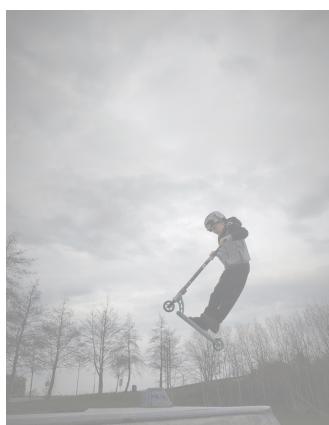
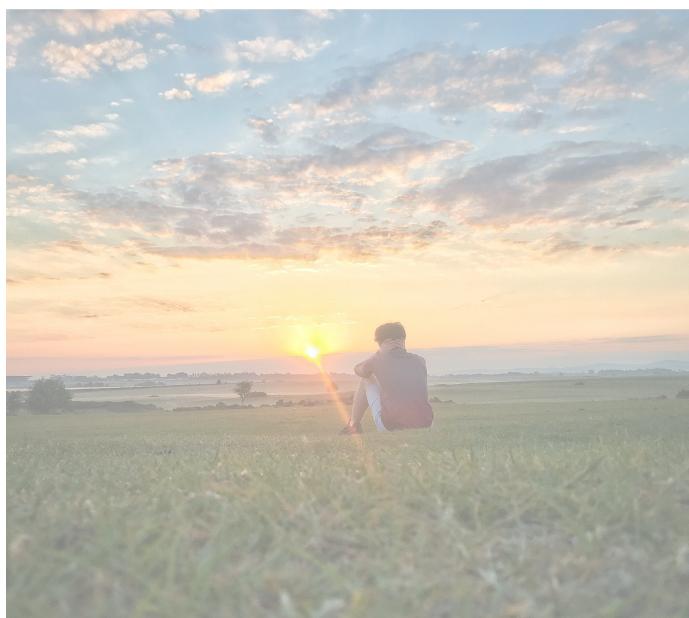


APPENDIX 8

STATEMENT OF COMPLIANCE WITH SECTION 28 GUIDELINES



Introduction

Pursuant to Section 28 of the Planning and Development Act 2000 (as amended) it is a requirement of the Planning Authority to append a statement to the Development Plan demonstrating:

- (i) How the Planning Authority has implemented the policies and objectives of the Minister contained in the guidelines when considering their application to the area or part of the area of the development plan, or
- (ii) If applicable, that the planning authority has formed the opinion that it is not possible, because of the nature and characteristics of the area or part of the area of the development plan, to implement certain policies and objectives of the Minister contained in the guidelines when considering the application of those policies in the area or part of the area of the draft development plan or the development plan and shall give reasons for the forming of the opinion and why policies and objectives of the Minister have not been so implemented.

In addition, Section 28(1C) of the Act includes a provision that Guidelines made under Section 28(1) may contain specific planning policy requirements (SPPRs) with which Planning Authorities shall, in the performance of their functions, comply.

The required statement pertaining to the Draft Kildare County Council Development Plan 2023-2029 is as below under the following tables:

Table 1: List of Section 28 Ministerial Guidelines

Table 2: Implementation of SPPRs under the Building Height Guidelines

Table 3: Implementation of SPPRs under the Apartment Guidelines

Table 4: Implementation of SPPRs under the Interim Guidelines for Planning Authorities on Statutory Plans, Renewable Energy and Climate Change

Table 1: List of Section 28 Ministerial Guidelines

Section 28 Guidelines	Implementation
Housing Supply Target Methodology for Development Planning, (2020)	Chapter 2 Core Strategy and Settlement Strategy and Appendix 1 set out the Methodology applied by Kildare County Council.
Sustainable Urban Housing, Design Standards for New Apartments: Guidelines for Planning Authorities (2020) – (Apartment Guidelines)	Chapter 3 Housing and Chapter 16 Implementation and Monitoring have the relevant policies and objectives of these Guidelines and also comply with the SPPRs contained within (See below Table 3 for SPPR compliance).
DHPLG Design Manual for Urban Roads and Streets (2019)	Chapter 14 Urban Design, Placemaking and Regeneration, Chapter 5 Sustainable Mobility & Transport and Chapter 16 Implementation and Monitoring implement the relevant policies and objectives of these Guidelines.
Urban Development and Building Heights: Guidelines for Planning Authorities (2018) – (Building Height Guidelines)	Chapter 14 Urban Design, Placemaking and Regeneration sets out a strategy which implements the relevant policies and objectives of these Guidelines and complies with the 4 SPPRs contained within (See below for SPPR compliance).
Guidelines for Local Authorities and An Bord Pleanála on Carrying Out Environmental Impact Assessments (2018)	
Part V of the Planning and Development Act 2000 – Guidelines (2017)	Chapter 3 Housing and Appendix 1 Housing Need Demand Assessment and Housing Strategy implement the relevant policies and objectives of these Guidelines.
Interim Guidelines for Planning Authorities on Statutory Plans, Renewable Energy and Climate Change (2017)	Chapter 7 Energy and Communications and Appendix 2 County Kildare Wind Energy Strategy address the requirements as set out in these guidelines. They include policies on achieving national targets in a range of policy areas including renewable energy.

Section 28 Guidelines	Implementation
Local Area Plans: Guidelines for Planning Authorities (2013)	These Guidelines are not considered applicable to the Draft County Development Plan process. All Local Area Plans prepared by KCC have regard to these Guidelines.
Development Contributions: Guidelines for Planning Authorities (2013)	These Guidelines are not considered to be directly applicable but will inform the preparation of the 2022 – 2026 Development Contribution Scheme which complements the Draft County Development Plan.
Spatial Planning and National Roads: Guidelines for Local Authorities (2013)	Chapter 5 Sustainable Mobility & Transport and Chapter 6 Infrastructure and Environmental Services implement the relevant policies and objectives of these Guidelines.
Retail Planning: Guidelines for Planning Authorities (2012)	Chapter 8 Retail implements the relevant policies and objectives of these Guidelines.
Architectural Heritage Protection: Guidelines for Planning Authorities (2011)	Chapter 11 Built and Cultural Heritage, implements the relevant policies and objectives of these Guidelines.. Appendix 5 Record of Monuments and Places and Appendix 6 Record of Protected Structures also relate to these guidelines.
Appropriate Assessment of Plans and Projects in Ireland: Guidance for Planning Authorities (2009)	The Development Plan has been assessed under the requirements of the Habitats Directive and has had regard to this guidance. Refer to
The Planning System and Flood Risk Management: Guidelines for Planning Authorities (2009)	Chapter 12 Biodiversity and Green Infrastructure, Chapter 6 Infrastructure and Environmental Services, Chapter 16 Implementation and Monitoring.
Sustainable Residential Development in Urban Areas (Cities, Town and Villages): Guidelines for Planning Authorities (and the accompanying Urban Design Manual: a best practice guide) (2009)	Chapter 14 Urban Design, Placemaking and Regeneration and Chapter 16 Implementation and Monitoring implement the relevant policies and objectives of these Guidelines.
The Provision of Schools and the Planning System: A Code of Practice (2008)	Chapter 10 Community Infrastructure and Creative Places implements the relevant policies and objectives of these Guidelines.

Section 28 Guidelines	Implementation
Development Management: Guidelines for Planning Authorities (2007)	Chapter 16 Implementation and Monitoring implements the relevant policies and objectives of these Guidelines.
Development Plans: Guidelines for Planning Authorities (2007)	The Plan implements the policies and objectives of these Guidelines throughout.
Wind Energy Development: Guidelines for Planning Authorities (2006)	Chapter 7 Energy & Communications provides policy and guidelines on Wind Energy in the County in which Appendix 2 County Kildare Wind Energy Strategy is also referenced. The policy contained therein was prepared in accordance with the methodology laid out in these Guidelines and therefore implements the relevant policies and objectives of these Guidelines.
Sustainable Rural Housing: Guidelines for Planning Authorities (2005)	The rural housing policy objectives set out in Chapter 3 Housing implements the relevant policies and objectives of these Guidelines.
Implementation of the SEA Directive: Guidelines for Regional Authorities and Planning Authorities (2004)	These Guidelines informed the preparation of the Strategic Environmental Assessment (SEA) of the Development Plan.
Quarries and Ancillary Activities: Guidelines for Planning Authorities (2004)	Policy and Objectives relating to mineral extraction and quarrying is contained in Chapter 9 of the Plan.
Childcare Facilities: Guidelines for Planning Authorities (2001)	Chapter 10 Community Infrastructure and Creative Places and Chapter 16 Implementation and Monitoring implement the relevant policies and objectives of these Guidelines.
Telecommunications Antennae Support Structures: Guidelines for Planning Authorities (1996)	Chapter 7 Energy & Communications, sets out the Council's policies on Telecommunications and implements the relevant policies and objectives of these Guidelines.
Tree Preservation Guidelines (1994)	Chapter 12, Biodiversity & Green infrastructure sets out the Council's policy, objectives and actions with respect to the preservation of trees throughout the county.

Table 2: Implementation of SPPRs under the Building Height Guidelines

SPPR Number and Description	Implementation
<p>SPPR 1:</p> <p>In accordance with Government policy to support increased building height and density in locations with good public transport accessibility, particularly town/ city cores, planning authorities shall explicitly identify, through their statutory plans, areas where increased building height will be actively pursued for both redevelopment, regeneration and infill development to secure the objectives of the National Planning Framework and Regional Spatial and Economic Strategies and shall not provide for blanket numerical limitations on building height.</p>	<p>Chapter 15 Urban Design, Placemaking and Regeneration, sets out policies and objectives to support increased building height and density in locations with good public transport accessibility, particularly town/ city cores and explicitly identify areas where increased building height will be actively pursued for both redevelopment, regeneration and infill development to secure the objectives of the National Planning Framework and Regional Spatial and Economic Strategies.</p> <p>The County Development Plan does not provide for blanket numerical limitations on building height.</p> <p>This complies with SPPR 1.</p>
<p>SPPR 2:</p> <p>In driving general increases in building heights, planning authorities shall also ensure appropriate mixtures of uses, such as housing and commercial or employment development, are provided for in statutory plan policy. Mechanisms such as block delivery sequencing in statutory plans could be utilised to link the provision of new office, commercial, appropriate retail provision and residential accommodation, thereby enabling urban redevelopment to proceed in a way that comprehensively meets contemporary economic and social needs, such as for housing, offices, social and community infrastructure, including leisure facilities.</p>	<p>The Settlement Strategy in Chapter 2 and the Housing policies in Chapter 3 aim to ensure appropriate mixtures of uses, such as housing and commercial or employment development, are provided for in the County Development Plan.</p> <p>Various Land Use Zonings in the Plan support mixed use development.</p> <p>This complies with SPPR 2.</p>
<p>SPPR 3:</p> <p>It is a specific planning policy requirement that where;</p> <p>(A) 1. an applicant for planning permission sets out how a development proposal</p>	<p>In respect to Part (A) 1 and 2:</p> <p>Chapter 14 Urban Design, Regeneration and Placemaking, sets out policies</p>

SPPR Number and Description	Implementation
<p>complies with the criteria above; and</p> <p>2. the assessment of the planning authority concurs, taking account of the wider strategic and national policy parameters set out in the National Planning Framework and these Guidelines; then the planning authority may approve such development, even where specific objectives of the relevant development plan or local area plan may indicate otherwise.</p> <p>(B) In the case of an adopted planning scheme the Development Agency in conjunction with the relevant planning authority (where different) shall, upon the coming into force of these Guidelines, undertake a review of the planning scheme, utilising the relevant mechanisms as set out in the Planning and Development Act 2000 (as amended) to ensure that the criteria above are fully reflected in the planning scheme. In particular the Government policy that building heights be generally increased in appropriate urban locations shall be articulated in any amendment(s) to the planning scheme</p> <p>(C) In respect of planning schemes approved after the coming into force of these Guidelines these are not required to be reviewed.</p>	<p>and objectives to support SPPR 3.</p> <p>This complies with SPPR 3.</p>
<p>SPPR 4:</p> <p>It is a specific planning policy requirement that in planning the future development of greenfield or edge of city/town locations for housing purposes, planning authorities must secure:</p> <ol style="list-style-type: none"> 1. the minimum densities for such locations set out in the Guidelines issued by the Minister under Section 28 of the Planning and Development Act 2000 (as amended), titled “Sustainable Residential Development in Urban Areas (2007)” or any amending or replacement Guidelines; 2. a greater mix of building heights and typologies in planning for the future development of suburban locations; and 3. avoid mono-type building typologies (e.g. two storey or own-door houses only), particularly, but not exclusively so in any one development of 100 units or more. 	<p>Chapter 14 Urban Design, Placemaking and Regeneration, set out policies and objectives to secure:</p> <ol style="list-style-type: none"> 1. The minimum densities for such locations set out in the Guidelines issued by the Minister under Section 28 of the Planning and Development Act 2000 (as amended), titled “Sustainable Residential Development in Urban Areas (2007)” or any amending or replacement Guidelines; 2. a greater mix of building heights and typologies in planning for the future

SPPR Number and Description	Implementation
	<p>development of suburban locations; and</p> <p>3. avoid mono-type building typologies (e.g. two storey or own-door houses only), particularly, but not exclusively so in any one development of 100 units or more.</p> <p>The core strategy of this Plan has applied the densities set out in the Guidelines.</p> <p>This complies with SPPR 4.</p>

Table 3: Implementation of SPPRs under the Apartment Guidelines

<p>SPPR 1:</p> <p>Housing developments may include up to 50% one-bedroom or studio type units (with no more than 20-25% of the total proposed development as studios) and there shall be no minimum requirement for apartments with three or more bedrooms. Statutory development plans may specify a mix for apartment and other housing developments, but only further to an evidence-based Housing Need and Demand Assessment (HNDA), that has been agreed on an area, county, city or metropolitan area basis and incorporated into the relevant development plan(s).</p>	<p>A County Kildare Housing Needs Demand Assessment has been prepared (See Appendix 1) which addresses the requirements of SPPR1 in significant detail.</p>
<p>SPPR 2:</p> <p>For all building refurbishment schemes on sites of any size, or urban infill schemes on sites of up to 0.25ha:</p> <ul style="list-style-type: none"> • Where up to 9 residential units are proposed, notwithstanding SPPR 1, there shall be no restriction on dwelling mix, provided no more than 50% of the development (i.e. up to 4 units) 	<p>The policies and standards set out in the Development Plan comply with SPPR 2.</p>

<p>comprises studio-type units;</p> <ul style="list-style-type: none"> • Where between 10 to 49 residential units are proposed, the flexible dwelling mix provision for the first 9 units may be carried forward and the parameters set out in SPPR 1, shall apply from the 10th residential unit to the 49th; • For schemes of 50 or more units, SPPR 1 shall apply to the entire development; <p>All standards set out in this guidance shall generally apply to building refurbishment schemes on sites of any size, or urban infill schemes, but there shall also be scope for planning authorities to exercise discretion on a case-by-case basis, having regard to the overall quality of a proposed development.</p>	
<p>SPPR 3:</p> <p>Minimum Apartment Floor Areas:</p> <ul style="list-style-type: none"> • Studio apartment (1 person) 37 sq.m • 1-bedroom apartment (2 persons) 45 sq.m • 2-bedroom apartment (4 persons) 73 sq.m • 3-bedroom apartment (5 persons) 90 sq.m 	<p>The standards set out in of the Development Plan comply with SPPR 3.</p>
<p>SPPR 4:</p> <p>In relation to the minimum number of dual aspect apartments that may be provided in any single apartment scheme, the following shall apply:</p> <ol style="list-style-type: none"> i. A minimum of 33% of dual aspect units will be required in more central and accessible urban locations, where it is necessary to achieve a quality design in response to the subject site characteristics and ensure good street frontage where appropriate in. ii. In suburban or intermediate locations it is an objective that there shall generally be a minimum of 50% dual aspect apartments in a single scheme. iii. For building refurbishment schemes on sites of any size or urban infill schemes 	<p>The standards set out in the Development Plan comply with SPPR 4.</p>

<p>on sites of up to 0.25ha, planning authorities may exercise further discretion to consider dual aspect unit provision at a level lower than the 33% minimum outlined above on a case-by-case basis, but subject to the achievement of overall high design quality in other aspects.</p>	
<p>SPPR 5:</p> <p>Ground level apartment floor to ceiling heights shall be a minimum of 2.7m and shall be increased in certain circumstances, particularly where necessary to facilitate a future change of use to a commercial use.</p> <p>For building refurbishment schemes on sites of any size or urban infill schemes on sites of up to 0.25ha, planning authorities may exercise discretion on a case-by-case basis, subject to overall design quality.</p>	<p>The standards set out in the Development Plan comply with SPPR 5.</p>
<p>SPPR 6:</p> <p>A maximum of 12 apartments per floor per core may be provided in apartment schemes. This maximum provision may be increased for building refurbishment schemes on sites of any size or urban infill schemes on sites of up to 0.25ha, subject to overall design quality and compliance with building regulations.</p>	<p>The standards set out in the Development Plan comply with SPPR 6.</p>
<p>SPPR 7:</p> <p>BTR development must be:</p> <p>a) Described in the public notices associated with a planning application specifically as a 'Build-To-Rent' housing development that unambiguously categorises the project (or part of thereof) as a long-term rental housing scheme, to be accompanied by a proposed covenant or legal agreement further to which appropriate planning conditions may be attached to any grant of permission to ensure that the development remains as such. Such conditions include a requirement that the development remains owned and operated by an institutional entity and that this status will continue to apply for a minimum period of not less than 15 years and that similarly no</p>	<p>The standards set out in the Development Plan comply with SPPR 7.</p>

<p>individual residential units are sold or rented separately for that period;</p> <p>b) Accompanied by detailed proposals for supporting communal and recreational amenities to be provided as part of the BTR development. These facilities to be categorised as:</p> <ul style="list-style-type: none"> i. Resident Support Facilities - comprising of facilities related to the operation of the development for residents such as laundry facilities, concierge and management facilities, maintenance/repair services, waste management facilities, etc. ii. Resident Services and Amenities – comprising of facilities for communal recreational and other activities by residents including sports facilities, shared TV/lounge areas, work/study spaces, function rooms for use as private dining and kitchen facilities, etc. 	
<p>SPPR 8:</p> <p>Specific Planning Policy Requirement 8 For proposals that qualify as specific BTR development in accordance with SPPR 7:</p> <ul style="list-style-type: none"> (i) No restrictions on dwelling mix and all other requirements of these Guidelines shall apply, unless specified otherwise; (ii) Flexibility shall apply in relation to the provision of a proportion of the storage and private amenity space associated with individual units as set out in Appendix 1 and in relation to the provision of all of the communal amenity space as set out in Appendix 1, on the basis of the provision of alternative, compensatory communal support facilities and amenities within the development. This shall be at the discretion of the planning authority. In all cases the obligation will be on the project proposer to demonstrate the overall quality of the facilities provided and that residents will enjoy an enhanced overall standard of amenity; 	<p>The standards set out in the Development Plan comply with SPPR 8.</p>

<ul style="list-style-type: none"> (iii) There shall be a default of minimal or significantly reduced car parking provision on the basis of BTR development being more suitable for central locations and/or proximity to public transport services. The requirement for a BTR scheme to have a strong central management regime is intended to contribute to the capacity to establish and operate shared mobility measures. (iv) The requirement that the majority of all apartments in a proposed scheme exceed the minimum floor area standards by a minimum of 10% shall not apply to BTR schemes; (v) The requirement for a maximum of 12 apartments per floor per core shall not apply to BTR schemes, subject to overall design quality and compliance with building regulations. 	
<p>SPPR 9:</p> <p>There shall be a presumption against granting planning permission for shared accommodation/co-living development unless the proposed development is either:</p> <ul style="list-style-type: none"> (i) required to meet specific demand identified by a local planning authority further to a Housing Need and Demand Assessment (HNDA) process; or, (ii) on the date of publication of these updated Guidelines, a valid planning application to a planning authority, appeal to An Bord Pleanála, or strategic housing development (SHD) planning application to An Bord Pleanála, in which case the application or appeal may be determined on its merits. 	<p>The standards set out in the Development Plan comply with SPPR 9.</p>

Table 4: Implementation of SPPRs under the Interim Guidelines for Planning Authorities on Statutory Plans, Renewable Energy and Climate Change

SPPR Number and Description	Implementation
SPPR 1: Ensure that overall national policy on renewable energy as contained in documents such as the Government's 'White Paper on Energy Policy - Ireland's Transition to a Low Carbon Future', as well as the 'National Renewable Energy Action Plan', the 'Strategy for Renewable Energy' and the 'National Mitigation Plan', is acknowledged and documented in the relevant development plan or local area plan;	The Plan has been prepared taking full cognisance of EU, National and Regional Policy. Climate Action is an overarching principle of the Plan. Compliance with SPPR 1 is addressed in each chapter of the Plan.
SPPR 2: Indicate how the implementation of the relevant development plan or local area plan over its effective period will contribute to realising overall national targets on renewable energy and climate change mitigation, and in particular wind energy production and the potential wind energy resource (in megawatts); and	The Plan has been prepared taking full cognisance of EU, National and Regional Policy. Climate Action is an overarching principle of the Plan.
SPPR 3: Demonstrate detailed compliance with item number (2) above in any proposal by them to introduce or vary a mandatory setback distance or distances for wind turbines from specified land uses or classes of land use into their development plan or local area plan. Such a proposal shall be subject to environmental assessment requirements, for example under the SEA and Habitats Directives. It shall also be a material consideration in SEA, when taking into account likely significant effects on climatic factors, in addition to other factors such as landscape and air, if a mandatory setback or variation to a mandatory setback proposed by a planning authority in a development plan or local area plan would create a significant limitation or constraint on renewable energy projects, including wind turbines, within the administrative area of the plan.	In relation to wind turbines the Draft Plan does not set out any mandatory set back distances from specified land uses or classes of land use and is therefore fully consistent with SPPR 3.

Table 5: Implementation of SPPRs under the Draft Development Plan Guidelines for Planning Authorities

SPPR Number and Description	Implementation
SPPR 1: A single, over-arching and concise ‘Issues and Options Paper’ shall be published to accompany the initial notification that a development plan is being reviewed and shall include core strategy options for public consultation purposes.	An ‘Issues and Options Paper’ was published which coincided with the publication of the public notice that commenced the review of the Kildare County Development Plan 2017-2023.
SPPR 2: The Chief Executive’s stated recommendations on policies to be included in a development plan as part of a Report on Pre-Draft stage submissions, shall include a ‘draft core strategy’, consistent with Section 11 (4)(d) of the Planning Act.	A Draft Core Strategy was prepared and accompanied the Chief Executive’s stated recommendations on policies to be included in a development plan as part of the report on pre-draft stage submissions.
SPPR 3: To ensure clarity in respect of a development plan that was made within a reasonable timeframe, where a planning authority makes a development plan it shall publish a notice within 5 working days of the plan adoption date, stating that an interim plan adoption decision document is available for inspection, should it not be possible to publish the final version of the plan within that timeframe.	The Planning Authority notes and will comply with SPPR 3 upon the making of the development plan.
SPPR 4: Where a planning authority makes a development plan, an interim plan adoption decision document, or, the final version of the plan, shall be circulated to the Minister and other bodies as required under Section 12(12)(c) of the Planning Act, within 5 working days of the plan adoption date.	The Planning Authority notes and will comply with SPPR 4 upon the making of the development plan.
SPPR 5: The development plan core strategy requirements set out in Section 10 (2A)(c) and (d) of the Planning Act must be applied to each individual settlement where any land is zoned for residential purposes or a mixture of residential and other uses, including any applicable rural settlements with a population under 1,500 persons, and presented in clear, tabular format.	A Core Strategy has been prepared for County Kildare and has been applied to all settlements in the county. The Strategy was formulated on an evidence based approach, including an assessment of available services and infrastructure both physical and social. Table 2.8 sets out population growth and zoning provision for all settlements including villages and rural settlements.

<p>SPPR 6: Further to Sections 10 (1A) and 10 (2A) of the Planning Act, a development plan core strategy shall include a core strategy statement that sets out:</p> <ul style="list-style-type: none"> - - Consistency with national and regional spatial strategy and policy, with particular reference to the total quantum of additional housing and population targeted over the six-year plan period - The total quantum of existing and proposed land zoned for residential use to achieve the additional housing and population targeted over the six-year plan period; - The rationale for the settlement strategy, that informs the settlement hierarchy, which must address each settlement and area type in the hierarchy. 	<p>A Core Strategy Statement has been prepared and is included in Chapter 2, Core Strategy & Settlement Strategy</p>
<p>SPPR 7: Planning authorities shall adopt a sequential approach when zoning lands for development, whereby the most spatially centrally located development sites in settlements are prioritised for new development first, with more spatially peripherally located development sites being zoned subsequently.</p>	<p>In determining the location for land use zonings in the Small Towns, Villages and Rural Settlements, the sequential approach has been applied.</p>