



Oifig an
Rialaitheora Pleanála
Office of the
Planning Regulator

28th July 2021

Frank Pentony,
Director of Services,
Louth County Council,
Town Hall,
Crowe Street,
Dundalk,
Co. Louth
A91 W20C

Re: Material alterations to draft Louth County Development Plan 2021-2027

A chara,

Thank you for your authority's work in preparing the material alterations to the draft Louth County Development Plan 2021-2027 (the draft Plan).

In particular, the Office would commend the planning authority for the format of both the Chief Executive's Report on Submissions Received and the Material Alterations. These documents are very well structured and easy to follow and will have facilitated public understanding of the plan preparation process.

As your authority will be aware, one of the key functions of the Office of the Planning Regulator (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 *Planning and Development Act, 2000*, as amended, (the Act) and within the context of the Office's earlier recommendations and observations.

As outlined in the submission of the Office to the draft Plan, the Office considered the draft Plan to be generally consistent with policies in the *National Planning Framework (NPF)* and the *Regional Spatial and Economic Strategy (RSES) for the Eastern and Midland Regional Assembly area*, and recommended changes to enhance its alignment with national and

regional policies in those documents, including, among others, compact growth (NPO 3b/NPO 3c/RPO 3.2), the rate of growth of certain settlements (NPO 9), rural housing (NPO 19), and the tiered approach to zoning (NPO 72a, NPO 72b and NPO 72c)

The Office also recommended amendments for consistency with section 28 Ministerial guidelines, including, among others, the recently published *Housing Supply Target Methodology for Development Guidelines for Planning Authorities* (2020), the *Interim Guidelines for Planning Authorities on Statutory Plans, Renewable Energy and Climate Change* (2017), *The Planning System and Flood Risk Management Guidelines for Planning Authorities* (2009) and the *Sustainable Residential Development in Urban Areas (Cities, Towns and Villages) Guidelines for Planning Authorities* (2009). In addition recommendations and advice on amendments were also included for consistency with relevant legislative requirements under section 10(2)(n) relating to objectives for a sustainable transport strategy (climate action), section 10(2A) core strategy (housing yield on mixed use lands; and the growth allocations across the settlement hierarchy) and section 10(2)(a) zoning.

It is acknowledged that the material alterations have satisfactorily addressed, for the most part, the issues relating to infill development, active land management, residential density and housing yields on mixed use lands. The proposed amendments also resolve concerns regarding the rationale for rural housing growth, the recording of same, the designation of Rural Nodes, and the implementation of a proactive strategy for town and village regeneration. Matters concerning sustainable transport and section 10(2)(n), the mixed use zoning of Mullagharlin and the application of exceptional circumstances on access to national roads have been addressed but will require some further review by the planning authority.

The Office commends the planning authority, in particular, for the proposed amendments introducing phasing for residential lands under proposed amendments 10, 29 and 207, and for the extensive work carried out to provide an evidence-based phasing framework for lands in Dundalk / Blackrock and Ardee.

The planning authority is also commended for the extensive work undertaken to facilitate the proposed amendments to the *Infrastructure and Land Use Evaluation* (IALUE) and to the *Strategic Flood Risk Assessment*. The significant proposed amendments to the

transport provisions of the draft Plan will also support a more sustainable and strategically planned approach that will enable the county to better benefit from its transport network.

However, amendments have not been proposed to address several recommendations made by the Office on the draft Plan and, where amendments have been proposed, many do not fully resolve the matters of concern. These include critical, strategic matters relating to overall housing targets; the phasing of development land; the detailed planning for major development areas through masterplans; the zoning of land at risk of flooding in Ardee, Carlingford, Castlebellingham/Kilsaran, Drogheda, Dundalk, Omeath and Tallanstown; the zoning of land inconsistent with the Tiered Approach to Zoning in Drogheda and Dundalk; the absence of renewable energy targets; and the facilitation of haphazard rural development. Other issues raised in the Office's submission that remain outstanding, either wholly or in part, relate to the inclusion of modal share targets and the application of exceptional circumstances.

In addition, the Office has identified a significant number of proposed amendments that are inconsistent with national and regional policy relating to New Residential land use zonings in Dundalk, Ardee and Carlingford, and settlement boundary extensions to Rural Nodes at Glenmore, Lordship and Sandpit. These are addressed in the recommendations below.

The planning authority will be aware that section 12(10) of the Act provides the members of the planning authority with scope to make a further modification to an alteration subject to the limitations set out in subsection 10(c) parts (i) and (ii). The observations and recommendations set out in this submission are cognisant of these restrictions and the Office advises that the planning authority, in responding to same, should satisfy itself that any material alterations are consistent with the aforementioned limits.

The planning authority will note that 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.

The submission below sets out ten recommendations and two observations under following seven key themes:

1. Core strategy and housing supply targets
2. Compact growth, regeneration and tiered approach to zoning
3. Rural housing and regeneration
4. Economic development and employment
5. Transport and accessibility
6. Climate action and renewable energy
7. Flood risk management

1. Core Strategy and Housing Supply Targets

Recommendation 1 of the Office on the draft Plan required the planning authority to review and revise the core strategy as necessary to comply with the requirements of the Section 28 Guidelines: *Housing Supply Target Methodology for Development Planning (December 2020)* and Appendix 1 of the accompanying Ministerial Letter to Local Authorities of 18/12/2020. The proposed amendments do not address Recommendation 1 and, therefore, the draft Plan, inclusive of proposed Material Alterations, is inconsistent with Recommendation 1. In this regard, the planning authority will be aware that the housing targets under the draft Plan are significantly in excess of those that apply under the guidelines, to the tune of up to 1,800 units under adjustment E (or 28%).

The over-estimation of required housing delivery beyond that guided by the Minister for Housing, Local Government and Heritage has important implications in terms of timely delivery of physical and social infrastructure in the right locations and the realisation of sustainable communities. It also risks requiring infrastructure beyond reasonable need, that will divert resources and take longer to deliver and at greater cost.

The Office notes the response to Recommendation 1 in the Chief Executive's Report on Submissions Received (24/03/21), but respectfully disagrees with the Chief Executive's interpretation of the statutory requirements and obligations under the Act. Section 28 of the Act states:

(1) *The Minister may, at any time, issue guidelines to planning authorities regarding any of their functions under this Act and planning authorities shall have regard to those guidelines in the performance of their functions.*

And:

(1A) *Without prejudice to the generality of subsection (1) and for the purposes of that subsection a planning authority in having regard to the guidelines issued by the Minister under that subsection, shall —*

(a) consider the policies and objectives of the Minister contained in the guidelines when preparing and making the draft development plan and the development plan, and

(b) append a statement to the draft development plan and the development plan which shall include the information referred to in subsection (1B).

The requirements under section 28 are, however, clear. The Minister may at any time issue section 28 guidelines and the planning authority must consider the policies and objectives of those guidelines when preparing and making the draft Plan and the final Plan and include the relevant statement under subsection (1A).

It is evident from the details of the Chief Executive's response to Recommendation 1 that the planning authority has not had regard to the Minister's guidelines in accordance with the statutory requirements. It is also noted that the statement required under section 28(1A)(b) and subsection (1B) has not been updated to reflect the aforementioned Housing Supply Target Guidelines.

The Office is concerned that the planning authority would propose delaying implementation of the Minister's guidelines to a subsequent variation of the Plan. This would not be supported by the Office given that the Guidelines have been published since December 2020. The Guidelines also clearly state the requirement to demonstrate consistency with the methodology set out in the Guidelines at Chief Executive and at Material Alterations stages (Section 2.12 *Housing Supply Target Methodology for Development Planning Guidelines for Planning Authorities*).

After the Plan has been made, the limited resources of the planning authority would be better expended on the preparation of Local Area Plans to guide the detailed development

of the Regional Growth Centres of Drogheda and Dundalk to drive the growth and prosperity of the county.

MA Recommendation 1 - Core strategy and housing supply targets

The draft Plan as proposed to be materially altered is inconsistent with Recommendation 1 of the Office's submission on the draft Plan. Having regard to the provisions under section 28 of the Act, the planning authority is required to:

- (i) review and amend the proposed Core Strategy to insert the total housing supply target for the county and the consequential housing allocations to each settlement consistent with the requirements of the Section 28 Guidelines: *Housing Supply Target Methodology for Development Planning* and Appendix 1 of the accompanying Letter of the Minister;
- (ii) review and amend the approach to zoning for residential use and for a mixture of residential and other uses, as necessary to implement the amendments made under (i) in accordance with the requirements for compact growth; and
- (iii) append an updated statement to the Plan in accordance with subsection (1B) taking account of the guidelines.

Note: In view of the legislative constraints that exist in terms of introducing amendments to the draft Plan at this stage of the process, the Office would welcome discussion with the planning authority.

2. Compact Growth, Regeneration and Tiered Approach to Zoning

2.1 Phasing

The Office welcomes proposed amendments 10, 29 and 207 which introduce residential land phasing (A3 New Residential Phase 2) to the draft Plan and the revisions to the core strategy table to indicate the quantum of Phase 2 lands for each settlement in tiers 1 to 4, which is generally consistent with the provisions of section 10(2A)(d) of the Act. However, the omission of the total quantum of lands zoned for residential development is inconsistent with section 10(2A)(c) of the Act.

The proposed phasing approach responds to Recommendation 4 (and to Recommendation 1, in part) and has the potential to resolve the concern of the Office regarding excessive zoning, sequential development and compact growth. In view of the quantum of proposed A2 New Residential Phase 1 lands, the Office considers it reasonable that Phase 2 lands will only become available for development after 75% of Phase 1 lands have been developed (proposed amendment 207), which will provide sufficient flexibility. The Office is concerned, however, with the more open-ended caveat provided under amendment 29 and 207 that would allow the release of Phase 2 lands where Phase 1 lands are not being brought forward for development.

In the absence of the inclusion of specific criteria in the Plan against which a decision would be taken to release Phase 2 lands, taking into account the requirement for compact growth, sequential approach to development, sustainable settlement and transport strategies under s10(2)(n) and relevant section 28 guidelines, the Office is concerned that development over the Plan period risks undermining the overall strategy with the Plan for sustainable settlements. This is especially so in view of the revised, significantly lower housing target that would apply under the *Housing Supply Target Methodology for Development Planning Guidelines*, to which the draft Plan has not had regard.

MA Recommendation 2 – Phasing

The planning authority is required to:

- (i) include concrete criteria in the Plan against which a decision would be taken to release A3 Phase 2 lands ahead of A3 that will ensure that future development of the settlements are consistent with the requirements for compact growth, sequential approach, the promotion of sustainable settlement and transport strategies under s.10(2)(n) and relevant section 28 guidelines including the *Housing Supply Target Methodology for Development Planning Guidelines* (2020);
- (ii) amend the core strategy table to include total quantum of lands zoned for residential development as required under section 10(2A)(c).

2.2 Local area plans

The Office notes that no phasing is included for Drogheda under the proposed amendments, despite the significant scale of excess zoning for A2 New Residential and the significant infrastructural constraints on lands including the extensive Northern Environs of Drogheda (site 1 of the IALUE). The Chief Executive indicated in response to the Office's Recommendation 4 that phasing would be reviewed as part of the proposed Joint Local Area Plan (JLAP), but made no recommendation in this regard and no proposed amendments refer. Rather proposed amendment 16 proposes that phasing in the Northern Environs should be as per the 2006 Masterplan or any subsequent masterplan.

The Office notes the role that existing and future masterplans are proposed to play in the future development of Drogheda, Dundalk, Ardee and Dunleer. The Chief Executive refers to the potential for detailed phasing for lands to be detailed in masterplans in accordance with the core strategy and development plan requirements. Masterplans are required to address phasing arrangements under section 13.5 of the draft Plan. Notwithstanding the potential benefits to use of masterplans for the coordination of development across strategic land parcels, it is not appropriate to leave the phasing of extensive New Residential lands to be determined in these non-statutory spatial plans where such phasing is necessary to ensure compliance with the Core Strategy and the *Housing Supply Target Methodology for Development Planning Guidelines (2020)*.

In addition, a non-statutory masterplan is not an appropriate vehicle for the development of extensive areas with the potential to impact on interchanges or junctions on the national road network (contrary to section 2.7 of the '*Spatial Planning and National Roads Guidelines*' (2012)), such as the extensive Business and Technology lands at Mullagharlin. Nor is it appropriate to leave detailed consideration of infrastructure capacity or constraints and their resolution to a masterplan having regard to NPO 72a, NPO 72b and NPO 72c.

The Office welcomes the commitment of the planning authority under proposed amendments 2 and 3 to commence the preparation of the LAP for Drogheda and the LAP for Dundalk within six months of the making of the Plan. A similar commitment to an appropriate timeframe for the preparation of the proposed LAPs for Ardee and Dunleer (section 1.1 of draft Plan) would also be beneficial to the sustainable development of those settlements.

The preparation of LAPs would provide the planning authority with the opportunity to provide detailed plans or directions for the development of key land parcels, including those identified in Table 13.1 Amended Masterplan Areas, to replace the non-statutory masterplans or to provide the necessary detailed phasing requirements based on the evidence-base (infrastructure assessment and capacity in consultation with infrastructure providers) and policy context for the masterplans to support the fast-track delivery of housing and employment in the right locations.

It is not appropriate to decide planning applications on non-statutory masterplans which are based on statutory plans that have expired.

MA Recommendation 3 – Local Area Plans

Arising from Recommendations 1 and 4, having regard to:

- (i) the significant scale of excess zoning for A2 New Residential, including having regard to the implementation of the *Housing Supply Target Methodology for Development Planning Guidelines (2020)*;
- (ii) the significant infrastructural constraints on the extensive Northern Environs of Drogheda and in other settlements affecting New Residential lands (A2 and A3) and other land use zones E2 including Business and Technology in Dundalk;
- (iii) the decision not to include phasing for the proposed New Residential land use zones in Drogheda;
- (iv) the provisions of the draft Plan concerning the requirement for non-statutory masterplans for Drogheda, Dundalk, Ardee and Dunleer to address phasing, infrastructural capacity constraints and environmental constraints (such as flooding) which are matters required under legislation and/or policy and/or section 28 guidelines to be addressed in statutory plans; and
- (v) In view of the planning authority's commitment to preparing Local Area Plans for Drogheda, Dundalk, Ardee and Dunleer;

the planning authority is required to commit to providing the necessary detailed phasing requirements based on the evidence-base (infrastructure assessment and capacity in consultation with infrastructure providers) and policy context in the Local Area Plans, supported by Local Transport Plans, to replace and/or direct any subsequent

masterplans in order to support the fast-track delivery of housing and employment in the right locations.

2.3 Proposed amendments to zoning objectives

The Office has significant concerns regarding the following proposed amendments which increase the quantum of residential land zoned in Dundalk, Ardee, Carlingford and Cloherhead, and the proposals to extend the settlement boundary to the Rural Nodes for Glenmore, Lordship and Sandpit in view of the overall potential scale of development that could be accommodated, contrary to the draft core strategy which has yet to be revised to accord with the *Housing Supply Target Methodology for Development Planning Guidelines* (2020), and inconsistent with achieving compact growth.

- Dundalk - 38 proposed amendments of land use zoning have been included for Dundalk, 13 of which relate to significant changes (\geq c.1ha) to residential zoning, which together add c.31.1ha New Residential (A2 phase 1 and A3 phase 2). Subject to compliance with MA Recommendation 2, above, the Office welcomes the designation of c.119ha as A2 New Residential Phase 2. Proposed amendments DLK7 (A2 New Residential Phase 1), DLK3 (A2 New Residential Phase 1 and A3 New Residential Phase 2) and DLK22 (A3 New Residential Phase 2) are inconsistent with the achievement of NSO 1 and RSO 2 compact growth and with the achievement of sustainable settlement and transport strategies under section 10(2)(n) of the Act.
- Ardee – Proposed amendment ARD3 from Rural Policy Zone 2 to A3 New Residential Phase 2 outside the settlement boundary of the town is considered to be inconsistent with the achievement of NSO 1 and RSO 2 compact growth.
- Carlingford – Proposed amendment L3-2 from Rural Policy Zone 2 to A3 New Residential Phase 2 outside the settlement boundary of the town and beyond the L1 Strategic Reserve is considered to be inconsistent with the achievement of NSO 1 and RSO 2 compact growth and with the sequential approach.
- Glenmore and Lordship – Proposed amendments L5-5, L5-6, L5-7, L5-8 and L5-9 from Rural Policy Zone 1 and 2 to Rural Node are considered to be inconsistent with the draft core strategy and with the achievement of NSO 1 and RSO 2 compact growth.

- Sandpit – Proposed amendment L5-12 to change from Rural Policy Zone 2 to Rural Node and proposed amendment L5-13 to change from Rural Node to Rural Policy Zone 2 are considered inappropriate and inconsistent with sustainable development in view of the brownfield nature of the L5-13 site and the active agricultural nature of the L5-12 site. Any flood risk issues on site L5-13 can be addressed by a site specific flood risk assessment in accordance with *The Planning System and Flood Risk Management Guidelines* (2009) as the lands within the Rural Nodes are not proposed to be zoned.

MA Recommendation 4 – Proposed amendments to zoning objectives

Having regard to:

- the population and housing targets for the individual settlements set out in the core strategy and to the lower housing supply target that will apply through the implementation of the *section 28 Housing and Supply Targets Methodology Guidelines for Planning Authorities* (2020);
- the requirement under the *Guidance Notes for Core Strategies* (2010) that the core strategy provides a transparent evidence-based rationale of the amount of land to be zoned for residential and allied mixed-use zoning;
- the national and regional objectives for compact growth (NPO 3c and RPO 3.2); and
- the requirement under the *'Development Plan Guidelines for Planning Authorities'* (2007) that a sequential approach to the zoning of lands is applied;

the planning authority is required to remove the following proposed amendments:

- (i) Dundalk - Proposed amendments DLK7 (A2 New Residential Phase 1), DLK3 (A2 New Residential Phase 1 and A3 New Residential Phase 2) and DLK22 (A3 New Residential Phase 2);
- (ii) Ardee – Proposed amendment ARD3 from Rural Policy Zone 2 to A3 New Residential Phase 2;
- (iii) Carlingford – Proposed amendment L3-2 from Rural Policy Zone 2 to A3 New Residential Phase;
- (iv) Glenmore and Lordship – Proposed amendments L5-5, L5-6, L5-7, L5-8 and L5-9 from Rural Policy Zone 1 and 2 to Rural Node;

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| (v) Sandpits – Proposed amendment L5-12 to change from Rural Policy Zone 2 to Rural Node and proposed amendment L5-13 to change from Rural Node to Rural Policy Zone 2. |
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2.4 Tiered Approach to Zoning

Arising from the response in the draft Plan to Recommendation 6 of the Office's submission on the draft Plan, the Office welcomes proposed amendment Vol 3-4 revising the Infrastructure and Land Use Evaluation (IALUE) for the Regional Growth Centres and the Self-Sustaining Growth Towns with the assessment of 33 additional sites. The Office commends the planning authority for the application of the simple, Red-Orange-Green (or RAG) approach in the IALUE, the range of infrastructure issues considered and the detailed assessments. However, the planning authority has not reviewed the IALUE, but rather have increased the number of sites considered.

The proposed amended IALUE identifies four sites as not serviceable over the Plan period. These are site 5 (peripheral site for Tourism and Leisure site) and site 13 (Transportation Hub) in Drogheda; and site 21 (peripheral site for Tourism and Leisure) and site 27 (peripheral site for General Employment) in Dundalk. These sites are still zoned in the draft Plan. In addition, the original IALUE identified Site 3 (peripheral site for General Employment) in Dundalk and site 1 (the extensive Northern Environs) in Drogheda as not serviceable during the Plan period. However a review of the detailed site assessments indicates that site 11 (L1 Strategic Reserve subject of proposed amend DLK8 to E2 Business and Technology) and site 13 (E2 Business and Technology) at Mullagharlin, Dundalk, on the N52, can only be part serviced for water services, dependent on the Drainage Area Plan.

These six sites remain zoned for development contrary to the requirement under NPO 72c that such lands should not be zoned for development and inconsistent with part (b) of Recommendation 6. The Office would caution the planning authority about making a Plan with land use zoning objectives that are effectively misleading in view of legitimate expectations created by NPO 72c and the requirement to implement the Tiered Approach to Zoning.

The proposed amended IALUE does not include a reasonable estimate of the full costs of delivery of the specific services as part of the IALUE, which is inconsistent with part (a)(iii) Recommendation 6. Although the Office understands the position put forward by the Chief Executive, the planning authority should be aware that NPO 72b only requires that a reasonable estimate be put forward. This information would assist the planning authority in making decisions on zonings within a particular settlement where certain infrastructural costs would apply to all sites (e.g. a WWTP upgrade) and to site specific infrastructural costs (e.g. new road access or extension of waste water sewers).

It would therefore be advisable for the planning authority, in preparing the Local Area Plans, to determine an estimate of cost for servicing the subject lands to inform its overall policy approach, including any phasing.

MA Recommendation 5 – Tiered Approach to Zoning

Arising from Recommendation 6, and having regard to the requirements under NPO 72a, NPO 72b and NPO 72c to apply the tiered approach to zoning in accordance with Appendix 3 of the NPF, the Office recommends that the planning authority revise the policy objective approach in the Plan to ensure it is consistent with the Tiered Approach to Zoning for the following IALUE sites:

- Drogheda site 1 A2 New Residential (Northern Environs), site 5 I1 Tourism and Leisure, and site 13 (Transportation Hub);
- Dundalk site 3 E1 General Employment, site 21 I1 Tourism and Leisure, site 11 (L1 Strategic Reserve, subject of proposed amendment DLK8 to E2 Business and Technology) and site 13 (E2 Business and Technology) and site 27 E1 General Employment.

3. Rural Housing and Regeneration

3.1 Rural housing

The Office welcomes the response of the planning authority to Recommendation 7 under proposed amendment 45 to address the Flemish Decree. The Office also notes proposed amendment 44 of the draft rural housing policy in Rural Policy Zone 1 '*Areas Under Strong*

Urban Influence and of Significant Landscape Value’ as it relates to ‘social need’. The Office notes the decision not to remove the provisions regarding accommodation of backland development under section 13.9.3 of the draft Plan, inconsistent with Recommendation 10 and contrary to the recommendation of the Chief Executive. Such development is considered haphazard development that is inconsistent with recommendations of the *Sustainable Rural Housing Guidelines for Planning Authorities* (2009) (SRHG). The Strategic Environment Assessment (SEA) Environmental Report has also highlighted the potential for significant adverse environmental effects arising from the proposed policy approach. The draft Plan, as proposed to be amended, is therefore inconsistent with the recommendation of the Office.

MA Recommendation 6 – Rural housing

Arising from Recommendation 10, and having regard to provisions of the *Sustainable Rural Housing Guidelines for Planning Authorities* (2005), the planning authority is required to remove the provisions regarding accommodation of backland development under section 13.9.43 of the plan.

4. Economic Development and Employment

4.1 Employment and Enterprise zoning

The Office accepts the principle of proposed amendment DLK8 to the land use zoning objective from L1 Strategic Reserve to E2 Business and Technology (c.37ha), known as Mullagharlin, which is in close proximity to Junction 16 of the M1. However, a number of concerns arise regarding the sustainable development of this very extensive area, including uncoordinated development (MA Recommendation 3 – Local Area Plans, refers), access to services (MA Recommendation 5 – Tiered Approach to Zoning, refers) and potential impact on national roads (MA Recommendation 8 – Development at national roads interchanges or junctions, refers).

The draft Plan includes contradictory statements concerning the preparation of a masterplan for the Mullagharlin lands. Table 13.1 Amended Masterplans Areas indicates that development in this area shall comply with the requirements of the existing Framework

Plan, dating from 2008, or with any updated plan. Proposed amendment Masterplan 7 indicates that a masterplan is awaiting preparation for Mullagharlin.

In view of the scale of the lands concerned and the potential significance of the development of these lands to drive the future growth and economic prosperity of Dundalk; the infrastructure constraints and the potential to adversely affect the M1 at Junction 16; and the commitment (under proposed amendment 3) to commence the LAP preparation process for Dundalk within 6 months of the making of the Plan, the Office would advise that the planning authority commit (in the final Plan) to preparing and incorporating an evidence-based plan for the future development of the proposed extended Business and Technology land and mixed use lands at Mullagharlin as part of the Local Area Plan.

MA Observation 1 - Mullagharlin

Arising from proposed amendment DLK8 and the details of the IALUE, having regard to the scale of the E2 Business and Technology and C1 Mixed Use lands at Mullagharlin and along the N52 in proximity to junction 16 of the M1 motorway, and the potential significance of the development of these lands to drive the future growth and economic prosperity of Dundalk, the planning authority is advised to commit (in the final Plan) to preparing and incorporating an evidence-based plan for the future development of the proposed extended Business and Technology and mixed use lands at Mullagharlin as part of the Local Area Plan.

5. Transport and Accessibility

5.1 Modal share baseline and targets

The Office welcomes the proposed amendments to chapter 7 Movement responding to Recommendation 11 and Observation 10 of the Office's submission on the draft Plan. The extensive amendments which provide appropriate contextual data in terms of climate change and transport, including the requirements under section 10(2)(n) of the Act and the need to transition to a low carbon society (proposed amendment 76). The proposed amendments address, among other things, the implementation of the Avoid-Shift-Improve Framework, the preparation of Local Transport Plans for the Regional Growth Centres and

the implementation of NTA's Rural Mobility Plan 'Connecting Ireland' (in preparation) and are welcomed by the Office.

The Office's notes proposed amendment 79 which inserts key baseline transport data for the four main settlements into the draft Plan, consistent with Recommendation 11(i). This data supplements the county data included under section 7.1 of the draft Plan and will form the basis against which to gauge the successful implementation of the sustainable transport strategy for the county's main settlement, as an important indicator for the reduction of energy use and GHG emissions arising from transport as required under section 10(2)(n) of the Act.

The absence of baseline modal share data for aggregate rural areas is however inconsistent with part (i) of Recommendation 11 and should be addressed in order to provide an evidence basis for policy objectives to reduce transport related energy use and GHG emissions in rural areas, as well as urban areas.

It is also noted that the planning authority has not included modal share targets to be achieved over the Plan period in accordance with part (ii) of Recommendation 11. The inclusion of such targets would provide a clear focus for the implementation of the Council's sustainable transport strategy and facilitate the monitoring of an important key indicator over the plan period to support and improve the monitoring and implementation proposals under section 14.4 of the draft Plan.

The *Spatial Planning and National Roads Guidelines for Planning Authorities* (2012) recommends that where investment is planned and committed for sustainable modes, the Plan should set specific targets to increase the percentage share of persons travelling by these modes.

MA Observation 2 – Modal share baseline and targets

Arising from the planning authority's response to Recommendation 11 of the Office's submission on the draft Plan, which included the provision of detailed baseline data for mode share for the main settlements, in addition to extensive proposed amendments to

policy context for transport under Chapter 7 Movement, and having regard to the requirements under section 10(2)(n) of the Act, the planning authority is encouraged to:

- (i) Include modal share baseline at aggregate level for rural villages and the open countryside;
- (ii) Set realistic targets for modal change against the baseline figures provided for (a) the individual higher order settlements and (b) aggregate level for rural villages and the open countryside, to form a basis for an effective monitoring regime for the implementation of the planning authority's sustainable transport strategy and its climate change strategy.

5.2 Exceptional circumstances for access onto national roads

No proposed amendments are included in respect of Recommendation 12 of the Office's submission on the draft Plan, which related to the requirements under section 2.6 of the *Spatial Planning and National Roads Guidelines for Planning Authorities (2012)* (the SPNRGs) concerning the identification of stretches of national roads where a less restrictive approach may be applied for access there-onto as part of the process of reviewing the Plan.

The Office notes but respectfully disagrees with response to the Recommendation as set out in the Chief Executive's Report. The approach taken by the planning authority under section 7.9 and table 7.5 of the draft Plan remains inconsistent with the SPNRGs as it requires that exemptions on any such route must be agreed with TII at plan preparation stage. The planning authority should therefore omit the exemptions provided for under table 7.5.

MA Recommendation 7 – Exceptional circumstances for access onto national roads

Arising from the planning authority's response to Recommendation 12 of the Office's submission on the draft Plan, and having regard to the provisions of section 2.6 of the

Spatial Planning and National Roads Guidelines for Planning Authorities (2012) the planning authority is advised to omit the exemptions provided for under table 7.5.

5.3 Development at national road interchanges or junctions

The Office notes proposed amendment 96 inserting a new Policy Objective ‘*To promote and facilitate development at urban–related* interchanges in accordance with the zoning provisions for Drogheda and Dundalk as set out on the zoning maps for Drogheda and Dundalk in the Draft County Development Plan and any subsequent Local Area Plans adopted for these settlements.*’ It also inserts footnote ‘*Urban–related interchanges are Ballymascanlon (Junction 18), Castleblayney Road (Junction 17), Dundalk South interchange (Junction 16) and Drogheda North (Junction 10).*’

The Spatial Planning and National Roads Guidelines for Planning Authorities (2012) under Section 2.7, Development at National Road Interchanges or Junctions, indicates that planning authorities must exercise particular care in their assessment of development/local area plan proposals relating to the development objectives and/or zoning of locations at or close to interchanges where such development could generate significant additional traffic with potential to impact on the national road.

In this regard, planning authorities are required to make sure that development, consistent with planning policies, can be catered for by the design assumptions underpinning national road junctions and interchanges, to avoid compromising the capacity and efficiency of the national road/associated junctions and leading to the premature and unacceptable reduction in the level of service to road users. This requires an evidence-based approach under the guidelines. In the absence of the evidence-base to support proposed amendment 96, it should be removed.

MA Recommendation 8 – Development at national roads interchanges or junctions

Having regard to the provisions under section 2.7 of the *Spatial Planning and National Roads Guidelines for Planning Authorities (2012)*, the planning authority is required to

remove proposed amendment 96 which is not consistent with the evidence-based approach to development at national roads interchanges or junctions.

6. Climate Action

6.1 Renewable Energy Targets

The Office strongly commends the planning authority for wide-ranging proposed amendments (137, 138, 140, 141, 142, 143, 144, 147 and 148) to section 10.5 of the Plan, which further refine the positive approach of the draft Plan concerning the facilitation, support and promotion of renewable energy.

The Office welcomes proposed amendment 138 which acknowledges the national policy on renewable energy in accordance with the requirements of the SPPR of the *Interim Guidelines for Planning Authorities on Statutory Plans, Renewable Energy and Climate Change* (2017), as per Recommendation 14 of the Office's submission.

It is noted, however, that no target for wind energy development has been included, as required by the aforementioned SPPR, to indicate how the development plan will contribute to realising overall national targets (under the *Climate Action Plan 2019*) on renewable energy and climate change mitigation, and in particular wind energy production and the potential wind energy resource (in megawatts). This is particularly important given the target set out in the *Climate Action Plan 2019* to achieve 70% of national electricity generation from renewable sources by 2030 (including 8GW from onshore wind), and the crucial role of the plan period (2021-2027) in meeting this objective.

MA Recommendation 9 - Renewable energy targets

Arising from proposed amendment 138 and to the requirements under Specific Planning Policy Requirement for the *Interim Guidelines for Planning Authorities on Statutory Plans, Renewable Energy and Climate Change*, the planning authority is required to include in the final Plan, to either:

- (i) indicate how the implementation of the Plan over its effective period will contribute to realising overall national targets on renewable energy and climate

change mitigation, and in particular wind energy production and the potential wind energy resource (in megawatts); or

- (ii) include an objective to determine within 6 months of the making of the Plan how the implementation of the Plan over its effective period will contribute to realising overall national targets on renewable energy and climate change mitigation, and in particular wind energy production and the potential wind energy resource (in megawatts).

7. Flood Risk Management

The Office welcomes proposed amendment Vol 5-5 of the Strategic Flood Risk Assessment (SFRA), including the carrying out of the Justification Tests (JT), which goes some distance towards addressing Recommendation 13. However, in a number of cases the JT has not been properly applied in accordance with *The Planning System and Flood Risk Management Guidelines for Planning Authorities* (2009) and clarifying *Circular PL2/2014* (the FRMGs). In particular, criteria 1 of the JT, has been improperly applied to settlements other than Regional Growth Centre and Self-Sustaining Growth Towns, which are the only urban settlements targeted for growth under the NPF and the RSES.

In addition, in many cases JT has been improperly applied to peripheral lands, which do not fall within the scope of criteria 2. Finally, it is a requirement under the JT that the SFRA must demonstrate that the flood risk can be adequately managed and that the proposed use or development of the land will not cause unacceptable adverse impacts elsewhere (the acceptability, or otherwise, of residual flood risk should be made with consideration for the proposed development and the local context and should be described in the SFRA).

Having regard to the foregoing, the following sites have not passed the Justification Test in accordance with the FRMGs:

- **Ardee** – sites 2, 3 and 6 do not satisfy criteria 2.
- **Carlingford** – sites 1 and 2. The settlement does not satisfy criteria 1. Note proposed amendment L3-5 of site 2 from A2 New Residential to I1 Tourism and Leisure also accommodates vulnerable uses (hotels and B&B) and is therefore inconsistent with the FRMGs.

- **Castlebellingham / Kilsaran** – sites 1 and 2. The settlement does not satisfy criteria 1.
- **Drogheda** - sites 1 and 2 are on the periphery of this settlement and do not satisfy criteria 2.
- **Dundalk** - Sites 1, 4, 20 and 21 are on the periphery of this settlement and do not satisfy criteria 2 of the JT.
- **Omeath** – Sites 1 and 2. Settlement does not satisfy the JT criteria 1.
- **Tallanstown** – Sites 1, 2 and 3 and proposed amendment L4-10 from H1 Open Space to A2 New Residential. Does not satisfy the JT criteria 1. In addition proposed amendment L4-10 is inconsistent with the sequential approach and site 3 does not satisfy criteria 2.

MA Recommendation 10 – Flood risk management

Arising from Recommendation 13 and proposed amendment Vol 5-5, the planning authority is required to resolve the conflict between the proposed zoning and the requirements of *The Planning System and Flood Risk Management Guidelines for Planning Authorities* (2009) and clarifying *Circular PL2/2014* on the following sites in advance of the making of the Plan:

- Ardee – sites 2, 3 and 6;
- Carlingford – sites 1 and 2 including proposed amendment L3-5;
- Castlebellingham / Kilsaran – sites 1 and 2;
- Drogheda - sites 1 and 2;
- Dundalk - Sites 1, 4, 20 and 21;
- Omeath – Sites 1 and 2;
- Tallanstown – Sites 1, 2 and 3 and proposed amendment L4-10.

The planning authority is strongly advised to consult with the OPW in addressing this recommendation.

8. Other issues

Regarding proposals for masterplans under the draft Plan, the Office would remind the planning authority of the importance of ensuring engagement with prescribed authorities as part of the plan making process and the potential implications for AA and SEA for non-statutory plans that determine spatial development of lands.

Summary

The Office requests that your authority addresses the recommendations and observations outlined above. As you are aware, the report of the Chief Executive of your authority prepared for the elected members under section 12 of the Act must summarise these recommendations and the manner in which they 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 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 made by this Office, then the Chief Executive must inform the Office and give reasons for this decision.

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
