# General Scheme

# Land Value Sharing and Urban Development Zones Bill 2021

## ARRANGEMENT OF SECTIONS

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## Part 1

## Preliminary and General

### Head 1. Short Title, construction, collective citation and commencement

**Provide that:**

(1) This Act may be cited as the Land Value Sharing and Urban Development Zones Act 2022.

(2) Sections XXX, the Planning and Development Acts 2000 to 2021 may be cited together as the Planning and Development Acts 2000 to 2022 and shall be read together as one.

(3) This Act comes into operation on such day or days as the Minister for Housing, Local Government and Heritage, following consultation with other Minsters where relevant, may appoint by order or orders either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or provisions.

(4) Other collective citations as appropriate shall be included.

**Explanatory Note:**

This Head contains the standard provisions about short title and collective citation for a listing of acts included or previously included in the collective citation.

It also provides for the coming into operation of the provisions of the Act. It will allow different provisions and any consequential repeals to be brought into operation on different days.

**Head 2. Purposes of Act**

**Provide that:**

(1) The purposes of this Act are—

(a) to enable the State to secure a share of any increase in land value that occurs as a result of certain public zoning and designation decisions to provide for the sustainable development of new and regenerated communities well served by amenities, facilities and services,

(b) to enable the strategic and comprehensive development, redevelopment or improvement of under-utilised urban areas,

(c) to facilitate an increase in the supply of housing, and in particular affordable and social housing, while providing for or maintaining an appropriate mixture of uses, including amenities, facilities or services to meet the social and economic needs of the community, and

(d) to provide and facilitate the timely delivery of the infrastructure and enabling works, that may include the assembly of land, necessary to support new housing and mixed use development in addition to the integration of new development into existing communities.

**Explanatory Note:**

This Head outlines the purposes of the Act, namely the objectives which the Act seeks to deliver. The purpose of this Act is to provide delivery mechanisms for some of the key measures set out in both the *Programme for Government 2020* and the *Housing for All* plan published by Government in 2021. The legislative proposals seek to introduce Land Value Sharing (LVS) whereby the State retains a share of any increase in land value that occurs as a result of certain public designation/zoning decisions. It is intended that these mechanisms will facilitate an increase in the supply of housing, and will provide greater certainty over the obligations to be placed on landowners and developers to contribute towards the infrastructure required, with the result that the price of residential development land will be reduced over time.

It is intended that these proposals will apply to lands that are newly zoned for the purposes of residential use or mixed-use including residential. The proportion of the uplift in value which the State shall retain will be used for the delivery of social and physical infrastructure that supports sustainable communities. The value will be captured by way of a condition implemented on any relevant grant of planning permission and shall be linked to the existing or current use of the site on prior to zoning for residential

or mixed use including residential.

It is also proposed to introduce designated Urban Development Zones (UDZ). UDZs will comprise significant urban areas that are suitable for redevelopment or regeneration including housing. These designations will operate on a similar basis to the existing Strategic Development Zones with an expedited process for planning approval, but will involve an infrastructure appraisal as part of the designation process. They will also be subject to LVS mechanisms similar to those outlined in respect of land zoned for residential development, but also including measures to facilitate land assembly, and with the addition of up-front State commitment to the delivery of social and physical infrastructure to support sustainable communities within that UDZ and beyond.

In developing these measures, the State is seeking to balance the rights of the individual to develop land with the exigencies of the common good.

**Head 3. Interpretation**

**Provide that:**

In this Bill-

“Minister” means Minister for Housing, Local Government and Heritage;

“planning authority” has the meaning assigned to it by the Local Government Reform Act 2014 (No. 1);

“local authority” has the meaning assigned to it by the Local Government Act 2001;

“Principal Act” means the Planning and Development Act 2000 (No. 30);

"establishment day" means the day appointed by order to be the establishment day;

“market value”, in relation to land in respect of which planning permission is granted, means the price which the unencumbered fee simple of the land would have fetched if it had been sold on the open market on the date of the grant of planning permission;

“current use value”, means

(a) in relation to newly zoned residential development land or land within an urban development zone, on the day immediately prior to:

(i) the date of zoning of the land for residential purposes of for a mixture of uses including residential, or

(ii) designation of an urban development zone,

and not having regard to any unauthorised use or development, the amount which would be the market value of the site or sites at that time if the market value were calculated on the assumption that it was at that time and would remain unlawful to carry out any development (within the meaning of section 3 of the Planning and Development Act 2000) in relation to the land other than exempted development and any development subject of a grant of planning permission which is extant but has not been completed on the date of the zoning decision or designation of the urban development zone, and

(*b*) in relation to shares in a company at any particular time, means the amount which would be the value of the shares at that time if the market value were calculated on the same assumption,

in relation to the site or sites from which the shares derive all or part of their value, as is mentioned in paragraph (*a*);

"development" means, except where the context otherwise requires, the carrying out of any works on, in, over or under land or the making of any material change in the use of any structures or other land.

"owner", in relation to land, means a person, other than a mortgagee not in possession, who, whether in his or her own right or as trustee or agent for any other person, is entitled to receive the rack rent of the land or, where the land is not let at a rack rent, would be so entitled if it were so let;

"planning authority" means a local authority;

"prescribed" means prescribed by regulations made by the Minister and "prescribe" shall be construed accordingly;

"regional assembly" means a body established in accordance with *section 43* (as amended by the Local Government Reform Act 2014) of the Local Government Act 1991;

"use", in relation to land, does not include the use of the land by the carrying out of any works thereon;

"works" includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal and, in relation to a protected structure or proposed protected structure, includes any act or operation involving the application or removal of plaster, paint, wallpaper, tiles or other material to or from the surfaces of the interior or exterior of a structure.

"current use value register" means a register, prepared and maintained by the relevant planning authority or planning authorities, of the current use values relating to each parcel of land satisfying the relevant criteria in relation to newly zoned residential development land, or land situated within the area comprising the designated area in relation to an urban development zone;

"critical land" means land, identified within the planning and delivery scheme relating to an urban development zone, required for the provision of public infrastructure, facilities and enabling works;

"public infrastructure, facilities and enabling works" means:

(a) the acquisition of land required for the purposes set out in paragraphs (b) - (o) below and, in relation to an urban development zone designated by order under section XX (Head 9), land required in relation to the provision of housing or the relocation of uses to meet the objectives of the planning and delivery scheme,

(b) the provision of open spaces, recreational and community facilities and amenities and landscaping works,

(c) the provision of roads, car parks, car parking places, surface water sewers and flood relief work, and ancillary infrastructure,

(d) the provision of bus corridors and lanes, bus interchange facilities (including car parks for those facilities), infrastructure to facilitate public transport, cycle and pedestrian facilities, and traffic calming measures,

(e) the refurbishment, upgrading, enlargement or replacement of roads, car parks, car parking places, surface water sewers, flood relief work and ancillary infrastructure,

(f) the provision of high-capacity telecommunications infrastructure, such as broadband,

(g) blue infrastructure such as flood defences and sustainable water management solutions,

(h) the provision of sites for schools and other educational facilities including childcare facilities,

(i) the provision of sites for hospitals and other healthcare facilities;

(j) the provision of sites for centres for the social, economic, recreational, cultural, environmental, or general development of the community;

(k) the provision of sites for facilities for the elderly and for persons with disabilities;

(l) green infrastructure to support decarbonisation and the reduction of anthropogenic greenhouse gases;

(m) public realm works;

(n) programmes or facilities relating to education, training or skills development in connection with the provision of employment opportunities for the local community in conjunction with an established educational authority or institution; and

(o) any matters which it considers ancillary to anything which is referred to in *(a)* to *(n)*.

"land credit amount" means the amount of money payable to an owner of critical land the value of which exceeds the land value sharing contribution in respect of that land, calculated based on a rate per hectare applied to the area (in hectares) of land in that parcel that is more than the obligation;

"land equalisation amount" means the amount of money payable by an owner of critical land the value of which is less than the land value sharing contribution in respect of that land, calculated based on a rate per hectare applied to the area (in hectares) of land in that parcel that is less than the obligation;

"land value sharing contribution", in respect of land identified in a current use value register prepared and maintained by a planning authority and subject of a planning application for development, means a contribution equivalent to a proportion of [up to 30%] of the uplift in value between the current use value as set out in the current use value register and the market value of the land subject of the planning application.

"Tribunal" means Valuation Tribunal.

**Explanatory Note:**

This is a standard provision to set out definitions for the terms used in the Act and should be read in conjunction with the definitions included in the Principal Act.

The need to include further definitions will be discussed, as appropriate, with the Attorney General's Office during the drafting of the Bill.

**Head 4. Expenses of Minister**

**Provide that:**

(1) The expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Public Expenditure and Reform, be paid out of monies provided by the Oireachtas.

**Explanatory Note:**

This Head sets out the provision that any expenses incurred by the Minister in the administration of the Act shall be paid out of monies provided by the Oireachtas.

## Part 2

## Insertion of New Part IIC (Land Value Sharing for Newly Zoned Residential Development Land) into the Act of 2000

**Head 5. Land which satisfies the relevant criteria**

**Provide that:**

(1) In this Part, a reference to land which satisfies the relevant criteria is a reference to land that is subject of a decision by the relevant planning authority to be zoned in a development plan, in accordance with either section 12 or section 13, or a local area plan, in accordance with section 20,

(i) solely or primarily for residential use, or

(ii) for a mixture of uses, including residential use.

**Explanatory Note:**

This Head sets out that this Part relates to land which is newly zoned for residential development, being either land which is zoned solely or primarily for residential use or land zoned for a mixture of uses including residential use. Where land is zoned for these purposes after the enactment of the legislation, a charge will be placed on the land to the effect that when the land comes forward for development, the landowner will be required to pay a certain proportion of the uplift in value of the land (to be determined) between the current use value prior to zoning and the market value of the land subject of the planning application to the local authority, by condition of the permission for development.

**Head 6. Determination of current use value of newly zoned residential development land**

(1) A planning authority shall, as soon as practicable after land satisfies the relevant criteria as set out in section XXX (*Head 1)*, record the current use value [on the day immediately prior to the land satisfying the relevant criteria] of each parcel of land within the land satisfying the relevant criteria on the current use value register.

(2) Where the land which satisfies the relevant criteria includes land in the area of more than one planning authority, the obligations set out in this section shall be binding on each planning authority in respect of any parcels of land in their respective functional area.

(3) The current use value of each parcel of land shall, within 3 months of the land satisfying the relevant criteria (or as soon as is practicable after receipt of a planning application for development in respect of any part of the land where such an application is received within 3 months of the land satisfying the relevant criteria, and for the avoidance of doubt, before a decision is made in relation to the grant or refusal of permission for that development), be confirmed by the relevant planning authority and it shall authorise a person it considers suitably qualified for that purpose to inspect the parcel(s) of land and report to it the value thereof and the person having possession or custody of the parcel(s) shall permit the person so authorised to inspect at such reasonable times as the planning authority considers necessary.

(4) Where a person authorised under *subsection (2)* is not permitted to inspect a property for the purposes of providing an estimate, and where the provisions of section 252 regarding entry to the land are considered not to apply, he or she shall make an estimate of the current use value of the parcel(s) based on his or her knowledge of the parcel(s) and property and the prevailing local market conditions.

(5) Where the relevant planning authority has determined the current use value of a parcel or parcels it shall enter particulars of the determination in the current use value register (together with the date of entry in the current use value register), and give written notice to the owner of the parcel(s) of the valuation which it has placed on the parcel(s).

(6) (i) The owner of a parcel of land may appeal to the Tribunal against a determination made by a planning authority under subsection *(1)* within 28 days after the date of the notice given under subsection (5).

(ii) The Tribunal shall hear and determine appeals under *subsection (1)*.

(iii) Subject to a right of appeal to the High Court on a question of law, the determination of the Tribunal under this section shall be final.

(iv) An appeal to the Tribunal shall contain a statement of the specific grounds for the appeal.

(v) The Tribunal shall transmit a copy of every appeal received by it to the planning authority by whom the current use value of the property was determined (who shall be the respondent in, and be entitled to be heard and adduce evidence at the hearing of, the appeal concerned) and to any other person appearing to the Tribunal to be affected directly by the determination and any such person shall be entitled to be heard and to adduce evidence at the hearing of the appeal.

(vi) The Tribunal shall, where any amendment falls to be made to the valuation of a parcel of land pursuant to a determination of the Tribunal or a decision of the High Court in relation to an appeal under this section, give written notice of the amendment to the owner of the parcel of land and to the planning authority concerned who shall cause the appropriate entry in the register to be amended with effect from the date of entry referred to in subsection (5) and shall give written notice to the owner of the making of the amendment and of the date from which the amendment has effect.

(vii) **Sections 4** and **39** of the **Valuation Act 2001** shall apply to the determination of an appeal under this section as they apply to the determination of appeals under that Act.

(viii) The planning authority shall not make a demand for payment of a land value sharing contribution pursuant to a condition attached to a permission granted in accordance with section xxx (*Head 7*) —

> (a) before the expiry of the period during which an appeal may be brought under that subsection, and
>
> (b) where an appeal is brought under *subsection (1)*, before the appeal is finally determined or withdrawn.

(7) The Minister may by regulations prescribe arrangements relating to the establishment and maintenance of the current use value register, including the arrangements for calculating the current use value of land and dispute resolution relating to any valuations undertaken.

**Explanatory Note:**

This Head relates to the calculation of the current use value of land which is newly zoned for residential development, being land which satisfies the relevant criteria set out in Head 5.

The draft definition of current use value sets out that it shall be calculated on the basis of the use of the land on the day immediately prior to the date on which the land becomes land which satisfies the relevant criteria, in order to allow for authorised development to take place up to that point in time (in addition to development of a minor nature, being exempted development). It would also allow for reliance on any value associated with development which may have been approved but not implemented. The definition of current use value as drafted is subject to further consideration and legal advice.

The planning authority is required to determine the current use value, with arrangements for calculating the value set out on the basis of arrangements for the calculation of the market value of land, including appeal provisions, for the purposes of the Vacant Site Levy legislation (Urban Regeneration and Housing Act 2015 (as amended). However, this methodology is subject to further consideration and discussion with expert advisers including valuation experts, so as to ensure the process is proportionate and reasonable and will not impact on the timely operation of the measure.

The current use value will be included on a current use value register by the planning authority, with such information also to be included on the national register of zoned housing land. The development of the registers will take account of matters relating to GDPR.

A regulation-making power is included to permit the Minister to prescribe details of arrangements in respect of the preparation and maintenance of the register and the methodology for calculating the current use value.

**Head 7. Application for development on land satisfying the relevant criteria**

**Provide that:**

(1) A planning authority may, when granting a permission under ***section 34*** , include a condition or conditions for requiring the payment of a land value sharing contribution in respect of public infrastructure, facilities and enabling works benefiting development in the area of the planning authority that is provided, or that it is intended will be provided, by or on behalf of a local authority (regardless of other sources of funding for the infrastructure and facilities) or by a public authority with the agreement of the local authority where the development subject of the application meets the criteria for provision of a land value sharing contribution, as may be prescribed in regulations made by the Minister for the purposes of this section.

(2) Where an application is submitted to a planning authority under ***section 34*** for development on land in respect of which there is an entry on the current use value register (with the exception of land situated within an urban development zone where section XXX applies), that section and any permission regulations shall apply, subject to the other provisions of this section.

(3) A planning authority shall, as soon as practicable after an application is received as set out in subsection (1), and, for the avoidance of doubt, on determination of the application for the development, confirm the market value of the land subject of the application, and where the development is amended during the course of the application or by condition of the permission such that the market value is altered, a revised market value assessment must be undertaken either during the course of the application or pursuant to a condition of the permission.

(4) Where the land subject of an application as set out in subsection (1) includes land in the area of more than one planning authority, the obligations set out in this section shall be binding on each planning authority in respect of any parcels of land in their respective functional area.

(5) The market value of the land shall, as soon as is practicable after an application is received as set out in paragraph (1), and, for the avoidance of doubt, on determination of the application for the development, be confirmed by the relevant planning authority following receipt of a market value assessment submitted by the applicant to accompany the application and it shall authorise a person it considers suitably qualified for that purpose to inspect the parcel(s) of land and report to it the value thereof and the person having possession or custody of the parcel(s) shall permit the person so authorised to inspect at such reasonable times as the planning authority considers necessary.

(6) Where a person authorised under *subsection (2)* is not permitted to inspect a property for the purposes of providing an estimate, and where the provisions of section 252 regarding entry to the land are considered not to apply, he or she shall make an estimate of the market value of the parcel(s) based on his or her knowledge of the parcel(s) and property and the prevailing local market conditions.

(7) When the relevant planning authority has determined the market value of a parcel or parcels and, for the avoidance of doubt, this determination shall be undertaken prior to a decision being made on whether or not to grant planning permission for the development, it shall give written notice to the owner of the parcel(s) and, where the owner of the land is not the applicant, it shall also notify the applicant for planning permission, of the valuation which it has placed on the parcel(s) subject of the planning application.

(8) ( *a*) A planning authority may, on a site area or floorspace basis, facilitate the phased payment of contributions under this section, and may require the giving of security to ensure payment of contributions.

( *b*) Where a contribution is not paid in accordance with the terms of the condition laid down by the planning authority, any outstanding amounts due to the planning authority shall be paid together with interest that may have accrued over the period while withheld by the person required to pay the contribution.

( *c*) A planning authority may recover, as a simple contract debt in a court of competent jurisdiction, any contribution or interest due to the planning authority under this section.

(9) A planning authority may facilitate the transfer of land or the development of infrastructure by a landowner in full or partial discharge of obligations arising under this section.

(10) (i) The owner of a parcel of land may appeal to the Tribunal against a determination made by a planning authority under subsection *(3)* within 28 days after the date of the notice given under subsection (5).

(ii) The Tribunal shall hear and determine appeals under *subsection (3)*.

(iii) Subject to a right of appeal to the High Court on a question of law, the determination of the Tribunal under this section shall be final.

(iv) An appeal to the Tribunal shall contain a statement of the specific grounds for the appeal.

(v) The Tribunal shall transmit a copy of every appeal received by it to the planning authority by whom the market value of the property was determined (who shall be the respondent in, and be entitled to be heard and adduce evidence at the hearing of, the appeal concerned) and to any other person appearing to the Tribunal to be affected directly by the determination and any such person shall be entitled to be heard and to adduce evidence at the hearing of the appeal.

(vi) The Tribunal shall, where any amendment falls to be made to the valuation of a parcel of land pursuant to a determination of the Tribunal or a decision of the High Court in relation to an appeal under this section, give written notice of the amendment to the owner of the parcel of land and to the planning authority concerned who shall cause the condition or conditions attached to the grant of permission made in accordance with subsection (1) to be amended with effect from the date of determination of the Tribunal or the decision of the High Court and shall give written notice to the owner of the making of the amendment and of the date from which the amendment has effect.

(vii) **Sections 4** and **39** of the **Valuation Act 2001** shall apply to the determination of an appeal under this section as they apply to the determination of appeals under that Act.

(viii) The planning authority shall not make a demand for payment of a land value sharing contribution pursuant to a condition attached to a permission granted in accordance with subsection (1) —

(a) before the expiry of the period during which an appeal may be brought under that subsection, and

(b) where an appeal is brought under *subsection (3)*, before the appeal is finally determined or withdrawn.

(11) The Minister may by regulations prescribe arrangements relating to the calculation of the market value of land for the purposes of this Part and dispute resolution relating to any valuations undertaken.

(12) Where a permission which includes conditions referred to in *subsection (1)* has been granted under *section 34* in respect of a development and the basis for the determination of the contribution under *subsection (1)* has changed —

(a) where the development is one to which Part II of the Building Control Regulations 1997 ( **S.I. No. 496 of 1997** ) applies and a commencement notice within the meaning of that Part in respect of the development has not been lodged, or

(b) where the development comprises houses and one or more of those houses has not been rented, leased, occupied or sold,

the planning authority shall apply that change to the conditions of the permission where to do so would reduce the amount of the contribution payable.

(13) Where a development referred to in *subsection (10)* comprises houses one or more of which has not been rented, leased, occupied or sold the planning authority shall apply the change in the basis for the determination of the contribution referred to in that subsection only in respect of any house or houses that have not been rented, leased, occupied or sold.

(14) Where the planning authority applies a change in the basis for the determination of a development contribution under *subsection (10)* it may amend a condition referred to in *subsection (1)* in order to reflect the change.

(15) No appeal shall lie to the Board in relation to a condition requiring a contribution to be paid under this section.

(16) Where an appeal is brought to the Board in respect of a refusal to grant permission under this Part, and where the Board decides to grant permission, it shall, where appropriate, apply as a condition or conditions to the permission a requirement to pay a land value sharing contribution in accordance with the provisions of this section, taking into account the market value assessment confirmed by the local authority prior to the grant or refusal of permission under section 34.

(17) (*a*) Money accruing to a local authority under this section shall be accounted for in a separate account, and shall only be applied as capital for public infrastructure, facilities and enabling works in the vicinity of land included in the current use value register.

(*b*) A report of a local authority under **section 50 of the Local Government Act, 1991**, shall contain details of monies paid or owing to it under this section and shall indicate how such monies paid to it have been expended by any local authority.

(18) For the avoidance of doubt, no refund of any money paid to the local authority shall be due.

**Explanatory Note:**

This Head sets out the obligations of the planning authority in receipt and determination of an application for planning permission on newly zoned residential development land, whereby an assessment of the market value of the land subject of the application for permission must be undertaken. Taking this into account and on the basis of the current use value for the land subject of the application and the appropriate proportion of the uplift in land value prescribed (to be determined but likely to be up to 30%), the relevant proportion of the uplift in value in respect of that particular site can be calculated. This amount shall be secured, by condition of any planning permission granted, by the local authority for the purposes of infrastructure provision in the area. The purpose of sharing a proportion of the value uplift is to provide public infrastructure to service the lands and community, including roads, public transport, schools, parks and community facilities and where required, may include social/affordable housing (over and above Part V) on the land.

In the drafting of this Head it should be noted that certain differences compared to the current definition of public infrastructure and facilities for the purposes of development contributions schemes prepared under section 48 of the 2000 Act are being considered.

The current definition of the public infrastructure and facilities which such contributions can be required to contribute towards under section 48 is as follows:

( *a*) the acquisition of land,

( *b*) the provision of open spaces, recreational and community facilities and amenities and landscaping works,

(c) the provision of roads, car parks, car parking places, surface water sewers and flood relief work, and ancillary infrastructure,

( *d*) the provision of bus corridors and lanes, bus interchange facilities (including car parks for those facilities), infrastructure to facilitate public transport, cycle and pedestrian facilities, and traffic calming measures,

(e) the refurbishment, upgrading, enlargement or replacement of roads, car parks, car parking places, surface water sewers, flood relief work and ancillary infrastructure,

( *f* ) the provision of high-capacity telecommunications infrastructure, such as broadband,

( *g* ) the provision of school sites, and

( *h* ) any matters ancillary to paragraphs ( *a* ) to ( *g* ).

In the current proposals for a land value sharing contribution, it is considered that there may be potential to broaden the scope of the contribution to public infrastructure, facilities and enabling works as follows:

(a) the acquisition of land required for the purposes set out in paragraphs (b) - (o) below and, in relation to an urban development zone designated by order under section XX (Head 9), land required in relation to the provision of housing or the relocation of uses to meet the objectives of the planning and delivery scheme

(b) the provision of open spaces, recreational and community facilities and amenities and landscaping works,

(c) the provision of roads, car parks, car parking places, surface water sewers and flood relief work, and ancillary infrastructure,

(d) the provision of bus corridors and lanes, bus interchange facilities (including car parks for those facilities), infrastructure to facilitate public transport, cycle and pedestrian facilities, and traffic calming measures,

(e) the refurbishment, upgrading, enlargement or replacement of roads, car parks, car parking places, surface water sewers, flood relief work and ancillary infrastructure,

(f) the provision of high-capacity telecommunications infrastructure, such as broadband,

(g) blue infrastructure such as flood defences and sustainable water management solutions,

(h) the provision of sites for schools and other educational facilities including childcare facilities,

(i) the provision of sites for hospitals and other healthcare facilities;

(j) the provision of sites for centres for the social, economic, recreational, cultural, environmental, or general development of the community;

(k) the provision of sites for facilities for the elderly and for persons with disabilities;

(l) green infrastructure to support decarbonisation and the reduction of anthropogenic greenhouse gases;

(m) public realm works;

(n) programmes or facilities relating to education, training or skills development in connection with the provision of employment opportunities for the local community in conjunction with an established educational authority or institution; and

(o) any matters which it considers ancillary to anything which is referred to in *(a)* to *(n)*.

The detail of these proposals will be further considered in the context of the economic appraisal being undertaken in tandem with the drafting of the legislation.

However, as a matter of policy principle, it is considered, that in the context of the justification provided to require landowners to make an increased contribution towards the infrastructure and facilities required to ensure development contributes towards sustainable communities, that an expanded scope over and above that set out currently for development contributions under section 48 of the Act is warranted in the exigencies of the common good. The additional types of infrastructure and facilities, including enabling works, included in the draft Head relate to the provision of green and blue infrastructure; the provision of sites for healthcare, childcare facilities, centres for the social, economic, recreational, cultural, environmental, or general development of the community and for facilities for the elderly and for persons with disabilities; education/training and skills development to provide employment opportunities for the local community and public realm works. These types of infrastructure make an important contribution towards responding to climate change adaptation and mitigation, providing the essential services required to support a sustainable residential community, and ensuring that high quality and attractive places are created for the benefit of the local and wider communities.

The proportion of the value uplift to be secured will be pre-determined, likely to be up to 30% of the total increase in site value (as set out in the definition of 'land value sharing contribution'), in addition to current Part V social and affordable housing requirements (i.e. which allow up to 20% of a residential development site for specific purposes at existing use value). Together, both provisions will comprise up to 50% of the overall uplift in land value – hence land value 'sharing'.

Further analysis is required to establish a more specifically appropriate proportion or banded range, appropriate to circumstances, e.g. brownfield, greenfield, inner suburban, peripheral etc. and that may be applied by planning authorities, and this is the subject of a detailed economic appraisal currently being undertaken. This appraisal, in conjunction with engagement with other expert advisors including valuers, will inform the detail of the proposed measures. The value uplift may be provided as a financial contribution, land of equivalent value, or in certain circumstances, works/infrastructure,

or, some combination of each. The drafting as set out is based in part on existing section 48 provisions. However such provisions are subject to further review, and legal advice.

The detailed drafting of this section will need to take account of the potential for an application to include a combination of land which is subject to these new land value sharing measures and land which is already zoned and is subject to existing section 48 arrangements.

In respect of the methodology outlined for the calculation of the market value, this (similar to the current use value arrangements set out under Head 6), is drafted subject to further consideration and discussion with valuation experts. With regard to the length of time that this exercise may take, and acknowledging the need to ensure that it does not impact on decision-making, alternative approaches such as self-assessment by the applicant with verification by/on behalf of the planning authority may be considered.

## Part 3

## Insertion of New Part IXA (Urban Development Zones) into the Act of 2000

**Head 8. Interpretation**

**Provide that:**

In this Part -

"development agency" means a local authority, the Land Development Agency, a designated activity company (DAC) or such other agency or person as may be prescribed by the Minister for the purposes of this Part;

"urban development zone" means a designated site or sites to which an order made under section XX (Head 10) relates and in relation to which a planning and delivery scheme may be adopted to facilitate the strategic and comprehensive development, redevelopment or improvement of land within the designated area.

"development appraisal" means an evaluation of a strategy relating to an urban development zone setting out the potential for development, redevelopment or improvement within the designated area and the associated infrastructure requirements including financial appraisal;

**Explanatory Note:**

This is a standard provision to set out definitions for the terms used in the Act.

The need to include further definitions will be discussed, as appropriate, with the Attorney General's Office during the drafting of the Bill.

**Head 9. Designation of site or sites for urban development zone**

**Provide that:**

(1) Where, in the opinion of the Government, specified development, redevelopment or improvement of an under-utilised urban area, has the potential, having regard to the scale, nature and location of the development, redevelopment or improvement proposed, to be of significant economic, social or environmental benefit to the State, the Government may by order, when so proposed by the Minister, designate one or more sites for the establishment, in accordance with the provisions of this Part, of an urban development zone to facilitate such development, redevelopment or improvement.

(2) The Minister shall not consider a proposal for designation of a site or sites as an urban development zone or propose to the Government that a site or sites are designated under *subsection (1)* without receipt of a proposal from the relevant planning authority, or, the Land Development Agency, or a designated activity company (DAC) or such other agency or person as may be prescribed by the Minister, together with the agreement of the planning authority. The proposal shall include sufficient information regarding the nature of the proposal to facilitate such consideration.

(3) Where the proposal referred to in subsection (2) includes land in the area of more than one local authority, the obligations set out in this section shall be binding on each planning authority in respect of any land in their respective functional area.

(4) The Minister may by regulations prescribe the information that shall be included in a submission for proposed designation under this section, which shall include a development appraisal and environmental assessments sufficient to permit the consideration by the Minister of the proposal in accordance with subsection (10) (c) – (e).

(5) A development appraisal under this section shall indicate the manner in which it is intended that the site or sites to be designated under this *section* is to be developed and in particular —

(*a*) the type or types of development which may be permitted to establish on the site,

(*b*) the potential extent of any such proposed development and indicative gross development values,

(*c*) indicative proposals relating to the provision of infrastructure for transportation, including public transportation, and in particular significant requirements,

(*d*) indicative proposals relating to the provision of services on the site for the provision of waste and sewerage facilities and water, telecommunications services, energy generation and storage, and in particular any significant requirements,

(e) where the proposal includes residential development, indicative proposals for the provision of amenities, facilities and services for the community, including educational and healthcare facilities, and in particular any significant requirements,

(f) details of any other significant infrastructure requirements relating to the proposed development, including the provision of infrastructure outside the proposed designated area but which are essential for or may benefit the development proposed within the proposed designated area,

(g) an indicative infrastructure and enabling works requirements and delivery plan including an independently verified cost appraisal and indicative funding sources,

(h) maps and relevant supporting information to identify potential areas of critical land within the proposed designated area, and

(i) an indicative phasing schedule to illustrate the link between infrastructure delivery and phasing for construction of the proposed development.

(6) (a) The relevant planning authority shall, no later than the same day as a submission is made to the Minister under subsection (2), publish notice of the submission made to the Minister under this Part in one or more newspapers circulating in its functional area.

(*b*) The notice referred to in *paragraph (a)* shall state —

(i) that a copy of the submission may be inspected at a stated place or places and at stated times, and on the authority' s website, during a stated period of not less than 8 weeks (and that copies will be kept for inspection accordingly), and

(ii) that written submissions or observations with respect to the submission made to the planning authority within a stated period shall be issued to the Minister to be

taken into consideration before a decision on whether to recommend to the Government that a site or sites are designated as an urban development zone.

(7) Not later than 14 weeks after receipt by the Minister of the submission, the planning authority shall prepare a report on any submissions or observations received as a consequence of the notice published under *subsection (6)(a)* and shall submit the report and a copy of any submissions and observations received to the Minister for consideration.

(8) A report under *subsection (7)* shall —

(a) list the persons or bodies who made submissions or observations for the purposes of *subsection (3)(b)(ii)*,

(b) summarise the issues raised in the submissions or observations so made,

(c) give the response of the planning authority to the issues raised, taking account of the proper planning and sustainable development of the area, the statutory obligations of any local authority in the area and any relevant policies or objectives for the time being of the Government or of any Minister of the Government.

(9) The Minister shall, before making a recommendation to the Government in respect of the designation of a site or sites under *subsection (1)*, consult with any relevant planning authority, any relevant development agency, any relevant regional assembly, any relevant prescribed bodies, the Office of the Planning Regulator and any such other Minister of the Government as the Minister considers appropriate having regard to the functions of that other Minister on the proposed designation.

(10) The Minister shall, before making a recommendation to the Government in respect of the designation of a site or sites under *subsection (1)*, consider—

(a) (i) any relevant submissions or observations received from the planning authority or, where the proposed development is in the area of more than one planning authority, any submissions or observations received from each such authority submitted in accordance with subsection (9),

(ii) any relevant submissions or observations received pursuant to a notice published under subsection (6)(a);

(iii) any relevant submissions or observations received from any relevant regional assembly,

(iv) any relevant submissions or observations received from the Office of the Planning Regulator, and

(v) any relevant submissions or observations received from any authorities, which the Minister may prescribe.

(b) any relevant submissions or observations received from any such other Minister of the Government as the Minister considers appropriate to consult having regard to the functions of that other Minister,

(c) the national interest and any effect the designation of the site or sites as an urban development zone may have on issues of strategic economic, social or environmental, including matters relating to climate action, importance to the State,

(d) the potential scale, nature and location of the development, redevelopment or improvement proposed and the extent to which it may contribute significantly towards the objectives for the time being of the Government or of any Minister of the Government and any regional spatial and economic strategy for the time being in force,

(e) whether such a designation is likely to result in the development, redevelopment or improvement of the site or sites as outlined in any planning and delivery scheme subsequently made for the site or sites being undertaken within a reasonable timescale,

(f) whether the designation of the site or sites as an urban development zone is likely to have significant effects on the environment (within the meaning of Annex II of Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment),

(g) if the area or part of the area is a European site or an area prescribed for the purposes of section 10(2)(c) of the Act of 2000, and

(h) whether the designation of the site or sites as an urban development zone would be likely to have a significant effect on a European site or an area prescribed for the purposes of section 10(2)(c) of the Act of 2000.

(11) An order under *subsection (1)* shall—

(*a*) specify the development agency or development agencies for the purposes of this *section*,

(*b*) specify the type or types of development, redevelopment or improvement that may be established in the urban development zone and the quantum or extent of such development, redevelopment or improvement as set out in the development appraisal, and

(*c*) state the reasons for specifying the development, redevelopment or improvement and for designating the site or sites.

(12) The Minister shall send a copy of any order made under this section to any relevant planning authority, development agency, regional assembly, the Office of the Planning Regulator and to the Board.

(13) Development that is specified in an order under *subsection (11)* shall be deemed to include development that is ancillary to, or required for, the purposes of development so specified, and may include any necessary infrastructural and community facilities and services.

(14) The designation of a site or sites as an urban development zone shall have the following effects –

(i) prohibiting the variation of any relevant development plan or the making or amendment of a local area plan in so far as it relates to the zoning of land situated within an urban development zone pending the adoption of a planning and delivery scheme for that designated area as set out in *section 13 (1),* section 13 *(1A) (a)* and *section 18 (7)* of the Principal Act (as inserted by this Act),

(ii) facilitating the refusal of planning permission excluding compensation for certain developments within an urban development zone as set out in *subsection (3A)* of the Fourth Schedule to the Principal Act (as inserted by this Act),

(iii) facilitating the refusal of planning permission for the extension of duration of planning permission for certain developments within an urban development zone as set out in *section 42(1) (a) (ii) (V)* of the Principal Act (as inserted by this Act), and

(iv) permitting the modification by the relevant planning authority of a permission on land falling within the designated area granted prior to the making of an order under this section to amend the appropriate period for that permission such that, it may be restricted to a maximum of 24 months (notwithstanding the provisions of section 251) from the date of an order made under this section, as set out in section 44 (1A) of the Principal Act (as inserted by this Act).

(15) The Government may revoke or amend an order made under this section.

(16) Where an order made under this section is revoked or amended by the Government, the Minister shall as soon as practicable after the order has been revoked, give a copy of the revocation or amendment order to –

(i) the relevant development agency;

(ii) the relevant planning authority or planning authorities;

(iii) the relevant regional assembly,

(iv) the Office of the Planning Regulator, and

(v) the Board.

(17) Where a revocation order has been made under this section, -
(a) the provisions which prohibit the variation of any relevant development plan or the making or amendment of a local area plan in so far as it relates to the zoning of land within an urban development zone as set out in section 13 (1), section 13 (1A) (a) and section 18 (7) of the Principal Act (as inserted by this Act),

(b) the reasons which allow for the refusal of planning permission excluding compensation for certain developments relating to an urban development zone as set out in subsection (3A) of the Fourth Schedule to the Principal Act (as inserted by this Act),

(c) the reasons which allow for the refusal of planning permission for the extension of duration of planning permission for certain developments as set out in section 42 (1) (a) (ii) (V) of the Principal Act (as inserted by this Act), and

(d) the provisions which permit the modification by the relevant planning authority of a permission on land falling within the designated area granted prior to the making of an order under this section to amend the appropriate period for that permission such that it may be restricted to a maximum of 24 months (notwithstanding the provisions of section 251) from the date of an order made under this section, as set out in section 44 (1A) of the Principal Act (as inserted by this Act)

shall cease to apply to any land within the area previously designated as an urban development zone.

(18) Where an amendment order has been made under this section, -

(a) the provisions of this Part of the Act shall only apply to the area(s) subject of the revised order, and,

(b) in relation to any areas which have been removed from the original designated area -

(i) the provisions which prohibit the variation of any relevant development plan or the making or amendment of a local area plan in so far as it relates to the zoning of land situated within an urban development zone as set out in section 13 (1) and (1A) (a) of the Principal Act (as inserted by this Act),

(ii) the reasons which allow for the refusal of planning permission excluding compensation for certain developments within an urban development zone as set out in subsection (3A) of the Fourth Schedule to the Principal Act (as inserted by this Act),

(iii) the reasons which allow for the refusal of planning permission for the extension of duration of planning permission for certain developments within an urban development zone as set out in section 42 (1) (a) (ii) (V) of the Principal Act (as inserted by this Act), and

(iv) the provisions which permit the modification by the relevant planning authority of a permission on land falling within the designated area granted prior to the making of an order under this section to amend the

appropriate period for that permission such that it may be restricted to a maximum of 24 months (notwithstanding the provisions of section 251) from the date of an order made under this section, as set out in section 44 (1A) of the Principal Act (as inserted by this Act) shall cease to apply.

**Explanatory Note:**

This Head outlines the provision to permit the Government, on foot of a recommendation made by the Minister, to designate a site or sites for an urban development zone, following receipt of a proposal made by a planning authority, or, the Land Development Agency, or a designated activity company (DAC) or such other agency or person as may be prescribed by the Minister, together with the agreement of that authority, under this section.

This Head sets out that the Minister may make regulations to prescribe what information should be included in the formal submission, which shall include a development appraisal and the necessary environmental assessments, that the Minister shall consult with relevant authorities and other Ministers of the Government as deemed necessary before recommending to the Government that a site or sites be designated for an urban development zone, and it outlines the considerations which the Minister should take into account in this regard, including any submissions received as a result of the public consultation undertaken by the relevant planning authority.

The development appraisal is required to outline the types and extent of development proposed for the area in order to demonstrate the nature and quantum of development which might be delivered, in addition to indicative details regarding the expected infrastructure and enabling works required for the development and the associated costs. The appraisal is required to set out an indicative infrastructure and enabling works requirements and delivery plan including an independently verified cost appraisal and indicative funding sources, maps and relevant supporting information to identify potential areas of critical land within the designated area that may be required for the provision of communal infrastructure, and an indicative phasing schedule to illustrate the link between infrastructure delivery and timescales for construction of the proposed development.

The Head also provides that the relevant planning authority will be required to publish a notice and a copy of the submission made by the local authority to the Minister under this section, and that any submissions or observations received in respect of such a notice shall be considered and summarised in a report which will be sent to the Minister, along with copies of those submissions

and observations. This is considered to be an important measure to provide for early engagement with landowners and the local community in the process, and for any issues raised to be considered by the Minister before a recommendation on whether or not to designate the site or sites as an urban development zone is made.

In order to ensure that significant levels of premature development do not take place in advance of a planning and delivery scheme for the comprehensive development of the area being prepared, designation as an urban development zone has the following effects: prohibiting the variation of a development plan or the making or amendment of a local area plan in so far as it relates to the zoning of land situated within an urban development zone, facilitating the refusal of planning permission for certain developments within the designated area (without the need for compensation), facilitating the refusal of planning permission for the extension of duration of planning permission for certain developments and permitting a planning authority to modify an existing permission to limit the duration of that permission such that it will wither within a maximum of 2 years of designation of the urban development zone. Whilst these measures place significant restrictions on development within the area, it is considered that they are necessary in order to prevent premature development or development which could affect the comprehensive scheme for developing the area being prepared and adopted, including the safeguarding of 'critical land' required for the provision of the necessary communal infrastructure. Without these measures, significant speculative development could take place to avoid the proposed introduction of the land value sharing mechanisms and to frustrate the plan-led development of the area.

However, it is proposed that any land which is subject to the Residential Zoned Land Tax under Part 22A of the Taxes Consolidation Act 1997 (as amended) which is currently included in the Finance Bill could be exempt from that tax on designation of the urban development zone until the planning and delivery scheme is adopted (or potentially at a later stage so as to account for the time required to prepare and submit an application), as it would not be reasonable to subject a landowner to the tax given the restrictions on development imposed. This would require an amendment to the Taxes Consolidation Act through a Finance Bill.

The Head sets out the requirements for the contents of the Government order making the designation and the arrangements for notification of such an order being made. It also provides for the revocation or amendment of such an order by the Government, the effects of revocation and amendment of the order and the arrangements for notification where a revocation order or an amendment has been made.

It should be noted that the development agency for the purposes of this part of the Act may be a local authority, the Land Development Agency (LDA) or another person or agency as may be prescribed by the Minister, or a combination of these authorities/agencies.

**Head 10. Current use value of land within urban development zone**

**Provide that:**

(1) A relevant planning authority shall, as soon as practicable after a site or sites have been designated as an urban development zone in accordance with section XX (Head 9), establish a current use value register in order to record the current use value on the day immediately prior to the designation being made of each parcel of land situated within the urban development zone.

(2) Where the urban development zone includes land in the area of more than one planning authority, the obligations set out in this section shall be binding on each planning authority in respect of any parcels of land in their respective functional area.

(3) The current use value of each parcel of land shall, within 6 months of designation of the site or sites as an urban development zone, be confirmed by the relevant planning authority and it shall authorise a person it considers suitably qualified for that purpose to inspect the parcel(s) of land and report to it the value thereof and the person having possession or custody of the parcel(s) shall permit the person so authorised to inspect at such reasonable times as the planning authority considers necessary.

(4) Where a person authorised under *subsection (2)* is not permitted to inspect a property for the purposes of providing an estimate, and where the provisions of section 252 regarding entry to the land are considered not to apply, he or she shall make an estimate of the current use value of the parcel(s) based on his or her knowledge of the parcel(s) and property and the prevailing local market conditions.

(5) Where the relevant planning authority has determined the current use value of a parcel or parcels it shall enter particulars of the determination in the current use value register (together with the date of entry in the current use value register), and give written notice to the owner of the parcel(s) of the valuation which it has placed on the parcel(s).

(6) The Minister may by regulations prescribe arrangements relating to the establishment and maintenance of the current use value register and the calculation of the current use value and dispute resolution relating to any valuations undertaken.

(7) (i) The owner of a parcel of land may appeal to the Tribunal against a determination made by a planning authority under subsection *(1)* within 28 days after the date of the notice given under subsection (5).

(ii) The Tribunal shall hear and determine appeals under *subsection (1)*.

(iii) Subject to a right of appeal to the High Court on a question of law, the determination of the Tribunal under this section shall be final.

(iv) An appeal to the Tribunal shall contain a statement of the specific grounds for the appeal.

(v) The Tribunal shall transmit a copy of every appeal received by it to the planning authority by whom the current use value of the property was determined (who shall be the respondent in, and be entitled to be heard and adduce evidence at the hearing of, the appeal concerned) and to any other person appearing to the Tribunal to be affected directly by the determination and any such person shall be entitled to be heard and to adduce evidence at the hearing of the appeal.

(vi) The Tribunal shall, where any amendment falls to be made to the valuation of a parcel of land pursuant to a determination of the Tribunal or a decision of the High Court in relation to an appeal under this section, give written notice of the amendment to the owner of the parcel of land and to the planning authority concerned who shall cause the appropriate entry in the register to be amended with effect from the date of entry referred to in subsection (5) and shall give written notice to the owner of the making of the amendment and of the date from which the amendment has effect.

(vii) **Sections 4** and **39** of the **Valuation Act 2001** shall apply to the determination of an appeal under this section as they apply to the determination of appeals under that Act.

(viii) The planning authority shall not make a demand for payment of a land value sharing contribution pursuant to a condition attached to a permission granted in accordance with section xxx (*Head 16*) —

> (a) before the expiry of the period during which an appeal may be brought under that subsection, and
>
> (b) where an appeal is brought under *subsection (1)*, before the appeal is finally determined or withdrawn.

**Explanatory Note:**

This Head relates to the calculation of the current use value of land which is designated as an urban development zone.

The draft definition of current use value sets out that it shall be calculated on the basis of the use of the land on the day immediately prior to the date on which the land is designated, in order to allow for authorised development to take place up to that point in time (in addition to development of a minor nature, being exempted development). It will also allow for reliance on any value associated with development which may have been approved but not implemented to be taken into account. The definition of current use value as drafted is subject to further consideration and legal advice.

The planning authority is required to determine the current use value, with arrangements for calculating the value set out on the basis of arrangements for the calculation of the market value of land in relation to the Vacant Site Levy legislation (Urban Regeneration and Housing Act 2015 (as amended). However, this methodology is subject to further consideration and discussion with expert advisers including valuation experts, so as to ensure the process is proportionate and reasonable and will not impact on the timely operation of the measure.

The current use value will be included on a current use value register by the planning authority, with such information also to be included on the national register of zoned housing land. The development of the registers will take account of matters relating to GDPR.

A regulation-making power is included to permit the Minister to prescribe details of arrangements in respect of the preparation and maintenance of the register and the methodology for calculating the current use value.

**Head 11. Acquisition of land in urban development zone**

**Provide that:**

(1) A planning authority or development agency may use any powers to acquire land that are available to it under any enactment, including any powers in relation to the compulsory acquisition of land, for the purposes of providing, securing or facilitating the provision of, a site or sites referred to in *section XX* and in particular in order to facilitate the assembly of sites for the purposes of the orderly development of land.

(2) Where a person, other than the relevant development agency, has an interest in land, or any part of land, on which a site or sites referred to in an order under section XX (Head 10) is or are situated, the relevant development agency may enter into an agreement with that person for the purpose of facilitating the development of the land.

(3) An agreement made under *subsection (2)* with any person having an interest in land may be enforced by the relevant development agency against persons deriving title under that person in respect of that land.

**Explanatory Note:**

This Head sets out the provisions for the planning authority or development agency to use any powers to acquire land that are available to it under the Act, in particular to facilitate the assembly of sites for the purposes of the orderly development of land. This is particularly relevant within urban development zones, where it may be necessary to acquire and assemble land to deliver the communal infrastructure necessary to support the development outlined within the planning and delivery scheme. The development agency may also enter into agreements with other landowners for these purposes.

The provisions included within this Head are similar to those currently in place for Strategic Development Zones, however it is considered that there is a basis for pursuing additional land acquisition powers for urban development zones. Head 16 below sets out that any land identified within a planning and delivery scheme for a UDZ as 'critical land' for the purposes of providing communal infrastructure and facilities must be transferred to the local authority/development agency either in connection with an application for permission or otherwise (such as where the land is required in advance of such an application being submitted). Head 13 below provides for 'first right of refusal' for the local authority/development agency on any non-critical land (i.e. not identified as

'critical' within the planning and delivery scheme made for the area) for sale within the designated area. It is also considered that enhanced CPO and/or CSO powers might be proposed, having regard to any recommendations of the Law Reform Commission review of the compulsory acquisition of land.

**Head 12. Proposal to dispose of non-critical land within an urban development zone**

**Provide that:**

(1) An owner of land within an urban development zone designated by an order made under section XX (*Head 10)* shall not, from the date of such designation, dispose of such land unless the owner has given notice under *subsection (2)* and offered the land for sale to the relevant local authority/development agency within the period of 12 months immediately prior to the disposal.

(2) An owner of land shall give notice to the local authority/development agency of its intention to dispose of such land and shall provide to the local authority/development agency any information sought by it in relation to the land concerned, including an estimate, obtained by or on behalf of the owner, of the market value of the land.

(3) The local authority/development agency shall assess whether the relevant land is required for development for the purposes of the urban development zone, and any information provided to the local authority/development agency under *subsection (2)* and any estimate provided under *subsection (2)* or obtained by or on behalf of the local authority/development agency of the market value of the land, and shall decide to acquire or refuse to acquire that land.

(4) The local authority/development agency shall decide under *subsection (3)*, and give notice to the relevant owner concerned of the decision, within eight weeks of the latter of either of the following occurring:

(a) receipt of a notice under *subsection (2)*;

(b) receipt of information requested under *subsection (2)*.

(5) An owner notified of a decision of the local authority/development agency under this *section* to acquire its land shall be entitled to receive an amount equal to the market value of the relevant land being acquired by the local authority/development agency, except where either part of or the whole of the land has been identified as critical land in the relevant planning and delivery scheme in which case section XX (Head 16) applies.

(6) In default of agreement the market value of the relevant land shall be determined in accordance with matters prescribed under *subsection (7)*.

(7) The Minister shall prescribe the manner in which the market value of relevant land shall be determined in default of agreement.

(8) Matters to be prescribed by the Minister under *subsection (7)* shall include, but shall not be restricted to,—

(a) the date in respect of which the market value of the land shall be determined,

(b) procedures for nomination of a person to determine the market value of the land,

(c) the relevant experience, qualifications, training or expertise required to be held by a person nominated in accordance with procedures prescribed under *paragraph (b)*,

(d) procedures and time limits to apply, including in relation to examination of information, hearing or examination of evidence, requests for further information or the giving of the notice of the determination,

(e) fees and costs to be paid, and to and by whom, in respect of the determination,

(f) provisions of other enactments relating to valuation of land to be applied for the purpose of the regulations where the Minister considers it appropriate,

(g) any other matter the Minister considers necessary or appropriate to include in the regulations for the purpose of determining the market value of the land.

**Explanatory Note:**

This Head provides that the owner of any land within a designated urban development zone must, before selling that land to another party, notify the local authority/development agency of their intention to sell and give the local authority/development agency the first right of refusal on the purchase of the land. It would apply from the point of designation of the UDZ and thereafter, including following the adoption of the planning and delivery scheme. As such, it would provide the local authority/development agency with the opportunity to assemble land over the longer term and thereby provide opportunities for comprehensive development of the land in accordance with the planning and delivery scheme, with the State having an active role in activation of that land.

The Head also sets out the arrangements for calculating the market value of the land, which the owner is entitled to receive for any land purchased by the development agency. Further details

relating to these arrangements are to be set out within regulations. This Head is drafted using the provisions for the Land Development Agency to purchase State owned lands offered for sale as a basis.

**Head 13. Preparation of draft planning and delivery scheme**

**Provide that:**

(1) Subject to *subsection (2)*, as soon as may be after the making of an order designating a site or sites under *section XX (Head 9)* —

(*a*) the relevant development agency (other than a local authority) or, where an agreement referred to in *section XX* has been made, the relevant development agency (other than a local authority) and any person who is a party to the agreement shall prepare a draft planning and delivery scheme in respect of all or any part of the site and submit it to the relevant planning authority,

(*b*) the local authority, where it is the development agency, or where an agreement referred to in *section XX* has been made, the local authority and any person who is a party to the agreement shall prepare a draft planning and delivery scheme in respect of all or any part of the site.

(2) The first draft planning and delivery scheme under *subsection (1)* in respect of all or any part of a site designated under *section XX (Head 9)*, shall be prepared not later than 1 year after the making of the order so designating the site.

(3) A draft planning and delivery scheme under this section shall be generally consistent with the submission considered by the Minister prior to the making of the order designating the site or sites for an urban development zone and it shall consist of a written statement and a plan indicating the manner in which it is intended that the site or part of the site designated under *section XX* to which the scheme relates is to be developed and in particular —

(a) the type or types of development which may be permitted to establish on the site (subject to the order of the Government under section XX *(Head 10)*),

(b) the extent of any such proposed development,

(c) proposals in relation to the overall layout and design of the proposed development, including maximum building height envelopes and floor areas, and an urban design strategy including the approach to the general appearance and design of structures.

(d) proposals relating to transportation, including public transportation, the roads layout, the provision of parking spaces and traffic management and proposals relating to pedestrian and cycle infrastructure,

(e) proposals relating to the provision of services on the site, including the provision of waste and sewerage facilities and water, electricity and telecommunications services, telecommunications services, energy generation and storage,

(f) proposals relating to minimising any adverse effects on the environment, including the natural and built environment, and on the amenities of the area, and

(g) where the scheme provides for residential development, proposals relating to the provision of amenities, facilities and services for the community, including educational and healthcare facilities,

(h) details of any other site-specific infrastructure requirements relating to the proposed development, including the provision of infrastructure outside the designated area but which are essential for or may benefit the development proposed within the designated area,

(i) an infrastructure requirements, enabling works and delivery plan including an independently verified cost appraisal and funding sources,

(j) maps and relevant supporting information to identify areas of critical land within the designated area, and

(k) a phasing schedule to illustrate the link between infrastructure delivery and timescales for construction of the proposed development.

(4) Where an urban development zone includes land in the area of more than one local authority, the draft planning and delivery scheme must clearly set out the arrangements for sharing and management, as appropriate, of infrastructure costs and delivery, collection of contributions, loan servicing arrangements and the bearing of financial risk where relevant.

(5) The Minister may, for the purposes of giving effect to Directive 2001/42/EC of the European Parliament and Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment (No. 2001/42/EC, O.J. No. L 197, 21 July 2001 P. 0030 - 0037), by

regulations make provision in relation to consideration of the likely significant effects on the environment of implementing a planning and delivery scheme.

(6) A screening for appropriate assessment and, if required, an appropriate assessment of a draft planning and delivery scheme shall be carried out in accordance with *Part XAB*.

(7) (*a*) A draft planning and delivery scheme for residential development shall be consistent with the housing strategy prepared by the planning authority in accordance with *Part V*.

(*b*) Where land in an urban development zone is to be used for residential development, an objective to secure the implementation of the housing strategy shall be included in the draft planning and delivery scheme as if it were a specific objective under ***section 95****(1)(b)*.

(8) Where an area designated under section XX *(Head 9)* is situated within the functional area of two or more planning authorities the functions conferred on a planning authority under this Part shall be exercised—

(*a*) jointly by the planning authorities concerned, or

(*b*) by one of the authorities, provided that the consent of the other authority or authorities, as appropriate, is obtained prior to the making of the scheme under section XX (Head 14),

and the words "planning authority" shall be construed accordingly.

**Explanatory Note:**

This Head sets out the requirements and arrangements for the preparation of a draft planning and delivery scheme to facilitate the development of the designated area. It outlines what information must be included in the scheme, which must be consistent with the submission previously considered by the Minister prior to proposing to the Government that the area should be designated as an urban development zone. The provisions as drafted are broadly based on the existing SDZ provisions at section 168 of the Act relating to the preparation of a planning scheme.

**Head 14. Making of planning and delivery scheme**

**Provide that:**

(1) Where a draft planning and delivery scheme has been prepared and submitted to the planning authority in accordance with section XX *(Head 13)*, the planning authority shall, as soon as may be—

(*a*) send notice and copies of the draft planning and delivery scheme to the Minister, the Board and the prescribed authorities,

(*b*) publish notice of the preparation of the draft planning and delivery scheme in one or more newspapers circulating in its area.

(2) A notice under *subsection (1)* shall state—

(*a*) that a copy of the draft planning and delivery scheme may be inspected at a stated place or places and at stated times during a stated period of not less than 6 weeks (and the copy shall be kept available for inspection accordingly), and

(*b*) that written submissions or observations with respect to the draft planning and delivery scheme made to the planning authority within the stated period will be taken into consideration in deciding upon the scheme.

(3) (*a*) Not longer than 12 weeks after giving notice under *subsection (2)* the chief executive of a planning authority shall prepare a report on any submissions or observations received under that subsection and submit the report to the members of the authority for their consideration.

(*b*) A report under *paragraph (a)* shall—

(i) list the persons or bodies who made submissions or observations for the purposes of *subsections (1)* and *(2)*,

(ii) summarise the issues raised by the persons or bodies in the submissions or observations,

(iii) give the response of the chief executive to the issues raised, taking account of the proper planning and sustainable development of the area, the statutory

obligations of any local authority in the area and any relevant policies or objectives for the time being of the Government or of any Minister of the Government.

(4) (*a*) The members of a planning authority shall consider the draft planning and delivery scheme and the report of the chief executive prepared and submitted in accordance with *subsection (3)*.

(*b*) The draft planning and delivery scheme shall be deemed to be made 6 weeks after the submission of that draft planning and delivery scheme and report to the members of the planning authority in accordance with *subsection (3)* unless the planning authority decides, by resolution, to —

(i) make, subject to variations and modifications, the draft planning and delivery scheme (and the passing of such a resolution shall be subject to *paragraphs (ba)* and (*be*)), or

(ii) not to make the draft planning and delivery scheme.

(*ba*) The planning authority shall determine if a strategic environmental assessment or an appropriate assessment or both such assessments, as the case may be, is or are to be carried out as respects one or more than one proposed variation or modification that would, if made, be a material alteration of the draft planning and delivery scheme.

(*bb*) The chief executive shall, not later than 2 weeks after a determination under *paragraph (ba)* specify such period as he or she considers necessary following the determination as being required to facilitate an assessment referred to in *paragraph (ba)*.

(*bc*) The planning authority shall publish notice of the proposed material alteration, and where appropriate in the circumstances, the making of a determination that an assessment referred to in *paragraph (ba)* is required, in at least one newspaper circulating in its area.

(*bd*) The notice referred to in *paragraph (bc)* shall state —

(i) that a copy of the proposed material alteration and of any determination by the authority that an assessment referred to in *paragraph (ba)* is required may be inspected at a stated place or places and at stated times, and on the authority's

website, during a stated period of not less than 4 weeks (and that copies will be kept for inspection accordingly), and

(ii) that written submissions or observations with respect to the proposed material alteration or an assessment referred to in *paragraph (ba)* and made to the planning authority within a stated period shall be taken into account by the authority before the draft planning and delivery scheme is made.

(*be*) The planning authority shall carry out an assessment referred to in *paragraph (ba)* of the proposed material alteration of the draft planning and delivery scheme within the period specified by the chief executive.

(*c*) Where a draft planning and delivery scheme is—

(i) deemed, in accordance with *paragraph (b)*, to have been made, or

(ii) made in accordance with *paragraph (b)(i)*,

it shall have effect 4 weeks from the date of such making unless an appeal is brought to the Board under *subsection (6)*.

(5) (*a*) Following the decision of the planning authority under *subsection (4)* the authority shall, as soon as may be, and in any case not later than 6 working days following the making of the decision—

(i) give notice of the decision of the planning authority to the Minister, the Board, the prescribed authorities and any person who made written submissions or observations on the draft planning and delivery scheme, and

(ii) publish notice of the decision in one or more newspapers circulating in its area.

(*b*) A notice under *paragraph (a)* shall—

(i) give the date of the decision of the planning authority in respect of the draft planning and delivery scheme,

(ii) state the nature of the decision,

(iii) state that a copy of the planning and delivery scheme is available for inspection at a stated place or places (and the copy shall be kept available for inspection accordingly),

(iv) state that any person who made submissions or observation regarding the draft planning and delivery scheme may appeal the decision of the planning authority to the Board within 4 weeks of the date of the planning authority's decision, and

(v) contain such other information as may be prescribed.

(6) The development agency or any person who made submissions or observations in respect of the draft planning and delivery scheme may, for stated reasons, within 4 weeks of the date of the decision of the planning authority appeal the decision of the planning authority to the Board.

(7) (a) Following consideration of an appeal made under this section, the Board may —

(i) subject to *paragraph (b)* and *(c)* and *subsection (7A)* , approve the making of the planning and delivery scheme, with or without any modifications, or

(ii) refuse to approve the making of the planning and delivery scheme.

(b) Except where otherwise provided for by and in accordance with *paragraph (c)* and *subsection (7A)*, the Board shall not approve, on an appeal under this section, a planning and delivery scheme with a modification where it determines that the making of the modification would constitute the making of a material change in the overall objectives of the planning and delivery scheme concerned.

(c) If the Board determines that the making of a modification to which, but for this paragraph, *paragraph (b)* would apply —

(i) is a change of a minor nature and not likely to have significant effects on the environment (within the meaning of Annex II of Directive 2001/42/EC [1] on the assessment of the effects of certain plans and programmes on the environment) or on a European site, then it may approve the planning and delivery scheme with such a modification and notify the planning authority or each planning authority for the area or areas concerned, of the modification, or

(ii) constitutes the making of a material change but would not constitute a change in the overall objectives of the planning and delivery scheme concerned, then, subject to *subsection (7A)* , it shall approve the planning and delivery scheme with such modification.

(d) Where the Board approves the making of a planning and delivery scheme in accordance with *paragraph (a)* or *(c)*, the planning authority shall, as soon as practicable, publish notice of the approval of the scheme in at least one newspaper circulating in its area, and shall state that a copy of the planning and delivery scheme is available for inspection at a stated place or places, a copy of which shall be made available for inspection accordingly.

(7A) (a) Before making a decision under *subsection (7)(c)(ii)* in respect of a planning and delivery scheme, the Board shall —

(i) determine whether the extent and character of the modification it is considering are such that the modification, if it were made, would be likely to have a significant effect on the environment (within the meaning of Annex II of Directive 2001/42/EC) or on a European site, and

(ii) for the purpose of so determining, the Board shall have reached a final decision as to what is the extent and character of any alternative amendment, the making of which it is also considering.

(b) If the Board determines that the making of a modification referred to in *subsection (7)(c)(ii)* —

(i) is not likely to have significant effects on the environment (within the meaning of Annex II of Directive 2001/42/EC) or on a European site, then it may approve the planning and delivery scheme concerned with the modification, or

(ii) is likely to have significant effects on the environment (within the meaning of Annex II of Directive 2001/42/EC) [2] or on a European site, then it shall require the relevant planning authority to undertake a strategic environmental assessment or an appropriate assessment or both such assessments, as the case may be, in relation to the making of the proposed modification.

(c) Before making a determination under *subsection (7)(c)(ii)* , the Board shall require the relevant planning authority —

(i) to send notice and copies of the proposed modification of the planning and delivery scheme concerned to the Minister and the prescribed authorities, and

(ii) to publish a notice of the proposed modification of the planning and delivery scheme concerned in one or more newspapers circulating in that area,

and every such notice shall state —

(I) the reason or reasons for the proposed modification,

(II) that a copy of the proposed modification, along with any assessment undertaken in accordance with *paragraph (b)(ii)* , may be inspected at a stated place or places and at stated times during a stated period of not less than 4 weeks, and

(III) that written submissions or observations with respect to the proposed modification may be made to the planning authority within the stated period, being a period of not less than 4 weeks, and any such submissions or observations will be taken into consideration before making a decision on the proposed modification,

and the copy of the proposed modification shall be made available for inspection accordingly.

(d) Not later than 8 weeks after giving notice under *paragraph (c)*, or such additional time as may be required to complete any assessment that may be required pursuant to *subsection (7A)(b)(ii)* and agreed with the Board, the planning authority shall prepare a report on any submissions or observations received as a consequence of that notice and shall submit the report to the Board for its consideration.

(e) A report under *paragraph (d)* shall —

(i) list the persons or bodies who made submissions or observations for the purposes of *paragraph (c)(III)* ,

(ii) summarise the issues raised in the submissions or observations so made,

(iii) include, where and if required for the purposes of *subsection (7A)(b)(ii)* , either or both —

(I) the environmental report and strategic environmental assessment, and

(II) the Natura impact report and appropriate assessment,

of the planning authority, and

(iv) give the response of the planning authority to the issues raised, taking account of the proper planning and sustainable development of the area, the overall objectives of the planning and delivery scheme, the statutory obligations of any local authority in the area and any relevant policies or objectives for the time being of the Government or of any Minister of the Government.

(f) Where a report has been submitted to the Board under *paragraph (d)*, the planning authority concerned shall, upon being requested by the Board, provide it with copies of such submissions or observations to which that paragraph relates as are so requested.

(g) The Board shall have regard to any report prepared in accordance with *paragraphs (d)* and *(e)*, and

(h) Subject to any obligations that may arise under *Part XAB* , if the Board makes a determination to make a modification as referred to in *subsection (7)(c)(ii)* , it shall —

(i) approve the planning and delivery scheme with the modification accordingly,

(ii) notify the planning authority or each planning authority for the area or areas concerned of the modification, and

(iii) notify any person who made a submission or observation in accordance with *paragraph (c)(III)* of the determination under *subsection (7)(c)*.

(8) In considering a draft planning and delivery scheme under this section a planning authority or the Board, as the case may be, shall consider the proper planning and sustainable development of the area and consider the provisions of the development plan, the provisions of the housing

strategy, any specific planning policy requirements contained in guidelines under *subsection (1)* of *section 28*, the provisions of any special amenity area order or the conservation and preservation of any European Site and, where appropriate—

(*a*) the effect the scheme would have on any neighbouring land to the land concerned,

(*b*) the effect the scheme would have on any place which is outside the area of the planning authority, and

(*c*) any other consideration relating to development outside the area of the planning authority, including any area outside the State.

(8A) (a) A planning and delivery scheme that contains a provision that contravenes any specific planning policy requirement in guidelines under *subsection (1)* of *section 28* shall be deemed to have been made, under *paragraph (b)* of *subsection (4)* of *section 169* , subject to the deletion of that provision.

(b) Where a planning and delivery scheme contravenes a specific planning policy requirement in guidelines under *subsection (1)* of *section 28* by omission of a provision in compliance with that requirement, the planning and delivery scheme shall be deemed to have been made under *paragraph (b)* of *subsection (4)* of *section XX* subject to the addition of that provision.

(9) A planning and delivery scheme made under this section shall be deemed to form part of any development plan in force in the area of the scheme until the scheme is revoked, and any contrary provisions of the development plan shall be superseded.

(10) Where a planning and delivery scheme for the area has not been made under this section within 24 months of the order made under section XX (Head 9) designating the site or sites as an urban development zone, the order made under section XX (Head 9) shall be construed as being revoked for the purposes of subsection (15) of section XX (Head 9) and the provisions within this Part of the Act shall cease to apply to the area in question.

(11) Notwithstanding subsection (10), the Minister may by regulations prescribe the circumstances in which the time period referred to in subsection (10) may be extended where necessary.

**Explanatory Note:**

This Head sets out the procedural arrangements which the planning authority, and where relevant, the Board, must follow when undertaking consultation, considering and making or refusing to make the planning and delivery scheme. These provisions are based on the existing provisions within the Act (section 169) relating to Strategic Development Zones. However an additional provision is proposed requiring a planning and delivery scheme to be made for the area within 24 months of the Government order designating the site as an urban development zone. This is considered to be necessary in order to provide landowners and stakeholders with certainty and clarity with regard to the timescales for adoption of the scheme, and in particular given the significant restrictions placed on development potential within the area between designation and adoption of the scheme, as outlined in Head 9 and provided for under Part 4. A regulation making power is included to allow the Minister to set out particular circumstances where this 24 month period may be extended where necessary.

**Head 15. Application for development on land in urban development zone**

**Provide that:**

(1) A planning authority may, when granting a permission under ***section 34*** , include a condition or conditions for requiring the payment of a land value sharing contribution in respect of public infrastructure, facilities and enabling works benefiting development in an urban development zone and that is provided, or that it is intended will be provided, by or on behalf of a local authority or by a public authority with the agreement of the local authority (regardless of other sources of funding for the infrastructure and facilities) where the development subject of the application meets the criteria for provision of a land value sharing contribution, as may be prescribed in regulations made by the Minister for the purposes of this section.

(2) Where an application is submitted to a planning authority under ***section 34*** for development on land within an urban development zone, that section and any permission regulations shall apply, subject to the other provisions of this section.

(3) A planning authority shall, as soon as practicable after an application is received as set out in subsection (1), and, for the avoidance of doubt, on determination of the application for the development, confirm the market value of the land subject of the application, and where the development is amended during the course of the application such that the development value is altered, a revised market value assessment shall be undertaken, either during the course of the application or pursuant to a condition of the permission.

(4) Where the land subject of an application as set out in subsection (1) includes land in the area of more than one planning authority, the obligations set out in this section shall be binding on each planning authority in respect of any parcels of land in their respective functional area.

(5) The market value of the land shall, as soon as is practicable after an application received as set out in paragraph (1), and, for the avoidance of doubt, on determination of the application for the development, be confirmed by the relevant planning authority following receipt of a market value assessment submitted by the applicant to accompany the application and it shall authorise a person it considers suitably qualified for that purpose to inspect the parcel(s) of land and report to it the value thereof and the person having possession or custody of the parcel(s) shall permit the person so authorised to inspect at such reasonable times as the planning authority considers necessary.

(6) Where a person authorised under *subsection (2)* is not permitted to inspect a property for the purposes of providing an estimate, and where the provisions of section 252 regarding entry to the

land are considered not to apply, he or she shall make an estimate of the market value of the parcel(s) based on his or her knowledge of the parcel(s) and property and the prevailing local market conditions.

(7) When the relevant planning authority has determined the market value of a parcel or parcels and, for the avoidance of doubt, this determination shall be undertaken prior to a decision being made on whether or not to grant planning permission for the development, it shall give written notice to the owner of the parcel(s) and, where the owner of the land is not the applicant, it shall also notify the applicant for planning permission, of the valuation which it has placed on the parcel(s) subject of the planning application.

(8) (i) The owner of a parcel of land may appeal to the Tribunal against a determination made by a planning authority under subsection *(3)* within 28 days after the date of the notice given under subsection (5).

(ii) The Tribunal shall hear and determine appeals under *subsection (3)*.

(iii) Subject to a right of appeal to the High Court on a question of law, the determination of the Tribunal under this section shall be final.

(iv) An appeal to the Tribunal shall contain a statement of the specific grounds for the appeal.

(v) The Tribunal shall transmit a copy of every appeal received by it to the planning authority by whom the market value of the property was determined (who shall be the respondent in, and be entitled to be heard and adduce evidence at the hearing of, the appeal concerned) and to any other person appearing to the Tribunal to be affected directly by the determination and any such person shall be entitled to be heard and to adduce evidence at the hearing of the appeal.

(vi) The Tribunal shall, where any amendment falls to be made to the valuation of a parcel of land pursuant to a determination of the Tribunal or a decision of the High Court in relation to an appeal under this section, give written notice of the amendment to the owner of the parcel of land and to the planning authority concerned who shall cause the condition or conditions attached to the grant of permission made in accordance with subsection (1) to be amended with effect from the date of determination of the Tribunal or the decision of the

High Court and shall give written notice to the owner of the making of the amendment and of the date from which the amendment has effect.

(vii) **Sections 4** and **39** of the **Valuation Act 2001** shall apply to the determination of an appeal under this section as they apply to the determination of appeals under that Act.

(viii) The planning authority shall not make a demand for payment of a land value sharing contribution pursuant to a condition attached to a permission granted in accordance with subsection (1) —

(a) before the expiry of the period during which an appeal may be brought under that subsection, and

(b) where an appeal is brought under *subsection (3)*, before the appeal is finally determined or withdrawn.

(9) ( *a*) A planning authority may, on a site area or floorspace basis, facilitate the phased payment of contributions under this section, and may require the giving of security to ensure payment of contributions.

(*b*) Where a contribution is not paid in accordance with the terms of the condition laid down by the planning authority, any outstanding amounts due to the planning authority shall be paid together with interest that may have accrued over the period while withheld by the person required to pay the contribution.

(*c*) A planning authority may recover, as a simple contract debt in a court of competent jurisdiction, any contribution or interest due to the planning authority under this section.

(10) A planning authority may facilitate the provision of land or the development of infrastructure by a landowner in full or partial discharge of obligations arising under this section.

(11) The Minister may by regulations prescribe arrangements relating to the calculation of the market value of land for the purposes of this Part and dispute resolution relating to any valuations undertaken.

(12) Where a permission which includes conditions referred to in *subsection (1)* has been granted under *section 34* in respect of a development and the basis for the determination of the contribution under *subsection (1)* has changed —

(a) where the development is one to which Part II of the Building Control Regulations 1997 ( **S.I. No. 496 of 1997** ) applies and a commencement notice within the meaning of that Part in respect of the development has not been lodged, or

(b) where the development comprises houses and one or more of those houses has not been rented, leased, occupied or sold,

the planning authority shall apply that change to the conditions of the permission where to do so would reduce the amount of the contribution payable.

(13) Where a development referred to in *subsection (10)* comprises houses one or more of which has not been rented, leased, occupied or sold the planning authority shall apply the change in the basis for the determination of the contribution referred to in that subsection only in respect of any house or houses that have not been rented, leased, occupied or sold.

(14) Where the planning authority applies a change in the basis for the determination of a development contribution under *subsection (10)* it may amend a condition referred to in *subsection (1)* in order to reflect the change.

(15) (*a*) Money accruing to a local authority under this section shall be accounted for in a separate account, and shall only be applied as capital for public infrastructure, facilities and enabling works within the designated area or outside the designated area that may facilitate the development of the designated area.

(*b*) A report of a local authority under **section 50 of the Local Government Act, 1991**, shall contain details of monies paid or owing to it under this section and shall indicate how such monies paid to it have been expended by any local authority.

(16) For the avoidance of doubt, no refund of any money paid to the local authority shall be due.

(17) Subject to the provisions of *Part X* or *Part XAB* , or both of those Parts as appropriate, a planning authority shall grant permission in respect of an application for a development in an urban development zone where it is satisfied that the development, where carried out in accordance with the application or subject to any conditions which the planning authority may attach to a permission, would be consistent with any planning and delivery scheme in force for the land in question, and no permission shall be granted for any development which would not be consistent with such a planning and delivery scheme.

(18) Notwithstanding ***section 37***, no appeal shall lie to the Board against a decision of a planning authority on an application for permission in respect of a development in an urban development zone.

(19) Where the planning authority decides to grant permission for a development in an urban development zone, the grant shall be deemed to be given on the date of the decision and, for the avoidance of doubt, the land value sharing contribution shall be calculated on the date of this decision.

**Explanatory Note:**

This Head sets out the obligations of the planning authority in receipt of an application for planning permission an urban development zone following the adoption of a planning and delivery scheme.

On receipt of an application, an assessment of the market value of the land must be undertaken where it meets the criteria for a land value sharing contribution. The market value equates to the market value of the land subject of the application for permission. Taking this into account and on the basis of the current use value for the land subject of the application and the appropriate proportion of the uplift in value to be secured, the relevant proportion of the uplift in value in respect of that particular site can be calculated. This amount shall be secured, by condition of any planning permission granted, by the local authority for the purposes of infrastructure provision in the area. The purpose of the value uplift is to provide public infrastructure to service the lands and community, including roads, public transport, schools, parks and community facilities and where required, may include social/affordable housing (over and above Part V).

In the drafting of this Head it should be noted that certain differences compared to the current definition of public infrastructure and facilities for the purposes of development contributions schemes prepared under section 48 of the 2000 Act are proposed.

The current definition of the public infrastructure and facilities which such contributions can be required to contribute towards under section 48 is as follows:

( *a*) the acquisition of land,

( *b*) the provision of open spaces, recreational and community facilities and amenities and landscaping works,

(c) the provision of roads, car parks, car parking places, surface water sewers and flood relief work, and ancillary infrastructure,

( *d*) the provision of bus corridors and lanes, bus interchange facilities (including car parks for those facilities), infrastructure to facilitate public transport, cycle and pedestrian facilities, and traffic calming measures,

(e) the refurbishment, upgrading, enlargement or replacement of roads, car parks, car parking places, surface water sewers, flood relief work and ancillary infrastructure,

( *f* ) the provision of high-capacity telecommunications infrastructure, such as broadband,

( *g* ) the provision of school sites, and

( *h* ) any matters ancillary to paragraphs ( *a* ) to ( *g* ).

In the current proposals for a land value sharing contribution, it is considered that there may be potential to broaden the scope of the contribution to public infrastructure, facilities and enabling works as follows:

(a) the acquisition of land required for the purposes set out in paragraphs (b) - (o) below and, in relation to an urban development zone designated by order under section XX (Head 9), land required in relation to the provision of housing or the relocation of uses to meet the objectives of the planning and delivery scheme,

(b) the provision of open spaces, recreational and community facilities and amenities and landscaping works,

(c) the provision of roads, car parks, car parking places, surface water sewers and flood relief work, and ancillary infrastructure,

(d) the provision of bus corridors and lanes, bus interchange facilities (including car parks for those facilities), infrastructure to facilitate public transport, cycle and pedestrian facilities, and traffic calming measures,

(e) the refurbishment, upgrading, enlargement or replacement of roads, car parks, car parking places, surface water sewers, flood relief work and ancillary infrastructure,

(f) the provision of high-capacity telecommunications infrastructure, such as broadband,

(g) blue infrastructure such as flood defences and sustainable water management solutions,

(h) the provision of sites for schools and other educational facilities including childcare facilities,

(i) the provision of sites for hospitals and other healthcare facilities;

(j) the provision of sites for centres for the social, economic, recreational, cultural, environmental, or general development of the community;

(k) the provision of sites for facilities for the elderly and for persons with disabilities;

(l) green infrastructure to support decarbonisation and the reduction of anthropogenic greenhouse gases;

(m) public realm works;

(n) programmes or facilities relating to education, training or skills development in connection with the provision of employment opportunities for the local community in conjunction with an established educational authority or institution; and

(o) any matters which it considers ancillary to anything which is referred to in *(a)* to *(n)*.

These proposals will be further considered in the context of the economic appraisal being undertaken in tandem with the drafting of the legislation.

However, as a matter of policy principle, it is considered, that in the context of the justification provided to require landowners to make an increased contribution towards the infrastructure and facilities required to ensure development contributes towards sustainable communities, that an expanded scope over and above that set out currently for development contributions under section 48 of the Act is warranted. The additional types of infrastructure and facilities, including enabling works, included in the draft Head relate to the provision of green and blue infrastructure; the provision of sites for healthcare, childcare facilities, centres for the social, economic, recreational, cultural, environmental, or general development of the community and for facilities for the elderly and for persons with disabilities; education/training and skills development to provide employment opportunities for the local community and public realm works. These types of infrastructure make an important contribution towards responding to climate change adaptation and mitigation, providing the essential services required to support a sustainable residential community, and ensuring that high quality and attractive places are created for the benefit of the local and wider communities.

This proportion of the value uplift will be pre-determined up to 30% of the total increase in site value (as set out in the definition of 'land value sharing contribution'), in addition to current Part V social

and affordable housing requirements (i.e. which allow up to 20% of a residential development site for specific purposes at existing use value). Together, both provisions will comprise up to 50% of the overall uplift in land value – hence land value 'sharing'.

Further analysis is required to establish a more specifically appropriate proportion or banded range, appropriate to circumstances, e.g. brownfield, greenfield, inner suburban, peripheral etc. and that may be applied by planning authorities, and this is the subject of a detailed economic appraisal currently being undertaken. The value uplift may be provided as a financial contribution, land of equivalent value, or in certain circumstances, works/infrastructure, or, some combination of each.

The drafting as set out is based on existing section 48 provisions. However such provisions are subject to further review and legal advice.

The detailed drafting of this section will need to take account of the potential for an application to include a combination of land which is subject to these new land value sharing measures and land which is outside the UDZ and is subject to existing section 48 arrangements.

In respect of the methodology outlined for the calculation of the development value, this (similar to the current use value arrangements set out under Head 14), is drafted subject to further consideration and discussion with valuation experts. With regard to the length of time that this exercise may take, and acknowledging the need to ensure that it does not impact on decision-making, alternative approaches such as self-assessment by the applicant with verification by/on behalf of the planning authority may be considered.

In addition to the consideration of the market value for the purposes of the land value sharing mechanisms, the Head sets out the fast-track arrangements for applications within a UDZ where such applications are consistent with the adopted planning and delivery scheme, in a similar manner to current provisions for SDZs (section 170 of the Act). The planning authority is obliged to approve such applications and no right of appeal to the Board applies.

**Head 16. Power to acquire critical land and payment of land credit and land equalisation amounts**

**Provide that:**

(1) Where, after the adoption of a planning and delivery scheme for an urban development zone, a planning application for the -

(a) material change of use of land, or

(b) the extension or enlargement of an existing building or use by 20 per cent or more of the floorspace or land,

is submitted to the planning authority in respect of any land identified as critical land within the planning and delivery scheme, the local authority may serve on the owner of the land a written request that, within a period specified in the request (being a period of not less than 8 weeks commencing on the date of the request), he or she will arrange for the transfer of title of any critical land to the local authority.

(2) Where the owner fails to comply or to secure compliance with the request within the period so specified, the local authority may, if it thinks fit, publish in a newspaper circulating in the district a notice (an "acquisition notice") of its intention to acquire the land by order under this section and the acquisition notice shall specify a period (being a period of not less than 4 weeks commencing on the date on which the notice is published) within which an appeal may be made under this section.

(3) Where a local authority publishes an acquisition notice, it shall serve a copy of the notice on the owner of the land to which the notice relates not later than 10 days after the date of the publication.

(4) Any person having an interest in the land to which an acquisition notice relates may within the period specified in the notice appeal to the Board.

(5) Where an appeal is brought under this section the Board may—

(*a*) annul the acquisition notice to which the appeal relates, or

(*b*) confirm the acquisition notice, with or without modification, in respect of all or such part of the relevant land as the Board considers reasonable.

(6) If a local authority publishes an acquisition notice and either—

(*a*) the period for appealing against the notice has expired and no appeal has been taken, or

(*b*) an appeal has been taken against the notice and the appeal has been withdrawn or the notice has been confirmed whether unconditionally or subject to modifications,

the local authority may make an order in the prescribed form which order shall be expressed and shall operate to vest the land to which the acquisition notice, or, where appropriate, the acquisition notice as confirmed, relates in the local authority on a specified date for all the estate, term or interest for which immediately before the date of the order the land was held by the owner together with all rights and liabilities which, immediately before that date, were enjoyed or incurred in connection therewith by the owner together with an obligation to comply with the request made under *subsection XX*.

(7) When a planning authority makes an order under this section in relation to any land, it shall send the order to the registering authority under the **Registration of Title Act, 1964**, and thereupon the registering authority shall cause the local authority to be registered as owner of the land in accordance with the order.

(8) A local authority shall enter in the register—

(*a*) particulars of any acquisition notice published by it,

(*b*) the date and effect of any decision on appeal in relation to any such notice, and

(*c*) particulars of any order made under this section,

and every entry shall be made within the period of 7 days commencing on the day of publication, receipt of notification of the decision or the making of the order, as may be appropriate.

(9) Where the value of land required to be transferred to the local authority/development agency as critical land for the relevant parcel of land subject of the planning application is equivalent to the obligation in respect of that land under section xx (Head 15), the owner of the land is not entitled to receive a compensation in the form of a land credit amount or liable to pay a land equalisation amount.

(10) Where the value of critical land required to be transferred to the local authority/ development agency for the relevant parcel of land subject of the planning application exceeds the obligation in respect of that land under section XX (Head 15), the owner of the land is entitled to receive compensation in the form of a land credit amount for the value of the landholding being transferred which exceeds the obligation.

(11) The Minister may by regulations prescribe the arrangements for calculating the value of the land credit amount and dispute resolution relating to any valuations undertaken.

(12) Where the value of critical land required to be transferred to the local authority/development agency for the relevant parcel of land subject of the planning application is less than the obligation in respect of that land under section XX (Head 15), and in the absence of any other means of discharging the obligation, whether by the transfer of land or otherwise, the owner of the land is liable to pay a land equalisation amount in respect of the difference between the amount of land being transferred and the obligation.

(13) The Minister may by regulations prescribe the arrangements for calculating the land equalisation amount and dispute resolution relating to any valuations undertaken.

(14) The payment of the land equalisation amount shall be secured by a condition attached to the grant of permission relating to the development under section XX (Head 15).

(15) The planning authority/development agency may provide for the payment of the land equalisation amount by instalments, and may require the giving of security to ensure payment of contributions.

(16) The planning authority/development agency shall, when calculating the land credit amount or land equalisation amount, have regard to index linking to reflect increases in land value over time.

(17) Where a contribution is not paid in accordance with the terms of the condition laid down by the planning authority, any outstanding amounts due to the local authority shall be paid together with interest that may have accrued over the period while withheld by the person required to pay the contribution.

(18) Notwithstanding subsection (1), the obligation to transfer critical land to the local authority/development agency or pay a land equalisation amount will not apply to the following:

> (i) planning applications relating to the provision, improvement, replacement, or maintenance of infrastructure to support the development set out in the planning and delivery scheme made under section XX (Head 14));
>
> (ii) planning applications that are in compliance with the adopted planning and delivery scheme relating to land owned by the relevant local authority/development agency.

(19) Where any critical land identified within the planning and delivery scheme is required by the local authority/development agency for the purposes outlined in the scheme in advance of the receipt of a planning application for the relevant parcel of land or otherwise, the local authority/development agency may acquire the land in question using any powers conferred under the Act and any other enactment in relation to compulsory purchase of land.

(20) Where subsection (19) applies, the planning authority shall, as soon as is practicable after the local authority/development agency decides to acquire the land in question, estimate the potential market value of the land, taking into account the highest and best possible use of the land for residential or other purposes as may be delivered in this area in the event that the land was not required for communal infrastructure as set out within the planning and delivery scheme.

(21) Where the land subject of an assessment of market value as set out in subsection (20) includes land in the area of more than one planning authority, the obligations set out in this section shall be binding on each planning authority in respect of any parcels of land in their respective functional area.

(22) The market value of the land shall be estimated by the relevant planning authority and it shall authorise a person it considers suitably qualified for that purpose to inspect the parcel(s) of land and report to it the value thereof and the person having possession or custody of the parcel(s) shall permit the person so authorised to inspect at such reasonable times as the planning authority considers necessary.

(23) Where a person authorised under *subsection (2)* is not permitted to inspect a property for the purposes of providing an estimate, and where the provisions of section 252 regarding entry to the land are considered not to apply, he or she shall make an estimate of the market value of the parcel(s) based on his or her knowledge of the parcel(s) and property and the prevailing local market conditions.

(24) When the relevant planning authority has determined the market value of a parcel or parcels, it shall give written notice to the owner of the parcel(s) of the valuation which it has placed on the parcel(s).

(25) (i) The owner of a parcel of land may appeal to the Tribunal against a determination made by a planning authority under subsection *(3)* within 28 days after the date of the notice given under subsection (5).

(ii) The Tribunal shall hear and determine appeals under *subsection (3)*.

(iii) Subject to a right of appeal to the High Court on a question of law, the determination of the Tribunal under this section shall be final.

(iv) An appeal to the Tribunal shall contain a statement of the specific grounds for the appeal.

(v) The Tribunal shall transmit a copy of every appeal received by it to the planning authority by whom the market value of the property was determined (who shall be the respondent in, and be entitled to be heard and adduce evidence at the hearing of, the appeal concerned) and to any other person appearing to the Tribunal to be affected directly by the determination and any such person shall be entitled to be heard and to adduce evidence at the hearing of the appeal.

(vi) The Tribunal shall, where any amendment falls to be made to the valuation of a parcel of land pursuant to a determination of the Tribunal or a decision of the High Court in relation to an appeal under this section, give written notice of the amendment to the owner of the parcel of land and to the planning authority concerned.

(vii) **Sections 4** and **39** of the **Valuation Act 2001** shall apply to the determination of an appeal under this section as they apply to the determination of appeals under that Act.

(viii) The local authority/development agency shall not finalise the acquisition of land under subsection (19) —

(a) before the expiry of the period during which an appeal may be brought under that subsection, and

(b) where an appeal is brought under *subsection (3)*, before the appeal is finally determined or withdrawn.

(26) Where subsection (19) applies and the market value of the land has been estimated as set out in this section, and in the absence of any other means of discharging the obligation, whether by the transfer of land or otherwise, the owner of the land is entitled to receive compensation in the form of the market value of the land less the equivalent of the relevant land value sharing contribution which would have applied in the event that a planning application had been submitted in respect of that land.

(27) The Minister may by regulations prescribe arrangements relating to the calculation of the market value of land for the purposes of this Part and dispute resolution relating to any valuations undertaken.

(28) Any land acquired by, transferred to or vested in a local authority/development agency in accordance with this section shall only be used in connection with public infrastructure, facilities and enabling works within the designated area.

(29) A report of a local authority under section 50 of the Local Government Act, 1991 , shall contain details of any land acquired by, transferred to or vested in it under this section and shall indicate how such land has been used by any local authority.

(30) (*a*) Money accruing to a local authority under this section shall be accounted for in a separate account, and shall only be applied in connection with public infrastructure, facilities and enabling works within the designated area.

(*b*) A report of a local authority under section 50 of the Local Government Act, 1991 , shall contain details of monies paid or owing to it under this section and shall indicate how such monies paid to it have been expended by any local authority.

**Explanatory Note:**

This Head sets out the provisions relating to the acquisition, transfer or vesting of land which has been identified within the planning and delivery scheme as 'critical land' for the purposes of providing or facilitating the delivery of public infrastructure, facilities and enabling works required for the development set out in the planning and delivery scheme. The local authority will be required to provide a report to demonstrate that any land or money has been secured only for these purposes.

The Head outlines that, for land which has been identified as 'critical land' in a planning and delivery scheme which has been adopted for the urban development zone, the owner of the land is obliged to transfer the ownership to the planning authority or development agency (with arrangements for acquisition and vesting where they do not comply).

Where the value of critical land falling within any parcel of land exceeds the obligation, the owner is entitled to receive compensation in the form of a land credit amount for that additional amount of land.

Where the value of critical land falling within any parcel of land is less than the obligation, the owner is liable to pay a land equalisation amount to the planning authority or development agency in respect of the difference between the land being transferred and the obligation.

Where the value of critical land falling within any parcel of land is equal to the obligation, the owner is liable only to transfer the land in question, with no land credit amount due or land equalisation amount payable.

The Head outlines what the monies accrued by the receipt of land equalisation amounts can be spent on and arrangements for reporting. It sets out certain exceptions to the requirement to transfer land, namely where development subject of the planning application relates to the provision of infrastructure or land within the ownership of the local authority/development agency, where such development is in compliance with the adopted planning and delivery scheme. It is considered reasonable that such development would not be required to provide a land value sharing contribution given that the State is not undertaking this development for commercial gain but rather in the exigencies of the common good, and as such can retain the uplift in value in full.

Where the local authority/development agency requires the 'critical land' either in advance of or separately to the submission of a planning application, subsections (19) to (27) set out that they may acquire such land under compulsory purchase powers. In line with the proposed approach for land subject of a planning application, an assessment of the market value of the land must be undertaken in order to establish the value of that land and the relevant proportion of uplift in value that the State may retain. The planning and delivery scheme as adopted would form the basis for this assessment (as there would be no planning application proposal in this case), however as 'critical land' the land would not be worth as much as adjacent land to be developed, and a fair and reasonable approach is required in this regard, given that the communal infrastructure required to be provided on the land is of wider benefit and as such the landowner should not be unduly penalised. As such it is proposed that that the market value of the land is calculated on the basis of the highest and best possible use of that land for residential purposes. This approach requires further consideration and discussion with expert valuation advisers.

The accompanying regulations that may be prescribed by the Minister will set out the arrangements for the valuation of land including dispute resolution and associated duties and responsibilities of the local authority/development agency.

**Head 17. Amendment of planning and delivery scheme**

**Provide that:**

(1) A planning authority may, on its own behalf where it is acting as the development agency in respect of a planning and delivery scheme, or on behalf of a development agency which is responsible for the preparation and implementation of a planning and delivery scheme, make an application to the Board to request an amendment under this section to a planning and delivery scheme.

(2) Where an application under *subsection (1)* has been made, the Board shall make a decision, in a manner provided for by this section, as to whether the making of the amendment to which the request relates would constitute the making of a material change to the planning and delivery scheme.

(3) (a) Where the amendment fails to satisfy each of the criteria referred to in *subparagraphs (i)* to *(iv)* of *paragraph (b)*, the Board shall require the planning authority to amend the planning and delivery scheme in compliance with the procedure laid down in section XX and that section shall be construed and have effect accordingly.

(b) The criteria referred to in *paragraph (a)* are that the amendment to the planning and delivery scheme concerned —

(i) would not constitute a change in the overall objectives of the planning and delivery scheme concerned,

(ii) would not relate to already developed land in the planning and delivery scheme,

(iii) would not significantly increase or decrease the overall floor area or density of proposed development, and

(iv) would not adversely affect or diminish the amenity of the area that is the subject of the proposed amendment.

(4) If the Board determines that the making of the amendment to a planning and delivery scheme —

(a) is a change of a minor nature and not likely to have significant effects on the environment (within the meaning of Annex II of Directive 2001/42/EC on the assessment of

the effects of certain plans and programmes on the environment) or on a European site, then it may approve the making of the amendment to the planning and delivery scheme and notify the planning authority or each planning authority for the area or areas concerned, of the amendment, or

(b) constitutes the making of a material change but is within the criteria set out in *subsection (3)(b)*, then, subject to *subsection (5)*, it may approve the making of the amendment to the planning and delivery scheme with such amendment, or an alternate amendment, being an amendment that would be different from that to which the request relates but would not represent, in the opinion of the Board, a more significant change than that which was proposed.

(5) Before making a determination to which *subsection (4)(b)* would relate, the Board shall establish whether or not the extent and character —

(a) of the amendment to which *subsection (1)* relates, and

(b) of any alternative amendment it is considering and to which *subsection (4)(b)* relates,

are such that, if the amendment were to be made, it would be likely to have significant effects on the environment (within the meaning of Annex II of Directive 2001/42/EC) or on a European site and, for that purpose, the Board shall have reached a final decision as to what is the extent and character of any alternative amendment, the making of which it is also considering.

(6) If the Board determines that the making of either kind of amendment referred to in *subsection (4)(b) —*

(a) is not likely to have significant effects on the environment (within the meaning of Annex II of Directive 2001/42/EC) or on a European site, it shall proceed to make a determination under *subsection (4)(b)* , or

(b) is likely to have significant effects on the environment (within the meaning of Annex II of Directive 2001/42/EC) or on a European site, then it shall require the planning authority to undertake a strategic environmental assessment or an appropriate assessment or both such assessments, as the case may be, in relation to the making of the proposed amendment or alternative amendment.

(7) Before making a determination to which *subsection (4)(b)* would relate, the Board shall require the planning authority concerned —

(a) to send notice and copies of the proposed amendment of the planning scheme concerned to the Minister and the prescribed authorities, and

(b) to publish a notice of that proposed amendment in one or more newspapers circulating in the area concerned,

and every such notice shall state —

(i) the reason or reasons for the proposed amendment,

(ii) that a copy of the proposed amendment, along with any assessment undertaken according to *subsection (6)(b)* , may be inspected at a stated place or places and at stated times during a stated period of not less than 4 weeks, and

(iii) that written submissions or observations with respect to the proposed amendment may be made to the planning authority within the stated period, being a period of not less than 4 weeks, and any such submissions or observations will be taken into consideration before making a decision on the proposed amendment,

and the copy of the proposed amendment shall be made available for inspection accordingly.

(8) Not later than 8 weeks after giving notice under *subsection (7)*, or such additional time as may be required to complete any assessment that may be required pursuant to *subsection (6)(b)* and agreed with the Board, the planning authority shall prepare a report on any submissions or observations received as a consequence of that notice and shall submit the report to the Board for its consideration.

(9) A report under *subsection (8)* shall —

(a) list the persons or bodies who made submissions or observations for the purposes of *subsection (7)(iii)* ,

(b) summarise the issues raised in the submissions or observations so made,

(c) include, where and if required for the purposes of *subsection (6)(b)* , either or both —

(i) the environmental report and strategic environmental assessment, and

(ii) the Natura impact report and appropriate assessment,

of the planning authority, and

(d) give the response of the planning authority to the issues raised, taking account of the proper planning and sustainable development of the area, the overall objectives of the planning and delivery scheme, the statutory obligations of any local authority in the area and any relevant policies or objectives for the time being of the Government or of any Minister of the Government.

(10) The Board shall have regard to any report prepared in accordance with *subsections (8)* and *(9)* .

(11) Subject to any obligations that may arise under *Part XAB*, if the Board makes a determination to make an amendment of any kind referred to in *subsection (4)* , it shall —

(a) approve the making of an amendment to the planning and delivery scheme accordingly,

(b) notify the planning authority or each planning authority for the area or areas concerned of the amendment, and

(c) notify any person who made a submission or observation in accordance *subsection (7)(iii)* of its determination under *subsection (4)*.

(12) The amendment of a planning and delivery scheme shall not prejudice the validity of any planning permission granted or anything done in accordance with the terms of the scheme before it was amended except in accordance with the terms of this Act.

(13) Without prejudice to the generality of *subsection (12)*, *sections 40* and *42* shall apply to any permission granted under this Part.

**Explanatory Note:**

This Head outlines the provisions relating to the amendment of a planning and delivery scheme, including the need to consider the implications of any such amendment in terms of the likely environmental impacts. These provisions are drafted in accordance with the existing arrangements

for the amendment of planning schemes relating to SDZs, however it is considered opportune to review these provisions and accordingly further refinement may be considered.

**Head 18. Revocation of planning and delivery scheme**

**Provide that:**

(1) A planning authority may by resolution, with the consent of the relevant development agency, revoke a planning and delivery scheme made under this Part.

(2) Notice of the revocation of a planning and delivery scheme under this section shall be given in at least one newspaper circulating in the area of the planning authority.

(3) The revocation of a planning and delivery scheme shall not prejudice the validity of any planning permission granted or anything done in accordance with the terms of the scheme before it was revoked except in accordance with the terms of this Act.

(4) Without prejudice to the generality of *subsection (3)*, *sections 40* and *42* shall apply to any permission granted under this Part.

**Explanatory Note:**

This Head outlines the provisions relating to the revocation of a planning and delivery scheme, by resolution of the planning authority and with the consent of the relevant development agency, as set out in connection with planning schemes relating to SDZs.

## Part 4

## Miscellaneous

**Head 19. Amendment of section 13 (Variation of development plan) of the Act of 2000**

**Provide that:**

The Act of 2000 is amended –

At section 13(1), after "decide to make a variation of a development plan which for the time being is in force", insert the following:

> "except where a proposed variation relates to the zoning of land within an urban development zone pending the making of a planning and delivery scheme relating to that designated area"

At section 13(1A) (a), after "submit a resolution to the manager of the planning authority requesting him or her to prepare a report on a proposal by them to initiate a process to consider the variation of the development plan which for the time being is in force where three quarters of the members of that authority have approved such a resolution", insert the following:

> "except where a proposed variation relates to the zoning of land within an urban development zone pending the making of a planning and delivery scheme relating to that designated area"

**Head 20. Amendment of section 18 (Local area plans) of the Act of 2000**

**Provide that:**

The Act of 2000 is amended –

At section 18, by the insertion of the following subsection (7):

> "(7) Notwithstanding the other provisions in this section, a local authority may not make or amend a local area plan for an area subject of designation as an urban development zone, where the making or amendment of a local area plan would relate to the zoning of land within the area of an urban development zone, pending the making of a planning and delivery scheme relating to that designated area"

**Head 21. Amendment of the Fourth Schedule (Reasons for the Refusal of Planning Permission which Exclude Compensation) of the Act of 2000**

**Provide that:**

At the Fourth Schedule, after subsection (3), insert the following subsection:

> "(3A) Development of the kind proposed would involve the material change of use of land, or the extension or enlargement of an existing building or use by 20 per cent or more of the floorspace or land within an urban development zone, and the development would be premature pending the making of a planning and delivery scheme relating to that designated area.

**Head 22. Amendment of Section 42 (Power to Extend Appropriate Period) of the Act of 2000**

**Provide that:**

At section 42(1) (a) (ii), delete "and" before paragraph (IV) and insert the following paragraph after paragraph (IV):

> "and,
>
> (V) that the development is not located within an area which has been designated as an urban development zone, in respect of which a planning and delivery scheme has not yet been adopted, since the date of the permission and the permission involved the material change of use of land, or the extension or enlargement of an existing building or use by 20 per cent or more of the floorspace or land."

**Head 23. Amendment of Section 44 (Revocation or modification of permission) of the Act of 2000**

**Provide that:**

At section 44, after subsection (1), insert the following subsection:

> "(1A) Notwithstanding subsection (2), a planning authority may modify a permission to develop land under this Part granted prior to the making of an order under section XX (Head

10) (as inserted by this Act) designating land to which that permission relates as an urban development zone, such that the appropriate period of that permission may be restricted to a maximum of 24 months from the date of the order made under section XX (Head 10)."

At section 44, amend subsection (3) to insert the following paragraph after paragraph (b):

"(bb) specify that an order has been made in respect of land to which the permission relates and that the provisions of subsection (1A) of section 44 apply"

At section 44, after subsection (5), insert the following subsection:

"(5A) Where a planning authority decides to modify a permission under subsection (1A), it shall specify in the decision the main reasons and considerations on which the decision is based.

**Explanatory Note:**

The five Heads above set out the provisions to ensure that, on designation of the site or sites for an urban development zone, the variation of the zoning objectives for land within the designated area shall not be permitted, that the planning authority shall refuse applications for certain types of development within the designated area without the need to pay compensation, that permission is not granted for the extension of duration of a planning permission within the designated area, and that a planning authority may modify an existing extant permission to limit the duration of that permission such that it must be completed within 2 years of designation of the urban development zone. These restrictions on rezoning and development within the area during the period between the designation of the urban development zone and the making of the planning and delivery scheme allow for the comprehensive assessment of the potential of area, the associated costs of development including infrastructure and enabling works prior to the undertaking of any further significant development in the area.

Whilst these measures place significant restrictions on development within the area, it is considered that they are necessary in order to prevent premature development or development which could affect the comprehensive scheme for developing the area being prepared and adopted, including the safeguarding of 'critical land' required for the provision of the necessary communal infrastructure. Without these measures, significant speculative development could

take place to avoid the proposed introduction of the land value sharing mechanisms and to frustrate the plan-led development of the area.