



7<sup>th</sup> March 2025

Senior Planner,  
Forward Planning,  
Kilkenny County Council,  
John Street,  
Kilkenny,  
Co. Kilkenny.

**Re: Proposed Variation No. 4 to the Kilkenny City and County Development Plan  
2021-2027**

A chara,

Thank you for your authority's work in preparing the Proposed Variation No. 4 to the Kilkenny City and County Development Plan 2021-2027 (the proposed Variation).

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

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

Observations take the form of a request for further information, justification on a particular matter, or clarification regarding particular provisions of a plan on issues that are required to

ensure alignment with policy and legislative provisions. The planning authority is requested by the Office to action an observation.

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

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

## **Overview**

The first part of the proposed Variation (4A) proposes the incorporation of the Loughmacask Masterplan (a non-statutory plan adopted June 2023) into the Kilkenny City and County Development Plan 2021-2027 (City and County Development Plan).

The Office welcomes the work carried out by Kilkenny County Council (the Planning Authority) in preparing the masterplan and commends the authority for implementing its objectives to date. This includes resolving longstanding wastewater issues, advancing the development of new and improved educational facilities (such as the redevelopment of St. Canice's NS on the Granges Road and new CBS Secondary School at Lousybush Lane), significant new residential developments on site (300+ units), and the ongoing progress of the Butts Area Regeneration Project.

The proposed Variation proposes text, objective and land use zoning changes. The Office is generally satisfied with these changes and notes that there is no resultant impact to the core strategy from the zoning proposals.

The Office welcomes and commends the Planning Authority for prioritising active travel provisions in the masterplan. Alongside this, it is also necessary to ensure that adequate provision is made for future public transport services. The Office notes that the Local Transport Plan (LTP) / Sustainable Urban Mobility Plan (SUMP) for Kilkenny City is nearing completion, and one of the ways this can be achieved is to incorporate its objectives into the masterplan, thereby supporting Regional Policy Objective (RPO) 11c, RPO 12f, RPO

151, RPO 152 and RPO 154 of the Regional Spatial and Economic Strategy (RSES) for the Southern Regional Assembly.

Finally, it is noted that there are some additional matters where further consideration is recommended. These largely relate to points of clarity and set out in the three (3) observations below.

The second part of the proposed Variation (4B) proposes new text in Section 10.1.7 Small Towns and Village Investment Programme of the City and County Development Plan to allow for on-site wastewater treatment plants in certain circumstances.

The Office is concerned that this policy approach is not supported by policy and/or environmental justification and is inconsistent with National Policy Objective (NPO) 57 and NPO 63 of the National Planning Framework (NPF) which seek to enhance / protect water quality. Additionally, the Office is concerned that there is inadequate consideration of the potential environmental impacts of the proposed Variation, contrary to NPO 75 of the NPF and RPO 1 of the RSES regarding environmental assessments. As such, this submission letter recommends that this Variation is made without 4B.

The submission below has been prepared to provide a strategic level input to your authority in finalising the proposed Variation. It is within this context the submission below sets out three (3) recommendations and three (3) observations under the following themes:

Key theme	Recommendation	Observation
<a href="#">Exceptions relating to onsite wastewater treatment facilities in small towns and villages (Variation 4B)</a>	<a href="#">Recommendation 1</a>	-
<a href="#">Loughmacask Masterplan (Variation 4A)</a>	<a href="#">Recommendation 2</a> and <a href="#">3</a>	<a href="#">Observation 1</a> , <a href="#">2</a> and <a href="#">3</a>

### **1. Exceptions relating to onsite wastewater treatment facilities in small towns and villages (Variation 4B)**

Variation 4B introduces a provision allowing exemptions on a case-by-case basis for private wastewater treatment facilities in settlements where deficiencies exist in public wastewater treatment.

However, the Draft Water Services Guidelines for Planning Authorities (January 2018) advise that solutions such as private wastewater treatment plants should not generally be considered by planning authorities, and that Uisce Éireann will not retrospectively take over responsibility for developer provided treatment facilities or associated networks, unless agreed in advance (section 5.3).

The Office acknowledges that the proposed text specifies that private wastewater treatment facilities must be managed and maintained as a 'going concern' (i.e. continuously operated and maintained). The effectiveness of this requirement will however depend on the Planning Authority's ability to enforce and monitor compliance. It is unclear what provisions are in place if such developments enter financial difficulties or cease operation.

The future operation, maintenance and decommissioning of any such system, including to serve multi-unit housing developments, cannot therefore be assured, with associated risks to water quality and public health.

The Office is of the view therefore that the proposed text is inconsistent with NPO 57 and NPO 63 of the NPF to enhance / protect water quality.

The Office also notes the proximity of designated European sites, including those that are hydrologically linked to the City and County Development Plan, but that the proposed Variation was screened out for Appropriate Assessment (AA).

The Report to inform AA Screening states that Variation 4B will not introduce 'any additional sources for effects that were not considered by the existing Kilkenny City and County Development Plan, which was subject to its own Appropriate Assessment'. It was concluded that a Stage 2 AA was not required 'based on the conclusions and mitigation measures proposed in the Kilkenny City and County Development Plan'.

However, the adopted City and County Development Plan explicitly did not provide for private on-site wastewater treatment facilities in small towns and villages. As such, the basis for concluding that the AA of the City and County Development Plan had previously considered the likelihood of significant impacts on a European site of such a provision is not evident. The basis for the statement that there are no sources with pathways for effects on the River Barrow and River Nore SAC and the River Nore SPA (Potential Effects, table 2.3) is also not clear.

It is not clear therefore that the information contained in the Report to inform AA Screening can be relied upon to support the AA screening conclusion that ‘the Proposed Variation will not give rise to any likely significant effect on any European site, alone or in combination with any other plans, programmes, projects etc’, and reasonable scientific doubt remains as to the absence of likely significant effects on European sites of providing for private on-site wastewater treatment facilities in small towns and villages.

The Office is therefore concerned that the City and County Development Plan is inconsistent with NPO 75 of the NPF and RPO 1 of the RSES to ensure that all plans are subject to AA and SEA as appropriate.

Having regard to the points raised above, the Office recommends the Planning Authority makes this Variation, without 4B.

### **Recommendation 1 – Investment in infrastructure and environmental considerations**

Having regard to the co-ordination of development and infrastructure while safeguarding the receiving environment, and in particular to:

- NPO 57 and NPO 63 of the NPF to enhance water quality and resources management and ensure the efficient and sustainable use and development of water resources and water services infrastructure;
- NPO 75 of the NPF for environmental assessments, including Appropriate Assessment (AA);
- RPO 1 of the RSES for appropriate Environmental Assessment including AA processes;
- RPO 11k of the RSES regarding water quality and Natura 2000 network;
- RPO 212 of the RSES, relating to strategic wastewater treatment facilities and avoiding negative impacts on water quality and Natura 2000 network; and
- Objective 10A of the Kilkenny City and County Development Plan 2021-2027 to facilitate Uisce Éireann’s water and wastewater infrastructure provision in accordance with the water services strategic plan,

the Planning Authority is recommended to make the Variation without 4B.

## **2. Loughmacask Masterplan (Variation 4A)**

### **2.1 Integration of the Masterplan with the County Development Plan**

Loughmacask is located to the north west of Kilkenny City and is identified in the City and County Development Plan as a new neighbourhood area - one of four designated in the core strategy. The land use zonings were prepared as part of the City and County Development Plan. The proposed Variation seeks to incorporate the non-statutory Loughmacask Masterplan (adopted at the Council meeting on the 19<sup>th</sup> June 2023) into the City and County Development Plan to underpin its implementation on a statutory basis.

The proposed Variation includes two new zoning objectives and three land use zoning changes. The Office welcomes these changes and notes that there is no resultant impact to the core strategy.

### **2.2 Integration of public transport proposals, active travel and land use planning**

The Office welcomes the prioritisation and integration of the active travel provisions into the masterplan. The removal of the through traffic from the area is a positive change from the previous Loughmacask Local Area Plan, along with the proposed dedicated walking and cycling route on Lousybusy Lane, to the west of the new secondary school. These measures will support a safe, walkable, and healthy environment for the community.

Given the size (150 ha) and scale of this new neighbourhood area (potential to deliver 900+ housing units) the provision of an integrated and coherent bus network linking these lands with Kilkenny city and wider hinterland is key to delivering sustainable transport movements and reducing greenhouse gas emissions. Consequently, the Office recommends the addition of a new objective to provide for the requirements of a public transport service as part of the build out of these lands in collaboration with the National Transport Authority.

Further to the above, the Office is aware that an LTP (referred to as the SUMP) is being prepared by the Planning Authority to inform the forthcoming preparation of the new City and County Development Plan. The key provisions of this LTP / SUMP as they relate to the masterplan lands should be integrated into the Local Area Plan, as per RPOs 11c, 12f, 151, 152 and 154 of the RSES.

## Recommendation 2 – Integration of land use and sustainable transport

Having regard to the need to the integration of land use and sustainable transportation, and in particular to:

- RPO 11c of the RSES requiring the preparation of local transport plans for Key Towns;
- RPO 12f of the RSES seeking investment in sustainable transport through a Local Transport Plan (LTP) including development of a town bus services in support of the compact '10-minute' city;
- RPO 151, RPO 152 and RPO 154 of the RSES requiring the integration of transportation and land use planning;
- the Climate Action and Low Carbon Development Act 2015, as amended, mandatory target to reduce greenhouse gas emissions by 51%, and the Climate Action Plan 2024, and associated actions including the National Sustainable Mobility Policy (2022) targets to reduce vehicle kilometres travelled per year and the National Investment Framework for Transport in Ireland (2021);
- Objectives 12A and 12B of the Kilkenny City and County Development Plan 2021-2027 (City and County Development Plan) to implement sustainable and low carbon transport modes;
- Objective 12E of the City and County Development Plan to deliver on sustainable mobility and to provide for integration between all modes of transport; and
- Objective 12F of the City and County Development Plan to implement strategies to meet the mode share targets during the lifetime of the plan,

the Planning Authority is recommended to:

- (i) insert a new objective to provide for the requirements of a public transport service as part of the build out of the masterplan lands; and
- (ii) insert a new objective to integrate the key provisions of the forthcoming LTP / Sustainable Urban Mobility Plan for Kilkenny City as they relate to the masterplan lands.

The Planning Authority should engage with the National Transport Authority on these matters.

### 2.3 Consistency with the City and County Development Plan

The proposed Variation proposes the addition of new text to the Z8 Loughmacask Objective as follows:

*To complete the masterplan for the Loughmacask area which will replace the former Local Area Plan and secure its implementation. Where a conflict arises between the masterplan and the Development Plan the Development Plan shall be the guiding document.* (proposed new text underlined).

The proposed Variation is proposing to incorporate the masterplan into the City and County Development Plan. As per Section 3.9 of the Development Plans, Guidelines for Planning Authorities (2022):

*In making a variation to the development plan, the proposed variation and the other parts of the plan must continue to be internally consistent i.e. a proposed variation should also address and incorporate any necessary adjustments to other relevant parts of the plan.*

Consequently, the Planning Authority should avoid a scenario where there are potential conflicts within the adopted City and County Development Plan. The Office therefore recommends that the Planning Authority ensures that the policies and objectives in the proposed Variation are consistent with the existing City and County Development Plan and omit the last line of this amended Z8 Zoning Objective.

#### Recommendation 3 – Consistency with the City and County Development Plan

Having regard to Section 13(7) of the Planning and Development Act 2000, as amended and Section 3.9 of the Development Plan Guidelines for Planning Authorities (2022) the Planning Authority is recommended to:

- (i) to review the masterplan to confirm its policies and objectives are fully aligned to the policies and objectives of the Kilkenny City and County Development Plan 2021-2027, prior to its adoption; and



(ii) omit the last line of the amended Z8 Zoning Objective of the City and County Development Plan.

## 2.4 Road Objective

It is proposed to include a new roads objective in the City and County Development Plan - R12 as follows:

*Subject to the appropriate Zoning being in place and a Traffic Impact Assessment, additional developments (over and above the 335 housing units permitted at the time of making the masterplan 2023) with access off the Tullaroan Road will not be permitted unless a clear timeframe for delivery of the necessary support road infrastructure, either Objective R7 or other satisfactory road infrastructure (being either Kilmanagh Road to Tullaroan Road) or (the Tullaroan Road to Freshford Road) in the City and County Development Plan is in place.*

Objective R7 of the City and County Development Plan requires the full connection between the Kilmanagh Road and the Freshford Road ‘to progress the route selection, planning and development of a road connecting the R695 Kilmanagh Road to the R693 Freshford Road’.

The Office has no objection to the new objective and the flexibility it provides with respect to the delivery of the Kilmnaagh to Freshford Road to release the Phase 2 masterplan lands (i.e. splitting the delivery of the Objective R7 road). The wording however should be improved to ensure the necessary road infrastructure is in place to support the delivery of the Phase 2 houses and open space/recreation. The Office advises that the wording of this objective be strengthened to provide clarity on when the road is required.

### Observation 1 – Roads objective

Having regard to the compact and sustainable growth of Kilkenny City and the co-ordination of the housing and infrastructure delivery, the Planning Authority is advised to strengthen the wording of Objective R12 proposed in this Variation to ensure the necessary road infrastructure is in place to support the release of the Phase 2 lands.

## 2.5 Residential Density Strategy

The detail regarding the different character areas and densities is welcomed. The masterplan would benefit from providing a table setting out the site areas, quantum of housing units, servicing requirements and phasing arrangements for the different residential sites / character areas. This information will also assist the forthcoming preparation of the new City and County Development Plan.

### Observation 2 – Development strategy monitoring and implementation

Having regard to the compact and sustainable growth of Kilkenny City and the co-ordination of the housing and infrastructure delivery, the Planning Authority is requested to include a table setting out the site areas, quantum of housing units, servicing requirements and phasing arrangements for the different residential sites / character areas.

The Joint Maynooth Local Area Plan 2025-2031 (Joint Local Area Plan) provides a good example of this - see table 11.5 of the draft Joint Local Area Plan.

## 2.6 Masterplan progress

Given the time between the masterplan's adoption (June 2023) and the proposed Variation, significant progress has been made in implementing the objectives of the masterplan (for example, over 300 residential units granted and on site, along with the construction of the secondary school). In order to accurately capture this, it is recommended that the masterplan include text and graphics illustrating the progress and achievements to date.

### Observation 3 – Masterplan progress

The Planning Authority is requested to include new text and graphics illustrating the progress and achievements of implementing the masterplan, to date.

## Summary

The Office requests that your authority addresses the recommendations and advice outlined above. As you are aware, the report of the Chief Executive of your authority

prepared for the elected members under section 13 of the Act must summarise these recommendations and the manner in which they will be addressed.

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

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

Is mise le meas,

\_\_\_\_\_



**Anne Marie O'Connor**

Deputy Regulator and Director of Plans Evaluation

Designated Public Official under the Regulation of Lobbying Act 2015

\_\_\_\_\_