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An Comhchoiste um Thithíocht, Pleanáil agus Rialtas Áitiúil

Tuarascáil ón gComhchoiste maidir le Grinnscrúdú ar Scéim Ghinearálta an Bhille
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Houses of the Oireachtas

Joint Committee on Housing, Planning & Local Government

Report of the Joint Committee on Scrutiny of the General Scheme of the Land
Development Agency Bill 2019

December 2019

32/HPLG/30

Table of Contents

| | |
|--|----|
| PREFACE | 3 |
| INTRODUCTION | 4 |
| PROVISIONS OF THE GENERAL SCHEME | 7 |
| BACKGROUND | 9 |
| KEY ISSUES WITH THE PROPOSED LEGISLATION | 12 |
| KEY ISSUE 1: TRANSPARENCY | 12 |
| KEY ISSUE 2: LOBBYING | 16 |
| KEY ISSUE 3: COMPULSORY PURCHASE POWERS | 17 |
| KEY ISSUE 4: STATUTORY OBLIGATIONS | 20 |
| KEY ISSUE 5: COMMERCIAL AND SOCIAL BALANCE | 24 |
| KEY ISSUE 6: ON/OFF BALANCE SHEET | 28 |
| KEY ISSUE 7: CLARITY OF RELATIONSHIPS | 30 |
| KEY ISSUE 8: DEMOCRATIC PROCESS | 35 |
| KEY ISSUE 9: STATE AID | 36 |
| KEY ISSUE 10: MISCELLANEOUS | 38 |
| Infrastructure | 38 |
| Small to Medium Enterprise | 41 |
| Climate and Sustainability | 41 |
| RECOMMENDATIONS | 44 |
| APPENDIX 1 – ORDERS OF REFERENCE | 48 |
| APPENDIX 2 – COMMITTEE MEMBERSHIP | 52 |
| APPENDIX 3 – LIST OF WITNESSES | 53 |
| APPENDIX 4 – LINKS TO MEETING TRANSCRIPTS | 54 |
| APPENDIX 5 – LINKS TO SUBMISSIONS & OPENING STATEMENTS | 55 |

PREFACE

On 9th July 2019, the Minister for Housing, Planning & Local Government, Mr. Eoghan Murphy T.D., submitted the *General Scheme of the Land Development Agency Bill 2019* to the Joint Committee on Housing, Planning & Local Government in accordance with Standing Orders for the purpose of pre-legislative scrutiny, PLS, of the General Scheme.

The Joint Committee agreed to undertake pre-legislative scrutiny of the General Scheme and the Committee has sought to scrutinise the proposed legislation and provide recommendations on areas where it believes changes or amendments are warranted. The approach taken by the Committee in reporting on the scrutiny of the General Scheme was not to examine each part of the General Scheme, rather to identify the most critical issues and to focus on these.

The General Scheme contains 39 heads. The proposed Bill aims to create the Land Development Agency as the public developer of residential property on public and private land.

The Committee has identified several issues and made recommendations on these issues which are explained in detail in the body of the Report. The Committee has made these recommendations in the hope that they will assist Minister Murphy and Department officials in improving this important piece of legislation.

I would like to express my appreciation to all the witnesses for their contributions and to the members of the Committee for their work on this subject. I hope that this report will help to inform the legislative process and make a valuable contribution to the forthcoming legislation.



Noel Rock T.D

Chair of the Joint Committee

INTRODUCTION

In line with Standing Order 146A, the *General Scheme of the Land Development Agency Bill 2019*¹ (the Bill) was referred to the Joint Oireachtas Committee on 9th July 2019. The Joint Committee agreed at its meeting on 10th July 2019 to undertake pre-legislative scrutiny of the General Scheme.

The Committee conducted pre-legislative scrutiny of the General Scheme of the Bill over five meetings, and engaged with various stakeholders, detailed below. The Committee also wrote to a number of other stakeholders, many of whom made written submissions on the General Scheme and these are linked in Appendix 5.

Wednesday 2nd October

- Ms. Maria Graham, Assistant Secretary, Department of Housing, Planning and Local Government.
- Ms. Mary Jones, Assistant Principal, Department of Housing, Planning and Local Government.
- Mr. Frank Gallagher, Principal, Department of Housing, Planning and Local Government.
- Mr. John Coleman, Chief Executive Officer, Land Development Agency.
- Mr. Phelim O'Neill, Head of Land, Land Development Agency.

Thursday 10th October 2019

- Prof. Kieran McQuinn, Economic & Social Research Institute.
- Dr. Conor O'Toole, Economic & Social Research Institute.
- Dr. Larry O'Connell, Director, National Economic & Social Council.
- Mr. Noel Cahill, Economist, National Economic & Social Council.

Tuesday 15th October 2019

- Mr. Tom Dunne, Technological University Dublin.
- Ms. Orla Hegarty, University College Dublin.
- Prof. Rob Kitchin, NUI Maynooth.
- Dr. Donal Mc Manus, Chief Executive Officer, Irish Council for Social Housing.

¹ [General Scheme of the Land Development Agency Bill 2019](#)

- Ms. Karen Murphy, Director of Policy, Irish Council for Social Housing.
- Mr. John O'Connor, Chief Executive Officer, The Housing Agency.
- Mr. Jim Baneham, Head of Housing Delivery, The Housing Agency.
- Ms. Catriona Lawlor, Senior Staff Officer, The Housing Agency.

Wednesday 16th October 2019

- Ms. Kathryn Meghen, CEO, The Royal Institute of the Architects of Ireland.
- Mr. John O'Mahony, RIAI Spokesperson on Housing, The Royal Institute of the Architects of Ireland.
- Ms. Caroline Spillane, Director General, Engineers Ireland.
- Dr. Kieran Feighan, Past President of Engineers Ireland, Engineers Ireland.
- Mr. Patrick King, Director of Strategy, Policy & Corporate Affairs, Society of Chartered Surveyors Ireland.
- Ms. Áine Myler, Director General, Society of Chartered Surveyors Ireland.
- Mr. Sean O'Neill, Vice-Chair of the Irish Home Builders Association, Construction Industry Federation.
- Mr. James Benson, Executive, Construction Industry Federation.

Tuesday 12th November 2019

- Ms. Maria Graham, Assistant Secretary, Department of Housing, Planning and Local Government.
- Ms. Mary Jones, Assistant Principal, Department of Housing, Planning and Local Government.
- Mr. Frank Gallagher, Principal, Department of Housing, Planning and Local Government.
- Mr. John Coleman, Chief Executive Officer, Land Development Agency.
- Mr. Phelim O'Neill, Head of Land, Land Development Agency.

The General Scheme of the Bill is comprised of 7 Parts, made up of 39 Heads. The Department of Housing, Planning and Local Government states that the purpose of the Bill is to establish the Land Development Agency, LDA, on a primary legislative footing as a

Designated Activity Company, DAC, under the *Companies Act 2014*². The LDA was established on 13 September 2018. The LDA was established on an interim basis by way of an Establishment Order (S.I. No. 352/2018)³ made under the *Local Government Services (Corporate Bodies) Act 1971*⁴, pending the enactment of primary legislation, where it is due to be established as a commercial State agency. The Land Development Agency Bill 2019 is that primary legislation.

The LDA as it is proposed to be created in this Bill will be a new type of agency for Ireland. According to the Minister⁵:

- The LDA acts as the ‘public’ developer for residential housing on public lands, rather than a private entity;
- As the developer, the LDA is responsible for preparing master plans for sites, obtaining planning permission, seeking procurement, buying sites before they are zoned for residential use;
- The LDA takes the uplift (realised value from ‘servicing’ / preparing the site) from this and puts it back into affordability in these homes, reducing their cost;
- In some cases, the LDA will sell serviced land under licence to provide for development of State land subject to delivery commitments;

A key objective of the LDA is to build 150,000 new homes by 2040. On establishment in September 2018, the LDA had access to an initial tranche of 8 publicly owned sites that have near term delivery potential for 3,000 new homes and an additional potential for 7,000 new homes⁶.

² [Companies Act 2014](#)

³ [S.I. No. 352/2018 - Land Development Agency \(Establishment\) Order 2018](#)

⁴ [Local Government Services \(Corporate Bodies\) Act, 1971](#)

⁵ [Response to Parliamentary Question, Land Development Agency, Thursday 27th October 2018](#)

⁶ [Response to Parliamentary Question, Land Development Agency, Wednesday - 20 February 2019](#)

PROVISIONS OF THE GENERAL SCHEME

The General Scheme comprises 7 Parts and 39 Heads. A summary of each Part is provided below:

- **Part 1 (Heads 1-4)** contains standard provisions normally included in legislation in relation to short title, collective citation, commencement, interpretation, the making of regulations and expenses.
- **Part 2 (Heads 5-12)** covers provisions for the formation of the Land Development Agency as a Designated Activity Company under the Companies Act 2014. It sets out provisions in relation to such matters as the LDA's formation, constitution, objects, functions and Board. It also provides for the appointment of staff, including the Chief Executive.
- **Part 3 (Heads 13-23)** contains provisions regarding the dissolution of the current statutory body established by the Establishment Order, which is to be superseded by the body to be established under this Bill. It also contains associated provisions in relation to transfer of functions, staff, as well as requirements in respect of a final report and accounts in relation to the body to be wound up. These type of provisions are often included when there is a dissolution of one public body and the transfer of functions to another.
- **Part 4 (Heads 24-28)** contains provisions concerning the funding of the LDA, including an amendment to the *National Treasury Management Agency (Amendment) Act 2014*⁷ enabling the capitalisation of the LDA. The subscription of share capital by the Minister for Housing, Planning and Local Government and the Minister for Public Expenditure to the LDA is also included in this section. It is envisaged that the Minister for Public Expenditure and Reform will be the majority shareholder, through the capitalisation of the LDA of up to €1.25 billion from ISIF funding. The Minister for Housing, Planning and Local Government will be a minority shareholder; this is for governance reasons as the agency will be under the aegis of his Department.

It also provides that the Minister for Public Expenditure and Reform may subscribe for further shares from time to time. It is envisaged that this provision will be used to facilitate the transfer of sites to the LDA. Sites owned by government departments and non-commercial state agencies will transfer to the LDA via the Minister for Public

⁷ [National Treasury Management Agency \(Amendment\) Act 2014](#)

Expenditure and Reform who will receive either a payment for the sites or an in specie, or equity investment, in the LDA equivalent to the market value of the lands.

- **Part 5 (Heads 29-31)** concerns the financial reporting of the LDA and the preparation of its annual financial statements. Under the Act, the LDA will be required to submit annual financial statements to the Comptroller and Auditor General for audit. This Part also contains provisions in relation to the accountability of the LDA to the Committee of Public Accounts and reporting arrangements.
- **Part 6 (Heads 32-33)** requires that the LDA compile a National Public Lands Register of relevant public lands and also provides that public bodies must assist the LDA in relation to the compilation of the register.
- **Part 7 (Heads 34-39)** contains a number of miscellaneous provisions in relation to such things as shadow and de-facto directors and a review of the achievement of the LDA's purposes. As some of the LDA's functions are commercial in nature, it also provides for an amendment to the *Freedom of Information Act 2014* to exclude these activities from FOI. The LDA's non-economic public functions and the general administration of the LDA will be covered by FOI.

BACKGROUND

The 2016 *Programme for a Partnership Government*⁸ contained no direct reference to the establishment of a dedicated LDA but referred to the following:

“Steps will be taken to introduce more coordination between local authorities, housing agencies and voluntary housing associations, to ensure value for money for the taxpayer when purchasing housing or land“. -p.21

The establishment of the LDA (originally, the ‘National Regeneration and Development Agency’) is a key national policy objective (number 66) under the Government’s *Project Ireland 2040: National Planning Framework*⁹. The objective is detailed as follows:

“National Policy Objective 66: A more effective strategic and centrally managed approach will be taken to realise the development potential of the overall portfolio of state owned and/or influenced lands in the five main cities other major urban areas and in rural towns and villages as a priority, particularly through the establishment of a National Regeneration and Development Agency.” -p.133

Under the *National Planning Framework*, National Policy Objective 12 stated that:

“The Government will establish a National Regeneration and Development Agency to work with local authorities, other public bodies and capital spending departments and agencies to co-ordinate and secure the best use of public lands, investment required within the capital envelopes provided in the National Development Plan and to drive the renewal of strategic areas not being utilised to their full potential.”

In terms of the rationale for the establishment of the LDA, the NPF states that:

“Effective land management, particularly in relation to publicly owned lands, will be a key piece of the implementation of [the NPF]. Government recognises that the State must take a stronger role in strategically managing and enhancing the development potential of its own lands, to deliver on wider public policy and to ensure that overall development needs are met. This includes, but is not exclusive to the provision of housing by the State and other housing providers, for people on a range of incomes. This means that we need to become more agile and more strategic in managing and developing publicly owned lands, so that development requirements can be met within

⁸ [A Programme for a Partnership Government, 2016, Government of Ireland](#)

⁹ [Project Ireland 2040: National Planning Framework, Government of Ireland](#)

a smaller physical footprint and provide an economic alternative to long-distance commuting.” -p.133

The main aim of the General Scheme of the Bill is to allow for the establishment of the LDA as a designated activity company, DAC, under the *Companies Act 2014* with the Minister for Housing, Planning and Local Government and the Minister for Public Expenditure as shareholders.

The objective of the LDA is to engage in strategic land assembly by consolidating public land and strategic privately-owned lands (e.g. lands which may be key to opening up the potential of public lands, or which may present long-term strategic land-assembly opportunities) to ensure land supply to the market on an enduring basis.

The need for the LDA is predicated on three recognised deficiencies in Ireland’s historical land management processes¹⁰:

1. State / public lands are not in optimal usage (i.e. are underutilised) as they lack a central coordination mechanism resulting in reduced housing stock delivery potential;
2. The land market in general is highly volatile with fluctuating prices driven by speculative influences around land acquisition, and is subject to delivery delays due to disparate land ownership, disputes over infrastructure cost allocation and a disconnect between land zoning decisions and actual delivery; and
3. The ‘housing crisis’ has revealed a chronic shortage of housing supply, with the affordability and availability of land, prominent issues.

The LDA plans to build 150,000 new homes by 2040. On establishment in September 2018, the LDA had access to an initial tranche of 8 publicly-owned sites that have near term delivery potential for 3,000 new homes and an additional potential for 7,000 new homes. The sites concerned are:

- The Central Mental Hospital site, Dundrum (capable of delivering 1,500 housing units);
- Hampton, Balbriggan (800-1,000 housing units);
- Hacketstown, Skerries (200 housing units);
- Devoy Barracks, Naas (c200 housing units);

¹⁰ [John Coleman, LDA, Irish Council for Social Housing, Finance and Development Conference, October 2018](#)

- The former Meath Hospital, Dublin City (100 housing units);
- St. Kevin's Hospital, Cork (200 housing units);
- Columb Barracks, Mullingar (200 housing units); and
- Dyke Road, Galway (250 housing units);

The ownership of 7 of the sites will not be formally transferred to the LDA until the Land Development Agency Bill is enacted, while the site in Galway (Dyke Road) is owned by Galway City Council and will be developed on a partnership basis.

KEY ISSUES WITH THE PROPOSED LEGISLATION

In examining the General Scheme, the Committee has identified areas that are of particular interest and where further clarity and scrutiny should be considered. These areas are identified as key issues within this report and are outlined below.

KEY ISSUE 1: TRANSPARENCY

The Committee notes that Head 39 of the General Scheme, “*Amendment to the Freedom of Information Act 2014*”, provides that:

“The Freedom of Information Act 2014 is amended to ensure that records of the LDA, in relation to its activities under Head 9(2), are excluded from the provisions of the Freedom of Information Act 2014”. -p.40

The Department of Housing, Planning and Local Government (The Department) stated to the Committee that as some of the LDA’s functions are commercial in nature, this Head provides for the amendment to the *Freedom of Information Act 2014*¹¹ to exclude these activities from Freedom of Information, FOI. However, the Department further stated that the LDA’s non-economic public functions and the general administration of the LDA will be covered by FOI.

The Committee are aware of the need for the proposed agency to have the confidence of the public and as such highlight the need for openness and transparency. In this regard, the Committee along with various stakeholders expressed concern over Head 39 of the General Scheme. Members are concerned that this is a blanket cover and will remove entirely transparency concerning the various functions listed under Head 9(2).

During the pre-legislative scrutiny hearings, the Committee queried whether they would be able to submit Parliamentary Questions about the operation of the LDA, whether there would be elements of oversight they would be excluded from asking about, and whether this would stretch to subsidiaries of the LDA also. The Department explained that in common with other commercial bodies and the process for parliamentary questions, the arrangement is that the Minister will answer questions about policy elements, while the day-to-day arrangements will include facilities for Oireachtas Members to receive prompt answers to questions. This will be required of the LDA, the Department noted, but it will not be through the Parliamentary Question system.

¹¹ [Freedom of Information Act 2014](#)

The Department advised that, in establishing the LDA in this way, they are trying to achieve a balance between the governance of a commercial body that has the freedom to act in the way they want it to in order to get the best for the State in terms of overall housing delivery, while at the same time having the kind of accountability the public requires. They advised that they're aiming to achieve a balance between those functions that are purely commercial, where FOI would interfere in getting the best value for lands in the public's interest, and the more day-to-day operations on the administrative side, which would be covered by FOI. They further advised that the Bill contains a number of components on the commercial side to ensure that there is sufficient oversight, with all of the accounts to be laid before the Oireachtas, noting that Head 30 of the General Scheme, "*Accountability to Committee of Public Accounts*" is not the norm for commercial matters but this aspect has regard to the fact that valuable State monies and lands are going to the LDA.

During the Committee's meeting with the Economic and Social Research Institute, ESRI, the ESRI agreed that the Committee's concerns regarding FOI are valid and need to be considered, noting that any respected agency in the public sector should have accountability and governance mechanisms to ensure its powers cannot be abused. They stated that the "*key from our perspective is to put in place an agency with transparency and which has highly skilled individuals whose remit is focused on the public good. This seems to be what has been created.*"

Ms Orla Hegarty of DCU acknowledged the Committee's concerns and advised the Committee that Freedom of Information is essential for ensuring public confidence, transparency and accountability, with Professor Rob Kitchin of NUI Maynooth advising that the exemption from FOI is problematic given that the LDA will be given up to €1.25 billion in public money, and that the public should have the right to know what work is being undertaken. Professor Kitchin explained that the LDA should be available to answer FOI requests, with specific queries that have commercial sensitivity being assessed on a case-by-case basis as to whether information can be made available, rather than being subject to a blanket exemption.

The Committee queried whether there are genuine commercial reasons for the LDA to seek a clear exemption from FOI legislation, and Ms Hegarty explained that it would be within the remit of the LDA to withhold information on the basis of commercial sensitivity in a narrow area such as market rates, though advised there should not be a blanket exemption as there is a provision in FOI procedure for an external determination on points of law.

Professor Kitchin remarked that if the LDA were to be outside the remit of FOI it would be a significant issue and not in the public interest. As it is public money being used in the public interest, and unless there were specific reasons, he would not favour a blanket ban. Professor Kitchin agreed with Ms. Hegarty that there might be rulings where it is believed to be outside of FOI and a person could engage with the Office of the Information Commissioner to get a specific ruling in that scenario.

The Department, in the final session of pre-legislative scrutiny, advised the Committee that the approach currently being adopted aligns with the general norms for commercial bodies as set out in legislation, and that this is generally a matter for the Department of Public Expenditure and Reform. The Department explained that the Minister is open to proposing alternative approaches to Government where measures are identified that can enhance accountability without compromising on the LDA's capacity to execute its proposed statutory role, and as such will consider any recommendations of the Committee in this regard.

The Committee queried the Department and the LDA on whether the exemptions in the *Freedom of Information Act* were sufficiently robust to ensure the protection of records whose release would be likely to give rise to any of the harms against which the exemption seeks to protect. The Committee maintain that under the FOI Act commercially sensitive information can be redacted while still being subject to FOI, and that the Information Commissioner can adjudicate on such matters, with robust and significant protections built into the Act, and in this regard questioned why Head 39, which provides for an exemption, exists in the General Scheme.

The Committee asked whether the LDA's core functions would be able to exist or whether its ability to work would be impacted if it were subject to an FOI regime or if Head 39 of the General Scheme were changed, to which Mr Coleman of the LDA advised he did not think the functions would change.

Mr John Coleman of the LDA acknowledged that the exemptions in the Act are helpful in terms of commercial sensitivity, and that the exemptions in the General Scheme are purely to protect the LDA and taxpayer resources going into it, for instance, regarding information on the analysis of sites or on sites the LDA are interested in acquiring in the future.

The Committee consulted with the Information Commissioner and were informed that the Commissioner is of the opinion that the exemptions in the FOI Act are sufficiently robust to ensure the protection of records whose release would be likely to give rise to any of the harms the exemptions seek to protect. The Commissioner nevertheless noted that the Oireachtas

has previously deemed it appropriate to include certain bodies in part only having regard to the nature of their functions, and noted that the scope of the Act is quite limited in respect of certain bodies operating in a commercial sphere such as the National Treasury Management Agency, the National Asset Management Agency, the National Pensions Reserve Fund Commission, and the National Development Finance Agency. Assuming that similar considerations arise in respect of the LDA, the Commissioner sees no reason why it cannot be included within the scope of the Act in part at least, and it would seem appropriate that the Agency would at a minimum be subject to the provisions of the Act in respect of records relating to its general administration.

The Commissioner also highlighted that the proposal to include a provision in the establishing legislation to exclude the Agency from the provisions of the FOI Act is not in keeping with the other relevant provisions of the Act that provide for the inclusion of all newly formed public bodies within 6 months of becoming such a body unless a specific order is made under the Act for their exclusion, either in whole or in part (section 6(12) refers).

In the circumstances, the Commissioner suggests removing Head 39 from the LDA Bill 2019 and suggests the Minister for Public Expenditure and Reform make an order under section 6(5)(a)¹² of the *Freedom of Information Act 2014* to provide for the limited inclusion of the Agency as a public body for the purposes of the Act.

In addition to the concerns surrounding FOI, in their submission to the Committee Property Industry Ireland, PII, noted that Head 8(4) of the General Scheme would permit the expansion of the objects and powers of the LDA and they advised the Committee that all the functions, objects and powers of the LDA should be set out clearly in the legislation and not in a constitution which can be developed or varied by the Board of the LDA without legislative supervision or oversight by the Oireachtas.

The Committee is of the view that there is no logic that would override the exemptions already within the *Freedom of Information Act 2014* and that would override the prerogative of the Information Commissioner to adjudicate on any commercially sensitive issues. The importance of Freedom of Information in proving an organisation with public trust, and the particular importance of this for the LDA, which will have considerable funding and resources, is paramount.

¹² [Freedom of Information Act 2014, s.6](#)

Recommendations

The Committee recommends that:

- Head 39 be deleted from the Bill.
- If the LDA is to be included as a public body under FOI in a limited sense, the Minister for Public Expenditure and Reform make an order under section 6(5)(a) of the *Freedom of Information Act 2014*.
- Head 8(4) be amended to provide oversight to any additional inclusion in the Memorandum of Association that would alter the existing objects, functions, or powers of the LDA.

KEY ISSUE 2: LOBBYING

The LDA will have access to and be acquiring substantial quantities of land across the State and as a result, the officials and staff of the LDA will command a significant amount of influence over the future of these lands. Thus, it is entirely plausible that these officials and staff members may attract interest from various sections of society looking to influence their decisions in relation to this land.

The Committee has concerns over the issue of lobbying and the impact that this may have on the functions of the LDA. When this issue was raised with the Department, Ms. Maria Graham of the Department informed the Committee that what is contained in the *Regulation of Lobbying Act 2015*¹³ is a matter for the Oireachtas and that commercial State bodies are not currently covered, and lobbying is not covered within the general scheme. John Coleman of the LDA further stated that they have no view on the issue of lobbying because it is a matter for the Oireachtas, and respect the views of the Oireachtas in this regard.

Ms Orla Hegarty of UCD advised the Committee that given that lobbying legislation has specific provisions for planning due to the risks of corruption and the significant sums of money in land transactions and development contracts, the activities of all personnel of the LDA

¹³ [Regulation of Lobbying Act 2015](#)

should be included in the statutory lobbying register. Professor Rob Kitchin echoed this sentiment and raised possible issues regarding lobbying, insider deals and financial irregularities. Professor Kitchin advised that, together with FOI exemptions, to be outside any kind of transparency could create significant accountability issues downstream.

As with the issues raised by the Committee with regards the exemptions from the *Freedom of Information Act*, the Department and the LDA advised the Committee that the approach to lobbying currently being adopted aligns with the general norms for commercial bodies as set out in legislation, but noted that the Minister is open to examining these issues to see whether a balance can be struck to increase accountability to the public without compromising on the LDA's capacity to execute its proposed statutory role.

The Committee is concerned that if the LDA is to operate outside of FOI and the lobbying register it will be "living in the shadows".

Recommendations

The Committee recommends that:

- All senior management of the LDA be prescribed as Designated Public Officials under the *Regulation of Lobbying Act 2015*.

KEY ISSUE 3: COMPULSORY PURCHASE POWERS

The Committee notes with concern that the General Scheme does not include provisions for the power to use compulsory purchase orders, CPOs. The Committee acknowledges the benefits of commercial State bodies having CPOs at their disposal when it comes to engaging in commercial negotiations.

In discussing the issue of compulsory purchase the Department advised that they are looking carefully at the issue and noted to the Committee that it is intended that the LDA will have CPO powers. The Department informed the Committee that they are looking at the potential for compulsory purchase powers particularly in the context of the strategic assembly of sites, where these powers could be used to access strips of land colloquially known as "ransom strips".

Mr Noel Cahill of the National Economic & Social Council, NESC, advised the Committee that a body like the Land Development Agency needs effective compulsory purchase powers. Mr

Cahill explained that insights gained from international experience show working relationships that exist with private developers require that public bodies have effective compulsory purchase powers available to them. Mr Cahill explained that these are rarely used but noted that the dynamic of the land market changes where there is credible possibility of public purchase of urban development land at less than its development value and advised the Committee that “*effective compulsory order, CPO, powers ensure that all actors take planning seriously*”.

Dr Larry O’Connell of NESC informed the Committee that it is clear from international evidence that having CPO powers is important to get people to take engagement seriously. Dr O’Connell explained that being equipped with CPO powers creates a process of engagement whereby better engagement is initiated with local authorities and public landowners and this then starts a positive process. CPO is essential from NESC’s point of view to enable discussions and negotiations on land to have a more positive character than what would be the norm.

Mr Tom Dunne of the Technological University Dublin informed the Committee that it is necessary that the LDA have compulsory purchase powers. Mr Dunne noted that one aspect that hinders property development and site-assembly is that flaws are often found in title, which may prohibit a particular form of development that might need to go on the site. In this case Mr Dunne advised that the LDA would need power to compulsorily acquire those sites. Mr Dunne also advised the Committee that the compulsory purchase powers available to the State are complex, with various protections built into the system, and noted that he could not imagine an agency such as the LDA operating efficiently unless it had CPO powers.

Dr Donal McManus of the Irish Council for Social Housing, ICSH, agreed with the points put forward by Mr Dunne and further spoke of the benefits of having CPO powers when it comes to ransom strips holding up developments, and advised that CPO powers will be crucial in obtaining small parcels of land.

The Property Industry Ireland also called for the granting of CPO powers to the LDA in their submission to the Committee, and advise that without the benefit of powers of compulsory purchase the LDA may be very limited in achieving the unlocking of land required to implement development plans, Local Area Plans or the LDA’s own masterplans.

Ms Caroline Spillane of Engineers Ireland stated to the Committee that the LDA should have sufficient powers to carry out its mandate efficiently and effectively, and Engineers Ireland believe these should include the power to purchase land compulsorily, and even if these were to be used infrequently this would send an appropriate signal to the market.

Ms Áine Myler of the Society of Chartered Surveyors Ireland also noted to the Committee that CPO powers will be critically important to the agency in enabling it to operate on an effective basis. Ms Myler explained that the power of compellability in itself is a useful tool and though it may not be necessary to use, it is very important.

John O'Mahony of the Royal Institute of the Architects of Ireland agreed with Ms Myler and noted their support for CPO powers, if only as a deterrent, though advised that in certain instances it may be necessary to use them.

Dr Keiran Feighan of Engineers Ireland furthered the views of the witnesses and informed the Committee that in certain circumstances, the power to issue compulsory purchase orders can impact positively on land values, purchase price, and ultimately the cost of delivery.

When discussing the topic of CPO with the LDA, Mr John Coleman advised the Committee that if one looks abroad in such places as the Netherlands, the existence of CPO powers as a negotiating and bargaining chip often has the most significant impact, rather than having to utilise them.

The Department informed the Committee that the Department has been engaging with the European Commission on the issue, and noted that there was an iterative process of developing the operational model through the prism of different elements of EU law, and that the Department would like to be ready to show the Commission a formed idea of the CPO powers the LDA may have.

In light of the views provided by the Department, the LDA, and the various stakeholders, the Committee is of the view that CPO powers are critical to the functioning of the LDA and believe that whether or not they are used is not an issue but their very existence is important for leverage in finding solutions. The Committee is concerned that if the LDA is not equipped with compulsory purchase powers even in a limited sense, when it begins to negotiate the transfer of land from other State bodies it may not be very successful in those negotiations, or it will be operating from a weaker position with regard to the eventual outcome.

The Committee also has concerns that if CPO powers are to be legislated for at Committee Stage, it will provide for limited CPOs for small parcels of adjoining land rather than something more significant, and that this will hinder the effective functioning of the LDA.

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|-------------------------------|
| <u>Recommendations</u> |
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The Committee recommends that:

- Robust compulsory purchase powers be provided for in the legislation.
- Clarity be given to how the LDA's proposed compulsory powers will interact with the compulsory purchase powers of other State bodies and local authorities.

KEY ISSUE 4: STATUTORY OBLIGATIONS

The Committee has a number of concerns regarding Head 8 of the General Scheme and question why it is being set up as a commercial company. The Committee notes that Head 8 states that “the LDA shall have regard to the policy of the Government on proper planning and sustainable development” but have concerns over the omission of any reference to social and affordable housing. The Committee note that there is no statutory obligation in the heads of the General Scheme to deliver social and affordable housing although this may be the intention and government policy, and question why it must only have regard to government policy and not be obliged to comply with it. In this regard the Committee raised concerns that as governments are subject to change, so too might the obligations of the LDA, and as such advocate that provision for a statutory requirement to provide social and affordable housing be included in the legislation.

The Department informed the Committee that under Head 8 of the General Scheme, some of the key objectives of the LDA include:

“to develop land for housing or other related development purposes on relevant public lands and other lands in support of the implementation of the National Planning Framework on a commercial basis; to establish mechanisms and collaborative structures between public and private entities to develop relevant public lands and other lands; and to establish structures to facilitate delivery of housing on relevant public lands and other lands.”

The Department also advised that the General Scheme makes it clear that the LDA must have regard to the policy of the Government on proper planning and sustainable development and contribute to the economic and social development of the State, while at the same time obtaining a positive financial return for the State.

Mr Noel Cahill from the National Economic and Social Council, NESC, advised the Committee that *“the first lesson is that affordability should be an explicit objective for a body such as the Land Development Agency”*. He explained that international cases show that supply of housing is not in itself a reliable or sustainable means of making housing affordable, and like other countries, Ireland must engineer affordability into the supply of housing. NESC noted that this must be a stated objective for the LDA. Dr Conor O’Toole of NESC reinforced this view and stated that *“I would support a requirement that it would have, as an objective, the delivery of affordable units because it is critical to the issue in Ireland.”* Dr O’Toole also advised the Committee that delivering affordable units for those who can purchase or rent them sustainably, and social housing for those who do not have sufficient incomes for those alternative tenures, is how to get the most societal return on the investment in the LDA. Dr O’Toole noted that a key objective of the LDA should be to deliver affordable homes, particularly where it is using State lands, yet also stated that the LDA having a broad remit is a positive, providing that affordability is its core objective.

Ms Orla Hegarty informed the Committee that she agrees with the comments from NESC that the supply of housing is not in itself a reliable or sustainable means of making housing affordable, and that affordability should be an explicit objective of the LDA.

Ms Caroline Spillane of Engineers Ireland also advised the Committee that affordability should be an explicit objective for a body like the LDA, and agreed with comments made by NESC and Ms Hegarty that having a supply of housing does not necessarily equate to the housing being affordable.

Property Industry Ireland, in their submission to the Committee, added to this view and advised that a minimum requirement for the provision of social and affordable housing on lands developed by the LDA should be included in the legislation.

Dr Kieran McQuinn of the Economic and Social Research Institute, ESRI, informed the Committee that his preference too would be for the mix of housing to be weighted more in favour of social and affordable housing given the current circumstances and bottlenecks in the market.

Dr McQuinn also advised that while it is not possible to specify exactly what the targets should be regarding the mix of housing and how much should be social and affordable, in broad terms the ESRI would echo the view that the emphasis should be more on social and affordable housing. Research undertaken by the ESRI has identified bottlenecks in the market in terms of affordability and Dr McQuinn advised that in that sense it is evident there is a need for

greater emphasis on the social and affordable element. Dr McQuinn further stated that there needs to be a significant emphasis on the provision of social and affordable in whatever way that can be achieved, and in regard to the weighting that should be given in light of the need for a commercial return, he would favour a greater weighting towards the social and affordable side of that equation.

Donal McManus from the Irish Council for Social Housing, ICSH, also informed the Committee that in Head 8 regarding “*Objects*”, they would like to see the delivery of social housing, affordable rental, and affordable purchase as part of its remit. Mr McManus said that the LDA potentially has a significant role to play in the expansion of a cost rental sector in Ireland and explicit objectives to achieve this should be included in the legislation.

Mr John O’Connor of the Housing Agency addressed the Committee and said, in a similar vein to that of the other witnesses, that it is up to the Oireachtas and the Minister to decide how to write affordability and the provision of social housing into the mandate of the Land Development Agency, but noted that they must be provided for in legislation so its obligation to deliver social and affordable housing will be clear. With regard the Government’s policy to allocate 10% of land to social housing and 30% to affordable housing on the sale of State lands, Mr O’Connor advised that if it was within the control of the Housing Agency the preference would be to specify much higher levels of social housing and affordable housing provision and advised that it would have to be a clear part of the agency’s mandate.

Mr Patrick King of the Society of Chartered Surveyors Ireland also acknowledged that housing and homelessness comprise one of the most significant issues that the SCSI hopes will be addressed by the LDA and advise that this should be recognised under Head 8 of the General Scheme.

The Irish Planning Institute, in their submission to the Committee, echoed the calls for clarification in the legislation over the prioritisation of social and affordable housing, and advocated that priority be given to this issue to ensure a suitable mixed tenure development on public lands.

Mr John O’Mahony from the Royal Institute of Architects of Ireland, RIAI, noted to the Committee that there should be flexibility in the percentages of social and affordable housing, as site location has a major impact on value. Mr O’Mahony explained that significantly over half of the population fall into the social and affordable category and in some instances entire sites should be developed out for affordable housing, whereas with other sites there may be a large value uplift and this could be passed on to subsidise other sites elsewhere.

In their discussion with the Committee Mr John Coleman of the LDA informed the Committee that the LDA is conscious that the provision of social and affordable housing is a major focus for the Committee and that it is understandable that many stakeholders want to highlight the importance of not missing the opportunity to deliver in this space, and informed the Committee that the LDA shares that sense of urgency and commitment to delivering on the requirement to provide all types of homes, including social and affordable. The Department also noted that a number of elements must be considered when putting something on a statutory footing, which is different from articulating policy. For example, when drafting legislation and the evidence base for it, it must be decided whether a number will be hardwired into the legislation or whether it will be a provision prescribed by the Minister. The Department noted that it is in the context of examining two elements, whether there should be a requirement for the disposal of public land or whether there should also be a requirement for the LDA to achieve a certain percentage of housing across its portfolio.

Mr Coleman advised the Committee that the affordability requirement on State lands is a separate policy matter set by the Government but the LDA will implement the requirement as a party that will seek to access State lands on an ongoing basis. While it is ultimately a policy matter for the Government, it is the LDA's view that the policy strikes a balance in providing significant amounts of social and affordable housing while leaving open the option to lever the initial funding of €1.25 billion provided for the LDA. Mr Coleman noted that this is particularly important as in the event that no third-party funding was invested in the LDA, the €1.25 billion would be used in its entirety by the initial site portfolio, whereas the LDA would like to go much further.

The Committee is of the view that the fact there is no statutory obligation to deliver social and affordable housing in the "Objects" of the General Scheme would seem to be a glaring omission and, without considering specific percentages or targets of social and affordable housing, recommend that a statutory obligation to provide social and affordable housing is provided for in the legislation.

Recommendations

The Committee recommends that:

- The Bill contain a statutory obligation to prioritise and provide social and affordable housing under Head 8 "objects", with the definition of "affordable housing" linked to that in the Planning and Development Act 2000.

- Consideration be given to the inclusion in the Bill of a statutory obligation to prioritise and provide cost-rental housing, or that the Bill includes cost-rental housing as a priority and/or objective.
- Given the limited supply of public land and the high demand for social and affordable housing consideration should be given to using public land solely for the purposes of delivering social, affordable rental and affordable purchase homes.

KEY ISSUE 5: COMMERCIAL AND SOCIAL BALANCE

Closely related to, and connected with key issue number 4, is the omission of a statutory obligation to provide affordable and social housing in the General Scheme, is the issue of balancing the LDA's commercial remit with that of its social responsibility, and in this regard the Committee has concerns over the setting up of the LDA as a commercial company and the possible conflicts of interest between its commercial requirements, the requirement to have regard to government policy and ultimately, the best interests of the citizen.

The Department advised the Committee that the setting up of the LDA as a commercial body is set in the context of its primary objectives which are, in respect of land management, to make optimal use of State lands and the €1.25 billion in State resources that will be invested through the Ireland Strategic Investment Fund, ISIF, and advised that the best way of doing so was to set up the agency on a commercial basis.

Mr Coleman of the LDA explained to the Committee that it is government policy that any land controlled by central government that is subsequently sold for development requires a minimum of 40% social and affordable housing. Mr Coleman advised the Committee that when one considers the composition of the LDA's entire portfolio, and given that the LDA will be dealing with Local Authorities also, this percentage will likely be higher than the 40% of social housing on the portfolio basis.

On this issue the Committee also raised concerns that with percentages to deliver social, affordable, and private market rents at 10%, 30%, and 60% respectively, and the LDA's objective to provide 150,000 homes over 20 years. This equates to 15,000 social houses, which the Committee note would appear to be a significant give away of public assets for a minor return in terms of public ownership. In this context the Committee is conscious of the need to remain aware of the context in which the LDA has been established, with 10,000

people living in emergency accommodation, of which 3,750 are children, and a further 72,000 people remain on local authority waiting lists, while many more are paying high rents. The Committee is keen that the LDA address these matters yet is concerned that the LDA's commercial remit will hamper the LDAs ability to do so.

Despite the assurances given by the LDA and the Department, the Committee is concerned that 60% of houses that are developed on State lands may be allocated to the private market and for market rates, and therefore the LDA's activities may result in the large-scale privatisation of public land. Mr Coleman advised the Committee that in contrast to this, part of the LDA's remit will be to assemble its own landbanks at appropriate times, from land on the market, thus enabling land that is privately held to become publicly held and noted that it "*it is not all one-way traffic over the long term of the LDA*".

In this regard, the Committee raised further concerns that in the long-term the LDA may become dependent on private finance for the most part and that activity may be taken out of the control of the State, leading to the balance to shift from the provision of social and affordable towards increasing amounts of private housing. The Committee is concerned that the LDA will become a "*prisoner*" of lenders, private finance and the European Central Bank and all the conditionalities that come with this, and the Committee query whether this is what is needed if large amounts of genuinely affordable social and affordable housing are to be built on public land.

Ms Orla Hegarty voiced similar concerns to those outlined by the Committee and said the indications are that there is no strategy for construction other than to outsource development to large entities as a means to lever social and discounted housing in a package of 60%, 30% and 10%. Ms Hegarty advised that an approach that outsources control of price, delivery speed, housing mix, quality and profit margin is high risk and it comes at a premium, and explained that large entities that control local markets can also lead to high prices, low quality, and suboptimal conditions for construction subcontractors and suppliers. Ms Hegarty also stated that "*a requirement to obtain a financial return for the State, as required by the LDA, is not compatible with affordability*".

Professor Rob Kitchin furthered the concerns outlined above and informed the Committee that the Bill seems to be premised on supporting the use of public land in conjunction with private actors on a commercial basis for profit. Professor Kitchin maintained that there is an underlying ethos in the Bill of marketisation and the privatisation of public assets and using their value as a means for the private sector to deliver public housing and other building and infrastructural

projects, as opposed to the public sector delivering them. Professor Kitchin contended that the word “agency” in the title of the LDA would seem to be a misnomer, as an agency is more of a public actor and facilitator and more about policy formation, oversight, and regulation, whereas the LDA is very much set around a commercial basis and is effectively being set up as a semi-State company.

Dr Donal McManus of the Irish Council for Social Housing expressed similar caution in regard to the commercial remit of the proposed agency, and acknowledged that while there are significant differences between the current proposal and the National Asset Management Agency, NAMA, in the view of the ICSH the commercial remit of NAMA meant that the social dividend came at a commercial price, and they would hope that the LDA will enable the provision of social and affordable housing at a lower cost overall to the Exchequer.

Ms Kathryn Meghan of the Royal Institute of the Architects of Ireland, RIAI, advised the Committee that object 2(c) under Head 8 of the Bill, which concerns the aim of achieving a positive financial return for the State, should be interpreted as broadly as possible and noted that this might include stimulation of the development of the wider area which would bring long-term State benefit.

Mr Patrick King of the SCSl echoed Ms Meghan’s calls and advised that there is greater scope in Head 8 2(c) to take a wider view than just the positive financial return, and this might include a more holistic return on investment, which could include addressing urban and town sprawl.

Mr. Coleman, in the final session of pre-legislative scrutiny, advised that he would like to reassure the Committee that there is no conflict of interest between the LDA’s establishment as a commercial body and the provision of much needed housing, and that in his view operating as a commercial body offers the best way to ensure the sustainability of the LDA’s resources and the sustainability of the agency through economic cycles. Mr Coleman stated that acting as a commercial operator will allow the LDA to deliver housing in times of economic prosperity, when Exchequer funding is available to support this activity, and future-proof the agency so that it can be just as effective in recessions, when the Exchequer does not have access to sufficient resources to invest. Mr Coleman advised that acting as a commercial operator will mean that the agency will be able to act countercyclically, which will achieve both important wider economic benefits in stabilising housing supply and achieve best value for money by enabling it to procure land and buildings when the housing market is weaker. In terms of the desirability of the LDA being a commercial operator, Mr Coleman stated that it is not because the LDA is seeking to make a profit for the sake of profit, it is about ensuring the

agency can be an all-weather contributor to the State and housing market, irrespective of how the wider economy is performing.

Mr Coleman stated -

“if we are to be successful as a countercyclical operator that can take advantage of long-term opportunities for the taxpayer, we have to create the conditions that will allow us to achieve this. Establishing the LDA as a commercial body is the best way to do this.”

In their submission to the Committee, IDA Ireland agreed with the views of the LDA and Department on this issue and welcomed the establishment of the LDA as a commercial entity, advising that this structure is now firmly established as a successful corporate governance framework, and this should enable the LDA with the financial flexibility to operate in a countercyclical fashion to ensure appropriate housing delivery continues in all cycles. The IDA highlighted the importance of structuring the LDA appropriately to attract investment and operate at an appropriate scale in the market.

The Committee proposed that, counter to the points made by Mr Coleman above, the LDA may not be able to act countercyclically as, during a recession when investment and private finance decreases, the State will intervene as non-market operators counter to the cycle of the market. The Committee questioned whether the LDA will be reliant on accessing market finance, investment and market operators after the first tranche of investment by the Ireland Strategic Investment Fund, ISIF, and whether it would then fall foul of recessions and economic slumps when they come, which in turn may dramatically undermine the ability of the State to deliver the volume of social and affordable housing that is needed.

Mr Coleman informed the Committee that if the LDA exists as a non-market player which is Exchequer-funded in a downturn, the State will be much more constrained in its ability to fund in a way through the Exchequer. Mr Coleman advised that contrary to being dependent on market funding outside the €1.25 billion, if the LDA was capitalised with this funding at a point in time entering a downturn the LDA would be quite well positioned to acquire land, and this would be countercyclical if done during a downturn.

The Committee has major concerns around the potential giveaway of 60% of public land to the private market. This giveaway of public land may not be the most optimal return for this valuable asset. The Committee also has concerns regarding the inevitable conflict facing the LDA between operating in a commercial capacity and making a return to the Exchequer with

housing for the private market versus the societal goal of providing social and affordable housing in well-planned and serviced estates.

Recommendations

The Committee recommends that:

- Consideration be given to the prioritisation of generating public housing on land transferred from public ownership, and the reduction in the percentage of developments to be sold at market rate, and a renewed focus be given to increasing the levels of social and affordable housing.
- In developing sustainable communities, the LDA make land available for public spaces, parks, and schools etc., and that these non-economic functions of the LDA are referenced in the legislation.
- Consideration should also be given to exclusively using public land for the delivery of social, affordable rental and affordable purchase homes.

KEY ISSUE 6: ON/OFF BALANCE SHEET

The Committee has concerns over a contradiction or tension in the development end of the legislation, in that unless the LDA is sufficiently independent in its investment decisions, rent setting and price setting, and unless a majority of its output is for an open market, it will not be classified as off-balance-sheet, and so this is the reason 60% of units will be for sale on the open market. The Committee is also concerned that if the intention of the LDA is to meet the social and affordable housing need, the LDA would not be established as a commercial agency as this requires a reduction in the amount of social and affordable housing that is deliverable on public land, in order to get it off balance sheet and independent.

The Department informed the Committee that one of the primary reasons that the LDA has been established as a commercial body is to allow it to operate while being off the Government's balance sheet, and explained that a commercial body needs to act economically within a market and that this is also part of the rationale for the balancing of the percentages of affordable housing. The Department advised that this designation of being off balance sheet is ultimately a matter for the Central Statistics Office, CSO, and EUROSTAT to decide, but the Department advised that in establishing the governance, oversight, and

models, attempts have been made to balance all components of European State Aid and public procurement rules, as well as commerciality.

The Department noted that there are a number of complexities surrounding the position of being on-or-off-balance sheet and that currently the agency's funding under the Establishment Order comes through the Department's Vote and as such is within Government. They advised that when the CSO has the legislation, business plan, and all of the other elements, the CSO will make a judgement.

The Committee also has concerns regarding the 60% private or commercial activity, particularly in relation to the 150,000 homes the LDA proposes to build over 20 years, in that of these homes only 60,000 will be social and affordable, with 15,000 social homes to be delivered as per government policy. The Committee also queries the realities of how the LDA will be in a position to operate if it ends up on the State's balance sheet. The Department advised however, that there are commercial State bodies that are part on balance sheet in terms of their investment profile and part off balance sheet. The Department advised the Committee that they are focusing on getting the LDA to carry out its functions and advised that they are focused on those components knowing that elsewhere there are decisions to be made by others around government accounting components. At some point, those accounting decisions will be made and Government will decide what the implications of those accounting decisions are in a wider budgetary context. The Committee again raised their concerns that they are "*putting the cart before the horse*" in terms of drafting the legislation without knowing whether or not the LDA will be on or off the Government's balance sheet, and voiced concerns that the LDA will be unsuccessful if it is decided it is on balance sheet. The Department acknowledged the Committee's concern that there is an unknown in this regard.

Mr Coleman of the LDA informed the Committee that in this regard, as mentioned previously, the LDA intends to be active in the land market by acquiring land from outside the public sector, and that in certain times of the economic cycle land currently in private ownership can be acquired by the LDA and transferred to public ownership.

The ESRI and the National Economic and Social Council, NESC, both outlined the need for the substantial provision of housing in the State to address supply and affordability issues. The Committee raised their concerns that they would like to see housing needs met, and in particular those whose needs the market currently does not meet, but as the LDA will be predominantly market in nature to keep it off-balance-sheet this may dramatically reduce the ability of the LDA to meet the social and affordable housing need, as the substantial point

regarding social and affordable housing is to remove market elements, such as land speculation, from its delivery.

The Committee welcomes the prospect of a land management agency but voiced concerns that the LDA may exist as an agency that effectively privatises and outsources the development of State-owned land and avoids responsibility for the delivery of public social and affordable housing.

The Committee acknowledges that to keep the LDA off the State's balance sheet the LDA needs to have a majority of developments as open market price commercial units, however the Committee is concerned that public land will be used, with the majority of the units not to be utilised for social and affordable housing. The Committee also has concerns that the LDA will try to do two contradictory things; on the one hand to increase the 40% minimum requirement for social and affordable housing; yet at the same time, the more one increases the percentage of social and affordable housing, the less one has open market sale houses and the more liability will be on the State.

Recommendations

The Committee recommends that:

- In Head 8 of the Bill, "Objects" that object 2(c), which concerns the aim of achieving a positive financial return for the State, be interpreted as broadly as possible and that this might include stimulation of the development of the wider area which would bring long-term State benefit including a social return.
- The Department liaise with and engage the Central Statistics Office to ensure that the LDA is developed with the strongest possibility of remaining off the Government's balance sheet.

KEY ISSUE 7: CLARITY OF RELATIONSHIPS

At the outset of engagement in pre-legislative scrutiny, the Committee raised concerns that with the establishment of the Land Development Agency, the Government will bypass local authorities by refusing to resource them as the primary deliverers of residential development on public land. The Committee also raised concerns that in its inter-agency and inter-sectoral arrangements with local authorities, the Housing Authority, Approved Housing Bodies, and

developers, the LDA might create duplication and additional delays in supplying housing. In this regard, Mr John Coleman of the LDA advised the Committee that the LDA is seeking only to become involved where it can be additive, and he envisages the LDA becoming involved only where there is a void or a need to fill a gap, or where delays can be taken out of the process.

The Committee also raised concerns over the increasing complexity of the situation and queried who will ultimately be responsible for the delivery of housing, the LDA, the local authorities, Approved Housing Bodies, or the Department. Mr Coleman advised that in the LDA's engagement with the chief executives of the local authorities, they have demonstrated a co-operative spirit with regard to the LDA, and that they are working together in a way that will avoid the issue of duplication to ensure that both parties will have the best outcome. Mr Coleman noted to the Committee that he was grateful to local authorities throughout the country for the quality of engagement with the LDA since it began operating and said the support they have shown, as well as the detailed knowledge and innovation they have brought to the discussions, bodes well for the collective ability to address their shared problems. Mr Coleman reiterated that the LDA cannot succeed without the support of its key stakeholders and noted that he has been encouraged by the commitment, collaborative approach and shared desire for solutions from the Committee, local authorities and other stakeholders.

Mr Coleman advised the Committee that the LDA will act with commercial bodies on a commercial basis and with local authorities on a partnership basis, rather than seeking to acquire local authority lands. Mr Coleman reiterated that it is only where the LDA can add something to the mix that the LDA will get involved and noted that this is represented in the Bill's functions to facilitate work with local authorities to assist and advise them where they require it.

When questioned whether the LDA would take over the delivery of social housing, the Department informed the Committee that the LDA is an active land management agency and its land disposals must produce Part V housing for local authorities, with the local authority remaining the housing authority. The LDA will not take over the functions of the local authority in that regard. Mr Coleman added to this by saying that if the desire of a local authority was to develop entirely social homes on a site, *"we would probably say that there was no role for us, as the local authority would be well capable of doing that itself. It is where we can add something that we have a role, for example, a financing structure around cost rental"*.

Mr Coleman added that they see the LDA as a tool for local authorities to deploy in circumstances where they can add value, and if they can provide potential financing solutions on the affordable delivery side of things they would certainly try to become involved. Mr Coleman added that there is scope for a national body to provide solutions in this respect and it may help to avoid duplication across local authorities and may help them meet the need for consistency, learnings and scale. Mr Coleman added that the LDA will not be substituting for local authorities but will make their centre of excellence available to local authorities to support them, and that this should enable the level of affordable housing coming through other streams to be increased. Mr Coleman added that in his view, if the State develops an agency with those kinds of capabilities it is important that it be used as a shared service to deliver benefits.

Professor Rob Kitchin from the NUI Maynooth queried how the LDA would work in practice with local authorities and other public landholders, and questioned which entity has priority or control of decision making. Professor Kitchin questioned who would have power and control and who would get to say that the LDA will use that land, if land is held by a local authority, semi-State agency or State agency and the LDA is interested in using it as part of a development. Professor Kitchin also questioned what the outcome would be if a public body decides not to co-operate with the LDA. Professor Kitchin warned that since the power relationship is not set out in the legislation, there is ambiguity as to how the LDA will perform its work in practice.

Dr Donal McManus of the Irish Council for Social Housing stated to the Committee that they would like to see an explicit relationship between the LDA, AHBs and local authorities for the provision of housing and related amenities provided for under Head 9 of the Bill. Mr John O'Connor of the Housing Agency advised the Committee that it is important for the LDA to use AHBs and local authorities where appropriate. Mr O'Connor noted in this regard that the LDA may carry out the master planning of a site, fund infrastructure on the site and then develop parcels of that land together with the Local Authority, AHBs and others.

Ms Caroline Spillane of Engineers Ireland echoed the calls for greater clarity on the relationships between the LDA and relevant stakeholders and advised that with the large amount of State and semi-State organisations in or related to land development activities, much greater clarity is needed with regard to the hierarchy of objectives, powers and compellability that will govern the interactions of the LDA with a range of State, and semi-State bodies, and local authorities. Ms Spillane advised the Committee that these should include existing local authority functions in planning and land disposal, the potential functions and powers of directly-elected Mayors, and the statutory role of the National Transport Authority,

NTA, in relation to the integration of transport and land-use planning. Dr Kieran Feighan of Engineers Ireland warned that even after the LDA is established on a statutory basis there is still a significant potential for delay in the delivery of schemes because it is not clear how these relationships will evolve in these institutions.

In their submissions to the Committee, both the Association of Consulting Engineers in Ireland, ACEI, and IDA Ireland, also called for a co-ordinated approach for LDA activities across all government agencies and departments, with the IDA recommending that the Bill provide for the establishment of mechanisms of interaction and collaboration between the LDA and relevant public bodies, as this would be beneficial to the sustainable development of public land banks and provide for smooth and cohesive relationships.

Mr Patrick King of the Society of Chartered Surveyors Ireland, SCSi, highlighted the importance of effective collaboration between key partners and advised that this was essential to prevent mistakes in poor planning, short-term gains and costly errors regarding the provision of services. He emphasised this importance and noted that NESC has previously stated that “*effective active land management involves public authorities working with a range of private non-for-profit development and housing organisations*”. A key component of this relationship will be planning, Mr King noted.

Mr King welcomed the provision under Head 9(2)(h) which will allow the LDA to provide a more fundamental area of support to public bodies. Mr King told the Committee that there is a clear need to develop public sector expertise in the area of property and construction and that building this capacity within the public sector is much needed to ensure the public as a client has the best advice that it can get when negotiating with private partners. Mr King also noted that there is an important role for the Committee and others in looking at the mapping of different agencies, and as the LDA is designed, in understanding Home Building Finance Ireland, HBFI, the local authorities, and the mapping process itself so that everyone understands what role each group plays and noted that this will be essential as a prerequisite of the legislation.

Ms Áine Myler of the SCSi advised that the LDA should not undermine the efforts of local authorities to purchase pieces of land and property that might have future strategic value and warned that local authorities might cease doing so as some might believe that this might be undertaken for them or that this is unnecessary because someone might decide that this is not the best use of their time. Ms Myler added that a careful balance will have to be found between local and national powers.

The Irish Planning Institute, IPI, advised in their submission to the Committee that clarification is required in terms of the interaction between local authorities and the elected members of local authorities considering land disposal is a reserved function under section 183 of the *Local Government Act 2001*¹⁴. This aspect was also raised by the County and City Management Association, CCMA, in their submission to the Committee, and they advised that consideration should be given to allowing for flexible land swaps between the LDA and local authorities to allow each to acquire suitable land banks for appropriate development.

The County and City Management Association, CCMA, echoed these calls for relationship clarification, and advised the Committee in their submission that given that a large amount of land for LDA activation may be council-owned, there must be certainty around the interactions with the public representatives and council employees and this may require a Memorandum of Understanding, which should be considered in the legislation. The CCMA noted that to provide further clarity to these relationships, and given the close engagement that will be necessary between local authorities and the LDA, consideration should be given to appointing a local authority representative to the Board of the LDA.

The Committee also has concerns that in order to reduce levels of risk, local authorities will cease or reduce their own building programmes and hand over control of these projects to the LDA, which in turn may diminish the levels or percentages of social and affordable housing that would otherwise be developed on local authority lands.

The Committee again emphasises that in the complexity surrounding the establishment of the LDA, it is important not to add another layer to that complexity, rather than remove the barriers and obstacles to addressing the housing crisis.

Recommendations

The Committee recommends that:

- A Memorandum of Understanding between the LDA, local authorities and other State bodies be published, and that this be provided for in legislation.
- Consideration be given to appointing a local authority representative to the Board of the LDA.

¹⁴ [Local Government Act, 2001](#)

- Clarification over the disposal of Local Authority land to the LDA, under section 183 of the *Local Government Act*, and related matters be clarified in the Bill.
- Clarification be given to the hierarchy of relationships between relevant stakeholders.

KEY ISSUE 8: DEMOCRATIC PROCESS

The Committee has concerns regarding how the LDA will impact on and have due regard to the Local Area Plans and County Development Plans of local authorities. During the course of pre-legislative scrutiny, the Committee outlined issues surrounding the erosion of the powers and functions of elected members of local democracy and Government, with a common theme running through a range of issues from traveller accommodation, local government finance, property tax, and the planning regulator, and highlighted the need for the LDA not to further this erosion of local engagement. The Committee also has concerns that the public will not have an input into planning undertaken by the LDA.

The Department advised the Committee that under Head 9 of the General Scheme, one function of the LDA is to draw up masterplans and assist relevant public bodies and owners of other lands to draw up master plans for development.

Ms Orla Hegarty advised the Committee that local authorities have the power to develop master development plans and local area plans but they need the resources to do so. Ms Hegarty noted that the advantage in local authorities carrying out these functions is that they have the expertise and the planners. Mr John O'Connor agreed that it was best when local authorities make detailed plans and as part of devising Local Area Plans that they do more detailed master planning. Mr O'Connor remarked that if the LDA has large tracts of State land it can assist in the master planning and while it will have to work with the local authorities, it will have the ability and potentially the funding to deliver the infrastructure up front.

Dr Kieran Feighan of Engineers Ireland noted to the Committee that while the LDA will be active, not least in larger urban areas, it is clear a role will remain for the local authorities in the planning of towns and villages. Mr Patrick King of SCSi informed the Committee that although one cannot say whether a certain number of people will live in an area, there can be appropriate planning for various scenarios that may play out in different local areas which the local authorities can undertake. Mr King advised that the LDA can then play a component part

in developing the lands under its control to build a community and housing within an area, regenerating it in a way that would not have been possible if done by the Local Authority. The master plan will fit into the role of the LDA which will help deliver the masterplan. Mr King advised the Committee that it is important that the LDA contribute to County Development Plans to ensure that it gives its perspective and challenges the local authorities to give greater depth so that they can make informed strategic plans which, it is hoped, may lead to innovation. Ms Áine Myler acknowledged the Committees concerns in this regard and noted she understands how an all-encompassing agency with few employees reporting to one line-manager about significant State assets could be seen to be undemocratic, whilst also acknowledging the difficulties in addressing this in legislation.

The Committee is aware of the need for the LDA, as a semi-State agency, to have the confidence of the public to be successful. In this regard the Committee highlights the importance of having mechanisms to allow for public input into LDA development plans, whether through elected representatives in local authorities, or consultation procedures with the general public. The Committee feels that this should be reflected in the legislation.

Recommendations

The Committee recommends that:

- In drawing up, or assisting relevant bodies to draw up, masterplans for development, that the LDA have regard to Local Area Plans and County Development Plans, and that this be provided for in the legislation.
- Mechanisms for public consultation on LDA Development Plans be provided for in the Bill.
- Any masterplans developed by the LDA, once completed are made freely available to the public.

KEY ISSUE 9: STATE AID

The Committee has concerns regarding the operation of the LDA and the possible breach of EU State aid rules in the LDA's operation. The Department informed the Committee that they are keenly aware of the circumstances surrounding EU State aid and procurement rules, and that these rules have framed the legislation currently before the Committee in terms of how

the LDA can act in that framework for delivery. The Department advised that State intervention in the manner proposed by the LDA invariably gives rise to considerations regarding State aid, and in developing the approach of the LDA, the Department is working with both the Office of the Attorney General and the LDA's legal team to ensure the evolving model is compliant with all aspects of EU law, with the advices to date informing the approach to setting out the functions contained in the General Scheme. In this regard, the Department drew attention to Head 9 of the Bill and noted that this draws a distinction between a range of non-economic functions the LDA will carry out in support of the National Planning Framework, NPF, management of public lands and an advisory role, and the core economic functions it is intended will be undertaken on a commercial basis without providing an advantage to either the LDA or other parties under State aid rules.

The Department advised that as the legislative process evolves, including having regard to proposals from the Committee, the Department will continue to examine various legal dimensions, including matters of EU law and will engage with the European Commission. The Department informed the Commission of the LDA at the time of its establishment in August 2018 and the next steps will be a structured engagement with the Commission, based on information from the LDA on its business model as well as the draft LDA Bill, outlining the nature and role and functions of the LDA.

The Committee welcomes the proposed engagement with the Commission but nevertheless has concerns regarding State aid rules and their effect on the functions of the LDA. The Committee acknowledged the Departments statements on the need to separate the commercial and non-commercial functions of the LDA but questioned whether the correct distinction to be made should be between those of *economic interest*, which are fully commercial, and those of *general economic interest* which are more in line with public services. The Committee is concerned that in order not to fall foul of EU State aid rules, it is these two distinctions that must be kept separate, yet the LDA would appear to mix services of economic interest (commercial, open-market-price homes) and general economic interest (social and affordable homes subsidised by the State). In practice, the Committee is concerned that in order to comply with State aid rules and to ensure that the LDA as a commercial operator does not have an advantage over other commercial operators, it will have to buy land at full market price. The Committee also has concerns that if the LDA is to use the "uplift" in value from servicing or developing out sites to subsidise sites or housing elsewhere, this may also result in a breach of EU State aid rules.

Recommendations

The Committee recommends that:

- The Department liaise with the EU Commission on the issue of State aid and that the legislation be updated to reflect any changing position.
- The Department keep the Committee informed of any development in engagement with the EU Commission and that any proposed amendment to the Bill be circulated to the Committee, with sufficient time for scrutiny, in advance of the next legislative stage.

KEY ISSUE 10: MISCELLANEOUS

Throughout the pre-legislative scrutiny process, numerous stakeholders raised other significant issues which the Committee feel attention should be given to.

Infrastructure

The Committee heard from various stakeholders regarding the importance of investment in the necessary infrastructure to a successful housing system. Dr Larry O’Connell from NESC informed the Committee that infrastructure is often a key bottleneck for development and advised that securing funding for infrastructure and creating the means to put infrastructure in place are critical.

Ms Orla Hegarty raised implications stemming from Head 2 of the Bill, “*Interpretation*”, in that “*relevant public lands*” are defined as “*all lands, within or contiguous to the built-up area of any census town with a population of 10,000 people or more in the last census in the ownership or control of a relevant public body*”. Ms Hegarty noted that this classification seems arbitrary and will have implications for transport, infrastructure and regional development. Ms Hegarty advised the Committee that State-led master planning and infrastructure can de-risk development, mitigate delays and reduce costs and finance for small and medium enterprise developers.

In their submission to the Committee Property Industry Ireland, PII, also noted the above definition of public lands but noted the inclusion of the phrase “*and other lands*” under Head 9 of the General Scheme has the effect allowing the LDA to acquire and develop and any land

regardless of its location, ownership, zoning, or current use. PII notes that this broad definition of land that may be acquired and developed by the LDA creates a significant risk of market distortion and threatens delivery of housing by private sector operators.

Mr John O'Connor highlighted the importance of the LDA being a leader in ensuring adequate infrastructure is put in place to support population density and noted that sustainability should be a key aspect of the development undertaken by the LDA. Ms Hegarty gave the Committee examples of areas where road and rail infrastructure is already at capacity and warned against developing more housing in these areas if there is no additional capacity on public transport. Ms Hegarty warned that it is the antithesis of the National Development Plan to provide more housing in a commuter town if the capacity on public transport is not there and noted that there are broader issues in respect of the tensions between policy objectives and the broader costs of extending schools, widening roads and increasing capacity on public transport. Ms Hegarty noted that these may not be reflected on the balance sheet of the LDA, but they will be in the costs to other government agencies.

Ms Hegarty also informed the Committee of the benefits of providing infrastructure as this allows builders to “plug in” on the edge of a site, whether for street lighting, water services or drainage etc, and will allow channels for smaller SME builders to become involved.

Professor Rob Kitchin advised the Committee that the State has a poor track record when it comes to infrastructure and advised of the need to move towards making sure the LDA coordinates and develops infrastructure at the right points in time. Professor Kitchin noted that it is known that the population will increase by 500,000 over the next two or three decades and highlighted that infrastructure will have to be built and co-ordinated in a way so as the reflect this.

Ms Kathryn Meghen from RIAI also emphasised the importance of providing infrastructure and advised that each landbank developed by the LDA will require an informed study of existing and required infrastructure, the present condition of the site and a well-developed design strategy, with Ms Meghan noting that the RIAI recommends that such studies are undertaken prior to the sale of any public landbanks.

Ms Caroline Spillane of Engineers Ireland echoed the calls of other witnesses in highlighting the importance of infrastructure. Ms Spillane informed the Committee that a key constraint to land development and housing construction is the availability and capacity of infrastructure, i.e., transport, electricity and water. Ms Spillane said that currently there is a clear lack of co-ordination in the planning and delivery of infrastructure with responsibility shared across many

different bodies and noted that the LDA has major potential to embrace this through a cross-departmental approach to land management and development. Ms Spillane informed the Committee that Engineers Ireland has consistently called for a single infrastructure unit, or national infrastructure commission, for the prioritisation, procurement and co-ordination of all key public infrastructure projects, a call which was also echoed by the Association of Consulting Engineers in Ireland, ACEI, in their submission to the Committee, which they noted would be of great benefit to the LDA.

Mr James Benson from the CIF spoke of another benefit of connecting State-owned sites to infrastructure in that this would allow other surrounding sites to then become viable for development. Mr Benson also noted to the Committee that its estimates for housing completions in 2019 have been downgraded due to market dynamics, with infrastructure a key constraint. Mr Benson said that lands identified by the LDA need to be viable sites with the necessary infrastructure and that the County Development Plans will play a role in this.

Dr Keiran Feighan of Engineers Ireland emphasised the importance of the role coordinated infrastructure should have on the LDA and advised that various elements combine to contribute to this: where people live, where people work, and the other services required in terms of education, health, recreation, culture etc, and how these are linked together. Dr Feighan noted that there is an affordability problem in the State because the location of services and jobs and the location of where people are living are not co-ordinated and it is important to understand this. Dr Feighan also outlined problems with retrofitting infrastructure in areas that have been developed out of step with the character of towns and villages and agreed with the Committee on the need to look ahead and to critically ensure the timely provision of all necessary infrastructure to assist in the development of towns and villages.

Mr. Noel Cahill also advised the Committee that Transport-Orientated Development, TOD, which seeks to maximise the provision of housing, employment, public services and leisure space in close proximity to frequent, high quality transport services can contribute to the Project Ireland policy goal of compact development, and noted that the LDA could be a significant contributor to the achievement of this form of development.

The Committee is aware of the increasing importance of sustainable infrastructure in all future developments in the State and the need for a co-ordinated approach across all relevant stakeholders in implementing infrastructure projects. The Committee has concerns that with increasing population, compact growth is an increasingly important priority for Government,

and with this increase in compact growth, transport-orientated development and sustainable infrastructure should be priorities of the LDA and this should be reflected in the legislation.

Small to Medium Enterprise

The Committee has concerns over the loss of a large amount of small building firms from the market and an increasing reliance on large construction firms. Dr Kieran McQuinn advised the Committee that as a result of the financial crisis and given the changes in the finance and higher levels of equity now required by developers, there tends to be a bias in favour of the larger-scale developers and operations.

To help build capacity in the construction sector, Ms Orla Hegarty informed the Committee that unbundling, in which small lots for SME design teams and builders are created, can open new markets, raise standards, drive innovation and create competition. Ms Hegarty noted that public contracts in small lots for SME builders can also allow them to recapitalise, re-equip, and undertake other private developments, all of which help to build capacity. Ms Hegarty highlighted the fractured nature of the construction industry and emphasised the need for the LDA to tender for smaller bidders, which would result in increased competition, higher standards, and allow for social and other clauses to be inserted into the public procurement process. Mr James Benson also highlighted the traumatic decade that the SME home building sector has gone through and informed the Committee that the bulk of SMEs that make up the majority of the construction industry advocate for a mechanism to be implemented through the LDA for licences for SMEs to be broken up so whole lots would not be sold and there would be no disadvantage to the industry. Mr Benson advised that the LDA should ensure that its qualification requirements do not effectively exclude SMEs from securing licences in the future.

The Committee has significant concerns that the LDA may become constrained in its ability to attract high quality tenders if only a small number of large bidders are competing for tenders, and highlight the positives of attracting SMEs, both in creating positive competition and avoiding suboptimal contractual arrangements.

Climate and Sustainability

Mr John O'Connor of the Housing Agency advised the Committee that it is critical that the LDA's developments are sustainable and that climate change will be taken into account. Mr O'Connor noted that the LDA needs to consider how its developments will work in ten, thirty, and sixty years.

Ms Caroline Spillane added to this and stated that, despite the references in the General Scheme referring to the LDA's obligation to have regard to government policy on sustainable development, these references do not go far enough and as we are in a climate emergency, developing sustainable communities must be a fundamental objective of the LDA, added to what is already in Head 8(2). Ms Spillane emphasised the need for LDA-developed communities to have excellent public transport links, highly energy-efficient housing and recreational amenities, and added that they should promote biodiversity.

The County and City Management Association, CCMA, in their submission to the Committee highlighted that in developing sustainable communities, not all land developed will be commercial, and land should be made available for public spaces, parks, and schools etc., and in this context, it is important that non-economic functions of the LDA are referenced in the legislation.

The ACEI, in their submission to the Committee, also highlighted the importance of sustainable development and the need for the LDA to have a long-term sustainable strategy, and in this regard recommend that the LDA optimise the use of green and low carbon energy to provide a unique energy capacity, and that the LDA implements a target of a B1 BER rating on housing units developed by the LDA under its remit.

The Department advised the Committee that the LDA sits within the policy of compact growth which is an important part of the National Planning Framework, NPF, an increasingly important part of the climate action plan, as well as of sustainable communities. The Department also noted that these are the components of policy that the LDA has to deliver on, not just in getting a financial return.

The Committee queried whether or not the LDA will have its own climate action policy to which Mr John Coleman advised that the LDA is there to implement national policy, from which any specific policy could be derived.

The Committee notes that as currently drafted, the General Scheme does not contain any references to a climate strategy or policy, nor does it include measures to address climate change under its objects or functions. Given the widely acknowledged issue of climate change by Government, the Committee sees no reason why measures to reduce the LDAs impact on climate change cannot be included in the legislation.

Recommendations

The Committee recommends that:

- The Bill provide for a statutory obligation to provide for, or make priority, the creation of sustainable development and communities.
- The Bill provide for the statutory obligation to have regard to government climate action policy.
- The Bill provides for the important role of developing infrastructure in advance or in tandem with other development.
- The register of all relevant public lands, as provided for in the General Scheme, be made publicly available.
- Clarity be given to the phrases “*other related development purposes*”, “*related development projects*”, and “*related developments*” as mentioned in the General Scheme.
- Consideration be given to the establishment of a single infrastructure unit, or national infrastructure commission, for the prioritisation, procurement and co-ordination of all key public infrastructure projects to work alongside the LDA.
- The LDA meet a minimum target of B1 BER rating on all units developed under its remit.
- The LDAs procurement processes allow for the greater involvement of SMES, and that any tendering guidelines developed by the LDA prioritise the involvement of SMEs where possible.
- The LDA be required to liaise with Transport Infrastructure Ireland, when developing relevant lands.
- Measures to reduce the impact of the LDA’s activities on climate change be provided for in the legislation.

RECOMMENDATIONS

Recommendations

The Committee recommends that:

1. Head 39 be deleted from the Bill.
2. If the LDA is to be included as a public body under FOI in a limited sense, the Minister for Public Expenditure and Reform make an order under section 6(5)(a) of the Freedom of Information Act.
3. Head 8(4) be amended to provide oversight to any additional inclusion in the Memorandum of Association that would alter the existing object, functions or powers of the LDA.
4. All senior management of the LDA be prescribed as Designated Public Officials under the *Regulation of Lobbying Act*.
5. Robust compulsory purchase powers be provided for in the legislation.
6. Clarity be given to how the LDA's proposed compulsory purchase powers will interact with the compulsory purchase powers of other State bodies and local authorities.
7. The Bill contain a statutory obligation to prioritise and provide social and affordable housing under Head 8 "objects", with the definition of "affordable housing" linked to that in the Planning and Development Act 2000.
8. Consideration be given to the inclusion in the Bill of a statutory obligation to prioritise and provide cost-rental housing, or that the Bill includes cost-rental housing as a priority and/or objective.
9. Given the limited supply of public land and the high demand for social and affordable housing consideration should be given to using public land solely for the purposes of delivering social, affordable rental and affordable purchase homes.

10. Consideration be given to the prioritisation of generating public housing on land transferred from public ownership, and the reduction in the percentage of developments to be sold at market rate, and a renewed focus be given to increasing the levels of social and affordable housing.
11. In developing sustainable communities, the LDA make land available for public spaces, parks, and schools etc., and that these non-economic functions of the LDA are referenced in the legislation.
12. Consideration should also be given to exclusively using public land for the delivery of social, affordable rental and affordable purchase homes.
13. In Head 8 of the Bill, “Objects” that object 2(c), which concerns the aim of achieving a positive financial return for the State, be interpreted as broadly as possible and that this might include stimulation of the development of the wider area which would bring long-term State benefit including a social return.
14. The Department liaise with and engage the Central Statistics Office to ensure that the LDA is developed with the strongest possibility of remaining off the Government’s balance sheet.
15. A Memorandum of Understanding between the LDA, local authorities and other State bodies be published, and that this be provided for in legislation.
16. Consideration be given to appointing a local authority representative to the Board of the LDA.
17. Clarification over the disposal of Local Authority land to the LDA, under section 183 of the Local Government Act, and related matters be clarified in the Bill.
18. Clarification be given to the hierarchy of relationships between relevant stakeholders.
19. In drawing up, or assisting relevant bodies to draw up, masterplans for development, that the LDA have regard to Local Area Plans and County Development Plans, and that this be provided for in the legislation.

20. Mechanisms for public consultation on LDA Development Plans be provided for in the Bill.
21. Any masterplans developed by the LDA, once completed, are made freely available to the public.
22. The Department liaise with the EU Commission on the issue of State aid and that the legislation be updated to reflect any changing position.
23. The Department keep the Committee informed of any development in engagement with the EU Commission and that any proposed amendment to the Bill be circulated to the Committee, with sufficient time for scrutiny, in advance of the next legislative stage.
24. The Bill provide for a statutory obligation to provide for, or make priority, the creation of sustainable development and communities.
25. The Bill provide for the statutory obligation to have regard to Government Climate Action policy.
26. The Bill provides for the important role of developing infrastructure in advance or in tandem with other development.
27. The register of all relevant public lands, as provided for in the General Scheme, be made publicly available.
28. Clarity be given to the phrases "*other related development purposes*", "*related development projects*", and "*related developments*" as mentioned in the General Scheme.
29. Consideration be given to the establishment of a single infrastructure unit, or national infrastructure commission, for the prioritisation, procurement and co-ordination of all key public infrastructure projects to work alongside the LDA.

30. The LDA meet a minimum target of B1 BER rating on all units developed under its remit.
31. The LDAs procurement processes allow for the greater involvement of SMEs, and that any tendering guidelines developed by the LDA prioritise the involvement of SMEs where possible.
32. The LDA be required to liaise with Transport Infrastructure Ireland, when developing relevant lands.
33. Measures to reduce the impact of the LDA's activities on climate change be provided for in the legislation.

APPENDIX 1 – ORDERS OF REFERENCE

a. Functions of the Committee – derived from Standing Orders [DSO 84A; SSO 70A]

- (1) The Select Committee shall consider and report to the Dáil on—
 - (a) such aspects of the expenditure, administration and policy of a Government Department or Departments and associated public bodies as the Committee may select, and
 - (b) European Union matters within the remit of the relevant Department or Departments.
- (2) The Select Committee appointed pursuant to this Standing Order may be joined with a Select Committee appointed by Seanad Éireann for the purposes of the functions set out in this Standing Order, other than at paragraph (3), and to report thereon to both Houses of the Oireachtas.
- (3) Without prejudice to the generality of paragraph (1), the Select Committee appointed pursuant to this Standing Order shall consider, in respect of the relevant Department or Departments, such—
 - (a) Bills,
 - (b) proposals contained in any motion, including any motion within the meaning of Standing Order 187,
 - (c) Estimates for Public Services, and
 - (d) other mattersas shall be referred to the Select Committee by the Dáil,
and
 - (e) Annual Output Statements including performance, efficiency and effectiveness in the use of public monies, and
 - (f) such Value for Money and Policy Reviews as the Select Committee may select.

- (4) The Joint Committee may consider the following matters in respect of the relevant Department or Departments and associated public bodies:
- (a) matters of policy and governance for which the Minister is officially responsible,
 - (b) public affairs administered by the Department,
 - (c) policy issues arising from Value for Money and Policy Reviews conducted or commissioned by the Department,
 - (d) Government policy and governance in respect of bodies under the aegis of the Department,
 - (e) policy and governance issues concerning bodies which are partly or wholly funded by the State or which are established or appointed by a member of the Government or the Oireachtas,
 - (f) the general scheme or draft heads of any Bill,
 - (g) any post-enactment report laid before either House or both Houses by a member of the Government or Minister of State on any Bill enacted by the Houses of the Oireachtas,
 - (h) statutory instruments, including those laid or laid in draft before either House or both Houses and those made under the European Communities Acts 1972 to 2009,
 - (i) strategy statements laid before either or both Houses of the Oireachtas pursuant to the Public Service Management Act 1997,
 - (j) annual reports or annual reports and accounts, required by law, and laid before either or both Houses of the Oireachtas, of the Department or bodies referred to in subparagraphs (d) and (e) and the overall performance and operational results, statements of strategy and corporate plans of such bodies, and
 - (k) such other matters as may be referred to it by the Dáil from time to time.

- (5) Without prejudice to the generality of paragraph (1), the Joint Committee appointed pursuant to this Standing Order shall consider, in respect of the relevant Department or Departments—
- (a) EU draft legislative acts standing referred to the Select Committee under Standing Order 114, including the compliance of such acts with the principle of subsidiarity,
 - (b) other proposals for EU legislation and related policy issues, including programmes and guidelines prepared by the European Commission as a basis of possible legislative action,
 - (c) non-legislative documents published by any EU institution in relation to EU policy matters, and
 - (d) matters listed for consideration on the agenda for meetings of the relevant EU Council of Ministers and the outcome of such meetings.
- (6) The Chairman of the Joint Committee appointed pursuant to this Standing Order, who shall be a member of Dáil Éireann, shall also be the Chairman of the Select Committee.
- (7) The following may attend meetings of the Select or Joint Committee appointed pursuant to this Standing Order, for the purposes of the functions set out in paragraph (5) and may take part in proceedings without having a right to vote or to move motions and amendments:
- (a) Members of the European Parliament elected from constituencies in Ireland, including Northern Ireland,
 - (b) Members of the Irish delegation to the Parliamentary Assembly of the Council of Europe, and
 - (c) at the invitation of the Committee, other Members of the European Parliament.

b. Scope and Context of Activities of Committees (as derived from Standing Orders) [DSO 84; SSO 70]

- (1) The Joint Committee may only consider such matters, engage in such activities, exercise such powers and discharge such functions as are specifically authorised under its orders of reference and under Standing Orders.
- (2) Such matters, activities, powers and functions shall be relevant to, and shall arise only in the context of, the preparation of a report to the Dáil and/or Seanad.
- (3) The Joint Committee shall not consider any matter which is being considered, or of which notice has been given of a proposal to consider, by the Committee of Public Accounts pursuant to Standing Order 186 and/or the Comptroller and Auditor General (Amendment) Act 1993.
- (4) The Joint Committee shall refrain from inquiring into in public session or publishing confidential information regarding any matter if so requested, for stated reasons given in writing, by—
 - (a) a member of the Government or a Minister of State, or
 - (b) the principal office-holder of a body under the aegis of a Department or which is partly or wholly funded by the State or established or appointed by a member of the Government or by the Oireachtas:

Provided that the Chairman may appeal any such request made to the Ceann Comhairle / Cathaoirleach whose decision shall be final.

- (5) It shall be an instruction to all Select Committees to which Bills are referred that they shall ensure that not more than two Select Committees shall meet to consider a Bill on any given day, unless the Dáil, after due notice given by the Chairman of the Select Committee, waives this instruction on motion made by the Taoiseach pursuant to Dáil Standing Order 28. The Chairmen of Select Committees shall have responsibility for compliance with this instruction.

APPENDIX 2 – COMMITTEE MEMBERSHIP

Deputies: Noel Rock – Chair (FG)
Mick Barry (Solidarity-PBP)
Pat Casey – Vice Chair (FF)
Darragh O’Brien (FF)
Mattie McGrath (IND) – Rural Independent Technical Group
Eoin Ó Broin (SF)
Fergus O’Dowd (FG)

Senators: Victor Boyhan (IND)
Martin Conway (FG)
Jennifer Murnane O’Connor (FF)
Colette Kelleher (IND)

Notes:

1. Deputies nominated by the Dáil Committee of Selection and appointed by Order of the Dáil of 16 June 2016.
2. Senators nominated by the Seanad Committee of Selection and appointed by Order of the Seanad on 21 July 2016.
3. Elected Vice Chair on 24 May 2017

APPENDIX 3 – LIST OF WITNESSES

❖ **The Department of Housing, Planning and Local Government**

Ms. Maria Graham

Ms. Mary Jones

Mr. Frank Gallagher

❖ **Land Development Agency (LDA)**

Mr. John Coleman

Mr. Phelim O’Neill

❖ **The Economic and Social Research Institute**

Prof. Kieran McQuinn

Dr. Conor O’Toole

❖ **National Economic & Social Council**

Dr. Larry O’Connell

Mr. Noel Cahill

❖ **Technological University Dublin**

Mr. Tom Dunne

❖ **University College Dublin**

Ms. Orla Hegarty

❖ **National University of Ireland, Maynooth**

Professor Rob Kitchin

❖ **Irish Council for Social Housing**

Dr. Donal Mc Manus

Ms. Karen Murphy

❖ **The Housing Agency**

Mr. John O’Connor

Mr. Jim Baneham
Ms. Catriona Lawlor

❖ **The Royal Institute of the Architects of Ireland**

Ms. Kathryn Meghan
Mr. John O'Mahony

❖ **Engineers Ireland**

Ms. Caroline Spillane
Dr. Kieran Feighan

❖ **Society of Chartered Surveyors Ireland**

Mr. Patrick King
Ms. Áine Myler

❖ **Construction Industry Federation**

Mr. Sean O'Neill
Mr. James Benson

APPENDIX 4 – LINKS TO MEETING TRANSCRIPTS

- ❖ [Meeting of Wednesday, 2 October 2019](#)
- ❖ [Meeting of Thursday, 10 October 2019](#)
- ❖ [Meeting of Tuesday, 15 October 2019](#)
- ❖ [Meeting of Wednesday, 16 October 2019](#)
- ❖ [Meeting of Tuesday, 12 November 2019](#)

APPENDIX 5 – LINKS TO SUBMISSIONS & OPENING STATEMENTS

Opening Statements

- ❖ [Ms. Maria Graham, Ms. Mary Jones, Mr. Frank Gallagher](#)
- ❖ [Mr. John Coleman, Mr. Phelim O’Neill](#)
- ❖ [Prof. Kieran McQuinn, Dr Conor O’Toole](#)
- ❖ [Dr. Larry O’Connell, Mr. Noel Cahill](#)
- ❖ [Mr. Tom Dunne](#)
- ❖ [Ms. Orla Hegarty](#)
- ❖ [Prof. Rob Kitchin](#)
- ❖ [Dr Donal Mc Manus, Ms. Karen Murphy](#)
- ❖ [Mr. John O’Connor, Mr. Jim Baneham, Ms. Catriona Lawlor](#)
- ❖ [Ms. Kathryn Meghen, Mr. John O’Mahony](#)
- ❖ [Ms Caroline Spillane, Dr Kieran Feighan](#)
- ❖ [Mr. Patrick King, Ms. Áine Myler](#)
- ❖ [Mr. Sean O’Neill, Mr. James Benson](#)

Submissions

- ❖ [Mr. Peter Tyndall, Information Commissioner](#)
- ❖ [Mr. David Walsh, An Bord Pleanála](#)
- ❖ [IDA Ireland](#)
- ❖ [Mr. Joe Corr, Irish Planning Institute](#)
- ❖ [Dr. Sarah Ingle, Association of Consulting Engineers of Ireland](#)
- ❖ [Mr. Niall Cussen, Office of the Planning Regulator](#)
- ❖ [County and City Management Association](#)
- ❖ [Property Industry Ireland](#)