

**Public Accounts Committee: C&AG Special Report on DDDA****Opening Statement by Geraldine Tallon, Accounting Officer****Department of Environment, Community and Local Government****2 May 2013**

Chairman, Members. As requested, I will keep my opening statement short. I am accompanied by Mr John McCarthy, Ms Mary Moylan, Mr Maurice Coughlan and Mr David Walsh.

The Department has an active Agency rationalisation programme, and there are now 10 bodies, of very varied scale and function, under its aegis compared with over 20 five years ago. As the Committee is aware, the Government decided in May 2012, following publication of the C&AG's special report, to begin winding up the DDDA over an 18 month period.

Each Agency has a statutory basis, with a board and executive responsible for its operation; the Department is represented, as provided for by the relevant legislation, on the boards of a minority of these Agencies. Each Agency operates within the framework of the Code of Practice for the Governance of State Bodies, which assigns to the board collective responsibility for the Body's activities. Liaison with each Agency [eg in relation to staffing, funding where appropriate, Ministerial sanctions/approval where appropriate] is maintained through the relevant Business Unit of the Department, with overall guidance on corporate governance matters now provided through the Local Government Division.

Specifically in relation to the DDDA, the Ministerial practice from its establishment was generally to appoint the Assistant Secretary heading the Planning Division as a member of the Executive Board. The legislation provided explicitly for an officer of the Minister to be appointed to the Council of the Authority, and the standing practice was to appoint the Principal Officer from the relevant Business Unit in that regard. The key functions of the Council are to arrange for the preparation of, to adopt, and to monitor the implementation of, a master plan for the docklands area.

The C&AG's report recognises that membership of the Executive Board by a civil servant, with line responsibilities in relation to the Authority's affairs, gave rise to a situation where there was potential for a conflict between that Board member's fiduciary duties to the Authority and the member's line responsibilities within the Department. Conscious of the potential for conflict, the Department's standing practice was that all matters related to the statutory Ministerial approval of planning schemes prepared by the Authority were handled by the Department independently of the Board member.

The DDDA has been largely self-financing and its legislation provided wide powers, not subject to Ministerial approval, to acquire, hold and manage land. In its first 10 years, it was increasingly successful in delivery of docklands regeneration. Its 2006 Annual Report and Accounts indicated net worth of some €149 million, annual turnover of around €85 million, and an operating surplus of over €42 million.

Participation in the purchase of the Irish Glass Bottle site, and the analysis necessary to support this, were matters solely for the Board and the management of the Authority.

The Comptroller's report makes clear that the reason for Ministerial authorisations relating to the proposed purchase lay, firstly, in a statutory requirement on the Authority to obtain Ministerial sanction for borrowing and, secondly, a requirement under the 2001 Code of Practice for the Governance of State Agencies for approval prior to entering into a joint venture. The Authority sought approval, by way of letters to the Department (27 September, 2 and 12 October 2006), to increase its borrowing to the statutory limit of €127 million, and to participate in a joint venture, advising the Department that "at a reasonable density of commercial and residential development the value of the site could be in excess of €200 million", and that the capital commitment by the Authority and its development partner in the event of a bid for the site was "estimated to be in the region of €220 million."

In the context of the time, the Departmental consideration of the approval request was informed by the facts that Exchequer funds were not being sought; the Authority was successful and held significant assets; the Minister and Department had no role in approving land purchase and primary commercial expertise to inform any such purchase rested with the Authority; the Authority had incurred no borrowings to date and it assured the Department that it had the capacity to service the borrowing it anticipated without recourse to the Exchequer.

The Department, in requesting the Minister's approval to the borrowing and to the purchase of shares in a joint venture company, informed the Minister of the site value of about €220 million indicated in the Authority's letter. The Minister was also informed that negotiations were ongoing, but it was proposed that the Authority would acquire between 25% and 49% of the joint venture company, and, depending on the equity acquired, this would entail an indicative borrowing requirement of between €55 million and €110 million. The Department was not aware of any higher valuation on the site during the period of confidential Board discussions in October 2006. Accordingly, while the Authority's understanding was that its overall exposure to the joint venture had been capped, and the percentage shareholding in the joint venture and quantum of borrowing at the time remained at the lower level of the range indicated to the Ministers, the Authority's agreement on a final tender bid of €411 million was not conveyed to Ministers in the context of their approval processes. This in my view should have been done. The letter of approval, issued by the Department, to allow for borrowing up to its statutory limit and to enter the joint venture was received by the Authority following a Board meeting on 24 October 2006 which approved the tender bid.

The Comptroller also reviewed the administration of the planning function in the DDDA, and noted that planning procedures were subject to detailed review in 2008 and 2009, in light of the High Court judgment in the NQIL case and as part of the governance review requested by the Minister in August 2009.

It is acknowledged that the DDDA achieved very considerable progress in docklands regeneration. That said, very intensive action has been necessary, and has been taken, by the Authority and the Department in the aftermath of the purchase of the Irish Glass Bottle site, to address the property and planning legacy which was laid bare over the past five years. While a settlement was reached in 2011 between NAMA and the DDDA in respect of its exposure on the Irish Glass Bottle site, its financial position and operating environment were critical but have been reasonably stabilised. At the end of 2012 the Minister announced the designation of the North Lotts and Grand Canal Dock area of the docklands as a Strategic Development Zone, to continue fast-track planning and maintain the attractiveness of the docklands as a prime location for inward investment.

I would like to make a concluding point as to the hearing of the Committee this morning in regard to the Department's oversight of the DDDA. I am sure the Committee will appreciate the risks in reaching conclusions even on this

component of the Committee's examination without hearing all relevant witnesses, as this could lead to potentially unbalanced and incomplete findings. This may be unfair to those witnesses who are attending in the earlier stages of the Committee's process. Departmental officials are, of course, always available to the Committee.

Thank you.