



COMHAIRLE | CLARE  
CONTAE AN CHLÁIR | COUNTY COUNCIL



## Developer Provided or led Infrastructure (DPI).

I would have a concern facilitating Developer Provided or led Infrastructure in the proposed development plan 2023-2029. There is no provision by Irish Water in their investment plan for taking in charge such infrastructure. As described in the County Clare Development Plan there are many villages with DPI where no IW infrastructure exists.

Irish Water have also made clear in their Memorandum of Understanding (MoU) with all local authorities regarding taking in charge of estates that they will not take in charge stand alone DPI. Historically we have seen that despite the best intentions of planning authorities to copper fasten legal agreements between developers and residents through a management company to maintain and operate such waste water infrastructure it has ended in failure.

The local authority have no power to take such infrastructure in charge or operate it. There are also particular "exclusion provisions" that apply under the Water Services No 2 Act 2013 which allow a local authority to be still referred to as a Water Services Authority under the following headings;

- (i) Part 6 ,The Rural Water Programme (**other than sections 91 and 92**),

In effect a local authority now has no power under Section 91 , i.e they are excluded, to take in charge either temporarily or permanently Developer Provided Infrastructure. However one of the challenges facing local authorities is in dealing with estates which have been effectively abandoned by the original Developer for whatever reason. Previously a local authority would have exercised its powers under Section 91 of the Water Services Act 2007 to abate any risk to human health or the environment. That function now rests with Irish Water who have categorically refused to deal with such issues in accordance with their MoU.

The local authority have also been refused the relevant waster water discharge certificate of authorization for such DPI waste water treatment plants by the EPA who are the licensing authority for such matters. They EPA only recognize Irish Water as the relevant authority. Therefore even if a local authority could take in charge such infrastructure ,which it can't , the EPA will not licence them.

The Planning and Development Act under Section 180 is silent on waste water treatment plants. That legislation does not specifically mention DPI but references the fact that a Planning Authority under Section 180 (4) (c) that is not a Water Services Authority **shall not take in charge** any sewers, watermains or service connections in attendant grounds of the development but shall request the relevant Water Services Authority to do so. The MoU with Irish Water who are the Water Services Authority rules out that option.

An Roinn Uisce  
An Stiúrthóireacht Forbairt Fhisiceach

Teach Pháirc an Uisce, Bóthar Dhrom Bigil, Inis, Co. Chláir V95 N1NR

Water Services Department  
Physical Development Directorate

Waterpark House, Drumbiggle Road, Ennis, Co. Clare V95 N1NR



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So we have a situation where the Authority vested with all the functions/powers to deal with DPI (Irish Water) will not do so and the local authority who by virtue of being the only visible presence to residents of abandoned DPI estates when issues arise are being forced to act "ultra vires" to resolve issues and operate plants. In addition when residents under section 180 of the Planning and Development act hold the required plebiscite requiring the local authority to take the estate in charge the local authority have no power to take in charge ,operate or obtain a discharge licence for such infrastructure.

It is for these reasons I would not recommend a developer led or provided approach for the provision of waste water infrastructure in un serviced towns/villages be adopted in the proposed development plan 2023-2029.

Regards,

**Cyril Feeney, BE CEng MICE EUR ING CDipAF.**

**Senior Engineer, Water Services and Environment Section.**

Clare County Council, Buttermarket Building, Drumbiggle Road, Ennis, Co. Clare, V95 RR72.

T: 065 6866125 | M: 087 2284038 | E: [cfeeney@clarecoco.ie](mailto:cfeeney@clarecoco.ie) | W: [www.clarecoco.ie](http://www.clarecoco.ie)



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Clare County Council is acting as an agent for Irish Water

☎ 065 6821616

🖨 065 6828233

✉ [waterservices@clarecoco.ie](mailto:waterservices@clarecoco.ie)

🌐 [www.clarecoco.ie](http://www.clarecoco.ie)

