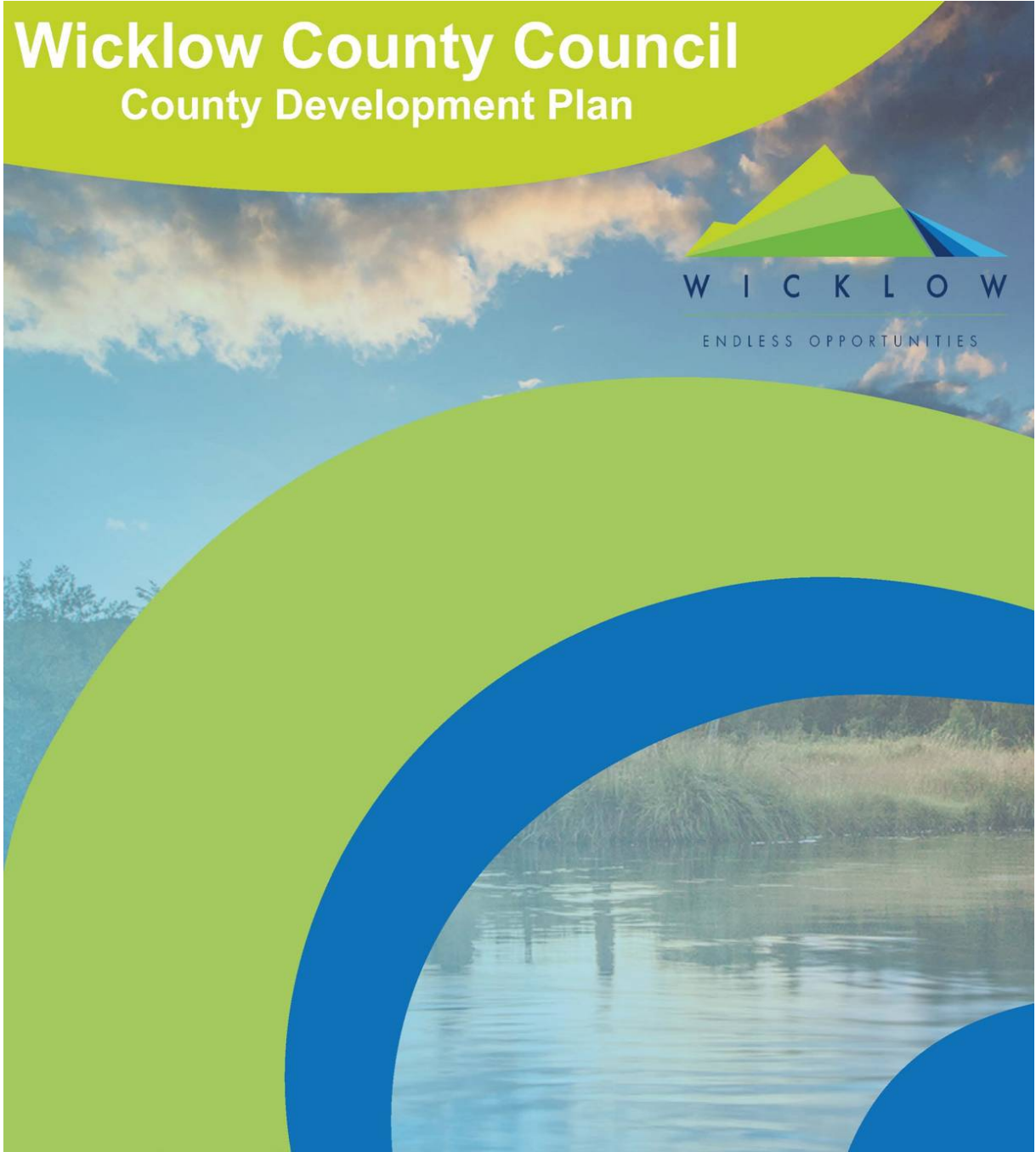


Wicklow County Council

County Development Plan



SECTION 1

INTRODUCTION

Section 1.1 Introduction

1.1.1 Public consultation on the Draft Wicklow County Development Plan 2022-2028

The Draft Wicklow County Development Plan 2022-2028 and associated environmental reports were put on public display during the period 4th June 2021 to 30th August 2021 (which included a 2 week extension as requested by the members). During this period a total of 306 submissions were received during the consultation period.

In accordance with the legislative requirements, notice of the consultation on the Draft Plan was issued to the prescribed bodies including the Minister, the Office of the Planning Regulator, An Bord Pleanála, the Eastern and Midland Regional Assembly, the prescribed authorities and the Wicklow Local Community Development Committee.

Notwithstanding the restrictions posed by the Covid-19 pandemic, the Council pursued a proactive publicity approach in an attempt to raise awareness of the Draft Plan amongst the citizens of the County and other stakeholders, and by doing so encourage a greater degree of public participation in the plan making process. The initiatives and measures include the following:

- Notices were published in the Wicklow People and Wicklow Times on the week commencing 31 May 2021; with further notices published notifying of the extension of the consultation period on the week commencing 02 August 2021;
- Notice of the public consultation period (and extension thereto) was advertised on the Council's website and on all social media platforms (Facebook, twitter and Instagram), which were refreshed weekly;
- The Draft Plan, including interactive GIS viewer was displayed on the consultation portal consult.wicklow.ie
- Radio advertisement were broadcast on east Coast Radio in July 2021
- Hard copies of the Draft Plan were made available to the public to view and copy in County Buildings, and all MD offices;
- An interactive display screen was established and manned by the plan team in County Buildings;
- Members of the plan team were available for pre-booked consultations and phone consultations in all Districts;
- Posters were erected at all Council offices and public buildings, as well as sports halls, community centres, parish halls, local shops etc;
- The Public Participation Network (PPN) circulated information about the Draft Plan and the public consultation process through their network and made a very useful and use friend online video guide for their members.

1.1.2 Chief Executive's Report

This Chief Executive's Report is submitted under Section 12(4) of the Planning and Development Act 2000 (as amended). It is part of the formal statutory process of the preparation and making of the Wicklow County Development Plan 2022-2028. This report contains the following:

(a) a list of the persons or bodies that made submissions or observations during the public consultation period of the Draft Wicklow County Development Plan 2022-2028 and associated environmental reports,

(b) a summary of:

- I. the recommendations, submissions and observations made by the Office of the Planning Regulator;
- II. the submissions and observations made by any other persons in relation to the draft development plan,

in relation to the draft Development Plan.

(c) the response of the Chief Executive to the issues raised, taking account of any directions of the members of the authority, the proper planning and sustainable development of the area, the statutory obligations of any local authority in the area and any relevant policies or objectives of the Government or of any Minister of the Government and, if appropriate, any observations made by the Minister for Arts, Heritage and the Gaeltacht under subsection (3)(b)(iv) relating to proposed additions and deletions to the Record of Protected Structures.

In accordance with Section 12(4)(bb) of the Act, the report summarises the issues raised and the recommendations made by the **National Transport Authority** (NTA) and outlines the recommendations of the Chief Executive in relation to the manner in which those issues and recommendations should be addressed in the development plan.

In accordance with Section 12(4)(bc) of the Act, the report summarises the issues raised and recommendations made by the **Eastern and Midland Regional Assembly** and outlines the recommendations of the Chief Executive in relation to the manner in which those issues and recommendations should be addressed in the development plan.

The members of the Planning Authority shall consider the Draft Plan and this report of the Chief Executive. This consideration shall include the consideration of any submission, observation or recommendation from the Office of the Planning Authority and from the Regional Assembly.

Following this consideration, if the Planning Authority decides not to comply with any recommendations of the Office of the Planning Regulator or the Regional Assembly, it shall inform the Office of the Planning Regulator or the Regional Assembly as soon as practicable by notice in writing including the reasons for the decision.

The consideration of the Draft Plan and this Chief Executive's report shall be completed within 12 weeks of the submission of the Chief Executive's report to the members of the authority. **This matter is to be considered at the County Council Meeting in February or March 2022.**

Following consideration of the Draft Plan and this Chief Executive's report, if it appears to the members that the draft should be accepted or amended, they may, by resolution, accept or amend the Draft Plan and make the Development Plan accordingly.

Where any proposed amendment would, if made, be a **material alteration** to the draft plan, a further period of public consultation will be necessary. The proposed material amendments to the Draft Plan must be advertised and made available for public inspection for a period of not less than 4 weeks. Written submissions or observations only in respect of the proposed material amendment(s) to the Draft Plan, made to the Planning Authority within the stated period must be taken into consideration before the making of the amendment.

The Draft County Development Plan was subject to Strategic Environmental Assessment, Appropriate Assessment and Strategic Flood Risk Assessment.

The Chief Executive's recommendations, as set out in this report, have undergone a preliminary assessment to determine whether they would have any significant impact on the environment, any Natura 2000 site or would give rise to flood risk. It is considered that the amendments proposed in this report would not give rise to any such adverse impacts. If the elected members choose to accept some or all of these recommended amendments, or make additional amendments, these will undergo a more rigorous assessment and the findings of such assessments will be presented as SEA, AA and SFRA addendum reports on the publication of the proposed amendments.

These reports will also be available for public inspection and submission or observations in relation to such information may also be made during the amendments public consultation period.

1.1.3 Contents and format of this report

During the public consultation period, **306** submissions were received.

This report is presented in the following format:

Section 1 Introduction

Section 2 Complete list of all amendments that are being recommended by the Chief Executive. These amendments are set out in the order they would appear in the plan and each amendment is clearly numbered.

Where amendments to existing plan provisions / objectives are recommended by the Chief Executive, they are shown as ~~blue strikethrough~~ for deleted text and **red text** for new text. With respect to map changes, these are shown with either the area in question highlighted, or the presentation of 'change from' and '*change to*' maps

Section 3 Summary of the issues raised and the CE's response and recommendations. This section is broken into the following subsections:

Section 3.1 Assessment of submissions from prescribed authorities

Part 1 Office of the Planning Regulator
Eastern & Midland Regional assembly
National Transport Authority

Part 2: All other prescribed authorities

Section 3.2 Assessment of submissions from Elected Representatives

Section 3.3 Public submissions relating to Volume 1 of the Draft Plan

Section 3.4 Public submissions relating to Volume 2 of the Draft Plan

Section 3.5 Public submissions relating to Volume 3 of the Draft Plan

Section 3.6 Public submissions relating to LAP towns

Section 3.7 Submissions relating to the SEA and AA of the Draft Plan

In all parts of the report, a **hyperlink** to the original submission is provided, for those interested in the full detail of the submission, as only a summary is set out in the report.

Section 4 Full list of persons or bodies who made submissions or observations

Section 5 Addenda as follows:
Proposed Amendments to Chapter 3
Proposed Amendments to Chapter 4
Proposed Amendments to Chapter 6
Proposed Amended Housing Strategy
Addendum II to the SFRA

SECTION 1.2 GUIDANCE FOR THE ELECTED MEMBERS

1.2.1 Introduction

Responsibility for making a development plan, including the various policies and objectives contained within it, in accordance with the various provisions of the Planning and Development Act 2000 as amended, rests with the elected members of the planning authority, as a reserved function under Section 12 of the Act.

In his preamble to Development Plan Guidelines (2007), the Minister emphasises *"the decision making role that local elected representatives, in delivering their democratic mandate, play in the making of the development plan"* and describes the importance of the elected representatives to *"have an active and driving role in the entire process, from its inception to its finalisation"*.

He further describes their duty to *"listen to and take account of the views and wishes of the communities they represent"* and to *"fulfil their responsibilities and functions in the common interest, adhering to proper planning principles and facilitating the sustainable development of their area"*.

In making and adopting the development plan, the elected representatives, acting in the interests of the common good and the proper planning and sustainable development of the area, must, in accordance with the "Code of Conduct for Councillors" prepared under the Local Government Act 2001, carry out their duties in this regard in a transparent manner, must follow due process and must make their decisions based on relevant considerations, while ignoring that which is irrelevant within the requirements of the statutory planning framework.

The members, following consideration of the draft plan and this report, shall decide whether to adopt the draft plan, with or without amendments. This section of the report shall outline the principle issues that the elected members are required to and should consider in their decision making process.

1.2.2 European Legislation

European legislation is playing a larger part than ever before in the law and decision making process at both a national and local level in Ireland. Of particular importance to this County Development Plan review process are the Strategic Environmental Assessment Directive (2001/42/EC), Habitats Directive (92/43/EEC) and Floods Directive (2007/60/EC).

Strategic Environmental Assessment

Directive 2001/42/EC of the European Parliament and of the Council of Ministers introduced the requirement that SEA be carried out on plans and programmes which are prepared for a number of sectors, including land use planning. The SEA Directive was transposed into Irish Law through the European Communities (Environmental Assessment of Certain Plans and Programmes) Regulations 2004 (Statutory Instrument Number (SI No.) 435 of 2004) and the Planning and Development (Strategic Environmental Assessment) Regulations 2004 (SI No. 436 of 2004) (as amended). Both sets of Regulations became operational on 21 July 2004.

The legislation requires certain plans and programmes which are prepared by Wicklow County Council - including the County Development Plan - to undergo SEA. The findings of the SEA are expressed in an Environmental Report which is submitted to the Elected Members alongside the Draft County Development Plan. The Elected Members must take account of the Environmental Report and its addendums before the adoption of the Plan. When the Plan is adopted an Environmental Statement must be made public, summarising, inter alia: how environmental considerations have been integrated into the Plan and the reasons for choosing the Plan as adopted over other alternatives detailed in the Environmental Report.

In this regard, the likely environmental impacts of implementing the draft County Development Plan, published in June 2021, are described in the Environmental Report. The elected members are required to consider this Report along with the Draft Plan, and the submissions on the plan, in making a decision as to whether to adopt the plan.

Any amendments that may be now proposed by either the Chief Executive in this report or by the elected members must also be assessed. This assessment will be contained in the Addendum to the Environmental Report. Cognisant of his obligations with regard to the environment, the Chief Executive has not proposed any amendments that are likely to give rise to significant adverse impacts on the environment. Where elected members resolve to make amendments to the draft plan, such amendments will be put through the same environmental assessment procedure, the results of which are required to be considered by the members prior to making the final decision on the amendments.

The key implication for decision makers therefore is the necessity that the environmental implications of adopting or not adopting a certain strategy or policy / objective must be taken into consideration in decision making and this decision making process must be fully documented and open to public scrutiny.

Appropriate Assessment

The Draft Development Plan has been prepared in accordance with the Appropriate Assessment requirements under EU Habitats Directive (43/92/EEC) and the EU Birds Directive (79/409/EEC) and Section 177 of the Act. These Directives form the cornerstone of Europe's nature conservation policy, built around the European network of nature protection areas made up of Special Areas of Conservation (SACs)¹ and Special Protection Areas (SPAs)².

The Planning Authority is required to ensure that any plan or programme and any projects that arise therefrom, individually or in combination with other plans or projects, are subject to 'Appropriate Assessment' to ensure there are no likely significant effects on the integrity (defined by the structure and function) of any European site(s) and that the requirements of Article 6(3) and 6(4) of the EU Habitats Directive are fully satisfied. Where a plan / project is likely to have a significant effect on a European site, or there is uncertainty with regard to effects, it shall be subject to a full Appropriate Assessment. The plan / project will proceed only after it has been ascertained that it will not adversely affect the integrity of the site or where, in the absence of alternative solutions, the plan / project is deemed imperative for reasons of overriding public interest - all in accordance with the provisions of Article 6(3) and 6(4) of the EU Habitats Directive.

Stage 1 AA Screening and Stage 2 AA of the Draft Wicklow County Development Plan has been carried out. Implementation of the Draft Plan has the potential to result in effects to the integrity of any European Sites, if unmitigated.

The risks to the safeguarding and integrity of the qualifying interests, special conservation interests and conservation objectives of the European Sites have been addressed by the inclusion of mitigation measures that will prioritise the avoidance of effects in the first place and mitigate effects where these cannot be avoided. In addition, all lower-level plans and projects arising through the implementation of the Draft Plan will themselves be subject to AA/screening for AA when further details of design and location are known.

In-combination effects from interactions with other plans and projects was considered in the assessment and the mitigation measures incorporated into the Plan, are seen to be robust to ensure there will be no significant

¹ Special Areas of Conservation (SACs) are sites designated under European Communities Directive 92/43/EEC known as the 'Habitats Directive'. This requires the conservation of important, rare or threatened habitats and species (not birds) across Europe.

² Special Protection Areas (SPAs) are sites designated under the European Communities Directive 79/409/EEC, known as the 'Birds Directive', to conserve the habitats of certain migratory or rare birds.

effects as a result of the implementation of the Draft Plan either alone or in-combination with other plans/projects.

Having incorporated mitigation measures, it is concluded that the Draft Wicklow County Development Plan 2022-2028 is not foreseen to give rise to any adverse effects on the integrity of European Sites, alone or in combination with other plans or projects. This evaluation is made in view of the conservation objectives of the habitats or species, for which these sites have been designated.

The AA process is ongoing and will inform and be concluded at adoption of the Plan.

Any amendments that may be now proposed by either the Chief Executive in this report or by the elected members must also be appropriately assessed. This assessment will be contained in the Addendum to the Natura Impact Report. Cognisant of his obligations with regard to the Habitats Directives, the Chief Executive has not proposed any amendments that are likely to give rise to significant adverse impacts on any Natura 2000 site. Where elected members resolve to make amendments to the draft plan, such amendments will be put through a same environmental assessment procedure, the results of which are required to be considered by the members prior to making the final decision on the amendments.

Strategic Flood Risk Assessment

The draft Wicklow County Development Plan 2022-2028 is accompanied by a Strategic Flood Risk Assessment, carried out in accordance with '*Planning System and Flood Risk Management: Guidelines for planning authorities*' (DoEHLG/OPW, 2009). The SFRA process facilitates the transparent consideration of flood risk matters during the plan making process.

Any amendments that may be now proposed by either the Chief Executive in this report or by the elected members must also undergo Flood Risk Assessment. This assessment will be contained in the Addendum to the SFRA. Cognisant of his obligations, the Chief Executive has not proposed any amendments that are likely to give rise to new, additional or unmitigated flood risk. Where elected members resolve to make amendments to the draft plan, such amendments will be put through a same assessment procedure, the results of which are required to be considered by the members prior to making the final decision on the amendments.

1.2.3 National Legislation and Policy

Planning and Development Act 2000 (as amended)

The Act states as a fundamental principle, that it is enacted "*to provide, in the interests of the common good, for proper planning and sustainable development*" and that "*a development plan shall set out the overall strategy for the proper planning and sustainable development of the area of the development plan*".

The Act is unambiguous in setting out that "*in making the development plan.....the members shall be restricted to considering the proper planning and sustainable development of the area to which the development plan relates, the statutory obligations of any local authority in the area and any relevant policies or objectives for the time being of the Government or any Minister of the Government*" (Section 12 (11)).

Section 27(1) states that "*A planning authority **shall ensure**, when making a development plan... that the plan **is consistent with** any regional spatial and economic strategy in force for its area*", while Section 28 (1) states that "*The Minister may, at any time, issue guidelines to planning authorities regarding their functions under the Act and planning authorities **shall have regard to** those guidelines in the performance of their duties*".

Higher Order Plans

The Draft Wicklow County Development 2022 – 2028 includes a Core Strategy which shows that the development objectives in the development plan are consistent, as far as practicable, with national and regional development policy objectives set out in the National Planning Framework and the Regional Spatial and Economic Strategy for the Eastern and Midland Region.

'Chapter 2 – Overall Strategy' and 'Chapter 3 – Core Strategy' of the draft plan contain information on the strategic policy context within which the vision and core strategy of the plan are framed. The key higher order strategic policy documents that influence the vision and core strategy include:

- National Planning Framework
- Regional Spatial and Economic Strategy for the Eastern and Midland Region
- National Transport Authority's Transport Strategy

Further detail is included within Chapters 2 and 3 of the draft plan.

Ministerial Guidelines

The Minister has issued guidelines under Section 28 of the Planning & Development Act 2000 (as amended) including those set out below. The Act requires planning authorities to have regard to Ministerial guidelines in the performance of their duties.

- **Development Plans – Guidelines for Planning Authorities (2007)**³
-
- Regulation of Commercial Institutional Investment in Housing – Guidelines for Planning Authorities (May 2021)
- Ministerial Letter to Local Authorities - Updated Apartment Guidelines to give effect to restrictions on Co-living Development (Dec 2020)
- Ministerial Letter to Local Authorities - Structural Housing Demand in Ireland and Housing Supply Targets (Dec 2020)
- Guidance Note for Local Authorities for Regulating Short Term Letting
- Urban Development and Building Height Guidelines for Planning Authorities
- Urban Development and Building Heights – Guidelines for Planning Authorities – Consultation Draft
- Design Standards for New Apartments (DSFNA) (2018)
- Design Standards for New Apartments - Guidelines for Planning Authorities - Draft Update (Dec 2017)
- Design Standards for New Apartments - Guidelines for Planning Authorities (Dec. 2015)
- Design Standards for New Apartments - Information Note Current
- Tree Preservation Guidelines
- Local Area Plans - Guidelines for Planning Authorities (June 2013)
- Local Area Plans Manual (June 2013)
- Design Manual for Urban Roads and Streets - 2019 (Low Res)
- Draft Environmental Impact Assessment Guidelines (July 2012)
- Section 261A of Planning and Development Act, 2000 Supplementary Guidelines (July 2012)
- LAP Draft Guidelines - June 2012
- LAP Draft Manual - June 2012
- Retail Planning Guidelines (April 2012)
- Retail Design Manual April 2012

³ In August 2021, the Minister published **Draft Development Guidelines for Planning Authorities** for public consultation. At the time of the preparation of this report, these guidelines had not been finalised. However where appropriate, these guidelines have been considered in the preparation of the recommendations set out in this report.

- Section 261A of Planning & Development Act 2000 - Guidelines (January 2012)
- Spatial Planning and National Roads Guidelines (Jan 2012)
- Guidance for Planning Authorities on Drainage and Reclamation of Wetlands - consultation draft
- Implementing Regional Planning Guidelines - Best Practice Guidelines
- The Planning System and Flood Risk Management - Guidelines for Planning Authorities - Technical Appendices (Nov 2009)
- The Planning System and Flood Risk Management - Guidelines for Planning Authorities - Technical Appendices (Nov 2009)
- The Planning System and Flood Risk Management - Guidelines for Planning Authorities (Nov 2009)
- Sustainable Residential Developments in Urban Areas-Guidelines for Planning Authorities (May 2009)
- Best Practice Urban Design Manual (May 2009) Part 2
- Best Practice Urban Design Manual (May 2009) Part 1
- The Provision of Schools and the Planning System - Code of Practice for Planning Authorities
- Development Management Guidelines
- Wind Energy Development Guidelines (2006)
- Sustainable Rural Housing Development Guidelines
- Strategic Environmental Assessment (SEA) Guidelines
- Quarries and Ancillary Activities
- Architectural Heritage Protection for Places of Public Worship
- Guidance for Consent Authorities regarding Sub-Threshold Development
- Further Guidelines on Part V of the Planning and Development Acts 2000 - 2002 - Circular HMS 9/03
- Further Guidelines on Part V of the Planning and Development Act 2000-2002 - Guidelines
- Further Guidelines Part V of the Planning and Development Acts 2000-2002
- Implementation Manual Part V of Planning and Development Act 2000
- Childcare Facilities Guidelines
- Guidelines for Planning Authorities - Part V of the Planning and Development Act, 2000
- Landscape and Landscape Assessment
- Telecommunications Antennae and Support Structures 1996