



Draft Cork County Development Plan 2022
Section 31(8) Chief Executive's Report

Draft Ministerial Direction, Submissions and
Recommendations

27th July 2022



Comhairle Contae Chorcaí
Cork County Council

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1 Introduction

The purpose of this Chief Executive’s report is to summarise the views and recommendations of all those who made submissions during the public consultation on the Draft Ministerial Direction and make recommendations in relation to the best manner in which to give effect to the Draft Direction.

The **Chief Executive’s Report- “Draft Direction, Summaries, and Recommendations”** consists of the following:

Section 1 Introduction: Provides an introduction and overview of the report, describes the consultation that was undertaken during the Section 31 (7) consultation phase and details the legislative background and requirements for the report.

Section 2 Details of Submissions: Lists the submissions received and provides a summary of each submission. This section also includes details of the submission made by the elected members / Regional Assembly

Section 3 Details the Chief Executive’s Recommendations in relation to the best manner in which to give effect to the Draft Direction.

Appendix A of this report provides a list of submissions received, by Interested Party (A-Z).

Public Consultation

The public consultation on the Draft Ministerial Direction on the Cork County Development Plan 2022 took place from Friday 17th June 2022 to Friday 1st July 2022.

The public consultation was advertised through the media as follows:

- An advertisement was placed in a number of Newspapers circulating locally;
- A notice was placed on the Cork County Council website;
- Prescribed authorities were notified;

A copy of the Draft Direction was available for inspection at [Cork County Development Plan 2022-2028 | Cork County Council \(corkcoco.ie\)](https://www.yourcouncil.ie/en) during the consultation period. The public notice and the Draft Ministerial Direction were available to download. Submissions were invited from the public during the consultation period and could be made electronically (via Cork County Council’s Website/Cork County Development Plan web page) or sent via post.

A total of 51 submissions were received. A list of the persons and organisations that made submissions is included in Appendix A. All submissions are available to view online under the ‘View Submissions’ tab at this link - <https://www.yourcouncil.ie/en> .

Legal Background to the Chief Executive’s Report

Section 31(8) of the Planning and Development Acts, as amended, requires that the Chief Executive shall, no later than 4 weeks after the expiry of the public consultation period, prepare a report on any

submissions or observations received under subsection (7)(c) which shall be furnished to the elected members of the planning authority, the Office of the Planning Regulator (“OPR”) and the Minister.

Section 31(9) states that the report referred to in subsection (8) shall—

- (a) Summarise the views of any person who made submissions or observations to the planning authority,
- (b) Summarise the views of and recommendations (if any) made by the elected members of the planning authority,
- (c) Summarise the views of and recommendations (if any) made by the regional assembly,
- (d) Make recommendations in relation to the best manner in which to give effect to the draft direction.

Section 31(10) states that the elected members of the planning authority may make a submission to the Office of the Planning Regulator in relation to the Draft Direction Notice issued at any time up to the expiry of the period of time referred to in subsection (7)(b) and where so submitted shall send a copy of it to the Minister.

Under the provisions of Section 31(8) of the Planning and Development Act, 2000, as amended, the Section 31(8) Chief Executive’s Report shall be furnished to the elected members of Cork County Council, the OPR and the Minister not later than Friday 29th July 2022.

Section 31(9)(d) states that report should “make recommendations in relation to the best manner in which to give effect to the draft direction.”

Under Section 31AN(4) the OPR shall consider the report of the Chief Executive on the submissions, together with any submission made under section 31(10), and shall recommend to the Minister that he or she issue the direction with or without minor amendments or where the Office is of the opinion that—

- (a) a material amendment to the draft direction may be required,
- (b) further investigation is necessary in order to clarify any aspect of the report furnished or submissions made, or
- (c) it is necessary for any other reason,

then the Office may, for stated reasons, appoint a person to be an inspector no later than 3 weeks after the date of receipt of the Chief Executive’s Report.

If the Minister agrees with the Recommendation, then he or she shall issue the Direction under Section 31 with or without minor amendments.

Under Section 31(17) the direction issued by the Minister is deemed to have immediate effect and its terms are considered to be incorporated into the plan, or, if appropriate, to constitute the plan. No Variation of the County Development Plan will be required in the event the Minister issues a Direction.

2 Details of submissions

The following submissions were received during the public consultation period.

Item No	Name	Submission Reference Number	Summary
1.	Atlantic View Residents Association	DMDCDP432239306	<p>The Atlantic View Residents Association (AVRA) fully support and agree with the Minister's Direction that the Plan;</p> <p>(a) fails to set out an overall strategy for the proper planning and sustainable development of the area</p> <p>(b) that it is not consistent with National Policy Objectives set out in the National Planning Framework.</p> <p>(c) It is not consistent with regional development objectives set out in the Regional Spatial and Economic Strategy for the Southern Region.</p>
2.	Avondhu Blackwater Partnership CLG	DMDCDP434219618	<p>Avondhu Blackwater Partnership wish to acknowledge the role of South Coast Transport, SPECTO, Flyco Engineering and Veolia in supporting sustainable jobs for Fermoy and the wider rural hinterland. The closure of FCI and the relocation of Laya Healthcare have had a significant impact on the area and the consistent presence of these employers is vital for rural employment and the long-term sustainable development of the region.</p> <p>The site at Corrin offers significant opportunities to support the expansion of existing industrial business at the site, while the entrepreneurial environment created at the site demonstrates significant potential to attract new investment for the region creating further sustainable jobs.</p> <p>Avondhu Blackwater Partnership wishes to record their support for this important industrial site and the companies at the Corrin site in their support of the local economy. Requests that the regulator give every possible consideration to supporting the Industrial Zoning at this site, which will facilitate the continued development of a dynamic rural region.</p>

Item No	Name	Submission Reference Number	Summary
3.	Avondhu Motor Factors Ltd	DMDCDP434231251	<p>Avondhu Motor Factors are an auto parts business located on Main Street in Fermoy town centre. This submission takes the form of a query about the “recently announced industrial storage units”. Submission outlines that the auto parts business is seeking to expand their lubrication business to supply the Munster Region and need storage space with proximity to the motorway and would be interesting is discussing the matter further.</p>
4.	Betty Hannigan	DMDCDP432628974	<p>This submission refers to Carrigtwohill and the residential zoning CT-R-18 and the Utilities Objective CT-U-10 which seeks the provision of a pedestrian and cycle bridge linking residential sites CT R13 and CT R18 and the Educational Campus CT – C04.</p> <p>Submission references the concept of sustainable development and particularly the social, environmental and economic aspects of sustainability and outlines a number of concerns about the development of Carrigtwohill generally. It is considered that proposals for the development of CT – R -18 illustrate these concerns.</p> <p>Submission expresses the view that the wider community is concerned about the dominance of starter type / affordable/ social /lower cost homes, typically associated with higher density schemes, that are being developed in Carrigtwohill. Such units, coupled with the lack of larger family homes in the area for families to move onto, lead to more transient households who do not see the value of committing to the community as they will leave Carrigtwohill in the short / medium term. Higher density type developments are seen as problematic in this regard and more likely to generate social and economic issues that the community and public services are not adequately resourced to address, despite huge efforts and local initiatives from the community to support and integrate new residents. Community feels that higher density is</p>

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			<p>being pushed in Carrigtwohill because it is on the rail line, but the other social, environmental and economic services and supports the community needs to sustainably integrate the increased population are not being prioritised/ delivered. Higher densities are successful in cities like Amsterdam but Carrigtwohill is not comparable to Amsterdam and does not have access to all the services, amenities and employment opportunities within walking / cycling distance of people's homes.</p> <p>It is considered that the density proposed for the CT-R-18 site will result in a development that will dwarf its surroundings, will not enhance the sense of place of Carrigtwohill and will not add to the ambition of the community to develop into a great place to live, work and play. Development of the site will negatively impact on the amenity and biodiversity of the area.</p> <p>Public transport is not available to support the development of higher density housing in Carrigtwohill. Most households have two cars, and this is unlikely to change. Carrigtwohill is a rural community. CT-R-18 could only make sense if car ownership was close to zero.</p> <p>With reference to the CR- U10 Objective for a bridge to the educational campus, submission notes that the Bog Road is an ageing community, and this facility is perceived as damaging the security of households. Locals want to see a lower density of development in line with existing patterns, which would be sustainable in terms of traffic and amenities and would attract households that would make a long-term commitment to Carrigtwohill, socially, culturally and economically.</p> <p>The Bog road is narrow and poorly aligned and cannot cope with the additional traffic that will be generated by development of</p>

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			<p>CT R -18 and a new educational campus. The stone walls along the road are of historical interest and should not be removed.</p> <p>It is widely recognised that apartment development for the private market is not viable even in many cities, including Cork City, and that it is most certainly not viable outside of cities or in Carrigtwohill. Reports on this have been done by Cork Chamber of Commerce and by the Society of Chartered Surveyors Ireland.</p> <p>There is too much social housing provision in Carrigtwohill. Demand from within the Carrigtwohill area for social housing is almost satisfied. Further provision is drawing families from outside the area who will need social support from the voluntary sector which is already stretched to its limits in seeking to support the existing population. In recent years, almost 75% of all new development, other than one off housing, has comprised social housing (174 social houses have been provided and one private development of 45 houses). Further social / low-cost housing will negatively impact on the value of existing houses</p> <p>The CT-R-18 land sits above a wide complex of caves that add to the risk of development. The land and the road are subject to regular flooding. The road has been regularly unusable in recent years due to this flooding.</p> <p>The densities proposed for Carrigtwohill are morally wrong and contrary to proper planning and sustainable development.</p>
5.	Brian McCutcheon	DMDCDP433867283	<p>This submission outlines a number of Observations on the Draft Direction with regard to the Policy on Retail Outlet Centres with regard to the following:</p> <ol style="list-style-type: none"> 1) The role of the OPR. 2) Case Law on the Role of the OPR.

Item No	Name	Submission Reference Number	Summary
			<p>3) Assessment of the OPR Submission of 15th February.</p> <p>4) The Draft Direction in regard to Retail Outlet Centres.</p> <p>5) Response to the Statement of Reasons</p> <p>6) Comments on the Specific Wording of the Draft Direction.</p> <p>1) With regard to the Role of the Office of the Planning Regulator submission indicates that the submission made by the Office of the Planning Regulator (OPR) in response to the Material Alterations to the Draft Cork County Development Plan, misrepresents the statutory role of the OPR in the review of development plans as it incorrectly implies that the OPR rather than the Minister has the power to require a planning authority to amend its development plan. Submission quotes the provisions of the Planning Act, and from the OPR's submission, comparing the language of both. While the OPR's submission indicates that "the planning authority is required to implement, or address recommendation(s) made by the Office in order to ensure consistency with the relevant policy and legislative provisions", this is only true in so far as the requirements referred to by the OPR relate to:</p> <p>(a) Legal requirements which are explicitly stated in the Planning Acts and Regulations; or</p> <p>(b) Policy requirements which have been issued under Section 10(1A) in the form of the National Planning Framework and the Regional Spatial and Economic Strategy; or</p> <p>(c) Specific planning policy requirements (SPPRs) which are contained in policy guidelines made under Section 28 (1); or</p> <p>(d) Policy directives issued under Section 29.</p> <p>The legal status of submissions made by the OPR during the review of the development plan is limited by the fact that the OPR may only:</p>

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			<p>(i) request the Planning Authority to consider changes to the draft or amended draft of the development plan in line with the advice or recommendations of the OPR.</p> <p>(ii) advise the Planning Authority of the legal obligation to comply with the planning legislation or the mandatory policy guidelines or directives issued by the Minister and make recommendations in regard to how it should comply with these requirements.</p> <p>2) With regard to Case Law on the Role of the OPR submission notes that this interpretation of the limited role of the OPR has been confirmed by the decision of Humphreys J. in <i>Cork County Council v the Minister for Housing Local Government and Heritage</i> [2021] IEHC 683 [2021 No. 189 JR]. The submission quotes various extracts from the Judgement. The judgement decision determined that the misunderstanding that permeates the approach of the OPR and the Minister is fundamental i.e., that SPPRs contained in S.28 guidelines are mandatory, but otherwise the duty in respect of S.28 guidelines is to have regard to them, not to comply with them. In relation to the Retail Planning Guidelines the Court also commented specifically on the OPR's misrepresentation of the status of the Retail Planning Guidelines noting that 'not only is a joint retail strategy not "required", but the council did not fail to have regard to the content of the guidelines'</p> <p>3) In reference to the OPR's submission of 15th February, submission considers that the submission misrepresents the legal framework in two respects:</p> <p>(a) It has failed to make a clear distinction between mandatory legal and policy requirements (which must be complied</p>

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			<p>with) and advisory guidelines (to which a planning authority should have regard). (b) It has failed to provide adequate reasons and considerations for the requirements and recommendations issued in regard to each specific amendment. It would appear that the OPR was attempting to pre-empt the role of the Minister to issue a direction under Section 31 by requiring rather than requesting or recommending the planning authority to amend the development plan before it is adopted.</p> <p>The legal flaws in the OPR's approach are particularly evident in the section of the submission dealing with MA Recommendation 6 - Retail Outlet Centres. This recommendation requires the Local Authority make the Plan without MA 1.9.20.</p> <p>Although MA Recommendation 6 concludes by stating that the planning authority is required to make the Plan without MA 1.9.20 the justification in the submission does not establish that the MA 1.9.20 would contravene any mandatory requirement under Section 28. The main argument against the amendment is that it would be premature in relation to what was envisaged in (rather than required by) the Retail Planning Guidelines.</p> <p>The justification concludes by stating that the overall strategy should be informed by a non-statutory joint retail strategy prepared under the advisory Retail Planning Guidelines rather than by the formal democratic review of the county development plan. Apart from the democratic deficit, it is also questionable whether the position adopted by the OPR on this point is consistent with the concept of a "plan-led" retail policy as it appears to give 10-year-old advisory guidelines precedence over the recently adopted draft development plan which is based on more up to date and spatially referenced evidence on the need for a retail outlet centre in the Cork Metropolitan Area.</p>

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			<p>Submission indicates that the planning authority was justified from both the legal and the planning viewpoints in deciding not to comply with the advisory recommendation of the OPR which was incorrectly presented as a mandatory requirement.</p> <p>4) With regard to the Draft Direction in regard to Retail Outlet Centres, submission notes that the justification for the amendments to the policy on retail outlet centres is partially obscured by the fact that the Draft Direction covers a number of separate unrelated amendments to the Adopted County Development Plan. As a result, it is not clear whether the Opinion formed by the Minister as set out under items (1) to (6) of the Draft Direction applies equally to each amendment. If separate directions had been drafted for each case it would be easier to determine whether there was sufficient justification for the exercise of the Ministers powers under Section 31 in regard to the policy on retail outlet centres.</p> <p>Submission considers that it is a matter of fact in regard to item (1) of the Opinion, that the planning authority had a right, and indeed a duty, not to comply with recommendations which were issued as ultra vires requirements, and which were based on misrepresentation of the legal status of the Retail Planning Guidelines. The fact that a planning authority decided not to follow the incorrect advice of the OPR is not in itself sufficient justification for the Minister to issue a Draft Direction.</p> <p>Item (4) of the Opinion refers to consistency with CMASP PO 16 of the MASP. However, this is a policy objective of the Southern Regional Assembly which requires the SRA to support the retail hierarchy identified in the 2013 Joint Retail Strategy and to “seek further preparation of joint retail strategies for Metropolitan Cork between Cork City Council and Cork</p>

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			<p>County Council in accordance with section 28 Retail Planning Guidelines for Planning Authorities (2012)”. It is not possible for Cork County Council to contravene this objective as it does not specifically require the Council to prepare a joint retail strategy within a particular time frame. It is entirely a matter for the SRA to decide when, and to what extent, it should seek preparation of further retail strategies. In the meantime, the objective supports the 2013 Joint Retail Strategy which underpins the objectives adopted by Cork County Council which the Draft Direction is seeking to remove.</p> <p>Item 5(a) of the Opinion claims that the Plan is inconsistent with the Retail Planning Guidelines 2012. The submission made by the OPR did not establish that the Guidelines were mandatory or that they specifically required a new joint retail planning strategy to be prepared before any review or variation of the county development plan. There is a lack of consistency between the various positions on the status of the retail planning guidelines which were adopted by the OPR in the submissions on the Draft and Amended Draft of the Cork County Plan and in the recommendation made to the Minister on the need for a Draft Direction.</p> <p>5) With regard to the Statement of Reasons, submission notes that the Draft Direction also includes a statement of reasons which claims that the planning authority’s new policy on retail outlet centres is not:</p> <ul style="list-style-type: none"> •Plan-led; •Evidence based; •Informed by an up-to-date retail strategy; •Underpinned by the appropriate strategic assessment and analysis •Compliant with Section 28 guidelines •Compliant with the Regional Spatial and Economic Strategy.

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			<p>It is difficult to understand why the adoption of an updated policy on retail outlet centres as part of the review of the County Development Plan could be criticised on the grounds that it is not plan led. There is already a policy on retail outlet centres in the Cork County Development Plan 2014 and the purpose of the material amendment which the OPR required to be deleted was to bring the policy up to date on the basis of new evidence in regard to retail trends.</p> <p>The new policy is based on a strategic assessment of the demand for retail outlet centres in the Greater Cork Area and sequential testing of various spatial options. The OPR may not agree with the conclusions reached but they cannot deny that the approach adopted by the planning authority was strategic and evidence-based and that it was carried out in order to make the policy on retail outlet centres more, rather than less, plan-led.</p> <p>It is misleading for the OPR to suggest that an updated joint retail strategy is the only source of evidence on the need for an outlet centre or on the sequential testing of potential sites.</p> <p>Over the past 22 years, the two planning authorities have consistently adopted a professional, evidence-based approach to retail development which included not just the current 2013 joint retail strategy but also the various project-specific retail impact assessments. There is no basis, therefore, for the OPR's assertion that no retail evidence will be available to the planning authority until such time as the recently completed research and consultation processes are repeated within the more formal process of a joint retail strategy.</p> <p>Over the past three years Cork County Council consulted widely and gathered all the evidence it required to update the previous plan-led policy on retail outlet centres. The OPR may not accept the conclusions which are based on that</p>

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			<p>evidence, but the Office cannot argue that the evidence does not exist. As a result, there is no planning or legal justification for the removal of the current plan-led and evidence-based policy on retail outlet centres and its replacement.</p> <p>6) With regard to the Specific Wording of the Draft Direction, the submission notes that the effect of paragraph (a) of the Draft Direction would be to delete and replace paragraph 9.5.7. It is difficult to understand the rationale for this amendment or how the OPR has reached the conclusion that this amendment is necessary, reasonable or legal. The net effect of the Draft Direction would be to turn a target of 12 months for completion of the joint retail strategy into a binding commitment to finalise the strategy within that time period regardless of the standard or level of completion of the draft. The wording of the Draft Direction could also be interpreted as a prior commitment on behalf of the members of the County Council to adopt without amendment whatever draft strategy had been competed at that specific point of time. The effect of paragraph (b) of the Draft Direction would be to delete the amended and additional provisions for 'Retail Outlet Centres' inserted under MA 1.9.20, including objective TCR 10-2 Retail Outlet Centre and associated map. It is significant that the specific purpose of this amendment was to reflect the decision by judicial order to quash the Section 31 Direction of Variation No. 2 of the Cork County Development Plan 2014 and provide for its inclusion in the Plan. The decision to issue a Draft Direction seeking deletion of this amendment could be considered to be an indirect challenge to the authority of the High Court. It is difficult to understand what planning benefit would be achieved by the deletion of text. This is a policy which is plan-led, evidenced based and consistent with the decision of the High Court in Cork County</p>

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			<p>Council v the Minister for Housing Local Government and Heritage [2021] IEHC 683 [2021 No. 189 JR]. There is therefore no valid reason to use the powers of the Minister under Section 31 of the Planning Act to make the recently adopted Cork County Development Plan less compliant with national and regional planning policy and with best practice in retail strategy and planning.</p>
6.	Carrigwohill Community Council CLG	DMDCDP433134072	<p>Part 1: Summary of BHK Solicitors:</p> <p>This submission from BHK solicitors on behalf of Carrigwohill Community Council CLG, notes that the community council is a voluntary organisation and registered charity comprising of volunteers who give a huge amount of their own time, talents and energy to seek to improve the living environment and quality of life for residents of the Carrigwohill area. The community council are deeply concerned in relation to the impact which certain planning policies have had on the social sustainability of the community and the proposal to further increase permissible density of development as set out in the Draft Direction.</p> <p>Elected Members, in response to representations from the community, amended the zoning of the CT – R-18 lands to reduce the permissible density and the Draft Direction now seeks to reverse that.</p> <p>The community are seeking to avoid unsustainable high-density development in circumstances where the social infrastructure is insufficient to support that level of density.</p> <p>Submission references S31 of the Planning and Development Act 2000 and notes that the Minister must give reasons for directing the Planning Authority to take specified measures. Submission notes that while the draft Direction includes a Statement of Reasons, they are not linked to the different aspects of the Direction.</p>

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			<p>Submission therefore expresses the view that the draft Direction, where it refers to Carrigtwohill in paragraph 2(d), is invalid as it does not clearly state the reasons for each Direction in the notice.</p> <p>Submission continues with a Legal Assessment of the Stated Reasons, examining each of the stated reasons and how they relate to the different components of the Direction. It is noted that Reasons one, two and three concern retail matters; Reason four relates to Bantry and Reason five references density and is discussed further below.</p> <p>Reason 6 relates to the strategic function of national roads and it is unclear how it could apply to paragraph 2(d) Carrigtwohill. If Reason 6 was to apply to Carrigtwohill, then the failure to explain how it applies makes the reason invalid for being inadequate.</p> <p>Reason 7 refers to the failure to implement the recommendations of the OPR under section 31 AM. Submission notes that the recommendations of the OPR are not binding on Local Authorities as found in recent decisions of the High Court. While the Minister can have regard to the view of the OPR, the Minister must make his own assessment of the relevant issue. If the Minister allowed his reasoning to be based on the recommendations of the OPR alone and if he were to overturn the decision of democratically elected members of a Local Authority based on this, the Minister would be making a serious error of law. The OPR is entitled to express a view but that view does not “trump” the view of the Local Authority and, indeed it is the Local Authority’s right to make the Development Plan which enjoys the protection of the Constitution.</p> <p>It is very clear that, in its submission to the Council and its request to the Minister to issue the Direction, the OPR failed to have</p>

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			<p>proper regard to the Guidelines in their entirety. In particular, the OPR failed to have regard to the fact that there are aspects of sustainable development beyond land conservation. The OPR seems to have disregarded the requirement for the existence of a strong social infrastructure to support high density development. Specifically, the OPR failed to recognise or understand the unique challenges facing Carrigtwohill which the democratically elected members understood and respected in making their decision to adopt MA 4.2.3.41 or MA 4.2.3.43. Those unique challenges are further detailed in the second part of this submission from Carrigtwohill Community Council</p> <p>With respect to Reason 5 the submission notes the following:</p> <p>(a) It would appear that, in requesting the Minister, to issue the Notice, the OPR has failed to properly consider the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas: Cities, Towns & Villages (2009) insofar as they address the issue of minimum densities and has not considered the circumstances under which Planning Authorities are permitted to make exceptions to the minimum densities.</p> <p>(b) Chapter 5 of the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas: Cities, Towns & Villages (2009) addresses the issue of densities. There is only one reference to minimum densities and, contrary to what is inferred in Stated Reason V in the draft Directions, it is not absolute. Under the heading "Appropriate locations for increased densities" the Guidelines provide that ;</p> <p><i>5.4 Where there is good planning, good management, and the necessary social infrastructure, higher density housing has proven capable of supporting sustainable</i></p>

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			<p><i>and inclusive communities. (emphasis added)</i></p> <p><i>In general, increased densities should be encouraged on residentially zoned lands and particularly in the following locations:</i></p> <p><i>(a) City and town centres</i></p> <p><i>5.5 The increase of population within city or town centres with their range of employment, recreation, educational, commercial and retail uses can help to curtail travel demand; therefore, these locations have the greatest potential for the creation of sustainable patterns of development. Increasing populations in these locations can assist in regeneration, make more intensive use of existing infrastructure, support local services and employment, encourage affordable housing provision and sustain alternative modes of travel such as walking, cycling and public transport. (emphasis added)</i></p> <p><i>Walking distances from public transport nodes (e.g. stations / halts / bus stops) should be used in defining such corridors. It is recommended that increased densities should be promoted within 500 metres walking distance of a bus stop, or within 1km of a light rail stop or a rail station. The capacity of public transport (e.g. the number of train services during peak hours) should also be taken into consideration in considering appropriate densities. In general, minimum net densities of 50 dwellings per hectare, subject to appropriate design and amenity standards, should be applied within public transport corridors, with the highest densities being located at rail stations / bus stops, and decreasing with distance away from such nodes. (emphasis added)</i></p> <p><i>(c) It is noted that the reference to adhering to the minimum net densities of 50 dwellings per hectare is stated to be required “in general”. This means that it is not required in all circumstances. It is clear that the Guidelines intend the minimum</i></p>

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			<p>densities to apply only where the necessary social infrastructure is in place.</p> <p>(d) The Community Council consider that there is a very significant deficiency in the available social infrastructure in Carrigtwohill. It would appear that the OPR and the Minister have failed to have regard to many other key parts of the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas: Cities, Towns & Villages (2009), notably Paragraph 4.1 of the Guidelines which states;</p> <p><i>4.1 National policy makes it clear that sustainability is not confined to the physical environment. Sustainability also includes the concept of stable, integrated communities, and planning for such communities must embrace both tangible issues – such as the timely provision of school places – and the intangible, such as people’s perception of what constitutes an attractive, secure environment in which to rear children. Planning objectives at the district / neighbourhood scale can thus be grouped under four main themes: (a) Provision of community facilities; (b) Efficient use of resources; (c) Amenity / quality of life issues; and (d) Conservation of the built and natural environment.</i></p> <p>(e) The focus of the OPR has been confined to the conservation of the built and natural environment. The OPR has not made any meaningful assessment of the provision of community facilities or the amenity/ quality of life issues which are to be given equal consideration.</p> <p>(f) Submission continues to outline that Carrigtwohill is a far cry from a stable, integrated community in circumstances where its population has grown more than fivefold in the period since 1996 (from 1,232 in 1996 to 8,138 in 2022) but without any corresponding growth in the community, cultural , health or other</p>

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			<p>facilities. The Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas: Cities, Towns & Villages (2009) are very clear on the importance of the provision of community facilities (pg. 25).</p> <p>(g) Submission continues to illustrate how Carrigtwohill compares in terms of services to other towns of a similar size (Clonakilty, Mallow, Youghal, and Cobh) and notes that Carrigtwohill lacks facilities including a hospital, hotel, comparison shopping and amenity facilities (including walks and investment in the public realm) that the other towns, which have grown organically over an extended period of time, have benefitted from.</p> <p>(h) Planning policy is directing huge growth to Carrigtwohill because of the rail service but the provision of community, health, cultural, retail , amenity and other necessary facilities has not kept pace. Many of the new residents are only finding their feet and have not yet fully integrated into the community.</p> <p>(i) Carrigtwohill, therefore, has not reached the status of being a stable, integrated community and therefore, it is fully consistent with the Guidelines that different considerations are applied to density guidelines to the “in general” application of those Guidelines in the context of developments in more mature, stable and integrated communities.</p> <p>(j) Apart from the CR – R18 site the subject of the Direction, there will still be a disproportionate quantity and percentage of high-density development in Carrigtwohill relative to the other towns listed above. This inevitably impacts on the housing choice, income level, age profile and social background of those who elect or are assigned to live in Carrigtwohill, leading to further imbalance between Carrigtwohill and other towns which have</p>

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			<p>been permitted to grow organically and to integrate over an extended period.</p> <p>(k) It is therefore considered that applying Reason V to MA 4.2.3.41 or MA 4.2.3.43, is flawed and legally incorrect. The draft Direction seems to be based on the assumption that the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas: Cities, Towns & Villages (2009) stipulate minimum densities for all land within 1km of railway stations when this is not the case.</p> <p>(l) With regard to Reason V, Second Paragraph, it is considered that, if Cork County Council omitted to record its rationale for applying the permitted exception to the general rule regarding densities, then this could more appropriately be remedied by amending the Statement made under Section 28(1A)(b). This would be more appropriate than imposing a population which is socially unsustainable on the community</p> <p>(m) Submission concludes by stating that the draft Direction is defective insofar as it relates or is intended to relate to MA 4.2.3.41 and MA 4.2.3.43 as it fails to relate any of its Statement of Reasons to those specific amendments. In the alternative, in so far as Reason V or VII might possibly relate to MA 4.2.3.41 or MA 4.2.3.43, the reasoning is flawed and legally incorrect for the reasons outlined above.</p> <p>*****</p> <p>Part 2: Summary of Carrigtwohill Community Council document:</p> <p>This submission from Carrigtwohill Community Council CLG, wonders when did people and social sustainability stop mattering in the context of sustainable development?</p>

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			<p>Submission notes that Carrigtwohill Community Council CLG, established in 1954, is a registered charity, representative of the residents of Carrigtwohill and dedicated to the coordination and development of a sustainable and progressive community, providing facilities and services including a community centre, all weather pitch, playground, Meals on Wheels, Men’s Sheds and Tidy Towns</p> <p>Sustainable development must encompass the economic, social, and environmental aspects of human activity. The Community Council has serious concerns about many decisions that have been made in the past in relation to the community, which have ignored social aspects of human activity and have diminished the community. It is considered that the new County Development Plan must give due and proper consideration to the social sustainability of developing Carrigtwohill in the context of the existing levels of social infrastructure. Sustainable development must ensure the basic needs of present and future generations can be fulfilled with regard to the demographic constraints and quality of life, such as access to education, health, employment, social services, culture and therefore also social well-being. It is further noted that sustainable development must be based on meaningful consultation with the community so that communities not being left with the view that their concerns are being ignored. For the planning authority and the OPR to persistently ignore the concerns of the community risks breaking down the very social structures that are essential to the success of the community.</p> <p>The Community Council did not make a formal submission to the material amendments stage of the CDP review, relying instead on communication with elected members.</p> <p>They note with regret that the submission</p>

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			<p>from the OPR does not appear to have given any consideration whatsoever to the social sustainability of the community. The submission notes that the OPR cannot reasonably be familiar with the detail of the social infrastructure available in Carrigtwohill, and therefore any process that gives the OPR more say than Elected Members in terms of what happens in the community is a flawed and irrational process open to legal challenge. The ability of unelected persons to overrule and ignore amendments requested by the elected representatives to address the very legitimate concerns of constituents is a most unwelcome development.</p> <p>In public consultation processes over the years the community council has requested that premature development would not be permitted and that infrastructure, physical and social, would be developed ahead of or in tandem with any residential development. Submission continues to give examples of a number of developments that have caused the Community to doubt the sincerity of Cork County Council's requests to be involved on consultations on the future development of the community:</p> <ul style="list-style-type: none"> • A spine road due to be completed as part of the first phase of a development of 1,500 units permitted under 00/7674 and 00/7607 is still not open 20 years later, despite the majority of this estate being allowed to proceed without that critical spine road being developed. • A dangerous junction at Main Street and Church Road, acknowledged by Cork County Council in 1998, remains unchanged even though the population of the town has grown from 1,400 in 2002 to some 5,080 (2016 census) by virtue of planning permissions granted without addressing this infrastructural deficiency. It is acknowledged that this is now being looked at in the context of the Public Realm Plan. However, that is 24 years after it was first considered necessary and, in the meantime, the community has lived with

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			<p>the consequences of failing to provide it in a timely manner.</p> <ul style="list-style-type: none"> • A temporary pitch due to be provided as a condition of An Bord Pleanála under ref 00/7607 (PL 04.125446) has never been delivered and no enforcement action has been taken. In the meantime, the demand for sporting and recreation facilities has increased at least threefold. The same developers have been granted further permissions without regard to their refusal to comply with this condition. • A large 5 storey apartment block permitted under the above permissions, contrary to the wishes of the local community, was partially developed and left unfinished for almost 20 years, standing as a monument to poor planning’ decision-making and a refusal to accept the lack of suitability of city centre type buildings in a rural community. The unfinished development attracted vandalism and other anti-social behaviour and become an eyesore in the community. It is now being redeveloped as a ghettoised social housing development of 95 units. • It is deeply concerning to the community that more high-density apartment developments are planned when there is no demand for apartment living in the Carrigtwohill area. • Because of the failure to have regard to social sustainability, and the concern to pack in as many units as possible near railway stations, the community are now faced with the prospect of large parts of the community being developed with the same type of building as has been proven not to work in Carrigtwohill. The community are in no doubt as to the social consequences for the community. • It is respectfully submitted that no thought whatsoever has been given by the OPR or by the Chief Executive to the social sustainability of the proposals for Carrigtwohill in the Development Plan. • The Government publication “Sustainable, Inclusive and Empowered Communities A five-year strategy to

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			<p>support the community and voluntary sector in Ireland 2019-2024” recognises the role played by the community and voluntary sector in Ireland and promises to “promote, support and invest in activities that – bring communities together, empower them to identify their own needs, priorities and agendas, provide them with the skills, knowledge and experience to influence, shape and participate in decision-making processes that bring about change for the benefit of people within those communities “</p> <ul style="list-style-type: none"> • There is little evidence of the principle of the above strategy in the current approach. The Development Plan proposes enormous tracts of land in the Carrigtwohill area for high density development, but there is little or nothing in the Plan in relation to how social sustainability is to be maintained. Decisions which ignore legitimate local concerns, and fail to insist upon, and enforce, the provision of sufficient social infrastructure, run contrary to the Government’s commitments and are contrary to empowering communities. The failure to have regard to genuine concerns diminishes those communities. Where community needs have been identified they should not be dismissed as irrelevant to the planning process. <p>Submission stresses that the Community Council is not a “Nimby” organisation and are not seeking to prevent development. They are aware of the deficiencies in the social infrastructure in the Community and know that the community cannot cope with the inevitable social fall out of the unprecedented type of housing density and social mix that follows from the densities proposed in the plan. They strongly object to the socially unsustainable type of development that is being proposed for Carrigtwohill. Their request has always been, and remains, that the needs of the existing and growing community are properly assessed and reflected in planning decisions. This is</p>

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			<p>consistent with the concept of sustainable development.</p> <p>Submission considers that the rate of population growth and the type of housing densities proposed for Carrigtwohill are unprecedented, in Cork and perhaps in the entire State. Almost every other community throughout the State has developed organically with proportionate growth and infrastructure keeping pace with development over time. The rapid growth of Carrigtwohill has resulted in a community that do not know each other, and who have no connection with each other. The sense of community is disappearing despite the best efforts of voluntary organisations. This is an unacceptable social experiment.</p> <p>The move to higher densities, in addition to rapid growth and against a background of a town in its infancy, presents unique challenges for Carrigtwohill. Of the 112.5 hectares zoned for development in Carrigtwohill, 69.9 ha are zoned for development as part of Phase 1 development and 38.5 ha, or 55% of all land zoned for development in Phase 1, is proposed for high density development. The definition of “high density” and medium density” have also been amended to include even higher densities than before.</p> <p>Higher density inevitably involves apartment blocks. It is considered that Apartment living is not the kind of home that most people in Ireland today strive to achieve. Apartment living in Ireland is generally confined either to cities or to socially disadvantaged areas. The absence of demand for the apartments developed in Castl lake over a period of 20 years and the fact that they have now had to be converted for use as social housing tells its own story. It is widely recognised that apartment development for the private market is not viable. It is therefore</p>

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			<p>irrational to conclude that there is any prospect of the type of high-density housing for which zoning is being proposed in Carrigtwohill being sold to the private market. It is inevitable that the vast majority of housing developed in high density areas in Carrigtwohill will be sold either to the Local Authority or to an approved housing body or other public authority engaged in the provision of social housing.</p> <p>Demand from within the Carrigtwohill area for social housing is almost satisfied. In recent years, almost 75% of all new development, other than one off housing, has comprised social housing (174 social houses have been provided and one private development of 45 houses). Further social housing is not socially sustainable and will inevitably lead to Carrigtwohill turning into an area that will struggle to attract a mixture of income earners and which will be dominated by those who have little choice but to live in Carrigtwohill. Those who can afford to will inevitably want to live in areas where they can have larger properties and will move out of Carrigtwohill. Those left behind will be those who cannot afford to live elsewhere. This is not consistent with sustainability. It will inevitably lead to social issues. The densities proposed for Carrigtwohill by the OPR and now supported by the Chief Executive of Cork County Council appear to be driven by the fact that Carrigtwohill is serviced by a railway station. A railway station does not make a community. The community's ability to support further social housing is totally exhausted. The community is still adjusting to the rapid growth which has already taken place.</p> <p>Submission requests that the increased densities sought by the Draft Ministerial Direction not take effect.</p>

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7.	Carrigtwohill Family Resource Centre CLG.	DMDCDP433110276	<p>This submission from the Carrigtwohill Family Resource Centre (CFRC) / St Vincent de Paul (SVP) outlines that the centre has been in existence since 1991 and provides a vast array of social services to the community including Preschool, Afterschool, Breakfast club, Parent and Toddler service, Counselling, Family Support, Literacy classes etc. They are committed to ensuring better outcomes and brighter futures for the people of Carrigtwohill and its environs and are very familiar with all social aspects of the community and can speak with authority and truthfulness in respect of social sustainability within the Community.</p> <p>Over the number of years, the centre has noted a huge increase in the numbers of people coming to live in Carrigtwohill and surrounding areas. A substantial number of these people are coming from other countries. There are now approximately 60 different nationalities living in the area. The CFRC and St Vincent de Paul are inundated with requests for assistance from people moving into the area in the form of financial assistance, family support and mental health support etc.</p> <p>Guidelines on density, state in section 5.4. that "<i>where there is good planning, good management and THE NECESSARY SOCIAL INFRASTRUCTURE, higher density housing has proven capable of supporting sustainable and inclusive communities.</i>" It is the view of the CFRC, that there is a clearly demonstrated lack of existing social infrastructure in Carrigtwohill. It is further the view of the CFRC that planning policy for the area is not giving due regard to the social sustainability of the existing community and before any further high-density developments is foisted on the Community, essential social services must be put in place to cater for the needs of the community.</p> <p>Additional development is considered premature until the basic needs of the existing community are fulfilled with regards to basic items such as quality of</p>

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			<p>life, education, health, employment, social services, culture and social well-being. These needs must also be met for the new future population. In order for development to be sustainable these needs must be met.</p> <p>Submission references the Government publication "Sustainable, Inclusive and Empowered Communities -A five-year strategy to support the community and voluntary sector in Ireland 2019 - 2024". This strategy clearly states that the community and voluntary sector is critical to a healthy, just and prosperous society in Ireland, contributing to social and economic cohesion.</p> <p>In this context CFRC / SVP feels that their knowledge and views about the social sustainability of the community should be listened to and respected and the community should not be dictated to by an unelected small group of people based in Dublin 7, who in all probability have not the slightest knowledge of the social issues pertaining in Carrigtwohill. Decisions by Local Authority officials and unrepresentative people cannot ignore the legitimate concerns of people who are active daily at the coal face in the community.</p> <p>CFRC / SVP know for certain that the community cannot and will not cope with the inevitable social fall out that will arise as a direct result of the imposition of the unprecedented type of housing density and the social mix that follows from the proposed densities. The needs of the existing and constantly growing community need to be properly assessed and reflected in all planning policy and decisions.</p> <p>CFRC / SVP have no objection to the development of a reasonable proportion of housing in the area. However, all services are now at breaking point and just simply cannot continue to keep trying to meet the daily and ever-increasing demands of people who are not only just arriving in Carrigtwohill but also of those who are resident here for a few years.</p>

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			CFRC / SVP therefore oppose any increase in the density of development proposed for Carrigtwohill, as required by the draft Ministerial Direction.
8.	Castlelyons Community Council	DMDCDP434230655	Castlelyons Community Council is a democratically elected body and wishes the O Flynn's well with their endeavours. They wish to state that the Community Council has no connection or association with the group called 'Castlelyons Development'. They do not know who the 'Castlelyons Development' group represents. The similarity in names has caused confusion.
9.	Cathy and Colman O' Flynn	DMDCDP434226657	<p>Submission notes the following:</p> <ul style="list-style-type: none"> •Brexit and the Ukraine war highlight the importance of protecting supply chains and the Warehouse, Distribution and Logistics Sector which is a massive employer and adds so much to the Irish economy. •It is shocking that a site hosting 4 long standing business are being curtailed in their expansion capabilities because of the Planning Regulators decision to exclude them from the County Development plan •The CDP was reviewed over a two year period. Zoning of the site received an overwhelming majority vote of 42 and 44 to 1 respectively in December and May and was therefore to take its rightful place on the County Development Plan. This has now been called into question. •South Coast Logistics / Specto employ 152 employees, and contribute €6.8 m a year to the Exchequer and local economy. Having received permission from Cork County Council for a CVRT centre, An Bord Pleanála refused permission by virtue of its Greenbelt status. The CVRT centre would have reduced emissions, as it would have taken 60 vehicles a week off the road to Carrigtwohill and Mitchelstown thus becoming more sustainable.

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			<ul style="list-style-type: none"> •The company provides services for Pfizer, Johnson & Johnson, Glanbia and Microbio and are an integral part of the logistics services in Munster and country wide. The Company has further expansion plans, which are being stopped. •Veolia has its only Irish EPA licensed waste facility at this site. It would be impossible for them to get this licence on another site. They have put their expansion plans on hold for 2 years pending this zoning. The Planning Regulators recommendation to put these businesses in a town already dealing with traffic congestion and in an intersection which pedestrians use to access a primary school and 3 secondary schools including a service station they use for lunch is frankly a health & Safety hazard. •Flyco Engineering offer services to bio medical and pharmaceutical industry. They too have expansion plans. •This site is an ideal site for distribution centres and Zeus, the biggest packaging company in Ireland want to build a Munster distribution centre here and invest in the local area. •Site is fully serviced with easy access to Cork, Waterford, Dublin and Limerick. Transport services (bus, cycle lane etc) can be provided, and development will be sustainable and energy efficient. •The site could not merge with the Mart site as they are on opposite sides of the N8 road. •Traffic congestion is not an issue. •The land was also deemed " Hope Development "at the time of construction of the M8 20 years ago. Its development potential should not be questioned now, with a history of hosting Industry successfully on this site for 30 years.

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			<ul style="list-style-type: none"> Request that the decision of the Council be supported. Councillors know the area and the importance of business expansion and additional employment.
10.	Colman O'Flynn	DMDCDP433171121	<p>This submission refers to lands at Fermoy the subject of MA 3.4.4.15 – proposed industrial zoning FY-I-05 'Industrial Development'.</p> <p>Submission indicates that the Draft Direction, if implemented, would have a seriously negative impact on two major employers in Fermoy i.e., South Coast Transport and Veolia. Submission states that these existing industrial/logistics uses are hugely dependent on the FY-I-05 Industrial zoning objective to sustain and expand their existing uses.</p> <p>Submission notes the following:</p> <ul style="list-style-type: none"> a) Fermoy is strategically located within the Greater Cork Ring Area, 30 km north of Cork City. b) The site is located 3km southeast of the town of Fermoy. c) The site is accessible via the local road, the L1516, which connects to the R639 and the M8 Cork-Dublin Motorway. d) The site is situated in an area where the surrounding land uses are primarily light industrial and agricultural. The site is bound to the south by South Coast Logistics and to the west by Veolia and Flyco. e) The FY-I-05 Industrial zoning is needed to facilitate the expansion of these industrial uses. f) South Coast Logistics Ltd. was founded in 1975 and serves industries ranging from the food industry, pharmaceutical sectors and petrochemical industry. The company has satellite facilities near Cork Port, Dublin Port and Galway. The company currently have a fleet of approximately 75 vehicles

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			<p>and in excess of 250 trailers/tankers.</p> <p>g) Veolia have been in operation at this location for 23 years. The company was founded here in 1997.</p> <p>h) Both companies are seeking expansion of their existing facilities. The FY-I-05 Industrial zoning objective is the only location where both employment/ industrial uses can expand.</p> <p>i) Permission was granted by Cork County Council on these lands under Ref. No. 19/4370 for the construction of a commercial vehicle test centre facility to solely serve the existing South Coast logistics facility. Permission was refused on appeal for the following reason under Ref. ABP-305732-19: <i>“The site of the proposed development is in a designated greenbelt south of the town of Fermoy in a remote rural location and beyond the designated environs of the town of Fermoy. It is an objective of the Cork County Development Plan, relating to this greenbelt, to retain the identity of Fermoy, prevent sprawl, and ensure a distinction in character between its built-up areas and the open countryside by maintaining the greenbelt and reserving it generally for use as agriculture, open space or recreation uses. Furthermore, the provisions of the Fermoy Municipal District Local Area Plan designate substantial lands within the settlement boundary of the environs of Fermoy for employment uses, with extensive lands zoned for business, industrial and distribution uses within the serviced environs of this designated ‘Main Town’. It is considered that the development of a commercial vehicle test centre at this location would constitute an incompatible use within the greenbelt, would significantly intensify commercial/industrial operations in this greenbelt, would contribute substantially to the erosion of the town’s greenbelt, and would constitute an undesirable precedent</i> </p>

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			<p><i>for development of this nature in the immediate vicinity. Furthermore, having regard to the provision for industrial and commercial uses within the serviced environs of Fermoy, it is considered that the proposed development would undermine the role of Fermoy as a designated 'Main Town' and it's role in facilitating sustainable economic development. The proposed development would, therefore, be contrary to the objectives of the Cork County Development Plan, would undermine the orderly development of the town of Fermoy, and would accordingly be contrary to the proper planning and sustainable development of the area."</i></p> <p>j) Cork County Council were very supportive of the scheme in line with Objective RCI 5-6 of the 2014 County Development Plan which states that it is an objective of the Council to "recognise the requirements of long established commercial or institutional uses located entirely within the Greenbelt which may make proposals for expansion/intensification of existing uses."</p> <p>k) The ABP inspector in his report stated that Objective RCI 5-6 cannot be relied upon in the case of the proposed development, however he does not go on to state why. The inspector has stated that "reliance on this objective is completely misplaced and one cannot reasonable lend any weight to this objective when considering this proposal."</p> <p>l) Current County Development Plan policy which supports the expansion of well-established businesses within the green belt is not strong enough for An Bord Pleanála to grant permission for the expansion of a well-established business within a green belt location.</p> <p>m) Cork County Council and the NRA have also previously recognised these lands as having the potential for development.</p>

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			<p>n) Under a Hope Development Case compensation was paid for a CPO of the lands which indicates that both the Council and the NRA are supportive of development in this area and the expansion of existing well-established businesses.</p> <p>o) Submission details the CDP policy context for Fermoy town and the site noting the vision for the town and the provisions of Objective RP 5-15 which states: <i>“Facilitate active uses of the County Metropolitan and Town Greenbelts generally and to encourage proposals which would involve the development of parks, countryside walks or other recreational uses within the Greenbelt. Any built development associated with such uses should not compromise the specific function and character of the greenbelt in the particular area.”</i></p> <p>p) And Objective RP 5-16 which states: <i>“Recognise the requirements of long established commercial or institutional uses located entirely within the Greenbelt which may make proposals for expansion / intensification of existing uses. Such expansion proposals of an appropriate scale would only be considered in special circumstances, having regard to the overall function and open character of the Greenbelt and where development would be in accordance with normal proper planning and sustainable development considerations.”</i></p> <p>q) The adopted CDP zones the subject site (13.98 hectares) as FY-I-05 ‘Industrial Development’: <i>“FY-I-05: Industrial Development, Proposals should include a detailed landscaping plan and on-site SuDS to manage surface water. The Shanowennadrimina Stream, which discharges to the Bride River (part of the</i></p>

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			<p>Blackwater River SAC), traverses the site. Development proposals shall make provision for the protection of this watercourse and its associated riparian zone.”</p> <p>r) Retention of the FY-I-05 ‘Industrial Development’ zoning objective to allow for the expansion of existing employment/ industrial uses in Fermoy.</p> <p>s) It is considered that Objective RP 5-16 is not strong enough to support the expansion of existing uses within the Greenbelt. More emphasis should be placed on the expansion of these uses with a more positive approach to development within these areas.</p> <p>t) It is considered that Objective RP 5-1 is too open to differences in interpretation between the Council and ABP. It is further considered that ABPs decision has undermined the objective by restricting development on the land. The industrial zoning needs to be retained to address these issues and allow a more positive approach to development of the land and expansion of existing uses within the Greenbelt.</p> <p>u) Submission indicates that if the business cannot expand then up to 20- 25 jobs will be lost.</p> <p>v) It is not possible for the business to relocated elsewhere – Veolia is an EPA licenced activity and the licence relates to the current site.</p> <p>w) The FY-I-05 site is considered suitable for industrial development as it has access to water services and roads infrastructure, is close to the facilities of Fermoy town and lies adjacent to existing uses and is not impacted by environmental or heritage designations.</p>

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			x) Submission seeks the retention of the industrial zoning of the land.
11.	Colum McCarthy	DMDCDP433166589	The retail centre is an excellent idea for Carrigtwohill. It will provide much needed employment to students and adults alike. It will also benefit the surrounding towns like Cobh and Midleton and surrounding attractions such as Fota etc.
12.	Con McCarthy - Sandymark	DMDCDP434208705	<p>This submission from Sandymark, a company that develops industrial and logistics warehouse space, references developments they have undertaken in Greenogue and Aerodrome business parks on the Nass Road in Dublin spanning 600 acres and accommodating approximately 500 companies in the business / logistics and warehouse sectors.</p> <p>Submission indicates that the demand for large scale logistics buildings has dramatically increased in recent years due to Brexit and Covid and other factors. Demand also exists for land hungry operators such as the heavy machinery sector (JCB, Liebherr etc) who need large sites for the sale and distribution of plant and machinery and need ready access to the motorway network.</p> <p>There is also an increased demand for buildings that meet the latest standards in terms of energy efficiency and sustainability.</p> <p>An additional emerging trend with the emergency of working for home is to separate the warehouse function and keep it near the motorway, while keeping the back- office end of the business in an urban / town location convenient for employees to get to work etc. This trend has seen the office content of warehouse developments drop from 25% to 10%.</p> <p>Submission indicates that Sandymark are actively looking to develop new distribution / commercial facilities at different locations around the county to meet a growing demand and have been approached re developing the O Flynn site at Fermoy. They have agreed in principle to develop the site along similar lines to Greenogue on the Naas Road, albeit on a smaller scale.</p>

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			<p>The plan is to develop multiple facilities at the location to create the necessary scale to support an estate management company into the future.</p> <p>It is considered that warehousing has no place in a town centre location given the conflicts associated with HGV traffic etc. Operators want easy access to the motorway.</p>
13.	Cork Marts	DMDCDP433753961	<p>Submission is made on behalf of Cork Co-operative Marts, the landowner of MA 3.1.4.16. Submission includes details on the background of the Cork Co-operative Marts Limited as a farmer owned co-operative which was founded in 1956 with six livestock mart locations across Munster. It highlights how Cork Marts has evolved over the past 20 years to maintain long term commercial viability and now have a track record with property development in several locations in Cork.</p> <p>Submission notes that Cork Marts and the National Car Testing Centres have long associations with each other and that Livestock marts have been identified as suitable locations for testing centres since the introduction of the car testing in 2000. Submission highlights that 30% of the total NCT centres in Ireland have been located on Co-op Marts and clearly shows how successful mart sites are for the location of NCT centres. Submission notes that Applus Inspection Services Ireland Limited have expressed strong interest in locating a test centre at Corrin. It suggests other attempts at sourcing a site in Fermoy Town have not been successful after several attempts.</p> <p>Submission notes the Cork Marts acquired the site in Corrin in 1999 to relocate the mart operations from the centre of town and was acquired ahead of final design for the M8 motorway. It argues the site successfully received planning permission for the construction of the new Mart facility after the M8 was constructed, that the site is fully serviced and wishes to highlight that Cork Marts constructed a new roundabout on the Fermoy/</p>

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			<p>Rathcormac road to facilitate the movement of traffic in and out of the site. Submission also states that the planning condition under 06/4305 says that “no further development shall be carried out on the remainder of the lands outlined on map lodged with the Planning Authority on 30/06/06 and 222/11/06 for a period of five years from the date of grant of this permission” and argues this five year period has now long expired therefore providing an opportunity for Applus to develop an NCT centre on this site. Submission states that Cork Marts and Applus were very pleased when the Elected Members of Cork County Council voted to zone the lands at Corrin for an NCT centre and highlights the process to design the centre has already began. The submission requests this zoning is retained in the County Development Plan.</p>
14.	Cork County Council - Members of	DMDCDP433743035	<p>At the request of the full Membership of Council, the Elected Members of Cork County Council had a Special Meeting Requisitioned by the Mayor on Monday 20th June 2022 to discuss the Draft Section 31 Ministerial Direction on the Cork County Development Plan 2022-2028. At that meeting it was formally resolved by Council that the Mayor would make this formal submission on behalf of Council to the Minister for Housing Local Government and Heritage, Cork County Council and the Office of the Planning Regulator during the public consultation process. The submission also includes 3 attachments containing relevant Court Decisions and Orders.</p> <p>The Role of Elected Members - Constitution of Ireland and Local Government Act 2001, as amended.</p> <p>At the outset the submission outlines the legal position of the Local Authority and Elected Members based on Constitution of Ireland and Local Government Act 2001, as amended:</p> <p>A. The relevant Constitutional provisions</p>

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			<p>with regards to the development plan-making powers of the Council and the constitutional status of the Council are: Article 28A.1: "The State recognises the role of local government in providing a forum for the democratic representation of local communities, in exercising and performing at local level powers and functions conferred by law and in promoting by its initiatives the interests of such communities."</p> <p>Article 28A.2: "There shall be such directly elected local authorities as may be determined by law and their powers and functions shall, subject to the provisions of this Constitution, be so determined and shall be exercised and performed in accordance with law."</p> <p>B. S.11(6)of the Local Government Act 2001 (as amended) This section provides as follows: 6) For the purposes of functions conferred on it by or under this or any other enactment— (a) a county council has jurisdiction throughout its administrative area, (b) a city council has jurisdiction throughout its administrative area, (c) a city and county council has jurisdiction throughout its administrative area.</p> <p>Considering the aforementioned provisions which set out clearly the status, democratic obligation and right of local authorities, the Elected Members of Cork County Council are satisfied that the resolution of Council in making the Cork County Development Plan 2022-2028 on 25th April 2022 is consistent with Councils powers and obligations under the Constitution of Ireland and Local Government Act 2001. Moreover it is Councils view that our role and functions as provided for in the Constitution of Ireland and the Local Government Act, in administering legally and appropriately the Planning Code and associated Ministerial Guidelines has</p>

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			<p>already been considered in some detail by the High Court, with that Court finding in our favour on same on two occasions now, that being through the Judicial Review of the Ministers S.31 Direction in the case of Variation No.2 of the County Development Plan 2014 and the Judicial Review proceedings in the matter of the S.9.7 Notice Proceedings.</p> <p>Context - the High Court Judgement & Order in the Case of Section 31 Ministerial Direction Variation No.2 Cork County Development Plan 2014 and from the Judgement in the Case of Section 9.7 Ministers Notification as Regards Preparation of a Joint Retail Strategy</p> <p>The submission sets out in summary form the main order of events over the last two years on these matters and the outcome of same.</p> <p>Variation No.2 of the CCDP 2014 was adopted on the 27th January 2020. The Minister issued a draft direction under S.31 PDA 2000 on the 5th March 2020 resulting in Variation No.2 ceasing to have effect. The Council completed the statutory procedure as set out in S.31. Thereafter, the OPR recommended to the Minister that a S.31 Direction be served. The S.31 Direction was issued on the 23rd December 2020.</p> <p>On 15th March 2021, the Council obtained leave from the High Court to challenge the S.31 direction.</p> <p>On 22nd April 2021, the Draft County Development Plan was published and on the same date the Minister issued a requirement under S.9(7) PDA 2000 by way of two letters addressed to this Council and Cork City Council to “co-ordinate ongoing development plan review processes in respect of specified matters”. On 12th July 2021, the Council obtained leave from the High Court to challenge the S. 9(7)</p>

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			<p>requirement.</p> <p>The substantive Judgment in respect of the S.31 Direction was delivered on the 5th November 2021. Judgement and Order attached to this submission.</p> <p>Delivery of the Judgment relating to the S.9(7) requirement was delivered on the 27th May 2022. Judgement attached, Order awaited at time of writing.</p> <p>Judicial Review of the Ministers S.31 Direction in the Matter of Variation No2 Cork County Development Plan 2014</p> <p>The Council advanced a number of grounds including that the Minister had unlawfully and/or impermissibly sought to interfere with the democratic functions of the Council in commencing the process in Section 31 leading to the issuing of the Direction, by relying on statutory provisions and/or actions which are repugnant to the Constitution.</p> <p>The Judgment was that with regards to the Retail Planning Guidelines, as they are not SPPRs, the standard to meet is that of “have regard to”. The Judge went on to state that “The OPR and the Minister essentially asked the wrong question and based that question on the incorrect premise that an updated joint retail strategy was “required”. An updated joint retail strategy is certainly envisaged by the retail planning guidelines; and moreover envisaged in mandatory language used by the Minister, but that does not make it mandatory or “required”. The only “requirement” is to have regard to the Minister’s views, including the view that such an updated joint retail strategy should be put in place.</p> <p>The High Court Judge’s assessment is that “this was not a borderline case, a decision on points or a line call. It was a win in straight sets”.</p>

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			<p>The High Court determined that the S.31 Direction was fundamentally flawed from the outset, the Judge did not determine the other grounds, including whether the democratic functions of the Council had been infringed, as it was unnecessary to do so..</p> <p>This case is currently under appeal. The appeal will be heard in the Court of Appeal on the 30th June and 1st July. If the appeal is to be successful, the Minister and OPR will, in the words of the learned Judge, “have to surmount the council’s other points” that the Judge did not have to decide, including the constitutional matter.</p> <p>Judicial Review of the Ministers S9(7) Notice</p> <p>The submission outlines that the Council advanced a number of grounds, where it was held on the 27th May 2022 that the Minister had pre-emptively involved himself in the Joint Retail Strategy process, the Minister had escalated into a dispute a matter that neither of the councils were concerned with escalating by extending the meaning of “dispute” to “cover a mere lack of agreement” and that there was a lack of fair procedures in the absence of advance notice of the S.9(7) requirement being issued and that the “direction in and of itself trammels the statutory functions of the council”.</p> <p>As a result of the Judgment, the S.9(7) requirement will be quashed.</p> <p>Draft Direction in the Matter of Cork County Development Plan 2022-2028</p> <p>The submission states that prior to the delivery of the Judgment in the S.9(7) case on 27th May 2022, the Office of the Planning Regulator recommended the issuing of a draft direction under S.31 to</p>

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			<p>the Minister in respect of the recently adopted CDP. Following delivery of the Judgment, the Minister issued a draft direction under which, amongst other matters, the Council is required to “Delete the amended additional provisions for ‘Retail Outlet Centres...’” inserted in the recently adopted CDP and to complete a Joint Retail Strategy with Cork City Council within 12 months of the adoption of both local authorities development plans, that there is an alleged failure to “follow” the Retail Planning Guidelines and in the cover letter to the draft direction, the Minister does acknowledge the delivery of the Judgment relating to the S.9(7) requirement but states that the judgment did not “...form part of the forming of my Opinion or the Statement of Reasons...”.</p> <p>Amendments to which the Section 31 Draft Ministerial Direction of the 3rd June 2022 Relate</p> <p>The Elected Members believe that they put forward strong arguments in favour of these Amendments having regard to various Government Guidelines and the proper planning and sustainable development of the area.</p> <p>Material Amendment MA No.1.9.16 RETAIL: NEW PARAGRAPH 9.5.7 JOINT RETAIL STUDY FOR METROPOLITAN CORK</p> <p>Material Amendment MA No. 1.9.20 RETAIL: UPDATE TO PARAGRAPHS 9.11.9 TO 9.11.13 ON RETAIL OUTLET CENTRES</p> <p>Material Amendment MA No. 5.2.6.27(a) BANTRY: REMOVE BT-AG-01 AND REPLACE WITH NEW ZONING OBJECTIVES INCLUDING NEW RESIDENTIAL. In relation to MA No.5.2.6.27(a) Members voted to zone this site for residential development as these lands are required to meet the housing targets for Bantry. The site was assessed for infrastructure and</p>

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			<p>was considered to be Tier 2.</p> <p>Material Amendment MA No. 4.2.3.41 CARRIGTWOHILL: CHANGE CT-R-18 FROM MEDIUM A DENSITY TO MEDIUM B DENSITY</p> <p>Material Amendment MA No. 4.2.3.43 CARRIGTWOHILL: CHANGE DENSITY OF CT-R-04 FROM HIGH TO MEDIUM A.</p> <p>In relation to MA 4.2.3.41 and MA 4.2.3.43 Members view is that given the significant levels of population and housing growth proposed and level of high density zoning already proposed in Carrigtwohill (29.3ha) that there is a need to make provision for a better mix of densities to accommodate a good social mix and allow residents to trade up to lower density housing with the settlement without having to leave it.</p> <p>Material Amendment MA No. 3.1.4.15 FERMOY: NEW INDUSTRIAL SITE CORRIN In relation to MA No. 3.1.4.15 it is the Members view that it would facilitate the expansion of existing established uses on adjoining sites and given that site is fully serviced with good road connectivity.</p> <p>Material Amendment MA No. 3.1.4.16 FERMOY: NEW SPECIAL POLICY AREA CORRIN In relation to MA No. 3.1.4.16 it is the Members view that it will facilitate the expansion of existing established uses on adjoining sites and given that site is fully serviced with good road connectivity.</p> <p>The submission states that overall it is the Elected Members view that the Office of the Planning Regulator, in recommending a Draft Direction be issued in relation to the 7 Amendments set out above, failed to have due regard to the statutory functions of the Council in making the Development Plan – statutory functions that are provided for in the Constitution of Ireland and Local Government Act 2001 as amended, but</p>

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			<p>also as regards the expressed democratic role and responsibilities for the making of a Development Plan in the administrative area of the Council as provided for under Section 9 and Section 12 of the Planning and Development Act 2000, as amended.</p> <p>Conclusion The submission concludes by stating that the Elected Members of Cork County Council are satisfied that when making the Cork County Development Plan 2022-2028 that the prescribed processes as set out in the Planning and Development Act 2000, as amended were discharged appropriately and as a result the 7 Amendments included in the S.31 Ministerial Draft Direction can be said to be consistent with the proper planning and sustainable development of the area. Furthermore it is the Members view that in the case of each of the 7 Amendments, that they had regard to Ministerial Guidelines as required and in a manner that has previously been found to be more than sufficient by the High Court.</p> <p>It is the Members view that in Recommending the Draft Direction be issued, the Office of the Planning Regulator has revisited the issues previously considered by the High Court in the case of the S.31 Direction as regards Variation No2 and in the case of the S.9.7 Notice: this is their view in terms of the Elected Members role in making policy after having regard to the advices of the Chief Executive and having had regard to Ministerial Guidelines, and indeed following due consideration of submissions to the Draft Plan / Amendments by stakeholders, including the Office of the Planning Regulator.</p> <p>As such it is the Members view that the Office of the Planning Regulator would appear to have ignored the findings of the High Court on matters relating to the rights and obligations of the Elected Members of Cork County Council to make policy for their administrative area. Indeed, it is</p>

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			<p>argued that the Minister did likewise in accepting the Recommendation and issuing the Draft Direction. To paraphrase Judge Humphries, the wrong question has been asked again with the ultimate effect being that the Draft Direction ‘trammels the statutory functions of the council’.</p> <p>The submission states that it is noteworthy that while the Office of the Planning Regulator has taken a stringent interpretation of Ministerial Guidelines in the 7 Amendments set out in the Draft Direction, a similar approach was not taken to the interpretation of other Ministerial Guidelines and/or indeed when considering the views of the National Parks and Wildlife Services.</p> <p>It is the Members view and it would appear that of the High Court, that the Constitution of Ireland, the Local Government Act 2001, as amended, and the Planning and Development Act 2000, as amended, provide the Elected Members with the legal and statutory framework to make the Cork County Development Plan 2022-2028 as resolved on 25th April 2022 and in that context the Ministers Draft Direction (and the Office of the Planning Regulators Recommendation on which it is based) is fundamentally flawed, and undermines completely the statutory and democratic role of the Council, a matter that Government is expected to protect for the proper functioning of the democratic arms of the State.</p> <p>The submission concludes that the Elected Members of Cork County Council are firmly of the view that the Minister should not issue a Direction for any of the matters arising in the Draft Direction, in the event the Office of the Planning Regulator continues to ignore the fact that the obligations of Council were properly discharged when giving effect to the Members democratic mandate when making the Cork County Development Plan</p>

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			<p>2022-2028 for the administrative area of Cork County Council. The submission further concludes that to undermine the democratic mandate of Council when properly and appropriately discharged is to undermine the principles of proper planning and sustainable development.</p>
15.	Councillor Alan O'Connor	DMDCDP433836427	<p>This submission is in agreement with the opinion of the Office of the Planning Regulator and with that of the Minister as expressed in the draft direction. The submitter notes that his voting record in council has borne this out, albeit in each case finding himself among a small minority.</p> <p>Carrigtwohill: As a resident of Carrigtwohill, the submitter is supportive of the higher densities proposed for Carrigtwohill (and elsewhere), and does not support the notion of a retail outlet centre, either in Carrigtwohill, or anywhere else.</p> <p>Density: In relation to densities, the submission notes that a perpetuation of lower density residential development of the type which has been generally practiced in Ireland for approximately the last 50 years would constitute a policy of continued urban sprawl, and associated car-dependency. The submission argues that in line with a serious attitude to the climate crisis, and to sustainability overall, there is a need to cease suburban development, and begin to take a more compact, high density, urban approach development. The submission states that developers must recognise and adapt to this need, but it is the duty of all stakeholders to take responsibility for their actions in the face of climate change. The submission notes that new sustainable and compact settlement guidelines are urgently needed to facilitate this transition and that such guidelines should allow for the reinstatement of older patterns of urban development; prioritise sustainability by reducing in importance the place of the</p>

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			<p>car; and should be designed to provide homes for residents of all income levels and needs within that urban setting. The submission notes that the alternative is a mix of semi-detached and detached development in a business-as-usual pattern, with a sprinkling of apartment buildings to increase density on a given site and that such a model would remain car dependent.</p> <p>Retail Outlet Centre: The submission notes that with respect to a proposed retail outlet centre, similar concerns are raised regarding the feasibility study which preceded the adoption of the variation into the county development plan was predicated on an assumed modal share of 95% of journeys generated by the retail outlet centre being by private car. The submission states that such a car-dependent proposal has no place in any development plan which supposedly has sustainable development at its heart, and which should be designed to frame the patterns of development necessary to help avert the worst effects of climate change. National policies, guidelines, political authority, etc., and relationship with that of local authorities:</p> <p>The submission states that this draft ministerial direction, and the related court proceeding between Cork County Council and the Minister in relation to the proposed retail outlet centre, have brought to the fore issues in the relationship between national policies, guidelines, political authority, and the exercise by a local authority of its powers in its jurisdiction.</p> <p>The submission also states that the recent court rulings which concluded that the council's need to have regard to certain guidelines did not require that the council comply with those guidelines, effectively made a dead letter of all national guidelines with such language and by this definition, 'have regard to' can also be interpreted as 'disregard at will.'</p>

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			<p>The submission further states that as well as those guidelines which the local authority was to 'have regard to,' it would seem that a specific planning policy requirement (no.4), where it is understood that a local authority must 'comply with,' has also been disregarded in making the development plan, with respect to densities.</p> <p>Although the submitter agrees with the minister's opinion in the substance of this direction, it is also noted that, that does not mean that good policy is necessarily the sole preserve of national authority. The submission puts forward an example of this whereas part of Cork County Council's pre-draft development plan deliberations the submitter had proposed that that Council would insert language which opposed the construction of new large-scale fossil fuel infrastructure which was defeated by vote. The submission notes that the reasons given were many, including that national policy was interpreted as foreseeing the continued, medium-term usage of fossil gas, as a 'transition fuel.' In this case, the submission argues had the proposal been voted through, that it would have been worth pursuing and defending in the courts and would have been an example of a local authority taking stronger action on sustainability than those outlined by national policy.</p> <p>The submission concludes that aside from specific issues which were the subject of this direction that it is important that the relationships, obligations, and powers of ministers, national policies, national guidelines, statutory bodies, local authorities and local councillors, are more robustly clarified and defined. The submission states that similar disputes should not waste the valuable time needed for all stakeholders to act towards the goal of getting our country on a climate-ready footing as soon as possible, in line with Ireland's international commitments and the core principle of sustainability of local</p>

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			authority development plans constructed under the guidance of local councillors.
16.	Councillor Anthony Barry,	DMDCDP433794101	<p>This submission does not support the draft direction, and states that it is both disappointing and sad to see that the Minister and The Office of the Planning Regulator feel that community and social sustainability does no longer matter in the context of sustainable development.</p> <p>MA 4.2.41 and MA 4.2.43: Density The submission states that, under the Guidelines for Planning Authorities on sustainable development in urban cities, towns and villages, the OPR assumes all residential development within 1km of a railway station should be high density. The submission states that clearly, when reading the guidelines, that flexibility can be used in certain instances like Carrigtwohill which it notes does not currently nor will it have in the near future, anything like the level of social infrastructure needed to accommodate the volume of population growth planned for the town.</p> <p>The submission argues that in developing a sustainable community, a choice in housing typology is essential to satisfy the needs and demands of those wishing to call Carrigtwohill their home and states that even with these amendments included in the CDP, Carrigtwohill would have a disproportionate amount of high density relative to other towns in the metropolitan area. It is also noted that the inability to develop and sell the nearly completed apartment complex in Castlelake for the last twelve years serves as a reminder as to the lack of demand for this type of development, bearing in mind that we are in the middle of the worst housing crisis since the foundation of the state. The submission suggests that balance and choice in housing will be key in ensuring Carrigtwohill develops into a thriving sustainable community of which we can all be proud. Finally, on this issue the submission notes that the members of Cork</p>

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			<p>County Council spent many hours debating the merits of these amendments and overwhelmingly passed them on the basis that housing balance was needed to develop Carrigtwohill in a socially, sustainable way and that this decision was not made lightly by the democratically elected body representing the Community and the submitter sincerely hopes their decision will be upheld and respected.</p> <p>MA 1.9 .16: Retail</p> <p>The submission states that Cork County Council is made up of members elected by the people of Cork County to represent their best interests both socially and economically, noting that if a project of this nature was developed in Carrigtwohill, that the economic benefits to the entire Cork region would be enormous. The submission states that we in Ireland have a very transparent and robust planning system and at the very least this process should be allowed run its course. The submitter states that he has no doubt these decisions will be made by our courts but the cost to the state both financially and more importantly politically will be excessive and needless. The submission states that on one hand, the Minister and the OPR want to see a large increase in population in the East Cork region but are now trying to prevent much needed jobs, in particular for students and part time workers which the retail outlet would potentially deliver. The submission states that the argument that this project is unsustainable is again questionable as the public transport system serving the site is more than adequate and also notes that the vast number of consumers travelling to Kildare Outlet Centre from the Southern region will continue. The submission concludes by stating that this process will no doubt be resolved by going through the Court system, and also states that this interference by an unelected quango supported by the Minister will have a</p>

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			serious long term and detrimental effect on Local Government in this State.
17.	Councillor Frank O'Flynn	DMDCDP433739149	<p>This submission supports the approval of zoning - MS 3.1.4.16 Fermoy: New Special Policy Area FY-X-01.</p> <p>Marts in Ireland have had a long association through ICOS with NCT Centres providing locations for 14 and Cork Marts has them throughout Munster. Cork Marts constructed a new roundabout in 2008 away from interchanges and put in place measures to facilitate safe entrance/exit specifically to the Corrin Mart site on the Fermoy to Rathcormac (old Cork) road - planning reference 06/4305. They wish to facilitate a much-needed NCT centre in Corrin which is ideally situated on the Fermoy/Rathcormac road, easily accessible with good road connectivity, fully serviced with water, sewage, surface water, state of the art broadband, catering services, and linked to Fermoy Waste Water Treatment Plant.</p> <p>A NCT centre is very much needed in this area which covers a very large hinterland. As well as serving all North Cork, which has a population equivalent to Limerick City and County, it would serve nearby South Limerick, South Tipperary and West Waterford.</p> <p>Recognising the need, Cork County Council voted by a large majority to zone the land at Corrin, Fermoy for an NCT Centre. Submission supports this as it is a rare opportunity to develop a much-needed NCT centre in North Cork.</p>
18.	Councillor Frank O'Flynn	DMDCDP433735299	<p>This new industrial site for Fermoy - site FY-I-05 - is an opportunity site which adjoins existing businesses e.g. Veolia, Flyco Engineering, Specto Logistics and Southcoast. All these nearby businesses wish to expand at this location because of the nature of their use, size, scale, operational requirements etc. EPA licenced uses will be required to be located alongside their existing business bases.</p>

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			<p>Veolia, one of the nearby companies is a licensed facility by the EPA which only allows it to expand nearby because of the processes involved.</p> <p>This land has all the facilities e.g., water, sewerage, surface water, three phase electricity, high speed fibre optic broadband. It has ease of access and is within cycling and walking distance of Fermoy town and is served by Bus Eireann route number 245 transport.</p> <p>The provision of the zoning of this land would enable the existing businesses to expand, leading to the sustainable development of these businesses and would lead to much needed employment in the area.</p> <p>Cork County Council voted by a large majority to zone this land at Corrin, Fermoy for industrial use, and submitter wishes to fully support this zoning.</p>
19.	Councillor Kay Dawson,	DMDCDP433839072	<p>This submission supports Material Amendment MA No 3.1.4.15 Fermoy New industrial Site Corrin as it would facilitate the expansion of the existing site. The site is fully serviced and has good road connectivity. It has the potential to further enhance growth in the economy of the surrounding area.</p> <p>It also supports Material Amendment MA No. 3.1.4.16 - Fermoy New Special Policy Area Corrin as it would facilitate the expansion of existing establishment use on adjoining site. The site is fully serviced with good road connectivity.</p>
20.	Councillor, Michael Hegarty,	DMDCDP434959446.	<p>At the request of the full Membership of Council, the Elected Members of Cork County Council had a Special Meeting Requisitioned by the Mayor on Monday 20th June 2022 to discuss the Draft Section 31 Ministerial Direction on the Cork County Development Plan 2022-2028. At that meeting it was formally resolved by Council that the Mayor would make this formal submission on behalf of Council to the</p>

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			<p>Minister for Housing Local Government and Heritage, Cork County Council and the Office of the Planning Regulator during the public consultation process. The submission also includes 3 attachments containing relevant Court Decisions and Orders.</p> <p>The Role of Elected Members - Constitution of Ireland and Local Government Act 2001, as amended.</p> <p>At the outset the submission outlines the legal position of the Local Authority and Elected Members based on Constitution of Ireland and Local Government Act 2001, as amended:</p> <p>A. The relevant Constitutional provisions with regards to the development plan-making powers of the Council and the constitutional status of the Council are: Article 28A.1: “The State recognises the role of local government in providing a forum for the democratic representation of local communities, in exercising and performing at local level powers and functions conferred by law and in promoting by its initiatives the interests of such communities.”</p> <p>Article 28A.2: “There shall be such directly elected local authorities as may be determined by law and their powers and functions shall, subject to the provisions of this Constitution, be so determined and shall be exercised and performed in accordance with law.”</p> <p>B. S.11(6)of the Local Government Act 2001 (as amended) This section provides as follows: 6) For the purposes of functions conferred on it by or under this or any other enactment— (a) a county council has jurisdiction throughout its administrative area, (b) a city council has jurisdiction throughout its administrative area, (c) a city and county council has jurisdiction</p>

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			<p>throughout its administrative area.</p> <p>Considering the aforementioned provisions which set out clearly the status, democratic obligation and right of local authorities, the Elected Members of Cork County Council are satisfied that the resolution of Council in making the Cork County Development Plan 2022-2028 on 25th April 2022 is consistent with Councils powers and obligations under the Constitution of Ireland and Local Government Act 2001. Moreover it is Councils view that our role and functions as provided for in the Constitution of Ireland and the Local Government Act, in administering legally and appropriately the Planning Code and associated Ministerial Guidelines has already been considered in some detail by the High Court, with that Court finding in our favour on same on two occasions now, that being through the Judicial Review of the Ministers S.31 Direction in the case of Variation No.2 of the County Development Plan 2014 and the Judicial Review proceedings in the matter of the S.9.7 Notice Proceedings.</p> <p>Context - the High Court Judgement & Order in the Case of Section 31 Ministerial Direction Variation No.2 Cork County Development Plan 2014 and from the Judgement in the Case of Section 9.7 Ministers Notification as Regards Preparation of a Joint Retail Strategy</p> <p>The submission sets out in summary form the main order of events over the last two years on these matters and the outcome of same.</p> <p>Variation No.2 of the CCDP 2014 was adopted on the 27th January 2020. The Minister issued a draft direction under S.31 PDA 2000 on the 5th March 2020 resulting in Variation No.2 ceasing to have effect. The Council completed the statutory procedure as set out in S.31. Thereafter, the OPR recommended to the Minister that</p>

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			<p>a S.31 Direction be served. The S.31 Direction was issued on the 23rd December 2020.</p> <p>On 15th March 2021, the Council obtained leave from the High Court to challenge the S.31 direction.</p> <p>On 22nd April 2021, the Draft County Development Plan was published and on the same date the Minister issued a requirement under S.9(7) PDA 2000 by way of two letters addressed to this Council and Cork City Council to “co-ordinate ongoing development plan review processes in respect of specified matters”. On 12th July 2021, the Council obtained leave from the High Court to challenge the S. 9(7) requirement.</p> <p>The substantive Judgment in respect of the S.31 Direction was delivered on the 5th November 2021. Judgement and Order attached to this submission.</p> <p>Delivery of the Judgment relating to the S.9(7) requirement was delivered on the 27th May 2022. Judgement attached, Order awaited at time of writing.</p> <p>Judicial Review of the Ministers S.31 Direction in the Matter of Variation No2 Cork County Development Plan 2014</p> <p>The Council advanced a number of grounds including that the Minister had unlawfully and/or impermissibly sought to interfere with the democratic functions of the Council in commencing the process in Section 31 leading to the issuing of the Direction, by relying on statutory provisions and/or actions which are repugnant to the Constitution.</p> <p>The Judgment was that with regards to the Retail Planning Guidelines, as they are not SPPRs, the standard to meet is that of “have regard to”. The Judge went on to state that “The OPR and the Minister</p>

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			<p>essentially asked the wrong question and based that question on the incorrect premise that an updated joint retail strategy was “required”. An updated joint retail strategy is certainly envisaged by the retail planning guidelines; and moreover envisaged in mandatory language used by the Minister, but that does not make it mandatory or “required”. The only “requirement” is to have regard to the Minister’s views, including the view that such an updated joint retail strategy should be put in place.</p> <p>The High Court Judge’s assessment is that “this was not a borderline case, a decision on points or a line call. It was a win in straight sets”.</p> <p>The High Court determined that the S.31 Direction was fundamentally flawed from the outset, the Judge did not determine the other grounds, including whether the democratic functions of the Council had been infringed, as it was unnecessary to do so..</p> <p>This case is currently under appeal. The appeal will be heard in the Court of Appeal on the 30th June and 1st July. If the appeal is to be successful, the Minister and OPR will, in the words of the learned Judge, “have to surmount the council’s other points” that the Judge did not have to decide, including the constitutional matter.</p> <p>Judicial Review of the Ministers S9(7) Notice</p> <p>The submission outlines that the Council advanced a number of grounds, where it was held on the 27th May 2022 that the Minister had pre-emptively involved himself in the Joint Retail Strategy process, the Minister had escalated into a dispute a matter that neither of the councils were concerned with escalating by extending the meaning of “dispute” to “cover a mere lack of agreement” and that there was a lack of</p>

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			<p>fair procedures in the absence of advance notice of the S.9(7) requirement being issued and that the “direction in and of itself trammels the statutory functions of the council”.</p> <p>As a result of the Judgment, the S.9(7) requirement will be quashed.</p> <p>Draft Direction in the Matter of Cork County Development Plan 2022-2028</p> <p>The submission states that prior to the delivery of the Judgment in the S.9(7) case on 27th May 2022, the Office of the Planning Regulator recommended the issuing of a draft direction under S.31 to the Minister in respect of the recently adopted CDP. Following delivery of the Judgment, the Minister issued a draft direction under which, amongst other matters, the Council is required to “Delete the amended additional provisions for ‘Retail Outlet Centres...’” inserted in the recently adopted CDP and to complete a Joint Retail Strategy with Cork City Council within 12 months of the adoption of both local authorities development plans, that there is an alleged failure to “follow” the Retail Planning Guidelines and in the cover letter to the draft direction, the Minister does acknowledge the delivery of the Judgment relating to the S.9(7) requirement but states that the judgment did not “...form part of the forming of my Opinion or the Statement of Reasons...”.</p> <p>Amendments to which the Section 31 Draft Ministerial Direction of the 3rd June 2022 Relate</p> <p>The Elected Members believe that they put forward strong arguments in favour of these Amendments having regard to various Government Guidelines and the proper planning and sustainable development of the area.</p>

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			<p>Material Amendment MA No.1.9.16 RETAIL: NEW PARAGRAPH 9.5.7 JOINT RETAIL STUDY FOR METROPOLITAN CORK</p> <p>Material Amendment MA No. 1.9.20 RETAIL: UPDATE TO PARAGRAPHS 9.11.9 TO 9.11.13 ON RETAIL OUTLET CENTRES</p> <p>Material Amendment MA No. 5.2.6.27(a) BANTRY: REMOVE BT-AG-01 AND REPLACE WITH NEW ZONING OBJECTIVES INCLUDING NEW RESIDENTIAL. In relation to MA No.5.2.6.27(a) Members voted to zone this site for residential development as these lands are required to meet the housing targets for Bantry. The site was assessed for infrastructure and was considered to be Tier 2.</p> <p>Material Amendment MA No. 4.2.3.41 CARRIGTWOHILL: CHANGE CT-R-18 FROM MEDIUM A DENSITY TO MEDIUM B DENSITY</p> <p>Material Amendment MA No. 4.2.3.43 CARRIGTWOHILL: CHANGE DENSITY OF CT- R-04 FROM HIGH TO MEDIUM A.</p> <p>In relation to MA 4.2.3.41 and MA 4.2.3.43 Members view is that given the significant levels of population and housing growth proposed and level of high density zoning already proposed in Carrigtwohill (29.3ha) that there is a need to make provision for a better mix of densities to accommodate a good social mix and allow residents to trade up to lower density housing with the settlement without having to leave it.</p> <p>Material Amendment MA No. 3.1.4.15 FERMOY: NEW INDUSTRIAL SITE CORRIN In relation to MA No. 3.1.4.15 it is the Members view that it would facilitate the expansion of existing established uses on adjoining sites and given that site is fully serviced with good road connectivity.</p> <p>Material Amendment MA No. 3.1.4.16</p>

Item No	Name	Submission Reference Number	Summary
			<p>FERMOY: NEW SPECIAL POLICY AREA CORRIN</p> <p>In relation to MA No. 3.1.4.16 it is the Members view that it will facilitate the expansion of existing established uses on adjoining sites and given that site is fully serviced with good road connectivity.</p> <p>The submission states that overall it is the Elected Members view that the Office of the Planning Regulator, in recommending a Draft Direction be issued in relation to the 7 Amendments set out above, failed to have due regard to the statutory functions of the Council in making the Development Plan – statutory functions that are provided for in the Constitution of Ireland and Local Government Act 2001 as amended, but also as regards the expressed democratic role and responsibilities for the making of a Development Plan in the administrative area of the Council as provided for under Section 9 and Section 12 of the Planning and Development Act 2000, as amended.</p> <p>Conclusion</p> <p>The submission concludes by stating that the Elected Members of Cork County Council are satisfied that when making the Cork County Development Plan 2022-2028 that the prescribed processes as set out in the Planning and Development Act 2000, as amended were discharged appropriately and as a result the 7 Amendments included in the S.31 Ministerial Draft Direction can be said to be consistent with the proper planning and sustainable development of the area. Furthermore it is the Members view that in the case of each of the 7 Amendments, that they had regard to Ministerial Guidelines as required and in a manner that has previously been found to be more than sufficient by the High Court.</p> <p>It is the Members view that in Recommending the Draft Direction be issued, the Office of the Planning Regulator has revisited the issues previously considered by the High Court in the case of</p>

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			<p>the S.31 Direction as regards Variation No2 and in the case of the S.9.7 Notice: this is their view in terms of the Elected Members role in making policy after having regard to the advices of the Chief Executive and having had regard to Ministerial Guidelines, and indeed following due consideration of submissions to the Draft Plan / Amendments by stakeholders, including the Office of the Planning Regulator.</p> <p>As such it is the Members view that the Office of the Planning Regulator would appear to have ignored the findings of the High Court on matters relating to the rights and obligations of the Elected Members of Cork County Council to make policy for their administrative area. Indeed, it is argued that the Minister did likewise in accepting the Recommendation and issuing the Draft Direction. To paraphrase Judge Humphries, the wrong question has been asked again with the ultimate effect being that the Draft Direction ‘trammels the statutory functions of the council’.</p> <p>The submission states that it is noteworthy that while the Office of the Planning Regulator has taken a stringent interpretation of Ministerial Guidelines in the 7 Amendments set out in the Draft Direction, a similar approach was not taken to the interpretation of other Ministerial Guidelines and/or indeed when considering the views of the National Parks and Wildlife Services.</p> <p>It is the Members view and it would appear that of the High Court, that the Constitution of Ireland, the Local Government Act 2001, as amended, and the Planning and Development Act 2000, as amended, provide the Elected Members with the legal and statutory framework to make the Cork County Development Plan 2022-2028 as resolved on 25th April 2022 and in that context the Ministers Draft Direction (and the Office of the Planning Regulators Recommendation on which it is</p>

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			<p>based) is fundamentally flawed, and undermines completely the statutory and democratic role of the Council, a matter that Government is expected to protect for the proper functioning of the democratic arms of the State.</p> <p>The submission concludes that the Elected Members of Cork County Council are firmly of the view that the Minister should not issue a Direction for any of the matters arising in the Draft Direction, in the event the Office of the Planning Regulator continues to ignore the fact that the obligations of Council were properly discharged when giving effect to the Members democratic mandate when making the Cork County Development Plan 2022-2028 for the administrative area of Cork County Council. The submission further concludes that to undermine the democratic mandate of Council when properly and appropriately discharged is to undermine the principles of proper planning and sustainable development.</p>
21.	Cllr. Patrick Gerard Murphy & Cllr. Joe Carroll	DMDCDP433885341	<p>This submission from Cllr. Patrick Gerard Murphy & Cllr. Joe Carroll states that they are satisfied that when making the Cork County Development Plan 2022-2028 that the prescribed processes set out in the Planning and Development Act 2000 as amended were discharged appropriately and as a result the 7 Amendments included in the 5.31 Ministerial Draft Direction can be said to be consistent with the proper planning and sustainable development of the area.</p> <p>It is stated that it is the submitters' view that in the case of each of the 7 amendments that the Elected Members had regard to Ministerial Guidelines as required. It is also stated that as locally Elected Members with a Democratic Mandate and while having regard to the Ministerial Guidelines it was incumbent on the submitters to adopt a plan that was fit for purpose and would achieve the proper planning and sustainable development of their</p>

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			<p>respective local areas.</p> <p>The submission notes that National Ministerial Guidelines, while providing important guidance in the formation of a County Development Plan, should not be slavishly adhered to in adopting a plan that is not fit for purpose and detrimental to the proper planning and sustainable development of local areas. The submitters, as Local Elected Members state that they used their considerable local knowledge of their respective areas, to ensure the plan adopted was in the best interests of our area and the Citizens who live in that area.</p> <p>The submission made by Mayor Danny Collins on behalf of the Elected Members of Cork County Council is also referenced. The submission notes that as Members of The West Cork Municipal District, the submitters would like to comment in more detail on the Ministerial Amendment MA No, 5.2.6.27(a) - Bantry to remove BT-AG-01 and replace with new zoning objective including residential.</p> <p>The submission notes that while Bantry is not a key town it has been given a particular designation in the Regional Spatial and Economic Strategy as a driver of economic development in this peripheral rural area of West Cork and the particular references in the Regional Spatial and Economic Strategy to the enhanced role for Bantry are summarised in italics as follows:</p> <p><i>Table 3.3 Key Towns (page 47 of RSES)</i> <i>In Chapter 3, the following text is included in the table setting out the region's 14 Key Towns, to acknowledge a specific strengthened role for West Cork and Bantry in particular.</i> <i>Clonakilty: Key sub regional role in network of strong towns, significant employment role with potential enhanced role in combination with other West Cork settlements such as Skibbereen and Bantry as service centres for West Cork within the next county development plan review.</i></p>

Item No	Name	Submission Reference Number	Summary
			<p><i>2.0 Regional Policy Objective 23 Clonakilty (page 83 of RSES)</i> <i>While Clonakilty is a key town, the important role of all settlements in West Cork on the N71 Corridor, including an enhanced role for Bantry, is integrated into the objective as follows:</i> <i>(b): Leverage its strategic location and accessibility on the N71 road corridor, sharing strengths with other settlements in West Cork, including an enhanced role for Bantry as part of the next County Development Plan review.</i> <i>(c): Seek investment to support attributes and the sustainable delivery of infrastructure, including enhanced inter-regional connectivity (transport networks and digital) for all key settlements along the N71 road corridor to the Cork metropolitan area, Port of Cork and Cork Airport.</i></p> <p><i>3.0 Regional Networks (page 91 of RSES)</i> <i>The strength of combined assets across a number of settlements and potential for joint projects/collaboration between settlements, as drivers for regional growth, is a strategic opportunity for the region and supported by objectives RPO 28 Collaboration/Partnership, RPO 29 Rural Settlement Networks and RPO 30 Inter-Urban Networks as Regional Drivers of Collaboration and Growth. Infrastructure investment, especially to improve transport and digital connections, is sought and County Development Plans will drive forward initiatives and further details for these networks. A strategic opportunity and role for West Cork is included and the RSES states:</i> <i>West Cork Marine Network: A network based on the N71 West Cork to South Kerry Corridor across settlements of Clonakilty as the Key Town with Skibbereen, Bantry, Schull and Castletownbere, leveraging significant marine economy, tourism, food and beverage, digital and other assets with strategic transport connections to the Cork Metropolitan Area.</i></p>

Item No	Name	Submission Reference Number	Summary
			<p>The submission states that the above mentioned RSES enhanced role for Bantry informed the Local Elected Representatives as to the importance of Bantry as an economic driver for the West Cork Region and that the Elected Representatives were conscious to ensure there was sufficient residentially zoned land to allow for the growth and development of Bantry.</p> <p>The submission states that the Land in question was zoned residential in the 2017 West Cork Municipal District Local Area Plan and is considered Tier 2 in the 2022-2028 County Development Plan. The submission states that the Elected Representatives would also have considered the Development Plan Guidelines for Planning Authorities, Draft for Consultation August 2021 Prepared by the Department of Housing, Local Government and Heritage and the following extracts (below in italics) informed their thinking in the formation of the 2022-2028 County Development Plan.</p> <p><i>4.4.1 Page 53/54 Land/Sites Already Zoned Land and sites already zoned for residential purposes may be regarded as providing a baseline, or starting point to meet projected population and housing targets, especially in cases where planning permission has already been granted, based on the presumption that land subject to planning permission is already serviced or serviceable. Should it be the case that there is a surplus of well-located zoned and fully serviced land to meet population and housing supply targets already zoned for development in any local authority area when reviewing a development plan, it is recommended that a phased approach be taken to prioritise and rank the preferred sequence of development of such sites.</i></p> <p>The submission states that the Elected Representatives of West Cork would have</p>

Item No	Name	Submission Reference Number	Summary
			<p>attended a number of conferences which were attended by Minister Darragh O'Brien and Minister Peter Burke and that speaking at these conferences both Ministers would have expressed opinions that any zoned land that is serviced should not be de-zoned but prioritised on a phased approach. The submission states that in taking this direction on board as Local Representatives maintained as much existing residentially zoned land as possible while phasing it with the introduction of residential reserve zoning for land with access and connectivity issues.</p> <p>The submission states that development of residentially zoned land in Bantry has many constraints including access and connectivity, ownership, and topography and as stated in the Development Plan Guidelines for Local Authorities (below in italics) sufficient headroom of residentially zoned land has to be provided for in Bantry.</p> <p><i>4.4.3 Ensuring Sufficient Provision of Housing Lands/Sites Page 54</i></p> <p><i>In providing housing sites for development within settlements, it may be necessary to zone more serviced land and sites for residential (or a mixture of residential and other uses), than would equate to meeting precisely the projected housing demand for that settlement. This approach recognises that a degree of choice in development sites to be provided locally is desirable to avoid restricting the supply of new housing development through inactivity on a particular landholding or site. In making provision for housing within settlements in the core strategy of a development plan, in certain instances a planning authority may therefore provide zoned residential sites in addition to those required to meet the settlement housing supply target. This means that a planning authority, after identifying the site/land requirements to meet the housing supply target for that settlement, may also identify additional sites/lands to ensure sufficient choice for</i></p>

Item No	Name	Submission Reference Number	Summary
			<p><i>development potential is safeguarded</i></p> <p>The submitters' state that as Local Representatives they are extremely concerned that if this parcel of land is de-zoned there will be insufficient residentially zoned land with headroom to achieve the growth targets for Bantry. The submission also states that taking account of all that is outlined in this submission, they as Local Public Representatives are committed to the 2022-2028 Cork County Development Plan which is based on National Guidelines, Regional Spatial and Economic Strategy, Development Plans Guidelines, the constraints of the topography of Bantry, and more importantly local knowledge of the barriers to delivery of some of the residentially zoned land.</p> <p>The submission concludes by urging a serious reconsideration of the Draft Ministerial Direction and the submitters firmly believe that the entirety of Cork County Development Plan 2022-2028, after 2 years of development, is consistent with the proper planning and sustainable development of Cork County.</p>
22.	Evelyn Forde	DMDCDP431971765	<p>The submitter strongly objects to the socially unsustainable type of Development that is being proposed for Carrigtwohill. It is considered that the needs of the existing and growing community must be properly assessed and reflected in a planning decision which is consistent with the concept of sustainable development. Consideration should also be given to infrastructure, physical and social, ahead of or in tandem with any residential development. The high-density accommodation is seriously unaffordable and has proven not to be desirable or commercially viable (block of unfinished apartments empty for 15+ years). Submitter considers that this agenda is being driven because of Carrigtwohill's proximity to the railway line, but anyone who knows Carrigtwohill will realise this is not right for our community.</p>

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23.	Fermoy Forum	DMDCDP434213671	<p>Fermoy Forum is an organisation which represents the Business and Community interests of the town of Fermoy. The submission wishes to support the letter in relation to the application for the rezoning of industrial use lands in Corrin, Fermoy in the County Development Plan 2022-2028. The submission is of the view that the rezoning of industrial use lands at this site will have the following benefits for Fermoy and surrounding area:</p> <ul style="list-style-type: none"> • Increased employment. • Allow existing businesses to expand their facilities. • Create space for further businesses to locate on site. • Remove up to 60 HGV movements per day from the M8 between Mitchelstown and Carrigtwohill. • Further enhance the growth of the economy of the surrounding region. <p>Submission highlights that South Coast Logistics has a 30 year history of doing business on this site and this zoning will help generate more growth and enhance sustainability in the economy. It references the recommendations of the OPR letter in relation to Corrin.</p> <p>The submission disagrees with the OPR and the letter to the Minister in relation to amendments MA 3.1.4.15 Fermoy: Industrial Site FY-I-05 and MA 3.1.4.15 Fermoy: New special policy area FY-X-01. Submission wishes to highlight that the current FY-I-02 and FY-I-03 to the south of the town have never received a submission for planning. It notes that this is now a largely residential area with another three hundred houses going through the planning process and has three schools on its perimeter. Submission argues that this area south of the town is now no longer fit for industrial purposes, particularly FY-I-02 and FY-I-03 and requests the Minister considers this application to support the industrial zoning at Corrin.</p>
24.	Flyco Ltd	DMDCDP434228418	<p>This submission refers to the Fermoy site FY- I-05. Submission indicates that Flyco, a long-established engineering company is</p>

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			<p>based on this land and provides services to fast growing pharmaceutical companies. They intend to expand their business and have found it difficult to get planning permission.</p> <p>It is considered the proposed to change the I-05 lands back to greenbelt is shorted sighted in a number of ways:</p> <ul style="list-style-type: none"> • The already zoned lands (FY-I-02 & FY-I-03 not yet built upon) has been in situ for over 20yrs and has not attracted one single planning application in that time • Part of the already zoned lands (FY-I-03 / 22.77 Hectares not yet built upon) is completely isolated and is void of any infrastructural connectivity. • The subject lands (FY-I-05) have already over 15acres utilised in Industrial operations through businesses that include South Coast Logistics, Junction 15 Commercials Ltd (T/A Specto), Veolia Environmental Solutions and Flyco Engineering. • The subject lands {FY-1-05) are 200mts from the M8 Motorway compared to zoned land in Fermoy (next to Residential settlements and a School) being 2.5kms. • The subject lands (FY-1-05) has already Utility infrastructural connectivity to Fermoy Wastewater Treatment plant where as FY-1-02 & FY-1-03 do not.
25.	Frank Hannigan	DMDCDP432533869	<p>This submission refers to Carrigtwohill and the residential zoning CT-R-18 and the Utilities Objective CT-U-10 which seeks the provision of a pedestrian and cycle bridge linking residential sites CT R13 and CT R18 and the Educational Campus CT – C04.</p> <p>Submission references the concept of sustainable development and particularly the social environmental and economic aspects of sustainability and outlines a number of concerns about the development of Carrigtwohill generally. It</p>

Item No	Name	Submission Reference Number	Summary
			<p>is considered that proposals for the development of CT – R -18 illustrate these concerns.</p> <p>Submission expresses the view that the wider community is concerned about the dominance of starter type / affordable/ social /lower cost homes, typically associated with higher density schemes, that are being developed in Carrigtwohill which, coupled with the lack of larger family homes in the area for families to move onto, leads to more transient households who do not see the value of committing to the community as they will leave Carrigtwohill in the short / medium term. Higher density type developments are seen as problematic in this regard and more likely to generate social and economic issues that the community and public services are not adequately resourced to address, despite huge efforts and local initiatives from the community to support and integrate new residents. Community feels that higher density is being pushed in Carrigtwohill because it is on the rail line, but the other social, environmental and economic services and supports the community needs to sustainably integrate the increased population are not being prioritised/ delivered. Higher densities are successful in cities like Amsterdam but Carrigtwohill is not comparable to Amsterdam and does not have access to all the services, amenities and employment opportunities within walking / cycling distance of people’s homes.</p> <p>It is considered that the density proposed for the CT-R-18 site will result in a development that will dwarf its surroundings, will not enhance the sense of place of Carrigtwohill and will not add to the ambition of the community to develop into a great place to live, work and play. Development of the site will negatively impact on the amenity and biodiversity of the area.</p>

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			<p>Public transport is not available to support the development of higher density housing in Carrigtwohill. Most households have two cars, and this is unlikely to change. Carrigtwohill is a rural community. CT-R-18 could only make sense if car ownership was close to zero.</p> <p>With reference to the CR- U10 Objective for a bridge to the educational campus, submission notes that the Bog Road is an ageing community, and this facility is perceived as damaging the security of households. Locals want to see a lower density of development in line with existing patterns, which would be sustainable in terms of traffic and amenities and would attract households that would make a long-term commitment to Carrigtwohill, socially, culturally and economically.</p> <p>The Bog road is narrow and poorly aligned and cannot cope with the additional traffic that will be generated by development of CT R -18 and a new educational campus. The stone walls along the road are of historical interest and should not be removed.</p> <p>It is widely recognised that apartment development for the private market is not viable even in many cities, including Cork City, and that it is most certainly not viable outside of cities or in Carrigtwohill. Reports on this have been done by Cork Chamber of Commerce and by the Society of Chartered Surveyors Ireland.</p> <p>There is too much social housing provision in Carrigtwohill. Demand from within the Carrigtwohill area for social housing is almost satisfied. Further provision is drawing families from outside the area who will need social support from the voluntary sector which is already stretched to its limits in seeking to support the existing population. In recent years, almost 75% of all new development, other than one off</p>

Item No	Name	Submission Reference Number	Summary
			<p>housing, has comprised social housing (174 social houses have been provided and one private development of 45 houses). Further social / low-cost housing will negatively impact on the value of existing houses</p> <p>The CT-R-18 land sits above a wide complex of caves that add to the risk of development. The land and the road are subject to regular flooding. The road has been regularly unusable in recent years due to this flooding.</p> <p>The densities proposed for Carrigtwohill are morally wrong and contrary to proper planning and sustainable development.</p>
26.	Gerard Fitzpatrick	DMDCDP433653879	<p>The proposed development of 140 housing units is totally contrary to the home environment and nature of the immediate area, which is a small country type road on the edge of a Village. Having left the city of Cork, Douglas in particular, for a quieter country life to bring up children, the decision of the Minister and Council to facilitate 140 new housing units, totally destroys the home environment we have today. The road itself is unsuitable. An additional 140 housing units shall cause an environmental impact that is alien to the way of life already prevalent here. It is a local community that respects privacy and the nature surrounding the road. 140 units is probably 3 times the number of housing units already existing so the proposal totally distorts and destroys the community concept that has prevailed for the past 20 or more years. Extra traffic generated by the additional 140 housing units, most likely with anything from 140 to 250 cars/vans, will be a danger to human and animal life on this road. It is currently an area where residents of the larger area walk and also walk their dogs. This additional development of 140 housing units shall impact negatively on the peace and quiet.</p> <p>This proposal is totally against the wishes of the residents and destroys their home</p>

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			environment. What does the environmental impact assessment show? Do the wishes of the current residents of the area not matter? I strongly object to the proposed development.
27.	Helen Conway	DMDCDP432015458	Submitter disagrees with the Ministers objection to a retail centre outside of Carrigtwohill as this is badly needed in the Cork area, the infrastructure for it is already there and Carrigtwohill needs the jobs. It's a ridiculous objection looking at the success of the Kildare Outlet village which has a similar proximity to Kildare Town.
28.	Kevin Finn Potter & Finn Chartered Consulting Engineers Mitchelstown	DMDCDP430371906	<p>This submission states that restrictive zoning policy reduces the amount of land available for development, inflates the value of the land & raises the cost of housing, and that the solution to this should be to liberalise zoning policy. It is considered that :</p> <p>(a) every zoning should provide for multi-use, be it an appropriate mix of residential, commercial, retail, light or heavy industry etc. possibly ranked in order of preference. This would allow flexibility for any appropriate development.</p> <p>(b) every town, village and rural hamlet should have sufficient land zoned for its optimistic projected development for the next 30 years. This would increase the amount of land available for appropriate development now and thereby provide for local housing and other needs. This would eliminate the need to distinguish between local & non local potential residents but concentrate development in defined local settlements per good sustainable planning.</p> <p>(c) after a grace period, any undeveloped zoned land should be taxed as part of a carrot & stick approach, until enough zoned land in a local area is developed or in immediate prospect of development, to meet the projected need for the following 5 -7 yrs. This would provide an incentive against land hoarding & promote early development.</p> <p>(d) The practise of developing from the</p>

Item No	Name	Submission Reference Number	Summary
			<p>centre out should be abandoned in favour of developing within all 30-year zoned lands, thus allowing open spaces between discrete developments.</p> <p>(e) Smaller developments of up to approx. 20 units should be prioritised and larger developments should be divided up into smaller ones.</p>
29.	Kevin T Finn	DMDCDP430393149	This submission is a repeat of Submission No. DMDCDP430371906
30.	Margaret Roche	DMDCDP433609598	<p>This submission refers to Carrigtwohill and the residential zoning CT-R-18 and the Utilities Objective CT-U-10 which seeks the provision of a pedestrian and cycle bridge linking residential sites CT R13 and CT R18 and the Educational Campus CT – C04.</p> <p>Submission references the concept of sustainable development and particularly the social environmental and economic aspects of sustainability.</p> <p>Development as proposed is considered inappropriate for the area. It is also considered that decisions made by a Minister who has never been down the bog road in Carrigtwohill and does not know the area well enough, are ill informed decisions.</p> <p>This development will most likely be starter homes. Case-studies in Carrigtwohill suggest that rather than putting down roots, most of the buyers or renters will be young couples with young children who will want to move on to larger houses within 5-8 years. Due to the lack of suitable family sized homes in Carrigtwohill these families will leave Carrigtwohill in the medium term and therefore they will not see the value of committing to the community.</p> <p>It is considered that proposals for the development of CT – R -18 will dwarf its surroundings and will not enhance the sense of place of Carrigtwohill and will not add to the ambition of the community to develop into a great place to live, work and play. The development will damage the</p>

Item No	Name	Submission Reference Number	Summary
			<p>environment and the wildlife / habitats.</p> <p>With reference to the CR- U10 Objective for a bridge to the educational campus, submission notes that the Bog Road is an ageing community, and this facility is perceived as damaging the security of households with very little amenity in return. There would be no need for the bridge if development was in line with existing density of the area. Locals want to see a lower density of development in line with existing patterns, which would be sustainable in terms of traffic and amenities and would attract households that would make a long-term commitment to Carrigtwohill, socially, culturally and economically.</p> <p>Public transport is not available to support the development of higher density housing in Carrigtwohill. Most households have two cars, and this is unlikely to change. Carrigtwohill is a rural community and cars are essential to ensure families can access shopping, education, sports and entertainment.</p> <p>The Bog road is narrow and poorly aligned and cannot cope with the additional traffic that will be generated by development of CT R -18 and a new educational campus. The stone walls along the road are of historical interest and should not be removed.</p> <p>The Bog Road is a community of neighbours who have invested heavily in their properties. The value of these properties reflects an area of low density and high-quality housing. The nature of the area would be changed completely by the development proposed on CT-R-18. The negative impact on the value of properties in the area could be significant. Locals want to see a lower density of development in line with existing patterns, which would be sustainable in terms of traffic and amenities and would attract households that would make a long-term commitment to Carrigtwohill, socially, culturally and</p>

Item No	Name	Submission Reference Number	Summary
			<p>economically.</p> <p>It is widely recognised that higher density development for the private market, like that proposed for CT- R-18 is not viable. The CT-R-18 land sits above a wide complex of caves that add to the risk of development. The land and the road are subject to regular flooding. The road has been regularly unusable in recent years due to this flooding.</p>
31.	Martin & Lorraine Healy	DMDCDP433021675	<p>This submission relates to Carrigtwohill and indicates that a Retail Outlet Centre is a good idea as it would create employment for the locality and bring more business to the area, which could only be a good thing. High density development is not appropriate for the area due to the lack of roads, water and sewerage infrastructure. This infrastructure is already struggling. Some of the areas earmarked for High density development have been the subject of flooding in recent years. High density development would ruin the character of the existing village. The unfinished apartment block in Castlake lay idle for years and is only now being refurbished. The community has waited almost 15 years to get a secondary school - construction has only started recently. Are more schools proposed to cater for new development? There is insufficient public transport to cater for such a development. Lack of service frequency of buses and trains, even though the "plan" is to minimise private vehicle use.</p>
32.	Martin Greaney	DMDCDP432811490	<p>This submission refers to Carrigtwohill and the residential zoning CT-R-18 and the Utilities Objective CT-U-10 which seeks the provision of a pedestrian and cycle bridge linking residential sites CT R13 and CT R18 and the Educational Campus CT – C04.</p> <p>Submission notes that developments on the Bog road are made up of individual large holdings with large dwelling houses, the type of house which many people aspire to own once they are in a position to trade up from their starter homes. This is one of the few areas in the region with</p>

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			<p>such a development and the community are proud of it. The value of these properties reflects an area of low density and high-quality housing. The nature of the area would be changed completely by the development proposed on CT-R-18. The negative impact on the value of properties in the area could be significant.</p> <p>With reference to the CR- U10 Objective for a bridge to the educational campus, submission notes that the Bog Road is an ageing community, and this facility is perceived as damaging the security of households and will negatively impact on the value of properties in the area. Development envisaged on CT-R-18, will change the character of the area. Development in line with established low-density development would be more sustainable in terms of traffic and amenities. Development of the site will negatively impact on the amenity and biodiversity of the area.</p> <p>Public transport is not available to support the development of higher density housing in Carrigtwohill. Most households have two cars, and this is unlikely to change. Carrigtwohill is a rural community and cars are essential to ensure families can access shopping, education, sports and entertainment.</p> <p>The Bog road is narrow and poorly aligned with attractive stone walls and cannot cope with existing traffic or the additional traffic development will bring. The stone walls along the road are of historical interest and should not be removed.</p> <p>The CT-R-18 land sits above a wide complex of caves that add to the risk of development. The land and the road are subject to regular flooding. The road has been regularly unusable in recent years due to this flooding.</p>
33.	Masterlink	DMDCDP434225427	This submission from Masterlink (logistics warehousing and distribution company) is

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			in the form of a letter addressed to Colman and Cathy O Flynn acknowledging the recent proposal for industrial zoning on their site at Corrin. Submission notes that Masterlink are seeking sites to expand their warehouse and logistic service and consider the site (at Corrin) to be a very suitable location due to its easy access to the motorway and necessary services. Masterlink are interested in discussing a potential development of a warehouse distribution centre on the site pending zoning.
34.	Mrs. O'Reilly	DMDCDP431460446	The reduced housing density decision should not be reversed for Carrigtwohill. The amenities are not there to support a larger population. Also, the retail outlet for Carrigtwohill should go ahead. It would provide employment for the town along with supporting the residents locally as opposed to having to leave our village for basic provisions such as school shoes etc.
35.	Murnane & O'Shea Limited	DMDCDP433821871	This submission relates to Bantry and the retention of Residential Zoning Objective - BT-R-0X, as referenced in item 2c of the Minister's Draft Direction, which requires the lands to revert to agricultural use. The site comprises c. 4 hectares. The lands were zoned BT-R-07 for 'Low density residential development ...' in the 2017 LAP. Submission notes there is a history of under-delivery in Bantry, where land ownership issues, coupled with infrastructure constraints have traditionally inhibited residential development in the settlement. It states that between 2012 and 2019, just 269 housing units were completed in Bantry and Castletownbere, despite a combined target for 1,550 units. Development in Bantry is constrained by location and topography, sensitive coastal and upland landscape and flood risk. In total only c. 23 hectares of land are zoned for residential development in Bantry, of which c.8 hectares are subject to flood risk and access constraints. A further c. 4 hectares are identified as a residential reserve.

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			<p>Submission notes the Ministers Direction and contests the assessment that the retention of residential zoning on these lands would be inconsistent with the Development Plan's own Core Strategy, national and regional planning policy, and the proper planning and sustainable development of the area.</p> <p>With regard to the assertion that the lands are remote / peripheral / in a non-sequential location outside the CSO boundary, submission queries the validity of this argument. Noting that CSO boundaries demonstrate the extent of current development and are not intended or appropriate to be used as a metric for suitable locations for compact development. This is illustrated by the CSO boundary for Bantry which includes long figures of ribbon development stretching out of the town while ignoring areas of undeveloped land between them. The site in question is within the development boundary and within 850m /10minute walk of the town centre to the west, close to the existing residential areas of Seskin, Millbrook Lawn and Ard na Gleanna, and is well positioned and within walking distance of schools, the college and the hospital. Development has been located east of the town to avoid sensitive coastal and upland areas, topographical and flooding issues. The site therefore represents compact development and is in line with national and local policies in this regard.</p> <p>With regard to the assertion that lands zoned in Bantry are in excess of what is needed for the Core Strategy housing supply targets for Bantry, submission notes the under delivery of housing in Bantry relative to the housing targets of previous plans and considers that this will be exacerbated by the significant reduction in the provision of zoned land as part of the review, and the infrastructural constraints impacting zoned land. It is considered that the Draft Direction does not take account of the traditional issues impacting housing delivery in Bantry, including issues of land</p>

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			<p>availability. Submission indicates that substantial areas of zoned lands are in state ownership. Other zoned areas have no significant planning history in the period since 2000 and are unlikely to come available in the near future. It is considered that the availability of land is a legitimate concern which should be considered in assessing the appropriate quantum of zoned land needed in Bantry and it should not be assumed that zoned lands will come forward for development . It is considered unlikely that the 257 units needed in Bantry will be delivered on the 23 zoned hectares and if the BT – R-OX site is removed then it will be increasingly improbable.</p> <p>Submission notes that the site has a planning history and notes the Ministers recent comments that residential lands should not be dezoned. Submission quotes the Development Plan Guidelines in this regard and requests that the residential zoning be retained.</p>
36.	Murnane & O'Shea Limited	DMDCDP433864302	<p>This submission refers to the retention of the Medium A Density objective on the CT-R-04 lands in Carrigtwohill, contrary to item 2d as set out in the Minister's Draft Direction in relation of their reversion to High Density as set out in the Draft Cork County Development Plan (Draft CDP). Submitter is of the view that the retention of the Medium Density A objective at the CT-R-04 lands in Carrigtwohill will deliver the most appropriate housing density at this location.</p> <p>Submission proposes an alternative scenario in which the current designation of Medium Density A would remain on the substantial western portion of the lands, with the lands to the east, which are currently naturally separated by a traditional field boundary, being designated for Higher Density development. This would allow for a natural graduation in the density of development aligned with existing field boundaries, with higher densities focussed closer to Station Road, providing easier</p>

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			<p>access to the train station (see map included in submission. See https://www.yourcouncil.ie/en)</p> <p>Submission continues to outline the zoning context of the site, referencing the Medium A density objective of the 2017 LAP for the site which changed to High Density in the Draft Plan. Members later voted through an amendment to change the density to Medium A. It is further noted that, of the 12 parcels zoned in Carrigtwohill for ‘residential’ or ‘residential further additional provision’ development, all are zoned for High Density development, with the exception of the parcels along the northern development boundary. The location of these less-central lands, including the subject site, is reflected in their zoning for Medium A Density Residential Development, with the exception of CT-RFAP-05, which has direct access onto Station Road along its eastern boundary.</p> <p>Submission notes that the landowners, Murnane and O Shea developers, are experienced at building at a variety of densities and consider Medium A Density most applicable for the site for the following reasons:</p> <ul style="list-style-type: none"> o greenfield site in a settlement of 5,000 persons; o non central site location adjoining the development boundary to the north, 1km from the town centre. o Carrigtwohill has an existing high quality public transport service but the site does not adjoin transport provision – 500m straight line distance or 1050m along the roads. <p>Submission notes that the CDP 2022 provides flexibility around density with Table 4.1 noting that high density may be appropriate, and that Medium A density is generally applicable for future development. Submission supports a locally tailored approach to density which gives developers flexibility to response to market conditions. Submission further references</p>

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			<p>the provisions of the Sustainable Residential Density Guidelines for Planning Authorities and Section 5.8 of the guidelines noting that the highest densities should be at rail stations and should decrease with distance from such nodes. As the site in questions is over 1km from the station the medium A density is considered most appropriate and is supported by elected members. The CDP also supports housing mix, and it is considered that if high density zoning is homogenously applied across the UEA then this would result in less diversity of unit typologies.</p> <p>Submission requests retention of the Medium A density zoning on the site. This will allow for the delivery of development at the upper end of the range at 50 units to the hectare while allowing for diversity of housing mix to attract more households to the area.</p>
37.	National Transport Authority	DMDCDP433840790	<p>Submission has been made by the National Transport Authority (NTA) in relation to the Draft Ministerial Section 31 Direction on the Cork County Development 2022. The submission references previous submissions made by the NTA in the Cork County Development Plan process and makes the following three requests at this stage:</p> <ol style="list-style-type: none"> 1. Delete replacement paragraph 9.5.7 inserted under MA 1.9.16. Submission reiterates the concerns the NTA made in its submission on the material amendments relating to the preparation of a Joint Retail Strategy and included a recommendation that "... specific reference is made to a commitment to consult with key stakeholders, including the NTA and TII, during the course of the preparation of the Joint Retail Strategy and Study." 2. Delete the amended and additional provisions for 'Retail Outlet Centres' inserted under MA 1.9.20, including objective TCR 10-2 Retail Outlet Centre and associated map. The submission reiterates the comments made in previous submissions to the material amendments

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			<p>noting, “that the proposed amendment removes the statement which commits to undertaking a detailed evidence-based assessment to confirm the need for such developments and which will identify potential suitable locations. This has been replaced with a statement that the Council is satisfied with the findings of a study undertaken in 2019. The NTA would not consider that the study referenced in the proposed amendment provides a satisfactory basis for the Development Plan’s provision for a Retail Outlet Centre, as outlined.”. The submission also includes comments made by the NTA to the Variation no. 2 of the County Development Plan in November 2019 and suggests that “the NTA’s overall view is that the formulation of policy relating to retail outlet centres would be best undertaken as part of a review of the Metropolitan Cork Joint Retail Strategy”. Additionally, the NTA highlighted the need to take into consideration, the provisions of both the Retail Planning Guidelines 2012 and the Spatial Planning and National Roads Guidelines 2012”</p> <p>3. Delete the amended residential densities on specific sites under MA 4.2.3.41 Carrigtwohill CT-R-18 to revert to Medium A density and MA 4.2.3.43 Carrigtwohill CT-R-04 to revert to High Density. Submission notes the NTA would support the direction to delete the amended residential densities on specific sites under the Material Alterations referenced above. Submission reiterates from previous submissions that “Considering the overall scale of the metropolitan area towns, the location of existing and proposed rail stations and the provision in CMATS for substantial improvements in bus service provision in these towns, there is a correspondingly high potential for all zoned residential lands, required to accommodate future population growth targets to be located in areas which fall within the local walking catchment of existing / proposed public</p>

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			<p>transport services. The application of high rather than medium densities to these areas would in turn, support the delivery of the improved public transport services proposed in CMATS.” It also notes that “In order to ensure the appropriate alignment of land use and transport planning, in a manner which maximises the potential for development consolidation, for public transport usage and accessibility at the local level by walking and cycling, it is recommended ... that Local Transport Plans are prepared for the Metropolitan Area towns and other larger settlements across the County, based on the ABTA approach outlined in the NTA/TII Advice Note.”</p>
38.	Olivia Roche	DMDCDP432678949	<p>This submission refers to Carrigtwohill and the residential zoning CT-R-18 and the Utilities Objective CT-U-10 which seeks the provision of a pedestrian and cycle bridge linking residential sites CT R13 and CT R18 and the Educational Campus CT – C04.</p> <p>Submission references the concept of sustainable development and particularly the social environmental and economic aspects of sustainability and outlines a number of concerns about the development of Carrigtwohill generally. It is considered that proposals for the development of CT – R -18 illustrate these concerns.</p> <p>Submission expresses concern about the dominance of starter type homes that are being developed in Carrigtwohill which, coupled with the lack of larger family homes in the area for families to move onto, leads to more transient households who do not see the value of committing to the long-term development of the community as they will leave Carrigtwohill in the short / medium term.</p> <p>It is considered that the density proposed for the CT-R-18 site will result in a development that will dwarf its surroundings, will not enhance the sense of place of Carrigtwohill and will not add to</p>

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			<p>the ambition of the community to develop into a great place to live, work and play. The density of development envisaged will negatively impact on the amenities and value of existing houses in the area.</p> <p>With reference to the CR- U10 Objective for a bridge to the educational campus, submission notes that the Bog Road is an ageing community, and this facility is perceived as damaging the security of households. Locals want to see a lower density of development in line with existing patterns, which would be sustainable in terms of traffic and amenities and would attract households that would make a long-term commitment to Carrigtwohill, socially, culturally and economically.</p> <p>Public transport is not available to support the development of higher density housing in Carrigtwohill. Most households have two cars, and this is unlikely to change. Carrigtwohill is a rural community. CT-R-18 could only make sense if car ownership was close to zero.</p> <p>The Bog road is narrow and poorly aligned and cannot cope with the additional traffic that will be generated by development of CT R -18. The stone walls along the road are of historical interest and should not be removed.</p> <p>The density of development envisaged will negatively impact on the amenities and value of existing houses in the area.</p> <p>It is widely recognised that apartment development for the private market is not viable.</p> <p>The CT-R-18 land sits above a wide complex of caves that add to the risk of development. The land and the road are subject to regular flooding. The road has been regularly unusable in recent years due to this flooding.</p>

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39.	Pádraig de Búrca	DMDCDP433870991	<p>This submission refers to Carrigtwohill and the residential zoning CT-R-18 and the Utilities Objective CT-U-10 which seeks the provision of a pedestrian and cycle bridge linking residential sites CT R13 and CT R18 and the Educational Campus CT – C04.</p> <p>Submission references the concept of sustainable development and particularly the social environmental and economic aspects of sustainability and outlines a number of concerns about the development of Carrigtwohill generally. It is considered that proposals for the development of CT – R -18 illustrate these concerns.</p> <p>Submission expresses concern about the dominance of starter type homes that are being developed in Carrigtwohill which, coupled with the lack of larger family homes in the area for families to move onto, leads to more transient households who do not see the value of committing to the long-term development of the community as they will leave Carrigtwohill in the short / medium term.</p> <p>It is considered that the density proposed for the CT-R-18 site will result in a development that will dwarf its surroundings, will not enhance the sense of place of Carrigtwohill and will not add to the ambition of the community to develop into a great place to live, work and play. The density of development envisaged will negatively impact on the amenities and value of existing houses in the area.</p> <p>With reference to the CR- U10 Objective for a bridge to the educational campus, submission notes that the Bog Road is an ageing community and this facility is perceived as damaging the security of households. Locals want to see a lower density of development in line with existing patterns, which would be sustainable in terms of traffic and amenities and would attract households that would make a long-</p>

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			<p>term commitment to Carrigtwohill, socially, culturally and economically.</p> <p>Public transport is not available to support the development of higher density housing in Carrigtwohill. Most households have two cars, and this is unlikely to change. Carrigtwohill is a rural community. CT-R-18 could only make sense if car ownership was close to zero.</p> <p>The Bog road is narrow and poorly aligned and cannot cope with the additional traffic that will be generated by development of CT R -18. The stone walls along the road are of historical interest and should not be removed.</p> <p>The density of development envisaged will negatively impact on the amenities and value of existing houses in the area.</p> <p>It is widely recognised that apartment development for the private market is not viable.</p> <p>The CT-R-18 land sits above a wide complex of caves that add to the risk of development. The land and the road are subject to regular flooding. The road has been regularly unusable in recent years due to this flooding.</p>

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40.	Philip Roche	DMDCDP432959821	<p>This submission refers to Carrigtwohill and the residential zoning CT-R-18 and the Utilities Objective CT-U-10 which seeks the provision of a pedestrian and cycle bridge linking residential sites CT R13 and CT R18 and the Educational Campus CT – C04.</p> <p>Submission references the concept of sustainable development and particularly the social environmental and economic aspects of sustainability and outlines a number of concerns about the development of Carrigtwohill generally. It is considered that proposals for the development of CT – R -18 illustrate these concerns.</p> <p>Submission expresses concern about the dominance of starter type homes that are being developed in Carrigtwohill which, coupled with the lack of larger family homes in the area for families to move onto, leads to more transient households who do not see the value of committing to the long-term development of the community as they will leave Carrigtwohill in the short / medium term.</p> <p>It is considered that the density proposed for the CT-R-18 site will result in a development that will dwarf its surroundings, will not enhance the sense of place of Carrigtwohill and will not add to the ambition of the community to develop into a great place to live, work and play. The density of development envisaged will negatively impact on the amenities and value of existing houses in the area.</p> <p>With reference to the CR- U10 Objective for a bridge to the educational campus, submission notes that the Bog Road is an ageing community, and this facility is perceived as damaging the security of households. Locals want to see a lower density of development in line with existing patterns, which would be sustainable in terms of traffic and amenities and would attract households that would make a long-</p>

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			<p>term commitment to Carrigtwohill, socially, culturally and economically.</p> <p>Public transport is not available to support the development of higher density housing in Carrigtwohill. Most households have two cars, and this is unlikely to change. Carrigtwohill is a rural community. CT-R-18 could only make sense if car ownership was close to zero.</p> <p>The Bog road is narrow and poorly aligned and cannot cope with the additional traffic that will be generated by development of CT R -18. The stone walls along the road are of historical interest and should not be removed.</p> <p>The density of development envisaged will negatively impact on the amenities and value of existing houses in the area.</p> <p>It is widely recognised that apartment development for the private market is not viable.</p> <p>The CT-R-18 land sits above a wide complex of caves that add to the risk of development. The land and the road are subject to regular flooding. The road has been regularly unusable in recent years due to this flooding.</p>
41.	Robert Pasley	DMDCDP431368109	<p>This submission supports the Ministers position on the requirement to delete the provision made for “Retail Outlet Centres” under MA 1.9.20, including objective TCR10-2 Retail Outlet Centre and associated map, on the following grounds:</p> <p>a) Insufficient population in the primary catchment area of such a development to deem it viable without having a negative impact on existing retail areas.</p> <p>b) The current excessive vacancy rate of retail premises across the city and county and the risks for further urban degeneration because of excessive competition from new developments.</p> <p>c) The conflict caused between the development of an “out-of-town” retail</p>

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			<p>village and the “Town Centre First” objectives</p> <p>d) The proven over reliance on private vehicles to access retail villages and the conflict this causes with public transport initiatives.</p> <p>e) The lack of differentiation between mainstream retail offering and that of an outlet village.</p> <p>f) The constrained outlook in retail sales growth expected over the next couple of years</p> <p>g) The immediate impact the cost-of-living crisis will have on existing retail and the time required for recovery afterwards and the additional challenges this will place on achieving the “Town Centre First” objectives.</p> <p>Submission details that if the primary catchment area of a Retail Outlet Village is a one-hour car drive, then 2.45 million people live within a 1-hour drive of the Kildare village outlet centre and are responsible for 70% of its revenue. In contrast, the potential primary catchment for the East Cork Tourist Outlet Village is just 685,000 people, or 28% of that of Kildare village. It is not feasible that a proposed East Cork Outlet centre (16,000 sqm) which is one-and-a-half times the size of the original Kildare Village (10,500 sqm), and two-thirds the size of expanded Kildare village (24,000 sqm) would be viable with a primary catchment less than one third the size.</p> <p>Kildare village, given its strategic location on the M7, has access to substantial passing traffic / potential passing trade. It is likely that much of the footfall of Kildare village is the consequence of a stop off enroute to other locations, rather than being the ultimate tourist destination itself. The proposed location of the East Cork outlet centre cannot replicate this level of passing trade.</p> <p>Lessons need to be taken from the failure</p>

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			<p>of the Rathdowney and Killarney Retail Outlet Centres. The Killarney centre failed despite it being centrally located, immediately adjacent to the bus and rail station, and in a tourist hotspot.</p> <p>The concept of an Outlet Village in Cork also flies in the face of the ambition to significantly reduce car journeys in favour of sustainable public transport. The recent planning application for the expansion of Kildare Village in 2018 stated that 93% of visitors arrived by car.</p> <p>The provision of an outlet village against a backdrop of high commercial vacancy in the city and county, is only going to cause displacement, making the situation in the city and towns worse and start a downward spiral of urban degeneration as these town centres become less and less attractive. As of 20 June 2022, there was more than 140 unique retail premises for sale or to let on Daft.ie across Cork City and County, with a combined retail area exceeding 36,000 square metres (390,000 square feet), of which just under 40% of this combined floor area located in Cork City Centre. While this is by no means a complete picture of the available retail space, it still represents 2.25 times the proposed size of the East Cork Outlet Centre. This does not consider retail space listed elsewhere, including vacant units in a number of prime shopping centres, nor does it take into account any vacant retail space that is not listed for whatever reason. An outlet centre will not realise any net job growth, as the jobs created will simply be lost elsewhere through displacement and closures.</p> <p>An outlet centre offering end of line or end of season high end brands at discounted prices will compete directly with established retail outlets in Cork which sell the same brands and have seasonal clearance sales and other price promotions similar to the outlet concept. There are already established retail premises in Cork</p>

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			<p>dedicated to offering branded goods at discounted prices, including two TK Maxx outlets.</p> <p>Current economic and political conditions will have a significant impact on discretionary spending in the short term, both domestically and in terms on inbound tourism spend. Following on from the impact of the pandemic, it is not unreasonable to expect further significant closures in the retail sector over the next year, further increasing the vacancy levels, complicating the ability of Cork County Council to realise the core retail objectives of the development plan. This intervention by the Minister provides the pause in which the impact of a rapidly changing economic climate can be fully considered and the potential to update County Development Plan to reflect this.</p> <p>Submission indicates that if the above arguments are insufficient to exclude the retail outlet village from the County Development Plan, then Council Members should further consider retail vacancy levels in their areas and take the time to consult with retailers on their current situation and outlook.</p> <p>If the direction given by the Minister is upheld or it is found that Ireland does not have the capacity for another outlet village of scale, then the same direction needs to apply to every other local authority.</p> <p>The impact of the cost-of-living crisis, the decline in discretionary spending and continued high fuel prices, is also likely to impact on the continued success of Kildare village which should be monitored over time. Submission details various references used to inform the submission.</p>

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42.	Ronan McManamy	DMDCDP433556594	<p>This submission refers to Carrigtwohill and the residential zoning CT-R-18 and the Utilities Objective CT-U-10 which seeks the provision of a pedestrian and cycle bridge linking residential sites CT R13 and CT R18 and the Educational Campus CT – C04. It is considered that proposals for the development of CT – R -18 are completely out of character with the existing area and will significantly change the nature of the area, damage the environment and the wildlife / habitats. The development will not enhance the sense of place of Carrigtwohill and will not add to the ambition of the community to develop into a great place to live, work and play. The reality is that the amenities required to make the plan workable are neither in place or proposed to the level required in this development. The development appears to be based on theory rather than the practicalities. Any belief that simply putting high density units close to a train station will result in limited car use is ill-informed. The existing and proposed amenities, as well as the realities re locations of work, simply do not support this.</p> <p>The Bog Road is a community of neighbours who have invested heavily in their properties. The value of these properties reflects an area of low density and high-quality housing. The nature of the area would be changed completely by the development proposed on CT-R-18. The negative impact on the value of properties in the area could be significant. Locals want to see a lower density of development in line with existing patterns, which would be sustainable in terms of traffic and amenities and would attract households that would make a long-term commitment to Carrigtwohill, socially, culturally and economically.</p> <p>With reference to the CR- U10 Objective for a bridge to the educational campus, submission notes that the Bog Road is an</p>

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			<p>ageing community, and this facility is perceived as damaging the security of households with very little amenity in return. There would be no need for the bridge if development was in line with existing density of the area.</p> <p>This development will most likely be starter homes. Case-studies in Carrigtwohill suggest that rather than putting down roots, most of the buyers or renters will be young couples with young children who will want to move on to larger houses within 5-8 years. Due to the lack of suitable family sized homes in Carrigtwohill these families will leave Carrigtwohill in the medium term and therefore they will not see the value of committing to the community.</p> <p>Public transport is not available to support the development of higher density housing in Carrigtwohill. Most households have two cars, and this is unlikely to change. Carrigtwohill is a rural community and cars are essential to ensure families can access shopping, education, sports and entertainment.</p> <p>The Bog road is narrow and poorly aligned with attractive stone walls and cannot cope with existing traffic or the additional traffic development will bring. There are no footpaths. The stone walls along the road are of historical interest and should not be removed.</p> <p>It is widely recognised that higher density development for the private market, like that proposed for CT- R-18 is not viable. The CT-R-18 land sits above a wide complex of caves that add to the risk of development. The land and the road are subject to regular flooding. The road has been regularly unusable in recent years due to this flooding.</p>
43.	Southcoast Logistics Ltd	DMDCDP434211959	<p>This submission relates to the zoning of lands at Corrin Fermoy, the subject matter of the zoning denoted as FY-I-05. South Coast Logistics Ltd was formed in</p>

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			<p>1975 and has expanded forming 2 additional companies; Junction 15 Commercials Ltd (T/A Specto) and Veolia Environmental Solutions. South Coast and Specto are now one of largest employers in the Fermoy Environs, employing over 152 people and contributing €6.8m annually to the locality and the exchequer. Veolia also employs approx. 40 staff and contributes to the locality and the exchequer.</p> <p>The draft Direction to have this zoning revert to Greenbelt is a serious blow to any future plans to expand the above businesses and is seen as having a sterilising effect on the business. In 2019 (Ref: 19/4370) permission for the Construction of a Commercial Vehicle Testing Centre Facility next door to the existing business was granted by Cork County Council. This Facility was to enable Specto to carry out the annual CVRT & ADR testing of the companies 350 strong fleet of HGV equipment. Permission was refused by ABP on the grounds that the site was in a Greenbelt area, even though adjacent to, and in the eyes of Cork County Council an expansion of, an existing Commercial Operation. The lack of permission for this facility results in the company having to travel to other testing centres - an annual 14,000kms to and from other Test Centres with the corresponding 16,865kgs of Co2 emissions. Company estimates that it is emitting 14.8 Tonnes of Co2 year on year into the Atmosphere because a facility that would have created jobs and been good for the environment was refused.</p> <p>ABP recommendation is seen as short sighted in several ways:</p> <ul style="list-style-type: none"> • The type of industry (Hazardous Logistics and Warehousing) located at Corrin Fermoy, (the lands which are the subject matter of the FY-I05 Zoning) could not and should not operate in already zoned lands (FY-I-02 & FY-1-03) that are situated inside the 50km zone of the town of Fermoy. • The already zoned lands (FY-I-02) border Residential settlements which are completely incompatible with HCV and

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			<p>Waste Management (Veolia Environmental Solutions) operations.</p> <ul style="list-style-type: none"> • The already zoned lands (FY-I-02) border a Primary School which is again incompatible with HCV and Waste Management (Veolia Environmental Solutions) operations. • The already zoned lands (FY-I-02 & FY-I-03) not yet built upon have been in situ for over 20yrs and have not attracted one single planning application in that time. • Part of the already zoned lands (FY-I-03 / 22.77 Hectares not yet built upon) are completely isolated and are void of any infrastructural connectivity. • The subject lands (FY I 05) have already over 15 acres utilised in Industrial operations through businesses that include South Coast Logistics, Junction 15 Commercials Ltd (T / A Specto) and Veolia Environmental Solutions. • The subject lands (FY-I-05) are 200mts from the M8 Motorway compared to zoned land in Fermoy (next to Residential settlements and a School) being 2.5kms. • The subject lands (FY-I-05) already have Utility infrastructural connectivity to Fermoy Wastewater Treatment plant where as FY-I-02 & FY-I-03 do not. • The subject lands (FY-I-05) can assist the company in eradicating 16,865kgs of Co2 annually by a reduction of 14,000kms annually. • It has the net effect of banning the future expansion of hugely successful businesses already in situ, one of which contributes €6.8m to the locality and the exchequer. • It has the net effect of job diminution and not job creation. <p>The Industrial zoning should be supported.</p>
44.	Southern Regional Assembly	DMDCDP433850331	<p>This submission from the Southern Regional Assembly (SRA) firstly notes the SRA's response to the Cork County Development Plan 2022 Material Amendments where the SRA welcomed Proposed Amendment 1.9.16 which committed to a Joint Retail Strategy for Metropolitan Cork, to be prepared by</p>

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			<p>Cork City Council and Cork County Council within 12 months of the adoption of the City and County Development Plans and that once finalised, the Joint Retail Strategy would inform a variation to Cork County Development Plan.</p> <p>The submission notes that Direction 2 (a) seeks to replace the proposed amendment text with a specific objective for the preparation of a Joint Retail Strategy with Cork City Council which will jointly determine the scope for retail development generally, and for a retail outlet centre development specifically, within the Cork Metropolitan Area within 12 months of the adoption of both the City and County Development Plans and to adopt the Joint Retail Strategy into the Cork County Development Plan by way of a Variation.</p> <p>The submission also states that Direction 2 (b) accordingly seeks to delete the amended and additional provisions for retail outlet centres and specific objective TCR 10-02.</p> <p>The submission states that the Direction is consistent with RSES RPO 55 Retail and Cork MASP Objective 16 Retail and notes the following Regional Planning Objectives (RPOs) which are of note for Point (III) in the Direction's Statement of Reasons:</p> <p>RPO 55 Retail which states that: It is an objective to:</p> <ul style="list-style-type: none"> (a) Improve the physical appearance, vitality and vibrancy of city centre, town centre and village locations through collaboration between Planning Authorities and Retail Traders Associations in regeneration / public realm projects and other measures; (b) Ensure that retail development is focused on urban and village centres with the application of a sequential approach to consideration of retail development which does not fall into this category; (c) Prepare Retail Strategies in accordance with the Retail Planning Guidelines including Joint Retail Strategies where

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			<p>applicable. Proposed public realm or urban regeneration projects should be assessed for potential impacts on the receiving environment including capacity of existing services at project level. Where public realm or urban regeneration projects would significantly increase shopper/visitor numbers, planning authorities should ensure that projects include sustainable management of increased demand for access to city/town centre locations.</p> <p>Cork Metropolitan Area Strategic Plan (MASP) Policy Objective 16 which states: (a) Support the role of Metropolitan Cork as a Level 1 location for retail provision and the retail hierarchy as identified in the Metropolitan Cork Joint Retail Strategy 2013 which identifies:</p> <ul style="list-style-type: none"> • Level 1: Metropolitan Cork: Cork City Centre • Level 2: Large Metropolitan Towns: Ballincollig, Carrigaline, Cobh and Midleton. • Level 2: District Centres: Blackpool, Douglas, Wilton, Mahon Point, Ballyvolane, Cork Docklands, Hollyhill. • Level 3: Smaller Metropolitan Towns: Carrigtwohill. Glanmire, Passage West, Blarney, Monard. • Level 4: Neighbourhood Centres and Large Village Centres. • Level 5: Local centres, corner shops and smaller villages. <p>(b) Support the role of the Metropolitan Cork Joint Retail Strategy and seek further preparation of joint retail strategies for Metropolitan Cork between Cork City Council and Cork County Council in accordance with Section 28 Retail Planning Guidelines for Planning Authorities (2012).</p> <p>The submission requests that these objectives of the RSES and Cork MASP should be taken into consideration in the Direction and Statement of Reasons. The submission requests that in addition, reference should be had to text under Section 4.6 “Retail” and text under Cork MASP Section 8.7 “Role of Retail” in the</p>

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			<p>RSES for the importance of the retail sector as a catalyst for town and city centre renewal and the importance of joint retail strategies which support of the above Regional Policy Objectives (the relevant text is extracted and attached as an Appendix to the submission).</p> <p>The submission also notes that the following Regional Planning Objectives (RPOs) are of note for Point (IV) in the Direction's Statement of Reasons:</p> <p>RPO 35 Compact Growth a): Local Authorities, through Development Plan and Local Area Plan policies, shall identify rejuvenation priorities within our region's settlements which demonstrate achievement of National Strategic Outcome: Compact Growth. b): Development Plans shall set out a transitional minimum requirement to deliver at least half (50%) of all new homes that are targeted in the region's three Cities and suburbs of Cork, Limerick and Waterford, within their existing built up footprints in accordance with NPF National Policy Objective 3b. This will be evidence based on availability and deliverability of lands within the existing built-up footprints. (c): Development Plans shall set out a transitional minimum requirement to deliver at least 30% of all new homes that are targeted in settlements other than the cities and suburbs, within their existing built-up footprints in accordance with NPF National Policy Objective 3c. This will be evidence based on availability and deliverability of lands within the existing built-up footprints.</p> <p>RPO 151 (parts a to c) Integration of Land Use and Transport. The following principles of land use and transport integration will guide development: a. For urban-generated development, the development of lands, within or contiguous with the existing urban areas will be</p>

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			<p>prioritised over development in less accessible locations;</p> <p>b. Residential development will be carried out sequentially, whereby lands which are, or will be, most accessible by walking, cycling and public transport– including infill and brownfield sites – are prioritised;</p> <p>c. Larger scale, trip intensive developments, such as offices and retail, will be focused into central locations highly accessible by sustainable transport modes.</p> <p>The submission reiterates these objectives and requests that the objectives of the RSES should be taken into consideration in the Direction and Statement of Reasons.</p>
45.	St. Brigid - St. Anne Conference of the Society of Saint Vincent de Paul, Carrigtwohill	DMDCDP433113838	<p>This submission from the St Vincent de Paul (SVP) / Carrigtwohill Family Resource Centre (CFRC) outlines that the centre has been in existence since 1991 and provides a vast array of social services to the community including Preschool, Afterschool, Breakfast club, Parent and Toddler service, Counselling, Family Support, Literacy classes etc. They are committed to ensuring better outcomes and brighter futures for the people of Carrigtwohill and its environs and are very familiar with all social aspects of the community and can speak with authority and truthfulness in respect of social sustainability within the Community. Over the last number of years, the centre has noted a huge increase in the numbers of people coming to live in Carrigtwohill and surrounding areas. A substantial number of these people are coming from other countries. There are now approximately 60 different nationalities living in the area. The CFRC and St Vincent de Paul are inundated with requests for assistance from people moving into the area in the form of financial assistance, family support and mental health support etc.</p> <p>Guidelines on density, state in section 5.4. that “where there is good planning, good management and THE NECESSARY SOCIAL</p>

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			<p>INFRASTRUCTURE, higher density housing has proven capable of supporting sustainable and inclusive communities." It is the view of the CFRC, that there is a clearly demonstrated lack of existing social infrastructure in Carrigtwohill. It is further the view of the CFRC that planning policy for the area is not giving due regard to the social sustainability of the existing community and before any further high-density developments is foisted on the Community, essential social services must be put in place to cater for the needs of the community.</p> <p>Additional development is considered premature until the basic needs of the existing community are fulfilled with regards to basic items such as quality of life, education, health, employment, social services, culture and social well-being. These needs must also be met for the new future population. In order for development to be sustainable these needs must be met.</p> <p>Submission references the Government publication "Sustainable, Inclusive and Empowered Communities -A five-year strategy to support the community and voluntary sector in Ireland 2019 - 2024". This strategy clearly states that the community and voluntary sector is critical to a healthy, just and prosperous society in Ireland, contributing to social and economic cohesion.</p> <p>In this context CFRC / SVP feels that their knowledge and views about the social sustainability of the community should be listened to and respected and the community should not be dictated to by an unelected small group of people based in Dublin 7, who in all probability have not the slightest knowledge of the social issues pertaining in Carrigtwohill. Decisions by Local Authority officials and unrepresentative people cannot ignore the legitimate concerns of people who are</p>

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			<p>active daily at the coal face in the community.</p> <p>CFRC / SVP know for certain that the community cannot and will not cope with the inevitable social fall out that will arise as a direct result of the imposition of the unprecedented type of housing density and the social mix that follows from the proposed densities. The needs of the existing and constantly growing community need to be properly assessed and reflected in all planning policy and decisions.</p> <p>CFRC / SVP have no objection to the development of a reasonable proportion of housing in the area. However, all services are now at breaking point and just simply cannot continue to keep trying to meet the daily and ever-increasing demands of people who are not only just arriving in Carrigtwohill but also of those who are resident here for a few years.</p> <p>SVP/ CFRC therefore oppose any increase in the density of development proposed for Carrigtwohill, as required by the draft Ministerial Direction.</p>
46.	Stephen O' Riordan	DMDCDP432359542	<p>This submission relates to Carrigtwohill and references the residential zoning CT-R18, comprising 2.2ha on the Bog Road. Submitter notes that Council Members agreed that this would be zoned for Medium B Density development, which is considered appropriate for the location and would, to some extent, also cater for residents parking. If the density changes to Medium A, it is considered that parking would be a major problem with up to 200 additional cars. The Bog Road in Carrigtwohill is part of the culture of Carrigtwohill and Medium A Density wouldn't be appropriate. The Bog road is not designed to take up to another 200 cars. Some residents in the Bog Road are retired with others approaching retirement. Submitter is not against the provision of housing but indicates that it is essential that parking and green areas for</p>

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			children playing are incorporated in plans. Submission indicates that the density should remain at Medium B as agreed by Cork County Council.
47.	Toss Bryan Ltd	DMDCDP434217495	This submission from the owner of Toss Bryan Ltd, which has been in the electrical and hardware retail business for over 70 years in the town of Fermoy, outlines that the company will need of more storage and distribution space as it expands. Fermoy town is extremely congested with no suitable site that can accommodate HGV deliveries. Submission indicates that the newly zoned industrial land would be an ideal location for the company to rent a storage/distribution warehouse so Toss Bryan Ltd can continue to expand. The location of the site, just off junction 15, would give easy access to Dublin, Waterford, Limerick, and Cork and would eliminate up to 40 daily HGV journeys to and from the company's premises.
48.	Transport Infrastructure Ireland	DMDCDP431749646	The submission is made on behalf of Transport Infrastructure Ireland in relation to the Section 31 Draft Ministerial direction relating to Cork County Development Plan 2022. The submission includes copies of previous TII submissions to the Cork County Development Plan process at draft plan and amendments stages. The submissions relate to a number of proposed amendments and other issues in Volumes 1, 3, 4 and 5 of the Draft Plan and material amendments. Submission states that the issues raised in the previous submissions made by TII concur with the issues raised in the draft Ministerial Direction. In relation to the amendments highlighted in the draft Ministerial Direction, the following outstanding issues can be summarised below: <ul style="list-style-type: none"> • MA 1.9.16 (New paragraph 9.5.7 joint retail study for metropolitan cork) - notes reference to the preparation of a Joint Retail Study for the Metropolitan Area. Raises concern that the approach adopted

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			<p>in the draft development plan for retail is at variance with specific aspects of national policy and guidelines and with the existing known constraints on capacity and safety of the national road infrastructure within Cork. Requests that this amendment is postponed until public/stakeholder consultation on the Joint Retail Study for the Metropolitan Area has been commenced/concluded to ensure that the requirement of Section 4.11.4 of the Retail Planning Guidelines, 2012 and the protection of strategic national road network have been achieved.</p> <ul style="list-style-type: none"> • MA 1.9.20 (Update to paragraphs 9.11.9 to 9.11.13 on retail outlet centres) – reminds the Council that the NPF indicates a need to improve regional connectivity in tandem with targeted urban growth strategies for Cork, Limerick, and Waterford and to maintain the strategic capacity and safety of the national roads network including planning for future capacity enhancement. TII seeks to ensure that these objectives are not undermined and references the Section 28 DoECLG Spatial Planning and National Roads Guidelines for Planning Authorities. With respect to Retail Outlet Centres or Outlet Centres as described in Section 4.11.4 of the Retail Planning Guidelines, TII highlights that the Retail Planning Guidelines, 2012, establish that the presumption against large out-of-town retail centres located adjacent or close to existing, new, or planned national roads/motorways with no exception to this policy applied to “Outlet Centres” which are large out of town retail centres with a significant reliance on the private car. <p>TII raises issues of known and acknowledged capacity constraints and safety concerns associated with the N25 corridor and Cobh Cross Junction, detailing extracts from N25 Carrigtwohill to Midleton Upgrade Scheme, Project Appraisal Plan as well as Council correspondence to TII.</p> <p>Submits that this amendment is supported by a draft report entitled “Study on the</p>

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			<p>Requirement for Retail Outlet Centre(s) in the Cork Metropolitan Area” and reiterates points, previously submitted to the Planning Authority, regarding its content and findings including in relation to Traffic Impact on National Roads, Multi-Criteria Analysis and Corridor Selection, N25 Retail Outlet Centres Location.</p> <p>It submits that a land use of a scale and typology such as a Retail Outlet Centre on the N25 corridor would impact adversely on capacity and safety of the N25 and associated junctions on a route with acknowledged constraints related to capacity operation and safety and that the proposed amendment is at variance in its current form with national regional and local transport and land use policy, making reference to the following:</p> <ul style="list-style-type: none"> - Project 2040 National Strategic Outcome no 2 Enhanced Regional Accessibility (page 140 National Planning Framework) indicates the need for “Maintaining the strategic capacity and safety of the national roads network including planning for future capacity enhancement.” -Sections 2.5, 2.7 and 2.9 of the DoECLG Spatial Planning and National Roads Guidelines for Planning Authorities. -Section 4.11.4 of the Retail Planning Guidelines, 2012, establish that there should be a general presumption against large out-of-town retail centres those located adjacent or close to existing, new, or planned national roads/motorways. <p>Submits that , given the importance of the N25 to Cork County and its community, economic and social at this time, it would be prudent of the planning authority to omit this amendment as included and establish a new objective in the future which seeks a review and update the “Study on the Requirement for Retail Outlet Centre(s) in the Cork Metropolitan Area to reflect current national transport and land use policies, the well-known constraints and strategic requirements of the N25, as well as to be informed by the joint metropolitan retail strategy.</p>

Item No	Name	Submission Reference Number	Summary
			<ul style="list-style-type: none"> • MA 3.1.4.15 (Fermoy: new industrial site) – TII, making reference to DoECLG Spatial Planning and National Roads Guidelines for Planning Authorities (2012), raises a concern with this proposed amendment taken in conjunction with proposed amendment 31.4.16 and recommends that the zoning objectives is omitted to protect the steady-state maintenance, operation, and safety of the National Roads network. • MA 3.1.4.16 (Fermoy: new special policy area) - TII, making reference to DoECLG Spatial Planning and National Roads Guidelines for Planning Authorities (2012) and to requirements of the National Planning Framework, and RSES to maintain and protect the national road network, raises a concern with this proposed amendment taken in conjunction with proposed amendment 31.4.15. and recommends should be re-evaluated and accompanied by an appropriate evidence base as indicated in the DoECLG Spatial Planning and National Road Guidelines for Planning Authorities to demonstrate that proposals support and protect the steady-state maintenance and safety of the National Roads network.
49.	Veolia Environmental Services Technical Solutions Limited	DMDCDP434216780	<p>This submission on behalf of Veolia Environmental Technical Solutions Limited, supports the decision of Cork County Council to zone the lands at Corrin, Fermoy for Industrial development.</p> <p>Veolia are a long-established environmental services company situated at Corrin, providing critical services to the fast-growing pharmaceutical industry in Cork. The importance of providing this service was intensified during the Covid pandemic as the pharmaceutical companies produced vaccines and other drugs and the company provided consistent and continued service.</p> <p>Submission indicates that the company has been advised that for them to expand their business in the area the land would need to be zoned for industrial development. They plan to grow the business at the Corrin site, which will bring employment and growth to</p>

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			<p>the local area, and therefore support the zoning. The company acknowledges that it will need to engage with the EPA to agree the required changes to its existing EPA license arrangements to facilitate expansion. If the land is zoned, then it is considered that the planning consent and EPA licencing process will be easier. If the land is not zoned and Veolia have to move elsewhere obtaining the necessary consents and licencing permissions from the EPA would involve considerable planning and resources and would likely take considerably longer.</p> <p>The current location of the Veolia transfer facility outside of the Cork urban area and with good access to the motorway is of primary importance to the company and the ability to expand onto lands zoned for industrial use will benefit the company and its customers.</p>
50.	Victoria Thornhill	DMDCDP432710585	<p>Submitter indicates that the community does not want high density development in Carrigtwohill as the amenities are not there to support it. In addition, they don't want apartments. Apartments in the Castlelake development have been unwanted / unfinished and derelict for years.</p>
51.	Zeus Packaging Ltd	DMDCDP434229332	<p>Submission outlines companies' disappointment to hear the proposed industrial zoning of land at Corrin in Fermoy is being questioned by the Planning Regulator as they have been searching for a site for an RGC and consider the location at Corrin to be perfect. They have already had talks with the landowner about a developing a distribution facility on the site which would open by the end of 2023 providing construction phase and longer-term jobs for the Fermoy area. The site has good access to the motorway and is serviced.</p>

3 Chief Executive's Recommendations in relation to the best manner in which to give effect to the Draft Direction.

On the 20th May 2022 the OPR issued a recommendation under section 31AM(8) to the Minister to issue a draft direction. The statutory requirements for a recommendation under section 31AM(8) comprise that the development plan (a) has not been made in a manner consistent with the recommendations of the Office and (b) the decision results in the making of a development plan in a manner that fails to set out an overall strategy for the proper planning and sustainable development of the area concerned.

For these purposes, the OPR in its recommendation of 20th May 2022, referred to its recommendation dated 1st July 2021 on the draft plan and also its recommendation dated 15th February 2022 on the material alterations.

The OPR's recommendation of 1st July 2021 contained fundamental flaws including that a joint retail strategy was "required" under the Retail Guidelines. This was held to be erroneous by the judgment of Humphreys J in *Cork County Council v Minister for Housing* [2021] IEHC 683. The OPR also relied upon the section 9(7) Ministerial letter to the Council. This was quashed in the judgment of Humphreys J. in *Cork County Council v Minister for Housing* [2022] IEHC 281, delivered on the 27 May 2022. Such recommendation of 1st July 2021 was therefore fundamentally flawed.

The OPR's recommendation of 15th February 2022 also relied upon the section 9(7) letter of the Minister and said that the judgment of Humphreys J on the section 31 direction was under appeal to the Court of Appeal. It said that material amendment was premature due to the lack of Joint Retail Strategy which was "envisaged" under Retail Guidelines 2012. This recommendation was therefore also fundamentally flawed. It is noted that the appeal against the judgment of Humphreys J on the section 31 direction was dismissed before the Court of Appeal as being moot and so the judgment of Humphreys J on the section 31 direction is not subject to any appeal.

Thus it follows that the premise of the section 31AM recommendation to the Minister is that the development plan was not made in a manner consistent with two flawed and invalid recommendations of the OPR. The section 31AM recommendation also again relied upon the section 9(7) letter from the Minister, stating:

“Having regard to the Minister’s letter under section 9(7) of the Act concerning co-ordination of the objectives for retail outlet centres, the Joint Retail Strategy was required, in particular, to consider the implications of retail developments contemplated in the draft Plan such as outlet centres referred to under section 9.11 of the draft Plan.”

The S.31AM(8) Recommendation of the OPR further refers to its Recommendation 9 made in its submission to the Council on the Cork County Development Plan 2022 – 2028. Recommendation 9(iv) in the submission states that the Joint Retail Strategy between Cork County Council and Cork city Council *“is required to...having regard to the Minister’s letter under section 9.7 of the Act concerning co-ordination of the objectives for retail outlet centres, the Joint Retail Strategy is required, in particular, to consider the implications of retail developments contemplated in the draft Plan such as outlet centres referred to under section 9.11 of the draft Plan.”*

The OPR recommendation was accompanied by a draft direction to the Minister which included deleting certain sections of the development plan and also inserting new text. The statement of reasons for the draft direction says there was a failure to “have regard” to the Retail Guidelines 2012 on the basis that the development plan “must be informed” by a Joint Retail Strategy. However, it is clear the OPR in this statement is making the same error that the Retail Guidelines “require” a Joint Retail Strategy, as it “must” inform the development plan. The alleged failure to have regard to the Guidelines (notwithstanding that the Council clearly had regard to the Guidelines in the manner described by Humphreys J in the section 31 judgment), appears to be based on that fact the Development Plan was not informed by a Joint Retail Strategy when it “must” be informed by the same. The first reason also involves a read across from a failure to be informed by a Joint Retail Strategy to a conclusion that it failed to set out an overall strategy. This was a further independent ground given by Humphreys J for quashing the section 31 direction. The second reason refers to a failure to give reasons even though reasons were clear and where the “have regard” standard does not require the giving of reasons for not following the same. The third reason refers to CMASP PO 16 of the MASP, which is not expressed in mandatory language but refers to “seek further preparation”

of joint retail strategies “in accordance with section 28 Retail Planning Guidelines”. The CMASP states that strategic role and Regional Policy Objectives for the MASPs are set out in Section 3.4 of the RSES. However, the CMASP is distinct from the RSES.

Reasons 3 to 6 relate to certain zoning decisions and it is unhelpful and unclear that the OPR has not properly separated this from the recommendation relating to the retail outlet policies. The seventh reason refers to the development plan not being made in a manner consistent with and has failed to implement the recommendation of the OPR, and the eight and ninth reason says that the development plan fails to set out an overall strategy and also the development plan is not in compliance with the Act.

It should also be said that insofar as the draft direction proposes introducing new text in the development plan as formulated by the OPR, as opposed to simply deleting text or requiring certain steps to consider inserting certain matter, it is doubtful whether this is legally permissible. Firstly, it involves the OPR in policy making, though the OPR has no power to formulate policy. Secondly it would appear to go beyond the scope of a direction under section 31 which comprises requiring a planning authority “to take specified measures”.

As noted above subsequent to the OPR recommendation of 20th May 2022, on the 27th May 2022 judgment was delivered in the High Court proceedings of *Cork County Council v. Minister for Local Government and Planning Cork City Council (Notice Party)* [2022] IEHC 281 wherein the Judge stated that an Order of Certiorari is being granted quashing the requirements made to Cork County Council and Cork City Council by the Minister under S.9(7).

NOTICE OF INTENTION OF THE MINISTER TO ISSUE A DIRECTION

It was therefore on foot of the section 31AM(8) recommendation of the OPR that the Minister sent the Notice of Intention to Issue a Direction dated the 3rd June 2022 and draft direction. In the first page of the notice the Minister acknowledges that the requirement made by him under S9(7) was the subject matter of proceedings and states that the S9(7) requirement ‘*Consequently, it does not form*

part of the forming of my Opinion or the Statement of Reasons set out in the letter or accompanying draft Direction’. However, on the second page, under the heading “Opinion”, the Minister sets out the consideration of matter on which he formed his Opinion. This includes at (a) the development plan was not made in a manner consistent with and has failed to implement the recommendations of the OPR. This refers to the recommendations of the OPR of 1st July 2021 and 22nd February 2022, which are fundamentally flawed as outlined above. At item (v) the Minister refers to the plan being “inconsistent” with Ministerial Guidelines under section 28 specifically the Retail Guidelines 2012. However, the standard is not inconsistency but the “have regard” standard and so this is a further error. The reasons are then addressed at pg. 6 of the Notice which states that the development plan “fails to follow” Ministerial Guidelines and that the development plan “must be informed” by joint retail strategies. This is another error. The requirement is to have regard to Guidelines not a requirement to follow Guidelines. It also involves interpreting the Guidelines as imposing mandatory requirements as indicated by the statement that the development plan “must be informed” by the Guidelines. Again, there is an erroneous read across from a failure to conduct a Joint Strategy to a failure of the development plan to set out an overall strategy. At pg. 11 it goes on to repeat under the “Reasons” heading that the development plan has not been made in a manner consistent with and has failed to implement the recommendation of the OPR. These same errors are then repeated in the Draft Direction, in particular in the Statement of Reasons. Point I in the Statement of Reasons set out in the draft direction states as follows:

The Cork County Development Plan 2022-2028 as made fails to follow Ministerial Guidelines issued under Section 28 of the Act, specifically the requirement under the Retail Planning Guidelines for Planning Authorities (2012) that future retail development should be plan-led, that the development plan, specifically in relation to retailing, must be evidence-based, and that the Cork County Development Plan must be informed by a Joint Retail Strategy prepared with Cork City Council.

Statement of Reason I, by using the phrase “...fails to follow...”, is not in accordance with *Cork County Council v. Minister for Housing, Local Government and Heritage and the Office of the Planning Regulator No.1 [2021] IEHC 683*, in which it was held that “SPPRs contained in s. 28 guidelines are mandatory, but otherwise the duty in respect of s. 28 guidelines is to have regard to them, not to comply with them.” The Judge went on to hold that:

“The really fundamental point under this heading is that not only is a joint retail strategy not “required”, but the council did not fail to have regard to the content of the guidelines. It is true that the guidelines phrase themselves in mandatory terms to the effect that certain things should or shall be done and so forth. However, all that has to be seen through the prism of the legal status of the guidelines, which in this instance is something that the council has to have regard to rather than be “required” to follow.”

And

“That which is not mandatory does not become mandatory merely because it purports to use mandatory language. Nor does the use of mandatory language put a higher onus on the council to explain its departure from the guidelines. Nor indeed was the OPR recommendation or any ministerial subsequent decision premised on this argument or indeed more generally on the argument that the council had not explained or adequately explained its departure from the guidelines. That argument was inventively introduced after the event. Ultimately the use of mandatory language within any individual non-binding guidelines cannot, as the council put it in oral submissions, “pull them up by the bootstraps” into mandatory guidelines. Apart from that being illogical, it would contradict the statutory scheme.”

This error in respect of the legal standard applicable to Ministerial Guidelines is replicated at Point 2 of the Statement of Reasons in both the OPR’s draft direction attached to his S.31AM(8) Recommendation and the Minister’s draft direction as served. Both of these documents state:

“In this respect, no or no adequate reasons relating to the proper planning and sustainable development of the area have been provided to explain why the Guidelines have not been followed.”

It is clear from jurisprudence that the standard to be met in relation to S.28 guidelines that are not designated as SPPRs, is “have regards to” and not “fails to follow” which is relied upon by the Minister in the Statement of Reasons. The Minister and OPR will both be aware that their appeal of the High Court Judgment to the Court of Appeal as dismissed on the 31st July 2022 as a result of mootness. Therefore, any reliance on the Minister on a standard other than “have regard to” in respect of the

Retail Planning Guidelines is fundamentally flawed. The draft direction further confusingly combines the reasons relating to zoning matter with the retail outlet matter. However, at item (vii) the Reasons again repeat the failure to act consistent with and to implement the recommendation of the OPR. As the OPR recommendations were flawed, this further vitiates the reasons and basis for the draft direction issued by the Minister.

The Draft Direction is also seeking to insert text into the development plan. As noted, it is doubtful whether this falls within the scope of section 31 which may require the local authority to take “specified measures”.

I have attached the Judgement for consideration and review in the interests of ensuring full consideration of the Judgement of the High Court is given by the OPR at this stage of the process, including in forming a view and preparing a Recommendation with the benefit of said High Court decision.

As the Appeal cannot proceed any further, the above referenced Judgement and related Order, and the matters addressed in same, may be said to be the most recent and up-to-date interpretation of law as regards the matters argued.

In the interests of clarity and for the avoidance of any misinterpretation I attach a copy of the High Court Judgement dated 5th November 2021; which it is respectfully suggested should be considered in the context of the Office of the Planning Regulators determination when preparing a Recommendation to the Minister in the live matters relating to the County Development Plan 2022-2028.

Indeed it is considered the Office of the Planning Regulator when forming a view and preparing a Recommendation on the matters under consideration should summarise the issues considered, addressed and decided in the Judgement and Order and clearly relay how the Recommendation of the Office of the Planning Regulator in the current matters arising, following consideration of my Report which has been prepared in discharge of my responsibilities pursuant to Section 31(8) of the Planning & Development Act 2000 as amended, reflects the legal position in such matters. It is my

opinion that the Judgement and Order provide a very clear framework within which the legislative provision informing Plan-making by Local Authorities are to be discharged, a clear framework of legislative provisions which the Courts have found should inform the Office of the Planning Regulator and Minister in the discharge of their respective duties in relation to Section 31 of the Planning & Development Act 2000, as amended.

It is further suggested the Minister should then form his own view on the implications of the High Court decision when making a decision on the current live matters – the Minister’s decision should also consider the significance of the fact the OPR prepared the Recommendation in advance of the High Court decision of 27th May 2022.

I include extracts from the Judgement in *Cork County Council v. Minister for Housing, Local Government and Heritage, Ireland and the Attorney General and Office of the Planning Regulator No. 1* that are relevant to the matters under consideration in the Draft Direction:

“Incorrectly proceeding on the basis that an updated joint retail strategy is “required”

36. *The misunderstanding that permeates the approach of the OPR and the Minister is unfortunately fundamental. SPPRs contained in s. 28 guidelines are mandatory, but otherwise the duty in respect of s. 28 guidelines is to have regard to them, not to comply with them. I go back to the quotations which commence this judgment. As Baker J. said in Brophy v. An Bord Pleanála, guidelines are guidelines, not prescriptive or mandatory instruments. (We will leave aside the assault on language created by the peculiar statutory terminology of mandatory “guidelines” if SPPRs are included, which doesn’t apply here.) It is axiomatic that rigid compliance is not required: see Glencar Exploration PLC v. Mayo County Council [2001] IESC 64, [2002] 1 I.R. 84 at 142 per Keane C.J. But reference to rigid or slavish compliance not being required don’t imply that non-rigid or non-slavish compliance is mandatory. No kind of compliance is required by a have-regard obligation, merely regard.*

37. *Considerable emphasis was placed on McEvoy v. Meath County Council [2003] IEHC 31, [2003] 1 I.R. 208, but that case does not set the bar very high. Even “limited and somewhat unsatisfactory consideration” (p. 226) did not give rise to an entitlement to*

- certiorari. The State in particular sought to pump a lot of gas into the McEvoy decision, but in my view their submission fundamentally mischaracterised and misdescribed it.*
38. *The crucial paragraph is at p. 224 of the report: “Whilst reason and good sense would dictate that it is in the main desirable that planning authorities should, when making and adopting development plans, seek to accommodate the objectives and policies contained in relevant regional planning guidelines, they are not bound to comply with the guidelines and may depart from them for bona fide reasons consistent with the proper planning and development of the areas for which they have planning responsibility.”*
39. *That is a very light bar. The reference to the council acting bona fide adds nothing to baseline administrative law duties that exist independently of the duty to have regard. Of course public authorities cannot act mala fide. The reference to departing for reasons consistent with proper planning and development is again simply a statement of the basic - every public body must have reasons for what it does. McEvoy is about having reasons, not articulating them, and there is nothing in McEvoy about those reasons being expressed at all, and certainly not to any particular degree of detail different to any other administrative law situation. The requirements that reasons be consistent with proper planning and development is again merely an expression of the baseline public law duty to act for a proper purpose, a duty which also exists independently of a duty to have regard and is not in itself derived from that duty.*
40. *In short, there is nothing in McEvoy to elevate the duties on any council that is departing from a guideline to any heightened level that does not apply to public law decision-making generally. I do not accept that McEvoy requires the giving of an explanation for not following guidelines. The 2000 Act does have such a provision in the context of the development plan (see s. 28(1B)), but that does not appear to apply to a variation and certainly it has not been contended here that it applies to a variation. (Maybe that’s an omission for the Oireachtas to consider.) Even if reasons were required, there is nothing in McEvoy to require a detailed explanation or particularised reasons, but in any event lack of reasons was not the basis of the OPR proposal or ministerial action. The basis of their approach was that an updated joint retail strategy was “required”.*
41. *The really fundamental point under this heading is that not only is a joint retail strategy not “required”, but the council did not fail to have regard to the content of the guidelines. It is true that the guidelines phrase themselves in mandatory terms to the*

effect that certain things should or shall be done and so forth. However, all that has to be seen through the prism of the legal status of the guidelines, which in this instance is something that the council has to have regard to rather than be “required” to follow. While it sounds slightly metaphysical, the duty therefore, is to have regard to the Minister’s view that certain things should be done. That is fundamentally different from a duty to do those things. The basic problem for the OPR and the Minister here is that the council did not fail to consider and have regard to the Minister’s views as set out in the guidelines. The process simply collapsed the distinction between a requirement to have regard to the Minister’s views as to the need for a joint strategy and a requirement to have a joint strategy, a legal misunderstanding that contaminated everything thereafter.

42. *The only case mentioned in relation to the phrase “have regard to” in Murdoch and Hunt’s Dictionary of Irish Law, 6th ed. (Dublin, Bloomsbury, 2016) at p. 788, is in fact McEvoy. Another useful case that might be worth including under this heading is G.K. v. Minister for Justice, Equality and Law Reform [2001] IESC 205, [2002] 2 I.R. 418, which addressed the terms of s. 3(6) of the Immigration Act 1999. That provision says that “[i]n determining whether to make a deportation order in relation to a person, the Minister shall have regard to” a list of various factors. In G.K., having regard was treated as a synonym for “considering” such factors, and ultimately a fairly formulaic statement of reasons to the effect that the interests of public policy and the common good outweigh such features of the case as might tend to support leave to remain was held sufficient by the Supreme Court. Indeed, insofar as the applicant alleged that factors under s. 3(6) of the 1999 Act in particular representations “were not considered”, Hardiman J. (Denham and Geoghegan JJ. concurring) said “[t]here is simply no evidence whatever for this proposition.”*
43. *The approach taken by the Supreme Court in G.K. was essentially that where the decision-maker says that it has had regard to certain matters there is an evidential onus to be overcome to displace that. Such an onus had not been satisfied there and it most certainly has not been satisfied here either. In fact, the council did vastly more than the Minister did in G.K. and did demonstrably more than simply assert that it had taken the guidelines into account. Nor indeed did it adopt a formulaic decision or reasoning. Considerable detail is set out in the Chief Executive’s report and the letter to the OPR as to how the council engaged with the guidelines. The council passed the G.K. test with flying colours, and McEvoy doesn’t set a different test.*

44. *Indeed it would undermine the rule of law if words had a different meaning depending on who is relying on them. U.S. Attorney General Merrick Garland (formerly Garland J.) recently made the point that “[t]he essence of the rule of law is that like cases are treated alike. That there not be ... one rule for friends, another for foes” (Statement of Merrick B. Garland, Attorney General of the United States, Before the United States House Committee on the Judiciary, at a Hearing entitled ‘Oversight of the United States Department of Justice’, Presented October 21, 2021). For the State’s sake, let’s hope that the immigration bar doesn’t find out that the executive is arguing here that a duty to “have regard to” something imposes an obligation to give adequate reasons for disagreeing with that something, an obligation that can’t be met even by detailed reasons of the type given here and that is enhanced by the use of strident, mandatory language in the something to which regard is to be had. The inevitable volcano of judicial reviews will presumably eventually smoke out the admission that the only way to reconcile the State’s position here with the jurisprudence is that “have regard to” means something light when the State has to have regard to somebody else’s views, but something exacting when somebody else has to have regard to the State’s views. That would be a double standard that couldn’t be accepted and that would undermine the necessary objectivity of language inherent in legal governance through the written word.*
45. *Fragmentation and inconsistency is a constant potential feature of the common law system insofar as cases are decided in principle on an atomised individual basis. Nonetheless, courts probably should strive for overarching and consistent jurisprudence and aim towards that highly desirable goal identified by Ronald Dworkin for law to be a seamless web, and for joined-up thinking and consistency to apply across the various different silos into which law tends to operate. The fundamental point under this heading is that have-regard-to-type guidelines do not become mandatory just because the Minister puts mandatory words in them, any more than (for example) an illegally resident non-national’s submission to the Minister for Justice would have a more impactful status merely by being worded in an imperious or demanding manner. There is a clear analogy here with the decision in *Tristor*. Clarke J. in that case noted (at para. 7.6) that the Dublin retail strategy “has no formal legal status”, although I suppose in fairness here it can be pointed out that joint retail strategies have the limited legal status of being provided for within a document, namely the s. 28 guidelines, that itself has a legal status. That minor quibble may be a semantic issue, but obviously I agree with Clarke J.’s*

- point as applied in the present context, that any joint retail strategy for Cork would not have the status of being in itself binding.*
46. *The really crucial point is that the Minister in Tristor made an error quite similar to the one here. Clarke J. said at para. 7.11 that: “The first point that needs to be noted is that the Minister, in making the Direction, did not indicate that Dún Laoghaire[-]Rathdown Council did not “have regard” to the guidelines. Rather, the Minister’s stated reasons were to the effect that the Draft Development Plan was contrary to the specified paragraphs of the Retail Planning Guidelines. On that ground alone it would be difficult to conclude that the Minister had properly considered the position under the Guidelines”.*
47. *Clarke J. went on the say at para. 7.19: “It seems to me, therefore, that the Minister asked himself the wrong question. It is clear from the submissions made to the Court that the Minister considered that s. 31 permitted him to impose, by direction, his own views on the proper planning and development of an area over those of the elected local representatives. For the reasons which I have sought to analyse, it does not seem to me that the Act entitles the Minister to do that. Rather, the Minister must ask himself whether there is a significant failure to comply with provisions of the 2000 Act other than s. 10 or, in the context of s. 10, must ask himself whether the plan actually has a strategy which is set out in it and which complies with the mandatory obligations provided for in s. 10(2) which apply to such plans. If the Oireachtas wishes the Minister to have a wider power to interfere with draft development plans formulated by local authorities, then it seems to me to be incumbent on the Oireachtas to set out precisely how and in what circumstances such a power can be exercised.”*
48. *A similar logic applies here. The OPR and the Minister essentially asked the wrong question and based that question on the incorrect premise that an updated joint retail strategy was “required”. An updated joint retail strategy is certainly envisaged by the retail planning guidelines; and moreover envisaged in mandatory language used by the Minister, but that does not make it mandatory or “required”. The only “requirement” is to have regard to the Minister’s views, including the view that such an updated joint retail strategy should be put in place.*
49. *That which is not mandatory does not become mandatory merely because it purports to use mandatory language. Nor does the use of mandatory language put a higher onus on the council to explain its departure from the guidelines. Nor indeed was the OPR*

recommendation or any ministerial subsequent decision premised on this argument or indeed more generally on the argument that the council had not explained or adequately explained its departure from the guidelines. That argument was inventively introduced after the event. Ultimately the use of mandatory language within any individual non-binding guidelines cannot, as the council put it in oral submissions, “pull them up by the bootstraps” into mandatory guidelines. Apart from that being illogical, it would contradict the statutory scheme.

50. *A fall-back argument advanced by the State was that mandatory obligations arose from s. 9(6) of the 2000 Act. Obviously, that was not a reason relied on by the OPR or indeed the Minister in any of the recommendations or decisions, so it can't be relied on now. In any event as a proposition it does not stack up in any way.*
51. *Section 9(6) provides: “A development plan shall in so far as is practicable be consistent with such national plans, policies or strategies as the Minister determines relate to proper planning and sustainable development.” Firstly, this only applies to “plans, policies or strategies”, not to guidelines.*
52. *Secondly, the guidelines are envisaged under a separate legislative provision in s. 28. Obviously if s. 9(6) did apply to s. 28 guidelines it would fundamentally contradict s. 28 which does not make such guidelines mandatory except where there are SPPRs. An argument that creates such an obvious statutory contradiction is itself untenable. No anomaly is created by s. 9(6) not covering s. 28 guidelines, because the Minister can make s. 28 guidelines mandatory in effect through the inclusion of SPPRs.*
53. *Thirdly, in any event it is clear that s. 9(6) cannot be self-executing. It requires some positive determination by the Minister which should be duly promulgated in an accessible and clear manner in order to have the effect that any plans, policies or strategies would become binding under this heading. It is an extremely practically important matter for any council to be faced with a situation where there is a mandatory obligation to comply with a particular plan, policy or strategy. Such an obligation cannot simply arise automatically simply because some form of plan, policy or strategy that has some possible relationship with the wide concepts of proper planning and sustainable development is produced without fanfare in some faraway corner of government. There must be some kind of accessible and explicit determination under the section (“such national plans,*

policies or strategies as the Minister determines ...”) to provide clarity as to what the obligations of councils are – in line with the point made by Collins J. in Spencer Place.

54. *To impose mandatory legal obligations on an automatic basis with no formality, procedure or promulgation of a direction would create an ever-changing, ever-shifting kaleidoscope of possible requirements from multiple sources which a council would be in considerable difficulty in identifying let alone keeping up with, but which nonetheless would become legally binding insofar as practicable in the context of the adoption of a development plan. That would create intolerable uncertainty in the law for all actors concerned, not just councils. The legal consequences that flow from a ministerial determination that a particular plan, policy or strategy should be covered by s. 9(6) militate in favour of such a determination being made in a formal rather than an informal manner. There is a clear analogy here with the point I made (at para. 33) in Dixon v. Lehane [2021] IEHC 658, [2021] 10 JIC 2102 (Unreported, High Court, 21st October, 2021), that the formality and legal consequences flowing from the taking of a particular legal step require more certainty and clarity as to whether a statutory power is being invoked than would be provided by an informal statement. A similar logic applies here. Any determination that would make a plan or policy subject to the application of s. 9(6) would have to be expressly articulated and transparently available, not just for the benefit of the council, but also for any other possible stakeholder in the process.*
55. *Independently of all that, the statements of opposition don't plead reliance on s. 9(6) which certainly doesn't help this argument.*
56. *A final fall-back argument was launched which would in effect lead to the implication that the OPR was entitled to make a recommendation mandating something that would not otherwise be mandatory in planning law. I do not accept that for a host of reasons, not least because it would give the OPR a substantive policy-making role that would fundamentally recalibrate the balance of functions within the planning system. As Collins J. said in Spencer Place, any such change would need to be expressly articulated. This is particularly so where it would involve such a major inroad into the jurisdiction and powers of local authorities.”*

While Retail Policy was the focus of the High Court proceedings referenced above, it is my view the Judgements and Orders of the Court have substantial relevance to all the matters raised in the Draft Direction now under consideration. Indeed to paraphrase the High Court, it is my opinion that again

the Office of the Planning Regulator and Minister *have asked the wrong questions* as regards the making of the Development Plan and whether the Policy matters contained in the Draft Direction were lawfully made by the Elected Members of Council after having given effect to their obligations under Section 12.11 of the Planning & Development Act 2000, as amended:

“In making the development plan under subsection (6) or (10) the members shall be restricted to considering the proper planning and sustainable development of the area to which the development plan relates, the statutory obligations of any local authority in the area and any relevant policies or objectives for the time being of the Government or any Minister of the Government”.

Having regard to the foregoing it is my Recommendation that the best manner in which to give effect to the Draft Direction in each of the policy matters contained therein is to confine consideration as to whether:

- the legislative provisions as regards the making of the Cork County Development Plan 2022-2028 as set out in the Planning & Development Act 2000, as amended have been properly discharged. In this regard I would refer the OPR and Minister to the High Court Judgements in the Case of Section 31 Direction in the matter of Variation No2 of the Cork County Development Plan 2014 and subsequent Judgement in the Court of Appeal; and the High Court Judgement in the matter of Section 9.7 (full details attached)
- the manner in which the Cork County Development Plan 2022-2028 was made reflects the Constitutional role of Local Government
- the manner in which the Cork County Development Plan 2022-2028 reflects the responsibilities and obligations for such matters set out in the Local Government Act 2001 as amended.

CONCLUSION

I would recommend that the OPR and Minister give significant consideration to the Judgments of the Courts and provide clear explanation as to how the approach of Council to making the policy contained in the Draft Direction differs to the policy formulation process undertaken as regards all other aspects of the making of the Cork County Development Plan 2022-2028.

It is my view that a detailed explanation of same will be critical to providing the transparency and consistency necessary to safeguard the integrity of the Plan-making process; a lengthy and detailed process that involves community and stakeholder consultation throughout. Moreover, having given significant consideration to the matters outlined above including the flawed process to date, I am of the view that the Minister ought not issue a direction under section 31 of the Planning & Development Act 2000 as amended, in respect of any matter contained in the Draft Direction of 3rd June 2022.

Appendix A Submissions by Interested Party

Item No	Name	Submission Reference Number
1.	Atlantic View Residents Association	DMDCDP432239306
2.	Avondhu Blackwater Partnership CLG	DMDCDP434219618
3.	Avondhu Motor Factors Ltd	DMDCDP434231251
4.	Betty Hannigan	DMDCDP432628974
5.	Brian McCutcheon	DMDCDP433867283
6.	Carrigtwohill Community Council CLG	DMDCDP433134072
7.	Carrigtwohill Family Resource Centre CLG.	DMDCDP433110276
8.	Castlelyons Community Council	DMDCDP434230655
9.	Cathy and Colman O' Flynn	DMDCDP434226657
10.	Colman O'Flynn	DMDCDP433171121
11.	Colum McCarthy	DMDCDP433166589
12.	Con McCarthy - Sandymark	DMDCDP434208705
13.	Cork Marts	DMDCDP433753961
14.	Cork County Council - Members of	DMDCDP433743035
15.	Councillor Alan O'Connor	DMDCDP433836427
16.	Councillor Anthony Barry	DMDCDP433794101
17.	Councillor Frank O'Flynn	DMDCDP433739149
18.	Councillor Frank O'Flynn	DMDCDP433735299
19.	Councillor Kay Dawson	DMDCDP433839072
20.	Councillor Michael Hegarty	DMDCDP434959446.
21.	Councillors Patrick Gerard Murphy & Joe Carroll	DMDCDP433885341
22.	Evelyn Forde	DMDCDP431971765
23.	Fermoy Forum	DMDCDP434213671
24.	Flyco Ltd	DMDCDP434228418
25.	Frank Hannigan	DMDCDP432533869
26.	Gerard Fitzpatrick	DMDCDP433653879
27.	Helen Conway	DMDCDP432015458
28.	Kevin Finn, Potter & Finn Chartered Consulting Engineers Mitchelstown	DMDCDP430371906
29.	Kevin T Finn	DMDCDP430393149
30.	Margaret Roche	DMDCDP433609598
31.	Martin & Lorraine Healy	DMDCDP433021675
32.	Martin Greaney	DMDCDP432811490
33.	Masterlink	DMDCDP434225427
34.	Mrs. O'Reilly	DMDCDP431460446
35.	Murnane & O'Shea Limited	DMDCDP433821871
36.	Murnane & O'Shea Limited	DMDCDP433864302
37.	National Transport Authority	DMDCDP433840790
38.	Olivia Roche	DMDCDP432678949
39.	Pádraig de Búrca	DMDCDP433870991
40.	Philip Roche	DMDCDP432959821
41.	Robert Pasley	DMDCDP431368109
42.	Ronan McManamy	DMDCDP433556594
43.	Southcoast Logistics Ltd	DMDCDP434211959
44.	Southern Regional Assembly	DMDCDP433850331

Item No	Name	Submission Reference Number
45.	St. Brigid - St. Anne Conference of the Society of Saint Vincent de Paul, Carrigtwohill	DMDCDP433113838
46.	Stephen O' Riordan	DMDCDP432359542
47.	Toss Bryan Ltd	DMDCDP434217495
48.	Transport Infrastructure Ireland	DMDCDP431749646
49.	Veolia Limited	DMDCDP434216780
50.	Victoria Thornhill	DMDCDP432710585
51.	Zeus Packaging Ltd	DMDCDP434229332



Comhairle Contae Chorcaí
Cork County Council