



Kilcatherine, Eyeries, County Cork  
<http://www.friendsoftheirishenvironment.org>

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Custom House, Dublin D01 W6X0  
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## **Legal Submission on Strategic Environmental Assessment (SEA) of the National Planning Framework (NPF)**

The National Planning Framework, which is being given statutory status, is the overriding strategy for Ireland's future sustainable development. It is the framework for the governance, policy and fiscal measures to accommodate an increase in national population in the region of one million to 2040 as well as catering for the existing aging population.

The consultation on the NPF comes after the adoption of the National Mitigation Plan under the Climate Action and Low Carbon Development Act 2015, against which Friends of the Irish Environment has initiated Judicial Review in October 2017.

The NPF is subject to Strategic Environmental Assessment (SEA) under the SEA Directive 2001/42/EC. Article 5 of the Directive prescribes the information for the SEA "Environmental Report" in conjunction with Annexes I and II.

In particular Annex 1 (g) requires setting out:

"The measures envisaged to prevent reduce and as fully as possible offset any significant adverse effects on the environment in implementing the plan or programme"

Article 6 provides for consultation on the SEA Environmental Report, and Article 7 for Trans boundary consultation. Article 8 requires that the consultation obtained be ""taken into account".

Article 10 requires that:

"Member States shall monitor the significant environmental effects of the implementation of plans and programmes in order, inter alia, to identify at an early stage unforeseen adverse effects, and to be able to undertake appropriate remedial action"

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It is a member of the European Environmental Bureau and the Irish Environmental Network.

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Directors: Caroline Lewis, Tony Lowes

In addition to the provisions of the Directive the SEA process should be informed by the European Commission guidance:

[http://ec.europa.eu/environment/archives/eia/pdf/030923\\_sea\\_guidance.pdf](http://ec.europa.eu/environment/archives/eia/pdf/030923_sea_guidance.pdf)

The NPF contains 70 national Policy Objectives (NPOs), of which 1, 2 and 3 contain detailed regional population breakdowns, jobs and objectives. There are specific measures relating to the five cities.

10 National Strategic Outcomes (NSO's) are defined in conjunction with the development of the National Investment Plan (NIP). Chapter 9 of the Environmental Report on "Mitigation and Monitoring" seeks to comply with the relevant provisions of Article 10 the Directive.

## **The following is the submission of Friends of the Irish Environment on the adequacy of the mitigation, monitoring and remedial action measures**

### **1. MITIGATION MEASURES AND RECOMMENDATIONS**

Table 9.1 sets out the "Proposed Mitigation Measures Relating to Assessment of Policies.

It is submitted that the mitigation measures for the 70 National Policy Objectives NPOs and 10 National Strategic Outcomes (NSO's) are entirely deficient, and do not meet the requirements of the Directive with regard to in Annex(1)(f) of the Directive namely:

" the likely significant effects on the environment including on issues such as biodiversity, population, human health, fauna, flora soil , water, air, climatic factors, material assets cultural heritage including architectural heritage and archaeological heritage landscape and the interrelationship between the above factors."

In addition to the particular mitigation deficiencies under the SEA headings, there is a general and overriding failure to address and mitigate climate emissions, and provide for climate adaptation.

#### **1. Population and human health**

- No land value taxation or other effective measures are proposed to curtail sprawl and encourage urban and village consolidation.
- No targets for the number of new and existing housing units to have walkable access to community facilities, public transport and safe cycling routes
- No targets and measures for sustainable mobility and modal share for daily travel to reduce car use and dependence, climate impact, air pollution, congestion and unhealthy car dependent travel patterns. (In particular NSO 2 on "Enhanced Regional Connectivity" has no mitigation measures to reduce car dependence and provide a modal share target increase for rail use )

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- No air quality targets,
- No active travel targets to reduce obesity

## **2. Biodiversity, flora and fauna**

- Mitigation measures for the wider marine area are entirely lacking including requirements for achieving including Good Environmental Status (GES) under the Marine Strategy Framework Directive, fish stock protection, sea bird feed source protection, management of any continuation of oil and gas exploration and marine litter.
- There are no effective mitigation measures to address the additional food supply demand and agricultural and aquaculture impact of an additional one million population on biodiversity
- No measure to address invasive species

## **3. Soils**

- There are no mitigation measure to protect high quality mineral soils for horticulture

## **4. Water**

- No measure to integrate NPF with EU Water Framework Targets
- The mitigation measure for NPO 27 on water does not contain any target

## **5. Air**

- No air pollution mitigation target including for road traffic, shipping, aviation and solid fuel combustion.

## **6. Climatic factors**

- No measures to mitigate climate impact of a population increase of over million as well as existing population on:
- Electricity and heating demand including from data centres promoted in NSO 5
- Travel generation demand
- Increase in beef and dairy output
- NSO 3 on "High Quality international Connectivity" evades any reference to climate in relation to mitigation measure on Airports and Ports

## **7. Material Assets**

- No effective mitigation measure by means of land value tax to secure orderly urban containment

## **8. Cultural heritage including architectural and archaeological heritage**

- No mitigation measures proposed

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## 9. Landscape

- No mitigation proposed.
- No carrying capacity of landscape for additional one-off housing identified
- Mitigation Measure NPO18b "to clarify how planners will apply the criteria of *"economic need"* when deciding upon single housing" does not identify how environmental and economic cost to society can be quantified and mitigated

## 10. Interactions

- There is a serious deficiency in addressing interactions.
- The measures proposed for electric vehicle transition is not reconciled with curtailment of resource consumption, sprawl, congestion and unhealthy lifestyle travel patterns

## **2. MONITORING MEASURES AND RECOMMENDATIONS**

The consideration of the Environmental Report on Monitoring is presented in Table 9.4 in tabulated form with a Strategic Objective, target, indicator and data source.

### **Objective 1 Population and Human Health**

- No measurable quantifiable Objectives. The only specific mitigation target is to increase by 20% proportion of population undertaking regular physical activity

### **Objective 2 Biodiversity Flora and fauna**

- Target does not reflect MSFD and Habitats Directive obligations. Objectives non-specific

### **Objective 3 Soils**

- Only specific target to limit built surface cover nationally to below the EU average of 4%

### **Objective 4 Water**

- River Basin Management Plan and MSFD targets are provided for, but mitigation measures needed to achieve targets not stated

### **Objective 5 Air Quality**

- Left to be resolved in future National Clean Air strategy

### **Objective 6 Climatic factors**

- Relies on deficient National Mitigation Plan

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### **Objective 7 Material Assets**

- Only specific target is for broadband capacity

### **Objective 8 Archaeology Architectural and Cultural Heritage**

- No specific provision
- Target for "no unauthorised physical damage of alteration of the context of cultural heritage features" is already provided for in law

### **Objective 9 Landscape**

- No specific objectives or targets

## **3. PROVISION FOR REMEDIAL ACTION**

Section 9.1 acknowledges the requirement of Article 10 of the Directive

“that monitoring be carried out in order to identify and an early stage unforeseen adverse effects due to the implementation of the draft NPF, with the view to taking remedial action where adverse effects are identified through monitoring”

However no further information is provided on meeting this obligation. If any adverse impact arises *e.g.* the road investment measures proposed in the NPF increase greenhouse gas emissions, air pollution, congestion and car dependent sprawl, no mechanism for remedial action is provided.

## **4. CONCLUSION**

The SEA Environment Report is systemically deficient in meeting the obligations of the Directive and not fit for purpose.

This exposes any approval of the National Planning Framework to legal action either in the national courts, or through intervention of the European Commission.

**Legal Submission on  
compliance of the National Planning Framework (NPF) with the  
requirements of the Climate Action and Low Carbon Development Act  
2015**

The Climate Action and Low Carbon Development Act 2015 established a national objective of pursuing and achieving a transition to a low carbon, climate resilient and environmentally sustainable economy by the end of the year 2050.

In pursuit of that objective, the Government must adopt a national mitigation plan. Such a plan was published in July 2017. (It is relevant to mention in passing that Friends of the Irish Environment is concerned that the plan does not meet the requirements of the Act in a number of important respects and has received leave to seek a judicial review on these grounds, *inter alia*.)

Relevant bodies in the meaning of the Act, which includes the Government and the Minister for Housing, Planning and Local Government are required, “in the performance of [their] functions, to have regard to—

“(a) the most recent approved national mitigation plan,

“(b) the most recent approved national adaptation framework and approved sectoral adaptation plans,

“(c) the furtherance of the national transition objective, and

“(d) the objective of mitigating greenhouse gas emissions and adapting to the effects of climate change in the State.”

This simply hasn't happened. The draft Plan proposes various infrastructural proposals and planning requirements without regard to the impact they will have on greenhouse gas emissions. The draft Plan and the SEA Environmental Report lack any quantitative estimates of emissions which will result from the implementation of the plan. The draft Plan seems to consider that the only area of the plan which is of relevance to the national transition objective is the provision of renewable energy. The impact of transport and spatial planning on greenhouse gas emissions is touched on in the SEA in an inadequate manner as set out above.

Ultimately, implementation of this Plan would pretty much guarantee that the State will fail to meet the National Transition Objective. If the SEA had been adequate it would have demonstrated that. In those circumstances, adoption of the Plan as drafted would be in breach of the Climate Action and Low Carbon Development Act, 2015.

Tony Lowes, Director  
on behalf of Friends of the Irish Environment

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