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**MIONTUAIRISCÍ NA CRUINNITHE SPEISIALTA PLEANÁLA DE COMHAIRLE
CONTAE CHIARRAÍ A THIONÓLADH I SEOMRA NA COMHAIRLE, ÁRAS AN
CHONTAE, TRÁ LÍ, AR AN LUAN 5 SAMHAIN 2012.**

**MINUTES OF THE SPECIAL PLANNING MEETING OF KERRY COUNTY
COUNCIL HELD IN THE COUNCIL CHAMBER, ÁRAS AN CHONTAE,
TRALEE ON MONDAY 5 NOVEMBER, 2012.**

PRESENT/I LÁTHAIR

Councillors/Comhairleoirí

R. Beasley	T. Buckley	M Cahill
P. Connor-Scarteen	B. Cronin	J.J. Culloty
P.J. Donovan	T. Ferris	J. Finucane
S. Fitzgerald	N. Foley	M. Gleeson
M. Griffin	D. Healy-Rae	J. Healy-Rae
P. Leahy	P. McCarthy	A. McEllistrim
B. Moynihan Cronin	B. O'Connell	P. O'Donoghue
M. O'Shea	L. Purtill	J. Sheahan
G. Wharton-Slattery	T. O'Brien	

IN ATTENDANCE/I LÁTHAIR

Mr. T. Curran, Co. Manager	Mr. M. McMahon, Dir of Planning
Mr. J. Breen, Dir. Hsg & Comm & Ent	Mr. G. MacNamara, A/Dir. of Roads
Mr. P. Stack, SE Planning	Mr. G. O'Brien, Mtgs. Administrator
Ms. M. Enright, Sen. Exec. Planner	Ms. C. Fisher, Biodiversity Officer
Mr. D. Burke, Assistant Planner	Mr. L. Brosnan, AO Planning
Mr. B. Looney, Head of IT	Mr. P. Corkery, Press & Comm. Off.
Ms. B. Reidy, S.S.O. Corp. Affairs	

The meeting commenced at 10.45am.

The Mayor, Cllr. T. O'Brien took the Chair.

The Mayor welcomed the members of the public to the meeting. He congratulated Ballyspillane Estate on winning the Estates Category in the 32 County Pride of Place Awards held in Thomond Park, Limerick at the weekend. Four Kerry groups were nominated for the Awards – Ballyspillane, Rathmore, Beaufort and Sean Chairde Active Retired Group. All were nominated through the Kerry Community Awards. In addition to Ballyspillane, Rathmore were runners-up in the Previous Winners Category.

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The Mayor also congratulated Dr. Edmond Harty of Dairymaster on winning the Ernst and Young Entrepreneur of the Year Award. This was a tremendous achievement and a huge boost for the Company.

Cllr. T. Ferris also congratulated Mr. Sean Ryan of Aspen Grove who was a finalist in the Ernst and Young Emerging Category.

Retention of Service at Malin Head & Valentia Coastguard Stations

The Mayor referred members to a letter from Donegal County Council dated 30 October, 2012 in relation to the retention of services at Malin Head and Valentia Island which was circulated and he read the letter into the record of the meeting.

“The Members of Donegal County Council at their meeting on the 22nd October, 2012 outlined their support for the retention of services at Malin Head and Valentia Island Coastguard Stations.

As a result the following motion was unanimously agreed:-

“That this Council call on the Government and the Minister for Transport & Tourism to retain existing services at Malin Head and Valentia Island in light of the Fisher Report currently being considered.”

Members outlined the need for collaboration with Kerry County Council and enquired as to the possibility of making a joint submission to the Minister’s Office.

The Council also requested Mr. Seamus Neely, County Manager, Donegal County Council to follow up directly with you in this matter and Mr. Neely will contact you in the coming days regarding same.”

On the PROPOSAL of Cllr. D. Healy-Rae, SECONDED by Cllr. P. O’Donoghue it was agreed to seek a deputation with the Minister for Transport and Tourism to discuss this issue.

Vote of Sympathy

Cllr. D. Healy-Rae extended a vote of sympathy to the Mayor on the death of his father Jerry.

All members said they wished to be associated with this expression of sympathy.

12.11.05.01 Date for a Special Planning Meeting – Draft Caherciveen, Waterville & Sneem Functional Areas Local Area Plan

On the PROPOSAL of Cllr. P. O’Donoghue, SECONDED by Cllr. P.J. Donovan it was agreed to hold a Special Planning Meeting to consider the County Manager’s Report on submissions received on the Draft Caherciveen, Waterville

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and Sneem Functional Areas Local Area Plan on Monday 12th November, 2012 at 2.00pm.

Mr. P. Stack, SE Planning informed the meeting that members received a presentation last January on the Master Plan for the Shannon Estuary. The Draft Plan is ready to be put out for public consultation and the consultants, RPS, would like to make a presentation on it to the members.

It was agreed that the presentation would be made at 2.00pm on Monday 12th November, 2012 at the start of the Planning Meeting.

12.11.05.02 Date for the next Listowel Electoral Area Meeting

On the PROPOSAL of Cllr. R. Beasley, SECONDED by Cllr. L. Purtill it was agreed that the next Listowel Electoral Area Meeting would be held on Monday 26th November, 2012 at 10.00am at Áras an Phiarsaigh, Listowel.

12.11.05.03 Approval to attend a Seminar

On the PROPOSAL of Cllr. B. Moynihan-Cronin, SECONDED by Cllr. P.J. Donovan it was agreed to approve the attendance of Cllr. B. Cronin at the Training Seminar for Elected Members on the theme "Environmental Implications of Harvesting Wind Energy to be held in Westport, Co. Mayo on the 23rd and 24th November, 2012.

Members Duties under Ethics Legislation.

Mayor O'Brien informed members that he wished to remind them of their duties under Part 15 (Ethics Framework) of the Local Government Act 2001 and the Code of Conduct for Councillors. He then read the following statement into the record of the meeting.

"Councillors should be aware that the onus for complying with the requirement of the Act and the Code of Conduct lies with each individual Councillor. Under the beneficial interest provision and should that provision apply, a Councillor must

- (1) Disclose the nature of his/her interest or the fact of a connected persons interest at the meeting and before discussion or consideration of the matter commences and
- (2) Withdraw from the meeting for so long as the matter is being discussed or considered, and accordingly, he/she shall take no part in the discussion or consideration of the matter and shall refrain from voting in relation to it."

In conclusion the Mayor informed members that there could be no interaction with members of the public during the meeting.

12.11.05.04(a) County Manager's Report on submissions received in relation to Proposed Material Alterations to Proposed Variation No. 8 of the Kerry County Development Plan 2009 – 2015`

The Mayor stated that this process was one of the most difficult he had ever dealt with. The number of callers, emails, texts and letters received in relation to the Renewable Energy Strategy was huge while the amount of mis-information out there was unfortunate. It is important that the Council is seen to develop good relationships with rural communities. The elected members together with Management must consider this for the future. He wanted to put on record that the members were unhappy with the process and what went on over the past week. He called on Management to review this type of process for the future.

Cllr. P. Connor-Scarteen asked why Variation No. 8 was being proposed at this time. What notice was given to the public inviting them to make submissions? There was a lot of confusion regarding the process and it should have been explained more clearly. There is an area in Kilgarvan at Barnastooka which was zoned 'Open to Consideration' in the County Development Plan but it is not included as 'Open to Consideration' in the Draft Renewable Energy Strategy. He asked that this matter would be discussed at the meeting and a vote taken on it.

Cllr. J. Sheahan supported this suggestion.

Cllr. D. Healy-Rae said he had concerns regarding the adoption of the Renewable Energy Strategy. The landowners in Kilgarvan were not aware that they had to make a submission to have their lands included as 'Open to Consideration' in the Strategy as it was already zoned in the County Development Plan. He asked why was the County Development Plan being changed mid term. This process is not transparent enough and those involved in pre-planning meetings in relation to wind energy development were not informed of the process. In his opinion the Planning Department should have written to them advising them of the process and also that they would have to make a submission to have their lands included.

There is a lot of confusion and controversy in the Inny Valley which was zoned 'Open to Consideration' in the County Development Plan. It is sad to see a community divided on this issue. He called for the Renewable Energy Strategy to be abandoned and that existing zonings in the County Development Plan would remain in place. Planners can examine legitimate objections when a planning application is submitted. Members were inundated with callers, phone calls etc. over the past few weeks from members of the public who are genuinely very concerned for their area. He visited the Inny Valley and it is very difficult to decide if the Valley should be zoned or not. In his opinion the fairest way to proceed is to allow the zonings in the County Development Plan to stand and to look for new direction on how to proceed when the County Development Plan is reviewed. He PROPOSED that the existing zonings in the County Development

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Plan would stand as too much land is omitted from the Renewable Energy Strategy and too many people will be impacted.

Cllr. M. Cahill said there is a lot of disquiet among the public regarding the Draft Renewable Energy Strategy and he asked why the policy was being considered when the review of the County Development Plan will commence in 12 months.

Mr. M. McMahon, Director of Planning, said the Planning Authority can change or vary its Development Plan at any time. This is the 8th Variation therefore the Plan has been varied on 7 occasions since it was made. Legislation recognises that change happens and new policies are required. For this reason the legislation provides for a variation to the County Development Plan. The purpose of the Renewable Energy Strategy is to provide direction for developers on how renewable energy can be developed in the county. The existing policies in the County Development Plan are not adequate to address the various types of renewable energy developments and that is why the policy was drawn up. Councillors and members of the public made representations to the Planning Department calling for a review of existing policy. He acknowledged that some peoples land is not included in the Strategy. Kerry County Council is the lead authority in relation to the development of renewable energy. Kerry produces 14% of renewable energy in the country on a landmass of less than 7% of the entire country. Permission was granted for a considerable amount of wind farms which have not yet been developed. A lot of experience was gained in this area in the past 10 years and it was used to develop the Renewable Energy Strategy to provide direction for developers on where development can take place. It is an objective in the County Development Plan to develop a Renewable Energy Strategy. The current County Development Plan identifies areas 'Open to Consideration' only but not 'Strategic Areas'. A comprehensive review of where development has taken place in the county was undertaken. Approx. eighteen months ago an advertisement was placed in the local papers advising the public that the process was about to commence and submissions were sought prior to the drafting of the Strategy. A Landscape Character Assessment was carried out and public meetings were held. He rejected suggestions that the correct process was not followed. It is incorrect to state that maps were not available as each member was provided with a copy of the Draft Renewable Energy Strategy which included the relevant maps. The Draft Strategy was also available on the Council's website. Officials met with members of the public to explain the RES. Copies of the Variation, Draft RES, Environmental Report of the Strategic Environmental Assessment and Habitats Directive Assessment were put on display from the 31st May to the 28th June, 2012. A Manager's Report was prepared on the 38 submissions received on the Draft RES, which was presented to the Council on the 16th July, 2012 at which time there was a full and frank discussion on the Strategy. Arising from that meeting the Council adopted 63 material alterations. In accordance with Section 13(6)(a) of the Planning and Development Act the Manager determined that a Strategic Environmental Assessment and a Habitats Directive Assessment was required to be carried out

on the proposed material alterations to the Variation and the period from 1st August 2012 to the 24th August, 2012 was specified to facilitate these assessments. Following the completion of that process an advertisement appeared in "The Kerryman" newspaper on 29th August 2012 advising that these proposed material alterations were on public display from 29th August to 27th September 2012. An SEA Environmental Report Addendum of the Proposed Material Alterations and a Natura Impact Report of the Proposed Material Alterations also went on public display during this period. In total, 94 no. submissions on the proposed material alterations were received during the consultation period. These submissions relate to 10 of the proposed material alterations and no submissions were received in relation to the remaining 53.

Members now have a choice in that they can adopt the Variation to inform future development or they can decide not to adopt the Variation. The Planning Department want to assist developers to identify areas that are most appropriate for development. All development is subject to the normal planning process and independent review if a person is not satisfied with the decision of the planning authority. In the submissions received there was praise and support for the process adopted by the Council. Apart from Clare County Council we are the lead authority in the development of proper policies in this area. It is important to balance the need to develop renewable energy while also protecting the county for tourism. He strongly recommended that members would adopt the Variation but added that they do have a choice. It is a reserved function to adopt the Variation.

Cllr. J. Healy-Rae agreed with the sentiments expressed by previous speakers. The proposed zoning in the Renewable Energy Strategy is unfair in that it favours one area over another. This Strategy is making the lives of councillors and the general public very difficult. In 2009 the County Development Plan was adopted and people whose land was zoned for wind farm development presumed it would be zoned until the County Development Plan was reviewed in 2015. All landowners affected should have been notified of the proposed changes. The maps provided were too small and it was not possible to clearly identify the land zoned. The public consultation process did not work and he asked that this policy would be deferred and that the zonings in the County Development Plan would remain.

Cllr. B. Cronin concurred with the sentiments expressed by the Mayor and said he was deeply concerned at the divisions that have taken place in communities. Public consultation did take place and as a result the people in the Inny Valley are aware of the issues that affect them. They are entitled to make their concerns known. The public consultation has concluded and it is now up to members to decide to adopt the Strategy or to walk away from it. There will be winners and losers financially as a result of this Strategy. While he had concerns he was prepared to make a decision on it. He asked Mr. McMahon to clarify the number of wind turbines granted permission and how many of these have been

developed. He acknowledged the assistance given to developers by the planning authority but said there is no recognition of the people in the area who do not benefit from these developments. The original turbines were 50m high but the latest turbines are 90m high yet the distance from the nearest house is still 500m. It is up to councillors to decide on the Strategy and he called on the members for the Killorglin Electoral Area to clearly state their position prior to a vote being taken.

Cllr. T. Ferris said that while members lament the demise of local government there seems to be a reluctance to make hard decisions such as this one. This is one of the few powers members still retain and members should be prepared to make that decision. She acknowledged that everything the Council was required to do by law was done but said we are too focussed on the legal requirements and the adverts did not catch the attention of the general public. The advertisement should state the current position and also outline the proposed changes. The heading for the advert should be very clear and in this instance it should have been 'Wind Turbines'. There are a number of aspects to the Strategy that are very difficult and the amendment agreed at the July meeting allows the Inny Valley to be discussed again today. It is unfortunate to see the division in the community over this issue. She agreed that the local area councillors should state their case prior to a vote being taken. She said she visited the Inny Valley but it is not a consideration who owns the land but rather the proper planning and sustainable development of the area. She asked the area councillors to explain their position from that point of view. The Strategy will only be in place for 2 years until the County Development Plan is reviewed. She commended the Mayor on his statement at the outset and said this process has caused divisions in communities. It is now up to members to decide if they will adopt the Strategy or not.

Cllr. J. Finucane said every time a tough decision is required there is reticence by councillors to make them. Councillors are elected to make decisions and they owe it to people to make those decisions. He acknowledged that there are concerns on both sides, the residents in relation to the amenity of their area and the landowners to be allowed to develop their land. The County Development Plan gives guidance and clarity to developers and members must now decide if they are prepared to give that clarity in adopting the Strategy. If members decide not to adopt the Strategy and to allow the County Development Plan to remain as it is far larger areas will be zoned 'Open to Consideration'. If members are to prove the worth of local politicians they must make these decisions. This is the start of a process where a person can apply for permission.

Cllr. P.J. Donovan said he lives close to the Inny Valley and he knows the majority of people on both sides who are his friends. He met both sides and explained the process to them. If the RES is not adopted and the County Development Plan stands the entire Inny Valley will be 'Open to Consideration'. He has concerns regarding the locating of wind turbines close to houses but he

was advised that it would not be possible to stipulate a minimum distance a turbine would have to be located from a house in the Strategy. This will be decided on a case by case basis. Just because an area is 'Open to Consideration' does not guarantee that permission will be granted. There are areas in the Inny Valley that are suitable for wind farm development but that is a matter for the planning authority to decide. He would be in favour of the Inny Valley being 'Open to Consideration' for wind energy development subject to low lying areas being excluded. He did not want to offend anyone.

Cllr. B. Moynihan Cronin said she is in public life for many years and she never saw such upset over an issue as this one. People are very concerned and they have a right to give their opinion. Members must now make a decision and must give leadership. She hoped the wounds opened in the past few weeks in communities would heal.

Cllr. P. O'Donoghue informed the meeting when the Council was considering the designation of areas for Wind Farms in the Inny Valley at the July Council meeting he absented himself from the meeting as he was concerned he could have a potential conflict of interest. Since that meeting he made the appropriate enquiries and he is now fully satisfied that there was no conflict of interest. He wrote to the Meetings Administrator in the interim clarifying the matter. While he had sympathy for those who did not make submissions there was public consultation and submissions were received. The process cannot be stopped for them now. He decried the fact that members are left by central government to make these decisions. It would be wrong of members to walk away from this decision. He had given this matter great consideration and if the decision was made on socio-economic grounds then he would be in favour of zoning the Inny Valley 'Open to Consideration' as this Valley is on its knees. However, this cannot be taken into account. By zoning the area 'Open to Consideration' it will not impose a blanket ban on turbines in the area and it will give guidance to developers. It is important for Management to realise that mistakes were made in the past and turbines were located too close to homes. He would not support the granting of permission where it would impact on anyone's home. Green energy is the way forward and the country will be fined if this is not addressed. The national grid runs through the Inny Valley and it makes sense to zone it 'Open to Consideration'. However it is important to be mindful of the rights of home owners and to ensure that they are not adversely affected.

Cllr. D. Healy-Rae said the landowners in Kilgarvan were not aware that they needed to make a submission to ensure their land is zoned 'Open to Consideration'. The maps provided should be bigger and more legible.

Cllr. P. Connor-Scarteen said he raised the issue of the zoning at Barnastooka, Kilgarvan at the outset. It is a very reasonable request to include these areas as 'Open to Consideration'. And he PROPOSED that they would be included.

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Cllr. J. Sheahan SECONDED this proposal.

Mr. M. McMahon said the process is guided by the Planning and Development Act. The Variation was out on public display and then the amendments. The only issues open to debate are the submissions on the amendments that went on public display.

Cllr. P. Connor-Scarteen asked what could be done for these landowners.

In response Mr. McMahon said the review of the County Development Plan would commence in March 2013.

Cllr. J. Healy-Rae said March 2013 is too late and it is unfair on these people not to zone their land 'Open to Consideration'.

Cllr. T. Ferris asked if an application for permission can be made in respect of these lands in the interim.

Mr. McMahon confirmed an application can be submitted but the planning authority must consider the proper planning and sustainable development of the area and also the County Development Plan.

Cllr. Ferris asked Mr. McMahon if he could guarantee councillors that an application for permission for a wind farm development on these lands would not be automatically refused.

Mr. McMahon again stated that in assessing an application the provisions of the County Development Plan must be taken into account.

Cllr. Ferris asked if it would be possible to use the material contravention procedure to grant permission in this area.

In response Mr. McMahon said if the planning authority were in favour of the development the material contravention procedure could be utilised.

Cllr. M. Cahill said he voted in favour of zoning the Inny Valley 'Open to Consideration' and he would be proposing that again.

Cllr. B. Moynihan Cronin said she was concerned a lot of people don't buy papers and some way must be found to advise them of public consultations in the future.

Cllr. J. Healy-Rae said he did not advocate not making a decision and he proposed that the County Development Plan would be allowed to stand. This would mean that the Inny Valley would be zoned 'Open to Consideration'.

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Cllr. J.J. Culloty said as a result of the recklessness of the boom years as a small developer his business is no longer viable. He hoped if this area is zoned 'Open to Consideration' that it would not be abused.

Mr. P. Stack, SE Planning said he would go through the County Manager's report on submissions received in relation to the proposed material alterations to proposed Variation No. 8 of the Kerry County Development Plan 2009 – 2015 regarding the incorporation of a Draft Renewable Energy Strategy 2012 – 2015. He would first go through the submissions from statutory bodies and then the others. Where there is an overlap he would combine the submissions. Mr. Stack referred members to the last paragraph on Page 5 of the Manager's Report and read it into the record of the meeting.

"During the public consultation period for the material alterations and also before it, the planning authority received correspondence from a number of people relating to the Inny Valley. They either did not refer specifically to an amendment in the material alterations document or referred to a wind planning application in the Inny Valley (a planning application which has not been made). The issues raised in the correspondence received are similar to those addressed in this Managers Report on the Material Alterations."

Mr. Stack said this relates specifically to the Inny Valley. The planning authority must be very careful to deal with submissions in accordance with the legislation. Some correspondence received in relation to the Inny Valley was deemed not to relate to the amendments on public display. However he pointed out that their concerns are dealt with in the Manager's Report.

Cllr. B. Cronin said these people wrote in during the specified time and expressed their concerns yet the planning authority deems them not relevant.

Mr. Stack pointed out that some of this correspondence referred to a planning application which was not relevant to the amendments.

Cllr. G. Wharton Slattery asked if these people were informed that their submission was not relevant and were they given a further opportunity to make a submission.

Cllr. M. Cahill said the names and addresses of people who made submissions are usually contained in the Manager's Report but not on this occasion. It is reasonable that members would know where the submission comes from.

Submissions from Statutory Bodies

Submission No. 1 – Department of Environment, Community & Local Government

Mr. Stack briefed the meeting on this submission as follows:

- *This submission acknowledges the level of commitment displayed by Kerry County Council (KCC) in relation to the matters arising from the draft variation and the commitment to satisfy the environmental requirements of the SEA and Habitats Directive.*

Submission notes that the proposed material alteration in relation to the designation of Amendment 30 as an area Open-to-Consideration (OTC) would appear to be at variance with the Natura Impact Report (NIR).

Mr. Stack said Amendment No. 30 relates to lands at Cappalivane, Curraglass South and Redtrench North.

Cllr. J. Healy-Rae declared in accordance with Section 177 of the Local Government Act 2011 that he has lands adjoining the lands at Cappalivane and while they are not included in the proposed development they may be in the future. For this reason he would leave the meeting while this Amendment was being considered.

Cllr. J. Healy-Rae then left the meeting.

Cllr. D. Healy-Rae declared in accordance with Section 177 of the Local Government Act 2001 he was a connected person to Cllr. J. Healy-Rae and he would also leave the meeting while this Amendment was being considered.

Cllr. D. Healy-Rae then left the meeting.

The following is the response:

Map 3b of the Draft RES shows ecologically sensitive areas in the county, including Natura 2000 sites. It is accepted, however, that the scale of Maps 3a and 3b make it difficult to clearly see all Natura 2000 sites. It is proposed, therefore, that larger scale maps should be included in the RES. In order to facilitate this, it is proposed to replace maps 3a 3b with five maps 3a to 3e showing ecologically sensitive areas in the county, including Natura 2000 sites.

- *It is strongly advised that KCC take full account of the conclusions of the NIR and engage as necessary with the NPWS, of the Department of Arts, Heritage and the Gaeltacht.*

The following is the response:

The Department of Arts, Heritage and the Gaeltacht and NPWS were consulted as part of the consultation process undertaken for the proposed material alterations to the RES.

Mr. Stack said it is recommended that maps 3a and 3b be replaced by five maps showing ecologically sensitive areas on larger scale than the existing maps. See also recommendation to Submission No. 7.

Mr. Stack informed the meeting that Submission No. 7 would be taken with Submission No. 1.

Submission No. 7 – Derrincullig Wind Farm Group

Mr. Stack referred members to Page 12 of the Manager's Report for Submission No. 7.

- *A group of landowners in the Derrincullig Wind Farm Group request that the townlands of Derrincullig, Coologues, Red Trench North, Capnavane, Curraglass North, Curraglass South and Cregeen be zoned Open to Consideration as in the Kerry County Development Plan 2009-2015.*

The following is the response:

The submission starts by making reference to townlands that are not included in Amendments 30 and 31. This is the first time reference has been made to these townlands (Coologues, Curraglass North and Cregeen). As these townlands did not form part of an amendment, they cannot be considered here.

Mr. Stack informed the meeting that the Manager's Report considered at the July Council Meeting did not include any of that area as 'Open to Consideration' but members proposed it. He said he was opposed to this proposal. It is inappropriate to zone this area for wind farm development as a portion of Curraglass forms part of an area zoned SAC. Mr. Stack indicated an area on the map which represents the Lough Leane catchment and this is a significant catchment. He then outlined the portion of the townlands of Derrincullig and Red Trench North that are outside the catchment. The Landscape Character Assessment indicated that these areas are not suitable for this type of development. He displayed a further map showing the contours of the area in the context of the regional road. The area at Poulgorm side of the proposed area to be zoned 'Open to Consideration' is incorporated in an SAC and it is not feasible to construct a windfarm there. The lower area adjacent to the regional road is too flat and then it rises steeply. The only area suitable for a windfarm would be an area which he indicated west of the red dotted line but that is in the Lough Leane catchment area. The critical issue is the Natura 2000 site which cannot be zoned and it is also important not to zone land in the Lough Leane catchment.

Cllr. B. Cronin asked how far away the water courses and streams are.

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Mr. Stack said there are tributaries on both sides of the road. The policy indicates that Natura 2000 sites and river basin catchments should not be designated for wind farm development in the context of past experience and current guidelines. This is a strategic plan to guide development. In the past permission was granted within river basin catchments and the decisions were appealed to An Bord Pleanála who subsequently refused them. We must learn from this experience. Mr. Stack again stated that there are just two areas in these townlands that are outside designated sites and the Lough Leane catchment area and the planning authority is opposed to zoning these for windfarm development on the grounds the area is unsuitable from a landscape perspective.

Cllr. P. Connor-Scarteen PROPOSED that Derrinacullig, Red Trench North, Cappalivane and Curraglass South would remain 'Open to Consideration'. He accepted that Coologues, Curraglass North and Cregeen cannot be included. He said he was very familiar with this area and the planning process will ensure that adequate checks and studies are carried out before a development can take place. He was satisfied that a windfarm development at this location would have minimal visual impact. He also accepted if these areas are included in the 'Open to Consideration' designation, the Planning Authority will be required to proceed to Stage 3 Appropriate Assessment prior to adoption.

Cllr. P.J. Donovan SECONDED this proposal.

Mr. Stack cautioned members on incorporating an SAC in this designation as it will cause huge problems later.

Cllr. T. Ferris said all members received a letter from Saorgas where they state that the Strategy is overly prescriptive. She asked what the response from the Council's legal department was on this issue.

Mr. McMahon said this correspondence refers to the Mayo case where gold was found in Croke Patrick. The elected members in Mayo put a blanket ban on gold mining in that area in the County Development Plan on historic and religious grounds. This was struck out in the High Court as there were no proper planning and sustainable development reasons for it. This Strategy was prepared after an 18 month study on landscape and systematic and scientific research.

Cllr. J. Finucane asked what area the SAC covers.

Mr. Stack indicated the SAC on a map for the meeting.

Mr. McMahon suggested that the area within the SAC should be excluded.

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Cllr. P. Connor-Scarteen PROPOSED that the remainder of the townlands of Derrinacullig, Red Trench North, Cappalivane and Curraglass South outside the SAC be zoned 'Open to Consideration'.

Cllr. P.J. Donovan SECONDED this proposal.

Mr. Stack again indicated the Lough Leane catchment on the map.

Cllr. Connor-Scarteen said he still supported the zoning of the lands in these townlands outside the SAC as 'Open to Consideration'.

Cllr. Ferris asked if this proposal is adopted can permission be refused if the proposed development could pose a threat to the water supply.

Mr. McMahon said the planning authority must have regard to proposals submitted by the developer to protect the water supply. A significant application was refused 18 months ago on the grounds the planning authority was not satisfied there would not be a danger to the water supply.

Cllr. P. Connor-Scarteen said he did not recall the SAC being mentioned in the context of this proposal at the July meeting.

Mr. McMahon said once the material alterations were agreed at the July Meeting it was determined that a Strategic Environmental Assessment and a Habitats Directive Assessment was required to be carried out on the proposed material alterations. These Assessments highlighted that this proposed zoning would have an adverse impact and that the zoning was inappropriate to have windfarm development on these lands.

Mr. G. O'Brien then informed the meeting that a vote would be taken on the following proposal made by Cllr. Connor-Scarteen and seconded by Cllr. P. J. Donovan.

"This Council having considered the County Manager's Report and recommendations on submission received in relation to proposed Material Alterations to proposed Variation No. 8 to the Kerry County Development Plan 2009 – 2015 regarding the incorporation of a Draft Renewable Energy Strategy 2012 – 2015 hereby resolves having regard to Submission Nos. 1 and 7 that Amendment Nos. 30 and 31 that went on public display excluding the area in the SAC be adopted."

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The vote resulted as follows:

For: Cllrs. Beasley, Buckley, Cahill, Connor-Scarteen, Cronin, Culloty, Donovan, Ferris, Finucane, Fitzgerald, Foley, Griffin, Leahy, McCarthy, McEllistim, Moynihan Cronin, O'Donoghue, O'Shea, Purtill, Sheahan, Wharton Slattery, O'Brien **(22)**

Against: None **(0)**

Not Voting: None **(0)**

Absent: Cllrs. Brassil, Gleeson, D. Healy-Rae, J. Healy-Rae, O'Connell **(5)**

The Mayor declared the proposal CARRIED.

Submission No. 2 – Department of Education and Skills

Mr. Stack briefed the meeting on this submission as follows:

- *The Department notes the contents of these proposed material alterations and have no further comment to make in this particular instance.*

The following is the response:

Submission noted and no amendment required.

On the PROPOSAL of Mayor T. O'Brien, SECONDED by Cllr. P. McCarthy it was agreed to adopt the recommendation in the Manager's Report on this submission.

Cllr. D. Healy-Rae and J. Healy-Rae then returned to the meeting.

Mr. Stack informed the meeting that Submission Nos. 3 and 5 would be taken together.

Cllr. N. Foley declared in accordance with Section 177 of the Local Government Act 2011 that she has family in this area in Ballyheigue who own land. While she has had no personal contact in relation to this Amendment and she was not approached by anyone on it she would leave the meeting while this Amendment was being considered.

Cllr. Foley then left the meeting.

Submission No. 3 - Environmental Protection Agency (EPA)

Mr. Stack briefed the meeting on this submission as follows:

- *The Agency acknowledges the inclusion of many of the issues raised in their previous submission on the Draft Plan and SEA.*
- *In relation to Proposed Amendments 30, 31 and 32 in particular, the specific SEA recommendations for the exclusion/unsuitability of these areas proposed as OTC for wind energy developments, given the potential significant impacts on environmental vulnerabilities/sensitivities are acknowledged.*

The following is the response:

Comments in relation to Amendments 30, 31 and 32 are noted.

- ***“Obligations with response to National Plans and Policies and EU Environmental Legislation***

You are referred to your responsibilities and obligations in accordance with all national and EU environmental legislation. It is a matter for KCC to ensure that, when undertaking and fulfilling their statutory responsibilities; they are at all times compliant with the requirements of national and EU environmental legislation.

SEA Statement

- *You are also referred to the requirement to prepare an SEA statement outlining “Information on the Decision” as required by Article 12Q of the Planning and Development Regulations as amended by Article 7 of the SEA Regulations.”*

The following is the response:

In relation to the SEA Statement this will be produced and will accompany the adopted RES.

Submission No. 5 – An Taisce (Kerry Association)

- *An Taisce are in full agreement with most of the changes proposed, and are satisfied to see that Amendment 33 relating to the Inny Valley has changed the zoning from ‘Open to Consideration’ to ‘Unsuitable for Wind Development’. This valley is a highly scenic area surrounded by mountains and with roads running through it which are used by tourists.*

The following is the response:

“In relation to Amendment 33, see response to Written Submission No.14. In relation to Amendments 30 and 31, see response to Written Submission No.7.”

- *“In contrast, An Taisce considers the following changes undesirable:
Amendment 22 (Export of excess energy)
It is argued in the submission that this type of development is usually sited in, or close to built up areas, and the wind turbine can often have a negative impact on adjoining residences as a result of excessive noise or shadow flicker. While the amendment to allow export of excess generation to the National Grid seems logical from an environmental point of view, it might not be of much benefit as the excess is likely to be available in the evenings and weekends when demand on the grid is at its lowest. It could also lead to developers proposing to use a much bigger turbine than is needed to serve the business so as to gain extra profits from exporting during the day.”*

The following is the response:

Regarding comments on Amendment 22, the issues that must be considered as part of a small-scale wind energy development are contained within Section 5.17 of the RES. The development management standards as contained in the RES would also apply to a small-scale wind energy development. Impacts on nearby residential development would form part of any assessment of this type of development, as would the scale of the development proposed and the appropriateness of the site in question. It is considered therefore that proposals should be assessed on a case-by-case basis.

- *This area north of Ballyheigue has been proposed as ‘Open to Consideration’. The SEA found that this would be likely to significantly effect the environment on the grounds of landscape sensitivity. It is close to a highly scenic and unspoilt coastal area where there are magnificent views. The introduction of wind turbines would degrade the landscape by imposing an industrial type development into the rural landscape.*
- *An Taisce note that the SEA presents strong arguments against Amendments 30, 31 and 32 which will mean that, notwithstanding any changes in zoning, applicants will find it hard to obtain planning permission, particularly if planning objections and appeals are made.*

The following is the response:

This submission also relates to Amendment 32 which proposes that land to the northeast of Ballyheigue which is currently designated as ‘Unsuitable for Wind Development’ is re-designated as ‘Open to Consideration’. In the Landscape Character Assessment (LCA) carried out in the preparation of the RES this coastal landscape was deemed to be sensitive to wind development. In response to this proposed amendment the landscape in this area has been re-examined. The area that it is proposed to designate as ‘Open to Consideration’ is approximately 6.3km². The area is enclosed by the R551 (Ballyheigue-Causeway) to the south, and by local roads on its other sides. Booleenshare

School is located adjacent to the southwest side of the area and Rathmorrel School is located in the south-eastern part of the area, on the R561.

Topographically the northern half of the area is flat with the south part starting to slope southwards. Lands in the western part of this area are influenced by a stream which creates a small valley. This area is not as high as Maulin Mountain on Kerry Head but it is higher than the villages of Ballyheigue and Causeway to the west and east respectively. Its highest point is 57m with its lowest being around 30m. This is in contrast to lands to the south which are less than 10m in height. From Maulin Mountain and Kerry Head to the west, a ridge of higher ground follows the coast in the direction of Causeway/Ballyduff.

The area is visible from the south and southwest due to the relatively elevated nature of this coastal ridge. Wind turbines would be dominant in the landscape when viewed from the ridge to the south of Ardfert/Abbeydorney and the area in between both ridges. There are high lands (Maulin Mountain/Kerry Head) to the west. Maulin Mountain narrows considerably as it approaches the area in question and would not provide a backdrop against which the impact of turbines could be ameliorated, as is the case with many other areas identified as having landscape capacity. Furthermore, the area subject of this amendment is visible from long distances and would detract from the setting in which Maulin Mountain lies. Wind development in this area may also have an adverse impact on the visual setting of Ballyheigue and Causeway Villages. The area proposed to be designated is approximately 2km from the centre Ballyheigue and approximately 3km from Causeway.

The area is characterised by open fields with low boundaries and very little screening. This makes it difficult for new developments to be integrated into the landscape. Given the topography and land cover, turbines would dominate and significantly change the character of this coastal landscape.

The importance of this landscape to tourism is reflected in the designation of the coast road (on the northern side of the proposed area) as a Coastal Drive and a Cycle Route (Kerry Head/North Kerry Cycle Way). In addition, it is expected that the route of the proposed 'Wild Atlantic Way', which is being proposed by Bord Fáilte, will run through, or close to, the land in question. Bord Fáilte and other organisations are developing proposals for capitalising on tourism opportunities in the north Kerry area and coastal landscapes will be important to the success of these efforts. No other coastal areas have been designated for wind development in the county.

It should be noted that Clare County Council in its Wind Development Strategy have identified the area west of Kilrush, including all of Loop Head, as an area where wind development is "Not Normally Permissible".

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In conclusion Mr. Stack displayed a map showing the area proposed to be zoned and he said the planning authority is opposed to it.

Cllr. T. Ferris PROPOSED that the recommendation in the Manager's Report be adopted.

Cllr. R. Beasley SECONDED this proposal.

Cllr. M. O'Shea asked why were these issues not discussed and agreed at an Area Meeting.

In response Mr. McMahon said this was a countywide Strategy and it was not appropriate to deal with it at area level.

Cllr. T. Buckley PROPOSED that Amendment No. 32 be adopted and said there is some activity near it.

Cllr. L. Purtill SECONDED this proposal.

Mr. McMahon again pointed out that the purpose of the Strategy is to identify areas that are suitable for development.

Cllr. B. Cronin said based on the Manager's Report this area is wide open and visible from a distance.

Cllr. R. Beasley said from a tourism point of view he agreed with the Manager's Report and under no circumstances should wind turbines be permitted in this area.

Mr. P. Stack again referred to the submission from An Taisce and in particular to the last paragraph on Page 8. He again repeated the response to this point as follows:

"Regarding comments on Amendment 22, the issues that must be considered as part of a small-scale wind energy development are contained within Section 5.17 of the RES. The development management standards as contained in the RES would also apply to a small-scale wind energy development. Impacts on nearby residential development would form part of any assessment of this type of development, as would the scale of the development proposed and the appropriateness of the site in question. It is considered therefore that proposals should be assessed on a case-by-case basis."

Mr. Stack said it is recommended that Amendment No. 22 would proceed but that Amendment No. 32 would not proceed.

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Mr. G. O'Brien stated that Cllr. Buckley's proposal was a direct negative to Cllr. Ferris's proposal therefore a vote would be taken on Cllr. Ferris's proposal as follows which was seconded by Cllr. Beasley.

"That this Council having considered the County Manager's Report and recommendations on submissions received in relation to proposed Material Alterations to proposed Variation No. 8 to the Kerry County Development Plan 2009 – 2015 regarding the incorporation of a Draft Renewable Energy Strategy 2012 – 2015 hereby resolves having regard to Submission Nos. 3 and 5 that the Manager's recommendation in relation to Amendment No. 32 be adopted.

A vote was taken on this proposal which resulted as follows:

For: Cllrs. Beasley, Cronin, Ferris, Fitzgerald, Leahy, McEllistrim, Moynihan Cronin, O'Donoghue, O'Shea, Wharton Slattery, O'Brien **(11)**

Against: Cllrs. Buckley, Cahill, Connor-Scarteen, Culloty, Donovan, Finucane, Griffin, D. Healy-Rae, J. Healy-Rae, McCarthy, O'Connell, Purtill **(12)**

Not Voting: None **(0)**

Absent: Cllrs. Brassil, Foley, Gleeson, Sheahan **(4)**

The Mayor declared the proposal DEFEATED.

Mr. G. O'Brien informed the meeting that Amendment No. 32 was therefore adopted.

Cllr. T. Ferris asked if councillors visited the area before voting on it.

Cllr. P. O'Donoghue said this Amendment could have an adverse impact for the county in relation to the Wild Atlantic Way.

Mr. Stack then referred members to Amendment No. 22 which relates to the export of excess energy.

Cllr. B. Moynihan Cronin asked would that include schools as at present they cannot sell excess energy. Even though a school is not a business they should be allowed to sell excess energy.

Mr. Stack confirmed that this Amendment will allow for that in the context of this Strategy.

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On the PROPOSAL of Cllr. B. Moynihan Cronin, SECONDED by Cllr. P. O'Donoghue it was agreed to accept the recommendation in the Manager's Report in relation to Amendment 22.

Cllr. N. Foley then returned to the meeting.

Submission No. 4 – National Roads Authority (NRA)

Mr. Stack briefed the meeting on this submission as follows:

- *It is recommended that reference to 'NRA's National Policy' in Section 12.8.1 should be amended to 'Department of Environment, Community and Local Government National Policy' as the Spatial Planning and National Roads Guidelines for Planning Authorities were published by the DoECLG as Section 28 Guidelines in 2012 and are not an NRA publication.*

The following is the response and recommendation:

In the interests of clarity, the proposed change to the text of Section 12.8.1 of the RES should be made to correct this reference.

Mr. Stack recommended that –

Section 12.8.1 which formed part of Amendment 63 will be modified as follows, "All RE developments shall be in accordance with the ~~NRA's National Policy~~ **Department of Environment, Community and Local Government National Policy** *Spatial Planning and National Roads Guidelines (2012).*"

On the PROPOSAL of Cllr. P. O'Donoghue, SECONDED by Cllr. M. Griffin it was agreed to adopt the recommendation in the Manager's Report on this submission.

Mr. Stack said that Submission No. 6 relates to the Inny Valley and he proposed to take Submissions 14 – 94 with it as they also relate to the Inny Valley.

This was agreed.

Submission No. 6 – Inland Fisheries Ireland (IFI)

Submission No.14 – (Name withheld for Data Protection purposes)

Submission No.15 - (Name withheld for Data Protection purposes)

Submission No.16 - (Name withheld for Data Protection purposes)

Submission No.17 - (Name withheld for Data Protection purposes)

Submission No.18 - (Name withheld for Data Protection purposes)

Submission No.19 - (Name withheld for Data Protection purposes)

Submission No.20 - Waterville Fisheries Development Group

Submission No.21 - Friends of Irish Environment

Submission No.22 - (Name withheld for Data Protection purposes)
Submission No.23 - (Name withheld for Data Protection purposes)
Submission No.24 - Irish Peatland Conservation Council (IPCC)
Submission No.25a - (Name withheld for Data Protection purposes)
Submission No.25b - (Name withheld for Data Protection purposes)
Submission No.26 - (Name withheld for Data Protection purposes)
Submission No.27 - (Name withheld for Data Protection purposes)
Submission No.28 - (Name withheld for Data Protection purposes)
Submission No.29 - (Name withheld for Data Protection purposes)
Submission No.30 - (Name withheld for Data Protection purposes)
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Submission No.87 - (Name withheld for Data Protection purposes)
Submission No.88 - (Name withheld for Data Protection purposes)
Submission No.89 - (Name withheld for Data Protection purposes)
Submission No.90 - Irish Concrete Federation
Submission No.91 - Forbairt na Dromada Teo.
Submission No.92 - MF Quirke & Sons
Submission No.93 - Inny Valley Landowners
Submission No.94 - Laune Energy/OES Consulting

Mayor T. O'Brien asked at that stage was it worth going back to the original Manager's proposal where, as he understood it, an area of the Inny Valley was being proposed in the Manager's Report as 'Open to Consideration'. This area was, in the professional opinion of the Planning Department, capable of being designated 'Open to Consideration'. It has also been subjected to an SEA (Strategic Environmental Assessment) and HDA (Habitats Directive Assessment) which determined that this designation would not have significant effects on the environment or adverse effects on the integrity of Nature 2000 sites subject to detailed mitigation measures. This is a fall back position and he suggested members should consider it.

Cllr. D. Healy-Rae agreed with this suggestion.

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Mr. Stack then displayed a map of the Inny Valley showing the area presently zoned 'Open to Consideration' in the current County Development Plan which is 9,001 Ha and the reduced area of approx. 5,800 Ha proposed in the Draft Renewable Energy Strategy.

Cllr. D. Healy-Rae said turbines should be coloured to ensure they blend in with the landscape and they should be a certain distance from any house.

The Mayor again stated that the proposed zoning in the Draft Renewable Energy Strategy is reasonable.

Cllr. P.J. Donovan PROPOSED that the Inny Valley would be zoned 'Open to Consideration' but that low lying areas would not be considered for development.

Cllr. B. Cronin asked for a definition of 'low lying'.

The Mayor said he met with a number of councillors during the week to discuss this Amendment and in his opinion the solution is to revert to the original proposal in the Draft Renewable Energy Strategy as outlined on the map by Mr. Stack.

Cllr. P. McCarthy said this proposal would not have regard for the people living in low lying areas.

Cllr. P. O'Donoghue said the area would be zoned 'Open to Consideration' and it would then be up to the planners to assess each application individually.

Cllr. B. Cronin asked what environmental impact would this zoning have on rivers in the Inny Valley. Is the Inny River flowing through the Valley and does the land slope into the Valley? Is there a possibility that any wind farm development in this area could have an adverse impact on the rivers?

Mr. Stack said any proposed development would be assessed in the context of its impact on any streams and rivers including the Inny River. There are, however, six priority catchments in the county that need to be protected. A Strategic Environmental Assessment and a Habitat Directives Assessment were carried out in this area and his Department deem it suitable to zone it 'Open to Consideration'. The concerns of residents will be taken into account if a planning application is received.

Cllr. B. Cronin asked how the reduced area alters the capacity of the area.

Mr. Stack said the area proposed in the Draft Strategy is reduced from the area zoned in the current County Development Plan and the higher areas and areas visible from the Ring of Kerry have been excluded.

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Cllr. B. Cronin said a wind farm would be an industrial type development which would dominate the landscape. Is there potential for 44 or 45 additional turbines in the Valley?

Mr. Stack said each application would be dealt with on its merits.

Cllr. P.J. Donovan asked if members do not accept the recommendation in the Manager's Report will the area zoned revert to the 9,001 Ha?

Mr. Stack said that was not the case and if members reject the Manager's recommendation no area in the Inny Valley will be zoned 'Open to Consideration'.

Cllr. M. Cahill said he was familiar with this area and he PROPOSED that Amendment No. 33 would not proceed and that the 'Open to Consideration' zoning is retained in the Renewable Energy Strategy. This is the second County Development Plan where the Inny Valley was zoned 'Open to Consideration'. The supporting arguments in favour of the proposal are as follows:

- The Strategic Environmental Assessment and the Habitat Directive Assessment demonstrated that the area could accommodate wind farming and recommends the retention of the 'Open to Consideration' zoning.
- There is a wind farm already under construction at the northern end of the Inny Valley at Knockaneedin and it would be unfair to neighbouring landowners not to allow them the opportunity to, at the very least, make a planning application and one should remember that it is a very rigorous planning process.
- There is widespread support for retaining the 'Open to Consideration' zoning. All members received strong representations from the landowners and from the wider population. They also got letters of support from Forbairt na Domada, Dromid Pearses GAA Club and the South Kerry Board among others.
- The Valley is not on the Ring of Kerry as was the perception given at the July meeting.
- The 'Open to Consideration' zoning has been part of the County Development Plan for the last 9 years and there has been quite a lot of time and work put in by the landowners and their technical advisors in assessing the area for wind farming and they should be able to conclude their planning.
- The only industries carried on in Dromid is subsistence farming and commercial forestry – commercial forestry is dominant in the valley and it is the view of many that it has a far more negative impact on the landscape than turbines – but wind farming may afford the opportunity for some income to the area. This would create more local economic activity and badly needed local jobs.
- The Caunoge mountain range at the northern end of the Inny Valley is over 450 metres in height and will screen out all turbines south of it, from

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the Ring of Kerry. It should also be remembered that in the course of the planning process, the planners can exclude locations inside the 'Open to Consideration' zone on prominence grounds.

- If the Inny Valley remains 'Open to Consideration' he believed there are some areas of the Valley that can accommodate wind turbines without interfering with the views of households etc. The proposed zoning can also give some individuals and families hope for the future and they will not have to emigrate.

Cllr. D. Healy-Rae said he knows the Inny Valley very well as he has worked there for much of the past year. He met people who are for and against the proposed zoning and there are legitimate concerns on both sides. Unfortunately the community is divided on this issue. He voted in favour of the proposed zoning at the July meeting to allow landowners to submit planning applications. He said it would be unfair of him to use his vote to deprive them from doing so. He was satisfied that planners will have regard to legitimate objections and will assess the merits of any proposed development. Cllr. D. Healy-Rae said he did not recognise the objections received from people who live outside the area. Members are entitled to know the addresses of those making submissions. He asked that peoples concerns and objections would be addressed and that turbines would be kept away from homes. He again suggested that turbines should be painted a different colour to ensure they blend into the landscape.

As a local area councillor Cllr. P. Connor-Scarteen agreed with the proposal made by Cllr. P.J. Donovan. He said turbines should not be located near houses. The Inny Valley is removed from the Ring of Kerry and any development will not impact visually on it. He said the Inny Valley should be zoned 'Open to Consideration'.

Cllr. A. McEllistrim said the map should show any settlements and houses in the area.

Mr. Stack indicated that the only settlement is Killeenleigh which he indicated on the map. He added that there are houses in many parts of the Valley.

Cllr. B. Cronin said he had serious concern at the scale of the proposed zoning which is approx. 5,000 Ha. He was also concerned that the voices of the people who made submissions are being brushed under the carpet. In so far as he was aware there was never a public meeting with the wind farm companies. He was aware that the Mayor was trying to reach a compromise. There is precedent in the Valley as permission was granted for 4 turbines. While a number of organisations support the proposed zoning he asked do any of the high ranking officials in these organisations own land there? In conclusion Cllr. Cronin said he was also concerned at the potential scale of development in the Valley.

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The Mayor again stated that he was bringing a compromise to the table. All members got the Manager's Report and got letters on the submissions. This is a fall back position that is open to members. People in the public gallery hope the members have their best interests at heart and he was satisfied this was the case. This is a tough decision and every member has a vote. He suggested that the zoning proposed in the Draft Renewable Energy Strategy should be accepted.

Cllr. P. McCarthy said most people are in favour of the 'Open to Consideration' zoning but he would propose that a small number of townlands beside the Inny River would be excluded.

Cllr. B. Moynihan Cronin expressed concern that a number of letters of objection received were not included in the Manager's Report and she said the area proposed to be zoned is vast.

Cllr. G. Wharton Slattery said people wrote in thinking they were making a submission. It was a pity they were not informed their submission was incorrect to allow them the opportunity to make a further submission.

The Mayor pointed out that while their submissions are not contained in the Manager's Report the issues raised by them are addressed in the Manager's Report.

Cllr. M. Cahill PROPOSED that the area zoned in the current County Development Plan as 'Open to Consideration' would remain.

Mr. McMahon said the only way that could happen is if members abandon the process undertaken for the Renewable Energy Strategy.

Cllr. McCarthy said if his amendment is agreed the exact townlands to be excluded could be agreed during lunch.

Cllr. M. Cahill then PROPOSED that the areas in the Inny Valley to be zoned 'Open to Consideration' would be those outlined in the Draft Renewable Energy Strategy and on the 350 metre contour on the northern side of the Valley.

Mr. Stack said the only proposal that can be made is whether the area indicated on Map 6 will be zoned 'Open to Consideration' or not.

Cllr. B. O'Connell SECONDED the Mayor's proposal.

Mr. G. O'Brien informed the meeting that a vote would then be taken on the Mayor's proposal as follows which was seconded by Cllr. B. O'Connell.

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That this Council having considered the County Manager's Report and recommendations on submissions received in relation to proposed Material Alterations to proposed Variation No. 8 to the Kerry County Development Plan 2009 – 2015 regarding the incorporation of a Draft Renewable Energy Strategy 2012 – 2015 hereby resolves having regard to Submission Nos. 6 and 14 to 94 inclusive that the area zoned 'Open to Consideration' on Map 6 of the Draft Renewable Energy Strategy goes back in and that Amendment No. 33 should not proceed.

A vote was taken on this proposal which resulted as follows:

For: Cllrs. Beasley, Buckley, Cahill, Connor-Scarteen, Culloty, Donovan, Ferris, Finucane, Fitzgerald, Griffin, D. Healy-Rae, J. Healy-Rae, O'Connell, O'Donoghue, O'Shea, Sheahan, O'Brien **(17)**

Against: Cllrs. Cronin, Foley, Gleeson, Leahy, McCarthy, McEllistrim, Moynihan Cronin, Wharton Slattery **(8)**

Not Voting: None **(0)**

Absent: Cllrs. Brassil, Purtill **(2)**

The Mayor declared the proposal CARRIED.

Cllr. B. Cronin PROPOSED that it would be a stipulation in the Renewable Energy Strategy that all wind energy operators would engage with the local community on any proposed development.

Cllr. B. Moynihan Cronin SECONDED this proposal.

Cllr. T. Ferris asked as part of the planning process developers should be required to provide evidence of public consultation.

Cllr. P. Connor-Scarteen said people involved in the planning process should be notified of any proposed changes.

The County Manager informed the meeting that the role of the local authority is to have regard to the proper planning and sustainable development of an area. We do not know who owns land and we will not undertake to contact landowners as suggested by Cllr. Connor-Scarteen.

Cllr. Connor-Scarteen asked that advertisements for public consultation would be clearer in future.

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Cllr. P. O'Donoghue said he hoped wind turbines would be rated and that the Council would benefit from them. The levy should be appropriate and should be paid prior to the commencement of the work.

Suspension of Standing Orders

The Mayor informed the meeting that it was 1.30pm and it would be necessary to suspend Standing Orders.

On the PROPOSAL of Cllr. P. O'Donoghue, SECONDED by Cllr. N. Foley it was agreed to suspend Standing Orders to allow the meeting to continue.

Submission No. 8 – Irish Wind Energy Association (IWEA)

Mr. Stack briefed members on this submission as follows:

IWEA welcomes the opportunity to comment on the Material Alterations to Proposed Variation No. 8 to the Kerry County Development Plan 2009 – 2015 as follows:

- IWEA requests that the prescriptive requirements for buffer zones be removed from the variation. IWEA advocates that the buffer zone between a development and a Natura 2000 boundary in Strategic Search Areas and Areas Open to Consideration should be considered on a case-by-case basis.

The following is the response:

The IWEA are referred to the submission dated June 27th, 2012 from the Department of Arts, Heritage and the Gaeltacht - the statutory agency in Ireland assigned with the implementation of the Habitats Directive and associated transposed Irish legislation. The June 27th submission contravenes the interpretation of the IWEA in relation to how AA legislation was applied to the RES, noting: *The Department welcomes the inclusion of objectives protecting Natura 2000 sites, both explicitly and implicitly (as part of sustainable development) in the overall strategic objectives of the plan, and the integration of natural heritage considerations throughout the proposed plan Variation.* Furthermore, the department goes on to note that *current scientific understanding indicates a disturbance displacement for hen harriers of 250m from operating wind turbines.* Thus the RES, through the provisions of the proposed Amendments 41 and 47, will be modified to take account of this recommendation, as it is obliged to do in order to comply with the Habitats Directive as interpreted by the Department of Arts, Heritage and the Gaeltacht.

Cllr. M. Gleeson asked, where possible, that cables would be laid under ground. He asked if this is raised in discussions with developers and is a contribution to the local community applied.

Mr. Stack said this issue relates to the under grounding of cables under public roads. Every application is dealt with on its merits and while the under grounding might be desirable it is not always feasible.

Cllr. Gleeson said the existence of adjoining forestry is not acceptable to camouflage over ground cables as the forestry will be cut down in time.

- **Section 12.3.3** – ‘Applications should follow Bat Conservation Ireland's *Draft Turbine/Wind Farm Guidelines...*’ IWEA would have concerns where reference is made to **DRAFT** guidelines produced by Bat Conservation Ireland.

The following is the response:

Bat Conservation Ireland is a prominent organisation involved in the conservation of bats in Ireland. It is one of several stakeholders that could provide information on bat activity in a given site and it is considered appropriate to consider the Draft Guidelines.

- **Section 12.6** – IWEA notes the requirement for hydrographic peak calculations to be based on a <1 in 100 year event, and wishes to distinguish between requirements for design calculations.

The following is the response:

In relation to comments on Amendment 63, Section 12.6 hydrographic peak calculations. The planning authority in its experience in assessing planning applications has noted that the Department of Arts, Heritage and the Gaeltacht have by means of a request for Further Information requested that wind farm applications have sufficient storm flow attenuation designed into site drainage systems that will cater for a <1 in 100 year event.

- **Section 12.6** – IWEA is concerned about the proposal to prohibit micro-siting of turbines, which contradicts the Government's 2006 Wind Energy Guidelines which requires a certain degree of flexibility.

The following is the response:

Comments in relation to micro-siting are noted and the reference to the Department's 2006 Wind Energy Guidelines. These pollution control plans hinge on the location of turbines. Any change to turbine locations post-this environmental assessment, is in the opinion of the planning authority, potentially detrimental to the very mitigation measures proposed in the pollution plan in the first instance.

Cllr. T. Ferris asked if this would address concerns regarding the ban on pumped hydro electric schemes.

Mr. Stack said this submission relates to the under grounding of cables.

- IWEA would therefore have serious concerns if the Draft RES explicitly excludes any undergrounding of cables on public roads.

The following is the response:

The comments in relation to the restrictions on the use of public roads are nonetheless acknowledged. It is recommended that this text be amended to take comments by the IWEA into consideration.

- IWEA believes that a project specific approach should be taken and requests that the Proposed Variation should take due consideration of same for areas identified as Strategic Search Areas and Areas Open to Consideration.

The following is the response:

Comments in relation to Amendments 30, 31 and 32 are noted.

- IWEA welcomes the amendments to rezone areas from “Unsuitable for Wind Development” to “Open to Consideration”; however as an industry we are still concerned at the overall decline in the potential area for wind farm development.

The following is the response:

Figures that show changes in the area of land (in Ha) available for wind farm development in the County Development Plan since 2003 are noted. However, it is important to note that the removal of areas designated on Map’s 6.1a and 6.1b for wind development and the zoning of areas as Strategic Site Search Areas and Open-to-Consideration on Map 6 of the Draft RES still leaves a significant area of land that can be considered for wind development. As of December 2011 Kerry contributes 13.65% of the national total of installed wind capacity on a land area that is 6.75% of the national total.

Mr. Stack informed the meeting that the following are the recommendations in relation to this submission.

Modify the text of Section 12.8.5 as contained in Amendment 63 as follows:

- In relation to wind farm applications confirmation should be provided that ~~there will be no~~ undergrounding of cables on public roads **is to be avoided where possible. Where it is not possible to avoid public roads, any damage to the road, reinstatement works, both temporary and permanent, or traffic disruptions will be dealt with by the developer in consultation with the Roads Department of Kerry County Council.**

Modify the text of Section 12.1.1 as contained in Amendment 63 as follows:

- The report will also need to detail:

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- Confirmation that ~~no~~ ~~undergrounding~~ of cables on the public road is ~~required~~ **avoided where possible. Where it is not possible to avoid public roads, any damage to the road, reinstatement works, both temporary and permanent, or traffic disruptions will be dealt with by the developer in consultation with the Roads Department of Kerry County Council.**

On the PROPOSAL of Cllr. T. Ferris, SECONDED by Cllr. B. Cronin it was agreed to adopt the recommendation in the Manager's Report on this submission.

Submission No. 9 – Dublin Airport Authority (DAA)

Mr. Stack briefed the meeting on this submission as follows:

- The DAA have no comment to make at this time regarding the proposed Material Alterations.

The recommendation is that no amendment is required.

Submission No. 10 – Listowel Marketing Group (LMG)

Mr. Stack briefed the meeting on this submission as follows:

- LMG is one of three groups formed in North Kerry to promote and develop a tourism industry in Listowel and the greater North Kerry region. The group is of the opinion that there is no public awareness to the proposed 8th variation to the County Development Plan in North Kerry, and that the population in North Kerry will be affected more than any other region in the county by the Variation.

The following is the response:

Section 13 of the Planning and Development 2000 (as amended) sets out the legal requirements for the carrying out of public consultation in the preparation of a variation to a development plan. This section also includes provisions for public consultation on any Strategic Environmental Assessment and the Habitats Directive Assessment carried out in respect of a variation. The Planning Authority is satisfied that it has met its obligations to consult the public in the making of this variation to the Kerry County Development Plan.

The planning authority also carried out consultation with the public in relation to landscape sensitivity and wind development. The methodology use in this consultation process was that set out in Appendix 1 of the Wind Energy Guidelines for Planning Authorities, 2006, issued by the then DoEHLG.

Mr. Stack said no amendment is required.

Cllr. T. Ferris said that while Management is complying with the requirements of legislation in the public consultation process it is not effective. She asked Management to take this on board.

On the PROPOSAL of Cllr. P. O'Donoghue, SECONDED by Cllr. M. Gleeson it was agreed to adopt the recommendation in the Manager's Report on this submission.

Submission No. 11- OES Consulting

Mr. Stack briefed the meeting on this submission as follows:

- OES questions the blanket restriction of PHES (Pumped Hydro Electric Scheme) projects in Natura 2000 sites. It is requests that project level screening and Natura Impact Assessment (NIA) be used to determine the likelihood for significant effects on Natura 2000 sites.
- The submission goes on to note that at operational phase PHES projects have lower environmental impacts then other projects, such as roads.

The following is the response:

The RES is a strategic document. It aims to define the county's strategic approach to the development and management of renewable energy (RE) in an environmental sensitive manner. The decision to exclude PHES from Natura 2000 sites is a strategic approach based on the facts that such schemes, further to the SEA and HDA process, have the potential to significantly affect the environment and Natura 2000 sites. Ultimately it is incumbent on the planning authority to guide developers in the strategic placement of PHES projects and prevent a project-level only assessment which may ultimately be negatively viewed in light of various constraints associated with such schemes. The works required for PHES are substantial by their nature as detailed in the HDA. This was reiterated in the EPA's submission dated June 28th, 2012 which states: *Significant engineering works would be associated with proposals for hydro storage, and it would need to be ensured that mitigation measures are sufficiently robust to cater for both construction and post construction aspects.*

To reiterate there is no blanket ban on PHES in the draft RES, Objective HP 6 allows for the development of a PHES in the County subject to due consideration of potential ecological impacts as detailed in the SEA/HDA.

Mr. Stack said no amendment is required.

Cllr. M. Cahill said he believed HP3 and HP5 should be the same. The changes should be rejected for the following reasons:

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- The wording in Amendment 54 is too strong and imposes something close to a prohibition. The word 'significantly' should be left in and the sentence proposing 'adversely' not accepted.
- If this is considered in the following sentence: Sheep grazing commonages, but you could say that the grazing, while perhaps adversely affecting the Nature site is not significantly affecting it so at the moment it is acceptable. As soon as "adversely affecting" is inserted in the wording then sheep grazing becomes a problem. So leave "significantly" in – or very soon sheep grazing might be stopped.
- In regard to HP5 – it deals with Pumped Hydro Electric Schemes – it should read exactly the same as HP3, because the Strategic Assessment and the Habitats Assessment Directive attributes the same environmental impacts on Natura site, to both Hydroelectric and PHES. It stands to reason then that Natura sites should be open to consideration for both – or prohibited for both. As it is in the RES, Hydroelectric can be considered in Natura sites but not PHES.
- If we consider the discreet wording difference between the two Objectives you will notice the full stop after National/Natural Heritage Areas in Amendment 55 dealing with HP5. The full stop does not exist in Amendment 54 – making a huge difference between the Objectives. This type of ambiguity is not helpful to elected members.
- There is absolutely no need for the wording changes proposed to HP3 and HP5 and the Manager's Report cites the SEA/HAD as the reason for changing the wording – the SEA/HAD were available when the RES was first published.
- In the case of HP5 – which proposes a blanket ban on pumped hydro in Natura Sites – this is going above and beyond what is required in European and National Environmental legislation and by doing so the Council is behaving illegally. The remit of the Council is to protect the environment using the existing environmental directives – we do not have the authority to create higher prohibitions.
- Instead of preventing the examination of Pumped Hydro – we should be actively encouraging the examination process so as to find ways of using our natural resources for the benefit of our County and country. This is how we will begin to build our economy and create jobs for our young people. The ban sought by the Planners is unnecessary and should not be accepted.

Cllr. Cahill said he believed members should not ratify the wording changes in HP3 or HP5 as proposed in the draft RES but to make both Objectives the same by removing the critical full stop from HP5. In other words let us comply with the legislation and rely on the legislation. In conclusion Cllr. Cahill PROPOSED that the changes he outlined above would be made to Amendment Nos. 54 and 55.

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Cllr. D. Healy-Rae **SECONDED** this proposal. An application should be assessed by planners and every effort should be made to utilise natural resources for the economic benefit of the county and the country.

Cllr. T. Ferris said she understood the Guidelines would be published in 2013 and she would hate to think members would approve a blanket ban which would go beyond EU Guidelines. These Guidelines should be available in a few months and perhaps it is premature to make a decision in advance of the publication of the Guidelines. She **PROPOSED** that any wording that prohibits any Natura site from being considered for this purpose would be removed.

Cllr. R. Beasley **SECONDED** this proposal.

Cllr. J. Finucane said Cllr. Cahill's proposal has a different emphasis. If this was applied Turlough Hill would never be granted permission. He asked that the policy would not be too prescriptive.

Cllr. Cahill said it should be left 'Open to Consideration'.

Mr. P. Stack said where there is a small scale hydro scheme using a small lake he had no difficulty with it. However where a pumped hydro scheme is creating a lake and discharging to a lower lake and then water being pumped back up through a pipe network this would have a significant impact on the landscape. He was not advocating that they should be banned in the county only in Natura 2000 sites.

Cllr. N. Foley asked if existing legislation protects Natura 2000 sites.

Mr. Stack confirmed that it does but said the policy must be in agreement with the legislation.

Cllr. Ferris said members were proposing that the Planning Department would deal with such applications on a case by case basis.

Mr. Stack informed the meeting that Submission Nos. 12 and 13 relate to the same issue.

Submission No. 12 – Letter West Landowners **Submission No. 13 – Teeromoyle Commonage Owners**

Cllr. J. Finucane said all members received letters in relation to the blanket ban on wind farm development in the Stacks Mountain. He asked if this was up for discussion at the meeting.

Cllr. N. Foley pointed out that permission for wind farm development was granted in this area in the recent past.

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The Mayor informed members that this issue was not up for discussion as it was not an amendment that was on public display.

Mr. Stack said areas identified as 'Open to Consideration' are not in Natura 2000 sites. The Stack's Mountain is a Special Protection Area and therefore is not included. This arose from the environmental assessment and a review of EU Guidelines. We cannot be sure that any development in these areas would not adversely affect Natura 2000 sites.

Cllr. N. Foley asked what happens where permission is already granted.

Mr. Stack confirmed that the permission stands. If an application for an extension of time is submitted and substantial works have been carried out e.g. an access road constructed or if payment was made for a grid connection then it should be possible to grant permission for an extension of time.

Cllr. Finucane asked when was this issue dealt with.

Mr. McMahon said no amendment went on public display in relation to it therefore it was not possible to deal with it at that time.

Cllr. Ferris said the landowners should have lobbied members at the last stage of the process.

Mr. McMahon said the current position in relation to wind turbines is there are 172 in the county at present. Permission was granted for a further 203 which are not yet constructed. There is provision in the Planning Act to facilitate the granting of an extension of time on permission if substantial works have been carried out. Most of these permissions were for 10 years and it is possible to grant an extension for a further 5 years. The Guidelines from the Department indicate that a developer must demonstrate works already undertaken when applying for an extension of time. In most cases the access road is constructed or they have got the grid connection. If no work has been done an extension will not be granted.

Cllr. P. McCarthy asked when the lifecycle of an existing wind farm development in an SPA is up will permission be granted again.

Mr. McMahon said legislation provides that a 10 year permission can be granted with a subsequent 5 year extension which would be life of the engineering works. Companies would be asked to fund the removal of them after 20 years. He conceded this is an issue that needs to be addressed in the review of the County Development Plan.

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Cllr. J.J. Culloty asked if there are wind farms in areas not now zoned 'Open to Consideration'.

Mr. McMahon confirmed there are wind farms in areas not now zoned.

Cllr. J.J. Culloty asked if there are advances in this technology would wind farms be permitted in these areas in the future.

Mr. McMahon said the tendency now is to use larger turbines.

Cllr. J. Finucane said the issue relating to the Stack's Mountain relates to the protection of wildlife habitat. However the forestry there does not lend itself to wildlife. Yet the entire area is proposed to be excluded.

Mr. McMahon pointed out that the designation of this area was not done by the Council but by the NPWS.

Cllr. D. Healy-Rae said where permission was granted developers are waiting for a connection to the national grid or are trying to secure the finance for the development. He asked if they would be granted an extension of time.

Mr. McMahon again stated that an application for an extension can be granted once the developer demonstrates that substantial works have been carried out and this includes a grid connection.

On the PROPOSAL of Cllr. T. Ferris, SECONDED by Cllr. R. Beasley, this Council having considered the County Manager's Report and recommendations on submissions received in relation to proposed Material Alterations to proposed Variation No. 8 to the Kerry County Development Plan 2009 – 2015 regarding the incorporation of a Draft Renewable Energy Strategy 2012 – 2015 hereby resolves, having regard to Submission Nos. 11, 12 and 13 that Objective HP5 be removed from the RES and that Objective HP3 be amended as per Amendment 54 that went on public display.

A vote was taken on this proposal which resulted as follows:

For: Cllrs. Beasley, Buckley, Cahill, Culloty, Donovan, Ferris, Finucane, Fitzgerald, Foley, Griffin, D. Healy-Rae, J. Healy-Rae, Leahy, McCarthy, McEllistrim, Moynihan Cronin, Sheahan, Wharton Slattery, O'Brien **(19)**

Against: None **(0)**

Not Voting: None **(0)**

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Absent: Cllrs. Brassil, Connor-Scarteen, Cronin, Gleeson, O'Connell, O'Donoghue, O'Shea, Purtill **(8)**

The Mayor declared the proposal CARRIED.

Mr. Stack then referred members to Page 41 of the Manager's Report and said in accordance with Section 13(6)(a) of the Planning and Development Act 2000 (as amended) a Strategic Environmental Assessment and a Habitats Directive Assessment were carried out on the proposed material alterations to the RES. Based on the findings of these environmental assessments the following modification to the proposed amendments are recommended.

(Modifications in red with deletions indicated by a strikethrough)

1. Amendment 39 be modified as follows:

Only renewable energy proposals ~~within, upstream or adjacent to Natura 2000 sites that have undergone a Habitats Directive Assessment which concludes no likely significant effects on the integrity of Natura 2000 sites~~ **will be permitted where a Habitats Directive Article 6 Assessment concludes that there will be no adverse effects on the integrity of Natura 2000 sites shall be permitted.**

On the PROPOSAL of Cllr. J. Finucane, SECONDED by Cllr. J. Sheahan it was agreed to adopt this modification.

12.11.05.04(b) Making of Proposed Variation No. 8 to Kerry County Development Plan 2009 -2015

On the PROPOSAL of Cllr. R. Beasley, SECONDED by Cllr. M. Cahill, we the Members of Kerry County Council hereby resolve to make proposed Variation No. 8 (in relation to the Renewable Energy Strategy 2012 – 2015) to the Kerry County Development Plan 2009 – 2015 subject to the further amendments set out in the Manager's Report and amendments agreed to-day.

A vote was taken on this proposal which resulted as follows:

For: Cllrs. Beasley, Buckley, Cahill, Connor-Scarteen, Culloty, Donovan, Finucane, Fitzgerald, Foley, D. Healy-Rae, J. Healy-Rae, McCarthy, McEllistrim, O'Donoghue, Sheahan, Wharton Slattery, O'Brien **(17)**

Against: Cllrs. Ferris, Griffin, Leahy, Moynihan Cronin **(4)**

Not Voting: None **(0)**

Absent: Cllrs. Brassil, Cronin, Gleeson, O'Connell, O'Shea, Purtill **(6)**

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The Mayor declared the proposal CARRIED.

The meeting concluded at 2.20pm.

Gerard O'Brien
Meetings Administrator

Mayor of Kerry