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Date: 22/12/2022

Planning Department,  
Kilkenny City and County Council,  
County Hall,  
John Street,  
Kilkenny,  
R95 A39T

## **RE: RESIDENTIAL ZONED LAND TAX**

### **1.0 INTRODUCTION**

To Whom it may concern,

This submission is in reference to a number of sites in **Airmount, Co. Kilkenny**, zoned 'M1 Opportunity Site' in the RZLT draft map published the 1<sup>st</sup> November 2022 (Fig 1). The site's unique identification numbers are KKLA00000018, KKLA00000082, KKLA00000099 and KKLA00000009

We request, on behalf of the landowner, that the site be excluded from the final map and be reviewed after this map has been published in the review period commencing 1<sup>st</sup> February 2025, on the grounds that the site does not satisfy the relevant criteria. Furthermore, the site is not adequately serviced at present and any services that would be required would have to come from the Waterford section of the site dotted in red below (Figure 1.) This site is the subject of an ongoing legal dispute (See appendix C).



*Fig. 1. Site Boundary  
Taken from RZLT Draft Map showing  
area zoned M1 Opportunity Site.*

*Land Use Zoning Description: To allow  
for a mixed-use development with a  
broad range of uses*

*Site Area: 11.56Ha*

## **2.0 REASONS FOR EXCLUSION AND SUPPORTING EVIDENCE**

The site is zoned “M1 Opportunity Site – To allow for a mixed-use development with a broad range of uses”.

According to Section 653B,

*“In this Part, a reference to land which satisfies the relevant criteria is a reference to land that-*

*(a) is included in a development plan or local area plan and is zoned for residential development or zoned for a mixture of uses, that includes residential development.*

The site was purchased in March 2017 by [REDACTED], however, a Third party alleged they had entered into a binding contract to purchase the property prior to the purchase in March 2017. The case was heard in the commercial court in October 2018. The ruling of that case was appealed and heard in May 2020. A decision on this appeal is still pending (see Appendix B for more information). The outcome from the pending decision has the potential to extend this legal dispute until well after the final map has been published.

According to the guidelines for planning authorities the landowner is within their rights to make a claim to defer payments of tax;

*‘Where a person other than the landowner or someone connected with the land owner, appeals a grant of planning permission by a local authority to An Bord Pleanála, the owner can make a claim in their residential zoned land tax return to defer payment of tax due for the period, pending the outcome of the appeal.*

*The outcome of the appeal will determine whether any tax which has been deferred, becomes payable. If the outcome of the appeal is that the grant of planning permission is upheld, any tax deferred will not be due and payable.’*

## **3.0 CONCLUSION**

Since the site is not zoned “residential” nor is it zoned “mixed-use that includes residential” it does not satisfy the relevant criteria to be included in the Draft, Supplemental or Final Maps. Furthermore, due to the ongoing legal dispute, the landowner is in an impossible situation. If he were to lose his legal battle and subsequent ownership of the lands due to the decision of the appeal. Any taxes paid on the lands by the landowner, would be completely lost to him and he would not be entitled to any compensation.

Should you require any further information on this issue please do not hesitate to contact us via email at info@fhp-architects.com

Kind Regards,

Ian Fewer

**APPENDICES**

APPENDIX A – OS MAP



