



**STATEMENT OF REASONS
WITH REGARD TO A FINAL DIRECTION
IN THE MATTER OF SECTION 31
OF THE PLANNING AND DEVELOPMENT ACT 2000 (as amended)
KERRY COUNTY DEVELOPMENT PLAN 2022-2028**

5th December 2022

As Minister of State at the Department of Housing, Local Government and Heritage in exercise of the powers conferred on me by section 31 of the Planning and Development Act 2000 (as amended) ('the Act') and having carefully considered a recommendation from the Office of the Planning Regulator ('the Office') under section 31AN(4) of the Act, I advise that:-

- 1) I have issued a Final Direction on the Kerry County Development Plan 2022-2028 to effect recommendations (2)a and (2)e (now (2)b) of the Office to:
 - reinstate map 12.4 of Volume 1 and Map 5 of Volume 4 to that of the draft Plan (amended under MA 12.9.), and
 - to delete material amendments MA 14.20 and 14.21.

- 2) I have decided not to include Recommendation (2)b, (2)c and (2)d issued by the Office within the Notice of Intention to Direct in respect of the Kerry County Development Plan 2022-2028, which would have required the following:

(2)b Amend the reinstated map 12.4 of Volume 1 and Map 5 of Volume 4 to change the designation of all areas identified as 'Open to Consideration' to 'permitted in principle'.



(2)c Amend the reinstated map 12.4 of Volume 1 and Map 5 of Volume 4 to designate the following areas as ‘permitted in principle’:

- (i) those areas of the county identified as ‘areas for further assessment’ in map 6.25 of the Wind Zoning Methodology (Appendix 6 of the Development Plan) and identified as of ‘Low / Medium’ or ‘Medium’ visual sensitivity in the Landscape Review (Appendix 7 of the Development Plan); and*
- (ii) those areas identified as practical resource constraints relating to the 1km buffer zone identified for each settlement in the Wind Zoning Methodology;*

(2)d Replace references to ‘Open to Consideration’ with ‘Permitted in Principle’ throughout Volumes 1 and 4 of the Development Plan consistent with a. and b. above;

In accordance with Section 31AN (4A)(b) of the Act, my reasons for not issuing a Final Direction on recommendations (2)b, (2)c and (2)d are set out for each as follows:

- 1) (2)b - In reviewing this recommendation, consideration was given to the classification as set out in section 3.5 of the Section 28 Wind Energy Guidelines 2006, entitled Step-by-Step Guide to the Analysis of Suitable areas for Wind Energy by the Planning Authority. Step 3 states the following:

“The process of overlaying wind energy mapping and landscape assessment with the development plan designations will produce a basis for identifying broadly, the areas where wind energy developments would be ‘acceptable in principle’, where they would be ‘open for consideration’, and where they would be ‘not normally permissible’.”

This classification system indicates that degrees of acceptability are to be reflected in the wind energy areas that could broadly be equated to high, medium and low, in principle. The language used in the recommendation departs from the wording of the classification in the guidelines i.e. requiring the areas to be identified as ‘permitted in principle’ rather than ‘acceptable in principle’.



Taking into account the level of acceptability that applies to ‘Open to Consideration’ i.e. medium level, which has been determined by the Council using the wind zoning methodology, it is not considered that the requisite analysis and environmental assessments have been undertaken to support a change in designation of those areas to effect a higher level of acceptability being applied i.e. ‘Permitted in Principle’. Separately, the language of ‘permitted’ as opposed to ‘acceptable’ constitutes a material consideration which could be interpreted as carrying a more permissive meaning than what the 2006 guidelines allow for.

- 2) (2)c(i) - Further to the assessment under 2(b) above, which also applies to 2(c), in relation to the requirement to designate areas as ‘permitted in principle’, this recommendation requires the introduction of ‘new’ areas to the development plan map 12.4. While listed and identified as ‘areas for further assessment’, the wind zoning methodology concluded that ‘each of the 25 areas have been analysed comprehensively with potential for wind energy identified in 4 of the areas’. The four areas cited are those which were originally included in Map 12.4 of the draft plan. As this conclusion was arrived at after undertaking extensive analysis and assessment, it is not considered that the requisite analysis and environmental assessments have been undertaken to support the requirement to introduce ‘new’ areas into the plan, as recommended.

- 3) (2)c(ii) - The report of the Chief Executive on the Draft Direction, dated 4th October 2022, confirmed that in relation to part (c)(ii) of the draft Direction, the Wind Zoning Methodology was revised following the close of public consultations on the draft Plan (6th Dec 2021 – 23rd Feb 2022). Page 31 refers.

“As part of this revision the 1km setback around settlements which was identified as a practical resource constraint in the overlay mapping exercise was removed. Therefore part (c)(ii) of the draft Direction was complied with prior to consideration of the CE report on the Draft Plan on April 25th / 26th /27th”.



I am satisfied that this recommendation has already been given effect as part of the review process.

- 4) (2)d seeks to replace references to 'Open to Consideration' with 'Permitted in Principle' throughout Volumes 1 and 4 of the Development Plan and therefore the assessment of this recommendation reads as per (2)b and (2)c above.

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A handwritten signature in blue ink that reads "Peter Burke". The signature is written in a cursive style and is positioned above a horizontal line.

**Peter Burke T.D.,
Minister of State with responsibility for Local Government and Planning**