



Oifig an  
Rialaitheora Pleanála  
Office of the  
Planning Regulator

13<sup>th</sup> March 2026

John Cummins,  
Minister of State,  
Department of Housing, Local Government and Heritage,  
Custom House,  
Dublin 1,  
D01 W6X0.

**BY HAND AND BY EMAIL**

**Re: Notice Pursuant to section 31AM(8) of the Planning and Development Act  
2000 (as amended) – Variation No. 5 to the Kilkenny City and County  
Development Plan 2021-2027**

A chara,

1. I am writing to you in relation to the recent adoption of Variation No. 5 (the Variation) to the Kilkenny City and County Development Plan 2021-2027 (the County Development Plan) by the elected members of Kilkenny County Council (the Planning Authority).
2. In particular, I am writing to you in the context of the statutory duty of the Office of the Planning Regulator (the Office) pursuant to section 31AM(8) of the Planning and Development Act 2000<sup>1</sup>, as amended (the Act) to issue a Notice to you on the basis that, having considered the Variation, the Office is of the opinion that:

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<sup>1</sup> 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 31<sup>st</sup> 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.

- a) the Variation has not been made in a manner consistent with a recommendation of the Office, as set out in the letter to the Planning Authority issued on 27<sup>th</sup> June 2025, which required specific changes to the Variation to ensure consistency with NPO 78 of the National Planning Framework First Revision (2025) (the Revised NPF) to promote sustainable development by ensuring flooding and flood risk management informs place making and the Planning System and Flood Risk Management Guidelines for Planning Authorities (2009) (Flood Guidelines). Specifically, the Variation as adopted enables development vulnerable to flood risk, including dwelling houses, to be located in areas at high and / or moderate risk of flooding without passing the Plan Making Justification Test contrary to the Flood Guidelines.
  - b) the Variation has not been made in a manner consistent with the recommendations of the Office;
  - c) the decision of the Planning Authority results in a variation to the development plan in a manner that fails to set out an overall strategy for the proper planning and sustainable development of the area concerned; and
  - d) as a consequence, the use by you of your function to issue a direction under section 31 of the Act would be merited.
3. The reasons for the opinion of the Office are set out in further detail in this letter. This letter is a Notice to you pursuant to section 31AM(8) of the Act.
  4. This notice letter is laid out under the following headings:
    1. [General Information](#)
    2. [Table of Recommendations](#)
    3. [Assessment and Evaluation of the Office](#)
      - 3.1 [Consideration of Outstanding Matters](#)
        - 3.1.1 [Area 2: Castlecomer Enterprise Centre](#)
        - 3.1.2 [Area 3: Garda Station](#)
        - 3.1.3 [Area 4: Residential \(Andorra\)](#)
        - 3.1.4 [Area 5: General Business Southeast of Square](#)
        - 3.1.5 [Area 7: General Business north of Square, south of Castlecomer Stream](#)

- 3.1.6 [Area 9: Mixed Use, north of Castlecomer Stream, west of River Dinin](#)
- 3.1.7 [Area 10: General Business, north and south of Castlecomer Stream](#)
- 3.1.8 [Area 11: General Business, north and south of Castlecomer Stream](#)
- 4. [Opinion of the Office and Reasons](#)
- 5. [Recommendation to the Minister](#)

## **1. General Information**

5. The public consultation on the draft Variation ran from 29<sup>th</sup> May 2025 to 27<sup>th</sup> June 2025. The Office made three recommendations in its submission on 27<sup>th</sup> June 2025.
6. The public consultation on the material alterations ran from 19<sup>th</sup> December 2025 to 30<sup>th</sup> January 2026. The Office made one recommendation in its submission on 30<sup>th</sup> January 2026.
7. The Variation was adopted by the Planning Authority on 16<sup>th</sup> February 2026.
8. The Planning Authority sent notice of adoption further to section 31AM(6), email dated 17<sup>th</sup> February 2026 (31AM(6) notice), to the Office advising of the resolution of the Planning Authority to make the Variation.
9. Where the Planning Authority does not comply with the recommendations of the Office at draft stage or material alterations stage, the Chief Executive is required to prepare a report providing reasons for the decision of the Planning Authority further to sections 13(5)(aa) and 31AM(6), respectively. The Planning Authority confirmed that no such notice was applicable with regard to the recommendations of the Office made at draft or material alterations stage.
10. In correspondence dated 9<sup>th</sup> January 2026, the Planning Authority stated that a notice providing reasons for not complying with recommendations of the Office in its submission to the proposed Variation (draft stage) was not applicable in this instance.
11. The 31AM(6) notice states that the Office's recommendations were complied with as detailed in the CE's Report on the material alterations stage dated February 2026 (CE's Report MA stage).

12. The Planning Authority provided the Chief Executive's Reports (CE's Reports) on the submissions made at draft stage and material alterations stage.
13. The Office has assessed the adopted Variation in light of the recommendations at draft stage and material alterations stage and has reviewed the CE's Reports and the 31AM(6) notice.
14. The Office has concluded that, with the exception of part of Recommendation 3 of the Office's submission (draft stage) in relation to flood risk management, the recommendations of the Office have been responded to and/or have been addressed to the satisfaction of the Office, including where the Office accepts the reasons given by the Planning Authority, or are otherwise considered satisfactory within the legislative and policy context such that a recommendation to the Minister is not merited in respect of those matters.

## 2. Table of Recommendations

OPR Recommendation	Subject	Planning Authority Response and OPR's Conclusion	S.31 Recommendation
<b>Draft Stage</b>			
Recommendation 1	Residential Land Supply	Satisfactorily addressed	No
Recommendation 2	Transport	Satisfactorily addressed	No
Recommendation 3	Flood Risk Management	(i) and (ii) - Satisfactorily addressed	No
		(iii) - Not implemented	Yes
<b>Material Alterations Stage</b>			
MA Recommendation 1	Flood Risk Management	Satisfactorily addressed	No

### 3. Assessment and Evaluation of the Office

15. The outstanding matters are, therefore, confined to Recommendation 3 of the Office's submission (draft stage) in relation to flood risk management.
16. The Strategic Flood Risk Assessment (SFRA) prepared in conjunction with the proposed Variation identified 11 areas (Area 1 – 11) as areas with a potential conflict between development and flood risk. The following objectives, described as 'Provisos', were included in the proposed Variation to restrict certain classes of development based on flood risk vulnerability:
  - Objective V3CC7 (Area 1)
  - Objective V3CC8 (Area 6)
  - Objective V3CC9 (Area 8)
  - Objective V3CC10 (Area 3 and Area 4)
17. In relation to V3CC7 (Area 1), V3CC8 (Area 6), and V3CC9 (Area 8), the Office was satisfied that the objectives satisfactorily addressed flood risk in accordance with NPO 78 of the Revised NPF.
18. In relation to Objective V3CC10 (Area 3 and 4), while this objective does state that highly vulnerable development is not to be permitted within Flood Zone A or B, it does not restrict less vulnerable uses in Flood Zone A which are similarly subject to the provisions of the Flood Guidelines. Consequently, these areas remained of concern to the Office (and were also referenced in the submission of the Office of Public Works (OPW) dated 18<sup>th</sup> June 2025).
19. The Plan Making Justification Test included in the SFRA included the following generic statement:

*In the main, this land is built out or brownfield, and the opportunities for future development are limited. In this context, this Flood Risk Assessment contains sufficient information appropriate to the scale -and nature of the development potential. Mitigation measures are included in the Development Plan (See Vol. 1 Chapter 10, section 10.2.6), to state that any development proposals within the area identified will be subject to a site specific Flood*

*Risk Assessment appropriate to the type and scale of the development being proposed. This mitigation measure will ensure that any development taking place will not exacerbate any flooding issue.*

20. However, no individual zoning-level assessment was carried out for the eight sites/areas and the Plan Making Justification Test has not been carried out in accordance with the Flood Guidelines.
21. The submission of the Office on the proposed Variation (draft stage) included a recommendation that the SFRA be reviewed to ensure consistency with national and regional policy on flood risk management.

### **Recommendation 3 – Flood Risk Management**

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

- NPO 78 of the Revised NPF to promote sustainable development by ensuring flooding and flood risk management informs place making;
- RPO 114, RPO 115 and 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) (Flood Guidelines),

the Office recommends that the Planning Authority revise the Strategic Flood Risk Assessment (SFRA) and proposed Variation to:

- (i) utilise the correct data sets for determining the flood extents;
- (ii) overlay the Flood Zone A and B on the land use zoning map; and
- (iii) review and amend the SFRA to ensure that the Plan Making Justification Test (Justification Test) is fully consistent with the Flood Guidelines with respect to whether the Justification Test criteria has been satisfied, and whether specified mitigation measures can effectively reduce the risks to an acceptable level while not exacerbating flood risk elsewhere. 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 Planning Authority should consult the OPW in addressing this recommendation.

22. The response and recommendation of the CE's Report on the draft stage dated July 2025 (CE's Report draft stage) states:

***OPR Recommendation 3***

*This submission should be addressed in conjunction with submission KK-C322-11 from the OPW.*

- (i) the data sets will be updated in line with the detail outlined in Submission KK-C322-11*
- (ii) The maps as included in the SFRA will be clarified to highlight the flood zones*
- (iii) The approach taken to the Plan Making Justification Test will be consistent with the Guidelines, see Submission KK-C322-11.*

23. The submission of the OPW (draft stage) raised similar concerns regarding the Plan Making Justification Test, listing the following eight specific areas of concern:

- 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
- Area 10 and Area 11: General Business, north and south of Castlecomer Stream

24. In respect of this matter, the CE's Report (draft stage) recommendation in response to submission KK-C322-11 from the OPW states:

*The SFRA will be amended to demonstrate the application of the Justification Test for each area of concern.*

25. The SFRA consequently amended the Plan Making Justification Tests to include the same generic requirement for a site-specific Flood Risk Assessment at planning application stage that was previously globally specified for all of the areas in the original SFRA. It did not, however, provide a zoning-level assessment to demonstrate that flood risk to development facilitated under the relevant zoning can be appropriately managed, nor that the use or development of the lands will not cause unacceptable adverse impacts elsewhere.

26. This matter was revisited in the Office's submission to the material alterations on the proposed Variation (MA stage), which stated that the Office was not satisfied with the response to the flood risk issues raised in Recommendation 3, stating:

*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.*

27. The CE's Report (MA stage) includes the following response and recommendation to this issue:

*2. The Plan includes a number of limitations on development arising from the SFRA, and the Justification Tests as carried out. Specifically, provisos were added to zones at various locations, referenced as objectives V3CC7, V3CC8, V3CC9 and V3CC10, restricting the uses permissible, on the basis of the flood risk identified.*

### **3.1 Consideration of Outstanding Matters**

28. The flood risk management issues in respect of the following eight areas are assessed in detail below:

- 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

- Area 10: General Business, north and south of Castlecomer Stream
- Area 11: General Business, north and south of Castlecomer Stream

### 3.1.1 Area 2: Castlecomer Enterprise Centre

#### [1] Area 2: Castlecomer Enterprise Centre

These lands are zoned for General Business, within which highly vulnerable uses (such as dwelling houses) and less vulnerable uses (such as retail) are permitted in principle. The lands are identified as being at high risk of flooding (Flood Zone A) and moderate risk of flooding (Flood Zone B), where the Flood Guidelines indicate that the uses permitted under this zoning objective are not appropriate unless a Justification Test is passed.

[2a] **Approximate Site Area**

Not available

[2b] **CSO Boundary**

Inside CSO 2022 boundary.

[3a] **Zoning map extract of the land at draft stage**



Zoned General Business

[3b] **Zoning map extract of the land at material alterations stage**



No zoning change at material alterations stage

[4a] Zoning map extract of the land from the Castlecomer Local Area Plan 2018-2024



The lands were zoned Industrial in the previous Castlecomer Local Area Plan 2018-2024

[4b] Flood Risk map extract from Material Alterations to Proposed Variation 5: Castlecomer Settlement Plan, Figure 2.3 Areas of Flood Risk (Version updated March 2026)



[4c] Link to Aerial Imagery

[Aerial photography of the site and its surrounds](#)

[5] Specific Site Constraints or Designations

Flood Zone A and B

[6] Servicing Tier & Infrastructure Status

Tier 2 'serviceable'. Water capacity constraints in Castlecomer.

## **[7] Chief Executive's Recommendation**

[The CE's Report \(draft stage\) on the proposed Variation](#), in response to Recommendation 3 states that the Office's submission (draft stage) should be addressed in conjunction with submission KK-C322-11 from the OPW and recommends:

- (i) the data sets will be updated in line with the details outlined in Submission KK-C322-11;
- (ii) the maps as included in the SFRA will be clarified to highlight the flood zones;
- (iii) the approach taken to the Plan Making Justification Test will be consistent with the Flood Guidelines, see Submission KK-C322-11.

The CE's Report (draft stage), in response to submission KK-C322-11 from the OPW on the areas of concern in relation to the Plan Making Justification Test, recommends that the SFRA will be amended to demonstrate the application of the Justification Test for each area of concern. Furthermore, the CE's Report (draft stage) states that the approach to the SFRA was similar to that undertaken for the County Development Plan SFRA, the review process for which is due to commence later this year, and this process will include a detailed assessment for all settlements, including Castlecomer, as part of the Justification Tests for all zoning of lands at risk from flooding.

The CE's Report (MA stage) in response to the Office's submission (MA stage), specifically the concerns highlighting non-compliance with Recommendation 3 of the Office's submission (draft stage), states that the proposed Variation includes a number of limitations on development arising from the SFRA, and the Justification Tests as carried out.

Specifically, provisos were added to zones at various locations, referenced as objectives V3CC7, V3CC8, V3CC9 and V3CC10, restricting the uses permissible, on the basis of flood risk identified.

## **[8] Prescribed Bodies**

### **Office of Public Works**

The [OPW submission dated 18<sup>th</sup> June 2025](#) to the proposed Variation states:

*It is noted that the Plan Making Justification Test has been deemed to have been satisfied for the following areas:*

- Area 2: Castlecomer Enterprise Centre; Area 3: Garda Station; Area 5: General Business southeast of Square; Area 7: General Business north of Square; south of Castlecomer Stream; Area 10 and 11: General Business, north and south of Castlecomer Stream. All of these areas have been zoned General Business, which according to the Kilkenny City and County Development Plan 2021-2027 allows highly vulnerable uses such as “dwellings, educational buildings, halting sites, hotels, motels, guest houses” along with various less vulnerable uses.*
- Area 4: Residential (Andorra) which allows highly vulnerable residential development; Area 9: Mixed Use, north of Castlecomer Stream, west of Dinin River, zoned Mixed Use which allows highly vulnerable development such as “dwellings, halting sites, nursing homes, Bed and Breakfast establishments, and guest houses” along with various less vulnerable uses.*

*For all above mentioned areas for which otherwise inappropriate development has been justified, part 3 of the provided Justification Test consists of a single paragraph to cover all areas subjected to the Justification Test. This sets out that as the locations are in the main built out or brownfield, opportunities for future development will be limited, and notes a requirement from the development plan that any development proposal within the areas identified will be subject to a site specific flood risk assessment.*

*Part 3 of the Plan Making Justification Test as set out in the Guidelines is that “A flood risk assessment to an appropriate level of detail has been carried out as part of the Strategic Environmental Assessment as part of the development plan preparation process, which demonstrates that flood risk to the development can be adequately managed, and the use or development of the lands will not cause unacceptable adverse impacts elsewhere”. This is a requirement that in order to satisfy the Justification Test, it must be demonstrated that in the context of the specific zoning which is being subjected to the test, that zoning lands at risk of flooding for usage of a vulnerability type inappropriate to the level of flood risk identified can be justified on the basis that it can be demonstrated that risk to the specific zoned lands can be*

*mitigated to an acceptable level. Structural or non-structural means by which this risk might be mitigated should be identified. Given that the level and nature of risk will vary from site to site depending on the vulnerability of the proposed zoning and the risk identified through the strategic flood risk assessment, it is to be expected that suitable mitigation measures, and thus part 3 of different Plan Making Justification Tests, included in the plan, will also vary. Any requirements, mitigations or limitations required to ensure the lands can be safely developed should be included and transposed into the draft plan as policy objectives, and this should not be passed on to development management.*

#### **[9] Elected Members' Reasons**

The elected members accepted the recommendation of the Chief Executive to make the Variation.

#### **[10] Environmental Assessments**

The Strategic Environmental Assessment (SEA) Screening Report states that the proposed Variation has been examined against Schedule 2A 'Criteria for determining whether a plan is likely to have significant effects on the environment' of the SEA Regulations, as amended, and it has been determined that the proposed Variation would not be likely to result in significant environmental effects.

The Appropriate Assessment (AA) Screening Report concludes that the proposed Variation is not foreseen to have any likelihood of significant effects on any European sites, alone or in combination with other plans or projects – and therefore any potential for a significant effect to any European site as a result of implementing the proposed Variation can be ruled out.

#### **[11] Evaluation and Assessment**

The SFRA identifies Area 2: Castlecomer Enterprise Centre as an area with a potential conflict between development and flood risk, and states that a Justification Test has been carried out for these lands. These lands are zoned 'General Business – To allow a flexible approach to development that supports the vitality and viability of the town centre', within

which highly vulnerable uses (such as dwelling houses) and less vulnerable uses (such as retail) are permitted in principle.

NPO 78 of the Revised NPF requires the avoidance of inappropriate development in areas that are at risk of flooding that do not pass the Justification Test, in accordance with the Flood Guidelines. Consequently, zoning land at risk of flooding without passing the Justification Test is inconsistent with NPO 78.

The Flood Guidelines provide a robust basis for planning authorities to identify, assess and manage flood risk sustainably, with the key principle being to avoid development in areas at risk of flooding and to adopt a sequential approach to flood risk management.

Notwithstanding this, the Flood Guidelines recognise that while many established urban centres will continue to be at risk of flooding, development may still be appropriate to support compact, sustainable urban growth. Accordingly, the Flood Guidelines include a Justification Test to assess the appropriateness of development in Flood Zone A (high risk) or Flood Zone B (moderate risk), and to identify how this can be achieved while flood risk to and from the development can be adequately managed.

The Justification Test in the Flood Guidelines includes two elements:

- the Plan Making Justification Test, applied at plan preparation/adoption where it is intended to zone or designate land at moderate or high flood risk; and
- the Development Management Justification Test, applied at planning application stage where development vulnerable to flooding is proposed on such lands.

The respective justification tests have a number of criteria that are required to be satisfied in order to pass the test. The first criterion of the Development Management Justification Test requires that the lands have been zoned in a development plan that has been adopted or varied taking account of the Flood Guidelines. As such, the Plan Making Justification Test cannot be circumvented by deferring matters to a site-specific Flood Risk Assessment at application stage, as has occurred in this instance.

Under the Flood Guidelines, highly vulnerable development (e.g. Garda, ambulance and fire stations and command centres required to be operational during flooding; hospitals; dwelling houses; residential care homes; essential infrastructure such as primary transport

and utilities distribution) is not appropriate in Flood Zones A or B unless it is clearly demonstrated, on a robust evidence base, that all criteria of the Plan Making Justification Test are satisfied. Less vulnerable development (e.g. retail) should likewise only be considered in Flood Zone B subject to a flood risk assessment to the appropriate level of detail to demonstrate that flood risk to and from the development can be adequately managed. The Flood Guidelines provide a classification schedule for land uses by vulnerability.

The Plan Making Justification Test for Area 2, including the additional details included in the material alterations to the proposed Variation (December 2025)<sup>2</sup> states:

*Area 2: Castlecomer Enterprise Centre This site comprises significant previously developed land, and adjoins the core and is essential in achieving compact and sustainable urban growth. There are no suitable alternative lands in areas at lower risk of flooding within or adjoining the core.*

*In this context, this Flood Risk Assessment contains sufficient information appropriate to the scale and nature of the development potential. Mitigation measures are included in the Development Plan (See Vol. 1 Chapter 10, section 10.2.6), to state that any development proposal within the area identified will be subject to a site specific Flood Risk Assessment appropriate to the type and scale of the development being proposed. This mitigation measure will ensure that any development taking place will not exacerbate any flooding issue.*

Having regard to the three criteria in Box 4.1 of the Flood Guidelines, the Office accepts that Criteria 1 and 2 are addressed and satisfied. However, in respect of Criteria 3, the Plan Making Justification Test relies on a generic requirement for a site-specific Flood Risk Assessment at planning application stage and does not provide a zoning-level assessment demonstrating that flood risk to development facilitated under the General Business zoning can be appropriately managed, nor that the use or development of the lands will not cause unacceptable adverse impacts elsewhere. Under the Flood Guidelines, these requirements cannot be deferred to any future assessment at the development management stage.

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<sup>2</sup> The material alterations to the proposed Variation includes Additional Documents: Flood Risk Assessment which amends the SFRA.

A compliant assessment is required to evaluate on a site-by-site basis, the site-specific characteristics influencing the nature and extent of flood risk and identify necessary mitigation measures, having regard to the vulnerability classification of the types of development facilitated by the zoning objective. Any requirements, mitigations or limitations required to ensure the lands can be safely developed should be included in the draft plan as policy objectives.

Having regard to the above, the Office is of the view that the subject lands have not passed all requirements of the Plan Making Justification Test.

This approach facilitates development without establishing how site-specific or cumulative flood risks can be effectively managed, potentially putting people and property at risk.

The Office considers therefore that the inclusion of the General Business zoning on lands at risk of flooding without passing all the requirements of the Plan Making Justification Test is inconsistent with NPO 78 of the Revised NPF to promote sustainable development by ensuring flooding and flood risk management informs place making by avoiding inappropriate development in areas at risk of flooding that do not pass the Justification Test, in accordance with the Flood Guidelines.

#### **[12] Consideration of Elected Members' Reasons**

No or no adequate reasons were provided by the elected members.

#### **[13] Conclusion**

The Office is of the opinion that the Variation has not been made in a manner consistent with the following recommendation of the Office:

- Recommendation 3(iii)

The Variation includes a zoning objective inconsistent with the following objective of the Revised NPF:

- NPO 78

### 3.1.2 Area 3: Garda Station

<p><b>[1] Area 3: Garda Station</b></p> <p>These lands are zoned for General Business, within which less vulnerable uses (such as retail) are permitted in principle. The lands are identified as being at high risk of flooding (Flood Zone A), where the Flood Guidelines indicate that the uses permitted under this zoning objective are not appropriate unless a Justification Test is passed.</p>	
<p><b>[2a] Approximate Site Area</b></p>	<p>Not available</p>
<p><b>[2b] CSO Boundary</b></p>	<p>Inside CSO 2022 boundary.</p>
<p><b>[3a] Zoning map extract of the land at draft stage</b></p>  <p>Zoned General Business</p>	<p><b>[3b] Zoning map extract of the land at material alterations stage</b></p>  <p>No zoning change at material alterations stage</p>

**[4a] Zoning map extract of the land from the Castlecomer Local Area Plan 2018-2024**



The lands were zoned as Community Facilities in the previous Castlecomer Local Area Plan 2018-2024

**[4b] Flood Risk map extract from Material Alterations to Proposed Variation 5: Castlecomer Settlement Plan, Figure 2.3 Areas of Flood Risk (Version updated March 2026)**



**[4c] Link to Aerial Imagery**

[Aerial photography of the site and its surrounds](#)

**[5] Specific Site Constraints or Designations**

Flood Zone A and B

## [6] Servicing Tier & Infrastructure Status

Tier 2 'serviceable'. Water capacity constraints in Castlecomer.

## [7] Chief Executive's Recommendation

[The CE's Report \(draft stage\) on the proposed Variation](#), in response to Recommendation 3 states that the Office's submission (draft stage) should be addressed in conjunction with submission KK-C322-11 from the OPW and recommends:

- (i) the data sets will be updated in line with the details outlined in Submission KK-C322-11;
- (ii) the maps as included in the SFRA will be clarified to highlight the flood zones;
- (iii) the approach taken to the Plan Making Justification Test will be consistent with the Guidelines, see Submission KK-C322-11.

The CE's Report (draft stage), in response to submission KK-C322-11 from the OPW on the areas of concern in relation to the Plan Making Justification Test, recommends that the SFRA will be amended to demonstrate the application of the Justification Test for each area of concern. Furthermore, the CE's Report (draft stage) states that the approach to the SFRA was similar to that undertaken for the County Development Plan SFRA, the review process for which is due to commence later this year, and this process will include a detailed assessment for all settlements, including Castlecomer, as part of the Justification Tests for all zoning of lands at risk from flooding.

The CE's Report (MA stage) in response to the Office's submission (MA stage), specifically the concerns highlighting non-compliance with Recommendation 3 of the Office's submission (draft stage), states that the proposed Variation includes a number of limitations on development arising from the SFRA, and the Justification Tests as carried out.

Specifically, provisos were added to zones at various locations, referenced as objectives V3CC7, V3CC8, V3CC9 and V3CC10, restricting the uses permissible, on the basis of flood risk identified.

## [8] Prescribed Bodies

### Office of Public Works

The [OPW submission dated 18<sup>th</sup> June 2025](#) to the proposed Variation states:

*It is noted that the Plan Making Justification Test has been deemed to have been satisfied for the following areas:*

- *Area 2: Castlecomer Enterprise Centre; Area 3: Garda Station; Area 5: General Business southeast of Square; Area 7: General Business north of Square; south of Castlecomer Stream; Area 10 and 11: General Business, north and south of Castlecomer Stream. All of these areas have been zoned General Business, which according to the Kilkenny City and County Development Plan 2021-2027 allows highly vulnerable uses such as “dwellings, educational buildings, halting sites, hotels, motels, guest houses” along with various less vulnerable uses.*
- *Area 4: Residential (Andorra) which allows highly vulnerable residential development; Area 9: Mixed Use, north of Castlecomer Stream, west of Dinin River, zoned Mixed Use which allows highly vulnerable development such as “dwellings, halting sites, nursing homes, Bed and Breakfast establishments, and guest houses” along with various less vulnerable uses.*

*For all above mentioned areas for which otherwise inappropriate development has been justified, part 3 of the provided Justification Test consists of a single paragraph to cover all areas subjected to the Justification Test. This sets out that as the locations are in the main built out or brownfield, opportunities for future development will be limited, and notes a requirement from the development plan that any development proposal within the areas identified will be subject to a site specific flood risk assessment.*

*Part 3 of the Plan Making Justification Test as set out in the Guidelines is that “A flood risk assessment to an appropriate level of detail has been carried out as part of the Strategic Environmental Assessment as part of the development plan preparation process, which demonstrates that flood risk to the development can be adequately managed, and the use or development of the lands will not cause unacceptable adverse impacts elsewhere”. This is a requirement that in order to satisfy the*

*Justification Test, it must be demonstrated that in the context of the specific zoning which is being subjected to the test, that zoning lands at risk of flooding for usage of a vulnerability type inappropriate to the level of flood risk identified can be justified on the basis that it can be demonstrated that risk to the specific zoned lands can be mitigated to an acceptable level. Structural or non-structural means by which this risk might be mitigated should be identified. Given that the level and nature of risk will vary from site to site depending on the vulnerability of the proposed zoning and the risk identified through the strategic flood risk assessment, it is to be expected that suitable mitigation measures, and thus part 3 of different Plan Making Justification Tests, included in the plan, will also vary. Any requirements, mitigations or limitations required to ensure the lands can be safely developed should be included and transposed into the draft plan as policy objectives, and this should not be passed on to development management.*

#### **[9] Elected Members' Reasons**

The elected members accepted the recommendation of the Chief Executive to make the Variation.

#### **[10] Environmental Assessments**

The SEA Screening Report states that the proposed Variation has been examined against Schedule 2A 'Criteria for determining whether a plan is likely to have significant effects on the environment' of the SEA Regulations, as amended, and it has been determined that the proposed Variation would not be likely to result in significant environmental effects.

The AA Screening Report concludes that the proposed Variation is not foreseen to have any likelihood of significant effects on any European sites, alone or in combination with other plans or projects – and therefore any potential for a significant effect to any European site as a result of implementing the proposed Variation can be ruled out.

#### **[11] Evaluation and Assessment**

The SFRA identifies Area 3: Garda Station as an area with a potential conflict between development and flood risk, and states that a Justification Test has been carried out for these lands. These lands are zoned 'General Business – To allow a flexible approach to development that supports the vitality and viability of the town centre', within which highly

vulnerable uses (such as dwelling houses) and less vulnerable uses (such as retail) are permitted in principle.

Objective V3CC10 (Area 3 and 4) seeks to address this conflict by restricting highly vulnerable development within Flood Zone A or B, stating:

***V3CC10: For the General Business zone on the site of the Garda Station and the house adjoining the Garda station to the north, no additional 'Highly vulnerable developments' are to be permitted within Flood Zone A or B. Applications for extensions to existing uses or structures will be considered.***

The objective does not however restrict less vulnerable uses in Flood Zone A which are similarly subject to the provisions of the Flood Guidelines.

NPO 78 of the Revised NPF requires the avoidance of inappropriate development in areas that are at risk of flooding that do not pass the Justification Test, in accordance with the Flood Guidelines. Consequently, zoning land at risk of flooding without passing the Justification Test is inconsistent with NPO 78.

The Flood Guidelines provide a robust basis for planning authorities to identify, assess and manage flood risk sustainably, with the key principle being to avoid development in areas at risk of flooding and to adopt a sequential approach to flood risk management.

Notwithstanding this, the Flood Guidelines recognise that while many established urban centres will continue to be at risk of flooding, development may still be appropriate to support compact, sustainable urban growth. Accordingly, the Flood Guidelines include a Justification Test to assess the appropriateness of development in Flood Zone A (high risk) or Flood Zone B (moderate risk), and to identify how this can be achieved while flood risk to and from the development can be adequately managed.

The Justification Test in the Flood Guidelines includes two elements:

- the Plan Making Justification Test, applied at plan preparation/adoption where it is intended to zone or designate land at moderate or high flood risk; and
- the Development Management Justification Test, applied at planning application stage where development vulnerable to flooding is proposed on such lands.

The respective justification tests have a number of criteria that are required to be satisfied in order to pass the test. The first criterion of the Development Management Justification Test requires that the lands have been zoned in a development plan that has been adopted or varied taking account of the Flood Guidelines. As such, the Plan Making Justification Test cannot be circumvented by deferring matters to a site-specific Flood Risk Assessment at application stage, as has occurred in this instance.

Under the Flood Guidelines, less vulnerable development (e.g. retail) should likewise only be considered in Flood Zone B subject to a flood risk assessment to the appropriate level of detail to demonstrate that flood risk to and from the development can be adequately managed. The Flood Guidelines provide a classification schedule for land uses by vulnerability.

The Plan Making Justification Test for Area 3, including the additional details included in the material alterations to the proposed Variation (December 2025)<sup>3</sup> states:

*Area 3: Garda Station This site is located adjacent to the Enterprise Centre, and comprises under-utilised lands. It adjoins the core, and offers potential for redevelopment, particularly for the Enterprise Centre, to assist in achieving compact urban growth. There are no suitable alternative lands in areas at lower risk of flooding within or adjoining the core. No highly vulnerable uses should be permitted in either Flood Zone A or B at this location.*

*In this context, this Flood Risk Assessment contains sufficient information appropriate to the scale and nature of the development potential. Mitigation measures are included in the Development Plan (See Vol. 1 Chapter 10, section 10.2.6), to state that any development proposal within the area identified will be subject to a site specific Flood Risk Assessment appropriate to the type and scale of the development being proposed. This mitigation measure will ensure that any development taking place will not exacerbate any flooding issue.*

Having regard to the three criteria in Box 4.1 of the Flood Guidelines, the Office accepts that Criteria 1 and 2 are addressed and satisfied. However, in respect of Criteria 3, the Plan

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<sup>3</sup> The material alterations to the proposed Variation includes Additional Documents: Flood Risk Assessment which amends the SFRA.

Making Justification Test relies on a generic requirement for a site-specific Flood Risk Assessment at planning application stage and does not provide a zoning-level assessment demonstrating that flood risk to development facilitated under the General Business zoning can be appropriately managed, nor that the use or development of the lands will not cause unacceptable adverse impacts elsewhere. Under the Flood Guidelines, these requirements cannot be deferred to any future assessment at the development management stage.

A compliant assessment is required to evaluate on a site-by-site basis, the site-specific characteristics influencing the nature and extent of flood risk and identify necessary mitigation measures, having regard to the vulnerability classification of the types of development facilitated by the zoning objective. Any requirements, mitigations or limitations required to ensure the lands can be safely developed should be included in the draft plan as policy objectives.

Having regard to the above, the Office is of the view that the subject lands have not passed all requirements of the Plan Making Justification Test.

This approach facilitates development without establishing how site-specific or cumulative flood risks can be effectively managed, potentially putting people and property at risk.

The Office considers therefore that the inclusion of the General Business zoning on lands at risk of flooding without passing all the requirements of the Plan Making Justification Test is inconsistent with NPO 78 of the Revised NPF to promote sustainable development by ensuring flooding and flood risk management informs place making by avoiding inappropriate development in areas at risk of flooding that do not pass the Justification Test, in accordance with the Flood Guidelines.

#### **[12] Consideration of Elected Members' Reasons**

No or no adequate reasons were provided by the elected members.

#### **[13] Conclusion**

The Office is of the opinion that the Variation has not been made in a manner consistent with the following recommendation of the Office:

- Recommendation 3(iii)

The Variation includes a zoning objective inconsistent with the following objective of the Revised NPF:

- NPO 78

### 3.1.3 Area 4: Residential (Andorra)

#### [1] Area 4: Residential (Andorra)

These lands are zoned for General Business, within which less vulnerable uses (such as retail) are permitted in principle. The lands are identified as being at high risk of flooding (Flood Zone A), where the Flood Guidelines indicate that the uses permitted under this zoning objective are not appropriate unless a Justification Test is passed.

#### [2a] Approximate Site Area

Not available

#### [2b] CSO Boundary

Inside CSO 2022 boundary.

#### [3a] Zoning map extract of the land at draft stage



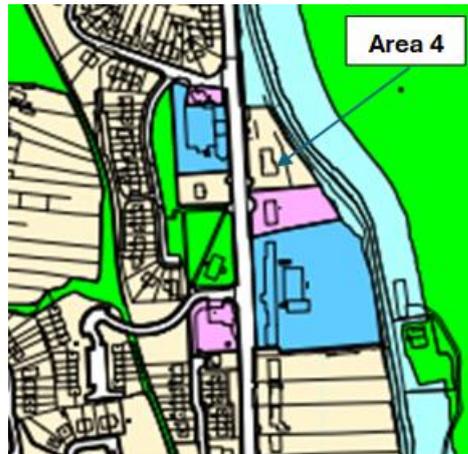
Zoned as General Business

#### [3b] Zoning map extract of the land at material alterations stage



No zoning change at material alterations stage

**[4a] Zoning map extract of the land from the Castlecomer Local Area Plan 2018-2024**



The lands were zoned as Residential (Existing) in the previous Castlecomer Local Area Plan 2018-2024

**[4b] Flood Risk map extract from Material Alterations to Proposed Variation 5: Castlecomer Settlement Plan, Figure 2.3 Areas of Flood Risk (Version updated March 2026)**



**[4c] Link to Aerial Imagery**

[Aerial photography of the site and its surrounds](#)

**[5] Specific Site Constraints or Designations**

Flood Zone A and B

## [6] Servicing Tier & Infrastructure Status

Tier 2 'serviceable'. Water capacity constraints in Castlecomer.

## [7] Chief Executive's Recommendation

[The CE's Report \(draft stage\) on the proposed Variation](#), in response to Recommendation 3 states that the Office's submission (draft stage) should be addressed in conjunction with submission KK-C322-11 from the OPW and recommends:

- (i) the data sets will be updated in line with the details outlined in Submission KK-C322-11;
- (ii) the maps as included in the SFRA will be clarified to highlight the flood zones;
- (iii) the approach taken to the Plan Making Justification Test will be consistent with the Guidelines, see Submission KK-C322-11.

The CE's Report (draft stage) in response to submission KK-C322-11 from the OPW on the areas of concern in relation to the Plan Making Justification Test, recommends that the SFRA will be amended to demonstrate the application of the Justification Test for each area of concern. Furthermore, the CE's Report (draft stage) states that the approach to the SFRA was similar to that undertaken for the County Development Plan SFRA, the review process for which is due to commence later this year, and this process will include a detailed assessment for all settlements, including Castlecomer, as part of the Justification Tests for all zoning of lands at risk from flooding.

The CE's Report (MA stage) in response to the Office's submission (MA stage), specifically the concerns highlighting non-compliance with Recommendation 3 of the Office's submission (draft stage), states that the proposed Variation includes a number of limitations on development arising from the SFRA, and the Justification Tests as carried out.

Specifically, provisos were added to zones at various locations, referenced as objectives V3CC7, V3CC8, V3CC9 and V3CC10, restricting the uses permissible, on the basis of flood risk identified.

## [8] Prescribed Bodies

### Office of Public Works

The [OPW submission dated 18<sup>th</sup> June 2025](#) to the proposed Variation states:

*It is noted that the Plan Making Justification Test has been deemed to have been satisfied for the following areas:*

- *Area 2: Castlecomer Enterprise Centre; Area 3: Garda Station; Area 5: General Business southeast of Square; Area 7: General Business north of Square; south of Castlecomer Stream; Area 10 and 11: General Business, north and south of Castlecomer Stream. All of these areas have been zoned General Business, which according to the Kilkenny City and County Development Plan 2021-2027 allows highly vulnerable uses such as “dwellings, educational buildings, halting sites, hotels, motels, guest houses” along with various less vulnerable uses.*
- *Area 4: Residential (Andorra) which allows highly vulnerable residential development; Area 9: Mixed Use, north of Castlecomer Stream, west of Dinin River, zoned Mixed Use which allows highly vulnerable development such as “dwellings, halting sites, nursing homes, Bed and Breakfast establishments, and guest houses” along with various less vulnerable uses.*

*For all above mentioned areas for which otherwise inappropriate development has been justified, part 3 of the provided Justification Test consists of a single paragraph to cover all areas subjected to the Justification Test. This sets out that as the locations are in the main built out or brownfield, opportunities for future development will be limited, and notes a requirement from the development plan that any development proposal within the areas identified will be subject to a site specific flood risk assessment.*

*Part 3 of the Plan Making Justification Test as set out in the Guidelines is that “A flood risk assessment to an appropriate level of detail has been carried out as part of the Strategic Environmental Assessment as part of the development plan preparation process, which demonstrates that flood risk to the development can be adequately managed, and the use or development of the lands will not cause unacceptable*

*adverse impacts elsewhere". This is a requirement that in order to satisfy the Justification Test, it must be demonstrated that in the context of the specific zoning which is being subjected to the test, that zoning lands at risk of flooding for usage of a vulnerability type inappropriate to the level of flood risk identified can be justified on the basis that it can be demonstrated that risk to the specific zoned lands can be mitigated to an acceptable level. Structural or non-structural means by which this risk might be mitigated should be identified. Given that the level and nature of risk will vary from site to site depending on the vulnerability of the proposed zoning and the risk identified through the strategic flood risk assessment, it is to be expected that suitable mitigation measures, and thus part 3 of different Plan Making Justification Tests, included in the plan, will also vary. Any requirements, mitigations or limitations required to ensure the lands can be safely developed should be included and transposed into the draft plan as policy objectives, and this should not be passed on to development management.*

#### **[9] Elected Members' Reasons**

The elected members accepted the recommendation of the Chief Executive to make the Variation.

#### **[10] Environmental Assessments**

The SEA Screening Report states that the proposed Variation has been examined against Schedule 2A 'Criteria for determining whether a plan is likely to have significant effects on the environment' of the SEA Regulations, as amended, and it has been determined that the proposed Variation would not be likely to result in significant environmental effects.

The AA Screening Report concludes that the proposed Variation is not foreseen to have any likelihood of significant effects on any European sites, alone or in combination with other plans or projects – and therefore any potential for a significant effect to any European site as a result of implementing the proposed Variation can be ruled out.

#### **[11] Evaluation and Assessment**

The SFRA identifies Area 4: Residential (Andorra) as an area with a potential conflict between development and flood risk, and states that a Justification Test has been carried out for these lands. These lands are zoned 'General Business – To allow a flexible

approach to development that supports the vitality and viability of the town centre', within which highly vulnerable uses (such as dwelling houses) and less vulnerable uses (such as retail) are permitted in principle.

Objective V3CC10 (Area 3 and 4) seeks to address this conflict by restricting highly vulnerable development within Flood Zone A or B, stating:

**V3CC10:** *For the General Business zone on the site of the Garda Station and the house adjoining the Garda station to the north, no additional 'Highly vulnerable developments' are to be permitted within Flood Zone A or B. Applications for extensions to existing uses or structures will be considered.*

The objective does not however restrict less vulnerable uses in Flood Zone A which are similarly subject to the provisions of the Flood Guidelines.

NPO 78 of the Revised NPF requires the avoidance of inappropriate development in areas that are at risk of flooding that do not pass the Justification Test, in accordance with the Flood Guidelines. Consequently, zoning land at risk of flooding without passing the Justification Test is inconsistent with NPO 78.

The Flood Guidelines provide a robust basis for planning authorities to identify, assess and manage flood risk sustainably, with the key principle being to avoid development in areas at risk of flooding and to adopt a sequential approach to flood risk management.

Notwithstanding this, the Flood Guidelines recognise that while many established urban centres will continue to be at risk of flooding, development may still be appropriate to support compact, sustainable urban growth. Accordingly, the Flood Guidelines include a Justification Test to assess the appropriateness of development in Flood Zone A (high risk) or Flood Zone B (moderate risk), and to identify how this can be achieved while flood risk to and from the development can be adequately managed.

The Justification Test in the Flood Guidelines includes two elements:

- the Plan Making Justification Test, applied at plan preparation/adoption where it is intended to zone or designate land at moderate or high flood risk; and

- the Development Management Justification Test, applied at planning application stage where development vulnerable to flooding is proposed on such lands.

The respective justification tests have a number of criteria that are required to be satisfied in order to pass the test. The first criteria of the Development Management Justification Test requires that the lands have been zoned in a development plan that has been adopted or varied taking account of the Flood Guidelines. As such, the Plan Making Justification Test cannot be circumvented by deferring matters to a site-specific Flood Risk Assessment at application stage, as has occurred in this instance.

Under the Flood Guidelines, less vulnerable development (e.g. retail) should likewise only be considered in Flood Zone B subject to a flood risk assessment to the appropriate level of detail to demonstrate that flood risk to and from the development can be adequately managed. The Flood Guidelines provide a classification schedule for land uses by vulnerability.

The Plan Making Justification Test for Area 4, including the additional details included in the material alterations to the proposed Variation (December 2025)<sup>4</sup> states:

*Area 4: Residential (Andorra) This site comprises under-utilised lands. It adjoins the core, and offers potential for redevelopment, particularly for the Enterprise Centre, to assist in achieving compact urban growth. There are no suitable alternative lands in areas at lower risk of flooding within or adjoining the core. No highly vulnerable uses should be permitted in either Flood Zone A or B at this location.*

*In this context, this Flood Risk Assessment contains sufficient information appropriate to the scale and nature of the development potential. Mitigation measures are included in the Development Plan (See Vol. 1 Chapter 10, section 10.2.6), to state that any development proposal within the area identified will be subject to a site specific Flood Risk Assessment appropriate to the type and scale of the development*

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<sup>4</sup> The material alterations to the proposed Variation includes Additional Documents: Flood Risk Assessment which amends the SFRA.

*being proposed. This mitigation measure will ensure that any development taking place will not exacerbate any flooding issue.*

Having regard to the three criteria in Box 4.1 of the Flood Guidelines, the Office accepts that Criteria 1 and 2 are addressed and satisfied. However, in respect of Criteria 3, the Plan Making Justification Test relies on a generic requirement for a site-specific Flood Risk Assessment at planning application stage and does not provide a zoning-level assessment demonstrating that flood risk to development facilitated under the General Business zoning can be appropriately managed, nor that the use or development of the lands will not cause unacceptable adverse impacts elsewhere. Under the Flood Guidelines, these requirements cannot be deferred to any future assessment at the development management stage.

A compliant assessment is required to evaluate on a site-by-site basis, the site-specific characteristics influencing the nature and extent of flood risk and identify necessary mitigation measures, having regard to the vulnerability classification of the types of development facilitated by the zoning objective. Any requirements, mitigations or limitations required to ensure the lands can be safely developed should be included in the draft plan as policy objectives.

Having regard to the above, the Office is of the view that the subject lands have not passed all requirements of the Plan Making Justification Test.

This approach facilitates development without establishing how site-specific or cumulative flood risks can be effectively managed, potentially putting people and property at risk.

The Office considers therefore that the inclusion of the General Business zoning on lands at risk of flooding without passing all the requirements of the Plan Making Justification Test is inconsistent with NPO 78 of the Revised NPF to promote sustainable development by ensuring flooding and flood risk management informs place making by avoiding inappropriate development in areas at risk of flooding that do not pass the Justification Test, in accordance with the Flood Guidelines.

#### **[12] Consideration of Elected Members' Reasons**

No or no adequate reasons were provided by the elected members.

**[13] Conclusion**

The Office is of the opinion that the Variation has not been made in a manner consistent with the following recommendation of the Office:

- Recommendation 3(iii)

The Variation includes a zoning objective inconsistent with the following objective of the Revised NPF:

- NPO 78

**3.1.4 Area 5: General Business southeast of Square**

**[1] Area 5: General Business southeast of Square**

These lands are zoned for General Business, within which highly vulnerable uses (such as dwelling houses) and less vulnerable uses (such as retail) are permitted in principle. The lands are identified as being at high risk of flooding (Flood Zone A) and moderate risk of flooding (Flood Zone B), where the Flood Guidelines indicate that the uses permitted under this zoning objective are not appropriate unless a Justification Test is passed.

**[2a] Approximate Site Area**

Not available

**[2b] CSO Boundary**

Inside CSO 2022 boundary.

**[3a] Zoning map extract of the land at draft stage**



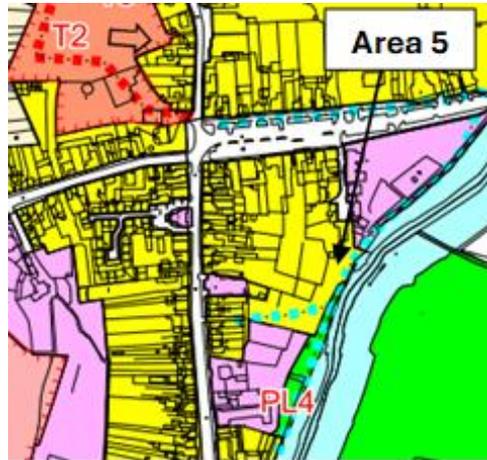
**[3b] Zoning map extract of the land at material alterations stage**



Zoned as General Business

No zoning change at material alterations stage

[4a] Zoning map extract of the land from the Castlecomer Local Area Plan 2018-2024



The lands were zoned General Business in the previous Castlecomer Local Area Plan 2018-2024

[4b] Flood Risk map extract from Material Alterations to Proposed Variation 5: Castlecomer Settlement Plan, Figure 2.3 Areas of Flood Risk (Version updated March 2026)



[4c] Link to Aerial Imagery

[Aerial photography of the site and its surrounds](#)

**[5] Specific Site Constraints or Designations**

Flood Zone A and B

**[6] Servicing Tier & Infrastructure Status**

Tier 2 'serviceable'. Water capacity constraints in Castlecomer.

**[7] Chief Executive's Recommendation**

[The CE's Report \(draft stage\) on the proposed Variation](#), in response to Recommendation 3 states that the Office's submission (draft stage) should be addressed in conjunction with submission KK-C322-11 from the OPW and recommends:

- (i) the data sets will be updated in line with the details outlined in Submission KK-C322-11;
- (ii) the maps as included in the SFRA will be clarified to highlight the flood zones;
- (iii) the approach taken to the Plan Making Justification Test will be consistent with the Guidelines, see Submission KK-C322-11.

The CE's Report (draft stage), in response to submission KK-C322-11 from the OPW on the areas of concern in relation to the Plan Making Justification Test, recommends that the SFRA will be amended to demonstrate the application of the Justification Test for each area of concern. Furthermore, the CE's Report (draft stage) states that the approach to the SFRA was similar to that undertaken for the County Development Plan SFRA, the review process for which is due to commence later this year, and this process will include a detailed assessment for all settlements, including Castlecomer, as part of the Justification Tests for all zoning of lands at risk from flooding.

The CE's Report (MA stage) in response to the Office's submission (MA stage), specifically the concerns highlighting non-compliance with Recommendation 3 of the Office's submission (draft stage), states that the proposed Variation includes a number of limitations on development arising from the SFRA, and the Justification Tests as carried out.

Specifically, provisos were added to zones at various locations, referenced as objectives V3CC7, V3CC8, V3CC9 and V3CC10, restricting the uses permissible, on the basis of flood risk identified.

## [8] Prescribed Bodies

### Office of Public Works

The [OPW submission dated 18<sup>th</sup> June 2025](#) to the proposed Variation states:

*It is noted that the Plan Making Justification Test has been deemed to have been satisfied for the following areas:*

- *Area 2: Castlecomer Enterprise Centre; Area 3: Garda Station; Area 5: General Business southeast of Square; Area 7: General Business north of Square; south of Castlecomer Stream; Area 10 and 11: General Business, north and south of Castlecomer Stream. All of these areas have been zoned General Business, which according to the Kilkenny City and County Development Plan 2021-2027 allows highly vulnerable uses such as “dwellings, educational buildings, halting sites, hotels, motels, guest houses” along with various less vulnerable uses.*
- *Area 4: Residential (Andorra) which allows highly vulnerable residential development; Area 9: Mixed Use, north of Castlecomer Stream, west of Dinin River, zoned Mixed Use which allows highly vulnerable development such as “dwellings, halting sites, nursing homes, Bed and Breakfast establishments, and guest houses” along with various less vulnerable uses.*

*For all above mentioned areas for which otherwise inappropriate development has been justified, part 3 of the provided Justification Test consists of a single paragraph to cover all areas subjected to the Justification Test. This sets out that as the locations are in the main built out or brownfield, opportunities for future development will be limited, and notes a requirement from the development plan that any development proposal within the areas identified will be subject to a site specific flood risk assessment.*

*Part 3 of the Plan Making Justification Test as set out in the Guidelines is that “A flood risk assessment to an appropriate level of detail has been carried out as part of*

*the Strategic Environmental Assessment as part of the development plan preparation process, which demonstrates that flood risk to the development can be adequately managed, and the use or development of the lands will not cause unacceptable adverse impacts elsewhere". This is a requirement that in order to satisfy the Justification Test, it must be demonstrated that in the context of the specific zoning which is being subjected to the test, that zoning lands at risk of flooding for usage of a vulnerability type inappropriate to the level of flood risk identified can be justified on the basis that it can be demonstrated that risk to the specific zoned lands can be mitigated to an acceptable level. Structural or non-structural means by which this risk might be mitigated should be identified. Given that the level and nature of risk will vary from site to site depending on the vulnerability of the proposed zoning and the risk identified through the strategic flood risk assessment, it is to be expected that suitable mitigation measures, and thus part 3 of different Plan Making Justification Tests, included in the plan, will also vary. Any requirements, mitigations or limitations required to ensure the lands can be safely developed should be included and transposed into the draft plan as policy objectives, and this should not be passed on to development management.*

**[9] Elected Members' Reasons**

The elected members accepted the recommendation of the Chief Executive to make the Variation.

**[10] Environmental Assessments**

The SEA Screening Report states that the Variation has been examined against Schedule 2A 'Criteria for determining whether a plan is likely to have significant effects on the environment' of the SEA Regulations, as amended, and it has been determined that the proposed Variation would not be likely to result in significant environmental effects.

The AA Screening Report concludes that the proposed Variation is not foreseen to have any likelihood of significant effects on any European sites, alone or in combination with other plans or projects – and therefore any potential for a significant effect to any European site as a result of implementing the proposed Variation can be ruled out.

## [11] Evaluation and Assessment

The SFRA identifies Area 5: General Business southeast of Square as an area with a potential conflict between development and flood risk, and states that a Justification Test has been carried out for these lands. These lands are zoned 'General Business – To allow a flexible approach to development that supports the vitality and viability of the town centre', within which highly vulnerable uses (such as dwelling houses) and less vulnerable uses (such as retail) are permitted in principle.

NPO 78 of the Revised NPF requires the avoidance of inappropriate development in areas that are at risk of flooding that do not pass the Justification Test, in accordance with the Flood Guidelines. Consequently, zoning land at risk of flooding without passing the Justification Test is inconsistent with NPO 78.

The Flood Guidelines provide a robust basis for planning authorities to identify, assess and manage flood risk sustainably, with the key principle being to avoid development in areas at risk of flooding and to adopt a sequential approach to flood risk management.

Notwithstanding this, the Flood Guidelines recognise that while many established urban centres will continue to be at risk of flooding, development may still be appropriate to support compact, sustainable urban growth. Accordingly, the Flood Guidelines include a Justification Test to assess the appropriateness of development in Flood Zone A (high risk) or Flood Zone B (moderate risk), and to identify how this can be achieved while flood risk to and from the development can be adequately managed.

The Justification Test in the Flood Guidelines includes two elements:

- the Plan Making Justification Test, applied at plan preparation/adoption where it is intended to zone or designate land at moderate or high flood risk; and
- the Development Management Justification Test, applied at planning application stage where development vulnerable to flooding is proposed on such lands.

The respective justification tests have a number of criteria that are required to be satisfied in order to pass the test. The first criterion of the Development Management Justification Test requires that the lands have been zoned in a development plan that has been adopted or varied taking account of the Flood Guidelines. As such, the Plan Making Justification

Test cannot be circumvented by deferring matters to a site-specific Flood Risk Assessment at application stage, as has occurred in this instance.

Under the Flood Guidelines, highly vulnerable development (e.g. Garda, ambulance and fire stations and command centres required to be operational during flooding; hospitals; dwelling houses; residential care homes; essential infrastructure such as primary transport and utilities distribution) is not appropriate in Flood Zones A or B unless it is clearly demonstrated, on a robust evidence base, that all criteria of the Plan Making Justification Test are satisfied. Less vulnerable development (e.g. retail) should likewise only be considered in Flood Zone B subject to a flood risk assessment to the appropriate level of detail to demonstrate that flood risk to and from the development can be adequately managed. The Flood Guidelines provide a classification schedule for land uses by vulnerability.

The Plan Making Justification Test for Area 5, including the additional details included in the Material Alterations to the Variation (December 2025)<sup>5</sup> states:

*Area 5: General Business southeast of Square. The General Business lands to the rear of the Square adjoins the core and is essential in achieving compact and sustainable urban growth. There are no suitable alternative lands in areas at lower risk of flooding within or adjoining the core.*

*In this context, this Flood Risk Assessment contains sufficient information appropriate to the scale and nature of the development potential. Mitigation measures are included in the Development Plan (See Vol. 1 Chapter 10, section 10.2.6), to state that any development proposal within the area identified will be subject to a site specific Flood Risk Assessment appropriate to the type and scale of the development being proposed. This mitigation measure will ensure that any development taking place will not exacerbate any flooding issue.*

Having regard to the three criteria in Box 4.1 of the Flood Guidelines, the Office accepts that Criteria 1 and 2 are addressed and satisfied. However, in respect of Criteria 3, the Plan Making Justification Test relies on a generic requirement for a site-specific Flood Risk

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<sup>5</sup> The material alterations to the proposed Variation includes Additional Documents: Flood Risk Assessment which amends the SFRA.

Assessment at planning application stage and does not provide a zoning-level assessment demonstrating that flood risk to development facilitated under the General Business zoning can be appropriately managed, nor that the use or development of the lands will not cause unacceptable adverse impacts elsewhere. Under the Flood Guidelines, these requirements cannot be deferred to any future assessment at the development management stage.

A compliant assessment is required to evaluate on a site-by-site basis, the site-specific characteristics influencing the nature and extent of flood risk and identify necessary mitigation measures, having regard to the vulnerability classification of the types of development facilitated by the zoning objective. Any requirements, mitigations or limitations required to ensure the lands can be safely developed should be included in the draft plan as policy objectives.

Having regard to the above, the Office is of the view that the subject lands have not passed all requirements of the Plan Making Justification Test.

This approach facilitates development without establishing how site-specific or cumulative flood risks can be effectively managed, potentially putting people and property at risk.

The Office considers therefore that the inclusion of the General Business zoning on lands at risk of flooding without passing all the requirements of the Plan Making Justification Test is inconsistent with NPO 78 of the Revised NPF to promote sustainable development by ensuring flooding and flood risk management informs place making by avoiding inappropriate development in areas at risk of flooding that do not pass the Justification Test, in accordance with the Flood Guidelines.

#### **[12] Consideration of Elected Members' Reasons**

No or no adequate reasons were provided by the elected members.

#### **[13] Conclusion**

The Office is of the opinion that the Variation has not been made in a manner consistent with the following recommendation of the Office:

- Recommendation 3(iii)

The Variation includes a zoning objective inconsistent with the following objective of the Revised NPF:

- NPO 78

### 3.1.5 Area 7: General Business north of Square, south of Castlecomer Stream

#### [1] Area 7: General Business north of Square, south of Castlecomer Stream

These lands are zoned for General Business, within which highly vulnerable uses (such as dwelling houses) and less vulnerable uses (such as retail) are permitted in principle. The lands are identified as being at high risk of flooding (Flood Zone A) and moderate risk of flooding (Flood Zone B), where the Flood Guidelines indicate that the uses permitted under this zoning objective are not appropriate unless a Justification Test is passed.

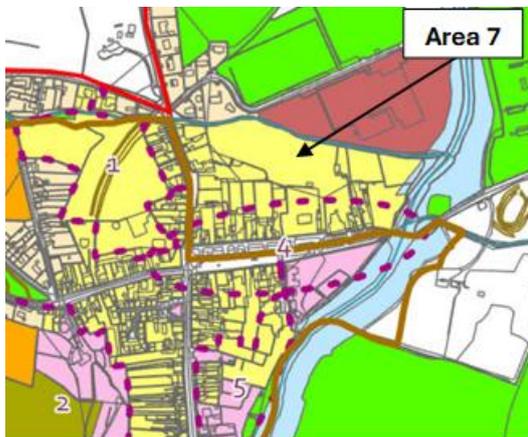
[2a] Approximate Site Area

Not available

[2b] CSO Boundary

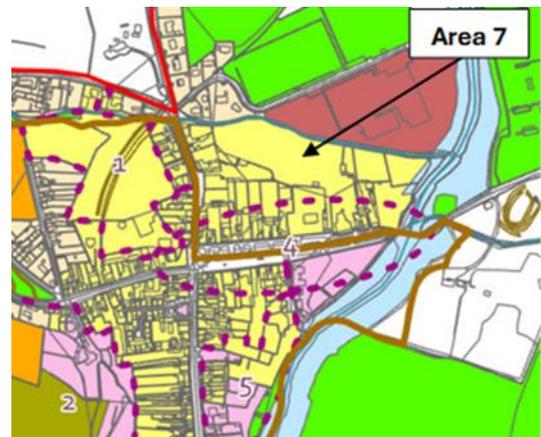
Outside CSO 2022 boundary.

[3a] Zoning map extract of the land at draft stage



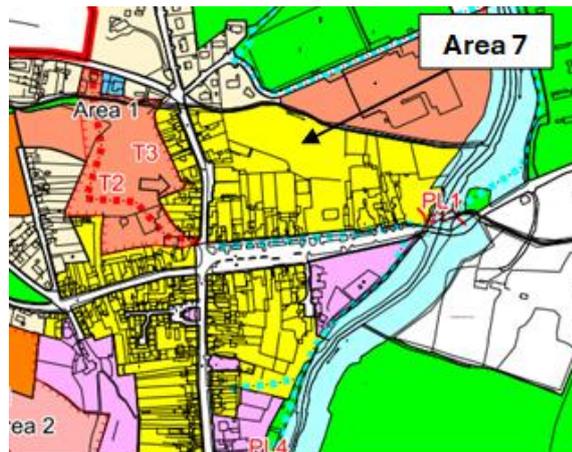
Zoned General Business

[3b] Zoning map extract of the land at material alterations stage



No change at the Material Alterations stage

**[4a] Zoning map extract of the land from the Castlecomer Local Area Plan 2018-2024**



The lands were zoned General Business in the previous Castlecomer Local Area Plan 2018-2024

**[4b] Flood Risk map extract from Material Alterations to Proposed Variation 5: Castlecomer Settlement Plan, Figure 2.3 Areas of Flood Risk (Version updated March 2026)**



**[4c] Link to Aerial Imagery**

[Aerial photography of site and its surrounds](#)

**[5] Specific Site Constraints or Designations**

Flood Zone A and B

**[6] Servicing Tier & Infrastructure Status**

Tier 2 'serviceable'. Water capacity constraints in Castlecomer.

## [7] Chief Executive's Recommendation

[The CE's Report \(draft stage\) on the proposed Variation](#), in response to Recommendation 3 states that the Office's submission (draft submission) should be addressed in conjunction with submission KK-C322-11 from the OPW and recommends:

- (i) the data sets will be updated in line with the details outlined in Submission KK-C322-11;
- (ii) the maps as included in the SFRA will be clarified to highlight the flood zones;
- (iii) the approach taken to the Plan Making Justification Test will be consistent with the Guidelines, see Submission KK-C322-11.

The CE's Report (draft stage), in response to submission KK-C322-11 from the OPW on the areas of concern in relation to the Plan Making Justification Test, recommends that the SFRA will be amended to demonstrate the application of the Justification Test for each area of concern. Furthermore, the CE's Report (draft stage) states that the approach to the SFRA was similar to that undertaken for the County Development Plan SFRA, the review process for which is due to commence later this year, and this process will include a detailed assessment for all settlements, including Castlecomer, as part of the Justification Tests for all zoning of lands at risk from flooding.

The CE's Report (MA stage) in response to the Office's submission (MA stage), specifically the concerns highlighting non-compliance with Recommendation 3 of the Office's submission (draft stage), states that the proposed Variation includes a number of limitations on development arising from the SFRA, and the Justification Tests as carried out.

Specifically, provisos were added to zones at various locations, referenced as objectives V3CC7, V3CC8, V3CC9 and V3CC10, restricting the uses permissible, on the basis of flood risk identified.

## [8] Prescribed Bodies

### Office of Public Works

The [OPW submission dated 18<sup>th</sup> June 2025](#) to the proposed Variation states:

*It is noted that the Plan Making Justification Test has been deemed to have been satisfied for the following areas:*

- *Area 2: Castlecomer Enterprise Centre; Area 3: Garda Station; Area 5: General Business southeast of Square; Area 7: General Business north of Square; south of Castlecomer Stream; Area 10 and 11: General Business, north and south of Castlecomer Stream. All of these areas have been zoned General Business, which according to the Kilkenny City and County Development Plan 2021-2027 allows highly vulnerable uses such as “dwellings, educational buildings, halting sites, hotels, motels, guest houses” along with various less vulnerable uses.*
- *Area 4: Residential (Andorra) which allows highly vulnerable residential development; Area 9: Mixed Use, north of Castlecomer Stream, west of Dinin River, zoned Mixed Use which allows highly vulnerable development such as “dwellings, halting sites, nursing homes, Bed and Breakfast establishments, and guest houses” along with various less vulnerable uses.*

*For all above mentioned areas for which otherwise inappropriate development has been justified, part 3 of the provided Justification Test consists of a single paragraph to cover all areas subjected to the Justification Test. This sets out that as the locations are in the main built out or brownfield, opportunities for future development will be limited, and notes a requirement from the development plan that any development proposal within the areas identified will be subject to a site specific flood risk assessment.*

*Part 3 of the Plan Making Justification Test as set out in the Guidelines is that “A flood risk assessment to an appropriate level of detail has been carried out as part of the Strategic Environmental Assessment as part of the development plan preparation process, which demonstrates that flood risk to the development can be adequately managed, and the use or development of the lands will not cause unacceptable adverse impacts elsewhere”. This is a requirement that in order to satisfy the Justification Test, it must be demonstrated that in the context of the specific zoning which is being subjected to the test, that zoning lands at risk of flooding for usage of a vulnerability type inappropriate to the level of flood risk identified can be justified on the basis that it can be demonstrated that risk to the specific zoned lands can be mitigated to an acceptable level. Structural or non-structural means by which this risk might be mitigated should be identified. Given that the level and nature of risk will vary from site to site depending on the vulnerability of the proposed zoning and the risk*

*identified through the strategic flood risk assessment, it is to be expected that suitable mitigation measures, and thus part 3 of different Plan Making Justification Tests, included in the plan, will also vary. Any requirements, mitigations or limitations required to ensure the lands can be safely developed should be included and transposed into the draft plan as policy objectives, and this should not be passed on to development management.*

#### **[9] Elected Members' Reasons**

The elected members accepted the recommendation of the Chief Executive to make the Variation.

#### **[10] Environmental Assessments**

The SEA Screening Report states that the Variation has been examined against Schedule 2A 'Criteria for determining whether a plan is likely to have significant effects on the environment' of the SEA Regulations, as amended, and it has been determined that the proposed Variation would not be likely to result in significant environmental effects.

The Screening for Appropriate Assessment Report concludes that the proposed Variation is not foreseen to have any likelihood of significant effects on any European sites, alone or in combination with other plans or projects – and therefore any potential for a significant effect to any European site as a result of implementing the proposed Variation can be ruled out.

#### **[11] Evaluation and Assessment**

The SFRA identifies Area 7: Business north of Square, south of Castlecomer Stream as an area with a potential conflict between development and flood risk, and states that a Justification Test has been carried out for these lands. These lands are zoned 'General Business – To allow a flexible approach to development that supports the vitality and viability of the town centre', within which highly vulnerable uses (such as dwelling houses) and less vulnerable uses (such as retail) are permitted in principle.

NPO 78 of the Revised NPF requires the avoidance of inappropriate development in areas that are at risk of flooding that do not pass the Justification Test, in accordance with the Flood Guidelines. Consequently, zoning land at risk of flooding without passing the Justification Test is inconsistent with NPO 78.

The Flood Guidelines provide a robust basis for planning authorities to identify, assess and manage flood risk sustainably, with the key principle being to avoid development in areas at risk of flooding and to adopt a sequential approach to flood risk management.

Notwithstanding this, the Flood Guidelines recognise that while many established urban centres will continue to be at risk of flooding, development may still be appropriate to support compact, sustainable urban growth. Accordingly, the Flood Guidelines include a Justification Test to assess the appropriateness of development in Flood Zone A (high risk) or Flood Zone B (moderate risk), and to identify how this can be achieved while flood risk to and from the development can be adequately managed.

The Justification Test in the Guidelines includes two elements:

- the Plan Making Justification Test, applied at plan preparation/adoption where it is intended to zone or designate land at moderate or high flood risk; and
- the Development Management Justification Test, applied at planning application stage where development vulnerable to flooding is proposed on such lands.

The respective justification tests have a number of criteria that are required to be satisfied in order to pass the test. The first criterion of the Development Management Justification Test requires that the lands have been zoned in a development plan that has been adopted or varied taking account of the Flood Guidelines. As such, the Plan Making Justification Test cannot be circumvented by deferring matters to a site-specific Flood Risk Assessment at application stage, as has occurred in this instance.

Under the Flood Guidelines, highly vulnerable development (e.g. Garda, ambulance and fire stations and command centres required to be operational during flooding; hospitals; dwelling houses; residential care homes; essential infrastructure such as primary transport and utilities distribution) is not appropriate in Flood Zones A or B unless it is clearly demonstrated, on a robust evidence base, that all criteria of the Plan Making Justification Test are satisfied. Less vulnerable development (e.g. retail) should likewise only be considered in Flood Zone B subject to a flood risk assessment to the appropriate level of detail to demonstrate that flood risk to and from the development can be adequately managed. The Flood Guidelines provide a classification schedule for land uses by vulnerability.

The Plan Making Justification Test for Area 7, including the additional details included in the Material Alterations to the Variation (December 2025)<sup>6</sup> states:

*Area 7: General Business north of Square, south of Castlecomer Stream The zoning of the town centre area for General business is intended mainly to reflect the existing uses operating in the town. The continued zoning of the land will facilitate the regeneration and/or expansion of the centre. This area is in the core of Castlecomer. Its continued development is essential to achieving compact and sustainable urban growth. There are no suitable alternative lands in areas at lower risk of flooding within or adjoining the core.*

*In this context, this Flood Risk Assessment contains sufficient information appropriate to the scale and nature of the development potential. Mitigation measures are included in the Development Plan (See Vol. 1 Chapter 10, section 10.2.6), to state that any development proposal within the area identified will be subject to a site specific Flood Risk Assessment appropriate to the type and scale of the development being proposed. This mitigation measure will ensure that any development taking place will not exacerbate any flooding issue.*

Having regard to the three criteria in Box 4.1 of the Flood Guidelines, the Office accepts that Criteria 1 and 2 are addressed and satisfied. However, in respect of Criteria 3, the Plan Making Justification Test relies on a generic requirement for a site-specific Flood Risk Assessment at planning application stage and does not provide a zoning-level assessment demonstrating that flood risk to development facilitated under the General Business zoning can be appropriately managed, nor that the use or development of the lands will not cause unacceptable adverse impacts elsewhere. Under the Flood Guidelines, these requirements cannot be deferred to any future assessment at the development management stage.

A compliant assessment is required to evaluate on a site-by-site basis, the site-specific characteristics influencing the nature and extent of flood risk and identify necessary mitigation measures, having regard to the vulnerability classification of the types of development facilitated by the zoning objective. Any requirements, mitigations or limitations

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<sup>6</sup> The material alterations to the proposed Variation includes Additional Documents: Flood Risk Assessment which amends the SFRA.

required to ensure the lands can be safely developed should be included in the draft plan as policy objectives.

Having regard to the above, the Office is of the view that the subject lands have not passed all requirements of the Plan Making Justification Test.

This approach facilitates development without establishing how site-specific or cumulative flood risks can be effectively managed, potentially putting people and property at risk.

The Office considers therefore that the inclusion of the General Business zoning on lands at risk of flooding without passing all the requirements of the Plan Making Justification Test is inconsistent with NPO 78 of the Revised NPF to promote sustainable development by ensuring flooding and flood risk management informs place making by avoiding inappropriate development in areas at risk of flooding that do not pass the Justification Test, in accordance with the Flood Guidelines.

**[12] Consideration of Elected Members' Reasons**

No or no adequate reasons were provided by the elected members.

**[13] Conclusion**

The Office is of the opinion that the Variation has not been made in a manner consistent with the following recommendation of the Office:

- Recommendation 3(iii)

The Variation includes a zoning objective inconsistent with the following objective of the Revised NPF:

- NPO 78

### 3.1.6 Area 9: Mixed Use, north of Castlecomer Stream, west of River Dinin

#### [1] Area 9: Mixed Use, north of Castlecomer Stream, west of River Dinin

These lands are zoned for Mixed Use within which highly vulnerable uses (such as dwelling houses) are envisaged. The lands are identified as being at high risk of flooding (Flood Zone A) and moderate risk of flooding (Flood Zone B), where the Flood Guidelines indicate that the uses permitted under this zoning objective are not appropriate unless a Justification Test is passed.

[2a] Approximate Site Area

Not available

[2b] CSO Boundary

Outside CSO 2022 boundary.

[3a] Zoning map extract of the land at draft stage



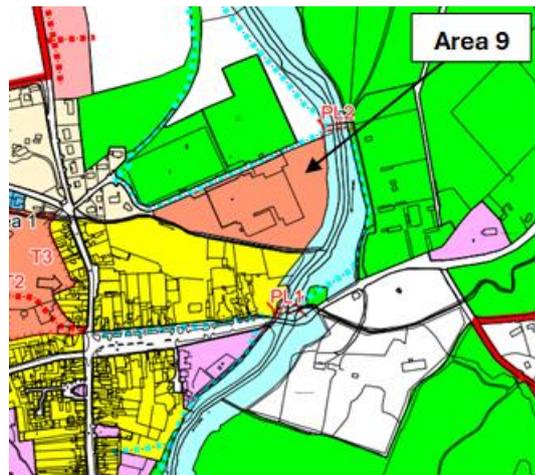
Zoned as Mixed Use

[3b] Zoning map extract of the land at material alterations stage



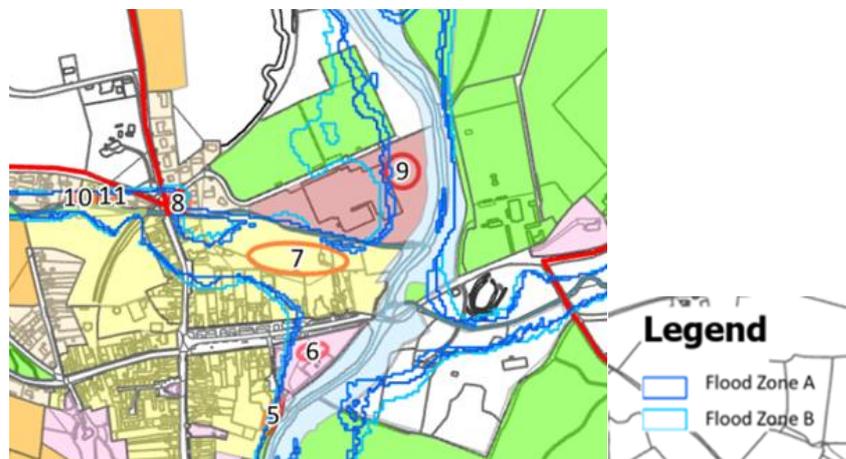
No zoning change at material alterations stage

**[4a] Zoning map extract of the land from the Castlecomer Local Area Plan 2018-2024**



The lands were zoned as Mixed Use in the previous Castlecomer Local Area Plan 2018-2024.

**[4b] Flood Risk map extract from Material Alterations to Proposed Variation 5: Castlecomer Settlement Plan, Figure 2.3 Areas of Flood Risk (Version updated March 2026)**



**[4c] Link to Aerial Imagery**

[Aerial photography of the site and its surrounds](#)

**[5] Specific Site Constraints or Designations**

Flood Zone A and B

## [6] Servicing Tier & Infrastructure Status

Tier 2 'serviceable'. Water capacity constraints in Castlecomer.

## [7] Chief Executive's Recommendation

[The CE's Report \(draft stage\) on the proposed Variation](#), in response to Recommendation 3 states that the Office's submission (draft stage) should be addressed in conjunction with submission KK-C322-11 from the OPW and recommends:

- (i) the data sets will be updated in line with the details outlined in Submission KK-C322-11;
- (ii) the maps as included in the SFRA will be clarified to highlight the flood zones;
- (iii) the approach taken to the Plan Making Justification Test will be consistent with the Guidelines, see Submission KK-C322-11.

The CE's Report (draft stage), in response to submission KK-C322-11 from the OPW on the areas of concern in relation to the Plan Making Justification Test, recommends that the SFRA will be amended to demonstrate the application of the Justification Test for each area of concern. Furthermore, the CE's Report (draft stage) states that the approach to the SFRA was similar to that undertaken for the County Development Plan SFRA, the review process for which is due to commence later this year, and this process will include a detailed assessment for all settlements, including Castlecomer, as part of the Justification Tests for all zoning of lands at risk from flooding.

The CE's Report (MA stage) in response to the Office's submission (MA stage), specifically the concerns highlighting non-compliance with Recommendation 3 of the Office's submission (draft stage), states that the proposed Variation includes a number of limitations on development arising from the SFRA, and the Justification Tests as carried out.

Specifically, provisos were added to zones at various locations, referenced as objectives V3CC7, V3CC8, V3CC9 and V3CC10, restricting the uses permissible, on the basis of flood risk identified.

## [8] Prescribed Bodies

### Office of Public Works

The [OPW submission dated 18<sup>th</sup> June 2025](#) to the proposed Variation states:

*It is noted that the Plan Making Justification Test has been deemed to have been satisfied for the following areas:*

- *Area 2: Castlecomer Enterprise Centre; Area 3: Garda Station; Area 5: General Business southeast of Square; Area 7: General Business north of Square; south of Castlecomer Stream; Area 10 and 11: General Business, north and south of Castlecomer Stream. All of these areas have been zoned General Business, which according to the Kilkenny City and County Development Plan 2021-2027 allows highly vulnerable uses such as “dwellings, educational buildings, halting sites, hotels, motels, guest houses” along with various less vulnerable uses.*
- *Area 4: Residential (Andorra) which allows highly vulnerable residential development; Area 9: Mixed Use, north of Castlecomer Stream, west of Dinin River, zoned Mixed Use which allows highly vulnerable development such as “dwellings, halting sites, nursing homes, Bed and Breakfast establishments, and guest houses” along with various less vulnerable uses.*

*For all above mentioned areas for which otherwise inappropriate development has been justified, part 3 of the provided Justification Test consists of a single paragraph to cover all areas subjected to the Justification Test. This sets out that as the locations are in the main built out or brownfield, opportunities for future development will be limited, and notes a requirement from the development plan that any development proposal within the areas identified will be subject to a site specific flood risk assessment.*

*Part 3 of the Plan Making Justification Test as set out in the Guidelines is that “A flood risk assessment to an appropriate level of detail has been carried out as part of the Strategic Environmental Assessment as part of the development plan preparation process, which demonstrates that flood risk to the development can be adequately managed, and the use or development of the lands will not cause unacceptable adverse impacts elsewhere”. This is a requirement that in order to satisfy the*

*Justification Test, it must be demonstrated that in the context of the specific zoning which is being subjected to the test, that zoning lands at risk of flooding for usage of a vulnerability type inappropriate to the level of flood risk identified can be justified on the basis that it can be demonstrated that risk to the specific zoned lands can be mitigated to an acceptable level. Structural or non-structural means by which this risk might be mitigated should be identified. Given that the level and nature of risk will vary from site to site depending on the vulnerability of the proposed zoning and the risk identified through the strategic flood risk assessment, it is to be expected that suitable mitigation measures, and thus part 3 of different Plan Making Justification Tests, included in the plan, will also vary. Any requirements, mitigations or limitations required to ensure the lands can be safely developed should be included and transposed into the draft plan as policy objectives, and this should not be passed on to development management.*

#### **[9] Elected Members' Reasons**

The elected members accepted the recommendation of the Chief Executive to make the Variation.

#### **[10] Environmental Assessments**

The SEA Screening Report states that the Variation has been examined against Schedule 2A 'Criteria for determining whether a plan is likely to have significant effects on the environment' of the SEA Regulations, as amended, and it has been determined that the proposed Variation would not be likely to result in significant environmental effects.

The Screening for Appropriate Assessment Report concludes that the proposed Variation is not foreseen to have any likelihood of significant effects on any European sites, alone or in combination with other plans or projects – and therefore any potential for a significant effect to any European site as a result of implementing the proposed Variation can be ruled out.

#### **[11] Evaluation and Assessment**

The SFRA identifies Area 9: Mixed Use, north of Castlecomer Stream, west of River Dinin 'as an area with a potential conflict between development and flood risk, and states that a Justification Test has been carried out for these lands. These lands are zoned Mixed Use - To encourage the development of underutilised and brownfield lands with a view to

consolidating and adding vitality to these areas and ensuring the efficient use of urban lands. A mix of uses such as residential, commercial, tourism and recreation are envisaged', within which highly vulnerable uses (such as dwelling houses) are envisaged.

NPO 78 of the Revised NPF requires the avoidance of inappropriate development in areas that are at risk of flooding that do not pass the Justification Test, in accordance with the Flood Guidelines. Consequently, zoning land at risk of flooding without passing the Justification Test is inconsistent with NPO 78.

The Flood Guidelines provide a robust basis for planning authorities to identify, assess and manage flood risk sustainably, with the key principle being to avoid development in areas at risk of flooding and to adopt a sequential approach to flood risk management.

Notwithstanding this, the Flood Guidelines recognise that while many established urban centres will continue to be at risk of flooding, development may still be appropriate to support compact, sustainable urban growth. Accordingly, the Flood Guidelines include a Justification Test to assess the appropriateness of development in Flood Zone A (high risk) or Flood Zone B (moderate risk), and to identify how this can be achieved while flood risk to and from the development can be adequately managed.

The Justification Test in the Flood Guidelines includes two elements:

- the Plan Making Justification Test, applied at plan preparation/adoption where it is intended to zone or designate land at moderate or high flood risk; and
- the Development Management Justification Test, applied at planning application stage where development vulnerable to flooding is proposed on such lands.

The respective justification tests have a number of criteria that are required to be satisfied in order to pass the test. The first criterion of the Development Management Justification Test requires that the lands have been zoned in a development plan that has been adopted or varied taking account of the Flood Guidelines. As such, the Plan Making Justification Test cannot be circumvented by deferring matters to a site-specific Flood Risk Assessment at application stage, as has occurred in this instance.

Under the Flood Guidelines, highly vulnerable development (e.g. Garda, ambulance and fire stations and command centres required to be operational during flooding; hospitals;

dwelling houses; residential care homes; essential infrastructure such as primary transport and utilities distribution) is not appropriate in Flood Zones A or B unless it is clearly demonstrated, on a robust evidence base, that all criteria of the Plan Making Justification Test are satisfied. Less vulnerable development (e.g. retail) should likewise only be considered in Flood Zone B subject to a flood risk assessment to the appropriate level of detail to demonstrate that flood risk to and from the development can be adequately managed. The Flood Guidelines provide a classification schedule for land uses by vulnerability.

The Plan Making Justification Test for Area 9, including the additional details included in the material alterations to the Variation (December 2025)<sup>7</sup> states:

*Area 9: Mixed Use, north of Castlecomer Stream, west of River Dinin The zoning of this site for Mixed use will facilitate the regeneration and/or expansion of the centre. This area is in the core of Castlecomer. Its continued development is essential to achieving compact and sustainable urban growth. There are no suitable alternative lands in areas at lower risk of flooding within or adjoining the core.*

*In this context, this Flood Risk Assessment contains sufficient information appropriate to the scale and nature of the development potential. Mitigation measures are included in the Development Plan (See Vol. 1 Chapter 10, section 10.2.6), to state that any development proposal within the area identified will be subject to a site specific Flood Risk Assessment appropriate to the type and scale of the development being proposed. This mitigation measure will ensure that any development taking place will not exacerbate any flooding issue.*

Having regard to the three criteria in Box 4.1 of the Flood Guidelines, the Office accepts that Criteria 1 and 2 are addressed and satisfied. However, in respect of Criteria 3, the Plan Making Justification Test relies on a generic requirement for a site-specific Flood Risk Assessment at planning application stage and does not provide a zoning-level assessment demonstrating that flood risk to development facilitated under the Mixed Use zoning can be appropriately managed, nor that the use or development of the lands will not cause

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<sup>7</sup> The material alterations to the proposed Variation includes Additional Documents: Flood Risk Assessment which amends the SFRA.

unacceptable adverse impacts elsewhere. Under the Flood Guidelines, these requirements cannot be deferred to any future assessment at the development management stage.

A compliant assessment is required to evaluate on a site-by-site basis, the site-specific characteristics influencing the nature and extent of flood risk and identify necessary mitigation measures, having regard to the vulnerability classification of the types of development facilitated by the zoning objective. Any requirements, mitigations or limitations required to ensure the lands can be safely developed should be included in the draft plan as policy objectives.

Having regard to the above, the Office is of the view that the subject lands have not passed all requirements of the Plan Making Justification Test.

This approach facilitates development without establishing how site-specific or cumulative flood risks can be effectively managed, potentially putting people and property at risk.

The Office considers therefore that the inclusion of the Mixed Use zoning on lands at risk of flooding without passing all the requirements of the Plan Making Justification Test is inconsistent with NPO 78 of the Revised NPF to promote sustainable development by ensuring flooding and flood risk management informs place making by avoiding inappropriate development in areas at risk of flooding that do not pass the Justification Test, in accordance with the Flood Guidelines.

#### **[12] Consideration of Elected Members' Reasons**

No or no adequate reasons were provided by the elected members.

#### **[13] Conclusion**

The Office is of the opinion that the Variation has not been made in a manner consistent with the following recommendation of the Office:

- Recommendation 3(iii)

The Variation includes a zoning objective inconsistent with the following objective of the Revised NPF:

- NPO 78

### 3.1.7 Area 10: General Business, north and south of Castlecomer Stream

#### [1] Area 10: General Business, north and south of Castlecomer Stream

These lands are zoned for General Business within which highly vulnerable uses (such as dwelling houses) and less vulnerable uses (such as retail) are permitted in principle. The lands are identified as being at high risk of flooding (Flood Zone A) and moderate risk of flooding (Flood Zone B), where the Flood Guidelines indicate that the uses permitted under this zoning objective are not appropriate unless a Justification Test is passed.

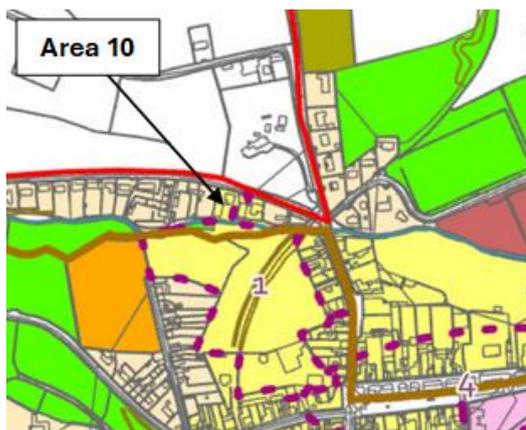
[2a] Approximate Site Area

Not available

[2b] CSO Boundary

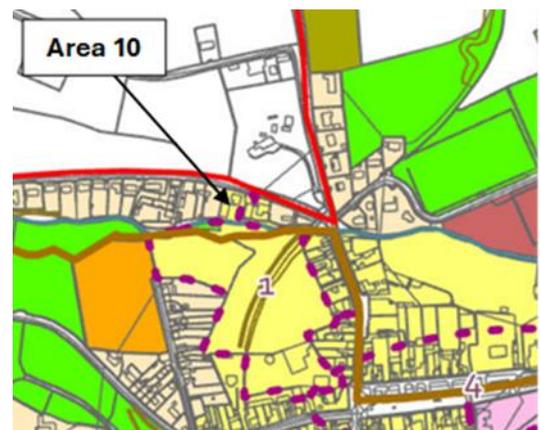
Outside CSO 2022 boundary.

[3a] Zoning map extract of the land at draft stage



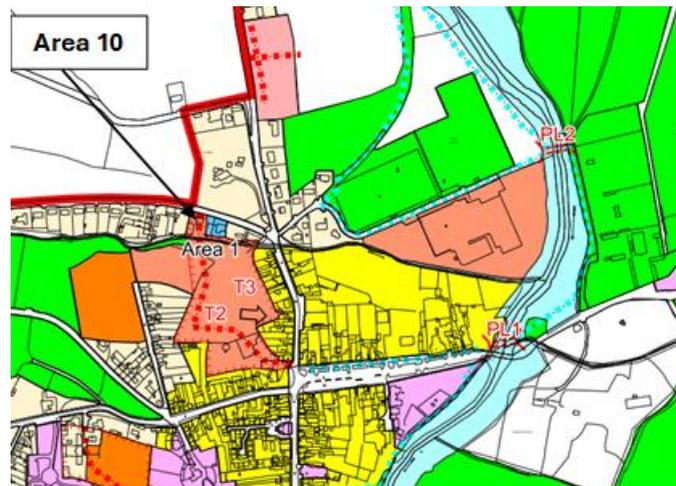
Zoned: General Business

[3b] Zoning map extract of the land at material alterations stage



No zoning change at material alterations stage

**[4a] Zoning map extract of the land from the Castlecomer Local Area Plan 2018-2024**



The lands were zoned Mixed Use in the previous Castlecomer Local Area Plan 2018-2024.

**[4b] Flood Risk map extract from Material Alterations to Proposed Variation 5: Castlecomer Settlement Plan, Figure 2.3 Areas of Flood Risk (Version updated March 2026)**



**[4c] Link to Aerial Imagery**

[Aerial photography of the site and its surrounds](#)

**[5] Specific Site Constraints or Designations**

Flood Zone A and B

## [6] Servicing Tier & Infrastructure Status

Tier 2 'serviceable'. Water capacity constraints in Castlecomer.

## [7] Chief Executive's Recommendation

[The CE's Report \(draft stage\) on the proposed Variation](#), in response to Recommendation 3 states that the Office's submission (draft stage) should be addressed in conjunction with submission KK-C322-11 from the OPW and recommends:

- (i) the data sets will be updated in line with the details outlined in Submission KK-C322-11;
- (ii) the maps as included in the SFRA will be clarified to highlight the flood zones;
- (iii) the approach taken to the Plan Making Justification Test will be consistent with the Guidelines, see Submission KK-C322-11.

The CE's Report (draft stage), in response to submission KK-C322-11 from the OPW on the areas of concern in relation to the Plan Making Justification Test, recommends that the SFRA will be amended to demonstrate the application of the Justification Test for each area of concern. Furthermore, the CE's Report (draft stage) states that the approach to the SFRA was similar to that undertaken for the County Development Plan SFRA, the review process for which is due to commence later this year, and this process will include a detailed assessment for all settlements, including Castlecomer, as part of the Justification Tests for all zoning of lands at risk from flooding.

The CE's Report (MA stage) in response to the Office's submission (MA stage), specifically the concerns highlighting non-compliance with Recommendation 3 of the Office's submission (draft stage), states that the proposed Variation includes a number of limitations on development arising from the SFRA, and the Justification Tests as carried out.

Specifically, provisos were added to zones at various locations, referenced as objectives V3CC7, V3CC8, V3CC9 and V3CC10, restricting the uses permissible, on the basis of flood risk identified.

## [8] Prescribed Bodies

### Office of Public Works

The [OPW submission dated 18<sup>th</sup> June 2025](#) to the proposed Variation states:

*It is noted that the Plan Making Justification Test has been deemed to have been satisfied for the following areas:*

- *Area 2: Castlecomer Enterprise Centre; Area 3: Garda Station; Area 5: General Business southeast of Square; Area 7: General Business north of Square; south of Castlecomer Stream; Area 10 and 11: General Business, north and south of Castlecomer Stream. All of these areas have been zoned General Business, which according to the Kilkenny City and County Development Plan 2021-2027 allows highly vulnerable uses such as “dwellings, educational buildings, halting sites, hotels, motels, guest houses” along with various less vulnerable uses.*
- *Area 4: Residential (Andorra) which allows highly vulnerable residential development; Area 9: Mixed Use, north of Castlecomer Stream, west of Dinin River, zoned Mixed Use which allows highly vulnerable development such as “dwellings, halting sites, nursing homes, Bed and Breakfast establishments, and guest houses” along with various less vulnerable uses.*

*For all above mentioned areas for which otherwise inappropriate development has been justified, part 3 of the provided Justification Test consists of a single paragraph to cover all areas subjected to the Justification Test. This sets out that as the locations are in the main built out or brownfield, opportunities for future development will be limited, and notes a requirement from the development plan that any development proposal within the areas identified will be subject to a site specific flood risk assessment.*

*Part 3 of the Plan Making Justification Test as set out in the Guidelines is that “A flood risk assessment to an appropriate level of detail has been carried out as part of the Strategic Environmental Assessment as part of the development plan preparation process, which demonstrates that flood risk to the development can be adequately managed, and the use or development of the lands will not cause unacceptable adverse impacts elsewhere”. This is a requirement that in order to satisfy the*

*Justification Test, it must be demonstrated that in the context of the specific zoning which is being subjected to the test, that zoning lands at risk of flooding for usage of a vulnerability type inappropriate to the level of flood risk identified can be justified on the basis that it can be demonstrated that risk to the specific zoned lands can be mitigated to an acceptable level. Structural or non-structural means by which this risk might be mitigated should be identified. Given that the level and nature of risk will vary from site to site depending on the vulnerability of the proposed zoning and the risk identified through the strategic flood risk assessment, it is to be expected that suitable mitigation measures, and thus part 3 of different Plan Making Justification Tests, included in the plan, will also vary. Any requirements, mitigations or limitations required to ensure the lands can be safely developed should be included and transposed into the draft plan as policy objectives, and this should not be passed on to development management.*

**[9] Elected Members' Reasons**

The elected members accepted the recommendation of the Chief Executive to make the Variation.

**[10] Environmental Assessments**

The SEA Screening Report states that the Variation has been examined against Schedule 2A 'Criteria for determining whether a plan is likely to have significant effects on the environment' of the SEA Regulations, as amended, and it has been determined that the proposed Variation would not be likely to result in significant environmental effects.

The Screening for Appropriate Assessment Report concludes that the proposed Variation is not foreseen to have any likelihood of significant effects on any European sites, alone or in combination with other plans or projects – and therefore any potential for a significant effect to any European site as a result of implementing the proposed Variation can be ruled out.

**[11] Evaluation and Assessment**

The SFRA identifies Area 10: General Business, north and south of Castlecomer Stream as an area with a potential conflict between development and flood risk, and states that a Justification Test has been carried out for these lands. These lands are zoned 'General Business – To allow a flexible approach to development that supports the vitality and

viability of the town centre', within which highly vulnerable uses (such as dwelling houses) and less vulnerable uses (such as retail) are permitted in principle.

NPO 78 of the Revised NPF requires the avoidance of inappropriate development in areas that are at risk of flooding that do not pass the Justification Test, in accordance with the Flood Guidelines. Consequently, zoning land at risk of flooding without passing the Justification Test is inconsistent with NPO 78.

The Flood Guidelines provide a robust basis for planning authorities to identify, assess and manage flood risk sustainably, with the key principle being to avoid development in areas at risk of flooding and to adopt a sequential approach to flood risk management.

Notwithstanding this, the Flood Guidelines recognise that while many established urban centres will continue to be at risk of flooding, development may still be appropriate to support compact, sustainable urban growth. Accordingly, the Flood Guidelines include a Justification Test to assess the appropriateness of development in Flood Zone A (high risk) or Flood Zone B (moderate risk), and to identify how this can be achieved while flood risk to and from the development can be adequately managed.

The Justification Test in the Flood Guidelines includes two elements:

- the Plan Making Justification Test, applied at plan preparation/adoption where it is intended to zone or designate land at moderate or high flood risk; and
- the Development Management Justification Test, applied at planning application stage where development vulnerable to flooding is proposed on such lands.

The respective justification tests have a number of criteria that are required to be satisfied in order to pass the test. The first criterion of the Development Management Justification Test requires that the lands have been zoned in a development plan that has been adopted or varied taking account of the Flood Guidelines. As such, the Plan Making Justification Test cannot be circumvented by deferring matters to a site-specific Flood Risk Assessment at application stage, as has occurred in this instance.

Under the Flood Guidelines, highly vulnerable development (e.g. Garda, ambulance and fire stations and command centres required to be operational during flooding; hospitals; dwelling houses; residential care homes; essential infrastructure such as primary transport

and utilities distribution) is not appropriate in Flood Zones A or B unless it is clearly demonstrated, on a robust evidence base, that all criteria of the Plan Making Justification Test are satisfied. Less vulnerable development (e.g. retail) should likewise only be considered in Flood Zone B subject to a flood risk assessment to the appropriate level of detail to demonstrate that flood risk to and from the development can be adequately managed. The Flood Guidelines provide a classification schedule for land uses by vulnerability.

The Plan Making Justification Test for Area 10, including the additional details included in the material alterations to the Variation (December 2025)<sup>8</sup> states:

*Area 10 and 11: General Business, north and south of Castlecomer Stream The zoning of this site for General Business will facilitate the regeneration and/or expansion of the centre. This area is in the core of Castlecomer. Its continued development is essential to achieving compact and sustainable urban growth. There are no suitable alternative lands in areas at lower risk of flooding within or adjoining the core.*

*This land was zoned for Mixed use in the 2018 LAP and is now proposed for General Business under the Proposed Variation. This zoning allows for a wide variety of uses, some of which are highly vulnerable. A Justification Test at this plan-making stage is required for this zoning.*

*In this context, this Flood Risk Assessment contains sufficient information appropriate to the scale and nature of the development potential. Mitigation measures are included in the Development Plan (See Vol. 1 Chapter 10, section 10.2.6), to state that any development proposal within the area identified will be subject to a site specific Flood Risk Assessment appropriate to the type and scale of the development being proposed. This mitigation measure will ensure that any development taking place will not exacerbate any flooding issue.*

Having regard to the three criteria in Box 4.1 of the Flood Guidelines, the Office accepts that Criteria 1 and 2 are addressed and satisfied. However, in respect of Criteria 3, the Plan

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<sup>8</sup> The material alterations to the proposed Variation includes Additional Documents: Flood Risk Assessment which amends the SFRA.

Making Justification Test relies on a generic requirement for a site-specific Flood Risk Assessment at planning application stage and does not provide a zoning-level assessment demonstrating that flood risk to development facilitated under the General Business zoning can be appropriately managed, nor that the use or development of the lands will not cause unacceptable adverse impacts elsewhere. Under the Flood Guidelines, these requirements cannot be deferred to any future assessment at the development management stage.

A compliant assessment is required to evaluate on a site-by-site basis, the site-specific characteristics influencing the nature and extent of flood risk and identify necessary mitigation measures, having regard to the vulnerability classification of the types of development facilitated by the zoning objective. Any requirements, mitigations or limitations required to ensure the lands can be safely developed should be included in the draft plan as policy objectives.

Having regard to the above, the Office is of the view that the subject lands have not passed all requirements of the Plan Making Justification Test.

This approach facilitates development without establishing how site-specific or cumulative flood risks can be effectively managed, potentially putting people and property at risk.

The Office considers therefore that the inclusion of the General Business zoning on lands at risk of flooding without passing all the requirements of the Plan Making Justification Test is inconsistent with NPO 78 of the Revised NPF to promote sustainable development by ensuring flooding and flood risk management informs place making by avoiding inappropriate development in areas at risk of flooding that do not pass the Justification Test, in accordance with the Flood Guidelines.

#### **[12] Consideration of Elected Members' Reasons**

No or no adequate reasons were provided by the elected members.

#### **[13] Conclusion**

The Office is of the opinion that the Variation has not been made in a manner consistent with the following recommendation of the Office:

- Recommendation 3(iii)

The Variation includes a zoning objective inconsistent with the following objective of the Revised NPF:

- NPO 78

### 3.1.8 Area 11: General Business, north and south of Castlecomer Stream

#### [1] Area 11: General Business, north and south of Castlecomer Stream

These lands are zoned for General Business within which highly vulnerable uses (such as dwelling houses) and less vulnerable uses (such as retail) are permitted in principle. The lands are identified as being at high risk of flooding (Flood Zone A) and moderate risk of flooding (Flood Zone B), where the Flood Guidelines indicate that the uses permitted under this zoning objective are not appropriate unless a Justification Test is passed.

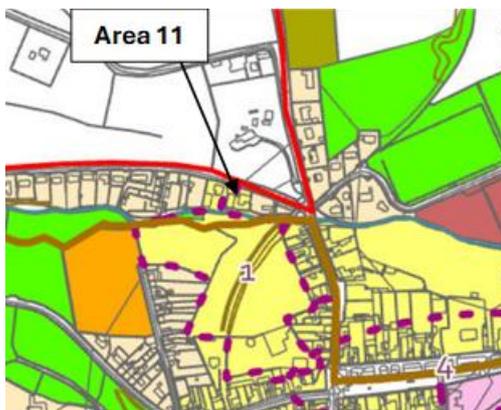
[2a] Approximate Site Area

Not available

[2b] CSO Boundary

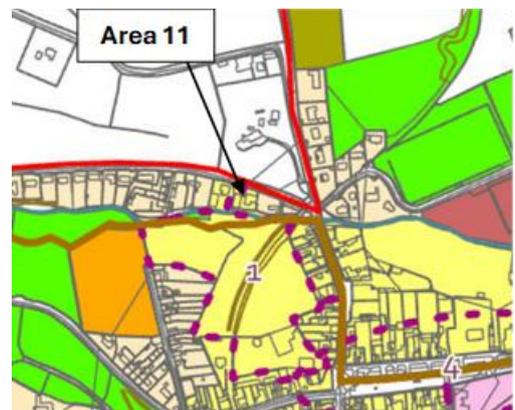
Outside CSO 2022 boundary.

[3a] Zoning map extract of the land at draft stage



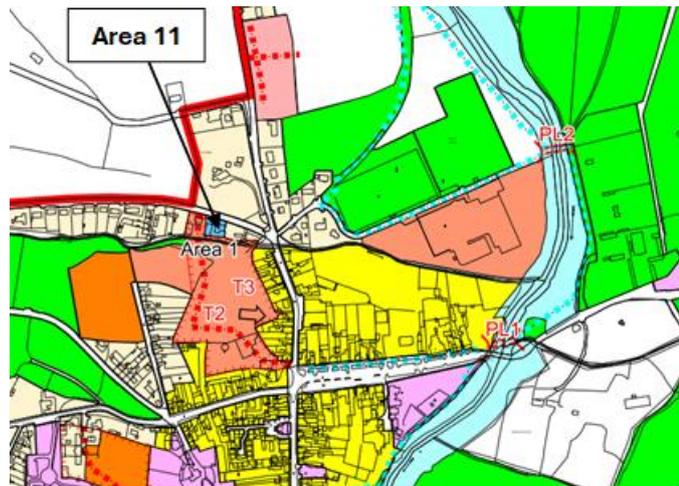
Zoned: General Business

[3b] Zoning map extract of the land at material alterations stage



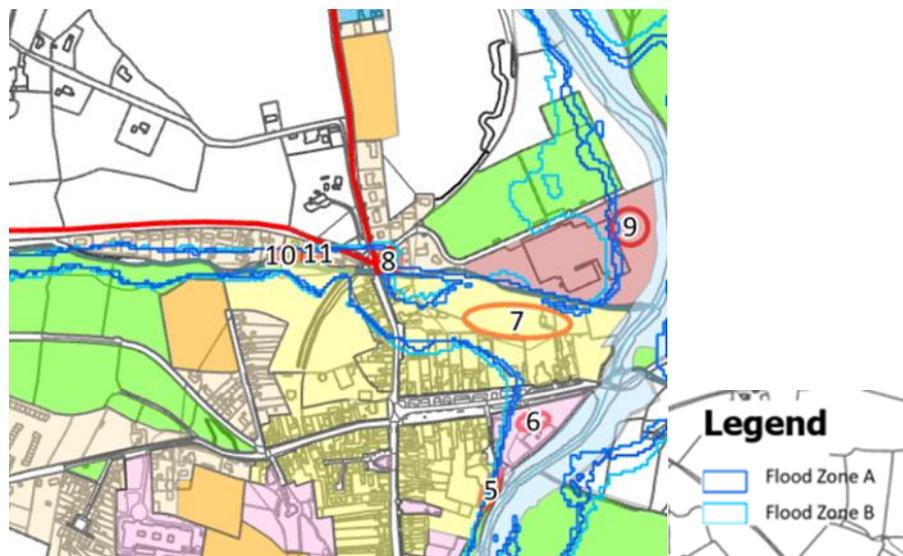
No proposed change at Material Alterations stage

**[4a] Zoning map extract of the land from the Castlecomer Local Area Plan 2018-2024**



The lands were zoned Industrial in the previous Castlecomer Local Area Plan 2018-2024

**[4b] Flood Risk map extract from Material Alterations to Proposed Variation 5: Castlecomer Settlement Plan, Figure 2.3 Areas of Flood Risk (Version updated March 2026)**



**[4c] Link to Aerial Imagery**

[Aerial photography of the site and its surrounds](#)

**[5] Specific Site Constraints or Designations**

Flood Zone A and B

## [6] Servicing Tier & Infrastructure Status

Tier 2 'serviceable'. Water capacity constraints in Castlecomer.

## [7] Chief Executive's Recommendation

[The CE's Report \(draft stage\) on the proposed Variation](#), in response to Recommendation 3 states that the Office's submission (draft stage) should be addressed in conjunction with submission KK-C322-11 from the OPW and recommends:

- (i) the data sets will be updated in line with the details outlined in Submission KK-C322-11;
- (ii) the maps as included in the SFRA will be clarified to highlight the flood zones;
- (iii) the approach taken to the Plan Making Justification Test will be consistent with the Guidelines, see Submission KK-C322-11.

The CE's Report (draft stage), in response to submission KK-C322-11 from the OPW on the areas of concern in relation to the Plan Making Justification Test, recommends that the SFRA will be amended to demonstrate the application of the Justification Test for each area of concern. Furthermore, the CE's Report (draft stage) states that the approach to the SFRA was similar to that undertaken for the County Development Plan SFRA, the review process for which is due to commence later this year, and this process will include a detailed assessment for all settlements, including Castlecomer, as part of the Justification Tests for all zoning of lands at risk from flooding.

The CE's Report (MA stage) in response to the Office's submission (MA stage), specifically the concerns highlighting non-compliance with Recommendation 3 of the Office's submission (draft stage), states that the proposed Variation includes a number of limitations on development arising from the SFRA, and the Justification Tests as carried out.

Specifically, provisos were added to zones at various locations, referenced as objectives V3CC7, V3CC8, V3CC9 and V3CC10, restricting the uses permissible, on the basis of flood risk identified.

## [8] Prescribed Bodies

### Office of Public Works

The [OPW submission dated 18<sup>th</sup> June 2025](#) to the proposed Variation states:

*It is noted that the Plan Making Justification Test has been deemed to have been satisfied for the following areas:*

- *Area 2: Castlecomer Enterprise Centre; Area 3: Garda Station; Area 5: General Business southeast of Square; Area 7: General Business north of Square; south of Castlecomer Stream; Area 10 and 11: General Business, north and south of Castlecomer Stream. All of these areas have been zoned General Business, which according to the Kilkenny City and County Development Plan 2021-2027 allows highly vulnerable uses such as “dwellings, educational buildings, halting sites, hotels, motels, guest houses” along with various less vulnerable uses.*
- *Area 4: Residential (Andorra) which allows highly vulnerable residential development; Area 9: Mixed Use, north of Castlecomer Stream, west of Dinin River, zoned Mixed Use which allows highly vulnerable development such as “dwellings, halting sites, nursing homes, Bed and Breakfast establishments, and guest houses” along with various less vulnerable uses.*

*For all above mentioned areas for which otherwise inappropriate development has been justified, part 3 of the provided Justification Test consists of a single paragraph to cover all areas subjected to the Justification Test. This sets out that as the locations are in the main built out or brownfield, opportunities for future development will be limited, and notes a requirement from the development plan that any development proposal within the areas identified will be subject to a site specific flood risk assessment.*

*Part 3 of the Plan Making Justification Test as set out in the Guidelines is that “A flood risk assessment to an appropriate level of detail has been carried out as part of the Strategic Environmental Assessment as part of the development plan preparation process, which demonstrates that flood risk to the development can be adequately managed, and the use or development of the lands will not cause unacceptable adverse impacts elsewhere”. This is a requirement that in order to satisfy the*

*Justification Test, it must be demonstrated that in the context of the specific zoning which is being subjected to the test, that zoning lands at risk of flooding for usage of a vulnerability type inappropriate to the level of flood risk identified can be justified on the basis that it can be demonstrated that risk to the specific zoned lands can be mitigated to an acceptable level. Structural or non-structural means by which this risk might be mitigated should be identified. Given that the level and nature of risk will vary from site to site depending on the vulnerability of the proposed zoning and the risk identified through the strategic flood risk assessment, it is to be expected that suitable mitigation measures, and thus part 3 of different Plan Making Justification Tests, included in the plan, will also vary. Any requirements, mitigations or limitations required to ensure the lands can be safely developed should be included and transposed into the draft plan as policy objectives, and this should not be passed on to development management.*

#### **[9] Elected Members' Reasons**

The elected members accepted the recommendation of the Chief Executive to make the Variation.

#### **[10] Environmental Assessments**

The SEA Screening Report states that the Variation has been examined against Schedule 2A 'Criteria for determining whether a plan is likely to have significant effects on the environment' of the SEA Regulations, as amended, and it has been determined that the proposed Variation would not be likely to result in significant environmental effects.

The AA Screening Report concludes that the proposed Variation is not foreseen to have any likelihood of significant effects on any European sites, alone or in combination with other plans or projects – and therefore any potential for a significant effect to any European site as a result of implementing the proposed Variation can be ruled out.

#### **[11] Evaluation and Assessment**

The SFRA identifies Area 11: General Business north of Castlecomer Stream as an area with a potential conflict between development and flood risk, and states that a Justification Test has been carried out for these lands. These lands are zoned 'General Business – To allow a flexible approach to development that supports the vitality and viability of the town

centre', within which highly vulnerable uses (such as dwelling houses) and less vulnerable uses (such as retail) are permitted in principle.

NPO 78 of the Revised NPF requires the avoidance of inappropriate development in areas that are at risk of flooding that do not pass the Justification Test, in accordance with the Flood Guidelines. Consequently, zoning land at risk of flooding without passing the Justification Test is inconsistent with NPO 78.

The Flood Guidelines provide a robust basis for planning authorities to identify, assess and manage flood risk sustainably, with the key principle being to avoid development in areas at risk of flooding and to adopt a sequential approach to flood risk management.

Notwithstanding this, the Flood Guidelines recognise that while many established urban centres will continue to be at risk of flooding, development may still be appropriate to support compact, sustainable urban growth. Accordingly, the Flood Guidelines include a Justification Test to assess the appropriateness of development in Flood Zone A (high risk) or Flood Zone B (moderate risk), and to identify how this can be achieved while flood risk to and from the development can be adequately managed.

The Justification Test in the Flood Guidelines includes two elements:

- the Plan Making Justification Test, applied at plan preparation/adoption where it is intended to zone or designate land at moderate or high flood risk; and
- the Development Management Justification Test, applied at planning application stage where development vulnerable to flooding is proposed on such lands.

The respective justification tests have a number of criteria that are required to be satisfied in order to pass the test. The first criterion of the Development Management Justification Test requires that the lands have been zoned in a development plan that has been adopted or varied taking account of the Flood Guidelines. As such, the Plan Making Justification Test cannot be circumvented by deferring matters to a site-specific Flood Risk Assessment at application stage, as has occurred in this instance.

Under the Flood Guidelines, highly vulnerable development (e.g. Garda, ambulance and fire stations and command centres required to be operational during flooding; hospitals; dwelling houses; residential care homes; essential infrastructure such as primary transport

and utilities distribution) is not appropriate in Flood Zones A or B unless it is clearly demonstrated, on a robust evidence base, that all criteria of the Plan Making Justification Test are satisfied. Less vulnerable development (e.g. retail) should likewise only be considered in Flood Zone B subject to a flood risk assessment to the appropriate level of detail to demonstrate that flood risk to and from the development can be adequately managed. The Flood Guidelines provide a classification schedule for land uses by vulnerability.

The Plan Making Justification Test for Area 11, including the additional details included in the material alterations to the Variation (December 2025)<sup>9</sup> states:

*Area 10 and 11: General Business, north and south of Castlecomer Stream.*

*Area 10 and 11: General Business, north and south of Castlecomer Stream The zoning of this site for General Business will facilitate the regeneration and/or expansion of the centre. This area is in the core of Castlecomer. Its continued development is essential to achieving compact and sustainable urban growth. There are no suitable alternative lands in areas at lower risk of flooding within or adjoining the core.*

*This land was zoned for Mixed use in the 2018 LAP and is now proposed for General Business under the Proposed Variation. This zoning allows for a wide variety of uses, some of which are highly vulnerable. A Justification Test at this plan-making stage is required for this zoning.*

*In this context, this Flood Risk Assessment contains sufficient information appropriate to the scale and nature of the development potential. Mitigation measures are included in the Development Plan (See Vol. 1 Chapter 10, section 10.2.6), to state that any development proposal within the area identified will be subject to a site specific Flood Risk Assessment appropriate to the type and scale of the development being proposed. This mitigation measure will ensure that any development taking place will not exacerbate any flooding issue.*

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<sup>9</sup> The material alterations to the proposed Variation includes Additional Documents: Flood Risk Assessment which amends the SFRA.

Having regard to the three criteria in Box 4.1 of the Flood Guidelines, the Office accepts that Criteria 1 and 2 are addressed and satisfied. However, in respect of Criteria 3, the Plan Making Justification Test relies on a generic requirement for a site-specific Flood Risk Assessment at planning application stage and does not provide a zoning-level assessment demonstrating that flood risk to development facilitated under the General Business zoning can be appropriately managed, nor that the use or development of the lands will not cause unacceptable adverse impacts elsewhere. Under the Flood Guidelines, these requirements cannot be deferred to any future assessment at the development management stage.

A compliant assessment is required to evaluate on a site-by-site basis, the site-specific characteristics influencing the nature and extent of flood risk and identify necessary mitigation measures, having regard to the vulnerability classification of the types of development facilitated by the zoning objective. Any requirements, mitigations or limitations required to ensure the lands can be safely developed should be included in the draft plan as policy objectives.

Having regard to the above, the Office is of the view that the subject lands have not passed all requirements of the Plan Making Justification Test.

This approach facilitates development without establishing how site-specific or cumulative flood risks can be effectively managed, potentially putting people and property at risk.

The Office considers therefore that the inclusion of the General Business zoning on lands at risk of flooding without passing all the requirements of the Plan Making Justification Test is inconsistent with NPO 78 of the Revised NPF to promote sustainable development by ensuring flooding and flood risk management informs place making by avoiding inappropriate development in areas at risk of flooding that do not pass the Justification Test, in accordance with the Flood Guidelines.

**[12] Consideration of Elected Members' Reasons**

No or no adequate reasons were provided by the elected members

**[13] Conclusion**

The Office is of the opinion that the Variation has not been made in a manner consistent with the following recommendation of the Office:

- Recommendation 3(iii)

The Variation includes a zoning objective inconsistent with the following objective of the Revised NPF:

- NPO 78

#### **4. Opinion of the Office and Reasons**

29. Having considered the Variation as adopted, under section 31AM(7) of the Act, the Office is of the opinion that the said Variation has not been made in a manner consistent with the recommendations of the Office.

30. Further, the 31AM(6) notice states that the Office's recommendations were complied with and does not therefore set out the reasons for not implementing the Office's recommendation or explain how, notwithstanding that failure, the County Development Plan as varied by the Variation sets out an overall strategy for the proper planning and sustainable development of the area.

31. As you will be aware, the Office has various functions in respect of evaluating and assessing proposed variations to development plans, summarised as follows:

- under section 31AM(1) of the Act, the Office has a statutory duty to evaluate and assess, at least at a strategic level, planning authority proposals in respect of proposed variations to development plans;
- under section 31AM(2) the Office shall endeavour to ensure that where appropriate it addresses the legislative and policy matters set out at (a) to (e) therein;
- under section 31AM(3)(a), in making observations or submissions in respect of any evaluation or assessment of a proposed variation the Office shall make, to the relevant planning authority, such recommendations in relation to the Office's evaluation and assessments as it considers necessary in order to ensure effective co-ordination of national, regional

and local planning requirements by the relevant planning authority in the discharge of its development planning functions.

- under section 31AM(7), the Office shall consider whether or not the variation as made by the planning authority is, in the opinion of the Office, consistent with any recommendations made by the Office;
- in performing its functions, the Office must, under section 31P(3) of the Act, take account of the objective for contributing to proper planning and sustainable development and the optimal functioning of planning under the Act; and
- under section 31S, the Office must, in performing its functions, have regard to:
  - a) the policies and objectives for the time being of the Government, a State authority (including Ministerial guidelines, policy directives and directions issued under *Chapter IV of Part II*), planning authorities and any other body which is a public authority whose functions have, or may have, a bearing on the proper planning and sustainable development of cities, towns, villages or other areas, whether urban or rural,
  - b) the public interest and any effect the performance of the Office's functions may have on issues of strategic, economic or social importance to the State,
  - c) the National Planning Framework (or, where appropriate, the National Spatial Strategy) and any regional spatial and economic strategy for the time being in force, and
  - d) the requirements of relevant acts of the European Union, in particular, those relating to —
    - (i) the Environmental Impact Assessment Directive,
    - (ii) Directive 2001/42/EC of the European Parliament and Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment,
    - (iii) the Habitats Directive, and

(iv) the Birds Directives,

in so far as those requirements relate to planning authorities by virtue of being designated competent authorities for the purposes of those acts.

32. Accordingly, having considered the Variation in light of the above statutory functions, the Office is of the opinion that the Variation has not been made in a manner consistent with the recommendations of the Office. In particular:

- I. The Variation zoned land for General Business in Flood Zone A and Flood Zone B identified as Area 2: Castlecomer Enterprise Centre where the Planning System and Flood Risk Management Guidelines for Planning Authorities (2009) (Flood Guidelines), issued under section 28 of the Act, indicate that the uses permitted under this zoning objective are not appropriate unless a Plan Making Justification Test is passed. The zoning objective is therefore inconsistent with NPO 78 of the Revised NPF to avoid inappropriate development in areas at risk of flooding that do not pass the Justification Test, in accordance with the Flood Guidelines.
- II. The Variation zoned land for General Business in Flood Zone A identified as Area 3: Garda Station, where the Planning System and Flood Risk Management Guidelines for Planning Authorities (2009) (Flood Guidelines), issued under section 28 of the Act, indicate that the uses permitted under this zoning objective are not appropriate unless a Plan Making Justification Test is passed. The zoning objective is therefore inconsistent with NPO 78 of the Revised NPF to avoid inappropriate development in areas at risk of flooding that do not pass the Justification Test, in accordance with the Flood Guidelines.
- III. The Variation zoned land for General Business in Flood Zone A identified as Area 4: Residential (Andorra), where the Planning System and Flood Risk Management Guidelines for Planning Authorities (2009) (Flood Guidelines), issued under section 28 of the Act, indicate that the uses permitted under this zoning objective are not appropriate unless a Plan Making Justification Test is passed. The zoning objective is therefore inconsistent with NPO 78 of the Revised NPF to avoid inappropriate

development in areas at risk of flooding that do not pass the Justification Test, in accordance with the Flood Guidelines.

- IV. The Variation zoned land for General Business in Flood Zone A and Flood Zone B identified as Area 5: General Business southeast of Square where the Planning System and Flood Risk Management Guidelines for Planning Authorities (2009) (Flood Guidelines), issued under section 28 of the Act, indicate that the uses permitted under this zoning objective are not appropriate unless a Plan Making Justification Test is passed. The zoning objective is therefore inconsistent with NPO 78 of the Revised NPF to avoid inappropriate development in areas at risk of flooding that do not pass the Justification Test, in accordance with the Flood Guidelines.
- V. The Variation zoned land for General Business in Flood Zone A and Flood Zone B identified as Area 7: General Business north of Square, south of Castlecomer Stream, where the Planning System and Flood Risk Management Guidelines for Planning Authorities (2009) (Flood Guidelines), issued under section 28 of the Act, indicate that the uses permitted under this zoning objective are not appropriate unless a Plan Making Justification Test is passed. The zoning objective is therefore inconsistent with NPO 78 of the Revised NPF to avoid inappropriate development in areas at risk of flooding that do not pass the Justification Test, in accordance with the Flood Guidelines.
- VI. The Variation zoned land for Mixed Use in Flood Zone A and Flood Zone B identified as Area 9: Mixed Use, north of Castlecomer Stream, west of River Dinin where the Planning System and Flood Risk Management Guidelines for Planning Authorities (2009) (Flood Guidelines), issued under section 28 of the Act, indicate that the uses envisaged under this zoning objective are not appropriate unless a Plan Making Justification Test is passed. The zoning objective is therefore inconsistent with NPO 78 of the Revised NPF to avoid inappropriate development in areas at risk of flooding that do not pass the Justification Test, in accordance with the Flood Guidelines.

- VII. The Variation zoned land for General Business in Flood Zone A and Flood Zone B identified as Area 10: General Business, north and south of Castlecomer Stream where the Planning System and Flood Risk Management Guidelines for Planning Authorities (2009) (Flood Guidelines), issued under section 28 of the Act, indicate that the uses permitted under this zoning objective are not appropriate unless a Plan Making Justification Test is passed. The zoning objective is therefore inconsistent with NPO 78 of the Revised NPF to avoid inappropriate development in areas at risk of flooding that do not pass the Justification Test, in accordance with the Flood Guidelines.
- VIII. The Variation zoned land for General Business in Flood Zone A and Flood Zone B identified as Area 11: General Business, north and south of Castlecomer Stream where the Planning System and Flood Risk Management Guidelines for Planning Authorities (2009) (Flood Guidelines), issued under section 28 of the Act, indicate that the uses permitted under this zoning objective are not appropriate unless a Plan Making Justification Test is passed. The zoning objective is therefore inconsistent with NPO 78 of the Revised NPF to avoid inappropriate development in areas at risk of flooding that do not pass the Justification Test, in accordance with the Flood Guidelines.
33. No or no adequate reasons relating to the proper planning and sustainable development of the area have been provided to explain why it was not practicable for the Planning Authority to implement the objective of the Revised NPF, or how, notwithstanding this inconsistency with the Revised NPF, the decision of the Planning Authority results in the making of a Variation to the County Development Plan in a manner that sets out an overall strategy for the proper and sustainable development of the area.
34. In making the Variation with inappropriate zoning objectives in areas at high or moderate risk of flooding without passing the requirements of a Plan-Making Justification Test, the Planning Authority has made the Variation contrary to the requirements of section 13(7) of the Act which restricts consideration to 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.

35. The factors that the Office has taken into account in forming this opinion are as follows:

(i) National Planning Framework First Revision (2025) (the Revised NPF):

NPO 78 Promote sustainable development by ensuring flooding and flood risk management informs place-making by:

- Avoiding inappropriate development in areas at risk of flooding that do not pass the Justification Test, in accordance with the Guidelines on the Planning System and Flood Risk Management;
- Taking account of the potential impacts of climate change on flooding and flood risk, in line with national policy regarding climate adaptation.

(ii) the CE's Reports at draft and material alteration stages;

(iii) matters generally within the scope of section 13 of the Act;

(iv) the Office's statutory obligations under the Act; and

(v) the matters listed at section 15(1)(a) - (e) of the Climate Action and Low Carbon Development Act 2015 (as amended by the Climate Action and Low Carbon Development Act 2021).

36. In light of the above, the Office is, therefore, of the opinion that the Variation has not been made in a manner consistent with its recommendations set out in the Office's submission issued on 27<sup>th</sup> June 2025, and that the decision of the Planning Authority results in the making of a Variation to the County Development Plan in a manner that fails to set out an overall strategy for the proper planning and sustainable development of the area, and as a consequence the use by the Minister of his functions to issue a direction under section 31 would be merited.

## 5. Recommendation to the Minister

37. Having regard to section 31AM(8) of the Act, the Office recommends the exercise of your function under the relevant provisions of section 31 of the Act taking such steps as to rectify the matter in a manner that, in the opinion of the Office, will ensure that the County Development Plan as varied by the Planning Authority sets out an overall strategy for proper planning and sustainable development as set out in the draft direction to the Planning Authority accompanying this notice, which are that the Planning Authority is directed to take the following steps with regard to the Variation:

- (a) include an objective within the Kilkenny City and County Development Plan 2021-2027 that the zoning of the lands is conditional upon the satisfactory completion and implementation of (b) below; and
- (b) undertake a Plan Making Justification Test in accordance with the methodology set out in Box 4.1 of the Flood Guidelines, with particular regard to Criterion 3, in order to demonstrate that flood risk to development facilitated under the relevant zoning objective can be appropriately managed and that the use or development of the lands will not give rise to unacceptable adverse impacts elsewhere.

Following completion of this assessment, the Planning Authority shall:

- (i) incorporate any recommendations and/or mitigation measures identified through the assessment into the Kilkenny City and County Development Plan 2021-2027 pursuant to this Direction;
- (ii) indicate the timeframe for so doing, which shall be completed within six months of the date of this Direction;
- (iii) submit full details of the implementation of (i) above once complete; and
- (iv) apply all necessary consequential updates to the text of the plan consistent with the foregoing.

38. Please do not hesitate to contact the Office should you have any queries in relation to the above. Contact can be initiated through the undersigned or at [plans@opr.ie](mailto:plans@opr.ie).

Yours sincerely,



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**Niall Cussen**

Planning Regulator

Designated Public Official under the Regulation of Lobbying Act 2015

## **DRAFT DIRECTION IN THE MATTER OF SECTION 31**

### **OF THE PLANNING AND DEVELOPMENT ACT 2000 (as amended)**

#### **Variation No. 5 to the Kilkenny City and County Development Plan 2021-2027**

“Variation” means Variation No. 5 to the Kilkenny City and County Development Plan 2021-2027.

“County Development Plan” means the Kilkenny City and County Development Plan 2021-2027.

“Planning Authority” means Kilkenny City and County Council.

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

The Minister of State at the Department of 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 the Housing, Local Government and Heritage (Delegation of Ministerial Functions) Order 2025 (S.I. No. 364 of 2025), 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. 5 to the Kilkenny City and County Development Plan 2021-2027 Direction 2026.
- (2) The Planning Authority is hereby directed to take the following steps with regard to the Variation:
  - (a) include an objective within the Kilkenny City and County Development Plan 2021-2027 that the zoning of the lands is conditional upon the satisfactory completion and implementation of (b) below; and
  - (b) undertake a Plan Making Justification Test in accordance with the methodology set out in Box 4.1 of the Flood Guidelines, with particular regard to Criterion 3, in order to demonstrate that flood risk to development facilitated under the relevant zoning objective can be appropriately

managed and that the use or development of the lands will not give rise to unacceptable adverse impacts elsewhere.

Following completion of this assessment, the Planning Authority shall:

- (i) incorporate any recommendations and/or mitigation measures identified through the assessment into the Kilkenny City and County Development Plan 2021-2027 pursuant to this Direction;
- (ii) indicate the timeframe for so doing, which shall be completed within six months of the date of this Direction;
- (iii) submit full details of the implementation of (i) above once complete; and
- (iv) apply all necessary consequential updates to the text of the plan consistent with the foregoing.

## **STATEMENT OF REASONS**

- I. The Variation zoned land for General Business in Flood Zone A and Flood Zone B identified as Area 2: Castlecomer Enterprise Centre where the Planning System and Flood Risk Management Guidelines for Planning Authorities (2009) (Flood Guidelines), issued under section 28 of the Act, indicate that the uses permitted under this zoning objective are not appropriate unless a Plan Making Justification Test is passed. The zoning objective is therefore inconsistent with NPO 78 of the Revised NPF to avoid inappropriate development in areas at risk of flooding that do not pass the Justification Test, in accordance with the Flood Guidelines.
- II. The Variation zoned land for General Business in Flood Zone A identified as Area 3: Garda Station, where the Planning System and Flood Risk Management Guidelines for Planning Authorities (2009) (Flood Guidelines), issued under section 28 of the Act, indicate that the uses permitted under this zoning objective are not appropriate unless a Plan Making Justification Test is passed. The zoning objective is therefore inconsistent with NPO 78 of the Revised NPF to avoid inappropriate development in areas at risk of flooding that do not pass the Justification Test, in accordance with the Flood Guidelines.

- III. The Variation zoned land for General Business in Flood Zone A identified as Area 4: Residential (Andorra), where the Planning System and Flood Risk Management Guidelines for Planning Authorities (2009) (Flood Guidelines), issued under section 28 of the Act, indicate that the uses permitted under this zoning objective are not appropriate unless a Plan Making Justification Test is passed. The zoning objective is therefore inconsistent with NPO 78 of the Revised NPF to avoid inappropriate development in areas at risk of flooding that do not pass the Justification Test, in accordance with the Flood Guidelines.
- IV. The Variation zoned land for General Business in Flood Zone A and Flood Zone B identified as Area 5: General Business southeast of Square where the Planning System and Flood Risk Management Guidelines for Planning Authorities (2009) (Flood Guidelines), issued under section 28 of the Act, indicate that the uses permitted under this zoning objective are not appropriate unless a Plan Making Justification Test is passed. The zoning objective is therefore inconsistent with NPO 78 of the Revised NPF to avoid inappropriate development in areas at risk of flooding that do not pass the Justification Test, in accordance with the Flood Guidelines.
- V. The Variation zoned land for General Business in Flood Zone A and Flood Zone B identified as Area 7: General Business north of Square, south of Castlecomer Stream, where the Planning System and Flood Risk Management Guidelines for Planning Authorities (2009) (Flood Guidelines), issued under section 28 of the Act, indicate that the uses permitted under this zoning objective are not appropriate unless a Plan Making Justification Test is passed. The zoning objective is therefore inconsistent with NPO 78 of the Revised NPF to avoid inappropriate development in areas at risk of flooding that do not pass the Justification Test, in accordance with the Flood Guidelines.
- VI. The Variation zoned land for Mixed Use in Flood Zone A and Flood Zone B identified as Area 9: Mixed Use, north of Castlecomer Stream, west of River Dinin where the Planning System and Flood Risk Management Guidelines for Planning Authorities (2009) (Flood Guidelines), issued under section 28 of the

Act, indicate that the uses envisaged under this zoning objective are not appropriate unless a Plan Making Justification Test is passed. The zoning objective is therefore inconsistent with NPO 78 of the Revised NPF to avoid inappropriate development in areas at risk of flooding that do not pass the Justification Test, in accordance with the Flood Guidelines.

VII. The Variation zoned land for General Business in Flood Zone A and Flood Zone B identified as Area 10: General Business, north and south of Castlecomer Stream where the Planning System and Flood Risk Management Guidelines for Planning Authorities (2009) (Flood Guidelines), issued under section 28 of the Act, indicate that the uses permitted under this zoning objective are not appropriate unless a Plan Making Justification Test is passed. The zoning objective is therefore inconsistent with NPO 78 of the Revised NPF to avoid inappropriate development in areas at risk of flooding that do not pass the Justification Test, in accordance with the Flood Guidelines.

VIII. The Variation zoned land for General Business in Flood Zone A and Flood Zone B identified as Area 11: General Business, north and south of Castlecomer Stream where the Planning System and Flood Risk Management Guidelines for Planning Authorities (2009) (Flood Guidelines), issued under section 28 of the Act, indicate that the uses permitted under this zoning objective are not appropriate unless a Plan Making Justification Test is passed. The zoning objective is therefore inconsistent with NPO 78 of the Revised NPF to avoid inappropriate development in areas at risk of flooding that do not pass the Justification Test, in accordance with the Flood Guidelines.

IX. No or no adequate reasons relating to the proper planning and sustainable development of the area have been provided to explain why it was not practicable for the Planning Authority to implement the objectives of the Revised NPF, or how, notwithstanding this inconsistency with the Revised NPF, the decision of the Planning Authority results in the making of a Variation to the County Development Plan in a manner that sets out an overall strategy for the proper and sustainable development of the area.

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

GIVEN under my hand,

Minister of State for Local Government and Planning

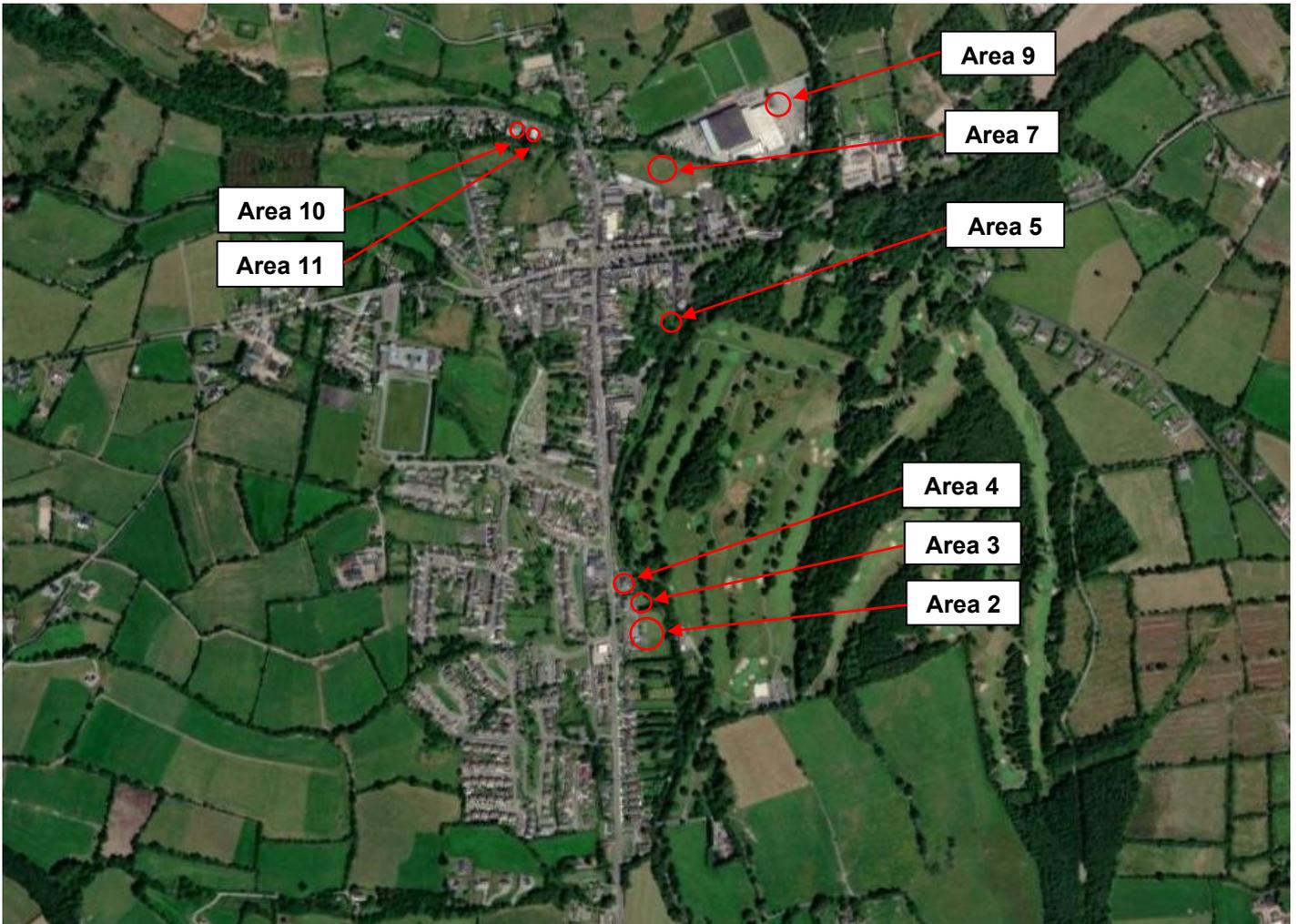
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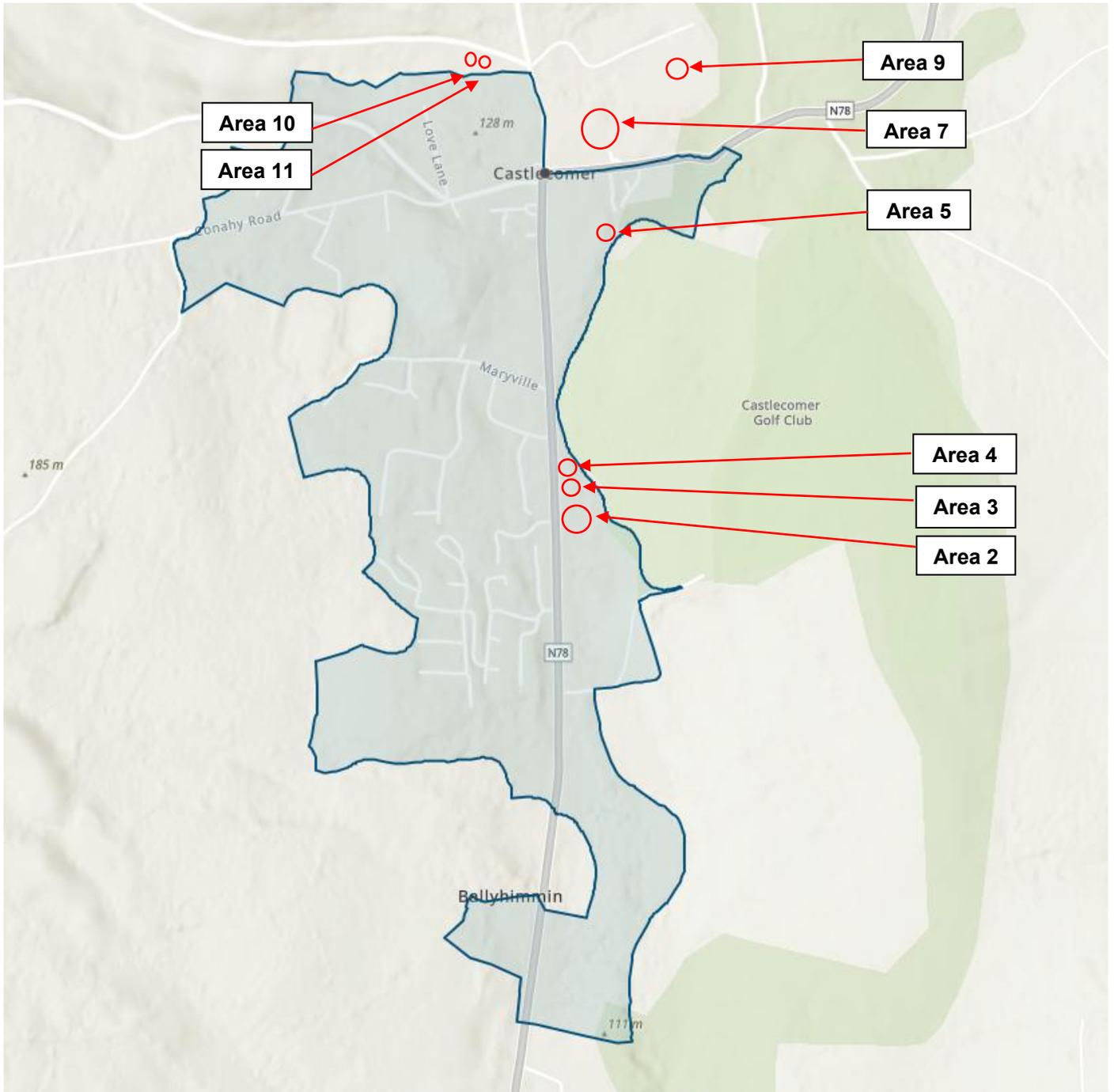
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Planning Regulator

## **Appendix 1: Mapping of Sites Identified in Draft Direction**

### Aerial View of Castlecomer with general location of subject sites



### Castlecomer with 2022 CSO built up area and general location of subject sites



**Aerial view of Area 2 with general location indicated in red**



**Aerial view of Area 3 with general location indicated in red**



**Aerial view of Area 4 with general location indicated in red**



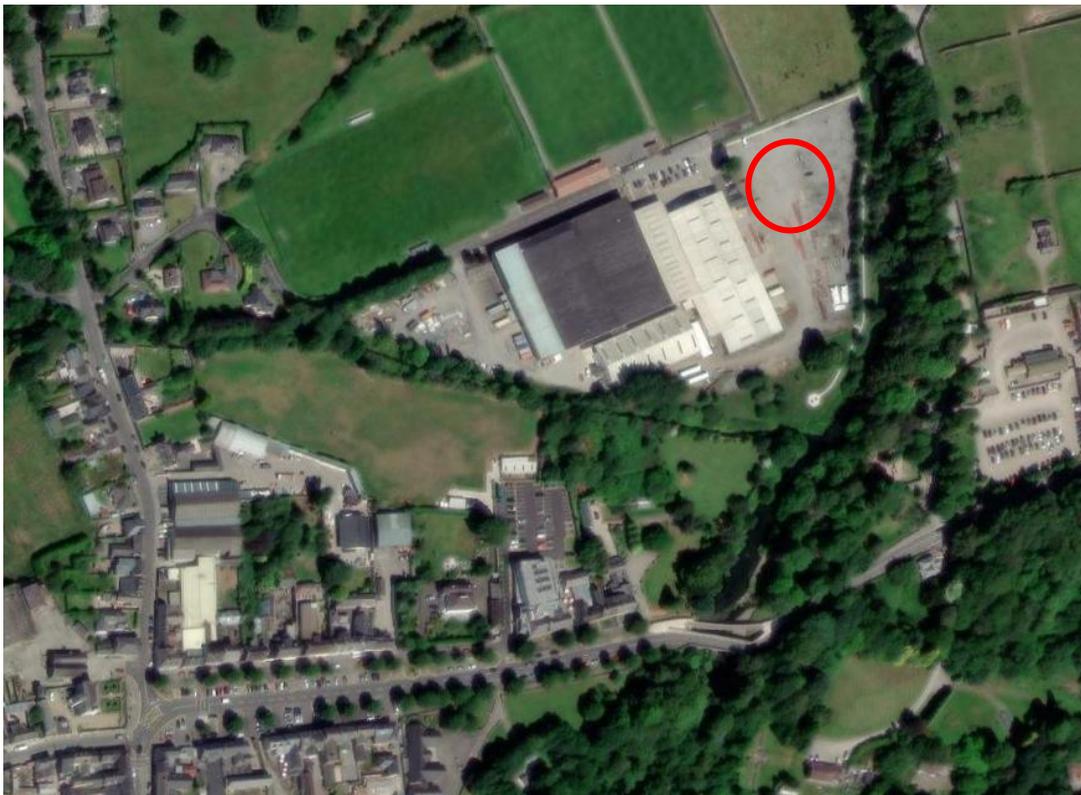
**Aerial view of Area 5 with general location indicated in red**



**Aerial view of Area 7 with general location indicated in red**



**Aerial view of Area 9 with general location indicated in red**



**Aerial view of Area 10 with general location indicated in red**



**Aerial view of Area 11 with general location indicated in red**

