



Oifig an
Rialaitheora Pleanála
Office of the
Planning Regulator

OPR Ref: MA-035-22

5th April 2024

Central Planning Unit,
Donegal County Council,
County House,
Lifford, F93 Y622.

Re: Material Alterations to Draft Donegal County Development Plan 2024-2030

A chara,

Thank you for your authority's work in preparing the Material Alterations to the draft Donegal County Development Plan 2024-2030 (material alterations to the draft Plan).

The Office of the Planning Regulator (the Office) welcomes the proposed material alterations made in response to the Office's submission to the draft Plan. The Office also notes that the planning authority intends to address a number of recommendations made by the Office through minor modifications to the plan at adoption stage. While it is acknowledged that minor modifications to the plan can be made in accordance with section 12(6) of the *Planning and Development Act 2000, as amended* (the Act), this approach for responding to the Office's recommendations is less favourable as the ability to further assess the changes is removed.

The planning authority, in preparing the section 31AM(6) notice, should make it clear to the Office what minor modifications are proposed which respond to the Office's recommendations at both the draft plan and material alteration stage.

As your authority will be aware, one of the key functions of the Office includes 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 Act and within the context of the Office's earlier recommendations and observations.

As outlined in the submission of the Office to the draft Plan, the Office considered the draft Plan to be consistent, in some respects, with the policies in the National Planning Framework (NPF) and the Regional Spatial and Economic Strategy (RSES) for the Northern Regional Assembly area.

The Office did, however, recommend changes to enhance the draft Plan's alignment with national and regional policies in the aforementioned, and for consistency with the *Development Plans, Guidelines for Planning Authorities (2022)* (the Development Plan Guidelines), *Spatial Planning and National Road Guidelines (2012)* (National Road Guidelines) and *The Planning System and Flood Risk Management Guidelines for Planning Authorities (2009)* (Flood Guidelines).

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). As previously noted, the planning authority should clearly identify any minor modifications in the section 31AM(6) notice letter.

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 full consideration to the advice contained in a submission.



Overview

The Office acknowledges the significant work undertaken by Donegal County Council in preparing the material alterations to the draft Plan and in responding to some of the many issues raised by the Office through the recommendations and observations made in the submission to the draft Plan.

In particular, the Office welcomes the alterations in response to Recommendation 2(i), (ii) and (iii), which provides more ambitious housing targets for the principal settlements of the county. However, in the absence of reduced allocations to other tiers, the overall increased housing supply target proposed for the county is inconsistent with the national policy framework. A recommendation is included to resolve this issue.

The Office welcomes material alterations that have positively addressed Recommendation 12 regarding Traveller Accommodation, Recommendation 17 regarding Public Rights of Way, and Recommendation 19 in relation to Policies for the protection of Built Heritage, Natural Landscape and Biodiversity.

In addition, a number of additional material alterations that make positive contributions to the plan are noted and welcomed by the Office. These include MAs 5.1 and 5.2 in respect of historic towns and heritage lead regeneration, MA 6.3.2 to increase the requirements to provide for at least 20% of new housing in rural areas on brownfield sites, MAs 8.1.3 and 8.1.4 in respect of active travel and filtered permeability and the proposed material alterations to support renewable energy systems including MA 8.5.1 and MA 9.1.1.

In terms of recommendations not complied with, the Office notes the 12(5)(aa) notice, in addition to the Chief Executive's Report (CE's Report), which is informative regarding the proposed response to several of the recommendations.

In respect of Recommendation 1, Recommendation 4(iii), Recommendation 10, and Recommendation 15(iv) the chief executive states that these will be addressed by way of non-material minor modification upon adoption.

Regarding the decision of the planning authority not to comply with several recommendations concerning the zoning of land and/or uses permissible within specific land use zones, the Office will review these sites at Plan adoption stage, having regard to the reasons given by the chief executive in the notices under section 12(5)(aa) and section 31AM(6).

In particular, the Office also notes the decision of the planning authority not to comply with Recommendation 15 of the Office's submission to the draft Plan concerning access to national roads, including the amendment and deletion of inappropriate policies and the inclusion of appropriate cross-referencing. The Office also has concern regarding the response of the planning authority to Recommendation 16 (Flood Risk Management) of the Office's submission to the draft Plan and has raised issues in this regard below. In addition, the Office is not satisfied that the planning authority has complied with Recommendation 13 Rural Housing and Rural Regeneration. These matters will be considered further at adoption stage.

In relation to the Material Alterations, the Office notes the increase to both the housing growth target for the county, and the extent of additional zoning objectives and extensions to the settlement boundaries where there is more than sufficient land available to meet the correct housing target. These amendments are largely lacking a robust planning or policy rationale and will make it more difficult to plan effectively for the social and physical infrastructure to deliver housing and support communities.

While the Office accepts many of the proposed material alterations to zoning objectives and other objectives for settlements, including boundary changes, several such alterations are inconsistent with the national and/or regional policy framework and/or conflict with infrastructure services and /or environmental requirements, accordingly, this letter recommends that the plan be made without them.

The Office welcomes the inclusion of a material alteration to provide that water supply/wastewater services are Open to Consideration across a range of land use zones. However, the accompanying footnote may adversely affect the delivery of water services infrastructure and, consequently, the achievement of housing targets. A recommendation is included to resolve this matter.



Finally, the Office would reiterate concerns it raised in Recommendation 18 regarding the absence of a Record of Protected Structures, a mandatory objective under section 10.

It is within this context the submission below sets out eight (8) recommendations under the following four themes:

Key theme	MA Recommendation
Core strategy and settlement strategy	MA Recommendation 1
Sustainable Development	MA Recommendation 2 , 3 , 4 , 5 and 6
Wastewater Supply Infrastructure	MA Recommendation 7
Flood Risk Management	MA Recommendation 8

Core Strategy and Settlement Strategy

1.1 Housing and population targets

The Office generally welcomes the material alteration of the core strategy under MA 3.1(b), which positively responds to Recommendation 2 of the Office’s submission on the draft Plan, and the policy framework upon which it is based. The increased allocation of housing growth to Letterkenny, Buncrana, Ballybofey/ Stranorlar and Bundoran will better enable the development of a stronger urban settlement hierarchy for the county which can be expected to better support the economic development of the county.

However, MA 3.1(b) also increases the housing growth target for the entire county, by 853 units, from 7,678 to 8,531, including through an increase in the housing allocation to the Open Countryside contrary to part (v) of Recommendation 2. No evidence-based reason or rationale for this increase has been provided. The Office also notes that housing completions in the county are currently achieving only 50% of the housing target set out in the draft Plan, and the challenge for the county during the plan period will be to deliver on that housing target. The need for the proposed increase is not therefore evident, and as stated above will make it more difficult to

plan effectively for the social and physical infrastructure to deliver housing and support communities.

This increase also results in the revised core strategy being inconsistent with the determination of the housing supply target for the county based on the *Housing Supply Target Methodology for Development Planning, Guidelines for Planning Authorities (2020)*, which is the standardised methodology introduced in accordance with NPO 71 to ensure a co-ordinated and balanced approach to future population and housing requirements.

In order to be consistent with NPO 71 and the aforementioned methodology, it will be necessary to make the Plan without that part of MA 3.1(b) amending the housing target allocation to Open Countryside. Moreover, having regard to the requirements of part (v) of Recommendation 2 of the Office's submission to the draft Plan, it will be necessary to decrease the housing target for the Open Countryside commensurate with the increased allocation to the other settlements. This matter will be considered by the Office at Plan adoption stage.

In relation to Letterkenny, the Office welcomes the increase in housing targets in response to Recommendation 2 of the Office's submission to the draft Plan which reflects the important role of the town in the county and region. However, the proposed increase in the Gross Zoned Land Required and the Net Zoned Land Required for Letterkenny has been justified based on the density standards that apply to Letterkenny as a Regional Growth Centre under the *Sustainable Residential Development and Compact Settlements, Guidelines for Planning Authorities (2024)* (Residential Development Guidelines). Specifically, the estimation of 300 units on the extensive town centre lands is based on 50dph, whereas the median recommended density in the Residential Development Guidelines is 100dph, suggesting that at least 600 units could be accommodated. The determination of the balance of lands required is based on 35dph, whereas the median recommended density is 42.5ha.

Therefore, the Office is satisfied that the increased housing supply target for Letterkenny can be accommodated within the zoned land requirement set out in the core strategy of the draft Plan. Accordingly, it will be necessary to make the Plan



without that part of MA 3.1(b) amending the Gross Zoned Land Required and the Net Zoned Land Required for Letterkenny in the amended core strategy table.

MA Recommendation 1 – Housing targets and zoned land requirements

Having regard to the core strategy of the draft Plan, to the provision of new homes at locations that can support compact and sustainable development and, in particular, to:

- NPO 71, standardised methodology for core strategies;
- the growth ambition for Letterkenny Regional Growth Centre under RPO 3.7.20;
- NPO 6 for the growth of towns and villages;
- NPO 18b and NPO 33 for proportionate growth in locations that can support sustainable development;
- NPO 52 to ensure that development occurs within environmental limits and
- NPO 54 to reduce our carbon footprint, and the likely negative impacts on the factors of the environment arising from one-off housing identified in the SEA Environmental Report for the draft Plan; and
- section 10(2)(n) to promote sustainable settlement and transport strategies to reduce greenhouse gas emissions;
- *Housing Supply Target Methodology for Development Planning, Guidelines for Planning Authorities (2020)*; and
- *Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024)*,

the planning authority is required to make the Plan with material alteration MA 3.1(b), except as relates to:

- (i) the housing target 2030 for Open Countryside (i.e. the housing supply target reverts to the draft Plan);

- (ii) the Gross Zoned Land Required and the Net Zoned Land Required for Letterkenny (i.e. the land required reverts to that in the draft Plan); and
- (iii) include minor modification to the figures for Letterkenny as concerns Land Zoned for Residential Dev and Shortfall/Excess of Zoned Land.

2. Sustainable Development

2.1 Buncrana

The core strategy as proposed to be amended anticipates a housing growth target of 681 units for Buncrana, of which 176 homes would be delivered on brownfield land, and has determined that 14.43ha of land will be required (inclusive of 'additional provision' of 25%) to deliver 505 homes.

In the draft Plan an excess of 38ha was provided for residential development on New Residential Phase I and New Residential Phase II land, as well as number of Settlement Consolidation Sites, Opportunity Sites, Urban Core and other infill lands with the capacity to accommodate residential development. Recommendation 5 of the Office's submission to the draft Plan required the omission of certain New Residential Phase 1 lands to ensure better consistency between the zoning objectives and the core strategy, including the omission of eight specific zoning objectives that were less preferably located.

In this regard, the Office notes that only one of the eight sites (NR 2.16 – 6.3ha) is proposed to be amended, to Local Environment under MA 18(b).17, consistent with Recommendation 5.

Furthermore, the proposed material alterations have further increased the area zoned New Residential Phase 1 to c.48ha. Based on 35dph, these lands would have the potential to deliver 1,680 units, or more than three times the housing supply target for New Residential Phase 1 lands.

The Office acknowledges that in providing housing sites for development within settlements it may be necessary to zone more serviced land for residential use (or a

mixture of residential and other uses) than would equate to meeting precisely the projected housing demand for that settlement. However, the extent of land now proposed to be zoned bears no reasonable relationship to the level of growth set out in the core strategy.

While the Office accepts the chief executive's recommendation to rezone lands as New Residential Phase 1 under MA 18(b).1, MA 18(b).14 and MA18(b).9 (where flood risks issues are resolved under MA Recommendation 8 below), several other material alterations are poorly located and inconsistent with national and regional policy.

These material alterations were not supported by the chief executive, have not been assessed in the SEA Environmental Report or in the Natura Impact Report (NIR), have not been subject of an infrastructure assessment and have been identified by Uisce Éireann as unserviced. Further, some of the sites do not appear to pass the plan making Justification Test in accordance with NPO 57 and *the* Flood Guidelines.

Specifically, MA 18(b).10, MA 18(b).11, MA 18(b).12, MA 18(b).13 and MA18(b).15 are peripherally located, not sequentially preferable and no infrastructure assessment has been carried out to determine if the lands are serviced or serviceable. In addition, MA 18(b).11 is located within Flood Risk Zone A/B and does not satisfy the plan-making Justification Test which matter is dealt with under MA Recommendation 8, below.

These proposed zoning objectives are not required to enable Buncrana to achieve its housing target at an appropriate residential density consistent with the NPF and RSES and having regard to the Residential Development Guidelines. Indeed, there are sufficient serviced lands zoned which are more suitably located to provide for consolidated plan-led growth in Buncrana in accordance with national and regional policy objectives.

The zoning objectives, individually and cumulatively, would not contribute to the achievement of compact growth, would be inconsistent with the National Strategic Outcome (NSO) and Regional Growth Ambition for compact growth and does not

have regard to the policy and objective for sequential development in the Development Plans Guidelines.

Furthermore, no infrastructure assessment has been carried out in respect of these sites, they are inconsistent with NPO 72 (a-c) for a tiered approach to zoning, as well as the policy and objective under section 6.2.1 of the Development Plans Guidelines that land use zoning be informed by a settlement capacity audit, inclusive of an infrastructural assessment.

The location of future development on the periphery of Buncrana would also undermine the regeneration and consolidation of the town centre contrary to both national policy and the objectives of the draft Plan itself.

The Office also considers the aforementioned sites do not accord with objectives to promote a sustainable settlement and transport strategy under section 10(2)(n) of the Act, as they are not well located to facilitate active transport modes and nor do they contribute to the transport targets under the Climate Action Plan 2024 (Climate Action Plan) or to contribute to national targets to reduce GHG emissions under the *Climate Action and Low Carbon Development Act 2015*, as amended (the Climate Act).

MA Recommendation 2 - Zoning of land for residential use: Buncrana

Having regard to the core strategy of the draft Plan and associated material alterations, to the provision of new homes at locations that can support compact and sustainable development, and, in particular, to:

- section 10(2)(h) of the *Planning and Development Act 2000*, as amended (the Act), concerning the renewal of areas, having regard to the core strategy;
- section 10(2)(n) of the Act, concerning the promotion of sustainable settlement and transport strategies;

- the *Climate Action and Low Carbon Development Act 2015*, as amended and *Climate Action Plan 2024* and the *National Sustainable Mobility Policy (2022)*;
- NSO and Regional Growth Ambitions for compact growth;
- NPO 6, NPO 16 and NPO 35, and RPO 3.4, concerning the regeneration, rejuvenation and intensification of towns and villages and their cores;
- NPO 72a-c and associated NPF Appendix 3, tiered approach to zoning; and
- the *Development Plans, Guidelines for Planning Authorities (2022)*, policy and objective for settlement capacity audits and associated infrastructural capacity assessment; and the policy and objective for the sequential approach to zoning; and the policy and objective not to de-zone pre-existing zoned serviced land,

the planning authority is required make the Plan without the following proposed material alterations and all associated supporting text:

- (i) MA 18(b).10
- (ii) MA 18(b).11
- (iii) MA 18(b).12
- (iv) MA18(b).13
- (v) MA18(b).15
- (vi) MA18(b).16

2.2 Ballybofey/Stranorlar

The core strategy as proposed to be amended anticipates a housing growth target of 681 units for Buncrana, of which 85 units would be delivered on brownfield land, and has determined that 17.03ha of land will be required (inclusive of ‘additional provision’ of 25%) to deliver 596 units.

In the draft Plan in excess of 32ha was provided for residential development on New Residential Phase I and New Residential Phase II land, as well as number of Opportunity Sites, Urban Core and other infill lands with the capacity to accommodate residential development. Recommendation 6 of the Office's submission to the draft Plan required the omission of certain sites to ensure better consistency between the zoning objectives and the core strategy and where not serviced, including the omission of specific zoning objectives that were less preferably located.

In this regard the Office notes that the planning authority has proposed no material alterations to the land use zoning objectives for Ballybofey / Stranorlar.

Furthermore, the material alterations that have been proposed have further increased the area zoned New Residential Phase 1 to c.35ha. Based on 35dph, these lands would have the potential to deliver 1,240 units, or more than twice the housing supply target for New Residential Phase 1 lands.

These material alterations include two large sites proposed to be zoned New Residential Phase 1 under MA 19(b).1 and MA 19(b).2. The chief executive did not support these alterations.

Site MA 19(b).1 is a peripheral site that is inconsistent with NSO and Regional Growth Ambition for compact growth, does not have regard to the sequential approach to zoning under the Development Plans Guidelines and has not been subject of an infrastructural assessment, which is inconsistent with NPO 72a-c and does not have regard to the policy and objective to carry out a settlement capacity audit when zoning land under the aforementioned Guidelines. This is similarly the case for MA 19(b).2, which is also situated partly outside the CSO settlement boundary (2016) and is therefore inconsistent with NPO 3c and RPO 3.1 and 3.2 for compact growth.

As in the case of Bunrana, these proposed zoning objectives are not required to enable Ballybofey / Stranorlar to achieve its housing target at an appropriate residential density consistent with the NPF and RSES and having regard to the Residential Development Guidelines. Indeed, there are sufficient serviced lands

zoned which are more suitably located to provide for consolidated plan-led growth in Ballybofey / Stranorlar in accordance with national and regional policy objectives.

The location of future development on the periphery of Ballybofey / Stranorlar would also undermine the regeneration and consolidation of the town centre contrary to both national policy and the objectives of the draft Plan itself.

The Office also considers the aforementioned sites do not accord with objectives to promote a sustainable settlement and transport strategy under section 10(2)(n) of the Act, as they are not well located to facilitate active transport modes and nor do they contribute to the transport targets under the Climate Action Plan or to contribute to national targets to reduce GHG emissions under the Climate Act.

MA Recommendation 3 - Zoning of land for residential use: Ballybofey/Stranorlar

Having regard to the core strategy of the draft Plan and associated Material Alterations, to the provision of new homes at locations that can support compact and sustainable development, and, in particular, to:

- section 10(2)(h) of the *Planning and Development Act 2000*, as amended (the Act), concerning the renewal of areas, having regard to the core strategy;
- section 10(2)(n) of the Act, concerning the promotion of sustainable settlement and transport strategies;
- the *Climate Action and Low Carbon Development Act 2015*, as amended, the *Climate Action Plan 2024* and the *National Sustainable Mobility Policy (2022)*;
- NPO 3c, RPO 3.2, NSO and Regional Growth Ambition for compact growth;
- NPO 6, NPO 16 and NPO 35, and RPO 3.4, concerning the regeneration, rejuvenation and intensification of towns and villages and their cores;
- NPO 72a-c and associated NPF Appendix 3, tiered approach to zoning; and

- the *Development Plans, Guidelines for Planning Authorities (2022)*, policy and objective for settlement capacity audits and associated infrastructural capacity assessment; and the policy and objective for the sequential approach to zoning; and the policy and objective not to de-zone pre-existing zoned serviced land,

the planning authority is required make the Plan without the following proposed material alterations and all associated supporting text:

- (i) MA 19(b).1
- (ii) MA 19(b).2

2.3 Bundoran

The core strategy as proposed to be amended anticipates a housing growth target of 172 units for Bundoran, of which 31 units would be delivered on brownfield land, and has determined that 5.64ha of land will be required (inclusive of 'additional provision' of 25%) to deliver 141 units.

In the draft Plan an excess of 14.5ha was provided for residential development on New Residential Phase I and New Residential Phase II land, as well as number of Opportunity Sites, Urban Core and other infill lands with the capacity to accommodate residential development. Recommendation 7 of the Office's submission to the draft Plan required the omission of five specific Phase II New Residential zoning objectives.

In this regard the Office notes that the planning authority has proposed no material alterations to the land use zoning objectives for Bundoran in response to the Office's submission.

The material alterations that have been proposed have further increased the area zoned New Residential Phase I to c.23ha. Based on 25dph, these lands would have the potential to deliver 576 units, or more than four times the housing supply target for New Residential Phase I lands.



This includes four significant sites zoned New Residential Phase I under MA 20(b).1, MA 20(b).2, MA 20(b).3, MA 20(b).4 and MA 20(b).5. The chief executive, in the section 12(5)(aa) notice, expressly did not support MA 20(b).4. The Chief Executive's Report (CE's Report) also does not support the majority (c.9.6ha) of MA 20(b).4, but supports c.1ha of the northwest corner of the site. The CE's Report supports MA 20(b).1 (c.3.7ha), MA 20(b).2 (c.0.5ha) and MA 20(b).3 (c.3ha).

The Office accepts the chief executive's rationale for zoning site MA 20(b).1 and for the western 1ha portion of MA 20(b).4. However, MA 20(b).2 and MA 20(b).3 are peripheral sites that are inconsistent with NSO and Regional Growth Ambition for compact growth and do not have regard to the sequential approach to zoning under the Development Plans Guidelines. While the two sites have been subject of an infrastructural assessment, Uisce Éireann's submission confirms that MA 20(b).3 is serviceable rather than serviced. Further, MA 20(b).4 is not included in the Settlement Capacity Audit of the CE's Report, contrary to NPO 72a-c and the policy and objective to carry out a settlement capacity audit when zoning land under the aforementioned Guidelines. Uisce Éireann indicates that the site is serviceable, not serviced.

As in the case of Buncrana and Ballybofey / Stranorlar, these proposed zoning objectives are not required to achieve its housing target at an appropriate residential density consistent with the NPF and RSES and having regard to the Residential Development Guidelines. Indeed, there are sufficient serviced lands zoned which are more suitably located to provide for consolidated plan-led growth in Bundoran in accordance with national and regional policy objectives.

The location of future development on the periphery of Bundoran would also undermine the regeneration and consolidation of the town centre contrary to both national policy and the objectives of the draft Plan itself.

The Office also considers the aforementioned sites do not accord with objectives to promote a sustainable settlement and transport strategy under section 10(2)(n) of the Act, as they are not well located to facilitate active transport modes and nor do they



contribute to the transport targets under the Climate Action Plan or to contribute to national targets to reduce GHG emissions under the Climate Act.

MA Recommendation 4 - Zoning of land for residential use: Bundoran

Having regard to the core strategy of the draft Plan and associated material alterations, to the provision of new homes at locations that can support compact and sustainable development, and, in particular, to:

- section 10(2)(h) of the *Planning and Development Act 2000*, as amended (the Act), concerning the renewal of areas, having regard to the core strategy;
- section 10(2)(n) of the Act, concerning the promotion of sustainable settlement and transport strategies;
- the *Climate Action and Low Carbon Development Act 2015*, as amended, the *Climate Action Plan 2024* and the *National Sustainable Mobility Policy (2022)*;
- NSO and Regional Growth Ambitions for compact growth;
- NPO 6, NPO 16 and NPO 35, and RPO 3.4, concerning the regeneration, rejuvenation and intensification of towns and villages and their cores;
- NPO 72a-c and associated NPF Appendix 3, tiered approach to zoning; and
- the *Development Plans, Guidelines for Planning Authorities (2022)*, policy and objective for settlement capacity audits and associated infrastructural capacity assessment; and the policy and objective for the sequential approach to zoning; and the policy and objective not to de-zone pre-existing zoned serviced land,

the planning authority is required make the plan without the following proposed material alterations and all associated supporting text:

- (i) MA 20(b).2

(ii) MA 20(b).3

(iii) MA 20(b).4 excluding the northwest portion of MA 20(b).4 supported by the chief executive on page 254 of the CE's Report on the submissions received (January 2024).

2.4 Settlement Framework Plans

The Office notes that 18 material alterations have been proposed to the Settlement Framework Plans for the Rural Areas (Settlements), which include extensions to the boundaries and/or amended land use objectives. In view of the decision of the planning authority not to comply with part (iv) of Recommendation 2 of the Office's submission, that is, the decision of the planning authority not to increase the housing allocation to this settlement tier, and in the absence of an evidence-based rationale by the chief executive for each site, the Office considers there to be no justification for the proposed alterations. Notwithstanding, the Office considers some of the alterations to be acceptable by reason of their small scale and location.

Having regard to the existing extent of the settlement boundary, the following material alterations are however considered to be inconsistent with RPO 3.3, compact growth, which seeks to deliver at least 20% of all new housing in rural areas on brownfield land, in addition to the NSO and Regional Growth Ambition for compact growth, and do not have regard to the policy and objective for the sequential approach under the Development Plans Guidelines:

- 21(b).1 (Map 21.1) Carrick / An Charraig - not referred to in CE's Report;
- 21(b).2 (Map 21.2) Ballintra – CE's Report supported;
- 21(b).3 (Map 21.3) Bruckless - not supported by CE's Report
- 21(b).5 (Map 21.9) Mouncharles - not supported by CE's Report
- 21(b).7 (Map 21.19) Creeslough - 'A' supported, but 'B' and 'C' not supported by CE's Report;
- 21(b).8 (Map 21.20) Dunfanaghy - not supported by CE's Report ;



- 21(b).9(a) & (b) Fahan - supported by CE's Report, with additional policy under MA 21(a).3 for hotel and marina leisure tourism;
- 21(ab).10(a),(b) & (c) Movice - supported by CE's Report; (d) additional policy for tourism and for additional policy for hydro facility (d) is not supported;
- 21(b).12 (Map 21.38) Newtowncunningham, - not supported by CE's Report; and
- 21(b).14 (Map 21.42) Kilmacrenna - not supported by CE's Report.

Of those, the CE's Report does not support the alterations, apart from those to Ballintra, part 'A' of Creeslough, Fahan, and Movice excluding part 'D' and excluding additional policy for tourism and for additional policy for a hydro facility under (d). The Office generally accepts the reasons given by the chief executive for accepting certain proposed material alterations, except where they conflict with the matters raised below.

In addition, Transport Infrastructure Ireland (TII) has raised concerns that the material alterations to 21(b).2 (Map 21.2) Ballintra; 21(b).3 (Map 21.3) Bruckless; 21(b).8 (Map 21.20) Dunfanaghy; and 21(b).12 (Map 21.38) Newtowncunningham, adjoin the national road network outside the 50-60kph speed limit and therefore do not have regard to section 2.5 of the Spatial Planning and National Roads Guidelines (2012) (National Roads Guidelines) and are inconsistent with RPO 6.5.

Uisce Éireann indicates that the many of settlements have no or inadequate public wastewater treatment and that the extensions are not sequential and are therefore likely to require greater levels of network reinforcement, including Bruckless, Carrick, Mountcharles, Fahan, Creeslough, Dunfanaghy, Movice, Newtowncunningham, Milford and Kilmacrennan. As noted by Uisce Éireann, no infrastructure assessment has been carried out in respect of the proposed alterations, inconsistent with NPO 72a-c and without regard to the policy and objective for the sequential approach under the Development Plans Guidelines.

In relation to the material alterations, the Office of Public Works (OPW) has indicated that it is unclear whether the plan making Justification Test has been passed and that



a policy should be included to limit development to water compatible uses only in Flood Zone A or less vulnerable uses in Flood Zone B. The Office notes that MA 21(a).1 inserts a new policy on flood risk that would appear to address the OPW's concerns.

The Office notes that the subject alterations have not been addressed in the SEA Environmental Report, except for the additional policy for Fahan, for which the conclusion on impacts on biodiversity, fauna and flora is inconclusive. In this regard, the Office notes that MA 21(b).9(b), which extends the settlement boundary for Fahan and which should be read with the associated policy under MA 21(a).3 for hotel and marina leisure tourism, is located within the Lough Swilly SAC, and partially within the Lough Swilly SPA. The NIR concludes that there would be no '*adverse effect on the integrity after mitigation*', despite that no site specific mitigation is identified or assessed.

Furthermore, the Office notes that there is currently no capacity in the wastewater treatment plant for Fahan to service any future development. There is also no indication that this infrastructure deficit has been taken into account in the environmental assessments.

While the planning authority is advised to satisfy itself that it has met the requirements of the legislation transposing the SEA and AA Directives in making the Plan, the Office is concerned that the Plan is inconsistent with NPO 75, to ensure that all plans are subject to SEA and AA as appropriate.

Further, and having regard to the lack of a clear rationale and an adequate level of consideration of the potential environmental impacts of the proposed material amendments, the Office also considers that these material alterations are inconsistent with NPO 44a which seeks to ensure the coastal resource is managed to sustain its physical character and environmental quality.

MA Recommendation 5 – Settlement Frameworks

Having regard to the core strategy of the draft Plan and associated material alterations, to the provision of new development at locations that can support compact and sustainable development, and, in particular, to:

- section 10(2)(h) of the *Planning and Development Act 2000*, as amended (the Act), concerning the renewal of areas, having regard to the core strategy;
- section 10(2)(n) of the Act, concerning the promotion of sustainable settlement and transport strategies;
- the *Climate Action and Low Carbon Development Act 2015*, as amended, the *Climate Action Plan 2024* and the *National Sustainable Mobility Policy (2022)*;
- NSO, Regional Growth Ambition and RPO 3.3 for compact growth;
- NPO 6, NPO 16 and NPO 35, and RPO 3.4, concerning the regeneration, rejuvenation and intensification of towns and villages and their cores;
- NPO 72a-c and associated NPF Appendix 3, tiered approach to zoning;
- *The Planning System and Flood Risk Management Guidelines for Planning Authorities (2009)*;
- section 2.5 of the *Spatial Planning and National Roads Guidelines for Planning Authorities (2012)*; and
- the *Development Plans, Guidelines for Planning Authorities (2022)*, policy and objective for settlement capacity audits and associated infrastructural capacity assessment; and the policy and objective for the sequential approach to zoning; and the policy and objective not to de-zone pre-existing zoned serviced land,

the planning authority is required make the Plan without the following proposed material alterations and all associated supporting text:

- 21(b).1 (Map 21.1) Carrick / An Charraig
- 21(b).2 (Map 21.2) Ballintra
- 21(b).3 (Map 21.3) Bruckless
- 21(b).5 (Map 21.9) Mouncharles
- 21(b).7 (Map 21.19) Creeslough, parts 'B' and 'C'
- 21(b).8 (Map 21.20) Dunfanaghy
- 21(ab).10(d) Merville and associated policy
- 21(b).12 (Map 21.38) Newtowncunningham
- 21(b).14 (Map 21.42) Kilmacrenna

MA Recommendation 6 – Fahan

Having regard to the environmental sensitivities at this location, including Lough Swilly SAC and Lough Swilly SPA, and in particular, to:

- the SEA Environmental Report;
- the Natura Impact Assessment;
- NPO 63, NPO 72a-c, and the lack of adequate wastewater treatment capacity;
- NPO 41a management of the coastal resource; and
- NPO 75 environmental assessments,

the planning authority is required make the Plan without MA 21(b).9(b) Fahan and associated policy under MA 21(a).3.

3. Wastewater Supply Infrastructure

The Office welcomes the material alteration of the land use zoning matrices for Buncrana, Ballybofey/Stranorlar and Bundoran under MA 18(a).1, MA 19(a).1 and



MA 20(a).1 which include water supply/wastewater services as Open to Consideration within the range of land use zones. However, the Office has concerns regarding the footnote inserted to each matrix through these material alterations, which provides that proposals for large scale water services infrastructure on lands zoned Open Space and Recreation will not normally be acceptable.

This policy approach is not supported by policy and/or environmental justification and has the potential to negatively impact on housing growth targets under the core strategy and is inconsistent with NPO 57 and RPO 8.18 which seek to enhance / protect water quality, and NPO 63 and RPO 8.15 to support water and wastewater services. Specifically, this approach could restrict the delivery of planned extension to Buncrana WWTP, but generally it may prevent the expansion of existing or provision of new infrastructure that may be required in future to meet growth objectives and compliance with European Directives e.g. *Water Framework Directive*, *Bathing Water Directive*, *Urban Wastewater Treatment Directive*.

MA Recommendation 7 – Wastewater Supply Infrastructure

Having regard to the provision of water services infrastructure to meet the demands of population growth and the developing economy and the protection of water quality, and in particular to:

- NPO 57 to enhance water quality and resource management;
- NPO 63 to ensure the efficient and sustainable use and development of water resources and water services infrastructure;
- RPO 8.18 to ensure the protection and improvement of all waters; and
- RPO 8.15 to support investment for water and wastewater services,

the planning authority is required make the Plan without the following footnote included in MA 18(a).1, MA 19(a).1 and MA 20(a).1:

Footnote: Proposals for large scale water services infrastructure on lands zoned Open Space and Recreation (e.g. municipal wastewater/water treatment plant infrastructure, sewage pumping stations etc.) will not normally

be acceptable within said zoning. Development applications for municipal small scale water services infrastructure (e.g. individual wastewater treatment systems, watermains and sewers) will be open to consideration within said zoning if not otherwise exempted development. All development proposals will be subject to the requirements of the Flood Risk Management guidelines.

4. Flood Risk Management

The Office welcomes the preparation of material alterations to the Strategic Flood Risk Assessment, but notes however that the material alterations of the draft Plan do not comply with Recommendation 16 of the Office's submission to the draft Plan.

Regarding the requirement to review Flood Zone A and /or B and not to zone land for vulnerable or highly vulnerable use, respectively, where the plan making Justification Test has not been passed, the OPW considers the test has not been passed for the following sites as they are not within or adjoining the urban core:

Ballybofey/Stranolar –

- BS-BE-001, BS-ED-005, BS-ED-006, BS-ED-007, BS-ED-008, BS-ED-0010, BS-ED-011, BS-ED-012, BS-ED-013, BS-ED-016, BS-ED-017, BS-ED-019, BS-ED-020, BS-ED-026, BS-ED-034, BS-ED-054, BS-ED-059, BS-ED-073, BS-NRES-002, BS-RA-004, BS-RA-014, BS-RA-015, BS-RA-020, BS-RA-022, BS-RA-037;

Buncrana –

- BA-CI-001, BA-CI-008, BA-ED-006, BA-ED-014, BA-ED-028, BA-ED-049, BA-ED-067, BA-ED-068, BA-ED-071, BA-ED-080, BA-ED-088, BA-ED-095, BA-ED-101, BA-ED-102, BA-RA-001, BA-RA-002, BA-RA-005, BA-RA-020, BA-RA-033, BA-RA-034;

Bundoran –

- BN-CP-003, BN-ED-036, BN-RA-004.

The planning authority should consider how best to resolve this conflict with the requirements of the Flood Guidelines in making the Plan.

The planning authority has not overlaid the flood zone maps with the land use zoning maps and settlement framework plans which will make it more difficult for the planning authority to implement Flood Guidelines through the development management process. The planning authority should reconsider this approach in making the Plan.

A number of sites proposed to be zoned for highly vulnerable uses through material alterations are located within Flood Zone A/B and would not satisfy the Justification Test, including MA 18(b).1 and MA 18(b). 11 in Buncrana.

The level of encroachment on MA 18(b).1 is relatively restricted in area and the planning authority should consider what minor modification could be included in making the Plan that would ensure full compliance with the Flood Guidelines.

The level of encroachment on MA 18(b).11 is substantial, and is inconsistent with NPO 57 and with RPO 3.10 and does not have regard to the provisions of the Flood Guidelines.

MA Recommendation 8 - Flood Risk Management

Having regard to the need to manage flood risk and, in particular to:

- NPO 57 requiring implementation of *The Planning System and Flood Risk Management Guidelines for Planning Authorities (2009)* and integration of sustainable water management solutions; and
- RPO 3.10, flood risk management and integration of sustainable water management solutions,

the planning authority is required to make the Plan without MA 18(b).11 (Buncrana).

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



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for the elected members under section 12 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 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.

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.

Yours sincerely,

Anne Marie O'Connor

Deputy Regulator and Director of Plans Evaluations
