

Submission Fingal Development Plan- Amendments



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Submission

1. Introduction

I welcome the opportunity to comment of the material Amendment to the Fingal Development Plan 2023-2029. My comments follow.

2. National Marine Planning Framework.

The material alteration to references to the National Marine Planning Framework should also include reference to the General Scheme of the Marine Protected Areas Bill. The Department of Housing, Local Government and Heritage (DHLGH) have stated in relation to the General Scheme of the Marine Protected Areas Bill that:

“The proposed legislation is intended to work in parallel with the Maritime Area Planning Act (2021) and the suite of existing legal biodiversity protection measures, such as provisions under the Wildlife Acts, the Marine Strategy Framework Directive, the EU Birds and Habitats Directives, and the EU Common Fisheries Policy for example. This is in order to effectively balance all conservation requirements and the long-term, sustainable use of Ireland’s valuable and diverse marine environment “

as such it is proposed that the material amendment at 1.9.5 be amendment be worded as follows:

1.9.5 National Marine Planning Framework In accordance with EU Directive 2014/89/EU, the National Marine Planning Framework was published in May 2021. Marine planning will contribute to the effective management of marine activities and more sustainable use of our marine resources, and it will enable the Government to set a clear direction for managing our seas, to clarify objectives and priorities, and to direct decision makers, users and stakeholders towards more strategic and efficient use of marine resources. As Fingal is a coastal county the final plan / framework will be of great importance to Fingal. The Maritime Area Planning Act 2021 (MAP Act) was signed into law in December 2021 and this legislation represents the biggest reform of marine governance since the formation of the State. The Act established a comprehensive and coherent marine planning system. One of the main features of the MAP Act 2021 is the creation of a new State consent, the Maritime Area Consent (MAC), as a first step in the new planning process . *In accordance with EU Directive 2008/56/EC which is the environmental pillar of the Marine Planning Framework, , work is currently underway on a Marine Protected Areas Bill. Marine Protected areas will contribute to the effective management of marine activities in and around environmentally sensitive marine areas and more environmentally responsible use and regeneration of our marine resources and natural assets. It will enable the Government to set a clear direction for managing the conservation our seas, to clarify objectives and priorities in Marine conservation and protection, and to direct decision makers, users and stakeholders towards a more environmentally sustainable development of our marine area and*

adherence to the precautionary principle with regard to Marine conservation. As Fingal is a coastal county the final plan / bill will be of importance to us.

3. PA CH 2.1: Section 2.2.11 The Core Strategy

PA CH 2.1: Section 2.2.11 The Core Strategy, page 41 Insert new text directly before “Capacity of Zoned Lands Fingal Development Plan 2017–2023” as follows:

*“An Infrastructural Assessment, which provides a full assessment of the larger scale infrastructural requirements for the County was undertaken having regard to the requirements of NPO 72a and Appendix 3 of the National Planning Framework as well as the Development Plan Guidelines for Local Authorities. **Fingal County Council is exceptional in that the entire plan area is serviced and no fundamental constraints were identified by Irish Water.** In terms of transport infrastructure, all lands are located alongside existing public road routes with an extensive network of pedestrian and cycle routes and further expansion of the pedestrian and cycle network are underway. Furthermore, almost all lands are located proximate to existing and planned public transport corridors, with costings provided for the larger elements of public infrastructure provided in the Infrastructure Assessment. It is noted that the NPF specifically discusses the prioritising of development lands and states that there are many other planning considerations relevant to land zoning beyond the provision of basic enabling infrastructure including overall planned levels of growth, location, suitability for the type of development envisaged, availability of and proximity to amenities, schools, shops or employment, accessibility to transport services etc. Weighing up these factors, together with the availability of infrastructure, assisted Fingal in determining the order of priority to deliver planned growth and development, including supporting infrastructure such as local pedestrian and cycling routes. “ - Emphasis added*

I would challenge the above section of this amendment in bold. No AA or SEA have been carried out of the capacity issues at Ringsend which is currently overloaded, or capacity issues and bottlenecks in the network upstream of Ringsend, which are clearly present now when the Fingal Development Plan 2023-2029 is about to be adopted. There are a number of planning applications live which involve Irish Water in some capacity either as applicant or supporting prescribed body. There are live applications for Portmarnock Bridge Pump station (capacity issues), Greater Dublin Drainage Project (capacity issues), A sewage overflow tank application by Gannon Homes in Swords (no capacity for future development in Swords WWTP). I would strongly oppose any statement that positively implies that Fingals wastewater services has no fundamental constraints and this should be removed from the amendments and original table.

4. PA CH 2.5: Section 2.2 Core Strategy

I would object to the below material amendment PA CH 2.5: Section 2.2 Core Strategy, page 51, 52 Insert the following text directly after table 2.14.

Legally it is too vague and can be too widely interpreted in that it can not be interpreted all. Its inclusion will only give rise to increased Judicial Reviews for interpretation of conflicting objectives. A development plan is supposed to be able to be interpreted by a reasonably intelligent person. I have an Advanced Diploma in Planning and Environmental law and I find this section confusing as to its overall impact on the development plan. It is counter intuitive to materially amend the development plan by putting the new text below in and I would object to its inclusion at all. The amendment at issue is reproduced in full below.

PA CH 2.5: Section 2.2 Core Strategy, page 51, 52 Insert the following text directly after table 2.14:

Table 2.14 shows where the Projected Housing Demand will be concentrated. It also shows the extent of undeveloped lands in each settlement. The Council will monitor the delivery of housing units to ensure general compliance with the Core Strategy and housing supply targets for the County and to inform the redistribution potential, if required, as per Objective CSXX. This allows for the Council to consider the redistribution of housing population figures where the applicant must demonstrate to the Planning Authority that the proposal is aligned with the overall growth target for the County. The Core Strategy figures for each settlement serve as a benchmark for monitoring to ensure compliance with National and Regional figures and the relevant guidelines. In relation to the delivery of development, Fingal County Council recognises there will be market constraints to delivery at any given time. However, anticipating the market and delivery of specific sites is not an exact science. In this regard, a degree of flexibility has been built into the distribution of the housing and population targets, in line with national and regional policy, to ensure an adequate supply to meet demand. This flexibility requires close monitoring of housing delivery, taking account of the function of each settlement. For monitoring at a settlement scale, the policy of this plan is to monitor each settlement, with Dublin City and Suburbs settlement as one area, with options to transfer a portion of the allocated units from one neighbourhood area to another, subject to considering a number of key criteria during the lifetime of the Development Plan. This enables for flexibility in terms of locating new housing and allows time to lapse for planning permissions which have not delivered. Equally, the Council will actively pursue active land management measures provided for under legislation, to ensure that land hoarding is discouraged, and that development potential is released through available mechanisms and initiatives including through central or other funding. A new policy regarding monitoring and the provision of social and physical infrastructure is proposed to manage the additional zoned lands.

5. Table at PA CH 11.3: Section 11.5.1, Water Supply and Wastewater, page 391

I would challenge the table at *PA CH 11.3: Section 11.5.1, Water Supply and Wastewater, page 391* Delete Existing Table 11.1 and insert Updated Table 11.1 as shown below: for the following reasons:

- a). Swords is at capacity and is unable to handle storm water leading to serious overflows in breach of the Water Framework Directive.
- b). Sutton Pump station has a number of issues as per JB Barrys recommendations from their March 2019 Multidisciplinary Survey which would imply it is not currently able to cope with capacity.
- c). An Bord Pleanála have already refused permission for the Portmarnock Pumping Station on the proposed site at station road due to the location being within Flood risk zone A. A new location for the pump station will need to be identified on lands that will not present a flood risk to important utility infrastructure.
- d). Due to impacts on Shellfish water and Rockabill to Dalkey SAC, Baldoyle Bay SAC/ SPA, Ireland's Eye SAC/SPA, Lambay SAC/ SPA Tolka Estuary SPA and non compliance with the Water Framework Directive, the Greater Dublin Drainage Project is not feasible in its current iteration.

6. Policy IUP14I

In relation to Policy IUP14I do not agree with the section “ Catchment Based Flood Risk Assessment and Management Programmes” should be removed. It is important that any Flood risk assessment is tied to catchment assessment due to the precautionary principle on precise scientific information. All inputs to a catchment inform the flood risk and so this terminology should remain. There are also implications in terms of the thresholds for EIA assessment of flood relief works under P&D Regs 2001, as amended Schedule 5 Part 2, Section 10(f)(ii) which in summary legislates for:

Canalisation and flood relief works, where the immediate contributing sub-catchment of the proposed works (i.e. the difference between the **contributing catchment** at the upper and lower extent of the works) would exceed 100 hectares or where more than 2 hectares of wetland would be affected or where the length of river channel on which works are proposed would be greater than 2 kilometres.

In light of the above I recommend that the Policy either remain as is or is slightly amended to read as follows;

Policy IUP14 – OPW Continue to support and assist the OPW in implementing and delivering the relevant Catchment Based Flood Risk Assessment and Management Programmes /Plans for rivers, coastlines and estuaries within Fingal.

7. Local Area Plans (As Extended)

I oppose the amendments below in relation to LAPs that have been extended. Fingal County Council cannot legally adopt mitigation measures in LAs without considering if the baseline data associated with these plans is in date. There are also issue of lack of public consultation in relation to the SEA Directive. The Development Plan AA and SEA does not comply with assessment of these mitigation is relation to precise and definitive scientific information. I also oppose the mitigation measures laid out in the Portmarnock South LAP due to the measures not confirming with the Birds Directive and Habitats Directive as I did out in Appendix 1.

PA CH 2.9: Section 2.4.1 Local Area Plans, page 55 Include additional text directly before the heading “Operational LAs” on page 55 of the Draft Development Plan as follows:

“Fingal County Council will seek to ensure that the mitigation measures as set out in all statutory Local Area Plans in Fingal will continue to be implemented and managed in accordance with the requirements of the LAs.”

PA CH 2.27: Self-Sustaining Towns Objectives, page 84 Include a new objective in Chapter 2, after CSO60 as follows: Objective CSOXX – Mitigation Measures Ensure that the mitigation measures as set out in the Portmarnock South and Baldoyle Stapolin LAs will continue to be implemented and managed in accordance with the requirements of the LAs.

Yours sincerely

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Also attached appendix A: Quiet zone history

