appropriate given the surrounding context.

- 4.24 In summary, the NPF shows broad policy support for residential development as proposed in an existing settlement area on appropriately zoned land, within the metropolitan area of the GDA and in close proximity to good quality public transport. The proposals will achieve compact growth and further densification of the existing urban area and will ensure efficient use of zoned land under which residential development is permissible and constitutes effective land and transport planning whilst complying with all applicable guidance and requirements. The precedent for commercial development is already in place on site through the current use of the existing block as an office, which is owned and operated by the applicant.

Urban Development & Building Height Guidelines 2018

- 4.25 As stated above in Section 2, the Strategic Planning Policy Requirements (SPPRs) in the Building Height Guidelines take precedence over the planning policy set out in the Development Plan and LAP as it relates to building height, where such plans were adopted prior to the introduction of the 2018 Guidelines, and where such plans are not consistent with the guidelines.
- 4.26 Compliance with the relevant Building Height Guidelines Development Management Criteria set out in the Building Height Guidelines, namely at the scale of the relevant town / city, at the scale of district / neighbourhood / street and at the scale of a site / building, is required to be demonstrated. Please refer to Section 3 of this report which sets out how the proposed development complies with these development management criteria.
- 4.27 The proposed height is considerably less than the 50 metres permissible for development within the North Fringe area (classified as being in a mid-height area) under section 16.7.2 of the Dublin City Development Plan 2016-2022. The proposed building height is considered to be justified in the context of the Building Height Guidelines.
- 4.28 It is respectfully submitted, as for the reasons as outlined above and elaborated upon separately within the Architectural Design Statement prepared by Plus Architecture and the Statement of Consistency prepared by JSA, that the proposed heights of the development are considered acceptable in the aforementioned context.

UNIT MIX

Material Contravention

- 4.29 The Section 16.10.1 of the Development Plan states that where apartment developments comprise 15 units or more the residential unit mix shall contain:
- A maximum of 25-30% one-bedroom units,
 - A minimum of 15% three- or more bedroom units.
- 4.30 Under this SHD application, the proposed unit mix is as follows:
- 72 no. 1 bed units (41%)

- 57 no. 2 bed units (32%)
- 47 no. 3 bed units (27%)

4.31 It is recognised that the proposed mix would not be fully consistent with the Development Plan requirements as the number of one bed units exceeds 30%. In respect of the 2 and 3 bed units, the proposed development is fully compliant in this regard. There are no studio units, or 2 bed, 3 person units, proposed within the scheme.

Justification

4.32 The proposed mix is consistent and considered to be justified in the context of the Apartment Guidelines 2020. Specific Planning Policy Requirement 1 (SPPR1) of the Apartment Guidelines which states:

“Apartment developments may include up to 50% one-bedroom or studio type units (with no more than 20-25% of the total proposed development as studios) and there shall be no minimum requirement for apartments with three or more bedrooms. Statutory development plans may specify a mix for apartment and other housing developments, but only further to an evidence based Housing Need and Demand Assessment (HNDA), that has been agreed on an area, county, city or metropolitan area basis and incorporated into the relevant development plan(s).”

4.33 The proposed unit mix is consistent with the guidance set down in SPPR1 of the Apartment Guidelines 2020, as the percentage of 1 bed units does not exceed 50%, with 41% to be provided. There is no requirement for 3 bed units under SPPR1, however these have been provided so as to exceed the minimum requirements which are included within the Development Plan. Having regard to the above, it is considered that even where the proposed unit mix would not be consistent with the unit mix set out in the Development Plan, the mix is justified under SPPR1 of the Apartment Guidelines (which were issued under Section 28 of the 2000 Act).

4.34 Further to the above justification, a justification for a material contravention in terms of the Mix of Residential Units is set out below under the relevant parts of section 37(2)(b) of the 2000 Act.

(iii) permission for the proposed development should be granted having regard to regional planning guidelines for the area, guidelines under [section 28](#), policy directives under [section 29](#), the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government,

4.35 The Design Standards for New Apartments, Guidelines for Planning Authorities (Apartment Guidelines 2020) build upon the provisions of the NPF. Under section 9(3) of the Planning and Development (Housing) and Residential Tenancies Act, 2016 (as amended), Planning Authorities and An Bord Pleanála are required to have regard to the guidelines and apply any specific planning policy requirements (SPPRs) of the guidelines in carrying out their function.

4.36 The Apartment Guidelines 2020 state:

“These guidelines have been issued by the Minister for Housing, Planning and Local Government under Section 28 of the Planning and Development Act 2000 (as amended). Planning authorities and An Bord Pleanála are required to have regard to the guidelines and are also required to apply any specific planning policy requirements

(SPPRs) of the guidelines, within the meaning of Section 28 (1C) of the Planning and Development Act 2000 (as amended) in carrying out their functions.

4.37 Accordingly, SPPR's take precedence over any conflicting, policies and objectives of development plans, local area plans and strategic development zone planning schemes. Where such conflicts arise, such plans should be amended by the relevant planning authority to reflect the content of these guidelines and properly inform the public of the relevant SPPR requirements.

4.38 Full details on consistency with the Apartment Guidelines 2020 is set out in the Planning Report & Statement of Consistency submitted with this application. However, having regard to the above and specific to the mix of units, SPPR1 is directly relevant and states the following:

"SPPR 1- Apartment developments may include up to 50% one-bedroom or studio type units (with no more than 20-25% of the total proposed development as studios) and there shall be no minimum requirement for apartments with three or more bedrooms. Statutory development plans may specify a mix for apartment and other housing developments, but only further to an evidence based Housing Need and Demand Assessment (HNDA), that has been agreed on an area, county, city or metropolitan area basis and incorporated into the relevant development plan(s)."

4.39 Under this SHD application, the proposed unit mix is as follows:

72 no. 1 bed units (41%)
57 no. 2 bed units (32%)
47 no. 3 bed units (27%)

4.40 The proposed unit mix is consistent with the guidance set down under SPPR 1 of the Apartment Guidelines 2020, as no studios are proposed and the percentage of 1 beds does not exceed 50%. There is no requirement for 3 bed units under SPPR 1.

4.41 The Apartment Guidelines 2020 acknowledge the importance of apartment living in terms of addressing the challenges of meeting the housing needs of a growing population in our key cities and towns, particularly given the identified trend towards smaller average household size. Therefore, it is submitted that the proposed unit mix is consistent with the Apartment Guidelines 2020 and specifically SPPR 1. Further justification for the proposed unit mix, in the context of existing and permitted development at Northern Cross is provided within the accompanying Planning Report & Statement of Consistency.

4.42 As demonstrated above, the proposed unit mix is consistent with the Apartment Guidelines 2020 and are appropriate for the subject site / location.

Part (iv) – permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan.

4.43 Permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan.

4.44 As set out in the JSA Statement of Consistency, the proposed development is in accordance with the standards set out at Appendix 1 of the Apartment Guidelines (which take precedent over the content of the Development Plan) and is considered

acceptable in this regard. The proposed apartment floor areas are considered acceptable under the provisions of Appendix 1 of the Apartment Guidelines 2020. The Apartment Guidelines 2020 acknowledge the importance of apartment living in terms of addressing the challenges of meeting the housing needs of a growing population in our key cities and towns, particularly given the identified trend towards smaller average household size. Therefore, it is submitted that the proposed unit mix is consistent with the Apartment Guidelines 2020 and specifically SPPR1 for Unit Mix. This approach has been accepted within the wider Northern Cross area, and the proposed development in terms of its proposed unit mix does not represent a deviation from the pattern of permitted development.

- 4.45 The table below provides a breakdown of the residential blocks within Northern Cross and their associated unit mix. This demonstrates that in the overall masterplan context, when incorporating the proposals for the subject site, the number of studio and 1 bed units, fall significantly below the 50% threshold as identified within SPPR1. The proposed development will contribute towards a mixed and sustainable community across the Northern Cross masterplan area and therefore it is respectfully submitted that the unit mix proposed in this application is appropriate. The table below also demonstrates that the unit mix as proposed is far greater than that of those generally approved within the Northern Cross area, and that while the proposal exceeds the Development Plan levels of 1 bed units, the provision of 3 beds further bolsters the contribution that the proposal will make to Northern Cross in terms of unit mix.

Table 4.1: Residential Unit Mix within Northern Cross

Building	1 bed & Studios	2 bed	3 bed	Total
Block 1 (Reg. Ref.: 2298/05)	35 (26.9%)	84 (64.6%)	11 (8.5%)	130
Block 3 (Reg. Ref.: 4854/03 & 2953/04)	27 (26.2%)	72 (69.9%)	4 (3.8%)	103
Block 4 (Reg. Ref.: 3846/06)	26 (35.1%)	44 (54.4%)	4 (5.4%)	74
Block 8 (Reg. Ref.: 2538/05)	27 (20.9%)	93 (72.1%)	9 (7%)	129
Block 9 (Reg. Ref.: 1103/06)	24 (24%)	72 (72%)	4 (4%)	100
Block 2 (Permitted)	82 (43%)	109 (57%)	0 (0%)	191
Block 5 (Permitted)	26 (49%)	24 (45%)	3 (6%)	53
Block 10 (Proposed)	75 (48%)	81 (52%)	0 (0%)	156
Rosemount (Subject)	72 (41%)	57 (32%)	47 (27%)	176
Total	394 (35%)	636 (57%)	82 (7.3%)	1,112

- 4.46 As demonstrated above, the proposed mix of units are consistent with the Apartment Guidelines 2020 and are appropriate for the subject site / location. Having regard to the above and the provisions of the Apartment Guidelines and SPPR1, it is respectfully submitted that the Board can approve the proposed development under section 9(3) of the Planning and Development (Housing) and Residential Tenancies Act, 2016 (as amended), notwithstanding any potential conflicting policies / objectives of the Development Plan.
- 4.47 The proposal will implement residential development at an underutilised, infill site in accordance with the national policy objectives (NPO 3a, NPO 13, NPO 35) and regional policy objectives promoting compact growth and the delivery of 40% of all new housing to be implemented on urban lands.

- 4.48 With regard to the above, it is respectfully submitted that the proposed material contravention of the 2016-2022 Development Plan in terms of unit mix is acceptable, when viewed in the context of the overall Northern Cross development and the provisions of section 37(2)(b) of the 2000 Planning and Development Act.

SITE COVERAGE

Material Contravention

- 4.49 The proposed development has a site coverage of 57%, Site coverage in the Dublin City Development Plan specifies an indicative site coverage for Z14 lands of 50%. It is considered that the proposed development is a marginal increase of this **indicative level** and therefore, may not be considered a material contravention of the development plan. The proposed site coverage has been assessed within the accompanying Statement of Consistency, and its acceptability justified in this regard.
- 4.50 It is also noted that Section 16.6 of the City Development Plan sets out circumstances where site coverage may be increased subject to compliance with the following criteria:
- Adjoining major public transport termini and corridors, where an appropriate mix of residential and commercial uses is proposed
 - To facilitate comprehensive redevelopment in areas in need of urban renewal
 - To maintain existing streetscape profiles
 - Where a site already has the benefit of a higher site coverage
- 4.51 The proposed development is located within 350 metres of a public transport corridor on Malahide Road which provides high-frequency and high-capacity bus services and will be enhanced through the proposed BusConnects corridor. The proposal includes an appropriate mix of residential and commercial uses through 176 apartments, in excess of 1,000 sqm of office space and a c. 143 sqm café as well as public and communal open space. The site is located within a Strategic Development & Regeneration Area as set out in the CDP which seeks the regeneration of Z14 zoned lands which the proposed development achieves. The proposal will maintain and improve the streetscape profile in the Northern Cross area and is consistent with the pattern of emerging development in the area which will enhance the public realm and the visual appearance of the area. In this respect the marginal increase in site coverage to the indicative standards set out at Section 16.6 of the CDP are considered acceptable.

Justification

- 4.52 However, should An Bord Pleanála consider that a material contravention applies in this instance, it is considered that the site coverage can be justified under Section 37(2)(b)(iii) of the Planning & Development Act 2000, as amended.

(iii) permission for the proposed development should be granted having regard to regional planning guidelines for the area, guidelines under [section 28](#), policy directives under [section 29](#), the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government,

- 4.53 The National Planning Framework, 2018 requires compact growth, better use of underutilised land and to regenerate urban areas:
‘A major new policy emphasis on renewing and developing existing settlements will be required, rather than continual expansion and sprawl of cities and towns out into the

countryside, at the expense of town centres and smaller villages. The target is for at least 40% of all new housing to be delivered within the existing built up areas of cities, towns and villages on infill and/or brownfield sites’.

- 4.54 A core objective of the NPF is achieving compact growth and the Framework targets a *‘significant proportion of future urban development on infill/brownfield development sites within the built footprint of existing urban areas’.*
- 4.55 The NPF seeks to achieve *“better use of under-utilised land and buildings, including ‘infill’, ‘brownfield’ and publicly owned sites and vacant and under-occupied buildings, with higher housing and jobs densities, better serviced by existing facilities and public transport”.* National Policy Objective 3a targets the delivery of at 40% of future housing development to be within the footprint of built-up footprint of existing settlements.
- 4.56 National Policy Objective 4 aims to *‘ensure the creation of attractive, liveable, well designed, high urban places that are home to diverse and integrated communities that enjoy a high quality of life and well-being’.*
- 4.57 National Policy Objective 6 seeks to *‘Regenerate and rejuvenate cities, towns and villages of all types and scale as environmental assets, that can accommodate changing roles and functions, increased residential population and employment activity and enhanced levels of amenity and design quality, in order to sustainably influence and support their surrounding area’.*
- 4.58 We also refer to Section 2.23 of the Apartment Guidelines 2020, which states that *“The National Planning Framework signals a move away from rigidly applied, blanket planning standards in relation to building design, in favour of performance based standards to ensure well-designed high quality outcomes.”*
- 4.59 In the event that the Board were to decide to grant permission for the proposed development it is considered that a justification by reference to the objectives and aims of the National Planning Framework as outlined above of what might otherwise be regarded as a material contravention of the development plan should be addressed in the Board’s decision, as the proposal has been demonstrated to be acceptable in accordance Section 37(2)(b)(iii) of the Planning and Development Act 2000, as amended.

5.0 JUSTIFICATION OF MATERIAL CONTRAVENTION – DRAFT DUBLIN CITY DEVELOPMENT PLAN 2022-2028

- 5.1 This section of this Material Contravention Statement addresses the Draft Dublin City Development Plan 2022-2028 (hereinafter ‘draft Development Plan’), and the Proposed Material Alterations which are currently on public display, and provides a justification for potential material contraventions of the Dublin City Development Plan 2022-2028 in the event that a decision on the application is made subsequent to the new Dublin City Development Plan 2022-2028 coming into effect, and the Board is of the view that the proposed development contravenes the following aspects of the new Dublin City Development Plan:

Draft Dublin City Development Plan 2022-2028

- **Appendix 3** - Density (in excess of 250 uph)
- **Section 12.5.3 CUO 22** - Provision of Community & Cultural Space
- **Section 15.9.2** – Unit Size/Layout & **Section: 5.5.5** - Housing for All - Objective QHSNO10 Universal Design

DENSITY

Material Contravention

- 5.2 Appendix 3, Section 3.2 relates to proposed densities, and Table 1 outlined the net density range permitted for each specific location. As the subject site is located within and SDRA, permitted densities as quoted range between 100-250 units per hectare. The draft Plan considers that *‘As a general rule, the following density ranges will be supported in the city’*:

Table 1: Density Ranges

Location	Net Density Range (units per ha)
City Centre and Canal Belt	100-250
SDRA	100-250
SDZ/LAP	As per SDZ Planning Scheme/LAP
Key Urban Village	60-150
Former Z6	100-150
Outer Suburbs	60-120

- 5.3 The residential density of the proposed development is c. 272 units per hectare. This density of development is considered to be suitable for the subject site, having regard to its strategic location adjacent to existing and planned public transport provision, its location within a Key District Centre and SDRA, and the range of services and amenities available within the vicinity. This density seeks to optimise the developable potential of the site, while providing for a mix of uses and also paying due respect to the residential amenity of the adjacent permitted and proposed residential developments. The draft Plan notes that proposals for higher densities must demonstrate how the proposal contributes to healthy place making, liveability and the identity of an area, as well as the provision of community facilities and/or social infrastructure to facilitate the creation of sustainable neighbourhoods. The proposed development and the plans and particulars submitted with this application demonstrate that the proposal will contribute positively to Northern Cross through provision of public open space and communal open space, a mix of apartment typology and uses at the site which will generate footfall to the area and is compatible with adjoining sites.
- 5.4 A justification for a material contravention in terms of density is set out below, under the relevant parts of section 37(2)(b)(iii) and (iv) of the 2000 Act.

Part (iii) development should be granted having regard to regional planning guidelines for the area, guidelines under [section 28](#), policy directives under [section 29](#), the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government

- 5.5 The following section demonstrates how density proposed is justified in the context of Section 37 (2)(b)(iii) of the 2000 Act for the reasons set out below in the context of current National Planning Policy, namely the National Planning Framework.

National Planning Framework (NPF) 2040

- 5.6 The National Planning Framework is the Government’s plan to cater for the extra one million people that will be living in Ireland, the additional two thirds of a million people working in Ireland and the half a million extra homes needed in Ireland by 2040.

- 5.7 As a strategic development framework, Ireland 2040 sets the long-term context for our country's physical development and associated progress in economic, social and environmental terms and in an island, European and global context.
- 5.8 The compliance of the proposed development with specific criteria of the NPF is detailed below, with responses provided for each objective.
- 5.9 National Policy Objective 3a of the NPF states that it is a national policy objective to *'deliver at least 40% of all new homes nationally within the built-up envelope of existing urban settlements'*.
- 5.10 The proposed development is a strategically located in an underutilised site in close proximity to public transport connections and proposed strategic transport links, within the existing built-up envelope. The proposed development is therefore compliant with the objective of the NPF.
- 5.11 Objective 11 of the National Planning Framework states that 'there will be a presumption in favour of development that encourages more people, jobs and activity within existing urban areas, subject to development meeting appropriate planning standards and achieving targeted growth'.
- 5.12 The proposed development will implement a high-quality scheme which integrates appropriately with the established land uses in the area and promote increased densities and population growth in urban areas. The proposals are intended to assist with the regeneration of the wider SDRA lands, providing a suitable mix of commercial and residential development which will contribute to the sustainable development of the area. This will intensify employment opportunities and creation at the location.
- 5.13 Objective 32: 'To target the delivery of 550,000 additional households to 2040'. The residential aspect of the proposal consists of 176 no. apartment units at an urban infill site which will assist in achieving the target delivery of 550,000 additional households to 2040 and is compliant with the NPF in this respect.
- 5.14 Objective 35 states that it is an objective to:
- 'increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site based regeneration and increased building heights'.*
- 5.15 The proposed development for a mixed use scheme incorporating a significant proportion of residential development on this underutilised infill site represents an excellent opportunity to provide for much needed housing and commercial development NPF policies and objectives. The subject site at present consists of a freestanding, single use office block of up to 3 storeys in height and as such the proposal represents a strategic re-use of this to intensify the subject site while providing for additional, much needed housing, in line with the goals of the National Planning Framework. The proposed land use mix and density will make a valuable contribution to the core tenets of the SDRA, namely the following two objectives:
- "To create a highly sustainable, mixed-use urban district, based around highquality public transport nodes, with a strong sense of place."*
- 5.16 And:

“To achieve a sufficient density of development to sustain efficient public transport networks and a viable mix of uses and community facilities.”

Part (iv) – permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan.

- 4.60 Permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan.
- 5.17 We note that the two most recently permitted residential developments within Northern Cross, ABP-307887-20 (Site 2) and 3506/20 (Site 5- Adjacent to Malahide Road) had permitted densities of 265 uph and 190 uph respectively. We also note that the nearby permitted development under ABP Ref.: 305943-19 at Newtown, Malahide Road, achieved permitted densities of 314 uph.
- 5.18 The scale and density of the proposed development is consistent with that of adjacent developments within Northern Cross and the wider area, whilst taking cognisance of the capacity of the area to cater for an increased population having regard to its location, access to transport infrastructure and public transport, relevant zoning objectives, proximity to employment opportunities nearby community facilities.
- 5.19 Having regard to this policy, legislative and local context, the proposed development is considered to be of strategic importance for the purposes of section 37(2)(b)(iii) and (iv) of the 2000 Act.

CULTURAL & COMMUNITY FLOORSPACE

Material Contravention

- 5.20 Chapter 12, Section 12.5.3 ‘*Supporting Cultural Vibrancy in the City*’ of the draft Development Plan relates to cultural facilities within the City. As part of the preparatory work for the draft Development Plan, a cultural infrastructure study was undertaken of the city, and is published as a background document for the Plan. The study provides a detailed analysis of the extent of cultural infrastructure within the city; where challenges lie; and makes a number of recommendations.
- 5.21 In respect of cultural facilities within SDRAs, policy objective CUO22 refers, and is as follows:
- 5.22 SDRAs and large Scale Developments- *“All new regeneration areas (SDRAs) and large scale developments above 10,000 sq. m. in total area must provide for 5% community, arts and culture and artist workspaces internal floorspace as part of their development at the design stage. The option of relocating a portion (no more than half of this figure) of this to a site immediately adjacent to the area can be accommodated where it is demonstrated to be the better outcome and that it can be a contribution to an existing project in the immediate vicinity. The balance of space between cultural and community use can be decided at application stage, from an evidence base/audit of the area. Such spaces must be designed to meet the identified need.”*
- 5.23 In terms of delivery of community floorspace, we note that while the “Dublin City Cultural Infrastructure Study” (Cultural Infrastructure Study) concludes that Dublin City Council should aspire to a 5% increase in the provision of cultural assets per annum over the life of the Development Plan, it recommends that a mapping exercise is

undertaken by the City Council to get an understanding of “where” and “what” cultural infrastructure is in the City and that infrastructure could be developed in a number of locations where it is found that there are deficits in cultural infrastructure.

5.24 The Cultural Infrastructure Study highlights that:

“any roadmap for an ever-evolving city like Dublin needs to be agile and responsive. Shifts in the market, and even changing public attitudes, can immediately impact cultural infrastructure, positively and negatively, and policy must be flexible and regularly reviewed to take advantage of what is working and remove what isn’t.”

5.25 And that:

*“increasingly cities are realising that **it is less about building new infrastructure and more about flexing existing assets** to make them adaptable to behavioural changes and needs through enhancements or change of use. Future use of refined and enhanced data should help with identification or priority action areas, the development of cultural hubs and potentially allow for the repurposing of existing infrastructure to address a shortfall. The city has a huge opportunity to leverage use of vacant buildings in the city for cultural use, possibly under licence through the Council’s Arts Office.”* (emphasis added)

5.26 The subject SHD application is a wholly residential development and does not include any floorspace in respect of cultural facilities within the scheme.

5.27 It is recognised that the omission of floorspace for cultural facilities would not be fully consistent with the draft Development Plan requirements as set out in policy objective CUO22 above. In the event that a decision on the application is made subsequent to the new Dublin City Development Plan 2022-2028 coming into effect, the Board may consider that the proposed development constitutes a material contravention of new Dublin City Development Plan as relates to cultural facilities as currently set out in Section 12.5.3 of the draft Development Plan.

Justification

5.28 Notwithstanding the above, the proposed residential scheme is considered to be justified in the context of the Cultural Infrastructure Study undertaken as part of the draft Development Plan process, and the existing provision of community floorspace within the Northern Cross area as a whole. The Cultural Infrastructure Study did not identify Northern Cross as an area with a deficit of community facilities or as a priority action area. As demonstrated in the Social and Community Infrastructure Audit that accompanies this application, there is a range of social and community infrastructure serving this area of Dublin City.

5.29 An allocation of 5% of the floor area of the proposed scheme for community, arts and culture and artist workspaces would effectively displace proposed apartments or infrastructure (5% of the proposed 20,622.7 sq.m floor area (exc. Basement) equals 1,031 sq.m, which is approximately equal area to 21 no. 1 bedroom apartments, or nearly the entirety of the proposed office space (1,060.5 sq.m), and would be contrary to Government Policy to increase delivery of housing from its current under supply as set out in the Rebuilding Ireland Action Plan for Housing and Homelessness (2016), and consequently the 2016 Act, which recognise the strategic importance of larger residential developments (including developments of over 100 residential units) in addressing the ongoing housing and homelessness crisis, in an effort to increase housing supply. Pillar 3 of Rebuilding Ireland – Action Plan focuses on the delivery of

housing stock as a key objective to tackle homelessness and support a growing population.

- 5.30 As outlined above, the Government's Housing for All: A New Housing Plan for Ireland, published in September 2021, seeks to increase new housing supply to an average of at least 33,000 new units per year over the next decade.

Justification in Relation to Section 37(2)(b)(iii)

- 5.31 The following section demonstrates how the provision of cultural and community floor space proposed is justified in the context of Section 37 (2)(b)(iii) of the 2000 Act for the reasons set out below in the context of current National Planning Policy, namely the National Planning Framework.

National Planning Framework (NPF) 2040

- 5.32 The National Planning Framework is the Government's plan to cater for the extra one million people that will be living in Ireland, the additional two thirds of a million people working in Ireland and the half a million extra homes needed in Ireland by 2040.
- 5.33 As a strategic development framework, Ireland 2040 sets the long-term context for our country's physical development and associated progress in economic, social and environmental terms and in an island, European and global context.
- 5.34 The compliance of the proposed development with specific criteria of the NPF is detailed below, with responses provided for each objective.
- 5.35 National Policy Objective 3a of the NPF states that it is a national policy objective to *'deliver at least 40% of all new homes nationally within the built-up envelope of existing urban settlements'*.
- 5.36 The proposed development is a strategically located in an underutilised site in close proximity to public transport connections and proposed strategic transport links, within the existing built-up envelope. The proposed development is therefore compliant with the objective of the NPF.
- 5.37 Objective 11 of the National Planning Framework states that 'there will be a presumption in favour of development that encourages more people, jobs and activity within existing urban areas, subject to development meeting appropriate planning standards and achieving targeted growth'.
- 5.38 The proposed development will implement a high-quality scheme which integrates appropriately with the established land uses in the area and promote increased densities and population growth in urban areas. The proposals are intended to assist with the regeneration of the wider SDRA lands, providing a suitable mix of commercial and residential development which will contribute to the sustainable development of the area. This will intensify employment opportunities and creation at the location.
- 5.39 Objective 32: 'To target the delivery of 550,000 additional households to 2040'. The residential aspect of the proposal consists of 176 no. apartment units at an urban infill site which will assist in achieving the target delivery of 550,000 additional households to 2040 and is compliant with the NPF in this respect.
- 5.40 Objective 35 states that it is an objective to:

'increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site based regeneration and increased building heights'.

- 5.41 The proposed development for a mixed use scheme incorporating a significant proportion of residential development on this underutilised infill site represents an excellent opportunity to provide for much needed housing and commercial development NPF policies and objectives. The subject site at present consists of a freestanding, single use office block of up to 3 storeys in height and as such the proposal represents a strategic re-use of this to intensify the subject site while providing for additional, much needed housing, in line with the goals of the National Planning Framework. The proposed land use mix and density will make a valuable contribution to the core tenets of the SDRA, namely the following two objectives:

"To create a highly sustainable, mixed-use urban district, based around high quality public transport nodes, with a strong sense of place."

- 5.42 And:

"To achieve a sufficient density of development to sustain efficient public transport networks and a viable mix of uses and community facilities."

- 5.43 There is no suggestion in the NPF that residential developments should provide a significant element of cultural/community floorspace within individual schemes.

Apartment Guidelines 2020

- 5.44 The proposed development has been designed in accordance with the Apartment Guidelines 2020 as set out in the accompanying Statement of Consistency prepared by JSA. It is noted that the Apartment Guidelines do not require the provision of *'community, arts and culture and artist workspaces internal floorspace as part of their development at the design stage'*. In this regard Policy Objective CUO22 of the draft Plan conflicts with published Section 28 Guidelines and is inconsistent with Government guidance in this respect.
- 5.45 The proposed development provides high-quality communal amenities space for residents in the form of c. 1,846 sq. m. of communal open space at ground floor, first floor podium, 4th floor and 7th floor level, and public open space of c. 1,577 sq.m. at ground floor level. Resident amenity and support services are proposed at ground floor level to include a cinema room, post room, games room, co-working spaces, gym and concierge services. This meets the requirement of the Apartment Guidelines which are submitted to take precedent over the Development Plan in this regard.
- 5.46 Having regard to this policy, legislative and local context, the proposed development is considered to be of strategic importance for the purposes of section 37(2)(b)(iii) of the 2000 Act, as well as section 37(2)(b)(i) as set out in section 2 of this document.
- 5.47 Therefore, it is submitted that, with regard to S.37(2)(b)(iii), the proposed development is in accordance with the definition of Strategic Housing Development, as set out in section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016, as amended, and delivers on the Government's policy to increase delivery of housing from its current under supply as set out in Rebuilding Ireland Action Plan for Housing and Homelessness (July 2016), and Housing for All – A New Housing Plan for Ireland (2021). It is also of importance in terms of delivery of housing in accordance with the Development Plan and the LAP. Under S.37(2)(b)(i) the proposed

development is in accordance with the definition of Strategic Housing Development, as set out in section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016, as amended, and delivers on the Government's policy to increase delivery of housing from its current under supply as set out in Rebuilding Ireland Action Plan for Housing and Homelessness (July 2016), and Housing for All – A New Housing Plan for Ireland (2021). Under S. 37(2)(b)(iv) the pattern of development and recent permissions in the area does not result in a requirement for community / cultural or artists uses on the subject site, as evidenced by the "Dublin City Cultural Infrastructure Study" produced as a background paper to the Draft City Development Plan and which does not identify Northern Cross as an area with a deficit of community facilities or as a priority action area.

UNIVERSAL DESIGN & UNIT SIZE / LAYOUT

Material Contravention

- 5.48 Section 5.5.5 of the Draft Plan includes the following objective:

"Objective QHSNO10 Universal Design- It is an Objective of Dublin City Council: To require that a minimum of 10% of dwellings in all schemes over 100 units are designed to accommodate people with disabilities and older people in accordance with the Universal Design Guidelines for Homes in Ireland 2015."

- 5.49 The Proposed Material Alterations seek to alter this objective as follows:

"Objective QHSNO10 Universal Design- It is an Objective of Dublin City Council: To ensure that 50% of apartments in any development that are required to be in excess of minimum sizes should be designed to be suitable for older people/mobility impaired people, people living with dementia and people with disabilities in accordance with the guidelines set out in the Universal Design Guidelines for Homes in Ireland 2015, the DHLG&H's Design Manual for Quality Housing 2022 and the DHP&LG & DH's Housing Options for Our Ageing Population Policy Statement 2019."

- 5.50 In addition, Section 15.9.2 of the Draft Plan relates to Unit Size / Layout and requires the following:

"The majority of all apartments in any proposed scheme of 10 or more apartments (excluding Build to Rent accommodation) shall exceed the minimum floor area standard for any combination of the relevant 1, 2 or 3 bedroom unit types, by a minimum of 10% (any studio apartments must be included in the total, but are not included as units that exceed the minimum by at least 10%). The layout of the larger units of each type should be designed in accordance with the guidance set out in Universal Design Guidelines for Homes in Ireland 2015."

- 5.51 It is noted that the Proposed Material Amendments to the draft Plan, published in July 2022 include an alteration to Section 15.9.2 of the draft development plan relating to "Unit Size/Layout". In the event that this alteration forms part of the adopted Plan, we have include reference to this within the material contravention statement. The proposed alteration states the following:

"The majority of all apartments in any proposed scheme of 10 or more apartments (Excluding Build to Rent accommodation) shall exceed the minimum floor area types, by a minimum of 10% (any studio apartments must be included in the total, but are not included as units that exceed the minimum by at least 10%). In accordance with the Housing Options for an Ageing Population Policy Statement 2019, 50% of the

apartments that are in excess of the minimum sizes should be designated in accordance with the guidance set out in the Universal Design Guidelines for Homes in Ireland 2015 to ensure that they are suitable for older people, mobility impaired people and people with disabilities.”

- 5.52 While the proposed development fully accords with the requirement to have the majority of units at least 10% greater than the minimum sizes (with actually 99% of the units exceeding the minimum requirement by 10% or more), we note that the proposed development does not meet the requirement of the draft Development Plan or Proposed Material Alterations outlined above in respect to Universal Design requirement. Instead, as required under current Building Regulations, all of the proposed units within the development have been designed to be compliant with Technical Guidance Document M of the Building Regulations 2010, and the Apartment Guidelines 2020, which is in conflict with the aforementioned policy. The below provides a justification for a material contravention of these aspects of the new Plan, should they be adopted, in respect of the proposed development.

Justification

- 5.53 Technical Guidance Document M of the Building Regulations 2010 relates to Access and Use, and provides the general criteria required for building design in relation to access, including fire safety, access ramps and alignment with the Disability Act 2005. The proposed development shall adhere to the relevant standards which are contained within this technical document and as such this is respectfully submitted as an acceptable standard to which the proposed development will adhere.
- 5.54 A justification for a material contravention in terms of unit size is set out below, under the relevant parts of section 37(2)(b)(iii) of the 2000 Act.

Part (iii) development should be granted having regard to regional planning guidelines for the area, guidelines under section 28 , policy directives under section 29 , the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government

- 5.55 The following section demonstrates how unit sizes proposed are justified in the context of Section 37 (2)(b)(iii) of the 2000 Act for the reasons set out below in the context of current National Planning Policy, namely the Apartment Guidelines.

National Planning Framework (NPF) 2040

- 5.56 The National Planning Framework is the Government’s plan to cater for the extra one million people that will be living in Ireland, the additional two thirds of a million people working in Ireland and the half a million extra homes needed in Ireland by 2040.
- 5.57 The compliance of the proposed development with specific criteria of the NPF is detailed below, with responses provided for each objective.
- 5.58 National Policy Objective 3a of the NPF states that it is a national policy objective to ‘*deliver at least 40% of all new homes nationally within the built-up envelope of existing urban settlements*’.
- 5.59 The proposed development is a strategically located in an underutilised site in close proximity to public transport connections and proposed strategic transport links, within

the existing built-up envelope. The proposed development is therefore compliant with the objective of the NPF.

- 5.60 Objective 11 of the National Planning Framework states that ‘there will be a presumption in favour of development that encourages more people, jobs and activity within existing urban areas, subject to development meeting appropriate planning standards and achieving targeted growth’.
- 5.61 The proposed development will implement a high-quality scheme which integrates appropriately with the established land uses in the area and promote increased densities and population growth in urban areas. The proposals are intended to assist with the regeneration of the wider SDRA lands, providing a suitable mix of commercial and residential development which will contribute to the sustainable development of the area. This will intensify employment opportunities and creation at the location.
- 5.62 Objective 32: ‘To target the delivery of 550,000 additional households to 2040’. The residential aspect of the proposal consists of 176 no. apartment units at an urban infill site which will assist in achieving the target delivery of 550,000 additional households to 2040 and is compliant with the NPF in this respect.
- 5.63 Objective 35 states that it is an objective to:

‘increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site based regeneration and increased building heights’.

- 5.64 The implementation of the proposed amendment to the draft Plan is considered to conflict with national planning objectives which promote compact growth and increased densities at urban locations. The provision of a high proportion of universally accessible apartments will serve to reduce the potential quantum of apartments on individual sites and restrict densities achievable. This is inconsistent with national planning policy.
Sustainable Urban Housing: Design Standards for New Apartments; Guidelines for Planning Authorities 2020
- 5.65 The ‘Sustainable Urban Housing: Design Standards for New Apartments’ (Apartment Guidelines 2020) were first published in March 2018 and amended in December 2020 following the Ministerial review of the shared accommodation / co-living aspect contained therein. The guidelines provide for updated guidance on apartment developments in response to the National Planning Framework and Rebuilding Ireland.
- 5.66 Details as to how the proposed development complies with the relevant requirements of the Apartment Guidelines 2020 is outlined below.

SPPR 3- Floor Areas

- 5.67 SPPR 3 of the Apartment Guidelines 2020 states that the following minimum floor areas for apartments apply:
- Studio apartment (1 person) Minimum 37 sq.m
 - 1 bedroom apartment (2 persons) Minimum 45 sq.m
 - 2 bedroom apartment (4 persons) Minimum 73 sq.m
 - 3 bedroom apartment (5 persons) Minimum 90 sq.m
- 5.68 The HQA and drawings prepared by Plus Architecture, which accompany this application, demonstrate that the proposed development complies with and exceeds the standards outlined in the Sustainable Urban Housing: Design Standards for New

Apartments 2020, with all units in excess of the minimum requirements outlined above. The proposed development includes an extensive emphasis on including larger units, with the vast majority exceeding the minimum standards for area by at least 10%. The below table demonstrates the minimum size of each type of unit proposed.

Table 5.1: Apartment Guidelines 2020 Minimum Floor Areas

Apartment Type	Floor Area Requirement	Min. Size Proposed
1 bedroom (2 persons)	45 sq.m.	49.5 sq.m
2 bedroom (4 persons)	73 sq.m.	75 sq.m
3 bedroom (5 persons)	90 sq.m	94.5 sq.m

- 5.69 The Apartment Guidelines 2020 state that *'the majority of all apartments in any proposed scheme of 10 or more apartments shall exceed the minimum floor area standard for any combination of the relevant 1, 2 or 3 bedroom unit types, by a minimum of 10% (any studio apartments must be included in the total but are not calculable as units that exceed the minimum by at least 10%)'*. As set out above and illustrated in the HQA prepared by Plus Architecture, throughout the scheme as a whole, 122 no. individual apartment units, exceed the relevant standard by at least 10%. Accordingly, the proposed development aligns with the requirements under SPPR 3 in addition to the further guidance provided in tandem with that specific requirement.
- 5.70 While we note that the Guidelines permit 3 person, 2 bed units which have a smaller size requirement, we note that the proposal does not include any of these units, and that all 2 bed units adhere to the minimums required for 4 person, 2 bed units.
- 5.71 The Apartment Guidelines do not suggest or set out any requirement for the provision of a defined quantum of units to adhere to the Universal Design Guidelines as proposed by Dublin City Council, which conflicts with Section 28 Guidelines implemented the Department of Housing, Planning & Local Government. Section 4.1 of the Apartment Guidelines references Part M of the Building Regulations which sets out standards to ensure that buildings are accessible and usable by everyone, including children, people with disabilities and older people. The proposed development is fully compliant with the Guidelines in this regard.
- 5.72 As demonstrated above, the proposed unit sizes are consistent with the Apartment Guidelines 2020 and are appropriate for the subject site / location. Having regard to the above and the provisions of the Apartment Guidelines and SPPR3, it is respectfully submitted that the Board can approve the proposed development under section 9(6) of the Planning and Development (Housing) and Residential Tenancies Act, 2016 (as amended), notwithstanding any potential conflict with Section 5.5.5, Objective QHSNO10 Universal Design and Section 15.9.2 of the City Development Plan.

6.0 CONCLUSION

- 6.1 It is respectfully submitted that the justification set out within this statement clearly demonstrates that the proposed development should be considered for increased **building heights** and **density**, in addition to **unit mix**, **site coverage** and with regard to the **proposed provision of community/arts/cultural space** and **unit size/layout (universal design)**, due to the location of the subject site adjacent to quality public transport corridors and the policies and objectives set out within the Section 28 Guidelines in particular the Urban Development and Building Height Guidelines, the Apartment Guidelines 2018 and the National Planning Framework. In particular, SPPR 3(A) provides a justification for a material contravention of the Development Plan/Local Area Plan in relation to building height having regard to the compliance of the proposed development with the criteria under Section 3.2 of the Guidelines. The pattern of permissions granted in the area since the adoption of the development plan would confirm this.
- 6.2 In accordance with Section 9(6) of the 2016 Act, the Board may decide to grant a permission for a proposed strategic housing development even where the proposed development, or a part of it, contravenes materially the development plan where it considers that, if section 37(2)(b) of the 2000 Act were to apply, it would grant permission for the proposed development.
- 6.3 Pursuant to Section 37(2)(b), the Board may grant permission for a development that materially contravenes the development plan where it considers that:
- i. the proposed development is of strategic or national importance,*
 - ii. there are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned, or*
 - iii. permission for the proposed development should be granted having regard to regional spatial and economic strategy for the area, guidelines under section 28, policy directives under section 29, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government, or*
 - iv. permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan.*
- 6.4 The proposed development is considered to be of strategic importance as it will assist with the delivery of urban housing and implementation of the current Government's Action Plan for Housing and Homelessness – Rebuilding Ireland 2016 and Housing for All – A New Plan for Housing in Ireland.
- 6.5 As such it is respectfully requested that An Bord Pleanála have regard to the justification set out within this statement and permit the proposed contraventions as outlined of the Clongriffin Belmayne Local Area Plan 2012, Dublin City Development Plan 2016-2022 and the Draft Dublin City Development plan 2022-2028.

Appendix 1 IAA Correspondence

Irish Aviation Authority
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Operations
Directorate

An Stiúirtheoireacht
Oibríochtaí

**Mr. Luke Broghan
John Spain Associates
39 Fitzwilliam Place
Dublin 2
D02 ND61**

Re. Proposed Development at Mayne River Ave, Priorstown, Dublin 5

Dear Mr. Livingstone and to whom it may concern,

For the purposes of the pre-planning application process as referenced above and in my capacity as IAA Air Navigation Service Provider (ANSP) Manager Airspace and Navigation, I have received and reviewed pre-planning information in relation to this development, as supplied by John Spain Associates.

The heights /elevations of the proposed structure and associated construction crane to be used associated with this project are noted and, in my assessment, do not affect flight procedures at Dublin Airport, *provided that any crane associated with this project does not exceed an Above Mean Sea Level (AMSL) elevation of 106m.*

The proposed elevations to be used are also below the elevation assessed as potentially affecting the daa (copied) managed Obstacle Limitation Surfaces (OLS) at Dublin Airport.

I may be contacted for any clarification if required, as follows:

Email: cathal.maccristail@iaa.ie

Mobile: 086 0527130

Cathal Mac Criostail
IAA Manager Airspace and Navigation
28th June 2022

cc. Paul Cumiskey, daa
IAA Corporate Affairs Planning