

Chairman and Members of the Committee,

My name is Oonagh Buckley. I was recently appointed Interim Chairperson of An Bord Pleanála. I am accompanied by Ms. Brid Hill, Chief Officer, and Mr Gerard Egan, Director of Corporate Affairs.

The Draft Planning and Development Bill 2022 which you are considering here today will bring fundamental changes to the structures, systems and processes of An Bord Pleanála.

However, An Bord Pleanála's core function as the independent appellate body in relation to planning applications and the decision making body for major public and private infrastructure proposals, both onshore and in our marine environment, will be maintained through the changes being proposed. This is in line with one of the key underpinning themes of the legislation: to ensure that the principal elements of the planning system, as set out in legislation back to 2000, are kept while ensuring that those parts of the law that need updating to modern times are improved.

Firstly, the Board welcomes this review and streamlining of legislation which, we would probably all agree had become unwieldy over the years. While the new legislation will be easier to access and understand, the planning process by its very nature is extremely complex, involving the careful balancing of competing rights. The volume of issues and policies that need to be considered in the context of an appeal or application to the Board has increased, and will not reduce.

The legislation proposes significant changes to the internal governance of the organisation and its leadership, as well as renaming it to An Comisiún Pleanála. It will adapt the internal structure of the organisation to a modern governance and operational model, and bring greater clarity as to the roles of those working across the organisation and as to the procedures for making decisions on planning files. When associated with the increased resourcing that Government has indicated will be necessary, this will strengthen the Commission in delivering its key mandate.

Separating the roles of the Chief Executive Officer and the Chief Commissioner should assist both in delivering what I have already discovered is a very challenging mandate when assigned to one person. We have already and will continue to engage with policy makers in the Department to ensure, in particular, that there is clarity about management authority in the future organisation and that the future Commission can be run efficiently and thoroughly while delivering well reasoned decisions in a timely manner.

It is the case that many of the proposed changes in the Bill have already been flagged as necessary within the Board by the two reports of the Office of the Planning Regulator, and in the Minister's Action Plan. I and colleagues within the Board are actively working to implement those changes that are within the Board's remit which will in part help to prepare the organisation for the more extensive

changes that the Bill will introduce. One of those is the introduction of a revised code of conduct under s.150 of the 2000 Act. Just as for the Board, the Bill ensures that the future Commission will need to adopt a Code of Conduct which will include careful attention to avoiding conflicts of interest, both among the staff and those making critical decisions on planning appeals and applications.

The Bill will introduce mandatory timelines across the range of decisions taken by the future Commission. We have begun engagement with the Department on how to shape those timelines, seeking to use the evidence from within the Board on how much time has been needed over the years to take decisions on the range of projects that come to the Board for consideration.

As a public service, the future Commission must operate as efficiently as possible. As a general principle, the 18 weeks which has been a Board target for many years is generally suitable for normal or less complex cases. Equally, the reality is that appeals and applications related to more complex and larger developments need longer timeframes. Some developments, for example because they involve more complex effects, will require further information to be submitted or an oral hearing to draw out the full range of outcomes of a proposed project. Such cases will by their very nature take longer than the mandated timeframes. In fact, in past years, when operating without a backlog, the Board did not meet the standard operating timeline in 100% of cases.

There are other simpler changes, like reviewing the extent to which the Board must set out all reasons for making a decision, as opposed to the key reasons, and aligning the process when further information is sought by the Board to that of planning authorities, that is “stopping the clock”, that will also help the Board take robust decisions while meeting the mandated timelines.

That will also require the Commission to be adequately resourced by Government, both by ensuring adequate staffing and timely appointment of Commissioners.

That does raise the question: is an approach whereby fines from the public purse are paid to developers the best way to deal with delays, or are there other effective measures that could be taken to ensure that the future Commission works to its mandated timelines in the majority of cases and that its management is accountable for delivering that? How to deliver that accountability will be the subject of ongoing engagement with the Department.

The Bill proposes various changes to judicial review, which, because the Board is the final arbiter in planning decisions, has been a particular area of increased activity for the Board over the last number of years. While not commenting on the detail of those proposals, we welcome the intention of the draft legislation to bring a firmer alignment of policy and guidance from national to local level, as well as the possibility to address minor procedural or technical matters in lieu of judicial review being necessary.

I would emphasise that in any case the Board intends to strengthen its capacity to manage and respond to court rulings by a focused approach to learning from past rulings along with increased support from new internal and external appointments. Our core response to the challenge of judicial reviews will be to ensure that decisions made by the Commission are robust, well-reasoned and as comprehensive as necessary. That does take time, but it will be time well spent if it results in fewer cases having to be taken to the courts.

There are also a number of detailed processing issues within the draft Bill where the Board will engage with the Department, having regard to its experience of operating the 2000 Act as amended. In particular it will be important to ensure that the Commission should have the range of powers it needs to ensure timely, robust decisions.

Obviously, with an organisation with a long history from its establishment in the 1970s, an organisation with its own strong identity and culture, and facing ongoing challenges around workloads, adapting to the new system will be challenging for all those working in the Board. It is a task however that all of us working in the Board are looking forward to meeting in the coming months.

Thank you for your attention.