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Houses of the Oireachtas

An Comhchoiste um Thithíocht, Rialtas Áitiúil agus Oidhreacht
Tuarascáil maidir leis an nGrinnscrúdú Réamhrechtach
ar an Dréacht-Bhille um Pleanáil agus Forbairt 2022

Márta 2023

Joint Committee on Housing Local Government and Heritage

Report on the Pre-Legislative Scrutiny of the Draft
Planning and Development Bill 2022

March 2023

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1. CATHAOIRLEACH'S PREFACE



The Draft Planning and Development Bill 2022 represents once-in-a-generation legislation that must endure for the next 20 years to support the needs and ambitions of the Irish People. As the proposed legislation will profoundly impact legal and planning professionals, as well as citizens and communities, the Committee welcomes the opportunity to scrutinise this important Draft Planning and Development Bill 2022 to ensure it is sufficiently robust for the future of Ireland's planning system.

The Draft Bill aims to consolidate and clarify key legislation to the benefit of all stakeholders in the planning process. The legislation aims to bring greater clarity, consistency, and certainty to planning decision-making, by providing for a planning system which is more coherent and user-friendly. The Draft Bill proposes a comprehensive overhaul of existing legislation, with proposed reforms relating to timelines for the consent process, Judicial Review, the restructuring and renaming of An Bord Pleanála to An Coimisiún Pleanála, National Planning Policy Statements and a shift towards a plan-led planning system.

Over the extensive pre-legislative scrutiny period, the Committee has heard a wide range of views and submissions on the Draft Bill. I would like to express my appreciation to all witnesses for their contributions, those who made submissions, the officials from the Department, and Committee Members for their contributions to the scrutiny of this pivotal Draft Bill. I would particularly like to thank those Committee Members who did not fully endorse all the recommendations but worked in a spirit of collegiality to allow the Committee to complete its work. I hope this report will help to inform the legislative process and make a valuable contribution to the proposed legislation.

A handwritten signature in black ink that reads "Steven Matthews".

Steven Matthews T.D.,

Cathaoirleach,

Joint Committee on Housing, Local Government and Heritage,

26 April 2023

2. INTRODUCTION

In accordance with *Standing Order 173*¹ the Planning and Development Bill 2022 (the Draft Bill) was referred to the Joint Committee on Housing, Local Government and Heritage (the Committee) on 26 January 2023 by the Minister for Housing, Local Government and Heritage, Mr. Darragh O’Brien T.D. (the Minister). The Committee agreed to undertake pre-legislative scrutiny of the Draft Bill at its meeting on 31 January 2023.

The Committee conducted pre-legislative scrutiny over the course of nine meetings (transcripts linked in [Appendix 3](#)), illustrated below, in which officials from the Department of Housing, Local Government and Heritage, along with a broad range of witnesses with sectoral expertise across planning-related matters were invited to the Committee to discuss the Draft Bill. The Committee also received written submissions on the Draft Bill, which are linked in [Appendix 4](#).

1. Tuesday 7 February 2023

Department of Housing, Local Government and Heritage

- Mr. Colin Ryan, Senior Planning Advisor
- Mr. Eugene Waters, Assistant Principal, Planning Legislation Review Unit
- Ms. Mary Jones, Principal Officer, Planning Legislation Review Unit
- Mr. Paul Hogan, Acting Assistant Secretary General (Planning Division)

2. Thursday 9 February 2023

An Bord Pleanála

- Ms. Bríd Hill, Chief Officer
- Ms. Gerard Egan, Director of Corporate Services
- Ms. Oonagh Buckley, Interim Chairperson

Office of the Planning Regulator (OPR)

¹ [Standing Orders 2020 consolidated version as of 26 May 2022 \(oireachtas.ie\)](#)

- Ms. Annemarie O'Connor, Deputy Regulator and Director of Plans Evaluations
- Mr. Gary Ryan, Director of Reviews and Examinations
- Mr. Niall Cussen, Planning Regulator and Chief Executive

3. Tuesday 14 February 2023

Construction Industry Federation (CIF)

- Mr. Conor O'Connell, Director of Housing and Planning
- Ms. Meabh Smith, Director of Communications
- Mr. Michael Kelleher, Vice Chair, Irish Home Builders Association
- Mr. Tom Parlon, Director General

Irish Institutional Property (IIP)

- Mr. Brian Moran, Chair of IIP Research Committee and Senior Managing Director, Hines Ireland
- Ms. Jane Doyle, IIP Advisory and Planning Consultant
- Mr. Pat Farrell, Chief Executive Officer

Property Industry Ireland (PII)

- Dr. David Duffy, Director
- Mr. Ivan Gaine, Chairperson
- Mr. John Spain, Chair

Wind Energy Ireland (WEI)

- Ms. Danielle Conaghan, Head of Environment & Planning Group, Arthur Cox
- Mr. Denis Devane, Senior Policy Analyst
- Mr. Justin Moran, Director of External Affairs

4. Tuesday 21 February 2023

Association of Irish Local Government (AILG)

- Cllr. Nick Killian
- Cllr. Pat Fitzpatrick, President

County and City Management Association (CCMA)

- Ms. AnnMarie Farrelly, Chief Executive, Fingal County Council
- Mr. Kevin Kelly, Chief Executive, Mayo County Council & Committee Chair
- Mr. Kieran Kehoe, Director of Services, Waterford City & County Council
- Ms Mary Henchy, Director of Services, Dún Laoghaire-Rathdown County Council

Local Authority Members Association (LAMA)

- Cllr. John Sheahan, General Secretary
- Cllr. Micheál Anglim, Chairperson
- Cllr. Terry Shannon, Vice Chairperson

Northern & Western Regional Assembly (NWRA)

- Ms. Claire Bannon, Senior Planner / Asst. Director, Easter & Midland Regional Assembly
- Mr. David Kelly, Director, Southern Regional Assembly
- Mr. David Minton, Director

5. Thursday 23 February 2023

Irish Planning Institute (IPI)

- Mr. Gavin Lawlor MIPI, Vice President
- Mr. Philip Jones FIPI, Convenor Policy and Research Committee
- Dr. Seán O’Leary MIPI, Senior Planner

Royal Town Planning Institute (RTPI)

- Ms. Craig McLaren, Director
- Mr. Niall Byrne, Vice Chair
- Ms. Valerie Brennan, Chair

6. Tuesday 28 February 2023

Irish Environmental Network (IEN)

- Ms. Attracta Uí Bhroin, Environmental Law Officer
- Ms. Elaine McGoff, Natural Environment Officer, An Taisce
- Mr. Fred Logue, Managing Partner, FP Logue Solicitors
- Ms. Phoebe Duvall, Planning and Environmental Policy Officer, An Taisce

Royal Institute of the Architects of Ireland (RIAI)

- Ms. Charlotte Sheridan, President
- Ms. Kathryn Meghen, Chief Executive Officer

7. Thursday 2 March 2023

Environmental and Planning Law Committee of the Law Society of Ireland

- Mr. Conor Linehan SC, Committee Vice-Chair
- Mr. Nap Keeling, Committee Member
- Ms. Rachel Minch SC, Committee Chair

Planning, Environmental and Local Government Bar Association (PELGBA)

- Mr. Tom Flynn SC, Committee Member

8. Tuesday 7 March 2023

Dublin Democratic Planning Alliance (DDPA)

- Ms. Robin Mandal, Chairperson
- Ms. Pauline Cadell
- Ms. Clíona Kimber

Residents Associations

- Ms. Pauline Foster, Recordors Residents Association
- Mr. Brendan Heneghan, Terenure West Residents Association

9. Thursday 9 March 2023

Department of Housing, Local Government and Heritage

- Ms. Claragh Mulhern, Acting Principal Adviser
- Mr. Eugene Waters, Assistant Principal, Planning Legislation Review Unit
- Ms. Mary Jones, Principal Officer, Planning Legislation Review Unit
- Mr. Paul Hogan, Acting Assistant Secretary General (Planning Division)

3. BACKGROUND

The Draft Bill was published on 26 January 2023, following a 15-month review and consolidation of the Planning and Development Act 2000 (the 2000 Act) which was led by the Office of the Attorney General in collaboration with the Minister. This review reflects a commitment by Government as set out in *Housing for All*² to streamline, reform and review Ireland's planning legislation, so that it is well-resourced, plan-led and fit for purpose for the future. The aim of the review and consolidation is to ensure that the provisions of Ireland's planning legislation are better aligned with up-to-date policy and are more accessible and streamlined from a legal perspective.

The Draft Bill is a considerable piece of legislation, comprising 12 Parts, 7 Schedules and 467 Heads. The review was conducted without a General Scheme to expedite the delivery of an updated Planning and Development Act. However, an Outline of the proposed Planning and Development Bill³ was published in December 2022, which set out the main provisions of the Bill as follows:

- Strengthened legal status for Ministerial guidelines, which are upgraded to **'National Planning Policy Statements'** and 'National Planning Policy Guidance'
- **Limited grounds for material contravention of Development Plans** in planning decisions by An Coimisiún Pleanála (formerly An Bord Pleanála)
- **Local Development Planning extended to ten years** from six years, with reviews after the fifth year
- **Statutory mandatory timelines** for all consent process, including An Coimisiún Pleanála decisions, with the aim of bringing greater certainty to the planning consent process
- Changes to **Judicial Review** of planning decisions, including timelines for the process (and penalties for non-compliance), the ability of An Coimisiún Pleanála or the Local Authority, as appropriate, to correct an error of law or fact, and provisions relating to standing for Judicial Review. In addition, a cost protection

² [Housing for All - a New Housing Plan for Ireland at 66.](#)

³ [Outline of the proposed Planning and Development Bill](#)

scheme is to be introduced, which will reflect the recent High Court Judgement on the *Heather Hill* case⁴

- Re-structuring of An Bord Pleanála, which is to have its decision-making and governance structures separated and be renamed **An Coimisiún Pleanála**

The rationale for these changes as set out in the Draft Bill is to clarify, consolidate and streamline the legislative underpinning of professional planning work. The Committee considers that it is essential to ensure through this legislation that all parties know with a high degree of certainty the timelines attaching to each stage of the process so this can be factored into delivery timelines.

⁴ [Heather Hill Management Company CLG v An Bord Pleanála \[2022\] IEHC 146](#)

4. KEY ISSUES WITH THE PROPOSED LEGISLATION

It is widely acknowledged that the current planning legislation is not fit for purpose as it is highly fragmented due to numerous amendments, making it difficult to decipher. The Committee welcomes the proposed legislation as the current planning regime is understood to be unnecessarily costly, cumbersome, and fraught with delay.

The Committee aims to scrutinise the Draft Bill to make it as robust and accessible as possible to facilitate the effective operation of the planning system. In examining the Draft Bill, the Committee identified several areas for scrutiny which are of particular interest and where further consideration may be required. The Committee largely focussed on six key issues emerging from the Draft Bill, which form the basis of the discussion and recommendations set out below.

4.1 KEY ISSUE 1: ACCESS TO JUSTICE

Witnesses and those who made submissions to the Committee reiterated the importance of the Aarhus Convention as it relates to access to justice. The Aarhus Convention and EU law set minimum standards governing access to justice in environmental matters including standing rules and rules governing costs, thereby imposing limits on state discretion to restrict access to justice. The Aarhus Convention is considered to promote better environmental decision-making by facilitating public comment and requiring consideration of such comments by public authorities. The ratification of the Aarhus Convention in 2012 by both the EU and Ireland secured the special role environmental organisations have in our planning system, which should be reflected in the Bill. The Department informed the Committee that it is satisfied that the legislation is fully compliant with the Aarhus Convention. However, there was much concern from witnesses that elements of the Aarhus Convention and environmental assessment such as participatory rights, access to information rights and access to justice rights are not fully set out in the Draft Bill. Witnesses commented that it does not reflect EU law and Ireland's international obligations. It was stated by the Law Society of Ireland that, unless changes to planning law are carefully scrutinised for compatibility with the Aarhus Convention and EU law, the new provisions in the Draft Bill may reopen settled questions of law and create a risk of Judicial Review.

Part 9 or sections 248 to 250 of the Draft Bill provide for Judicial Review. The Committee notes that less than three percent of planning applications are subject to Judicial Review, as it is a restrictive regime. In its attendance at the Committee, Dublin Democratic Planning Alliance (DDPA) highlighted that of the 265,000 planning decisions made in the last decade, just 490 decisions by An Bord Pleanála were brought for Judicial Review, nearly half of which have been brought in the last three years on account of Strategic Housing Developments and material contraventions directed by ministerial Specific Planning Policy Requirements (SPPRs). Residents Associations in attendance at the Committee commented that the core difficulty in the planning process is resourcing rather than the process itself, stating that the delay in An Bord Pleanála's decision-making, procedural errors, and subsequent Judicial Reviews are largely caused by huge under-resourcing at staff level. The Committee recognises the key role Judicial Review plays to ensure accountability in public body decision-making. Nevertheless, DDPA commented that the Draft Bill is missing a method of an inexpensive and efficient resolution of disputes at the lowest level to provide adequate access to resolution and justice without necessarily resorting to Judicial Review. The merits of a mediation or arbitration procedure, such as the Labour Relations Commission's procedure for the resolution of strikes or workplace disputes, in the context of planning was discussed with witnesses in attendance at the Committee. The Committee acknowledges that the Programme for Government commits to reviewing planning legislation in tandem with the establishment of a Planning and Environmental Court, which will assist a more efficient Judicial Review process and should be prioritised and expedited.

It was highlighted to the Committee that section 249(2) of the Draft Bill requires Judicial Review proceedings to be commenced by motion on notice rather than by way of *ex parte* application. This will require a minimum notice of four days to the other Judicial Review parties, who then attend and contest the leave application. Witnesses from legal professions informed the Committee that motion on notice is an approach which requires additional administrative and judicial resources, time, and costs for proceedings, thereby causing delays in the process. It was stated that the mandatory "on notice" leave application was abolished in 2010 by section 32 of the Planning and Development (Amendment) Act 2010 for this reason. The Climate Bar Association

commented that an attempt was made to reintroduce this procedure in the context of asylum cases but has not been successful. The Committee recognises the importance of retaining the *ex parte* commencement of Judicial Review applications. In the same vein, it was discussed that it is common that there are issues in the Judicial Review process with online information in searchable formations which is not made accessible in good time, yet there is a ten-day timeline set out in Part 9 to provide all motions, affidavits and exhibits to ground an application. The Committee notes that the timelines proposed in Part 9 are unjustifiably short. Nevertheless, Wind Energy Ireland (WEI) highlighted to the Committee that the timelines set out in section 249 would not apply to a Judicial Review of a decision to grant a Marine Area Consent under the Marine Area Planning Act 2021. The Committee considers it important that decisions regarding Marine Area Consents are brought within the scope of the expedited Judicial Review timelines, such as the eight-week timeline for the court to deliver its judgement on the hearing of an application for Judicial Review.

Under section 249(15) of Draft Bill, it is proposed that there is no right to appeal to the Court of Appeal, but there would still be a right to appeal to the Supreme Court on a point of law of public importance, in accordance with the Irish Constitution. Witnesses and those who made submissions commented that the lack of explanatory memorandum with the Bill is frustrating in this instance, as there is no apparent rationale or benefit to excluding the jurisdiction of the Court of Appeal. The Planning, Environmental and Local Government Bar Association (PELGBA) expressed its view that it would be reluctant to see the jurisdiction of an appellate court extinguished for a certain category of cases, and it is not aware of another area of law which has implemented this approach. Legal professional witnesses warned that this must be carefully considered as there may be constitutional issues with this reform and represents a general restriction of access to justice. The Committee is of the opinion that this reform must be carefully considered with reference to strong rationale.

4.1.1 STANDING

The Draft Bill purports to make changes to who has standing to make an application for Judicial Review. Section 249(10) of the Draft Bill illustrates the elements that must be satisfied before the Court grants leave for an application for Judicial Review. Firstly, the Draft Bill retains the current *locus standi* or standing requirement for “sufficient interest”

in section 249(10)(c) of the Draft Bill. However, the Committee notes that the definition is significantly changed, appearing to instate a more restrictive standing test, as the applicant must be “directly or indirectly materially affected by the matters to which the application relates”. However, no definition of what constitutes “materially affected” is set out in the Bill. Moreover, an applicant may only be an individual or a company within the meaning of the Companies Act 2014. Many witnesses expressed concern that section 249(10) of the Draft Bill lacks clarity, stating that it is unclear who may have standing to bring a Judicial Review.

Several witnesses and those who made submissions were concerned about satellite litigation if there is interference with the current definition of “sufficient interest”. Professor Áine Ryall submitted to the Committee that the current law on “sufficient interest” is stable following the Supreme Court decision of *Grace and Sweetman v An Bord Pleanála*⁵ in 2017. Professor Ryall warned that interfering with the current understanding of “sufficient interest” may trigger further uncertainty, litigation, and other unintended consequences. PELGBA highlighted to the Committee that section 249(10)(c)(i) regarding persons “directly or indirectly materially affected” may exclude *bona fide* environmentalists seeking to act in the public interest. It also stated that this provision fails to recognise the wide notion of “public concerned” under the Aarhus Convention, which includes individuals and NGOs, thus this legislation may be in breach of Ireland’s obligations under international law which may lead to challenges and a possible reference to the European Court of Justice. Moreover, the Climate Bar Association informed the Committee that this provision restricts ENGOs from bringing an application unless they are an incorporated company, which is overly restrictive and unjustified. Community Law Mediation and Environmental Justice Network Ireland (CLM and EJNI) made a joint submission, stating that, increasing democracy and access to justice, particularly through Judicial Review, is necessary to effectively address the climate crisis. The Irish Environmental Network (IEN) asserted that the standing provisions in the Draft Bill do not map onto the Aarhus Convention and do not appear to comply with Article 47 of the Charter of Fundamental Rights on right to an effective remedy. It was also discussed that section 249(10)(c)(iv) sets out that “sufficient interest” will only be satisfied where the grounds raised have been raised in previous

⁵ [\[2017\] IESC 10](#).

submissions, limiting grounds which may be raised to satisfy legitimacy to apply for Judicial Review.

The Law Society of Ireland informed the Committee that rules on standing which are too narrow could deprive people of their right to seek legal review of planning decisions and delay proceedings where the new standing requirements are challenged. Consequently, questions remain regarding the interpretation and compatibility of these standing rules with the Aarhus Convention and EU Law. As indicated through submission by Dr. Berna Grist, the balance of Judicial Review set out in the 2000 Act is correct regarding equivalence of treatment, constitutional justice, fair procedures, and Ireland's obligations under international law regarding access to justice. Given the stated concerns, the Committee believes it is necessary to retain the current legislative definition of standing, interest and grounds derived from relevant case law and as defined in the Aarhus Convention. Lastly, IEN stated that these provisions are unjustified given the lack of explanatory memorandum with the Draft Bill, which presents an apparent disproportionate restriction on access to justice. In the interest of abiding by Ireland's international obligations on access to justice, in addition to the unknown rationale of the new standing provisions, the Committee is of the opinion that the stated intention to exclude unincorporated organisations from Judicial Review proceedings should not proceed and that clarity is provided to ensure people, incorporated organisations, unincorporated organisations, and co-operatives, including organisations incorporated within the EU should be in a position to seek to take Judicial Review.

Concerns were expressed that section 249(10)(c)(iii) of the Draft Bill, which refers to applications for Judicial Review in relation to a development which has significant effects on the environment, sets out that the sufficient interest test is met where the applicant is a company within the meaning of the Companies Act 2014. This provision limits standing to a company with ten members which has passed a resolution on bringing the application for Judicial Review and has a constitution referring to the promotion of environmental protection specifically relevant to the application and those objectives must have been pursued for at least one year. CLM and EJNI highlighted that the requirements to pass a resolution and have ten members are not normal requirements under company law, therefore there is no clear rationale for this.

Residents' Associations pointed out the practical difficulties of even having ten members for rural organisations. The Committee also recognises that requiring a resolution to be passed prior to bringing of an application for Judicial Review would be prohibitive within the proposed timelines. The Committee believes it is appropriate that section 249(10)(c)(iii)(IV) of the Draft Bill, which requires that a resolution is passed by a company prior to bringing an application for Judicial Review, is reviewed.

Notwithstanding, the Department reassured the Committee that Judicial Review may still be taken by unincorporated organisations, such as residents' associations, who may apply as a named individual or group of named individuals. The Department explained that groups who take Judicial Review as a group of named individuals will be considered "an applicant" under section 249(10) of the Draft Bill and will have legal personality and may therefore benefit from a new cost protection scheme which is to be introduced. However, DDPA stated that of its 75 residents' associations, less than half are incorporated, and commented that any company that satisfied the requirements would not be able to do so in the time allotted, therefore these organisations would have to take Judicial Review as a group of named individuals. Under section 303(1)(b) of the Draft Bill, names and addresses of persons making the application will be listed, which Residents Associations in attendance at the Committee highlighted will alienate their members from the process as there is a risk of intimidation if this information is made public. In discussion with the Committee, it was agreed that the list of members of an unincorporated organisation could consist of the executive or board of that association or organisation. Regardless, the Committee considers it necessary that clarification is provided regarding obligations on unincorporated associations making appeals, referrals, and applications to submit a list of the members of that association at the time of the making of the appeal, referral or application.

4.1.2 COST PROTECTION

Section 250 of the Draft Bill on costs for certain proceedings is a short, two-subsection Draft Head. The Department informed the Committee that this is a holding head regarding a cost protection scheme, the details of which will be published when the Bill is finalised. Section 250(1) states that no order as to costs shall be made in any proceedings relating to non-compliance with national or EU law relating to the environment, unless the Court considers that the proceedings are frivolous or vexatious

or constitute an abuse of process, while section 250(2) states that an administrative scheme will be established to provide for costs in proceedings relating to national non-compliance with environmental law, which will constitute a special costs protection regime. The Department acknowledged the concern which has arisen due to the lack of detail in section 250. However, the Department assured that the administrative scheme referred to in section 250(2), the details of which are yet to be published, will reflect the recent High Court Judgement on the *Heather Hill* case⁶. It commented that the Cost Protection Scheme has been agreed by the whole of Government to enhance access to justice through the reduction of costs for citizens in a reliable and predictable manner, informing the Committee that this comes in response to criticisms of section 50B of the 2000 Act which relies on a “no foal, no fee” model. The Department stated that the scheme it is proposing is a more universally accessible scheme than section 50B of the 2000 Act as interpreted by the *Heather Hill* case. It explained that, as new scheme will be dependent on means, it will provide reasonable levels of funding for anybody who has standing to take Judicial Review.

Witnesses indicated that section 250(1) of the Draft Bill does not align with Ireland’s obligations under EU Law and Article 9 of the Aarhus Convention to ensure access to justice is not excessively difficult and prohibitively expensive, as each party must bear their own costs under the new subsection. Residents’ Associations expressed concern that, as orders to costs will not be available even where the applicant wins, risk must be taken on to fund litigation which is highly expensive, acting as a barrier to justice. The effectiveness of the proposed administrative scheme under section 250(2) of the Draft Bill cannot be evaluated or determined how it will interact with section 250(1) as the details of the scheme are not yet available. The Law Society of Ireland illustrated additional uncertainty the provisions in the Draft Bill create, outlining section 250(1) states that there shall be no order for costs in proceedings that seek to enforce a national environmental law, but there is still not a settled position on what constitutes national environmental law. On this point, the Committee notes that section 250 of the Draft Bill limits access to the scheme to non-compliance with national and European law. In circumstances where a Judicial Review is taken to uphold Development Plans which are then upheld by the Court, the applicant would not be eligible for cost

⁶ [Heather Hill Management Company CLG v An Bord Pleanála \[2022\] IEHC 146](#)

protection. The Law Society of Ireland warned that issues such as this are likely to be referred to the European Court of Justice. In addition, PELGBA detailed that section 250(1) would mean that, even where an applicant is successful in establishing a breach of EU law, and even where the case raises issues of exceptional public importance, the Court has no discretion to award costs. It expressed its view that this is regressive and unjust, acting as a barrier for applicants and representing a significant deviation from the 2000 Act. It further stated its view that this is contrary to the Aarhus Convention and potentially unconstitutional.

Additional unintended consequences these provisions are likely to generate were illustrated by witnesses. Legal professional witnesses asserted that, notwithstanding criticism of the “no foal, no fee” model in not affording equal access to justice for all, the model strikes a good balance. As legal professionals are incentivised to only take claims with substantial arguable points and a high prospect of success, the Committee was informed that “no foal, no fee” filters out weak or frivolous cases in the first instance, reflected in the high number of Judicial Reviews which are subsequently upheld. The Law Society of Ireland noted that if the relevant provisions for “no foal, no fee” and cost recovery in the normal way are not included, there are concerns that the Bill will alter the legal environment and make it challenging for practitioners to operate, as cases can be very complex and require large commitments. Consequently, if there is no prospect of recovering fees, it will be challenging for applicants to find legal representation. Regardless, witnesses noted that, as the details of the administrative scheme are unavailable, it cannot be evaluated and compared with the current cost provisions. Moreover, the Law Society of Ireland cautioned against reopening a question of law that has just recently been settled in the *Heather Hill* judgement, which has provided certainty on cost protection. In *Heather Hill*, the Supreme Court held that the protective costs order available under section 50B applies to any challenge to a decision made pursuant to a statutory provision which gives effect to the Directives listed in the provision. Legal professional witnesses expressed concern that, after years of uncertainty, the new provisions in section 250 of the Draft Bill will give rise to further litigation when the question has just been settled that, generally, the cost rule applies. As section 250 of the Draft Bill as it currently stands is deficient and does not provide enough information about the new cost scheme, it is appropriate that the existing

provisions of section 50B of the 2000 Act should be retained until the new cost protection regime is enacted in primary legislation.

4.1.3 “CORRECTING ANY ERROR OF LAW OR FACT”

Under section 146A of the 2000 Act, the Planning Authority or An Bord Pleanála may correct any clerical error made in their planning decisions. The Draft Bill allows a greater degree of correction under section 249(5)(a), which states “any of the bodies concerned may make an amended decision, correcting any error of law or fact contained in that decision”. The Committee is of the opinion that this is an extremely broad provision which affords limitless power to change any error of law or fact. The Department informed the Committee that the purpose of this provision is to allow any error that is not material to the decision to be corrected so that Judicial Review may be avoided. The Department explained that there may be cases where issues were taken into consideration during the broad assessment of the application, such as a particular document, but were not referenced directly in the decision and this provision seeks to remedy such situations.

Nevertheless, witnesses in attendance at the Committee were seriously concerned by the ramifications and unintended consequences of section 249(5)(a). Legal professional witnesses stated that allowing retrospective correction of an error undermines certainty of decision-making and raises fundamental issues regarding fair procedures. It was stated that this provision is contrary to the concept of good administration, as EU law, Irish law and international law rely on written decisions for legal certainty. Witnesses were concerned that section 249(5)(a) implies that decisions are fluid concepts which can be adjusted upon challenge, undermining the administrative system, and increasing the likelihood of satellite litigation. Furthermore, the Committee is concerned that in allowing changes to the decision either substantively or legally, the Judiciary may be denied its role in making legal clarifications on legal processes, therefore there is a lost opportunity to establish the actual legal fact in law. The Committee is concerned that, if this provision goes beyond administrative errors, there will be implications for the concept of good administration and decisions may be perceived as draft decisions, with neither clarity nor certainty on when a decision is final. The Committee is further concerned that decision-making will become less robust as decisions become merely draft decisions. The Draft Bill should only allow minor administrative errors to be

corrected following the publication of a decision and the position on costs should be clarified where cases do not proceed as the error has been rectified.

RECOMMENDATIONS

1. The Committee recommends that Part 9 of the Draft Bill is reviewed against the Aarhus Convention, in particular unencumbered access to justice, barriers to seeking review of decisions, and prohibitive administration or burdensome process which may inadvertently restrict access to justice and updated to comply with current CJEU and Aarhus Convention decisions, ensuring access to justice through proportionality.
2. The Committee recommends that An Coimisiún Pleanála and the Department consider procedures for mediation or arbitration for early resolution of disputes, like the functions of the Labour Relations Commission for resolution of strikes and workplace disputes.
3. The Committee asks that the establishment of a Planning and Environmental Court as set out in the Programme for Government is expedited.
4. The Committee recommends that section 249(2) of the Draft Bill is amended to reflect that Judicial Review applications shall commence *ex parte*.
5. The Committee recommends that the word “earlier” is replaced with the word “later” in section 249(2) and section 249(2)(a).
6. The Committee recommends that the time limits proposed in Part 9 are reviewed, given the impractically short timelines proposed.
7. The Committee recommends that section 249 is amended to bring decisions regarding Marine Area Consents within the scope of the expedited Judicial Review timelines.
8. The Committee recommends that the jurisdiction of the Court of Appeal is reinstated in section 249(15) of the Draft Bill.
9. The Committee recommends the retention of the current legislative definition of standing, interest and grounds derived from relevant case law and as defined in the Aarhus Convention.
10. The Committee recommends that the stated intention to exclude unincorporated organisations from Judicial Review proceedings should not

proceed. It is recommended that clarity is provided to ensure people, incorporated organisations, unincorporated organisations and co-operatives, including organisations incorporated within the EU should be in a position to seek to take Judicial Review.

11. The Committee recommends that section 249(10)(c)(iii)(IV) of the Draft Bill which requires that a resolution is passed by a company prior to bringing an application for Judicial Review is reviewed.
12. The Committee asks that further clarification is provided on the rationale for the obligations on unincorporated associations making appeals, referrals, and applications to submit a list of the members of that association at the time of the making of the appeal, referral or application. Note: the list of members was agreed to consist of the executive/board of an association.
13. The Committee recommends that the existing provisions of section 50B of the 2000 Act is retained until the new cost protection regime is enacted in primary legislation.
14. The Committee recommends that section 249(5) of the Draft Bill is reviewed to ensure only minor administrative errors can be corrected following the publication of a decision. It is further recommended that the position on costs is clarified where cases do not proceed as the error has been rectified.

4.2 KEY ISSUE 2: FORWARD PLANNING

Considering the objectives of this legislation, the Committee believes it is appropriate for the Bill to pronounce a clear sense of ambition, purpose and high-level aims for planning. Witnesses discussed the lack of a high-level objective in Part 1 of the Draft Bill, emphasising the need to ensure proper and sustainable development aligns with climate action, nature restoration, sustainable housing and transport and the development of a planning system that aligns with the Aarhus Convention. Through submission, State and Semi-State Bodies highlighted to the Committee that nowhere in the Draft Bill is the “spirit and thrust” of the Planning and Development (Strategic Infrastructure) Act 2006 captured. They expressed the opinion that the Bill should be unequivocally in support of strategic infrastructure development, including infrastructure of strategic importance to the State and infrastructure undertaking by statutory

undertakers. Uisce Éireann added that this must be considered holistically and over the complete life cycle of plans and projects.

4.2.1 PLAN-LED SYSTEM

This legislation aims to enhance a plan-led system, ensuring that public participation occurs at the earliest possible time to reduce conflict later in the planning process. Witnesses reiterated this point at the Committee, stating that early buy-in reduces the likelihood of Judicial Review. Through submission, Dr. Lorcan Sirr of Technological University Dublin (TUD) stated that international experience has shown that social, economic, and environmental success in rural and urban environments can only be achieved through better and more frequent engagement with the public in the decision-making process. Therefore, there is great value in promoting good governance by opening the planning process up to public involvement and debate. As such, the Committee welcomes a shift towards a more plan-led system which must be reflected on the ground. Nevertheless, the County and City Management Association (CCMA) stated that it does not see the Draft Bill producing a fundamental change in terms of increasing early buy-in and engagement. The Committee understands there is a need for stronger provisions and mechanisms in the Draft Bill to ensure elements of co-creation are adopted through meaningful public participation and detailed engagement by all parties, in addition to sufficient resourcing and the availability of a public engagement skillset. A high-level of participation may be achieved by including key professional bodies such as the Irish Planning Institute (IPI), the Royal Institute of the Architects of Ireland (RIAI) and the Royal Town Planning Institute (RTPI) in consultation on the review of the National Planning Framework. Prescribing mandatory community engagement at pre-planning application stages was also suggested as a means of delivering genuine community and stakeholder engagement. The Committee believes that landowners immediately adjoining a site in particular must be given the opportunity to have input into the planning process at the earliest possible time.

The Committee heard from witnesses that information available from Local Authorities can be inaccessible to the public as it is often not uploaded in good time, uses inaccessible language or is sometimes illegible. Further, the short period in which submissions may be made to Local Authorities puts the public at a disadvantage to examine plans. The Committee is of the view that information must be more accessible

and available to the public so that engagement in the process is with ease. On this point, IEN stated that, prior to any public consultation undertaken by the Local Authority, all information should be made publicly and electronically available. In addition, it stated that the clock should only start once all information is available, not when the planning application is submitted. IEN informed the Committee that without this, the legislation is in breach of the Aarhus Convention which requires electronic publication and non-discrimination, that is, individuals are not materially disadvantaged by not being able to access the relevant information. Creating greater efficiencies in the planning system through the utilisation of modern electronic methods brings greater accessibility and plan-led elements. The Committee is of the opinion that the clock for the five-week period to submit observations should start only when the relevant information has been made available. Further, Residents' Associations in attendance at the Committee stated that a practical barrier to getting involved and participating include observation fees of up to €50. The Committee believes both planning observation and application fees must be reviewed.

4.2.2 DEVELOPMENT PLANS

Section 9 of the 2000 Act provided for six-year cycle Development Plans. The Draft Bill extends this period, so that the Local Authority shall make a Development Plan every ten years, under section 41(1). The Department informed the Committee that the rationale behind the proposed ten-year development cycle is to reduce the process requirement on Planning Authorities, while also allowing for a longer arc in the pipeline of development which allows plans to be more flexible, agile, and responsive. RIAI informed the Committee that ten-year plans are more beneficial in terms of resources and time, as significant amounts of data gathered in preparation for plans can be relied upon for a longer period. Although the Committee agrees that a ten-year development cycle is advantageous, witnesses raised concerns that the reform may lead to increased centralisation. In response to the suggestion that some Councillors will have no input into the drafting of Development Plans under the new provisions, the Department assured that the mid-term review process will take place within Councillors' five-year terms. In response to this, the Committee emphasises the essential policy formulation role of Local Authorities and Local Councillors, which must be fully

respected and strengthened through the assertion of the democratic decision-making authority of elected members, consistent with the principle of subsidiarity.

The Committee notes that sections 56 and 57 of the Draft Bill relate to varying a Development Plan. Section 57 allows the Planning Authority to proceed with a variation as part of the mid-term review. However, the Committee understands that Councillors will not be able to bring forward amendments during this review stage. The Local Authority Members' Association (LAMA) expressed its concern on this matter, stating that, as the Development Plan is the Local Authority members' plan, it is undemocratic that elected members would not be able to make amendments themselves. Regardless, witnesses agreed that this may be resolved where the Draft Bill provides for a strong statutory midterm review of the County Development Plan, so that the review is more structured and enables meaningful input. Property Industry Ireland and the Association of Irish Local Government (AILG) indicated that this mid-term review becomes more meaningful with public consultation, therefore Planning Authorities must be fully resourced to enable community and public engagement through a robust mechanism for such engagement at the five-year point.

In its opening statement, IPI stated that it has concerns regarding the timelines for the preparation of plans which appear not to have changed despite the increased responsibilities on Local Authorities since 2000. CCMA also suggested that plan preparation should be a three-to-four-year period, rather than one to two years due to increased complexity, consultation and resources needed, stating that a two-year timeframe is too tight for both the public and the Local Authorities to have sufficient input. Similarly, IPI stated that there is quite an extensive amount of additional work required to prepare a Development Plan in the Draft Bill including flood risk assessment and Strategic Environmental Assessment (SEA), therefore two years is insufficient. IEN highlighted to the Committee that monitoring is a vital aspect of the SEA Directive, which enables understanding of the significant effects on the environment from the implementation of a plan. Due to the introduction of the ten-year Development Plans, it was highlighted that there is more time for monitoring and subsequent data analysis and feedback. The Committee is of the opinion that robust monitoring of County Development Plans, similar to the monitoring of the regional plan, is more feasible under a ten-year plan and would provide valuable feedback to Local Authority elected

members. All monitoring should be evidence based, with data being properly analysed and processed.

The Committee notes that the Regional Spatial and Economic Strategy (RSES) is a piece of legislation that outlines the plan for development and growth in specific regions in Ireland and several recommendations are made below in respect of this. Sections 28 to 32 of the Draft Bill describe the content and processes involved in creating this strategy. The Northern and Western Regional Assembly (NWRA) stated that the Draft Bill removes sections 22A and 25A of the 2000 Act, which provide that public bodies feed into the RSES report. NWRA believes this is a retrograde step, as public bodies will be removed from the monitoring, therefore there will be a void in seeing how national government, Departments and Local Authorities support delivery through their investment strategies. NWRA also considers the new reporting cycle of a four-year implementation report set out in section 34 of the Draft Bill to be too long, stating that the two-year period allows opportunity to contrast the performance of the regions intra-regionally and also comparatively across the eastern and midlands, northern and western and southern regions, and against EU regions, ensuring coordination with the strategies of public bodies. Furthermore, NWRA highlighted to the Committee that Metropolitan Area Strategic Plans (MASP) and their designation boundaries as set out in section 28 of the Draft Bill, are strategically important and should be given greater weight in the legislation. NWRA is of the opinion that key criteria for establishing MASP boundaries should not be too narrow, and the Committee concurs that commuting zones should not be the sole criteria for boundary changes.

4.2.3 MATERIAL CONTRAVENTIONS OF DEVELOPMENT PLANS

Section 120 of the Draft Bill provides for decisions on applications for planning permission for a development in material contravention of a Development Plan. Several witnesses welcomed more restrictive circumstances for material contravention as set out in this provision. Irish Institutional Property (IIP) highlighted to the Committee that the concept of a material contravention now encompasses a wide range of issues compared with ten years ago, therefore a reasonably restrictive definition should be provided in the Draft Bill, and that more clarification is needed regarding the ability of Local Authorities or An Coimisiún Pleanála to make decisions that materially contravene a Development Plan. The Law Society of Ireland reiterated this point, asking

for criteria on whether something amounts to material contravention of a Development Plan. Regardless, IPI stated that the apparent legislative intention to limit material contraventions is contradicted by section 105(3)(c), which allows material contraventions by An Coimisiún Pleanála where something is not in accordance with the National Planning Policy Statements, indicating material contraventions will not be limited. Similarly, Dr. Lorcan Sirr of TUD highlighted to the Committee that section 105(3) is in effect a continuation of the current situation where, in effect, SPPRs mandate that development that materially contravenes Development Plans must be granted.

RECOMMENDATIONS

1. The Committee recommends that, within Part 1 of the Draft Bill, a new section is inserted with a high-level objective to ensure proper and sustainable development aligns with climate action, nature restoration, sustainable housing and transport and the development of a planning system that aligns with the Aarhus Convention. The Committee recommends that a definition of sustainable development is included in the Bill.
2. The Committee asks that the legislation streamlines, expedites, and provides greater clarity, consistency, and certainty on how state infrastructure development progresses through the planning process, including establishing prioritised consent procedures for statutory undertakers and establishing a lead authority to coordinate the consenting processes for public infrastructure.
3. It is recommended that Section 3 of the Draft Bill is reviewed as it is incomplete.
4. The Committee recommends that, under section 83 at the end of the subsection "which are governed by the licence concerned" is added, and that correspondence arising from conditions are entered on to the planning register. In addition, Local Authorities or An Bord Pleanála shall be empowered to add conditions relating to emissions from a proposed development not covered by licence (see section 83(6)), and add 26a "conditions shall be entered in the register".

5. The Committee recommends that the Department consider amending section 83(2)(a)(ii) to include “owned” or “under control of”.
6. The Committee recommends that modern methods of notification of planning applications, and displays of information (i.e., electronic files uploaded to website, searchable documents, coherent naming of documents etc for easier access to information from the public) is included throughout the Bill. In addition, consistency across display, information, notification, and consultation should be consistent across general application, applications to board and Part 8 applications.
7. The Committee recommends that section 91 of the Draft Bill needs to set out clearly the methods by which members of the public are to be notified about planning applications.
8. The Committee recommends that the Department consider, in section 91, how regulations relating to information to be contained in a site notice may be improved.
9. The Committee recommends that, in section 102(1)(b), request that the applicant for permission submit revised particulars, plans or drawings in relation to the development, and under section 102(2)(a) that documents should be published on the local Planning Authority website if applicable (i.e., on an appeals case).
10. The Committee recommends that post-decision information should be stored and archived on the Local Authority planning register under section 111 and 113 of the Draft Bill.
11. The Committee recommends that section 121(2)(b) must specify the main reasons in detail as to why recommendations of the inspector are being overturned.
12. The Committee recommends that section 362 takes adequate account of the needs of a wide range of network utilities such as CIE, EirGrid, Gas Networks Ireland, ESB Networks and Uisce Éireann to compulsory acquire land for the purpose of providing a service and collaborate with a Local Authority to complete a Part 8 planning application, where appropriate.

13. The Committee recommends that Planning Authorities are required to include Universal Design checks on all public realm developments and that checks are included as criteria for all planning applications that include an amenity.
14. The Committee recommends that provision is made in Part 14, Chapter 1 for a streamlined process for compulsory purchase for Local Authorities where only the compulsory acquisition of a minor part of land or property is impeding the delivery of infrastructure projects.
15. The Committee recommends that cable or service ducts are included in section 246 and 247 of the Draft Bill.
16. The Committee recommends that, throughout Part 3, where consideration of transport infrastructure provision and planning is required, specific reference is made to providing active travel and public travel.
17. The Committee recommends that, in the interest of adopting elements of a co-creation model in the plan-led system, provision for a high level of pre-planning consultation and participation involving a proactive and collaborative approach between the Local Authority, applicants, developers and the community is set out in the Bill.
18. The Committee recommends that all developments, but especially large infrastructural projects have mandatory community engagement at the pre-planning application stage which is set out in the legislation.
19. The Committee recommends that key professional bodies such as IPI, RIAI and RTPI are stated as having a consultation role in the review of the National Planning Framework under section 20 of the Draft Bill.
20. The Committee recommends that, when undertaking consultation with stakeholders on the National Planning Framework, as in section 20(2), there should be a requirement for the Minister not just to consult with the stated stakeholders but also to respond and report on any observations raised.
21. The Committee suggests that, in aiming to give the public opportunity to have input into the planning process at the earliest possible time, the applicant should be required to notify landowners immediately adjoining the site through a site notice.

22. The Committee recommends that the clock for the five-week period to submit observations should start only when the relevant information has been made available.
23. The Committee asks that the Department review the fee structure for planning observations to ensure that no group or individual are excluded from the planning process.
24. The Committee recommends that planning application fees should be reviewed to better reflect the value and effort of development control and appeals cases.
25. The Committee recommends that the policy formulation role of Local Authorities and Local Councillors be fully respected and strengthened, and that where any proposed expedited procedure for amendment or alteration of Local Authority plans is provided for, the democratic decision-making authority of the elected members be asserted, in a manner that is consistent with the principle of subsidiarity as set out in the hierarchy of plans.
26. The Committee recommends that “as members consider appropriate” is removed from section 56(4) of the Draft Bill.
27. The Committee recommends that the Department consider adding (e) a report on transport patterns and modal shift to section 53(2) of the Bill.
28. The Committee recommends that the Department consider adding to section 54(10)(g)(viii) an active travel strategy.
29. The Committee recommends that the Draft Bill provides for a robust statutory midterm review of the County Development Plan, so that the review is more structured and enables meaningful input from Local Authority elected members and through public consultation. Planning Authorities must be fully resourced to enable community and public engagement on this. A change to the Development Plan can be initiated during the midterm review by elected members if more than two thirds vote on the need to debate a change. The amendment to the Plan would be passed by a simple majority of the Councillors present.
30. The Committee recommends that a provision is added to ensure the mid-term review process will take place within Councillor’s five-year terms.

31. The Committee recommends that Development plans are required to consider educational provision, facilities and needs within Development Plan areas and recreational and community services within Development Plans.
32. The Committee recommends that Development Plans are required to consider environmental impacts outside of their functional boundaries as well as within, given that environmental impacts, such as water quality, air quality, noise, greenhouse gas emissions and others do not stop at functional boundaries.
33. The Committee is of the view that it is important that the obligations for Environmental Assessment are clarified in relation to material changes in Development Plans.
34. The Committee asks that, regarding section 204, the screening reports for Environmental Assessment should be published on the Environmental Assessment Portal and that all reports should be provided in digital form to the Planning Authority.
35. The Committee asks that section 207 of the Draft Bill regarding environmental impact assessments includes conditions for restoration to be attached to a consent.
36. The Committee recommends that Development Plans include information on Tree Preservation Orders, locally important sites for ecology, Special Areas of Conservation, Special Protection Areas and Special Amenity Area and that this information are also made easily accessible for the public on Local Authority websites. It is recommended that members of the Local Authority can propose tree preservation orders and sites locally important for ecology as part of the Development Plan process. The Committee also recommends that the Development Plan should include provision for the protection of non-designated biodiversity.
37. The Committee recommends that the preparation period for a Development Plan should be a minimum of three years.
38. The Committee recommends that there is ongoing robust monitoring of County Development Plans, similar to the monitoring of the regional plan which would result in valuable feedback to Local Authority elected members.

All monitoring should be evidence based, with data being properly analysed and processed.

39. The Committee recommends that the Bill is amended to include provision for annual reports by the OPR to monitor uncommenced planning permissions and unactivated Residential Zoned Land.
40. The Committee asks that the Bill be amended to include a provision to require, in a situation whereby a person or company has already been granted multi-unit planning permission but has not commenced this development, within a reasonable period of time, the inclusion in any further multi-unit planning applications on other sites an explanatory note shall be required detailing why the original permission has not commenced.
41. The Committee recommends that the Minister, Office of the Planning Regulator, and the Regional Assembly can make recommendations, submissions or observations related to the Development Plan, and set out the Chief Executive's recommendations on how to take these into account, and that the inclusion of recommendations, submissions and observations made by the Regional Assembly in relation to any material alterations or strategic environmental assessments are required to be included in the proposed changes. This change would apply to sections 55(3), 55(9) among others.
42. The Committee recommends the following points raised in the submission from the Regional Assemblies:
 - a) Amend s55(3) to state: The Minister, the Office, or the Regional Assembly may, in relation to a draft Development Plan, make such recommendations as the Minister, the Office or the Regional Assembly, as the case may be, considers appropriate.
 - b) Insert new subsection after 55(6)(c)(ii)(II): Any recommendations, submissions or observations made by the Regional Assembly.
 - c) Amend s55(6)(c)(vi) to state: Set out the recommendations of the chief executive as to how any recommendations made by the Minister, the Office and the Regional Assembly should be taken into account of in the Development Plan,

- d) Delete s55(6)(c)(vi) as c) above addresses same.
 - e) Amend s55(9) to state: The Minister, the Office, or the Regional Assembly may, in relation to a draft Development Plan, make such recommendations as the Minister, the Office or the Regional Assembly, as the case may be, considers appropriate.
 - f) Insert new subsection after 55(12)(c)(ii)(II): The recommendations, submissions or observations made by the Regional Assembly in relation to the material alteration and any strategic environmental assessment or appropriate assessment of the alteration.
43. The Committee recommends that, under section 32 of the Draft Bill, the timelines for observations on the RSES are increased from 4 to 6 weeks.
44. The Committee recommends that section 34 of the Draft Bill which provides for a new reporting cycle of four-years reverts to the two-year cycle, retaining section 22A of the 2000 Act.
45. The Committee recommends that the Department consider how to improve and provide ongoing monitoring assessment and reporting on objectives in RSES and the County Development Plan and how that reporting can be simplified, for example in the style of a Non-Technical Summary in an EIAR.
46. The Committee recommends that the Department consider providing clarity on the details to be contained in an Urban Action Plan, Joint Area Action Plan and Priority Area Action Plan and clarify if the plan is to be adopted at Municipal District / Area Committee level or by full Council.
47. The Committee recommends that as the draft Bill provides for the making of Urban Area Plans, Priority Area Plans and Joint Area Plans, which are a new feature and the draft Bill provides that they must be consistent with the Development Plan and the RSES, that these plans may give rise to issues of consistency and that the draft bill shall provide for reporting and notification with RA at each stage of the process that reflects those of Development Plans and Variations.
48. The Committee recommends the existing Metropolitan Area Strategic Plans are revised immediately following the passage of this legislation to take account of the definition contained in section 27(5).

49. The Committee recommends that the provision allowing the Chief Executive to seek to extend the life of the County Development Plan for a further two years should be removed.
50. The Committee recommends Councillors' role in setting Strategic Objectives for the County Development Plan be protected and asserted.
51. Due to public concern regarding the removal of the right of the public to appeal against the location of masts, the Committee asks that this is dealt with in the Bill that the public retains the right to appeal against this.
52. The Committee recommends that commuting zones are not the sole criteria for boundary changes and that the legislation designates Athlone, Drogheda, Dundalk, Letterkenny, and Sligo as regional centres and prescribe the content of Regional Centre Strategic Plans within the RSES.
53. The Committee recommends that section 22(1) and 22(2) of the 2000 Act are reinstated in the Bill.
54. The Committee recommends that, under section 43 of the Draft Bill, the Sustainable Development and Regeneration Strategy objectives related to transport are amended to reflect the sustainable mobility hierarchy, and that the language is strengthened from "promotion of the development of local transport plans" to "require the development of local transport plans".
55. The Committee recommends that, under section 43 of the Draft Bill, the Sustainable Development and Regeneration Strategy includes objectives to ensure that development management policies and standards are put in place for the specific purpose of protecting the linguistic and cultural heritage of Irish language and Gaeltacht communities, including the promotion of Irish as the community language.
56. The Committee recommends that the Housing Delivery Strategy includes population and housing objectives for Gaeltacht areas to ensure sustainable growth of Gaeltacht communities, and to ensure sufficient provision of housing to support that growth.
57. The Committee recommends that an analysis of vacant and derelict homes is provided as part of Housing Delivery Strategies. This analysis should include the number of homes that could be activated from existing vacant

and derelict property and strategies to activate vacant and derelict properties.

58. The Committee recommends that the Department consider how the Planning Bill can provide a stronger basis for activating, facilitating and implementing regeneration and re-use of vacant, underused and derelict sites and structures.
59. The Committee recommends that a one-stop shop facility for planning and building control is created in each Local Authority for change of use applications from commercial to residential use to encourage more over-the-shop type residential use in cities, towns and villages.
60. The Committee recommends closer alignment between the planning process and building regulations where it relates to the change of use of a dwelling, fire safety, disability, energy efficiency and subdivision of units.
61. The Committee recommends that policy interventions are published, for urban regeneration and development, and that these include an imperative to consider Living Above the Shop policies and meanwhile use.
62. The Committee recommends that, in relation to section 234(1), clarity is provided on what exceptional circumstances would be considered for a Planning Authority to issue a notice requiring removal or alteration of works or discontinuation of use, in relation to land in its functional area.
63. The Committee recommends that, as per best practice in Scotland and Wales, that the approval of the Minister is obtained before community growing spaces are removed.
64. The Committee recommends that the Department consider adding to section 42, 'Content of a Development Plan' an objective to assess, manage and demonstrate demand to reserve land for community growing spaces.
65. The Committee recommends that the Minister may issue regulations regarding allotments and community gardens under section 361(1)(k) of the Draft Bill: *the reserving of land for use and cultivation as community growing spaces and regulating, promoting, facilitating, controlling, recording demand and providing access to land within a timely and affordable manner for that use.*

66. The Committee recommends that “commencement” as set out in section 139(10) of the Draft Bill is clarified and that a test for commencement aligns with the test for commencement of extensions as set out in section 133 of the Draft Bill.
67. The Committee asks that it is clarified what classifies a materially contravention and the ability of Local Authorities or An Coimisiún Pleanála to make decisions that materially contravene a Development Plan.
68. The Committee recommends that, under section 120(2) of the Draft Bill, that “ambiguous” is amended to “lack of clarity”.
69. The Committee recommends that section 105(3)(c) is deleted, leaving only grounds in sub-paragraphs (a) and (b). It is recommended that, under section 105(3)(b), the weighting is placed on the clear intent or the spirit of the objective, rather than a developer’s interpretation of the objective.

4.3 KEY ISSUE 3: TIMELINES & RESOURCING

It was reiterated throughout the Committee meetings that the ambitions set out in the Draft Bill, such as a plan-led approach, cannot proceed without a very significant increase in resources across the entire planning system. The Department responded to this by stating that the Draft Bill provides for greater efficiencies and scope for better deployment of existing resources through, for example, e-planning and streamlining. The Department assured that it has initiated a review of resources with the local government sector, stating that it has looked at current and emerging responsibilities for the sector and is identifying resources accordingly. CCMA’s 2022 analysis of existing resource deficiencies within the Local Authority planning system was discussed at the Committee. The analysis found that there is an immediate need for at least 541 extra staff to meet existing requirements in the Local Authority planning system across technical and administrative roles. The Department informed the Committee that it has secured funding and is seeking to ramp up resourcing as its programme develops but its current priority is to fill urgent vacant posts.

4.3.1 RESOURCES

Both An Bord Pleanála and the Local Authorities must be fully resourced to carry out their planning functions. Transitional arrangements must be set out by the Department

to ensure these bodies have the capacity to carry out new functions. For example, the Regional Assemblies informed the Committee that they have been allocated more than ten new and heavy tasks within the Draft Bill, therefore there is a concern about adequate resourcing to carry out new functions. The preparation and publication of a Resourcing Action Plan to identify appropriate measures for proper resourcing should be prioritised and expedited, and certain provisions should be commenced to align with this resource plan. Regarding the recruitment of professional staff, it was highlighted to the Committee that the system is not producing enough planners to meet demand. OPR stated that it has a national planning knowledge group, in which the five relevant third-level education institutions on the island take part. It was found that, although these institutions produced 87 graduates in 2022, only 48 entered the planning system. The Department informed the Committee that it is working with third-level institutions to consider measures to broaden intake to planning professions. In its opening statement, RTPI suggested that research is undertaken to identify the number of planners that are currently in place, current and future demands, and the entrants required to meet such demand. The development of a workforce plan in conjunction with professional bodies and third-level institutions was suggested at the Committee, with the aim of correlating the commencement of various sections of the Bill with the output of professionals from third-level institutions.

In terms of the local government sector, the Department stated that a strategic workforce planning review is being undertaken but there is also opportunity for training and development. Citing experience in Scotland, RTPI informed the Committee that City and County Planner roles were introduced there in 2019. The Committee is of the view that there is scope for a Chief Planner role with expertise and skills to guide and steer planning processes in Local Authorities. The Committee believes that greater synergy between architecture and planning is needed, and there are statutory Chief Architects in most counties. RTPI highlighted that the corporate role of a Chief Planner is advantageous as corporate decisions made in Local Authorities may be influenced by planning considerations. The Committee is of the view that the Chief Planner role should have statutory rights similar to the Chief Executive Officer in terms of planning functions as expertise at that level is needed.

The Committee heard from witnesses that scanning boxes of files into its system by the Local Authorities is taking up considerable time and resources, and often documents scanned can be illegible. RTPI informed the Committee that, in Scotland, the onus is on the applicant to produce documentation in a digital format, and currently 80% of planning applications are submitted online in that jurisdiction. Under section 335(3)(a) of the Draft Bill, An Coimisiún Pleanála can accept appeals electronically. It is acknowledged that this was not provided for previously and will create greater efficiencies. However, the Committee believes that the legislation can go further by strengthening the language in the Bill, requiring electronic documents be made available online, using online methods for communication, and retaining digital information in perpetuity.

4.3.2 AN COIMISIÚIN PLEANÁLA

The Draft Bill reforms An Bord Pleanála, restructuring the organisation and renaming it An Coimisiún Pleanála. Through submission, Dr. Berna Grist highlighted the importance and value of retaining the organisation's original name. The Committee agrees that the organisation has a unique identity and has been viewed as an independent, impartial, and ethical organisation for almost half a century. The Committee is of the opinion that An Bord Pleanála's name, identity and role is well recognised and has generally served its purpose well, which will be improved by restructuring and increasing resources. The proposed Bill and cessation of previous legislation will aim to improve An Bord Pleanála, therefore the Committee is of the view that a name change is unnecessary.

Section 108 of the Draft Bill sets out mandatory timelines for decisions, while sections 302 and 369 of the Draft Bill propose to introduce an 18-week timeline for the decision-making of An Coimisiún Pleanála, which if not adhered to will result in penalties. In its opening statement, An Bord Pleanála stated that 18 weeks has been a target for many years, however, it is only suitable for less complex cases. It stated that appeals and applications for more complex and larger developments require longer timeframes, therefore the timeline prescribed must be one that can be relied upon to give a well-reasoned and robust decision, which varies case-by-case. Section 302(4)(b) of the Draft Bill sets out that An Coimisiún Pleanála is to pay fines to applicants where it does not meet the 18-week timeline. In its attendance at the Committee, An Bord Pleanála

commented that this is not the ideal method of delivering accountability as paying fines to applicants or developers for delays in decision-making does not assist An Bord Pleanála in making more timely decisions. Other witnesses concurred, stating that this is a counterintuitive measure which could lead to rushed decision-making and subsequent Judicial Reviews. Although the Committee agrees that fines are not an appropriate accountability measure, an alternative accountability mechanism is required for adherence to statutory timelines. An Bord Pleanála suggested that there could be more impactful governance from the Department and the Oireachtas, including the necessity to report or present before the Committee.

WEI informed the Committee that the average wait for appeals from An Bord Pleanála was 42 weeks in 2021, and 58 weeks in 2022, therefore 18 weeks will not suffice for complex decisions. The Committee agrees that imposing a one-size-fits-all time limit is inappropriate due to the variations in complexity of appeal cases. An Bord Pleanála, along with other witnesses, highlighted that the certainty of timelines is paramount over the actual length of time taken for decision-making. IIP stated that it supports mandatory timelines that are achievable, in addition to a tiered system of statutory timelines which reflect the complexity of cases, while RIAI expressed its view that timelines should be nuanced and reflect the scale and complexity of applications, and that properly resourcing the system which allows timelines to be met is preferable to the use of penalties for An Coimisiún Pleanála. Timelines must be underpinned by resourcing, training, accountability, and monitoring and set out in regulations. Conversely, RTPi expressed its view that the planning system should shift towards an outcomes-based approach, moving away from the timeliness of processing applications and towards a performance measurement regime which focuses on the quality of outcomes achieved on the ground. In its opening statement, An Bord Pleanála also highlighted that, even when it was properly resourced, it only met its planning appeal timeframes 70% of the time, attributing delays to the lack of stop-the-clock function. In their attendance at the Committee, IPI and WEI also endorsed the stop-the-clock function, WEI illustrating that a request for further information which is put out by An Bord Pleanála should move the responsibility to the developer or applicant to bring back the information, at which time the timeline is paused while An Bord Pleanála awaits new information.

While witnesses welcomed statutory timelines for consent processes, it was reiterated that the introduction of mandatory timelines is of little benefit without sufficient resourcing and training. Witnesses expressed their concern with the need to address An Bord Pleanála's structural and long-running resourcing issues, stating that the immediate resourcing of An Bord Pleanála to clear its backlog must be prioritised. An Bord Pleanála stated it has significant difficulty acquiring enough technical expertise to assist with analysing submissions on complex or technical areas of planning, leading to delays. It stated generally that there is a pending shortage of planning professionals such as planners, archaeologists, ecologists, and marine planners, but also a need for architectural skills, including conservation architectural skills. Given the criticality of sufficiently resourcing An Bord Pleanála, there is a need to carry out an assessment with subsequent publication of estimates of the staffing levels required to meet An Bord Pleanála's functions, to ensure it is properly staffed with adequate personnel and appropriate expertise to perform its role promptly. There is a need for An Bord Pleanála to be supported by a well-resourced legal department and the recruitment of more inspectors, ecologists, administrative staff, and other professionals. Finally, much like the Local Authorities, greater provision should be made for An Coimisiún Pleanála to use electronic and online methods for greater efficiencies and transparency.

RECOMMENDATIONS

1. The Committee asks that all bodies with new and existing functions under the Draft Bill are adequately resourced to execute their functions, including Local or Planning Authorities, An Coimisiún Pleanála, the Regional Assemblies, OPR and enforcement authorities, such as regional enforcement authorities, Environmental Protection Agency, and the Maritime Area Regulatory Authority.
2. The Committee asks the Department to consider establishing an office of planning and environmental enforcement at a national level with supervisory powers to underpin its powers of enforcement.
3. The Committee recommends that, regarding Part 11 enforcement, provisions are included which require Planning Authorities to maintain a

rolling register of enforcement actions and outcomes which is made available for public viewing.

4. The Committee asks that the Department undertakes a detailed analysis of the costs of all functions introduced through the Draft Bill in addition to the preparation and publication of a Resourcing Action Plan to identify appropriate measures from the short to long term for proper resourcing. The Committee asks that this is prioritised and expedited, and that the commencement of certain provisions should align with this resource plan.
5. The Committee recommends that research is undertaken to identify the number of planners that are in place currently and the demands placed on them, including trends and current planning budgets, and that this research evaluates future demands and the new entrants required that demand.
6. The Committee recommends that a workforce plan for a five- to ten-year period is set out which is developed in conjunction with professional bodies and third-level institutions to ascertain skills and staff needed for the commencement of this Bill.
7. The Committee recommends that the Department examines the possibility of making provision for a statutory County or City Planning Chief in each Planning Authority, referring to best practice in other jurisdictions.
8. The Committee recommends that, under section 335(3)(a) of the Draft Bill that the Planning Authority “shall as soon as practicable” rather than “may” make documents available online. The Committee also asks that it is clarified what documents will not be available to the public via the planning register.
9. The Committee recommends that section 351 of the Draft Bill sets out that online methods are the default position for notifying the public, supported by traditional communication, and that the planning applicant is required to submit an application in digital files of an appropriate resolution.
10. The Committee recommends, considering the volume of material involved in applications, that provision is made requiring the applicant, in submitting digital planning applications, to draft applications meaningfully with accessible language and in a concise manner.

11. The Committee recommends that Planning Authorities are required to make documents available in accessible formats on request.
12. The Committee recommends that, section 336(3) of the Draft Bill is amended to reflect that electronic information shall be retained in perpetuity.
13. The Committee recommends that the Department consider retaining the name “An Bord Pleanála”.
14. The Committee recommends that a provision is made in the Bill for the stop-the-clock function for the timeline of An Coimisiún Pleanála decisions, where a request for information has been issued to the applicant.
15. The Committee recommends that section 302(4)(b) of the Draft Bill regarding the paying of fines is removed, and the Draft Bill is amended to reflect a requirement that An Coimisiún Pleanála present before the Oireachtas Committee in relation to meeting its decision-making timelines.
16. The Committee recommends that a tiered system of statutory timelines which reflect the scale and complexity of applications is established for An Coimisiún Pleanála.
17. The Committee recommends that the Department work with the OPR to develop an outcomes-based performance measurement focusing on the quality of outcomes achieved on the ground as a result of planning decisions.
18. The Committee recommends that an assessment is carried out with subsequent publication of estimates of the staffing levels required to meet An Bord Pleanála’s functions, and it is subsequently properly staffed with adequate personnel and appropriate expertise to perform its role promptly.
19. The Committee asks that An Bord Pleanála is supported by a well-resourced legal department and that more inspectors, ecologists, administrative staff, and other professionals are recruited.
20. The Committee recommends that section 325(3)(b)(ii) of the Draft Bill, which states that documents “may” be made available by electronic means, is updated to reflect the obligation to make documents available by electronic means.

21. The Committee asks that section 325(2)(b) of the Draft Bill includes a requirement that decisions are made available, in addition to applications and supporting information.

4.4 KEY ISSUE 4: EXEMPTED DEVELOPMENT

Section 5 of the 2000 Act allows “any person” to request a declaration from the Planning Authority regarding whether a development is or is not exempted development within the meaning of the 2000 Act. This provision is valuable as developments which initially do not appear to come under exempted development can be identified as such upon examination of the relevant declaration. In this way, section 5 of the 2000 Act acts as an important enforcement mechanism, as it is an inexpensive measure to resolve disputes without recourse to litigation. Section 8 of the Draft Bill aims to replace section 5 of the 2000 Act. However, Section 8 of the Draft Bill limits the categories of persons who may seek a declaration, stating that only a “relevant person” may seek such a declaration, including the owner of the land or an occupier of the land such as a developer. Witnesses expressed concern that this would remove the right of the public to seek declarations, as section 5 has acted an effective means of enforcement, especially in peat development. In addition, witnesses stated that the lack of explanatory memorandum is particularly challenging for this section as the aim of this reform cannot be understood. The Committee is of the opinion that section 5 of the 2000 Act represents an important measure for the members of the public to hold Local Authorities to account, therefore removal of this enforcement action eliminates necessary oversight and accountability and represents a serious diminution of public participation. As the existing provisions are working well and no justification for this significant departure from the current regime has been provided, the Committee is of the opinion that the existing provisions in section 5 of the 2000 Act should be retained in section 8 of the Draft Bill so that “any person” is permitted to seek such a declaration.

Under the 2000 Act, the landowner or developer can refer a declaration sought by a third party. However, there is no corresponding right for a third party to refer a declaration sought by the developer. The 2021 case of *Narconon v An Bord Pleanála*⁷

⁷ [2021] IECA 307.

referred to the fact that procedures in section 5 of the 2000 Act do not permit any form of public participation. However, section 8 of the Draft Bill removes all public involvement. Greater public participation measures are needed in the legislation under this section. Witnesses and those who made submissions expressed concern that section 9 of the Draft Bill seeks to limit public participation in enforcement by specifically excluding declarations on exempted development from being regarded as evidence other than by the enforcement authority. It was discussed that this would negatively impact the ability of any person to take a challenge under section 249 of the Draft Bill. The Committee notes that section 9 prevents a member of the public from relying on that declaration when taking an injunction under section 294 of the Draft Bill (previously section 160 of the 2000 Act). The Committee is of the opinion that section 9(2) of the Draft Bill should be deleted.

Furthermore, concerns were raised regarding time limits in section 296 of the Draft Bill and unauthorised development that is likely to have significant impacts on the environment. The Committee believes enforcement actions should proceed for unauthorised development, even after 7 years, where it is considered that there have been significant impacts on the environment or that significant impacts on the environment are ongoing as a result of unauthorised development. The Committee notes that section 336(4) of the Draft Bill prevents members of the public from viewing documents that had been submitted to An Coimisiún Pleanála. This provision allows only the landowner or the person who has carried out the development to see, post-consent, the relevant documentation regarding the development. IPI illustrated that if residents see a nearby development which was granted directly by An Coimisiún Pleanála, it cannot be verified if the development is in accordance with the documentation. The Committee is of the opinion that the information should be available to any person.

The Committee wishes to ensure that development is not exempt where there is likely to be significant impacts on the environment and / or protected structures, which would require a professional and detailed Architectural and Conservation Assessment. As such, the Committee believes provision should be made to ensure development is not exempt where it is likely to have significant impacts on the environment and would require assessment under the Birds Directive or the Habitats Directive. Regarding

protected structures, the Committee notes that greater clarity is needed regarding the reserved functions of elected members to add buildings to the record of protected structures during the life of a development. The Irish Georgian Society (IGS) expressed its opinion that the proposals to enable the residential use of protected structures in section 257(4) or the Draft Bill is insufficiently clear. It stated that exempting works for protected structures, even for the worthiest of reasons, can be problematic, as protected structures require careful survey, analysis, and consideration regarding change. The Committee notes that section 57(1) and 82(1) of the 2000 Act which relate to works being exempted development only if those works would not materially affect the character of the structure are absent from the Bill. Regarding the deletion of structure from the record of protected structures on economic or financial viability grounds, IGS informed the Committee that the *Architectural Heritage Protection Guidelines for Planning Authorities* states that deletions from the record of protected structures should only occur where the value of the structure has been lost as a result of a major accident, where the structure was mistakenly designated as a result of incorrect information or where the structure will instead be protected by another more suitable designation. IGS submitted that deletion for financial reasons undermines provisions for the protection of architectural heritage set out in planning legislation and is contrary to Ireland's obligations under international conventions for the protection of architectural heritage. Generally, the Committee believes the wording under Part 10 could be greatly improved as it relates to architectural heritage.

RECOMMENDATIONS

1. The Committee recommends section 5 of the 2000 Act is retained in section 8 of the Draft Bill so that "any person" is permitted to seek a declaration.
2. The Committee recommends that section 8 of the Draft Bill is amended to specify that a decision by a Planning Authority on a declaration by a Planning Authority should be advertised, by the authority, in a paper circulating in the area, in its weekly planning application and decision listings and placed on its website, within a period of one week from the date of its declaration, and that provision be made in the legislation that any person

- may refer that declaration for a nominal fee to An Coimisiún Pleanála, within a period of four weeks from the publication of the public notice.
3. The Committee recommends that section 8(5)(2) be amended to read “6 weeks” instead of “8 weeks” to ensure declarations are decided in a timely manner.
 4. The Committee recommends that section 9(2) of the Draft Bill, which prevents declarations from being used as evidence except by the enforcement authority, is deleted.
 5. The Committee recommends that, under section 296 of the Draft Bill, enforcement actions are allowed to proceed for unauthorised development, even after 7 years, where it is considered that there have been significant impacts on the environment or that significant impacts on the environment are ongoing as a result of unauthorised development.
 6. The Committee recommends that, under section 336(4) of the Draft Bill, that “such persons” is amended to “any person”, thereby allowing members of the public to view documentation relating to a development.
 7. The Committee recommends that section 7 includes a provision which ensures that development that is likely to have significant impacts on the environment and would require assessment under the Birds Directive or the Habitats Directive is not exempted development.
 8. The Committee recommends that forthcoming secondary legislation makes explicit provision for exemptions currently provided for under section 4 of the 2000 Act.
 9. The Committee asks that clarity is provided regarding the reserved functions of elected members to add buildings to the record of protected structures during the life of a development.
 10. The Committee recommends that sections 57(1) and 82(1) of the 2000 Act, regarding works coming under exempted development where works would not materially affect the character of the structure, are reinstated in the Bill.
 11. The Committee asks that consideration be given to including a new subsection under Section 253 of the Draft Bill to the effect that the deletion

of a structure from the record of protected structures on economic or financial viability grounds shall not occur.

12. The Committee recommends that a new subsection 4(c) is added to section 256(4) of the Draft Bill which requires that adding or deleting records of protected structures is advertised on the Local Authority website.
13. The Committee recommends that, under section 55(4)(a), the Department consider how the public is to be made aware of a proposed addition or deletion to the Record of Protected Structures.
14. The Committee recommends that, under section 258(1), there should be the inclusion of the words “removed or altered” after the word “endangered”.
15. The Committee recommends that, under section 258(4), there should be the inclusion of the words “degrades or alters” after the word “endangers”.
16. The Committee recommends that, under section 260(1), “may” shall be replaced with “shall serve a notice on the owner or occupier”.
17. The Committee recommends that, under section 260(3)(e), there should be the addition of the words “to restore” after the word “notice”.
18. The Committee recommends that, under section 277(2) there should be the addition of the words “of Municipal District or Local Area Committee” after the word “reserved function”.

4.5 KEY ISSUE 5: NATIONAL PLANNING POLICY STATEMENTS

Sections 22 to 24 of the Draft Bill propose to replace the Mandatory Ministerial Guidelines or the SPPRs, provided for under section 28 of the 2000 Act, with National Planning Policy Statements. The Department informed the Committee that there are currently no transitional arrangements, however, the Department envisages that the status of the section 28 Ministerial Guidelines will not change in the first instance, rather a programme of review and update will be rolled out with the guidelines being assessed in order of priority. Witnesses in attendance at the Committee, such as LAMA and AILG, expressed their frustration that the Rural Housing Guidelines have been significantly delayed. The Department stated that any pending guidelines, such as the Rural Housing Guidelines, will be published under section 28 of the 2000 Act and subsequently updated to National Planning Policy Statements.

The Committee notes that the statements are defined broadly in the Bill. It is important that a clear definition is provided, which makes a clear distinction between development planning and development management, with policy statements focusing on the former. The Committee notes that section 41(8) of the Draft Bill can be interpreted as there being discretion on Planning Authorities to adhere to the National Planning Policy Statements. In addition, concerns were raised that the Draft Bill allows for the expedited retrospective working of the National Planning Policy Statements into plans, with sections 28, 62 and 120 allowing for a much more rapid change in the Development Plan without the same involvement of elected members, creating a centralising trend in the Draft Bill. The Committee discussed with witnesses, such as AILG, CCMA and LAMA, the valuable role Local Authorities will play in applying the statements through their Development Plans, as well as other plans. Proper regard must be given to the principle of subsidiarity as it relates to these statements through the involvement of Local and Planning Authorities. Moreover, the Committee is of the view that there is insufficient oversight of the National Planning Policy Statements. Under the Draft Bill, the National Planning Policy Statements will be the function of the Government and the Minister, with no role for the Oireachtas, the public or Local Authorities, which the Committee believes is an oversight, as there is a need to guarantee the transparency, accountability, and robustness of the statements. Discussions were had at the Committee on the appropriate measure to take in this instance, including Oireachtas approval and the scrutiny of the statements by a relevant Oireachtas Committee.

It was noted by IEN, TUD and IPI that consultation which the Minister engages in under section 24(2) of the Draft Bill is not an obligation, but rather the Minister “may” consult other Ministers, public bodies, stakeholders, or members of the public before issuing a National Planning Policy Statement. The Committee is of the opinion that there should be an obligation on the Minister to engage in consultation before issuing such a statement, to ensure sufficient consultation and oversight. Responding and considering observations raised in consultations will give greater strength to this element. Further, it is appropriate that prescribed bodies are included as statutory consultees on National Planning Policy Statements, as well as Regional Spatial Strategies, and the National Disability Authority should be included as a prescribed body in the Bill, as appropriate.

Through submission, State and Semi State Bodies informed the Committee of National Planning Policy Statements relating to energy, transport, and water in the UK. The Committee believes it is valuable to have National Planning Policy and Measures to address different types of national infrastructure, with the appropriate levels of consultation with State and Semi State Bodies on their respective sector in the preparation of such policies. Moreover, State and Semi State Bodies highlighted that it is not clear in the Draft Bill whether guidance is provided to Planning Authorities and An Coimisiún Pleanála on the need, benefits and impacts of infrastructure from both a forward planning and development management perspective. Finally, the Committee believes affordability criteria including incomes should form an integral part of housing strategies.

RECOMMENDATIONS

1. The Committee recommends that section 22(1) of the Draft Bill sets out the timeline for the adoption of the National Planning Policy Statements.
2. The Committee requests that the Rural Housing Guidelines are published in conjunction with this Bill.
3. The Committee recommends that a clear definition of National Policy Planning Statements be set out in the Bill, making a clear distinction between development planning and development management, with policy statements focusing on the former. Proper regard should also be given to the principle of subsidiarity with respect to how Local Authorities apply such policy statements through their Development Plans and other appropriate plans.
4. The Committee asks that there is clarification on section 41(8) of the Draft Bill, which can be read as there being discretion that the Planning Authority adheres to the National Planning Policy Statements.
5. The Committee recommends that Local and Planning Authorities are consulted on National Planning Policy Statements under section 24(2) of the Draft Bill.
6. The Committee recommends that a relevant Oireachtas Committee is given the responsibility to scrutinise any new National Planning Policy Statements,

and shall report and make recommendations to the Minister, which the Minister must consider and report back to the Oireachtas before finalising National Planning Policy Statements.

7. The Committee recommends that National Planning Policy Statements must have Oireachtas approval before coming into effect.
8. The Committee recommends that the language in section 24(2) of the Draft Bill is updated to reflect an obligation on the Minister to consult with bodies and persons set out in the subsection, by replacing “may” with “shall”. It is further recommended that, under sections 24(3), 24(5)(b) and 32(3) of the Draft Bill, prescribed bodies are a statutory consultee on the National Planning Policy Statements, and Regional Spatial Strategies and that the Minister must respond and consider observations that are raised during the consultations.
9. The Committee recommends that the National Disability Authority are included as a prescribed body, as appropriate.
10. The Committee recommends that explicit reference is made in the final Bill for the Minister to prescribe National Planning Policy and Measures to address different types of national infrastructure, to include Energy, Transport and Water, Wastewater and Waste, with the appropriate levels of consultation with State and Semi State Bodies on their respective sector in the preparation of such policies.
11. The Committee recommends that guidelines are provided for planners and owners of Short Term Rental in Rent Pressure Zones.
12. The Committee asks that guidance is provided to Planning Authorities and An Coimisiún Pleanála on the need, benefits and impacts of infrastructure from both a forward planning and development management perspective.
13. The Committee recommends that affordability should be a key consideration in housing strategies and that section 218(7)(b) of the Draft Bill should reflect this.

4.6 KEY ISSUE 6: OMISSIONS

It was highlighted to the Committee by witnesses and organisations that the Draft Bill has several omissions, which are illustrated below.

4.6.1 THE DRAFT BILL

Throughout the Committee meetings, it was reiterated that, given the unfinished and complex nature of the Draft Bill and the significant concerns raised on several aspects of the legislation, adequate time must be given to the final Bill for scrutiny and avoidance of unintended consequences. As the planning legislation review was conducted without a General Scheme to expedite the delivery of an updated Planning and Development Act, no explanatory rationale was set out and an explanatory memorandum has not been provided. Many witnesses expressed frustration with aspects of the Draft Bill, stating that it was difficult to understand the reasoning behind proposed amendments. This lack of information on the evidence and justifications for specific proposals hindered informed discussion and analysis. Publication of detailed evidence and an explanatory memorandum should be a priority. It was also highlighted to the Committee by CLM and EJNI that no Regulatory Impact Assessment was carried out on the Bill, which is a standard governance instrument used to establish the nature of the problem sought to be addressed by the legislative intervention and the best options to address it.

The Committee recognises that understanding the new legislative framework holistically is a challenge, due to the absence of associated regulations and detail on transitional arrangements, creating uncertainty. The Committee recognises the importance of understanding how the Draft Bill will work in practice. In expressing its concern with the length of the Bill, RTPi highlighted the need to “sense-check” the Bill to assess if all its provisions are needed in primary legislation, or if they would be better set out in regulations or policies. Regarding the progression of the Draft Bill and regulations, State and Semi-State Bodies requested that a formal route to engage with State infrastructure providers should be established as a priority to ensure key views are appropriately captured. The Bodies acknowledged the extremely ambitious goal of enacting the Bill in Q3 of 2023, cautioning against expediting planning reform at the expense of proper engagement with key State infrastructure providers. The Committee asks that a formal route for State bodies to express their views on planning system reform is established, including secondary legislation and transitional arrangements, which should be identified and communicated to all parties as a priority.

The Committee believes it was an oversight by the drafters of this legislation to omit sections 48 and 49 of the 2000 Act. Under section 48 of the 2000 Act, Development Contribution Schemes are adopted by members of each Local Authority which are covered by conditions in planning permissions. These monies provide financial resources towards the provision of local infrastructure. Similarly, section 49 of the 2000 Act provides for public infrastructure. The Department informed the Committee that this omission was a result of what was intended to be a parallel process with Land Value Sharing legislation. However, as this is no longer the case, sections 48 and 49 of the 2000 Act are to be reinstated in the Bill.

4.6.2 CLIMATE AND BIODIVERSITY OBLIGATIONS

The Committee is of the opinion that this Draft Bill affords the opportunity to improve environmental considerations, as there was not an awareness of the climate and biodiversity crises when the 2000 Act was drafted. On 5 April 2023, the Citizens' Assembly on Biodiversity Loss published its report and recommendations.⁸ The Committee believes these recommendations represent a valuable contribution to tackle the climate and biodiversity crises. Recommendations made relating to planning and development must be considered in the Bill. The Committee asks that the Department consider the relevant recommendations of the Citizen's Assembly as the Bill progresses. These recommendations are listed in [Appendix 5](#). The current language as it relates to climate and biodiversity obligations in the Draft Bill must be strengthened and the Committee makes several recommendations below on how robust provisions may be achieved.

The Committee notes that section 241 proposes a simpler process for Local Authorities to issue Tree Preservation Orders and greater fines for non-compliance, recognising the importance of this measure. The Committee discussed the possibility of a more effective application of Tree Preservation Orders. The possibility of designating sites locally important for ecology in the same way trees are in Tree Preservation Orders was considered as a way of strengthening the protection of such sites through Local Authorities.

⁸ [Report of the Citizens' Assembly on Biodiversity Loss \(5 April 2023\)](#).

Regarding imperative reasons of overriding public interest (IROPI), CLM and EJNI raised concerns that the Bill attempts to override the balancing assessment by introducing a presumption that certain projects meet the IROPI requirement which would likely breach the Habitats Directive. While the Committee supports sections 184, 190 and 191 on IROPI as a recognition of the need to proceed with renewable energy projects to achieve Ireland's 2030 energy targets, compliance with the IROPI test from the Natura Directives is imperative. The Committee also notes that no timelines have been included in the Draft Bill for IROPI.

RECOMMENDATIONS

1. The Committee recommends that, in light of the unfinished and complex nature of the Draft Bill, and in light of the significant concerns expressed with the draft text during the PLS hearings, the Minister ensures that adequate time is provided for in the final drafting of the Bill and in its passage through the Oireachtas, to ensure the maximum level of scrutiny of the final Bill and for the avoidance of unintended consequences arising from any aspect of the Bill.
2. The Committee recommends that rationale for all proposed changes is set out in an explanatory memorandum, with detailed evidence provided to support the changes. The Committee asks that this is made publicly available before the Draft Bill is advanced through the Oireachtas. Thereafter, a public consultation period should be opened with all relevant documentation available and that a Regulatory Impact Assessment is carried out.
3. The Committee recommends that regulations and transitional arrangements are published in a draft form with the Draft Bill in advance of this legislation proceeding through the Oireachtas.
4. The Committee asks that the Bill is “sense-checked” to assess if all its provisions are needed in primary legislation, or if they would be better set out in regulations or policies.
5. The Committee asks that sections 48 and 49 of the 2000 Act are reinstated in the Bill.

6. The Committee recommends that the Department consider how the recommendations of the Citizens Assembly on Biodiversity can be addressed and, where applicable, be included in the next stage of the Planning Bill. The Committee asks that the Department report to the Committee on its consideration of the recommendations and the possible sections wherein recommendations may be addressed, specifically in relation to section 1.18 of the report which makes recommendations for the Urban and Built Environment (recommendations 143-154; in addition to recommendations 7, 50, 51, 100, 101, 102, 111, 117 of the Citizens' Assembly Report).
7. The Committee recommends that, in the interest of strengthening language around climate and biodiversity obligations, the National Climate Objective is capitalised at all times where it is mentioned, for example in section 18(1)(e) of the Draft Bill.
8. Rather than "promote sustainable settlement patterns" or "promote measures to reduce anthropogenic greenhouse gas emissions", as in section 18(2)(c), the language should be strengthened to "require" such measures, at all times when the conservation of the environment is an objective. Restoration of the environment should also be included as an objective to align with the forthcoming EU Nature Restoration Law, for example in section 18(2)(d) of the Draft Bill.
9. Committee recommends that the Department consider, in section 49(2) of the Draft Bill, the use of stronger language than "facilitation" or "promotion" in relation to climate and environmental strategy.
10. The Committee recommends that, throughout Part 3 of the Draft Bill, the Biodiversity Action Plan must be considered in the development of the National Planning Framework, the Development Plans and associated strategies, and the Regional Spatial and Economic Strategy.
11. The Planning Act must be consistent with the Climate Act 2022 and subsequent climate action plans.
12. The Committee recommends that the National Parks and Wildlife Service or a similar authority are consulted with on the development of the Regional

Spatial and Economic Strategy as the competent authority in relation to biodiversity matters.

13. The Committee recommends that the Department consider adding the National Parks and Wildlife Service to the list of those served notice (e.g., s54(3) Review of a Development Plan) for review of the National Planning Framework. Regional Spatial and Economic Strategy, County Development Plans, National Transport Agency strategies to assess compliance with Biodiversity Action Plan objectives.
14. The Committee recommends that objectives related to biodiversity, nature conservation and nature restoration, and supporting the implementation of language plans in Limistéir Phleanála Teanga Ghaeltachta, in Bailte Seirbhíse Gaeltachta and in Líonraí Gaeilge, pursuant to Acht na Gaeltachta 2012 are included in the objectives of the National Planning Framework.
15. The Committee recommends that the Department considers how the measurement of embodied carbon is captured in the planning process.
16. The Committee recommends that, under section 236(4), that the description of “public components” should be expanded to include “amenities” and “land important for nature or biodiversity” and “watercourses”.
17. The Committee asks that “may” is replaced with “shall” in section 241(1) in relation to Planning Authorities’ requirements to make a tree preservation orders. It is also recommended that the following is included in section 241 of the Bill: a requirement for a central register for tree preservation orders, a requirement for an online and accessible register of tree preservation orders on Planning Authority websites, provisions for locally elected members to designate tree preservation orders as a reserved function, provisions for representation to be made to a Planning Authority from the biodiversity or heritage officer, or from local community or environmental groups to seek to designate tree preservation orders, provisions for appeal and repeal of tree preservation orders.
18. The Committee recommends that sites locally important for ecology should be designated in the same way as tree preservation orders, allowing for Planning Authorities to place additional protections on such sites, including

habitats described as: freshwater, grassland or marsh, heath or dense bracken, peatlands, woodland or scrub, exposed rock, or disturbed ground, cultivated or built land, coastland, marine littoral, marine sublittoral, marine water body.

19. The Committee recommends that clarity is provided on any proposed changes to Rights of Way in section 243 of the Draft Bill, and that “may” is replaced with “shall” in section 243(1) of the Draft Bill, so that the Planning Authority shall make an order creating a public right of way over the land where there is a need for it.
20. The Committee asks that sections 184, 190 and 191 of the Draft Bill are checked for compliance with the IROPI test from the Natural Directives. and that mandatory timelines are included in the Bill for IROPI.
21. The Committee recommends that sections 199(2)(a) and 199(3) of the Draft Bill are reviewed due to inconsistent use of language.

5. RECOMMENDATIONS

RECOMMENDATIONS

1. The Committee recommends that Part 9 of the Draft Bill is reviewed against the Aarhus Convention, in particular unencumbered access to justice, barriers to seeking review of decisions, and prohibitive administration or burdensome process which may inadvertently restrict access to justice and updated to comply with current CJEU and Aarhus Convention decisions, ensuring access to justice through proportionality.
2. The Committee recommends that An Coimisiún Pleanála and the Department consider procedures for mediation or arbitration for early resolution of disputes, like the functions of the Labour Relations Commission for resolution of strikes and workplace disputes.
3. The Committee asks that the establishment of a Planning and Environmental Court as set out in the Programme for Government is expedited.
4. The Committee recommends that section 249(2) of the Draft Bill is amended to reflect that Judicial Review applications shall commence *ex parte*.
5. The Committee recommends that the word “earlier” is replaced with the word “later” in section 249(2) and section 249(2)(a).
6. The Committee recommends that the time limits proposed in Part 9 are reviewed, given the impractically short timelines proposed.
7. The Committee recommends that section 249 is amended to bring decisions regarding Marine Area Consents within the scope of the expedited Judicial Review timelines.
8. The Committee recommends that the jurisdiction of the Court of Appeal is reinstated in section 249(15) of the Draft Bill.
9. The Committee recommends the retention of the current legislative definition of standing, interest and grounds derived from relevant case law and as defined in the Aarhus Convention.
10. The Committee recommends that the stated intention to exclude unincorporated organisations from Judicial Review proceedings should not proceed. It is recommended that clarity is provided to ensure people,

incorporated organisations, unincorporated organisations and co-operatives, including organisations incorporated within the EU should be in a position to seek to take Judicial Review.

11. The Committee recommends that section 249(10)(c)(iii)(IV) of the Draft Bill which requires that a resolution is passed by a company prior to bringing an application for Judicial Review is reviewed.
12. The Committee asks that further clarification is provided on the rationale for the obligations on unincorporated associations making appeals, referrals, and applications to submit a list of the members of that association at the time of the making of the appeal, referral, or application. Note: the list of members was agreed to consist of the executive/board of an association.
13. The Committee recommends that the existing provisions of section 50B of the 2000 Act is retained until the new cost protection regime is enacted in primary legislation.
14. The Committee recommends that section 249(5) of the Draft Bill is reviewed to ensure only minor administrative errors can be corrected following the publication of a decision. It is further recommended that the position on costs is clarified where cases do not proceed as the error has been rectified.
15. The Committee recommends that, within Part 1 of the Draft Bill, a new section is inserted with a high-level objective to ensure proper and sustainable development aligns with climate action, nature restoration, sustainable housing and transport and the development of a planning system that aligns with the Aarhus Convention. The Committee recommends that a definition of sustainable development is included in the Bill.
16. The Committee asks that the legislation streamlines, expedites, and provides greater clarity, consistency, and certainty on how state infrastructure development progresses through the planning process, including establishing prioritised consent procedures for statutory undertakers and establishing a lead authority to coordinate the consenting processes for public infrastructure.
17. It is recommended that Section 3 of the Draft Bill is reviewed as it is incomplete.

18. The Committee recommends that, under section 83 at the end of the subsection "which are governed by the licence concerned" is added, and that correspondence arising from conditions are entered on to the planning register. In addition, Local Authorities or An Bord Pleanála shall be empowered to add conditions relating to emissions from a proposed development not covered by licence (see section 83(6)), and add 26a "conditions shall be entered in the register".
19. The Committee recommends that the Department consider amending section 83(2)(a)(ii) to include "owned" or "under control of".
20. The Committee recommends that modern methods of notification of planning applications, and displays of information (i.e., electronic files uploaded to website, searchable documents, coherent naming of documents etc for easier access to information from the public) is included throughout the Bill. In addition, consistency across display, information, notification and consultation should be consistent across general application, applications to board and Part 8 applications.
21. The Committee recommends that section 91 of the Draft Bill needs to set out clearly the methods by which members of the public are to be notified about planning applications.
22. The Committee recommends that the Department consider, in section 91, how regulations relating to information to be contained in a site notice may be improved.
23. The Committee recommends that, in section 102(1)(b), request that the applicant for permission submit revised particulars, plans or drawings in relation to the development, and under section 102(2)(a) that documents should be published on the local Planning Authority website if applicable (i.e., on an appeals case).
24. The Committee recommends that post-decision information should be stored and archived on the Local Authority planning register under section 111 and 113 of the Draft Bill.

25. The Committee recommends that section 121(2)(b) must specify the main reasons in detail as to why recommendations of the inspector are being overturned.
26. The Committee recommends that section 362 takes adequate account of the needs of a wide range of network utilities such as CIE, EirGrid, Gas Networks Ireland, ESB Networks and Uisce Éireann to compulsorily acquire land for the purpose of providing a service and collaborate with a Local Authority to complete a Part 8 planning application, where appropriate.
27. The Committee recommends that Planning Authorities are required to include Universal Design checks on all public realm developments and that checks are included as criteria for all planning applications that include an amenity.
28. The Committee recommends that provision is made in Part 14, Chapter 1 for a streamlined process for compulsory purchase for Local Authorities where only the compulsory acquisition of a minor part of land or property is impeding the delivery of infrastructure projects.
29. The Committee recommends that cable or service ducts are included in section 246 and 247 of the Draft Bill.
30. The Committee recommends that, throughout Part 3, where consideration of transport infrastructure provision and planning is required, specific reference is made to providing active travel and public travel.
31. The Committee recommends that, in the interest of adopting elements of a co-creation model in the plan-led system, provision for a high level of pre-planning consultation and participation involving a proactive and collaborative approach between the Local Authority, applicants, developers and the community is set out in the Bill.
32. The Committee recommends that all developments, but especially large infrastructural projects have mandatory community engagement at the pre-planning application stage which is set out in the legislation.
33. The Committee recommends that key professional bodies such as IPI, RIAI and RTPPI are stated as having a consultation role in the review of the National Planning Framework under section 20 of the Draft Bill.

34. The Committee recommends that, when undertaking consultation with stakeholders on the National Planning Framework, as in section 20(2), there should be a requirement for the Minister not just to consult with the stated stakeholders but also to respond and report on any observations raised.
35. The Committee suggests that, in aiming to give the public opportunity to have input into the planning process at the earliest possible time, the applicant should be required to notify landowners immediately adjoining the site through a site notice.
36. The Committee recommends that the clock for the five-week period to submit observations should start only when the relevant information has been made available.
37. The Committee asks that the Department review the fee structure for planning observations to ensure that no group or individual are excluded from the planning process.
38. The Committee recommends that planning application fees should be reviewed to better reflect the value and effort of development control and appeals cases.
39. The Committee recommends that the policy formulation role of Local Authorities and Local Councillors be fully respected and strengthened, and that where any proposed expedited procedure for amendment or alteration of Local Authority plans is provided for, the democratic decision-making authority of the elected members be asserted, in a manner that is consistent with the principle of subsidiarity as set out in the hierarchy of plans.
40. The Committee recommends that “as members consider appropriate” is removed from section 56(4) of the Draft Bill.
41. The Committee recommends that the Department consider adding (e) a report on transport patterns and modal shift to section 53(2) of the Bill.
42. The Committee recommends that the Department consider adding to section 54(10)(g)(viii) an active travel strategy.
43. The Committee recommends that the Draft Bill provides for a robust statutory midterm review of the County Development Plan, so that the review is more structured and enables meaningful input from Local Authority

elected members and through public consultation. Planning Authorities must be fully resourced to enable community and public engagement on this. A change to the Development Plan can be initiated during the midterm review by elected members if more than two thirds vote on the need to debate a change. The amendment to the Plan would be passed by a simple majority of the Councillors present.

44. The Committee recommends that a provision is added to ensure the mid-term review process will take place within Councillor's five-year terms.
45. The Committee recommends that Development plans are required to consider educational provision, facilities and needs within Development Plan areas and recreational and community services within Development Plans.
46. The Committee recommends that Development Plans are required to consider environmental impacts outside of their functional boundaries as well as within, given that environmental impacts, such as water quality, air quality, noise, greenhouse gas emissions and others do not stop at functional boundaries.
47. The Committee is of the view that it is important that the obligations for Environmental Assessment are clarified in relation to material changes in Development Plans.
48. The Committee asks that, regarding section 204, the screening reports for Environmental Assessment should be published on the Environmental Assessment Portal and that all reports should be provided in digital form to the Planning Authority.
49. The Committee asks that section 207 of the Draft Bill regarding environmental impact assessments includes conditions for restoration to be attached to a consent.
50. The Committee recommends that Development Plans include information on Tree Preservation Orders, locally important sites for ecology, Special Areas of Conservation, Special Protection Areas and Special Amenity Area and that this information are also made easily accessible for the public on Local Authority websites. It is recommended that members of the Local Authority can propose tree preservation orders and sites locally important for ecology

as part of the Development Plan process. The Committee also recommends that the Development Plan should include provision for the protection of non-designated biodiversity.

51. The Committee recommends that the preparation period for a Development Plan should be a minimum of three years.
52. The Committee recommends that there is ongoing robust monitoring of County Development Plans, similar to the monitoring of the regional plan which would result in valuable feedback to Local Authority elected members. All monitoring should be evidence based, with data being properly analysed and processed.
53. The Committee recommends that the Bill is amended to include provision for annual reports by the OPR to monitor uncommenced planning permissions and unactivated Residential Zoned Land.
54. The Committee asks that the Bill be amended to include a provision to require, in a situation whereby a person or company has already been granted multi-unit planning permission but has not commenced this development, within a reasonable period of time, the inclusion in any further multi-unit planning applications on other sites an explanatory note shall be required detailing why the original permission has not commenced.
55. The Committee recommends that the Minister, Office of the Planning Regulator, and the Regional Assembly can make recommendations, submissions or observations related to the Development Plan, and set out the Chief Executive's recommendations on how to take these into account, and that the inclusion of recommendations, submissions and observations made by the Regional Assembly in relation to any material alterations or strategic environmental assessments are required to be included in the proposed changes. This change would apply to sections 55(3), 55(9) among others.
56. The Committee recommends the following points raised in the submission from the Regional Assemblies:
 - a) Amend s55(3) to state: The Minister, the Office, or the Regional Assembly may, in relation to a draft Development Plan, make such

recommendations as the Minister, the Office or the Regional Assembly, as the case may be, considers appropriate.

b) Insert new subsection after 55(6)(c)(ii)(II): Any recommendations, submissions or observations made by the Regional Assembly.

c) Amend s55(6)(c)(vi) to state: Set out the recommendations of the chief executive as to how any recommendations made by the Minister, the Office and the Regional Assembly should be taken into account of in the Development Plan,

d) Delete s55(6)(c)(vi) as c) above addresses same.

e) Amend s55(9) to state: The Minister, the Office, or the Regional Assembly may, in relation to a draft Development Plan, make such recommendations as the Minister, the Office or the Regional Assembly, as the case may be, considers appropriate.

f) Insert new subsection after 55(12)(c)(ii)(II): The recommendations, submissions or observations made by the Regional Assembly in relation to the material alteration and any strategic environmental assessment or appropriate assessment of the alteration.

57. The Committee recommends that, under section 32 of the Draft Bill, the timelines for observations on the RSES are increased from 4 to 6 weeks.

58. The Committee recommends that section 34 of the Draft Bill which provides for a new reporting cycle of four-years reverts to the two-year cycle, retaining section 22A of the 2000 Act.

59. The Committee recommends that the Department consider how to improve and provide ongoing monitoring assessment and reporting on objectives in RSES and the County Development Plan and how that reporting can be simplified, for example in the style of a Non-Technical Summary in an EIAR.

60. The Committee recommends that the Department consider providing clarity on the details to be contained in an Urban Action Plan, Joint Area Action Plan and Priority Area Action Plan and clarify if the plan is to be adopted at Municipal District / Area Committee level or by full Council.

61. The Committee recommends that as the draft Bill provides for the making of Urban Area Plans, Priority Area Plans and Joint Area Plans, which are a

new feature and the draft Bill provides that they must be consistent with the Development Plan and the RSES, that these plans may give rise to issues of consistency and that the draft bill shall provide for reporting and notification with RA at each stage of the process that reflects those of Development Plans and Variations.

62. The Committee recommends the existing Metropolitan Area Strategic Plans are revised immediately following the passage of this legislation to take account of the definition contained in section 27(5).
63. The Committee recommends that the provision allowing the Chief Executive to seek to extend the life of the County Development Plan for a further two years should be removed.
64. The Committee recommends Councillors' role in setting Strategic Objectives for the County Development Plan be protected and asserted.
65. Due to public concern regarding the removal of the right of the public to appeal against the location of masts, the Committee asks that this is dealt with in the Bill that the public retains the right to appeal against this.
66. The Committee recommends that commuting zones are not the sole criteria for boundary changes and that the legislation designates Athlone, Drogheda, Dundalk, Letterkenny, and Sligo as regional centres and prescribe the content of Regional Centre Strategic Plans within the RSES.
67. The Committee recommends that section 22(1) and 22(2) of the 2000 Act are reinstated in the Bill.
68. The Committee recommends that, under section 43 of the Draft Bill, the Sustainable Development and Regeneration Strategy objectives related to transport are amended to reflect the sustainable mobility hierarchy, and that the language is strengthened from "promotion of the development of local transport plans" to "require the development of local transport plans".
69. The Committee recommends that, under section 43 of the Draft Bill, the Sustainable Development and Regeneration Strategy includes objectives to ensure that development management policies and standards are put in place for the specific purpose of protecting the linguistic and cultural heritage

of Irish language and Gaeltacht communities, including the promotion of Irish as the community language.

70. The Committee recommends that the Housing Delivery Strategy includes population and housing objectives for Gaeltacht areas to ensure sustainable growth of Gaeltacht communities, and to ensure sufficient provision of housing to support that growth.

71. The Committee recommends that an analysis of vacant and derelict homes is provided as part of Housing Delivery Strategies. This analysis should include the number of homes that could be activated from existing vacant and derelict property and strategies to activate vacant and derelict properties.

72. The Committee recommends that the Department consider how the Planning Bill can provide a stronger basis for activating, facilitating, and implementing regeneration and re-use of vacant, underused and derelict sites and structures.

73. The Committee recommends that a one-stop shop facility for planning and building control is created in each Local Authority for change of use applications from commercial to residential use to encourage more over-the-shop type residential use in cities, towns, and villages.

74. The Committee recommends closer alignment between the planning process and building regulations where it relates to the change of use of a dwelling, fire safety, disability, energy efficiency and subdivision of units.

75. The Committee recommends that policy interventions are published, for urban regeneration and development, and that these include an imperative to consider Living Above the Shop policies and meanwhile use.

76. The Committee recommends that, in relation to section 234(1), clarity is provided on what exceptional circumstances would be considered for a Planning Authority to issue a notice requiring removal or alteration of works or discontinuation of use, in relation to land in its functional area.

77. The Committee recommends that, as per best practice in Scotland and Wales, that the approval of the Minister is obtained before community growing spaces are removed.

78. The Committee recommends that the Department consider adding to section 42, 'Content of a Development Plan' an objective to assess, manage and demonstrate demand to reserve land for community growing spaces.
79. The Committee recommends that the Minister may issue regulations regarding allotments and community gardens under section 361(1)(k) of the Draft Bill: *the reserving of land for use and cultivation as community growing spaces and regulating, promoting, facilitating, controlling, recording demand and providing access to land within a timely and affordable manner for that use.*
80. The Committee recommends that "commencement" as set out in section 139(10) of the Draft Bill is clarified and that a test for commencement aligns with the test for commencement of extensions as set out in section 133 of the Draft Bill.
81. The Committee asks that it is clarified what classifies a materially contravention and the ability of Local Authorities or An Coimisiún Pleanála to make decisions that materially contravene a Development Plan.
82. The Committee recommends that, under section 120(2) of the Draft Bill, that "ambiguous" is amended to "lack of clarity".
83. The Committee recommends that section 105(3)(c) is deleted, leaving only grounds in sub-paragraphs (a) and (b). It is recommended that, under section 105(3)(b), the weighting is placed on the clear intent or the spirit of the objective, rather than a developer's interpretation of the objective.
84. The Committee asks that all bodies with new and existing functions under the Draft Bill are adequately resourced to execute their functions, including Local or Planning Authorities, An Coimisiún Pleanála, the Regional Assemblies, OPR and enforcement authorities, such as regional enforcement authorities, Environmental Protection Agency, and the Maritime Area Regulatory Authority.
85. The Committee asks the Department to consider establishing an office of planning and environmental enforcement at a national level with supervisory powers to underpin its powers of enforcement.

86. The Committee recommends that, regarding Part 11 enforcement, provisions are included which require Planning Authorities to maintain a rolling register of enforcement actions and outcomes which is made available for public viewing.
87. The Committee asks that the Department undertakes a detailed analysis of the costs of all functions introduced through the Draft Bill in addition to the preparation and publication of a Resourcing Action Plan to identify appropriate measures from the short to long term for proper resourcing. The Committee asks that this is prioritised and expedited, and that the commencement of certain provisions should align with this resource plan.
88. The Committee recommends that research is undertaken to identify the number of planners that are in place currently and the demands placed on them, including trends and current planning budgets, and that this research evaluates future demands and the new entrants required that demand.
89. The Committee recommends that a workforce plan for a five- to ten-year period is set out which is developed in conjunction with professional bodies and third-level institutions to ascertain skills and staff needed for the commencement of this Bill.
90. The Committee recommends that the Department examines the possibility of making provision for a statutory County or City Planning Chief in each Planning Authority, referring to best practice in other jurisdictions.
91. The Committee recommends that, under section 335(3)(a) of the Draft Bill that the Planning Authority “shall as soon as practicable” rather than “may” make documents available online. The Committee also asks that it is clarified what documents will not be available to the public via the planning register.
92. The Committee recommends that section 351 of the Draft Bill sets out that online methods are the default position for notifying the public, supported by traditional communication, and that the planning applicant is required to submit an application in digital files of an appropriate resolution.
93. The Committee recommends, considering the volume of material involved in applications, that provision is made requiring the applicant, in submitting

digital planning applications, to draft applications meaningfully with accessible language and in a concise manner.

94. The Committee recommends that Planning Authorities are required to make documents available in accessible formats on request.
95. The Committee recommends that, section 336(3) of the Draft Bill is amended to reflect that electronic information shall be retained in perpetuity.
96. The Committee recommends that the Department consider retaining the name “An Bord Pleanála”.
97. The Committee recommends that a provision is made in the Bill for the stop-the-clock function for the timeline of An Coimisiún Pleanála decisions, where a request for information has been issued to the applicant.
98. The Committee recommends that section 302(4)(b) of the Draft Bill regarding the paying of fines is removed, and the Draft Bill is amended to reflect a requirement that An Coimisiún Pleanála present before the Oireachtas Committee in relation to meeting its decision-making timelines.
99. The Committee recommends that a tiered system of statutory timelines which reflect the scale and complexity of applications is established for An Coimisiún Pleanála.
100. The Committee recommends that the Department work with the OPR to develop an outcomes-based performance measurement focusing on the quality of outcomes achieved on the ground as a result of planning decisions.
101. The Committee recommends that an assessment is carried out with subsequent publication of estimates of the staffing levels required to meet An Bord Pleanála’s functions, and it is subsequently properly staffed with adequate personnel and appropriate expertise to perform its role promptly.
102. The Committee asks that An Bord Pleanála is supported by a well-resourced legal department and that more inspectors, ecologists, administrative staff, and other professionals are recruited.
103. The Committee recommends that section 325(3)(b)(ii) of the Draft Bill, which states that documents “may” be made available by electronic

means, is updated to reflect the obligation to make documents available by electronic means.

104. The Committee asks that section 325(2)(b) of the Draft Bill includes a requirement that decisions are made available, in addition to applications and supporting information.

105. The Committee recommends section 5 of the 2000 Act is retained in section 8 of the Draft Bill so that “any person” is permitted to seek a declaration.

106. The Committee recommends that section 8 of the Draft Bill is amended to specify that a decision by a Planning Authority on a declaration by a Planning Authority should be advertised, by the authority, in a paper circulating in the area, in its weekly planning application and decision listings and placed on its website, within a period of one week from the date of its declaration, and that provision be made in the legislation that any person may refer that declaration for a nominal fee to An Coimisiún Pleanála, within a period of four weeks from the publication of the public notice.

107. The Committee recommends that section 8(5)(2) be amended to read “6 weeks” instead of “8 weeks” to ensure declarations are decided in a timely manner.

108. The Committee recommends that section 9(2) of the Draft Bill, which prevents declarations from being used as evidence except by the enforcement authority, is deleted.

109. The Committee recommends that, under section 296 of the Draft Bill, enforcement actions are allowed to proceed for unauthorised development, even after 7 years, where it is considered that there have been significant impacts on the environment or that significant impacts on the environment are ongoing as a result of unauthorised development.

110. The Committee recommends that, under section 336(4) of the Draft Bill, that “such persons” is amended to “any person”, thereby allowing members of the public to view documentation relating to a development.

111. The Committee recommends that section 7 includes a provision which ensures that development that is likely to have significant impacts on

the environment and would require assessment under the Birds Directive or the Habitats Directive is not exempted development.

112. The Committee recommends that forthcoming secondary legislation makes explicit provision for exemptions currently provided for under section 4 of the 2000 Act.
113. The Committee asks that clarity is provided regarding the reserved functions of elected members to add buildings to the record of protected structures during the life of a development.
114. The Committee recommends that sections 57(1) and 82(1) of the 2000 Act, regarding works coming under exempted development where works would not materially affect the character of the structure, are reinstated in the Bill.
115. The Committee asks that consideration be given to including a new subsection under Section 253 of the Draft Bill to the effect that the deletion of a structure from the record of protected structures on economic or financial viability grounds shall not occur.
116. The Committee recommends that a new subsection 4(c) is added to section 256(4) of the Draft Bill which requires that adding or deleting records of protected structures is advertised on the Local Authority website.
117. The Committee recommends that, under section 55(4)(a), the Department consider how the public is to be made aware of a proposed addition or deletion to the Record of Protected Structures.
118. The Committee recommends that, under section 258(1), there should be the inclusion of the words “removed or altered” after the word “endangered”.
119. The Committee recommends that, under section 258(4), there should be the inclusion of the words “degrades or alters” after the word “endangers”.
120. The Committee recommends that, under section 260(1), “may” shall be replaced with “shall serve a notice on the owner or occupier”.
121. The Committee recommends that, under section 260(3)(e), there should be the addition of the words “to restore” after the word “notice”.

122. The Committee recommends that, under section 277(2) there should be the addition of the words “of Municipal District or Local Area Committee” after the word “reserved function”.
123. The Committee recommends that section 22(1) of the Draft Bill sets out the timeline for the adoption of the National Planning Policy Statements.
124. The Committee requests that the Rural Housing Guidelines are published in conjunction with this Bill.
125. The Committee recommends that a clear definition of National Policy Planning Statements be set out in the Bill, making a clear distinction between development planning and development management, with policy statements focusing on the former. Proper regard should also be given to the principle of subsidiarity with respect to how Local Authorities apply such policy statements through their Development Plans and other appropriate plans.
126. The Committee asks that there is clarification on section 41(8) of the Draft Bill, which can be read as there being discretion that the Planning Authority adheres to the National Planning Policy Statements.
127. The Committee recommends that Local and Planning Authorities are consulted on National Planning Policy Statements under section 24(2) of the Draft Bill.
128. The Committee recommends that a relevant Oireachtas Committee is given the responsibility to scrutinise any new National Planning Policy Statements, and shall report and make recommendations to the Minister, which the Minister must consider and report back to the Oireachtas before finalising National Planning Policy Statements.
129. The Committee recommends that National Planning Policy Statements must have Oireachtas approval before coming into effect.
130. The Committee recommends that the language in section 24(2) of the Draft Bill is updated to reflect an obligation on the Minister to consult with bodies and persons set out in the subsection, by replacing “may” with “shall”. It is further recommended that, under sections 24(3), 24(5)(b) and 32(3) of the Draft Bill, prescribed bodies are a statutory consultee on the National

Planning Policy Statements, and Regional Spatial Strategies and that the Minister must respond and consider observations that are raised during the consultations.

131. The Committee recommends that the National Disability Authority are included as a prescribed body, as appropriate.
132. The Committee recommends that explicit reference is made in the final Bill for the Minister to prescribe National Planning Policy and Measures to address different types of national infrastructure, to include Energy, Transport and Water, Wastewater and Waste, with the appropriate levels of consultation with State and Semi State Bodies on their respective sector in the preparation of such policies.
133. The Committee recommends that guidelines are provided for planners and owners of Short Term Rental in Rent Pressure Zones.
134. The Committee asks that guidance is provided to Planning Authorities and An Coimisiún Pleanála on the need, benefits and impacts of infrastructure from both a forward planning and development management perspective.
135. The Committee recommends that affordability should be a key consideration in housing strategies and that section 218(7)(b) of the Draft Bill should reflect this.
136. The Committee recommends that, in light of the unfinished and complex nature of the Draft Bill, and in light of the significant concerns expressed with the draft text during the PLS hearings, the Minister ensures that adequate time is provided for in the final drafting of the Bill and in its passage through the Oireachtas, to ensure the maximum level of scrutiny of the final Bill and for the avoidance of unintended consequences arising from any aspect of the Bill.
137. The Committee recommends that rationale for all proposed changes is set out in an explanatory memorandum, with detailed evidence provided to support the changes. The Committee asks that this is made publicly available before the Draft Bill is advanced through the Oireachtas. Thereafter, a public consultation period should be opened with all relevant

documentation available and that a Regulatory Impact Assessment is carried out.

138. The Committee recommends that regulations and transitional arrangements are published in a draft form with the Draft Bill in advance of this legislation proceeding through the Oireachtas.
139. The Committee asks that the Bill is “sense-checked” to assess if all its provisions are needed in primary legislation, or if they would be better set out in regulations or policies.
140. The Committee asks that sections 48 and 49 of the 2000 Act are reinstated in the Bill.
141. The Committee recommends that the Department consider how the recommendations of the Citizens Assembly on Biodiversity can be addressed and, where applicable, be included in the next stage of the Planning Bill. The Committee asks that the Department report to the Committee on its consideration of the recommendations and the possible sections wherein recommendations may be addressed, specifically in relation to section 1.18 of the report which makes recommendations for the Urban and Built Environment (recommendations 143-154; in addition to recommendations 7, 50, 51, 100, 101, 102, 111, 117 of the Citizens’ Assembly Report).
142. The Committee recommends that, in the interest of strengthening language around climate and biodiversity obligations, the National Climate Objective is capitalised at all times where it is mentioned, for example in section 18(1)(e) of the Draft Bill.
143. Rather than “promote sustainable settlement patterns” or “promote measures to reduce anthropogenic greenhouse gas emissions”, as in section 18(2)(c), the language should be strengthened to “require” such measures, at all times when the conservation of the environment is an objective. Restoration of the environment should also be included as an objective to align with the forthcoming EU Nature Restoration Law, for example in section 18(2)(d) of the Draft Bill.

144. Committee recommends that the Department consider, in section 49(2) of the Draft Bill, the use of stronger language than “facilitation” or “promotion” in relation to climate and environmental strategy.
145. The Committee recommends that, throughout Part 3 of the Draft Bill, the Biodiversity Action Plan must be considered in the development of the National Planning Framework, the Development Plans and associated strategies, and the Regional Spatial and Economic Strategy.
146. The Planning Act must be consistent with the Climate Act 2022 and subsequent climate action plans.
147. The Committee recommends that the National Parks and Wildlife Service or a similar authority are consulted with on the development of the Regional Spatial and Economic Strategy as the competent authority in relation to biodiversity matters.
148. The Committee recommends that the Department consider adding the National Parks and Wildlife Service to the list of those served notice (e.g., s54(3) Review of a Development Plan) for review of the National Planning Framework. Regional Spatial and Economic Strategy, County Development Plans, National Transport Agency strategies to assess compliance with Biodiversity Action Plan objectives.
149. The Committee recommends that objectives related to biodiversity, nature conservation and nature restoration, and supporting the implementation of language plans in Limistéir Phleanála Teanga Gaeltachta, in Bailte Seirbhíse Gaeltachta and in Líonraí Gaeilge, pursuant to Acht na Gaeltachta 2012 are included in the objectives of the National Planning Framework.
150. The Committee recommends that the Department considers how the measurement of embodied carbon is captured in the planning process.
151. The Committee recommends that, under section 236(4), that the description of “public components” should be expanded to include “amenities” and “land important for nature or biodiversity” and “watercourses”.

152. The Committee asks that “may” is replaced with “shall” in section 241(1) in relation to Planning Authorities’ requirements to make a tree preservation orders. It is also recommended that the following is included in section 241 of the Bill: a requirement for a central register for tree preservation orders, a requirement for an online and accessible register of tree preservation orders on Planning Authority websites, provisions for locally elected members to designate tree preservation orders as a reserved function, provisions for representation to be made to a Planning Authority from the biodiversity or heritage officer, or from local community or environmental groups to seek to designate tree preservation orders, provisions for appeal and repeal of tree preservation orders.
153. The Committee recommends that sites locally important for ecology should be designated in the same way as tree preservation orders, allowing for Planning Authorities to place additional protections on such sites, including habitats described as: freshwater, grassland or marsh, heath or dense bracken, peatlands, woodland or scrub, exposed rock, or disturbed ground, cultivated or built land, coastland, marine littoral, marine sublittoral, marine water body.
154. The Committee recommends that clarity is provided on any proposed changes to Rights of Way in section 243 of the Draft Bill, and that “may” is replaced with “shall” in section 243(1) of the Draft Bill, so that the Planning Authority shall make an order creating a public right of way over the land where there is a need for it.
155. The Committee asks that sections 184, 190 and 191 of the Draft Bill are checked for compliance with the IROPI test from the Natural Directives. and that mandatory timelines are included in the Bill for IROPI.
156. The Committee recommends that sections 199(2)(a) and 199(3) of the Draft Bill are reviewed due to inconsistent use of language.

6. APPENDIX 1: ORDERS OF REFERENCE

a. FUNCTIONS OF THE COMMITTEE – DERIVED FROM STANDING ORDERS [DSO 95; SSO 71]

(1) The Adil may appoint a Departmental Select Committee to consider and, unless otherwise provided for in these Standing Orders or by order, to report to the Dáil on any matter relating to—

- (a) legislation, policy, governance, expenditure and administration of—
 - (i) a Government Department, and
 - (ii) State bodies within the responsibility of such Department, and
- (b) the performance of a non-State body in relation to an agreement for the provision of services that it has entered into with any such Government Department or State body.

(2) A Select Committee appointed pursuant to this Standing Order shall also consider such other matters which—

- (a) stand referred to the Committee by virtue of these Standing Orders or statute law, or
- (b) shall be referred to the Committee by order of the Dáil.

(3) The principal purpose of Committee consideration of matters of policy, governance, expenditure and administration under paragraph (1) shall be—

- (a) for the accountability of the relevant Minister or Minister of State, and
- (b) to assess the performance of the relevant Government Department or of a State body within the responsibility of the relevant Department, in delivering public services while achieving intended outcomes, including value for money.

(4) A Select Committee appointed pursuant to this Standing Order shall not consider any matter relating to accounts audited by, or reports of, the Comptroller and Auditor General unless the Committee of Public Accounts—

- (a) consents to such consideration, or
- (b) has reported on such accounts or reports.

(5) A Select Committee appointed pursuant to this Standing Order may be joined with a Select Committee appointed by Seanad Éireann to be and act as a Joint Committee for the purposes of paragraph (1) and such other purposes as may be specified in these Standing Orders or by order of the Dáil: provided that the Joint Committee shall not consider—

- (a) the Committee Stage of a Bill,
- (b) Estimates for Public Services, or
- (c) a proposal contained in a motion for the approval of an international agreement involving a charge upon public funds referred to the Committee by order of the Dáil.

(6) Any report that the Joint Committee proposes to make shall, on adoption by the Joint Committee, be made to both Houses of the Oireachtas.

(7) The Chairman of the Select Committee appointed pursuant to this Standing Order shall also be Chairman of the Joint Committee.

(8) Where a Select Committee proposes to consider—

- (a) EU draft legislative acts standing referred to the Select Committee under Standing Order 133, 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, or
- (d) matters listed for consideration on the agenda for meetings of the relevant Council (of Ministers) of the European Union and the outcome of such meetings,

the following may be notified accordingly and shall have the right to attend and take part in such consideration without having a right to move motions or amendments or the right to vote:

- (i) members of the European Parliament elected from constituencies in Ireland,
- (ii) members of the Irish delegation to the Parliamentary Assembly of the Council of Europe, and
- (iii) at the invitation of the Committee, other members of the European Parliament.

(9) A Select Committee appointed pursuant to this Standing Order may, in respect of any Ombudsman charged with oversight of public services within the policy remit of the relevant Department consider—

- (a) such motions relating to the appointment of an Ombudsman as may be referred to the Co

- (b) such Ombudsman reports laid before either or both Houses of the Oireachtas as the Committee may select: Provided that the provisions of Standing Order 130 apply where the Select Committee has not considered the Ombudsman report, or a portion or portions thereof, within two months (excluding Christmas, Easter or summer recess periods) of the report being laid before either or both Houses of the Oireachtas.

b. SCOPE AND CONTEXT OF ACTIVITIES OF COMMITTEES (AS DERIVED FROM STANDING ORDERS) [DSO 94; 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/Seanad;

(3) it shall not consider any matter which is being considered, or of which notice has been given of a proposal to consider, by the Joint Committee on Public Petitions in the exercise of its functions under DSO 125(1) and SSO 108(1); and

(4) it 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 State body within the responsibility of a Government Department or
- (c) the principal office-holder of a non-State body which is partly funded by the State,

Provided that the Committee may appeal any such request made to the Ceann Comhairle, 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 to the Business Committee by a Chairman of one of the Select Committees concerned, waives this instruction.

c. POWERS OF COMMITTEES (AS DERIVED FROM STANDING ORDERS) [DSO 96; SSO 72]

Unless the Dáil/Seanad shall otherwise order, a Committee appointed pursuant to these Standing Orders shall have the following powers:

(1) power to invite and receive oral and written evidence and to print and publish from time to time—

- (a) minutes of such evidence as was heard in public, and
- (b) such evidence in writing as the Committee thinks fit;

(2) power to appoint sub-Committees and to refer to such sub-Committees any matter comprehended by its orders of reference and to delegate any of its powers to such sub-Committees, including power to report directly to the Dáil/Seanad;

(3) power to draft recommendations for legislative change and for new legislation;

(4) in relation to any statutory instrument, including those laid or laid in draft before either or both Houses of the Oireachtas, power to—

(a) require any Government Department or other instrument-making authority concerned to—

- (i) submit a memorandum to the Joint Committee explaining the statutory instrument, or
- (ii) attend a meeting of the Joint Committee to explain any such statutory instrument: Provided that the authority concerned may decline to attend for reasons given in writing to the Joint Committee, which may report thereon to the Dáil, and

(b) recommend, where it considers that such action is warranted, that the instrument should be annulled or amended;

(5) power to require that a member of the Government or Minister of State shall attend before the Joint Committee to discuss—

- (a) policy, or
- (b) proposed primary or secondary legislation (prior to such legislation being published),

for which he or she is officially responsible: Provided that a member of the Government or Minister of State may decline to attend for stated reasons given in writing to the Joint Committee, which may report thereon to the Dáil: and provided further that a member of the Government or Minister of State may request to attend a meeting of the Joint Committee to enable him or her to discuss such policy or proposed legislation;

(6) power to require that a member of the Government or Minister of State shall attend before the Joint Committee and provide, in private session if so requested by the attendee, oral briefings in advance of meetings of the relevant EC Council (of Ministers) of the European Union to enable the Joint Committee to make known its views: Provided that the Committee may also require such attendance following such meetings;

(7) power to require that the Chairperson designate of a body or agency under the aegis of a Department shall, prior to his or her appointment, attend before the Select Committee to discuss his or her strategic priorities for the role;

(8) power to require that a member of the Government or Minister of State who is officially responsible for the implementation of an Act shall attend before a Joint Committee in relation to the consideration of a report under DSO 197/SSO 168;

(9) subject to any constraints otherwise prescribed by law, power to require that principal office-holders of a—

(a) State body within the responsibility of a Government Department or

(b) non-State body which is partly funded by the State,

shall attend meetings of the Joint Committee, as appropriate, to discuss issues for which they are officially responsible: Provided that such an office-holder may decline to attend for stated reasons given in writing to the Joint Committee, which may report thereon to the Dáil/Seanad; and

(10) power to—

(a) engage the services of persons with specialist or technical knowledge, to assist it or any of its sub-Committees in considering particular matters; and

(b) undertake travel;

Provided that the powers under this paragraph are subject to such recommendations as may be made by the Working Group of Committee Chairmen under DSO 120(4)(a)/SSO 107(4)(a).

7. APPENDIX 2: COMMITTEE MEMBERSHIP

7.1 DEPUTIES



Francis Noel Duffy
Green Party



Joe Flaherty
Fianna Fáil



Thomas Gould
Sinn Féin



Emer Higgins
Fine Gael



Steven Matthews
Cathaoirleach
Green Party



Paul McAuliffe
Leas-Cathaoirleach
Fianna Fáil



Cian O'Callaghan
Social Democrats



Richard O'Donoghue



Eoin Ó Broin
Sinn Féin

7.2 SENATORS



Victor Boyhan
Independent



John Cummins
Fine Gael



Mary Fitzpatrick
Fianna Fáil



Rebecca Moynihan
Labour



Mary Seery Kearney
Fine Gael

Notes:

1. Deputies nominated by the Dáil Committee of Selection and appointed by Order of the Dáil of 30 July 2020.
2. Senators nominated by the Seanad Committee of Selection and appointed by Order of the Seanad on 18 September 2020.
3. The Dáil Committee of Selection nominated Deputy Joe Flaherty to replace Deputy Jennifer Murnane O'Connor on 2 February 2021.

8. APPENDIX 3: MEETING TRANSCRIPTS

- [Tuesday 7 February 2023](#)
- [Thursday 9 February 2023](#)
- [Tuesday 14 February 2023](#)
- [Tuesday 21 February 2023](#)
- [Thursday 23 February 2023](#)
- [Tuesday 28 February 2023](#)
- [Thursday 2 March 2023](#)
- [Tuesday 7 March 2023](#)
- [Thursday 9 March 2023](#)

9. APPENDIX 4: OPENING STATEMENTS & SUBMISSIONS

9.1 OPENING STATEMENTS

- [Mr. Paul Hogan, Acting Assistant Secretary General, Planning Division, Department of Housing, Local Government and Heritage](#)
- [Mr. Niall Cussen, Planning Regulator and Chief Executive, Office of the Planning Regulator](#)
- [Ms. Oonagh Buckley, Interim Chairperson, An Bord Pleanála](#)
- [Mr. Justin Moran, Director of External Affairs, Wind Energy Ireland](#)
- [Mr. Pat Farrell, Chief Executive Officer, Irish Institutional Property](#)
- [Dr. David Duffy, Director, Property Industry Ireland](#)
- [Mr. Conor O'Connell, Director, Housing and Planning, Construction Industry Federation and Irish Home Builders Association](#)
- [Mr. Pat Fitzpatrick, President, Association of Irish Local Government](#)
- [Mr. Kevin Kelly, Chief Executive, Mayo County Council, County and City Management Association](#)
- [Mr. David Minton, Director, Northern and Western Regional Assembly](#)
- [Mr. Michael Anglim, Chairperson, Local Authorities Members Association](#)
- [Ms. Valerie Brennan, Chair, Rural Town Planning Institute](#)
- [Mr. Gavin Lawlor, Vice President, Irish Planning Institute](#)

- [Ms. Attracta Uí Bhroin, Environmental Law Officer, Irish Environmental Network](#)
- [Ms. Kathryn Meghen, Chief Executive Officer, Royal Institute of the Architects of Ireland](#)
- [Mr. Tom Flynn, Planning, Environment and Local Government Bar Association Law Library](#)
- [Ms. Rachel Minch, Committee Chair, Environmental and Planning Law Committee of the Law Society](#)
- [Ms. Robin Mandal, Chair, Dublin Democratic Planning Alliance](#)
- [Ms. Pauline Foster, The Recorders Residents Association and Mr. Brendan Heneghan, Terenure West Residents Association](#)

9.2 SUBMISSIONS

- [Keep Ireland Open \(1\)](#)
- [Keep Ireland Open \(2\)](#)
- [Dr. Lorcan Sirr, Technological University Dublin](#)
- [Irish Business and Employers Confederation](#)
- [Drumgossatt Knocknacran Residents Group](#)
- [Irish Georgian Society](#)
- [Mr. Fred Logue, Managing Partner of FP Logue LLP](#)
- [Community Gardens Ireland](#)
- [Conradh na Gaeilge \(1\)](#)
- [Conradh na Gaeilge \(2\)](#)
- [Conradh na Gaeilge \(3\)](#)
- [Mr. Hugh Dillon](#)
- [The Bar of Ireland, Climate Bar Association](#)
- [Ballyshannon Action Group](#)
- [State and Semi State Bodies \(1\)](#)
- [State and Semi State Bodies \(2\) Uisce Éireann](#)
- [Dr. Berna Grist BL PhD, Emeritus Professor, University College Dublin](#)
- [Irish Self-Catering Federation](#)
- [Professor Áine Ryall, Centre for Law & the Environment, University College Cork](#)

- [Regional Assemblies](#)
- [Joint Community Law and Mediation and Environmental Justice Network Ireland](#)

10. APPENDIX 5: CITIZENS' ASSEMBLY ON BIODIVERSITY LOSS RECOMMENDATIONS

[Report of the Citizens' Assembly on Biodiversity Loss](#)

10.1 URBAN AND BUILD ENVIRONMENT

143 The State must reform and update the planning and building regulations and legislation to better consider biodiversity in all new developments, with specific evidence-based and locally relevant biodiversity and environmental measures (e.g., inclusion of nesting bricks, restriction of artificial grass, green planting, corridors, sand and water, etc.).

144 Planning policy must be updated to require all new developments to have a significant net-gain for the environment and biodiversity

145 In line with international best practice, the State must increase mandatory requirements for a percentage of green spaces that support biodiversity in urban areas.

146 Local authorities must raise the status of biodiversity to ensure that this is addressed and championed at the highest level in the organisation.

147 The National Parks and Wildlife Service (NPWS), as well as bodies prescribed in legislation with regard to biodiversity and planning, including An Taisce should be properly funded and resourced to effectively carry out their planning and development roles.

148 The State must utilise public spaces, such as bus shelters and roofs, to create green corridors, green walls/roofs etc., to support pollinators and promote biodiversity

149 Authorities must incorporate ecological expertise in decision-making regarding planning.

150 All Environmental Impact Assessments and Reports, and Appropriate Assessments and Natura Impact Statements must automatically be lodged with the National Biodiversity Data Centre so the data and information can be stored and made publicly accessible, with sufficient funding provided for such action.

151 Each Local Authority must include a Green Infrastructure Strategy in County/City Development Plans which includes corridors between urban and rural biodiverse habitats, creation of new biodiverse spaces, retrofitting of existing spaces and restoration of degraded biodiversity.

152 The State must introduce tax incentives and grants for capital investment in retrofitting existing buildings with biodiverse initiatives (roof gardens, vertical gardens etc.).

153 The State must review An Bord Pleanála and local authority legislation and practices to take full cognisance of the Aarhus Convention, create more transparency and grant citizens greater access to information and inclusion in decision-making related to environmental issues in planning.

154 As part of the new National Biodiversity Plan relevant Government departments and agencies must publish central advice for local authorities on incorporating nature based solutions and ecological features into new developments, ecosystem restoration, green infrastructure and biodiversity, addressing pollution issues (chemical, light, etc.), reinforcement and/or offsetting that can be linked to achieving local and national biodiversity objectives that would be identified in development plans and local area plans.

10.2 ELSEWHERE IN THE CITIZENS' ASSEMBLY REPORT

Recommendation 7 - In taking action to protect and restore biodiversity, nature-based solutions aimed at protecting, sustainably managing and restoring ecosystems should be prioritised where possible.

Recommendation 50 - The State must align initiatives in Rural Regeneration and Development with local, community-based biodiversity activities.

Recommendation 51 - The State must ensure the expansion of community gardens and allotments through local authority initiatives in conjunction with private landowners, in both urban and rural communities.

Recommendation 100 - The 1945 Arterial Drainage Act is no longer fit for purpose and must be reviewed and updated in order to take proper account of the biodiversity and the climate crisis

Recommendation 101 - Nature-based solutions must be included in State and community programmes to tackle flood management and should include whole of catchment area hydromorphology planning and restoration

Recommendation 102 - The Environmental Protection Agency (EPA), supported by Inland Fisheries Ireland and an expert group, must conduct a complete analysis and survey of all catchment areas to develop a National Hydromorphology Plan.

Recommendation 111 - The siting, development and construction of energy generation at sea (both pylon and floating) must be done in close collaboration with the fishing community and relevant marine biodiversity authorities.

Recommendation 117 - All enterprise involved in the harnessing of renewable energy from or on all peatland must have a strict biodiversity net gain clause attached to their development permission and must be responsible for the ongoing and future management and enhancement of the biodiversity of their sites.

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