OPR Ref: MA-042-22



1<sup>st</sup> March 2024

Planning Policy Unit, Kerry County Council, County Buildings, Rathass, Tralee, Co. Kerry.

### Re: Material Alterations to the Draft Kenmare Municipal District Local Area Plan 2023 - 2029

A chara,

Thank you for your authority's work in preparing the proposed Material Alterations (the proposed material alterations) to the Draft Kenmare Municipal District Local Area Plan 2023 - 2029 (the draft LAP).

As your authority is aware, a core 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. This includes a requirement to make submissions on statutory plans, including any observations or recommendations the Office considers necessary to ensure the effective co-ordination of national, regional and local planning requirements.

The Office has evaluated and assessed the proposed material alterations under the provisions of sections 31AO(1) and 31AO(2) of the *Planning and Development Act 2000* (the Act), as amended, and within the context of the Office's earlier recommendations and observations.

The Office's evaluation and assessment of the proposed material alterations has had regard to the current Development Plan, the Regional Spatial and Economic Strategy (RSES) for the Southern Regional Assembly area, and relevant section 28 guidelines.



#### Overview

The Office welcomes the preparation of a draft LAP and associated material alterations, to guide the future development of this environmentally and culturally sensitive sub-county region.

The Office acknowledges the significant work undertaken by the planning authority to inform the material alterations, which includes, among others, an updated Settlement Capacity Audit (SCA) for residential / mixed use lands included as material alterations.

At the outset, the Office would like to advise the planning authority that the majority of its material alterations are acceptable with the exception of some zoning amendments which zone peripheral lands for development at locations primarily outside the *CSO Boundary* (2022) (CSO Boundary).

These alterations are also significant in the context of the Office's submission to the draft LAP which had advised of its concern regarding the extent of land zoned for residential development in Kenmare, Killorglin and Waterville, which already significantly exceeds that required to meet the Housing Supply Target (HST) for these settlements in the core strategy of the Kerry County Development Plan 2022 – 2028 (the Development Plan).

The submission also raised concerns about the zoning of lands in peripheral and non-sequential locations and the potential to undermine compact growth and regeneration.

In this regard, Recommendation 1 required the planning authority to omit certain<sup>1</sup> R1 zoned lands in Kenmare and Killorglin, and other such lands in Kenmare and Killorglin and Waterville having regard to the HST allocations in the core strategy of the Development Plan and various policies / objectives promoting compact growth and sequential development.

<sup>&</sup>lt;sup>1</sup> Sites KE-1, KE-2, KE-3, KE-4, KE-8, KE-9 and KE-13 in Kenmare and sites KG-6, KG-7 and KG-8 in Killorglin



However, the material alterations to the draft LAP increase rather than reduce the quantum of lands available for residential development over the plan period in Kenmare, Killorglin and Waterville, and as such the planning authority has failed to address Recommendation 1 of the Office's submission to the draft LAP.

The net effect of the material alterations is an increase of approximately 13 ha in R1 zoned lands across the settlements of Cahersiveen, Kenmare, Killorglin, Sneem and Waterville. Furthermore, the lands proposed to be zoned R1 by the material alterations represent a pattern of zoning residential lands in peripheral locations, often with deficiencies in infrastructure, and which often leapfrog undeveloped and sequentially preferable lands. These material alterations are considered individually at sections 1.1 and 1.2 below.

Recommendations 2 and 3 of the Office's submission to the draft LAP required the planning authority to omit the R4 strategic reserve zoning objective and associated objective KENMD-76, and to determine appropriate land use zoning objectives to replace the R4 zoning.

While it is acknowledged that some of the material alterations omit or rezone some R4 zoned lands, it has been retained in a number of settlements including, among others Cahersiveen, Killorglin and Chapeltown. Objective KENMD-76 has also been retained, albeit with a change to restrict its use until 80% of R1 lands have been developed, with associated changes to sections 3.1.2 and 3.1.2.2<sup>2</sup>.

Therefore, the planning authority has partially addressed Recommendations 2 and 3 of the Office's submission to the draft LAP, and the Office is satisfied with the alterations made to Objective KENMD-76.

Notwithstanding, the planning authority has zoned further R4 lands in peripheral and non-sequential locations in the settlements of Cahersiveen and Chapeltown. These material alterations are assessed in sections 1.3 and 1.4 below.

<sup>&</sup>lt;sup>2</sup> Material Amendment 13



Observation 1 of the Office's submission to the draft LAP advised the planning authority to review its zoning objectives for employment uses with a view to clarifying the type of employment uses based on their intensity and nature relative to the accessibility of their location and servicing. This observation stemmed from an absence of a clear evidence-based rationale for economic and employment related zonings particularly in Kenmare and the exclusion of economic and employment lands from the SCA.

Material Alteration 60 zones a significant site for industrial / enterprise / employment fronting the N70 national road at a location remote from Killorglin and where the 100 kmh speed limit applies. There is no evidence-based rationale underpinning the zoning of land for employment purposes at this location consistent with section 2.4 of the *Spatial Planning and National Roads, Guidelines for Planning Authorities (2012)* (National Roads Guidelines). The Strategic Environmental Assessment (SEA) Environmental Report (SEA Environmental Report) identifies likely significant effects in relation to this material alteration. These matters are addressed in section 2 below.

In summary, the Office is generally satisfied with the responses to Recommendations 4 and 5 and Observation 2, and considers the majority of material alterations to be acceptable and reasonable. In this regard, the Office welcomes Material Alteration 5 which introduces a new section 2.9 regarding climate action to ensure that the integration of climate action policy also aligns with the vision, strategic objectives and actions outlined in the Local Authority Climate Action Plan (LACAP).

Notwithstanding, the Office has grave concerns with a number of the zonings introduced as material alterations, which compound the issues raised in Recommendation 1 of our submission on the draft LAP.

The SEA Environmental Report identifies likely significant effects in relation to Material Alterations 18, 21, 31, 33, 35, 36, 37 and 38 including that they do *'not support the sequential approach for residential development'*.



It is within this context the submission below sets out five (5) recommendations under the following two themes:

Key theme	Recommendation
Zoning for Residential development	MA Recommendation 1
	MA Recommendation 2
	MA Recommendation 3
	MA Recommendation 4
Zoning for economic development	MA Recommendation 5
and employment	

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 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 full consideration to the advice contained in a submission.

### 1. Zoning for residential development

*The Strategic Vision and Development Strategy* in section 2.1 of the draft LAP recognises the need to promote consolidation of the towns and villages within the plan area through reuse, restoration and regeneration, which in turn *…supports* 



climate action policy, particularly in meeting emissions targets from transport and the built environment.'

This approach is further reflected in LAP objective KENMD-3 and one of the key strategic aims of the LAP which states:

The sustainable management of the land resource in the settlements, through targeting dereliction, vacant and under-utilised sites in towns and villages to ensure development is carried out in an integrated and consolidated manner and through regeneration stimulation opportunities, whilst avoiding inappropriate development.

According to the SCA prepared to inform the draft LAP, the draft LAP zones approximately 41 ha R1 - New / Proposed Residential and approximately 9 ha M1 / M2 – Mixed Use across the five settlements of Cahersiveen, Kenmare, Killorglin, Sneem and Waterville, with a potential yield of up to 1,441 units.

While the Office was satisfied with the land zoned for residential development and the potential housing yield for Cahersiveen and Sneem in the draft LAP, it concluded that the extent of lands zoned R1 and M1 / M2 in Kenmare, Killorglin and Waterville provided for housing supply significantly in excess of the housing targets in the core strategy. This in turn informed Recommendation 1 of the Office's submission to the draft LAP.

The Office's evaluation of the revised SCA notes that the quantum of lands zoned R1 has increased to approximately 55 ha. In addition, the planning authority has rezoned sites KE-1, KE-3, KE-4, KE-8 and KE-9 to R2 – Existing Residential notwithstanding that they are largely undeveloped, and this in turn provides for a further 2 ha (approximately) of residential lands.

Collectively, the R1, M1 / M2 and undeveloped R2 lands now provide for approximately 1,750 housing units across the five settlements of Cahersiveen, Kenmare, Killorglin, Sneem and Waterville. While the balance between zoned residential lands and housing supply targets is still generally acceptable in



Cahersiveen and Sneem, there is a significant mismatch in the other three settlements. This is assessed in the following sections.

### 1.1 Kenmare

The material alterations<sup>3</sup> to the draft LAP include a significant number of zoning changes across the settlement of Kenmare.

The Office has assessed the material alterations and concludes that the majority are acceptable with the exception of Material Alterations 21, 31 and 33.

The Office's assessment notes that the quantum of lands zoned R1 has increased by approximately 3.5 ha and that the R1, M1 / M2 and undeveloped R2 lands provide a housing yield of up to 788 units, which is nearly four times Kenmare's housing supply target of 204 units.

In respect of sites KE-1, KE-2, KE-4, KE-8 and KE-9, the Office accepts the zoning changes to R2 / O1 proposed in Material Alteration 20 having regard to the residential zonings in the Kenmare Functional Area Local Area Plan 2010 – 2016 and their relatively small size.

In respect of site KE-13, the Office accepts the rationale provided by the chief executive<sup>4</sup> to retain the R1 zoning on the site.

The RSES for the Southern Regional Assembly contains policy objectives which support the integration of land use and transport, sequential development and compact growth. In this regard RPO 151 sets out principles for land use and transport integration including the following (emphasis added):

b. <u>Residential development will be carried out sequentially</u>, whereby lands which are, or will be, most accessible by walking, cycling and public transport– including infill and brownfield sites –are prioritised...

<sup>&</sup>lt;sup>3</sup> Material Alterations 20 – 33 inclusive

<sup>&</sup>lt;sup>4</sup> Page 17 of Chief Executive's Report on Draft Local Area Plan Submissions – January 2024



e. New employment and <u>residential development will be consolidated and</u> <u>intensified in a manner which renders it serviceable by public transport</u> and ensures that it is highly accessible, by walking, cycling and public transport...

The above is further reinforced in RPO 91 (Decarbonisation in the Transport Sector), where it is an objective to *'…pursue policies to reduce reliance on private cars and achieve modal shift to sustainable transportation in conjunction with policies to achieve compact growth and reduce congestion.'* 

Objective KCDP 4-1 of the Development Plan reflects policy intent of the RSES to promote compact growth stating:

Support and facilitate the objectives and actions in Housing for All (HfA) to regenerate towns and villages, to tackle dereliction, vacancy, to deliver site assembly opportunities and to promote the sustainable development of land to achieve compact growth and increased population in these centres and to engage with the Land Development Agency (LDA), where appropriate, in the identification, planning and co-ordination of strategic, publicly owned land banks to achieve compact growth, sustainable development, and urban regeneration.

The Office considers that the following material alterations in Kenmare are inconsistent with RPO 151, RPO 91 and KCDP 4-1 for the reasons set out below.

**Material Alteration 21** proposes to amend the zoning of Site KE-18 from R4 Strategic Residential Reserve to R1 New/Proposed Residential.

The said lands are located at the northern periphery of the town adjoining Kenmare Golf Club. The lands are greenfield and front a narrow road (Railway Road) which has no footpath as noted in the SCA. As such, the lands are categorised as Tier 2 in the SCA. A significant portion of the lands were zoned Passive Open Space in the Kenmare Functional Area Local Area Plan 2010 – 2016. The Strategic Flood Risk Assessment (SFRA) notes that the land is located adjacent to unmapped watercourses.



The SEA identifies, among others, the following likely significant effects:

...Development potentially within/close to various sensitive environmental receptors adjoining watercourse, potential for impact on water quality; local biodiversity interests, sensitive landscapes, potential for impact on unknown archaeological remains...

The lands are predominately outside of the CSO Boundary, and would not contribute to compact growth or consolidation of the settlement. It is considered premature to zone these lands R1 and more appropriate to retain the R4 zoning proposed in the draft LAP.

**Material Alteration 31** proposes to extend the settlement boundary<sup>5</sup> and to zone site KE-102 to R1 - New/Proposed Residential and the adjoining lands to R2 - Existing Residential.

The said lands are located at the northern periphery of the town and include the Ard Carraig development. It is proposed to zone the Ard Carraig development R2 and the undeveloped greenfield land (Site KE-102) to R1. It is considered acceptable to zone the established housing to R2 as part of Material Alteration 31.

The SCA categorises site KE-102 as Tier 2 since it does not benefit from public lighting or footpaths. The lands are predominately outside of the CSO Boundary, and would not contribute to compact growth or consolidation of the settlement. It is considered inappropriate to zone the undeveloped site KE-102 to R1 having regard to its peripheral location and the extent of sequentially preferable R1 zoned lands in Kenmare.

**Material Alteration 33** proposes to zone site KE-3 from O1 Strategic Reserve, White Land to R1 New/Proposed Residential.

The said lands are located at the western periphery of the town and are approximately 1 km from the edge of the town centre. The lands front the N70

<sup>&</sup>lt;sup>5</sup> This refers to the settlement boundary as shown on the land use zoning maps.



national road where the 60 kmh speed limit applies. The N70 has no hard shoulder at this location and there is a footpath on the northern side only.

The majority of the lands were unzoned and outside the town boundary<sup>6</sup> in the Kenmare Functional Area Local Area Plan 2010 – 2016. The SFRA notes that the land is located adjacent to unmapped watercourses.

The SEA identifies, among others, the following likely significant effects:

...A small watercourse runs to the northern boundary of the site, potential for Impacts, the water flows in the direction of the River Finnihy which forms part of the Kenmare River SAC...

The lands are predominately outside of the CSO CSO Boundary, and would not contribute to compact growth or consolidation of the settlement. It is considered inappropriate to zone the undeveloped site KE-3 to R1 having regard to its peripheral location and the extent of sequentially preferable R1 zoned lands in Kenmare.

### MA Recommendation 1 – Residential zonings in Kenmare

Having regard to:

- the requirements under sections 19(2) and 20(5) of the *Planning and Development Act 2000*, as amended, concerning consistency with the objectives of the development plan and its core strategy;
- the core strategy of the Kerry County Development Plan 2022-2028 (the Development Plan) and the housing supply target for Kenmare;
- the extent of sequentially preferable located R1 New / Proposed Residential lands proposed to be zoned in Kenmare to meet the housing supply target in the core strategy;
- the lack of adequate infrastructure to support residential development as identified in the Settlement Capacity Audit;

<sup>&</sup>lt;sup>6</sup> As defined on the land use zoning map for the settlement.



- Objective KCDP 4-1 of the Development Plan to promote the sustainable development of land to achieve compact growth;
- Objective KENMD-3 of the Draft Kenmare Municipal District Local Area Plan 2023-2029 regarding sustainable management of the land resource and to ensure integrated and consolidated development;
- Regional Policy Objectives RPO 35 (Support for Compact Growth), RPO 91 (Decarbonisation in the Transport Sector), and RPO 151 (Integration of Land Use and Transport) of the RSES; and
- the policy and objective of the Development Plans, Guidelines for Planning Authorities (2022) (Section 6.2.3) that 'planning authorities adopt a sequential approach when zoning lands for development, whereby the most spatially centrally located development sites in settlements are prioritised for new development first, with more spatially peripherally located development sites being zoned subsequently'.

the planning authority is required to make the LAP without the following Material Alterations:

- i. Material Alteration 21 (Site: KE-18);
- ii. Material Alteration 31 as it relates to Site KE-102; and
- iii. Material Alteration 33 (Site: KE-3).

### 1.2 Killorglin

The material alterations<sup>7</sup> to the draft LAP include a significant number of zoning changes across the settlement of Killorglin.

The Office has assessed the material alterations relating to residential and concludes that Material Alterations 34 and 39 are acceptable.

<sup>&</sup>lt;sup>7</sup> Material Alterations 34 – 39 inclusive



Recommendation 1 of the Office's submission to the draft LAP required the planning authority to omit sites KG-6, KG-7, KG-8 and KG-9. The Office has considered the rationale provided by the chief executive<sup>8</sup> for retaining the R1 zoning on sites KG-6 and KG-7 and considers that it is acceptable.

Notwithstanding, the Office notes that sites KG-8 and KG-9 have not been omitted from the draft LAP as recommended by the chief executive<sup>9</sup>. The Office remains of the view that zoning site KG-8 (4 ha) and site KG-9 (2.1 ha) would not contribute to compact growth and sequential development.

The Office notes that the quantum of lands zoned R1 has increased by approximately 5.5 ha and that the R1 and M1 / M2 lands provide a housing yield of up to 683 units, which is nearly three times Killorglin's housing supply target of 251 units.

The Office considers that the following material alterations in Killorglin are inconsistent with RPO 151, RPO 91 and KCDP 4-1 for the reasons set out below.

**Material Alteration 35** proposes to zone lands outside of the CSO boundary for Killorglin as R1 New/Proposed Residential.

The said lands are located at the western periphery of the town and are approximately 1km from the edge of the town centre. The lands are greenfield and front a narrow road (Laharn) which has no footpath, public lighting or foul / storm sewer as noted in the SCA. As such, the lands are categorised as Tier 2 in the SCA. The lands are outside the town boundary<sup>10</sup> in the Killorglin Functional Area Local Area Plan 2010 – 2016.

The lands are predominately outside of the CSO Boundary, and would not contribute to compact growth or consolidation of the settlement.

Further, the rezoning would result in 'leapfrogging' of residential development to a peripheral location outside the main built up area, which the policy and objective for

<sup>&</sup>lt;sup>8</sup> Page 17 of Chief Executive's Report on Draft Local Area Plan Submissions – January 2024

<sup>&</sup>lt;sup>9</sup> Page 28 of Chief Executive's Report on Draft Local Area Plan Submissions – January 2024 <sup>10</sup> As defined on the land use zoning map for the settlement.



a sequential approach to zoning lands set out in section 6.2.3 of the *Development Plans, Guidelines for Planning Authorities* (2022) (Development Plan Guidelines) seeks to avoid.

It is considered inappropriate to zone the undeveloped site KG-102 to R1 having regard to its peripheral and unserviced location and the extent of sequentially preferable R1 zoned lands in Killorglin.

**Material Alterations 36 and 37** propose to extend the settlement boundary and to zone site KG-104 to M1 – Mixed Use and site KG-8b to R1 – New / Proposed Residential. Sites KG-104 and KG-8b are in close proximity to site KG-8, which Recommendation 1 required the planning authority to omit.

Sites KG-104 and KG-8b are located at the eastern periphery of the town and are approximately 700 - 800 metres from the edge of the town centre. The lands are greenfield and front the N70 national road where the 60 kmh speed limit applies. There is a footpath on the northern (opposite) side only.

The lands are outside of the CSO Boundary, and would not contribute to compact growth or consolidation of the settlement.

Material Alteration 36 proposes to zone Site KG-104 M1 – Mixed Use which permits a wide range of uses including retail<sup>11</sup>. For example, Shop (Class 1) is permitted in principle and Superstore (>2500m2) is open for consideration.

Therefore, the Office considers that zoning site KG-104 to M1 is not consistent with the sequential development approach in sections 2.5.2 and 4.4 of the *Retail Planning Guidelines for Planning Authorities* (2012) which is reflected in Development Plan policy support for town centre first / sequential approach<sup>12</sup> and Objective KCDP 4-61 to (emphasis added):

facilitate appropriately scaled improvements to the quantum and quality of retail offer and function in the Regional Towns, and ensure their sustainable

<sup>&</sup>lt;sup>11</sup> Appendix B – Land Use Zoning Matrix in Draft LAP

<sup>&</sup>lt;sup>12</sup> Page 81 of the Development Plan



development by consolidating, intensifying, and enhancing their existing core retail areas, and <u>by directing new retail opportunities into town centres</u>.'

Further, the rezonings would result in 'leapfrogging' of development to a peripheral location outside the main built up area, which the policy and objective for a sequential approach of the Development Plans Guidelines seeks to avoid.

It is considered inappropriate to zone the undeveloped site KG-104 to M1 and KG-8b to R1 having regard to their peripheral location and the extent of sequentially preferable R1 and M1 zoned lands in Killorglin.

**Material Alteration 38** proposes to zone lands outside of the settlement boundary of Killorglin as R1 - New/Proposed Residential.

The said lands are located at the western periphery of the town and are approximately 1km from the edge of the town centre. The lands are greenfield and front a narrow road (Laharn) which has no footpath, public lighting or foul / storm sewer as noted in the SCA. As such, the lands are categorised as Tier 2 in the SCA. The lands are outside the town boundary in the Killorglin Functional Area Local Area Plan 2010 – 2016.

The lands are predominately outside of the CSO Boundary, and would not contribute to compact growth or consolidation of the settlement.

Further, the rezoning would result in 'leapfrogging' of residential development to a peripheral location outside the main built up area, which the policy and objective for a sequential approach to zoning lands set out in section 6.2.3 of Development Plan Guidelines seeks to avoid.

It is considered inappropriate to zone the undeveloped site KG-103 to R1 having regard to its peripheral and unserviced location and the extent of sequentially preferable R1 zoned lands in Killorglin.



### MA Recommendation 2 – Residential and Mixed Use zonings in Killorglin

Having regard to:

- the requirements under sections 19(2) and 20(5) of the *Planning and* Development Act 2000, as amended, concerning consistency with the objectives of the development plan and its core strategy;
- the core strategy of the Kerry County Development Plan 2022-2028 (the Development Plan), and the housing supply target for Killorglin;
- the extent of sequentially preferable R1 New / Proposed Residential lands proposed to be zoned in Killorglin to meet the housing supply target in the core strategy;
- the lack of adequate infrastructure to support residential development as identified in the Settlement Capacity Audit;
- Objective KCDP 4-1 of the Development Plan to promote the sustainable development of land to achieve compact growth;
- the extent of preferable located M1 Mixed Use lands in the town centre and Objective KCDP 4-61 to consolidate, intensify and enhance existing core retail areas;
- Objective KENMD-3 of the Draft Kenmare Municipal District Local Area 2023-2029 regarding sustainable management of the land resource and to ensure integrated and consolidated development;
- Regional Policy Objectives RPO 35 (Support for Compact Growth), RPO 91 (Decarbonisation in the Transport Sector), and RPO 151 (Integration of Land Use and Transport) of the RSES; and
- the policy and objective of the Development Plans, Guidelines for Planning Authorities (2022) (Section 6.2.3) that 'planning authorities adopt a sequential approach when zoning lands for development, whereby the most spatially centrally located development sites in settlements are prioritised



for new development first, with more spatially peripherally located development sites being zoned subsequently; and

 Sections 2.5.2 and 4.4 of the Retail Planning Guidelines for Planning Authorities (2012) – Sequential Development Approach,

the planning authority is required to make the LAP without the following Material Alterations:

- i. Material Alteration 35 (Site KG-102);
- ii. Material Alteration 36 (Site KG-104);
- iii. Material Alteration 37 (Site KG-8b); and
- iv. Material Alteration 38 (Site KG-103).

### 1.3 Cahersiveen

The material alterations affecting Cahersiveen are generally acceptable in relation to their location and the quantum of lands zoned R1.

Recommendation 2 of the Office's submission to the draft LAP required the planning authority to omit the R4 – Strategic Residential Reserve lands across various settlements including Cahersiveen. The Office has considered the rationale provided by the chief executive<sup>13</sup> and the changes to objective KENMD-76, and accepts the retention of the R4 zoning on site CH-4 which is close to the town core.

Notwithstanding, the Office has concerns with **Material Alteration 18** which proposes to zone site CH-103 outside of the settlement boundary of Cahersiveen as R4 - Strategic Residential Reserve.

The Office considers that zoning this site is inconsistent with RPO 151, RPO 91 and KCDP 4-1 for the following reasons.

<sup>&</sup>lt;sup>13</sup> Pages 18, 19 and 20 of Chief Executive's Report on Draft Local Area Plan Submissions – January 2024



The said lands are located at the western periphery of the town and are approximately 1km from the edge of the town centre. The lands are greenfield and are accessed from the N70 national road where the 60 kmh speed limit applies. The SCA categorises the lands as Tier 2. The SFRA notes that the land is located adjacent to unmapped watercourses.

The lands are outside of the CSO Boundary, and would not contribute to compact growth or consolidation of the settlement. Further, the draft LAP includes a relatively large site zoned R4 in a location that is sequential to main built up area of the settlement, and therefore there is no justification to zone further lands R4.

It is considered inappropriate to zone the undeveloped site CH-103 to R4 having regard to its peripheral location and the extent of lands already zoned R4.

# MA Recommendation 3 – Strategic Residential Reserve zoning in Cahersiveen

Having regard to:

- the requirements under sections 19(2) and 20(5) of the *Planning and Development Act 2000*, as amended, concerning consistency with the objectives of the development plan and its core strategy;
- the core strategy of the Kerry County Development Plan 2022-2028 (the Development Plan), and the housing supply target for Cahersiveen;
- the extent of lands already zoned R4 Strategic Residential Reserve (site CH-4) in Cahersiveen;
- Objective KCDP 4-1 of the Development Plan to promote the sustainable development of land to achieve compact growth;
- Objective KENMD-3 of the Draft Kenmare Municipal District Local Area Plan 2023-2029 regarding sustainable management of the land resource and to ensure integrated and consolidated development;



- Regional Policy Objectives RPO 35 (Support for Compact Growth), RPO 91 (Decarbonisation in the Transport Sector), and RPO 151 (Integration of Land Use and Transport) of the RSES; and
- the policy and objective of Development Plans, Guidelines for Planning Authorities (2022) (Section 6.2.3) that 'planning authorities adopt a sequential approach when zoning lands for development, whereby the most spatially centrally located development sites in settlements are prioritised for new development first, with more spatially peripherally located development sites being zoned subsequently',

the planning authority is required to make the LAP without Material Alteration 18 (Site CH-103).

### 1.4 Chapeltown

Material Alterations 51 and 52 affect the village of Chapeltown and propose to extend the settlement boundary to provide for R2 and R4 zonings.

**Material Alteration 51** proposes to zone land R2 – Existing Residential adjoining the GAA Club. The Office considers that this zoning is acceptable having regard to the established residential use of the land, its relatively small size and close proximity to the village centre.

**Material Alteration 52** proposes to zone land R4 – Strategic Residential Reserve at the northern periphery of the village.

The Office considers that zoning this site is inconsistent with RPO 151, RPO 91 and KCDP 4-1 for the following reasons.

The lands are greenfield and front a narrow road (Geokaun View). The lands to the north and west have a rural character and are largely undeveloped. The draft LAP already zones an infill site R4 on the eastern side of Geokaun View, and the Office questions the rationale for zoning further lands R4.



Section 3.4.3 (Chapeltown) of the draft LAP states the following in respect of planning considerations and proposals:

It is an objective of the Plan to encourage the development of a compact and sustainable village structure by ensuring that new development is contiguous with existing development and makes effective use of infill sites.

Zoning this land for R4 would extend the village into an undeveloped rural area at the periphery of the village and not provide for compact village structure and is therefore inconsistent with the above objective.

# MA Recommendation 4 – Strategic Residential Reserve zoning in Chapeltown

Having regard to:

- the requirements under sections 19(2) and 20(5) of the *Planning and Development Act 2000*, as amended, concerning consistency with the objectives of the development plan and its core strategy;
- Objective KCDP 4-1 of the Kerry County Development Plan 2022-2028 to promote the sustainable development of land to achieve compact growth;
- Objective KENMD-3 of the Draft Kenmare Municipal District Local Area Plan 2023-2029 regarding sustainable management of the land resource and to ensure integrated and consolidated development;
- the lands already zoned R4 Strategic Residential Reserve on Geokaun View;
- the stated objective for Chapeltown in section 3.4 of the draft LAP to encourage a compact and sustainable village structure;
- Regional Policy Objectives RPO 35 (Support for Compact Growth), RPO 91 (Decarbonisation in the Transport Sector), and RPO 151 (Integration of Land Use and Transport) of the RSES; and



**Oifig an Rialaitheora Pleanála** Office of the Planning Regulator

 the policy and objective of the Development Plans, Guidelines for Planning Authorities (2022) (Section 6.2.3) that 'planning authorities adopt a sequential approach when zoning lands for development, whereby the most spatially centrally located development sites in settlements are prioritised for new development first, with more spatially peripherally located development sites being zoned subsequently',

the planning authority is required to make the LAP without Material Alteration 52.

### 2. Zoning for economic development and employment

Observation 1 of the Office's submission to the draft LAP advised the planning authority to review its zoning objectives for employment uses with a view to clarifying the type of employment based on their intensity and nature relative to accessibility, and their servicing.

While no review of the employment zonings informed the material alterations to the draft LAP, the Office accepts the rationale provided by the chief executive<sup>14</sup> for the types of employment zonings proposed.

Section 3.2.3.8 of the draft LAP contains information and objectives regarding employment and economic activity in Killorglin. In relation to the expansion of existing industries and development of new industries in the town, the Office notes the following from page 132:

...Sufficient lands are zoned to the northeast of the town at Clooncarrig on the N70-Killorglin to Tralee Road to allow for the expansion of the existing industries in this area or to allow new industries develop. Any new industries of a similar type will be encouraged through the planning process to establish and develop adjacent to this existing industrial area where possible and create a "clustering" of similar type businesses...

<sup>&</sup>lt;sup>14</sup> Pages 24 and 25 of Chief Executive's Report on Draft Local Area Plan Submissions – January 2024



Therefore, the Office questions the rationale for rezoning further employment lands at a location removed from the settlement of Killorglin, as proposed under Material Alteration 60.

Specifically, Material Alteration 60 proposes to zone a 4.5 ha rural site as C2 - Industrial / Enterprise / Employment.

The land is located in an isolated rural area, approximately 2.5 km west of the town of Killorglin. The site fronts the N70 national road where the 100 kmh speed limit applies, and therefore the National Roads Guidelines and related regional / development plan policies are relevant to the Office's assessment of Material Alteration 60.

Section 2.5 of the National Roads Guidelines states that local area plans must implement the policy approaches outlined including for lands adjoining national roads to which speed limits greater than 60 kmh apply (emphasis added):

The policy of the planning authority will be to avoid the creation of any additional access point from new development or the generation of increased traffic from existing accesses to national roads to which speed limits greater than 60 kmh apply. This provision applies to all categories of development...

Section 2.6 of the National Roads Guidelines also set out exceptional circumstances regarding developments of national and regional strategic importance and lightly-trafficked sections of national secondary routes.

Regional Policy Objective 151 contains principles of land use and transport to guide employment development and also reflects the policy intent of the National Roads Guidelines to maintain the strategic function of national roads. The following principles are noted (emphasis added):

d. New employment and residential development will be consolidated and intensified in a manner which renders it serviceable by public transport and ensures that it is highly accessible, by walking, cycling and public transport...



e. Land use development in smaller rural towns will optimise public transport and sustainable travel integration within settlements. Public transport Interchange will be facilitated to encourage modal shift to public transport and sustainable travel between settlements and on approach to settlements. <u>The strategic transport function of national roads will be maintained and</u> protected in accordance with national policy.

The Development Plan also contains objectives for land use planning for economic development, of which Objective KCDP 9-22 is of particular relevance to this material alteration. It states:

Ensure that Proposals for economic development, including those related to Strategic Economic Drivers in the Development Plan will be progressed complementary to safeguarding the strategic function, safety and investment in the strategic national road network to date and in compliance with the provisions of the Section 28 Ministerial Guidelines 'Spatial Planning and National Roads Guidelines for Planning Authorities' (DoECLG, 2012).

Having regard to the above policies, the Office considers that zoning land for industrial / enterprise / employment uses at this location on the N70 is not consistent with the National Roads Guidelines, RPO 151 and Development Plan Objective KCDP 9-22.

The Office also has serious concerns regarding the speculative nature of this rezoning and is not aware of any evidence-base in accordance with section 2.4 and box 2.4 of the aforementioned guidelines with respect to the approach to plan preparation on zoned lands adjacent to national roads.

The SEA Environmental Report identifies the following likely significant effects:

In addition to flood risk issues, there are issues in terms of access onto the N70, traffic generation and impact on the town centre of Killorglin, through the promotion of out-of-town employment enterprises, contrary to the Town Centre First policies.



The SFRA also identifies that the site is indicated to be at risk by the National Indicative Fluvial Mapping, and state the following:

...Therefore the proposed land use zoning is not suitable and development proposals for this site should include a site-specific flood risk assessment, completed in accordance with the Planning System and Flood Risk Management Guidelines (2009). This should include a Justification Test.

The SEA (page 99) notes the presence of watercourses adjoining the site and the need to prepare a justification test.

Having regard to the above, and as no justification test appears to be have been included to support zoning of the subject lands, the Office considers that the rezoning is also not consistent with RPO 114, which states that it is an objective to

Ensure that the flood risk management objectives of the Flood Risk Management Plans are fully considered in the development of planning policy and decision-making by local authorities so that flood risk is a key driver in the identification of suitable locations for new development, considering the CFRAM flood maps and other flood maps as available.

Further, the Office considers that the rezoning is also not consistent with RPO 116 which states:

Consideration must be given to future appropriate land-use policies in accordance with the requirements of the Guidelines, "The Planning System and Flood Risk Management 2009". Strategic and local flood risk assessments and plans should be prepared where appropriate, which should include consideration of potential impacts of flood risk arising from climate change. It is an objective to avoid inappropriate development in areas at risk of flooding and integrate sustainable water management solutions (such as SUDS, non-porous surfacing and green roofs) to create safe places in accordance with the Guidelines.



# MA Recommendation 5 – Industrial / Enterprise / Employment zoning in Killorglin

Having regard to:

- the requirements under sections 19(2) and 20(5) of the *Planning and* Development Act 2000, as amended, concerning consistency with the objectives of the development plan; and
- Objective KCDP 9-22 of the Kerry County Development Plan 2022-2028 regarding proposals for economic development and safeguarding the strategic function of the national road network;
- Regional Policy Objective 151 of the RSES and its principles for land use and transport integration, namely that employment development is consolidated and intensified in a manner which renders it serviceable by public transport and ensures that it is highly accessible;
- section 3.2.3.8 of the Draft Kenmare Municipal District Local Area Plan 2023-2029 and the extent of lands already zoned for commerce / industry / enterprise / economic development in the main settlement of Killorglin; and
- the Strategic Flood Risk Assessment's assessment of the proposed material alterations which indicate a need for a justification test; and
- Regional Policy Objectives RPO 114 (Flood Risk Management) Objectives RPO 116 (Planning System and Flood Risk Management) of the RSES,

the planning authority is required to make the LAP without Material Alteration 60.

#### 3. Other Matters

Observation 2 of the OPR's submission to the draft LAP related to the environmental assessments prepared alongside the draft LAP, namely the SEA Environmental Report and Natura Impact Report.



In this regard, the Office notes the addition of section 7.4 (Cumulative Impacts) to the SEA Environmental Report and the inclusion of additional information on European Site Conservation Objectives and the potential for adverse effects arising thereon in Appendix One of the Natura Impact Report (NIR Addendum Report).

However, while the NIR Addendum Report acknowledges that a number of the mitigation measures identified in the original NIR report could have been more completely incorporated into the plan, and states that this has been addressed within the proposed amendments / material alterations report, with the exception of Material Alteration 22 (subsection 3.2.2.7.3), it is not clear how this has been addressed. The planning authority is reminded of its obligations as the competent authority under the Habitats Directive and relevant national legislation.

In respect of Recommendation 5, it is not clear that all the matters raised have been addressed in the material alterations, and the planning should endeavour to resolve any outstanding matters where this can be undertaken as minor modifications to the LAP, in consultation with the OPW.

Observation 3 of the OPR's submission to the draft LAP advised the planning authority to include a clear monitoring strategy of the key plan objectives to enable the planning authority to be more effective in implementing the associated policies and objectives of the draft LAP particularly in terms of complying with the obligations under section 15(1) and (2) of the Act in respect of securing the objectives of the development plan.

In response to this, the local authority has introduced Material Alteration 1, which proposes to include a new section under Section 1 - Implementation and Monitoring.

The Office welcomes the inclusion of the additional section in this respect which is considered to be in accordance with the Development Plans Guidelines which places a significant emphasis on the role of plan implementation, monitoring and reporting.

In this regard, the planning authority should commit to periodically reviewing the success and / or progress of the associated policies and objectives outlined in the LAP.



### Summary

The Office requests that your authority addresses the recommendations outlined above. As you are aware, the report of the chief executive of your authority prepared for the elected members under section 20 of the Act must summarise these recommendations and the manner in which they will 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 draft LAP. Where your authority decides not to comply with the recommendations of the Office, or otherwise makes the LAP in such a manner as to be inconsistent with the recommendations of the Office, under the provisions of section 31AO(5) of the Act the chief executive must inform the Office accordingly and state the reasons for the decision of the planning authority.

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 plans@opr.ie.

Is mise le meas,

Onna

Anne Marie O'Connor

Deputy Regulator and Director of Plans Evaluations