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IPI proposed Amendments to the NAMA Bill

As pointed out in the attached overview statement which the IPI submitted to the Minister of Finance, NAMA's purpose is "the taking by that agency of all steps necessary or expedient to protect, enhance and better realise the value of all assets transferred to it." While of course it is important for NAMA to realise the best value of its assets this should not be its only purpose. This was the primary aim of the private sector interests including developers and landowners who previously owned these assets. However this land and these assets will now owned by NAMA and the NAMA Bill must ensure that proper planning and sustainable development is core to the future development of this massive land portfolio in order to protect and enhance the quality of life for future generations.

Minister Lenihan in his second stage reading of the Bill on 16th September stated: "within the legal boundaries that NAMA must operate, and notwithstanding its commercial remit, NAMA could have a role in creating balanced and desirable places to live with obvious benefits for sustainable social values. NAMA could seek to facilitate the Department of Education & Science and the Department of Environment, Heritage & Local Government where these bodies have requirements, for example, such as schools, parks and so on, which facilitate the creation of desirable development which encourage vibrant sustainable communities. Such bodies can be given first option on disposals for a limited period and though they would have to pay the reasonable market price required they would have at least be given the first mover advantage. These bodies have sometimes have been held to ransom and have to pay inflated prices for projects such as school extensions and playgrounds."

At the Committee stage of the NAMA Bill on the 27th October, Minister Lenihan also stated to the Dail "there were certain social policies and purposes which could be effected through the NAMA legislation" and " NAMA could facilitate the various Government Departments on site acquisitions for schools, parks, health centres and hospitals and all of that facilitates the creation of desirable developments and encourages sustainable communities."

These statements are very much welcomed by the Irish Planning Institute and had been suggested by it in its submission to the Minister for Finance on the 10th September which stated "**Land banks should be developed so that people can live, work and have access to recreation which enhances their quality of life, particularly in terms of improved and diverse living environments with easy access to work, school and shopping and good public transport links with the ability to walk and cycle. Social and recreational infrastructure**

should be provided in tandem with residential development, including schools, healthcare, community facilities, parks and playing fields. Social integration in housing, schools and amenities is critical."

Statements supporting the inclusion of social and community objectives in NAMA were also made by the Taoiseach and by the Minister for Environment but these have not been inserted into the Bill. However when in operation, NAMA will be confined to the legislation which requires it to maximise its assets and not to these statements made by the Taoiseach and the Ministers. Unless these objectives are incorporated into the Bill then the Board and officials of NAMA cannot be required to have regard to these desirable social and community objectives when operating NAMA.

At this critical juncture in the State, we must ensure that there is a much more holistic approach taken as to how our society is shaped into the future. Therefore, the Bill should be amended to incorporate both these desirable community and social objectives and the proper planning and sustainable development of the area in the interests of the common good.

Amendments to the Bill

The Bill should be amended as follows:(additions in **bold**)

The short title of the Bill should have the following added at **(e) having regard to the proper planning and sustainable development of the area in the interest of the common good and also at (f) facilitate the creation of desirable developments that encourage vibrant sustainable communities creating balanced and desirable places to live with obvious benefits for sustainable social values.**

Insert in Section 10.2(c), **having regard to the proper planning and sustainable development of the area in the interest of the common good.**

In Section 11.2, add to this paragraph, **and have regard to the proper planning and sustainable development of the area in the interest of the common good.**

In Section 12.2(z), add **having regard to the proper planning and sustainable development of the area in the interest of the common good** and also add to paragraph 12.2 (ab) **having regard to the proper planning and sustainable development of the area in the interest of the common good.**

In Section 74 (c) relating to long term economic value add **having regard to the proper planning and sustainable development of the area in the interest of the common good and to facilitate the creation of desirable developments that encourage vibrant sustainable communities creating balanced and desirable places to live with obvious benefits for sustainable social values.**

In Section 77(2) following paragraph (v) add the following paragraph (vi) **“within the legal boundaries that NAMA must operate, and notwithstanding its commercial remit, NAMA shall have a role in creating balanced and desirable places to live with obvious benefits for sustainable social values.”**

In Section 155(a) to enable charged land to be used or enjoyed effectively **having regard to the proper planning and sustainable development of the area in the interest of the common good and to facilitate the creation of desirable developments that encourage vibrant sustainable communities creating balanced and desirable places to live with obvious benefits for sustainable social values.**

In Section 173(2) at the end of that section insert, **its objective should also include proper planning and sustainable development of the area in the interest of the common good and facilitate the creation of desirable developments that encourage vibrant sustainable communities creating balanced and desirable places to live with obvious benefits for sustainable social values**

Schedule 2, Part 7 of the NAMA Bill proposes the same amendment to the Planning Act as proposed in Section 23 of Planning Bill i.e. the extension of duration of planning permission for a further 5 years for technical, economic or commercial reasons

The principle of the five year duration of a planning permission is a long established principle tied in with the plan horizon period of a development plan. The principle is that after a period of five years, planning policy for an area may change substantially and any decision made on a planning application which has not yet been implemented must be reviewed in the context of the new policy framework. For that reason, it seems wrong to introduce a facility in the legislation whereby an existing permission can be extended because of economic circumstances.

The procedure set out in the Bill would also appear to be rather cumbersome and bureaucratic to operate, in practice.

However, the current difficulties are recognised. As an alternative it is proposed that there would be blanket once-off facility that all planning permissions granted within a specified time period, have an extended period of three years.