

30th January 2026

The Planning Department,
Kilkenny County Council,
John Street,
Kilkenny.

**Re: Material Alterations to the proposed Variation No. 5 to the Kilkenny City and
County Development Plan 2021-2027**

A chara,

Thank you for your authority's work in preparing the Material Alterations (material alterations) to Variation No. 5 (proposed Variation) to the Kilkenny City and County Development Plan 2021-2027 (City and County Development Plan). The material alterations relate to the Castlecomer Settlement Plan.

As Kilkenny County Council (Planning Authority) is aware, a key function of the Office of the Planning Regulator (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 proposed Variation under the provisions of sections 31AM(1) and 31AM(2) of the Planning and Development Act 2000, as amended (Act) and this submission has been prepared accordingly¹.

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.

¹ Chapter 5 of Part 3 of the Planning and Development Act 2024, which relates to the preparation of development plans and variations by planning authorities and the assessment by the Office, was commenced on 31st December 2025. However, section 69(2) provides that the variation of a development plan under section 13 of the Act of 2000 shall continue under that Act after the repeal of section 13 of the Act of 2000.

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 also can 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 the plan 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 development of the area concerned.

Overview

The Office notes and welcomes the overall approach of your authority in the preparation of the proposed material alterations to the proposed Variation.

In relation to residential land supply and the provision of sufficient zoned lands, the Office welcomes the proposed material alteration rezoning changes to the Parish lands (3.1 ha) put forward in figure MA1 Material Alterations to Zoning Map resolution (D) and the associated changes to the Settlement Capacity Audit table relating to the map ref LD1 Parish lands. These material alterations respond to Recommendation 1 part (i) of the Office's submission on the proposed Variation and supports national and regional objectives for compact and sustainable growth.

The Office has however identified a series of inadequacies with regard to the Planning Authority's approach to strategic flood risk assessment. In particular, the Office is not satisfied that the inclusion of generalised text as a material alteration for the eight areas identified within Flood Zone A or B satisfies Recommendation 3 of the Office's submission to the proposed Variation. Specifically, the Strategic Flood Risk Assessment (SFRA) does not provide sufficient assessment in the context of specific areas/zonings of the risks pertaining to these specific areas and the requirements, mitigations or limitations required to ensure that these areas can be safely developed, as required to satisfy Part 3 of the Plan Making Justification Test (Justification Test) as set out in Box 4.1 of the Planning System and Flood Risk Management Guidelines for Planning Authorities (2009) (Flood Guidelines).

The Planning Authority will be aware that Recommendation 3 of the Office's submission to the proposed Variation clearly stated that any zoning objective for highly vulnerable development (Flood Zone A or B) or less vulnerable development (Flood Zone A) that does not pass the Justification Test in accordance with the Flood Guidelines should be omitted from the adopted Variation. The Office notes that the Variation identifies eight specific areas to which this applies, namely Area 2: Castlecomer Enterprise Centre, Area 3: Garda Station, Area 4: Residential (Andorra), Area 5: General Business southeast of Square, Area 7: General Business north of Square, south of Castlecomer Stream, Area 9: Mixed Use, north of Castlecomer Stream, west of River Dinin, and Area 10 and 11: General Business, north and south of Castlecomer Stream.

If this matter is not addressed prior to the adoption of the Variation, and your authority decides not to comply with the recommendations of the Office, then the chief executive must issue a notice further to section 31AM(6) of the Act informing the Office and giving reasons for this decision.

Also in relation to flood risk management, the Office notes that the material alteration to Objective V3CC8 relating to water services infrastructure under the community facilities zoning at Wandesforde School, also raises matters in respect of the SFRA which could have been dealt with by undertaking a Justification Test for the lands in accordance with the provisions made in the Flood Guidelines for such circumstances. This matter is addressed in detail below.

Recommendation 3 of the Office's submission to the proposed Variation also recommends that the Planning Authority provides greater clarity in relation to flood mapping. Although updated mapping which indicates flood extents overlaid on land use zoning has now been included as a material alteration, the quality is not of an adequate standard resulting in lack of clarity, and it also does not include the zoning objectives proposed by the material alterations.

Given the scope of issues raised in relation to the SFRA and implementation of the Flood Guidelines, the Planning Authority is strongly advised to actively engage with the Office of Public Works on the resolution of these matters prior to the adoption of the Variation.

In relation to Recommendation 2 (Transport) of the Office's submission to the proposed Variation, the Office is satisfied that the specific objectives in respect of access to industrial

zoned lands onto national roads under material alterations to Objective KR2 and KR3 satisfactorily address parts (ii) of the recommendation in relation to any proposed development within undeveloped industrial zoned lands to the north of the Castlecomer Business Park.

No material alteration is however included which addresses the matters raised in relation to Recommendation 2 part (i) the Discovery Park and (iii) the Castlecomer Business Park. The Office considers however that this matter could be resolved by ensuring that the material alteration requiring that Volume 1, Chapter 12 of the City and County Development Plan in relation to access to national roads, also apply to the Discovery Park lands and the Castlecomer Business Park.

At a general level, the absence of specific reference numbers for material alterations risks undermining clarity and transparency in the process. While this may understandably reflect resourcing constraints and the compressed timelines at this stage of the process, it is advised that the Planning Authority addresses this issue in future plan-making exercises to enhance accessibility, confidence, and effective engagement.

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
<u>Flood risk management</u>	<u>MA Recommendation 1</u>	-

1. Flood risk management

As set out in the of the Office's submission to the proposed Variation, the Office welcomes the preparation of the SFRA to inform the policies and objectives of the proposed Variation. It is acknowledged that the proposed material alterations make changes to the Flood Risk Assessment including the removal of reference to datasets which are superseded and the updating of links to websites.

The Office notes however that proposed material alteration to section 1.10.2 Flood Risk Management introduces new wording to Objective V3CC8 relating to the community facilities zoning at Wandesforde School. Objective V3CC8 provides that '...no additional 'Highly vulnerable developments' are to be permitted within Flood Zone A or B'. However,

the proposed material alterations now introduce an exception for water services infrastructure.

While the Office fully acknowledges the importance of establishing a clear and robust policy framework to facilitate the delivery of essential public water and wastewater infrastructure, it is imperative that any such provision is fully consistent with national and regional policy. In particular, development facilitated through the development plan must demonstrably ensure that risks to people, property, and the environment arising from flooding are managed in accordance with the Flood Guidelines.

Although the Flood Guidelines allow for limited flexibility in respect of extensions to existing development, any zoning or objective that facilitates new highly vulnerable development within areas identified as at risk of flooding must be supported by the application of the Justification Test, with all criteria set out in Box 4.1 of the Flood Guidelines clearly satisfied².

The Flood Guidelines therefore explicitly provide mechanisms to accommodate circumstances of this nature, including the capacity for planning authorities to specify appropriate design and mitigation measures at the plan-making stage in order to successfully pass the Justification Test. This approach represents the appropriate and policy-compliant means of providing for essential infrastructure within areas at risk of flooding, while ensuring adherence to best practice in flood risk management.

Accordingly, the Office considers that the proposed material alteration to Objective V3CC8 does not comply with the requirements of the Flood Guidelines and should therefore be omitted, unless a Justification Test has been carried out as part of the SFRA and it has been demonstrated that all of the relevant criteria have been satisfactorily meet.

² In the interest of clarity the Office notes, that objective V3CC8 does identify that applications for extensions to existing uses or structures will be considered and no concerns are raised in respect of this provision.

MA Recommendation 1 - Flood Risk Management

Having regard to flood risk management, and in particular to:

- NPO 78 of the NPF to promote sustainable development by ensuring flooding and flood risk management informs place making;
- RPO 116 of the RSES to incorporate flood risk management into the planning system; and
- the Planning System and Flood Risk Management Guidelines for Planning Authorities (2009),

the Office recommends that the Planning Authority:

- (i) makes the Variation without the proposed material alteration to section 1.10.2 Flood Risk Management, Objective V3CC8; and
- (ii) improves the quality of the updated maps provided as material alterations and referenced as Figure 2.2 and Figure 2.3 of the Strategic Flood Risk Assessment to provide clear and legible mapping, and to reflect any lands zoned as part of the material alterations.

The Planning Authority should consult with the Office of Public Works in addressing this recommendation.

Summary

The Office requests that your authority addresses the recommendation outlined above. As you are aware, the report of the chief executive of your authority prepared for the elected members under section 13 of the Act must summarise these recommendations and the manner in which they 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 recommendations of the Office, or otherwise makes the plan in such a manner as to be inconsistent with the recommendations 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 responses to the above, which we would be happy to facilitate. Contact can be initiated through plans@opr.ie.

Is mise le meas,

A handwritten signature in black ink that reads "AM O'Connor". The "A" and "O" are capitalized, and the "C" has a small flourish.

Anne Marie O'Connor

Deputy Regulator and Director of Plans Evaluation

Designated Public Official under the Regulation of Lobbying Act 2015
