

## Regulatory Impact Analysis (RIA) in relation to the Land Development Agency Bill 2020

### Section 1: Summary of RIA

Summary of Regulatory Impact Analysis (RIA)	
<b>Department/ Office:</b> Department of Housing, Local Government and Heritage	<b>Title of Legislation:</b> Land Development Agency Bill 2020
<b>Stage:</b> General Scheme	<b>Date:</b> 09 October 2020
<b>Related Publications:</b>  Project Ireland 2040: National Planning Framework (available at <a href="http://www.npf.ie">www.npf.ie</a> )	
<b>Available to view or download at:</b> <a href="http://www.housing.gov.ie">www.housing.gov.ie</a>	
<b>Contact for enquiries:</b> Frank Gallagher <b>Email:</b> frank.gallagher@housing.gov.ie  The following policy options have been considered in relation to the Land Development Agency Bill, hereafter referred to as the LDA Bill: <ol style="list-style-type: none"><li>1. No intervention</li><li>2. Formation of a new land development agency</li></ol> <b>Preferred option:</b> Option 2 – the formation of a new land development agency – is being pursued by the Department for Housing, Local Government and Heritage through the Land Development Agency Bill 2020.	

### Section 2: Statement of policy problem and objective

#### Government Objective

The aim of the Government is to tackle the trend of highly volatile development land prices through public policy directed active land management and land bank assembly, securing for the State the increases in value of land arising from public planning and infrastructural investment decisions and assisting in the reduction of development land costs and ensuring house prices in the future can match prevailing affordability levels.

The proposed approach is through legislation as follows:

### **Proposed Legislation**

The proposed draft legislation establishes an agency entitled the Land Development Agency and sets out the functions and operations of the entity.

In support of the implementation of the National Planning Framework and the management of publicly owned lands, the LDA will undertake the following functions:

- (a) establish and maintain a database of relevant public lands;
  - (b) advise the Government, and the Minister as appropriate, on the management and use of relevant public lands;
  - (c) advise the Government, and the Minister as appropriate, on the provision of publicly owned infrastructure for the development of relevant public lands and other lands;
  - (d) draw up master plans and planning submissions for development on relevant public lands and other lands; and
- (e) provide services to local authorities to assist in the provision of housing and related developments,.

In support of the implementation of the National Planning Framework and the management of publicly owned lands, and in pursuit of the functions outlined above, the LDA may undertake the following functions:

- (a) develop, or facilitate the development of large scale local authority sites for housing and where appropriate mixed development, the tenure mix of housing on such developments to be determined in conjunction with the relevant housing authority;
  - (b) develop lands in the ownership of the LDA for the purposes of affordable housing;
  - (c) obtain development consents, permissions and other approvals for land and related development projects;
  - (d) enter into such contracts and commercial arrangements necessary to meet its principal objectives;
- (e) acquire lands in public and private ownership;
- (f) dispose of lands where they are no longer required to enable the LDA to undertake its functions; and
- (g) raise capital through equity investment and borrowings.

and

The LDA may undertake the following functions on a commercial basis:

- (a) develop housing on relevant public lands and other lands;
- (b) pursue joint ventures with third parties to facilitate the development of housing;
- (c) create investment vehicles to facilitate the development of land;
- (d) enter into commercial arrangements for the development of lands in private ownership, as appropriate within its mandate; and
- (e) create investment vehicles to facilitate the delivery and management of cost and affordable rental housing.

### **Policy context**

Project Ireland 2040 committed Government to establishing a dedicated regeneration and development agency to coordinate and consolidate master-planning and development of strategic State-owned land and complement the Government's wider public policy and development aims, including those relating to housing provision and sustainable development. This is set out under National Policy Objective 12 of the National Planning Framework.

The adoption of a more active land management role by the State to act in a counter-cyclical manner in smoothing out peaks and troughs of the supply and development of land for housing and wider development purposes to positively counter traditionally volatile development land prices and support the achievement of public policy, including proper planning and sustainable development, has been called for by many reports over the years.

Previous analysis of planning and development issues in Ireland have proposed public policy directed active land management and land bank assembly aimed at enabling more effective implementation of planning policy objectives such as supporting urban regeneration, while at the same time ensuring that increases of the value of land arising from planning and infrastructure investment actions benefits the common good and exerts a downward pressure on development land costs and supports plan-led development.

Most recently, the establishment of a national land management vehicle was called for in the National Economic and Social Council ('NESC') report, *Urban Development Land, Housing and Infrastructure: Fixing Ireland's Broken System* which drew from European research and experience where dedicated activity bodies have been created to actively manage land and

urban development and secure a more appropriate share in the uplift in values of land to support infrastructural investment and community development.

The State can support more effective land and development market functioning through more strategic and proactive land management in relation to not only the assets it owns, in the form of land and buildings, but also in ensuring sufficient land comes forward for development in the most suitable locations and in securing the increase in value as a result of public policy action for the common good.

A land management vehicle would provide the expert capacity needed for a more strategic and long-term approach to the use of State land, in a way that can both dampen the current excessive land prices that are driving up property costs and help to bolster some level of continued commercial and residential construction even in economic downturns. Furthermore, it would assist in avoiding future constrictions in land supply as a result of future economic shocks, similar to, but perhaps lesser in scale as, the post 2008 banking and economic crisis.

It would independently and comprehensively identify and consolidate under-utilised State lands assisting in repositioning them towards more optimal usage, especially for housing purposes, while providing a skilled public agency for effective public land management over the long term. Marriage of the State land-bank to significant capital and a skilled professional operating platform has the potential to deliver a step-change in the efficient use of the State's land, enhance environmental qualities and objectives and have a material positive effect on the affordability and availability of housing generally and on the competitiveness of the economy.

It would also address a significant delivery gap in the implementation of the National Planning Framework in respect of its urban consolidation and compact growth strategic objectives, by focusing and co-ordinating the necessary technical resources to quickly mobilise a large national programme of land management, urban redevelopment and housing delivery at appropriate locations off public lands.

It is expected that up to 150,000 housing units could be provided by the LDA over a 20 year period, based on the experience of similar models in other European countries.

### Section 3: Identification and description of options

The policy options considered and the decisions taken on each option are set out below:

#### **1. No intervention**

The ‘no intervention’ option is primarily being included for benchmarking purpose. Therefore, it will not be examined in great detail as part of this RIA because it is not envisaged that this option will be pursued in practice.

To take no action would mean that land values would continue to rise, and that developable land would remain locked up for longer than if the LDA was not created. There would also continue to be no centralised system for monitoring and developing state lands, nor a co-ordinated mechanism to harness the potential of state lands to support the implementation of Project Ireland 2040 as regards its policy objectives in relation to compact urban growth.

## 2. Formation of a new Land Development Agency

This option would entail the creation of a new Land Development Agency.

The establishment of the LDA will provide a mechanism for the more proactive management of the State’s extensive land bank to counterbalance the boom-bust cycles of development that have in recent decades undermined the country’s economic growth.

The LDA will provide the expert capacity needed for a more strategic and long-term approach to the use of State land, in a way that can both dampen the current excessive land prices that are driving up property costs and help to bolster some level of continued commercial and residential construction even in economic downturns.

This should help to avoid any potential future constrictions on land enablement and development which could have significant knock-on supply-wide implications such as those that have been experienced in the recent economic recovery.

In relation to EU State Aid rules and competition law requirements, the appropriate legal and technical advices are to be taken on board in the design of the scheme of the Bill to ensure the relevant considerations are reflected. The design of the LDA will be such as to promote and facilitate the supply of land and development delivery opportunities, i.e. to support more effective market functions rather than create any distortion of competition or adverse effects on inter-State trade in the EU. This will be in line with the approach agreed to by the Attorney General’s Office.

## Section 4: Analysis of costs, benefits and other impacts for each option

	Cost	Benefit	Impact
Option 1 No intervention	Land prices will continue to rise.	€1.25 billion in ISIF funding could be invested in other activity.	<i>Residential and Commercial Construction:</i> Delivery of development land

	<p>Some developable land will remain undeveloped.</p> <p>No centralised system for monitoring and developing state lands.</p>		<p>and construction of housing in particular may not reach required levels in the most appropriate and sustainable locations.</p> <p>Housing access will continue to trend towards being unaffordable.</p> <p><i>State Land Bank:</i> The full potential of the State land bank may not be fully realised and key sites in very suitable locations may not come forward or their development co-ordinated with wider private developments.</p> <p>Risk that State lands will be under or un-utilised.</p>
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<p>Option 2 Formation of a new Land Development Agency</p>	<p>Enabling legislation would be required.</p> <p>€1.25 billion in ISIF funding could not be invested in other activity.</p>	<p>By bringing extra land supply on stream, upward pressure on land prices would be reduced.</p> <p>LDA will have a positive effect on housing affordability.</p> <p>A mechanism for the more proactive management of the State's extensive land bank would be created.</p> <p>The State will have a centralised platform of expertise to maximise the potential of its land bank.</p>	<p><i>Residential Construction:</i> Increased level of continued commercial and residential construction in the most sustainable and urban locations, even in economic downturns.</p> <p>Housing becomes more affordable.</p> <p>Land values moderated due to increased visibility on land supply.</p> <p><i>State Land Bank:</i> A mechanism for the more proactive management of the State's extensive land bank would be created which would counteract boom-bust cycles.</p>
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## Section 5: Consultation

The Department has engaged with a broad array of stakeholders to assist it in determining the best option to provide a mechanism for the more proactive management of the State's extensive land bank which will help to counterbalance the boom-bust cycles of development that have in recent decades undermined the country's economic growth.

In addition to ongoing informal engagement, all relevant Departments will be consulted formally before approval is sought to publish the Land Development Agency Bill 2020. In addition, the in-depth engagement with Department of Public Expenditure and Reform and the Department of Finance will continue with a view to clarifying numerous technical aspects of the LDA Bill, including the manner in which the €1.25bn capitalisation already committed by Government is deployed to the LDA.

## Section 6: Enforcement and Compliance

Under primary legislation, the LDA will be a statutory corporation, with the power to establish subsidiary companies (DACs) to undertake certain functions, and will be subject to relevant statutory requirements and regulatory frameworks. In addition, the LDA will operate so as to ensure compliance with EU State aid rules, including in relation to its strategy, financial structure and transactional arrangements.

The LDA will also be subject to the Code of Practice for the Governance of State Bodies.

The Bill provides for the preparation of annual financial statements of the LDA and LDA subsidiaries and their submission to the Comptroller and Auditor General for audit as well as a provision for the appointment of statutory auditors. The LDA will also be accountable to the Public Accounts Committee and will be subject to FOI under the Freedom of Information Act 2014.

## Section 7: Publication

This Regulatory Impact Analysis statement and any future versions of the document shall be published in accordance with the RIA Guidelines for publication relating to primary legislation. It shall be published on the Department of Housing, Local Government and Heritage's website and accompanied by a link to the Bill once one becomes available.