

**Opening statement by Irish Planning Institute (IPI)
to the Joint Committee on Housing, Local Government and Heritage
regarding the Planning and Development (Land Value Sharing and Urban
Development Zones) Bill 2022**

Introduction

1. I would like to thank the Chair and Committee members for offering us the opportunity to meet you this afternoon to contribute to pre-legislative scrutiny of the Planning and Development (Land Value Sharing and Urban Development Zones) Bill 2022. My name is Dr Seán O’Leary MIPI, Senior Planner with the IPI and I am joined by Mr Philip Jones FIPI, chair of our Policy and Research Committee and a Past President of the Institute, and Mr Robert Keran MIPI, chair of our Private Practice Branch.

About the Irish Planning Institute

2. Representing over 1,000 planners on the island of Ireland across the public and private sectors, members of the IPI work in Local Authorities, An Bord Pleanála, Central Government, Regional Assemblies, academia, in private practice as consultants, for large developers and for semi state organisations.

Principles

3. The IPI welcomes the purpose behind the proposed Bill. We have consistently been in favour of capturing, for the benefit of the general community, the uplift in land values that accrues to the landowner (or persons taking title from a landowner) from the decision of a local authority to zone or otherwise designate land for development (betterment). It is a fundamental principle that the planning system is there to advance the interests of the common good and to ensure that development takes place in the public interest, and this has been recognised since the *Kenny Report* of the mid-1970s.

Land Value Sharing

4. As discussed in our previous evidence to you, and as highlighted in your Pre-Legislative Scrutiny report of the draft Planning and Development Bill, Sections 48 and 49 of the 2000 Act, dealing with development contribution schemes, should be inserted, unchanged, into the next draft of the Planning and Development Bill. As noted in the explanatory memorandum to the current general scheme, the proposed land value sharing contribution would be in addition to, and not instead of, development contributions under these Sections, and the IPI supports this, as the land value sharing contribution performs an entirely different function from development contributions, the former being to capture a percentage of the shared value accruing to a landowner from a zoning decision made by a planning authority, and the latter a payment towards the costs of public infrastructure and facilities provided by, or on behalf of, a local authority that benefits development in the area of that authority, e.g. playgrounds, flood defence works, footpaths, cycle lanes etc.

5. The Institute, while therefore welcoming the principles behind this Bill, thinks there should be further detail on the level at which the proposed land value sharing contribution is set, at 30% of the zoning value of land, and whether, even allowing for other Part V and development contribution obligations, it remains below the level envisaged by the *Kenny Report*. However, it does represent a start in achieving a better balance as between the interests of the public good and the interests of individual landowners and developers, and for this reason it is to be welcomed.
6. The IPI supports the proposal in the Bill that the land value sharing contribution would apply to all land currently zoned, and not only land to be zoned in the future (as was proposed in a previous General Scheme for this Bill). To exclude such existing zoned land would frustrate the overall purpose of the Bill, and also would mean that the shared value contributions would not accrue to local authorities for a long time, given the existing “overhang” of undeveloped zoned land in many development plans. It would, furthermore, mean that achieving reductions in the price of development land, and of arresting the increase in house prices, would be delayed. The IPI also accepts the proposal to bring in the measure on a graduated basis, which should have the effect of encouraging a quicker take up of existing zoned land.
7. The proposal in the Bill that the shared land value contribution be collected primarily by way of a condition of a planning permission is welcomed, as it provides clarity as to when the charge accrues (if not already paid). However, the wording of this condition is crucial to ensure that it is watertight and cannot be avoided.

Definitions

8. The definition of “public infrastructure, facilities and related measures” in Section 31BA for example would appear to be very broad – while elsewhere there is a certain lack of clarity in some of the definitions, including the definition of “market value” and “critical land”. This Bill must be incorporated in the wider Planning and Development Bill in due course. In this context, a number of changes will need to be made to the current text, to reflect the changing environment for Development Plans and their 10-year time horizons. This is particularly relevant to the date at which the shared value contribution is determined.
9. Some of the provisions regarding the self-assessment of the existing use value and market use value of land are vague, such as the use of “may” in Section 31BG (2), and this subsection should be revised to ensure that all applications are accompanied by such a self-assessment.

10. The purposes of the Act [Section 4(e)] should include achieving the best environmental, as well as social and economic return, from the use of the land and the provisions of the Bill must also align with our climate goals.

Exemptions

11. While the Institute supports the exemption for social and affordable housing, it would question the rationale for the inclusion of thresholds, in relation to housing of less than 5 units and in relation to commercial development of less than 500 sq. metres.

Urban Development Zones (UDZs)

12. Further evidence and analysis of why some Strategic Development Zones (SDZs) have not come forward for development is required if a new form of development zone is to have the impact desired and if UDZs are to be flexible enough to address changing circumstances, such as approaches to density or other targets. This should also explain why such a new form of development zone is being proposed, rather than improving the existing legislation for SDZs.
13. However, the IPI welcomes the concept that the initial focus for an UDZ should come from the planning authority's development plan, or from regional assemblies, rather than central Government. Adopted schemes should include an estimated budget including costings from Uisce Éireann, who, along with local authorities, provide the vast bulk of services necessary to enable the development of land.
14. We welcome the encouragement of the use of CPO powers by local authorities, and the fact that compensation payments will reflect the land value sharing contribution, thereby making land cheaper [Section 171AQ(20)]. However, the Institute is of the view that this reduced compensation should apply to all zoned land, and not only land within an UDZ, since the land value sharing system applies to all such land, and to allow planning authorities to carry out active land management in order to encourage development throughout their functional areas.
15. A core issue with the concept of SDZs and now with UDZs is that there be maximum public participation and involvement at the earliest stage. It is of concern that the present Bill would seek to delimit the discretion of An Bord Pleanála in whether or not to provide for an oral hearing in the case of UDZ schemes [Section 171AL(14)(b)]. Persons should also be able to comment on proposed modifications submitted to An Bord Pleanála by the planning authority [Section 171AO].
16. The Institute has concerns about the content of proposed UDZ Schemes, as proposed, as it considers that these do not give the necessary certainty for both the public and potential developers, as to what will, and what will not, comply with the requirements.

17. In the context of timelines, the Institute would be of the view that a number of the timelines set out in this Bill, for the various stages of making a UDZ, are optimistic and will need to be reassessed as to their workability, particularly in the context of the limited staff resources available in local planning authorities.
18. The IPI, while acknowledging the principle of a defined time limit for decision making, considers that the timeline for the appeal against an approval of an UDZ development scheme, at 16 weeks [Section 171AL (13)], is unrealistic for such a complex document, often involving many individuals and interests. A timeline of 26 weeks is more realistic, and can be justified by reason of the fact that there is no right of appeal in relation to individual development projects thereafter.

Conclusion

19. In the interests of brevity, we have not outlined proposed alternative wordings for individual Sections of the Bill, but hopefully our key issues can be outlined in the discussion that follows. We will also be making a further written submission to the Department. We are happy to address any questions that the Committee members may have. Should the Committee wish to further engage with the Irish Planning Institute on any aspect of today's discussion or the legislation, we would be happy to assist in any way possible.

Irish Planning Institute
11 May 2023