



**Public Accounts Committee: Special Report of the Auditor and Comptroller General
on DDDA.**

**Statement by Mary Moylan, Assistant Secretary, Department of the Environment,
Community and Local Government.**

2 May 2013

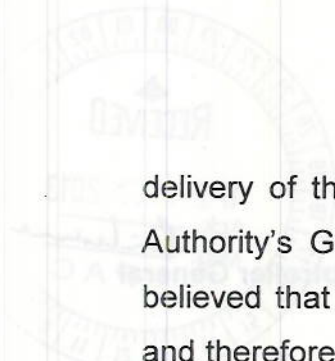
Chairman, Members, thank you for the opportunity to make a statement and relate the facts from my point of view in relation to the IGB site.

I was the Assistant Secretary in the Planning Division of the Department of the Environment, Heritage and Local Government from June 2000 to October 2007. I was appointed by the Minister to be a director of the Board of the Dublin Docklands Development Authority for the same period. I had no executive functions as a member of the Board.

The Authority had been established under the Dublin Docklands Development Authority Act, 1997 to secure the social and economic regeneration of the Dublin Docklands area on a sustainable basis and had the power to acquire, hold and manage land for these purposes. The Authority was self-financing with a commercial mandate.

In early October 2006 the Executive of the Authority recommended to the Board that the Authority should get involved with a development partner in the development of the IGB site to achieve its statutory objectives for the social and economic development of the whole docklands area and the objectives in the Authority's 2003 Master Plan.

The Poolbeg peninsula area was clearly underdeveloped. The Authority had previous experience that where it owned land it was better able to influence



delivery of the less commercial land uses such as social infrastructure. The Authority's Grand Canal Dock development was seen as very successful. I believed that acquisition of an interest in the IGB site fitted in with this policy and therefore was an appropriate objective for the Authority and in line with the objective of the Master Plan.

The CEO of the Authority wrote to me in my capacity as Assistant Secretary on 2 October and 12 October seeking Ministerial approval under the 1997 Act to borrow up to the statutory limit of €127m and approval under the Code of Governance for State Bodies to participate in a joint venture to acquire the IGB site. I referred the correspondence to the business section to consider the applications and consult with the Authority and the Department of Finance.

The Department wrote to the Department of Finance seeking the consent of the Minister for Finance. On 19 October 2006 the Department made a submission seeking the Minister's approval for the Authority to (i) incur borrowings up to the statutory limit provided for under the 1997 Act and (ii) purchase shares in a joint venture company. The submission noted that the IGB site was valued at about €220 million. The principal considerations for the Department were that the Authority could afford to finance its borrowings and that there would be no recourse to the Exchequer. The commercial judgements were a matter for the Authority. The submission specifically noted the fact that the figures had not been finalised and that *"while negotiations with the private developer are on-going, it is proposed that the Authority would acquire between 25% and 49% of the joint venture company – depending on the equity acquired, this would entail an indicative borrowing requirement of between about €55m and €110m"*.

I discussed the submission with the Minister on 19 October and he agreed in principle with the recommendations subject to the consent of the Minister for Finance.

The Executive Board agreed on 24 October 2006 that the Authority should enter into a joint venture arrangement with Mr Bernard McNamara with the

Authority taking a 26% stake in the joint venture company on the basis of a value of €375m. The Board accepted €375m as a reasonable figure having regard to its assessment of the planning parameters, the development potential of the site and comparable land prices. The joint venture was to be financed on the basis of 30% equity and 70% borrowings secured against the site. The Authority's total exposure including recourse finance was capped at €36m. Subsequently a bid of €412m was tendered by the joint venture partner on the basis that he was carrying sole liability for the amount over €375m. The bid was accepted.

I supported the Board decision to participate in the joint venture having given careful consideration to the proposal before the Board. In particular I was satisfied

- that entering a partnership to acquire the IGB site was an appropriate objective for the Authority,
- the Authority stake of 26% in the joint venture was at the lower end of what had been considered by the Minister,
- the Authority's overall investment was limited to €36m
- it had the capacity to service these borrowings from its own resources without recourse to the Exchequer and
- all documents were to be reviewed by the Authority's professional advisers to ensure the Authority's interests were protected.

I was satisfied that the actual price for the land was a matter for the Authority's commercial judgement and the Minister's approval was not required for this. The agreement at the Board at 24 October to cap the Authority's investment and the taking of a 26% stake in the joint venture were within the lower level of the range indicated to the Minister. For these reasons, I believed that I did not need to go back to the Minister on 24 October.

Looking back at it now, in the light of all that has happened since 2006, it would have been better had the Minister been made aware of the final bid price even if his approval was not required in this regard. However, I would note that there was no formal protocol at the time to provide guidance in relation to such a situation involving a commercial transaction. A protocol to the Code of Governance for State Bodies was introduced in 2010 but only in relation to non-commercial bodies

The failure of this project is a source of deep regret for me. I genuinely believed that the acquisition of the site was in the interests of the social and economic development of the Docklands. I hope this summary is of assistance to the committee.

I am happy to answer any questions.