

23rd February 2022

Mr. Damien Ginty,
Senior Planner,
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Kerry County Council,
Rathass,
Tralee,
Co. Kerry,
V92H7BT.

Re: Draft Kerry County Development Plan 2022 - 2028

A chara,

Thank you for your authority's work in preparing the draft Kerry County Development Plan 2022 - 2028 (the draft Plan).

The Office of the Planning Regulator (the Office) wishes to acknowledge the considerable work your authority has undertaken in the preparation of the draft Plan against the backdrop of an evolving national and regional planning policy and regulatory context. In particular, the Office acknowledges the challenge of preparing a single development plan to cover the former Town Council areas of Tralee, Killarney and Listowel.

As your authority is aware, a key function of the Office is the assessment of statutory plans to ensure consistency with legislative and policy requirements relating to planning.

The Office has evaluated and assessed the draft Plan under the provisions of sections 31AO(1) and 31AO(2) of the *Planning and Development Act 2000*, as amended (the Act) and this submission has been prepared accordingly.

Recommendations issued by the Office relate to clear breaches of the relevant legislative provisions, of the national or regional policy framework and/or of the policy of Government, as set out in the Ministerial guidelines under section 28. As such, the planning authority is required to implement or address recommendation(s) made by the Office in order to ensure consistency with the relevant policy and legislative provisions.

Observations take the form of a request for further information, justification on a particular matter, or clarification regarding particular provisions of a plan on issues that are required to ensure alignment with policy and legislative provisions. The planning authority is requested by the Office to action an observation.

A submission also can include advice on matters that the Office considers would contribute positively to the proper planning and sustainable development of the area. The planning authority is requested by the Office to give full consideration to the advice contained in a submission.

Overview

The Office considers that the draft Plan generally sets out a well-balanced strategy in terms of population and economic growth, with strong policy commitments to the regeneration and renewal of towns and villages in the County.

In particular, the Office welcomes the evident commitment to the development of the County towns such as Tralee, Killarney and Listowel, which is significant in terms of creating a strong local economy, providing a more sustainable pattern of development in response to climate change and protecting the high environmental quality of the county.

The Town Plans for these settlements include concrete regeneration initiatives and site-specific projects supporting compact growth, placemaking and quality environments, which can be implemented and monitored over the lifetime of the Plan. Looking forward, and in the absence of land use zoning objectives for the Regional Towns it will be critical that any zoning objectives in the future Local Area Plans (LAPs) are also consistent with the achievement of National Strategic Objective 1 (NSO 1) Compact Growth.

The Office generally welcomes the evidence-based approach adopted to identify and rationalise the three Rural Area Types in the County, comprehensively detailed in Volume 1 Appendix 8 of the draft Plan in line with the approach recommended in section 3.2 of the *Sustainable Rural Housing Guidelines for Planning Authorities* (2005) and with the requirements of the National Policy Objective (NPO) 19 of the NPF.

In relation to renewable energy and climate action, the Office recognises the contribution that County Kerry has made under its current plan to the generation of renewable wind energy. The need to decarbonise energy sources continues to be a critical factor in terms of addressing climate change, and indeed will require further wind energy development in appropriate locations if the targets set out in the *Climate Action Plan 2021* are to be met.

In this context, the Office is of the view that some aspects of the Wind Zoning Methodology lack a clear policy or evidence basis, and have the potential to significantly and unreasonably limit wind energy development when combined with other environmental and amenity constraints. These elements of the draft Plan should, therefore, be reviewed to ensure that the contribution of County Kerry to realising overall national targets for renewable energy is clearly set out, and can be achieved in an appropriate manner.

Overall, the Office considers that the draft Plan generally includes objectives relating to all the subsections as required under section 10(2) of the Act. Notwithstanding, the Office has identified a number of areas which require further consideration in order to more fully align with national and regional policy context, including the recently published *Development Plans Guidelines for Planning Authorities – Draft for Consultation* (August 2021).

The planning authority will also be aware that the Office's evaluation of the draft plan is required under section 31AM(2)(a) to address, in particular, matters within the scope of section 10(2)(n) of the Act in relation to climate change. The definition of appropriate settlement boundaries, the zoning of lands for specific uses (section 10(2)(a) of the Act), and the establishment of relevant objectives and criteria for



Regional Towns and smaller settlements are vital tools available to the planning authority in promoting effective integration of land use and transportation policies and addressing the requirements of section 10(2)(n).

It is within this context the submission below sets out 8 recommendations 8 observations under the following 11 themes:

Key theme	Recommendation	Observation
Core strategy and settlement strategy	Recommendation 1 and 2	-
Sustainable Development	Recommendation 3	Observation 1 and 2
Housing Policies	Recommendation 4	-
Rural Housing and Regeneration	Recommendation 5	Observation 3
Economic Development and Employment	Recommendation 6	Observation 4 and 5
Sustainable Transport and Accessibility	-	Observation 6
Climate Action and Renewable Energy	Recommendation 7	Observation 7
Flood Risk Management	Recommendation 8	-
Environment, Heritage and Amenities	-	-
Implementation and Monitoring	-	Observation 8
General and Procedural Matters	-	-

1. Core Strategy and Settlement Strategy

1.1 Housing and population targets

The Office considers the total county population projections for the plan-period in Table 3.7 of the Core Strategy to be consistent with the population prescribed for the County in the Regional Spatial and Economic Strategy (RSES) and the National Planning Framework (NPF).

The Office is also satisfied that the planning authority determined the housing demand target, as presented in the draft Plan, consistent with the NPF 50:50 City

housing demand projection scenario identified by the ESRI in the *Housing Supply Target Methodology for Development Planning* (DHLGH Guidelines, December 2020).

1.2 Settlement Hierarchy and distribution of growth

With the exception of Milltown, the Office considers the proposed settlement hierarchy to be generally consistent with the settlement typology approach set out under section 3.3 of the RSES, as required by RPO 3 of the RSES.

In relation to Milltown, which is designated as a District Town under the Corca Dhuibhne Electoral Area LAP 2021-2027, the rationale for its designation as a Regional Town in the draft Plan is not clear in terms of the scale and functionality that it performs in the context of the nearby towns of Killarney and Tralee. There is a real danger that this settlement will grow at a rate that is not supported by physical and social infrastructure, and will result in a highly car-dependant and unsustainable pattern of suburban development.

In relation to the distribution of growth across the settlement hierarchy, the Office considers that the housing and population targets for most settlements and settlement groups are generally appropriate.

The growth identified for a small number of settlements is, however, considered to be too high relative to the capacity of the settlement to absorb a sustainable and proportionate level of growth consistent with NPO 33, which prioritises the provision of new homes in locations that can support sustainable development at an appropriate scale.

In particular, the growth rate of the following settlements exceed the <30% growth (above 2016 population levels) for settlements other than to Key Towns identified under NPO9:

- Barraduff has an indicated growth rate of 81% between 2016 and 2022, and it is proposed to increase its population by another 18.5% over the plan period, projected to reach 115% by 2022;



- Milltown is proposed to increase population by 36% over the plan period; and
- Farranfore and Fenit are proposed to increase population over the plan period by 22.6% and 22.7%, respectively, resulting in an overall growth rate of circa 30% since 2016. Furthermore, the proposed housing allocation to Fenit substantially exceeds that allocated to other District Towns. The settlement also has wastewater treatment plant capacity constraints.

In contrast, the population-growth proposed for the two Key Towns of Tralee and Killarney is 10.5% each.

As both NPO 9 and RPO 11 support growth of >30% in Key Towns, and having regard to the potential to achieve compact growth and a sustainable pattern of development in these towns, it is considered that the housing supply target and population growth should be re-adjusted.

Recommendation 1 – Settlement Hierarchy & Distribution of Growth

Having regard to RPO 3, NPO 9 and RPO 11, and NPO 33 the planning authority is required to revisit, in an evidence based approach, the settlement hierarchy and distribution of future population growth and housing targets to achieve a more sustainable level of growth as follows:

- (i) reposition Milltown within the settlement hierarchy as a District Town, and significantly reduce its housing supply target in line with its revised position;
- (ii) reduce the population/ housing allocation to Barraduff commensurate with its settlement function and position in the settlement hierarchy;
- (iii) reduce the population/ housing allocation to the settlements of Farranfore and Fenit commensurate with settlement function and position in the settlement hierarchy and with regard to the current deficiency in wastewater infrastructure in Fenit; and



(iv) ensure that any reallocated growth is transferred to the Key Towns of Tralee and Killarney.

1.3 Core Strategy and zoning for residential use

The newly published *Development Plans, Guidelines for Planning Authorities - Draft for Consultation* (August 2021) provides clear guidance in terms of ensuring that sufficient housing lands/sites are provided in development plans based on the housing unit yield of land zoned for residential and a mix of residential and other uses. This is critical in terms of the ability to plan for the timely delivery of physical and social infrastructure in the right location to serve new housing development, and to support compact and sequential growth.

It is important, therefore, that the Core Strategy table clearly demonstrates how this is to be achieved, including that the requirement for zoned land is based on density assumptions consistent with the *Sustainable Residential Development in Urban Areas (Cities, Towns and Villages), Guidelines for Planning Authorities* (2009), as further clarified recently by *Circular Letter NRUP 2/2021* to planning authorities.

The Office also notes that the Core Strategy Map (Map 3.1) provides a conceptual overview of the spatial planning strategy for the County but does not identify all relevant features in accordance with section 10(2B) and 10(2A)(f), including relevant roads, inter-urban and commuter rail routes, and rural areas. The settlements identified on Map 3.1 also conflict with the settlement hierarchy established in the RSES and the settlement hierarchy as presented in Map 3.3 of the draft Plan. It will therefore be necessary to amend the Core Strategy map to more fully accord with the legislative requirements.

Recommendation 2 – Core Strategy Table & Map

In accordance with Sections 10(2A) and 10(2B) of the *Planning and Development Act 2000*, as amended, and having regard to the *Development Plans, Guidelines for Planning Authorities - Draft for Consultation* (August 2021) and the *Guidance*

Note on Core Strategies (2010), the planning authority is required to clarify Table 3.7 as the ‘Core Strategy table’ for the draft Plan, and to:

- (i) include the existing and proposed area zoned, per settlement, to accommodate residential development in hectares and estimated housing yield for each settlement, including those settlements accommodating zoned land in Local Area Plans (LAPs);
- (ii) include the residential densities used in the calculation of housing yield for each settlement consistent with the *Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (Cities, Towns and Villages)*(2009);
- (iii) include columns detailing the area of land in each settlement that will contribute to compact growth including infill and brownfield lands, and the anticipated housing yield from compact growth for each settlement; and
- (iv) review the Core Strategy Map (Map 3.1) to ensure consistency with the requirements under Section 10(2B) and 10(2A)(f) of the Act, and the settlement hierarchy established in the RSES.

Note: Appendix A of the Development Plans Guidelines for Planning Authorities – Draft for Consultation (August 2021) provides a useful reference and illustrative example of a core strategy table.

2. Sustainable Development

2.1 Development approach for settlements

The *Development Plans Guidelines for Planning Authorities – Draft for Consultation* (August 2021) advise that land-use zoning should be undertaken as part of the development plan process due to the practical advantages of aligning the core strategy, settlement strategy and principal residential zoning functions in a single, integrated development plan process.

The Office welcomes the preparation of zoning maps and settlement strategies for the three towns of Tralee, Killarney and Listowel. Although no zoning maps or settlement plans are included in the draft Plan for any of the other 20 towns identified for growth in the Core Strategy, the Office notes that the majority are zoned under extant local area plans (LAPs).

It is noted, however, that the Regional Towns of Kenmare and Killorglin are not subject of extant LAPs. As both exceed 1500 population they each require an LAP (under section 19(1)(bb) of the Act), unless objectives are provided for those settlements in the development plan.

The Office notes the objective (KCDP 3-7) under the draft Plan to prepare an LAP for each settlement identified in the settlement hierarchy, and notes that the Municipal District / Electoral Area Local Area Plans will be updated/replaced over the lifetime of this plan. In view of the provisions of section 19(2B) of the Act¹, the preparation of LAPs for these settlements will present a significant challenge for the planning authority. The planning authority should therefore consider including relevant objectives for some or all of the settlements concerned in the draft Plan, including in particular the towns (>1500) which do not currently benefit from an LAP in order to provide a framework for sustainable development in the interim.

Recommendation 3 – Development Approach and Local Area Plans

Having regard to the provisions of 18(4)(b) and 19(2B) of *the Planning and Development Act 2000*, as amended, which require the planning authority to amend, replace or provide local area plans (LAPs) for up to 20 settlements within one year of the making of the development plan, the planning authority is required to clearly set out how the objectives in Section 10(2) of the *Planning & Development Act 2000*, as amended, are to be achieved in the interim and pending the adoption of LAPs for the following settlements:

¹ Section 19(2B) of the Act provides that where any objective of an LAP is no longer consistent with the development plan for the area the planning authority shall as soon as may be (and not later than one year following the making of the development plan) amend the LAP to make it consistent.

- (i) Key Towns - incorporate in the proposed draft zoning map for the towns of Tralee and Killarney additional lands that are zoned in LAPs in the environs of the towns, amended as necessary to ensure consistency with the Core Strategy targets;
- (ii) Regional Towns - prepare maps with supporting policy objectives, identifying strategic objectives for each Regional Town, including settlement boundary, compact growth area (CSO boundary if relevant), key sustainable mobility priorities, core retail area², settlement consolidation sites³, strategic employment sites, constraints such as flooding, sustainable mobility objectives, and any further relevant key future priorities; and
- (iii) District Towns and Villages - identify settlement boundaries and / or the compact growth area (development node) for all District Towns, Small Villages and Villages identified in the Settlement Hierarchy to provide for flexibility and ensure that rural villages provide attractive, easily developed options for housing in accordance with the population projections and housing supply targets identified in the Core Strategy and RPO27 which seeks to support rural economies and rural communities.

The planning authority is required to provide a timescale for the timely review of all LAPs to ensure compliance with the Core Strategy and the Housing Supply Targets in particular, and prioritising those towns with the potential for significant development in the short term.

2.2 Compact Growth & Regeneration

The Office welcomes the strong policy commitments to the regeneration and renewal of towns and villages in the County, detailed in Chapter 4.0 in accordance with RPO 34 (regeneration), RPO 35 (compact growth) and RPO 37 (active land management).

² As discussed in Section 5.2 of this letter.

³ As per Section 6.4.2 of *Development Plan Guidelines for Planning Authorities - Draft for Consultation* (2021).

While initiatives such as implementation of the Town Centre First Approach and undertaking Town Centre Health Checks (KCDP 4-5) are promoted and are to be welcomed, without concrete and definitive objectives in the draft Plan, there is a risk that the regeneration and renewal of towns and villages in the county will not be realised.

In this respect the Office considers that the objectives detailed in Chapter 4.0 could be further strengthened to identify those settlements where concrete initiatives are proposed and required.

The Office also welcomes the identification of a number of consolidation and opportunity sites in the draft Plan for the towns of Killarney, Tralee and Listowel, but notes that such sites have not been identified in any of the other Regional Towns. The identification of such sites is important, not just in terms of actively promoting regeneration, but also in terms of achieving the target for 30% of future housing within the existing built up footprint of all settlements in accordance with NPO 3c.

The draft Town Plans advocate the preparation of Masterplans in an effort to promote coordinated regeneration initiatives. The Office considers, however, that further clarity should be provided in respect of the status of these Masterplans, and in what circumstances and by whom they should be prepared.

In this respect, the *Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas* (section 2.13) provide useful guidance on approaches to the preparation of masterplans and clarifies that in instances where such documents are used for development management purposes, masterplans should be incorporated into the development plan or local area plan by way of variation.

The Office also advises the planning authority to be cognisant of the potential implications concerning Strategic Environmental Assessment and Appropriate Assessment for masterplans where they are intended to be used to determine the spatial development of land.

Observation 1 – Compact growth and Regeneration

Having regard to the national policy objectives for compact growth NPO 3b and NPO 3c and the corresponding regional objectives 34, 35 and 37 supporting regeneration and revitalisation in the RSES, the planning authority is requested to:

- (i) strengthen and provide clarification on how a number of the objectives detailed in Chapter 4.0 of the draft Plan are to be delivered, including Objectives KCDP 4-6, KCDP 4-8, KCDP 4-10, KCDP 4-13 to KCDP 4-16 and KCDP 4-42, by identifying those settlements where concrete initiatives are proposed and required including streetscape improvements, green infrastructure, Action Plans for Town Centre renewal, the implementation of Village Design Plans and Public Realm Plan, and the delivery of enhanced walking and cycling permeability to deliver sustainable compact settlements with the 10-minute town concept;
- (ii) provide further clarity on objectives seeking the preparation of Masterplans in the towns of Tralee, Killarney and Listowel; this should include specifying the agent responsible for their preparation; a timeline, where appropriate; and the mechanism to ensure delivery; and
- (iii) include objectives for monitoring the implementation of compact growth.

2.3 Residential Land Use Zoning – Compact growth and sequential approach

The Office welcomes the preparation of zoning maps and settlement strategies for the towns of Tralee, Killarney and Listowel, which will assist in guiding development and future population growth in accordance with recent national and regional policies objectives.

On balance, the Office is generally satisfied that the level of zoned land is aligned with the housing supply targets and Core Strategy for the zoned settlements.

However, any changes to residential zoned land at material alterations must be consistent with the Core Strategy of the draft Plan.

2.4 Standards and Guidelines

The draft Plan makes reference to a number of relevant Development Management Standards applicable to development projects and which support the overall objectives in the draft Plan, including the objective to achieve greater compact growth. However, the Office has a number of concerns relating to specific guidelines and standards as follows:

The NPF signals a move away from rigidly applied, blanket planning standards in relation to building height, garden size and car parking in favour of performance based standards (NPO 13) where appropriate. There are a number of prescriptive standards promoted within Chapter 13 of the draft Plan which could militate against the principle of promoting appropriate density and compact growth in the higher order tier settlements, including:

- Site coverage limited to 85% in urban areas (Section 1.5.4.8).
- A separation distance of 22m between directly opposing above ground floor windows while acknowledging that considerations such as typography, design and housing type and mix will be taken into account (section 1.5.4.10).
- Minimum driveway length of 6m to be maintained where appropriate in all cases where dwellings are being extended (Section 1.5.6.1).
- Table 4 Parking Requirements, whereby it must be clarified that the requirement as stated is for maximum standards.

Observation 2 – Development Management Standards

In accordance with section 10(2A)(a) of the *Planning and Development Act 2000*, as amended, and having regard to NPO 3, 6, 13 and 35 the planning authority is requested to:

- (i) review the car parking standards promoted in the draft Plan to ensure that appropriate maximum standards are included for both residential and commercial developments in urban areas in accordance with RPO 151; and

- (ii) provide flexibility in the application of minimum separation distances between opposing windows, minimum private open space provision for houses, and the site coverage standard for urban areas and, where appropriate, and allow for individual development proposals to be assessed on performance based criteria that seek to achieve well-designed high quality development.

3. Housing Policies

Chapter 7 of the draft Plan includes relevant policies from the housing strategy addressing specialised housing requirements of various sectors. In particular, the Office welcomes the Traveller Accommodation Plan (TAP), which seeks to support the provision of housing suited to the need of the travelling community as per Objective KCDP 7-20, and in accordance with the existing and projected need identified in the TAP. The Office notes, however, that the land use zoning maps do not appear to indicate the location of lands to provide for such accommodation, as required under section 10(2)(i) of the Act, and should be amended.

Recommendation 4 – Traveller Accommodation

Having regard to the requirements of section 10(2)(i) of *the Planning and Development Act 2000*, as amended, the planning authority is required to identify in the Plan the use of particular areas for traveller accommodation. This will include the identification of specific locations in the land use zoning maps for the county.

4. Rural Housing and Regeneration

4.1 Rural housing policy

Kerry is a predominantly rural county and it is important that the countryside continues to be a living and lived-in landscape, focusing on the requirements of rural economies and rural communities as recognised by the National Planning Framework.

Consistent with national and regional policy objectives, the draft Plan seeks to manage the pressure for overspill urban generated rural housing, particularly in locations in proximity to the principle larger towns. The Office welcomes the clear evidence-based approach adopted to identify and rationalise the three Rural Area Types in the county, comprehensively detailed in Volume 1 - Appendix 8 of the draft Plan in line with the approach recommended in section 3.2 of the *Sustainable Rural Housing Guidelines for Planning Authorities (2005)*.

Although NPO 19 makes a distinction between only two types of areas for rural housing, the Office accepts that the three rural area types represented in Map 5.1 are an appropriate response in the context of the county, in view of the guidelines.

However, there are discrepancies between Map 5.1 in the draft Plan and Map 8.8 as detailed in the Rural Area Types Assessment in Appendix 8, for example, the 'Rural Area under Significant Influence' surrounding Killarney has been significantly reduced in Map 5.1. This has been incorporated into the draft Plan contrary to the SEA Environmental Report (Table 7-9), and without a detailed justification or rationale, which undermines the overall evidence-based approach undertaken by the planning authority in defining rural area types.

The Office considers in relation to the criteria for local need that the inclusion of landownership as a criteria for local need is not consistent with the principle of social or economic need in NPO19 and RPO27. It is also considered that the associated social need which this criteria seeks to include, is already adequately catered for under subsection (e) 'persons who have spent substantial period of their lives living in the local rural area'. If included in the policy, there is a risk that this provision could encourage speculative land purchases in cases where a social or economic need to live in the local area would otherwise not exist.

Recommendation 5 – Rural Housing Policy

Having regard to the recommendations of the SEA Environmental Report, and to the NPO19 and RPO27 which require the provision of single housing in the countryside to be based on the core consideration of demonstrable economic or

social need, and to the *Sustainable Rural Housing Guidelines for Planning Authorities* (2005), which provides an evidence-based approach to determining rural area types, the planning authority is required to:

- (i) amend Map 5.1 Rural Area Types to ensure consistency with the evidence-based approach detailed in Map 8.8 - Appendix 8 Rural Area Types, with particular reference to the Area Under Significant Urban Influence around Killarney; and
- (ii) omit criteria 'd) *landowners including their sons and daughters who wish to build a first home for their permanent occupation on the landholding associated with their principle family residence for a minimum of a 7 / 10 years prior to the date of the planning application*' from rural housing policy Objective KCDP 5-12 and KCDP 5-13.

4.2 Rural regeneration

The Office acknowledges the draft Plan's strategic development approach for lower tier rural settlements and villages and the open countryside as outlined in the Core Strategy, which is to focus on supporting sustainable and vibrant rural communities by strengthening and diversifying rural towns and villages.

In particular, the Office welcomes the objective (KCDP 5-15) to monitor the trends in rural housing and population over the plan period and assess if updates to rural planning policy will be required. This is a positive approach, and highlights the planning authority's commitment to ensuring the sustainable, plan-led development of housing in rural areas.

The provisions under section 5.4 of the draft Plan, which seek to encourage small-scale residential clusters within existing settlements as a viable alternative to one-off rural housing, are welcomed by the Offices as in line with the "new homes in small towns and villages" initiative defined under NPO 18b and RPO 26.

The Office considers, however, that further clarity could be provided in respect of this policy objective to provide stronger policy framework to guide and encourage development over the plan-period.

Observation 3 – Cluster Housing

The planning authority is requested to review and clarify its policy approach in respect of cluster housing as set out in Objective KCDP 5-9 in order to:

- (i) ensure that all identified settlements, including those additional settlements not included in the settlement hierarchy and which are subject to Objective KCDP 5-9 (cluster housing), are included in Table 3.6 Settlement Hierarchy;
- (ii) clearly distinguish and identify all rural settlements within the Settlement Hierarchy that are serviced / unserviced, to ensure that an appropriate planning response is tailored by reference to the scale, nature and location of the settlement in accordance with RPO26 and to clarify where Objective KCDP 5-9 (cluster housing) applies;
- (iii) define a settlement boundary to each small village settlement, where not already indicated in an current Local Area Plan; and
- (iv) amend Objective KCDP 5-9 to provide a timeline for the preparation of cluster development guidelines in support of standards detailed in section 1.5.8.2 of the *Development Management Guidelines*.

5. Economic Development and Employment

5.1 Employment Zoned Land

The Office supports the overarching strategy for enterprise and employment and recognises the collaborative initiatives promoted in the draft Plan in support of RPO 28 to stimulate economic development and growth including the Kerry Hub and Knowledge Triangle within the established network of Killorglin, Tralee, Killarney and the Atlantic Economic Corridor (Objective KCDP 9-8).

The Office considers, however, that further clarity is required in respect of the evidence basis to support the overall quantity of zoned land, particularly where located outside of the settlement boundaries and which may affect the carrying capacity of the existing and planned national road network.

Observation 4 – Employment Zoned Land

Having regard to the requirement to provide clarity, evidence and transparency in accordance with Section 6.2.5 of the *Development Plans Guidelines for Planning Authorities – Draft for Consultation* (August 2021), the tiered approach to zoning under NPO72, and the provisions of the *Spatial Planning and National Roads Guidelines for Planning Authorities* (2012), the planning authority is requested to:

- (i) provide an evidence-based justification for the overall quantity and the spatial location of all employment generating land use zonings;
- (ii) consider all relevant infrastructural constraints in applying the tiered approach to zoning;
- (iii) consider the necessity to protect the capacity of existing and future national roads; and
- (iv) omit any lands which cannot be justified under (i), (ii) and (iii).

The draft Plan also supports the economic role and potential of the established towns of Listowel, Abbeyfeale, Newcastle West and Kilrush as economic drivers in a potential North Kerry/West Limerick/Clare network connected with the Shannon Estuary (Objective KCDP 9-8). In this regard significant emphasis is placed on the delivery of the Strategic Integrated Framework Plan for the Shannon Estuary (SIFP).

The Office notes, however, that land encompassing part of the Tarbert Bay pNHA is proposed to be zoned for employment and enterprise use in the Tarbert – Ballylongford Landbank. This is contrary to the recommendation of planning authority's Natura Impact Report and SEA Environmental Report to omit this zoning on the grounds that it constitutes functionally-linked land for key species associated

with the Lower River Shannon SAC (Otter) and/or the River Shannon and Fergus Estuary SPA (waterbirds and wetlands).

Recommendation 6 – Tarbert Bay pNHA

Having regard to the Nature Impact Report and the SEA Environmental Report, the planning authority is required to omit the inclusion of that section of the Tarbert Bay pNHA within the area proposed to be zoned for Employment and Enterprise use within the Tarbert-Ballylongford landbank.

5.2 Retail

The Office welcomes the broad alignment of the core settlement hierarchy and retail hierarchy and acknowledges that the draft Plan commits to the preparation of a town centre and retail strategy for the county within the lifetime of the Plan (Objective KCDDP 4-43).

The *Retail Planning Guidelines for Planning Authorities* (2012) (RPG's) require that development plans must define, by way of a map, the boundaries of the core shopping areas of city and town centres and also the location of any district centres. However, only the towns of Tralee, Killarney and Listowel have a defined retail core in the draft Plan.

Pending the preparation of a new Retail Strategy for the County, the planning authority should provide greater clarity and clearer direction on the appropriate level and nature retailing for the higher order Regional Towns, including defined core shopping areas as per Recommendation 3 above.

With respect to different retail categories, only 'shops' are considered in the land use zoning matrix. The Office notes that shops are generally permitted and open for consideration across a number of land use types, including green, recreation and community uses (GRC zoning). The planning authority is advised to consider providing greater policy direction in respect of retail use in the land use zoning matrix with specific reference to retail warehouse and shop use in the interest of clarity.



5.3 Rural Economy & Tourism

The National Planning Framework highlights the key role of the planning process in realising the potential of extractive industries in identifying and protecting important mineral reserves for future use. Although the Draft Plan facilitates the sustainable development of the extractive industry and seeks to ensure the ongoing availability of an adequate supply of aggregates for the construction industry (Objective KCDP 9-64), it does not identify or map the location of major deposits as advised by the section 28 Quarries and Ancillary Activities Guidelines for Planning Authorities (2004).

Observation 5 – Quarries & Minerals

Having regard to National Policy Objective 23 and the section 28 *Quarries and Ancillary Activities Guidelines for Planning Authorities* (2004), the planning authority is requested to include a map to show the location of quarries and minerals across County Kerry.

6. Sustainable Transport and Accessibility

The Office understands that sustainable mobility is a challenge for County Kerry, which has one of the highest usage rates of private cars in journeys to work (71%), compared to the national average (66%). The Office welcomes, therefore, the promotion in the draft Plan of the need to pursue integrated land use and transportation to facilitate compact growth and sustainable mobility.

In this context, the inclusion of existing modal share statistics based on CSO 2016 data for the Key and Regional Towns (Table 14.1) will provide an important baseline for setting modal share targets for future LAPs (Objective KCDP 14-5 and 14-6). There is, however, no timeline for the preparation / review of these LAP's and the planning authority should therefore consider establishing modal share targets for the county over the plan period.

The RSES requires Local Transport Plans (LTPs) to be prepared for key settlements, including Key Towns which can be used to inform statutory plans for each settlement. The Office welcomes the intention set out in the draft Plan to prepare LTPs for the Key Towns and other settlements where appropriate (Objective KCDP 14-22), but considers that a time frame should be identified.

Observation 6 – Modal Share & Sustainable Transport

In order to ensure the effective planning, implementation and monitoring of the development plan requirements under section 10(2)(n) of the *Planning and Development Act 2000*, as amended, the planning authority is requested, in consultation with the NTA (and TII), as appropriate to:

- (i) consider the inclusion of a modal share target for the county;
- (ii) provide an effective monitoring regime for the implementation of the planning authority's sustainable transport strategy and the modal share targets in particular; and
- (iii) commit to the preparation of a Local Transport Plan for Tralee and Killarney in accordance with the requirements of the RSES within a specified period of time following the adoption of the Development Plan.

The *Design Manual for Urban Roads and Streets* (DMURS) is the applicable design standard for urban roads ≤ 60 kph speed limit adopted by the Department of Transport and the Department of Housing, Local Government and Heritage. Although the Office welcomes the inclusion of appropriate references to DMURS under sections 4.2.7 and 14.3.1, the planning authority should consider including an objective committing to the implementation of DMURS.



7. Climate Action and Renewable Energy

7.1 Climate Action

The Office welcomes the prominence given to climate action in the draft Plan and the positive measures and objectives included to mitigate and adapt to climate change. However, a number of the Office's recommendations and observations are tailored to further improve the sustainability of the Plan, including its implementation of climate action. The response of the planning authority to the Office's submissions concerning compact growth, sustainable transport and mobility, renewable energy and flood risk management will therefore be crucial to ensure compliance with the requirements set out under section 10(2)(n) of the Act as amended by section 19 of *the Climate Action and Low Carbon Development (Amendment) Act 2021*.

Observation 7 – Climate Action

Given the importance attributed to climate action by Government, as evidenced by, inter alia, the recent *Climate Action and Low Carbon Development (Amendment) Act 2021* and the *Climate Action Plan 2021*, the planning authority is advised that the draft Plan should also include an objective to consider a variation of the development plan within a reasonable period of time, or to include such other mechanism, as may be appropriate, to ensure the development plan will be consistent with the approach to climate action recommended in the revised *Development Plans, Guidelines for Planning Authorities – Draft for Consultation* (August 2021) as adopted or any other relevant guidelines.

The draft Plan should also seek to actively implement measures detailed in the 'Nature-based Solutions to the Management of Rainwater and Surface Water Runoff in Urban Areas Water Sensitive Urban Design Best Practice Interim Guidance Document'.



7.2 Renewable Energy

As referenced at the outset, the Office commends the planning authority for the significant renewable energy contribution (742MW) that the county makes to the national grid through wind energy generation, through use of the natural advantages of its geographic location in particular.

The *Climate Action Plan 2021* includes a target of an additional 8GW of onshore wind capacity by 2030 in order to achieve up to 80% of electricity generation from renewable sources. The proposed development plan period, 2022-2028, is therefore a critical period with regard to achieving the national targets for 2030 as set out in the *Climate Action Plan 2021*.

The draft Plan does not, however, set out how the implementation of this plan will contribute to realising national targets on renewable energy and climate change mitigation and, in particular, wind energy production, as required by item (2) of the Specific Planning Policy Requirement (SPPR) in the *Interim Guidelines for Planning Authorities on Statutory Plans, Renewable Energy and Climate Change (2017)*.

In this regard, the planning authority will be aware of its obligations in relation to the implementation of SPPR under sections 28(1)(c) and 12(18) of the Act.

In relation to other aspects of the wind energy strategy, the Office welcomes the preparation of a comprehensive Wind Zoning Methodology and the Landscape Review detailed in Appendices 6 and 7 of the draft Plan. Indeed, the sieve mapping approach adopted for the Wind Zoning Methodology provides a comprehensive, rational, systematic clear evidence based approach, up to a certain point.

However, no sound evidence-basis is provided for the application of a 1km setback from settlements, or the subsequent analysis of 'Areas for Further Assessment' employed in identifying areas suitable for wind development, and these restrictions have no basis national or regional policy.

Crucially, the inclusion of a mandatory setback through the sieve analysis process conflicts with the item (3) of the Special Planning Policy Requirement under the *Interim Guidelines for Planning Authorities on Statutory Plans, Renewable Energy*

and *Climate Change and Wind Energy Development Guidelines 2006 (2017)*, which has not been considered specifically in the SEA Environmental Report in terms of impact on the climatic factor.

In relation to the ‘Areas for Further Assessment’ it is further noted that the assessment does not reflect or utilise the Landscape Sensitivity Map detailed in the Landscape Review, and does not classify landscapes as sensitive to wind energy on an objective basis.

Based on review of the ‘Areas for Further Assessment’, the Office does not consider the approach to be justified and would query, in particular, the outcome of the assessment with regard to sites numbers 5, 6, 17, 19, 20, 21, 23, 24 and 25, in particular.

Significantly, the process outlined above has resulted in the draft Plan proposing an area where wind energy development is ‘open for consideration’, that is fragmented and an extremely limited in extent, and no area where such development is ‘permitted in principle’, contrary to the requirements of the *Wind Energy Development Guidelines for Planning Authorities (2006)*.

Having regard to the additional and reasonable limitations arising from potential impacts on the environment and the amenities of an area that apply to any development project, the net result of this approach is to significantly, and without an evidential basis, limit the potential for County Kerry to contribute to meeting national targets for renewable energy necessary to tackle climate change.

Recommendation 7 – Renewable Energy Targets & Wind Energy

In accordance with the provisions of section 28(1C) of the Act, and having regard to the government’s commitment in the *Climate Action Plan 2021* to achieve 80% of electricity from renewable sources by 2030, NPO 55 which promotes renewable energy use and generation to meet national targets towards achieving a low carbon economy by 2050, and section 28 guidelines *Wind Energy Development Guidelines (2006)* and the *Interim Guidelines for Planning Authorities on Statutory*

Plans, Renewable Energy and Climate Change (2017), the planning authority is required to:

- (i) indicate, based on relevant and meaningful metrics, how the development plan will contribute to meeting national targets on renewable energy and climate change mitigation and, in particular, wind energy production and the potential wind energy resource (in megawatts) in the county as required by item (2) of the of the SPPR in the *Interim Guidelines for Planning Authorities on Statutory Plans, Renewable Energy and Climate Change (2017)*, and
- (ii) demonstrate that the draft Plan is consistent with the delivery of part (i), and in particular:
 - (a) re-evaluate the ‘Areas for Further Assessment’ to provide for a total area where wind zoning development is ‘permitted in principle’ commensurate with the area of the county, and other areas where wind energy development is open for consideration, ensuring greater correlation between the Wind Zoning Methodology approach and the Landscape Sensitivity Mapping as detailed in the Landscape Review, Appendix 7; and
 - (b) remove the exclusion criterion applied in the sieve mapping analysis to exclude areas within 1km of settlements which is inconsistent with item (3) of the SPPR the *Interim Guidelines for Planning Authorities on Statutory Plans, Renewable Energy and Climate Change (2017)*, and revise Map 12.4 ‘Wind Energy Areas’ accordingly.

8. Flood Risk Management

The Office welcomes the Strategic Flood Risk Assessment, including Justification Tests, of proposed zoned lands under the draft Plan in accordance with the provision of the *Planning System and Flood Risk Assessment Guidelines (FRMGs)* and Circular PL 2/2014, the Strategic Flood Risk Assessment (SFRA).

The Justification Test has not been carried out for zoned, existing built up lands. *Circular PL 2/2014*, however, clarifies that the plan-making Justification Test is required where the planning authority is considering zoning areas of existing vulnerable uses which now find themselves in flood zone A/B. Where the planning authority determines that the zoning is still appropriate following the Justification Test, the Plan must specify the nature and design of structural or non-structural flood risk management measures.

The Office notes the 10 key requirements set out for Flood Risk Management in Table 6.1 of the SFRA, and the site-specific mitigation measures set out in Tables 5.2.1 – 5.2.3 of the Landuse Zoning Assessment. These key flooding requirements and mitigation measures have not, however, been incorporated into the draft Plan.

In addition, in order to accord with the FRMGs it would be appropriate to include specific objectives in the plan to ensure development in the identified areas is restricted to minor development, and to support the requirement for a site specific flood risk assessment.

Recommendation 8 - Flood Risk

Having regard to requirements of *The Planning System and Flood Risk Management, Guidelines for Planning Authorities* (2009), as amended by *Circular PL 2/2014*, the planning authority is required to:

- (i) carry out the Justification Test for existing built up lands proposed to be zoned for vulnerable uses and, where the planning authority determines that the zoning for vulnerable uses is considered appropriate, specify in the Plan the nature and design of structural or non-structural flood risk management measures required to be put in place prior to the carrying out of future development in such areas;
- (ii) incorporate all key flooding requirements and mitigation measures identified in the SFRA and Justification Test into the Plan, in particular in respect of

those specified for Sites C5.2, C5.4 and R1.6.1 in Tralee, and Sites C5.1, R1.6.1, R1.6.2, R4.6.1, R4.6.2 in Killarney; and

- (iii) include specific objectives in the plan to ensure development in the following areas is restricted to minor development and to support the requirement for a site specific flood risk assessment - Tralee - Town Centre (M2), Built Up Area (M4), Existing Residential (R2), and Tourism & Related zoned lands; Killarney - Built Up Area (M4), Existing Residential (R2), and Tourism & Related zoned lands C5.2; and Listowel - Town Centre (M2), Built Up Area (M4), and Existing Residential (R2).

9. Environment, Heritage and Amenities

9.1 Environmental Assessments

An SEA Environmental Report, an Appropriate Assessment Screening Report and Natura Impact Report have been prepared and are attached to the draft Plan. The inclusion of an analysis of the Member's amendments in the Environmental Report is welcome and is consistent with the strategic environmental assessment process in accordance with the SEA Directive and the section 28 Ministerial Guidelines.

As detailed in the *Planning System and Flood Risk Management Guidelines for Planning Authorities*, flood risk assessments undertaken for plans should be integrated with the SEA process. While the issue of flooding is recognised as a threat in the SEA, the Office considers that the findings of the SFRA could be better integrated into the SEA. The SEA confirms that the findings of the SFRA have been incorporated into the draft Plan but there are a number of measures, requirements and mitigation measures detailed in the SFRA which have not been fully incorporated into the draft Plan.

The Office also notes that section 7 of the SEA 'Summary of Potential Effects', does not comprehensively address proposed zoning in the context of the SFRA and the Justification Test undertaken. Further, Section 8 does not list any environmental

considerations with respect to flooding arising from the Justification Test in relation to land zoned for a development purpose in the towns of Tralee, Killarney and Listowel.

10. Implementation and Monitoring

The Office welcomes the inclusion of Appendix 9 Implementation and Monitoring having regard to the guidance in the *Development Plans Guidelines for Planning Authorities - Draft for Consultation* (August 2021), which states that planning authorities will need to establish strong, frequent and ongoing monitoring systems for the implementation of their development plan and the performance of their objectives.

Section 9.5.1 of Appendix 9 details Core Strategy Monitoring with a focus on quantitative indicators including floorspace and number of units. The *Development Plans Guidelines for Planning Authorities - Draft for Consultation* (August 2021) recommend a monitoring task for the strategic functions relating to Core Strategy Monitoring and Plan Objectives Monitoring.

The Office advises that implementation and monitoring would most effectively focus on the anticipated or proposed key outcomes of the plan, as determined by the planning authority, such as the Core Strategy (e.g. population growth and housing delivery), urban and rural regeneration, the sustainable transport strategy (e.g. modal share, preparation of Local Transport Plan), climate action (e.g. renewable energy development, biodiversity and landscape (e.g. status of designate habitats).

Observation 8 – Monitoring

Having regard to the duty and function of the planning authority under section 15(1) and 15(2) of the *Planning and Development Act 2000*, as amended, and the commitment of the planning authority to secure and monitor the implementation of the strategies, policies and objectives of the draft Plan, the Office advises the planning authority to consider how Appendix 9 'Implementation and Monitoring' could be amended to ensure that any monitoring is strategic in nature consistent



with Part 10 of the *Development Plans Guidelines for Planning Authorities, Consultation Draft* (August 2021).

11. General and Procedural Matters

11.1 Landuse Zoning Objectives

The Office welcomes the adoption of standardised zoning objectives as presented in Volume 6 of the draft Plan, inclusive of a Land Use Zoning Matrix. However the inclusion of defined land use zoning objectives and development priorities for each zoning type, as per the standardised approach set out in Appendix B of *Development Plans Guidelines for Planning Authorities - Draft for Consultation* (August 2021), would improve clarity and consistency.

11.2 Inconsistencies and other issues

The planning authority should update all references to the *Climate Action Plan 2019* with the *Climate Action Plan 2021*, which was adopted at the latter stages of the draft Plan preparation process.

Summary

The Office requests that your authority addresses the recommendations and observations outlined above. As you are aware, the report of the chief executive of your authority prepared for the elected members under section 12 of the Act must summarise these recommendations and the manner in which they will be addressed. In accordance with section 12(5)(a)(a), where the planning authority decides not to comply with any of the Office's recommendations made in the draft plan and report, they shall inform the Office, by notice in writing containing the reasons for the decision.

At the end of the process, your authority is required to notify this Office within five working days of the decision of the planning authority in relation to the draft Plan. Where your authority decides not to comply with the recommendations of the Office, or otherwise makes the plan in such a manner as to be inconsistent with the



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recommendations of the Office, the chief executive must inform the Office accordingly and state the reasons for the decision of the planning authority.

Please feel free to contact the staff of the Office in the context of your authority's responses to the above, which we would be happy to facilitate. Contact can be initiated through plans@opr.ie.

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Is mise le meas,

Anne Marie O'Connor

Deputy Regulator and Director of Plans Evaluations
