

DIRECTION IN THE MATTER OF SECTION 31

OF THE PLANNING AND DEVELOPMENT ACT 2000 (as amended)

VARIATION NO. 2 TO DONEGAL COUNTY DEVELOPMENT PLAN 2018-2024

“Development Plan” means the Donegal County Development Plan 2018-2024

“Variation” means Variation No. 2 to the Donegal County Development Plan 2018-2024

“Planning Authority” means Donegal County Council

WHEREAS the powers and duties of the Minister for Housing, Local Government and Heritage under the Planning and Development Act 2000 (as amended), other than the power to prosecute an offence, have been delegated to the Minister of State at the Department of Housing, Local Government and Heritage pursuant to the Housing, Local Government and Heritage (Delegation of Ministerial Functions) Order 2020 (S.I. 559 of 2020).

WHEREAS the Minister of State at the Department of the Housing, Local Government and Heritage in exercise of the powers conferred on him by Section 31 of the Planning and Development Act 2000 (as amended) ("the Act"), and consequent to a recommendation made to him by the Office of the Planning Regulator under Section 31AM(8) of the Act hereby directs as follows:

- (1) This Direction may be cited as the Planning and Development (Variation No. 2 to Donegal County Development Plan 2018-2024) Direction 2022.
- (2) The Planning Authority is hereby directed to take the following steps with regard to Variation No. 2 to the Development Plan:

- b. Omit Policy E-P-23 and Policy E-P-24.
- c. Amend map 8.2.1 to change the designation of “Lifford -Stranorlar Municipal District Areas at Risk of Landslides and Associated Environmental and Ecological Concerns” and “Moderately Low” and “Moderately High” landslide susceptibility areas identified as ‘Not Normally Permissible’ to ‘Open-to-Consideration’

STATEMENT OF REASONS

I. Pursuant to section 31(1)(ba)(i)

The Variation to the Donegal County Development Plan 2018-2024 is inconsistent with the policy objectives of the National Planning Framework, specifically NPO 55, which states that it is an objective to ‘promote of renewable energy ... generation at appropriate locations to meet national objectives towards achieving a low carbon economy by 2050’, and the requirements for the planning authority to comply with, and the development plan to be consistent with, the aforementioned National Policy Objective under sections 10(1) and/or 13(7) read in conjunction with section 13(14);

II. Pursuant to section 31(1)(ba)(i)

The Variation to the Donegal County Development Plan 2018-2024 is inconsistent with the policy objectives of the Regional Spatial and Economic Strategy, specifically RPO 4.17, which states that it is an objective ‘To position the region to avail of the emerging global market in renewable energy by: [inter alia] Stimulating the development and deployment of the most advantageous renewable energy systems.’, and the requirements for the planning authority to comply with, and the development plan to be consistent with, the aforementioned Regional Policy Objective under sections 10(1A) and/or 13(7) read in conjunction with section 13(14);

III. Pursuant to section 31(1)(c)

The Variation does not have adequate regard to Ministerial Guidelines issued under Section 28 of the Act, specifically the requirement under the Wind Energy Development Guidelines for Planning Authorities (2006) in that the Variation of the Development Plan does not achieve a reasonable balance in responding to overall Government Policy on renewable energy, enabling the wind energy resources of the planning authority's area to be harnessed in a manner that is consistent with proper planning and sustainable development in order to provide a plan-led context to the assessment of individual wind energy development proposals. No or no adequate reasons or explanations relating to the proper planning and sustainable development of the area have been provided by the planning authority to explain why those aspects of the guidelines have not been implemented.

Specifically, the Variation as made does not have adequate regard to the step-by-step analysis of areas suitable for wind energy (or sieve analysis) under section 3.5 of the guidelines, specifically in including within the area designated as 'Not Normally Permissible':

- (i) the "Lifford-Stranorlar Municipal District Areas at Risk of Landslides and Associated Environmental and Ecological Concerns"; and
- (ii) all "Moderately Low" and "Moderately High" landslide susceptibility areas from that area defined as "Not Normally Permissible.

IV. Pursuant to section 31(1)(c) and section 31(1)(b)

Further, the statement under Section 28(1A)(b) which formed part of the Variation to the Development Plan has not provided adequate evidence based analysis to demonstrate that the planning authority has formed the opinion that it is not possible to implement the policies and objectives outlined at (II) and (III), above, as contained in the guidelines, because of the nature and characteristics of the area or part of the area and to give reasons for the forming of that opinion and to explain why it is not possible to implement the policies and objectives. The Office notes that whilst the

2000 Act does not expressly require a statement under s.28 (1A)(b) in respect of a variation to a development plan, the local authority should nonetheless provide adequate reasons or explanations relating to the proper planning and sustainable development of the area as to why it has not been possible to implement certain aspects of section 28 guidelines in respect of the Variation to the development plan;

V. Pursuant to section 31(1)(b)

No adequate reasons or explanations relating to the proper planning and sustainable development of the area have been provided to explain why the wind energy strategy is consistent with an overall strategy for the proper planning and sustainable development of the area.

VI. Pursuant to section 31(1)(a)(i) and (ii)

The Variation to the Development Plan has not been made in a manner consistent with and has failed to implement the recommendations of the Office of the Planning Regulator under Section 31 AM.

VII. Pursuant to section 31(1)(b)

The Variation to the Development Plan fails to set out an overall strategy for the proper planning and sustainable development of the area.

GIVEN under my hand,

Minister for Housing, Local Government
and Heritage

day of Month, year