

# The LDA is not the solution to the housing crisis



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## Origins of the Land Development Agency

The origins of this new state agency are to be found in the National Planning Framework (NPF) published in February 2018.

The civil servants driving the NPF were frustrated with the failure of successive governments to properly manage the public land bank. Too much land was being used for the wrong purpose or left lying idle. The impacts of this were many, including urban dereliction and missed opportunities to provide much needed housing.

On page 182 of the National Planning Framework was a commitment to create a National Development and Regeneration Agency. The focus of this proposed agency was to ensure the best use of public lands, including working with others such as Local Authorities, to drive the renewal of strategic areas.

The idea was both bold and simple. It was to be a powerful state agency, with significant legal powers and finance, tasked with pulling together the states land banks and ensuring they were being used for the right purpose.

Such agencies are commonplace in many European countries and play a significant role in moderating private land prices, ensuring Government has an adequate supply of public land for key infrastructure and assisting the State in providing genuinely affordable homes for working people.

However, there was an ambiguity in the proposal at this early stage. Would the agency be a Land Management Agency, responsible for the strategic management of public lands? Or would it be a Land Development Agency, responsible for residential and commercial development on public land.

## Launch of the Land Development Agency

In September 2018 Taoiseach Leo Varadkar and his Ministers for Finance and Housing Pascal Donoghue and Eoghan Murphy, launched the Land Development Agency (LDA).

The launch brochure described the LDA as a 'New State agency to drive the availability of development land'. It would 'open up appropriate State lands for development, especially housing.' It would also be working with the public and private sector to 'Initiate and drive strategic land assembly.'

Government said the LDA would deliver 150,000 homes over 20 years, with a pipeline of 7,000 homes already under discussion and land to deliver 3,000 homes already secured.

Page 7 of the brochure said just 10% of the homes built on public land would be social with a further 30% would be affordable. No definition of affordable was given.

During the greatest social and affordable housing crisis in modern times, Fine Gael were proposing to sell 60% of LDA homes at unaffordable, open market prices.

Following the launch, the LDA was established on an interim basis without any legal underpinnings.

While it would be funded to begin work on a number of sites in partnership with the land owners, it would require legislation to put it on a statutory footing.

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## LDA Heads of Bill

The General Scheme of the LDA Bill was sent to the Oireachtas Housing Committee in July 2019 for pre legislative scrutiny.

Given the significance of the legislation the Committee held five detailed scrutiny meetings, hearing from 14 different organisations and individuals including the Economic and Social Research Institute, the National Economic and Social Council, the Irish Council of Social Housing, representatives of industry including architects, engineers, chartered surveyors and builders as well as academics.

As the sessions unfolded the myriad problems with the Heads of Bill became apparent.

The General Scheme proposed to establish the LDA as a Designated Activities Company (DAC), meaning it would be a commercial operation owned by the Ministers for Finance and Housing. This is the same structure used by NAMA and was the cause of much of the transparency and accountability issues that plagued the States bad bank since its inception in 2010.

Being a DAC would allow the LDA to be classified as off the Government balance sheet. Its private borrowings would not add to the Governments debt and its spending would not be included in the Governments annual accounts.

While an initial capitalisation of €1.25b from the Strategic Investment Fund was proposed, the overwhelming majority of the €45bn that would be required to deliver 150,000 homes over 20 years would be from private finance.

However, placing the LDA off balance sheet would come at a price. The majority of the homes delivered would have to be sold at unaffordable open market prices.

A significant number of those who presented to the Oireachtas Housing Committee hearings expressed concern that the General Scheme didn't mention social or affordable housing. The working assumption was it would deliver the 10/30/60 split promised at the launch.

If this split was adhered to the LDA would deliver an average of just 750 social homes a year and further 2,250 affordable homes annually.

There was also concern expressed at the Committee that the financial model to be used in delivering the affordable homes would price them beyond the reach of most working people. Again, a criticism that bedevilled NAMA.

The LDA would be relying on both private equity finance for much of its development and on private developers to deliver many of these homes.

A recent report by the Society of Chartered Surveyors of Ireland titled The Real Cost of New Housing has shown that private residential development can be between €140,000 and €160,000 more expensive than public homes delivered on public land by Local Authorities and Approved Housing Bodies.

The General Scheme was also clear that the LDA would not be subject to Freedom of Information requests or the Lobby Register for any of its commercial activities. These crucial safeguards of the public interest would only be available for its non-commercial operations. This absence of transparency and accountability worried many members and attendees of the Housing Committee.

Crucially the LDA would not get significant Compulsory Purchase Order powers for fear of breaching EU State Aid rules. This would effectively put paid to any meaningful Land Management func-

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tion within the agency, reducing it to a purely commercial, though State owned, residential developer.

The Bill was also completely silent on the issue of Climate Change, which given the scale of the carbon emissions involved in delivering 150,000 homes, was truly remarkable.

Housing Committee Members and many of those giving testimony at the hearings raised significant concerns. In turn the Committee forwarded a 55-page scrutiny report including 33 substantive proposed changes to the legislation to the Minister in December 2019.

The Oireachtas Housing Committee also requested a legal opinion from the Office of the Parliamentary Legal Advisors. While the report itself was confidential, it confirmed many of the concerns raised by Committee Members and attendees of the Housing Committee's hearings.

Significantly Fianna Fáil housing spokesperson Darragh O'Brien was highly critical of the Government's proposals for the LDA during the Oireachtas Housing Committee hearings. He described the General Scheme as 'a Del Boy Model'. A clear majority of the Housing Committee shared his concerns.

## Housing for All?

In April of this year Fianna Fáil and Fine Gael published their draft document to 'facilitate negotiations with other parties' to form a new Government. Page 8 of that document commits to 'empower and fund the Land Development Agency to build homes on public and private land, to deliver new homes for affordable and private purchase, social housing and cost-rental accommodation.'

We know from media reports that the Land Development Agency was a major point of contention between Green Party and Fine Gael negotiators during the subsequent negotiations. A number of prominent Green Party members publicly expressed their disappointment with the final outcome of the housing section of the Programme for Government and in particular the section on the LDA contained on pages 56 and 57 of that document.

Under the overall heading of Housing for All, the Programme section on housing placed the LDA at the centre of the new Government's approach to the housing crisis. The 11 specific commitments contained in the Programme are detailed below with a commentary response.

PROGRAMME FOR GOVERNMENT COMMITMENT	SINN FéIN COMMENTARY RESPONSE
Ensure that development of sustainable communities is the core objective of the LDA, delivering sustainable, climate resilient, low-carbon housing.	This is a positive addition to the original plan and reflects the views of the Oireachtas Housing Committee report
Task the LDA with driving strategic land assembly, to ensure that the sustainable development of new and regenerated communities is well served by essential services.	This will only be possible if the LDA has comprehensive Compulsory Purchase Powers, a significant land acquisition budget and if Government increases investment in 'essential services' such as schools, child-care, public transport etc.

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Provide homes for affordable purchase, cost rental and social housing through the LDA.	The extent to which these homes are affordable will be determined on the financing and development model used by the LDA which the Programme for Government is silent on. The Programme is also silent on whether homes in LDA projects will be sold at unaffordable open market prices as was in the original plan, and if so what percentage of the overall output of 155,000 homes would be social, affordable, unaffordable.
Ensure that the LDA Board includes a cross-spectrum of housing, financial, governance and other independent experts needed to fulfil its remit.	It is not clear whether these persons would be appointed directly by the Minister or via the Public Appointments process. Nor is it clear if representatives of residents and tenant's advocacy groups would be involved.
Allocate Compulsory Purchase Order powers to the LDA.	It is not clear whether these powers would be comprehensive or limited i.e. just for 'ransom strips' blocking development. The General Scheme of the Bill included limited CPO powers and media coverage at the time indicated that the Attorney General advised that anything beyond this would breach EU State Aid rules. Without comprehensive CPO powers and land acquisition budget the LDAs land management function will be limited at best and meaningless at worst.
Complete the audit of state lands, identifying land banks in public ownership that are suitable for housing and other purposes.	This is a pre existing Commitment from the last Government. There is also no commitment to make this audit available to the public or to elected representatives in Local Councils or the Oireachtas.
Mandate the LDA to work with local authorities, state agencies and other stakeholders to develop masterplans for strategic sites.	The General Scheme for the LDA did not mention master planning of sites. Such masterplanning is a function of Local Authorities through Development Plans, Area Plans and Strategic Development Zone plans. Giving the LDA any role in masterplanning sites it also develops would be highly controversial and create potential conflicts of interest. The Dublin Docklands Development Authority had both planning and development functions which many believe created significant conflicts of interest and governance issues.
Ensure that the LDA is subject to Freedom of Information	The General Scheme included FOI provisions for the non commercial aspects of the LDAs business. However, its commercial activities, such as work with private developers would not be covered by either FOI or the lobby register. The Programme for Government is not clear in whether FOI powers will extend to all of the LDAs activities or just its non-commercial activities as originally envisioned.

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Require the LDA to give regular updates to the Oireachtas and review the legislation underpinning the LDA after a three-year period.	This was previously committed to by the Department and LDA during the Oireachtas Committee hearings on the General Scheme.
Ensure that the LDA uses modern methods of construction, including offsite construction, to deliver high-quality, sustainable homes quickly and at scale. Local supply chains and labour should be used to increase community gain.	The first part of this commitment is standard practice. The second part of the commitment is unclear. It is illegal under EU procurement law to insert local labour and supply clauses into capital projects. It is permissible under EU law to insert social clauses to such contracts to ensure a percentage of smaller contractors and workers from the live register are employed on developments, which often results in increased use of local contractors and employees. Such social contracts are already in use by Government Departments and Local Authorities on a range of capital projects.
Ensure that any state lands being offered for sale, whether owned by a local authority, government department, commercial or non-commercial semi-state agency or any other agency, would automatically be offered first to the LDA.	It is not clear how this would be achieved. In the absence of comprehensive Compulsory Purchase Order powers or new legislation placing an obligation on all Government Departments, State Agencies and Semi State Bodies to offer land for sale to the LDA, this would only be an aspiration. It would also suggest that when land is being offered for sale it would be at open market value rather than existing use value or book value. This would have major implications for the affordability of any homes developed on the site, particularly if the sites in question were in urban centres such as Dublin and Cork where market values are extremely high and add significant cost to residential development costs.
Ensure that the public housing rental stock on public lands is under the control of local authorities, Approved Housing Bodies, or other similar bodies.	This very ambiguous statement would appear to mean that social rental homes on LDA sites would be controlled by Local Authorities or AHBs. However it does not say these homes will be owned by Local Authorities or AHBs. Nor does it say who 'similar bodies are'. A benign interpretation would be that Councils and AHBs would buy the social rental homes from the LDA similar to how they purchase social rental homes from private developers in what are known as turnkey developments. However a more malign interpretation could mean that either the LDA or private developers would own these homes and lease them back to Local Authorities and AHBs.

On the 23rd of July the newly appointed Minister for Housing, Local Government and Heritage Darragh O'Brien informed the Dáil that he had circulated a draft of the LDA Bill to cabinet and hoped to publish the legislation shortly.



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## While waiting for the legislation

Despite the lack of any formal legal basis the LDA has kept busy. It is working on 11 different sites across the state including locations in Dublin City and County, Kildare, Cork, Limerick and Galway. Up to 4,000 homes are potentially deliverable on 9 of these locations.

It is also involved in controversial masterplanning exercises in two larger sites with multiple state agency ownerships, one in Limerick City and one in Galway City.

The Department of Housing provided €20 million to the LDA in 2019. The agency has recruited 17 staff and hopes to have 45 full time employees in place by the end of 2020, with a further 5 in 2021.

Its Dublin office in Tara Street is costing €288,000 annually excluding VAT. Limerick City Council was providing an office free of charge to its sole employee based in that City, which is also home to the LDA chair and former Secretary General of the Department of Finance, John Moran.

To date LDA has spent €1 million on professional fees related to its on-site work such as planning, design and project management costs. A further €500,000 has been spent on corporate fees such as communications and recruitment. Controversially it shares the same PR company, Gordon MRM, as one of its potential competitors, Glenveagh.

Only one site has progressed to planning, in Shanganagh, Dún Laoghaire, Co Dublin. This mixed social, affordable rental and affordable purchase development of 597 homes has been in the pipeline since 2017.

It is not clear why the LDA are involved in this project. If funding had been provided by the Department of Housing in 2017 the Council could have progressed the development themselves. The failure of the Department to directly fund Shanganagh and instead to involve the LDA has significantly delayed the project. The earliest that any homes will be available to rent or buy in Shanganagh will be 2022.

While the planning permission has been led by the Local Authority, the design standards being used are the controversial build-to-rent mandatory guidelines issued by the former Minister for Housing Eoghan Murphy in 2018.

There was also concern among Dún Laoghaire Rathdown County Councillors, expressed during a briefing in January of this year, that the LDA's commercial financing model for the affordable homes will actually push the price out of reach of many working families. The proposed rents for the cost rental units is currently €1300 per month. No projected price for the affordable purchase units is available currently.

While the Shanganagh site in Dún Laoghaire is a fully social and affordable scheme, the proposal for the 1000 home development on the old Dundrum Central Mental Hospital site will be a real test for the LDA indicating whether its rhetorical commitment to social and affordable housing is undermined by its legal underpinnings and financial and development models.

Much of this will depend on the legislation due to be published in the coming weeks by the new Housing Minister Darragh O'Brien.

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## Sinn Féin Position

Can the Land Development Agency as proposed in the General Scheme solve the housing crisis? In Sinn Féin's opinion the answer is an unequivocal no. Its proposed legal structure, its land use plan and its financing model will result in an unstrategic use of a key public asset, namely public land.

This will also be done while avoiding full public and democratic scrutiny. The LDA as proposed is NAMA Mark II, but with more powers, a bigger mandate and control over a more significant budget and thus financial liability to the taxpayer.

It is our firm view that the fastest and most cost effective way to deliver large volumes of social rental, affordable cost rental and affordable purchase homes at prices that working families can afford is through the delivery of public homes on public land delivered by Local Authorities, Approved Housing Bodies and Community Housing Trusts.

In May of this year we published a detailed draft Departmental Affordable Housing Circular outlining how this could be done on scale with the cost of affordable rental units at between €700 and €900 per month in Dublin and affordable purchase homes for €230,000 in Dublin with no hidden extra equity charge.

We also believe that a single state agency, particularly one with an operating mandate not unlike NAMA, will not be equipped to deal with the regional dynamics of our regional housing systems and the needs of local communities in rural, small urban and large urban centres.

For this reason, we firmly believe that the development of public housing on public land should be delivered by Local authorities operating to regional five year plans based on regional knowledge of demand.

We also do not believe that any public land should be used for unaffordable open market price homes. We need large volumes of affordable homes for working families integrated fully with social homes, good quality public services and amenities alongside economic opportunities.

In this context we do not support the Land Development Agency having an direct involvement in master planning or delivering housing, whether public or private.

Our proposal would be to split the LDA into two functions, one dealing with land management and the other, located in the City and County Managers Association, assisting Local Authorities to deliver their regional five-year public housing plans.

## An Active Land Management Agency

There is an urgent need for a non-commercial state agency with responsibility for ensuring the best strategic use of all public lands. Such an agency should have comprehensive Compulsory Purchase Order powers, a significant land acquisition budget and the political backing of Government to move land from one Department or agency to another or to Local Authorities to best utilise it. In particular the Agency should be a drive for increasing the stock of Local Authority Land in every county for public Housing delivery.

While the agency would be independent of the Department of Housing, Local Government and Heritage it would have all of its activities subject to full Ministerial and Oireachtas scrutiny as well as the Freedom of Information Acts and the Lobby Register.

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The Agency, working with the Department of Housing and Local Authorities would establish the medium to long term land needs of each Council to meet current and future social and affordable housing need and work to secure this land and make it available to Councils, Approved Housing Bodies and Community Housing Trusts to deliver public homes on public land on the scale required to meet that need.

The Active Land Management Agency would hold the public land register. It would also be responsible for the setting up of a land sale register (modelled on the property price register held by the Property Services Regulatory Authority) recording and publishing details of all land sales. In addition, its remit would extend to private land acquisitions in areas of strategic importance to help moderate land price inflation. It would also have a policy and research function on land policy to assist all branches of Government to meet their stated objectives.

## Housing Delivery Office

Rebuilding Ireland committed to establishing a Housing Delivery Office within the Department of Housing. The purpose of the office was to assist in speeding up the delivery of social housing through assisting Councils with their project pipeline.

While the Office was established it was not a success and at the end of 2019 it was transferred out of the Department of Housing and into the City and County Managers Association (CCMA). However, it is hampered by the continued existence of the Departments overly bureaucratic four stage approval and procurement process which adds 18 months onto the development time alone for social housing projects. It also does not have enough staff to work collaboratively with Local Authorities to meet their housing targets.

In the context of increased public housing targets, as outlined in Sinn Féin's housing plan, alongside the need to assist clusters of Local Authorities develop regional five-year housing plans, Sinn Féin would transfer relevant staff from the LDA to the CCMA Housing Delivery Office to bolster this function. Sinn Féin would also end the micro-management of social and affordable housing delivery by Local Authorities and improve the efficiency of the tendering process through the introduction of regional multi annual framework agreements for public housing contracts.

## Conclusion

In conclusion Sinn Féin does not support the creation of the LDA in the form proposed by Fine Gael. We are also not convinced of the need for a central housing delivery agency. Our alternative proposals are:

- ◆ Split the LDA into two separate entities, a stand-alone public Land Management Agency (LMA) and an enhanced Local Authority sector led Housing Delivery Office located in the City and County Managers Association.
- ◆ The board of the LDA would be dissolved and its involvement in the existing 11 residential developments would be transferred to the appropriate Local Authority. Its involvement in the master planning exercises in Limerick and Cork would cease.
- ◆ The Department of Housing, Local Government and Heritage would bring forward a new Strategic Development Zone designation specifically designed for emerging sites such as

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former brown field sites in urban centres to assist with Local Authority master planning of sites with the aim of increasing the delivery of social and affordable housing on public and private land in line with the planning and Climate Change objectives set out in the National Planning Framework.

- ◆ The LMA would have comprehensive Compulsory Purchase Order powers, a significant land acquisition budget and a strong political mandate from Cabinet
- ◆ The LMA would be responsible for completing the audit of all public land owned by Government Departments, State Agencies and Semi-State Companies, would publish this audit and update it periodically
- ◆ The LMA, working with the Department of Housing, Local Government and Heritage and Local Authorities would establish the land needs of Councils for public housing provision and related amenities and other state agencies dealing with issues such as public transport and develop a 10 year plan to ensure this land is secured and made available to the appropriate agency or Council
- ◆ The LMA would create and publish a Land Sale Register covering the real time purchase and price of all land transactions in the state whether public or private land
- ◆ The LMA would have a responsibility for strategic acquisitions of private land to ensure adequate land access for public projects and to help moderate land prices in high demand areas
- ◆ The LMA would have a policy and advisory role on land policy to assist Government achieve its overall objectives with an initial focus on ensuring land policy assists in the delivery of affordable housing and increase public transport provision
- ◆ Land Development Agency staff who do not transfer to the Land Management Agency and who have the appropriate skills will have the option of transferring to the Housing Delivery Office (HDO) located in the City and County Managers Association (CCMA)
- ◆ Their role would be to enhance the support provided by the HDO to Local Authorities individually and in regional clusters as they develop more ambitious five year public housing plans to meet existing and future public housing need.
- ◆ The HDO would be fully subject to the Freedom of Information Acts and the Lobbying Register
- ◆ It would also be available to engage with the Oireachtas Housing Committee as part of the CCMA

Sinn Féin will assess and comment on the final Land Development Agency Bill when it is published. However, we believe the proposals outlined above provide a better framework and pathway for meeting the land, housing and infrastructure needs of the people in the years ahead.

## Appendix 1

Joint Committee on Housing, Planning & Local Government

Report of the Joint Committee on Scrutiny of the General Scheme of the Land Development Agency Bill 2019

December 2019

Recommendations

The Committee recommends that:

1. Head 39 be deleted from the Bill.
2. If the LDA is to be included as a public body under FOI in a limited sense, the Minister for Public Expenditure and Reform make an order under section 6(5)(a) of the Freedom of Information Act.
3. Head 8(4) be amended to provide oversight to any additional inclusion in the Memorandum of Association that would alter the existing object, functions or powers of the LDA.
4. All senior management of the LDA be prescribed as Designated Public Officials under the Regulation of Lobbying Act.
5. Robust compulsory purchase powers be provided for in the legislation.
6. Clarity be given to how the LDA's proposed compulsory purchase powers will interact with the compulsory purchase powers of other State bodies and local authorities.
7. The Bill contain a statutory obligation to prioritise and provide social and affordable housing under Head 8 "objects", with the definition of "affordable housing" linked to that in the Planning and Development Act 2000.
8. Consideration be given to the inclusion in the Bill of a statutory obligation to prioritise and provide cost-rental housing, or that the Bill includes cost-rental housing as a priority and/or objective.
9. Given the limited supply of public land and the high demand for social and affordable housing consideration should be given to using public land solely for the purposes of delivering social, affordable rental and affordable purchase homes.
10. Consideration be given to the prioritisation of generating public housing on land transferred from public ownership, and the reduction in the percentage of developments to be sold at market rate, and a renewed focus be given to increasing the levels of social and affordable housing.
11. In developing sustainable communities, the LDA make land available for public spaces, parks, and schools etc., and that these non-economic functions of the LDA are referenced in the legislation.
12. Consideration should also be given to exclusively using public land for the delivery of social, affordable rental and affordable purchase homes.
13. In Head 8 of the Bill, "Objects" that object 2(c), which concerns the aim of achieving a positive financial return for the State, be interpreted as broadly as possible and that this might include stimulation of the development of the wider area which would bring long-term State benefit including a social return.

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14. The Department liaise with and engage the Central Statistics Office to ensure that the LDA is developed with the strongest possibility of remaining off the Government's balance sheet.
15. A Memorandum of Understanding between the LDA, local authorities and other State bodies be published, and that this be provided for in legislation.
16. Consideration be given to appointing a local authority representative to the Board of the LDA.
17. Clarification over the disposal of Local Authority land to the LDA, under section 183 of the Local Government Act, and related matters be clarified in the Bill.
18. Clarification be given to the hierarchy of relationships between relevant stakeholders.
19. In drawing up, or assisting relevant bodies to draw up, masterplans for development, that the LDA have regard to Local Area Plans and County Development Plans, and that this be provided for in the legislation.
20. Mechanisms for public consultation on LDA Development Plans be provided for in the Bill.
21. Any masterplans developed by the LDA, once completed, are made freely available to the public.
22. The Department liaise with the EU Commission on the issue of State aid and that the legislation be updated to reflect any changing position.
23. The Department keep the Committee informed of any development in engagement with the EU Commission and that any proposed amendment to the Bill be circulated to the Committee, with sufficient time for scrutiny, in advance of the next legislative stage.
24. The Bill provide for a statutory obligation to provide for, or make priority, the creation of sustainable development and communities.
25. The Bill provide for the statutory obligation to have regard to Government Climate Action policy.
26. The Bill provides for the important role of developing infrastructure in advance or in tandem with other development.
27. The register of all relevant public lands, as provided for in the General Scheme, be made publicly available.
28. Clarity be given to the phrases "other related development purposes", "related development projects", and "related developments" as mentioned in the General Scheme.
29. Consideration be given to the establishment of a single infrastructure unit, or national infrastructure commission, for the prioritisation, procurement and co-ordination of all key public infrastructure projects to work alongside the LDA.
30. The LDA meet a minimum target of B1 BER rating on all units developed under its remit.
31. The LDAs procurement processes allow for the greater involvement of SMEs, and that any tendering guidelines developed by the LDA prioritise the involvement of SMEs where possible.
32. The LDA be required to liaise with Transport Infrastructure Ireland, when developing relevant lands.
33. Measures to reduce the impact of the LDA's activities on climate change be provided for in the legislation.

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## Appendix 2

Slide from presentation by Society of Chartered Surveyors of Ireland of their The Real Cost of New Housing Delivery, August 2020

### The difference between Private and Social Housing delivery

Average delivery cost  
of a new 3-bedroom  
semi-detached home  
in a private  
development scheme  
  
~€370,000

For social housing delivery, the following are *not* included as cost headings:

Cost of land (-€60,823)

Cost of development levies (-€8,800)

Finance & Margin (-€59,387)

Sales and marketing costs (-€8,400)

\*Overall VAT cost will be adjusted pro rata

\*Professional fees increase – more design input

Average delivery cost of a  
new 3-bedroom semi-  
detached home in social  
housing scheme

~€210,000-€230,000

Savings of ~€140,000-  
€160,000





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## Appendix 3

Parliamentary Questions on the Land Development Agency by Deputy Eoin Ó Broin TD

For Written Answer on : 23/06/2020

Question Number(s): 898,866 Question Reference(s): 12272/20, 12273/20

Department: Housing, Planning and Local Government

Asked by: Eoin Ó Broin T.D.

### QUESTION

\* To ask the Minister for Housing; Planning and Local Government if the four-stage approval process applied to local authorities for social housing construction developments does not apply to developments left by the Land Development Agency.

- Eoin Ó Broin T.D.

For WRITTEN answer on Tuesday, 23 June, 2020.

\* To ask the Minister for Housing; Planning and Local Government if the public spending code does not apply to residential developments by the Land Development Agency; if aspects of the spending code applies to such developments; if so, the parts that apply; and the way in which this application differs to capital projects led by Departments and local authorities.

- Eoin Ó Broin T.D.

For WRITTEN answer on Tuesday, 23 June, 2020.

### REPLY

The day to day management of the Land Development Agency (LDA), including spending on capital projects, is a matter for the Chief Executive and his management team reporting to the LDA Interim Board. In line with all commercial and non-commercial State bodies, the LDA is required to comply with the Code of Practice for the Governance of State Bodies, including ensuring that robust and effective systems are in place for compliance as appropriate with the Public Spending Code.

The LDA Board is required to ensure that it has regard to appropriate models for investment appraisal for the evaluation and management of all investment proposals, including the Project Lifecycle introduced in the new Public Spending Code. In addition, under the Code of Practice for the Governance of State Bodies, the Chairperson of each State body, including the LDA, should confirm in its annual report that the organisation is adhering to the relevant aspects of the Public Spending Code.

My Department has responsibility for the safeguarding of public funds expended from the Department's Vote and in accordance with the Code of Governance, is required to be satisfied that the requirements of the Code are being properly implemented and observed. It is intended that my Department will be assisted in this regard by the advice provided by NewERA in exercise of its statutory advisory role under the National Treasury Management Agency (Amendment) Act 2014. At present there is a Memorandum of Understanding between my Department and the LDA. Once the legislation to establish the LDA as a commercial state body is enacted, the LDA will be subject to the usual Departmental oversight arrangements for Commercial State Agencies as set out under the Code of Practice for the Governance of State Bodies. In line with other commercial state bodies, when capital commitments are being entered into, the LDA will be required to seek Ministerial consent. In line with its remit, the LDA can provide services to local authorities or work with them on a collaborative basis in relation to the development of sites for housing. In relation to such projects, the LDA, in line with other State bodies, has its own investment appraisal arrangements in place under the Public Spending Code as outlined above. The 4 stage approval process applies to local authorities where they are entering directly into a capital works programme.

Certain LDA projects will require funding from my Department in relation to social housing provision or involve other supports from the Housing Budget. In order to ensure that such funding is expended in accordance with the Public Spending Code, including procurement requirements, my Department is currently putting in place a formal protocol with the LDA, which will facilitate good budgetary management and clarity on future financial commitments.

	LDA Capital Expenditure
2018	n/a
2019	467,000
2020 (to date)	2,100,000



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As with all State bodies operating under the aegis of my Department, arrangements have been put in place by the LDA through which Oireachtas members can request information directly from the Agency in relation to operational matters - in this regard, the LDA may be contacted directly at [oireachtas@lda.ie](mailto:oireachtas@lda.ie) for detailed information in relation to their expenditure.

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For Written Answer on : 23/06/2020

Question Number(s): 899 Question Reference(s): 12274/20

Department: Housing, Planning and Local Government

Asked by: Eoin Ó Broin T.D.

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QUESTION

To ask the Minister for Housing; Planning and Local Government if he will provide an itemised breakdown of the capital expenditure by the Land Development Agency in 2018, 2019 and to date in 2020.

REPLY

The LDA was established on an interim basis in September 2018, by way of an Establishment Order made under the Local Government Services (Corporate Bodies Act) 1971, pending the enactment of primary legislation when it will be established as a commercial State agency.

At present, funding is provided to the LDA through my Department's Vote to meet its operational costs as well as initial capital funding in relation to the development of its projects. Details of the capital expenditure for the years 2018, 2019 and 2020 (to date) is set out in the table below. There was not a significant drawdown of capital expenditure in 2018 and 2019 as their projects were at the initial pre-planning stages. It is expected that capital expenditure will increase this year as further pre-construction work is undertaken on sites. The capital funding to date has been used by the LDA to undertake pre-construction works in relation to their sites, including feasibility appraisal and master-planning. The details of this expenditure is an operational matter for the LDA.

As with all State bodies operating under the aegis of my Department, arrangements have been put in place by the LDA through which Oireachtas members can request information directly from the Agency in relation to operational matters - in this regard, the LDA may be contacted directly at [oireachtas@lda.ie](mailto:oireachtas@lda.ie) for detailed information in relation to their expenditure.

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For Written Answer on : 03/06/2020

Question Number(s): 1182 Question Reference(s): 8676/20

Department: Housing, Planning and Local Government

Asked by: Eoin Ó Broin T.D.

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QUESTION

To ask the Minister for Housing; Planning and Local Government if Land Development Agency staff are designated as public officials under the Regulation of Lobbying Act 2015; if not, the reason; and if he will examine ways in which to ensure they are required to register as designated public officials.

REPLY

The Land Development Agency (LDA) was established on an interim basis in September 2018, by way of an Establishment Order (S.I. 352 of 2018, as amended by S.I. 603 of 2018) made under the Local Government Services (Corporate Bodies) Act 1971, pending the enactment of primary legislation when it will be established as a commercial State agency.

The designation of categories of officials under the Regulation of Lobbying Act 2015 is generally a matter for the Minister of Public Expenditure and Reform. Currently, commercial State bodies are exempt from the Act as their dealings are generally commercially sensitive. As the LDA is to be established under primary legislation as a commercial State body, the directors in the LDA have not thus far been designated as Designated Public Officials (DPOs) as they are not civil servants.

A General Scheme of the Land Development Agency Bill to establish the LDA as a commercial state body on a primary legislative basis was approved by Government for publication, consideration for pre-legislative scrutiny and priority drafting in July 2019. The pre-legislation scrutiny process is now complete and the Committee's report has been received by my Department. My Department is currently considering this Report, including recommendations in relation to the application of the Lobbying Act to the LDA, in the context of the further development of the proposed legislation.

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For Written Answer on : 03/06/2020

Question Number(s): 1184 Question Reference(s): 8678/20

Department: Housing, Planning and Local Government

Asked by: Eoin Ó Broin T.D.

## QUESTION

To ask the Minister for Housing; Planning and Local Government the land that has been transferred to the Land Development Agency to date; and if no such land can or will be transferred to it prior to the agency being put on a statutory footing.

## REPLY

On establishment, the Land Development Agency (LDA) had access to an initial tranche of 8 sites that have near term delivery potential for 3,000 new homes. The sites concerned are as follows:

1. Central Mental Hospital Site, Dundrum
2. Hampton, Balbriggan
3. Hacketstown, Skerries
4. Devoy Barracks, Naas
5. Former Meath Hospital, Dublin City Centre
6. St. Kevin's Hospital, Cork
7. Columb Barracks, Mullingar
8. Dyke Road, Galway

In addition, in partnership with Dun Laoghaire Rathdown County Council, the LDA have submitted a planning application for the development of 597 homes on a site in Shanganagh.

Under Article 13(a) of the LDA's Establishment Order (S.I. 352 of 2018 as amended by S.I. 603 of 2018), the LDA may acquire ownership of lands and buildings. However, ownership of sites will generally not transfer to the LDA until the Land Development Agency primary legislation, which provides for capitalisation of the LDA from the Ireland Strategic Investment Fund (ISIF), is enacted. The transfer of local authority lands is a matter for local authorities under Section 183 of the Local Government Act 2001, as amended.

The General Scheme of the Land Development Agency Bill to establish the LDA as a commercial state body on a primary legislative basis was approved by Government for publication, consideration for pre-legislative scrutiny and priority drafting in July 2019. The pre-legislative scrutiny process is now complete and the Committee's report has been received by my Department and is being considered in the context of the further development of the proposed legislative provisions. In this context, it is envisaged that provision will be made for a range of options in relation to site development, including options where ownership may remain with the relevant public body, with the LDA working in co-operation with those bodies in the development of their lands for housing.

The absence of the primary legislation is not preventing the LDA from progressing sites. In addition, because the sites are public lands, rather than lands in private ownership, the issue of ownership and transfer is not an obstacle to early progress. In relation to the sites referenced above, the LDA has entered into pre-sale agreements with the land owners, as appropriate, to ensure that it has full access to the sites to carry out necessary pre-construction activities. Significant preparatory work is already underway in relation to the initial sites, with feasibility, planning and other preparatory works already initiated.

For Written Answer on : 03/06/2020

Question Number(s): 1176 Question Reference(s): 8557/20

Department: Housing, Planning and Local Government

Asked by: Eoin Ó Broin T.D.

## QUESTION

To ask the Minister for Housing; Planning and Local Government if contact had been made between his Department and the EU Director General for Competition on the issue of the Land Development Agency since the conclusion of pre-legislative scrutiny of the land development agency Bill 2019 by the Houses of the Oireachtas Committee on Housing, Planning and Local Government; if so, the details of the contact; and if correspondence arising from same will be published.

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## REPLY

The Department's approach, based on advice to date, is that the economic functions of the Land Development Agency (LDA) do not give rise to an advantage either to the LDA or other parties under State Aid rules. The General Scheme of the Land Development Agency Bill 2019 was developed taking account of legal advice in relation to State Aid.

A General Scheme of the Land Development Agency Bill to establish the LDA as a commercial state body on a primary legislative basis was approved by Government for publication, consideration for pre-legislative scrutiny and priority drafting in July 2019. The pre-legislative scrutiny process is now complete and the Committee's report has been received by my Department and is being considered in the context of the further development of the proposed legislative provisions.

The European Commission was informed about the Land Development Agency at the time of its establishment in August 2018. The next step will be a structured engagement with the Commission through its informal preliminary procedure. This will be based on information from the LDA on its business model as well as the draft LDA Bill, when approved by Government, outlining the nature and role and functions of the LDA. This structured engagement is consistent with the approach taken in relation to other commercial state bodies and reflects the specific nature of the LDA.

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For Written Answer on : 03/06/2020

Question Number(s): 1183 Question Reference(s): 8677/20

Department: Housing, Planning and Local Government

Asked by: Eoin Ó Broin T.D.  
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## QUESTION

To ask the Minister for Housing; Planning and Local Government the funding being provided for the social and affordable housing development at Shanganagh Castle, Dún Laoghaire, County Dublin.

## REPLY

My Department is aware of Dún Laoghaire Rathdown County Council's (DLR) proposed plans for the development of social, affordable purchase and cost rental housing on their site at Shanganagh Castle. The county council, together with the Land Development Agency (LDA), have submitted a Part 10 planning application to An Bord Pleanála for this development with a decision expected by the middle of July.

In relation to the social housing element of this development my Department has been in early discussions with the county council with a view to providing funding through the Social Housing Capital Investment Programme. Following the decision of An Bord Pleanála, the Department will work with the county council and the LDA as the detailed design and programme planning progresses. A final decision has not yet been made in relation to the Department's allocation.

While Departmental Serviced Site grant funding (SSF) may be made available local authorities on an application basis to support facilitating infrastructure for affordable homes, it is anticipated that the capital cost associated with the construction of these homes would be funded via LDA/LA sources.

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For Written Answer on : 03/06/2020

Question Number(s): 1185 Question Reference(s): 8679/20

Department: Housing, Planning and Local Government

Asked by: Eoin Ó Broin T.D.  
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## QUESTION

To ask the Minister for Housing; Planning and Local Government if the public relations consultancy acting for the Land Development Agency is a company (details supplied); if his attention was drawn to this appointment before it was made; and his views on whether there is a conflict of interest in this relationship in view of the fact the company has other residential developers on its books. (Details Supplied) Gordon MRM - including Glenveagh

## REPLY

The day to day management of the Land Development Agency (LDA) , including procurement of services, is a matter for the Chief Executive and his management team reporting to the LDA Interim Board. The LDA is not required to inform me before it procures such services.

As with all State bodies operating under the aegis of my Department, arrangements have been put in place by the LDA

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through which Oireachtas members can request information directly from the Agency in relation to operational matters - in this regard, the LDA may be contacted directly at [oireachtas@lda.ie](mailto:oireachtas@lda.ie).

In order to assist the Deputy, the LDA have supplied the following information to my Department. The LDA stated that they previously tendered for media and communication services and that this tender process was carried out in accordance with the EU Public Directive 2014/24/EU. Within the documentation issued, all tenderers were requested to fully disclose any conflict of interest in their tender submission. Evidence of existing clients was included with the tender and the LDA evaluation team did not determine a conflict of interest existed between the successful tenderer and the work of the LDA.

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For Written Answer on : 20/05/2020

Question Number(s): 1372 Question Reference(s): 6718/20

Department: Housing, Planning and Local Government

Asked by: Eoin Ó Broin T.D.  
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## QUESTION

To ask the Minister for Housing; Planning and Local Government the status of the Land Development Agency; the number of staff employed by the agency; the grade of each; the annual cost of salaries; the number of consultants employed by the agency; the length of their contracts; the nature of the work; the cost of the contracts to date; the number of offices used by the agency; the location and annual lease cost of each; the number of development sites in which the agency has involvement including locations size, partners and numbers of residential units projected for each site; the projected cost of each development; the level of agency financing projected; and if he will make a statement on the matter.

## REPLY

The Land Development Agency (LDA) was established on an interim basis in September 2018, by way of an Establishment Order made under the Local Government Services (Corporate Bodies) Act 1971, pending the enactment of primary legislation when it will be established as a commercial State agency.

A General Scheme of the Land Development Agency Bill to establish the LDA as a commercial state body on a primary legislative basis was approved by Government for publication, consideration for pre-legislative scrutiny and priority drafting in July 2019. The pre legislative scrutiny process is now complete and the Committee's report was received by my Department in December 2019. This report will be considered in finalising the Bill, which it is intended will be brought to the Oireachtas in the coming months.

The day to day management of the LDA is matter for the LDA Chief Executive and his management team reporting to the LDA Interim Board. Under its Establishment Order, the LDA may appoint such and so many persons to be employees as it may determine. The LDA will report on its salary and consultancy costs in its annual financial statements in accordance with the Code of Practice for the Governance of State Bodies. In addition, as with all State bodies operating under the aegis of my Department, arrangements have been put in place by the LDA through which Oireachtas members can request information directly from the Agency in relation to operational matters - in this regard, the LDA may be contacted directly at [oireachtas@lda.ie](mailto:oireachtas@lda.ie).

In order to be of assistance to the Deputy, on the basis of information provided by the LDA to my Department, I can indicate that the LDA currently has 17 staff, including 3 seconded from other State bodies. It is currently actively recruiting further staff and expects to have 45 employees by the end of the year, rising to 50 in 2021. It will have skilled staff in the areas of finance, investment appraisal, investment management, legal, procurement and property development (i.e. quantity surveyors, engineers, planners, architects etc) along with corporate and compliance support roles. The LDA does not operate a grading system. Contracts are agreed with employees following a competitive hiring process. The LDA is forecasting its annual salary costs to be approximately €3 million by 2021 for a staff complement of 50.

As with any other body responsible for developing large scale projects, the LDA requires professional and technical advisors and these services are tendered for in line with public procurement processes. Public tenders vary in length and do not guarantee any award of services or expenditure until contracts are negotiated. Examples of professional services tendered to date by the LDA include Legal, Architect Lead Design, Project Management, HR, Procurement, Corporate Advisory, Communications.

To date professional fees incurred by the LDA on projects are predominantly planning and design fees and project management fees, according as the LDA conducts feasibility and design work on their portfolio of sites. The total costs incurred across sites is in the region of €1 million to date. Corporate professional fees, including procurement fees, communications, recruitment, IT and legal, of approximately €500,000 have also been incurred to date during the LDA's set up phase.

The LDA currently leases office space in Ashford House, Tara Street, Dublin 2. The annual rent is €248,000 (ex VAT) with

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an annual service charge of €40,000 (ex VAT). Limerick City and County Council made accommodation available to one agency employee based in Limerick for a period, for which no rent was paid by the LDA.

The LDA currently has access to an initial tranche of 9 sites across the country that have near term delivery potential for 3,600 new homes. Further details of the sites are set out in the table below.

It is also working in partnership with other local authorities around the country. It is running a design review of the Sandy Road Regeneration Project in Galway which has the potential for up to 1,000 homes. It is also working with Limerick City and County Council on a site near Colbert Station in Limerick, funding a masterplan of the site which consists of lands owned by the Council, CIE, the Department of Education and the HSE.

It is not possible to determine total delivery costs of the projects at this stage as the design work has not yet been completed. The LDA will establish appropriate funding mechanisms for each of its projects including proposed investment from the Ireland Strategic Investment Fund (ISIF) and other sources.

Update on LDA sites				
Location	Size	Projected number of units	Status	Partners
Shanganagh, Dublin	17.8 acres	597 units, of which 200 social, 91 cost purchase, 306 cost rental	Part 10 application submitted to An Bord Pleanála in January 2020 with construction to follow subject to planning permission.	Site being developed in conjunction with Dun Laoghaire Rathdown County Council.
Central Mental Hospital, Dundrum	28 acres	1,200 units (estimated)	Pre-planning Design team appointed. LDA expects to lodge a planning application in mid-2021 and begin construction in early 2022	
Devoy Barracks, Naas	13.9 acres	210 units (estimated)	Pre-planning. Draft masterplan prepared	
St Kevin's Hospital, Cork	14.5 acres	274 units (estimated)	Pre-planning. Masterplan prepared	
Meath Hospital, Dublin 8	0.5 acres	104	Pre-planning. Design team to be appointed	
Hackettstown, Skerries	16.8 acres	340 units (estimated)	Pre planning. Design team appointed	
Castlelands, Balbriggan	60 acres	800 units (estimated)	Pre planning. Design team appointed	
Columb Barracks, Mullingar	24.7 acres	200 (estimated)	Pre-planning. Feasibility stage	
Dyke Road, Galway	4.5 acres	To be determined	Pre-planning Appraisal stage	

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For Written Answer on : 16/10/2019  
Question Number(s): 272 Question Reference(s): 42389/19  
Department: Housing, Planning and Local Government  
Asked by: Eoin Ó Broin T.D.

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## QUESTION

To ask the Minister for Housing; Planning and Local Government the engagement he or his officials have had with the European Commission on the general scheme of the Land Development Agency Bill 2019; the nature, frequency and substance of this engagement; and if he will make a statement on the matter.

## REPLY

The Department's approach, based on advice to date, is that the economic functions of the LDA do not give rise to an advantage either to the LDA or other parties under State Aid rules. The General Scheme of the Land Development Agency Bill 2019 was developed taking account of legal advice in relation to State Aid.

The European Commission was informed at the time of the establishment of the Land Development Agency in 2018. A structured engagement with the European Commission will take place in tandem with the legislative process, supported by necessary information on the LDA. This structured engagement is consistent with the approach taken in relation to other commercial state bodies and reflects the specific nature of the LDA.



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