

Minutes of Meeting of Planning & Emergency Services Strategic Policy Committee held on Tuesday 23rd November 2021 at 10.00a.m. via zoom from Committee Meeting Room 5.3, Civic Offices, Nenagh.

Present: In the Chair - Cllr. Phyll Bugler
Councillors – Via zoom – Hughie McGrath, Michael O’Meara, Joe Hannigan, John Carroll, Roger Kennedy, Michael Fitzgerald, Ger Darcy, Marie Murphy.
Mike Edwards, Patti O’Neill.

In Attendance: Eamon Lonergan, Acting Director of Services via zoom
Anne Marie Devaney, Acting Senior Executive Planner via zoom
Denis Holland, Senior Engineer, Water Services
Brian Clancy, Administrative Officer

Apologies: John O’Shaughnessy, Dave Carroll

1. Minutes of last meeting held on 21st September 2021

The minutes of the last meeting held on 21st September 2021 were proposed by Cllr. R. Kennedy, seconded by Mike Edwards and adopted.

2. Update on Public Consultation stage of the Draft County Development Plan 2022-2028 in relation to submissions received

Anne Marie Devaney, Acting Senior Executive Planner gave an update to the meeting on the Public Consultation stage of the Draft County Development Plan 2022-2028 and replied to queries raised. The principal points were as follows:



Consultation on the Draft Plan

- ▶ A copy of the Draft Plan was made available in public libraries, at Civic Offices and on the Council’s website.

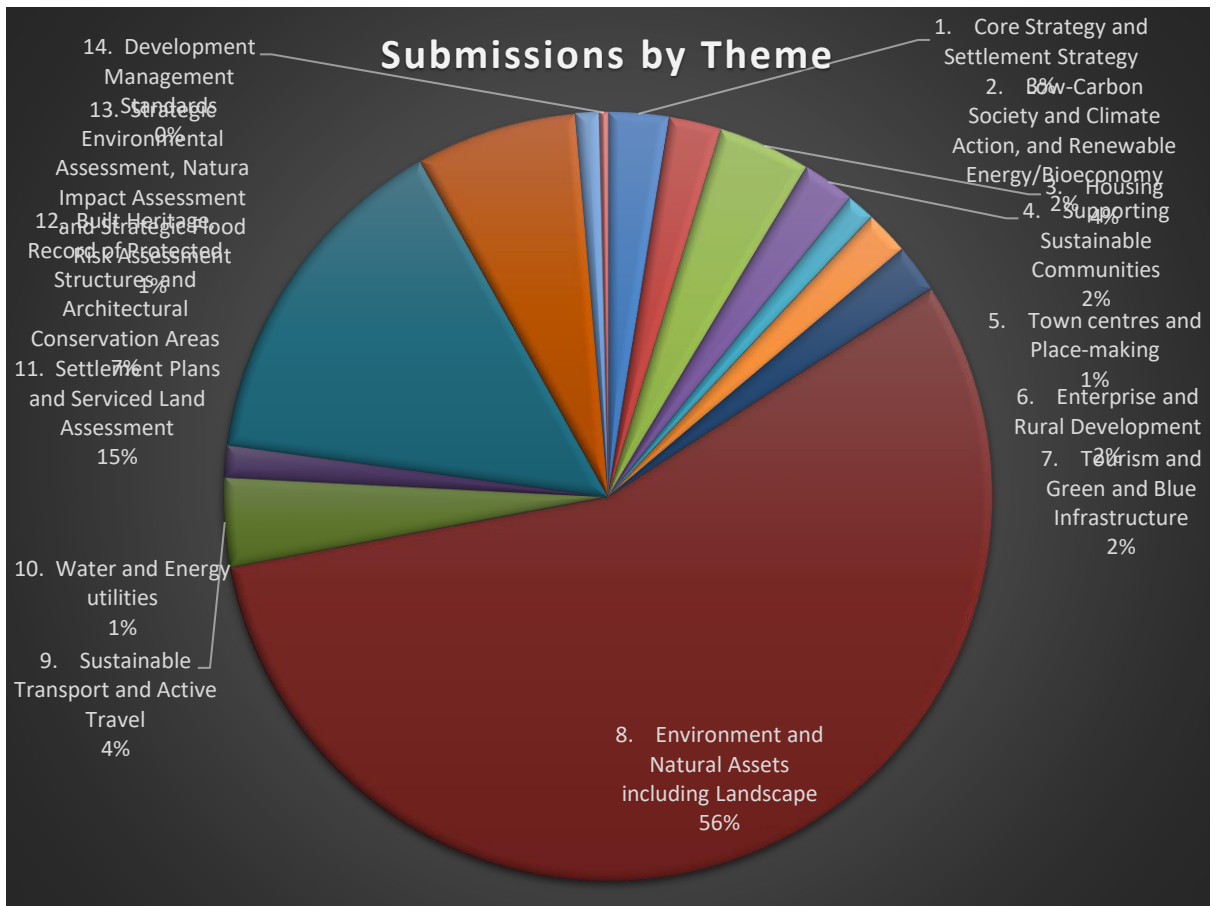
- ▶ Publications were produced with recognisable branding in a clear and simple style.
- ▶ A dedicated website is available at <https://www.tipperarycoco.ie/cdp>.
- ▶ Publication of newspaper advertisements inviting written submissions.

Social media campaign using Facebook and Twitter and the planning section Twitter page **@planningtipp** is also constantly updated as a key source of information

- ▶ Non-statutory Briefing Sessions (13) for all Elected Members.
- ▶ Distribution of notices and website link to residents' associations, community groups, business interests etc.
- ▶ Notification issued to all primary and secondary schools in the county inviting submissions.
- ▶ Notification issued to Planning Agents inviting submissions.
- ▶ Targeted meetings and Webinars, including the Strategic Policy Committee, the Public Participation Network etc.
- ▶ Public Webinar held on 30 September 2021.
- ▶ Radio (Tipp Mid-West) interview on 06 October 2021

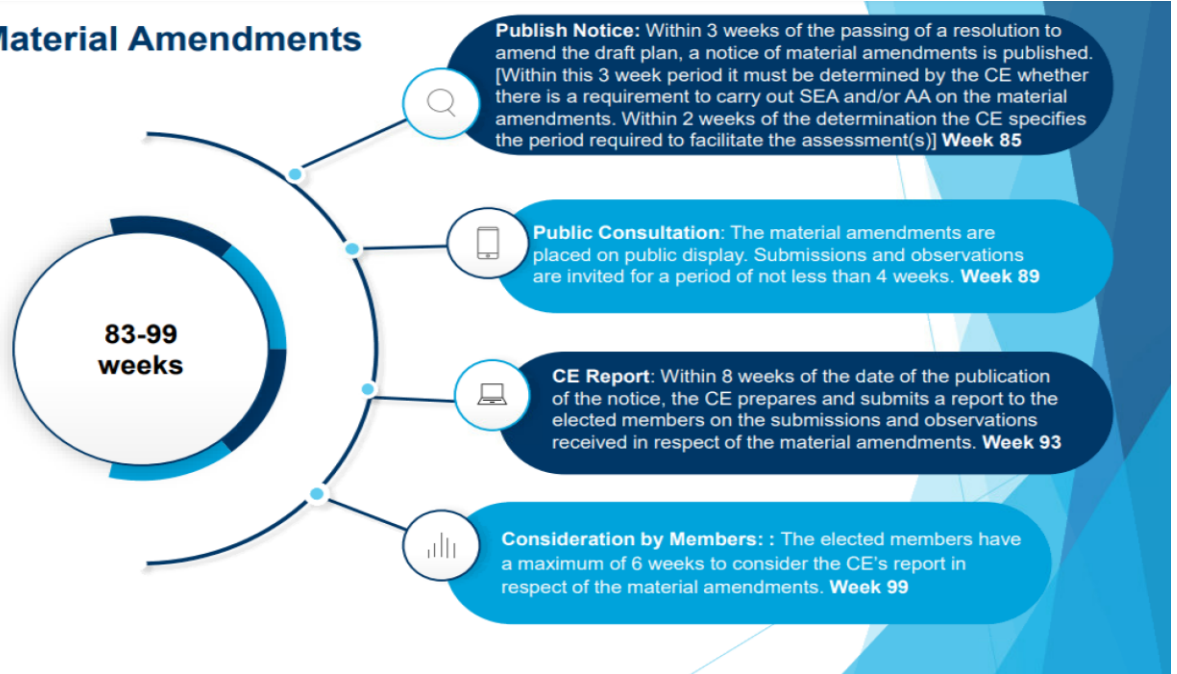
Submissions on the Draft Plan

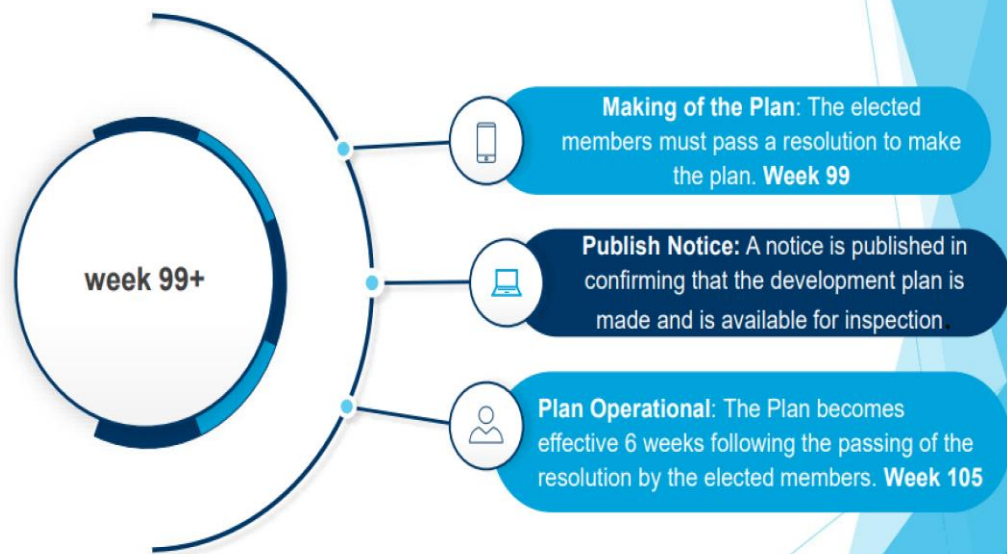
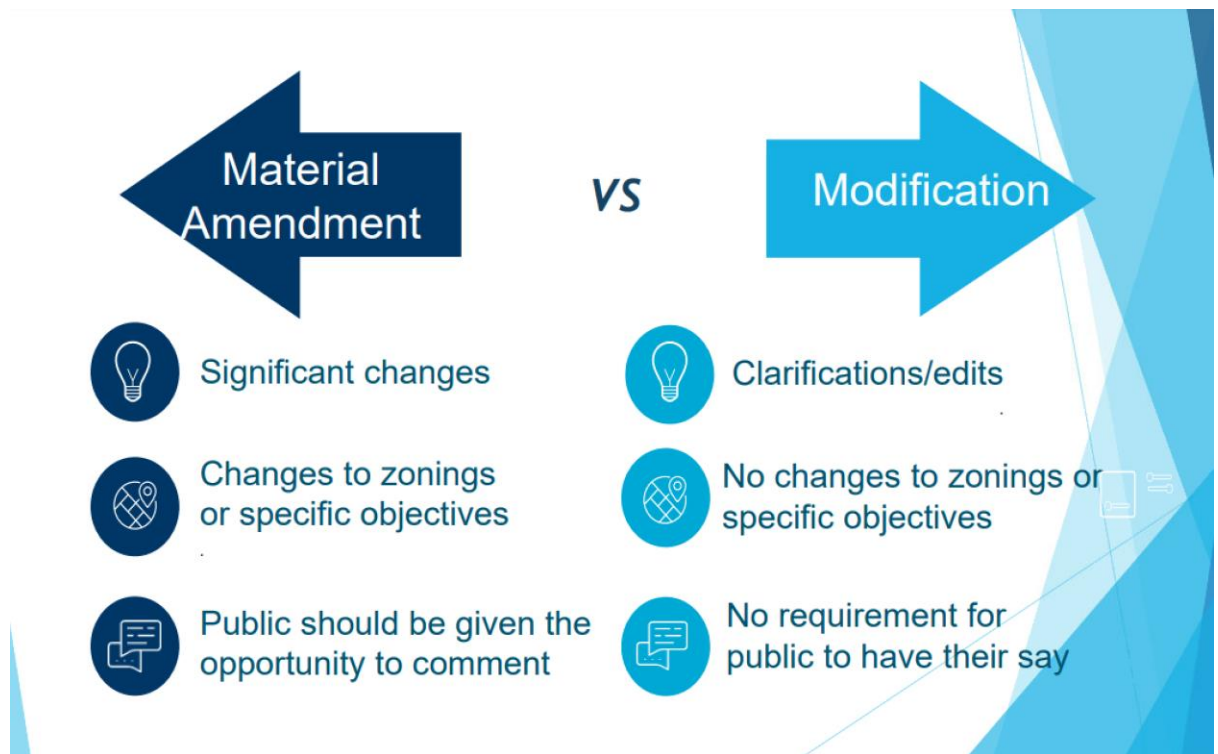
Theme
1. Core Strategy and Settlement Strategy
2. Low-Carbon Society and Climate Action, and Renewable Energy/Bioeconomy
3. Housing
4. Supporting Sustainable Communities
5. Town centres and Place-making
6. Enterprise and Rural Development
7. Tourism and Green and Blue Infrastructure
8. Environment and Natural Assets including Landscape
9. Sustainable Transport and Active Travel
10. Water and Energy utilities
11. Settlement Plans and Serviced Land Assessment
12. Built Heritage, Record of Protected Structures and Architectural Conservation Areas
13. Strategic Environmental Assessment, Natura Impact Assessment and Strategic Flood Risk Assessment
14. Development Management Standards



Draft Plan – Next Steps

Material Amendments





Anne Marie Devaney indicated that 615 submissions were received during the public consultation period which ended on 15th October 2021. Submissions will be assessed individually but individual responses will not issue to those who made submissions. A Chief Executive’s report on the submissions received is currently being prepared and will be circulated to the elected members in January 2022, with a view to holding a series of Workshops in February and March. Material amendments to the Draft Plan will then be advertised for a further period of public consultation during which submissions can be made on the material amendments only. Eamon Lonergan stated that the SPC and the Elected Members will be kept updated throughout the process.

3. Planning legislation update

Anne Marie Devaney, Acting Senior Executive Planner gave a planning legislation update to the meeting and replied to queries raised. The principal points were as follows:

Affordable Housing Act 2021

Main Changes:

These changes to Part V primarily apply to **land purchased on or after 1 August 2021**. Any new planning permissions for housing development on that land will have a **20% Part V requirement**.

A **10% Part V requirement** will apply where **land already has planning permission** or was purchased between 1 September 2015 and 31 July 2021 and planning permission is granted before 31 July 2026.

Land where the changes to Part V requirement apply

20% Part V requirement

At least half of the Part V provision must be used for social housing support

The remainder can be used for affordable housing, which can be affordable purchase, cost rental or both.

Land where the transition arrangements apply

10% Part V requirement

All of the Part V provision must be used for social housing support

All of the land or equivalent value gain under Part V must be used for social housing support.

There will be a Part V requirement on any land granted planning permission for the development of housing (irrespective of zoning).

The legislation has been updated to bring clarity to the availability of arbitration at any stage in the Part V negotiations.

The 'Market value' of land for the purpose of Part V is now defined as the open market value on the date of the grant of planning permission.

An applicant for planning permission for developments of 4 houses or fewer can apply for an exemption certificate from Part V.

Housing Strategies:

- Housing strategies within local authority development plans must in future include an estimate of how much social, affordable purchase and cost rental housing is required in the area.
- The housing strategy must specify a percentage (not more than 20%) of land to be reserved for the delivery for social, and, if applicable, affordable, and cost rental housing under Part V.
- Where there is a housing strategy already in place, the local authority chief executive must estimate the affordable purchase and cost rental requirements for deemed inclusion in the strategy

Section 42 – Extension of duration

- New Section 42(1B) - further extension of the appropriate period of a planning permission by an additional period of up to 2 years or until 31 December 2023 whichever first occurs.
- The Planning Authority must be satisfied that;
 - ▶ The development has commenced,
 - ▶ Substantial works have been carried out,
 - ▶ Environmental Impact Assessment/Appropriate Assessment is not required for the extension.
- ▶ The new Section 42 (1B) applies to permissions that are due to expire and permissions that expired between 8 January 2021 and 8 September 2021.

Section 42(1B) is for the benefit of developments that have already availed of an extension of duration under Section 42 and any other further extension under Section 42(IA)

- ▶ Where a permission has not yet expired EoD application must be made within 1 year of expiry as per current requirements.
- ▶ Where permissions have expired within the timeframe referred to above, EoD application must be made within 6 months of the date on which the said Section 7 comes into operation (9 September 2021),

- ▶ The new legislation deletes Section 42(1)(a)(ii) – removes the possibility of an extension of duration for un-commenced development or development where substantial works have not been carried out,
- ▶ PA must not permit an extension of duration if EIA or AA were required for the extension,
- ▶ EIA and AA Screening requirements
- ▶ May require Schedule 7A information
- ▶ Publication of screening.
- ▶ Up to two extension of durations can be provided subject to a combined duration not exceeding 5 years, except where Section 42(1B) or (1A) applies.

4. **Water Services and Planning – presentation by Denis Holland, S.E., Water Services**
 Denis Holland, Senior Engineer, Water Services gave a presentation to the meeting on Water Services and Planning and replied to queries raised. The principal points were as follows:

Background

- The Water Services (No. 2) Act 2013 established Irish Water on 01 January 2014 as the water services authority.
- The Water Services functions (with certain exceptions, principally the Rural Water Programme) of Tipperary County Council transferred to Irish Water on that date.
- A **Service Level Agreement** between Irish Water and the Council covers the 12-year period from 01 January 2014 to 31 December 2025. This allows the Council to act as the agent of Irish Water in the delivery of water services.
- The Planning functions of Tipperary County Council, which interact with Water Services, are principally the following:
 - - forward planning: the formulation and adoption of the County Development Plan, Local
 - Area Plans and Variations thereof;
 - - development management: planning applications (including where Irish Water is the applicant), Part 8 proposals and direct planning applications to An Bord Pleanála; and
 - - other matters, e.g. Development Contribution Scheme.

The role of Water Services in the performance of Tipperary County Council's Planning functions

- The interaction and interdependence between Tipperary County Council and Irish Water in Forward Planning;
 - The input of Planning Section into the Irish Water Investment Plan;
 - The role of Irish Water in development management, including Part 8 proposals;
 - The obligation on Irish Water to seek planning permission from Tipperary County Council or An Bord Pleanála, as appropriate;
 - The challenges presented by the Water Sector Transformation Programme in the Planning area; and
- The role of non-Irish Water water services (Rural Water Programme) vis-à-vis Planning

The interaction and interdependence between Tipperary County Council and Irish Water in Forward Planning

- The formulation and adoption of the County Development Plan (every 6 years) is one of the most important functions of Tipperary County Council. Arising from same will be:
 - Local Area Plans for the Key towns of Clonmel, Nenagh and Thurles;
 - Local Area Plans for the District towns of Carrick-on-Suir, Roscrea, Tipperary, Cashel, Cahir and Templemore; and
 - Variations of the County Development Plan as required (from time to time).
 - The provision of adequate water services infrastructure (drinking water and wastewater) is sine qua non to the economic development of the county.
 - Appropriate land-use zoning in towns and villages must be based on certainty that such lands are capable of being adequately serviced by water services infrastructure to ensure that their development potential is realised.
 - Irish Water is a statutory consultee in the process of preparing the County Development Plan, Local Area Plans and Variations thereof.

The input of the Planning Section into the Irish Water Investment Plan

- The Irish Water Investment Plan forms part of the Revenue Control mandated by the Commission for the Regulation of Utilities (CRU), which is the economic regulator of Irish Water.
- The current Investment Plan covers the 5-year period 2020 to 2024 and future iterations will also cover 5-year periods.
- Non-statutory consultation is undertaken by Irish Water in the preparation of its Investment Plan.
- Planning and Water Services Sections also had an input into the engagement by the Southern Regional Assembly with Irish Water in the preparation of its Regional Spatial and Economic Strategy 2020-2032.
- Workshops are held by Irish Water with Tipperary County Council (Planning and Water Services Sections) to:
 - - assess the development needs of the county;
 - - review the deficiencies in water services infrastructure which act as a constraint to the development potential of the county; and
 - - consider the environmental factors affecting water services, i.e. the quality of drinking water (EPA Drinking Water Quality in Public Supplies Annual Report) and wastewater treatment regulatory compliance (Annual EPA Urban Waste Water Treatment Report).
- Included in the Irish Water Investment Plan 2020-2024 is the Small Towns and Villages Growth Programme (STVGP). The STVGP supports growth and development in small towns and villages while protecting the environment and safeguarding water supplies.
- The STVGP identified 7 settlements in County Tipperary for consideration for upgrading of existing wastewater treatment plants (**Cloughjordan, Golden, Holycross, Kilsheelan, Lisvarrinane, Newcastle and Silvermines**).
- Planning and Water Services Sections have engaged actively with Irish Water in progressing the STVGP and will continue to do so in the future.

The role of Irish Water in development management, including Part 8 proposals

- Development management takes 4 forms:
 - standard planning applications, including planning appeals to An Bord Pleanála;
 - Part 8 proposals for local authority own development;
 - Part 9 proposals to An Bord Pleanála for certain local authority developments; and
 - strategic planning applications submitted directly to An Bord Pleanála.
- In each case, Irish Water is a statutory consultee, not just in development proposals which require drinking water and/or wastewater services but also proposals which might impact on water services infrastructure (e.g. wind farms, cattle underpasses, etc.).
- Irish Water will refer any development proposal to Water Services for assessment and will be guided by the input from Water Services. However, cases have arisen where Irish Water recommends that the development proposal is premature pending the upgrading of certain water services infrastructure.

The obligation on Irish Water to seek planning permission from Tipperary County Council or An Bord Pleanála, as appropriate:

- Irish Water is a national public utility. As such, it enjoys certain planning exemptions for modest proposals which have a minor impact on the sustainable planning and development of County Tipperary.
- It must seek planning permission from Tipperary County Council in the normal course for most development proposals. To date, 22 applications have been submitted (with 0 appeals). Examples have been:
 - **Thurles** Regional Water Supply Scheme (water treatment plant, distribution pipeline);
 - **Ballylooby** Water Supply Scheme (water treatment plant and reservoir); and
 - upgrades to wastewater treatment plants at **Ballina, Borrisokane, Cahir, Cloughjordan, Mullinahone, Newport and Tipperary**.
- Such planning applications follow the normal pattern of assessment and are subject to first and third party appeals to An Bord Pleanála.
- Irish Water has been able to utilise Part 8 proposals which had been approved by the local authority prior to its establishment. Examples have been:
 - provision of **Burncourt** Regional Water Supply Scheme water treatment plant and reservoir
 - at Cullenagh, Burncourt and water intake at Hopkinsrea, Burncourt (commissioned in 2017) (Part 8 approved by South Tipperary County Council on 05 July 2010);
 - construction of **Clonmel** Town and Rural Water Supply Scheme (advance works)
 - pumphouse and storage tank at Temple-Etney, Clonmel (commissioned in 2017) (Part 8 approved by South Tipperary County Council on 05 July 2010);
 - provision of **Clonmel** Town and Rural Water Supply Scheme (advance works) borehole at Brackford Bridge, Mullenaranky, Clonmel (commissioned in 2017) (Part 8 approved by South Tipperary County Council on 04 February 2013);
 - provision of **Fethard** Regional Water Supply Scheme water treatment plant and reservoir at Cloran Old, Cloneen and water intake at Walshbog, Killusty (commissioned in 2017) (Part 8 approved by South Tipperary County Council on 07 February 2011); and
 - construction of **Clonmel** North water storage reservoir at Giantsgrave, Clonmel

(commissioned in 2019) (Part 8 approved by South Tipperary County Council on 03 March 2014).

- Irish Water has also been able to utilise grants of permission issued prior to its establishment on 01 January 2014. An example has been:
 - **Thurles** Regional Water Supply Scheme raw water intake from River Clodiagh at Rathkennan, Holycross (commissioned in 2020) (grant of permission issued by South Tipperary County Council to North Tipperary County Council on 07 February 2007, expired on 06 February 2012 and extended to 06 February 2017).
- Irish Water also has the vires to develop the wastewater treatment plant at **Golden** approved by South Tipperary County Council on 02 November 2009 on foot of a Part 8 proposal.

The challenges presented by the Water Sector Transformation Programme in the Planning Area:

- On 23 February 2021 Deputy Darragh O’Brien, Minister for Housing, Local Government and Heritage, published the Water Sector Transformation Policy Paper: Irish Water – Towards a National Publicly-Owned Regulated Water Services Utility.
- It states, inter alia:
- *The Government expects that water services activities will be fully integrated into and delivered by Irish Water and that an appropriate operational framework will facilitate this integrated service delivery model; and*
- *The Government requires the key stakeholders to engage to agree a framework for a stable operating structure for the future delivery of Water Services, within six months, to conclude by July 2021.*
- *Implementation of the identified Framework on a phased basis will commence immediately thereafter, on a phased basis to be concluded in 2022.*
- The Policy Paper also states:
Structured protocols and arrangements should be in place between Irish Water and local authorities to ensure that critical water services investment plans are aligned with local authority housing and planning functions to support economic, spatial and social development, and environmental protection.
- Maintenance of the interdependence between Water Services and Planning in a post-transformation era will present a challenge. No longer will Water Services and Planning be part of a single organisation (the local authority) but will belong to separate entities, the former a national public utility and the latter a local authority with a democratic mandate.
- The significance of this challenge may not be fully appreciated and is not to be underestimated.

The role of non-Irish Water water services (Rural Water Programme) vis-à-vis Planning

- Responsibility for the Rural Water Programme has remained with local authorities and was legislated for in the Water Services (No. 2) Act 2013.
- This consists of group water and sewerage schemes, well grants, septic tank grants, lead remediation grants and regulation of small private supplies.
- The Rural Water Programme enjoys certain planning exemptions. Examples are:
 - prima facie, drilling of a well for a group water scheme or for a well (for domestic purposes

only); and

- prima facie, works carried out on foot of an Improvement Notice regarding a domestic wastewater treatment system.

Conclusion

- Planning and Water Services are more interdependent than may appear at a first glance.
- The establishment of Irish Water on 01 January 2014 has brought a new dynamic to this interdependence.
- The Transformation of Water Services to Irish Water, likely to occur during 2022, will present new challenges in the ability of Tipperary County Council to influence investment in water services in County Tipperary.
- The interaction between Planning and non-Irish Water water services (i.e. the Rural Water Programme) will remain unchanged.

Concerns were expressed by members of the SPC in relation to the apparent diminishing influence of Tipperary County Council in the area of water infrastructure, problems in relation to wastewater treatment plants capacity, the cost of water/wastewater connections and the need to leave Rural Water Group Schemes as they are. Denis Holland indicated that post transformation there will be a different relationship with Irish Water and there will be new arrangements for reporting to the elected members of Tipperary County Council. The Council doesn't have an influence on the budget Irish Water receive from the CRU (Commission for Regulation of Utilities). It would be prudent for any developer to make a pre-connection inquiry to Irish Water as regards the cost thereof. The work of the Rural Water Committee was acknowledged, where the water source is private Irish Water won't be involved but if the source is from Irish Water the scheme could be taken in charge.

5. Date of next meeting/Any other business

It was agreed to hold the next meeting in 2022, date to be decided in consultation with the Chair of the SPC.

This concluded the business of the meeting.