

From: [REDACTED]
To: [Development Plan](#)
Subject: Submission to Variation No.1 to the Clare County Development Plan 2023-2029"
Date: Tuesday 7 April [REDACTED]
[REDACTED]

Michael McNamara,
[REDACTED]
[REDACTED]
[REDACTED]

7 April 2026

Planning Department,
Clare County Council,
New Road,
Ennis,
Co Clare.

By email: devplan@clarecoco.ie

Re.: Proposed Amendment No. 3c - 3 - Scarriff/Tuamgraney Settlement Map
and Scarriff Settlement Map
PA 3c - 3a To change zoning of Residential (R4) to Agriculture (AG7) (RZLT
Change)
PA 3c - 3b To change zoning of Strategic Residential Reserve (SR1) to
Residential (R12)

Dear Sirs,

I write to you in my capacity as the legal Personal Representative of James O'Grady,
[REDACTED] the registered
owner of lands described in Folio CE1689, which includes the lands comprising both
proposed AG7, currently R4, West of the Church, Scarriff and proposed R12 – South
of the Church Scarriff, and his wife Margaret O'Grady [REDACTED]
[REDACTED] and I wish to make this submission *on behalf of their estates, respectively, in
relation* to the said lands at Fossabeg, Scarriff Co Clare that form part of their estates.

Planning History

A planning application was made in respect of the lands comprising both proposed
AG7, currently R4, West of the Church, Scarriff and proposed R12 – South of the
Church Scarriff, P99-2144, for 90 dwellings. This was refused due to sewerage and

water infrastructure constraints.

All of the lands described in Folio 1689, including the said lands, were zoned as Residential in the East Clare Local Area Plan 2004 and subsequently, up to and including the East Clare Local Area Plan 2011-2017.

Part of the lands opposite (east of) the Church 1689 were rezoned from Residential to Agricultural zoning in the Clare County Development Plan 2017 – 2023 without any reason ever having been provided.

The *Clare County Development Plan 2023-2029* rezoned from Residential to Agricultural zoning all the lands opposite (east of) the Church contained in Folio without any reason ever having been provided, and did not even include them in the Strategic Residential Reserve.

Part of the field west of the Church was zoned as Residential, R4, and part of it was rezoned as Strategic Residential Reserve, SR1.

Clare County Council decided on 30 June 2025 to propose a variation process under Section 13 of the Planning and Development Act 2000, as amended, to change the zoning of the part of the field west of the Church zoned as Residential, R4.

Relevant Guidelines

The impetus for this Proposed Variation No. 1 to Clare County Development Plan 2023-2029 is the NPF Implementation: Housing Growth Requirements Guidelines for Planning Authorities, July 2025 (hereinafter referred to as the July 2025 Guidelines) and the Residential Zoned Land Tax Change in zoning of lands subject to existing economic activity Guidelines for Planning Authorities issued under Section 28 of the Planning and Development Act, 2000 (as amended) December 2024 (hereinafter referred to as the December 2024 Guidelines).

The “Development Plans - Guidelines for Planning Authorities” (2022), are also of relevance.

All of the said guidelines were issued under Section 28 of the Planning and Development Act, 2000 (as amended).

Settlement Capacity Audit

The July 2025 Guidelines state: “Planning authorities in all instances should prepare

a 'Settlement Capacity Audit' as part of a review or variation process in line with the provisions of the "Development Plans - Guidelines for Planning Authorities" (2022), in order to both identify zoned serviced/serviceable lands, and to highlight infrastructural requirements."

The "Development Plans - Guidelines for Planning Authorities" (2022) state, at 6.3.3 Water Supply and Wastewater Facilities: "The development plan should clearly align future development proposals with water supply and wastewater treatment infrastructure capacity. Where enhancement of infrastructure is required to support development, it should be clearly set out whether this is already programmed, or whether this is planned or deliverable within the life of the development plan, together with the latest known timelines. To inform this, there must be comprehensive engagement between the planning authority and Irish Water, as the statutory water services infrastructure provider, to ensure that there is a transparent and realistic assessment of current and future planned capacity for water services infrastructure to support new development. This engagement must be at the initial stage of the development plan process through the preparation of the 'Statement of Capacity' by Irish Water for the planning authority concerned as detailed in Chapter 2. The classification process for 'Tier 1' and 'Tier 2' lands as set out in Appendix 3 of the NPF will be informed to a large degree on the availability and capacity of water supply and wastewater services."

It is not clear that a Settlement Capacity Audit in respect of Scariff/Tuamgraney was undertaken in advance of this Proposed Variation or the making of the Development Plan which preceded it. Neither the Settlement Capacity Audit, nor the Statement of Capacity for Clare County Council have been published and both are hereby requested in order to make a meaningful submission in respect of them.

Water supply capacity

The adequacy of the water infrastructure to accommodate a large-scale development has not been resolved following the previous refusal of planning permission for that reason. Whilst there has been considerable investment in the wastewater treatment facilities which have been upgraded in recent years and may now be in a position to provide sufficient capacity for the target population, there has not been a similar investment in the water infrastructure.

For the purpose of this submission, it is proposed to focus on the sole information available or accessible, the Response to RZLT Query dated 7 February 2023, which said response was not provided to me in advance of the making by Clare County Council of a decision pursuant to s 653E in relation to this land, Uisce Eireann

confirmed that “*Scarriff is served by Scarriff Water Resource Zone which has limited capacity available at present. Additional capacity is likely to be required to facilitate the development of the entire site. Groundwater investigations are underway to augment supply and a Water Treatment Plant capacity upgrade is at scoping stage.*”

Further clarification is required as to whether the “*limited capacity available*” is to serve this site, together with all the other sites then zoned residential, or whether there is “*limited capacity available*” to serve this site only if the other sites then zoned residential are not developed. The impact on capacity posed by development in the Scarriff/Tuamgraney settlement in the interim also needs to be determined. The impact from extant planning permission in place for developments other than related to the continuation of the existing economic activity the Scarriff/Tuamgraney settlement or the impact of planning applications or appeals under consideration, if granted, for developments in the the Scarriff/Tuamgraney settlement which seeks to develop the land for other purposes which do not relate to maintaining the existing economic use, should also be ascertained as these will obviously impact upon capacity and are considerations identified as relevant to rezoning, generally, in the December 2025 Guidelines.

Furthermore, the results of the Groundwater investigations carried out to augment supply and the current status of the Water Treatment Plant capacity upgrade which was at scoping stage in 2023 need to be clearly set out, in particular whether this is already programmed, or whether this is planned or deliverable within the life of the development plan, together with the latest known timelines, as required by the Development Plans - Guidelines for Planning Authorities” (2022).

National Policy Objective 103 of the National Planning Framework, First Revision, April 2025, states: “When considering zoning land for development purposes that cannot be serviced within the life of the relevant plan, such lands should not be zoned for development.”

On the Uisce Éireann Clare | Water Supply Capacity Register, available at <https://www.water.ie/connections/developer-services/capacity-registers/water-supply-capacity-register/clare>”, a register which purports to provide commentary on the ability of Water Resource Zone to supply water to support planned growth, it is stated in respect of Scarriff-Tuamgraney: “Potential Capacity Available - LoS improvement required”. In respect of this, it is stated there is “Potential Capacity Available to meet 2034 population targets” >, “Capacity constraints exist” and “Improvement proposals will include but are not limited to leakage reduction and/or capital investment.”

It is assumed that the population target referred to in information provided, dated

August 2025, is that contained in the 2023-2029 Development Plan of 1,017 persons, an increase of 94 persons, to be met with 54 housing units. It is far from clear, that there is anything like the required capacity that the population increase entailed by the 316 new housing units, stated to be deliverable on newly-identified Residential land, and 276 new housing units, stated to be deliverable on newly-identified Long Term Strategic and Sustainable Development Sites, would involve.

Nevertheless, in the Proposed variation, it is stated: “There is sufficient capacity for the target population in the public waste water treatment system. Water is supplied from the Scarriff Public Water Supply fed from a groundwater source.” It is noteworthy that, unlike waste water treatment, it is not stated that there is sufficient water capacity.

In the interests of natural justice and fair procedures, any, and all more specific information from Uisce Éireann that Clare County Council has in its possession should be published and is hereby requested.

It is clear from the most recently available information for the purpose of preparing this submission that there is inadequate capacity in water supply “to facilitate the development of the entire site [R4]” on the lands. It is, therefore, incongruous that Clare County Council should be proposing to rezone a larger site in the same field from Strategic Residential Reserve (SR1) to Residential (R12).

Long Term Strategic and Sustainable Development Site

It is submitted that in light of the number of deliverable housing units identified in the Proposed Variation, which is in excess of 50% over and above the housing growth requirement, the lack of water capacity and the wish that the existing bona fide economic activity agriculture continue for the duration of the life of the development plan, the most appropriate zoning for proposed AG7 (currently R4) West of the Church, Scarriff and proposed R12 – South of the Church Scariff is as a Long Term Strategic and Sustainable Development Site.

The “Development Plans - Guidelines for Planning Authorities” (2022) set out that lands which offer the potential to meet the objectives of these Guidelines but are not serviced or serviceable during the lifetime of the current adopted development plan, may be identified as ‘Long-Term Strategic and Sustainable Development Sites/Opportunity Areas’ in order to give clear strategic direction to future development locations, in consultation with infrastructure providers.

A Housing Unit Target of 4805 for the County of Clare from Q1 2026 to end Q1 2029 is

set out in the Proposed Variation 7748 stated to be currently deliverable on zoned Residential land. A Housing Unit target of 8496 is set out for the post-CDP period up to the end of 2034 in the Proposed Variation with 2554 new housing units stated to be deliverable on newly-identified Residential land in the settlement and 2792 new housing units stated to be deliverable on newly-identified Long Term Strategic and Sustainable Development Sites there. These stated deliverables appear to be considerably in excess of the objective set out in the July 2025 Guidelines “that ‘additional provision’ of up to 50% over and above the housing growth requirement for each local authority set out in Appendix 1 is reflected within the relevant City or County Development Plan”.

In respect of Clare, in Appendix 1, the Existing Annual 2020 Housing Requirement (Housing Supply Target) is set at 550, Adopted Development Plan - Annual Housing Requirement (Housing Supply Target) is 960, New Annual New Housing Growth Requirement to 2034 is 985 and New Annual New Housing Growth Requirement 2035 to 2040 is 687.

There is broad variance across the County regarding the settlement where these ambitious figures can be achieved and no apparent correlation with the 10-Year Water Supply Capacity Register for Clare provided by Uisce Éireann on its website

The Scarriff Tuamgraney settlement is a particularly stark example, with a Housing Unit Target of 115 from Q1 2026 to end Q1 2029 set out and 217 units are stated to be currently deliverable on zoned Residential land. A Housing Unit target of 252 is set out for the post-CDP period up to the end of 2034 in the Proposed Variation with 316 new housing units stated to be deliverable on newly-identified Residential land and 276 new housing units stated to be deliverable on newly-identified Long Term Strategic and Sustainable Development Sites there

While the Uisce Éireann online Water Supply Capacity Register for Clare states in respect of Scarriff-Tuamgraney: “Potential Capacity Available - LoS improvement required”. In respect of this, it is stated there is “Potential Capacity Available to meet 2034 population targets”, “Capacity constraints exist” and “Improvement proposals will include but are not limited to leakage reduction and/or capital investment”, it must be assumed that the population target referred to is that contained in the 2023-2029 Development Plan of 1,017 persons, an increase of 94 persons, to be met with 54 housing units. No information has been provided to indicate that there is capacity to support the population increase entailed by the 316 new housing units stated to be deliverable on newly-identified Residential land and 276 new housing units stated to be deliverable on newly-identified Long Term Strategic and Sustainable Development Sites.

It is submitted that the zoning of proposed AG7, currently R4, West of the Church, Scarriff as a Long Term Strategic and Sustainable Development Site would be entirely consistent with Policy and Objective 1(a) of the December 2024 Guidelines, as well as the reasons provided for the decision of Clare County Council of 30 June 2025 to propose a variation process under Section 13 of the Planning and Development Act 2000, as amended.

The Guidelines for Planning Authorities of December 2024 on Residential Zoned Land Tax Change in zoning of lands subject to existing economic activity, state: “Subject to Policy and Objective 1(b), it is a policy and objective of these Guidelines, that where an owner of land which is:-

- subject to an existing bona fide economic activity other than to serve the purposes of residential development;
- zoned for the purposes of residential development in a development plan or local area plan; submits a request to a local authority under Section 653I of the Taxes Consolidation Act 1997 (as amended) seeking *an alternative zoning* of their land, stating that they *wish the economic activity to continue for the duration of the life of the development plan* [emphases added], such a request should be facilitated by the planning authority under the provisions of Section 13 of the Planning and Development Act 2000 (as amended).”

Two reasons were provided for the decision to propose a variation process:

“Reason 1: Bona fide economic activity

In accordance with Policy Objective I(a) and Policy Objective I(b) of the 2024 Section 28 Ministerial guidelines 'Residential Zoned Land Tax Change in zoning of lands subject to existing economic activity — Guidelines for Planning Authorities': 1. The lands are subject to an existing bona fide economic activity other than to serve the purposes of residential development 2. The lands are not subject to an extant planning permission in respect of development of the land which consists in whole or in part of residential development. 3. The lands are not subject to a planning application which consists in whole or in part of residential development.

Reason 2: Proper Planning and Sustainable Development It is considered that there are sufficient alternative zoned lands within Scarriff/Tuamgraney to accommodate development and to deliver on the growth objectives over the lifetime of the Clare County Development Plan 2023-2029.”

Whereas the variation proposed was a change in zoning objective from Residential to Agriculture in the Clare County Development Plan 2023-2029, no reason was provided why the proposal was to specifically vary it to Agricultural, rather than as a Long Term Strategic and Sustainable Development Site, which would equally be permitted under the Guidelines. R4 West of the Church, Scarriff, particularly here the County Development Plan correctly states that “these lands have been identified as

being suitable for housing due to their close proximity to the town centre and to many of the services available in the area contributing to the compact growth of the settlement.”

For the avoidance of doubt, it is intended and desired to continue to use the lands proposed AG7, currently R4, West of the Church, Scarriff for the ongoing economic activity of agriculture for the duration of the life of the development plan, as per the December 2024 guidelines, and thereafter.

Similarly, it is intended and desired to continue to use the lands proposed R12, currently Strategic Residential Reserve (SR1) West of the Church, Scarriff for the ongoing economic activity of agriculture for the duration of the life of the development plan, as per the December 2024 guidelines, and thereafter. To zone this lands, which comprise one half of a field as Residential in circumstances where it has been decided to propose to vary the Development Plan in respect of the other half of the field is incongruous and appears to fail to have regard to that decision and the reason therefore, and the policy objective implicit in the Residential Zoned Land Tax Change in zoning of lands subject to existing economic activity Guidelines for Planning Authorities December 2024, that there may be specific circumstances where lands currently subject to an existing bona fide economic activity are suitable to be zoned

for residential development, however the owner of the land in question does not wish to develop the land for that purpose, they should be facilitated in seeking an alternative zoning of their land, stating that they wish the economic activity to continue for the duration of the life of the development plan.

For the avoidance of doubt, it is intended and desired to continue to use the lands proposed R12, currently Strategic Residential Reserve (SR1) West of the Church, Scarriff for the ongoing economic activity of agriculture for the duration of the life of the development plan, as per the December 2024 guidelines, and thereafter.

The existing and uninterrupted use for both the lands proposed AG7, currently R4 and the the lands proposed R12, currently Strategic Residential Reserve (SR1), together with all of the remainder of the lands described in Folio 1689 is agricultural. A copy of information received as part of a recent Basic Income Support for Sustainability (BISS) Scheme was previously provided to Clare County Council, together with a map from which it could be seen that the lands in question form part of land parcel C229080016 which are used as permanent pasture (upon which livestock graze). Following the death of James O’Grady, the lands were farmed by his wife, Margaret. Since her death, the lands have been farmed by the Representative of Margaret O’Grady and will be again this year when it is hoped to complete the administration of their respective estates. Livestock have already been purchased for the purpose of

grazing the said lands. Further details of BISS Scheme Application and livestock ownership and purchases can be provided if required.

It is intended and desired to continue to use the lands for the ongoing economic activity of agriculture for the duration of the 2023-2029 County Development Plan and thereafter.

Furthermore, it is not clear that either of the land parcels can be serviced with potable water during the lifetime of the development plan, as required by the Development Plans - Guidelines for Planning Authorities” (2022) and National Policy Objective 103 of the National Planning Framework, First Revision, April 2025, which states: “When considering zoning land for development purposes that cannot be serviced within the life of the relevant plan, such lands should not be zoned for development.”

In respect of the lands proposed AG7, R4 West of the Church, Scarriff, it is not disputed that the lands are “suitable for housing due to their close proximity to the town centre and to many of the services available in the area contributing to the compact growth of the settlement”, as identified in the original 2023 – 2029 Development Plan but it is not accepted that the services available include drinking water to develop the entire site.

In respect of the lands proposed R12, currently Strategic Residential Reserve (SR1) , the text objective for proposed residential zoning merely states “This site is situated between the church to the north and the sports recreational facility to the south and only a short distance from the town centre. Access to the site from Church Street or Fossa More Road will require a Traffic and Transport Assessment to inform any development proposal. Safe pedestrian and cycle connectivity with the school, creche, church, adjacent sports facility and town centre should be delivered.” It is not stated that it is serviced and it is not accepted that it is. In particular, it is not accepted that the services available include drinking water to develop the entire site.

Conclusion:

These lands could appropriately be identified in the Proposed Variation as “lands which offer the potential to meet the objectives of these Guidelines but are not serviced or serviceable during the lifetime of the current adopted development plan, [which] may be identified as ‘Long-Term Strategic and Sustainable Development Sites/Opportunity Areas’ in order to give clear strategic direction to future development locations, in consultation with infrastructure providers.” It is reiterated that that even if the lands were serviced with potable water, which it is not accepted

they are, it has been accepted by Clare County Council that the lands are subject to an existing bona fide economic activity other than to serve the purposes of residential development and the wished to continue that existing economic activity, agriculture, for the duration of the life of the development plan is restated. It is also reiterated that this continuation of that existing economic activity, agriculture, is not incompatible with a zoning as a 'Long-Term Strategic and Sustainable Development Site and that this is, therefore the most appropriate zoning.

Further documentation is sought from Clare County Council, specifically the Settlement Capacity Audit and the Water Statement of Capacity for Clare County Council, the Uisce Éireann results of the Groundwater investigations carried out to augment supply and the current status of the Water Treatment Plant capacity upgrade which was at scoping stage in 2023, as well as general information on the progress of the enhancement of drinking water infrastructure required to support development, clearly setting out whether this is already programmed, or whether this is planned or deliverable within the life of the development plan, together with the latest known timelines. This information is required to make a meaningful submission on the Proposed Variation, which affects property rights, and is hereby requested. The right to make a further submission on receipt of the said information, is reserved,

Yours faithfully,

Michael McNamara

DISCLAIMER: This email and any files transmitted with it are confidential and intended solely for the intended recipient. If you are not the named addressee you should not disseminate, distribute, copy or alter this email. Any views or opinions presented in this email are solely those of the author and might not represent those of The Bar of Ireland. Warning: Although The Bar of Ireland has taken reasonable precautions to ensure no viruses are present in this email, the company cannot accept responsibility for any loss or damage arising from the use of this email or attachments. You are requested to carry out your own virus check before opening any attachment. The author and The Bar of Ireland accept no liability for any loss or damage which may be caused by software viruses.

Michael McNamara,



7 April 2026

Planning Department,
Clare County Council,
New Road,
Ennis,
Co Clare.

By email: devplan@clarecoco.ie

Re.: Proposed Amendment No. 3c - 3 - Scariff/Tuamgraney Settlement Map and Scariff Settlement Map
PA 3c - 3a To change zoning of Residential (R4) to Agriculture (AG7) (RZLT Change)
PA 3c - 3b To change zoning of Strategic Residential Reserve (SR1) to Residential (R12)

Dear Sirs,

I write to you in my capacity as the legal Personal Representative of James O'Grady, [REDACTED] the registered owner of lands described in Folio CE1689, which includes the lands comprising both proposed AG7, currently R4, West of the Church, Scariff and proposed R12 – South of the Church Scariff, and his wife Margaret O'Grady [REDACTED] and I wish to make this submission on behalf of their estates, respectively, in relation to the said lands at Fossabeg, Scariff Co Clare that form part of their estates.

Planning History

A planning application was made in respect of the lands comprising both proposed AG7, currently R4, West of the Church, Scariff and proposed R12 – South of the Church Scariff, P99-2144, for 90 dwellings. This was refused due to sewerage and water infrastructure constraints.

All of the lands described in Folio 1689, including the said lands, were zoned as Residential in the East Clare Local Area Plan 2004 and subsequently, up to and including the East Clare Local Area Plan 2011-2017.

Part of the lands opposite (east of) the Church 1689 were rezoned from Residential to Agricultural zoning in the Clare County Development Plan 2017 – 2023 without any reason ever having been provided.

The Clare County Development Plan 2023-2029 rezoned from Residential to Agricultural zoning all the lands opposite (east of) the Church contained in Folio without any reason ever

having been provided, and did not even include them in the Strategic Residential Reserve.

Part of the field west of the Church was zoned as Residential, R4, and part of it was rezoned as Strategic Residential Reserve, SR1.

Clare County Council decided on 30 June 2025 to propose a variation process under Section 13 of the Planning and Development Act 2000, as amended, to change the zoning of the part of the field west of the Church zoned as Residential, R4.

Relevant Guidelines

The impetus for this Proposed Variation No. 1 to Clare County Development Plan 2023-2029 is the NPF Implementation: Housing Growth Requirements Guidelines for Planning Authorities, July 2025 (hereinafter referred to as the July 2025 Guidelines) and the Residential Zoned Land Tax Change in zoning of lands subject to existing economic activity Guidelines for Planning Authorities issued under Section 28 of the Planning and Development Act, 2000 (as amended) December 2024 (hereinafter referred to as the December 2024 Guidelines).

The “Development Plans - Guidelines for Planning Authorities” (2022), are also of relevance. All of the said guidelines were issued under Section 28 of the Planning and Development Act, 2000 (as amended).

Settlement Capacity Audit

The July 2025 Guidelines state: “Planning authorities in all instances should prepare a ‘Settlement Capacity Audit’ as part of a review or variation process in line with the provisions of the “Development Plans - Guidelines for Planning Authorities” (2022), in order to both identify zoned serviced/serviceable lands, and to highlight infrastructural requirements.”

The “Development Plans - Guidelines for Planning Authorities” (2022) state, at 6.3.3 Water Supply and Wastewater Facilities: “The development plan should clearly align future development proposals with water supply and wastewater treatment infrastructure capacity. Where enhancement of infrastructure is required to support development, it should be clearly set out whether this is already programmed, or whether this is planned or deliverable within the life of the development plan, together with the latest known timelines. To inform this, there must be comprehensive engagement between the planning authority and Irish Water, as the statutory water services infrastructure provider, to ensure that there is a transparent and realistic assessment of current and future planned capacity for water services infrastructure to support new development. This engagement must be at the initial stage of the development plan process through the preparation of the ‘Statement of Capacity’ by Irish Water for the planning authority concerned as detailed in Chapter 2. The classification process for ‘Tier 1’ and ‘Tier 2’ lands as set out in Appendix 3 of the NPF will be informed to a large degree on the availability and capacity of water supply and wastewater services.”

It is not clear that a Settlement Capacity Audit in respect of Scariff/Tuamgraney was undertaken in advance of this Proposed Variation or the making of the Development Plan which preceded it. Neither the Settlement Capacity Audit, nor the Statement of Capacity for Clare County Council have been published and both are hereby requested in order to make a meaningful submission in respect of them.

Water supply capacity

The adequacy of the water infrastructure to accommodate a large-scale development has not been resolved following the previous refusal of planning permission for that reason. Whilst there has been considerable investment in the wastewater treatment facilities which have been upgraded in recent years and may now be in a position to provide sufficient capacity for the target population, there has not been a similar investment in the water infrastructure.

For the purpose of this submission, it is proposed to focus on the sole information available or accessible, the Response to RZLT Query dated 7 February 2023, which said response was not provided to me in advance of the making by Clare County Council of a decision pursuant to s 653E in relation to this land, Uisce Éireann confirmed that *“Scarriff is served by Scarriff Water Resource Zone which has limited capacity available at present. Additional capacity is likely to be required to facilitate the development of the entire site. Groundwater investigations are underway to augment supply and a Water Treatment Plant capacity upgrade is at scoping stage.”*

Further clarification is required as to whether the *“limited capacity available”* is to serve this site, together with all the other sites then zoned residential, or whether there is *“limited capacity available”* to serve this site only if the other sites then zoned residential are not developed. The impact on capacity posed by development in the Scarriff/Tuamgraney settlement in the interim also needs to be determined. The impact from extant planning permission in place for developments other than related to the continuation of the existing economic activity the Scarriff/Tuamgraney settlement or the impact of planning applications or appeals under consideration, if granted, for developments in the the Scarriff/Tuamgraney settlement which seeks to develop the land for other purposes which do not relate to maintaining the existing economic use, should also be ascertained as these will obviously impact upon capacity and are considerations identified as relevant to rezoning, generally, in the December 2025 Guidelines.

Furthermore, the results of the Groundwater investigations carried out to augment supply and the current status of the Water Treatment Plant capacity upgrade which was at scoping stage in 2023 need to be clearly set out, in particular whether this is already programmed, or whether this is planned or deliverable within the life of the development plan, together with the latest known timelines, as required by the Development Plans - Guidelines for Planning Authorities” (2022).

National Policy Objective 103 of the National Planning Framework, First Revision, April 2025, states: “When considering zoning land for development purposes that cannot be serviced within the life of the relevant plan, such lands should not be zoned for development.”

On the Uisce Éireann Clare | Water Supply Capacity Register, available at <https://www.water.ie/connections/developer-services/capacity-registers/water-supply-capacity-register/clare>, a register which purports to provide commentary on the ability of Water Resource Zone to supply water to support planned growth, it is stated in respect of Scarriff-Tuamgraney: “Potential Capacity Available - LoS improvement required”. In respect of this, it is stated there is “Potential Capacity Available to meet 2034 population targets” >, “Capacity constraints exist” and “Improvement proposals will include but are not limited to leakage reduction and/or capital investment.”

It is assumed that the population target referred to in information provided, dated August 2025, is that contained in the 2023-2029 Development Plan of 1,017 persons, an increase of 94 persons, to be met with 54 housing units. It is far from clear, that there is anything like the required capacity that the population increase entailed by the 316 new housing units, stated to be deliverable on newly-identified Residential land, and 276 new housing units, stated to be deliverable on newly-identified Long Term Strategic and Sustainable Development Sites, would involve.

Nevertheless, in the Proposed variation, it is stated: “There is sufficient capacity for the target population in the public waste water treatment system. Water is supplied from the Scarriff Public Water Supply fed from a groundwater source.” It is noteworthy that, unlike waste water treatment, it is not stated that there is sufficient water capacity.

In the interests of natural justice and fair procedures, any, and all more specific information from Uisce Éireann that Clare County Council has in its possession should be published and is hereby requested.

It is clear from the most recently available information for the purpose of preparing this submission that there is inadequate capacity in water supply “to facilitate the development of the entire site [R4]” on the lands. It is, therefore, incongruous that Clare County Council should be proposing to rezone a larger site in the same field from Strategic Residential Reserve (SR1) to Residential (R12).

Long Term Strategic and Sustainable Development Site

It is submitted that in light of the number of deliverable housing units identified in the Proposed Variation, which is in excess of 50% over and above the housing growth requirement, the lack of water capacity and the wish that the existing bona fide economic activity agriculture continue for the duration of the life of the development plan, the most appropriate zoning for proposed AG7 (currently R4) West of the Church, Scarriff and proposed R12 – South of the Church Scarriff is as a Long Term Strategic and Sustainable Development Site.

The “Development Plans - Guidelines for Planning Authorities” (2022) set out that lands which offer the potential to meet the objectives of these Guidelines but are not serviced or serviceable during the lifetime of the current adopted development plan, may be identified as ‘Long-Term Strategic and Sustainable Development Sites/Opportunity Areas’ in order to give clear strategic direction to future development locations, in consultation with infrastructure providers.

A Housing Unit Target of 4805 for the County of Clare from Q1 2026 to end Q1 2029 is set out in the Proposed Variation 7748 stated to be currently deliverable on zoned Residential land. A Housing Unit target of 8496 is set out for the post-CDP period up to the end of 2034 in the Proposed Variation with 2554 new housing units stated to be deliverable on newly-identified Residential land in the settlement and 2792 new housing units stated to be deliverable on newly-identified Long Term Strategic and Sustainable Development Sites there. These stated deliverables appear to be considerably in excess of the objective set out in the July 2025 Guidelines “that ‘additional provision’ of up to 50% over and above the housing growth requirement for each local authority set out in Appendix 1 is reflected within the relevant City or County Development Plan”.

In respect of Clare, in Appendix 1, the Existing Annual 2020 Housing Requirement (Housing Supply Target) is set at 550, Adopted Development Plan - Annual Housing Requirement (Housing Supply Target) is 960, New Annual New Housing Growth Requirement to 2034 is 985 and New Annual New Housing Growth Requirement 2035 to 2040 is 687.

There is broad variance across the County regarding the settlement where these ambitious figures can be achieved and no apparent correlation with the 10-Year Water Supply Capacity Register for Clare provided by Uisce Éireann on its website

The Scarriff Tuamgraney settlement is a particularly stark example, with a Housing Unit Target of 115 from Q1 2026 to end Q1 2029 set out and 217 units are stated to be currently deliverable on zoned Residential land. A Housing Unit target of 252 is set out for the post-CDP period up to the end of 2034 in the Proposed Variation with 316 new housing units stated to be deliverable on newly-identified Residential land and 276 new housing units stated to be deliverable on newly-identified Long Term Strategic and Sustainable Development Sites there

While the Uisce Éireann online Water Supply Capacity Register for Clare states in respect of Scarriff-Tuamgraney: “Potential Capacity Available - LoS improvement required”. In respect of this, it is stated there is “Potential Capacity Available to meet 2034 population targets”, “Capacity constraints exist” and “Improvement proposals will include but are not limited to leakage reduction and/or capital investment”, it must be assumed that the population target referred to is that contained in the 2023-2029 Development Plan of 1,017 persons, an increase of 94 persons, to be met with 54 housing units. No information has been provided to indicate that there is capacity to support the population increase entailed by the 316 new housing units stated to be deliverable on newly-identified Residential land and 276 new housing units stated to be deliverable on newly-identified Long Term Strategic and Sustainable Development Sites.

It is submitted that the zoning of proposed AG7, currently R4, West of the Church, Scarriff as a Long Term Strategic and Sustainable Development Site would be entirely consistent with Policy and Objective 1(a) of the December 2024 Guidelines, as well as the reasons provided for the decision of Clare County Council of 30 June 2025 to propose a variation process under Section 13 of the Planning and Development Act 2000, as amended.

The Guidelines for Planning Authorities of December 2024 on Residential Zoned Land Tax Change in zoning of lands subject to existing economic activity, state: “Subject to Policy and Objective 1(b), it is a policy and objective of these Guidelines, that where an owner of land which is:-

- subject to an existing bona fide economic activity other than to serve the purposes of residential development;
- zoned for the purposes of residential development in a development plan or local area plan; submits a request to a local authority under Section 653I of the Taxes Consolidation Act 1997 (as amended) seeking *an alternative zoning* of their land, stating that they *wish the economic activity to continue for the duration of the life of the development plan* [emphases added], such a request should be facilitated by the planning authority under the provisions of Section 13 of the Planning and Development Act 2000 (as amended).”

Two reasons were provided for the decision to propose a variation process:

“Reason 1: Bona fide economic activity

In accordance with Policy Objective I(a) and Policy Objective I(b) of the 2024 Section 28

Ministerial guidelines 'Residential Zoned Land Tax Change in zoning of lands subject to existing economic activity — Guidelines for Planning Authorities': 1. The lands are subject to an existing bona fide economic activity other than to serve the purposes of residential development 2. The lands are not subject to an extant planning permission in respect of development of the land which consists in whole or in part of residential development. 3. The lands are not subject to a planning application which consists in whole or in part of residential development.

Reason 2: Proper Planning and Sustainable Development It is considered that there are sufficient alternative zoned lands within Scarriff/Tuamgraney to accommodate development and to deliver on the growth objectives over the lifetime of the Clare County Development Plan 2023-2029.”

Whereas the variation proposed was a change in zoning objective from Residential to Agriculture in the Clare County Development Plan 2023-2029, no reason was provided why the proposal was to specifically vary it to Agricultural, rather than as a Long Term Strategic and Sustainable Development Site, which would equally be permitted under the Guidelines. R4 West of the Church, Scarriff, particularly here the County Development Plan correctly states that “these lands have been identified as being suitable for housing due to their close proximity to the town centre and to many of the services available in the area contributing to the compact growth of the settlement.”

For the avoidance of doubt, it is intended and desired to continue to use **the lands proposed AG7, currently R4, West of the Church, Scarriff** for the ongoing economic activity of agriculture for the duration of the life of the development plan, as per the December 2024 guidelines, and thereafter.

Similarly, it is intended and desired to continue to use the lands proposed R12, currently Strategic Residential Reserve (SR1) West of the Church, Scarriff for the ongoing economic activity of agriculture for the duration of the life of the development plan, as per the December 2024 guidelines, and thereafter. To zone this lands, which comprise one half of a field as Residential in circumstances where it has been decided to propose to vary the Development Plan in respect of the other half of the field is incongruous and appears to fail to have regard to that decision and the reason therefore, and the policy objective implicit in the Residential Zoned Land Tax Change in zoning of lands subject to existing economic activity Guidelines for Planning Authorities December 2024, that there may be specific circumstances where lands currently subject to an existing bona fide economic activity are suitable to be zoned for residential development, however the owner of the land in question does not wish to develop the land for that purpose, they should be facilitated in seeking an alternative zoning of their land, stating that they wish the economic activity to continue for the duration of the life of the development plan.

For the avoidance of doubt, it is intended and desired to continue to use **the lands proposed R12, currently Strategic Residential Reserve (SR1) West of the Church, Scarriff** for the ongoing economic activity of agriculture for the duration of the life of the development plan, as per the December 2024 guidelines, and thereafter.

The existing and uninterrupted use for both the lands proposed AG7, currently R4 and the the lands proposed R12, currently Strategic Residential Reserve (SR1), together with all of the remainder of the lands described in Folio 1689 is agricultural. A copy of information received as part of a recent Basic Income Support for Sustainability (BISS) Scheme was previously

provided to Clare County Council, together with a map from which it could be seen that the lands in question form part of land parcel C229080016 which are used as permanent pasture (upon which livestock graze). Following the death of James O’Grady, the lands were farmed by his wife, Margaret. Since her death, the lands have been farmed by the Representative of Margaret O’Grady and will be again this year when it is hoped to complete the administration of their respective estates. Livestock have already been purchased for the purpose of grazing the said lands. Further details of BISS Scheme Application and livestock ownership and purchases can be provided if required.

It is intended and desired to continue to use the lands for the ongoing economic activity of agriculture for the duration of the 2023-2029 County Development Plan and thereafter.

Furthermore, it is not clear that either of the land parcels can be serviced with potable water during the lifetime of the development plan, as required by the Development Plans - Guidelines for Planning Authorities” (2022) and National Policy Objective 103 of the National Planning Framework, First Revision, April 2025, which states: “When considering zoning land for development purposes that cannot be serviced within the life of the relevant plan, such lands should not be zoned for development.”

In respect of the lands **proposed AG7, R4** West of the Church, Scarriff, it is not disputed that the lands are “suitable for housing due to their close proximity to the town centre and to many of the services available in the area contributing to the compact growth of the settlement”, as identified in the original 2023 – 2029 Development Plan but it is not accepted that the services available include drinking water to develop the entire site.

In respect of the lands **proposed R12, currently Strategic Residential Reserve (SR1)**, the text objective for proposed residential zoning merely states “This site is situated between the church to the north and the sports recreational facility to the south and only a short distance from the town centre. Access to the site from Church Street or Fossa More Road will require a Traffic and Transport Assessment to inform any development proposal. Safe pedestrian and cycle connectivity with the school, creche, church, adjacent sports facility and town centre should be delivered.” It is not stated that it is serviced and it is not accepted that it is. In particular, it is not accepted that the services available include drinking water to develop the entire site.

Conclusion:

These lands could appropriately be identified in the Proposed Variation as “lands which offer the potential to meet the objectives of these Guidelines but are not serviced or serviceable during the lifetime of the current adopted development plan, [which] may be identified as ‘Long-Term Strategic and Sustainable Development Sites/Opportunity Areas’ in order to give clear strategic direction to future development locations, in consultation with infrastructure providers.” It is reiterated that that even if the lands were serviced with potable water, which it is not accepted they are, it has been accepted by Clare County Council that the lands are subject to an existing bona fide economic activity other than to serve the purposes of residential development and the wished to continue that existing economic activity, agriculture, for the duration of the life of the development plan is restated. It is also reiterated that this continuation of that existing economic activity, agriculture, is not incompatible with a zoning as a ‘Long-

Term Strategic and Sustainable Development Site and that this is, therefore the most appropriate zoning.

Further documentation is sought from Clare County Council, specifically the Settlement Capacity Audit and the Water Statement of Capacity for Clare County Council, the Uisce Éireann results of the Groundwater investigations carried out to augment supply and the current status of the Water Treatment Plant capacity upgrade which was at scoping stage in 2023, as well as general information on the progress of the enhancement of drinking water infrastructure required to support development, clearly setting out whether this is already programmed, or whether this is planned or deliverable within the life of the development plan, together with the latest known timelines. This information is required to make a meaningful submission on the Proposed Variation, which affects property rights, and is hereby requested. The right to make a further submission on receipt of the said information, is reserved,

Yours faithfully,

Michael McNamara