



Oifig an  
Rialaitheora Pleanála  
Office of the  
Planning Regulator

22<sup>nd</sup> April 2026

Kilkenny County Council,  
John Street,  
Co. Kilkenny.

**BY HAND AND BY EMAIL**

**Re: Notice Pursuant to section 63(6) of the Planning and Development Act  
2024 – Kilkenny City and County Development Plan 2021-2027**

A chara,

1. I am writing to you pursuant to section 63(6) of the Planning and Development Act 2024 (the Act) in the context of the Kilkenny City and County Development Plan 2021-2027. This correspondence arises from the notice issued by the Minister to the Office of the Planning Regulator (the Office) under section 63(2)(b) of the Act (section 63(2)(b) notice).
2. The section 63(2)(b) notice issued to the Office on 27<sup>th</sup> March 2026, arose from:
  - a. the issuance by the Office of a recommendation and proposed draft direction in respect of Variation No. 5 to the Kilkenny City and County Development Plan 2021-2027 (Variation No. 5), submitted to the Minister on 13<sup>th</sup> March 2026 pursuant to section 31AM(8) of the Planning and Development Act 2000, as amended,
  - b. the Minister's decision not to issue a draft direction in relation to Variation No. 5, as notified to Kilkenny County Council (the Planning Authority) on 27<sup>th</sup> March 2026.
3. The Office's recommendation and proposed draft direction related to Variation No. 5 and addressed flood risk management in eight specific locations in Castlecomer, Co. Kilkenny.
4. The section 63(2)(b) notice requested the Office to carry out an assessment of the Kilkenny City and County Development Plan 2021-2027 under section 63 of

the Act, in respect of zoned lands located within Flood Zones A and B in Castlecomer.

5. Pursuant to section 63(2)(c), the Office has commenced the assessment requested by the Minister. While the assessment is ongoing, the Office has formed a preliminary view that, in respect of those lands zoned for development within Flood Zones A and B in Castlecomer, the Kilkenny City and County Development Plan 2021-2027 should be suspended as it may be materially inconsistent with National Planning Objective 78 (NPO 78) of the National Planning Framework First Revision (2025). A copy of the Office's Preliminary Assessment Report is enclosed with this notice.

### **Suspension of specified provisions of the Development Plan**

6. Accordingly, this notice suspends the zoning objectives for lands in Flood Zones A and B in Castlecomer contained in the Kilkenny City and County Development Plan 2021-2027, as varied by Variation No. 5 adopted by the Planning Authority on 16<sup>th</sup> February 2026, pending the completion of the Office's assessment.
7. The suspension of the specified zoning objectives has the effect of temporarily disapplying those provisions of the Kilkenny City and County Development Plan 2021–2027 pending the completion of the Office's assessment and the occurrence of one of the matters identified at paragraph 11 below. During the period of suspension, the suspended zoning objectives have no legal effect and must not be relied upon in the consideration, assessment, or determination of planning applications.
8. In practical terms, the Planning Authority is precluded from granting permission for development that would rely on the suspended zoning objectives. Any planning application affecting the suspended lands must be assessed as if those zoning provisions were not in force, having regard instead to the remaining policies and objectives of the Kilkenny City and County Development Plan 2021-2027, relevant national and regional planning policy, and proper planning and sustainable development.

9. The suspension does not affect other, non-suspended provisions of the Kilkenny City and County Development Plan 2021-2027, which continue to operate in full.
10. The suspension does not retrospectively affect planning permissions that have already been granted prior to the issue of the notice.

### **Duration of Suspension**

11. The suspension of the specified zoning objectives will remain in effect pending the completion of the Office's assessment, and
  - (i) the issuance by the Office of a draft direction under section 64, in accordance with a direction of the Minister under section 63(14)(b),
  - (ii) the issuance by the Minister of a direction under section 63(15)(b) not to issue a draft direction, or
  - (iii) the making of a recommendation by the Office of the Planning Regulator to the Minister under section 63(11) not to issue a draft direction.
12. A copy of this notice will be issued to the Minister and published on the Office's website on the same day this notice is issued to you.

### **Next steps**

13. Following this suspension, the Office will now continue its assessment of the Kilkenny City and County Development Plan 2021-2027 under section 63 of the Act in respect of zoned lands located within Flood Zones A and B in Castlecomer.
14. As part of this process, the Office is required to consult with the Chief Executive and members of your authority, and we request that you contact our office directly to arrange this at [plans@opr.ie](mailto:plans@opr.ie).
15. In the interim, and in accordance with section 63(9), the Planning Authority is required to provide the following material within **14 days** of the date of this notice:

- (a) the final plan documentation and mapping for the Kilkenny City and County Development Plan 2021-2027 in respect of the land use zoning objectives for Castlecomer as incorporated following the adoption of Variation No. 5 to the Kilkenny City and County Development Plan 2021–2027. The mapping should be sufficiently clear and appropriately scaled to accurately delineate the relevant flood zone extents and individual area boundaries, and to identify the precise extent and area of lands affected by flood risk. While GIS-format mapping is preferable, the mapping should, at a minimum, clearly show both the zoning objectives and the predicted flood extents; and
- (b) any additional information that you consider may be otherwise relevant to our assessment.

16. 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



Oifig an  
Rialaitheora Pleanála  
Office of the  
Planning Regulator

## OPR Preliminary Assessment Report

<b>Subject</b>	Zoned lands located within Flood Zones A and B in Castlecomer
<b>Statutory provision</b>	Section 63(2)(b), Planning and Development Act 2024
<b>Approved by</b>	Anne Marie O'Connor, Deputy Regulator and Director of Plans Evaluation
<b>Date</b>	17 <sup>th</sup> April 2026

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## **Background**

1. This report is prepared pursuant to section 63(6) of the Planning and Development Act 2024 (the Act) in the context of the Kilkenny City and County Development Plan 2021-2027, and arises from the notice issued by the Minister to the Office of the Planning Regulator (the Office) under section 63(2)(b) of the Act (section 63(2)(b) notice).
2. The section 63(2)(b) notice requested the Office to carry out an assessment of the Kilkenny City and County Development Plan 2021-2027 under section 63 of the Act, in respect of zoned lands located within Flood Zones A and B in Castlecomer.
3. These lands in Castlecomer were zoned by way of Variation No. 5 to the Kilkenny City and County Development Plan 2021-2027 (Variation No. 5). Variation No. 5 was adopted by Kilkenny County Council (the Planning Authority) on 16<sup>th</sup> February 2026.

## **Relevant Policy Context**

4. National Planning Objective 78 (NPO 78) of the National Planning Framework First Revision (2025) (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 Planning System and Flood Risk Management Guidelines for Planning Authorities (2009) (Flood Guidelines). Consequently, zoning land at risk of flooding without passing the Justification Test is materially inconsistent with NPO 78.
5. 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.
6. 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.

7. 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.
8. These 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.
9. Under the Flood Guidelines, highly vulnerable development 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 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.

**Kilkenny City and County Development Plan 2021-2027 (Variation No. 5)**

10. The Strategic Flood Risk Assessment (SFRA) prepared in conjunction with Variation No. 5 identified 11 areas in Castlecomer (Area 1 – 11) as areas with a potential conflict between development and flood risk.



11. In the case of the following five areas, objectives described as 'Provisos', were included in the Variation No. 5 to restrict certain classes of development based on flood risk vulnerability:
- Area 1 (Objective V3CC7)
  - Area 3 (Objective V3CC10)
  - Area 4 (Objective V3CC10)
  - Area 6 (Objective V3CC8)
  - Area 8 (Objective V3CC9)
12. In relation to V3CC7 (Area 1), V3CC8 (Area 6), and V3CC9 (Area 8), the objectives state that no highly vulnerable developments are to be permitted in Flood Zone A or B, or less vulnerable uses in Flood Zone A. Applications for extensions to existing uses or structures will be considered.
13. In relation to Objective V3CC10 (Area 3 and Area 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 remain of concern.
14. The Plan Making Justification Tests undertaken for Areas 2, 3, 4, 5, 7, 9, 10 and 11 and included in the SFRA that accompanied the Variation, included the following generic statement when addressing Criteria 3 of the Plan Making Justification Test (as set out in Box 4.1 of the Flood Guidelines):

*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.*

## Preliminary Assessment

15. The Kilkenny City and County Development Plan 2021-2027 (Variation No. 5) includes the following eight areas/sites that are zoned for vulnerable development in Flood Zone A and/or Flood Zone B<sup>1</sup>:
- (i) Area 2: Castlecomer Enterprise Centre
  - (ii) Area 3: Garda Station
  - (iii) Area 4: Residential (Andorra)
  - (iv) Area 5: General Business southeast of Square
  - (v) Area 7: General Business north of Square, south of Castlecomer Stream
  - (vi) Area 9: Mixed Use, north of Castlecomer Stream, west of River Dinin
  - (vii) Area 10: General Business, north and south of Castlecomer Stream
  - (viii) Area 11: General Business, north and south of Castlecomer Stream.
16. While these eight locations are identified in general terms in the SFRA mapping prepared by the Planning Authority, the relevant boundaries are not clearly delineated. As a result, additional information in the form of revised mapping is required to determine the precise extent and area of the lands that would be affected.
17. In relation to the SFRA prepared in conjunction with the zoning of these lands, Box 4.1 of the Flood Guidelines clearly set out the criteria that are required to be satisfied in order for these areas/sites to pass the Plan Making Justification Test.
18. While the SFRA addresses the requirements of Criteria 1 and 2 at a site-specific level, having regard to the individual characteristics of each site, it does not satisfactorily address Criteria 3. In this regard, the Plan Making Justification Test relies on a generic requirement for a site-specific Flood Risk Assessment at

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<sup>1</sup> These areas are detailed as described in section 4.1.6 Justification Tests of the SFRA. Areas 10 and 11 are described and considered together in the Justification Test section. Area 10 is elsewhere described as Mixed Use, north and south of Castlecomer Stream, and Area 11 is elsewhere described as Industrial, north of Castlecomer Stream, within section 4.1.4, Areas of potential conflict between flood risk and development, of the SFRA.

planning application stage and does not provide a zoning-level assessment demonstrating that flood risk to development facilitated under the individual zoning objects 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. Accordingly, zoning land that is at risk of flooding without passing the Justification Test is materially inconsistent with NPO 78.

19. In general, 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.
20. Having regard to the above, it cannot be concluded that the subject lands have passed all requirements of the Plan Making Justification Test.
21. Furthermore, uncertainty arising from the quality of mapping prepared by the Planning Authority constrains the Office's ability to respond to the Minister's request under section 63(2)(b) to assess the Kilkenny City and County Development Plan 2021–2027 in respect of lands zoned within Flood Zones A and B in Castlecomer. This constraint applies to all lands within Flood Zones A and B, regardless of the Site-Specific Objectives associated with Areas 1, 6, and 8.
22. This approach to flood risk management therefore facilitates development without establishing the precise extent of flood risk lands, and how site-specific or cumulative flood risks can be effectively managed, potentially putting people and property at risk.

## **Conclusion**

23. Having regard to the above, the Office has formed a preliminary view that, in respect of those lands zoned for development within Flood Zones A and B in

Castlecomer, the Kilkenny City and County Development Plan 2021-2027 should be suspended because it may be materially inconsistent with NPO 78 of the NPF.

### **Recommendation**

24. It is recommended therefore that a notice issue to the Planning Authority which **suspends** the zoning objectives for lands in Flood Zones A and B in Castlecomer contained in the Kilkenny City and County Development Plan 2021-2027, as varied by Variation No. 5 adopted by the Planning Authority on 16<sup>th</sup> February 2026, pending the completion of the Office's assessment.
25. In order to assist the Office in carrying out its assessment, the Planning Authority should be required to provide the following material within 14 days of the date of this notice:
  - (a) the final plan documentation and mapping for the Kilkenny City and County Development Plan 2021-2027 in respect of the land use zoning objectives for Castlecomer as incorporated following the adoption of Variation No. 5 to the Kilkenny City and County Development Plan 2021–2027. The mapping should be sufficiently clear and appropriately scaled to accurately delineate the relevant flood zone extents and individual area boundaries, and to identify the precise extent and area of lands affected by flood risk. While GIS-format mapping is preferable, the mapping should, at a minimum, clearly show both the zoning objectives and the predicted flood extents; and
  - (b) any additional information that you consider may be otherwise relevant to our assessment.