



19 June 2025

For the Attention of: Ms Emer O’Gorman, Chief Executive

Wicklow County Council
County Buildings
Whitegates
Wicklow Town
Co. Wicklow
A67 FW96

**Section 31 of the Planning and Development Act 2000 –
Notice of Intention to issue a Direction to Wicklow County Council regarding
Variation No.2 to the Wicklow County Development Plan 2022-2028**

Dear Emer,

Consequent to a recommendation made to me as Minister by the Office of the Planning Regulator (the Office) on 6th June 2025 in connection with Variation No.2 to the Wicklow County Development Plan 2022-2028, as adopted by the elected members of Wicklow County Council on 12th May 2025, and pursuant to section 31 of the Planning and Development Act 2000 (the Act), I write to give notice of my intention to issue a direction to Wicklow County Council to take certain measures specified in this notice.

Opinion

On consideration of the recommendation made to me by the Office, I have formed the opinion that:

- (i) Wicklow County Council, in making the variation to the development plan, has failed to implement recommendations made to it, as planning authority, by the Office under section 31AM of the Act;
- (ii) The variation, as made, fails to set out an overall strategy for the proper planning and sustainable development of the area;
- (iii) The variation is not consistent with national and regional policy objectives set out in the National Planning Framework First Revision (NPF) and the Regional Spatial and Economic Strategy for the Eastern and Midland Region (RSES);
- (iv) The variation, as made, is not in compliance with the requirements of the Act.

A draft of the Direction accompanies this notice and I request that you publish notice of this draft Direction, no later than two weeks after receipt of this notice. The reasons for the Direction are set



out in the Statement of Reasons incorporated in the attached draft Direction and further detail is provided in the Summary of Issues as set out below.

Process to Date

Draft Variation No.2 was on public display from 9th October 2024 to 20th November 2024. The Office of the Planning Regulator made a submission to the draft variation on 20th November 2024 containing 6 recommendations which addressed a broad range of issues. The elected members, having considered the draft variation and the Chief Executive's report on submissions received, resolved to amend the draft variation.

The material alterations were on public display from 3rd March 2025 to 31st March 2025. The Office made a submission on 31st March 2025 containing 5 recommendations. The Office's recommendations at the Material Alterations stage included, inter alia, *MA Recommendation 2 – Flood Risk Management* and *MA Recommendation 3 – Environmental Protection*.

The elected members of Wicklow County Council resolved to make Variation No.2 at a council meeting on 12th May 2025. Subsequently, the planning authority issued a notice letter under section 31AM(6) of the Act to the Office advising of the making of the Development Plan and specifying the recommendations of the Office that were not complied with.

Having reviewed the Chief Executive's reports on the draft variation and material alterations to the draft variation, the notice of the making of the variation and the reasons for not complying with the recommendations, the Office has concluded that, with the exception of the items below, the recommendations of the Office have been responded to and have been addressed to the satisfaction of the Office, or are otherwise considered satisfactory within the legislative and policy context. The outstanding matters, therefore, relate to the following:

- MA 20B - Land zoned New Residential – Priority 2 (RN2) at Glenealy Road
(*MA Recommendation 3*).
- MA 38 - Land zoned New Residential – Priority 1 (RN1) at Charvey Court
(*MA Recommendation 2 and MA Recommendation 3*).
- MA 41 - Land zoned Employment (E) at The Murrough
(*MA Recommendation 2 and MA Recommendation 3*).



Summary of Issues

OPR MA Recommendation 2 (Material Alterations MA 38 and MA 41)

Having regard to NPO 57 of the National Planning Framework (2018) and RPO 7.12 of the Regional Spatial and Economic Strategy, MA Recommendation 2 of the Office's submission to Wicklow County Council recommended that the planning authority make Variation No.2 without material alteration MA 38 and MA 41.

The submission highlighted that these lands overlap with Flood Zone A and B and have not satisfied multiple criteria of the Justification Test specified in the Planning System and Flood Risk Management Guidelines for Planning Authorities (2009).

By proceeding to zone lands at known risk of flooding for vulnerable forms of development without having passed the Justification Test, the Office considers the variation is not consistent with RPO 7.12 of the RSES and NPO 78 of the NPF First Revision (2025), which had formally replaced NPO 57 before the variation was made.

OPR Recommendation 3 (Material Alterations MA 20B, MA 38 and MA 41)

Having regard to the necessity to protect the environment and biodiversity, including designated sites under the Birds and Habitats Directives, and cognisant of relevant objectives of the NPF and RSES, the Planning Authority was recommended to make Variation No. 2 without material alterations MA 20B, MA 38 and MA 41.

Specific concerns in relation to the retention of existing habitats and conservation of The Murrough Special Protection Area and The Murrough Wetlands Special Area of Conservation were raised during the plan-making process. Having regard to the above, the Office is of the opinion that a complete, precise and definitive finding and conclusion cannot be reached that there would be no risk of adverse effects on the integrity of protected sites.

Please see the reasons contained within the enclosed draft Direction for more detailed information.

Decision

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

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



- is not consistent with objectives of the National Planning Framework First Revision (2025) in particular NPO 52 (Coastal Resource), NPO 78 (Flood Risk Management), NPO 85 (Biodiversity) and NPO 87 (Protected Areas and Species).
- is not consistent with objectives of the Regional Spatial and Economic Strategy for the Eastern and Midland Region specifically RPO 7.12 (Flood Risk Management) and RPO 7.16 (Birds and Habitats).

The variation has not been made in a manner consistent with, and has failed to implement, recommendations of the Office of the Planning Regulator made under section 31AM of the Act.

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

Measures to be taken – Draft Direction

Accordingly, having considered the recommendation of the Office, I am issuing a draft Direction pursuant to section 31 of the Planning and Development Act 2000 (as amended), to direct Wicklow County Council with regard to *Variation No.2 to the Wicklow County Development Plan 2022-2028*.

In accordance with section 31AN(1) of the Act, having considered and taken account of the proposed draft direction submitted by the Office, the draft Direction as issued incorporates minor descriptive amendments which are not material in nature and do not alter the substance of the Office's recommended draft direction.

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

- (a) Delete the following Material Alterations from the adopted Variation such that the subject lands revert to as indicated in the draft Variation:
 - (i) **MA 20B** - i.e. the subject lands revert to Open Space (OS1), from New Residential – Priority 2 (RN2).
 - (ii) **MA 38** - i.e. the subject lands revert to Open Space (OS1), from New Residential – Priority 1 (RN1).
 - (iii) **MA 41** - i.e. the subject lands revert to Natural Areas (OS2), from Employment (E).
- (b) and apply all necessary consequential updates to the text of the plan consistent with the foregoing.



Please note that in accordance with Section 31(4)(c) and Section 31(6) of the Act, those parts of Variation No.2 referred to in this notice shall be taken not to have come into effect, been made or amended.

Next Steps – Procedural requirements

I wish to draw your attention to the public consultation obligations under section 31 of the Planning and Development Act 2000 (as amended), and the initial requirement as Chief Executive, under section 31(7) to publish notice of the draft Direction no later than 2 weeks after receipt of this notice, stating that the draft Direction may be inspected as specified in the notice, for a period of not more than 2 weeks.

The notice must also state that written submissions or observations in respect of the draft Direction may be made to the planning authority during the consultation period.

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

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

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

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

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

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



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

Yours sincerely,

A handwritten signature in blue ink, appearing to be 'James Browne', is written over a horizontal line. The signature is stylized and extends upwards and to the right.

James Browne TD
Minister for Housing, Local Government and Heritage

Copied to:

- Cathaoirleach, Wicklow County Council, County Buildings, Whitegates, Wicklow Town, Co. Wicklow, A67 FW96.
- Director, Eastern and Midland Regional Assembly, 3rd Floor North, Ballymun Civic Centre, Main Street, Ballymun, Dublin 9, D09 C8P5.
- Office of the Planning Regulator, Park House, Grangegorman, 191-193A North Circular Road, Dublin 7, D07 EWW4.

DRAFT DIRECTION IN THE MATTER OF SECTION 31
OF THE PLANNING AND DEVELOPMENT ACT 2000 (as amended)
Variation No. 2 to the Wicklow County Development Plan 2022-2028

“Variation” means Variation No. 2 to the Wicklow County Development Plan 2022-2028 (as made).

“Development Plan” means the Wicklow County Development Plan 2022-2028.

“Planning Authority” means Wicklow County Council.

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

“NPF” means the National Planning Framework First Revision (2025).

The Minister for Housing, Local Government and Heritage in exercise of the powers conferred on him by section 31 of the Planning and Development Act 2000 (No.30 of 2000) ("the Act") and consequent to a recommendation made to him by the Office of the Planning Regulator, hereby directs as follows:

- (1) This Direction may be cited as the Planning and Development (Variation No. 2 to the Wicklow County Development Plan 2022-2028) Direction 2025.
- (2) The Planning Authority is hereby directed to take the following steps with regard to the Variation:
 - (a) Delete the following Material Alterations from the adopted Variation such that the subject lands revert to as indicated in the draft Variation:
 - (i) **MA 20B** - i.e. the subject lands revert to Open Space (OS1), from New Residential – Priority 2 (RN2).
 - (ii) **MA 38** - i.e. the subject lands revert to Open Space (OS1), from New Residential – Priority 1 (RN1).
 - (iii) **MA 41** - i.e. the subject lands revert to Natural Areas (OS2), from Employment (E).
 - (b) and apply all necessary consequential updates to the text of the plan consistent with the foregoing.

STATEMENT OF REASONS

- I. The Variation includes material alterations to the draft Variation to change the zoning of the land from Open Space (OS1) to New Residential – Priority 1 (RN1) (MA 38), and from Natural Areas (OS2) to Employment (E) (MA 41) located in Flood Zone A and B where the Planning System and Flood Risk Management Guidelines for Planning Authorities (2009) (“Flood Guidelines”), issued under section 28 of the Act, indicate that such uses are not appropriate unless a Justification Test is passed. The material alterations are therefore inconsistent with NPO 78 of the NPF and RPO 7.12 of the RSES which seek to avoid inappropriate development in areas at risk of flooding, in accordance with the Flood Guidelines.
- II. The Variation includes material alterations to the draft Variation to zone land for development in areas of environmental and biodiversity sensitivity (MA 20B, MA 38 and MA 41), including land within the riparian buffer of a watercourse (MA 38 and MA 41), and adjacent to The Murrough SPA and The Murrough Wetlands SAC and the coastal resource at Broad Lough (MA 41).

Furthermore, a complete, precise and definitive finding and conclusion has not been reached that there would be no risk of adverse effects on the integrity of The Murrough SPA and The Murrough Wetlands SAC, and reasonable scientific doubt remains as to the potential adverse effects of development facilitated under the Employment (E) zoning objective on the European sites in question (MA 41).

The material alterations are therefore inconsistent with NPO 52, NPO 85, and NPO 87 of the NPF and RPO 7.16 of the RSES.

- III. The Variation has not been made in a manner consistent with, and has failed to implement, recommendations of the Office of the Planning Regulator made under section 31AM of the Act.
- IV. The Minister is of the opinion that the Variation is not consistent with the above-mentioned objectives of the NPF and the RSES, and fails to set out an overall strategy for the proper planning and sustainable development of the area.
- V. The Variation is not in compliance with the requirements of the Act.

GIVEN under my Official Seal,

Minister for Housing, Local Government and Heritage

Day of Month, Year.