OPR Ref: MA-028-23



16<sup>th</sup> April 2024

Forward Planning, Mayo County Council, Aras an Chontae, The Mall, Castlebar, Co. Mayo, F23 WF90

# Re: Material Alterations to the Draft Westport Local Area Plan 2024-2030

A chara,

Thank you for your authority's work in preparing the proposed Material Alterations (the proposed material alterations) to the Draft Westport Local Area Plan 2024-2030 (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*, as amended (the Act), 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 Mayo County Development Plan 2022-2028 (the Development Plan), the Regional Spatial and Economic Strategy (RSES) for the Northern and Western Regional Assembly area, and relevant section 28 guidelines.



#### Overview

As outlined in the Office's submission to the draft LAP, the Office concluded that the draft LAP was generally consistent with the regional policy objectives of the RSES, particularly in respect of the approach to compact growth, town centre renewal and to promote sustainable travel.

Notwithstanding, the Office's submission letter contained four recommendations and two observations. The Office considers that the proposed material alterations and recommendations proposed in the Chief Executive's Report on submissions to the draft LAP, would if adopted, address the majority of the issues raised in the recommendations and observations.

Of note, the Office welcomes MA 34 and MA 36 which omit the New Residential zoning from site 6 and MA 33 which omits the New Residential zoning from land at Springfield. The Office also welcomes the proposed amendments and additions to the policies/objectives for movement and transport in section 7.10<sup>1</sup>.

However, the material alterations do not comply with parts (i) and (iii) of Recommendation 4, Flood Risk Management. In particular, the overlay of Flood Zones A and B on the land use zoning maps are not of a sufficient resolution to inform zoning decisions in the draft LAP preparation process, or future decisions at development management stage. Further, the justification tests, as proposed to be amended, do not have regard to the criteria under Box 4.1 of *The Planning System and Flood Risk Management Guidelines for Planning Authorities* (2009) (Flood Guidelines) and the draft LAP still proposes to zone peripheral lands that cannot pass the Justification Test.

While many of the chief executive's recommended changes to the draft LAP are generally acceptable and welcomed, a number of the material alterations introduced by the elected members including policy DSP 10 (MA 2) and zoning amendments

<sup>&</sup>lt;sup>1</sup> MA 15 to MA 20 inclusive.



(MA 35, MA 38, MA 39 and MA 41) are contrary to regional policies objectives in the RSES and/or policies/objectives of the Development Plan and draft LAP.

MA 35, MA 38 and MA 39<sup>2</sup> zone land for New Residential/Strategic Residential Reserve in peripheral non-sequential locations contrary to policies and objectives of the Development Plan and the RSES which promote compact growth and sequential development. While the quantum of land zoned New Residential is largely consistent with that provided for in the draft LAP, MA 38 and MA 39 zone a further 20 hectares approximately of land for Strategic Residential Reserve without any evidencedbased justification.

Further, the plan-making Justification Test has not been carried out and passed in respect of MA 35 and MA 39. MA 39 falls within Flood Risk Zone A and B, and both MA 39 and MA 35 are vulnerable to flood risk in future climate change scenarios. These material alterations are considered in section 2 below.

MA 41 extends the draft LAP boundary to the southwest up to the coastline and boundary of the Clew Bay Complex Special Area of Conversation (SAC) and zones all of the land within the boundary extension for Agriculture. This approach encourages further agricultural development and one-off housing in an unserviced rural area adjoining a SAC which is contrary to policies and objectives of the Development Plan and RSES which seek to protect European Sites. This material alteration is considered in section 3 below.

The Office also has concerns with the robustness of the environmental assessments accompanying the material alterations and the assumptions made therein regarding the effects of MA 2, MA 31 and MA 41 which seek to facilitate single houses outside lands zoned for residential/mixed use development and outside the draft LAP boundary.

<sup>&</sup>lt;sup>2</sup> The published Material Alterations Draft Westport Local Area Plan 2024-2030 state it is proposed to *'rezone lands from Agriculture to Strategic Residential Reserve at Ardmore/Carrownalurgan*' under MA 39. While, the proposed amended zoning is shown as *'Strategic Residential Reserve*' on page 8, it is incorrectly stated as *'New Residential (site outlined in red)*'.



It is within this context the submission below sets out three (3) recommendations under the following three (3) themes:

Key theme	Recommendation	Observation
Policy to facilitate single houses	MA Recommendation 1	_
Zoning for residential development	MA Recommendation 2	-
Extension to plan boundary	MA Recommendation 3	-

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. Policy to facilitate single houses

The draft LAP contains policies and objectives to facilitate single houses on lands zoned for Strategic Residential Reserve and Agriculture subject to the rural housing policy in the Development Plan. Collectively these zonings cover a substantial area of land inside the draft LAP boundary and the Office considers that the policies and objectives to facilitate single houses with a genuine housing need are reasonable.



Notwithstanding, the elected members have introduced material alterations to facilitate single housing on non-residential lands within the draft LAP which would significantly weaken the policy rural housing framework, including MA 2 to insert a new policy DSP 10 in section 2.10 of the draft LAP and MA 31 to amend the footnote in Table 12.2 to reference that policy (DSP 10).

The land use zoning objectives and land use zoning matrix are set out in Tables 12.1 and 12.2 of the draft LAP respectively. The land use Residential-Single is '*not normally permitted*' across most of the land use zoning objectives including Educational, Enterprise & Employment, Community Services, Tourism and Related, Marine Related Tourism, Recreation & Amenity, Open Space, Infrastructure & Utilities and Westport House and Demesne. This approach is considered appropriate to reserve lands for economic development and employment and social/community infrastructure and to avoid conflicting land uses.

Objective LUZO 1 of the draft LAP states that it is an objective of the council to 'ensure that development progresses in accordance with the land use zoning objectives as set out in Table 12.1 and the Land Use Matrix contained in Table 11.2.'

The policy intent of policy DSP 10 is to '…facilitate single houses for people with a genuine housing need, sons and daughters of long-term Westport Town residents (LAP boundaries) or any individuals in permanent employments (\*)<sup>3</sup>…' in fully serviced non New Residential and Strategic Residential Reserve 2 lands within the draft LAP.

Therefore, policy DSP 10 would conflict with objective LUZO 1 and a number of the land use zoning objectives which reserve land for non-residential development in the draft LAP.

In respect of MA 2, page 84 of the Strategic Environmental Assessment (SEA) states the following:

<sup>&</sup>lt;sup>3</sup> \* Letter from employer and affidavit from solicitor confirming employee is in permanent full- time role, has completed at least 1 year service and main place of work is in the draft LAP area.



This MA is not consistent with the Core Strategy in the Mayo CDP 2022-2028, and does not align with national or regional requirements relating to compact growth or achieving a 30% target of housing on town centre locations and is in conflict with the Westport LAP Policies and Objectives.

The provision of this zoning would contribute to peripheral growth and represents an inefficient use of land as well as the additional costs in terms of servicing same in terms of water supply, wastewater treatment.

The Office agrees with the above since the policy DSP 10 would facilitate single dwellings outside of the town centre and residential zonings in locations that are more peripheral.

In this regard, policy DSP 10 would promote sporadic residential development in land use zonings which reserve lands for economic development and employment and social/community infrastructure. This is contrary to the Development Plan Core Strategy Policy 4 and objectives CSO 5 and CSO 6 which reflect Regional Policy Objective (RPO) 3.2 (c) and RPO 3.3 of the RSES.

RPO 3.2 (c) aims to 'deliver at least 30% of all new homes that are targeted in settlements with a population of at least 1,500 (other than the Galway MASP and the Regional Growth Centres), within the existing built-up footprints', while RPO 3.3 aims to 'deliver at least 20% of all new housing in rural areas on brownfield sites'.

The Office considers that policy DSP 10 is contrary to RPO 3.2 (c) and RPO 3.3 since it would promote sporadic development rather than plan-led development which is focused on compact growth and regeneration within the existing built-up footprint of the settlement.

By diverting residential development to outside the town, the proposed material alteration would also undermine the regeneration and growth of the town contrary to RPO 3.1 (delivery of urban places of regional scale), RPO 3.4 (support regeneration and renewal) and RPO 7.20 (increase population living within settlements) of the RSES.



### MA Recommendation 1 – Policy DSP 10 to facilitate single houses

Having regard to the core strategy of the draft LAP and associated material alterations, and the provision of new homes at locations that can support compact and sustainable development and, in particular 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 LUZO 1 of the draft LAP to 'ensure that development progresses in accordance with the land use zoning objectives as set out in Table 12.1 and the Land Use Matrix contained in Table 11.2';
- Regional Policy Objectives RPO 3.2 (c) and RPO 3.3 of the Regional Spatial and Economic Strategy which target new housing within the existing built up footprint and to brownfield sites;
- Core Strategy Policy 4 and objectives CSO 5 and CSO 6 of the Mayo County Development Plan 2022-2028 which promote new housing within the existing built up footprint;
- Regional Policy Objectives RPO 3.1, RPO 3.4 and RPO 7.20 of the Regional Spatial and Economic Strategy to deliver urban places of regional scale, support regeneration and renewal and increase population living within settlements; and
- the extent of lands already zoned Strategic Residential Reserve and Agriculture which facilitate single houses with a genuine housing need,

the planning authority is required to make the LAP without MA 2 (Policy DSP 10) and MA 31 (alteration to footnote in Table 2.2).



### 2. Zoning for residential development

The Office's submission to the draft LAP stated that there is more than sufficient land zoned to meet the projected housing target for the town.

The material alterations to the draft LAP have, however, introduced material alterations which zone further land for New Residential and Strategic Residential Reserve at peripheral locations contrary to the objectives of the Development Plan and RPOs in the RSES.

The Office notes that no Settlement Capacity Audit or Infrastructure Capacity Assessment has been prepared in respect of the lands identified below. Uisce Éireann's submission does, however, advise that if all New Residential and Strategic Residential Reserve zoned lands are developed, this will increase the likelihood that strategic upgrades will be required. Sequential, phased development is recommended to optimise existing infrastructure and minimise investment required and to align with the compact growth principles of the *National Planning Framework*.

MA 35 proposes to zone approximately 1 ha of land from Agriculture to New Residential at Cloononad. This land is located on the R335 on the southwest approach to the town where the 60 kmh speed limit applies. There is an existing business on the land (West Vets).

The adjoining lands to the north and west are largely undeveloped and the surrounding lands have a rural character. The lands are removed from the main settlement and is approximately 1 km from the edge of the town centre. It is noted from the map in section 8.6 of the Strategic Flood Risk Assessment (SFRA) that the lands adjoin a watercourse.

Uisce Éireann also points out that development on this site would require extensions of over 100-150 metres to facilitate connections to both water supply and wastewater sewer.

The lands subject of MA 35 are not well located or contiguous to the existing built up area and would not provide for orderly growth or compact sequential growth contrary to the objectives of the Development Plan, the RSES and the policies and objectives



of the *Development Plans, Guidelines for Planning Authorities* (2022) (the Development Plans Guidelines).

The draft LAP already zones sufficient land for New Residential which is better located and contiguous to established residential development. Therefore, there is no requirement to zone further lands for New Residential.

Further, the lands subject of MA 35 are vulnerable to flood risk in the medium and high climate change scenarios. The subject zoning therefore does not have regard to the Flood Guidelines which recommends that the precautionary principle be applied.

MA 38 proposes to zone lands from Agriculture to Strategic Residential Reserve at Monamore.

This land is on the L1805 (Lodge Road) on the eastern periphery of the town. The lands are greenfield and have an area of approximately 5 ha. The lands are north of the N5 and removed from the main settlement. The lands are outside the CSO settlement boundary and approximately 1.5km from the edge of the town centre.

Uisce Éireann also points out that in general more significant network reinforcements are likely to be required to service the Strategic Residential Reserve lands. In relation to MA 38, localised network upgrades may also be required.

MA 39 proposes to zone lands from Agriculture to Strategic Residential Reserve at Ardmore/Carrownalurgan.

The lands are north of the R335 on the southwest approach to the town. The lands are greenfield and have an area of approximately 15 ha. While the lands are inside the CSO settlement boundary, they are removed from the main settlement.

The lands are approximately 1.5km from the edge of the town centre. The surrounding lands are largely undeveloped and are rural in character.

Uisce Éireann also points out that in general more significant network reinforcements are likely to be required to service the Strategic Residential Reserve lands. Specifically in relation to MA 39, the submission states that strategic upgrades to



pipes and the pumping station may be required if the whole site was to be developed.

The lands subject of MA 38 and MA 39 are not well located or contiguous to the existing built up area and would not provide for orderly growth or compact sequential growth contrary to the objectives of the Development Plan, the RSES and the policies and objectives of the Development Plans Guidelines.

Zoning further greenfield land for Strategic Residential Reserve at peripheral locations is also contrary to RPO 3.2 (c) and RPO 3.3 since it would undermine planled development which is focused on compact growth and regeneration within the built-up footprint of the settlement.

The draft LAP already zones sufficient land for Strategic Residential Reserve on the R309 (Castlebar Road), Quarry Lane and Woodpark Avenue which is better located and contiguous to established residential development. Therefore, there is no requirement to zone further greenfield lands as Strategic Residential Reserve.

It is noted from the map in section 8.6 of the SFRA that the lands subject of MA 39 adjoins a watercourse. It is evident that portion of the subject land is within Flood Risk Zone A/B, but that it has not been subject to or passed the plan-making Justification Test and the subject zoning therefore does not have regard to the Flood Guidelines. The subject zoning, which is also vulnerable to flood risk in the medium and high climate change scenarios, does not have regard to the recommendation of the Flood Guidelines to apply the precautionary principle in relation to future climate change scenarios.

## MA Recommendation 2 – Residential zonings objectives

Having regard to the core strategy of the draft LAP and associated material alterations, to the provision of new homes at locations that can support compact and sustainable development, and the co-ordination of housing development and infrastructure delivery, and in particular 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 extent of lands already zoned New Residential and Strategic Residential Reserve in the draft LAP;
- Regional Policy Objectives RPO 3.2 (c) and RPO 3.3 which target new housing within the built up footprint and to brownfield sites;
- Objectives CSO 4, GSO 1, SSO 2, SSO 3 and SSO 6 of the Mayo County Development Plan 2022-2028 which promote compact development within and close to the built up footprint, a sequential approach to development, and to avoid the inappropriate extension of services and utilities;
- the policy and objectives of the *Development Plans, Guidelines for Planning Authorities* (2022) for settlement capacity audits and associated infrastructural capacity assessment, and the sequential approach to zoning; and
- The Planning System and Flood Risk Management Guidelines for Planning Authorities (2009),

the planning authority is required to make the plan without the following material alterations:

- (i) MA 35;
- (ii) MA 38; and
- (iii) MA 39.

## 3. Extension to plan boundary

MA 41 proposes to extend the plan boundary from Ardmore to Belcare Junction and zone all lands within the boundary extension Agriculture.



The lands are located to the southwest of the town and are outside the draft LAP boundary. The lands extend to the Quay Coast Road (L1801) and include the headlands of Rosmalley and Rossbeg. The land is rural in character with clusters of one-off housing. The lands are partially outside the CSO settlement boundary.

It is considered that extending the draft LAP boundary to the extent proposed would facilitate a pattern of urban sprawl that would undermine core strategy objectives of the Development Plan which promote compact growth and reduced travel demand through sustainable settlement patterns, in particular CSO 4 and CSO 7.

The SEA and Natura Impact Report (NIR) Addendum highlight the potential for likely significant effects on the Clew Bay Complex SAC.

In this regard, pages 83 and 84 of the SEA state the following:

The proposed extension would increase the plan area considerably in the area adjacent to the Clew Bay complex SAC.

Review of aerial imagery indicates presence of scrub, woodland and linear features. The provision of housing on these sites could result in loss and erosion of these features with accompanying adverse effects on wildlife through loss of foraging, commuting habitat and potentially breeding habitat.

The proximity to Clew Bay SAC and loss of greenfield land may result in increased surface water run off to Clew Bay SAC, Clew Bay is of Moderate Status only (2018-2021) and is a under review currently in terms of risk of not meeting Water framework directive good status objectives.

The proposed extension of the LAP boundary contains a large area of land adjacent to the Clew Bay Complex SAC. Zoning of land for Agriculture has the potential for likely significant effects upon the Clew Bay Complex SAC as identified in the NIR. Single residential dwellings may be permitted within this zoning however, these would only be allowed



in fully serviced lands and are considered not likely to result in significant effects...'

The above reflects what is stated in Table 2-1 and the conclusion of the NIR, which states:

The proposed extension of the LAP boundary contains a large area of land adjacent to the Clew Bay Complex SAC. Zoning of land for Agriculture has the potential for likely significant effects upon the Clew Bay Complex SAC as identified in the NIR.

Single residential dwellings may be permitted within this zoning, however, these would only be allowed in fully serviced lands and are considered not likely to result in significant effects. Therefore, the proposed re-zoning will not alter the outcome of the original assessment and the mitigation as outlined in the NIR is sufficient to continue to protect the European Site network.

The Office is of the view, however, that assumption, upon which the conclusion set out in the SEA and NIR is based, that '...*single residential dwellings may be permitted within this zoning, however, these would only be allowed in fully serviced lands...*' is factually incorrect.

The Agriculture zoning objective in the draft LAP states:

...developments for single houses within areas zoned Agriculture will be considered on their merits having regard to the Rural Housing policies and objectives of the Mayo County Development Plan 2023-2028 and issues such as access, services and siting.

The zoning objective does not stipulate that single dwellings may be permitted where lands are fully serviced. Further, the land use zone Residential-Single is open for consideration on lands zoned Agriculture subject to the Development Plan's Rural Housing Policy. This matter is addressed further in section 4 below.



It is considered that encouraging further agricultural development and rural housing on septic tanks/proprietary wastewater treatment systems by way of extending the draft LAP boundary and zoning the subject land Agriculture up to the boundary of the Clew Bay Complex SAC is contrary to the Development Plan objectives NTO 4 and NEP 1 and objective NEP 1 of the draft LAP.

### MA Recommendation 3 – Local area plan boundary extension

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

- Objectives CSO 4 and CSO 7 of the Mayo County Development Plan 2022-2028 (the Development Plan) which promote compact growth and a transition to a greener, low carbon and climate resilient through the promotion of sustainable settlement patterns;
- the potential significant effects on the Clew Bay Complex Special Area of Conservation identified in the Strategic Environmental Assessment report and Natura Impact Report Addendum;
- Objectives NTO 4 and NEP 1 of the Development Plan which seek to protect the integrity of European Sites;
- Objective NEP 1 of the draft LAP which seeks to protect, conserve and enhance the natural heritage of Westport, including the protection of the integrity of European Sites; and
- Objective INO 27 of the Development Plan which seeks to identify and preserve vulnerable floodplains, wetlands and coastal areas,

the planning authority is required to make the LAP without MA 41.



### 4. Other matters

The Office considers that there are a number of shortcomings with the environmental assessments of the material alterations which should be brought to the attention of the planning authority.

Section 4.13 and Table 4.3 of the SEA present information on the likely evolution of the environment in the absence of the draft LAP. However, it is noted that references are made to the Draft Adare Local Area Plan 2024-2030<sup>4</sup> and Limerick Development Plan 2022-2028 rather than the draft LAP and the Development Plan.

Chapter 8 presents an assessment of the proposed material alterations that were assessed under the SEA screening process as requiring full SEA. It refers to *'three material alterations were identified through the SEA Screening (Annex B) as requiring full SEA…'*. However, only two are assessed in section 8.1 of the main SEA report.

It is noted that the assessment of MA 2 states *'the provision of this zoning would contribute to peripheral growth...'*, which is incorrect since MA 2 proposes to include a new policy rather than a zoning change.

As noted in section 3 above, the SEA's assessment of MA 41 states 'single residential dwellings may be permitted within this zoning<sup>5</sup>, however, these would only be allowed in fully serviced lands ...'. The NIR also contains this incorrect assumption in respect of MA 41 which raises a question about the robustness of the assessment and conclusion reached on the effects of this material alteration.

The Agriculture zoning does not stipulate that single dwellings may be permitted where lands are fully serviced and the land use Residential-Single is open for consideration on lands zoned Agriculture subject to the Development Plan's Rural Housing Policy without the need for policy DSP 10.

The planning authority will be aware that the duty to undertake Appropriate Assessment, having considered the NIR, and to ensure that the assessment and

<sup>&</sup>lt;sup>4</sup> The Adare Local Area Plan 2024-2030 was adopted on 13<sup>th</sup> February 2024.

<sup>&</sup>lt;sup>5</sup> Agriculture land use zoning.



decision-making procedure is applied correctly, lies with the planning authority as the competent authority.

In this regard, the *Appropriate Assessment of Plans and Projects in Ireland, Guidance for Planning Authorities* (2010) states:

If it can be concluded on the basis of AA that there will be no adverse effects on the integrity of a Natura 2000 site, the plan or project can proceed to authorisation, where the normal planning or other requirements will apply in reaching a decision to approve or refuse. If adverse effects are likely, or in cases of doubt, the derogation steps of Article 6(4) will apply, but only in a case in which there are imperative reasons of overriding public interest (IROPI) requiring a project to proceed, there are no less damaging alternative solutions, and compensatory measures have been identified that can be put in place...

In addition, section 9.4 of the SEA includes '*Mitigation Measures recommended for Westport LAP 2023-2029 - amendment of text or additional policies/objectives*'. However, none appear to have been included in the material alterations.

There is also no clear conclusion in the SEA report.

### 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,

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Anne Marie O'Connor

Deputy Regulator and Director of Plans Evaluations