



May'22

Title

*Environmental Impact Assessment –
Preliminary Examination Report*

Development Description

“Proposed Public Realm Improvements”

Location

*Duke Street, Duke Street Lower & Upper, Lemon
Street, Anne’s Lane and Anne Street South at
Dublin 2*

Applicants

Dublin City Council

Prepared by:

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TABLE OF CONTENTS

- 1.0 INTRODUCTION
- 2.0 THE SUBJECT SITE
- 3.0 PROPOSED DEVELOPMENT
- 4.0 PRELIMINARY EXAMINATION REVIEW
- 5.0 PRELIMINARY EXAMINATION CONCLUSION

1.0 INTRODUCTION

This Environmental Impact Assessment Preliminary Examination Report has been prepared by Colette Casey (BSc) in partnership with James O' Donnell, Planning Consultant (BA, MRUP, Dip APM) on behalf of Dublin City Council who is applying for planning permission for "*Proposed Public Realm Improvements*" at Duke Street, Duke Street Lower & Upper, Lemon Street, Anne's Lane and Anne Street South at Dublin 2.

In this regard a Part 8 process in accordance with the Planning and Development Regulations 2001 (as amended) is being carried out. The purpose of this report is to inform the EIA screening exercise to be undertaken by the Planning Authority.

This application is accompanied by;

- An Appropriate Assessment Screening Report (May 2022) prepared by Planning Consultancy Services
- Architectural Impact Assessment (April 2022) prepared by Archaeology plan- Heritage Solutions
- Proposed Site Layout prepared by Dublin City Council
- Associated maps, drawings and layouts.

This Preliminary Examination report has been prepared by Colette Casey (BSc (Hons)) in partnership with James O'Donnell, Planning Consultant (BA, MRUP, Dip APM). Colette Casey is an experienced and qualified ecologist. She has obtained a Bachelor's degree in Environmental Science (BSc Hons) at the National University of Ireland, Galway. She has been involved in the completion of numerous Appropriate Assessment Screening Reports (AASR's), Natura Impact statements (NIS's), Construction Environmental Management Plans (CEMP's), Otter and Bat Surveys in the Republic of Ireland. She is an active member of Birdwatch Ireland, Bat conservation Ireland and a Registered member of CIEEM.

James O' Donnell is a qualified Town Planner and Project Manager with over 22 years planning experience in both the public and private sector in the west of Ireland, including 6 year's experience as a local authority planning officer. James has extensive experience in the project management and delivery of a wide range of complex planning applications requiring environmental and ecological assessment, in accordance with the requirements of the EU Habitats Directive and EIA Directives. James has particular experience in the preparation of EIA Preliminary Examination Reports and EIA Screening Reports for a wide range of projects in the Republic of Ireland.

1.1 PURPOSE OF PRELIMINARY EXAMINATION REPORT

This report examines “*Environmental Impact Assessment Screening*” for the proposed development. The purpose of this report is to enable the Planning Authority to make a determination as to whether or not an EIA is required in the first instance, and to determine as to whether not a Screening Report as per Schedule 7A of the Planning & Development Regulations 2001 (as amended) is required in this case.

1.2 METHODOLOGY

This “*Environmental Impact Assessment Screening*” has been prepared with regard to the following documents (where relevant and/or applicable):

- Planning and Development Act 2000 (as amended);
- Planning and Development Regulations 2001-2021 (as amended);
- Directive 2011/92/EU¹ as amended by 2014/52/EU²;
- EPA (2015) Advice Notes for Preparing Environmental Impact Statements – Draft September 2015
- EPA (2017) Guidelines on the information to be contained in Environmental Impact Assessment Reports – Draft August 2017;
- EPA (2021) Good Practice Guidance on Cumulative Effects Assessment in Strategic Environmental Assessment;
- European Commission (1999) Guidelines for the Assessment of Indirect and Cumulative Impacts as well as Impact Interactions;
- European Commission (2017) Environmental Impact Assessment of Projects – Guidance on Screening;
- DoEHLG (2003) Environmental Impact Assessment (EIA) - Guidance for Consent Authorities regarding Sub-Threshold Development; and
- DoHPLG (2018) Guidelines for Planning Authorities and An Bord Pleanála on carrying out Environmental Impact Assessment – August 2018.
- Office of the Planning Regulator (June, 2021) “*OPR Practice Note PN02 – Environmental impact Assessment Screening.*”

¹ Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment

² Directive 2014/52/EU of the European Parliament and of the Council of 16 April 2014 amending Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment.

1.3 LEGISLATION

As further described in Section 4 of this Screening Report, the proposed works consist of Public Realm Improvements including paving, public lighting, drainage, service ducts, tree planting works at Duke Street, Duke Street Lower & Upper, Lemon Street, Anne's Lane and Anne Street South at Dublin 2. The total area of works is to be approximately 5,445 sqm site.

As it pertains to this application, the requirement to complete an EIA as per Directive 2014/52/EU amending Directive 2011/92/EU is transposed into Irish legislation primarily via the:

- Planning and Development Act 2000 (as amended) (the 'Act'); and
- Planning and Development Regulations 2001 (as amended) (the 'Regulations').

Pursuant to Article 81(ca) of the Regulations 2001, a Planning Authority must indicate its conclusion under article 120(1)(b)(i) (a preliminary examination) or screening determination under article 120(1B)(b)(i) in the public notices that form part of a Part 8 process.

Where a local authority proposes to carry out a subthreshold development, the authority shall carry out a preliminary examination of, at the least, the nature, size or location of the development.

Where the local authority concludes, based on such preliminary examination, that—

(i) there is no real likelihood of significant effects on the environment arising from the proposed development, it shall conclude that an EIA is not required,

(ii) there is significant and realistic doubt in regard to the likelihood of significant effects on the environment arising from the proposed development, it shall prepare, or cause to be prepared, the information specified in Schedule 7A for the purposes of a screening determination, or

(iii) there is a real likelihood of significant effects on the environment arising from the proposed development, it shall— (I) conclude that the development would be likely to have such effects, and (II) prepare, or cause to be prepared, an EIAR in respect of the development.

2.0 THE SUBJECT SITE

2.1 SITE LOCATION & CONTEXT

The site is located along Duke Street, Duke Street Lower & Upper, Lemon Street, Anne's Lane and Anne Street South at Dublin 2. The subject site outlined in red consists of the public realm areas within the aforementioned streets. The subject site is bounded by existing mixed-use buildings which enclose each of the streets.

The site is located along Duke Street, Duke Lane Lower & Upper, Lemon Street, Anne's Lane and Anne Street South in the Grafton Quarter, Dublin 2. The existing environment consists of built up, centrally located urban streets in heart of Dublin City. The topography of the area is generally flat, with minimal vegetation or ecological corridor and no identifiable watercourses on site.

The site of the proposed works will be carried out along the public street which is bounded on all sides by retail and commercial units.

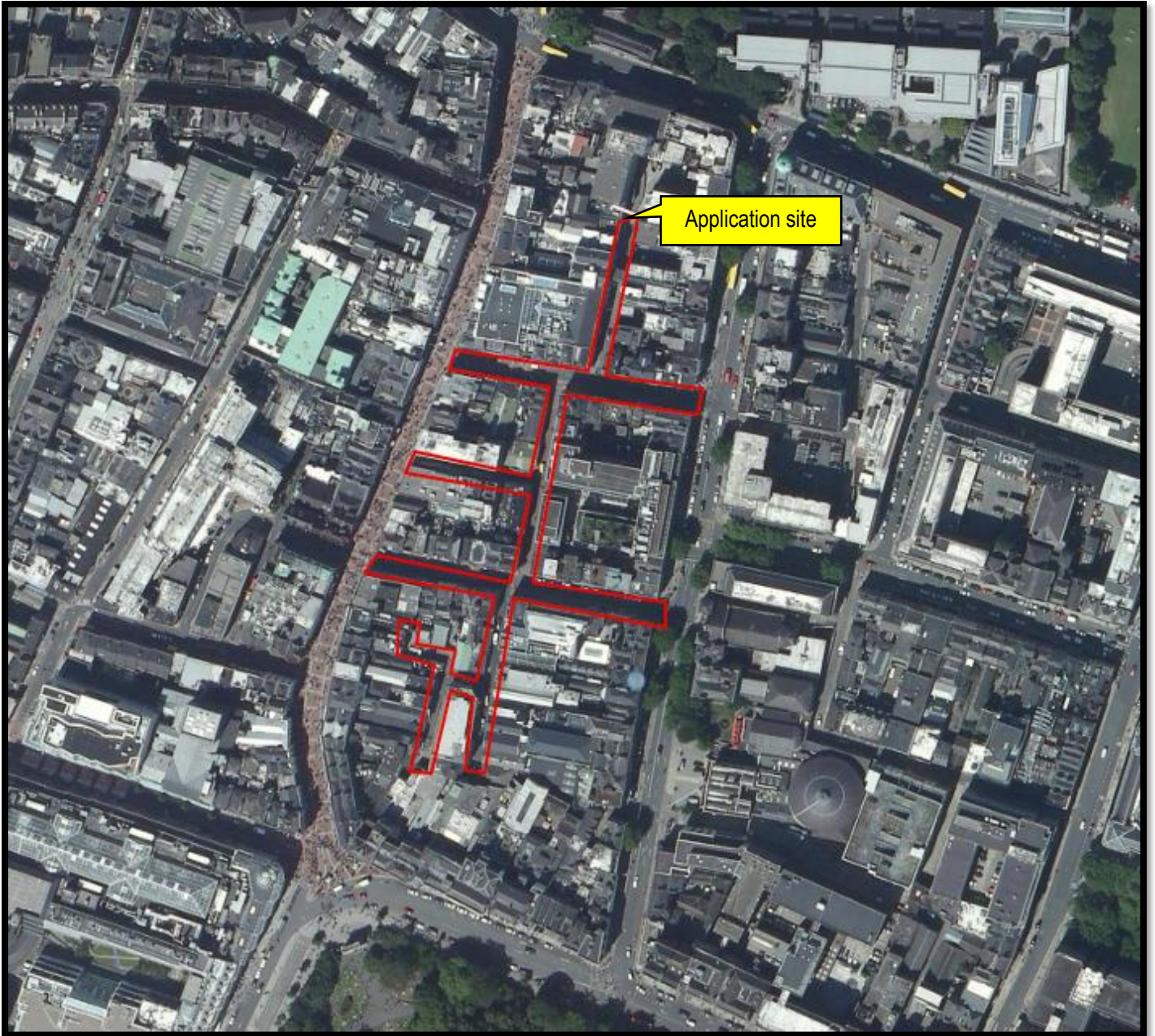


Figure 1: Aerial Photo extract showing indicative location of subject site



Figure 2: Photo looking east along Anne Street South, with St. Ann's Church of Ireland in background



Figure 3: Photo of Anne's Lane



Figure 4: Photo looking north along Duke Lane Upper



Figure 5: Photo looking east along Lemon Street

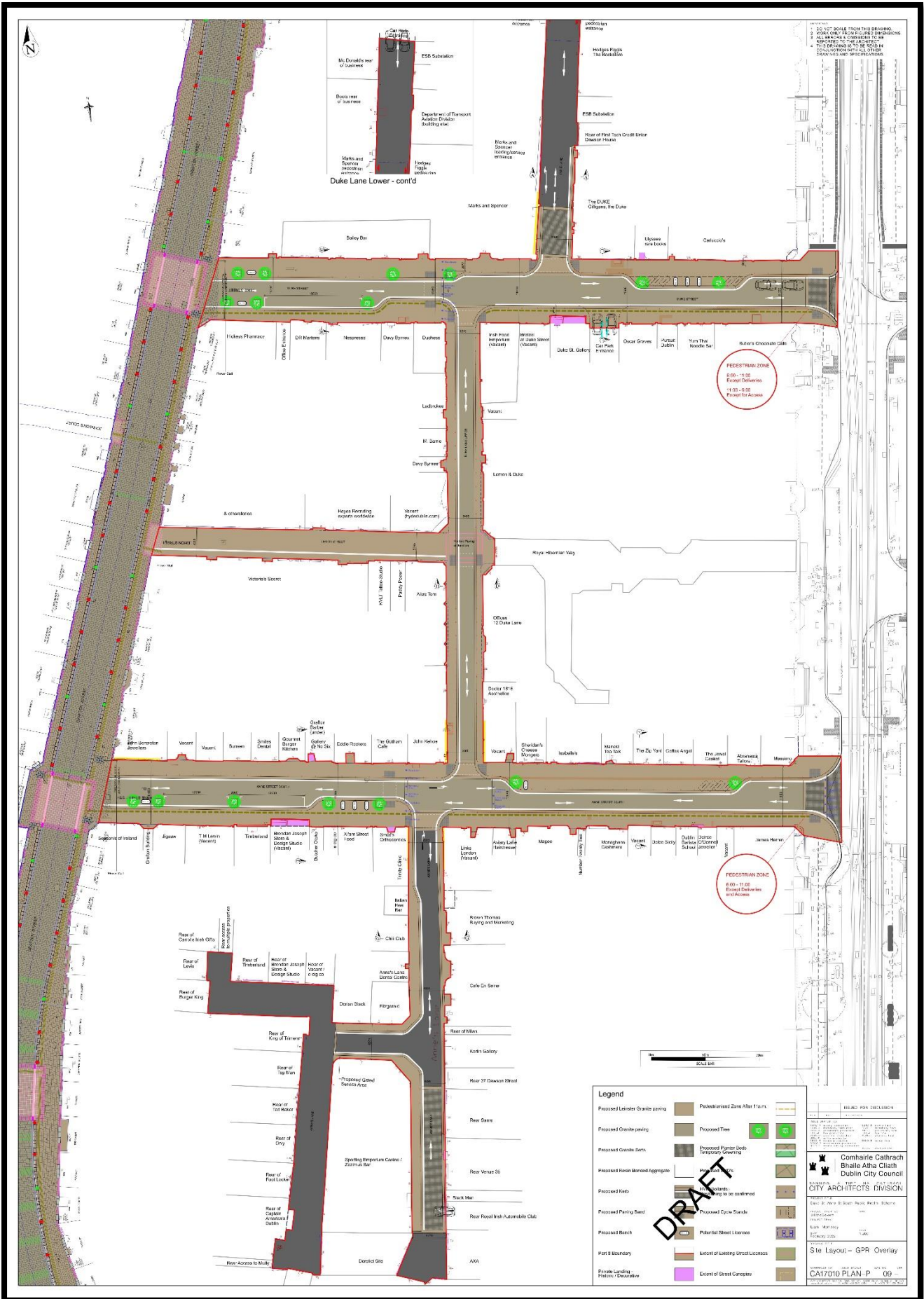


Figure 6: Extract from Proposed Draft Site Layout prepared by Dublin City Council

2.2 ENVIRONMENTAL SENSITIVITIES OF THE SITE

2.2.1 Soils

The Soil Group is “*Man Made*”. Subsoils are categorised as Man Made which is well drained due to the man-made drainage systems in place.

2.2.2 Hydrology

The closest major water feature in the area is the Liffey Estuary Upper, which is located c.685m to the north of the site. Under the Water Framework Directive status assessments 2013 – 2018, the Liffey Estuary Upper (IE_EA_090_0400) is of Good status, EPA Code- IE_EA_090_0400. Downstream, the River Liffey flows east towards Dublin Bay.

There are there are no notable surface water features onsite and no direct hydrological pathways to offsite surface water bodies.

The Stein River previously historically travelled through the area until it was incorporated into the public sewage system, this was carried out pre 1980’s.

2.2.3 Acquifer

The GSI Bedrock Units are recorded as Dinantian Upper Impure Limestones and is Calcareous.

2.2.4 Air Quality

The Air Quality Index Regions indicate that Air Quality Index is 3 – Good (updated Tue 25-May-2021). The Area is listed at Dublin City, Dublin, Region1

2.2.5 Natura 2000 Network

There are no Natura 2000 Environmental Designations i.e. (European Sites) on or in close proximity to the subject site. There are no water courses within the site. The “River Liffey” is located approximately 685m to the north of the application site, with high levels of development between the application site and a Natura 2000 site. This river flows east (away from the subject) into Dublin Bay. There is no discernible hydraulic pathway or receptor to connect the proposed development site and the River Liffey.

The nearest European site, South Dublin Bay SAC lies 3.12km away from the application site and 2.79km from the South Dublin Bay and River Tolka Estuary SPA (See Figure 6 below).

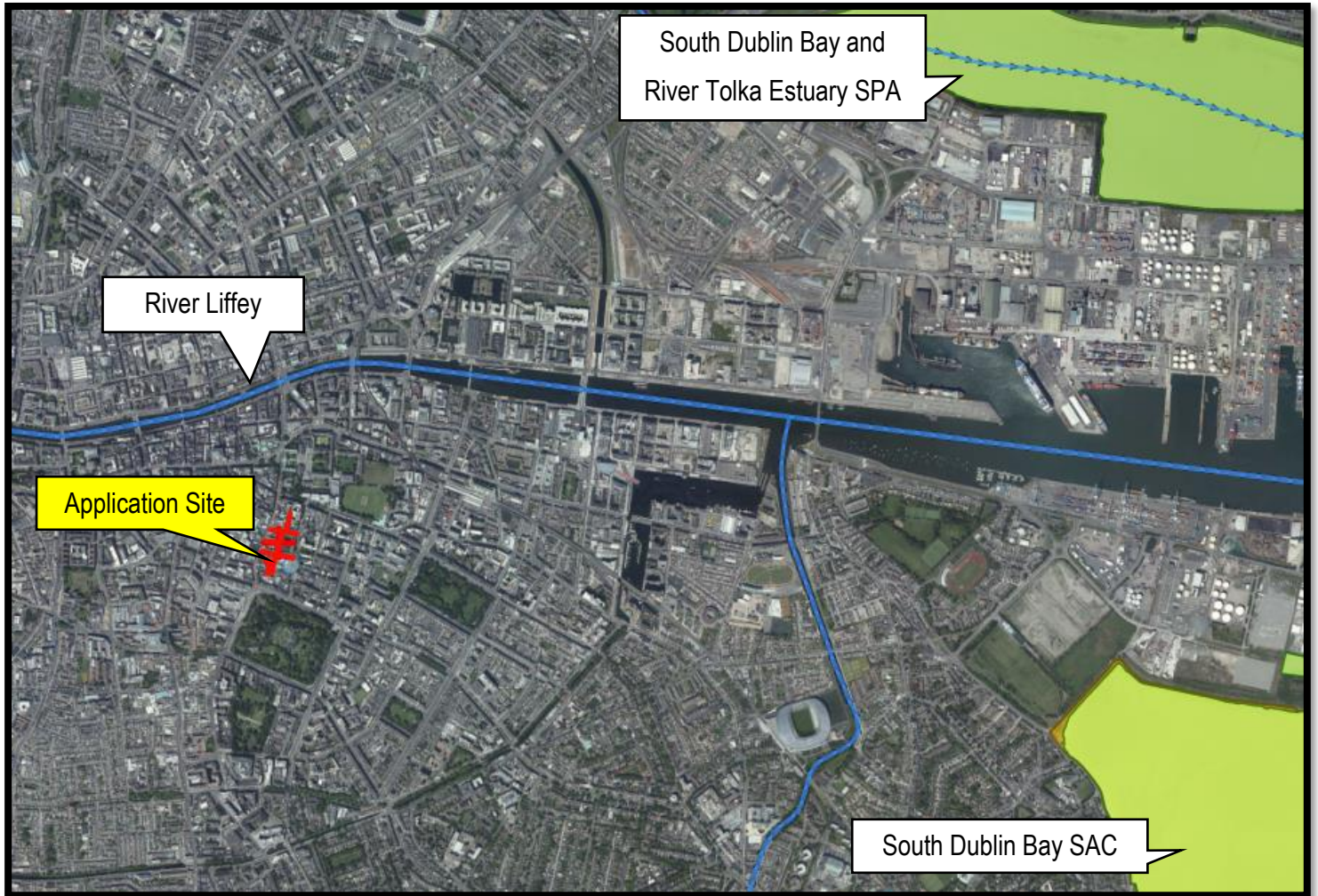


Figure 7: Site Location (Red X) in Relation to the South Dublin Bay SAC & South Dublin Bay and River Tolka Estuary SPA
Natura 2000 Sites

As per the *“Appropriate Assessment Screening Report”* prepared by Planning Consultancy Services, there are no pathways and no connectivity to any European Sites considered in the assessment. This report concludes, inter alia that *“At this distance and due to the nature of the surrounding area, the level of development already present, it is not expected that the proposed development will give rise to any direct impacts on the Natura 2000 sites in question..”*

2.2.6 Natural Heritage Areas

There are no Natural Heritage Areas (NHA’s) or proposed Natural Heritage Areas (pNHA’s) on or in close proximity to the subject site. The nearest pNHA to the Proposed Development is the Grand Canal pNHA 1.4km east and the Royal Canal pNHA 1.5km north east.

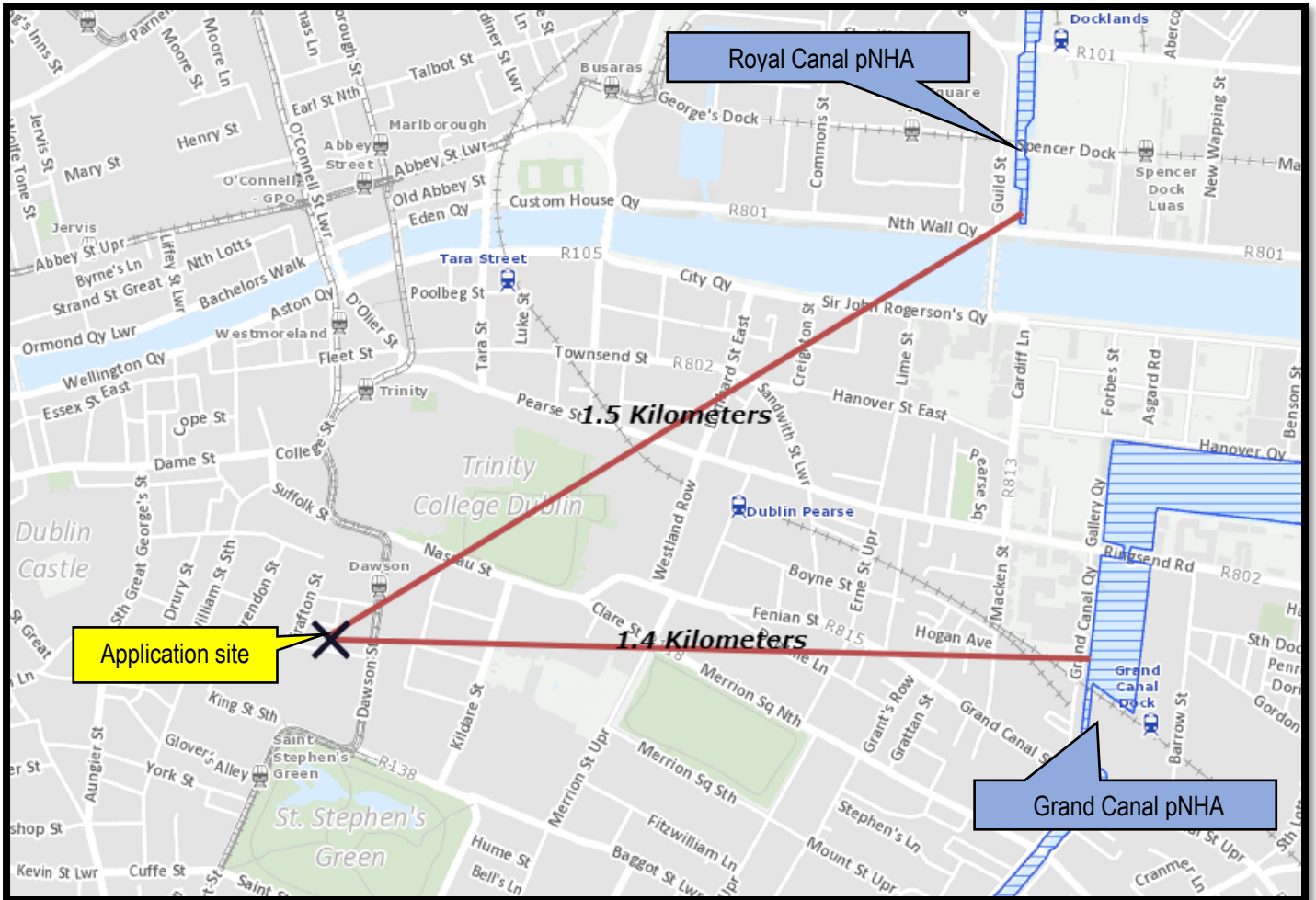


Figure 4: Extract from www.myplan.ie showing location of subject application site relative to pNHA's in the wider area.

2.2.7 Ecology

The site is not deemed ecologically sensitive. Due to the location being located in Dublin City Centre, the level of development in the area and given there is no identifiable ecological corridors.

2.2.8 Built Heritage

It is not considered that the proposed public realm improvements will impact on the existing character of the area, it is expected that the improvements will enhance the streetscape. It is assumed that any tables and chairs and outdoor seating areas are subject to section 254 licences from the Planning Authority. None of the proposed works are predicted to impact on any of the surrounding protected structures.

2.2.9 Development Plan Specific Objectives

Currently, the Statutory Land Use Plan for the area is the Dublin City Council Development Plan 2022-2028. In terms of its Zoning Context, the site is not zoned. There are no Natural Heritage Designations on or in close proximity to the subject site. The Public Realm Improvement Scheme is likely to enhance the existing streetscape.

3.0 PROPOSED DEVELOPMENT

The extent of this proposed Part 8 development is best described in the public notices. The proposed development consists of “Public Realm Improvements” at Duke Street, Duke Street Lower & Upper, Lemon Street, Anne’s Lane and Anne Street South at Dublin 2.

4.0 PRELIMINARY EXAMINATION REVIEW

4.1 GUIDANCE ON ENVIRONMENTAL IMPACT ASSESSMENT SCREENING

Advice on this matter is set out in the recent publication prepared by the Office of the Planning Regulator (OPR) entitled “OPR Practice Note PN02 – Environmental Impact Assessment Screening” (May 2021). This practice note provides useful information and guidance in relation to the requirement for Environmental Impact Assessment, which aids Planning Authorities as the Competent Authority (CA) in this area.

Section 3.0 of the OPR First Practice note PN02 sets out a “Step-by-step Approach” to EIA Screening. This includes;

- Step 1: Understanding the proposal, and,
- Step 2: Preliminary Examination and Conclusion

See Figures 8 & 9 below.



Figure 8: Extract from OPR Guidance showing Step 1 of “Step-by-step approach to EIA Screening for Development Proposals.”

As per Step 1 (a) of the OPR Guidance, the proposed application is a project for the purpose of Environmental Impact Assessment (EIA).

4.2 MANDATORY THRESHOLD ASSESSMENT

As per Step 1(b) of the OPR Guidance, an assessment as to whether a Mandatory EIA is required.

Schedule 5 of the Regulations prescribes the classes and scale of development which require EIA.

There is no class set out under Part 1 of Schedule 5 in relation to the provision for “Public Realm Improvements”. As the project is not listed in Schedule 5 Part 1, a mandatory EIA is not triggered in this context.

Whilst the classes set out in Part 2 of Schedule 5 does not specifically include for ‘Public Realm Improvements’, Class 10 entitled “Infrastructure Projects” refers to;

(a) Industrial estate development projects, where the area would exceed 15 hectares.

(b) (i) Construction of more than 500 dwelling units.

(ii) Construction of a car-park providing more than 400 spaces, other than a car-park provided as part of, and incidental to the primary purpose of, a development.

(iii) Construction of a shopping centre with a gross floor space exceeding 10,000 square metres.

(iv) Urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere

(c) All construction of railways and of intermodal transshipment facilities and of intermodal terminals not included in Part 1 of this Schedule which would exceed 15 hectares in area.

(d) All airfields not included in Part 1 of this Schedule with paved runways which would exceed 800 metres in length.

(dd) All private roads which would exceed 2000 metres in length.

(e) New or extended harbours and port installations, including fishing harbours, not included in Part 1 of this Schedule, where the area, or additional area, of water enclosed would be 20 hectares or more, or which would involve the reclamation of 5 hectares or more of land, or which would involve the construction of additional quays exceeding 500 metres in length.

(f) (i) Inland waterway construction not included in Part 1 of this Schedule which would extend over a length exceeding 2 kilometres.

(ii) Canalisation and flood relief works, where the immediate contributing sub-catchment of the proposed works (i.e. the difference between the contributing catchments at the upper and lower extent of the works) would exceed 100 hectares or where more than 2 hectares of wetland would be affected or where the length of river channel on which works are proposed would be greater than 2 kilometres.

(g) Dams and other installations not included in Part 1 of this Schedule which are designed to hold water or store it on a long-term basis, where the new or extended area of water impounded would be 30 hectares or more.

(h) All tramways, elevated and underground railways, suspended lines or similar lines of a particular type, used exclusively or mainly for passenger transport.

(i) Oil and gas pipeline installations and pipelines for the transport of CO₂ streams for the purposes of geological storage (projects not included in Part 1 of this Schedule).

(j) Installation of overground aqueducts which would have a diameter of 1,000 millimetres or more and a length of 500 metres or more.

(k) Coastal work to combat erosion and maritime works capable of altering the coast through the construction, for example, of dikes, moles, jetties and other sea defence works, where the length of coastline on which works would take place would exceed 1 kilometre, but excluding the maintenance and reconstruction of such works or works required for emergency purposes.

(l) Groundwater abstraction and artificial groundwater recharge schemes not included in Part 1 of this Schedule where the average annual volume of water abstracted or recharged would exceed 2 million cubic metres.

(m) Works for the transfer of water resources between river basins not included in Part 1 of this Schedule where the annual volume of water abstracted or recharged would exceed 2 million cubic metres.

As the proposed project does not meet or exceed any thresholds outlined in Schedule 5 Part 1 or Part 2, a mandatory EIA is not triggered in this context.

For the purposes of discussion, “Public Realm Improvement” works could be considered under Class 10(b)(iv) which refers to “Urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere.” However, even if the proposed development were to be construed as being “Urban development” within a “business district”, it is important to note that it involves an area of 0.5446ha i.e. less than 2ha i.e. the threshold is not equaled to or exceeded. Therefore, the proposed development could be classified as “sub-threshold” development under Class 10(b)(iv).

Finally, it is noted that class 13 refers to;

“(a) Any change or extension of development already authorised, executed or in the process of being executed (not being a change or extension referred to in Part 1) which would:-

(i) result in the development being of a class listed in Part 1 or paragraphs 1 to 12 of Part 2 of this Schedule, and

(ii) result in an increase in size greater than –

- 25 per cent, or

- an amount equal to 50 per cent of the appropriate threshold,

whichever is the greater.”

In response, the proposed development does not result in an extension or expansion of the works already present, but is to improve the existing streetscape/public realm. Therefore the provisions of Class 13 would not apply to this case.

Accordingly, there is no mandatory requirement for EIA in this instance.

4.3 IS THE PROJECT SUB-THRESHOLD?

As per Step 1(c) of the OPR Guidance, a review as to whether the project is sub-threshold is required. None of the thresholds set out in Step 1(b) have been exceeded. However, the project could be construed as being sub-threshold development to Class 10(b)(iv) i.e. an “Urban Development” within a “Business District”, but being less than 2 hectares in area. It is considered that that a “Schedule 7a Screening determination” is not required in this case. As such, Step 1 (c) advises to proceed to Step 2 (explained in Figure 6 below) which requires a Preliminary Examination.

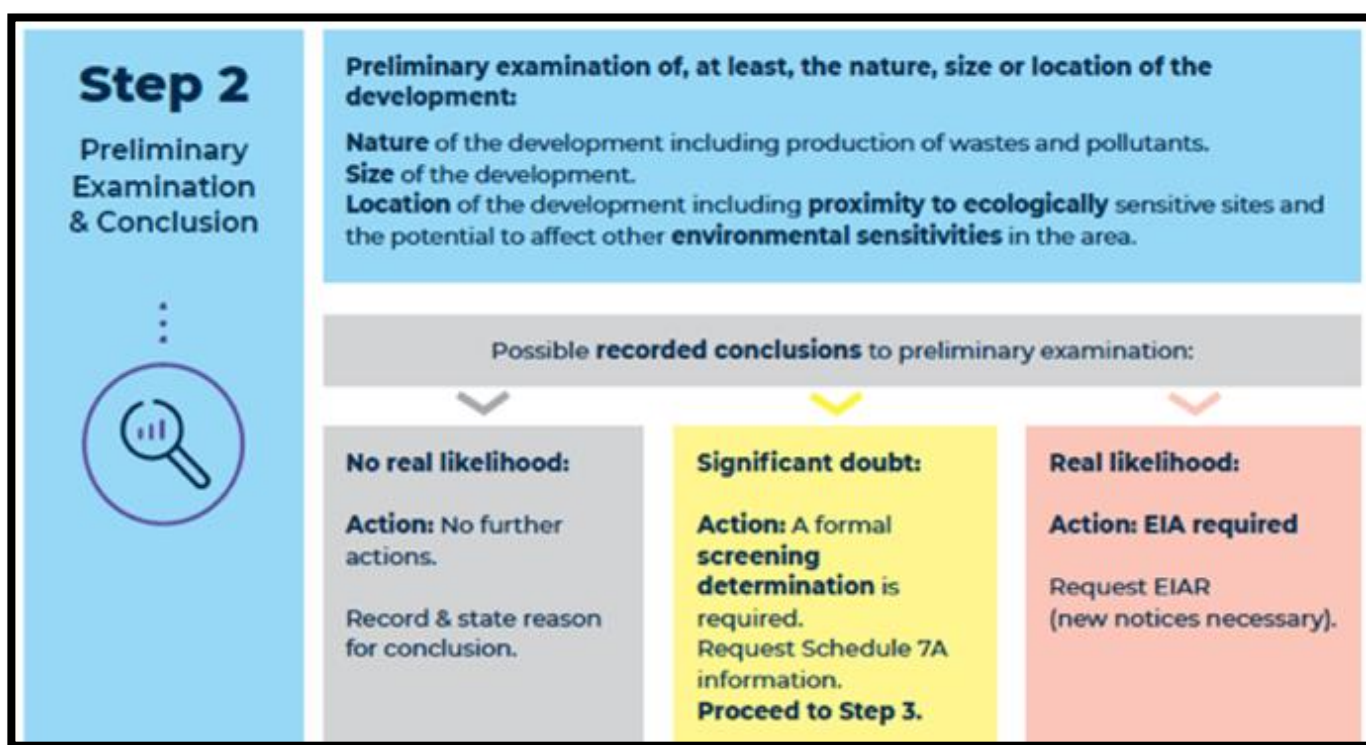


Figure 9: Extract from OPR Guidance showing Step 2 of “Step-by-step approach to EIA Screening for Development Proposals.”

4.4 PRELIMINARY EXAMINATION CONSIDERATIONS

In accordance with the legislation and OPR Guidance³, this section of the report will review at the least, the nature, size and location of the development.

4.4.1 Nature of the development

³ This section of the report responds to standard questions set out in Form 2 of the OPR Practice Note PN02.

The existing environment of the proposed site is an underutilised infill urban site. The topography of the site and the surrounding area is generally flat.

As per the Appropriate Assessment Screening report, this confirms that;

- *“At this distance and due to the nature of the surrounding area, the level of development already present, it is not expected that the proposed development will give rise to any direct impacts on the Natura 2000 sites in question.”*

Therefore, the subject site is not environmentally sensitive.

Table 1: Compliance with “Nature of the Development” criteria set out in Form 2 of the OPR Practice Note PN02, with respect to Preliminary Examination

OPR “Nature of the Development” Criteria	Comment
<i>“Is the nature of the proposed development exceptional in the context of the existing environment?”</i>	<p>No, as the proposed works are to improve on the existing infrastructure and is fitting to the existing environment. Therefore, the proposed development is not considered to be exceptional in the context of the existing environment.</p> <p>The proposed development is to be designed in accordance with Dublin City Council Sustainable Drainage Design and Evaluation Guide (2021) and is suitable to the existing environment.</p>
<i>“Will the development result in the production of any significant waste, or result in significant emissions or pollutants?”</i>	<p>The Site Layouts provided by Dublin City Council sets out surface water drainage proposals, including SuDS.</p> <p>The topography of the site is generally flat. Whilst minor levelling works and site drainage works are proposed along with maintaining existing drainage systems, large scale excavation works are not required to facilitate the development.</p> <p>In the light of the foregoing, it has been demonstrated that the proposed development will not result in the production of any significant waste, or result in significant waste and pollutions, which would adversely affect the environment.</p>

Owing to the Nature of the proposed development on this site, consisting of resurfacing, drainage and improvement works, there is no real likelihood of significant effects on the environment arising from the proposed development.

4.4.2 Size of the development

The development site comprises an overall area of 5446 sqm (measured area of subject streets). At this size and scale, and due to the fact that the works will be located entirely outside the designated area, it is not expected that the development will have any significant impact (direct, indirect or secondary in nature) on the Natura 2000 sites in this regard.

Table 2: Compliance with “Size of the Development” criteria set out in Form 2 of the OPR Practice Note PN02, with respect to Preliminary Examination

OPR “Size of the Development” Criteria	Comment
<p><i>“Is the size of the proposed development exceptional in the context of the existing environment?”</i></p>	<p>The site of the proposed development is located in the heart of Dublin City and is an existing streetscape, within an overall site size of 5446 sqm. The size of the development is not exceptional in the context of the existing built-up urban environment. The proposed works are to improve the existing public realm of the subject streets, this includes the repaving of existing street surfaces, public lighting, drainage, service ducts & tree planting works. Therefore, the size of the proposed development is not exceptional in the context of the existing environment.</p>
<p><i>“Are there cumulative considerations having regard to other existing and/or permitted projects?”</i></p>	<p>No development of any significance has taken place in recent years within the subject application site (consisting of the public realm areas of Duke Street, Duke Lane Lower & Upper, Lemon Street, Anne’s Lane and Anne Street South). It was ascertained that there has been a large number of planning applications in the adjoining area. Mainly these planning applications applied for changes of use, signage and other commercial alteration. Due to nature of the area already being well developed as a mixed-use commercial district, with no large scale developments or building works being carried out within the application site, no impacts are expected in this regard.</p>

Owing to the modest size of the proposed development, within the built-up area of Dublin City Centre, there is no real likelihood of significant effects on the environment arising from the proposed development.

4.4.3 Location

The application site currently consists of a streetscape, within the built environment and urban envelope of the Dublin City.

The site of the proposed public realm, improvements is bounded by commercial and retail units .

There are no Environmental Designations on or in close proximity to the subject site.

There are no water courses within the site. The “River Liffey” is located approximately 685m to the north of the application site, with a number of roads, laneways and buildings between the site and the River Liffey . This river flows eastwards (away from the subject) into Dublin Bay. There is no discernible hydraulic pathway or receptor to connect the proposed development site and the River Liffey. Furthermore, there are no identifiable hydraulic or ecological connections between the proposed development site and ant Environmental Designations in the wider area.

Table 3: Compliance with “Location” criteria set out in Form 2 of the OPR Practice Note PN02, with respect to Preliminary Examination

OPR “Location” Criteria	Comment
<p><i>“Is the proposed development located on, in, adjoining or does it have the potential to impact on an ecologically sensitive site or location?”</i></p>	<p>The location of the proposed development is not located on or in an ecologically sensitive location. This is an existing streetscape with the proposed works being to improve the existing conditions. Furthermore, owing to the distance between the subject site and nearest Natura 2000 site (c. 3.12km and 2.79km), and in the absence of identifiable hydraulic and ecological connections therein, it is considered that the proposed development does not have the potential to impact on the Natura 2000 Network. In addition, the subject site is located 1.3km from the nearest proposed Natural Heritage Area and no identifiable Natural Heritage Areas in close proximity, again with no hydraulic or ecological connection identified.</p>
<p><i>“Does the proposed development have the potential to affect other significant environmental sensitivities in the area?”</i></p>	<p>Due to the nature of the proposed works being to improve the existing urban environment, it is not predicted that the proposed development would have the potential to affect other significant environmental sensitivities in the area.</p> <p>The receiving environment has a high level of development and is located in the heart of Dublin City Centre. Given the existing extent of established infrastructure, together with the high levels of human activity at this location, no impacts are predicted in this regard.</p>

Therefore, owing to the location of the proposed development, and the absence of any identifiable pathways and/or ecological connections to watercourses and/or European sites, there is no real likelihood of significant effects on the environment arising from the proposed development.

Accordingly, a Schedule 7A EIA Screening Determination is not required in this instance.

5.0 PRELIMINARY EXAMINATION CONCLUSION

This Environmental Impact Assessment Preliminary Examination report confirms that the project is not listed in Schedule 5 Part 1 or does not meet or exceed the thresholds in Part 2 the Planning Regulations. As such a mandatory EIA is not required in this case. In addition, having reviewed the nature, size and location of the proposed development, it can be concluded in this Preliminary Examination that there is no real likelihood of significant effects on the environment arising from the proposed development. In these circumstances, neither a Schedule 7A EIA Screening Determination nor an Environmental Impact Assessment Report is required in this case.

APPENDIX A – SITE LAYOUT PLAN

