

EUGENE COLLINS

Construction, Planning & Environment Group

Planning & Environment Update

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Planning

In response to planning-related recommendations of the Mahon Tribunal and as part of the Government's Construction 2020 Strategy, the Government has introduced new legislation which aims to provide affordable homes by tripling the housing output by 2020 and adding up to 60,000 jobs to the construction sector.

The General Scheme of Planning and Development (No. 2) Bill 2014, published on 15 January 2015 follows the publication, late last year, of the General Scheme of Planning and Development (No. 1) Bill 2014.

The General Scheme

The main features proposed by the General Scheme are:

- The establishment of the Office of the Planning Regulator
- The amendment of Part V of the Planning and Development Acts concerning social and affordable housing with the effect that:
 - The application of Part V will be narrowed to apply to developments of 10 houses or more (instead of 5 houses or more)
 - Developers will be required to provide 10% of units for social housing, with the obligation to provide an additional 10% for affordable housing not being retained
 - Developers will be obliged to provide the required social housing on site, with the alternative off-site option only to be permitted in specific exceptional circumstances
 - Developers will no longer be able to meet their social housing obligations by way of cash payments to local authorities
- The introduction of a vacant site levy with the aim of encouraging the development of vacant or underutilised land and/or buildings in central urban areas. Notably, the levy will not apply to property in the ownership of the State, state agencies, semi-state bodies or local authorities.
- The opportunity for developers to avail of reduced development contributions in respect of existing planning permissions.
- The adoption of a "use it or lose it" approach to planning permissions, enabling planning authorities to modify/reduce the duration of planning permissions where developments of 10 houses or more do not commence/progress in line with the development schedule indicated in the relevant planning application.

The new Part V provisions/conditions will apply to existing planning permissions and the expectation is that this will stimulate housing construction, increase housing supply and help maintain sustainable house prices in line with the Construction 2020 Strategy.

Environment

The publication of a long-awaited climate change Bill is aimed at tackling climate change in pursuit of a low carbon, climate resilient and environmentally sustainable economy by 2050.

Commenting on the publication of the Climate Action and Low Carbon Development Bill 2015, Minister for the Environment, Alan Kelly, said: “*No specific climate change legislation has ever been enacted in Ireland. I intend to rectify that lacuna now to ensure that Ireland’s response to climate change is consolidated and that our long-term planning for future mitigation and adaptation is underpinned by statutorily robust operational arrangements.*”

Key provisions of the Bill

The Bill has the following key provisions:

- The Minister is to make and submit to the Government for approval, a “National Mitigation Plan” within 2 years after enactment (This is to be updated every 5 years).
- The National Mitigation Plan is to specify the greenhouse gas mitigation policy measures to be adopted by Government Ministers within their particular sector.
- The Bill also provides for the creation of a “National Adaptation Framework”, again within 2 years of enactment (and reviewable every 5 years).
- The National Adaptation Framework will specify the national strategy for the application of adaptation measures in different sectors and by local authorities in preparation for the negative effects of climate change.
- A “National Expert Advisory Council on Climate Change” is to be established with up to 11 members, to include the heads of the EPA, SEAI, Teagasc and the ESRI. The Expert Advisory Council’s function is to advise and make recommendations to the Minister and the Government in relation to the performance of their functions under the Act.

Commentary

The Bill has attracted criticism from opposition parties and environmental groups with many noting that the Bill does not contain some of the key recommendations made by the Oireachtas Committee on the Environment.

The primary complaint is that the Bill does not include any specific targets for emissions reductions in Ireland but instead adopts the targets set by the European Union and other international commitments. Other criticisms of the Bill are that it doesn’t contain a definition of low carbon, it doesn’t guarantee the independence of the Expert Advisory Council and, in general, that its measures are too vague and not as robust as the Minister has suggested.

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