



25th October 2024

For the Attention of: Mr. Kevin Kelly, Chief Executive

Mayo County Council
Áras an Chontae
The Mall
Castlebar
Co. Mayo
F23 WF90

**Section 31 of the Planning and Development Act 2000 –
Notice of Intention to Issue a Direction to Mayo County Council
regarding the Ballina Local Area Plan 2024-2030**

Dear Kevin,

Consequent to a recommendation made to me as Minister by the Office of the Planning Regulator (the Office) on 15th October 2024 in connection with the *Ballina Local Area Plan 2024-2030* (the Local Area Plan) as adopted by the elected members of Mayo County Council on 18th September 2024, and pursuant to section 31 of the Planning and Development Act 2000 (the Act), I write to give notice of my intention to issue a direction to Mayo County Council to take account of certain measures specified in this notice.

Opinion

On consideration of the recommendation made to me by the Office, and on the basis of the information available to me, I have formed the opinion that:

- (i) Mayo County Council, as planning authority, in making the Local Area Plan, has failed to implement recommendations made to it by the Office under section 31AO of the Act;
- (ii) The Local Area Plan is not consistent with national and regional policy objectives specified in the National Planning Framework (NPF) and the Regional Spatial and Economic Strategy for the Northern and Western Region (RSES);



- (iii) The Local Area Plan, as made, fails to set out an overall strategy for the proper planning and sustainable development of the area;
- (iv) The Local Area Plan, as made, is not in compliance with the requirements of the Act.

A draft of the Direction accompanies this notice and I request that you publish notice of this draft Direction, no later than two weeks after its receipt. The reasons for the Direction are set out in the Statement of Reasons incorporated in the attached draft Direction and further detail is provided in the Summary of Issues as set out below.

Process to Date

The draft Ballina Local Area Plan 2024-2030 (the draft Plan) was on public display from 19th December 2023 to 8th February 2024. The Office of the Planning Regulator made a submission to the draft Plan on 8th February 2024, containing 6 recommendations which addressed a broad range of matters.

The elected members, having considered the draft Plan and the Chief Executive's report on submissions received, decided to amend the draft Plan. The proposed material alterations were on public display from 18th June 2024 to 16th July 2024. The Office made a submission on 16th July 2024 containing 3 recommendations. The Office's recommendations at the Material Alterations stage included, inter alia, *MA Recommendation 1 – Residential land use zoning*.

The elected members of Mayo County Council adopted the *Ballina Local Area Plan 2024-2030* on 18th September 2024. Subsequently, the planning authority issued a notice letter to the Office advising of the making of the Local Area Plan and specifying the recommendations of the Office that were not complied with.

Having reviewed the Chief Executive's reports on the draft Plan and material alterations to the draft Plan, and the planning authority's section 31AO(5) notice letter, the Office has concluded that, with the exception of the items below, the recommendations of the Office have been responded to and/or have been addressed to its satisfaction, or are otherwise considered satisfactory within the legislative and policy context. The outstanding matters, therefore, relates to the following:

- MA Recommendation 1 – Residential land use zoning.



Summary of Issues

MA Recommendation 1

(Material Alterations MA 29, MA 30, MA 31, MA 33, MA 34, MA 35, and MA 36)

Having regard to specific cited objectives of the Mayo County Development Plan, the Regional Spatial and Economic Strategy for the Northern and Western Region, and Ministerial Guidelines issued under section 28 of the Act, Mayo County Council was recommended to make the Local Area Plan without the above listed Material Alterations. The Elected Members rejected this recommendation for stated reasons.

The Office further addressed these matters in its section 31AO(7) notice letter to me, as Minister, and highlighted that the adopted Local Area Plan identifies a requirement for 29.73 ha of New Residential zoned land to ensure a sufficient supply, in addition to 2.33 ha of lands zoned Town Centre / Opportunity Sites and 4.66 ha Residential Infill lands. Excluding Material Alterations MA 29, MA 30, MA 31, MA 33, MA 34, MA 35 and MA 36, the Local Area Plan zones c.65 ha of New Residential land, in addition to a further 15.5 ha of Strategic Residential Reserve.

The Office states there is no evidential basis consistent with proper planning and sustainable development to support the decision to zone a further c.34 ha of New Residential lands in peripheral and non-sequential locations that do not support more sustainable travel patterns, and/or without adequate infrastructure services and utilities, and/or in areas at risk of flooding and/or within the Constraints Study Area for the N26 Ballina Bypass contrary to the objectives of the County Development Plan and the Regional Spatial and Economic Strategy.

Decision

On review of the recommendation issued by the Office, corresponding documents and analysis, I, as Minister, am of the opinion to issue a draft Direction and in that regard, I refer you to the Statement of Reasons set out in the enclosed draft Direction and the considerations below.

I, as Minister, consider that the plan as made:

- is not in compliance with the provisions of the Act including:



- Section 19(2), which requires that the Local Area Plan shall be consistent with the objectives of the County Development Plan and any regional spatial and economic strategy that applies to the area of the plan.
- Section 27(1), which states a planning authority shall ensure, when making a local area plan, that the plan is consistent with any regional spatial and economic strategy in force for its area.
- Section 28(1), which requires planning authorities to have regard to ministerial guidelines in the performance of their functions.
- is not consistent with the objectives of the National Planning Framework and Regional Spatial and Economic Strategy for the Northern and Western Region, including NPO 33, NPO 57, RPO 3.1, RPO 3.2, RPO 3.10 and RPO 7.20.
- fails to have regard to Ministerial Guidelines issued under section 28 of the Act, specifically:
 - The Planning System and Flood Risk Management Guidelines for Planning Authorities (2009).

The Local Area Plan has also not been made in a manner consistent with, and has failed to implement, recommendations of the Office made under section 31AO of the Act.

Having regard to the matters set out above both individually and cumulatively, the Local Area Plan fails to set out an overall strategy for the proper planning and sustainable development of the area and is not in compliance with the requirements of the Act.

Measures to be taken – Draft Direction

Accordingly, having considered the recommendation of the Office, I am issuing a draft Direction pursuant to section 31 of the Planning and Development Act 2000 (as amended), to direct Mayo County Council with regard to the *Ballina Local Area Plan 2024-2030*.

In accordance with section 31AP(1) of the Act, having considered and taken account of the proposed draft direction submitted by the Office, the draft Direction as issued incorporates minor descriptive



amendments which are not material in nature and do not alter the substance of the Office's recommended draft direction but provide additional clarity to aid its interpretation.

The draft Direction sets out the following steps for the Planning Authority to take:

- (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 MA 29 – i.e. the subject lands revert to Enterprise & Employment from New Residential;
 - (ii) Material Alteration MA 30 – i.e. the subject lands revert to Agriculture, and Existing Residential from New Residential;
 - (iii) Material Alteration MA 31 – i.e. the subject lands revert to Enterprise & Employment from New Residential;
 - (iv) Material Alteration MA 33 – i.e. the subject lands revert to Recreation & Amenity from New Residential;
 - (v) Material Alteration MA 34 – i.e. the subject lands revert to Agriculture from New Residential;
 - (vi) Material Alteration MA 35 – i.e. the subject lands revert to Agriculture, and Recreation & Amenity from New Residential;
 - (vii) Material Alteration MA 36 – i.e. the subject lands revert to Agriculture from New Residential;

and apply all necessary consequential updates to the text of the plan consistent with the foregoing.

Please note that in accordance with section 31(4)(c) and section 31(6) of the Act, those parts of the Local Area Plan referred to in this notice shall be taken not to have come into effect, been made or amended.

Next Steps – Procedural requirements

I wish to draw your attention to the public consultation obligations under section 31 of the Planning and Development Act 2000 (as amended), and the initial requirement as Chief Executive, under section



31(7) to publish notice of the draft Direction no later than 2 weeks after receipt of this notice, stating that the draft Direction may be inspected as specified in the notice, for a period of not more than 2 weeks. The notice must also state that written submissions or observations in respect of the draft Direction may be made to the planning authority during the consultation period.

Further, in line with statutory requirements, a Chief Executive's report is to be prepared on the public consultation period under section 31(8), and must be furnished to the Office, the elected members and the Minister, no later than 4 weeks after the public consultation process is completed, for further consideration.

In accordance with section 31(9) of the Act, the report of the Chief Executive must:

- (a) summarise the views of any person who made submissions or observations to the planning authority;
- (b) summarise the views of and recommendations (if any) made by the elected members of the planning authority;
- (c) summarise the views of and recommendations (if any) made by the regional assembly, and;
- (d) make recommendations in relation to the best manner in which to give effect to the draft Direction.

In addition, the elected members of the planning authority may make a submission to the Office of the Planning Regulator at any time up to the conclusion of the 2 week public consultation period referred to above and must send a copy of any such submission to me, as Minister.

The Office will then consider the Chief Executive's report together with any submissions made and will make a further recommendation to me, as Minister, regarding whether the Direction is to be issued with or without minor amendments, or not issued.

Where the Office is of the opinion that a material amendment to the draft Direction is required, or further investigation is necessary, or it is necessary for any other reason, then the Office may appoint an inspector no later than 3 weeks after receipt of the Chief Executive's report, prior to making a final recommendation to me.



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

Yours sincerely,

Alan Dillon TD

Minister of State for Local Government and Planning

Copied to:

- Cathaoirleach, Mayo County Council, Áras an Chontae, The Mall, Castlebar, Co. Mayo, F23 WF90.
- Director, Northern and Western Regional Assembly, The Square, Ballaghaderreen, Co. Roscommon, F45 W674.
- Office of the Planning Regulator, Fourth Floor, Park House, Grangegorman, 191-193A North Circular Road, Dublin 7, D07 EWV4.

**DRAFT DIRECTION IN THE MATTER OF SECTION 31
OF THE PLANNING AND DEVELOPMENT ACT 2000 (as amended)**

Ballina Local Area Plan 2024-2030

“Local Area Plan” means the Ballina Local Area Plan 2024-2030.

“Planning Authority” means Mayo County Council.

“County Development Plan” means Mayo County Development Plan 2022-2028.

“RSES” means the Regional Spatial and Economic Strategy for the Northern and Western 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, hereby directs as follows:

- (1) This Direction may be cited as the Planning and Development (Ballina 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 MA 29 – i.e. the subject lands revert to Enterprise & Employment from New Residential;
 - (ii) Material Alteration MA 30 – i.e. the subject lands revert to Agriculture, and Existing Residential from New Residential;
 - (iii) Material Alteration MA 31 – i.e. the subject lands revert to Enterprise & Employment from New Residential;
 - (iv) Material Alteration MA 33 – i.e. the subject lands revert to Recreation & Amenity from New Residential;

- (v) Material Alteration MA 34 – i.e. the subject lands revert to Agriculture from New Residential;
- (vi) Material Alteration MA 35 – i.e. the subject lands revert to Agriculture, and Recreation & Amenity from New Residential;
- (vii) Material Alteration MA 36 – i.e. the subject lands revert to Agriculture from New Residential;

and apply all necessary consequential updates to the text of the plan consistent with the foregoing.

STATEMENT OF REASONS

- I. The Local Area Plan includes material alterations (MA 29, MA 30, MA 31, MA 33, MA 34, MA 35 and MA 36) to the draft Local Area Plan, to zone additional residential land significantly in excess of what is required for the town having regard to the growth targets for Ballina under the core strategy of the County Development Plan. These material alterations are located in peripheral and non-sequential locations, and/or outside the CSO settlement boundary, and/or without adequate infrastructure, and do not support sustainable travel patterns.

These material alterations would therefore encourage a pattern of development in particular locations which is inconsistent with the objectives of the County Development Plan to promote compact and sequential development by consolidating the built-up footprint and developing outwards from the centre in a sequential manner, to avoid the inappropriate extension of services and utilities, and to encourage sustainable travel patterns, under Objectives CSO 4, CSO 5, SSO 3, SSO 6, GSO 1 and SO 12 of the County Development Plan and RPO 3.1 and RPO 3.2(c) for compact growth and RPO 7.20 of the RSES to increase the population living within settlements.

- II. The Local Area Plan includes material alterations (MA 30, MA 35, and MA 36) to zone land as New Residential located in Flood Zone A and B where *The Planning System and Flood Risk Management Guidelines for Planning Authorities* (2009), issued under section 28 of the Act, indicate that such highly vulnerable uses are not appropriate unless a Justification Test is passed. The

material alterations are therefore inconsistent with RPO 3.10 of the RSES to avoid inappropriate development in areas at risk of flooding and to implement the recommendations of the Guidelines, and/or are inconsistent with Objective INP 14 of the County Development Plan to have regard to the Guidelines in the preparation of plans, and the Planning Authority has failed to give any or any adequate reasons as to why the recommended approach of the Guidelines has not been implemented, and how the planning authority's adopted approach is consistent with ensuring that the Local Area Plan sets out an overall strategy for the proper planning and sustainable development of the area.

- III. 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.
- IV. 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.
- V. The Minister is of the opinion that 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.
- VI. 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.
- VII. 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.
- VIII. The Local Area Plan is not in compliance with the requirements of the Act.

GIVEN under my hand

Minister of State for Local Government and Planning

Day of Month, Year.