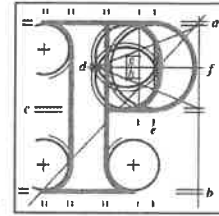
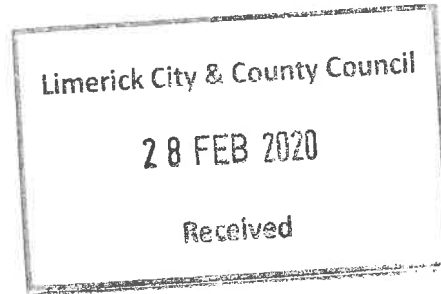


Our Case Number: ABP-306270-19



An
Bord
Pleanála

Limerick City & County Council
c/o Séamus Hanrahan
Corporate Headquarters
Merchant's Quay
V94EH90
Co. Limerick



Date: 26 February 2020

Re: Flood protection measures around King's Island.
King's Island, Limerick.

A Chara,

Enclosed for your information are **two copies of three submissions** received by the Board in relation to the above-mentioned proposed development from the following:


1. Inland Fisheries Ireland
2. Environmental Trust Ireland
3. Hayes Solicitors

Please ensure that one copy of these submissions is kept available for inspection by the public.

If you have any queries in relation to the matter please contact the undersigned officer of the Board.

Please quote the above-mentioned An Bord Pleanála reference number in any correspondence or telephone contact with the Board.

Yours faithfully,

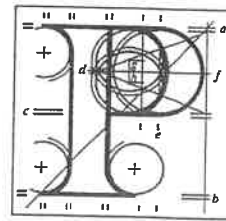

Rob Mac Giollanáth
Executive Officer
Direct Line: 01-8737247



JA05

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Glaó Áitiúil	LoCall	1890 275 175
Facs	Fax	(01) 872 2684
Láithreán Gréasáin	Website	www.pleanala.ie
Ríomhphost	Email	bord@pleanala.ie

64 Sráid Maoilbhríde	64 Marlborough Street
Baile Átha Cliath 1	Dublin 1
D01 V902	D01 V902



Iascach Intíre Éireann
Inland Fisheries, IFI Limerick
Ashbourne Business Park, Dock Road
Limerick
V94 NPE0

Date: 26 February 2020

Re: Flood protection measures around King's Island.
King's Island, Limerick.

A Chara,

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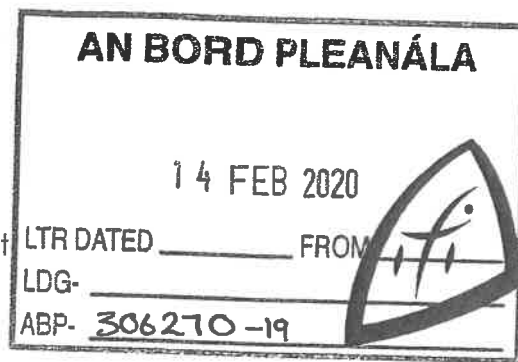
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D01 V902	D01 V902

An Bord Pleanála
64 Marlborough Street
Dublin 1 D01 V902



**Iascach Iníre Éireann
Inland Fisheries Ireland**

14.02.2020

**Re.: Planning Referral under Section 226 of the Planning and Development Act, 2000
King's Island Flood relief Scheme**

Dear Sir/Madam,

In respect of the above named planning application, Inland Fisheries Ireland (IFI) has considered the application and has the following observations and recommendations to make. IFI acknowledge that pre-planning consultation has taken place between the project proponents and Inland Fisheries Ireland and that the outcome of this consultation is reflected in the current planning application.

Where possible IFI recommend that any quay wall vegetation below spring high tide level is left in-situ as smelt spawning substrate. While no smelt spawning has been confirmed in the Abbey River this is more likely due to lack of survey effort rather than their absence from the area. Smelt spawning is controlled by water temperature and other environmental cues and may therefore extend 1-2 weeks either side of the March period given in Table 8-11 of the EIAR.

The EOP/CEMP and any works specific method statements relating to works within or near watercourses should be agreed in advance with IFI.

The working platform of the jack-up rig should be sealed and have edge protection to ensure there is no loss of material to the river.

During construction, IFI require that:

- All discharges to and through the surface water collection and disposal system to groundwater and thence to surface water shall not be of environmental significance.
- All mitigation measures identified in the EIAR are implemented in full.
- IFI recommend that all piling activities begin with a ramp-up or 'soft-start' procedure to more fully mitigate the impact of any noise on the movement of fish species through the works area.
- There shall be no permitted discharges to surface water resources of contaminated water or surface water run-off from the development.
- Servicing including refuelling of plant and equipment shall only be undertaken on impermeable hard standing areas.



**Iascach Iníre Éireann
Inland Fisheries Ireland**

- All plant and equipment used within the subject site shall carry spill clean-up kits and not be used or operated if there is evidence of leakage or damaged oil seals.
- There shall be no discharge during the construction period of cementitious materials or residues thereof to the surface water or drainage network.
- When cast-in-place concrete is required, all works shall be undertaken in the dry and effectively isolated from entering any receiving surface or foul sewers for a period sufficient to cure the concrete.
- Concrete delivery vehicles shall be precluded from washing out at locations that could result in a discharge to the surface or foul sewers.
- Where cement or lime is stored on site, it shall be held in a dry secure area.
- All oils and fuels used on or within the site shall be stored in secure bunded areas and servicing including refuelling of plant and equipment shall only be undertaken on impermeable hard standing areas.
- Where temporary diesel or petrol driven pumps are used within the site, they shall be positioned within portable bunded units.

Any silt curtains to be deployed should comply with the relevant European Standard CE 1137-CPR-0613/29

The timing for any instream works is strictly July to September in any one year.

Please do not hesitate to contact IFI should you require further detail or clarification on any matter.

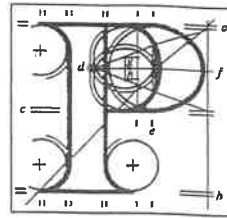
Yours sincerely,

Jane Gilleran

.....

Jane Gilleran
Fisheries Environmental Officer
Inland Fisheries Ireland - Limerick

Our Case Number: ABP-306270-19



An
Bord
Pleanála

Environmental Trust Ireland
c/o Michelle Hayes
2/3 Glentworth Street
Co. Limerick

Date: 26 February 2020

**Re: Flood protection measures around King's Island.
King's Island, Limerick.**

A Chara,

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Yours faithfully,

Rob Mac Giollarnáth
Executive Officer
Direct Line: 01-8737247

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D01 V902

ENVIRONMENTAL TRUST IRELAND

Environment | Conservation | Biodiversity | Ecology | Climate Change | Heritage | Advocacy



An Bord Pleanála,
64 Marlborough Street,
Dublin 1.

13th February 2020


AN BORD PLEANÁLA	
LDG-	0244 36 -26
ABP.	306270-19
Fee: €	50
Time:	17:27
Type:	CH2
By:	hand
14 FEB 2020 204	

Dear Sir/Madam,

Please find enclosed submission on the proposed developed known as "King's Island Flood Relief Scheme" and more particularly described in the attached submission together with cheque for €50..

For and on behalf of: ENVIRONMENTAL TRUST IRELAND

Yours faithfully,


Michelle Hayes, Solicitor
President, Environmental Trust Ireland,
2 / 3 Glentworth Street,
Limerick.

ENVIRONMENTAL TRUST IRELAND

**Environment | Conservation | Biodiversity |
Ecology | Climate Change | Heritage | Advocacy**



**SUBMISSION ON DIRECT PLANNING APPLICATION BY
LIMERICK CITY & COUNTY COUNCIL TO AN BORD
PLEANALA UNDER SECTION 226 of the Planning and
Development Act for Proposed Flood Relief Scheme - KING'S
ISLAND, Limerick**

RE: ABP Ref No. 306270 / 19

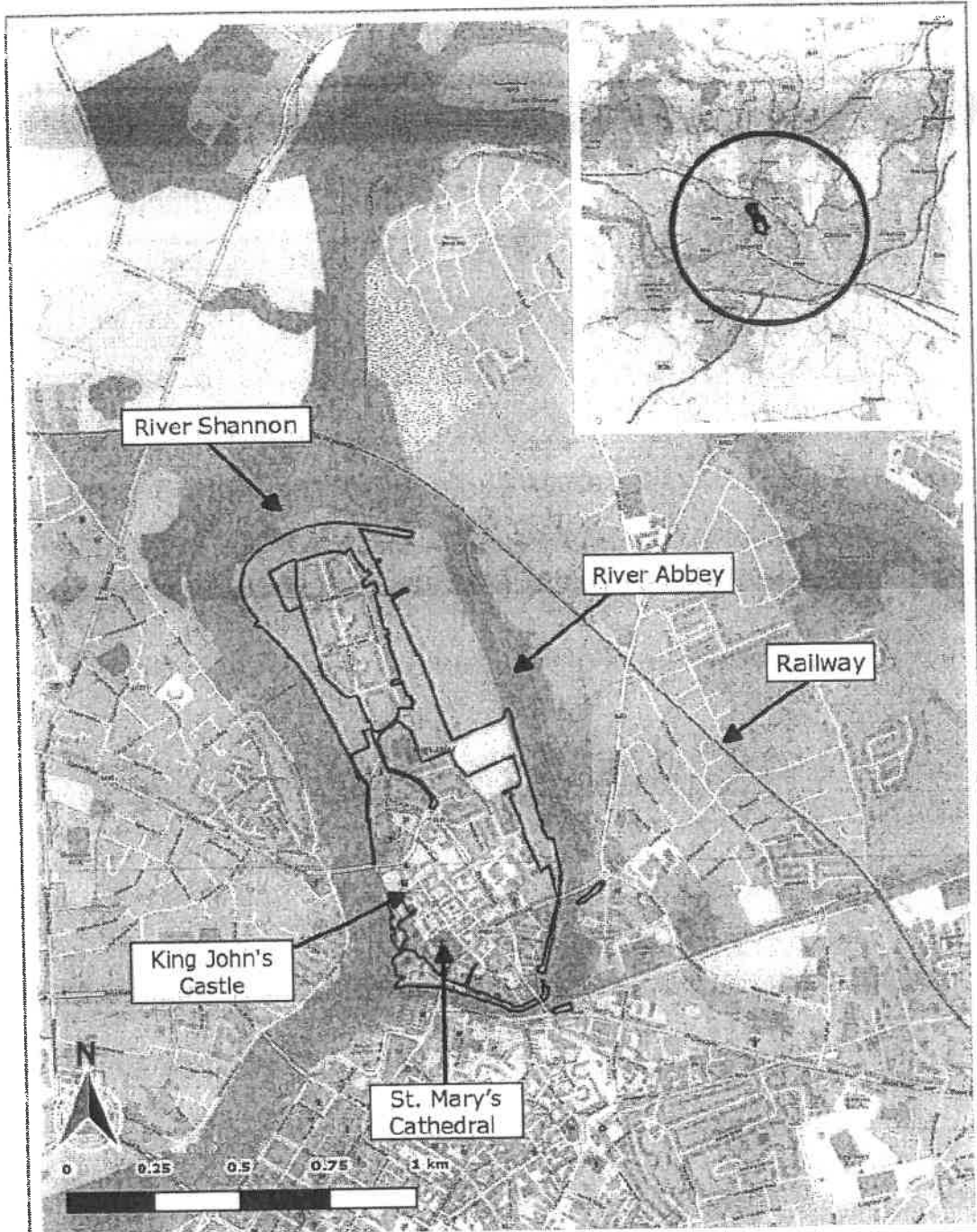
**Michelle Hayes, Solicitor
President,
ENVIRONMENTAL TRUST IRELAND**

1. PROPOSED DEVELOPMENT LOCATION:

King's Island, Limerick contains a significant historic, archaeological and medieval heritage including King John's Castle and St. Mary's Cathedral, which are of international importance. It is surrounded by the River Shannon and the Abbey River, both of which are tidal at this location and form part of the Lower River Shannon Special Area of Conservation (SAC). King's Island is situated upstream of the River Shannon and River Fergus Special Protection Area (SPA). These Natura 2000 sites are environmentally sensitive and are of international importance for their wetland, intertidal and estuarine habitats as well as populations of certain designated bird species. They are protected at European level under the Habitats Directive (92/43/EEC), the Birds Directive (2009/147/EC), the Water Framework Directive (2000/60/EC) and also protected under national legislation such as the Wildlife Acts and other secondary legislation. King's Island is also in close proximity to Knockalisheen Marsh, a National Heritage Site (NHA). The proposed development is not only constrained by the sensitive environment it is located in but also by its historic and medieval character and setting.

The northern part of the island contains existing embankments, which has resulted in the creation of wetland habitat of environmental conservation value and forms part of the SAC. The southern part of King's Island also contains existing flood defences including the historic quay walls.

The proposed development will include construction of new and higher flood defence walls, demolition of parts of existing quay walls, creation of earthen embankments, replacement of cantilever railing viewing points with glazed panels, dredging of the river bed, extensive excavations works along quay walls, use of electric currents to remove larvae of endangered species from the river bed, construction of engineering works platforms and barge / jack up rigs on the river, blanket removal of protected species, loss of part of marsh wetland protected habitat with consequential significant adverse impact upon environmental and conversation status, visual amenity and biodiversity.



Legend

— Site boundary



KING'S ISLAND
WINDFARM DEVELOPMENT



OPW ARUP



Comhairle Cathrach
 & Contae Lú
 Limerick City
 & County Council



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JBA Consulting Engineers and Scientists Ltd
 24 Grove Island
 Cahally
 Limerick, Ireland

JBA Consulting Engineers and Scientists Ltd
 24 Grove Island
 Cahally
 Limerick, Ireland

**Environmental Impact Assessment Report
 Figure No.1-1 -Site location map**

Drawn by: JES	Scale: 1:30000
Checked by: BOC	
Approved by: BOC	
File Name: 20150353 - Site location plan	
Status: Current	

2. PROPOSED DEVELOPMENT IS PREMATURE:

2.1 Archaeological and Cultural Heritage:

The planning documentation submitted by the developer to An Bord Pleanála states that Archaeological testing is scheduled for Spring 2020, subject to a pending application for Ministerial Consent, to inform the detailed design stage and to better define the exact location and extent of the Limerick City Walls and other associated structures. In circumstances where the location and extent of the historic Limerick City walls has not been conclusively established and is awaiting archaeological assessment and testing, the proposed development is clearly premature. For example, the planning documentation states:

"To the northwest of the Civil offices, an historic Bridge links the old city wall (which is a National monument) to an historic Mill structure, the remains of which can just be seen protruding from the historic quay wall. An historic tunnel structure is also located in this area."

The only assessment conducted by the developer was a desk study assessment. It is submitted that this is inadequate where such significant features as parts of the walls of Limerick or historic tunnels could be destroyed or seriously compromised in the construction stage. It is too late to conduct comprehensive archaeological assessments

and testing after the event; this should have been completed well in advance of any application to An Bord Pleanála.

2.2 WATER ENVIRONMENT (ABSTRACTIONS) BILL

The Water Environment (Abstractions) Bill which will allow the construction of a 170 km pipeline for abstraction of water from the River Shannon to supply Dublin's water needs has been approved by Cabinet. This project has enormous potential environmental consequences for which no assessment is yet available. If this project materialises, it will dramatically reduce the amount of water in the Shannon and irrevocably alter ecosystems and habitats along the Shannon hinterland. This project would inevitably reduce the threat of flooding thereby rendering the current proposed development obsolete. It is noted that the EIAR report in considering cumulative effects of current and proposed developments was silent on this major project.

3. REMOVAL OF PROTECTED SPECIES AND HABITATS;

3.1 The proposed development will result in loss of part of the marsh habitat within the European protected Special Area of Conservation for the creation of the embankment. The extent of the loss, which is unnecessary and ecologically destructive has not been assessed or properly assessed. Neither has the type of vegetation which will

be lost within the SAC been described or assessed or the consequential biodiversity loss which will ensue. Further, there has been no proper assessment of the impact of poor drainage as opposed to groundwater backup due to river flooding on the marsh vegetation. These deficiencies alone render the proposed development and inadequacy of assessment and mitigation measures fundamentally flawed.

3.2 The quay walls which will be adversely affected by the proposed development have existed for centuries and have been colonised by extremely slow growing lichens and other pioneer species over the centuries. Bryophyte communities (i.e. mosses and lichens) associated with QI 'watercourses of plain to montane levels' habitat of the Lower River Shannon SAC are present on the existing limestone quay walls of the Shannon and Abbey Rivers, they are clearly evident on the wall of the Potato Market. Having regard for the Site-specific Conservation Objectives for the Lower River Shannon SAC (NPWS, 2012a), these bryophytes correspond to the "*high-conservation value sub-type*" named "*Bryophyte-rich streams and rivers*". Furthermore, having regard for European Commission guidance (EC, 2013), it is arguable that [any] "*aquatic mosses*" (p. 46) qualify as QI 'watercourses of plain to montane levels' habitat, regardless of which species are present. As such, these aquatic bryophytes constitute QI habitat of the Lower River Shannon SAC of international importance.

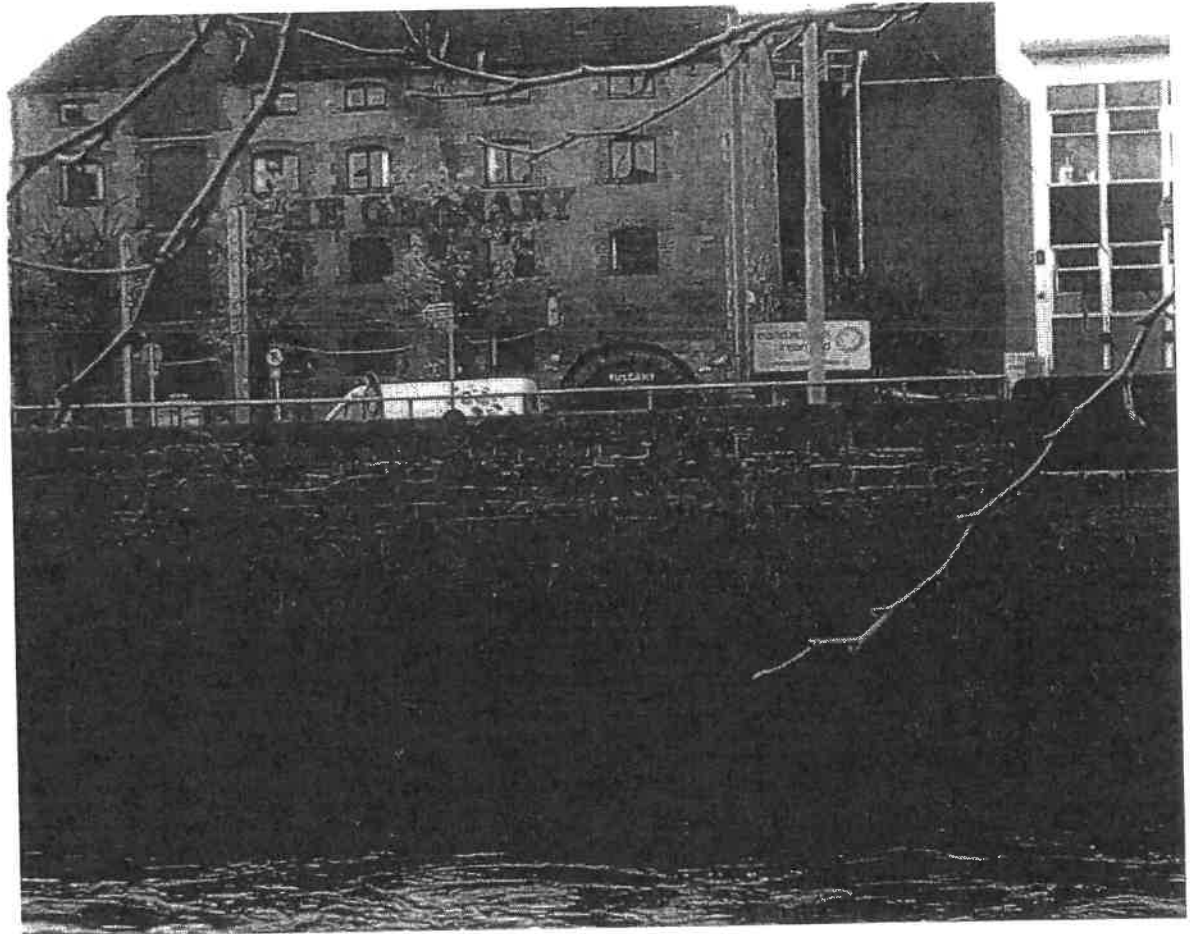


Fig. Abbey River quay wall showing established bryophyte communities above and below the normal water line

3.3. Material Contravention Of Project 2040 Objectives 59 and 60

Project Ireland 2040 - National Planning Framework in relation to Biodiversity states:

"Biodiversity

"At a national level, certain habitats and species are legally protected within the Natura 2000 network incorporating Special Areas of Conservation (SACs), with additional Special Protection Areas and Marine SACs. The majority of our habitats that are

listed under the Habitats Directive were considered to be of "inadequate" or "bad" conservation status by the National Parks and Wildlife Service (NPWS) in 2013, with 9% being in a "favourable" state. Clearly, there is significant scope for improvement."

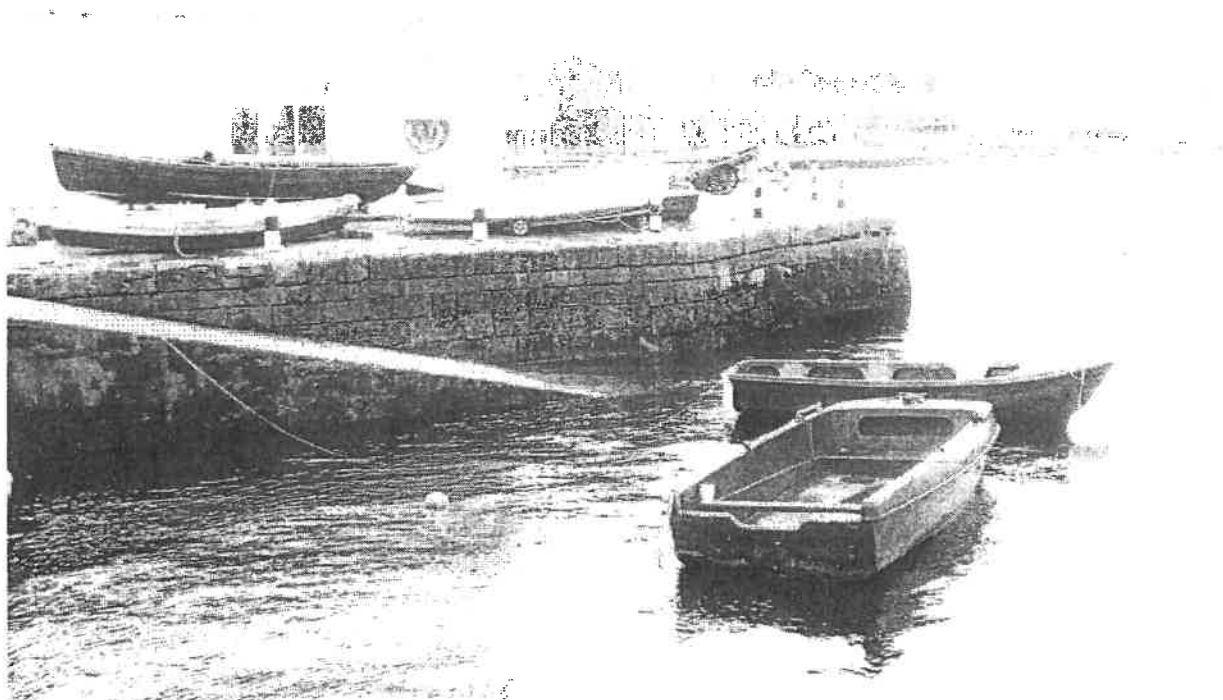


Fig. Quay wall at Curragower Boat club showing protected bryophyte communities

The cantilevered railings boardwalk by the Court House and the Potato Market will be replaced by glazed flood defence panels. and 2.5 metres concrete walls will be constructed at the Potato Market and the Curragower Boat Club which will require excavation works on the river bed. Some of the old walls will be demolished and other parts repaired, Apart from

being aesthetically undesirable and out of character and insensitive to the setting and location, this will involve the blanket removal and stripping bare of the quay walls of existing vegetation and protected bryophyte communities. The blunt, unnecessary and invasive removal of these protected species at European level will clearly result in massive biodiversity loss. Furthermore, the impact of this blanket removal of protected species has not even been assessed. Indeed, the Environmental Impact Assessment Report of the developer is completely silent on the existence of these protected bryophyte communities on the quay walls.



Fig. From developer's photomontage post flood relief works showing quay wall near Court devoid of bryophytes vegetation which required centuries to establish

The EIAR submitted by the Applicant is completely silent on these bryophyte communities and the enormous biodiversity loss that would occur if this proposal was approved.

The Limerick City Development Pan provides at Policy LBR.1

"it is the policy of Limerick City Council to ensure that Limerick's landscape, biodiversity and recreational facilities are preserved and enhanced, and that the overall combined potential and value of the network of open spaces and related assets within the City is recognised, retained and enhanced."

Regrettably, this policy appears to have been ignored by the developer having regard to the biodiversity loss which would occur if this project, in its current state goes ahead.

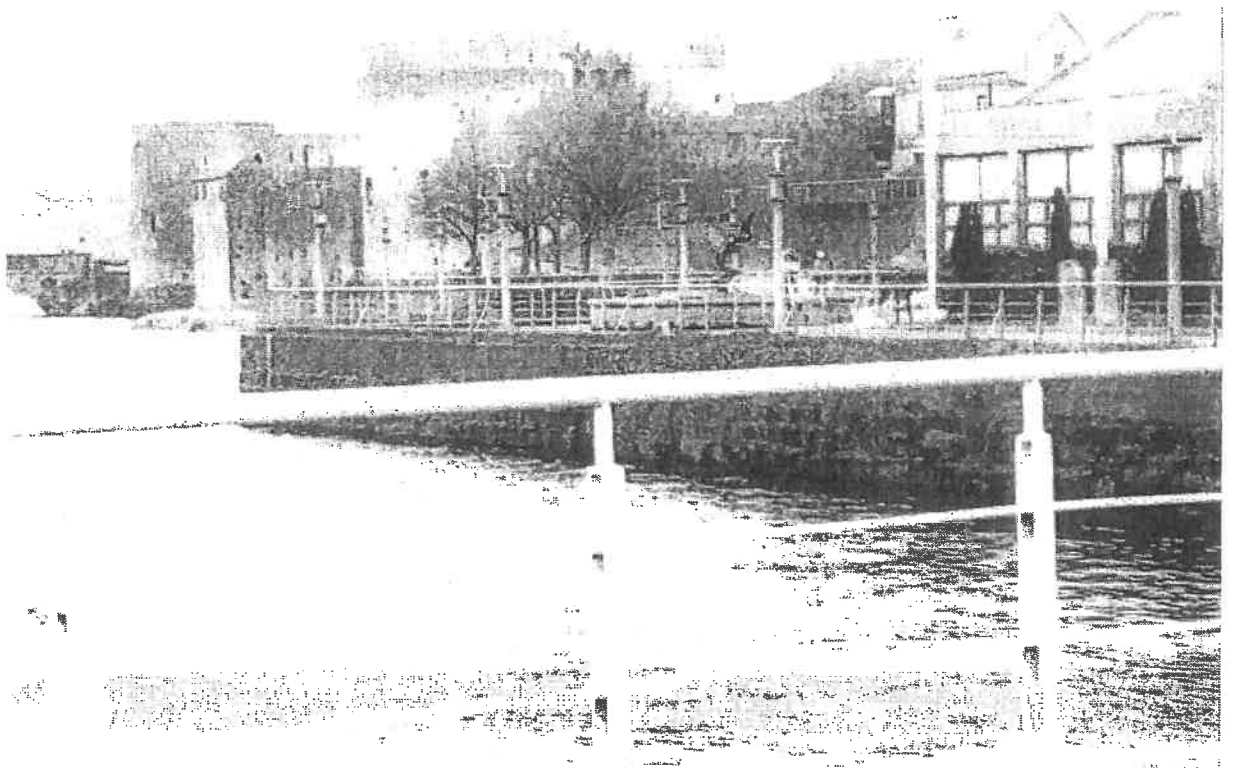


Fig. Showing view of King John's Castle, Civic offices, cantilevered railings and bryophyte communities

The proposed development would also result in removal of the cantilevered railings from the quay wall. The cantilevered railings offer a viewing platform of the river and are an indelible feature of the heritage and character of this historic setting.

4. FISHERIES HABITAT AND WATER QUALITY

The Shannon and Abbey River are a "zone of passage for migratory species such as salmon, sea and river lamprey, European eel and smelt" and there is a necessity to protect these species. The European eel is a critically endangered species and these hibernate each winter in the mud bed of the river. Similarly, lamprey and salmon are protected species. The developer proposes to use electric shocks to collect larvae from the river bank. Clearly, the dredging of the river bank has enormous adverse environmental impact on the fisheries habitat. The impact on water quality and habitat diversity over time of the proposed works has not been assessed or properly assessed.

5. CONSIDERATION OF ALTERNATIVES:

Annex IV(2) of the EIA Directive requires that the Environmental Assessment Report contains

"A description of the reasonable alternatives (for example in terms of project design, technology, location, size and scale) studied by the developer, which are relevant to the proposed project and its specific characteristics, and an indication of the main reasons for selecting the chosen option, including a comparison of the environmental effects."

Consideration of Alternatives which is a necessary pre-requisite to comply with the Alternative provisions necessary under the Environmental Assessment Directive was very limited and completely inadequate in all the circumstances. Almost invariably, the EIAR does not consider a range of alternatives, the only alternative considered in any material respect is Do Nothing scenario, but even that is not properly considered in the context of the evolution of the site and ecological changes that can occur over time. This is not sufficient and is not in keeping with the purpose or intent of the mandatory EIA requirements.

For example, in relation to the height of the proposed quay walls as a permanent barrier. The height and the concrete wall construction where it occurs is visually intrusive and dominant and will have negative impact. Glazing will not ameliorate the harshness of the high walls which are not appropriate to the character and setting of these areas. Alternatives should have been considered such as dismountable temporary flood barriers which could easily be erected when high tides are forecast. As the Shannon is a slow moving river, there would be ample time to erect temporary barriers which could avoid the severity of the visual detrimental impact.

Another alternative not properly considered or assessed is improved interaction and discussion with the ESB re retention rates of water in Parteen, and a more orderly release from the dam.

6. FAILURE TO COMPLY WITH MANDATORY PROVISIONS OF ENVIRONMENTAL IMPACT ASSESSMENT DIRECTIVE 2014/52/EU

- Deficiencies in the Environmental Impact Assessment Report

Article 3(1) of the 2014 EIA Directive imposed a number of criteria to be included in an Environmental Impact Assessment, for

example, population and human health, biodiversity, land, soil, water, air, climate, heritage, landscape etc. which article 5(1) provided *inter alia* for the inclusion of reasonable alternatives studied in the Environmental Impact Assessment Report.

Although Climate change and an analysis of disaster risks etc arising from climate change is a mandatory requirement for inclusion in the EIAR report, the only reference to climate change is to air pollution from the perspective of particulate material generated. The impact on climate change and biodiversity loss of the proposed development has not been assessed or properly assessed and the EIAR is accordingly flawed.

Moreover, there has been no assessment of the impact of climate change upon either this development itself or the **cumulative effects** when taken in conjunction with other developments.

The Environment Impact Assessment is not very comprehensive in parts and is heavily reliant on desktop surveys. The proposed mitigation measures do not address or properly address the environmental concerns raised by the proposed development and do not properly take into account any adverse impacts of such proposed mitigation on other protected species or populations.

An AA Screening Report should be completed in order to inform the screening determination of the Council as the competent authority. It is not clear from the Environmental Impact Assessment report submitted by the developer if this was ever done. The practice of limiting Appropriate Screening Assessments has been strictly construed against developers in a number of judgments from both the Court of Justice of the European Union and the national Courts, most recently in Heather Hill Management Company V An Bord Pleanala.

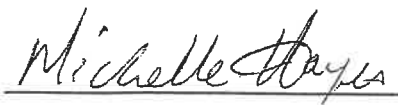
7. CUMULATIVE EFFECTS:

There are two glaring omissions from the cumulatives effects considered by the developer in the EIAR, namely

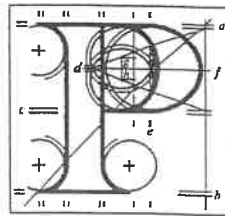
7.1 The existing hydroelectric plant at Ardnacrusha and its impact upon water release and flood levels. The water flow rates, retention rates and the turbines also have enormous negative impact for salmon, eel and lamprey species with large fish kills often reported. Arguably, this is a major contributor to any previous ^{FISH KILLS} which occurred and it is simply inconceivable and clearly in breach of the EIA Directive that the cumulative effects of this pre-existing development were not considered.

7.2 The cumulative impact of water abstraction from the River Shannon. The residual water levels could reduce to a trickle with enormous biodiversity impact and loss.

8. The proposed development will have enormous negative environmental, heritage, archaeological and cultural impact, is in breach of the EIA Directive in several material respects and is in breach of the Habitats Directive, would breach national and local policies and plans, is unsustainable and not in accordance with proper planning and sustainable development of the area.

Signed: 
Michelle Hayes, Solicitor
President, Environmental Trust Ireland

• Our Case Number: ABP-306270-19



An
Bord
Pleanála

Hayes Solicitors, c/o Michelle Hayes
2/3 Glentworth Street
Co. Limerick

Date: 26 February 2020

Re: Flood protection measures around King's Island.
King's Island, Limerick.

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Executive Officer
Direct Line: 01-8737247

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HAYES SOLICITORS

SOLICITORS

2/3 Glentworth Street, Limerick. Tel: 061 469504 Fax: 061 469507

Dr. Breda M. Hayes, Solicitor,
Ph.D., LL.B.(Hons), B.Sc. (Hons), Dip. Eu Law,
Dip. Property Tax, Dip. Trusts & Estate Planning,
Dip. Commercial Conveyancing,
Dip. Insolvency & Corporate Restructuring.

Michelle Hayes, Solicitor,
LL.B (Hons.), B.Sc.(Pharm)(Hons),
Dip. Employment Law, Dip. Commercial Litigation,
Dip. Family Law, Dip. Public Relations, M.I.A.P.R.
Accredited Mediator (Civil & Commercial).

An Bord Pleanála,
64 Marlborough Street,
Dublin 1.


14th February 2020

AN BORD PLEANALA	
LDG-	024435-20
ABP-	306270-19
14 FEB 2020	
Fee: €	50
Type:	CHQ
Time:	17:27
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Michelle Hayes, Solicitor
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2 / 3 Glentworth Street,
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**SUBMISSION ON DIRECT PLANNING APPLICATION BY
LIMERICK CITY & COUNTY COUNCIL TO AN BORD
PLEANALA UNDER SECTION 226 of the Planning and
Development Act for Proposed Flood Relief Scheme - KING's
ISLAND, Limerick**

RE: ABP Ref No. 306270 / 19

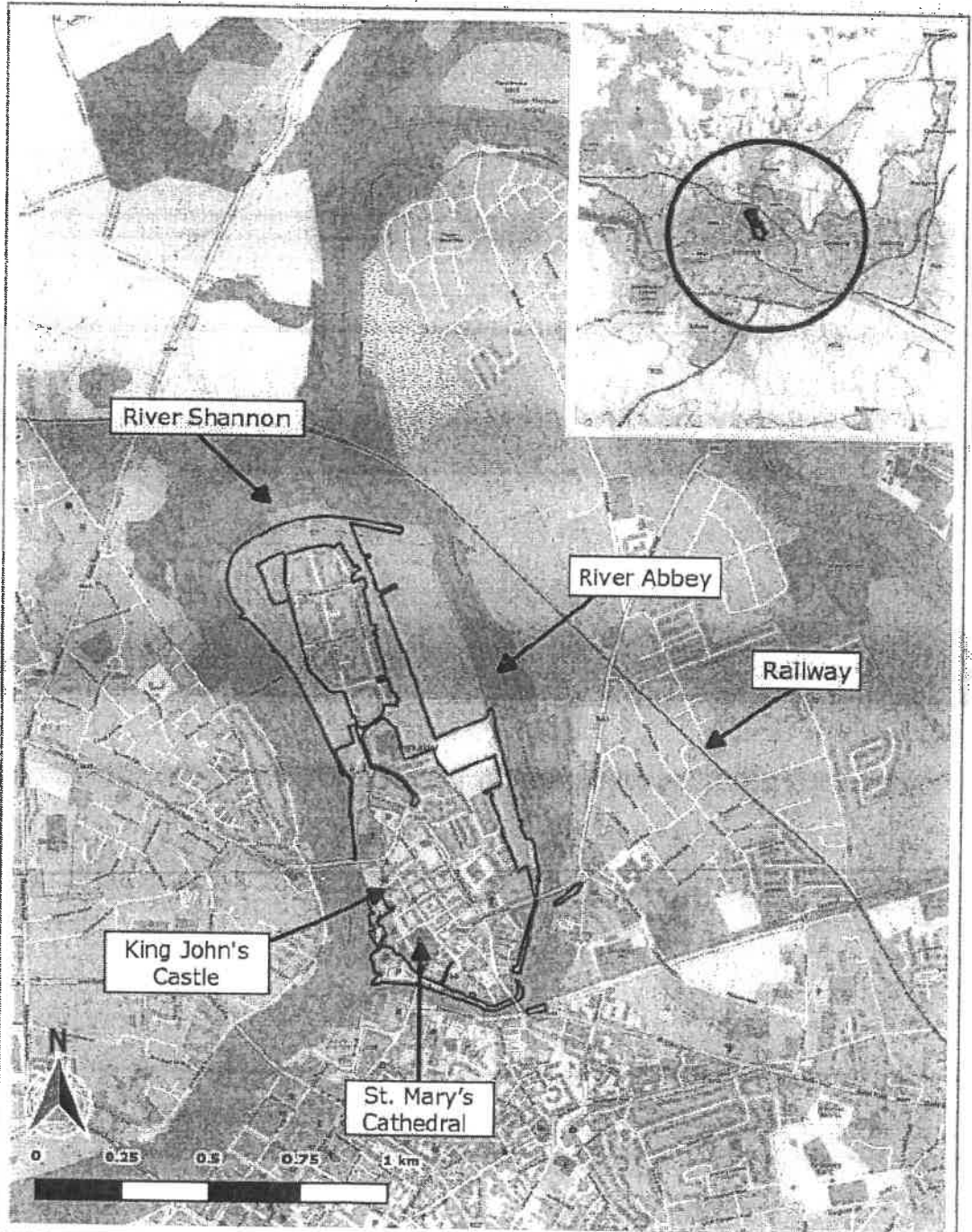
**Michelle Hayes, Solicitor
HAYES SOLICITORS,
2 - 3 Glentworth Street,
Limerick.**

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Legend

— Site boundary


KING'S ISLAND
 PLANNING SCHEME


OPW


ARUP


 Comhairle Cathrach
 & Contae Lúthraigh
 Limerick City
 & County Council


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Environmental Impact Assessment Report
Figure No.1-1 -Site location map

Drawn by: ES	Scale: 1:30000
Checked by: BOC	
Approved by: BOC	
File Name: 2015-01-15 - Site location plan	
Status: Current	

2. PROPOSED DEVELOPMENT IS PREMATURE:

2.1 Archaeological and Cultural Heritage:

The planning documentation submitted by the developer to An Bord Pleanála states that Archaeological testing is scheduled for Spring 2020, subject to a pending application for Ministerial Consent, to inform the detailed design stage and to better define the exact location and extent of the Limerick City Walls and other associated structures. In circumstances where the location and extent of the historic Limerick City walls has not been conclusively established and is awaiting archaeological assessment and testing, the proposed development is clearly premature. For example, the planning documentation states:

"To the northwest of the Civil offices, an historic Bridge links the old city wall (which is a National monument) to an historic Mill structure, the remains of which can just be seen protruding from the historic quay wall. An historic tunnel structure is also located in this area."

The only assessment conducted by the developer was a desk study assessment. It is submitted that this is inadequate where such significant features as parts of the walls of Limerick or historic tunnels could be destroyed or seriously compromised in the construction stage. It is too late to conduct comprehensive archaeological assessments

and testing after the event; this should have been completed well in advance of any application to An Bord Pleanála.

2.2 WATER ENVIRONMENT (ABSTRACTIONS) BILL

The Water Environment (Abstractions) Bill which will allow the construction of a 170 km pipeline for abstraction of water from the River Shannon to supply Dublin's water needs has been approved by Cabinet. This project has enormous potential environmental consequences for which no assessment is yet available. If this project materialises, it will dramatically reduce the amount of water in the Shannon and irrevocably alter ecosystems and habitats along the Shannon hinterland. This project would inevitably reduce the threat of flooding thereby rendering the current proposed development obsolete. It is noted that the EIAR report in considering cumulative effects of current and proposed developments was silent on this major project.

3. REMOVAL OF PROTECTED SPECIES AND HABITATS;

3.1 The proposed development will result in loss of part of the marsh habitat within the European protected Special Area of Conservation for the creation of the embankment. The extent of the loss, which is unnecessary and ecologically destructive has not been assessed or properly assessed. Neither has the type of vegetation which will

be lost within the SAC been described or assessed or the consequential biodiversity loss which will ensue. Further, there has been no proper assessment of the impact of poor drainage as opposed to groundwater backup due to river flooding on the marsh vegetation. These deficiencies alone render the proposed development and inadequacy of assessment and mitigation measures fundamentally flawed.

3.2 The quay walls which will be adversely affected by the proposed development have existed for centuries and have been colonised by extremely slow growing lichens and other pioneer species over the centuries. Bryophyte communities (i.e. mosses and lichens) associated with QI 'watercourses of plain to montane levels' habitat of the Lower River Shannon SAC are present on the existing limestone quay walls of the Shannon and Abbey Rivers, they are clearly evident on the wall of the Potato Market. Having regard for the Site-specific Conservation Objectives for the Lower River Shannon SAC (NPWS, 2012a), these bryophytes correspond to the "*high-conservation value sub-type*" named "*Bryophyte-rich streams and rivers*". Furthermore, having regard for European Commission guidance (EC, 2013), it is arguable that [any] "*aquatic mosses*" (p. 46) qualify as QI 'watercourses of plain to montane levels' habitat, regardless of which species are present. As such, these aquatic bryophytes constitute QI habitat of the Lower River Shannon SAC of international importance.

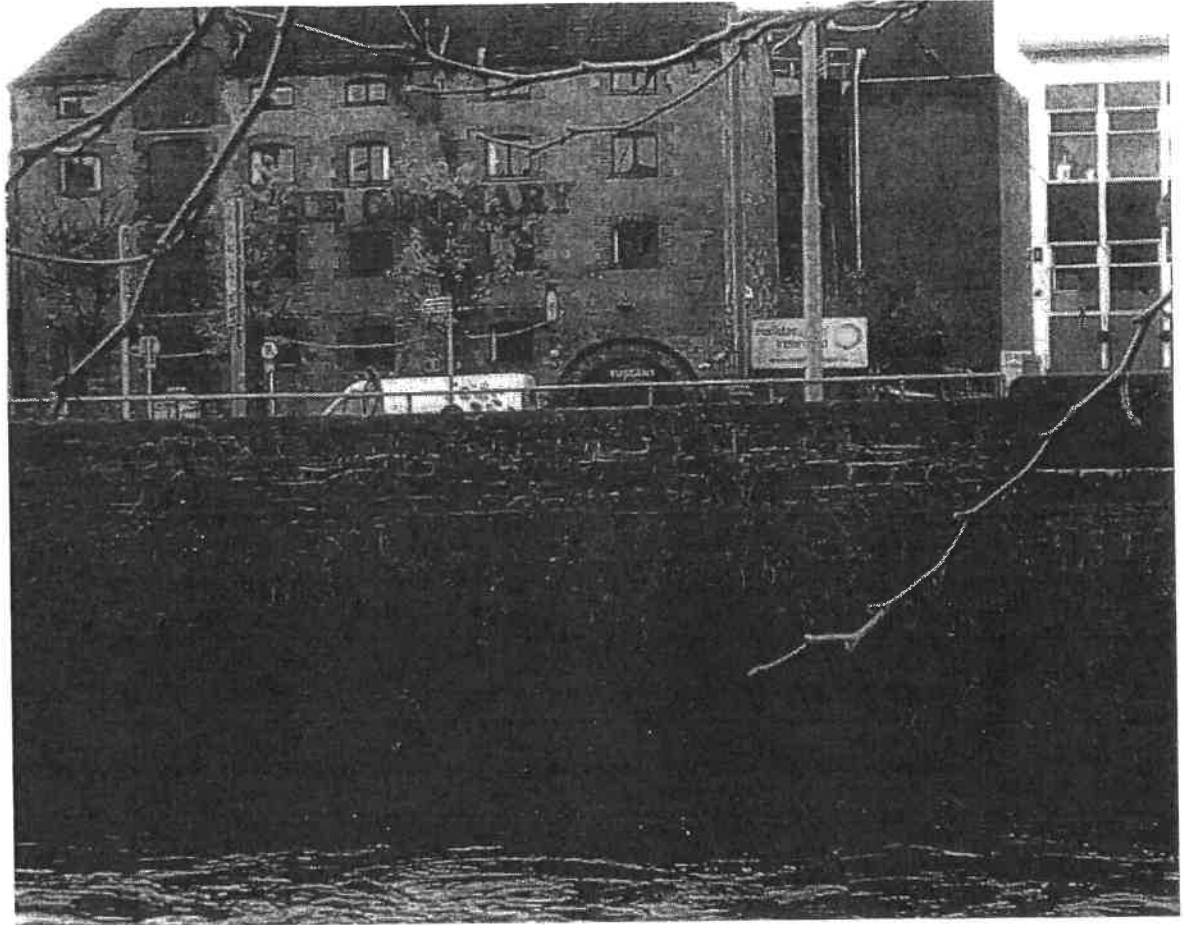


Fig. Abbey River quay wall showing established bryophyte communities above and below the normal water line

3.3. Material Contravention Of Project 2040 Objectives 59 and 60

Project Ireland 2040 - National Planning Framework in relation to Biodiversity states:

"Biodiversity

"At a national level, certain habitats and species are legally protected within the Natura 2000 network incorporating Special Areas of Conservation (SACs), with additional Special Protection Areas and Marine SACs. The majority of our habitats that are

listed under the Habitats Directive were considered to be of "inadequate" or "bad" conservation status by the National Parks and Wildlife Service (NPWS) in 2013, with 9% being in a "favourable" state. Clearly, there is significant scope for improvement."

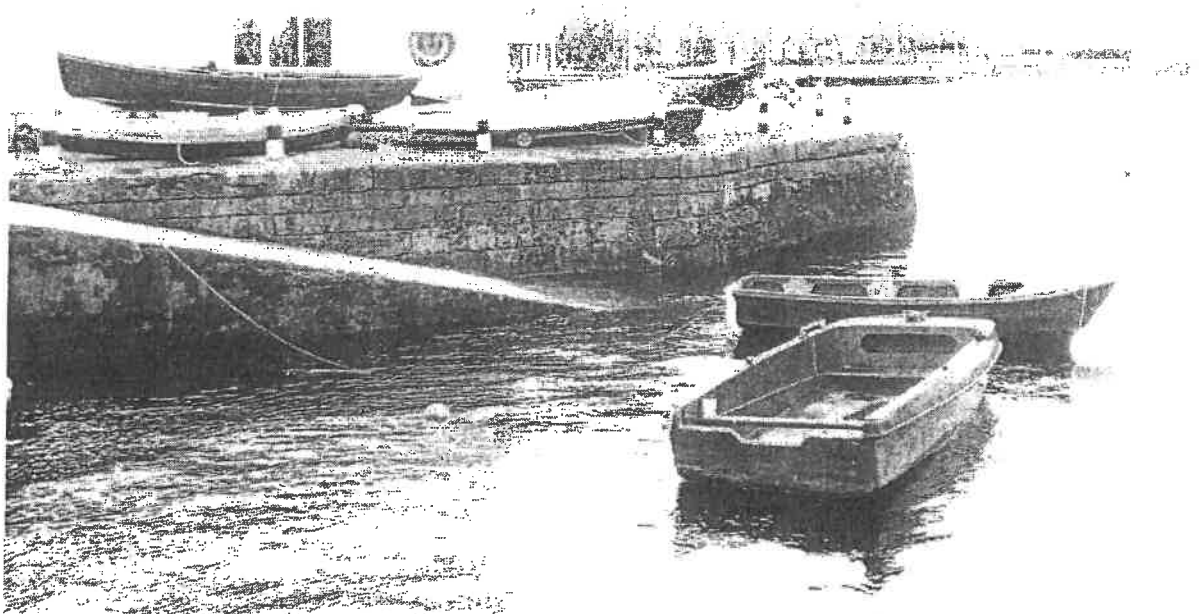


Fig. Quay wall at Curragower Boat club showing protected bryophyte communities

The cantilevered railings boardwalk by the Court House and the Potato Market will be replaced by glazed flood defence panels. and 2.5 metres concrete walls will be constructed at the Potato Market and the Curragower Boat Club which will require excavation works on the river bed. Some of the old walls will be demolished and other parts repaired, Apart from

being aesthetically undesirable and out of character and insensitive to the setting and location, this will involve the blanket removal and stripping bare of the quay walls of existing vegetation and protected bryophyte communities. The blunt, unnecessary and invasive removal of these protected species at European level will clearly result in massive biodiversity loss. Furthermore, the impact of this blanket removal of protected species has not even been assessed. Indeed, the Environmental Impact Assessment Report of the developer is completely silent on the existence of these protected bryophyte communities on the quay walls.



Fig. From developer's photomontage post flood relief works showing quay wall near Court devoid of bryophytes vegetation which required centuries to establish

The EIAR submitted by the Applicant is completely silent on these bryophyte communities and the enormous biodiversity loss that would occur if this proposal was approved.

The Limerick City Development Pan provides at Policy LBR.1

"it is the policy of Limerick City Council to ensure that Limerick's landscape, biodiversity and recreational facilities are preserved and enhanced, and that the overall combined potential and value of the network of open spaces and related assets within the City is recognised, retained and enhanced."

Regrettably, this policy appears to have been ignored by the developer having regard to the biodiversity loss which would occur if this project, in its current state goes ahead.

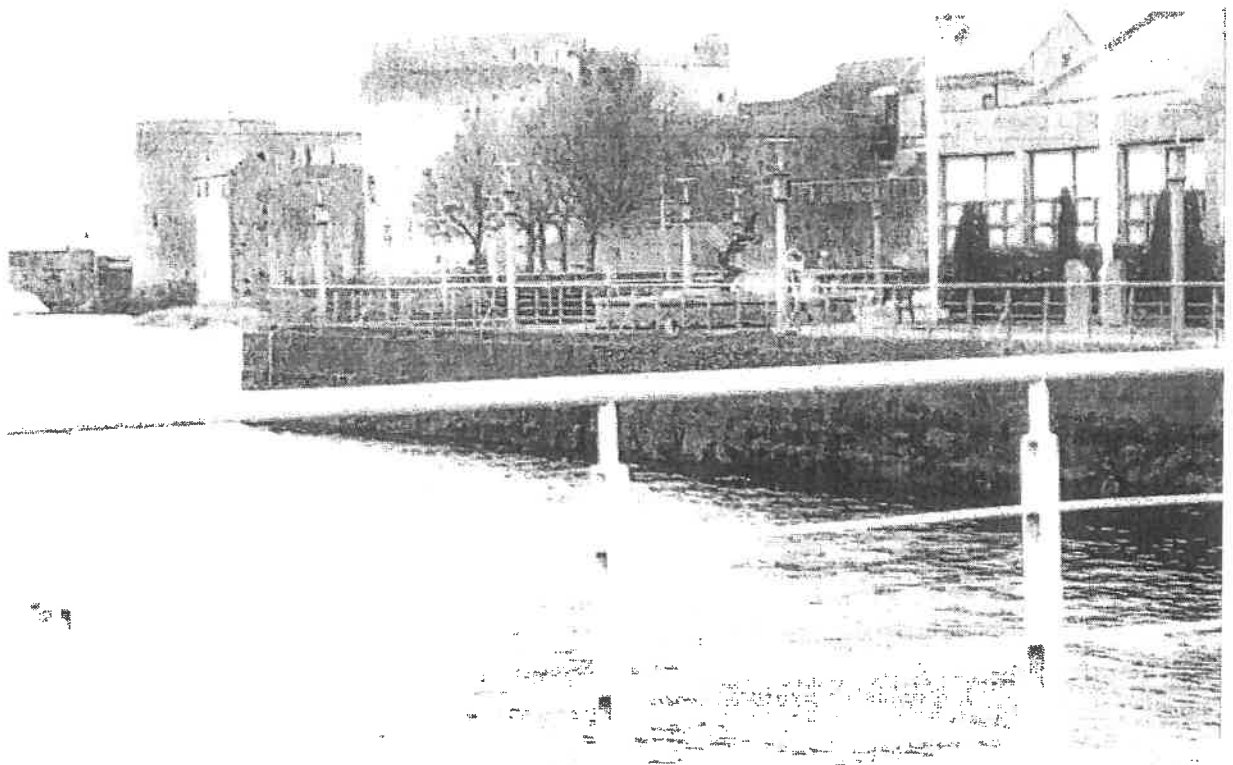


Fig. Showing view of King John's Castle, Civic offices, cantilevered railings and bryophyte communities

The proposed development would also result in removal of the cantilevered railings from the quay wall. The cantilevered railings offer a viewing platform of the river and are an indelible feature of the heritage and character of this historic setting.

4. FISHERIES HABITAT AND WATER QUALITY

The Shannon and Abbey River are a "zone of passage for migratory species such as salmon, sea and river lamprey, European eel and smelt" and there is a necessity to protect these species. The European eel is a critically endangered species and these hibernate each winter in the mud bed of the river. Similarly, lamprey and salmon are protected species. The developer proposes to use electric shocks to collect larvae from the river bank. Clearly, the dredging of the river bank has enormous adverse environmental impact on the fisheries habitat. The impact on water quality and habitat diversity over time of the proposed works has not been assessed or properly assessed.

5. CONSIDERATION OF ALTERNATIVES:

Annex IV(2) of the EIA Directive requires that the Environmental Assessment Report contains

"A description of the reasonable alternatives (for example in terms of project design, technology, location, size and scale) studied by the developer, which are relevant to the proposed project and its specific characteristics, and an indication of the main reasons for selecting the chosen option, including a comparison of the environmental effects."

Consideration of Alternatives which is a necessary pre-requisite to comply with the Alternative provisions necessary under the Environmental Assessment Directive was very limited and completely inadequate in all the circumstances. Almost invariably, the EIAR does not consider a range of alternatives, the only alternative considered in any material respect is Do Nothing scenario, but even that is not properly considered in the context of the evolution of the site and ecological changes that can occur over time. This is not sufficient and is not in keeping with the purpose or intent of the mandatory EIA requirements.

For example, in relation to the height of the proposed quay walls as a permanent barrier. The height and the concrete wall construction where it occurs is visually intrusive and dominant and will have negative impact. Glazing will not ameliorate the harshness of the high walls which are not appropriate to the character and setting of these areas. Alternatives should have been considered such as dismountable temporary flood barriers which could easily be erected when high tides are forecast. As the Shannon is a slow moving river, there would be ample time to erect temporary barriers which could avoid the severity of the visual detrimental impact.

Another alternative not properly considered or assessed is improved interaction and discussion with the ESB re retention rates of water in Parteen, and a more orderly release from the dam.

6. FAILURE TO COMPLY WITH MANDATORY PROVISIONS OF ENVIRONMENTAL IMPACT ASSESSMENT DIRECTIVE 2014/52/EU

- Deficiencies in the Environmental Impact Assessment Report

Article 3(1) of the 2014 EIA Directive imposed a number of criteria to be included in an Environmental Impact Assessment, for

example, population and human health, biodiversity, land, soil, water, air, climate, heritage, landscape etc. which article 5(1) provided *inter alia* for the inclusion of reasonable alternatives studied in the Environmental Impact Assessment Report.

Although Climate change and an analysis of disaster risks etc arising from climate change is a mandatory requirement for inclusion in the EIAR report, the only reference to climate change is to air pollution from the perspective of particulate material generated. The impact on climate change and biodiversity loss of the proposed development has not been assessed or properly assessed and the EIAR is accordingly flawed.

Moreover, there has been no assessment of the impact of climate change upon either this development itself or the **cumulative effects** when taken in conjunction with other developments.

The Environment Impact Assessment is not very comprehensive in parts and is heavily reliant on desktop surveys. The proposed mitigation measures do not address or properly address the environmental concerns raised by the proposed development and do not properly take into account any adverse impacts of such proposed mitigation on other protected species or populations.

An AA Screening Report should be completed in order to inform the screening determination of the Council as the competent authority. It is not clear from the Environmental Impact Assessment report submitted by the developer if this was ever done. The practice of limiting Appropriate Screening Assessments has been strictly construed against developers in a number of judgments from both the Court of Justice of the European Union and the national Courts, most recently in Heather Hill Management Company V An Bord Pleanala.

7. CUMULATIVE EFFECTS:

There are two glaring omissions from the cumulatives effects considered by the developer in the EIAR, namely

7.1 The existing hydroelectric plant at Ardnacrusha and its impact upon water release and flood levels. The water flow rates, retention rates and the turbines also have enormous negative impact for salmon, eel and lamprey species with large fish kills often reported. Arguably, this is a major contributor to any previous ^{fish kills} which occurred and it is simply inconceivable and clearly in breach of the EIA Directive that the cumulative effects of this pre-existing development were not considered.

7.2 The cumulative impact of water abstraction from the River Shannon. THE residual water levels could reduce to a trickle with enormous biodiversity impact and loss.

8. The proposed development will have enormous negative environmental, heritage, archaeological and cultural impact, is in breach of the EIA Directive in several material respects and is in breach of the Habitats Directive, would breach national and local policies and plans, is unsustainable and not in accordance with proper planning and sustainable development of the area.

Signed:



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