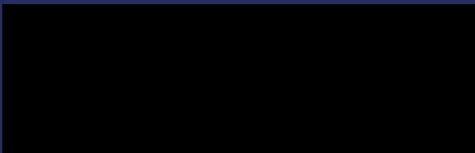


# RESIDENTIAL ZONED LAND TAX SUBMISSION

RESIDENTIAL ZONED LAND TAX SUBMISSION  
MONAGHAN COUNTY COUNCIL  
DRAFT MAP 2024

Lands North & West of Coolshannagh House, Coolshannagh,  
Monaghan



85 Merrion Square, Dublin 2, D02 FX60  
+353 (0)1 539 0710 info@hpdc.ie www.hpdc.ie



## 1.0 Introduction

Hughes Planning and Development Consultants, 85 Merrion Square, Dublin 2 have been instructed by our client, [REDACTED] to make a submission on the draft Residential Zoned Land Tax map prepared by Monaghan County Council, with respect to our client's property located at Lands at Coolshannagh, Co. Monaghan (Parcel ID – MNLAMT69).

The '*Housing For All – A New Housing Plan for Ireland*' proposed a new tax to activate vacant land for residential purposes as a part of the 'Pathway to Increasing New Housing Supply'. This was listed under Action 15.2 of the Housing for All plan. This new tax was subsequently named the Residential Zoned Land Tax and was announced in Budget 2022 and was introduced into the Part 22A of the Taxes Consolidation Act (TCA) 1997 by the Finance Act 2021. The process to identify land to which the tax applies is now underway and the tax will be payable from 2025.

The objective of the Residential Zoned Land Tax is to activate land that is serviced and zoned for residential use or mixed-use, including residential use, in order to increase housing supply and to ensure the regeneration of vacant and idle lands in urban locations. These locations have been identified within statutory land use plans as being appropriate locations for housing and they have benefitted from investment in the key services to support the delivery of housing. It is noted that Planning Authorities were provided with a specific guideline document, Residential Zoned Land Tax - Guidelines for Planning Authorities, to assist in undertaking the requirements of the RZLT. These guidelines provide instruction with regards to the mapping of appropriate lands in scope of the tax but also detail the provisions for allowing landowners identified as being within the scope to challenge the Planning Authority's decision by making submissions to the local authority or, where the challenge to the local authority is unsuccessful, An Bord Pleanála.

Section 3.0 of this report presents a direct response to the criteria which deems whether a specific site is in or out of scope for application of the RZLT. In the case of the submission lands, we would herein confirm our opinion that the lands should be rezoned and therefore are considered out of scope for payment of the RZLT on the basis of:

- ***The submission site is effectively landlocked and cannot be connected to necessary enabling infrastructure; and,***
- ***An existing agricultural use is in operation at the subject site.***

## 2.0 Site Description

The subject site comprises a land parcel of approximately 3.67 hectares in area, located to the north of Monaghan Town. The lands are currently used for agricultural use and adjoin a residential area to the north and west, a graveyard to the east and our client's family home to the south. The lands are situated to the northeast of the junction of the N54 and Derry Road. As such, access to the lands is significantly limited making the future development of the lands a potential traffic and public safety hazard.

As illustrated in Figure 8.0, the subject lands have been included on the RZLT maps as the site is currently zoned for residential use – Proposed Residential A and B in the Monaghan County Development Plan 2019-2025. Despite this, however, the lands have an ongoing agricultural use and the inclusion of the lands on the draft RZLT maps is refuted. In this regard, it is considered that the current zoning is unsuitable for the lands and so it is requested that the lands be rezoned as they are considered unsuitable for residential development. This will be discussed throughout this submission.

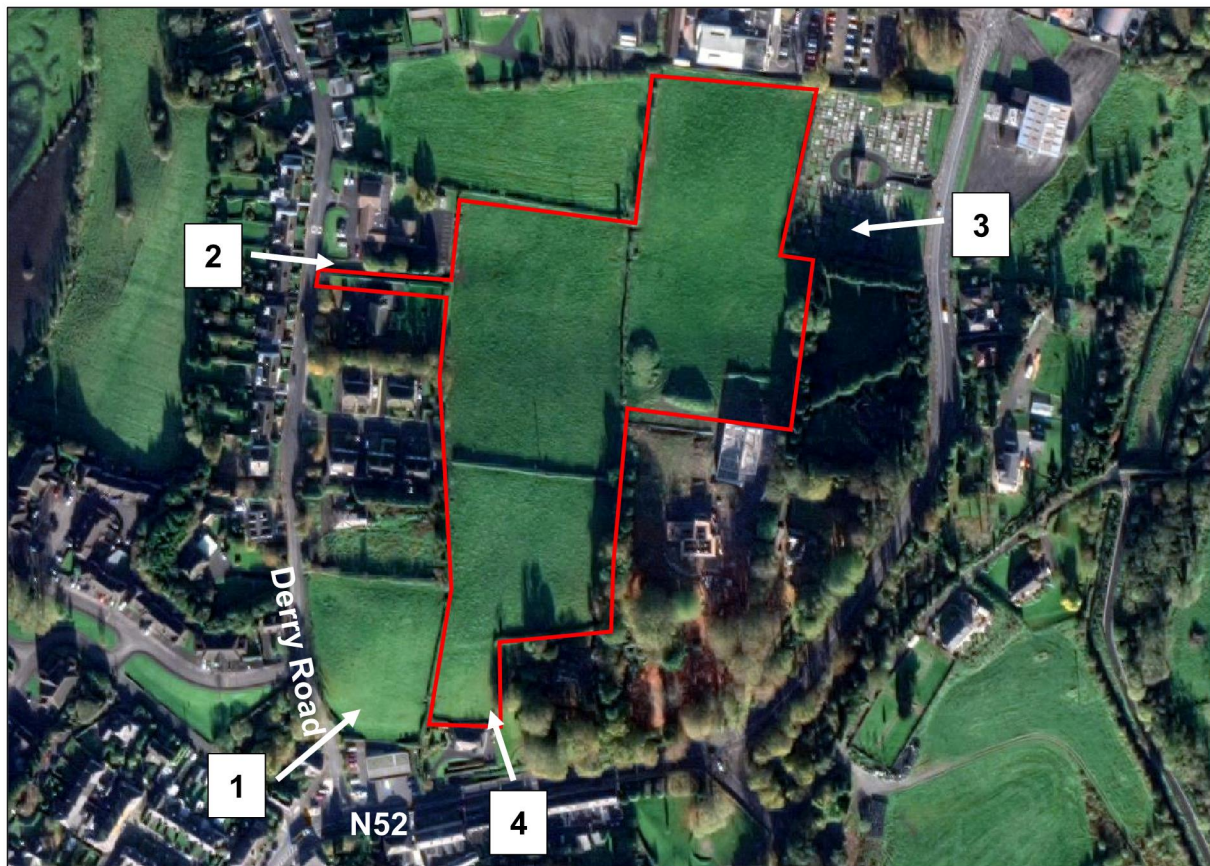


Figure 1.0 Aerial image of the subject site (red outline).



Figure 2.0 Aerial image of the subject site (red star) and the wider locational context.



Figure 3.0 Streetview image of the subject site (view 1).

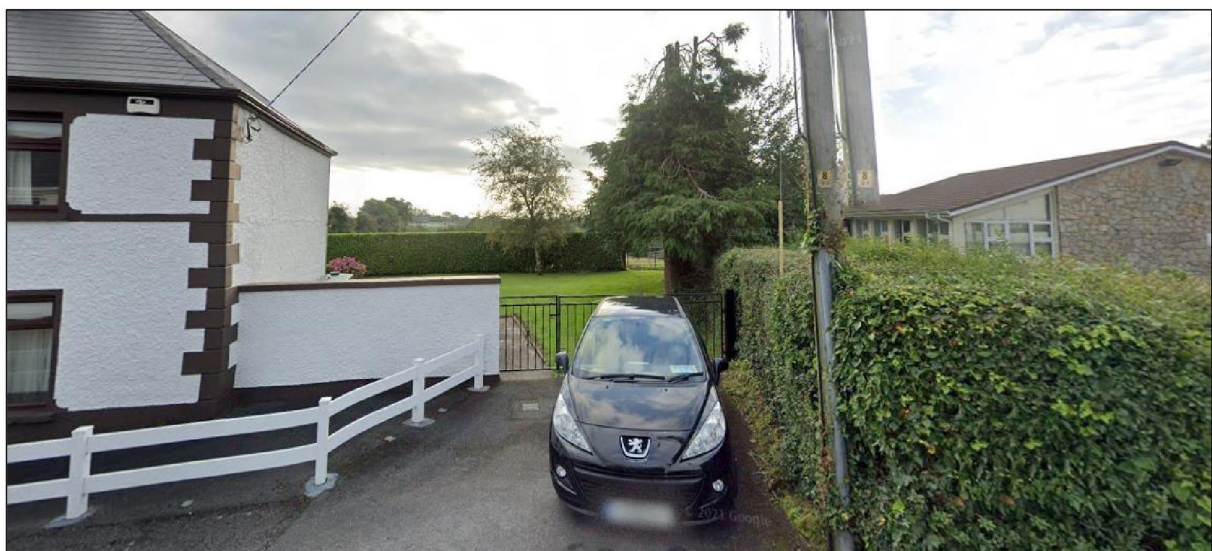


Figure 4.0 Streetview image of the subject site (view 2).



Figure 5.0 Streetview image of the subject site (view 3).



Figure 6.0 Streetview image of the subject site (view 4).



Figure 7.0 Streetview image of the subject site as viewed from the southwest at the junction of the N54 and Derry Road.

As demonstrated by the streetview images provided, it is considered that the addition of a multi-unit residential development on the submission lands would result in significant negative impacts to traffic and subsequently impact on public safety. Furthermore, access to the lands are significantly restricted and future access would require traversing through existing and third-party properties adjoining the lands. In this regard, we would consider the submission lands unsuitable for residential development and would request the lands are rezoned to reflect the current agricultural use on site.

### 3.0 Submission Request

The annual draft map of Residential Zoned Land Tax sites published by Monaghan County Council illustrates lands which have been deemed within the scope of the Residential Zoned Land Tax. It is contended that our client's lands at Coolshannagh, Co. Monaghan have been erroneously placed within scope by the Planning Authority as the lands are currently used for agricultural use. As such, it is requested that the subject lands be rezoned from *Proposed Residential A* and *Proposed Residential B* to Landscape Protection/Conservation to reflect the established and continued agricultural use of the lands as well as promoting consolidated development on residential zoned lands within close proximity to the town centre.

The purpose of this submission is to request that the Planning Authority consider deeming our client's lands out of scope and subsequently removing the lands from the supplementary map. The following section will detail the key points as to why the lands should be deemed to be out of scope.

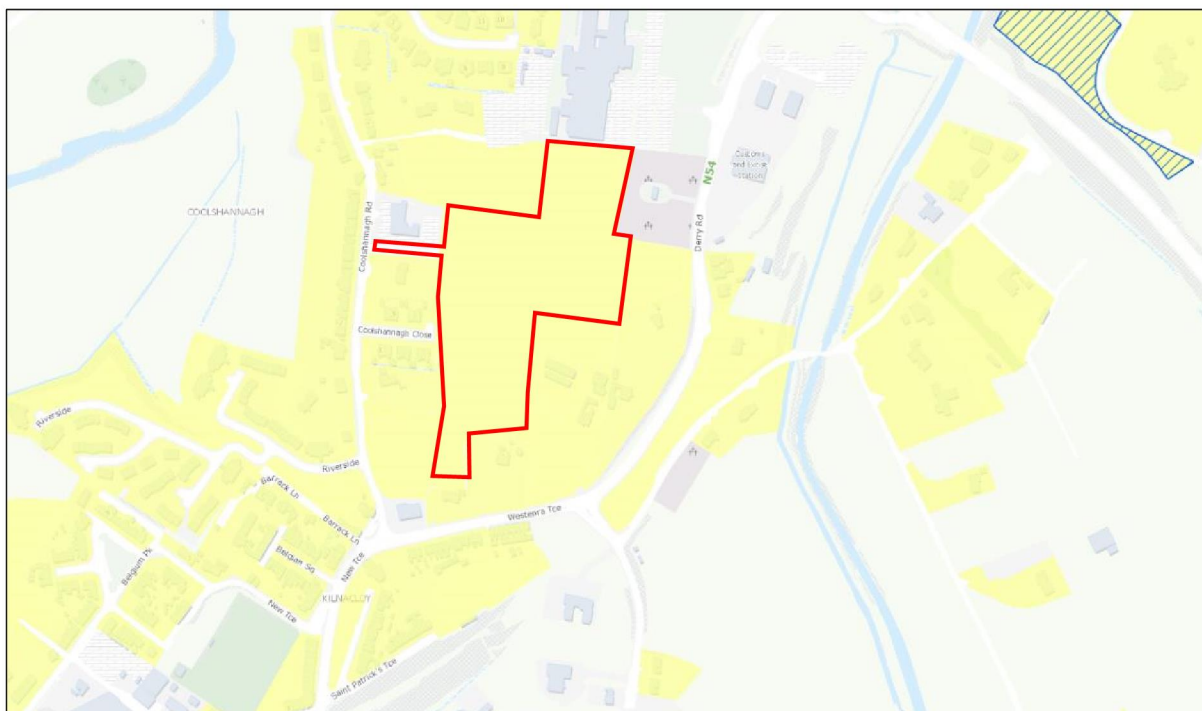


Figure 8.0 Extract of RZLT zoning map showing submission lands outlined in red.

In light of this, we would like to make a submission on the annual draft RZLT map which requests the following:

- *That our client’s lands at Lands located at Coolshannagh, Co. Monaghan are rezoned from Proposed Residential A and B to Landscape Protection/Conservation as they are actively used for agriculture, are deemed out of scope and are subsequently removed from the subsequent Residential Zoned Land Tax map.*

**3.1 Basis of Submission**

This section of the submission will discuss the relevant information which would exempt our client’s lands from being within scope as it is considered that the lands have been mistakenly zoned for residential development as it is not considered that such a zoning designation is appropriate due to the existing and continued agricultural use of the lands.

In summary, the reasoning for the exemption of our client’s site from being within the scope of the RZLT tax is due to the fact that both connection to necessary enabling infrastructure is not possible due to the site’s land-locked status and an existing commercial use is in operation on site. The identification of these facts rules the site as being outside the scope of the RZLT on the basis of Step Nos. 2 and 3 of the scoping criteria.

Having regard to the Guidelines for Planning Authorities relating to the scoping exercise, the following figures have been provided to demonstrate that the lands subject to this submission are not eligible for inclusion on the RZLT maps. An assessment of the lands against the lands against the relevant criteria is provided:

**3.1.1 Scoping for Residential Zoned Land**



In response to the above criteria, we can confirm that residential use is permitted in principle on the subject lands. Thus, progression to Step 2 is required.

Step 2 (see S.653B(b))	Is the land connected to or able to be connected to services?		
i)	Road Infrastructure	Yes - move to step ii)	No - Out of Scope
ii)	Footpaths	Yes - move to step iii)	No - Out of Scope
iii)	Public Lighting	Yes - move to step iv)	No - Out of Scope
iv)	Surface Water	Yes - move to step v)	No - Out of Scope
v)	Waste Water	Yes - move to step vi)	No - Out of Scope
vi)	Water Supply	Yes - move to next step	No - Out of Scope

In response to the above criteria, we confirm that the site is not currently served by footpath infrastructure and that there are no footpaths available along either the N54 frontage or the Derry Road frontage where the site adjoins the public realm. Any potential development of the land would require the provision of significant sections of public footpaths and additional road infrastructure to facilitate development. In this regard, it is considered that potential access points from the Junction of Derry Road and the N54 would represent a traffic hazard thus endangering public safety due to the traffic generated from a residential development within the subject lands. Furthermore, in order to provide the required access this most certainly would have to extend across third-party lands to the south, west or north, which are not within our client's control.

Regarding the above, it is considered that the field which adjoins Derry Road could potentially facilitate residential development as the traffic impacts a result of this would be minimal. Where we would highlight a concern with regard to traffic impacts and safety as a result of the residential development of the submission lands, it is considered that the field which adjoins Derry Road could facilitate minimal future development. There is a concern that development of the lands as a whole would require the creation of a four-way junction at Riverside and Derry Road and due to the proximity to the junction of the Derry Road, N54 and Barrack Lane, this would have significant negative impacts. As the lands to the southwest of the wider landbank could facilitate minimal residential development, it is considered that this would result in minimal traffic impacts.

In accordance with Step 2(ii) the lands should, on account of the apparent lack of pedestrian infrastructure, be considered 'out of scope'. In addition to this, whilst we note that the submission land is served by road infrastructure, Derry Road is relatively narrow, with no road markings, which we do not consider to have the sufficient capacity to accommodate a significant increase in traffic that may result from any potential development of the land for residential purposes. In this regard, road infrastructure would need to greatly improve in the area to facilitate the development of the lands which would be out of scope of our client.





Figure 9.0 Potential entrances to the site.



Figure 10.0 Streetview image of Derry Road, note the narrow nature of the roadway and the lack of public footpaths adjoining the site.



Figure 11.0 Streetview image of the junction of the N54 and Derry Road.

As noted, access to the site at the junction of the N52 and Derry road would create a significant traffic hazard and as such, this access to support the residential development of the submission lands would result in a significant increase in traffic. As such, we would note the potential access following on from Riverside. In this regard, this would create a crossroad junction in close proximity to that as situated at the N52 and Derry Road and as such, would represent a traffic hazard. Lastly, we would note that potential access could be provided from Coolshannagh Close. Despite this, however, it is considered that as these lands are in third-party ownership, this is beyond the scope of our client’s ownership and thus this would not be viable.

Based on the foregoing identification of the constraints affecting the submission site, it is confirmed that the site is effectively land-locked and that the application of the RZLT would be considered wholly unreasonable in this instance. Furthermore, the Proposed Residential A and B zoning designation is not considered suitable for the lands currently supporting an agricultural use and we would therefore request that the lands be rezoned to Landscape Protection/Conservation save for the field which adjoins the Derry Road.

**3.1.2 Exclusion for Residential Zoned Land**

Step 3 (see S.653B(c))	Is the land in the Section 22 EPA Register maintained by Local Authority	Yes - the area identified is out of scope, omit area and move to next item.	No - retain land in scope and move to next item
	Is the land identified on the RMP	Yes- the area of the mapped RMP and zone of notification is out of scope.Omit area and move to next item.	No - retain land in scope and move to step 4

In response to the above criteria, we can confirm that the subject lands are not identified on the Section 22 EPA Register maintained by Monaghan County Council or on the RMP.

Step 4(1)	Is a trade or profession being carried out on the land	Yes - move to Step 4(2)	No - retain land in scope and move to step 5.
Step 4(2)	Is the trade or profession liable to commercial rates	Yes - move to Step 4(3)	No - retain land in scope and move to step 5.
Step 4(3)	Is it reasonable to consider the trade or profession is providing day-to-day services to residents of adjacent residential areas	Yes - move to Step 4(4)	No - retain land in scope and move to step 5.

Step 4(4)	Consider if the development is not unauthorised development	Yes, the development is not considered unauthorised development	No, the use is considered unauthorised development – retain land in scope and move to step 5.
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In response to the above criteria, we confirm that the lands have been and are currently used for agricultural use but are not, however, liable to commercial rates.

Step 5 (see 5.653B(c)(3)(iii))	Is the land identified on a statutory land use plan as being required for, or is integral to, occupation by:		
I)	Social, community, governmental, public administration, education and healthcare infrastructure and facilities	Yes – the area identified is out of scope, omit area and move to next item.	No – retain land in scope and move to next item.
II)	Transport facilities and infrastructure	Yes – the area identified is out of scope, omit area and move to next item.	No – retain land in scope and move to next item.
III)	Energy infrastructure and facilities	Yes – the area identified is out of scope, omit area and move to next item.	No – retain land in scope and move to next item.
IV)	Telecoms infrastructure and facilities	Yes – the area identified is out of scope, omit area and move to next item.	No – retain land in scope and move to next item.
V)	Water and wastewater infrastructure and facilities	Yes – the area identified is out of scope, omit area and move to next item.	No – retain land in scope and move to next item.
VI)	Waste management and disposal infrastructure	Yes – the area identified is out of scope, omit area and move to next item.	No – retain land in scope and move to next item.
VII)	Recreational infrastructure, playgrounds, sports facilities	Yes – the area identified is out of scope, omit area and move to next item.	No – retain land in scope and move to step 6
		If yes is answered to any parts of Step 5, the relevant area of land is out of scope. Omit and move any remaining land area to Step 6.	If no is answered to all parts of Step 5, the relevant land is in scope. Move to step 6.

In response to the above criteria, we can confirm that the submission land is not identified on a statutory land use plan as being required for, or integral to occupation by infrastructure associated with subsections i-vii of Step 5 above

Step 6	Is the land subject to a statutory designation which may preclude development?	Yes – the area identified is out of scope, omit area and move to next item.	No – retain land in scope and move to step 7
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In response to the above criteria, we can confirm that the submission land is not subject to a statutory designation which may preclude development at this location.

Step 7	Is the land subject to the Derelict Site Levy?	Yes – the area identified is out of scope, omit area and move to next item.	No – retain land in scope and place on map.
Exclusions Conclusion		If land remains after the exclusions have been applied, then map the remaining land as being in scope.	If no has been answered to all parts of Step 3 – 7, then the whole of the land parcel is in scope and should be mapped.

In response to the above criteria, we can confirm that the submission land is not subject to the Derelict Site Levy.

While we note the subject lands are zoned Proposed Residential A and B in the Development Plan, it is considered that the development of these lands would be detrimental to our client’s business as the lands are used for agricultural use. The RZLT would put a significant financial burden on the agricultural business and would render operations of the farm unviable. As such, this would be at the detriment of the economic development of Monaghan.

We note that the previous submission to rezone the lands to Strategic Residential Reserve and Landscape Protection/Conservation was unsuccessful. As such, we request the Council consider a rezoning of the lands to Landscape Protection/Conservation as they are not considered developable due to the existing use of the lands for agriculture as well as access which cannot be provided in a safe manner.

We would note that the Core Strategy in the Development Plan states a projected population for Monaghan in 2025 of 9,415, representative of an increase of 1,737 from the 2016 Census. Despite this, however, we note that the population in Monaghan was 7,894 as per the 2022 Census representing an increase of 216 in the space of six years. While the Development Plan states a housing target for Monaghan of 535 no. dwellings throughout the lifetime of the Plan, it is considered that there is an overprovision of residential-zoned lands in the town. We would therefore request that the Council consider this grounds for rezoning the subject lands, as it is considered that there is an overprovision of residential zoned lands in Monaghan and the rezoning of the subject lands will still allow for the housing and population targets as set out in the Development Plan to be met.

To further highlight the levels of residential development within lands zoned Proposed Residential A and B, we have undertaken a review of live planning applications available to view on Monaghan County Council's online planning registry. For clarity, we have included the planning reference followed by the number of units proposed on the map included in Figure 12.0 of this submission. The findings of this assessment demonstrate that there is clearly an overprovision of residential-zoned land within Monaghan. As such, we would request that the submission lands be rezoned as it is not considered that residential development of the lands is currently viable.

We would note that there are a number of sites within the town with the submission land's zoning objective which have no live residential development applications. As such, it is considered that there is ample opportunity for residential development on other lands within Monaghan with this zoning to achieve housing and population targets without being at the detriment of the ongoing agricultural use. We would therefore request that the Council have due regard for this in their assessment of the RZLT submissions and consider the submission lands suitable for rezoning.

It is considered appropriate to support development on a sequential basis from town centres, to support compact and consolidated development, moving outwards. In this instance, it is considered that residential development should be prioritised on these lands, ahead of the submission lands to which this report pertains. We would refer to the following included in the Development Plan regarding this:

*'The Core Strategy provides for the development of lower density houses within the urban settlements. This will be permitted through schemes that provide suitable housing to meet the needs of people who might otherwise seek to build a one-off dwelling in the rural area. Such schemes will only be permitted on suitable lands located within the designated settlement boundaries where it is demonstrated that there is a demand for the development within the settlement and where it contributes to the sequential development of land from the centre of the settlement outwards or represents a consolidation of the settlement footprint.'*

In addition to this, we note the following policy with regard to promoting development in a sequential manner:

**HSP5** *To guide urban residential development in a sequential manner outward from the core area of settlements to maximise the utility of existing and future infrastructure provision, to promote sustainability, to make more efficient use of underutilised lands, and to avoid the extension of services and utilities to more remote areas.*

While it is considered that the submission lands are proximate to the town centre, it is considered that there are sufficient lands to achieve housing and population targets as set out in the Development Plan, in closer proximity to the town, which are underutilised with the capacity to provide residential development in keeping with sequential development guidance. Additionally, we would note that the submission lands are not vacant and are used for agricultural use by our Client. In the instance that the submission lands were considered to be liable for payment of the RZLT, this would create a significant financial burden. It is considered that the rezoning of the submission lands to Landscape Protection/Conservation would not be to the detriment of the objectives of the Development Plan and would allow for the active agricultural use on-site to remain viable, whilst also enforcing the Council's vision to provide residential development in a sequential manner.

Furthermore, the Development Plan specifically references changes to the zoning of lands where residential development has not taken place within two years of the adoption of the Plan:

*'In the event that lands zoned as Proposed Residential A or Proposed Residential B are not developed or have not secured planning permission for residential development within two years of adoption of the plan, consideration should be given to rezoning parcels of land zoned Strategic Residential Reserve to Proposed Residential, where these are sequential and serviceable and where residential development can be delivered in lieu of zoned Proposed Residential lands not actively progressed'.*

We would note a number of land parcels zoned Strategic Residential Reserve in the Development Plan, identified in dark blue in the zoning map extract included in Figure 12.0 of this submission, which would be considered developable in a sequential manner. As such, we would request that the council consider the rezoning of the submission lands suitable and in keeping with Development Plan guidance as it is considered that the redevelopment of the submission lands for residential would not be considered sequential.

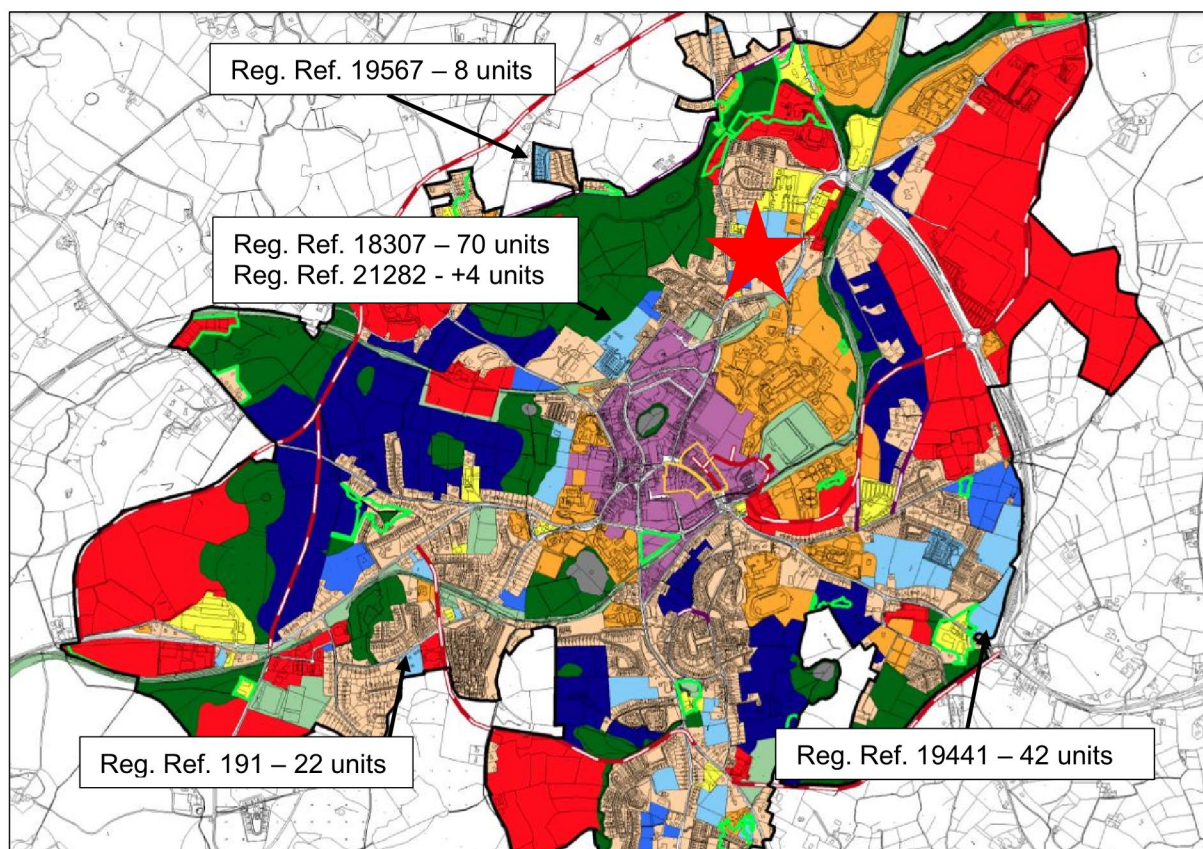


Figure 12.0 Assessment of lands zoned Proposed Residential A and B in the Development Plan with live residential development applications and number of units with regard to the subject site (red star).

#### 4.0 Planning History

A review of the Monaghan County Council online planning register revealed the following planning applications pertaining to the subject site.

**Reg. Ref. 20495** Planning permission granted by Monaghan County Council on 8<sup>th</sup> August 2003 for the demolition of the existing dwelling and construction of replacement dwellings and single-storey outbuilding for use ancillary to existing agricultural lands, use of existing entrance for agricultural purposes.

**Reg. Ref. 0330031** Planning permission granted by Monaghan County Council on 8<sup>th</sup> August 2003 for the creation of a new access lane to the west from Coolshannagh Road.

As demonstrated by these planning applications, the lands comprise an active agricultural use. As such, we would respectfully request that the lands be rezoned from Proposed Residential A and B to Landscape Protection/Conservation as the current zoning is not compatible with the existing land use. Furthermore, as demonstrated in the previous Section, we would consider that there has been an overprovision of residential-zoned land within Monaghan Town. In this regard, we consider there to be sufficient residential zoned land, omitting the submission lands, to support the continued growth and development of the town in keeping with that as set out in the Development Plan. Additionally, the rezoning of the subject lands to Landscape Protection/Conservation would be in keeping with supporting residential development in a sequential manner which promotes compact and consolidated growth.

## 5.0 Residential Zoned Land Tax

The *'Housing For All – A New Housing Plan for Ireland'* proposed a new tax to activate vacant land for residential purposes as a part of the 'Pathway to Increasing New Housing Supply'. This was listed under Action 15.2 of the Housing for All plan. This new tax was subsequently named the Residential Zoned Land Tax and was announced in Budget 2022 and was introduced into Part 22A of the Taxes Consolidation Act (TCA) 1997 by the Finance Act 2021. The process to identify land to which the tax applies is now underway and the tax will be payable from 2025.

The objective of the Residential Zoned Land Tax is to activate land that is serviced and zoned for residential use or mixed-use, including residential use, in order to increase housing supply and to ensure the regeneration of vacant and idle lands in urban locations. These locations have been identified within statutory land use plans as being appropriate locations for housing and they have benefitted from investment in the key services to support the delivery of housing.

The RZLT process has two parts, as follows:

- 1) *Identification and mapping of the land in scope for the tax. This is undertaken by local authorities through the publication of draft and supplemental maps.*
- 2) *Administration of the tax, which is to be undertaken by the Revenue Commissioners from 2024 onwards.*

To assist with the above, the Minister published Residential Zoned Land Tax - Guidelines for Planning Authorities under Section 28 of the Planning and Development Act which are read in conjunction with the key tax legislation.

The legislation sets out the lands which fall within the scope of the Residential Zoned Land Tax. Land that is zoned as being suitable for residential development and is serviced is within the scope of the tax. In summary, land must be zoned for residential use, or for a mixture of uses that includes residential use, for it to be subject to RZLT and it is only when land is zoned for residential use and has access to necessary infrastructural services to allow for development to proceed that it is within the scope of the tax. The legislation also provides for instances in which land may be excluded from the scope of the tax and includes the following:

- *Existing residential property and the garden and yards usually enjoyed with it;*
- *Land which is zoned for residential use, but is used by a business to provide services to residents of adjacent residential areas, such as a corner shop;*
- *Land that is zoned for a mixture of residential and other uses, where it is reasonable to consider the land is integral to the operation of a business carried out on or beside it;*
- *Land used for certain infrastructure or facilities including utilities, transport, and facilities for social, community or recreational purposes;*
- *A site which is designated as a derelict site and subject to the Derelict Sites Levy; and*
- *Land that is affected in terms of its physical condition by considerations which might prevent development, such as contamination or where historic or archaeological artifacts are present.*

Further explanatory notes of exemptions within the legislation discuss the following:

### Contamination

Lands which are unable to be developed due to the need for significant remediation are to be excluded from the scope of the measure. These are specifically identified as sites with a degree of contamination which would preclude residential development for the time being and which are on a verifiable register such as EPA sites licensed under Section 22 of the Waste Management Acts.

Where lands are not identified as an EPA Licensed Site, any submission to the Local Authority requesting exclusion from the draft or supplemental map on this basis should submit verifiable documentary evidence in the form of a preliminary site assessment report setting out the level of contamination on the land, sufficient to enable the Local Authority to assess whether the land in question should benefit from this exclusion.

### Significant Archaeology

In instances where zoned, serviced greenfield lands are known to contain significant archaeological remains, identified on the Record of Monument and Places (RMP) within Development Plans or Local Area Plans, then the area comprising either the known extent of the archaeological remains or the zone of notification should be excluded from the RZLT map. Brownfield land which lies within a zone of notification may be scoped in, as development has taken place on the land and matters relating to resolution of potential archaeological remains can be dealt with during the development management process.

### Zoning

In order to avoid taxation on lands or developments which benefit existing or future residential communities or other particular circumstances, certain exclusions to the Residential Zoned Land Tax apply. Where residential is not 'permitted in principle' on a land use zoning matrix, such zonings should not be included.

### Derelict Site Register

Lands which are currently on the Derelict Sites Register (DSR) and in respect of which a levy is payable in accordance with the Derelict Sites Act 1990, is not land which is within scope and should not be placed on any map for the purpose of the taxation measure.

### Land Required for Infrastructure and Community Services

Land required for the provision of community services and infrastructure which will sustain existing and future residential communities may be excluded. The lands targeted by the taxation measure are zoned and serviced for residential or residential and a mixture of other uses in Development Plans and LAPs. Statutory land use plans may identify requirements for built facilities such as schools, transportation, community centres, or open spaces, through mapped specific objectives or individual zonings. Where zoned for such uses, the land in question would not fall into scope. Section 653B(c)(iii)(I) – (VII) of the Taxes Consolidation Act specifies that the range of these uses includes the following;

- I. social, community or governmental infrastructure and facilities, including infrastructure and facilities used for the purposes of public administration or the provision of education or healthcare,*
- II. transport facilities and infrastructure,*
- III. energy infrastructure and facilities,*
- IV. telecommunications infrastructure and facilities,*
- V. water and wastewater infrastructure and facilities,*
- VI. waste management and disposal infrastructure, or*
- VII. recreational infrastructure, including sports facilities and playgrounds,*

### Exclusions for Existing Operating Uses on Land

With regard to residential zoned land, and mixed-use zoned land, Sections 653B(c)(i) and (c)(ii), respectively, of the Taxes Consolidation Act, identify where certain uses may be excluded from the tax measure:

### Operating Uses on Residential Zoned Lands

Where land that is included in a development plan or local area plan and is zoned solely or primarily for residential use, existing uses to be excluded from the scope of mapping for the tax measure must provide a service to the existing or future residential community, must be an authorised use, must be considered a premises in use by a trade or profession and must be liable to commercial rates.

### Operating Uses on Mixed Use Zoned Lands

Where land is included in a development plan or local area plan and is zoned for a mixture of uses, including residential, all land should be excluded from the map unless it is considered 'vacant or idle'.

### Vacant or Idle Definition

As the aim of the taxation measure is to activate vacant or underused land for the provision of housing, land which is located within mixed-use zones, which permit a variety of uses including residential should only be considered to be in scope for the tax where they are vacant or idle. Setting out the text in the legislation 'vacant or idle land' means land which, having regard only to development (within the meaning of the Act of 2000) which is not unauthorised development (within the meaning of the Act of 2000), is not required for, or integral to, the operation of a trade or profession being carried out on, or adjacent to, the land;' the first step is to determine if the development on the land is required for or integral to a trade or profession being carried out on the land or adjacent to the land.

The second step is to determine if the development is unauthorised. If the development on the land complies with the first step and is not unauthorised, then it is not in scope and should not be included within the maps. Conversely, if development on the land complies with the first step but is unauthorised development, then it is in scope and should be included on the maps. Section 2 of the Planning and Development Act 2000 regarding 'unauthorised development' must clearly inform assessment in this regard. Aside from uses commenced before 1 October 1964, or exempted development (within the meaning of section 4 of the Act of 2000) the development of the land must be authorised.

### Temporary Uses

Temporary uses of land should not result in land being excluded from the tax measure. As the aim of the taxation measure is to activate land which has been the benefit of significant investment in servicing infrastructure and to reduce vacancy and idleness in settlements, only those uses which are not unauthorised, are operational and provide for an integral part of a trade or profession carried out on the land or on adjoining land should be considered for exclusion where relevant. Lands which are subject to a temporary planning permission which has been commenced should be considered for exclusion for the period of that permission and revisited during the annual map review process to ensure that the land is activated at a later stage.

### Consideration of Unauthorised Development

While development which does not have the benefit of planning permission may or may not be subject to enforcement action, or may have passed the threshold for enforcement action, where it is 'unauthorised development' it can still be considered to be in scope for the purpose of mapping the land for the tax. In addition, land which is used for pop-up uses, land being utilised for storage, or on mixed-use zonings where buildings are vacant and unused should be given careful consideration for inclusion on the maps for the purpose of taxation.

## **5.1 Serviced Lands**

The National Planning Framework provides a definition of Tier 1 (serviced) and Tier 2 (serviceable within the period of the development plan) lands. Under Section 653B of the Taxes Consolidation Act, the definition of land in scope for RZLT identifies lands which are connected to or able to be connected to services as being in scope. For the purpose of inclusion on the draft, supplemental and final maps, lands must have access to or be connected to relevant services. This includes lands which already have made connections to services, or where provision has been made in existing infrastructure connection or ability to connect to services, where this date was after 1<sup>st</sup> January 2022.



Identifying serviced lands requires consideration of the services and infrastructure which are considered essential to the connection and development of residential communities. In assessing whether land or landbanks are able to connect to services, Planning Authorities should take into account the following. In the first instance, where the infrastructure is located adjoining, intersecting, at a boundary or corner of a landbank, in a nearby public road, or is connected to an existing development adjoining the landbank, the lands should be considered to be 'connected' or 'able to connect' and therefore are in-scope. Where the infrastructure does not meet the threshold above, the following needs to be considered:

- *Where no planning permission is in place, are the works to connect the landbank to the services on public land under the control of the local authority or land which will be available to the landowner/developer, in which case the land may be in-scope?*
- *Do the connections to services involve minor works, in which case the land may be in scope?*
- *Do the connections to services require access to 3rd party lands or 3rd party development to take place, in which case the land may be out of scope?*

Where land has permission, the same considerations should apply. If the works required to connect the land to services are materially significant, for example, require access to 3<sup>rd</sup> party lands which are in private ownership or would require CPO or planning permission in themselves, then the land should be considered to be out of scope.

Notwithstanding other development or works which may be considered, examples where land would be considered out of scope would include where the works required to connect the land to services involve the crossing of European Sites, rivers, streams or rail infrastructure where statutory consents are required. Serviceability refers to the following:

#### 1. *Road access*

In considering road access, the Planning Authority must take into account the ease of access to existing road infrastructure by the identified lands. Construction of significant sections of new road access across other landholdings, should be discounted with the exception of Local Authority owned lands, where use and access are a matter for the authority. Where provision has been made, but not yet constructed for road and pathway access through Local Authority consenting processes, then lands can be considered in-scope, where the process of tendering for construction of the permitted road or pathways has commenced.

#### 2. *Footpath access*

Similarly to road access, for lands to be considered in scope, there should be an ease of connection to an existing footpath network to facilitate active travel modes from the outset. Provision of significant sections of new footpath across other landholdings, where the land is not in the control of the landowner or local authority should be discounted when considering lands to be in-scope.

#### 3. *Foul sewerage drainage*

The provision of connections to the public foul sewer network is a matter for Irish Water. Information from Irish Water, as well as the local authority water services section, on the ability to service the lands will inform whether land should be included in draft or supplemental maps. For lands which do not have the benefit of planning permission in particular, the ease of connecting to the existing network should be a determining factor. Connections which can be made by directly connecting to infrastructure which is on, or adjacent to the land in question will result in lands being scoped in. Consideration of connections which would require more significant works should take into account whether the land required to deliver the works is in the control of the applicant or the local authority, as set out above.

All brownfield lands within existing built-up regeneration, town centre, district centre or local centre-type mixed-use zonings, should generally be considered to be in-scope unless lack of capacity in wastewater treatment plants servicing the settlement is confirmed by Irish Water. Greenfield land within such zonings will require further assessment and information to confirm connection to or ability to be connected to services.

For private foul sewer networks, evidence by the operator, or lack of capacity within the wastewater treatment plant or system serving the lands is required in order to scope lands out from inclusion on draft or supplemental maps.

#### 4. *Water supply*

The provision of connections to the public water main is also a matter for Irish Water. Similarly to determining lands serviced by the foul sewer network, information from Irish Water, as well as the local authority water services section, on the ability to service the lands will inform whether land should be included in draft or supplemental maps. For lands which do not have the benefit of planning permission, the ease of connecting to the existing network should be a determining factor. Connections which can be made by directly connecting to infrastructure which is on, or adjacent to the land in question will result in lands being scoped in. Consideration of connections which would require more significant works should take into account whether the land is in the control of the applicant or the local authority subject to considerations set out above.

All brownfield lands within existing built-up town centre, district centre or local centre-type mixed-use zonings, should generally be considered to be in-scope unless lack of capacity in water treatment plants servicing the settlement is confirmed by Irish Water. Greenfield land within such zonings will require further assessment and information to confirm connection to or ability to be connected to services.

#### 5. *Surface water drainage*

Surface water drainage networks are generally under the control of Local Authorities. For lands which do not have the benefit of planning permission, the ease of connecting to the existing network should be a determining factor. Connections which can be made by directly connecting to infrastructure which is on, or adjacent to the land in question will result in lands being scoped in. Connections which would require more significant works should consider whether the land is in the control of the applicant or the local authority subject to considerations set out in the explanatory section. In certain instances, there may be relevant issues to be considered relating to lands not being connected to or being unable to be connected to services, being occupied by a particular use which benefits from an exclusion or being subject to criteria such as contamination which could warrant exclusion. In many instances, Planning Authorities may be unaware of servicing issues which prevent connection resulting in lands being incorrectly deemed in scope.

The Planning Authority has invited submissions by members of the public on the draft map until May 31<sup>st</sup> 2024. Such submissions may challenge the inclusion of particular lands on the draft map on the basis that those lands do not meet the criteria set out within the relevant legislation; the date on which the land is considered to meet these criteria; or can request a change of zoning. The submission must state the criteria set out in Section 653B of the Taxes Consolidation Act 1997 on which a landowner may rely in the submission for the land being in or out of scope. The local authority may also request additional information after the receipt of the submission (e.g. proof of ownership or further information).

Upon review of the draft maps published by the Planning Authority, it has been revealed that our client's property has been deemed 'within scope' and has been included on the zoning map. Upon further investigation, it has been found that the Assessment Checklist for lands in scope has not been accurately implemented by the Planning Authority and that there is a reasonable basis for our client's lands to be deemed out of scope and should not be included on the RZLT zoning map. The basis for such a request will be set out in a subsequent section.

## 6.0 **Planning Policy**

The current Monaghan County Development Plan 2019-2025 identified Monaghan as Tier 1 in the Core Strategy's Settlement Structure, noting that it is important to maintain the town's position as the principal town of the County.

### 6.1 **Zoning Objective**

The submission lands are subject to 2 no. separate zoning objectives under the provisions of the Monaghan County Development Plan 2019-2025 as highlighted in Figure 13.0 of this submission

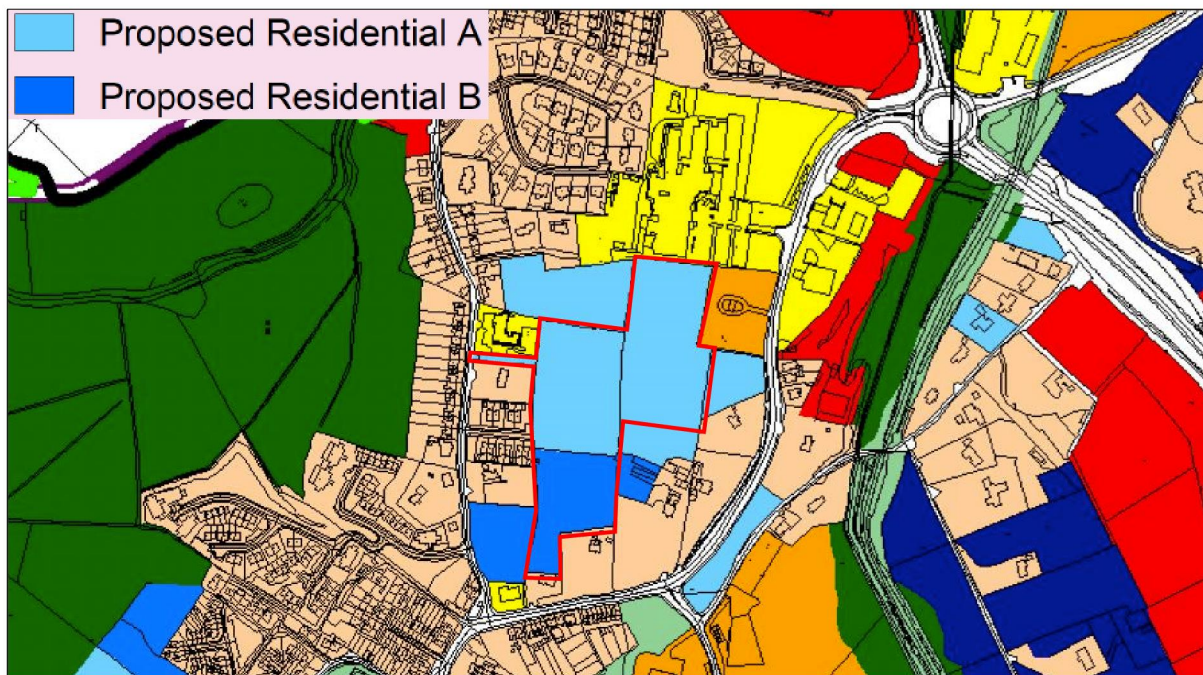


Figure 13.0 Extract from Monaghan Town Map (MDP1) of the Development Plan with the submission lands outlined in red, zoned Proposed Residential A and B.

We note the wording of the applicable zoning objectives as follows:

#### Proposed Residential A

*'To provide for new residential development and for new and improved ancillary services'.*

#### Proposed Residential B

*'To facilitate for serviced low density residential development in a structured and co-ordinated manner'.*

It is not considered that the existing agricultural use of the lands is compatible with these land use zoning designations. As such, it is requested that as part of this RZLT submission, the lands are rezoned to Landscape Protection/Conservation to more accurately represent the use of the lands at the subject site. Furthermore, we note that following an analysis of residential development within this zoning objective in Monaghan Town, there is sufficient capacity within these lands to provide for residential development in keeping with the population and housing targets as set out in the Development Plan, with the rezoning of the submission lands. As such, we would consider that there is an overprovision of residential zoned land within the town and it would be appropriate to rezone the subject lands without detriment to the wider objective and vision for the growth of Monaghan.

Additionally, the rezoning of the submission lands would address this overprovision and prioritise development in a sequential manner on lands which are situated in closer proximity to the town centre, in keeping with compact and consolidated development. In this instance, residential development lands which are vacant and in closer proximity to the town centre would allow future residents better access to services, thus providing high levels of residential amenity. Additionally, focussing development on these zoned and appropriately located lands would increase the vitality of the town centre in keeping with proper planning and sustainable development principles.

Regarding the proposed rezoning, we would note the following zoning objective and vision for these lands:

## Landscape Protection/Conservation

*‘To protect important landscape features within the towns from development that would detrimentally impact on the amenity of the landscape, on the natural setting of the town or on the natural attenuation offered by flood plains’.*

While the lands are actively used for agriculture, due to the topography of the site sloping upwards to the north, it is considered that residential development could potentially negatively impact the amenity of the landscape and the natural setting of the town. As such, it is considered necessary to ensure the protection of the lands in this instance. It is considered that without residential development on the subject lands, there will be sufficient land to provide for additional residential development to support the growth of the town and achieving the housing and population targets as set out in the Development Plan. As such, the development of these agricultural lands could negatively impact the natural setting of the town thus having a detrimental impact on visual amenity. As such, it is considered that the proposed rezoning of the lands to Landscape Protection/Conservation is justified. Furthermore, following an analysis of residential-zoned land within the town boundary, it is considered that there is an overprovision of residential-zoned land which could lead to negative impacts on the future of the town. As such, we would consider the proposal to rezone the lands suitable and in keeping with proper planning and sustainable development.

## 7.0 Conclusion

This submission is prepared in response to the draft Residential Zoned Land Tax map published by Monaghan County Council. In summary, this submission requests that the Planning Authority deem our client’s lands at Coolshannagh, Co. Monaghan to be rezoned and thus removed from the draft RZLT maps.

For the reasons set out within this submission, it is considered that the subject lands have demonstrated that the lands are out of scope due to the infrastructural constraints which prevent development at this site and the ongoing agricultural use of the lands. While we recognise the importance of providing housing within Monaghan, it is considered that from an analysis of the pattern of residential development in the town and the availability of residential-zoned land, there is sufficient capacity to support the continued growth of the town without residential development on the subject lands.

As per Section 13 of the Planning and Development Act 2000 (as amended), the Local Authority can, upon request from a landowner, consider whether to make a variation to the Development Plan and rezone the subject lands to reflect their current use accurately. We, therefore, request that the Planning Authority exercise its power and rezone the subject lands from Proposed Residential A and B to Landscape Protection/Conservation which would better reflect the use of the lands at present as well as the rate of development in Monaghan.

We trust that the Planning Authority will have regard to the contents of this submission in the preparation of supplementary and final RZLT maps and we reserve our right of appeal to An Bord Pleanála.

