

Residential Zoned Land Tax Annual Draft Map
Planning and Strategic Infrastructure Department
Fingal County Council
County Hall
Main Street
Swords
Co. Dublin
K67 X8Y2

Thursday, 28th March 2024

To Whom It May Concern

RE: SUBMISSION IN RESPECT OF THE *FINGAL RESIDENTIAL ZONED LAND TAX ANNUAL DRAFT MAP* IN RESPECT OF LANDS AT:

CORBALLIS EAST, DONABATE, CO. DUBLIN

1.0 INTRODUCTION

1.1 Purpose of this Submission

Thornton O'Connor Town Planning¹ have been retained by [REDACTED]² to prepare this Submission to Fingal County Council in respect of the *Fingal Residential Zoned Land Tax Annual Draft Map* ('*Annual Draft Map*'), the preparation of which was introduced under the *Finance Act 2021*. This Submission relates to lands in the ownership of [REDACTED] at Corballis East, Donabate, Co. Dublin (forming part of Land Parcel ID FL0000002057 and FL0000002309).

On 1st February 2024, Fingal County Council published the requisite *Annual Draft Map* that identifies lands within its functional area that are considered to be '*suitably zoned and connected to, or has access to services*'³ and thus 'In Scope' for the purposes of the Residential Zoned Land Tax.

The *Annual Draft Map* prepared by Fingal County Council includes lands at Corballis East, Donabate, Co. Dublin which are in the ownership of [REDACTED]. An extract from the *Fingal Residential Zoned Land Tax Annual Draft Map*, annotated to highlight the extent of the lands subject to this Submission is included overleaf (Figure 1.1):

¹ No. 1 Kilmacud Road Upper, Dundrum, Dublin 14

² Block C, Maynooth Business Campus, Maynooth, Co. Kildare

³ As set out in Section 3.1 of the *Residential Zoned Land Tax – Guidelines for Planning Authorities (June 2022)*.

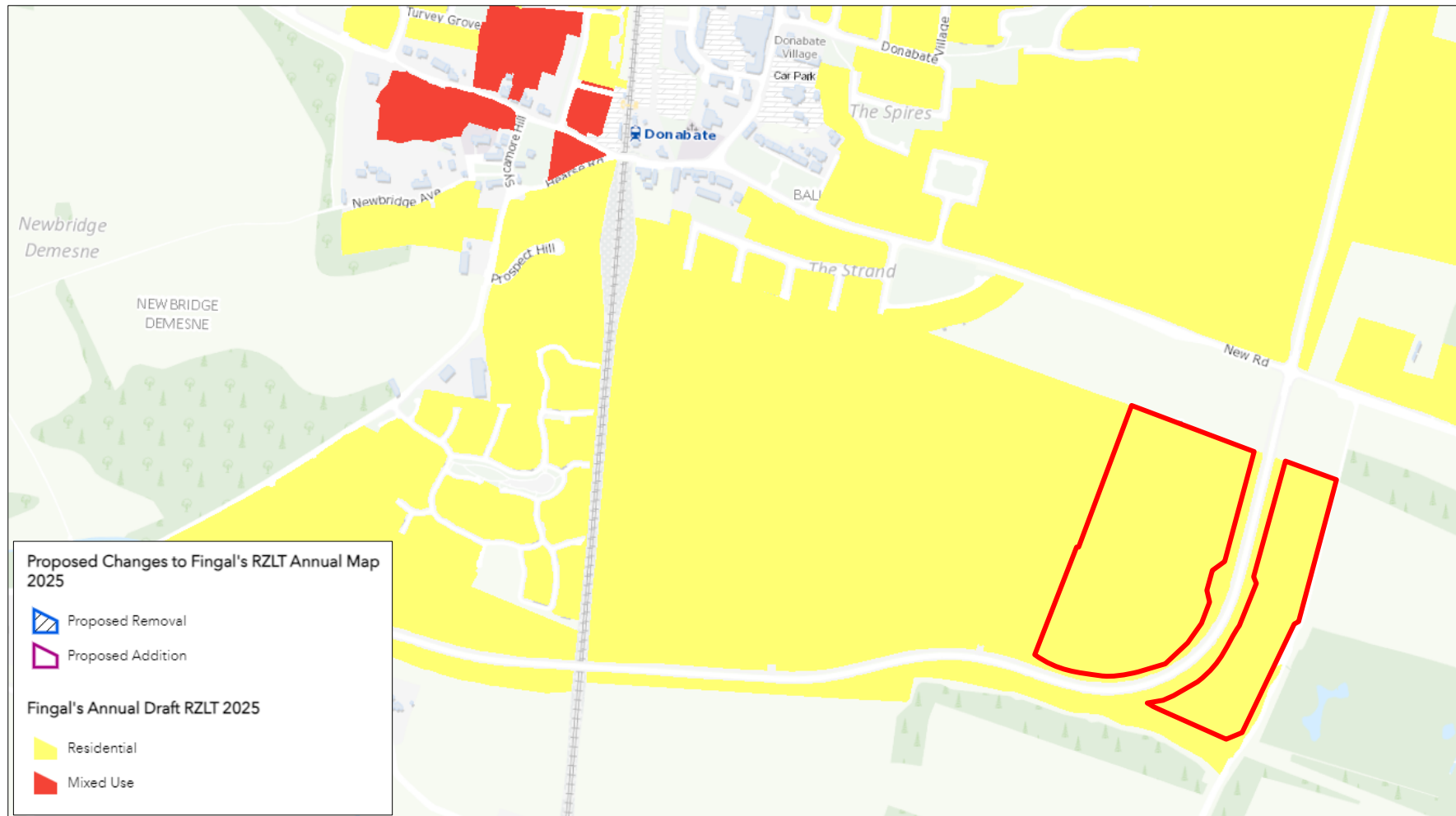


Figure 1.1: Extract From the *Fingal Residential Zoned Land Tax Annual Draft Map* with the Indicative Boundary of the Lands Subject to this Submission Outlined in Red

(Source: *Fingal Residential Zoned Land Tax Annual Draft Map*, Annotated By Thornton O'Connor Town Planning, 2024)

This Submission to Fingal County Council in respect of the *Annual Draft Map* is made without prejudice to any future attempts to secure / implement any Planning Permission on the lands subject to this Submission.

Key Point: The purpose of this Submission is to provide information to Fingal County Council that demonstrates that the lands in the ownership of [REDACTED] at Corballis East, Donabate, Co. Dublin which are subject to this Submission **do not meet** the qualifying criteria for inclusion on the *Annual Draft Map*.

The development of the lands subject to this Submission, as detailed herein, is dependent upon the delivery of infrastructure on adjoining lands in the ownership of a Third Party, as per the Phasing Strategy of the *Donabate Local Area Plan 2016 (as extended)*, the delivery of which has yet to commence. Furthermore, part of the lands subject to this Submission comprise a Wastewater Pumping Station, the area associated with which, as per the *Notification of Residential Zoned Land Tax Determination* issued by Fingal County Council in respect of the Submission made in respect of the previous iteration of the *Residential Zoned Land Tax Map*⁴, was to be omitted therefrom. The *Annual Draft Map* incorrectly retains the area associated with the Wastewater Pumping Station thereon.

Thus, this Submission, which is made in accordance with Section 653D of the *Finance Act 2021*, is **seeking the exclusion** of the aforementioned lands at Corballis East, Donabate, Co. Dublin from the *Residential Zoned Land Tax Annual Map* on the basis that the lands do not meet the qualifying criteria.

1.2 Format of this Submission

The following is the format of this Submission:

Section 1.0 provides the **Introduction** to this Submission;

Section 2.0 presents the **Rationale for Scoping Out – Clear Impediment to Development**; and

Section 3.0 sets out the **Concluding Remarks**.

⁴ RZLT035/22 refers.

2.0 RATIONALE FOR SCOPING OUT – CLEAR IMPEDIMENT TO DEVELOPMENT

The lands in the ownership of [REDACTED] at Corballis East, Donabate, Co. Dublin which are subject to this Submission, as detailed in Section 1.0 above and elaborated upon herein, should be considered 'Out of Scope' as they do not satisfy the qualifying criteria.

2.1 The Development of the Lands Subject to this Submission is Dependent Upon the Delivery of Infrastructure on Adjoining Lands in Third Party Ownership

Whilst the lands subject to this Submission are appropriately zoned 'RA – Residential Area' in the *Fingal Development Plan 2023–2029*, the Residential Development of same, having regard to its designation as Phase 3 in the *Donabate Local Area Plan 2016* (as extended), is ultimately dependent upon the delivery of enabling Road and Open Space Infrastructure, as well as Retail, Community and Educational Facilities. In this regard, Section 9.1.3 of the *Donabate Local Area Plan 2016* (as extended) states:

'Development at Corballis East (1,000 units) will be dependent on the delivery of enabling road and open space infrastructure, and access to retail, community and educational facilities. A small neighbourhood centre with a landscaped civic space and provision of a school site (minimum 16 classroom primary school) will be required prior to the commencement of house no. 301 within Corballis East (Phase 3). The Corballis Nature Park shall be developed and provided as a public facility in tandem with pedestrian and cycle access providing a strategic link to the proposed Broadmeadow Way across the Estuary, linking Donabate to Malahide.' **[Our Emphasis]**

A Planning Application for a Residential Development comprising 96 No. dwellings and a crèche on part of the lands subject to this Submission was submitted by [REDACTED] in 2022 (Fingal County Council Reg. Ref. F22A/0527 refers). **The Planning Officer, in considering the aforementioned Planning Application, acknowledged the dependency of the Residential Development of the lands subject to this Submission on the delivery of key phasing provisions on adjoining lands in the ownership of a Third Party, noting that:**

'Section 9 of the LAP requires the following:

- *A small neighbourhood centre with a landscaped civic space and provision of a school site (minimum 16 classroom primary school) will be required prior to the commencement of House No. 301 within Corballis East (Phase 3).*
- *The Corballis Nature Park shall be developed and provided as a public facility in tandem with pedestrian and cycle access providing a strategic link to the proposed Broadmeadow Way across the Estuary, linking Donabate to Malahide.*

It is noted the Applicants are seeking a 7 year permission, in view of the recent planning permission to the lands to the west, it is considered reasonable to ensure the social infrastructure is in place prior to the occupation of the residential units.'

Fingal County Council, having regard to the foregoing, attached the following Condition No. 2 to the Grant of Permission for the aforementioned Residential Development on part of the lands subject to this Submission:

'2. This permission is for a seven year period from the date of final grant of permission.'

The Mixed-Use Development permitted under An Bord Pleanála Case Reference TA06F.311059 (subsequently subject to Judicial Review) and the Large-Scale Residential Development which Fingal County Council issued a *Notification of Decision to Grant Permission* in respect of (Fingal County Council Reg. Ref. LRD0017/S3) on the lands to the immediate west of the lands subject to this Submission provide for the delivery of the aforementioned key phasing provisions, including:

- Transfer of the lands associated with Corballis Nature Park to Fingal County Council;
- Delivery of the Strategic Landscape Mitigation Area running east-west;
- Provision of SuDS measures within the Corballis Nature Park in accordance with the *Local Area Plan*; and
- Delivery of a Local Centre and Civic Space adjacent to the site identified for a Primary School (consultations regarding the transfer of a site to facilitate a Primary School with a minimum of 16 No. classrooms to the Department of Education and Skills, as most recently noted in the Large-Scale Residential Development Planning Application, are ongoing).

The construction of the requisite key phasing provision works has, however, yet to commence, which is consequently precluding the commencement of the development of the lands subject to this Submission.

The *Residential Zoned Land Tax – Guidelines for Planning Authorities (June 2022)* sets out the following regarding Phased Development:

*'In certain instances, **phasing of particular settlements via an SDZ, LAP or non-statutory land use plan may require significant road or public transport infrastructure to be in place prior to development.** Where such plans allow for a certain quantum of residential development prior to such projects being permitted or constructed, all of the land which may be able to access the infrastructure, or if specifically identified in the plan, the relevant phased area of land, should be considered in scope.'* **[Our Emphasis]**

The delivery of an occupiable Residential Development on the lands subject to this Submission, as further demonstrated by the attachment of Condition No. 5 to the Grant of Permission for the aforementioned Residential Development on part of the lands subject to this Submission, is dependent upon the delivery of an array of Infrastructure and Facilities as per the *Donabate Local Area Plan 2016* (as extended) on lands in the ownership of a Third Party (which itself is linked to the delivery of a significant quantum of dwellings thereon):

'5. The proposed development hereby permitted shall only be sold or occupied when the phasing provisions as set out below and provided for in the Donabate Local Area Plan 2016, under Phase 3 (Corballis East and Ballymastone) are delivered:

- a. *A neighbourhood centre with a landscaped civic space together with the provision of a school site (minimum 16 classroom primary school) within Corballis East (Phase 3).*
- b. *The Corballis Nature Park which shall be developed and provided as a public facility in tandem with pedestrian and cycle access providing a strategic link to the proposed Broadmeadow Way across the Estuary, linking Donabate to Malahide.*

REASON: To ensure the requisite social and physical infrastructure is in place to serve the proposed development in accordance with the approved Local Area Plan.’ [Our Emphasis]

Furthermore, the Department of Housing, Local Government and Heritage in Circular Letter NRUP 02/2023 published on 27th October 2023 set out the following regarding Phased Development:

‘Section 653B of the TCA identifies the zoning and servicing criteria for liability to the tax, which may include land that is subject to phasing objectives in the development plan or a local area plan.

In recognition of the fact that written and mapped phasing objectives relating to core strategy requirements may prevent the activation of land for housing, the latter being the core objective of the tax measure, the Finance (No. 2) Bill 2023 sets out a proposed amendment of the legislation to permit lands to be excluded from scope in these circumstances.’ [Our Emphasis]

In this regard, the *Finance (No. 2) Act*, which was subsequently signed into law on 18th December 2023, excludes land which is subject to Phasing Objectives within a Land Use Plan from the *Residential Zoned Land Tax Map*:

‘Residential Zoned Land Tax

92. (1) Section 653B⁵ of the *Principal Act* is amended by the insertion of the following paragraph after paragraph (ii):

“(iia) the development of which would not conform with—

(I) in a case in which the land is zoned in a development plan, the phased basis in accordance with which development of land is to take place under the plan, as detailed in the core strategy included in that plan in accordance with section 10(2A)(d) of the Act of 2000, or

(II) in a case in which the land is zoned in a local area plan, the objective, consistent with the objectives and core strategy of the development plan for the area in respect of which the local area plan is prepared, of development of land on a phased basis, included in the local area plan in accordance with section 19(2) of the Act of 2000,

on the date on which satisfaction of the criteria in this section is being assessed,”.
[Our Emphasis]

The development of the lands subject to this Submission would not conform with the Objectives of the *Donabate Local Area Plan 2016* (as extended) to progress Development in Donabate through a series of 3 No. sequential geographical phases expanding from the Town Centre, with each phase to be underpinned by infrastructural provision.

It is clear, having regard to the foregoing, that:

⁵ Zoned Serviced Residential Development Land Criteria for Inclusion in Map.

1. The required construction of Social Infrastructure, for example, across other landholdings, where the land is not in the control of the Landowner or Local Authority, to facilitate the development of lands which are in the control of the Landowner (as is the case with the lands subject to this Submission) results in the lands being considered 'Out of Scope'; and
2. Where a Strategic Development Zone Planning Scheme, Local Area Plan (as is the case in this instance) or Non-Statutory Land Use Plan requires certain infrastructure to be in place prior to the development of land(s), then the land(s) should be considered 'Out of Scope'.

Having regard to the dependency of the Residential Development of the lands subject to this Submission upon the delivery of infrastructure on adjoining lands in the ownership of a Third Party, as per the Phasing Strategy of the *Donabate Local Area Plan 2016* (as extended) (and reiterated by Fingal County Council in considering the Planning Application made in respect of part of the lands subject to this Submission), which has not been delivered (or even commenced) to date, the lands subject to this Submission are considered 'Out of Scope'.

3.0 CONCLUSION

The key purpose of this Submission is to demonstrate to Fingal County Council that the lands in the ownership of [REDACTED] at Corballis East, Donabate, Co. Dublin which are subject to this Submission **do not meet** the qualifying criteria for inclusion on the *Annual Draft Map*.

As demonstrated herein, the development of the lands subject to this Submission is dependent upon the delivery of infrastructure on adjoining lands in the ownership of a Third Party, as per the Phasing Strategy of the *Donabate Local Area Plan 2016* (as extended), the delivery of which has yet to commence. This is consequently precluding the development of the lands subject to this Submission, and as such, the subject lands are considered '**Out of Scope**'.

Furthermore, part of the lands subject to this Submission comprise a Wastewater Pumping Station, the area associated with which, as per the *Notification of Residential Zoned Land Tax Determination* issued by Fingal County Council in respect of the Submission made in respect of the previous iteration of the *Residential Zoned Land Tax Map*, was to be omitted therefrom. The *Annual Draft Map* incorrectly retains the area associated with the Wastewater Pumping Station thereon.

We trust the content of this Submission will be duly considered and we look forward to receiving confirmation that the subject lands are considered 'Out of Scope' as they do not satisfy the qualifying criteria and will thus be excluded from the 'Final Map'.

Yours faithfully,



Sadhbh O'Connor
Director
Thornton O'Connor Town Planning