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## **An Comhchoiste um Thithíocht, Rialtas Áitiúil agus Oidhreach**

Tuarascáil maidir leis an nGrinnscrúdú Réamhrechtach ar Scéim Ghinearálta an Bhille um Pleanáil agus Forbairt (Comhroinnt Luacha Talún agus Criosanna Forbartha Uirbí), 2022

Iúil 2023

## **Joint Committee on Housing, Local Government and Heritage**

Report on the Pre-Legislative Scrutiny of the General Scheme of the Planning and Development (Land Value Sharing and Urban Development Zones) Bill 2022

July 2023



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## 1. CATHAOIRLEACH'S PREFACE



A Government commitment was made in *Housing for All* (2021) to develop proposals for Land Value Sharing mechanisms. The *General Scheme of the Planning and Development (Land Value Sharing and Urban Development Zones) Bill 2022* proposes to introduce active land management measures which have been the subject of debate since the *Kenny Report* (1973).

Land Value Sharing, as proposed in the General Scheme, aims to introduce a mechanism to ensure that a proportion of the value uplift associated with the decision to zone land for development purposes is shared with the State in the interest of the common good. The proposal for Urban Development Zones recognises the need to facilitate more active plan-led management of land at scale in appropriate locations and aligned with compact growth objectives as set out in the National Planning Framework. The Committee welcomes the introduction of these legislative proposals as important additions to the Irish planning system.

In examining the General Scheme of the Bill, the Committee gained valuable insights from all witnesses who attended before the Committee. I would like to express my appreciation for their contributions, as well as Committee Members for their engagement with the scrutiny of the proposed legislation. 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 Planning and Development (Land Value Sharing and Urban Development Zones) Bill 2022.

A handwritten signature in black ink, reading "Steven Matthews".

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Steven Matthews T.D.,  
Cathaoirleach,

Joint Committee on Housing, Local Government and Heritage,  
11 July 2023

## 2. INTRODUCTION

In accordance with *Standing Order 173*<sup>1</sup> the *General Scheme of the Planning and Development (Land Value Sharing and Urban Development Zones) Bill 2022* (the General Scheme) was referred to the Joint Committee on Housing, Local Government and Heritage (the Committee) on 17 April 2023 by the Minister for Housing, Local Government and Heritage (the Minister), Mr. Darragh O'Brien T.D. The Committee agreed to undertake pre-legislative scrutiny of the General Scheme at its meeting on 18 April 2023.

The Committee conducted pre-legislative scrutiny on 4 May 2023, 16 May 2023, 25 May 2023 and 1 June 2023 (meeting transcripts linked in [Appendix 3](#)), in which officials from the Department of Housing, Local Government and Heritage (the Department), and representatives from industry and local government were invited to the Committee to discuss the General Scheme. The Committee invited witnesses to make opening statements, and requested submissions, both of which are linked in [Appendix 4](#).

### Thursday 4 May 2023

#### Department of Housing, Local Government and Heritage

- Ms. Claragh Mulhern, Acting Principal Planning Adviser, National Regional and Urban Planning Policy Unit
- Ms. Karen Kenny, Senior Planning Adviser
- Mr. Paul Hogan, Acting Assistant Secretary, Planning Division

### Tuesday 16 May 2023

#### Irish Planning Institute

- Mr. Philip Jones, Chair of Policy and Research Committee
- Mr. Robert Keran, Chair of Private Practice Branch
- Mr. Seán O'Leary, Senior Planner

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

### Thursday 25 May 2023

#### **County and City Management Association (CCMA)**

- Ms. AnnMarie Farrelly, Chief Executive
- Ms. Deirdre Scully, Acting Deputy City Planner
- Ms. Máire Igoe, Acting Executive Manager

### Thursday 1 June 2023

#### **Institute of Professional Auctioneers & Valuers**

- Mr. Donald McDonald, Director of Hooke & MacDonald and member of IPAV
- Mr. Pat Davitt, Chief Executive

#### **Irish Home Builder's Association and Construction Industry Federation**

- Mr. Conor O'Connell, Director Housing and Planning
- Mr. Hubert Fitzpatrick, Director General Designate CIF

#### **Irish Institutional Property**

- Mr. Pat Farrell, CEO
- Mr. Brian Moran, Chair IIP Research Committee



### 3. BACKGROUND

In considering the 1973 *Kenny Report*, the *Programme for Government, 2020* made a commitment to review the means by which community gain may be captured through a review of several elements of the planning system, including re-zoning or designation systems. The General Scheme under discussion is informed by the *Kenny Report*,<sup>2</sup> among other publications, with the view of providing the State with an up-to-date mechanism that can be applied in a fair, equitable and proportionate manner to achieve national housing and urban development objectives. *Housing for All* made a commitment to adopt radical new modern *Kenny Report* style powers to ensure the increase in land values from re-zoning decisions may be shared with the State for the purposes of community gain. *Housing for All* outlined that this will be achieved through a combination of measures which are intended to be complemented by the Residential Zoned Land Tax (RZLT), as introduced in the Finance Act 2021.

The primary proposals set out in the General Scheme, that is, Land Value Sharing (LVS) and Urban Development Zones (UDZs), constitute an update of urban development powers which address the *Kenny Report*. An initial General Scheme for LVS and UDZs was published in December 2021. Since then, significant learnings have been obtained from subsequent research, independent expert advice, as well as advice from the Office of the Attorney General and stakeholder engagement, all of which inform the General Scheme currently under discussion. As such, this General Scheme deviates from the initial proposal in key ways.

Part 1 of the General Scheme refers to preliminary and general matters, consisting of standard provisions regarding the short title of the legislation, construction, collective citation, and commencement matters. In addition, this Part considers interpretation of terms and expenses incurred in the administration of the legislation. Part 4 of the General Scheme sets out miscellaneous amendments to the Planning and Development Act, 2000 (the 2000 Act). Part 2 and Part 3 are detailed below.

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<sup>2</sup> [Committee on the Price of Building Land \(jcfj.ie\)](https://www.jcfj.ie/)

### 3.1 REZONING LAND VALUE SHARING CONTRIBUTION (PART 2)

Part 2 of the General Scheme establishes the Land Value Sharing (LVS) contribution. *Housing for All*<sup>3</sup> acknowledged the difficulty for Local Authorities to secure direct community gain from zoning, investment or grant of permission for development, despite State responsibility for facilitating zoning, in addition to the provision of services and infrastructure. Department officials informed the Committee that it found that significant multiples in land value can result from the initial zoning decision, with even further uplift in value accruing when permission is granted for a specific development, conferring benefit on the relevant landowners.

In the proposed legislation, LVS is introduced as a mechanism to ensure that a proportion of the value uplift associated with the decision to zone land for the purposes of development is shared with the State in the interest of the common good. The mechanism intends to fund necessary social and physical infrastructure to support development in local authority areas, thereby facilitating an increase in housing supply. While section 48 and 49 (of the 2000 Act) development contributions are one such mechanism to secure a proportion of benefits attributable to zoning or planning permission, they are not sufficient to deliver all the essential infrastructure, such as transport, to enable housing development and build sustainable communities. The Department stated that the section 48 and 49 contributions will continue to apply at the point of planning permission, as is currently the case, despite the proposal in the initial 2021 General Scheme for LVS to replace these contributions. It went on to illustrate that, as LVS reflects zoning while development contributions reflect the grant of planning permission, the combination of the two equals the uplift in value that results from the initial zoning decision through to the grant of planning permission.

The General Scheme sets out the specifics of the proposal. The scope of LVS will extend to all lands that are zoned for the purposes of residential use or mixed-use (including residential), with LVS becoming applicable to commercial and industrial development zonings over time. The Department's Explanatory Memorandum explains that the LVS obligation will act as a statutory charge on zoned development land. The calculation of the LVS obligation will be based on the uplift between the existing-use

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<sup>3</sup> [Housing for All \(2021\)](#)

value of the land at the point of zoning and the market value of the land with the benefit of zoning. The benefit associated with the grant of planning permission will not be incorporated into the calculation. Section 31BD of the General Scheme proposes that the contribution shall equal 30% of the zoning value of the land (difference between existing-use value and market value). This measure will be in addition to current Part V and development contribution obligations. An economic appraisal on the LVS measure was conducted by Indecon, who advised on the 30% figure on the basis that the total contributions secured by the State, when combined, should not generally exceed 50% of the total value uplift.

Local authorities will be tasked with publishing a map of all the lands in scope for LVS in March 2024, along with a register of valuations, subject to GDPR provisions.

Landowners of “substantially undeveloped” land will be required to submit self-assessments of the existing-use and market valuations by July 2024 for publication by the planning authority on the LVS Register. However, the planning authority may assess the self-assessed valuations at any time and amend them. Appeals on these valuations may be lodged to the Valuation Tribunal. The Department stated that this will bring greater clarity on land values from the beginning of the development process. It stated that the intention behind the register relates to each planning authority’s administrative area, zoning, and development plan and all this information from all 31 local authorities will be publicly displayed on one data source.

Developments that will not attract the LVS measure include, social and affordable housing, the conversion of an existing building to create more units, and small-scale developments consisting of 4 or fewer houses, land of 0.1 hectares or less, or commercial or industrial development with a floor space of 500 square metres or less. The latter exemption on small-scale development is similar to existing Part V arrangements for social and affordable housing.

The Department’s Explanatory Memorandum identified its key challenge in implementing LVS as “ensuring that the mechanism captures fair value for the State but avoids disincentivising housing supply.” Support for this challenge comes in the design of transitional arrangements, which will ensure there is a reasonable and proportionate impact on the market and to incentivise a reduction in land prices. The Department

recognised the need for the State to balance this objective with the rights of the individual. The LVS measure will apply to applications for planning permission lodged from December 2024, with an additional 1-year lead-in for land transacted prior to 21 December 2021 (when the initial Scheme was published). All lands with planning applications lodged after December 2025 will be liable for LVS. Commercial and industrial zonings will fall into scope from March 2026 and applications lodged from December 2026 will be required to make LVS contributions. LVS for commercial and industrial zonings is not being applied at the outset to allow for a period of transition and adjustment for both local governments and landowners.

### **3.2 URBAN DEVELOPMENT ZONES (PART 3)**

Part 3 of the General Scheme makes provision for Urban Development Zones (UDZs) which are based on existing Strategic Development Zone (SDZ) provisions. In the Department's Explanatory Memorandum, these designated areas are envisaged to be "well-located and under-utilised urban areas, where development or redevelopment will ensure the efficient and sustainable use of land to create well-functioning and sustainable communities which integrate with their surroundings." In its opening statement, the Department stated that UDZs will play an important role in bringing about transformational change to accommodate Ireland's growing population through the creation of high-quality places and suitable neighbourhoods for communities.

The initial 2021 General Scheme contained proposals largely based on existing SDZ arrangements. Since then, engagement was undertaken with key stakeholders, resulting in key changes relating to identifying potentially suitable sites for priority, streamlining designation and plan-making processes, and facilitating early delivery of development. Department officials informed the Committee that the concept of UDZs recognises the need to facilitate more active plan-led management of land for development as well as regeneration at scale in locations aligned with compact growth objectives, as set out in the National Planning Framework, while also taking a more flexible approach than the SDZ model.

The General Scheme provides for the early identification of potentially suitable sites, followed by the plan-led designation of Candidate UDZ sites within the local authority development plan. In this way, elected members and key stakeholders will occupy a

key role in the UDZ process. In its Explanatory Memorandum, the Department made a distinction between SDZs and UDZs, stating that SDZs start with the making of a Government Order followed by the preparation of a planning scheme which is incorporated into the development plan. However, UDZs are proposed to involve the designation of the land as a Candidate UDZ with a Candidate UDZ planning framework as part of the adopted development plan with oversight by the OPR. This occurs before approval is sought for a Government Order to designate the area as a formal UDZ. Regarding SDZs, there has been a significant delay between the making of the Government Order and the preparation of the planning scheme, after which point there may be further delays associated with infrastructure planning and delivery. In contrast, the UDZ approach will allow for up-front consideration of the scale of development and infrastructure requirements, including costs, before the Government Order is made without delay. Once the Government Order is made, the land is prioritised for the funding of required infrastructure. In addition, this approach will facilitate sufficient public engagement and consultation early in the process.

The safeguarding of “critical land” is a key priority, as such land will provide the necessary communal infrastructure to support UDZs. The planning framework for the UDZ will establish key principles for development, including that land may be subject to Compulsory Purchase Order (CPO), if it cannot be acquired by agreement. The flexible approach allows the iterative development of detailed schemes for parts of the UDZ over time, rather than requiring all schemes to be prepared concurrently, enabling the planning authority to prioritise certain areas of critical importance. Lastly, LVS shall apply to UDZs.

## 4. KEY ISSUES WITH THE PROPOSED LEGISLATION

In scrutinising the General Scheme, the Committee focussed on three key issues which were of particular interest.

### 4.1 KEY ISSUE 1: LAND VALUE SHARING

All witnesses broadly welcomed the proposal for land value sharing. However, some expressed concerns with the drafting of the proposal and the subsequent risk of generating unintended consequences, including impacts on viability. This is discussed below.

#### 4.1.1 VALUATIONS

In its opening statement, the Department stated that most of the zoning benefit accrues to the original landowner, or subsequent landowners who purchase the land and seek to maximise a return on their investment through the planning process and/or resale. This leads to competition for land and speculation in the market, which fuels land price inflation. As such, the General Scheme aims to facilitate more active land management by counteracting speculations and generating a downward impact on land values in transactions. The calculation of the LVS contribution will constitute the difference between the existing-use value of the land and the market value of the land with the benefit of zoning, with both being evaluated on the same date, that is, the date of zoning. There was much discussion at the Committee on the scope of existing-use value and market value as defined in section 31BA of the General Scheme. It was concluded that, at the point of establishing the LVS register, these valuations will be based on the land's existing use, such as agriculture, and its market value at the point when the land was last zoned, which will be in the most recent development plan.

Under section 31BA of the General Scheme, market value is defined as not taking any extant planning permission into account, rather LVS relates to zoning uplift. The Department stated that the valuers will have a mechanism to determine the existing-use value, which does not have any regard for zoning, but both valuations must be done on the same day. The Committee asked the Department if there was a mechanism under the scheme to update the register in light of new transactions and land values, rather than just zoning. The Department responded that, as transactions occur outside of the

local government system, there is no update on the basis of transactions. It stated that, as LVS relates to zoning uplift, the focus is on ascertaining the difference between existing-use value of land and the market value of land with the benefit of zoning for residential development, which gives the baseline for the obligation. Irish Planning Institute (IPI) explained that, by not taking planning permission into account, the market value is artificially reduced, thus so is the LVS contribution payable.

The Committee queried the Department if the valuation is updated with each development cycle review. In response, the Department clarified that the revaluation or reassessment is tied into any subsequent zoning decision. If, for example, there is a UDZ designation between development plans, the UDZ designation will require a revaluation as this will bring different potential for development. IPI raised the point that, given the proposed 10-year development plans under the Draft Planning and Development Bill 2022, there would be quite a substantial gap between market value and the real transaction value, even without considering a precarious market. The Department stated that the General Scheme applies to six-year development cycles, but it will be considering the ten-year development cycle, as proposed in the Draft Planning and Development Bill 2022, in its future arrangements. The Department stated that there is no specific mechanism for capturing the uplift in real time or at a particular point in time, as this would bring uncertainty and create significant risk for housing supply and delivery. However, the Committee believes it is important that there is regularity in reviewing these values on the valuation register. IPI suggested that land should be valued at the date of the planning application, with the self-assessment being submitted with the planning application which values the land at that date, therefore it is up-to-date and factors in other transactions on other sites in the area.

The Department made a distinction between the market value and the market price, the latter of which concerns what is actually paid for the land. However, certain transactions can have a distorting impact on the market. The Department stated that it aims to bring consistency and balance across the system by introducing a consistent approach to valuations under this measure. Information on valuations will be published and a baseline will be set in this way. Therefore, the planning authority may examine these valuations submitted by landowners and take a view as to whether there is a distortion. The Committee queried the valuation process, as several valuers may

assess land and produce different figures. The Department responded that the planning authority can assess the information and take a view on it, and this will require much support from valuation experts, with the Valuation Office providing guidance for this process. It stated that, if land is purchased for a price higher than the valuation but it is not developed, the site will be revalued in the next development plan and the LVS obligation will be recalculated. Therefore, what is paid may set the future value.

The Committee queried how much scope the local authority will have to determine the spending of the LVS funds. Through submission, Property Industry Ireland (PII) requested that the General Scheme is amended to commit the generated funds to the delivery of infrastructure, as the current draft does not make a commitment to ring-fencing these funds. The Department stated that there is an intention to directly ring-fence the levy for each local authority. PII maintained that section 31BN(6) of the General Scheme sets out a requirement for separate accounting for these funds. However, it asserted that this has not proven effective before. It suggested that a secure model for ring-fencing is set out in section 74 of the Waste Management Act 1996 (as amended). Irish Institutional Property (IIP) commented that, by structuring the LVS contribution, the funds will be committed, ensuring there is no “funding gap” should any surplus funds be allocated to a wider county budget, and this will help liquidity issues in the early stages of UDZs. The Committee is of the view that it is vital that the local authority elected members have an approval function over these funds, to ensure they are used as a priority for the area for which they are intended.

The Department provided that the LVS contribution may also be discharged by building infrastructure in the relevant area. The Committee queried the Department on the ability to provide land or infrastructure as a means of discharging the LVS contribution. The Department responded that, as LVS is a financial contribution it could be money, land or infrastructure to a certain value and required standard, which is determined on a case-by-case basis by the local authority. The Department stated that it is easier to apply for the provision of infrastructure option where there is a local area plan or a UDZ, however it can also be applied anywhere. Section 31BE of the General Scheme provides that the planning authority will set the conditions around this obligation, but the drafting is vague regarding the timing of this. The Department informed the Committee



that its preference is for the upfront delivery of infrastructure, however, this is not stated in the legislation.

#### **4.1.2 LVS RATE OF 30%**

Under section 31BD(2) of the General Scheme, the Minister is empowered to set the LVS contribution percentage between 20 and 30 percent of the zoning value of the land. The Committee notes that, at the point of valuation, there is the existing-use value and the market value, with LVS calculated as 20-30% of the difference between these two values.

The Committee queried the Department on the rationale behind the 30% charge on the uplift value. The Department responded as follows:

*If we root it in Part V, as a kind of established principle, one option is to extend the logic of Part V, which is 10%, 15% or 20% depending on where and when. The question is how far to go with that. There is a certain logic to sharing, which is 50:50. That is where the term “land value sharing” comes in, as opposed to “land value capture”, which is used elsewhere. The principle of no more than 30% was when we combine it with the 20% Part V, the 30 plus 20 leads to 50%, which is almost like a kind of shared basis on which to go forward in terms of development land in the future. – Department Officials*

The Department further stated that, although this was the initial logic of that figure, it looked at the interaction between LVS and other contributions, such as section 48 and Part V, which are underpinned by principles of fairness, reasonableness, and proportionality.

Several witnesses expressed dissatisfaction at this rationale, including PII, who asserted that there is no published analysis justifying this figure as a proportionate interference with property rights. It further stated and that the reasoning ignores the parallel taxation measures such as capital gains tax and development contributions. Industry representatives felt the Department’s transitional arrangements to prevent impacts on housing supply are not satisfactory, with IIP describing the current proposal as a blunt “cliff-edge” measure which will further impact viability. Construction Industry Federation (CIF) estimates that a 30% uplift in the land will amount to a least €8,000

per unit. IIP suggested the amendment of transitional arrangements, so there may be a phasing in of LVS over a 5–6-year period with the contribution increasing in increments of 5% per annum until it reaches 30%. It stated it believes this will help the land market to remain functioning by avoiding lengthy disputes and a potential overwhelming of the resources of the Valuation Tribunal as the measure is absorbed. In this way, less friction is created on the market and an incentive for the developer to start development as soon as possible if they are anticipating the introduction of the LVS contribution at a higher rate down the line.

In contrast, IPI took the view that the 30% figure may not be enough to impact on landowners and future developers, suggesting that the Minister should be empowered to set the rate between 20% and 50%. IPI highlighted that the Indecon report, which informs the proposed legislation, indicated that it came to its conclusion based on very little data, therefore these proposed figures are tentative. IPI stated that, if the objective is to kickstart development, it is a fairer deal for the taxpayer where the LVS contribution is increased to 50% of the difference between existing-use value and market value. However, the Committee notes that the 30% rate is a draft figure in the General Scheme.

Moreover, it was highlighted to the Committee by PII that, in April 2024 an initiative was introduced to support housing supply by introducing a temporary time-limited waiver in respect of development contributions<sup>4</sup> for a 12-month period. The Committee is of the view that such a measure may be necessary to stimulate housing supply where the viability of projects is untenable. In this way, the Bill should empower the Minister to reduce the amount of the LVS contribution to nil, where the Minister is of the view that this is necessary to support housing supply.

#### **4.1.3 VIABILITY**

Department officials reiterated at the Committee that the transitional arrangements are staggered with the aim of avoiding disincentivising housing supply while the market reacts to the LVS measure. Witnesses from industry, while welcoming the legislative

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<sup>4</sup> [Temporary Time-Limited Waiver in respect of Development Contributions](#)

intent of the proposed Bill, expressed concern that the 2023 General Scheme differs critically from the 2021 General Scheme in ways that will have implications for viability.

Firstly, industry representatives were dissatisfied that LVS is in addition to development contributions rather than its replacement, as was initially proposed in the 2021 General Scheme. The Department confirmed that this is the case, however, it made a distinction that LVS does not apply to all forms of development, while section 48 contributions do. Several witnesses and those who made submissions asserted that a very significant proportion of land value is already captured, including for the delivery of public infrastructure and facilities. PII outlined that this is captured through development contributions, capital gains tax, RZLT, value added tax, and Part V, among other charges or contributions. Industry representatives warned of the unintended consequences an additional cost will generate, namely the impact on viability of projects and businesses. Institute of Professional Auctioneers and Valuers (IPAV) maintained that projects are already overburdened with non-construction expenses, therefore this will be another cost for purchasers, many of whom are already struggling to secure finance, due to rising interest rates and construction cost inflation. PII argued that LVS is inconsistent with the key objectives of *Housing for All*, that is, support for home ownership and increased affordability. In citing the *Kenny Report*, PII asserted that the 1973 report recommended against a levy or “betterment”, as this would increase the price of serviced or building land, thereby increasing the price of all buildings on the land. It claimed the LVS proposal is misaligned with the objectives of the 1973 report.

The Department stated that the Indecon assessment addressed land price inflation by considering the zoning uplift as opposed to the planning permission uplift as a means of mitigating that risk. It stated that, by focusing on zoning, LVS becomes a transparent known charge at the outset. The Committee notes that the LVS charge must be discharged at the point of commencement, if not prior to this, which is likely to put a large financial liability on the development at an early phase. In response, the Department informed the Committee that there are provisions in the General Scheme which allow for phased payments if the local authority is in agreement. The Department further detailed that the intention of the General Scheme is to influence transactions by bringing LVS in as early into the process as possible to remove future risk.

The Department referred to the Indecon report which evaluated additional costs that would be passed on through all-in development costs. Nevertheless, the Department stated that the measure has been designed so the LVS contribution comes back to the zoning decision. As such, it is embedded within what is paid for the land up-front, thereby reducing the risk of it being a cost at the end of the process. The Committee queried industry representatives on how capturing uplift in value would constitute an extra tax. CIF responded that the current proposal applies LVS when planning permission is granted, for which the builder makes the application and brings the land as a raw material through the planning process. CIF estimates the median LVS cost will be between €8,000 and €15,000. Therefore, if this cannot be added into the input cost of the land, it will be factored into the line-by-line item of the assessment by the funders. If this cannot be added onto the price of the unit, the builder cannot develop the land. In particular, IIP raised concerns around the viability of apartment development. CIF stated that it understands that, of the 44,000 planning permissions in the Dublin area, 90% of those are for apartments, but funding is difficult to procure for apartments due to the rise in interest rates. CIF expressed its view that the issue is the lack of zoned land that is not serviced, as zoned land becoming a scarce commodity is driving up its price. Witnesses from industry concurred that there is not enough zoned land as the current zoned land in the Dublin region is in accordance with population projections from 2011 and 2016, and these projections were based on long outdated assumptions about low-level population growth, inward migration of 8,000 to 12,000 people per annum and household formation. Witnesses were certain zoning more land that was serviced would increase full competition in the market and drop the price of land, thereby assisting with delivery and affordability.

Furthermore, industry representatives were dissatisfied that the LVS charge will apply retrospectively to all land which is already zoned, rather than to newly zoned land. PII asserted its position that land zoned prior to the enactment of this legislation has already had its value captured through capital gains tax. Witnesses maintained that, in retrospectively charging developers, the LVS charge will impact viability by pushing up development costs and could stall investment by creating tax instability and uncertainty. PII highlighted that Part V provisions, another land capture tool, recognise the need to avoid double charge and retrospection, while the proposed legislation seeks to do the

opposite. It was suggested that LVS should not apply to lands transacted prior to the enactment of the legislation to ensure projects remain viable and no market distortion takes place. IIP claimed that, if LVS was introduced gradually, land prices would drop as the developer would not be paying the inflated price and revenue would be freed up to go into infrastructure rather than to the original landowner. It stated a phased introduction, without taxing those who have made good faith investments, would be preferable. In response to the viability concern, the Department advised the Committee that it is reviewing the timelines, as a lead-in to the LVS measure is required.

The Department described the LVS measure as designed as a “use it or lose it” mechanism and a market signalling exercise. It stated that the levy will not apply until a fixed date after the enactment of the Bill, and the date of lodging a planning application is the trigger for LVS to apply. Therefore, anyone with existing planning permission is not affected. IPI detailed that, as the LVS contribution would assist the local authority in releasing infrastructure, this would also release zoned land, thereby arresting the inflationary price of housing. IPI noted that bringing in the measure on a graduated basis as proposed would have the effect of encouraging quicker uptake of existing zoned land, as there is financial incentive to do so, thereby preventing viability issues. The Committee is of the opinion that while there may be short-term impacts on all-in development costs, land values will be pushed down more generally. IPI expressed the view that, initially developers will react by passing on the cost, but once the market adjusts there will be downward pressure on the all-in value of the land. Furthermore, IPI stated that the proposed publicly accessible land value register will affect landowners’ expectations of the value of their land, thereby generating a dampening effect on development land prices as expectations will not be so heightened. The Committee is of the opinion that the land value register is an important proposal in the General Scheme as making this information publicly accessible brings transparency to the sector and will have wider repercussions on pricing.

Regardless, the Committee is of the view that, considering the concerns, the Department should take the time to address the specific viability challenges of this measure by reviewing the General Scheme, in conjunction with the Indecon report. Moreover, the Committee recognises there is a void in the discourse of this General Scheme as the Indecon report, which informed the proposed legislation, has not been

published. Witnesses stressed the importance of publishing this report as the rationale and evidence underpinning the General Scheme cannot be evaluated without it. PII suggested that, prior to the publication of the Bill, further engagement with industry and citizens should take place, with the Indecon report open to review and comment. It is of importance that this report is published prior to the publication of the Bill so that potential unintended consequences of this legislation are identified.

#### **4.1.4 EXEMPTIONS**

Section 31BE(8) of the General Scheme sets out exemptions to the LVS contribution. The proposed section includes an exemption for applications seeking permission for the development of cost rental, social or affordable housing. Several witnesses from industry, including CIF, IPAV, and PII expressed their concern at this exemption. Through submission, PII commented that a distinction being made between private and public development would likely give rise to further uncertainty and risk for private sector developers who will already be struggling with the viability of their projects. Similarly, CIF highlighted the competitive advantage AHBs, the LDA and local authorities will have over private housebuilders, which may compromise future private sector development. The Department responded that it is not the intention of the legislation to produce mono-tenure developments, reassuring that the local authority will be able to use the planning assessment and housing strategy it has adopted to determine what tenure is appropriate on a given site and it will evaluate planning permissions to ensure developments have a good social mix. The Department asserted that, as the current priority is to deliver social and affordable housing, the exemption will act as an incentive, allowing local authorities and AHBs to engage more freely in the market and obtain reasonable prices.

Furthermore, under section 31BE(1)(a) of the General Scheme, LVS shall not apply to residential developments of less than 4 housing units or a commercial development of less than 500 square metres in floor space. IPI expressed concern that this could potentially encourage development at unsustainably low densities. The Committee sought clarity on the rationale for these exemptions. The Department responded that the intention of the threshold on exemptions is to ensure the LVS measure is reasonable and proportionate for landowners, clarifying that the provisions only apply to developments of five or more units. In terms of practical concerns, County and City

Management Association (CCMA) highlighted that the proposed exemptions in section 31BE(1)(a) of the General Scheme are not aligned with Part V exemptions. It maintained that, in aligning and integrating these exemptions, efficiencies could be found to make these processes less cumbersome.

## RECOMMENDATIONS

1. The Committee recommends that, considering the proposed ten-year development plan cycles, there is regularity in reviewing existing-use value and market value on the valuation register.
2. The Committee recommends that land be valued at the date of the planning application with the self-assessment being submitted with the planning application that values the land at that date, so it is up-to-date and takes other transactions on other sites in the area into account.
3. The Committee recommends that the wording of section 31BG(2) of the General Scheme is amended to reflect the obligation to complete the self-assessment.
4. The Committee recommends that sections 31BI(3) and 31BI(4) set out that the landowners will be contacted directly by the planning authority to complete the self-assessment and not just through newspaper or website notice.
5. The Committee recommends that 31BN(6) of the General Scheme is amended to commit the LVS funds to the provision of infrastructure, and consider the ring-fencing model set out in section 74 of the Waste Management Act 1996 (as amended).
6. The Committee recommends that the General Scheme is amended for local authority elected members to have an approval function over the use of the LVS contribution funds.
7. The Committee recommends that the General Scheme provides more explicitly for the delivery of infrastructure as a means of discharging the LVS contribution, outlining the timing of the delivery of that infrastructure and the preference for upfront delivery.

8. The Committee recommends that section 31BG(2) of the General Scheme is revised to reflect that all applications are to be accompanied by a self-assessment of the existing-use value and market use value of land.
9. The Committee recommends that section 4(e) of the General Scheme, regarding purposes of the Act, includes achieving the best environmental, as well as social and economic return, from the use of the land and that the provisions of the Bill align with our climate goals.
10. The Committee recommends that the Department should take the appropriate time to consider the impact LVS will have on the viability of projects and housing supply, through further engagement with industry and citizens prior to the publication of the Bill.
11. The Committee recommends that the transitional arrangements are reviewed to ensure the viability of projects is maintained post-implementation of the LVS measure.
12. The Committee recommends that the Department re-evaluates population projections for zoned land, taking into account 2022 CSO data as soon as possible with a view to increasing the amount of serviced zoned land.
13. The Committee recommends that the Indecon report is published and made publicly available prior to the publication of the Bill.
14. The Committee recommends that the rationale underpinning the 30% figure LVS contribution is set out, including reference to the evidence of the Indecon report.
15. The Committee recommends that the General Scheme is amended to empower the Minister to reduce the LVS contribution amount to nil, where the Minister is of the view that this is necessary to support housing supply.
16. The Committee recommends that the exemptions for LVS and Part V processes are aligned to create greater efficiencies for implementation.
17. The Committee asks that the Department carefully considers and reports on the cost impact of the new LVS measure on new home purchasers due to the retrospective nature of its application on lands purchased prior to 21 December 2021.



## 4.2 KEY ISSUE 2: URBAN DEVELOPMENT ZONES

Part 3 of the General Scheme provides for UDZs. The Committee understands UDZs to be a flexible instrument applying to large-scale areas with significant potential, including the translation of brownfield sites into mixed-use residential, commercial and amenity uses. The Department informed the Committee that the concept of the UDZ proposal is that a relatively small number of strategic priority sites in the State would be identified for development, and sites with high potential for delivering at scale would be supported, with co-ordinated funding coming from the Exchequer and this would be done directly through a fund such as the Urban Regeneration Development Fund. Many witnesses supported the concept of properly planned areas, with IIP stating that UDZs have the potential to be a positive enhancement of the SDZ system, as UDZs will have a funding plan, which will utilise the LVS measure. The Committee notes that the premise of an overarching fund that provides for infrastructure required to unlock a site is something that must be embedded across the board.

The Department distinguished UDZs from SDZs, stating that work for UDZs must be done at a local level before it becomes a Candidate UDZ, with much detail to be worked out after this designation. UDZs will be considered in the development plan, which will allow development to take place faster and more freely. It stated that SDZs currently start with a Government Order with detailed master planning occurring subsequently, while UDZs complete the planning work upfront, involving communities and elected representatives. In addition, UDZs are much more flexible in how they operate, as the planning authority can choose a few different locations to focus on for the detailed scheme. CCMA acknowledged the inclusive and open drafting of UDZs, commenting that UDZs are more beneficial as they interlink more strongly with LVS and CPO powers. CCMA welcomed UDZs, stating that the legislation provides a better process for engagement and a better outcome than SDZs.

Witnesses commented that ‘lessons learned’ from the SDZ experience must be garnered and addressed if UDZs are to be successful. While CCMA acknowledged that SDZs have worked well, they are challenging and slow to deliver. IPI assured that the UDZ process as set out in the General Scheme is not as prescriptive or definitive as the SDZ process, but the UDZ model offers more certainty as the SDZ model. In

addition, it noted that the General Scheme drafts UDZs in a similar way to SDZs. For example, section 171AB states that a UDZ shall be “of significant economic, social or environmental benefit to the State and the common good”, which IPI noted is an SDZ. The Committee believes this issue may be overcome by replacing “the State” with “the local authority” or “the functional area” to adjust the scale at which this is applicable, thereby making it relevant to UDZs.

Regardless, all witnesses stressed the need to take learnings from the SDZ experience. For example, IIP remarked that, by the time SDZs are taken through the process, many elements are out of date, such as interest rates and building codes which have changed by the time the SDZ comes through the process, therefore, the resulting plan may not comply with what has been prescribed. It commented that SDZ plans are highly prescriptive to the point that they cannot proceed and are deemed unviable. However, IIP maintained that flexibility can be baked into the process by avoiding over-prescription for UDZs. Moreover, IPI stated that even in modifying a UDZ there must be some element of public participation. IPI stated that the Department may provide non-mandatory guidance and good practice guidelines on the public consultation piece in both visual and written terms for the most effective engagement and allocation of resources through, for example, 3D modelling.

The Committee notes that section 171AL(14)(b)(i) of the General Scheme outlines that the An Bord Pleanála “shall have regard to the necessity of an oral hearing given the limits of its powers and shall only hold an oral hearing if it decides with regard to particular circumstances that there is a compelling case for such a hearing.” The Committee acknowledges the core issue of SDZs and UDZs is that there is no possibility of planning application objection once they are adopted. As such, the public needs to be given a fair opportunity to express its views. The Committee is of the opinion that the decision to hold an oral hearing should rest with the Bord which acts as a safeguard to no right of appeal on individual projects.

Most witnesses reiterated that, while UDZs may be optimal for new towns, it is critical that a less restrictive format is adopted in other cases, IPI stating that UDZs will require more flexibility in implementation to expedite delivery, which is one of the obstacles of implementing SDZs. IPI likened the proposed UDZ process to the Strategic

Development Regeneration Area (SDRA) mechanism in the Dublin City Council plan, stating that UDZs appear to attempt to encourage or control the direction of developments in primary legislation. It suggested a format similar to SDRA, which could be a more appropriate approach to creating coherent urban plans, where costing and infrastructure funding plans are also addressed. Similarly, IIP illustrated that SDZs are written in a complex manner, are prescriptive and there is no right of appeal, therefore it is almost impossible to lodge a planning application under an SDZ, as the process is so prescriptive that the permit will not be granted if it is not fully compliant. That high level of prescription creates a delivery challenge. It illustrated that, where there is a smaller urban plan on a brownfield site, such a level of prescription would make it inoperable and create massive challenges for the developer as many requirements are outside of their control. IIP also recommended that UDZs are formulated in a similar way to SDRAs, which avoids a level of prescription that may generate unintended consequences.

There were conflicting views from witnesses on the CPO issue. IPI took the view that the proposed power of the local authority to use CPO to acquire land should apply to all land, not only land within a UDZ, on the basis that the *Kenny Report* positioned itself in favour of active land management. In contrast, Irish Farmers' Association, through submission, detailed its view that proposed section 171AQ(1) of the General Scheme is a vague and broad provision, which goes beyond both the rehabilitation of brownfield sites and the intention of the proposed legislation. The Committee notes that the State once used extensive CPOs to activate land, which often acted as a strong negotiation tool. However, this proposal only relates to CPOs in respect of critical infrastructure or critical pieces of land. The Department responded that it is interested in striking a balance as there is now a multiplicity of ownership and all types of developers, and it wants to make land available to the private sector as well.

## RECOMMENDATIONS

1. Given the similarity between SDZs and UDZs, the Committee recommends that the purpose and intention of UDZs are clarified in the legislation.
2. The Committee recommends that, given the need for a full understanding of the experience and efficacy of SDZs, engagement is facilitated between the

- Department and stakeholders in major SDZs such as landowners or developers, local authorities and development agencies and communities.
3. The Committee recommends that section 171AB of the General Scheme is amended so “the State” is replaced with “the local authority or “the functional area” so UDZs are differentiated from SDZs.
  4. The Committee recommends that the decision to hold an oral hearing should rest with An Bord Pleanála, therefore section 171AL(14)(b)(i) of the General Scheme should be deleted.
  5. The Committee recommends that the SDRA mechanism is considered, with a view to formulating UDZs in a manner which is not overly prescriptive.
  6. The Committee recommends that the role of the OPR in assessing the suitability of candidate UDZs is articulated more clearly in the legislation.
  7. The Committee recommends that the definitions of “public infrastructure” under Part 2 and 3 are aligned, as they currently have varying definitions.
  8. The Committee recommends that section 171AK(2) is clarified and reference should be made to “minimum and maximum building heights”, “minimum and maximum residential densities” and “maximum non-residential floor areas” for absolute clarity.
  9. The Committee asks the Minister to consider, subject to legal advice, extending the land acquisition powers contained in 171AQ to all development land by way of an amendment to the Draft Planning and Development Bill.

### 4.3 KEY ISSUE 3: RESOURCING

The implementation of any new legislation is critical to its success and can be resource heavy. The proposed legislation must be supported by a fully resourced and functioning planning system to assist local authorities in executing their role as prescribed in the General Scheme.

CCMA raised concerns that the proposed legislation requires planning authorities to take on several new functions without adequate resourcing. It referred to the requirement under the General Scheme that planning authorities publish an LVS eligibility map by March 2024, and review self-assessments by July 2024, both of which

would demand substantial resources. The Committee is of the view that the LVS process will prove highly intricate, necessitating significant investment by local authorities in new systems, such as the geographic information system (GIS) to track payments and valuations, while also requiring local authorities to make land value determinations for individual sites. More specifically, CCMA highlighted the requirement for four distinct valuations to take place on relevant sites, which will present challenges for local authorities lacking in-house valuation teams. This may create a reliance on external private valuers, which may potentially generate the risk of conflicts of interest. The Committee recognises the need and challenge for local authorities to build capacity for in-house valuation skills. CCMA highlighted that there may be scope for better resource management through shared services, illustrating that all Dublin local authorities share one City Valuer's Office. Frameworks could be put in place for independent valuers, and for share services options to be made available through the adoption of a regional approach without the need for a valuation office in every local authority. More generally, it is vital that the allocation of additional funding and resources reflects the mechanisms, training, and IT systems required to implement this legislation.

Regarding staff, the Committee notes that there is an immediate need for 541 additional staff to meet existing requirements in the Local Authority planning system as highlighted in CCMA's 2022 report of an analysis of existing resource deficiencies within the local authority planning system. CCMA illustrated that, although 100 of these 541 required staff have already been appointed this year, recruitment has been challenging as there is competition between local authorities, An Bord Pleanála and the OPR. However, it informed the Committee that there is currently a business case in progress with the Department for the 541 staff deficit to be resolved. CCMA maintained that resourcing and planning require a holistic approach which must involve third-level institutions to produce more graduate planners. IPI informed the Committee that the OPR is working closely with CareersPortal with the aim of introducing second-level students to the planning profession. However, it stated there is scope to review grades and salary scales to solve the issue of both recruiting and retaining staff. In this regard, it illustrated the need for joined-up thinking, capacity building of planning schools as well as

bursaries for students studying planning to incentivise the often-expensive education required to enter the planning profession.

The Committee is of the opinion that sufficient resources, realistic deadlines, and sufficient consultation periods are needed for thorough decision-making and effective implementation. In discussion timelines, IPI was of the view that several deadlines set out in the General Scheme for the various stages of the making of a UDZ are optimistic when considering the limited staff resources available in local planning authorities. Similarly, CCMA informed the Committee that its biggest challenge is working to tight timelines without an assessment of the relevant tasks. In reference to the timelines for UDZs under the General Scheme, CCMA informed the Committee that several are impractical, including the four-week period for a Chief Executive report post-consultation and the six-week window for council proposal consideration. Additionally, IPI highlighted to the Committee that under section 171AL(13) of the General Scheme, the timeline for appeal against an approval of a UDZ development scheme is 16 weeks, which IPI considers unrealistic for such a complex document involving innumerable interests. The CCMA asked for more flexibility to be included in the timelines to prevent strain on resources and to allow the public more time to engage with UDZ proposals. More specifically, CCMA highlighted that section 171 of the General Scheme sets out option A and option B processes for identifying candidate UDZs in the development plan where a development scheme has been prepared or not been prepared, respectively. The Committee is of the opinion that a caveat may be inserted in this provision to give the local authority flexibility in the UDZ process regarding timelines.

The Committee believes that a refocusing of resources will inform good public consultation, good land activation and positive outcomes. However, moving forward, the Committee would consider it helpful in evaluating proposed legislation which may increase demand on public services, that resourcing and staffing impact assessments are conducted to supplement the regulatory impact assessment.

## RECOMMENDATIONS

1. The Committee recommends that planning authorities are adequately resourced with staff, training, and the relevant systems for the full execution

of this legislation, taking into account several new functions as provided for under the General Scheme.

2. The Committee recommends that the timeframes for consultation periods, assessments, and environmental screenings are reviewed, as the current proposals are impractical and may put a strain on resources.
3. The Committee recommends that section 171 of the General Scheme includes a statement providing that the decision of the Chief Executive to move the timelines by up to three months is allowable to accommodate the consultation process at an appropriate time.
4. The Committee recommends that the Department work with the Regional Assemblies to configure shared services options for valuations as necessitated by General Scheme across 31 local authorities.
5. The Committee recommends that resourcing and staffing impact assessments are conducted when proposed legislation is referred to the Committee.

## 5. RECOMMENDATIONS

### RECOMMENDATIONS

1. The Committee recommends that, considering the proposed ten-year development plan cycles, there is regularity in reviewing existing-use value and market value on the valuation register.
2. The Committee recommends that land be valued at the date of the planning application with the self-assessment being submitted with the planning application that values the land at that date, so it is up-to-date and takes other transactions on other sites in the area into account.
3. The Committee recommends that the wording of section 31BG(2) of the General Scheme is amended to reflect the obligation to complete the self-assessment.
4. The Committee recommends that sections 31BI(3) and 31BI(4) set out that the landowners will be contacted directly by the planning authority to complete the self-assessment and not just through newspaper or website notice.
5. The Committee recommends that 31BN(6) of the General Scheme is amended to commit the LVS funds to the provision of infrastructure, and consider the ring-fencing model set out in section 74 of the Waste Management Act 1996 (as amended).
6. The Committee recommends that the General Scheme is amended for local authority elected members to have an approval function over the use of the LVS contribution funds.
7. The Committee recommends that the General Scheme provides more explicitly for the delivery of infrastructure as a means of discharging the LVS contribution, outlining the timing of the delivery of that infrastructure and the preference for upfront delivery.
8. The Committee recommends that section 31BG(2) of the General Scheme is revised to reflect that all applications are to be accompanied by a self-assessment of the existing-use value and market use value of land.



9. The Committee recommends that section 4(e) of the General Scheme, regarding purposes of the Act, includes achieving the best environmental, as well as social and economic return, from the use of the land and that the provisions of the Bill align with our climate goals.
10. The Committee recommends that the Department should take the appropriate time to consider the impact LVS will have on the viability of projects and housing supply, through further engagement with industry and citizens prior to the publication of the Bill.
11. The Committee recommends that the transitional arrangements are reviewed to ensure the viability of projects is maintained post-implementation of the LVS measure.
12. The Committee recommends that the Department re-evaluates population projections for zoned land, taking into account 2022 CSO data as soon as possible with a view to increasing the amount of serviced zoned land.
13. The Committee recommends that the Indecon report is published and made publicly available prior to the publication of the Bill.
14. The Committee recommends that the rationale underpinning the 30% figure LVS contribution is set out, including reference to the evidence of the Indecon report.
15. The Committee recommends that the General Scheme is amended to empower the Minister to reduce the LVS contribution amount to nil, where the Minister is of the view that this is necessary to support housing supply.
16. The Committee recommends that the exemptions for LVS and Part V processes are aligned to create greater efficiencies for implementation.
17. The Committee asks that the Department carefully considers and reports on the cost impact of the new LVS measure on new home purchasers due to the retrospective nature of its application on lands purchased prior to 21 December 2021.
18. Given the similarity between SDZs and UDZs, the Committee recommends that the purpose and intention of UDZs are clarified in the legislation.
19. The Committee recommends that, given the need for a full understanding of the experience and efficacy of SDZs, engagement is facilitated between the

- Department and stakeholders in major SDZs such as landowners or developers, local authorities and development agencies and communities.
20. The Committee recommends that section 171AB of the General Scheme is amended so “the State” is replaced with “the local authority or “the functional area” so UDZs are differentiated from SDZs.
  21. The Committee recommends that the decision to hold an oral hearing should rest with An Bord Pleanála rather than being prescribed under this section 171AL(14)(b)(i) of the General Scheme.
  22. The Committee recommends that the SDRA mechanism is considered, with a view to formulating UDZs in a manner which is not overly prescriptive.
  23. The Committee recommends that the role of the OPR in assessing the suitability of candidate UDZs is articulated more clearly in the legislation.
  24. The Committee recommends that the definitions of “public infrastructure” under Part 2 and 3 are aligned, as they currently have varying definitions.
  25. The Committee recommends that section 171AK(2) is clarified and reference should be made to “minimum and maximum building heights”, “minimum and maximum residential densities” and “maximum non-residential floor areas” for absolute clarity.
  26. The Committee asks the Minister to consider, subject to legal advice, extending the land acquisition powers contained in 171AQ to all development land by way of an amendment to the Draft Planning and Development Bill.
  27. The Committee recommends that planning authorities are adequately resourced with staff, training, and the relevant systems for the full execution of this legislation, taking into account several new functions as provided for under the General Scheme.
  28. The Committee recommends that the timeframes for consultation periods, assessments, and environmental screenings are reviewed, as the current proposals are impractical and may put a strain on resources.
  29. The Committee recommends that section 171 of the General Scheme includes a statement providing that the decision of the Chief Executive to

move the timelines by up to three months is allowable to accommodate the consultation process at an appropriate time.

30. The Committee recommends that the Department work with the Regional Assemblies to configure shared services options for valuations as necessitated by General Scheme across 31 local authorities.
31. The Committee recommends that resourcing and staffing impact assessments are conducted when proposed legislation is referred to the Committee.

## 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 Committee, and
- (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

- [4 May 2023](#)
- [16 May 2023](#)
- [25 May 2023](#)
- [1 June 2023](#)

## 9. APPENDIX 4: OPENING STATEMENTS & SUBMISSIONS

### 9.1 OPENING STATEMENTS

- [Mr. Paul Hogan, Acting Secretary \(Planning Division\), Department of Housing, Local Government and Heritage](#)
- [Dr. Seán O’Leary, Senior Planner, Irish Planning Institute](#)
- [Ms. Annmarie Farrelly, Chief Executive, Fingal County Council, County and City Management Association](#)
- [Mr. Pat Davitt, Chief Executive, Institute of Professional Auctioneers and Valuers](#)
- [Mr. Conor O’Connell, Director, Housing and Planning, Construction Industry Federation and Irish Homebuilders Association](#)
- [Mr. Pat Farrell, CEO, Irish Institutional Property](#)

### 9.2 SUBMISSIONS

- [Irish Farmers’ Association](#)
- [Property Industry Ireland](#)
- [Irish Planning Institute](#)









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