

**DIRECTION IN THE MATTER OF SECTION 31
OF THE PLANNING AND DEVELOPMENT ACT 2000
(AS AMENDED BY S.21 OF THE PLANNING AND DEVELOPMENT
(AMENDMENT) ACT 2010)**

COUNTY DONEGAL DEVELOPMENT PLAN 2012-2018 DIRECTION 2016

“Development Plan” means the County Donegal Development Plan 2012-2018

“The Planning Authority” means Donegal County Council

WHEREAS the Minister for Housing, Planning, Community and Local Government is, for the reasons set out in the Statement of Reasons hereto, of the Opinion that

- (i) Donegal County Council in making the Variation No. 2 to the County Donegal Development Plan 2012-2018 has ignored or has not taken sufficient account of the submissions made by the Minister for the Environment, Community and Local Government in May 2014,

and

- (ii) the Variation No. 2 to the County Donegal Development Plan 2012-2018 is not in compliance with the requirements of s.13 and s.28 of the Planning and Development Act 2000 (as amended).

NOW, THEREFORE in exercise of the powers conferred on him by s.31 of the Planning and Development Act 2000 (as amended), the Minister of the Environment, Community and Local Government hereby directs as follows:

- (1) This Direction may be cited as the Planning and Development (County Donegal Development Plan 2012-2018) Direction 2014.
- (2) The County Council of Donegal is hereby directed to take the following steps with regard to the County Donegal Development Plan 2012-2018 (“the Development Plan”).
 - i. The written statement in respect of the Natural Resource Development (Chapter 7, Section 7.2.1 – Background – Wind Energy – Not Favoured) is to be amended by deleting the following text in the County Donegal Development Plan 2012-2018:

,including the catchments identified in the Sub-Basin Management Plans for Clady Eske, Glaskeelin, Leannan, Owencarrow and Owenea (as listed in S.I. 296 of 2009),

- ii. The written statement in respect of the Natural Resource Development (Chapter 7, Section 7.2.2 - Objectives) is to be amended by deleting the following text in the County Donegal Development Plan 2012-2018:

E-O-6:	<i>To ensure that wind energy developments do not adversely impact upon the existing residential amenities of residential properties, and other centres of human habitation (as defined at 10.6.7) in Chapter 10 Development and Technical Standards.</i>
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- iii. The written statement in respect of the Development and Technical Standards (Chapter 10, Section 10.6. – Wind Energy) is to be amended by deleting the following text in the County Donegal Development Plan 2012-2018:

10.6.5	<p>(c) <i>The 6 Fresh Water Pearl Mussel (S.I. 296 of 2009) catchments contained in the Freshwater Pearl Mussel Sub-Basin Management Plans for Clady, Eske, Glaskeelin, Leannan, Owencarrow and Owenea.</i></p> <p>(d) <i>A set back distance of ten times the tip height of proposed turbines from residential properties and other centres of human habitation.</i></p>
10.6.7	<p>Centres of Human Habitation Definition:- <i>'Centre of Human Habitation' includes schools, hospitals, churches, residential buildings or buildings used for public assembly'.</i></p>

- iv. The plan/map entitled "County Donegal Development Plan 2012-2018 (as varied) Map 9 Wind Energy" (July 2014), as in the County Donegal Development Plan 2012-2018 (as varied), which sets out the designations for Wind Energy for Donegal is to be removed. For ease of reference a copy of the said plan/map is attached as Appendix 1 to this direction.

And

The plan/map entitled "County Donegal Development Plan 2012-2018 Map 9 Wind Energy" (June 2012), as in the County Donegal Development Plan 2012-2018 published in June 2012, which sets out the designations for Wind Energy for Donegal is to be re-inserted. For ease of reference a copy of the said plan/map is attached as Appendix 2 to this direction.

The effect of this amendment will be that the 6 Sub-Basin Catchments of SAC populations listed in S.I. 296 of 2009 (First Schedule) for the Fresh Water Pearl Mussel as 'Not Favoured Areas' for wind energy will be removed.

STATEMENT OF REASONS

Having carefully considered the Independent Inspector's report, public submissions received and the report of the Donegal Chief Executive's report, I have decided to issue this direction on the Variation No. 2 to the Donegal County Development Plan 2012-2018 taking account of the following:

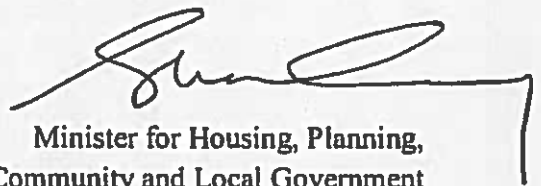
1. Variation No. 2 introduces an arbitrarily based and mandatorily applied exclusion or set back distance for wind turbines of ten times the tip height from noise sensitive properties, which breaches Sections 5.6 and 5.12 of the Wind Energy Guidelines 2006 in that it removes the capability for a case by case assessment of wind energy applications based on objective analysis of the impact of noise and shadow flicker on the amenity of noise sensitive properties. Furthermore in practical terms this element of the variation introduces a setback distance considerably in excess of the non-mandatory guidance set-back referred to in the statutory guidelines.
2. Variation No. 2 introduces an arbitrarily based and mandatorily applied exclusion of wind energy developments alone, as distinct from any other class of developments, within six freshwater pearl mussel catchments contained in the freshwater pearl mussel sub-basin management plans for Claddy, Eske, Glaskeelin, Leannan, Owencarrow and Owenea. This is direct conflict with the framework for balanced assessment of wind energy proposals as contained in Section 5.2 'Natural Heritage' of the Wind Energy Guidelines 2006.
3. Given that 1 and 2 above introduce mandatory and arbitrary exclusion zones the effect of variation No.2 is to introduce policies that are in breach of the planning policy guidance contained in the Wind Energy Guidelines 2006, the Council will fail to maximise wind energy potential in Donegal, which directly conflicts with the requirements of Section 5.2 of the Guidelines above which state that development plans must 'secure the maximum potential from wind energy resources of the planning authority's area commensurate with supporting development that is consistent with the proper planning and sustainable development.'
4. The elected members of the planning authority have failed to demonstrate to the Minister, sufficient and evidentially based reasoning, relating to the nature and characteristics of Donegal, for the above significant policy departures from his guidelines on wind energy and has therefore failed to comply with the provisions of Section 28(1), Section 28(1B)(b) and Section 31 (c) of the Act.

5. A written submission on the proposed Variation No.2 to County Donegal Development Plan 2012-2018 was made to Donegal County Council on behalf of the Minister for the Environment, Community and Local Government in May 2014.

The written submission outlined that the proposed variation concerning the Planning Authority's policy framework for wind energy projects would be significantly inconsistent with:

- The Wind Energy Guidelines, (issued under section 28 of the Planning and Development Acts, in 2006);
 - The Border Regional Authority Regional Planning Guidelines, in relation to the areas identified as suitable for wind energy/renewable energy development;
 - National targets for generation of energy consumption from renewable energy sources by 2020, (as derived from EC Directive 2009/28 on the promotion of the use of energy from renewable resources); and
 - National Government policy commitments to increase on and offshore wind energy production indicated in the Strategy for Renewable Energy 2012-2020.
6. The decision by the members to alter the policies and objectives in regard to the wind energy objectives as outlined in this direction does not provide for proper planning and sustainable development and therefore the County Donegal Development Plan 2012-2018 is not in compliance with the requirements of s.13 and s.28 of the Planning and Development Act 2000 (as amended).

GIVEN under my hand,



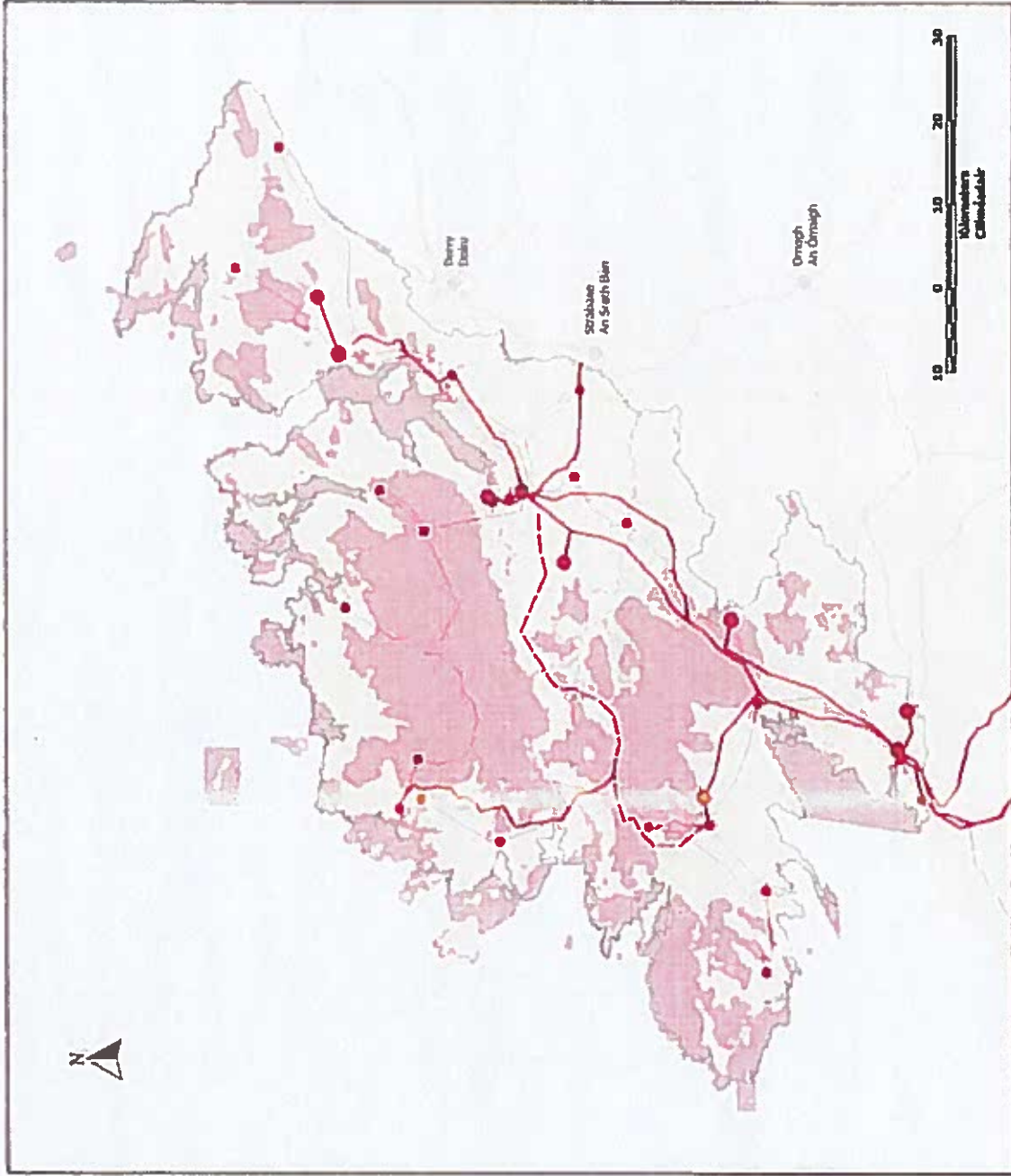
Minister for Housing, Planning,
Community and Local Government
On this 6th day of October 2016

APPENDIX 1

**County Donegal
Development Plan
2012 - 2018 (As Varied)**

**Plean Forbartha
Contae Donegal na hEanáir
2012 - 2018 (arna leasú)**

**Map 9 / Léaráidil 9
Wind Energy
Fuinnseanbh Gaoithe**



- Áiteanna Oidre a Chomhábair**
Unsuitable a chomhábair a ghlé
- Naí Forbartha Áiteanna**
Chomhairle riachtán na hEanáir
- 20 kW a lárson
 - 30 kW a lárson
 - 110 kW a lárson
 - 310 kW a lárson
 - 110 kW a lárson
- Clárúcháir Áiteanna**
Clárúcháir Áiteanna 2013
- Clárúcháir Áiteanna 2013**
Clárúcháir Áiteanna 2013

Map created July 2014 incorporating Variation No. 2
Léaráidil cruthaithe Iúil 2014, agas áitheir áitheir, 3 áitheir.

County Donegal Development Plan
2012 - 2018 (As Varied)

APPENDIX 2

**County Donegal
Development Plan
2012 - 2018**

**Plean Forbartha
Contae Dhúna na nGall
2012 - 2018**

Map 9 / Léarscáil 9

**Wind Energy
Fuinneamh Gaoithe**

