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Millennium Park,
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Mr. Eoin Bennis
Planning Section,
Dept. of Housing, Planning, Community and Local Government,
Custom House,
Dublin 1.

1st September 2016

By email to Eoin.Bennis@housing.gov.ie

Re: Independent Report on the Section 31 Ministerial Draft Direction to the Co. Donegal County Development Plan 2012 – 2018

Dear Mr. Bennis,

The Irish Wind Energy Association (“IWEA”) is Ireland’s leading renewable energy representative body and as such has an active interest in the wind energy and related policies of the Donegal County Development Plan 2012 – 2018 (CDP) and the Ministerial Draft Direction to same.

IWEA has been an active participant to positive strategic planning in Donegal having made previous submissions to the Draft Donegal County Development 2012 – 2018, dated 22nd August 2011 a submission to the Material Amendments to that plan dated 30th March 2012, two submissions specifically on Variation No. 2 dated 9th May 2014 and August 14th 2014 before today’s letter. In our continued positive engagement with Donegal County Council, IWEA has been clear in voicing our strong concerns on the matters now subject to this Section 31 Direction. IWEA has at all times been clear and consistent in our desire for there to be clear adherence to a strategic and sustainable planning approach in line with national and regional policy.

IWEA has reviewed a copy of the report prepared by Mr. Hendrik W van der Kamp on the Variation and would hold deep concerns around the statements and conclusions made in that report, its factual basis and the approach taken.

IWEA supports the Ministerial Direction and calls for this Direction to be implemented in relation to this Variation for the reasons set out in this and previous submissions.

Yours sincerely,

**sent by email, bears no signature*

Brian Dawson,
Head of Communications,
Irish Wind Energy Association (IWEA)

Ireland's Low Carbon Energy Transition

It is important we must recognise Ireland's obligation and our need to support renewable energy as set out under EU Directive 2009/28/EC on the Promotion of the Use of Energy from Renewable Sources, which establishes a binding target of 20% of overall EU energy consumption to come from renewable sources by 2020. Ireland's mandatory target under Directive 2009/28/EC is for renewable sources to account for 16% of total energy consumption by 2020. Ireland's National Renewable Energy Action Plan (2010) sets out how Ireland intends to achieve this binding national renewable energy target of 16% with renewable electricity to account for 40% of total energy consumption by 2020.

In autumn 2014, Ireland agreed to new binding EU 2030 energy targets, which proposes to achieve a 40% reduction in greenhouse gas emissions by 2030 relative to 1990 and a binding EU wide target for renewable energy of at least 27% by 2030. These targets require that renewable energy will be a critical and growing component of Ireland's energy supply to 2020 and beyond. Failure to meet these binding targets could result in significant EU sanctions and fines.

Wind energy contributes positively and significantly to the supply of electricity in Ireland. EirGrid's Generation Capacity Statement 2016-2025¹ (February 2016) states that the amount of wind energy in Ireland has reached 2,400MW. SEAI figures, just published for 2015 shows that over a fifth of Ireland's electricity generation was met directly from wind energy and Irish wind energy output increased by 28% in 2015. Over 80% of renewable electricity generated in Ireland came from wind power accounting for three quarters of the avoided CO2 emissions.

Irish wind energy as an indigenous renewable energy source is helping to cut our 85% energy import dependency and according to the SEAI, in 2014 alone it saved Ireland over €200m in energy imports as well as reducing Ireland's CO2 emissions from electricity generation by over 16%. Furthermore, EirGrid in their Generation Capacity Statement estimates that between 3.8- 4.1GW of wind may be required to meet our 2020 renewable electricity target of 40%. This means an average of approximately 300MW of extra wind capacity will be required to be installed per year up to 2020.

As detailed in our previous submissions, IWEA questions why wind energy has been specifically singled out among sectors as the direct focus of the Draft Variation considering that clear national wind energy development guidelines are cited within the CDP and have been provided by Government specifically for the guidance of strategic and sustainable wind energy development.

Methodology of the Inspectors Report

IWEA and other interested parties received no invitation and no opportunity to meet with the appointed inspector or to provide factual information and evidence to the Inspector as part of this process.

This lack of consultation with those parties who had made significant submissions, stands in stark contrast to the concurrent positive process held in Co. Westmeath, where all parties

¹ http://www.eirgridgroup.com/site-files/library/EirGrid/Generation_Capacity_Statement_20162025_FINAL.pdf

were given an opportunity to speak directly with the appointed Inspector in an open and transparent manner.

IWEA would question why the exact same process for a statutory independent review should vary so significantly between appointed inspectors.

IWEA would respectfully suggest that the Inspector has fallen down in this duty as set out in the Terms of Reference of the Inspector as appointed on 27th July 2016 to:

“Consult if deemed necessary with the Regional Assembly and persons who made submissions on the draft direction”

Considering the serious nature of the Variation and its clear impacts on the wind energy sector in the county, it should certainly have been “deemed necessary” for the Inspector to consult with all parties. This lack of further consultation has left many parties voiceless in this Inspection process and left the process grounded in a very shallow procedure.

In this regard, IWEA would call on the Minister to reject this report in its entirety and to re-appoint a new Inspector to more thoroughly carry out the necessary inspection with full consultation of all parties involved in the process.

IWEA supports a nationally consistent and strategic approach to development and as detailed in our previous submissions, the Draft Variation, which is subject to the Section 31 Ministerial Direction is in contrast to proper strategic planning and lacks factual basis. It will unnecessarily and inappropriately restrict the implementation of both national and local policy to generate additional electricity from renewable sources that would otherwise satisfy the requirements of the County Development Plan, National Policy and Guidelines and the requirements of proper planning and sustainable development.

Specific Comments on the Inspectors Report

(1) Coherence of the Variation with the County Development Plan, National and Regional Policy.

IWEA would fundamentally contest the conclusion of the Inspector that the Variation is coherent with the development plan as set out in section 2.2.

The Donegal County Development Plan 2012-2018 (CDP) is absolutely clear in its support for wind energy and renewable energy.

The CDP for example states in section 7.2 (Energy) that the County’s aim is:

“To facilitate the development of a diverse energy portfolio by the sustainable harnessing of the potential of wind, solar, hydro, wave, tidal, biomass, bio energy, oil and gas. To facilitate the appropriate development of associated infrastructure to enable the harnessing of these energy resources and to promote and facilitate the development of Donegal as a Centre of Excellence for Renewable Energy. Also to facilitate the development of appropriately located on and offshore wind energy proposals in accordance with the Wind Energy Strategy.”

While Section 7.2.1 states clearly that:

“The Wind Energy guidelines (DoEHLG, 2006) advise planning authorities of locational and implementation issues regarding commercial windfarms.”

And objective E-O-5 states the County's objective is:

"To ensure that wind energy developments meet the requirements and standards set out in the DEHLG Wind Energy Development Guidelines 2006, or any subsequent related Guidelines (or as may be amended)."

The material amendments, and the "set back distance of ten time the tip height of proposed turbines from residential properties and other centres of human habitation" being proposed stands in clear contravention to the Wind Farm Planning Guidelines 2006, which contain clear guidance in relation to set backs and buffer distance requirements for wind turbines (in the context of noise and shadow flicker):

It is absolutely clear that average wind turbines in Ireland have been substantially greater than 50m tip height since the wind industry began in Ireland, with most turbines that have been installed in Ireland for at least the last decade being over double that height, and therefore the proposed 10X setback goes significantly beyond the current Wind Farm Planning Guidelines, which sets out a clear guidance of 500m of setback in relation to noise and shadow flicker.

On a review of planning applications for wind energy developments in Co. Donegal decided by An Bord Pleanála to the beginning of 2015, IWEA cannot find a single application for a turbine of less than 100m tip height meaning that this 10X setback distance equates to at least 1km, double the setback guidance as set out in the Wind Farm Planning Guidelines which states:

- *"In general, noise is unlikely to be a significant problem where the distance from the nearest turbine to any noise sensitive property is more than 500 metres", (Section 5.6, page 30 of the Guidelines)*

While IWEA acknowledges and welcomes the inspectors finding that the draft Variation contravenes *Circular Letter PL 20-13*, which advised local authorities to defer amending their existing Development Plan policies relating to wind energy, IWEA notes that Planning authorities are required to have regard to guidelines issued under Section 28 of the Planning and Development Act 2000 in the performance of their functions. The Wind Energy Guidelines 2006 were issued under section 28 and although being reviewed in part they have not been rescinded or withdrawn and they are clear in the guidance above. Therefore by adopting these proposals Donegal Council has been acting in direct contravention of its national and regional obligations.

The Inspector states the National and Regional Planning Guidelines do not contain spatially specific policies or targets for energy outputs for specific local authorities however the Regional Planning Guidelines for the Border Region (2010-2022) acknowledges in Section 5.5 that *'Considerable potential exists for the exploitation of renewable energy generation, particularly wind (including offshore), wave and tidal energy, along the western seaboard'* and *'the Border region is ideally located to make significant contributions, through wind energy, to the revised targets for renewable energy generation (RES-E) of 40% with resulting economic benefits'*.

Furthermore the inspector does not address the requirement as set out within the National Guidelines for there to be a **reasonable balance** achieved between Government Policy and

Local Proper Planning considerations, set out in Section 3.1 of the Wind Energy Planning Guidelines 2006 that:

“The development plan must achieve a reasonable balance between responding to overall Government Policy on renewable energy and 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.”

The Inspector ignores the reality that the Variation will impose a setback distance which will effectively halt wind energy development of any viable scale in the county, including Community led projects and therefore fails to respond to overall Government policy on renewable energy. In this scenario the Variation would be in gross violation of the Section 28 Guidelines.

(2) Separation Distance and Future Wind Energy Development

Contrary to the view of the Inspector that *“it is suggested that separation distances leave plenty of locations for development”* IWEA has shown clearly in our submissions (and the Map in Annex A below) that a separation distance of the type being proposed would virtually sterilize the county for any further wind energy development. We find it extremely negligent of the Inspector on page 5 of his report to dismiss this fact without the provision of any informational or evidential base.

The Inspector cites his view that *“the set back or separation distance does not rule out smaller wind turbines,”* this statement seems to either willfully or through lack of information to ignore the fact that current wind energy technology provides for fewer but more efficient wind turbines. Is it to be the policy of Donegal to support much more numerous, less efficient and more visually intrusive small wind turbines as the Inspector suggests?

As provided in Annex A - to measure the impact of Donegal Council’s proposal to increase set back distances, IWEA has carried out its own assessment based on residential housing data from GeoDirectory. However, this exercise did not include a detailed analysis of the approved planning or status of residential properties and therefore should be considered indicative. The results of our assessment are illustrated in the map in Annex A. Three distances were reviewed to compare potential impact: 500m, 1km and 1.5km.

The results demonstrate that wind energy development is limited across a significant portion of County Donegal, even when considering a setback distance of 500 metres from residential properties. Increasing this distance will create additional, unnecessary constraints and may unnecessarily rule out locations where wind energy would be entirely acceptable from an environmental and sustainable planning perspective.

The total land area of County Donegal is 4841km². Using a set-back distance of 500m, our assessment indicates that 583km² or 12% of land available is potentially suitable for wind farm development in Co. Donegal. Increasing the set-back distance to 1km, the area potentially suitable for development reduces to 459km² or 9% (areas indicated in green).

As the map in Annex A clearly displays, if the set-back distance is increased to 1.5km, a mere 135.52km² or 3% of land available will be potentially suitable (areas indicated in red). This is significantly lower than that available at 500m. Most of the potential development areas

indicated represent an average 1km² size, which makes the feasibility of wind farm development unlikely in the zones indicated in red.

It is vitally important to note that while the analysis is robust, it does not take into account, other constraints such as:

- Availability of a viable Wind resource
- Cumulative Impacts with existing Developments
- Environmentally designated areas
- Site availability
- A buffer for watercourses
- Avoidance of known archaeological features with an appropriate buffer if required
- An airport buffer
- A radar buffer
- A telecommunications buffer
- Additional Landscape constraints for sensitive landscape
- Any additional County Development Plan zoning
- Etc.

Therefore the total land area remaining available under the above scenario remains an optimistic number as the % land area would in fact be significantly smaller, if not towards zero for distances >500m, when all other constraints are taken into account.

The map included in Annex A clearly shows that applying a “10 times turbine height separation distance” is uninformed given no quantitative study has been prepared. There is no doubt that such a policy if maintained will rule out the development of Wind Energy Development within the County Donegal even in the areas considered suitable.

(3) Extensions to the “Not Favoured” designation relating to the Fresh Water Pearl Mussel.

The Ministerial Direction clearly questions the evidential basis of the additional designations of FWPM areas. The Inspector’s report makes the clear statement on page 9 of his report that *“It is my conclusion that the evidence basis for restricting wind turbines in the six sub-catchments is weak and not convincing.”*

Then however in his next step the Inspector comes to the conclusion that *“notwithstanding the weak evidence basis for restricting wind turbines in the six sub-catchments, the statement that the draft Variation does not provide for proper planning and sustainable development is not capable of independent verification.”*

The lack of any significant evidence to justify a decision of planning and sustainable development would render such a decision open to challenge, and such blanket designation goes directly against NPWS and EU Commission advice.

IWEA fully supports the provision of sustainable and environmentally sensitive planning. We fail however to see the premise under which the six catchments were identified and vast swathes of the county arbitrarily singled out as additional for “Not Favoured” status,

considering the lack of reasoning or new evidence base for such a provision around a single species. The Fresh Water Pearl Mussel is already given clear and unambiguous protection under the existing CDP and there was no clear explanation as to why wind energy was seemingly singled out among commercial activities for special attention under this provision.

Also to note this kind of blanket ban on individual species designation is not recommended by the National Parks and Wildlife Services (NPWS) and it runs contrary to specific EU Commission advice on the implementation of Natura 2000 regulations² which states that:

"The Habitats Directive does not, a priori, exclude wind farm developments in or adjacent to Natura 2000 sites. These need to be judged on a case-by-case basis."

The aim of the Natura 2000 Network is to protect vulnerable habitats and species across their natural range in Europe and ensure that they are restored to, or maintained at, a favourable conservation status. It is important to note that Natura 2000 is not a system of strict nature reserves where all human activities are excluded. While the network does include nature reserves, most of the land is privately owned and also plays host to various essential infrastructure such as roads, and public utilities such as electricity transmission and distribution systems, energy generation etc, as well as other land uses and activities. Therefore, the emphasis is on ensuring that management is sustainable, both ecologically and economically.

Experience with wind farms in Ireland has shown that it is clearly possible to undertake successful Freshwater Pearl Mussel surveys and assessment, and to design mitigation measures to protect this sensitive species. Therefore, it is extremely concerning and excessive that the CDP as varied proposed a large extension of the areas considered "Not Favoured" on the basis of the Fresh Water Pearl Mussel catchments.

Conclusion:

The Inspector in his report has repeatedly ignored the key point that the Variation as set out will be terminal to potential future wind energy developments in the County of Donegal. In this context the Variation is clearly in contravention of both national and regional guidelines and ignores the need to secure National Climate and Energy Objectives as set out in Government Policy.

National and Regional Planning Guidelines are provided to ensure that there is a plan-led and consistent approach to planning and to avoid a patchwork of local approaches. The recommendations of the Inspector in this case, undermines the very foundation of those Strategic National and Regional Framework of Guidelines.

If it was to be upheld by the Minister in his final decision, the approach endorsed by the Inspector would see coherent and strategic national planning in relation to wind and renewable energy reduced to an incoherent and inconsistent patchwork of approaches, as well as potentially undermining other Section 28 Guidelines.

Finally it is our clear view that the Inspector failed to respect the Terms of Reference of his review by not consulting beyond the submissions of the Chief Executive, Cathaorlach of the

² http://ec.europa.eu/environment/nature/natura2000/management/docs/Wind_farms.pdf

Council and eight individual elected Members who made submissions. This lack of thorough consultation has led to a flawed conclusion and a failure to acknowledge key factual and material aspects vital to an independent determination. The Inspector in his introduction on Page 4 notes that “No consultation was carried out with either the Regional Assembly or persons who made submissions on the draft direction” but the inspector fails to explain as is set out under the terms of reference to explain why he deemed it ‘unnecessary’ to complete this work.

In response to this report, **IWEA would call upon the Minister for Housing, Planning, Community and Local Government to issue his Ministerial Direction on the basis of the Draft Direction and to remove the Donegal Draft Variation proposals from the Development Plan.**

IWEA stands available to meet further with the Minister and his officials on this important issue and to discuss further any aspect of this submission.

PLEASE NOTE FURTHER ANNEX BELOW

Annex



