OPR Ref: MA-017-22



1st April 2022

Planning Department, Waterford City and County Council, Menapia Building, The Mall, Waterford City.

# Re: Material Alterations to Draft Waterford City and County Development Plan 2022-2028

A chara,

Thank you for your authority's work in preparing the Material Alterations to the draft Waterford City and County Development Plan 2022-2028 (the Mas to the draft Plan).

As your authority will be aware, a key function of the Office of the Planning Regulator (the Office) is the strategic evaluation and assessment of statutory plans to ensure consistency with legislative and policy requirements relating to planning. The Office has evaluated and assessed the material alterations to the draft Plan under the provisions of sections 31AM(1) and (2) of the *Planning and Development Act 2000*, as amended, (the Act) and within the context of the Office's earlier recommendations and observations.

As outlined in the submission from the Office to the draft Plan, the Office considered the draft Plan to be generally consistent with policies in the *National Planning Framework* (NPF) and the *Regional Spatial and Economic Strategy* (RSES) for the Southern Regional Assembly area, and recommended changes to enhance its alignment with national and regional policies in the aforementioned, and for consistency with, among other things, the *Housing Supply Target Methodology for Development Planning Guidelines for Planning Authorities* (2020), *Development Plans Guidelines for Planning Authorities - Draft for Consultation* (August 2021), the *Sustainable Residential Development in Urban Areas Guidelines for Planning* 



Authorities (2012), the Climate Action Plan (2021), the Interim Guidelines for Planning Authorities on Statutory Plans, Renewable Energy and Climate Change (2017), and the Planning System and Flood Risk Management Guidelines for Planning Authorities (2009).

In particular, the Office was not satisfied that the correct housing supply targets had been applied, and that the residential land use zoning was not aligned with the requirement for a sufficient supply of residential zoned land for the 2022-2028 plan period, running the risk of development taking place that is not matched by appropriate infrastructure or is out of scale with its context and local communities.

The planning authority is advised that section 12(10) of the Act provides the members of the planning authority with scope to make a further modification to a material alteration subject to the limitations set out in subsection 10(c) parts (i) and (ii).

Recommendations issued by the Office relate to clear breaches of the relevant legislative provisions, of the national or regional policy framework and/or of the policy of Government, as set out in the Ministerial guidelines under section 28. As such, the planning authority is required to implement or address recommendation(s) made by the Office in order to ensure consistency with the relevant policy and legislative provisions.

Observations take the form of a request for further information, justification on a particular matter, or clarification regarding particular provisions of a plan on issues that are required to ensure alignment with policy and legislative provisions. The planning authority is requested by the Office to action an observation.

A submission also can include advice on matters that the Office considers would contribute positively to the proper planning and sustainable development of the area. The planning authority is requested by the Office to give consideration to the advice contained in a submission.



#### Overview

The Office acknowledges the major task undertaken by Waterford City and County Council in preparing and publishing the material alterations to the draft Plan, with over 360 material amendments, and appendices containing the associated technical and environmental reports. The presentation of the material amendments in a systematic and coherent manner has allowed all parties to access and understand the proposed amendments, and the Office would like to commend the planning authority for its approach.

Many of the material amendments will strengthen the Plan in respect of delivering on the national and regional policy framework to achieve significant growth in the Waterford metropolitan area and create a regional driver for growth.

The Office has, however, outstanding concerns regarding the extent of residential zoned land, and the peripheral location of many of the zonings introduced as material amendments, which undermine the ability to provide homes in close proximity to facilities and amenities. The Office also advises the planning authority to give careful consideration at this stage as to how such lands will be affected by the forthcoming Residential Zoned Land Tax.

The Office does, however, strongly welcome the inclusion of the renewable energy targets for County Waterford within the draft Plan and the amendments to the renewable energy strategy, which will ensure that your authority makes a strong contribution to the national renewable energy targets, thus addressing climate change (Recommendation 11 of the Office's submission on the draft Plan).

The Office further commends the approach taken in the revised rural housing strategy (Recommendation 7 of the Office's submission to the draft Plan), the response taken to the multi or joint retail strategy for the Waterford MASP (Recommendation 9 of the Office's submission to the draft Plan), the inclusion of targets for infill/ brownfield development in the core strategy (Recommendation 5 of the Office's submission to the draft Plan), and the inclusion of Appendix 21 'Waterford City and County Regeneration and Opportunity Sites'.



The Office also welcomes the approach taken in the material amendments to protect public right of ways (Recommendation 13 of the Office's submission to the draft Plan).

The Office notes that material amendments have been introduced relating to the monitoring and implementation of sustainable transport and modal share targets to measure the Council's actions in addressing climate change and promoting sustainable travel modes (Recommendation 10 of the Office's submission to the draft Plan). As such the introduction of modal share baseline and target projections is welcomed to actively deliver significant modal shift from private car transport to greener modes (walking and cycling) and sustainable modes (bus and rail) in relation to both new development and existing built-up areas.

There are, however, a number of areas where the Office is of the view that the material amendments are not consistent with national or regional policies in respect of the Core Strategy and the supply of residential zoned land, compact growth and regeneration, flood risk management, and certain specified land-use zoning amendments. These instances are clearly identified in the submission below and the reasons and considerations of the Office in reaching this conclusion are set out.

It is within this context the submission below sets out 4 recommendations under the following 4 themes:

Key theme	MA Recommendation
Core Strategy and Housing Targets	MA Recommendation 1
Core Strategy and Zoning for Residential Use	MA Recommendation 2
Material Zoning Amendments	MA Recommendation 3
Flood Risk Management	MA Recommendation 4



# 1. Core Strategy and Housing Targets

The Office welcomes the material amendments to the core strategy contained within Table 2.3 'Core Strategy Table', in response to Recommendation 1 of the Office's submission to the draft Plan. The amended 'Core Strategy Table' includes housing supply targets for each of the settlements, and the overall housing supply target for the city and the county is stated as 4,824 units over the course of the plan, which is consistent with that identified by the Office.

The Office also welcomes the inclusion, to the amended Core Strategy Table 2.2, of the zoned land required to meet the housing supply target (HST), and the details in relation to the 'shortfall / excess of zoned land' contained within the final column of Table 2.2. The Office notes that many of the settlements have zoned land significantly in excess of that required to provide a sufficient supply of zoned land to provide for housing and population growth. This is considered further in Section 2 and Section 3 below.

The targets for population growth are set out through the National Planning Framework Implementation Roadmap, and the Regional Spatial and Economic Strategy (RSES). The Office was satisfied that the population projection for the county set out in the draft Plan was consistent with the RSES, as contained in Table 2.2 and Table 2.3 of the draft Plan. However both Table 2.2 and Table 2.3 of the draft Plan have been omitted by material amendments, and the population targets are no longer contained in the amended Table 2.2 Core Strategy Table.

The Offices acknowledges that the Council have used Appendix A of the *Development Plans, Guidelines for Planning Authorities - Draft for Consultation* (August 2021) as a template for the amended Core Strategy Table (Table 2.2) of the amended draft Plan, and as such the population growth targets applicable during the course of the Plan have been omitted.

This matter can, however, be easily remedied by reinstating the population targets in the draft Plan as required by section 10(2A)(f)(v)-(vi) of the Act.



## MA Recommendation 1- Core Strategy population growth

In accordance with Section 10(2A) of the *Planning and Development Act 2000*, as amended, the planning authority is required to reinstate population targets into the Core Strategy Table (Table 2.2).

## 2. Core Strategy and Zoning for Residential Use

As referenced above, the Office's submission on the draft Plan identified that the amount of land zoned for residential development was significantly in excess of population growth and likely demand in certain locations.

The Office acknowledges the positive approach taken by the planning authority at material alteration stage to align the area of land proposed to be zoned for residential development with the housing targets included in the amended Core Strategy, in response to Recommendation 2 of the Office's submission on the draft Plan.

The Office acknowledges and welcomes the planning authority's approach to consolidating some of the residential zoning objectives in the settlements. It is noted that the material alterations have identified sites with no realistic developable potential within the life of the plan and has reallocated these sites from the zoning objectives '*New / Proposed Residential, Medium Density*' and '*New / Proposed Residential*, *in the draft Plan, to long term residential zoning objective 'Strategic Reserve Residential*' in the amendments to the draft plan.

The Office also welcomes the same approach in the case of identified peripheral residential zoning within the settlements, in particular Dunmore East and Lismore. This reprioritisation of the residential land zoning consistent with the core strategy is welcome.

Furthermore the Office commends the local authority on the approach taken in the amended Appendix 17 in partially addressing residential phasing. However, in some cases land zoned for long term residential or 'Strategic Reserve Residential' or non-



residential uses in the draft Plan have reverted to 'New Residential' by way of material amendments to the draft Plan. Where these material amendments are considered inconsistent with the national and regional policy context they have been identified under section 3 below.

It is evident from the Table 2.2 'Core Strategy Table', however, that the quantity of land zoned for residential development, and identified as Tier 1 in the amended Table 2.3, continues to significantly exceed the HST requirements. This is particularly evident in respect of the settlements outside of Waterford City.

The Office does, however, appreciate that the draft Plan was published in advance of *the Development Plans, Guidelines for Planning Authorities - Draft for Consultation* (August 2021) (the draft Guidelines), which provide detailed guidance on how this should be achieved.

In this context, it is important to note that the approach to phasing development set out under section 2.14.2 Tiered Approach to Zoning (including Table 2.3 'Phasing and Housing Unit Delivery') is not consistent with the draft Guidelines. While the Office recognises that it provides a specific response based on local circumstances at a specific point in time, this approach will not be considered to be in accordance with the Guidelines going forward.

The Office has carried out an assessment of the draft Plan, including making reasonable allowance for the 'Additional Provision' to ensure that sufficient choice for development potential is safeguarded, consistent with the draft Guidelines.

While the excess of zoned land remains significant, our assessment of residential rezonings proposed as material amendments at section 3 below has highlighted specific lands which are situated in peripheral and non-sequential locations and are not required to meet the demand for housing set out in the core strategy.

Recommendation 4 of the Office's submission on the draft Plan required that the planning authority review the zoning of residential land with a view to prioritising / phasing, re-zoning or removing less preferable lands not required to meet the



housing demand arising from the Core Strategy, with particular regard to a number of sites/ lands.

The Office has given careful consideration to the material amendments which address the matters raised in the recommendation, and the response and reasoning set out in the CE's report where the recommendation is not complied with. Where the planning authority has not accepted the recommendation of the Office in respect of a number of zoning objectives, the Office generally accepts the reasons given.

The Office remains concerned, however, in relation to the decision to retain the 'R1 New Residential' zoning objective for a large part of the lands at Monang in Dungarvan, extending to c.11 ha. It is also unclear as to Tier 2 status of these lands having regard to land ownership, and the extent to which this provides a reasonable approach to phasing as required by Recommendation 4 of the Office's submission to the draft Plan.

Given the extent of these lands in the context of the core strategy, no evidencebased rationale is evident for the zoning of these lands, particularly given the decision to not zone more developable lands inside the N25 and more proximate to the town and social and other infrastructure.

Having considered the above, the Office is satisfied that in addressing MA Recommendations 2 and MA Recommendation 3 in respect of Dungarvan/ Ballinroad, Tramore, Dunmore East and Portlaw, the planning authority will ensure that a sufficient supply of zoned land has been provided for and that the plan will provide a strong basis for delivering housing in the right locations over the plan period.

Conversely, the failure to comply with the recommendation risks development occurring in a piecemeal manner in locations poorly served by social and physical infrastructure.



## MA Recommendation 2 – Residential Zoning Dungarvan

Having regard to national and regional policy objectives NPO 3c, RPO 34 & 35, and NPO 18a, the requirement under the *Development Plans, Guidelines for Planning Authorities* (2007) and *Development Plans, Guidelines for Planning Authorities - Draft for Consultation* (August 2021) that a sequential approach to the zoning of lands is applied, and section 10(2)(n) of the *Planning and Development Act 2000*, as amended, and to Recommendation 4 of the Office's submission to the draft Plan, the planning authority is required to remove the R1 New Residential zoning objective for that part of the lands at Monang, Dungarvan not designated as Strategic Reserve Residential under MA 213.

## 3. Material Zoning Amendments

Having reviewed the proposed material amendments in respect of the zoning objectives for individual sites and changes to settlement boundaries, the Office accepts the rationale presented by the chief executive and elected members for many of the proposed amendments.

The Office also acknowledges and welcomes the carrying out of an infrastructure assessment of the lands concerned in accordance with the requirements of NPO 72a and NPO 72c in response to Recommendation 3 of the Office's submission to the draft Plan.

As referenced above, there are however a significant number of material amendments outside of the Waterford metropolitan area that are considered to be inconsistent with national and regional policy in respect of achieving a sustainable pattern of development through compact growth, sequential approach to development, and the ability to deliver the social and physical infrastructure to serve these communities.

Dungarven is the Key Town for County Waterford. The exceptional natural amenities in the town, including access to the coast and the Waterford-Dungarvan greenway, offer a high quality of life for existing and future residents. It is critical, however, that



growth occurs in a manner that avoids car-dependent urban sprawl and instead provides for high quality homes where people can access facilities and amenities through walking and cycling, consistent with the concept of a 10-minute town.

The extent of the additional proposed residential zoning for Dungarvan & Ballinroad is not consistent with the housing supply target (330 units set out in the Core Strategy). Furthermore, the lands zoned under proposed material amendments Dungarvan & Ballinroad - MA 211 (Duckspool), MA 215 (Shandon), MA 217 (Shandon), MA 218 (Monang North), MA 222 (Duckspool) and MA 225 (Ballinroad) are located in peripheral locations on the edge of the town.

The Office is of the view that the cumulative effect of these material amendments results in an incoherent and piecemeal strategy for the proper planning and sustainable development of the area.

A similar issue arises in respect of a number of proposed amendments to the settlement of Tramore, specifically MA 284, MA 295 (Carrickavantry), and MA 305 (Newtown). MA 295 also relates to a site, which is currently landlocked with no apparent access.

Furthermore the extent of amendments in Dunmore East, MA 231 (Auskarra Little North), MA 241 (Auskarra Little East) and MA 243 (Coxtown West) would undermine the potential to achieve objectives in relation to compact growth, sequential approach to development and regeneration (NPOs 3, 6, 7; and 72a RPOs 3, 34, 35) without any evidence to support the requirement for additional residential land.

MA 204 Clonmel Environs, MA 270 Portlaw and MA 193 An Rinn also do not comply with the requirement for sequential development given their locations on the periphery or detached from the existing built up area, and the extent of more preferably located zoned land in these settlements. The subject amendments are also not justified in relation to the core strategy.

The Office also has particular concerns regarding proposed material amendments to extend the settlement boundary for Crooke (MA 205), Cappoquinn (MA 201) and Tallow (MA281), which allow for further residential development in these areas,



which are not evidence-based, and are contrary to the national strategic outcome of the NPF in respect of compact growth (NSO 1) and NPO 3c, and contrary to the implementation of sequential residential zoning and the implementation of sustainable settlement and transport strategies.

MA 251 Lemybrien relates to a site beyond the existing settlement boundary adjacent to the N25, in a location that has a speed limit of 100kph. *The Spatial Planning and National Roads Guidelines* (2012) advises on policy provisions in the plan that protect the strategic function of national roads and the identification of routes for which 'exceptional circumstances' will be granted during the plan period. The boundary extension brought about by material amendment MA 251 would impact on the operational efficiency and strategic economic performance of this national road.

The Office also notes that the SEA Environmental recommends that the Plan be made without the material amendments MA 193, MA 201, MA 204, MA 211, MA 225, MA 231, MA 241, MA 270, MA 284 and MA 305.

The aforementioned amendments are, therefore, considered to be inconsistent with national and regional policy in respect of compact growth (NPO 3c and RPO 3) and/or with sequential residential zoning under the Minister's Guidelines, the implementation of the core strategy, the proportionate growth of settlements (NPO 18a), and the provision of a sustainable settlement and transport strategy in accordance with section 10(2n) of the Act.

# MA Recommendation 3 – Material Zoning Amendments

Having regard to national and regional policy objectives NPO 3c, RPO 34 & 35, and NPO 18a, the *Development Plans, Guidelines for Planning Authorities* (2007) and *Development Plans, Guidelines for Planning Authorities - Draft for Consultation* (August 2021), and section 10(2)(n) of the *Planning and Development Act 2000*, as amended, the Office considers that the following residential zonings proposed under the material amendments are inconsistent with the core strategy and/or contrary to the implementation of compact growth,



sequential zoning and the provision of a sustainable settlement and transport strategy. The planning authority is therefore required to make the Plan without the following material amendments:

- MA 211 Dungarvan & Ballinroad
- MA 215 Dungarvan & Ballinroad
- MA 217 Dungarvan & Ballinroad
- MA 218 Dungarvan & Ballinroad
- MA 222 Dungarvan & Ballinroad
- MA 225 Dungarvan & Ballinroad
- MA 284 Tramore
- MA 295 Tramore
- MA 305 Tramore
- MA 243 Dunmore East
- MA 231 Dunmore East
- MA 241 Dunmore East
- MA 204 Clonmel Environs
- MA 270 Portlaw
- MA 193 An Rinn
- MA 201 Cappoquinn
- MA 281 Tallow
- MA 205 Crooke
- MA 251 Lemybrien



## 4. Flood Risk Management

The Office welcomes the planning authority's approach to updating the Strategic Flood Risk Assessment (SFRA), including the application of the plan-making Justification Test in accordance with Recommendation 12 of the Office's submission to the draft Plan.

However, a number of material amendments have been proposed for the zoning of lands at risk of flooding for vulnerable or highly vulnerable uses in the settlements of Waterford City, Dunmore East, Portlaw and Tramore contrary to the recommendations of the planning authority's own SFRA and the Strategic Environmental Assessment (SEA) Environmental Report.

The making of the Plan with the proposed amendments would be contrary to the provisions of *The Planning System and Flood Risk Management Guidelines for Planning Authorities* (2009) and NPO 57 of the NPF, to avoid development in areas at risk of flooding.

## MA Recommendation 4 – Flood Risk Management

Having regard to NPO57 and to the provisions of *The Planning System and Flood Risk Management Guidelines for Planning Authorities* (2009) the planning authority is required to make the Plan without the following material amendments:

- MA 342 (Waterford City)
- MA 244 (Dunmore East)
- MA 268 (Portlaw)
- MA 273 (Portlaw)
- MA 302 (Tramore)
- MA 306 (Tramore)
- MA 316 (Tramore)



#### Summary

The Office requests that your authority addresses the recommendations outlined above. The report of the chief executive of your authority prepared for the elected members under section 12 of the Act must summarise these recommendations and the manner in which they are to be addressed.

At the end of the process, your authority is required to notify this Office within five working days of the decision of the planning authority in relation to the Material Alterations to the draft Plan. Where your authority decides not to comply with the recommendations of the Office, or otherwise makes the plan in such a manner as to be inconsistent with the recommendations of the Office, the chief executive must inform the Office accordingly and state the reasons for the decision of the planning authority.

The planning authority is strongly advised that the recommendations relate to significant breaches of policy and that failure to address the matters raised in the manner outlined prior to adoption of the county development plan may lead the Office to determine that the Plan fails to set out an overall strategy for proper planning and sustainable development of the area concerned.

Please feel free to contact the staff of the Office in the context of your authority's responses to the above, which we would be happy to facilitate. Contact can be initiated through <u>plans@opr.ie</u>.

Is mise le meas,

Anne Marie O'Connor

Deputy Regulator and Director of Plans Evaluations