

1st July 2025

Senior Planner,
Planning Policy Unit,
Planning Department,
Kerry County Council,
County Buildings,
Rathass,
Tralee,
Co. Kerry,
V92 H7VT.

**Re: Material Alteration to Proposed Variation No. 1 to the Kerry County Development
Plan 2022-2028**

A chara,

Thank you for your authority's work in preparing the Material Alterations (material alterations) to proposed Variation No. 1 (the proposed Variation) to the Kerry County Development Plan 2022-2028 (the County Development Plan).

As Kerry County Council (the Planning Authority) is aware, a key function of the Office of the Planning Regulator (the Office) is the assessment of statutory plans to ensure consistency with legislative and policy requirements relating to planning. The Office has evaluated and assessed the material alterations to the proposed Variation under the provisions of sections 31AM(1) and 31AM (2) of the Planning and Development Act 2000, as amended (the Act), and this submission has been prepared accordingly.

Recommendations issued by the Office relate to clear breaches of the relevant legislative provisions, of the national or regional policy framework and/or of the policy of Government, as set out in the Ministerial guidelines under section 28. As such, planning authorities are requested to implement or address recommendation(s) made by the Office in order to ensure consistency with the relevant policy and legislative provisions.

Observations take the form of a request for further information, justification on a particular matter, or clarification regarding particular provisions of a plan on issues that are required to ensure alignment with policy and legislative provisions. Planning authorities are advised by the Office to action an observation.

A submission can also include advice on matters that the Office considers would contribute positively to the proper planning and sustainable development of the area. Planning authorities are requested by the Office to give full consideration to the advice contained in a submission.

On adoption of the Variation, the Office will consider whether it has been made in a manner consistent with the recommendations of the Office and whether the plan sets out an overall strategy for the proper planning and sustainable development of the area concerned.

Overview

The Office acknowledges and welcomes the overall approach of your authority in the preparation of the proposed material alterations and in addressing the Revised National Planning Framework 2025 (the Revised NPF) and the Regional Spatial and Economic Strategy for the Southern Regional Assembly area, in accordance with section 13 of the Act.

The Office welcomes, in particular, the updated Settlement Capacity Audit (MA 49) and the Employment Capacity Audit (MA 14). The Office also welcomes the proposed amendments to address Recommendation 3 and 4 of its submission to the proposed Variation in relation to specific objectives for land use zonings.

The Office also welcomes MA 10 (Strategic Reserve to Agriculture) relating to Recommendation 1 of its submission to the proposed Variation. In relation to the remaining residential zonings, the Office accepts the reasons provided in the Chief Executive's Report (CE's Report) and the Section 51 Committee Report that the residential sites are well-located in terms of proximity to the town centre, at locations where they support compact growth and where they adopt the sequential approach.

With respect to the material alterations to zone additional residential lands, the Office is satisfied that the lands are well located and accord with the principles of compact growth and sequential development.

Recommendation 3 of the submission to the proposed Variation noted that limited justification was provided to support the increase in C7 (Education/Innovation/Research & Development) zoning to the north-east of Tralee, adjacent to the lands on which the Munster Technological University (MTU) is located. The Office further notes in the CE's Report that only 50% of the zoned C7 lands to the north-east of Tralee has been developed to date. At adoption stage, the Office would welcome commentary from the Planning Authority in its section 31AM(6) notice letter about the C7 lands furthest to the north-east of Tralee, in relation to servicing and the provision of active travel measures in particular. The Office envisages these lands playing a longer term role in the delivery of C7 land uses for Tralee, particularly when considering MA 12, which proposes the zoning of lands immediately adjacent and to the south west of the MTU lands from O1 Strategic Reserve to C7 and R1 New/Proposed Residential, where C7 zoning is proposed to the north of MA 12. These lands are well-located, being closer to the town centre than the other C7 lands referenced above, and therefore align with the principles of compact growth and sequential development. The lands are also serviced and would benefit directly from active travel measures. The Office therefore supports MA 12 and considers that both the C7 and R1 zonings will complement each other.

In response to Recommendation 5 of the Office's submission to the proposed Variation, MA 15 and MA 50 are noted and commended, where active travel connections are identified between Residential, Employment lands and Retail sites. The Office notes the inclusion of MA 28 and MA 54 in relation to the upgrades to the existing slip road between Ballinorig roundabout and the Tralee Bypass. Updated flood mapping has been noted in response to Recommendation 6 of the Office's submission to the proposed Variation (MA 16, MA 57, and MA 58 all refer) and the encouragement of Sustainable urban Drainage Systems (SuDS) measures into developments that will positively enhance the plan (MA 17).

The submission below has been prepared to provide a strategic level input to your authority in finalising the proposed Variation. It is within the above context that the submission sets out one [1] recommendation under the following key theme:

Key theme	Recommendation	Observation
Protection of European Sites	Recommendation 1	-

1. Environmental assessments

MA 47 proposes to extend the settlement boundary at The Spa and to zone lands as R2 (Existing Residential), R4 (Strategic Residential Reserve) and S1 (Education). The Spa is not connected to a public wastewater treatment system and there are no plans to provide for such a system over the life of the plan. The Office acknowledges, however, Objective KCDP 5-9 of the County Development Plan which provides for the development of small-scale residential cluster developments, served by individual onsite wastewater treatment systems in settlements including The Spa, where a capital wastewater scheme is not currently planned.

A small portion of lands along the southern boundary of MA 47 are located within Flood Zones A and B. A stage II Appropriate Assessment (AA) was undertaken with respect to MA 47. The Natura Impact Report (NIR) Addendum Report proposed a number of mitigation measures to protect the qualifying interests of the Tralee Bay Complex SPA and West to Cloghane SAC, including in particular a 25m buffer strip which would ensure that the development boundary would not be located within either Flood Zone A or B.

These mitigation measures should therefore be integrated into the Variation prior to adoption.

Recommendation 1 – Protection of European Sites

Having regard to the qualifying interests of both the Tralee Bay Complex SPA and the Tralee Bay and Magharees Peninsula, West to Cloghane SAC, and in particular to the following:

- the Habitats Directive and the Natura Impact Report Addendum Report prepared in respect of the proposed Variation;
- NPO 85 of the Revised NPF (conservation of biodiversity); and
- RPO 117 of the RSES (biodiversity and the Habitats Directive),

the Office recommends that the Planning Authority modify MA 47 to:

- (i) amend the proposed development boundary extension for The Spa so that it is located outside of the Tralee Bay and Magharees Peninsula, West to Cloghane SAC and the Tralee Bay Complex SPA; and

- (ii) include the text as set out in section 5.3.2 of the 'Habitats Directive Assessment; Natura Impact Report - Addendum Report' as it relates to mitigation measures in the proposed Variation.

Summary

The Office requests that your authority addresses the recommendation outlined above. As you are aware, the report of the CE of your authority prepared for the elected members under section 13 of the Act must summarise the recommendation and the manner in which it will be addressed.

At the end of the process, your authority is required to notify this Office within **five working days** of the decision of the Planning Authority in relation to the proposed Variation. Where your authority decides not to comply with the recommendation of the Office, or otherwise makes the proposed Variation in such a manner as to be inconsistent with the recommendation made by this Office, then the Chief Executive shall inform the Office and give reasons for this decision.

Please feel free to contact the staff of the Office in the context of your authority's response to the above, which we would be happy to facilitate. Contact can be initiated through plans@opr.ie.

Is mise le meas,



Anne Marie O'Connor

Deputy Regulator and Director of Plans Evaluation

Designated Public Official under the Regulation of Lobbying Act 2015