



Minutes of the Waterford LAG Meeting
Thursday 26th May 2022, teleconference via Zoom at 10.00 a.m.

Present: **Non Public Sector:** **Public Sector**

1. Gabriel Foley	PPN / Environment	1. Mayor Joe Kelly (Chair)	Elected representative
2. Senan Cooke	PPN / Community & Voluntary	2. Cllr. Pat Nugent	Elected representative
3. Catherine Quinlan	I.C.M.S.A.	3. Richie Walsh	Head of LEO
4. Heather Kiely	PPN/ Community & Voluntary	4. Brendan Lawton	Reg. Mgr. Dept. Social Protection
5. Jimmy Taaffe	CEO – WLP CLG	5. Michael Walsh	CE, WC&CC
6. Liam Quinn	CEO – Waterford Area Partnership	6. Julie Somers	CYPSC Coordinator
7. Gerald Hurley	CEO Waterford City Chamber	7. Cllr Eamon Quinlan	Elected representative (Deputy Chair)
Apologies:		Apologies:	
8. Maggie Flanagan	PPN / Community & Voluntary	8. Michael O'Brien	WWETB
9. Jenny Beresford	CEO Dungarvan & West Waterford Chamber	9. Derval Howley	Head of Wellbeing HSE
10. Breda Fell	PPN / Community & Voluntary		

Staff Present: I. Grimes D.O.S. S Breathnach A/Chief Officer, J. Codd S.O., S. Whelan S.O., E. Smyth A.S.O.

1. Total current Membership	19
2. Total attendees	14
3. Quorum % required (50% of 1 above)	Achieved – 74%
4. non-public/public ratio attendees % ratio non-public/public attendees	7 non-public : 7 public 50% non-public: 50% public

1. **Confirmation of Quorum:** Having reviewed the attendance record Acting Chief Officer Sinéad Breathnach informed the attendees that a quorum was achieved. Non-public 7: Public 7. In order to balance the quorum in favour of the non-public representation Eamonn Quinlan agreed to stand down from voting. Revised quorum Non-public 7: Public 6.

Chair Joe Kelly opened the meeting.

2. **Apologies.**

As per table above apologies were noted.

3. **Conflict of Interest:**

- (i) No declarations submitted for this meeting
- (ii) Review of Quorum: Quorum achieved 7:6 in favour of non-public sector.

4. **Confirmation of Minutes of LAG Meeting held on 12th May 2022.**

Proposed: S. Cooke	Seconded by G. Foley
Abstentions: E Quinlan	
Quorum achieved: Yes	APPROVED

5. **Matters arising:**

None.

6. **Rural Development Programme.**

- a) **Projects for Approval**

- i) 31LDRWAT117469 Lismore Music Festival

Project ID	31LDRWAT117469
Project Type:	L.O. 1 Tourism as a Key Driver of Economic Development
Project Name:	Euri-Lismore Music Festival CLG
Promoters Name:	Lismore Music Festival CLG
Address:	C/O, 8, Main Street, Lismore, Co. Waterford
Description:	The Lismore Music Festival t/a, the Blackwater Opera Festival operates an annual opera festival in Lismore Castle and Dromore Yard every June since 2009. It is operated by a voluntary

	committee that has become a well-structured organization. The festival compliments both in timing and location the Wexford Opera Festival. The festival has focused on providing a quality product in a rural location (similar to Clybourne in England), has opened up access to the great houses of the Blackwater Valley for that week, has a co-existing education programme for local young people to introduce them to the nuts and bolts of music and has opened up the Valley to a group of people who would not normally travel to rural areas. The LEADER Programme is being asked to part fund the venue rental, logistics, i.e., Marquees, Seating, Sound, H & S, and pianos.
Theme:	L.O. 1 Tourism as a Key Driver of Economic Development
Sub-theme :	S.A. 1.2 Culture and Heritage Product Development
Link to Transitional Rural Development or EURI	Community-based projects that seek to address emerging challenges as a result of the COVID-19 pandemic, promoting greater social inclusion.
Link to LDS	L.O. 1 Tourism as a Key Driver of Economic Development

Total Project Costs	€86,506.15
Eligible Project Costs	€86,506.15
Funding sought by promoter:	€50,000
State one of the following: - First Review / Previously Deferred or Not Recommend	First Review
Funding recommended by Evaluation Committee:	The Total Cost Expenditure was reviewed to see what is eligible for funding equal to the remaining budget. The revised total project costs are €52,684.15 @ 40% = €21,073.66 A maximum of €21,073.66 or 40% of eligible expenditure, whichever is the lesser
Details of private funding:	Yes. Donations/Box Office
Voluntary Labour: YES / NO (If yes provide detail)	No

Synopsis of project:	Funding for the Blackwater Opera Festival		
Detail exactly what WLP will be funded (List items from Project Assessment Report) Total Funding	Detail	Total Cost (Expenditure)	Grant Aid recommend by the Evaluation Committee @ 40 %
	Lismore Castle Venue	€14,634.15	€ 5,853.66
	Dromore Yard Venue	€ 5,000.00	€ 2,000.00
	Pianos	€ 4,250.00	€ 1,700.00
	Medical Cover	€ 1,800.00	€ 720.00
	Seating Hire	€22,000.00	€ 8,800.00
	Sound Desk	€ 5,000.00	€ 2,000.00
		€52,684.15	€21,073.66
Was an assessment completed?: Date: _____	06/05/2022		
Are detailed costings provided for the project? Were the costs for the project considered reasonable and how was this measured?	Yes, the Procurement process was followed. Some of the items tendered are unique.		
Where the procurement process resulted in less than 3 quotes, the EC must show the additional steps taken to ensure the reasonableness of costs:	Yes. As outlined above, some of the items such as the venue hire is unique. The seating is specific to the design of the facility.		
Innovative Element of the project:	Lismore Music Festival is the only summer outdoor music festival that takes place in Ireland using the natural beauty of the architecture of Lismore Castle as its backdrop		
Consideration of Deadweight:	It would proceed on a reduced basis.		
Consideration of Displacement:	Its main complimentary opera is the Wexford Opera which is held in September, so there is no displacement.		
Economic justification for project:	This project will generate revenue for the local economy both directly and indirectly and therefore fits the Local Development Strategy plan for providing cultural and heritage activities.		
Average Score for Project:	70/100 (5)		
% level of aid & ceiling:	A maximum of €21,073.66 or 40% of eligible expenditure, whichever is the lesser		
E. C. Executive Summary/Rationale for Funding	The Evaluation Committee agreed to recommend funding this project for the following reasons:- 1. The project fits the LCDC Local Development Plan for supporting Culture and Heritage type projects. 2. The project scored 70/100 A maximum of €21,073.66 or 40% of eligible expenditure, whichever is the lesser		

Jobs Created	Jobs Sustained	Match Funding	Previous Grant Aid Received
	1.5	Yes	€48,000

Confirmation on the applicant's position re De-Minibus and double from the relevant agencies.	Date of Confirmation	Signed By
Lisa Grant	WCCC	09/05/2022
Ivona Carr	Failte Ireland	06/05/2022
Brid Kirby	WLEO	09/05/2022
Niall Doyle	Arts Council	18/05/2022

The following were the main points raised in the discussion of the project: -

- Mr. Jimmy Taaffe outlined the project to the Evaluation Committee advising that due to Covid the Local Authority has agreed, subject to the Evaluation Committee's recommendation, to fund the Lismore Opera Festival one last time. Most of its funding is coming from the Arts Council and WC&CC. It has become very successful and will become a fixture on the Arts Council agenda for funding each year. With success comes increased costs but there are only a few items that we can fund, such as the marquee, seating, etc.
- Mr. Jimmy Taaffe advised that he recommends 40% rather than 50% as the continuous support from LEADER has led to substantial funding from the Arts Council and WC&CC.
- Mr. Jimmy Taaffe advised that Michael Alen Buckley is the Executive Chairman and has brought several new members onto the Committee.
- The Committee noted that the Castle venue hire nearly doubled in cost going from €10,000 to €18,000.
- It was questioned if any of the other big houses other than Buckley's were charging for the venue? Mr. Jimmy Taaffe confirmed that they were not but that he suspected that the €5,000 charged by Buckley was being put back into the festival. Whereas the fee of €18,000 for the Castle will not.
- Concerning the accounts, the Evaluation Committee noted the following:-
 - a) the accountancy fees are very high at €14,000 with separate auditing fees also included. Mr. Jimmy Taaffe advised that the accountants work part of the year for the festival and assisted with the application.
 - b) final accounts for 2021 should have been submitted with the application. Mr. Jimmy Taaffe contacted the promoter who forwarded a copy of a trial balance for the period 1st Aug to 30th 2020 to Sept 2021. The promoters explained that they have not received the final audited accounts yet.
 - c) They also queried what the director's remuneration of €75,000 was for? The Director's remuneration went to the Festival Director and the Artistic Director and not Board Members.

- It was noted that there are very few quotations obtained. Mr. Jimmy Taaffe explained that given the nature of the festival a lot of the items required are specialists.
- The Evaluation Committee agree that it is an excellent event and well worth supporting one final time.
- As the funding is limited it was agreed to recommend funding the other four projects as presented and to allocate the remaining budget to the Lismore Opera Festival which has received substantial funding from the Arts Council and WC&CC. It was agreed that Mr. Jimmy Taaffe will identify key areas to fund rather than a percentage of the overall budget to reduce administration.
- A Committee Member expressed the opinion that it is a wonderful cultural event that is open to the wider community and not just opera fans as it is more of a production and about the ambience and experience.
- The Evaluation Committee agreed that funding this project is a good use of EURI funds and agreed to recommend funding to the LCDC.

The Evaluation Committee agreed to recommend funding this project for the following reasons:-

1. The project fits the LCDC Local Development Plan for supporting Culture and Heritage type projects.
2. The project scored 70/100

A maximum of €21,073.66 or 40% of eligible expenditure, whichever is the lesser

Amount Recommended: €21,073.66, or 40%, whichever is the lesser amount.

40% of Eligible Project Funding: €21,076.66

Proposed: H Kiely	Seconded by: S Cooke
Abstentions: E Quinlan	
Quorum achieved: Yes	APPROVED

ii) **31LDRWAT117478 Lismore Community Biodiversity Plan**

Project ID	31LDRWAT117478
Project Type:	Analysis and Development
Project Name:	EURI Lismore Community Biodiversity Action plan
Promoters Name:	Lismore Tidy Towns
Address:	Lismore Co. Waterford
Description:	The promoter will hire consultants to draft a community biodiversity action plan, this will be the first in the region based on an entire town and drafted with the local community.
Theme:	LO7 Rural Environment
Sub-theme:	SA 7.2 Local Biodiversity

Link to Transitional Rural Development or EURI	Support for new and innovative projects in the areas of climate change, environmental protection and the green, bio and circular economy within the LAG area
Link to LDS	Supporting communities with local biodiversity actions

Total Project Costs	€20,000		
Eligible Project Costs	€20,000		
Funding sought by promoter:	A maximum of €18,000 or 90% of eligible expenditure, whichever is the lesser		
State one of the following: - First Review / Previously Deferred or Not Recommend	First Review		
Funding recommended by Evaluation Committee:	A maximum of €18,000 or 90% of eligible expenditure, whichever is the lesser		
Details of private funding:	Cash/Money in account 2,000 10%		
Voluntary Labour: YES / NO (If yes provide detail)	No		
Synopsis of project:	To develop the Lismore Biodiversity Action Plan		
Detail exactly what WLP will be funding (List items from Project Assessment Report) Total Funding	Detail	Total Cost (Expenditure)	Grant Aid recommend by the Evaluation Committee @ 90 %
	Hiring consultants to form a biodiversity action plan	€20,000	€18,000
		€20,000	€18,000
Was an assessment completed?: Date: _____	Yes 10/05/2022		
Are detailed costings provided for the project? Were the costs for the project considered reasonable and how was this measured?	In selecting a supplier, the promoter used the MEAT process in order to choose the most economic advantageous tender.		
Where the procurement process resulted in less than 3 quotes, the EC must show the additional steps taken to ensure the reasonableness of costs:	N/A		
Innovative Element of the project:	This will be the first biodiversity action plan in the region focused on an entire town		

Consideration of Deadweight:	The promoter would progress on a reduced basis
Consideration of Displacement:	There is no other groups in the area that have done a biodiversity action plan for Lismore
Economic justification for project:	This project will create a biodiversity action plan for the town which will enhance the green areas in the town and surrounding area making them more attractive for both residents and visitors who might dwell longer in the area
Average Score for Project:	83/100 (1)
% level of aid & ceiling:	A maximum of €18,000 or 90% of eligible expenditure, whichever is the lesser
E. C. Executive Summary/Rationale for Funding	The Evaluation Committee agreed to recommend funding this project for the following reasons:- 3. 1. The project fits the LCDC Local Development Plan for promotion of greater environmental awareness through training and exemplar projects. 4. 2. The project scored 83/100 A maximum of €18,000 or 90% of eligible expenditure, whichever is the lesser

Jobs Created	Jobs Sustained	Match Funding	Previous Grant Aid Received
N/A	N/A	€2,000	€8,754

Confirmation on the applicant's position re De-Minimus and double from the relevant agencies.	Date of Confirmation	Signed By
Waterford City and County Council has paid €8,754 to Lismore Tidy Towns under various small grant schemes from 2018-2022	17/05/2022	

The following were the main points raised in the discussion of the project: -

- Mr. Ciaran Coady outlined the project to the Evaluation Committee advising that the promoters Lismore Tidy Towns selected by tender the Cork Nature Network to develop the Lismore Biodiversity Action Plan in consultation with the tidy towns committee and the local community. The project will produce the first plan of its kind and will be the first to focus on an entire town and will serve as a template/model for other towns and villages.
- The promoters have already commenced small scale biodiversity projects working with transition year students to plant hazel, blackthorn, and hawthorn hedges and planting two heritage orchards in local housing estates. This project will build off that and identify a list of actions and outcomes in a five-year biodiversity plan.
- The Evaluation Committee discussed the promoters noting that they have a good structure and the skills to successfully implement the project. One of the members previously worked for

Parks and Wildlife in America and is very ambitious and innovative. - Mr. Jimmy Taaffe said that the promoters have consulted with the locals and have their buy-in for the project. - Mr. Ciaran Coady advised that the National biodiversity plan notes the importance of local actions such as these that will be undertaken by the Lismore Community Biodiversity Plan. - It was agreed that the promoters have a very good track record and that it is an excellent initiative. - The Evaluation Committee agreed that funding this project is a good use of EURI funds and agreed to recommend funding to the LCDC.	
The Evaluation Committee agreed to recommend funding this project for the following reasons:- 1. The project fits the LCDC Local Development Plan for promotion of greater environmental awareness through training and exemplar projects. 2. The project scored 83/100 A maximum of €18,000 or 90% of eligible expenditure, whichever is the lesser	
Amount Recommended: €18,000	90% of Eligible Project Funding: €20,000

Proposed: P Nugent	Seconded by: G Foley
Abstentions: E Quinlan	
Quorum achieved: Yes	APPROVED

iii) **31LDRWAT117473 Estuary Environmental Project**

Project ID	31LDRWAT117473
Project Type:	Capital
Project Name:	EURI Estuary Environmental project
Promoters Name:	Tomas Sullivan
Address:	Coollunma, Cheekpoint, Co. Waterford
Description:	The proposed project is the purchase of a Whaley boat with a drop-down bow, enabling shore access and egress. This boat will be used for multiple purposes, including the removal of ocean plastics, in the Waterford estuary, and environmental water sampling. The vessel itself will be 100% recyclable and advance education as well as eco-tourism in the Waterford estuary
Theme:	L02 Strategic and Collaborative investment in Rural Enterprise Development to foster rural job creation in local Villages.
Sub-theme:	SA 2.1 Capital Investment in existing and start up technology, graduate orientated rural businesses.
Link to Transitional Rural Development or EURI	Support for new and innovative projects in the areas of climate change, environmental protection and the green, bio and circular economy within the LAG area

Link to LDS	Supporting micro rural enterprise with investment to create opportunities on the estuary
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Total Project Costs	€21,500		
Eligible Project Costs	€21,500		
Funding sought by promoter:	A maximum of €16,312.50 or 75% of eligible expenditure, whichever is the lesser		
State one of the following: - First Review / Previously Deferred or Not Recommend	First Review		
Funding recommended by Evaluation Committee:	A maximum of €16,312.50 or 75% of eligible expenditure, whichever is the lesser		
Details of private funding:	Funds in Bank 5437.50 25%		
Voluntary Labour: YES / NO (If yes provide detail)	No		
Synopsis of project:	Funding towards the purchase of a Whaley boat with a drop-down bow, enabling shore access and egress used primarily for cleaning of the river and water sampling and surveying.		
Detail exactly what WLP will be funding (List items from Project Assessment Report) Total Funding	Detail	Total Cost (Expenditure)	Grant Aid recommend by the Evaluation Committee @ 75 %
	Whaley boat with Drop down bow	€21,500	€16,125
		€21,500	€16,125
Was an assessment completed?: Date: 9/5/2022	Yes		
Are detailed costings provided for the project? Were the costs for the project considered reasonable and how was this measured?	Yes. The costs were considered reasonable by using the MEAT process.		
Where the procurement process resulted in less than 3 quotes, the EC must show the additional steps taken to ensure the reasonableness of costs:	N/A		
Innovative Element of the project:	The drop down bow on this vessel will allow for the easier removal of waste from the Estuary. This project will facilitate regular waste removal from the estuary.		
Consideration of Deadweight:	Project would proceed on a reduced basis		

Consideration of Displacement:	There are no other businesses currently functioning as this is intended
Economic justification for project:	This project will provide 1.25 FTE employment
Average Score for Project:	77/100 (3)
% level of aid & ceiling:	A maximum of €16,312.50 or 75% of eligible expenditure, whichever is the lesser
E. C. Executive Summary/Rationale for Funding	The Evaluation Committee agreed to recommend funding this project for the following reasons:- 1. The project fits the LCDC Local Development Plan for L02 Strategic and Collaborative investment in Rural Enterprise Development to foster rural job creation in local Villages. 2. The project scored 77/100 A maximum of €16,312.50 or 75% of eligible expenditure, whichever is the lesser

Jobs Created	Jobs Sustained	Match Funding	Previous Grant Aid Received
1.2 FTE	0	€5,187.50	None

Confirmation on the applicant's position re De-Minimus and double from the relevant agencies.	Date of Confirmation	Signed By
Failete Ireland	13/05/2022	Ivona Carr responded by email stating Tomas Sullivan had received no funding from Failete Ireland
Waterford Local Enterprise Office	13/05/2022	Ten day period was offered for feedback and no response has been received

The following were the main points raised in the discussion of the project: -

- Mr. Paschal O'Connor outlined the project to the Evaluation Committee advising that the promoter collects a lot of rubbish and has great difficulty getting it on and off the boat. The new boat is fully recyclable and will hold up to 10 people for eco-tourism tours.
- Ms Claire Connors advised that currently, only short-term contracts are available from WC&CC of 8-week duration but that the promoter will fill the river ranger role once he has the new boat. He also transports engineers to carry out river surveys.
- It was clarified that the seats are removable and include storage.
- The Committee agreed that they didn't see it as a tourism project, noting that different insurance and tourism licenses would be required. Ms Claire Connors clarified that the removal

of ocean plastics and environmental sampling will be the bread and butter of the business with limited passenger traffic.

- Regarding a query about the type of boat being purchased, it was clarified that it will be fully recyclable at end of life.
- The promoter is a freelance marine operator working on a part-time base mainly in Waterford Estuary and is fully trained and certified. He has the necessary skills and knowledge of the estuary required to make the project successful. He has lots of credentials and letters of support and has worked for Waterford City & County Council, Waterford Port Authority, Wexford County Council, and local tug companies.
- The Evaluation Committee agreed that funding this project is a good use of EURI funds and agreed to recommend funding to the LCDC.

The Evaluation Committee agreed to recommend funding this project for the following reasons:-

1. The project fits the LCDC Local Development Plan for L02 Strategic and Collaborative investment in Rural Enterprise Development to foster rural job creation in local Villages.
2. The project scored 77/100

A maximum of €16,312.50 or 75% of eligible expenditure, whichever is the lesser

Amount Recommended: €16,125	75% of Eligible Project Funding: €21,500
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Proposed: J Somers	Seconded by: M Walsh
Abstentions: E Quinlan	
Quorum achieved: Yes	APPROVED

iv) **31LDRWAT117663 Procurement of Machinery for Increase of Bakery production.**

Project ID	31LDRWAT117663
Project Type:	Capital
Project Name:	EURI Procurement of machinery for increase of bakery production
Promoters Name:	Vinilo
Address:	8 Main Street, Lismore, Waterford,
Description:	The proposed project is the purchasing of machinery to increase the bakery production as well as quality. This is the purchase of a second dough mixer, a bread slicer, and a second oven. This will improve the current production rate as well as increase the quality of pastries produced by the bakery.
Theme:	L02 Strategic and Collaborative investment in rural enterprise development to foster rural job creation in local villages.
Sub-theme:	SA 2.2 Capital Investment in the development of rural food enterprises.

Link to Transitional Rural Development or EURI	Supports to rural businesses seeking to reach new markets, expand, innovate or diversify in response to the impact of the COVID-19 pandemic
Link to LDS	Supporting rural artisan food production

Total Project Costs	14000		
Eligible Project Costs	A maximum of €10,500 or 75% of eligible expenditure, whichever is the lesser		
Funding sought by promoter:	A maximum of €10,500 or 75% of eligible expenditure, whichever is the lesser		
State one of the following: - First Review / Previously Deferred or Not Recommend	First Review		
Funding recommended by Evaluation Committee:	A maximum of €10,500 or 75% of eligible expenditure, whichever is the lesser		
Details of private funding:	Funds in Bank of 3500 or 25% of eligible expenditure		
Voluntary Labour: YES / NO (If yes provide detail)	No		
Synopsis of project:	The proposed project is the purchasing of machinery to increase the bakery production as well as quality. This is the purchase of a second dough mixer, a bread slicer, and a second oven. This will improve the current production rate as well as increase the quality of pastries produced by the bakery.		
Detail exactly what WLP will be funding (List items from Project Assessment Report) Total Funding	Detail	Total Cost (Expenditure)	Grant Aid recommend by the Evaluation Committee @ 75 %
	Spiral Dough Mixer	4,000	75
	Convection Oven	5,000	75
	Bread Slicer	5,000	75
		€14,000	€10,500
Was an assessment completed?: Date: 10/5/2022	Yes		
Are detailed costings provided for the project? Were the costs for the project considered reasonable and how was this measured?	Yes. Yes they were considered reasonable. Using the MEAT process.		
Where the procurement process	The procurement process provided 3 quotes.		

resulted in less than 3 quotes, the EC must show the additional steps taken to ensure the reasonableness of costs:	
Innovative Element of the project:	It is the only artisan bakery in Lismore
Consideration of Deadweight:	The bakery is currently operating and would undertake the project without funding over a long period of time.
Consideration of Displacement:	Displacement was considered but Vinilo is the only bakery in Lismore, the closest bakery is 25km away. Vinilo also brings a unique flare thanks to their head chef Pablo Berriel
Economic justification for project:	This will add jobs to Lismore and improve the food culture of the area
Average Score for Project:	79/100 (2)
% level of aid & ceiling:	A maximum of €10,500 or 75% of eligible expenditure, whichever is the lesser
E. C. Executive Summary/Rationale for Funding	The Evaluation Committee agreed to recommend funding this project for the following reasons:- 5. 1. The project fits the LCDC Local Development Plan for L02 Strategic and Collaborative investment in Rural Enterprise Development to foster rural job creation in local Villages. 6. 2. Funding for this project will create 1 full-time job and 1 part-time seasonal job. 7. 3. The project scored 75/100 A maximum of €10,500 or 75% of eligible expenditure, whichever is the lesser with the following conditions: - 1. Before payment, a five-year lease must be obtained 2. Premises should be open for four days per week

Jobs Created	Jobs Sustained	Match Funding	Previous Grant Aid Received
1.25 FTE	4.6 FTE	3,500	21,900 Priming grant from Waterford local enterprise office

Confirmation on the applicant's position re De-Minimus and double from the relevant agencies.	Date of Confirmation	Signed By
Waterford Local Enterprise Office	13/05/2022	Ten day period was offered for feedback and no response has been received

The following were the main points raised in the discussion of the project: -

- Mr. Paschal O'Connor outlined the project to the Evaluation Committee advising that Vinilo is a micro-bakery based in Lismore Co. Waterford specialising in sourdough bread and pastries. The bakery, which was opened in 2021, is run by husband-and-wife Pablo Berriel from Uruguay and Lucy O'Hanrahan from Lismore. Pablo is a certified chef and managing director and Lucy is a founding partner and administrator at Vinilo.
- The business employs 3.5 staff full time and they want to expand by purchasing equipment to increase production. Having a conventional oven increases the production and quality of pastries, the mixer will help increase production and the slicer will improve aesthetics.
- The premises are rented from Ms O'Hanrahan's parents and they have a lease until the end of 2022. They have advised that there will be no problem getting an extended lease for 5 years.
- The electrics element of the application was removed as correct procurement procedures were not followed.
- The Evaluation Committee discussed displacement noting that Dún Artisan Bakery is in Dungarvan, and Seagull Bakery is in Tramore. Dungarvan is 25km from Lismore and Tramore is 70km. Both these businesses meet their local demand and the only area where there could be displacement in the proposal to expand into wholesale in the future. Seagull Bakery is one of the best producers of Sourdough and services the wholesale market in Tramore and Dungarvan. It was agreed that the promoters have the potential to expand into Youghal, Clonmel, Tallow and Fermoy for wholesale where there is no competition.
- Mr. Paschal O'Connor clarified that currently the promoter can't meet the demand in their area and the increase in production will be to meet those needs.
- A Committee Member noted that they don't see wholesale as their area of growth expressing the opinion that the cookery courses will be very popular.
- Barrons Bakery has a different target market. Mr. Jimmy Taaffe advised that Barron's Bakery was grant-aided years ago by LEADER and that programmes do allow the funding of Bakeries.
- It was queried if this project could be considered retail and it was agreed it wasn't as it is the manufacture of artisan food products.
- The Evaluation Committee agreed that the business is a very good addition to the streetscape in Lismore bringing vitality to the area on the days that it is open.
- The promoter's social media presence is very good, and they have received excellent reviews from popular chefs and influencers i.e. Darina Allen and Rosanna Purcell. They have also been awarded a place in McKenna's guides as "Best in Ireland 2022".
- A discussion ensued on the number of days the business is open, currently 3 days per week, and if this should be increased to 5. It was noted that the production process for sourdough commences two days beforehand so technically they are working five days. A Committee Member said that from a business perspective they should be looking to sweat those assets querying if they were in it more for lifestyle than business. It was noted that due to the process required for sourdough being open 5 days means 7 days working and this may be an issue of personnel. Mr. Paschal O'Connor advised that the promoters mentioned in their business plan that they intend to open 5 days a week eventually.
- The projections were considered to be overly optimistic, and it was commented that this generally seems to be the case in most applications as they wish to portray the project as a good business venture.
- It was noted that the business made a €51k turnover with drawings of €30k. While the drawings

- were considered low for them both they are living rent-free above the premises.
- The Evaluation Committee agreed that a five-year lease is required saying that the premises seemed to have enough room for expansion if required.
 - The Evaluation Committee agreed that funding this project is a good use of EURI funds and agreed to recommend funding to the LCDC.

The Evaluation Committee agreed to recommend funding this project for the following reasons: -

1. The project fits the LCDC Local Development Plan for L02 Strategic and Collaborative investment in Rural Enterprise Development to foster rural job creation in local Villages.
2. Funding for this project will create 1 full-time job and 1 part-time seasonal job.
3. The project scored 75/100

A maximum of €10,500 or 75% of eligible expenditure, whichever is the lesser with the following conditions: -

- 1) Before payment, a five-year lease must be obtained
- 2) Premises should be open for four days per week

Amount Recommended: €10,500	75% of Eligible Project Funding:
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Proposed: P Nugent	Seconded by: L Quinn
Abstentions: E Quinlan	
Quorum achieved: Yes	APPROVED

b) Appeal 31LDRWAT113885 O'Connell Whiskey Merchants Ltd

WLP S.E.O. Mr. Jimmy Taaffe advised the committee that a possible procurement breach has compromised a grant claim made by O'Connell Whiskey. The Department of Rural and Community Development gave the following response when contacted in relation to this appeal...

DRCD Reply:

The promoter should submit its rationale for the changes to the project to the LAG and the LAG must consider the scope of the changes made in the delivery of the project as planned compared to the content of the Letter of Offer and contract. The LAG's deliberations must include examination of implications for procurement and delivery of the project as planned.

Should the LAG be satisfied that the project will be delivered as intended and that the procurement process has not been compromised, it may then consider the rationale provided by the promoter. All correspondence between the promoter and the supplier in relation to the changes should be considered as part of the LAG's deliberations.

Included in this original quote were:

- Two x 1000L tanks
- One x ATEX rated food pump
- Two x 1.5m hoses
- Two x 3.0m hoses
- One x Anton Paar handheld metre
- One x electrical panel
- Shipping

The final equipment we received from Barison is slightly different from what we originally requested, largely in size; otherwise it's the same blending system, just more customised for our operation and built to enhance our efficiency and future growth. The changes are:

- Two x 5000L tanks (additional 8,000 Litre capacity)
- Two x ATEX rated food pumps (1 additional pump)
- Two x 3.0m hoses (additional 3m)
- Two x 6.0m hoses (additional 6m)
- One x Anton Paar handheld metre
- Shipping

Appeal Statement sent to A/Chief Officer S Breathnach by O'Connell Whiskey Merchants.

Ms. Breathnach:

This letter is our response to the opinion we received regarding our grant with the Waterford LEADER. We have been engaged with LEADER on this project since the last quarter of 2020, and we are nearing the end of the build-out of our bottling line and bonded warehouse in Kilmacthomas, with an aim to commence production in our headquarters towards the middle of the summer this year.

Our grant with LEADER is made of six separate sections. It includes equipment for the storage and maturation of whiskey and other spirits, blending equipment for producing these spirits, water treatment, a bottling line, lifting & handling machinery and stainless steel equipment required for the operation of a large-scale bonded warehouse. Despite supply chain issues and a massive increase in cost to deliver, this project will be delivered as intended, and while there has been an opinion raised that we have breached the procurement process, we will show that we did not breach the procurement process as defined by our Letter of Offer.

The opinion raised against us regarding our blending equipment from Barison Industry includes the following three statements:

- 1. The changes identified represent a material change to the subject matter of the original request for quotation/tender and if they were known at tender stage may have impacted on the decision of potential tenderers about whether they would submit an offer.*
- 2. The changes bring into question whether value for money has been achieved which cannot be determined without a comprehensive analysis of the financial changes to the original quotation and the absence of competitive quotes.*
- 3. Even though it has been indicated that the final price has remained unaltered there have been additions and omissions that effectively represent post tender negotiation which is not permitted in the regulations unless a process with negotiation is identified at the outset.*

www.wdoconnell.com

O'Connell Whiskey Merchants Ltd., The Workhouse, Union Road, Kilmacthomas Co. Waterford, Ireland.
Registered Company No. 647213 Registered VAT No. IE3637563EH

We will address each of these three statements below, and conclude with some of our own statements that are important to consider.

WLP Statement I

*"The changes identified represent a **material** change to the subject matter of the original request for quotation/tender and if they were known at tender stage may have impacted on the decision of potential tenderers about whether they would submit an offer."*

To be direct, the blending system we received from Barison Industry is not materially different from the system for which we originally tendered. The equipment remains a food-grade blending system, as was tendered for, and it operates in the same manner with the same results. The only difference is the increased capacity and efficiency we receive with this system given the larger tanks, which change was identified as necessary for our requirements. We have attached to this letter two drawings from our supplier that show the system with 1000 L tanks and the system with 5000 L tanks. Please see the two drawings in Appendix I.

This is a minor technical change to the equipment that was identified after the tender stage by the successful tenderer as a necessary change to ensure that the blending system subject to the tender would in fact correctly suit our requirements.

We do not believe that the minor technical change to the blending machinery, comprising a change in tank volume after the tender stage, would have resulted in a different decision from potential tenderers as it is not a material change to our requirements or the overall equipment or function. Barison was the only company to respond to our tender process from the five we contacted. Barison is the market leader in this industry and the most qualified to handle our project. Without their expertise, we would not have identified the new efficiencies we could achieve with larger tanks that were identified as necessary to fulfil our needs. It is perfectly reasonable for us to draw the conclusion that a minor amendment to the specification of the tendered equipment (in particular a technical amendment that involved an increase in the overall size/volume of the equipment in question) did not require a full retender process and we had no reason to believe that to do so might have encouraged additional parties to enter the tender process in circumstances where they had previously declined the opportunity to do so.

Expert review indicating a material change

In a letter responding to us about the denial of funds for blending equipment, Jimmy Taaffe stated that WLP had an expert review the equipment to determine if there was a material change, and *"the change in specification from the electrical system to the vacuum system"* is a material deviation. This is completely inaccurate. To arrive at the conclusion that this represents a material change, one must fully understand how the system operates. We have not changed from an electrical system to a vacuum system. There is no vacuum or vacuum pressure involved in our system. It is still an electrical system. We merely changed the pump type from centrifugal force to positive displacement, which better suits our business and is easier to operate. Therefore, this expert review must be disregarded, as it is not correct and we are happy to provide further clarification to the WLP's appointed expert to clarify this issue and demonstrate how the operation acts in effect.

Even if a retendering process had been necessary, we have been made aware by suppliers on this and other sections of the project that the tendering process as implemented was too arduous and complicated for them to see any real business value in pursuing the quote. For example, because we must accept a quote before knowing whether our project has been approved for a grant, most businesses perceived participating in such a process to be a risk and they either did not have the bandwidth to pursue this kind of business or did not want to budget for business that may not actually take place. In the event that we had accepted a quote, and then been denied the funding by WLP, the accepted vendor would be out a significant contract. No amount of re-tendering this portion of the project would have seen a different result.

WLP Statement II

"The changes bring into question whether value for money has been achieved which cannot be determined without a comprehensive analysis of the financial changes to the original quotation and the absence of competitive quotes."

There can be no question that value for money has been achieved.

First, we have achieved larger capacity with enhanced efficiency and have future-proofed our operation for the growth we expect given our company performance since late 2020. In short, and in the words of the supplier, we simply outgrew the system as originally tendered, and larger tanks were required in order to meet our business needs. In Appendix II, please see the attached statement from the supplier describing the rationale behind changing the size of the tanks

Second, because this system is the same as the one tendered except in terms of scale, we get the same finished product, at higher capacity with more efficiency, for the same overall cost, from the same supplier.

Third, there are no financial changes to the original quotation in total. We have placed a

claim in for the blending equipment for the same overall amount (€33,940) as per the table in sections 2 & 3, pages 7-8 of our Letter of Offer.

● *"Where there is more than one element of a project which is approved for funding, each individually stated item is eligible to the amount specified in the above schedule of costs."*

This is the schedule of costs referenced in our Letter of Offer. Please see Appendix III for sections 2 & 3 of the Letter.

According to the table in our Letter of Offer, we are required to purchase Blending equipment from Barsion Industry at an ex-VAT cost of €33,940; we did exactly that.

WLP Statement III

"Even though it has been indicated that the final price has remained unaltered there have been additions and omissions that effectively represent post tender negotiation which is not permitted in the regulations unless a process with negotiation is identified at the outset."

Your statement refers to our alleged actions not being in compliance with "the regulations". Can you please confirm specifically which regulations you are referring to and further confirm how our compliance with such specific regulations is incorporated as a condition to the Leader Programme?

Notwithstanding that we are unaware that our compliance to specific regulations to which you are referring is required as a condition to the Leader Contract to which we are a party, we note that we did not renegotiate the costs or terms of our agreement with Barison Industry. Following completion of the tender process, it became apparent that the exact specifications of the blending system equipment per our original tender would not meet our requirements and we therefore simply reevaluated how best to operate the overall blending system and required pumps and arrived at the logical conclusion that a small technical change to the size of the tanks and the quantity of pumps would be best for our business and our projected rate of growth. This was agreed and accepted by Barison and no negotiation was required.

The lack of materiality to the amendment is clearly evidenced by the fact that there was no amendment to the price payable by us for the blending system equipment.

Important Points for Consideration

Above, we have addressed the three statements from WLP regarding our blending equipment claim. However, we do have additional thoughts that are important to consider.

Public Procurement as specified in the Letter of Offer

First, our Letter of Offer with WLP and other county bodies, especially in regards to public procurement, lacks clarity and specificity. Please see section 8, page 14:

● *"Public Procurement Procedures must be adhered to throughout. Full Public Procurement is required prior to any change of use being considered by the LAG."*

You can find this section of the Letter in Appendix IV.

No legal definition is provided in our Letter of Offer with WLP to which we are a party for the capitalised term "Public Procurement Procedures" as included in section 8, page 14. It is therefore entirely unclear and uncertain as to what procedures this sentence refers and we are allegedly required to comply with.

As we are not aware of the terms of any such specific procedures being binding on us we cannot confirm if we acted in compliance, nor have we been in a position at any time during the term of the contract been aware of, or been able to identify the requirements of, such procedures.

Had it been more clear in our Letter of Offer that in the event of a minor amendment to the

technical specifications of tendered equipment we may have needed to contact WLP or retender the entire portion of this project, we would have done so. Instead, there is a two sentence reference about '*Public Procurement Procedures*' without any clarity as to what the terms and content of such procedures are or how we might access and identify the terms of such procedures. . There is no document or link to public procurement guidelines or procedures referred to or attached to the Letter of Offer with WLP, and no reference to any specifics provided about the content and requirements of the '*Public Procurement Procedures*' that we are supposedly required to comply with . It is therefore our position that we cannot now be deemed subject to a certain specific set of rules or procedures that were not previously identified to us in the terms of the Letter of Offer. Additionally, there was no change of use in this project, with regards to both this specific equipment and the project as a whole.

We note that, generally, contract terms are unfair if they put one at an unfair disadvantage. Contract terms must be drafted in clear, plain and understandable language. Any ambiguities in a contract term must be interpreted in favour of the consumer/buyer or beneficiary - in this case, O'Connell Whiskey Merchants as the Promoter. Without more specificity or clarity on what exactly section 8 means or where to reference public procurement procedures, this sentence does not impose a legal obligation on us of which we are allegedly in breach under the Letter of Offer.

As an example, in section 3 of the Letter of Offer, it is very clear that funds can be reallocated between the costed project investments, up to 10%, subject to approval. On a separate part of our project, we are already exploring this reallocation, currently on hold due to this appeal process. Because the Letter of Offer was clear about reallocating funds, we knew to contact our WLP representatives to request moving funds from one part of the project to another.

Our values of honesty and integrity

We believe wholeheartedly that honesty and integrity are the keys to our success. It must be clearly noted that we did not engage in any underhanded practices or mislead WLP or any other county bodies. In fact, we initiated a conversation about this equipment with WLP in February of this year. After discussing with WLP a separate section of the project and the rapidly rising prices of stainless steel and lifting & handling equipment, they indicated that any change in equipment or provider would require their (or the LAG's) approval. We were also informed that any change in line items from the original RFQ would require approval. We immediately reviewed the other parts of our project and informed WLP of a change in size of the blending tanks & hoses. We were then asked for a letter explaining the situation to be sent to our WLP contact and then to the LAG, which we sent over on March 7. Please see Appendix V for this letter.

In hindsight, after reviewing our Letter of Offer, there was no need to raise this as an issue with WLP nor to send the letter, because there is no mention of the specific pieces of blending equipment in the contract (see above point regarding sections 2 & 3).

Our responsibilities as a business

We have fronted the costs of our warehouse and the equipment required for its operation ourselves. This expense is not limited to the project with WLP; it involves the entire build-out of a warehouse in Kilmacthomas. We fronted the costs of this project ourselves with the expectation that we would receive reimbursement in good time and good faith. We do not see this as a good faith complaint regarding our project. If this decision is made final, the potential loss of funds we will incur as a result impacts not just our business, but the business interests of local workmen and suppliers who we work with on a regular basis for our business and could potentially damage our relationship with these valuable partners.

Conclusion

We respectfully assert that we did not breach our Letter of Offer, and we did not act in any way that disrespects the WLP or the processes involved with this project, as we understood them. To back up our assertion, we have pointed to the specific sections in the Letter of Offer that concern equipment purchased. We showed that sections 2 & 3 indicate that we did not breach our Letter of Offer regarding specific items purchased; the Letter of Offer indicates that we must buy blending equipment from Barison Industry for the pre-approved total, which was the final result.

The costs were the same and the project would be delivered as outlined in the letter of offer however as the specification of the items quoted and items purchased were differing there is a material change. Mr. Taaffe advised the committee that they were at risk of incurring the full repayment of the grant i.e. €80,992.50. Mr. Taaffe then abstained from voting and left the meeting. In order to balance the quorum in favour of the non public sector Pat Nugent also abstained from voting.

An in depth analysis of the appeal and was provided to the committee by A/Chief Officer Sinéad Breathnach. Council C.E. Michael Walsh narrated...

Dear LAG Members:

The reality is that in the case of O'Connell Whiskey Merchants Ltd., the firm has modified the contract subsequent to procurement to achieve additional works/betterment and this begs the question as to whether this renders the procurement non-compliant and should have required a retendering of the works. Obviously the company sought tenders in good faith and were offered alterations by the successful tenderer as representing a better and more cost effective design solution through varying the specifics of the implementation.

The public works directive states that modifications to the contract may take place where they

(ii) do not provide for modifications or options that would alter the overall nature of the contract or the framework agreement;

(b) for additional works, services or supplies by the original contractor, irrespective of their value, that have become necessary and were not included in the initial procurement where a change of contractor—

(i) cannot be made for economic or technical reasons, including requirements of interchangeability or interoperability with existing equipment, services or installations procured under the initial procurement, and

(ii) would cause significant inconvenience or substantial duplication of costs for the contracting authority;

(c) where the following conditions are fulfilled:

(i) the need for modification has been brought about by circumstances which a diligent contracting authority could not have foreseen;

(ii) the modification does not alter the overall nature of the contract;

It is important to test these particular provisions and in general case law would emphasise that stringency must be applied to the provisions.

1. Do the modifications or options alter the overall nature of the contract or the framework agreement;

It would appear to be reasonable to say that the modifications do not alter the overall nature of the contract. The essence of the contract remains the same being the supply and installation of vats and ancillary equipment for the storage, maturation and blending of whiskey.

2. Can a new procurement and change of contractor be made without compelling economic or technical impacts.

The procurement of the equipment and services occurred during the Covid pandemic and in a significant period of inflation and overall market volatility. It would appear that there were compelling economic grounds for not entering a new procurement process at this time given supply chain and materials volatility particularly relating to copper.

3. Would a new procurement cause significant inconvenience or substantial duplication of costs for the contracting authority;

It would appear fair to say that the time delays and process costs of re-procurement would represent significant inconvenience and duplication of costs for a small company.

4. Has the need for modification has been brought about by circumstances which a diligent contracting authority could not have foreseen;

This perhaps represents the most significant point for determination and case law has reflected that this provision needs to be stringently applied. It can be argued that the company should have foreseen such changes prior to procurement. However the determinations have suggested that the means of the company need to be taken into account. In this case the question is should this company have foreseen the changes? On balance it would appear that it would be unreasonable to expect a relatively new company with limited technical and design capacity to hold such competency without recourse to expensive technical advice that would be disproportionate to the value of the contract. Accordingly it would appear that it would be reasonable to hold that the company could not have foreseen the changes required and that the modifications are allowable using on a practical basis the design expertise of the contractor to achieve better outcomes for the project overall.

There is a further provision in the directive that any modifications should not increase cost by more than 50% but this does not apply in this case.

The scale of the contract in question with Bariston is small and forms only part of the overall grant application. It would seem perverse to discharge significant expenditure on behalf of the LAG on legal advices that would match the contested element of the grant in scale and equally we have to be cognisant of the impact on the company in respect of its cashflow and viability. It behoves the LAG therefore to rationalise on an impartial and common sense basis whether there is material non-compliance with procurement that warrants disallowance of the grant-aid.

Having regard to all of the issues, the appeal documentation lodged and reasonable analysis of the procurement principles, it would appear that the appeal by O'Connell Whiskey Merchants Ltd. should be upheld on the grounds that the modifications to the contract are such that it satisfies the requirements of Article 72 of the Public Procurement Directive.

Committee members J Somers, G Foley, S Cooke, B Lawton, C Quinlan and H Kiely thanked Michael Walsh for the informative analysis and all agreed that the appeal should be upheld. Cllr E. Quinlan cautioned that there remains a risk to the Council's budget if the full grant was to be repaid to DRCD. Chair J Kelly had a number of questions...

- i) Who would pay the fine if one were issued?
- ii) Why did the promoter not seek approval for the material change?
- iii) Who would pay the legal costs if incurred?
- iv) As custodians of public funds is the committee allowing a breach of regulations?

M Walsh responded to each question.

- i) The Council as administrative arm of the LAG would incur the fine.
- ii) The promoter didn't realize that there was an issue at stake.
- iii) The Council as administrative arm of the LAG would incur legal costs, if any.
- iv) Given the rationale there is no breach of regulations.

I Grimes informed the committee that the matter is subject to departmental audit but there is a compelling argument in favour of upholding the appeal. G Foley reiterated support for upholding the appeal as one of the core functions of the LAG is to support small start ups and the current environment post Covid is quite difficult for these firms. G Hurley also agreed that there is compelling argument in favour of upholding the appeal. Chair J Kelly reiterated concerns around setting precedents and felt that the promoter should be advised to seek approval prior to purchase if such a scenario were to reoccur. H Kiely queried if a proviso could issue with regard to deviations on future claims. M Walsh stated the appeal must be treated on its own merits as a stand-alone issue.

In order to ascertain the level of support and agreement among the committee each member was asked if they were for or against upholding the appeal

Private Sector Representatives (6)

Senan Cooke: In Favour

Gabriel Foley: In Favour

Ger Hurley: In Favour

Heather Kiely: In Favour

Catherine Quinlan: In Favour

Liam Quinn: In Favour

Public Sector Representatives (5)

Joe Kelly: In Favour

Michael Walsh: In Favour

Julie Somers: In Favour

Brendan Lawton: In Favour

Richie Walsh: In Favour

Proposed: J Somers	Seconded by G Foley
Abstentions: E Quinlan, P Nugent, J Taaffe	
Quorum achieved: Yes	Approved

c) 31LDRWAT111766 Approval of Contract Addendum to November 2021

WLP S.E.O. Mr. Jimmy Taaffe advised the committee that a contract addendum required approval.

Proposed: M Walsh	Seconded by: P Nugent
Abstentions: E Quinlan	
Quorum achieved: Yes	APPROVED

d) 31LDRWAT110525 Knockanore Farmhouse Cheese Extension

WLP S.E.O. Mr. Jimmy Taaffe advised the committee that a contract extension to April 2022 was required.

Proposed: H Kiely	Seconded by: P Nugent
Abstentions: E Quinlan	
Quorum achieved: Yes	APPROVED

7. Correspondence. None

8. A.O.B. None

9. Date and venue of next LCDC meeting: 10.00am Thursday 9th June 2022, via videoconference.

Meeting Closed

Signed _____

CHAIRPERSON

DATE