



3rd June 2022

Wind Energy CDP Variation,
Central Planning Unit,
Donegal County Council,
County House,
Lifford,
Co. Donegal,
F93 Y622.

**Re: Proposed Variation to the County Donegal Development Plan 2018-2024 in
respect of the Wind Energy Policy Framework (Variation No. 2)**

A chara,

Thank you for your authority's work in preparing the proposed Variation to the County Donegal Development Plan 2018-2024 in respect of the Wind Energy Policy Framework (Variation No. 2) (the proposed Variation).

The Office of the Planning Regulator (the Office) welcomes the making of a variation in respect of wind energy, which is important to ensuring renewable energy policies and objectives are included in the development plan in line with government policy and the targets set out in the *Climate Action Plan 2021*.

The planning authority will also be aware of your obligations under section 15(1) of the *Climate Action and Low Carbon Act (2015)*, as amended, in relation to renewable energy.

The Office wishes to acknowledge the considerable and evident work your authority has put into the preparation of the proposed Variation, including the level of detail and analysis involved in the sieve mapping process, against the backdrop of an evolving national and regional planning policy and regulatory context.

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 proposed Variation under the provisions of sections 31AM(1) and (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.

On adoption of the proposed Variation, the Office will consider whether the Variation has been made in a manner consistent with the recommendations of the Office and whether the Plan sets out an overall strategy for the proper planning and development of the area concerned.

Overview

The Office acknowledges at the outset that the benefits of the proposed Variation in respect of Wind Energy Policy Framework are far reaching and will result in positive impacts toward contributing to the National Renewable Energy Targets.

In particular, the Office notes and welcomes the overall approach of your authority in the preparation of the proposed Variation and in addressing the NPF and the RSES in accordance with section 13 of the Act.

Notwithstanding the above, the Office is concerned about the inclusion of Policy E-P-23 and Policy E-P-24 in the proposed Variation, specifically in relation to the proposed separation distance of 10-times the tip height, which may result in significant impacts on the availability of lands capable of facilitating development for wind energy. The Office acknowledges that amendments to the wind energy framework were made by the elected members, the details of which have been provided by the planning authority in the updated section 28 Statement. The relevant points therein are discussed in further detail as part of this submission.

The submission below has been prepared to provide a strategic level input to your authority in finalising the proposed Variation. It is within the above context that the submission sets out 2 recommendations and 1 observation under the following three key themes:

Key theme	Recommendation	Observation
Compliance with statutory guidelines	Recommendation 1	-
Strategic Environmental Assessment	-	Observation 1
Sieve Mapping Analysis	Recommendation 2	-

1. Compliance with statutory guidelines

The *Wind Energy Development Guidelines for Planning Authorities* (2006) and the *Interim Guidelines for Planning Authorities on Statutory Plans, Renewable Energy and Climate Change* (2017), are the statutory guidelines in relation to renewable energy.

The Office notes that the proposed Variation places significant emphasis on section 28 *Guidelines Draft Revised Wind Energy Development Guidelines for Planning Authorities* (2019) and sets out compliance with the Specific Planning Policy Requirements (SPPRs) contained therein. Given that these guidelines are still in draft form and hold no statutory status, compliance with the SPPRs have been incorrectly applied in the proposed Variation.

The relevant SPPR to be considered, as set out in the Interim Guidelines, is as follows:

- (1) Ensure that overall national policy on renewable energy as contained in documents such as the Government's 'White Paper on Energy Policy - Ireland's Transition to a Low Carbon Future', as well as the 'National Renewable Energy Action Plan', the 'Strategy for Renewable Energy' and the 'National Mitigation Plan', is acknowledged and documented in the relevant development plan or local area plan;*
- (2) Indicate how the implementation of the relevant development plan or local area plan over its effective period will contribute to realising overall national targets on renewable energy and climate change mitigation, and in particular wind energy production and the potential wind energy resource (in megawatts); and*
- (3) Demonstrate detailed compliance with item number (2) above in any proposal by them to introduce or vary a mandatory setback distance or distances for wind turbines from specified land uses or classes of land use into their development plan or local area plan. Such a proposal shall be subject to environmental assessment requirements, for example under the SEA and Habitats Directives. It shall also be a material consideration in SEA, when taking into account likely significant effects on climatic factors, in addition to other factors such as landscape and air, if a mandatory setback or variation to a mandatory setback proposed by a planning authority in a development plan or local area plan would create a significant limitation or constraint on renewable energy projects, including wind turbines, within the administrative area of the plan.*

The Office is satisfied that compliance with part (1) has been incorporated into the proposed Variation, however, part (2) and (3) require further consideration.

In relation to part (2), the Office notes the section 28 statement included with the proposed Variation, which states that the reason why it was not possible to comply with the SPPR in relation to wind energy production and the potential wind energy resource (in megawatts) was due to the absence of technical guidance on the matter¹.

However, under section 28(1B)(b) of the Act valid reasons for not implementing the policies and objectives of the Minister may only relate to the nature and characteristics of the area

¹ Page 6 of the Proposed Variation to the County Donegal Development Plan 2018-2024(As Varied) in respect of a Wind Energy Policy Framework.

(or part thereof) concerned. The reason given by the planning authority, relating to the absence of technical guidance, is neither relevant within the context of section 28(1B)(b), nor does it preclude the planning authority from calculating the potential contribution of the county to the national onshore wind energy target of 8GW to 2030 under the *Climate Action Plan 2021*.

Having regard to part (3) the proposed Variation introduces two new policies, Policy E-P-23 and Policy E-P-24 in relation to the setback distance required. The setback distance proposed at 10-times the tip height has, however, no basis in any statutory guidelines and is inconsistent with the *Wind Energy Development Guidelines (2006)*.

The Office has carried out an analysis of the implications of these policies having regard to a tip height of 150m noted by the planning authority and a tip height of 180m, relating to the highest wind turbines in Ireland². It is evident from this analysis that the proposed increased setback would create a significant limitation or constraint on renewable energy projects (Appendix 1 to this letter, refers).

Recommendation 1 – Compliance with statutory guidelines

In accordance with the provisions of section 28(1C) of the *Planning and Development Act 2000*, as amended (the Act) and the Specific Planning Policy Requirement contained in the *Interim Guidelines for Planning Authorities on Statutory Plans, Renewable Energy and Climate Change (2017)*, and having regard to the government's commitment in the *Climate Action Plan 2021* to achieve 80% of electricity from renewable sources by 2030 and NPO 55 which promotes renewable energy use and generation to meet national targets towards achieving a low carbon economy by 2050, and RPO 4.16, RPO 4.17, RPO 4.19 of the Regional Spatial and Economic Strategy, and section 28 guidelines including *Wind Energy Development Guidelines for Planning Authorities (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 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

² 'Currently the highest turbines in Ireland have a tip height of approximately 180-190m...' (Draft Revised *Wind Energy Development Guidelines (2019)*).

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 Plan is consistent with the delivery of part (i), including through the omission of the setback standard for wind energy development under Policy E-P-23 and Policy E-P-24 of the proposed Variation and ensure that any provision for mandatory setback are consistent with the *Wind Energy Development Guidelines for Planning Authorities* (2006).

2. Strategic Environmental Assessment

Part (3) of the SPPR of the Interim Guidelines provide that '*It shall also be a material consideration in SEA, when taking into account likely significant effects on climatic factors... if a mandatory setback or variation to a mandatory setback proposed by a planning authority in a development plan would create a significant limitation or constraint on renewable energy projects, including wind turbines, within the administrative area of the plan*'.

Having regard to the above Recommendation, it is considered relevant to further consider the proposed Variation in the context of the SEA process having regard to both the Interim Guidelines and the updated section 28 Guidelines, *Strategic Environmental Assessment: Guidelines for Regional Assemblies and Planning Authorities* (2022).

The Office notes that the SEA Environmental Report prepared by the planning authority does include as a material consideration the proposed setback of 10-times tip height, in addition to considering a setback of 4-times tip height as an alternative. It was concluded that the proposed 10-times tip height setback would not negatively impact on the ability to meet the 2030 renewable energy targets having regard to the locations identified as 'open for consideration' and 'acceptable in principle'.

However, based on its own analysis (attached as Appendix 1), the Office is of the view that the setbacks provided for in the proposed variation will create significant limitations and constraints on the provision of wind energy development within County Donegal that will negatively impact on the ability of the State to meet the national 2030 renewable energy

targets. It is not clear how this can be reconciled with the conclusions of the Environmental Report in this regard.

Observation 1 – Strategic Environmental Assessment

Having regard to point (3) of the SPPR of the *Interim Guidelines for Planning Authorities on Statutory Plans, Renewable Energy and Climate Change* (2017) and to the provisions of the *Strategic Environmental Assessment: Guidelines for Regional Assemblies and Planning Authorities* (2022), the planning authority is requested to a review of the conclusions of the SEA Environmental Report, based on a clear evidence-based approach, concerning the environmental assessment of the likely significant effects on climatic factors of the proposed 10-times tip height separation distance provided for under Policy E-P-23 and Policy E-P-24 of the proposed Variation.

3. Sieve Mapping Analysis

The Office welcomes the approach of the proposed variation in undertaking sieve analysis mapping to identify areas within the county as “Acceptable in Principle”, “Open for Consideration” and “Not Normally Permissible” (Map 8.2.1 Wind Energy). It is noted that the Planning Authority followed the guidance on sieve mapping as set out in the *Draft Revised Wind Energy Development Guidelines* (2019), and not the statutory *Wind Energy Development Guidelines for Planning Authorities* (2006), however the sieve mapping approach in the draft guidelines is similar to the 2006 guidelines and therefore the application of this approach is considered generally acceptable.

However, additional considerations have been included in the sieve analysis following the Plenary Council Meeting which resulted in a significant increase in the extent lands identified as “Not Normally Permissible” and a reduction and fragmentation of lands identified as ‘Open for Consideration’. The additional considerations included:

- ‘*Lifford -Stranorlar Municipal District Areas at Risk of Landslides and Associated Environmental and Ecological Concerns*’; and
- “Moderately High” and “Moderately Low” landslide susceptibility areas.

The inclusion of *'Lifford-Stranorlar Municipal District Areas at Risk of Landslides and Associated Environmental and Ecological Concerns'* results in the exclusion from consideration for wind energy development of an estimated area of 7,700ha in two blocks adjacent to the border with County Fermanagh.

In addition, the inclusion of all "Moderately Low" and "Moderately High" landslide susceptibility areas in the "Not Normally Permissible", results in the exclusion from consideration for wind energy development of extensive lands dispersed throughout the county. This results in the area designated 'Open for Consideration' being highly fragmented and will create very significant practical constraints to the progression of future wind energy developments in the county.

The Office considers the inclusion of the subject additional constraints not to be justified through a transparent evidence-based analysis is likely to seriously undermine the county's contribution to meeting national targets contrary to the SPPR of the Interim guidelines.

Having regard to the provisions under Chapter 5 of the *Wind Energy Development Guidelines* (2006) concerning the assessment of landslide and slope stability risk, the consideration of such localised, moderate risks can be more appropriately considered by the planning authority at development management stage to allow for site specific design response and mitigation.

Recommendation 2 – Sieve Analysis Mapping

Having regard to National Planning Policy 55, which promotes the generation of renewable energy, National Strategic Outcome 8 '*Transition to Sustainable Energy*', and the *Wind Energy Development Guidelines for Planning Authorities*' (2006) which requires the implementation of plan-led approach to identify suitable or unsuitable areas for wind energy development through a systematic, evidence-based approach referred to as '*sieve mapping analysis*', the planning authority is required to remove the following constraints from the sieve mapping and to amend the areas within the county "Acceptable in Principle", "Open for Consideration" and "Not Normally Permissible" (Map 8.2.1 Wind Energy) accordingly:

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

4. Procedural and other matters

The Office welcomes the detailed mapping provided as part of the proposed Variation, including Map 8.2.1 Wind Energy, forming part of the proposed Variation. In particular, the Office considers the provision of interactive online GIS mapping to be best practice. However, there are concerns that the scale of the published map and the colouring of that map will make it difficult for the general public and other parties to interpret.

The Office would therefore advise the planning authority to reconsider the colour palette used in defining the different policy areas: “Acceptable in Principle”, “Open for Consideration” and “Not permissible” – in order to make the map more easily legible.

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 13 of the Act must summarise these recommendations and the manner in which they will be addressed.

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 proposed Variation. 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 recommendations made by this Office, then the chief executive shall inform the Office and give reasons for this decision.

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.

Is mise le meas,

A handwritten signature in black ink that reads "AM O'Connor". The signature is written in a cursive style with a period at the end.

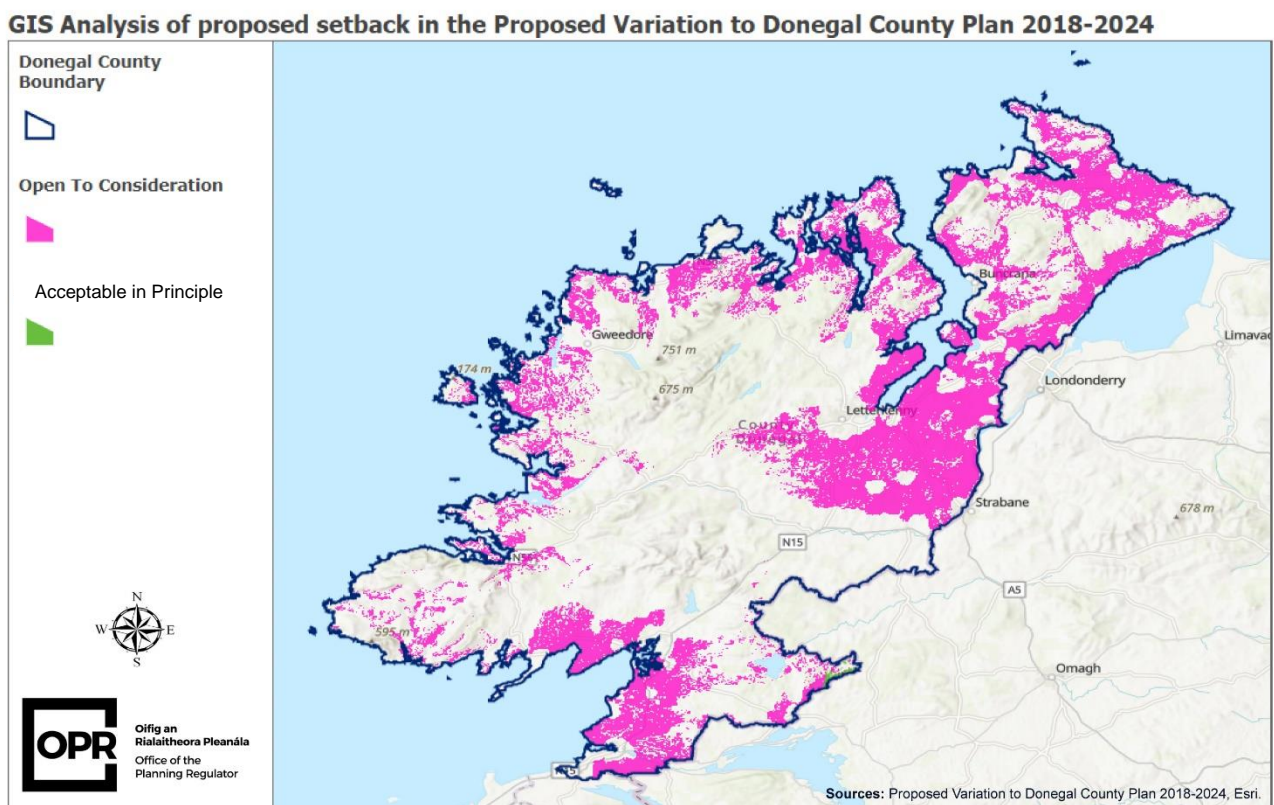
Anne Marie O'Connor

Deputy Regulator and Director of Plans Evaluations

Appendix 1 – Mapping Analysis

The Office has prepared maps to illustrate the areas “Acceptable in Principle” and “Open for Consideration), see Figure 1 for details. The “Acceptable in Principle” area is indicated as a green colouring on the map and “Open for Consideration” areas are identified in pink. The “Not Normally Permissible” area has not been included in the assessment as these areas have been ruled out by the Planning Authority. For clarity the “Not Normally Permissible” areas comprise of all the remaining lands outside the “Acceptable in Principle” and “Open for Consideration” zone e.g. areas not coloured pink or yellow as illudatrated on the map.

Figure 1: “Acceptable in Principle” and “Open for Consideration”



The analysis in relation to the proposed setback distance having regard to a tip height of 150m and a tip height of 180m. The proposed setback at 10 times the tip height has been overlaid against the “Acceptable in Principle” and “Open for Consideration” areas. See Figures 2 and 3 for further details.

Figure 2: Analysis assuming a 150m Tip Height

GIS Analysis of proposed setback in the Proposed Variation to Donegal County Plan 2018-2024

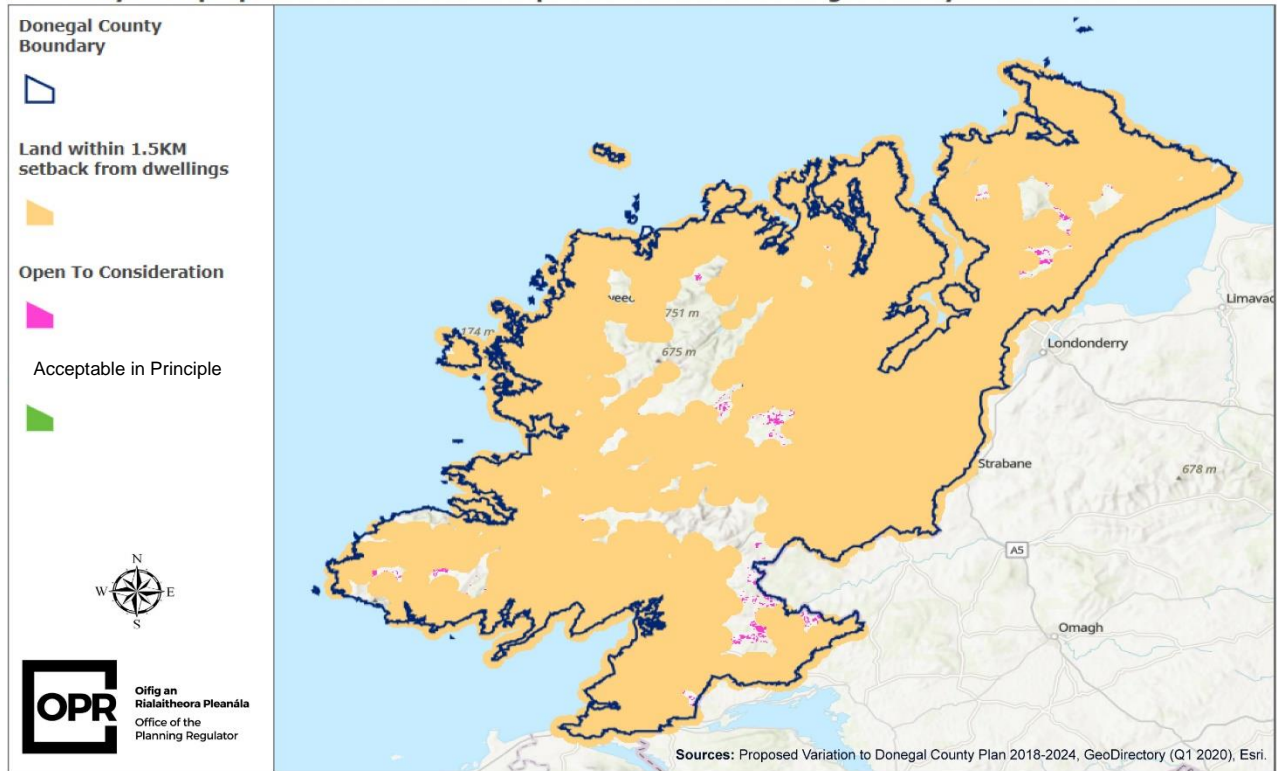


Figure 3: Analysis assuming a 180m Tip Height

GIS Analysis of proposed setback in the Proposed Variation to Donegal County Plan 2018-2024

