

# RESIDENTIAL-ZONED LAND TAX APPEAL



**RESIDENTIAL ZONED LAND TAX APPEAL TO AN BORD  
PLEANÁLA**

**FINGAL COUNTY COUNCIL**

**DRAFT RZLT MAPS 2022**

DETERMINATION REFERENCE: RZLT128/22

CONSULT REF. NO. FIN\_C529-RZLT-48

FINGAL COUNTY COUNCIL DETERMINATION DATE: 30<sup>th</sup> March

**Lands at Old Road, Rush, Co. Dublin  
Land Folio No. DN5975 in Fingal County  
Council**

**26<sup>th</sup> April 2023**

Submitted on behalf of:

[REDACTED]

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**HUGHES  
PLANNING**  
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## 1.0 Introduction

Hughes Planning and Development Consultants, 85 Merrion Square, Dublin 2 have been instructed by our clients, [REDACTED] to appeal the determination of the Planning Authority, dated 30<sup>th</sup> March 2023 (**Determination Reference: RZLT128/22**), to retain part of our client's lands at **Old Road, Rush Co. Dublin (Folio No. DN5975)** (hereinafter referred to as the subject site) on the final Fingal County Residential Zoned Land Tax Map.

The '*Housing For All – A New Housing Plan for Ireland*', published in September 2021, proposed a new tax to activate vacant land for residential purposes as a part of the '*Pathway to Increasing New Housing Supply*'. This was listed under Action 15.2 of the Housing for All plan. This new tax was subsequently named the Residential Zoned Land Tax and was announced in Budget 2022 and was introduced into the Part 22A of Taxes Consolidation Act (TCA) 1997 by the Finance Act 2021. The process to identify land to which the tax applies is currently underway and the tax will be payable from 2024. Upon review of the draft maps published by the Planning Authority, it was revealed that the subject site had been deemed 'within scope' and had been included on the draft map.

The objective of the Residential Zoned Land Tax is to activate land that is serviced and zoned for residential use or mixed-use, including residential use, in order to increase housing supply and to ensure the regeneration of vacant and idle lands in urban locations. These locations have been identified within statutory land use plans as being appropriate locations for housing and they have benefitted from investment in the key services to support the delivery of housing. It is noted that Planning Authorities were provided with a specific guideline document, *Residential Zoned Land Tax – Guidelines for Planning Authorities*, to assist in undertaking the requirements of the RZLT. These guidelines provide instruction with regards to the mapping of appropriate lands in scope of the tax but also detail the provisions for allowing landowners identified as being within the scope to challenge the Planning Authority's decision by making submissions to the local authority or, where the challenge to the local authority is unsuccessful, An Bord Pleanála.

The Planning Authority invited submissions by members of the public on the draft map until January 1<sup>st</sup>, 2023. Such submissions could challenge the inclusion of particular lands on the draft map on the basis that those lands did not meet the criteria set out within the relevant legislation (Section 653B of the Taxes Consolidation Act 1997); the date on which the land is considered to meet these criteria; or can request a change of zoning.

A submission was made to Fingal County Council by Hughes Planning and Development Consultants, on behalf of our clients, on 22<sup>nd</sup> December 2022, in respect of the lands located at Old Road, Rush, Co. Dublin (**Folio No. DN5975**) under submission ref. **FIN\_C529-RZLT-48**. The original submission relates to a wider parcel of land comprising a combined area of c. 1.27ha (2.47acres). The eastern portion of the site (c. 1.3acres) is occupied by [REDACTED] with the western portion comprising actively farmed agricultural lands. Whilst at the time of submission, these eastern and western land portions formed one folio, in the intervening period, the eastern portion, comprising [REDACTED] now forms part of a separate folio. Nonetheless, in its determination, the Planning Authority confirmed that the **eastern side of the site, which comprises [REDACTED] required no action**, stating the following:

*'Section 1.1 of the Tax and Duty Manual – Guidance on Residential Zoned Land Tax Part 22A-01-01 (in conjunction with Part 22A of the Taxes Consolidation Act 1997 states at Section 11 that 'an owner of a residential property that is included on a residential zoned land tax map will be required to register for RZLT if their garden and yards are greater than 0.4047Ha, but no RZLT is payable.'*

*'Also, the Residential Zoned Land Tax Guidelines for Planning Authorities June 2022 indicate under Section 3.1.1 Criteria for inclusion within the Scope of the Tax Measure that 'while residential properties, the associated curtilage of which exceeds 0.4047Ha are also not liable for the tax.....owners of such properties must register for the RZLT and provide certain information to the Revenue Commissioners. This does not require any action on the part of the Planning Authority.'*

In accordance with the above, our clients lands, including [REDACTED] and its curtilage, whilst exceeding an area of 0.4047 ha, will not be liable to the RZLT payment. Our client will undertake the necessary measures, including registering the property with the Revenue Commissioners, however, for clarity, we consider that this portion of the site should be removed in its entirety from Fingal County Council's final RZLT Maps.

With respect to the Western portion of Folio No. DN5975 (c. .80 ha), located on the northern side of Old Road, the Planning Authority's determination, enclosed within Appendix A of this report, considers that the western portion of Folio No. DN5975 should be retained on the RZLT Maps on the basis of the following 4 no. reasons:

1. *The land in question is included in a development plan or local area plan and is zoned for residential development or zoned for a mixture of uses, that includes residential development.*
2. *The land is serviced, or it is reasonable to consider may have access to services. Serviced means having access to the necessary public infrastructure and facilities including road and footpath access, public lighting, foul sewer drainage, surface water drainage and water supply necessary for dwellings to be developed and for which there is service capacity available sufficient to enable housing to be developed.*
3. *The land is not affected in terms of its physical condition, by matters to a sufficient extent to preclude the provision of dwellings, including contamination or the presence of archaeological or historic remains.*
4. *The existing non residential use of the lands that are the subject of the submission are not considered to benefit from the exclusions set out in the Finance Act 2021 at Section 653B (c).*

This first-party appeal, whilst providing background details relating to the subject site, will provide a direct response to the reasons identified by Fingal County Council as to why the subject site should **not** be included on the final Fingal County Residential Zoned Land Tax Map. It is respectfully requested that the Board have due regard for the contents of both this appeal and the initial submission made by the applicant (see Appendix B) and overturn the determination of Dublin City Council and exclude the subject site from the final Fingal County Residential Zoned Land Tax Map.

## 2.0 Site Description

The subject lands comprise two land holdings located along the Old Road, Rush, Co. Dublin. The subject lands make up a combined area of c.1.27ha (2.47 acres) and are slightly undulating from north to south. The folio forms an irregular site shape with its primary boundary fronting onto the Old Road. The eastern purse of land (c. 1.3 acres) is occupied by [REDACTED] which is a residential dwelling. Adjacent to the dwelling are a number of greenhouses which take up the sites northeast corner. Access to this section is gained via the Old Road.

The sites western portion is a greenfield site which is currently in use for agricultural purposes. Primary access to which is obtained by the south western corner. The overall folio is located in the periphery of a residential area and fronts onto a wider agricultural area. The whole land area which was subject to the initial submission to Fingal County Council is included below. The original submission relates to a wider parcel of land comprising a combined area of c. 1.27ha (2.47 acres). The eastern portion of the site (c. 1.3 acres) is occupied by [REDACTED] with the western portion comprising actively farmed agricultural lands. Whilst at the time of submission, these eastern and western land portions formed one folio, in the intervening period, the eastern portion, comprising [REDACTED] now forms part of a separate folio.

The folio is currently zones 'RS – Residential' under the Fingal Development Plan 2023-2029 with an objective to 'Provide for residential development and protect and improve residential amenity'. The lands are just within the development boundary of Rush and lands to the immediate west are subject to the 'RU-Rural' zoning.

The subject lands and the wider land parcel form part of our clients farm business [REDACTED] [REDACTED] our client's [REDACTED] have a long standing history in crop cultivation and agricultural practices within the Rush area. The lands subject to this appeal (Folio No. DN5975) have been farmed for the last [REDACTED] name and are still seen being actively farmed to the present day. We also note that the farming of these lands from 1993 to the present day have been registered with the Department of Agriculture each year for the single farm payment.

The section of land included within the draft RZLT map comprises agricultural land that is used to farm and produce crops, and has been used as such for many years. The lands are integral to the operation of our clients business and livelihood. The lands which are the subject of this submission comprise sandy, fertile soil, which is ideal for arable farming practices, this type of soil is specific to the Rush area and is arguably the reason why Rush has such a well-established history of market gardening. These lands are intrinsic to the successful economic operation of our clients crop farming and crop cultivation business and it is the intent of our client to avail of these lands for agricultural practices into the future. With horticultural input price inflation rising exponentially over the past year or so, achieving a margin over costs for many horticultural enterprises is becoming more challenging. The implementation of a residential zoned land tax, on actively farmed lands will thus inevitably intensify these challenges, and the reality is that this will result in many important sustainable businesses which supply locally sourced produce, becoming economically unviable. This will be discussed in further detail in the subsequent sections of this appeal.

The images displayed below and overleaf outline the indicative site boundary in the context of its immediate and wider location.



Figure 1.0 Aerial Image showing Folio DN5975, red outline, and the subject site to which this appeal pertains, yellow fill.



Figure 2.0 Aerial image showing the appraisal site (red star) in the context of its wider environment.



Figure 3.0 Street view northward from Old Road of subject site.



Figure 4.0 Street view image showing the subject site at Old Road, Rush, Co. Dublin.

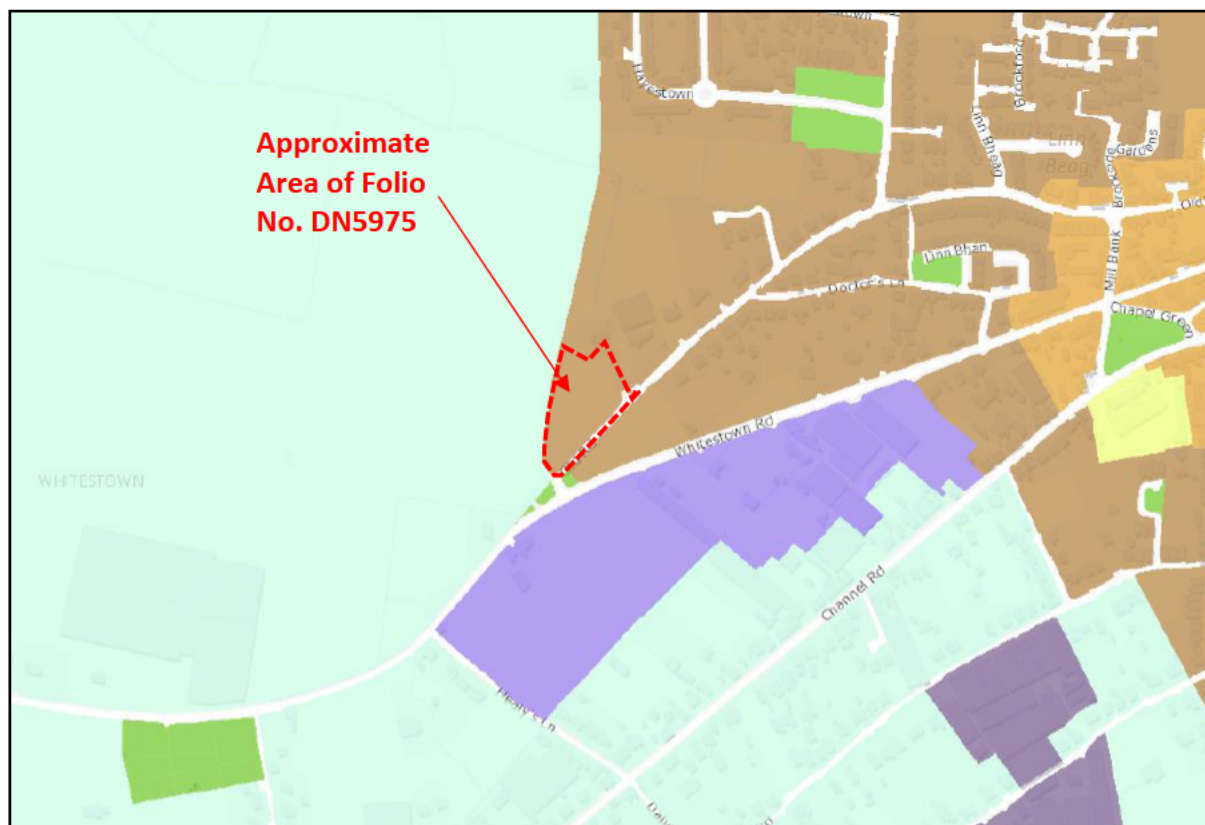


Figure 5.0 Extract from the Fingal Development Plan 2023-2029 interactive Map viewer showing our client's lands which are the subject of this appeal (**Folio No. DN5975**)

The subject lands have been used for farming various crops for many years, along with the many other market gardens throughout Fingal County Council. The farm has been farmed for at least [REDACTED] confirmed in Appendix C of this report by our client. We believe that this site is **out of scope** for Residential Zoned Land Tax as it is used for agricultural purposes and provides Rush with locally farmed crops and vegetables, therefore can be considered commercially active lands.

### 3.0 Basis of Appeal

In the Planning Authority's review of lands to be included on the draft RZLT zoning map, certain information, in our client's view was not taken into full consideration and, as a result, the subject lands, located to the north of Old Road, were deemed to be within scope and retained on the map. The following section of the appeal will discuss the relevant information which we believe would exempt our client's lands from being within scope.

- **There are known wastewater capacity issues pertaining to the submission lands at Old Road**, and upgrade works would be required to facilitate a connection between the subject lands and the existing wastewater network located further east along Whitestown Road and Old Road.
- **The northern side of Old Road and the road frontage of the submission lands is currently not serviced by a footpath network.** Significant sections of new footpath across our clients lands and adjacent landholdings would need to be provided in this instance. This, coupled with the regular usage of farm machinery on this road pose significant risks to pedestrian safety in the area. **As there is no connection or possibility of connecting the subject folio to existing footpaths on the northern side of Old Road**, the site should be deemed 'out of scope' accordingly.

- 'RS – Residential' zoned lands to the immediate north of the appeal site, forming Folio No. DN7351, which are also within the ownership of the [REDACTED], were proposed for removal from the Draft RZLT Maps by Fingal County Council under **Determination Ref. RZLT129/22**, as is was considered that the site did not fulfil the qualifying criteria set out in Part 22A of the Taxes Consolidation Act 1997 and the 2022 Section 28 Ministerial Guidelines '*Residential Zoned Land Tax – Guidelines for Planning Authorities*'. The reasoning behind this determination as provided by the Planning Authority is as follows:

*'Does not comply with Section 653B(b) of the Finance Act 2021:*

*(b) It is reasonable to consider may have access, or be connected, to public infrastructure and facilities, including roads and footpaths, public lighting, foul sewer drainage, surface water drainage and water supply, necessary for dwellings to be developed and with sufficient service capacity available for such development.'*

Whilst the appeal site featuring as part of **Folio No. DN5975** has the benefit of road frontage, the same issues highlighted in red above arise, specifically in terms of a connection to the existing wastewater network and the lack of public footpaths. It is therefore considered entirely justified that the lands be deemed 'out of scope' and removed from the final RZLT Maps.

- The long-established use of the subject lands is for agricultural practices, namely crop growth and cultivation, and as such **the lands are integral to the operation and success of our client's farming business, which supply's locally grown produce to the Rush and North Dublin area more broadly;**
- The recently adopted Fingal Development Plan 2023-2029 includes a number of objectives which support the significant tradition of market gardening in the Rush area, more specifically, **Objective CS058** of the plan aims to '*Facilitate the development of Rush as a vibrant town and retain its market gardening tradition*'. The proposed use of the subject site accords with this objective, in the event that the determination of An Bord Pleanála is to retain the subject site on the RZLT Maps, **such a result would be cataphoric for our client and their associated business and would inevitably diminish the economic viability of same, in turn resulting in the curtailment of the market gardening tradition for Rush, which has influenced the character of the town for many years.**
- There is also national policy content, included within the government publication '*Our Future Rural Development Policy 2021-2025*', which highlights the importance of our agricultural sector to local economies and identifies the lack of profitability as being a significant threat to the sector. This 'profitability' issue **is destined to exacerbate should small-scale agricultural enterprises be subject to such an onerous tax payment.**
- The key tax legislation provides for instances whereby land may be excluded from the scope of the tax, two such exclusions are as follows: '*Land which is zoned for residential use, but is used by a business to provide services to residents of adjacent residential areas, such as a corner shop*'; and '*Land that is zoned for a mixture of residential and other uses, where it is reasonable to consider the land integral to the operation of a business carried out on or beside it.*'. In this context, the subject site, on account of its fertile nature, facilitates the growth of a variety of crops including potatoes. This is an extremely labour intensive practice and our client and their associated farming business, makes significant efforts to ensure the continued supply of local, high-quality produce, to members of the surrounding is made available to the local community and local businesses within Rush and beyond. This supply, in our view is comparable to the service that would be operated by a shop, the difference being that the produce is 100% locally sourced.

As will be further detailed within this appeal, there is a definitive rationale as to why the subject site should be removed from the RZLT maps.

Having regard to the Guidelines for Planning Authorities relating to the scoping exercise, the following figures have been provided to demonstrate that the lands subject to this submission are not eligible for



inclusion on the RZLT maps. An assessment of the lands against the relevant criteria will be provided in the following sections.

#### 4.0 Grounds of Submission

In the Planning Authority's review of lands to be included on the draft RZLT zoning map, certain information was not taken into consideration and, as a result, the lands were deemed to be within scope and added to the draft map. A response to the Planning Authority's determination and indeed the 4 no. generic points identified to justify its position is included below.

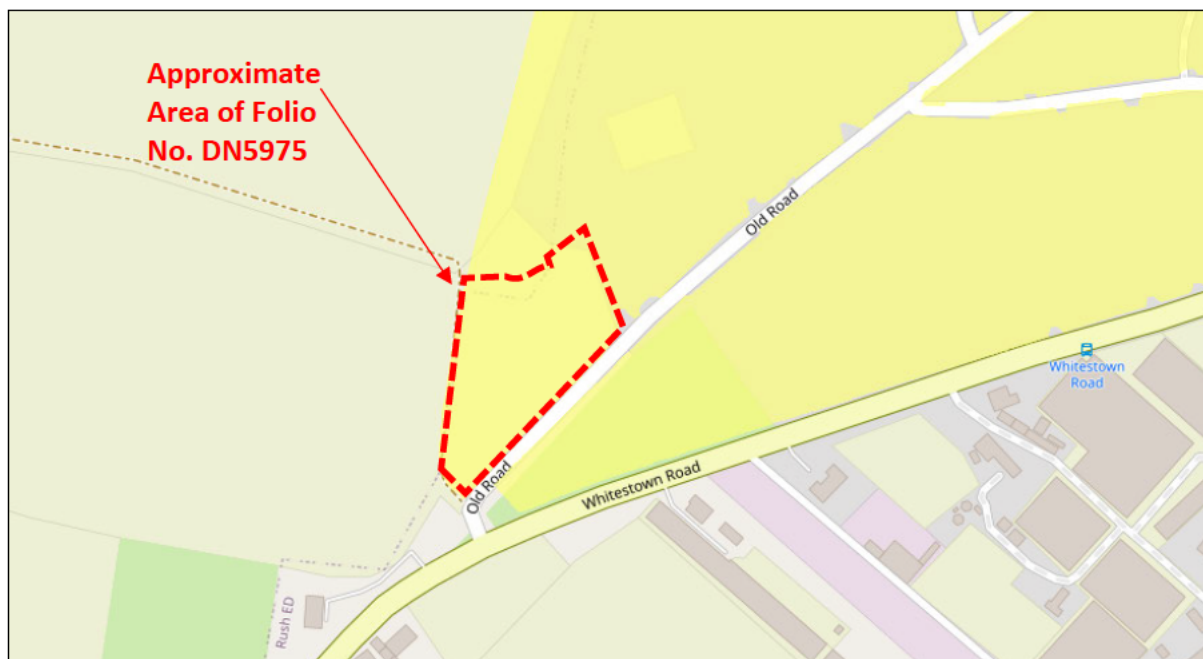


Figure 6.0 Extract from the Fingal County Council RZLT zoning map showing submission lands outlined in red.

#### 4.1 Response to Reason 1

Reason No. 1 as included within the Planning Authority's Determination states the following:

*'The land in question is included in a development plan or local area plan and is zoned for residential development or zoned for a mixture of uses, that includes residential development'.*

This reason is accepted. The fact that the site is zoned 'RS – Residential' in the current Fingal Development Plan 2023-2029 is not disputed. However we would highlight that on the basis of a site being zoned for residential purposes, does not automatically mean that it is serviced and available for development in the short to medium term.

#### 4.2 Response to Reason 2

Reason No. 2 as included within the Planning Authority's Determination provides the following:

*'The land is serviced, or it is reasonable to consider may have access to services. Serviced means having access to the necessary public infrastructure and facilities including road and footpath access, public lighting, foul sewer drainage, surface water drainage and water supply necessary for dwellings to be developed and for which there is service capacity available sufficient to enable housing to be developed.'*

We wholly refute the above statement and refer An Bord Pleanála to the scoping exercise carried out under Section 5.0 of this report. At present the land is not serviced nor is it serviceable without the

implementation of upgrade works. There are known wastewater capacity issues pertaining to the submission lands at Old Road, and a connection to the existing wastewater network is not currently available without significant upgrades including an extension to the existing network to facilitate a connection. It is understood that the required upgrade works are not currently on Irish Water's investment plan and therefore any such upgrades may in turn need to be developer led. In addition, we note that whilst the submissions lands may be connected by road and public lighting infrastructure, Old Road is currently does not comprise a public footpath network and significant sections of new footpaths across the appeal site and adjacent third party landholdings would need to be constructed to provide for a cohesive network.

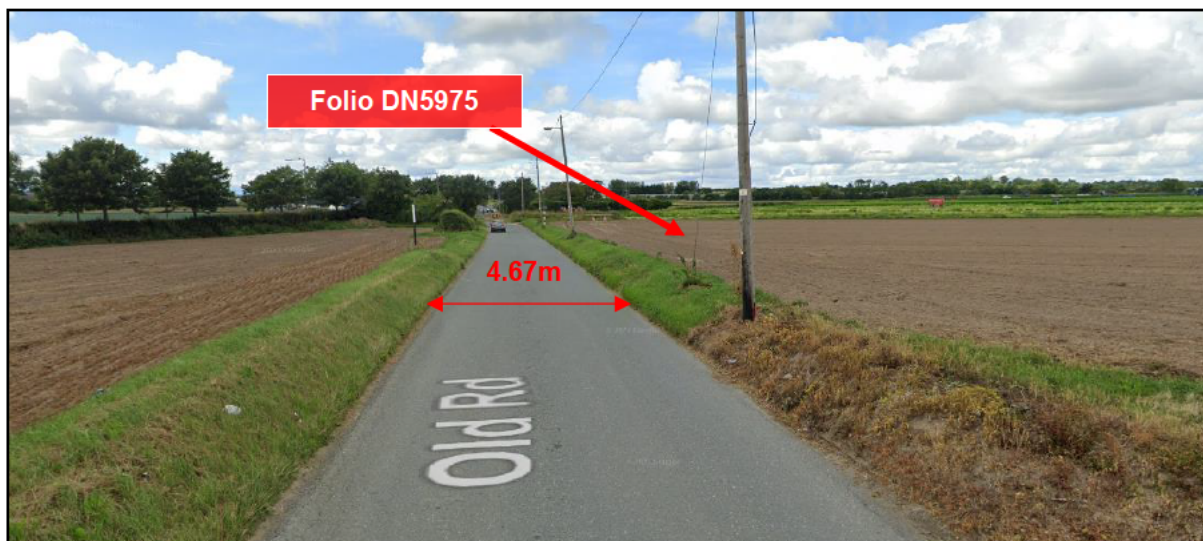


Figure 7.0 Streetview image of the Old Road in relation to the subject site. Note there are currently no footpaths serving Old Road.

#### 4.3 Response to Reason 3

Reason No. 3 as included within the Planning Authority's Determination states the following:

*'The land is not affected in terms of its physical condition, by matters to a sufficient extent to preclude the provision of dwellings, including contamination or the presence of archaeological or historic remains.'*

This reason is accepted. The fact that the land is not affected in terms of its physical condition, by matters to a sufficient extent to preclude the provision of dwellings, including contamination or the presence of archaeological or historic remains was not disputed in the initial submission to Fingal County Council made by the land owner.

#### 4.4 Response to Reason 4

Reason No. 4 as included within the Planning Authority's Determination provides the following:

*'The existing non-residential use of the lands that are the subject of the submission are not considered to benefit from the exclusions set out in the Finance Act 2021 at Section 653B(c).'*

The subject land forms an essential component of our client's agricultural business, comprising fertile, free draining, sandy soils which are ideal for crop growth. Whilst we note that residential use is permitted in principle on the subject lands, the current Fingal Development Plan 2023 - 2029 also recognises that there is a significant tradition of market gardening in and around the town and further supports its preservation and retention. In particular, we refer to **Objective CSO58** as included within Chapter 2 of the current plan, which states that it is an objective of the Planning Authority to **'Facilitate the development of Rush as a vibrant town and retain its market gardening tradition'**.

In this context, we note that there is local policy support for market gardening, which typically involves the small-scale production of fruits, vegetables and flowers. Furthermore, the governments Our Rural Future Rural Development Policy 2021-2025, highlights the emerging challenges facing the rural economy. **Only 37% of farms in Eastern and Midland region are considered to be viable – furthermore, Food Wise 2025 identifies lack of profitability as a threat to the agricultural sector in Ireland, horticulture included.** These are harrowing facts, and it further bolsters the point that existing, operational farming enterprises within the Rush area, as a significant contributor to the local economy, should be maintained and protected. Needless to say, the RZLT designation which has been applied to these lands, poses a significant threat to the local agricultural economy and the survival of a long-standing farming enterprise which has, over numerous years, built its roots in Rush.

The following Figures, overleaf, support and exemplify the use of the site for market gardening showing that the site is used extensively year-round and supplies locally grown produce to the local community and local businesses which is in our view, of the utmost importance. We also clarify that every section of lands owned by our clients in this area is used and required for food production and the continued prosperity and longevity.

As part of this assessment, research was also undertaken regarding the impact of price inflations and margins relating to Horticulture. Interestingly, in a 2022 Publication by Teagasc<sup>1</sup>, reveals that the recent rapid pace of inflation means that achieving a margin over costs for many horticultural enterprises in 2022 is becoming more challenging. As part of this publication Teagasc confirm that across all enterprises, there have been sharp increases in the cost of energy, labour, packaging materials, fertiliser, and a range of other inputs that are intrinsic components of food and crop production. In fact it is estimated that total *'input costs have increased between 13% and 49% depending on the enterprise type.'* The head of Teagasc Horticulture Development Department comments that: *'Growers have seen unparalleled increases in key input prices, particularly those inputs linked to energy. Over the winter, producers have been negotiating with their customers for price increases based on the first wave of inflation reported in the fourth quarter of 2021. As these were concluding, a second significant wave of input price inflation, linked to energy inflation and the Ukrainian invasion, started to manifest itself. Without a timely market response, margins will in some cases be completely eroded by this latest wave of price inflation.'* The aforementioned facts demonstrates how volatile the sector is and how support needs to be provided for Irish horticulture across the board, the implementation of an additional significant tax, calculated at 3% of the market value of the land will for lands which are actively farmed for horticultural purposes will undoubtedly force growers to leave the sector and will have a spiral effect in terms of increased purchase costs due to a diminished supply and the regrettable loss of a traditional Irish industry. The Irish Farmers Association (IFA) are also cognisant of this and have put forward proposals to have farmland exempt from the RZLT outlining that the divergence between the annual 3% market value tax liability and the potential income yield or earning potential from the agricultural land itself is unproportionate and excessive. This will certainly result in the diminution of the sector and forced and distressed land sales.

We also refer to a recent publication by *AgriLand* on 31<sup>st</sup> January 2023, titled *'Active Farmland 'excluded' from RZLT – McGrath*<sup>2</sup>. As part of this article it is reported that in a response to a query from the Fine Gael TB for Sligo-Leitrim, Frank Feighan, on whether there were *'exemptions for farmers and agricultural land zoned for a mixture of uses'* the Minister for Finance Michael McGrath confirmed that *'a number of exclusions may apply.'* And that ***'Farmland that is zoned for residential use, but which is not currently serviced is not within the scope of the tax will only come within the scope of the tax should the land become serviced in the future.'***

The Article proceeds with the following comments from Minister McGrath: ***'Farming is considered a trade, it is exempted development, and where the land is being actively used for such a purpose, or is integral to the use of adjoining lands for farming, then the lands would not need the definition of being vacant and idle.....As such, farmland which is zoned for mixed use, including residential use, and which is integral to the operation of a farming trade carried out on or beside it, is excluded from the tax, even where such land is serviced and should not be reflected in the***

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<sup>1</sup> <https://www.teagasc.ie/news--events/news/2022/horticultural-input-price.php>

<sup>2</sup> <https://www.agriland.ie/farming-news/active-farm-land-excluded-from-rzlt-mcgrath/>

**RZLT maps prepared and published by local authorities identifying land within the scope of the tax.'**

In line with the above commentary, this submission has explicitly demonstrated that the subject lands at Old Road, are being actively farmed; are not adequately serviced by public footpaths or by the existing wastewater network serving the area; and are integral to the operation of an existing commercial farming business. On the basis of the foregoing, we would strongly encourage An Bord Pleanála to overturn the determination of the Planning Authority and issue a revised determination directing that the lands be excluded from the RZLT Map and confirming that the lands will not be subject to the payment of the tax.



Figure 8.0 Street view c. June 2019, from Old Road of subject site showing crop growth.



Figure 9.0 Street view c. April 2011, from Old Road showing crop growth.

We believe that the evidence provided within this report, showing that the lands being actively farmed and not serviced by the existing wastewater network, are reasons enough for this land to be out of scope for Residential Zoned Land Tax. Thus, we strongly believe this land should be removed from the RZLT map in full.

**5.0 Scoping for Residential Zoned Land**



In response to the above criteria, we can confirm that residential use is permitted in principle on the subject lands. We also confirm that the submission site is not representative of ‘vacant or idle’ land in the context that the lands are integral to the operation of a *‘trade or profession’* the relevant profession

being our farming business [REDACTED] The use of the subject lands does not constitute any form of unauthorised development.

Step 2 (see S.653B(b))	Is the land connected to or able to be connected to services?		
i)	Road Infrastructure	Yes - move to step ii)	No - Out of Scope
ii)	Footpaths	Yes - move to step iii)	No - Out of Scope
iii)	Public Lighting	Yes - move to step iv)	No - Out of Scope
iv)	Surface Water	Yes - move to step v)	No - Out of Scope
v)	Waste Water	Yes - move to step vi)	No - Out of Scope
vi)	Water Supply	Yes - move to next step	No - Out of Scope
Stage 1		All yes responses? Land is in scope - move on to Exclusions	Any no responses? Land is out of scope. Do not place on maps

In response to the above criteria, note that there are wastewater capacity issues pertaining to the submission lands at Old Road, and a connection to the existing wastewater network is not currently available without significant upgrades. It is understood that the required upgrade works are not currently on Irish Water’s investment plan and therefore any such upgrades may in turn need to be developer led.

An extract from Uisce Eireann’s Web Maps is included below to demonstrate these issues. In accordance with the contents of the RZLT guidance for Planning Authorities, it is very clearly stipulated that the ‘ease of connecting to the existing network should be a determining factor.’ And that ‘connections which would require more significant works should take into account whether the land required to deliver the works is in the control of the applicant or the local authority...’. As is clear from the map extract below, it is our clients contention that in order to facilitate a connection between the lands and the existing wastewater network in the area would necessitate significant works, which on the basis of these works not currently being on Irish Water’s Investment Plan, would require substantial investment from the landowner. It is also clear that these works would require consent from third party landowners. For this reason, we strongly argue that the lands should be deemed out of scope.



Figure 10.0 Extract from Irish Water Web Maps showing the existing foul network for Rush in red and the water mains in blue. The subject site is outlined in black. Note that an extension of the wastewater network is required to service these lands.

Furthermore, and as is already outlined previously, Old Road is not currently serviced by any public footpaths. In this context, the relevant guidance explicitly states that for lands to be considered in scope, there should be an ease of connection to an existing footpath network to facilitate active travel modes from the outset. Provision of significant sections of new footpath across other landholdings, where the land is not in the control of the landowner or local authority should be discounted when considering lands to be in scope.



Figure 11.0 Street view image (c.2021) showing western corner of the subject site and the absence of a footpath network along Old Road.



Figure 12.0 Street view image (c. 2021) showing the eastern corner of the subject site and the absence of a footpath network along Old Road.

In addition to the above, whilst we acknowledge that the lands are serviced by Road Infrastructure, it must be noted that the recently adopted Fingal Development Plan 2023-2029 identifies a *Road Proposal* to the immediate east of the subject lands. To date, the applicant is not aware of an estimated timeframe

for the delivery of this new road infrastructure nor the set-back distances from same that will be required to facilitate its construction. It is clear that the delivery of this road will unlock the potential of the subject site and lands further north along its alignment. There is thus an argument to be made that until such a time as this additional infrastructure is delivered, that the development of the subject site would be premature.



Figure 13.0 Extract from the Fingal Development Plan 2023-2029 interactive map viewer showing the subject site (red star) relative to the ‘Road Proposal’ for Rush.

Having regard for the above response to the various steps relating to the scoping criteria for deeming a site eligible/ineligible for the application of the RZLT, it is contended that there is sufficient justification for the removal of the submission lands from the future RZLT zoning map due to the absence of public footpath infrastructure serving the area and upgrade works required to facilitate a connection to the existing wastewater network in the wider area to serve any future development on the subject lands, which it is assumed would come at the cost of the landowner.

**5.1 Exclusion for Residential Zoned Land**

Step 3 (see S.653B(c))	Is the land in the Section 22 EPA Register maintained by Local Authority	Yes – the area identified is out of scope, omit area and move to next item.	No – retain land in scope and move to next item
	Is the land identified on the RMP	Yes- the area of the mapped RMP and zone of notification is out of scope.Omit area and move to next item.	No – retain land in scope and move to step 4

In response to the above criteria, we would confirm that the subject land is not in the Section 22 EPA Register maintained by Fingal County Council, nor is it identified on the RMP.

Step 4(1)	Is a trade or profession being carried out on the land	Yes – move to Step 4(2)	No – retain land in scope and move to step 5.
Step 4(2)	Is the trade or profession liable to commercial rates	Yes – move to Step 4(3)	No – retain land in scope and move to step 5.
Step 4(3)	Is it reasonable to consider the trade or profession is providing day-to-day services to residents of adjacent residential areas	Yes – move to Step 4(4)	No – retain land in scope and move to step 5.
Step 4(4)	Consider if the development is not unauthorised development	Yes, the development is not considered unauthorised development	No, the use is considered unauthorised development – retain land in scope and move to step 5.
		If yes is answered to all 4 parts of Step 4, the relevant area of land is out of scope. Omit and move any remaining land to Step 5.	If no is answered to any of the 4 parts of Step 4, retain the land in scope and move to Step 5.

With respect to the criteria set out in Step 4(1) above it is considered that a ‘trade or profession’ is being carried out on the subject lands, on the basis of the existing horticulture and arable farming practises that are being undertaken on site. However as we understand, this is not liable to commercial rates given that there are no structures present on site. As such it is necessary to proceed to Step 5 below:

Step 5 (see S.653B(c)(3)(iii))	Is the land identified on a statutory land use plan as being required for, or is integral to, occupation by:		
I)	Social, community, governmental, public administration, education and healthcare infrastructure and facilities	Yes – the area identified is out of scope, omit area and move to next item.	No – retain land in scope and move to next item.
II)	Transport facilities and infrastructure	Yes – the area identified is out of scope, omit area and move to next item.	No – retain land in scope and move to next item.
III)	Energy infrastructure and facilities	Yes – the area identified is out of scope, omit area and move to next item.	No – retain land in scope and move to next item.
IV)	Telecoms infrastructure and facilities	Yes – the area identified is out of scope, omit area and move to next item.	No – retain land in scope and move to next item.
V)	Water and wastewater infrastructure and facilities	Yes – the area identified is out of scope, omit area and move to next item.	No – retain land in scope and move to next item.
VI)	Waste management and disposal infrastructure	Yes – the area identified is out of scope, omit area and move to next item.	No – retain land in scope and move to next item.
VII)	Recreational infrastructure, playgrounds, sports facilities	Yes – the area identified is out of scope, omit area and move to next item.	No – retain land in scope and move to step 6
		If yes is answered to any parts of Step 5, the relevant area of land is out of scope. Omit and move any remaining land area to Step 6.	If no is answered to all parts of Step 5, the relevant land is in scope. Move to step 6.

In response to the above criteria, we would herein confirm that the subject lands are not identified on a statutory land use plan as being required for or integral to or occupation by education uses, energy infrastructure and facilities, telecoms infrastructure and facilities, water and wastewater infrastructure and facilities, waste management and disposal infrastructure and recreational infrastructure, playgrounds or sports facilities.

That said, as outlined in the preceding section above, the recently adopted Fingal Development Plan 2023-2029 identifies a ‘Road Proposal’ on lands immediately west of the subject site. The delivery of this road infrastructure may have a significant impact on any future development of the subject site, as it is not known at this stage if what set-back distance would be required between this new roadway and the subject site and is key to unlocking the full potential of our clients lands.

Step 6	Is the land subject to a statutory designation which may preclude development?	Yes – the area identified is out of scope, omit area and move to next item.	No – retain land in scope and move to step 7
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Whilst there isn’t a specific land-based local objective which is relevant to the subject site, we would note that there are a number of overarching objectives within the previous Fingal Development Plan 2017-2023 and the recently adopted Fingal Development Plan 2023-2029 which recognise the significant tradition of market gardening in and around the town of Rush and the importance of the agri-



food sector to the county more broadly. Further, the development strategy for Rush supports the preservation and retention of Rush's market gardening tradition, more specifically **Objective CSO58**, aims to '**Facilitate the development of Rush as a vibrant town and retain its market gardening tradition**'.

Moreover, we note that the Development Plan supports the use of lands in and around Rush for market gardening. The following policy provisions are of note:

**Policy EEP28**                    *Safeguard the agricultural identity of North Fingal, promoting the rural character of the **County and supporting the agricultural/horticultural production sectors.***

**Policy EEP29**                    *Support and encourage Organic and Regenerative Farming and Community Supported Agriculture in the Fingal Area.*

**Objective EEO78**                *Support and facilitate the protection of agricultural lands in the County, **ensuring that new development does not irreversibly harm or compromise the commercial viability of existing agricultural land.***

**Policy EEP30**                    *Encourage and provide for industry specifically linked to food, agriculture and the development of added value opportunities in these areas.*

We note that The subject lands relate to sustainable agricultural practices which are a key aspect of the local economy. The governments Our Rural Future Rural Development Policy 2021- 2025, highlights the emerging challenges facing the rural economy. Only 37% of farms in Eastern and Midland region are considered to be viable – furthermore, Food Wise 2025 identifies lack of profitability as a threat to the agricultural sector in Ireland, horticulture included. The RZLT designation on these lands poses a threat to the local economy of Rush and the surrounding area.

In the context of the above, we contend that the Planning Authority should favourably consider the continuance of the existing use of the lands.

Having regard for the above response to the various steps relating to the scoping criteria for deeming a site eligible/ineligible for the application of the RZLT, it is contended that there is sufficient justification for the removal of the submission lands from the future RZLT map. It is contended that there is reasonable justification for the removal of our client's lands from the RZLT zoning map.

## **6.0 Residential Zoned Land Tax**

As above mentioned, The 'Housing For All – A New Housing Plan for Ireland' proposed a new tax to activate vacant land for residential purposes as a part of the 'Pathway to Increasing New Housing Supply'. This was listed under Action 15.2 of the Housing for All plan. This new tax was subsequently named the Residential Zoned Land Tax and was announced in Budget 2022 and was introduced into the Part 22A of Taxes Consolidation Act (TCA) 1997 by the Finance Act 2021. The process to identify land to which the tax applies is now underway and the tax will be payable from 2024.

The objective of the Residential Zoned Land Tax is to activate land that is serviced and zoned for residential use or mixed use, including residential use, in order to increase housing supply and to ensure regeneration of vacant and idle lands in urban locations. These locations have been identified within statutory land use plans as being appropriate locations for housing, and they have benefitted from investment in the key services to support the delivery of housing.

The RZLT process has two parts, as follows:

- 1) *Identification and mapping of the land in scope for the tax. This is undertaken by local authorities through the publication of draft and supplemental maps.*
- 2) *Administration of the tax, which is to be undertaken by the Revenue Commissioners from 2024*

onwards.

To assist with the above, the Minister published Residential Zoned Land Tax - Guidelines for Planning Authorities under Section 28 of the Planning and Development Act which are read in conjunction with the key tax legislation. A summary of the key threshold dates is illustrated in the overleaf:

Threshold dates for Residential and Mixed Use Zoned lands in 2022 and 2023 Draft and Supplemental Maps and Annual Review		
Zoned by and connected to or able to be connected to services by	Date on Maps	Which maps should the in-scope lands be placed on? Draft/Supplemental/Final/Review
Up to and including 1 January 2022	No date required	May be placed on all of the above
Up to and including 1 October 2022	Whichever is the latest date for either new zoning or servicing	May be placed on all of the above
Up to and including 1 April 2023	Whichever is the latest date for either new zoning or servicing	Supplemental/Final/Review
After 1 April 2023	Whichever is the latest date for either new zoning or servicing	Annual Review commencing 1 February 2025
Up to and including 1 January 2025 and for each subsequent year	Whichever is the latest date for either new zoning or servicing	Annual Review commencing 1 February 2025

The legislation sets out the lands which fall within scope of the Residential Zoned Land Tax. Land that is zoned as being suitable for residential development and is serviced is within the scope of the tax. In summary, land must be zoned for residential use, or for a mixture of uses that includes residential use, for it to be subject to RZLT and it is only when land is zoned for residential use and has access to necessary infrastructural services to allow for development to proceed that it is within the scope of the tax.

The legislation also provides for instances in which land may be excluded from the scope of the tax and include the following:

- Existing residential property and the garden and yards usually enjoyed with it;
- Land which is zoned for residential use, but is used by a business to provide services to residents of adjacent residential areas, such as a corner shop;
- **Land that is zoned for a mixture of residential and other uses, where it is reasonable to consider the land is integral to the operation of a business carried out on or beside it;**
- **Land used for certain infrastructure or facilities including utilities, transport, and facilities for social, community or recreational purposes;**
- A site which is designated as a derelict site and subject to the Derelict Sites Levy; and
- Land that is affected in terms of its physical condition by considerations which might prevent development, such as contamination or where historic or archaeological artifacts are present.

Further explanatory notes of exemptions within the legislation discuss the following:

#### Contamination

Lands which are unable to be developed due to the need for significant remediation are to be excluded from the scope of the measure. These are specifically identified as sites with a degree of contamination which would preclude residential development for the time being and which are on a verifiable register such as EPA sites licensed under Section 22 of the Waste Management Acts. Where lands are not identified as an EPA Licensed Site, any submission to the Local Authority requesting exclusion from the draft or supplemental map on this basis should submit verifiable documentary evidence in the form

of a preliminary site assessment report setting out the level of contamination on the land, sufficient to enable the Local Authority to assess whether the land in question should benefit from this exclusion.

### Significant Archaeology

In instances where zoned, serviced greenfield lands are known to contain significant archaeological remains, identified on the Record of Monument and Places (RMP) within Development Plans or Local Area Plans, then the area comprising either the known extent of the archaeological remains or the zone of notification should be excluded from the RZLT map. Brownfield land which lies within a zone of notification may be scoped in, as development has taken place on the land and matters relating to resolution of potential archaeological remains can be dealt with during the development management process.

### Zoning

In order to avoid taxation on lands or developments which benefit existing or future residential communities or other particular circumstances, certain exclusions to the Residential Zoned Land Tax apply. Where residential is not 'permitted in principle' on a land use zoning matrix, such zonings should not be included.

### Derelict Site Register

Lands which are currently on the Derelict Sites Register (DSR) and in respect of which a levy is payable in accordance with the Derelict Sites Act 1990, is not land which is within scope and should not be placed on any map for the purpose of the taxation measure.

### Land Required for Infrastructure and Community Services

Land required for the provision of community services and infrastructure which will sustain existing and future residential communities may be excluded. The lands targeted by the taxation measure are zoned and serviced for residential or residential and a mixture of other uses in Development Plans and LAPs. Statutory land use plans may identify requirements for built facilities such as schools, transportation, community centres, or open spaces, through mapped specific objectives or individual zonings.

Where zoned for such uses, the land in question would not fall into scope. Section 653B(c)(iii)(I) – (VII) of the Taxes Consolidation Act specifies that the range of these uses includes the following;

- I. social, community or governmental infrastructure and facilities, including infrastructure and facilities used for the purposes of public administration or the provision of education or healthcare,*
- II. transport facilities and infrastructure,*
- III. energy infrastructure and facilities,*
- IV. telecommunications infrastructure and facilities,*
- V. water and wastewater infrastructure and facilities,*
- VI. waste management and disposal infrastructure, or*
- VII. recreational infrastructure, including sports facilities and playgrounds.*

### Exclusions for Existing Operating Uses on Land

With regard to residential zoned land, and mixed-use zoned land, Sections 653B(c)(i) and (c)(ii), respectively, of the Taxes Consolidation Act, identify where certain uses may be excluded from the tax measure:

### Operating Uses on Residential Zoned Lands

Where land that is included in a development plan or local area plan and is zoned solely or primarily for residential use, existing uses to be excluded from the scope of mapping for the tax measure must provide a service to the existing or future residential community, must be an authorised use, must be considered a premises in use by a trade or profession and must be liable to commercial rates.

### Operating Uses on Mixed Use Zoned Lands

Where land is included in a development plan or local area plan and is zoned for a mixture of uses, including residential, all land should be excluded from the map unless it is considered 'vacant or idle'.

### Vacant or Idle Definition

As the aim of the taxation measure is to activate vacant or underused land for provision of housing, land which is located within mixed use zones, which permit a variety of uses including residential should only be considered to be in scope for the tax where they are vacant or idle.

Setting out the text in the legislation 'vacant or idle land' means land which, having regard only to development (within the meaning of the Act of 2000) which is not unauthorised development (within the meaning of the Act of 2000), is not required for, or integral to, the operation of a trade or profession being carried out on, or adjacent to, the land;'

The first step is to determine if the development on the land is required for or integral to a trade or profession being carried out on the land or adjacent to the land. The second step is to determine if the development is unauthorised. If the development on the land complies with the first step and is not unauthorised, then it is not in scope and should not be included within the maps.

Conversely, if development on the land complies with the first step but is unauthorised development, then it is in scope and should be included on the maps. Section 2 of the Planning and Development Act 2000 regarding 'unauthorised development' must clearly inform assessment in this regard. Aside from uses commenced before 1 October 1964, or exempted development (within the meaning of section 4 of the Act of 2000) the development of the land must be authorised.

### Temporary Uses

Temporary uses of land should not result in land being excluded from the tax measure. As the aim of the taxation measure is to activate land which has been the benefit of significant investment in servicing infrastructure and to reduce vacancy and idleness in settlements, only those uses which are not unauthorised, are operational and provide for an integral part of a trade or profession carried out on the land or on adjoining land should be considered for exclusion where relevant.

Lands which are subject to a temporary planning permission which has been commenced should be considered for exclusion for the period of that permission and revisited during the annual map review process to ensure that the land is activated at a later stage.

### Consideration of Unauthorised Development

While development which does not have the benefit of planning permission may or may not be subject to enforcement action, or may have passed the threshold for enforcement action, where it is 'unauthorised development' it can still be considered to be in scope for the purpose of mapping the land for the tax. In addition, land which is used for pop-up uses, land being utilised for storage, or on mixed use zonings where buildings are vacant and unused should be given careful consideration for inclusion on the maps for the purpose of taxation.

## **6.1 Serviced Lands**

The National Planning Framework provides a definition of Tier 1 (serviced) and Tier 2 (serviceable within the period of the development plan) lands. Under Section 653B of the Taxes Consolidation Act, the definition of land in scope for RZLT identifies lands which are connected to or able to be connected to services as being in scope. For the purpose of inclusion on the draft, supplemental and final maps, lands must have access to or be connected to relevant services. This includes lands which already have made connections to services, or where provision has been made in existing infrastructure connection or ability to connect to services, where this date was after 1st January 2022.

Identifying serviced lands requires consideration of the services and infrastructure which are considered essential to the connection and development of residential communities. In assessing whether land or landbanks are able to connect to services, Planning Authorities should take into account the following:-

*In the first instance, where the infrastructure is located adjoining, intersecting, at a boundary or corner of a landbank, in a nearby public road, or is connected to an existing development adjoining the landbank, the lands should be considered to be 'connected' or 'able to connect' and therefore are in-scope.*

Where the infrastructure does not meet the threshold above, the following needs to be considered:

- *Where no planning permission is in place, are the works to connect the landbank to the services on public land under the control of the local authority or land which will be available to the landowner/developer, in which case the land may be in-scope?*
- *Do the connections to services involve minor works, in which case the land may be in scope?*
- *Do the connections to services require access to 3rd party lands or 3rd party development to take place, in which case the land may be out of scope?*

Where land has permission, the same considerations should apply. If the works required to connect the land to services are materially significant, for example require access to 3<sup>rd</sup> party lands which are in private ownership or would require CPO or planning permission in themselves, then the land should be considered to be out of scope. Notwithstanding other development or works which may be considered, examples where land would be considered out of scope would include where the works required to connect the land to services involve the crossing of European Sites, rivers, streams or rail infrastructure where statutory consents are required. Serviceability refers to the following:

#### 1. Road access

In considering road access, the Planning Authority must take into account the ease of access to existing road infrastructure by the identified lands. Construction of significant sections of new road access across other landholdings, should be discounted with the exception of Local Authority owned lands, where use and access are a matter for the authority. Where provision has been made, but not yet constructed for road and pathway access through Local Authority consenting processes, then lands can be considered in-scope, where the process of tendering for construction of the permitted road or pathways has commenced.

#### 2. Footpath access

Similarly, to road access, for lands to be considered in scope, **there should be an ease of connection to an existing footpath network to facilitate active travel modes from the outset. Provision of significant sections of new footpath across other landholdings, where the land is not in the control of the landowner or local authority should be discounted when considering lands to be in-scope.**

#### 3. Foul sewerage drainage

The provision of connections to the public foul sewer network is a matter for Irish Water. Information from Irish Water, as well as the local authority water services section, on the ability to service the lands will inform whether land should be included in draft or supplemental maps. For lands which do not have the benefit of planning permission in particular, the ease of connecting to the existing network should be a determining factor. Connections which can be made by directly connecting to infrastructure, which is on, or adjacent to the land in question will result in lands being scoped in. **Consideration of connections which would require more significant works should take into account whether the land required to deliver the works is in the control of the applicant or the local authority, as set out above.**

All brownfield lands within existing built-up regeneration, town centre, district centre or local centre type mixed use zonings, should generally be considered to be in-scope, unless lack of capacity in wastewater treatment plants servicing the settlement is confirmed by Irish Water. Greenfield land within

such zonings will require further assessment and information to confirm connection to or ability to be connected to services

For private foul sewer networks, evidence by the operator, of lack of capacity within the waste water treatment plant or system serving the lands is required in order to scope lands out from inclusion on draft or supplemental maps.

#### *4. Water supply*

The provision of connections to the public water main is also a matter for Irish Water. Similarly, to determining lands serviced by the foul sewer network, information from Irish Water, as well as the local authority water services section, on the ability to service the lands will inform whether land should be included in draft or supplemental maps. For lands which do not have the benefit of planning permission, the ease of connecting to the existing network should be a determining factor. Connections which can be made by directly connecting to infrastructure, which is on, or adjacent to the land in question will result in lands being scoped in. Consideration of connections which would require more significant works should take into account whether the land is in the control of the applicant or the local authority subject to considerations set out above.

All brownfield lands within existing built-up town centre, district centre or local centre type mixed use zonings, should generally be considered to be in-scope, unless lack of capacity in water treatment plants servicing the settlement is confirmed by Irish Water. Greenfield land within such zonings will require further assessment and information to confirm connection to or ability to be connected to services.

#### *5. Surface water drainage*

Surface water drainage networks are generally in the control of Local Authorities. For lands which do not have the benefit of planning permission, the ease of connecting to the existing network should be a determining factor. Connections which can be made by directly connecting to infrastructure, which is on, or adjacent to the land in question will result in lands being scoped in. Connections which would require more significant works should consider whether the land is in the control of the applicant or the local authority subject to considerations set out in the explanatory section.

In certain instances, there may be relevant issues to be considered relating to lands not being connected to or being unable to be connected to services, being occupied by a particular use which benefits from an exclusion or being subject to criteria such as contamination which could warrant exclusion. In many instances, Planning Authorities may be unaware of servicing issues which prevent connection resulting in lands being incorrectly deemed in scope.

The Planning Authority has invited submissions by members of the public on the draft map until January 1st 2023. Such submissions may challenge the inclusion of particular lands on the draft map on the basis that those lands do not meet the criteria set out within the relevant legislation; the date on which the land is considered to meet these criteria; or can request a change of zoning.

The submission must state the criteria set out in Section 653B of the Taxes Consolidation Act 1997 on which a landowner may rely in the submission for the land being in or out of scope. The local authority may also request additional information after the receipt of the submission (e.g. proof of ownership or further information).

Upon review of the draft maps publishing by the Planning Authority, it has been revealed that a number of our client's landholdings been deemed 'within scope' and has been included on the zoning map. Upon further investigation, it has been found that the Assessment Checklist for lands in scope has not been accurately implemented by the Planning Authority and that there is reasonable basis for the submission lands to be deemed out of scope and should not be included on the RZLT zoning map. The basis for such a request has been set out in the preceding sections.

## 7.0 Housing Supply Clearing House Measure

On 1st June 2022, the Department of Housing, Local Government and Heritage opened up a consultation on 'Housing Supply Clearing House', acknowledging that development has oftentimes been delayed or prevented due to infrastructural constraints outside the control of developers. The Housing Supply Clearing House Measure was developed by Government in response to the need to increase housing supply through the activation of residential development which has the benefit of planning permission. This group will have the responsibility for considering proposals submitted under the measure and making recommendations to the Minister, taking into account specific criteria. The members of the Group will, following consideration of expressions of interest received, be appointed by the Minister for a term of at least 6 months. The Housing Supply Clearing House Group will comprise a small expert group of between 4 and 6 people appointed by the Minister for Housing, Local Government and Heritage to consider the submissions received in response to the call for proposals, and to make recommendations to the Minister in line with an agreed set of criteria and following an agreed decision-making protocol.

The Housing Supply Clearing House Measure notes that there are further barriers to activating existing permissions, including matters relating to the delivery of the necessary supporting infrastructure such as water and wastewater and site accessibility to roads and footpaths; and that certain obligations attached to permissions by way of conditions may be preventing the activation of development.

In light of the need for additional housing supply, and in particular the increased and urgent need for residential development which has the benefit of planning permission to be activated in response to the recent influx of persons displaced by the conflict in Ukraine, a Housing Supply 'Clearing House' measure is being established to facilitate consideration of matters which might warrant action being taken by the Minister for Housing, Local Government and Heritage, local authorities or other State agencies, in order to expedite the delivery of housing which has the benefit of planning permission.

As per the above, it has previously been acknowledged at National Government level that there are certain circumstances preventing development from occurring. Accordingly, these restrictions should be considered by Planning Authorities when completing the in-scope exercise as inclusion of lands on the draft map when infrastructural constraints prevent development is considered to be unjust

## 8.0 Planning Policy Context

The following section will review the relevant planning policy context of the submission lands. The Fingal Development Plan 2023 - 2029 is the relevant statutory development plan for the area and guides development at the subject lands.

### 8.1 Zoning Objective and Relevant Provisions

As demonstrated in the zoning map extract below, the current land-use zoning designation pertaining to the subject lands relating to this appeal is 'RS – Residential' the objective of which is to '*Provide for new residential communities subject to the provision of the necessary social and physical infrastructure.*'



Figure 13.0 Extract of the Fingal County Development Plan 2023 – 2029 zoning map, with subject lands outlined in red zoned 'RA' Residential Area.

Although the lands are zoned 'RS' we note that the existing use of the lands is for farming and the Minister for Finance appears to have confirmed that lands for farming that are not serviced are excluded from the RZLT. The subject lands are actively used for farming and are therefore not vacant or idle and can be considered commercial, we have also demonstrated above that the lands are not fully serviced at present.

Moreover, we note that the Development Plan supports the use of lands in and around Rush for market gardening. The following policy provisions are of note:

**Policy EEP28** *Safeguard the agricultural identity of North Fingal, promoting the rural character of the County and supporting the agricultural/horticultural production sectors.*

**Policy EEP29** *Support and encourage Organic and Regenerative Farming and Community Supported Agriculture in the Fingal Area.*

**Objective EEO78** *Support and facilitate the protection of agricultural lands in the County, ensuring that new development does not irreversibly harm or compromise the commercial viability of existing agricultural land.*

**Policy EEP30** *Encourage and provide for industry specifically linked to food, agriculture and the development of added value opportunities in these areas.*

For the reasons outlined in this submission, we contend that the subject lands are out of scope for Residential Zoned Land Tax and should be removed from the map in full.



## 9.0 Conclusion

To conclude, this appeal thus seeks the overturning of the decision of Fingal County Council and the exclusion of the subject site from the 'Final' RZLT maps on the basis that the lands do not meet the qualifying criteria, specifically under Step 5 of the relevant scoping criteria, given the lack of a connection any existing footpath network; the lack of a connection to the wastewater network in the area, and given the fact that upgrade works/an extension to the existing networks would be required to serve the site which would prevent development at this site. In addition, the lands are actively farmed and form an intrinsic component of our client's commercial farming and vegetable growing business. This is a long-standing established use on-site, and it is intended that this use will continue into the future. As has been suggested by the Minister for Finance, Michael McGrath this also provides a reasonable basis for the removal of a site from the 'Final' RZLT Maps.

We trust that the Board will have regard to the contents of this submission, and we await a favourable outcome in due course.

Yours Sincerely,



Kevin Hughes MIPI MRTPI  
Director For HPDC Ltd.

**Appendix A Notification of Residential Zoned Land Tax Determination on 30<sup>th</sup> March 2023.**

**Appendix B Original Submission to Fingal County Council.**

**Appendix C    Copy of Letter from Department of Agriculture, Food and the Marine and the [REDACTED] showing farming of lands throughout the years.**