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16 November 2022

Dear Minister O'Brien,

Re: Appointments to An Bord Pleanála

I would like to acknowledge your commitment to underpinning confidence in the capacity of An Bord Pleanála through fundamental and legislative changes which will impact on the Board appointment process, structure, capacity and operations. A diverse, skilled board is needed given the complexity of the cases received by An Bord Pleanála. However, we have some concerns with the current approach to Board appointments in particular which we believe may lead to sub optimal outcomes at this key time for An Bord Pleanála.

Firstly, regarding the appointment of temporary board members the Institute would encourage you to follow the suggestion of the Office of the Planning Regulator's phase 1 review report that any temporary appointments should consist of a combination of officials from An Bord Pleanála and your department/civil service. The Institute feels this offers the best way of ensuring a Board reinforced with temporary members immediately incorporates the technical expertise and corporate knowledge offered by serving officials of An Bord Pleanála when facing such a significant workload.

Secondly, as highlighted in our opening statement to the Oireachtas Committee on Housing, Local Government and Heritage last week, attached, the Institute wishes to emphasise that any new model for the appointment of Board members must be transparent and ensure sufficient technical knowledge is reflected in future Board membership. The distinct governance and planning decision roles of Board members are well articulated in your recent Action Plan. We are concerned that the current competition for ordinary Board members administered by the Public Appointments Service is modelled on a Senior Executive Recruitment campaign rather than being bespoke. This places a particular emphasis on budget management/responsibility and staff supervision. Whilst matters such as budget management are important for a senior position such as a Board member given their governance responsibilities, as you are aware, Board members must have significant technical, planning and environmental (and in this competition, marine) expertise and the balance between this expertise and senior administration experience needs to be carefully considered so as not to dissuade appropriate candidates from applying for any future Board member competition. Any future model for Board member recruitment should reflect this.

If you or your officials wish to discuss any of the above in further detail, please do not hesitate to contact us. The Institute would also appreciate an opportunity to meet you following the

publication of the Office of the Planning Regulator's phase 2 report later this month to discuss any actions arising out of its recommendations.

Yours sincerely,

Gavin Lawlor MIPI
Vice-President
Irish Planning Institute

Submission to: Joint Committee on Housing, Local Government and Heritage on Pre-Legislative Scrutiny of the General Scheme of the Planning and Development and Foreshore (Amendment) Bill 2022.

Pre-Legislative Scrutiny of the General

Scheme of the Planning and Development and Foreshore (Amendment) Bill 2022. My name is Gavin Lawlor and I am the Vice President of the Irish Planning Institute (IPI). The IPI was founded in 1975, and is the all-island professional body representing professional planners engaged in physical and environmental planning in Ireland.

The Institute's mission is to advance planning by serving, improving and promoting the planning profession for the benefit of the community and the common good. The IPI represents c.700 planners from across the public, private, semi-state and academic sectors. Our members work in central government, private practice, agencies, third level institutes, planning authorities in the Republic of Ireland and Northern Ireland, An Bord Pleanála and elsewhere.

The IPI is affiliated to the umbrella body the European Council of Spatial Planners (ECTP-CEU) and has international links with the Planning Institute of Australia (PIA) and the New Zealand Planning Institute (NZPI) and is a member of the Global Planners Network (GPN).

We welcome the opportunity provided by the Joint Committee on Housing, Local Government and Heritage to comment on the Planning and Development and Foreshore (Amendment) Bill 2022. The IPI represents both Inspectors and some Board Members and has former Board Members among our ranks and so can offer insight on the Bill. Our remarks address sections where we see some improvements can be made.

Head 4: Amendment of section 104 of the Principal Act

The IPI welcomes the increase in the number of Board members, which would bring the Board up to 14 ordinary members. However, we would have concerns that the number of Board members is linked to the number of cases. If the Board has members with particular expertise (such as ecology) it would be contrary to best practise, to lose that specialist expertise if the number of cases were to drop.

Head 5: Amendment of section 106 of the Principal Act

Ten areas of expertise for Board members are suggested in Section 106(2)(a). The IPI recommends that (2)(a) be amended to include for additional expertise in the areas of the law, ecology, built heritage, the marine environment, climate change and the Irish language. We note that the term “heritage” is not particular enough to ensure that both natural and built heritage are addressed, as these elements require completely different skill sets.

We welcome the intention to provide for an equitable balance between men and women.

The need for transparency in the selection of the committee or other procedure (referred to in Section 106(3)), to advise the Minister on appointments to the Board, will be critical to restoring confidence in Board membership. The IPI recommends that regulations on this committee are published quickly so as the appointment of Board members is not delayed.

It is critical that once the skills necessary for the Board to operate successfully are identified, that there is some staggering of the timing of appointments, so that the corporate knowledge is not lost when ordinary members have completed their term(s). We would recommend that an additional subsection is added to Section 106 (9) to ensure that no more than one third of Board members are replaced at any one time.

Head 6: Amendment of section 108 of the Principal Act

The end of the two-person quorum for specified cases is welcomed. The three-person board allows for a minority position to be maintained and reduces the potential for ‘group think’ to be normalised.

Head 9: Amendment of section 1 of the Foreshore Act 1933

The Irish Planning Institute welcomes the clarification of the definition of the foreshore and tidal lands in the Bill, which brings certainty to all interested parties as to the meaning and extent of these terms.

Conclusion

A diverse, skilled board is needed given the complexity of the cases received by An Bord Pleanála today. The restoration of public confidence in the appointment of members of An Bord Pleanála is critical to subsequent acceptance that the decisions made by the board are done so, on the basis of public policy, the common good and sustainable development. The more transparent the process of appointment, particularly in relation to the make-up of a committee to advise the Minister on these matters, the more this will contribute to ensuring the integrity of the process. Replenishing the board should be done on a staggered basis, so as new members have a supportive framework when making decisions.