



Oifig an
Rialaitheora Pleanála
Office of the
Planning Regulator

OPR Ref: MA-056-22

18th December 2023

Planning Department,
Tipperary County Council,
Civic Offices,
Limerick Road,
Nenagh,
Co. Tipperary,
E45 A099.

Re: Material Alterations to the Draft Clonmel 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 Clonmel 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 regard to the Tipperary County Development Plan 2022-2028 (the Development Plan), the Regional Spatial and Economic Strategy (RSES) for the Southern Region, and relevant section 28 guidelines.

Overview

As outlined in the Office's submission to the draft LAP, the Office considered the draft LAP to be generally consistent with national and regional policy, and with the Development Plan, particularly in respect of its overall strategy to promote compact growth, target town centre renewal and promote more sustainable travel patterns. However, the Office found it necessary to recommend changes to the draft LAP concerning zoning for residential development, the economic and employment strategy for the settlement, the integration of the Local Transport Plan (LTP) objectives and flood risk management.

The Office welcomes the proposed Material Alterations and acknowledges the significant effort made by the planning authority in seeking to address to the recommendations set out in the submission to the draft LAP. The Office is satisfied that the planning authority have generally addressed Recommendations 1, 2, 3 and 4.

The Office also welcomes the response to Observation 2 and the proposed inclusion in the LAP of a comprehensive monitoring strategy to assess and evaluate the progress of the objectives of the LAP (MA 55).

The Office supports other additional alterations proposed in relation to climate action and the inclusion of climate positive objectives (MA 3 and MA 7). MA 10 in relation to the support of district heating is also welcomed.

With the exception of MA 85 to zone lands located within an area at risk of flooding, and MA 47 relating to renewable energy grid connection, the Office is satisfied that the Material Alterations are generally consistent with national and regional policy, and with the Development Plan. However, both of the aforementioned material alterations are inconsistent with the Development Plan and objectives to address climate change.

It is within this context the submission below sets out two (2) recommendations under the following themes:

Key theme	Recommendation	Observation
Flood risk management	MA Recommendation 1	-
Climate action - renewable energy grid connection	MA Recommendation 2	-

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.

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. Core strategy and land use zoning for residential use

The Office welcomes the alterations made in response to Recommendation 1, particularly: MA 81 to rezone Existing Residential lands on the periphery of the draft LAP boundary to Town Environs or Strategic Reserve; MA 82 to rezone sites 7, 8, 21 and 22 from Existing Residential to New Residential; and MA 83 to rezone the remaining undeveloped lands of sites 19, 23 and 25 from Existing Residential to New Residential. The Office also welcome the updates to the Serviced Land Assessment table and mapping under MA 64 and MA 65.

As a result of the alterations made in response to Recommendation 1, the extent of New Residential zoned lands has increased. However, the Office considers that all of these proposed material alterations are in accordance with the principles of compact growth and sequential development, and thus are acceptable to the Office.

2. Flood risk management

Recommendation 4 of the Office's submission on the draft LAP, requested a number of changes in relation to flood risk management. The Office is satisfied that parts (i), (ii), (iv) and (v) of Recommendation 4 have been addressed. In relation to Part (iii) of Recommendation 4, the Office notes the reasoning provided in the Justification Test.

Under MA 85, it is proposed to rezone a 4.86 ha site from Employment to Mixed Use on the northern side of the River Suir, east of the town centre. The revised flood mapping undertaken as part of the proposed Material Alterations indicates that the majority of the site is located outside of the flood zone, however, part of the site is located within Flood Zone A and Flood Zone B.

A revised Justification Test for these lands has been undertaken as part of the proposed Material Alterations (MA 78). However, the assessment undertaken assesses the Employment zoning, rather than the proposed Mixed Use zoning. The Office notes that the lands failed the Justification Test carried out. However, the Justification Test states that as they are largely developed, future development will be limited to the restrictions under Policy 8.5.

However, the developed employment land to the north is not part of the proposed Material Alterations lands. As such, the limitations set out in Policy 8.5 that apply to existing development are not applicable to the proposed Material Alterations lands. The proposed Mixed Use zoning could potentially accommodate highly vulnerable uses including residential use, which are not appropriate within Flood Zone A.

Section 3.2 of *The Planning System and Flood Risk Management Guidelines for Planning Authorities* (2009) (Flood Guidelines) states that the sequential approach should be applied at plan making stage to ensure that development is first and foremost directed towards lands that are at low risk of flooding. Where zoning is proposed on lands within flood zones, the planning authority must be satisfied that the lands pass the plan making Justification Test. NPO 57 of the National Planning Framework (NPF) also details that it should be ensured that flood risk management informs place making by avoiding inappropriate development in areas at risk of



flooding in accordance with the Flood Guidelines. These principles are also reflected under RPO 114 and 116.

Policy 11-9 of the Development Plan requires that all new developments are assessed in line with the Staged Approach and pre-cautionary principle set out in the Flood Guidelines. As such, the planning authority is required to make the LAP without MA 85 as it relates to the part of the lands located within Flood Zone A.

Given that under the Employment Zoning proposed as draft plan stage, that highly vulnerable and less vulnerable developments are also not appropriate, the Planning Authority is advised that a further minor amendment should be included under the Justification Test for the Employment Zoning, clarifying that development within Flood Zone A will be limited to water compatible development only.

MA Recommendation 1 – Flood Risk Management

Having regard to:

- Tipperary County Development Plan 2022-2028 Policy 11-9 which requires the application of the pre-cautionary principle set out in *The Planning System and Flood Risk Management Guidelines for Planning Authorities*, (2009); and
- RPO 114 and RPO 116 in relation to Flood Risk Management,

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

- (i) MA 85 as it relates to lands zoned Mixed Use located within Flood Zone A.

3. Climate action - renewable energy grid connection

It is an objective (15-F) of the Development Plan to

Work in partnership with the Department of the Environment, Climate and Communications in line with their 'Policy Statement to Ensure Security of Electricity Supply and Facilitate the Target of up to 80% Renewable Electricity Generation by 2030', and to facilitate additional electricity transmission and distribution grid infrastructure, as well as additional electricity interconnection and electricity storage.

This objective is consistent with the objectives of the RSES for the SRA, including RPO 99

...to support the sustainable development of renewable wind energy (on shore and off shore) at appropriate locations and related grid infrastructure in the Region in compliance with national Wind Energy Guidelines.'

and RPO 96

...to support the sustainable development, maintenance and upgrading of electricity and gas network grid infrastructure to integrate renewable energy sources and ensure our national and regional energy system remains safe, secure and ready to meet increased demand as the regional economy grows.

These objectives support necessary development to meet the national target, under the *Climate Action and Low Carbon Development Act 2015*, as amended, to reduce greenhouse gas emissions by 51% by 2030 and to achieve the National Climate Objective to transition to a climate neutral economy no later than 2050. They are also consistent with the objective to accelerate renewable electricity generation under the *Climate Action Plan 2023*, including by increasing the proportion of renewable electricity to 80% by 2030 and a target of 9 GW from onshore wind and 8 GW from solar energy by 2030.

However, the Office has serious concerns that MA 47, which inserts a new Policy 8.6 to '*require that grid connection routing for renewable energy development proposals*

should avoid materially impacting the road network, where possible', has the potential to undermine the delivery of renewable energy targets by 2030.

The subject policy was inserted in response to Transport Infrastructure Ireland's (TII) submission on the draft LAP, indicating that grid connection cable routing should seek to utilise available alternatives, as opposed to being placed along the strategic national road network, having regard to the provisions of the section 28 *Spatial Planning and National Roads Guidelines for Planning Authorities* (2012) (National Roads Guidelines). TII has clarified in its submission on the proposed Material Alterations of the draft LAP that its submission only relates to national roads.

The Office is of the view however that Policy 12-4 of the Development Plan already has regard to the policy requirements of the National Roads Guidelines and provides sufficient protection in this regard. The introduction of a further policy under MA 47, specific to grid connection routing for renewable energy, is not therefore necessary and would be inconsistent with objective (15-F), RPO 99 and RPO 96 to support the sustainable development of renewable energy and associated grid infrastructure. The LAP should therefore be made without the subject Material Alteration.

MA Recommendation 2 – Renewable energy grid connection

Having regard to the need to reduce greenhouse gas emissions and to support an increase in the generation of renewable electricity, and in particular to:

- Objective 15-F of the Tipperary County Development Plan 2022-2028 to *'Work in partnership with the Department of the Environment, Climate and Communications in line with their 'Policy Statement to Ensure Security of Electricity Supply and Facilitate the Target of up to 80% Renewable Electricity Generation by 2030'*;
- RPO 99 of the RSES *'...to support the sustainable development of renewable wind energy (on shore and off shore) at appropriate locations and related grid*



infrastructure in the Region in compliance with national Wind Energy Guidelines’;

- RPO 96 ‘...to support the sustainable development, maintenance and upgrading of electricity and gas network grid infrastructure to integrate renewable energy sources and ensure our national and regional energy system remains safe, secure and ready to meet increased demand as the regional economy grows;
- the targets for greenhouse gas reduction under the *Climate Action and Low Carbon Development Act 2015*, as amended;
- the targets for renewable electricity generation under the *Climate Action Plan 2023*; and
- Policy 12-4 of the Development Plan which seeks to maintain and protect the safety, capacity and efficiency of Tipperary’s roads network and associated junctions in accordance with the *Spatial Planning and National Roads Guidelines for Planning Authorities (2012)*;

the planning authority is required to make the LAP without:

- (i) MA 47 Policy 8.6 to ‘*require that grid connection routing for renewable energy development proposals should avoid materially impacting the road network, where possible*’.

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 LAP.



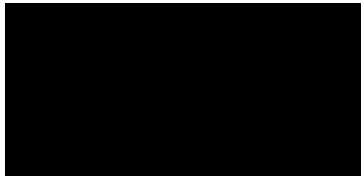
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Where your authority decides not to comply with the recommendations of the Office, or otherwise makes the LAP in such a manner as to be inconsistent with the recommendations of the Office, under the provisions of section 31AO(5) of the Act **the chief 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,



Anne Marie O'Connor

Deputy Regulator and Director of Plans Evaluations
