An Taisce
The National Trust for Ireland

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Office of the Planning Regulator
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Sent via email to: info@opr.ie

12th September 2019

RE: Submission to the Office of the Planning Regulator on the Draft Strategic Plan 2019 - 2024

Dear Sir/Madam,

An Taisce welcome the creation of the Office of the Planning Regulator and the opportunity to comment on the Draft Strategic Plan.

Kind regards,

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Advocacy Officer
An Taisce – The National Trust for Ireland

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Planning and Environmental Policy Officer
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1. Introduction

An Taisce submit that the strategic plan for the Office of the Planning Regulator (OPR) for the five-year period ahead should have two strands, namely:

1. The operating structure of the OPR and its multi-level engagement with all sectors involved in planning; and
2. Timetabled and quantified plans for the improvement of planning performance projected for the five-year period.

The former is well considered in the Draft Plan. The latter requires significant further formulation if the OPR Strategic Plan is to justify the organisation's remit in promoting and achieving the enhancement of planning delivery in Ireland.

2. Operational Goals in the Draft Strategic Plan

An Taisce welcome the goals and objectives laid out in the Draft Plan for the operation of the OPR. The actions and milestones delineated for each goal cover a comprehensive range of operational priorities that will be key to OPR's ability to enhance and streamline the planning process. Crucially, the Draft Plan outlines clear actions with regard to transparency and communication with stakeholders, which An Taisce believe are fundamental for enhancing Ireland's planning process and increasing public engagement.

3. Targeted and Measureable Plans for Improving Planning Performance

While An Taisce considers that the Draft Strategic Plan offers a robust framework for the operation of the OPR over the next five years, we submit that the key performance measurement of the Regulator in the reform and enhancement of the Irish planning system should be targeted, timetabled, and quantifiably measurable plans for the following:

- Achieving measurable greenhouse gas mitigation and reversing ecosystem loss in this time of global climate change and biodiversity loss;
- Achieving particular targets in curtailing car based urban sprawl, stimulating a modal shift to sustainable transport, and enhancing urban wellbeing and amenity;
- Applying the range of UN Conventions, EU Directives, and Council of Europe Conventions on climate, biodiversity, waste, water, cultural heritage and landscape on all levels including individual planning applications, forward planning documents, and broader planning policies;
- Enhancing enforcement and development compliance, in particular with regard to land clearance, quarrying, and protected structure endangerment where enforcement is currently poor.

These are discussed in further detail in the sections below.

4. Mitigating Greenhouse Gas Emissions and Reversing Biodiversity Loss

In light of the current climate and biodiversity emergencies, the OPR should take a strong position on improving and enforcing climate action measures in the planning system in line with the scale and urgency of these crises. Hence, the Strategic Plan should include quantifiable plans to ensure that the planning system contributes significantly toward meeting sectoral targets at regional, county, city, and local levels. These should be measured against the targets outlined in the Paris Agreement and Climate Action and Low Carbon Development Act (2015) with regard to electricity generation, renewables share, transportation, agriculture, building energy use, etc.

The 2019 report on "The Status of EU Protected Habitats and Species in Ireland[1]" (prepared every six years as required by Article 17 of the EU Habitats Directive) illustrates the poor condition of Ireland's biodiversity. Out of Ireland's 59 protected habitats, 85% were assessed as being in an unfavourable conservation status and 46% suffering from ongoing declines. The report highlighted agriculture and development (housing, commercial, industrial, and recreational) as two of the primary threats facing these habitats. Therefore, the Strategic Plan should lay out specific actions to ensure that the protection of Special Areas of Conservation, Special Protection Areas, and Natural Heritage Areas is upheld in the planning process at all levels (also see section 5 of this submission on EIA, SEA, and Appropriate Assessment).

5. Creating Sustainable and Vibrant Communities

The Strategic Plan should include quantifiable plans for achieving compact, smart development that concentrates new housing around existing services, employment locations, and public transport.

This should involve a robust focus on reducing travel by private car and creating a modal shift to sustainable transport. As such, the OPR should develop timetabled modal share targets for walking, public transport, and cycling. This could include, for example, targets for the average distance of new housing to public transport. The OPR should also ensure the proper promotion and use of the Design Manual for Roads and Streets in urban development.

With regard to housing, lessons should be learned from what was a systemic failure to apply the seven test requirements for housing location in urban areas as required by the National Spatial Strategy 2002-2020[2] (Box 5.2 in the document and copied below in Table 1). An Taisce consider these seven tests to be well-considered measures to ensure that new

[1] Article 17 Report Summary 2019
https://www.npws.ie/sites/default/files/publications/pdf/NPWS_2019_Vol1_Summary_Article17.pdf

[2] National Spatial Strategy 2002-2020: http://nss.ie/pdfs/Completea.pdf

housing is provided sustainably. We recommend that the OPR use and expand upon them as a baseline for quantifiable improvement of housing planning. Moreover, in light of the deepening housing crisis, the OPR must also focus heavily on requirements for the provision of social housing.

	Evaluation Considerations
The Asset Test	Are there existing community resources such as schools, etc. with spare capacity?
The Carrying Capacity Test	Is the environmental setting capable of absorbing development in terms of drainage, etc.?
The Transport Test	Is there potential for reinforcing usage of public transport, walking and cycling?
The Economic Development Test	Is there potential to ensure integration between the location of housing and employment?
The Character Test	Will the proposal reinforce a sense of place and character?
The Community Test	Will the proposal reinforce the integrity and vitality of the local community and services that can be provided?
The Integration Test	Will the proposal aid an integrated approach to catering for the housing needs of all sections of society?

Table 1: Tests for housing locations in urban areas from the National Spatial Strategy 2002

There is also a need for the enhancement of amenity and wellbeing in urban areas through increased provision of green infrastructure. This would include measurable objectives for providing attractive and safe walking and cycling routes and increasing urban green and park space.

In order to enhance the vitality of the country's rural areas and small towns and increase local sustainability, the OPR should also introduce targets aimed at maintaining small town centres and protecting them against, for example, the spread of large retail outlets that encourage out-of-town car-based traffic. This would additionally help preserve historic town cores and built heritage.

6. Applying SEA, EIA, and Habitats Directives at Strategic Planning and Individual Decision Level

The OPR should provide oversight and enhance the performance of the effective and legally compliant application of the Strategic Environmental Assessment (SEA), Environmental Impact Assessment (EIA) and Appropriate Assessment (AA) process by Regional Authorities, Local Authorities and An Bord Pleanála. It should also support the enhanced input and contribution of prescribed bodies.

6.1 Strategic Environmental Assessment

6.1.1 Monitoring of the RSES implementation process

The Regional Spatial and Economic Strategy (RSES) and Metropolitan Area Strategic Plan (MASP) process has already been subject to SEA. Ongoing monitoring under Article 10 of the SEA Directive is now required, with intervention if significant adverse effects arise or if targets for regional population, key environmental performance measures (such as sustainable travel), or water catchment management are not being met.

6.1.2 Ensuring a legally compliant SEA with ongoing monitoring and appropriate remedial action in Local Authority forward planning

The oversight role of the OPR in the Local Authority Development Plan and Local Area Plan process needs to ensure proper standards for the SEA Environmental Report. This needs to asses and mitigate the impact on all of the considerations listed in the SEA Directive namely: "*Biodiversity, flora and fauna population human health, soil, water landscape air climatic factors, material assets and cultural architectural and archaeological heritage"* as well as *"interrelationships*".

The standards must also take account of Annex (1)(g) of the Directive to identify the measures envisaged to prevent, reduce and, as fully as possible, offset any significant adverse effects on the environment resulting from the implementation of the plan or programme.

The adoption of a plan is only part of the SEA process, which then requires under Article 10 ongoing implementation action to "*monitor the significant environmental effects of the implementation*" of the plan "*in order, inter alia, to identify at an early stage unforeseen adverse effects, and to be able to undertake appropriate remedial action.*"

Failure to carry out an effective SEA and put in place adequate monitoring and remedial action would expose Ireland to legal action at national and EU levels. OPR oversight is therefore required to ensure that effective monitoring is put in place, and where adverse impact arises, that remedial action would be effected promptly.

The Strategic Plan should include quantifiably measureable plans for such oversight with regard to particular categories of development. For example, the expansion of bovine agricultural housing, milking parlours, and factory processing plants lead to water pollution; biodiversity loss; and methane, nitrous oxide, and ammonia emissions, all of which require stringent monitoring, mitigation and enforcement.

Impacts generic to a wide range of development categories including traffic generation and congestion, urban sprawl, ribbon development, and the undermining of the status or quality of historic urban centres or historic demesnes must also be considered.

6.2 The Environmental Impact Assessment Directive and Appropriate Assessment Process

The OPR shall have oversight of the standard and quality of the EIA and AA processes, of the content of Environmental Impact Assessment Reports and of the decision making process by both local authorities and An Bord Pleanála. One major issue for the OPR to address is the systematic failure of the process with regard to the lack of consideration of the nature, extent, and mitigation of material sourcing and the consequent upstream impact of development.

This would apply to:

- *Particular categories of development* eg. the need for an AA to evaluate the increased animal grazing and potential nutrient runoff into watercourses associated with a new milking parlour, or the need for an EIA to assess the increased supply catchment required for new or expanded cheese or milk powder plant;
- *Generic issues* affecting all categories of development such as traffic generation.



Glanbia Cheese Factory, Co. Cavan. Consideration of intensification of cheese and dairy production must address the upstream production impact of additional cattle, greenhouse gas emissions, ammonia air pollution, excessive nitrates causing surface and groundwater stress, and biodiversity loss.



M7 widening between Naas and Newbridge.
Provision of new or increased capacity motorways, including the M20 Cork-Limerick proposed in the National Development Plan and the €630 million Galway ringroad, are incompatible with climate action, low carbon development and modal shift from car dependence, even if electrified, to sustainable transport.

7. Architectural Heritage Protection

The OPR should ensure the effective promotion of the Architectural Heritage provisions of Planning and Development Act 2000. In particular, oversight is required to ensure that Councils are monitoring buildings at risk and using the provision of Section 59 of the Planning and Development Act 2000 to serve notices of endangerment to negligent property owners.



Dereliction of Dartry Stables, Co. Monaghan.
Example of where failure of a planning authority to use endangerment notice provision of Section 59 of the Planning and Development Act 2000 has resulted in the neglect of the roof structure for over a decade, now reaching the point of near collapse.

8. Planning Enforcement

To achieve measurable improvement in enforcement standards on an annual basis, the OPR should address particular sectors or categories of development as well as particular local authorities where appropriate enforcement standards are not being met.

8.1 Sector-specific issues

The enforcement regime for quarry development, for example, continues to be systemically ineffective in preventing the operation of unauthorised quarries. The current regime is also ineffective in enforcing planning permission conditions on permitted quarries, particularly in relation to environmental mitigation for issues such as noise and dust, the maintenance of perimeter buffers around the operating area, the depth of the quarry, ancillary development, and traffic generation.



From article in the Galway Daily: 'An Taisce secure Supreme Court order against Galway quarry.' In this case, the failure of Galway County Council to take enforcement action against an unauthorised quarry exposes what is a large systemic failure by local authorities across the country in quarry regulation, which now requires priority action by the OPR.

8.2 Overarching compliance failures

An Taisce also highlight systemic enforcement failures in relation to the following:

- The application of mobility management plan provisions with the goal of curtailing unsustainable car use;
- Land change impacts resulting from peat extraction, drainage schemes, etc.

There are similar persistent breaches in planning conditions, which apply to a wide range of development categories. Such breaches include, but are not limited to:

- Operating hours
- Noise levels
- Traffic generation
- Failure to carry out landscaping

9. Promoting Ecologically and Culturally Sustainable Tourism

An Taisce recognise the importance of Ireland's tourism sector to the nation's economy and submit that the OPR should develop a targeted plan for ensuring the sustainability of tourism planning. Development of tourism sites should not detract from the ecological and cultural qualities of the places to which tourists are being drawn.

10. Streamlining Technical Aspects of the Planning Process

An Taisce also wish to make the following technical recommendations for the OPR's work in regard to streamlining the planning consultation process, especially as this process is increasingly digitised.

At local authority level, planning documents are frequently not scanned into the online planning systems for some time after the applications are lodged, therefore cutting into the five-week public consultation period. This is particularly problematic as many of the planning referrals to statutory bodies, such as An Taisce, are now sent by email with links to the online planning systems rather than by hardcopies sent via post. Large documents, including Environmental Impact Assessment Reports and Natura Impact Statements, are commonly scanned on a page-by-page basis making reading difficult. Local Authority online planning systems should also be standardised and accessible on any browser.

Similarly, the An Bord Pleanála website is significantly inadequate in not giving access to appeal documentation after lodgement. Furthermore, the provision by which Strategic Housing Application documents are placed on the applicant's website and not on that of An Bord Pleanála decreases their public accessibility.

11. Conclusions

Ireland needs to play its part in addressing the global climate and biodiversity loss emergency as a wealthy society and economy. The UN Sustainable Development Goals 2015 provide overarching direction and targets of the actions needed in every area of land use planning, food sustainability, energy production and use, water management, and general resource consumption. The Strategic Plan for the Irish OPR needs to be commensurate with the scale of actions and targets needed.

The legal remit of the OPR gives it a wide ranging responsibility and entitlement which needs to be exercised to the maximum extent in effective, targeted and timetabled measures for the sustainable development challenges we face.

Unless adequate quantitative annual targets on greenhouse gas mitigation reversal of biodiversity loss; and sustainable land use, production and consumption are adopted in the 2019-2024 Strategic Plan for the start up of the OPR, then the OPR will fail in its legal remit as a regulator with multi-generational cost and damage thereby caused.