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10 September 2024

Mr. Martin O'Donoghue
Chief Executive
Kerry County Council
County Buildings
Tralee
Co. Kerry
V92 H7VT

Section 31 of the Planning and Development Act 2000 (as amended)
Decision to Issue a Direction to Kerry County Council regarding the
Kenmare Municipal District Local Area Plan 2024-2030

Dear Martin,

I am writing to inform you of the following in relation to the section 31 draft Direction that issued to Kerry County Council on 23rd May 2024, and the subsequent consideration by the Office of the Planning Regulator ('the Office') of your report in connection with the *Kenmare Municipal District Local Area Plan 2024-2030*, as adopted by the elected members of Kerry County Council on 12th April 2024.

The Office notified the Minister pursuant to section 31AP(4) of the Planning and Development Act 2000 ('the Act') on 2nd August 2024 and recommended that I, as Minister, issue the Direction.

The draft Direction, as issued, can be summarised as follows:

- Part 2(a) – Delete five identified material alterations from the adopted Local Area Plan, such that the subject lands revert to as indicated in the draft Local Area Plan, and apply all necessary consequential updates to the text of the plan consistent with the foregoing.

A copy of the notice letter and proposed final Direction was submitted to me, as Minister, by the Office along with a copy of your Chief Executive's Report on the draft Direction, prepared under section 31(8) of the Act.



Accordingly, having reviewed and considered the Office of the Planning Regulator's notice letter, your report of 16th July 2024 on the draft Direction and submissions received, I am of the opinion that the Direction should be issued in line with the recommendations of the Office. In the above regard, I refer you to the Statement of Reasons set out in the enclosed Direction.

In reaching my decision to issue the Direction I have noted your recommendations as Chief Executive under section 31(9) of the Act. I further note the Office's consideration of, and response to, those matters in its subsequent recommendation to me, as Minister, under section 31AP(4) of the Act.

Accordingly, Kerry County Council should **TAKE NOTICE** that on 10th September 2024 I have issued a Direction pursuant to section 31 of the Planning and Development Act 2000 (as amended). Pursuant to section 31(17) of the Act this Direction is deemed to have immediate effect and its terms are considered to be incorporated into the plan. A copy of this Direction is enclosed.

In light of the foregoing, Kerry County Council is required, pursuant to section 31(2) of the Planning and Development Act 2000 to comply with this Direction so as to rectify the matter in a manner that, in my opinion, will ensure that the *Kenmare Municipal District Local Area Plan 2024-2030* sets out an overall strategy for proper planning and sustainable development and meets the requirements of the Act.

The Council should ensure that the Direction is available for inspection at its offices and on its website.

My officials remain available to assist you, as necessary, in complying with the foregoing process.

Yours sincerely,

Alan Dillon TD

Minister of State for Local Government and Planning

Copied to:

- Cathaoirleach, Kerry County Council, County Buildings, Tralee, Co. Kerry, V92 H7VT.
- Director, Southern Regional Assembly, Assembly House, O'Connell Street, Waterford, X91 F8PC.
- Office of the Planning Regulator, Fourth Floor, Park House, Grangegorman, 191-193A North Circular Road, Dublin 7, D07 EWV4.

**DIRECTION IN THE MATTER OF SECTION 31
OF THE PLANNING AND DEVELOPMENT ACT 2000 (as amended)
Kenmare Municipal District Local Area Plan 2024-2030**

“Local Area Plan” means the Kenmare Municipal District Local Area Plan 2024-2030.

“Planning Authority” means Kerry County Council.

“RSES” means the Regional Spatial and Economic Strategy for the Southern Region.

The Minister of State at the Department of Housing, Local Government and Heritage in exercise of the powers conferred on him by section 31 of the Planning and Development Act 2000 (No.30 of 2000) (“the Act”) and the Housing, Local Government and Heritage (Delegation of Ministerial Functions) Order 2024 (S.I No. 234 of 2024), and consequent to a recommendation made to him by the Office of the Planning Regulator under section 31AP(4) of the Act, hereby directs as follows:

- (1) This Direction may be cited as the Planning and Development (Kenmare Municipal District Local Area Plan 2024-2030) Direction 2024.
 - (2) The Planning Authority is hereby directed to take the following steps with regard to the Local Area Plan:
 - (a) Delete the following material alterations from the adopted Local Area Plan such that the subject lands revert to as indicated in the draft Local Area Plan:
 - (i) Material Alteration 35 Site KG-102 – i.e. the subject lands revert to not zoned, from R1 New/Proposed Residential,
 - (ii) Material Alteration 36 Site KG-104 – i.e. the subject lands revert to not zoned, from M1 Mixed Use,
 - (iii) Material Alteration 38 Site KG-103 – i.e. the subject lands revert to not zoned, from R1 New/Proposed Residential,
 - (iv) Material Alteration 18 Site CH-103 – i.e. the subject lands revert to not zoned, from R4 Strategic Residential Reserve,
 - (v) Material Alteration 60 – i.e. the subject lands revert to not zoned, from C2.1 Industrial/Enterprise/Employment,
- and apply all necessary consequential updates to the text of the plan consistent with the foregoing.

STATEMENT OF REASONS

- I. The Local Area Plan as made includes material alterations to the draft Local Area Plan, which zone additional R1 New/Proposed Residential land in Killorglin inconsistent with the core strategy of the Kerry County Development Plan 2022-2028, and additional R4 Strategic Residential Reserve in Cahersiveen. These material alterations are located in peripheral and/or non-sequential locations, and/or unserviced locations, and/or outside the CSO boundary of Cahersiveen. The material alterations would individually and cumulatively encourage a pattern of development in particular locations which is inconsistent with Objective KCDP 4-1 of the Kerry County Development Plan 2022-2028 and RPO 35 of the RSES to implement compact growth, Objective KCDP 3-6 to zone land for residential purposes in accordance with the tiered approach to zoning, and the policy for sequential zoning (section 6.2.3) under the Kerry County Development Plan 2022-2028, and the planning authority has provided no or no adequate reasons for not applying the policy and objective for sequential zoning contained in the Development Plans Guidelines for Planning Authorities (2022) issued by the Minister under section 28 of the Act.
- II. The Local Area Plan as made includes a material alteration to the draft Local Area Plan, which zones an additional M1 Mixed Use / Opportunity Site in Killorglin. This material alteration is located in a peripheral location, remote from the existing town centre of Killorglin and partly outside the CSO boundary. This material alteration would encourage a pattern of development that is inconsistent with the implementation of Objective KCDP 4-61 of the Kerry County Development Plan 2022-2028 to ensure sustainable development by directing new retail opportunities into town centres and consolidating, intensifying, and enhancing existing core retail areas, and RPO 151 of the RSES for the integration of land use and transportation and optimising sustainable travel integration within settlements.
- III. The Local Area Plan as made includes a material alteration to the draft Local Area Plan, which zones additional C2.1 Industrial / Enterprise / Employment land in an unserviced, remote location, outside the CSO boundary and LAP settlement boundary for Killorglin, and on the N70 national road where the maximum speed limit applies, and where the lands are partially located within flood zone A and B. The material alteration would encourage a pattern of development in a location which does not meet the criteria for designating employment zonings under section 9.6.1 of

the of the Kerry County Development Plan 2022-2028 (including NPO 72 of the National Planning Framework), and inconsistent with RPO 151 of the RSES for the integration of land use and transportation and optimising public transport and sustainable travel integration within settlements, Objectives KCDP 9-22, Objective KCDP 14-29, and Objective KCDP 14-30 of the Kerry County Development Plan 2022-2028 to protect the capacity and safety of national roads in compliance with the Spatial Planning and National Roads Guidelines (2012) and does not apply section 2.5 of these guidelines, and RPO 116 of the RSES to avoid inappropriate development in areas at risk of flooding in accordance with The Planning System and Flood Risk Management Guidelines for Planning Authorities (2009), and does not apply these guidelines.

- IV. The Local Area Plan has not been made in a manner consistent with, and has failed to implement, recommendations of the Office of the Planning Regulator made under section 31AO of the Act.
- V. In light of the matters set out at I to III above, the Minister is of the opinion that the Local Area Plan as made is inconsistent with the objectives of the Development Plan of the area, which is a requirement of section 19(2) of the Act.
- VI. The Local Area Plan as made is not consistent with the objectives of the RSES contrary to section 19(2) and section 27(1) of the Act.
- VII. The Minister is of the opinion that the Local Area Plan as made is not consistent with National Policy Objectives 33 and 57 of the National Planning Framework.
- VIII. The Minister is of the opinion that the Local Area Plan as made fails to set out an overall strategy for the proper planning and sustainable development of the area.
- IX. The Local Area Plan is not in compliance with the requirements of the Act.

GIVEN under my hand



Alan Dillon TD

Minister of State for Local Government and Planning

10th September 2024