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Prepared for

The Housing Agency

Consultation Document

Review of Part V of the Planning and
Development Act, 2000

27th November 2012

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Executive Summary

Context for this Review of Part V

The context for this review of Part V of the Planning and Development Act, 2000 is the changed economic realities which have transpired over the past five years. The Irish economy and the construction sector in particular have been dramatically transformed since the economic collapse of 2008. The conditions in the housing market have also changed significantly. With an unemployment rate of 14% and average house prices across the country down by 50% from the peak, the projected new housing supply nationally is expected to reach an all-time low of 4,500 new units in 2012. The one positive factor which has emerged has been the significant improvement in housing affordability for those persons in employment.

Alongside these adverse developments has been the deterioration in the public finances, with the result that the conventional means of delivering social housing supply is now less achievable due to Exchequer funding constraints. In the meantime the growing unemployment problem is putting immense pressure on the country's social housing lists, with numbers up by 75% in the three years to March 2011.

Against this background the Government's Housing Policy statement published in June 2011 announced a new vision for the future of the housing sector based on choice, fairness and equity across tenures. It accepts that the need for social housing supports is high and while it continues to increase, policy is intended to address the problem using a variety of mechanisms.

The *National Asset Management Agency Act 2009* introduced the 'Land Rezoning Tax' whereby tax is charged at a rate of 80% in respect of a disposal of development land where both a rezoning and a disposal took place on or after 30 October 2009. The Land Rezoning Tax mirrors some of the objectives of Part V such as the capture of betterment value and has the potential to capture a far larger share of the betterment value of the land than Part V. Whether a Land Rezoning Gain is accrued in practice is dependent on the extent of rezoning since 2009 and whether development will be delivered on those lands.

The Housing Agency was tasked with delivering a review of Part V of the Planning and Development Act 2000, a key element of the policy statement. This review has measured the outputs from the Part V process, examined the impact and effectiveness of Part V and carried out a financial analysis to assess the economic efficiency of the mechanism over the past decade. Following the detailed assessment and consultation with stakeholders, this review examines the options to recast Part V taking into account lessons from the Part V experience in Ireland as well as looking at similar provision mechanisms elsewhere.

Rationale for Part V – A mechanism for capturing 'betterment value'

The Part V Housing Supply Provisions in the Planning and Development Act 2000 contained a radical new approach to the supply of Social and Affordable Housing in Ireland, which came into effect in November 2000. The Part V provisions have evolved through subsequent amendments to the Act which enabled developers to offer a range of alternative ways to meet their Part V requirements.

The rationale for Part V agreements at the time of its introduction was partly that it was a mechanism¹ which allowed the betterment value from a grant of planning permission for residential

¹ Other mechanisms for capturing planning gain comprise development contributions/levies and Land Rezoning Tax.

development to be captured for the benefit of the community as a whole and in so doing, to further increase the provision of social housing. The mechanism recognises that land values can increase for a number of reasons, including the grant of planning permission.

With the land component of any transfer paid for by the local authority at existing use value, there would have been a significantly higher gain for the community by the end of the boom compared with earlier in 2000 when Part V was introduced. The fact that the supply of zoned development land is finite, notwithstanding the dramatic rise in the demand for housing over the period, would have accentuated the extent of this planning gain captured.

A link to land values is unworkable in short-term

However, in the scenario which transpired over the past five years, with zoned development land prices falling back towards their existing use value, there would have been little or no benefit for the community. Therefore, Part V does not currently provide a subsidy or funding for additional social housing units.

With a Land Rezoning Tax in place, is there a need for Part V?

The Land Rezoning Tax can in principle capture a far larger amount of betterment value for the State on lands rezoned after October 2009 than is possible under Part V agreements. Therefore, a key question that has to be addressed is whether there is now a need for Part V or any similar mechanism designed to capture an obligation from development and landowners? **This is a fundamental question and implies that if the Land Rezoning Tax were to capture substantial returns, it would make any recasting of Part V significantly less relevant and less justifiable in the future. However it must also be recognised that as the Land Rezoning Tax only applies to lands zoned after October 2009, and given that the amount of land currently zoned for residential use is likely to be adequate in the medium term, the prospects for any significant returns being captured from such a tax are likely to be extremely limited for the foreseeable future.**

The recasting of Part V must be coordinated with other mechanisms which exist, including the Land Rezoning and other taxes, development contributions and costs so as to ensure that the total expenditure does not make the delivery of residential development uneconomic or inefficient.

Further aims and objectives of Part V

In addition to the capture of 'betterment value', this review of Part V has been undertaken with reference to its other aims and objectives which were as follows:

- i. To promote more socially integrated communities.
- ii. To ensure adequate housing supply to meet the demand from all sectors of the market.
- iii. To accommodate those unable to purchase a home due to affordability constraints in the face of rising house prices.

i) Social Integration

There was general consensus that Part V has been successful at delivering social integration and more sustainable mixed-tenure communities across the country. This objective permitted planning authorities to specify differential targets for social housing across its functional area to rebalance social housing location. The tendency for local authorities to opt for financial contributions over land was raised as a major concern and was seen as an inhibitor of social integration. While many consultees were in favour of retaining this objective in any future recasting of Part V, it is unlikely to achieve its maximum impact while financial contributions are the primary delivery mechanism.

ii) Impact on Housing Supply

Part V delivered 15,114 units in the period 2002-2011 (62.1% affordable and 37.9% social). This total represented just 3.8% of all dwellings excluding one-offs delivered over the period 2002-2011 which was a relatively small contribution. **When the potential units capable of being delivered on the sites transferred and using the financial contribution are included, the total number of units delivered is estimated at 19,245 (4.8% of total excluding one-offs).** This figure is compared with the potential delivery of Part V on the basis of an average contribution of, say 15% of all units, excluding one-offs, which would imply an output of around 60,000 units.

However the above comparison is made notwithstanding that it does not take into account units built on lands which were exempt from Part V (data not available) or the fact that Part V did not start to impact until Housing Strategies were prepared (mostly at end of 2001). Also many of the units provided in the early years were on foot of planning permissions which predated the Housing Strategies and thus were not subject to Part V. **Thus while a number of years had elapsed before Part V began to impact housing supply - it was 2007 before it accounted for more than 5% of total completions excluding one-offs – it made its greatest contribution in 2008 at 12.6% of total completions excluding one-offs. However over the entire period 2002-2011 it delivered below its potential and only began to make a real contribution around the time the property market crash commenced.**

Summary Table of Performance of Part V Contributions

		2002-2011	
Housing	Total Social and Affordable Units	15,114	<i>units</i>
	Total units to be provided on sites acquired	944	<i>units</i>
Land	Land Transferred	67.52	<i>hectares</i>
	Based on estimated average density of 35 per ha.	2,363	<i>units</i>
Financial	Financial Compensation	136,100	<i>€,000</i>
	Based on average build cost of €200,000 per unit	681	<i>units</i>
		2003-11	
	Withering Levy	13,716	<i>€,000</i>
Potential of above	Including potential units from land transfers, sites acquired And financial compensation	19,245	<i>units</i>

In an interesting comparison with the total number of social housing units provided by local authorities and approved housing bodies via the full range of mechanism, the Part V social housing contribution peaked in 2009 at 65% of the total social housing units delivered. **An estimated 44,654 social housing units were constructed in the period 2002-2011 of which Part V contributed around 13% (5,721 units).** 2008 represented the peak year with 6,800 new social housing units delivered, including 1,437 (21%) under Part V.

The review also showed that **Part V units are typically not suitable for special needs and the more vulnerable client groups**, due to the necessity for the needs of such groups to be factored into account at the design stage.

iii) Affordable Housing

The inclusion of affordable housing in Part V accentuated the emphasis on owner occupation. This “high and often disproportionate value” placed on owner occupation is now recognised in the

Government's Housing Policy Statement as being "detrimental to Ireland's society and economy". It would have also resulted in increasing housing demand over and above what it might otherwise have been at a time when demand in the 'private' owner occupied housing market was well above normal demand levels. It also led, some would argue, to resources being diverted from the provision of social housing, given that 62% of the units delivered were affordable. It also transpired that some local authorities were under pressure to build up affordable (and social) units which resulted in a corresponding increase in debt levels. The financial analysis of Part V estimates the loss on unsold affordable units at €98 million² (undiscounted) at the end of 2011, a large number of which are currently accommodating social housing tenants under the Social Housing Leasing Initiative.

The 2011 Housing Policy Statement has indefinitely suspended Affordable Housing programmes in the light of current conditions and the substantial improvement in housing affordability in the last six years for persons in employment.

Effectiveness of Part V

Part V was generally perceived as an inefficient process which did not operate without difficulties. The official guidelines state that there are 10 key steps involved in Part V agreements from when an applicant decides to undertake a residential development to the commencement of construction. The agreement is to be reached within an eight week period but in practice, this was rarely achieved with the agreement on transfer values proving particularly arduous.

Many reasons were mentioned for its failure in this regard and these are summarised below:

- ✓ The protracted nature of the negotiations,
- ✓ The complexity and interpretation of the relevant sections in the Planning and Development Act,
- ✓ The ambiguity of the wording (e.g. 'attributable costs', 'equivalent monetary value'),
- ✓ The lack of resources to progress permissions,
- ✓ Pressure in local authorities to build up units which was associated with a corresponding increase in debt levels for those local authorities who took units,
- ✓ It was too focused on owner occupation to the detriment of other tenures,
- ✓ Approved housing bodies needed to take on a more prominent role and should have been brought in early on in the process.

The financial analysis of Part V shows a net benefit to the Exchequer of €614 million or €761 million in discounted terms over the period 2002-2011 compared with the provision of social housing by local authorities via the traditional procurement route. Thus Part V as a mechanism for meeting social housing supply benefited the Exchequer and provided value for money, notwithstanding the limited number of units it provided over the entire period in the context of total housing supply.

Recasting Part V – Key Objectives

In this context, any recasting of the current legislation will need to recognise the change of emphasis away from owner-occupation, the standing down of affordable housing schemes, the stronger role for approved housing bodies and the introduction of leasing options.

² This figure is derived in the financial impact of Part V based on an estimated 2,500 unsold affordable units according to the DEHLG, which are assumed to have been acquired in the period 2006-2011 and are valued based on the differences between the discounted prices paid for them in the year in which they were acquired and an average value in 2012 of €150,000 per unit. The differences between the discounted price paid at the time and the current value represents the loss per unit, estimated at €98 million (undiscounted) in total for the 2,500 unsold units.

Based on the assessment of Part V the questions which arose were as follows:

- 1) Abolish it entirely or suspend it, in which case some of the benefits are lost?
or
- 2) Amend the existing mechanism?
- 3) Create an entirely different type of mechanism which can deliver the benefits of Part V?
- 4) Should any new mechanism be based on capturing betterment value for the community from planning permissions?

There are positive elements in the Part V legislation such as the requirement of a Housing Strategy and there appears to be general unanimity that the objective of delivering mixed tenure and social integration should remain in place. Based on the review of the aims and objectives of Part V, it is recommended that the primary objectives of any recasting of Part V or alternative mechanism should be as follows:

- ✓ It must be coordinated with other mechanisms including the Land Rezoning Tax and other taxes, charges and costs to ensure that housing can be effectively and economically delivered,
- ✓ It should continue to counteract undue social segregation between persons of different backgrounds by delivering mixed tenure estates,
- ✓ It should continue to support sustainable communities,
- ✓ Any new mechanism must capture some obligation from new residential development for the provision of social housing in the community,
- ✓ It should deliver value for money for the taxpayer for the resources invested,
- ✓ It should be efficient and sufficiently flexible to cope with the changed economic conditions and should include all tenures,
- ✓ Approved Housing Bodies need to play a more central role and become involved at an earlier stage in the process, and
- ✓ It should not focus on affordable housing for owner occupation as these diverted resources from the provision of social housing.

Consideration is initially given to whether the existing Part V legislation should be abolished or suspended. This first option (Option A) is examined with regard to the existing context and the range of interventions and alternative funding sources for delivering social housing which are currently available, including the Land Rezoning Tax.

The alternative to the abolition or suspension of Part V is to continue to use a method of capturing an obligation to provide social housing from developers via planning permissions, either by way of financial payment or otherwise, such as delivery of units or land. The remaining options (Option B-F)³ are set out below and pay particular attention to the lessons learned and the experience of those participating in the process as well as the changed economic environment. Thus the full set of options is as follows:

- A. Abolish or Suspend Part V
- B. Streamline the Current Process
- C. Widen the Scope of Development
- D. A Development Contribution Basis
- E. Negotiated Solution
- F. Inclusionary Zoning.

³ Options A to F are not ranked in any particular order.

The options are summarised in Figure A at the end of the Executive Summary.

It is important to note that this assessment of the options for recasting Part V assumes that the Land Rezoning Tax will co-exist with whatever mechanism is selected following the public consultation. As already stated, given the potential of the Land Rezoning Tax to capture a far larger amount of betterment value for the State on lands rezoned after October 2009 than is possible under Part V agreements, the question that needs to be borne in mind is whether there remains a need for Part V or any other mechanism designed to capture an obligation from development and landowners? **However as previously pointed out, the prospects of any significant returns being captured from such a tax are likely to be extremely limited for the foreseeable future.**

(Option A) Abolish/Suspend Part V

Under this Option, Part V would be either abolished entirely or suspended with resumption at the discretion of the Minister.

The feasibility of abolishing Part V is questionable given the significant number of families on the social housing waiting list at present. However other existing supply mechanisms would remain in place with the abolition of Part V. The call for a suspension is justified by its supporters by the realisation of extra jobs and the increased Exchequer contribution that would result from what they would see as a 'stimulus measure'.

It would be envisaged that suspension would not be taken in isolation, but would be accompanied by an alternative mechanism or mechanisms outside the planning permission process, such as the Land Rezoning Tax (which would not necessarily increase social housing supply), the Rental Accommodation Scheme (RAS), Rent Supplement, Housing Assistance Payment (HAP), the Leasing Initiative and Private Finance for approved housing bodies. It is acknowledged that some mechanism is needed to meet social housing provision but it does not need to be Part V.

(Option B) Streamline the Current Process

The approach here is to address the lessons learned from Part V over the past decade. These points can be applied to other options, as appropriate. This is to ensure that the same mistakes are not repeated in any future evolution of the mechanism for capturing some obligation from new residential development for the provision of social housing in the community. A menu of improvements under this option is set out below, some or all of which could be considered:

Affordable Housing

- Setting the requirement for affordable housing to 0% within the current system.

Housing Strategies

- Review the appropriateness of 20% in the context of housing need.
- Requiring housing strategies and development plans to give more direction in respect of how Part V is to be delivered.
- Establishing more direct policies on housing sizes required, type of units, mix of units etc.
- The Housing Strategy model needs to be reviewed while the process of adopting housing strategies needs to be made more efficient.

Part V Agreements

- Requiring agreements to be made before the commencement of construction, in respect of units to be taken and the value of any financial obligation from developers.

- Enabling local authorities to identify their preferred options for Part V delivery to give greater control in negotiations (i.e. land need not be the default option).
- Enabling local authorities to target delivery to the most appropriate locations to match projected social housing demand, thus avoiding a 'one-size fits all' approach.
- Tightening legislation to address current ambiguities, e.g. in respect of date of acquisition / transfer of land.

Simplify the process of establishing the betterment value from planning permission

- Developing local models/standardised tables to provide a template for costs of development for use in negotiations.
- Establish an independent group, comprising statutory agencies, professional bodies and stakeholders, to determine an appropriate charging basis based on reliable values to reflect the underlying existing values of land, as Greenfield, residential, commercial and other uses as appropriate. Similarly, an agreed method of costing for the construction of residential units would be required, allowing for different forms of development such as houses or apartments.
- The financial obligation could still be delivered by way of a number of options as appropriate – on-site delivery of units, delivery of land, financial transfer, on- or off-site leasing etc.

Options for capturing planning gain

- Facilitating the delivery of completed units at zero cost, e.g. rather than the subsidised purchase of 20% of units within a scheme, the planning authority could acquire a smaller number of units at no cost (based on the value of the betterment captured).
- Allowing more flexible options such as the provision of units for Rental (including Rental Accommodation Scheme) and Social Leasing.
- Developing other funding mechanisms - options to purchase with lease agreements, build to lease, and the sourcing of loan finance by approved housing bodies for construction and acquisition.

Increasing Role for Approved Housing Bodies

- Involving Housing Associations at an earlier stage in the negotiation process.
- Allowing Housing Associations to negotiate directly with developers.

(Option C) Widen the Scope of Development

Currently, development that is affected by Part V is limited to residential development (or mixed use development of which residential is a part) on lands in excess of 0.1 ha for developments of over 4 units. This excludes a large extent of development that arguably contributes to creating demand for social and affordable housing, and that benefits from betterment value when planning permission is granted. Broadening the scope of Part V would broaden the potential to capture value from planning decisions and potentially increase housing supply.

This option could include extending Part V to apply to

- All residential development, whether on zoned land or not,
- All development on zoned land, or
- All development on all land.

(Option D) A Development Contribution Basis

This option would treat the delivery of social housing as an infrastructural requirement of an area in a similar way to the delivery of water services or road infrastructure.

However, it would not attempt to capture betterment value from the specific land and would not be related to the characteristics of the individual site itself. Instead it would seek a direct contribution to the cost of the necessary investment.

In this model, the contribution to provide such housing would be calculated by reference to a tabulated rate, and would be an extension to the model used in General Development Contributions Schemes made under Section 48 of the Planning and Development Acts.

As with Option B, determining an appropriate charging basis would require reliable values to reflect the underlying existing values of land, as greenfield, residential, commercial and other uses as appropriate. Similarly, an agreed method of costing for the construction of residential units would be required, allowing for different forms of development such as houses or apartments.

As the model would not attempt to capture the betterment value on a site, it could be used to encourage development into priority areas, through differential rates in separate parts of a planning authority area.

(Option E) A Negotiated Solution

The most common system of capturing an element of social and affordable housing in England's planning system is by way of 'Section 106' agreements. A similar approach is also followed widely in Australia. Under this model, the extent of *affordable housing*⁴ is negotiated between the developer and the local authority to find a mutually acceptable agreement within the planning permission process. The agreement is made on the basis of an assessment of the financial viability of the scheme with a contribution towards the social housing element.

There is no standard agreement or assumptions on costs, profits or other valuations, although models have been set up and used by various councils to set out benchmarks for the contribution to affordable housing. The contribution to social housing may be in the form of constructed units, land or the provision of a financial contribution that can act as a capital subsidy to housing production or leasing.

(Option F) Inclusionary Zoning

Inclusionary zoning provides incentives to developers to provide social or affordable housing within their schemes. The provision of such housing is a voluntary decision of the developer.

The incentives may be in a variety of forms, such as higher density of development, changes to development management standards or parking requirements, quicker planning decisions or reductions in development contributions.

This model would need careful guidelines on practice and standards to alleviate any concerns which might arise in this regard and to ensure that negotiated solutions accord with proper planning and sustainable development, and that they are transparent in identifying the benefit to the community.

The above provides a menu of options for further discussion and refinement during a public consultations process. These options are not mutually exclusive and the consultation process will inform the selection of a recommended solution.

⁴ The expression 'affordable housing' is used in the Australian context to include both low cost market housing and subsidised housing (irrespective of tenure, ownership or financial arrangements) that is available to people who cannot afford to purchase or rent houses generally available in the private market. For consistency here the terms social housing is used in an Irish context.

Figure A: Options for Recasting Part V

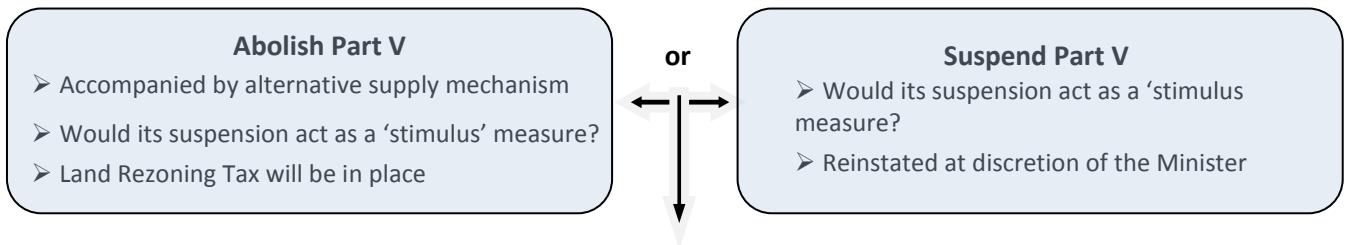
Existing Legislation

Part V of the Planning & Development Act 2000

- Captures up to 20% in ‘betterment value’ from grant of planning permission.
- Lengthy negotiation process in reaching agreements.
- Not sufficiently flexible for changed market realities which have transpired in the past 5 years.

1. This review of Part V identifies that it is no longer fit for its original purpose or suitably flexible in the current economic environment. There was also general agreement in the extensive consultations that the existing mechanism is no longer workable.
2. It is assumed that the Land Rezoning Tax remains in place under all options.
3. Any recasting would need to be coordinated with other mechanisms such as the Land Rezoning Tax and other taxes, charges and costs to ensure that housing can be effectively and economically delivered.

Option A – Abolish or Suspend Part V



Options (B-F) for Recasting Part V of the Planning & Development Act 2000

Option B: Streamline the Current Process

- Menu of improvements to existing Part V is proposed which are intended to address ambiguities and tighten the legislation
- Simplify the valuation process using standardised tables
- There is an understanding of the current system

Option C: Widen the Scope of Development

- Currently limited to residential development
- Could extend to all development on all land
- Would generate additional sources of funding
- Increases cost of development in all classes
- Risks to economic competitiveness and jobs

Option D: A Development Contribution Basis

- Seeks direct contribution as required
- An appropriate charging basis would be required
- Could encourage development in priority areas
- Would not depend on land values
- Would be more efficient

Option E: Negotiated Solution

- Negotiate on what is mutually acceptable
- No standard agreement on costs/profit
- Contribution assessed on viability of scheme
- Captures betterment value of the land
- Used in England and Australia

Option F: Inclusionary Zoning

- Provision of social higher density
- Incentives may be in a variety of forms such as higher density developments/fast planning decisions
- Potential conflict with other planning criteria
- Careful guidelines would be required for this model

1. Introduction and Policy Background

1.1 Legislative and Policy Background

A number of key housing policy initiatives have been introduced over the past decade or more to try to influence housing supply and demand. All of these initiatives have been aimed at improving affordability and access to home ownership for those who cannot meet their own housing needs in the private housing market. The Part V Housing Supply Provisions in the Planning and Development Act 2000 contained a radical new approach to the supply of Social and Affordable Housing, which came into effect in November 2000.

The Planning and Development Act, 2000 introduced a new instrument, called the Housing Strategy⁵, which exists to (i) provide for the proper planning and sustainable development of the area of a development plan and (ii) provide housing for the existing and future population of the area of the development plan. The Housing Strategy is a key component of the Part V Housing Supply provisions of the 2000 Act⁶, a key objective of which is to determine the specified percentage, not being more than 20%, of the land zoned for residential use, which is to be reserved for the provision of social and affordable housing in each local authority area.

The advantages of Part V, throughout the period of the construction boom, was that as a condition of planning permissions, a percentage of the land was transferred to local authorities at 'existing use' value, for the provision of social and affordable housing, by way of land, units or serviced sites. In addition, it supported the policy of achieving integrated housing developments. It also encouraged a co-operative approach between the major stakeholders, notably planning authorities and developers/housebuilders, involved in dealing with agreements under Part V and other related matters.

Following the amendment of the 2000 Act by the Planning and Development (Amendment) Acts of 2002 and 2010 and other guidance issued on Implementation Issues by the Department of the Environment, Heritage and Local Government (now the Department of Environment, Community and Local Government, DECLG) in July 2003 and November 2006, developers/housebuilders can offer a range of alternative ways to meet their Part V requirements. These alternatives included the provision of off-site serviced sites, the transfer of other lands to the planning authority within its administrative area and payment of a financial contribution.

The changed economic realities which have transpired over the past five years have seen a parallel contraction in housing activity, particularly in the volume of new residential investment. The most recent Housing Policy Statement⁷ from Government outlined a new vision for the future of the housing sector in Ireland. That vision is a policy based on choice, fairness, and equity across tenures and on delivering outcomes for the resources invested. The policy statement contained a number of measures including a full review of Part V of the Planning and Development Act, 2000. The review is

⁵ Section 94 Planning and Development Act, 2000

⁶ Section 93 Part V Housing Supply, Planning and Development Act, 2000

⁷ <http://www.environ.ie/en/Publications/DevelopmentandHousing/Housing/FileDownload,26867,en.pdf>, June 2011.

being undertaken in the context of the substantially different housing market that currently prevails compared to when Part V was first introduced.

1.2 Terms of Reference

The Housing Agency has been requested by the Department of the Environment, Community and Local Government (DECLG) to deliver the review of Part V, and specifically to:

1. Measure the outputs from the Part V process and compare them to the stated policy intent at that time.
2. Examine the financial and other costs and benefits of the process and consider the economic efficiency with which it delivered housing output.
3. Make recommendations on how Part V could be recast, in the context of a dramatically different economy and housing market, to achieve planning and/or social housing benefits in the future.
4. Engage directly with key stakeholders as part of this process, including planning and housing practitioners, local authorities, the house-building sector, approved housing bodies, financial institutions, and
5. Manage a wider public consultation exercise to feed into the overall review process.

To advance this work, the Housing Agency commissioned DKM Economic Consultants and Brady Shipman Martin to produce a Consultation Document on a Review of Part V of the Planning and Development Act, 2000.

The consultation document is to set out the following:

- The aims and objectives of Part V,
- The outputs from the Part V process,
- The outcomes/impacts of the Part V process,
- A financial analysis of the Part V process,
- A review of the mechanism used in other relevant countries (UK, USA and Australia),
- Options to recast Part V for the current economic situation to achieve planning and social gain benefits, and
- Questions to help frame the consultation process.

1.3 Approach and Methodology

The overall approach to the review involved a number of stages, which commenced with a quantitative analysis of Part V, drawn from a desktop review of information on the mechanism to date, including an assembly of relevant statistics and performance indicators. The experience elsewhere on approaches adopted for achieving planning and social gain as well as social integration is ascertained from a literature review of other relevant countries. Other stages involve an examination of the impacts of Part V across a number of areas as well as a financial analysis. The study includes a qualitative analysis based on the results of the consultations with key stakeholders, which helps inform the development of options to recast Part V, in the context of the changed economic landscape which has emerged in the past five years.

1.4 Structure of the Consultation Document

The remainder of this document is structured as follows:

- Section 2* Describes the context for this review, including the changed economic landscape which has transpired over the past five years. It provides an overview of relevant housing and planning policy documents and goes on to expand on the rationale for Part V including its aims and objectives. The experience elsewhere on approaches adopted for achieving planning and social gain as well as social integration is ascertained from a literature review of other relevant countries.
- Section 3* Provides a detailed assessment of what has been achieved under Part V to date against targets. As part of this effectiveness review, a financial analysis is undertaken to assess the economic efficiency of the Part V mechanism at delivering housing output.
- Section 4* Provides a summary of the impacts (outcomes) of what has been achieved by Part V over the period 2002-2012 from a number of different perspectives. It provides an assessment of impacts on the planning process, on social integration, on approved housing bodies and on the housebuilding sector. Implementation issues are also discussed and are informed by a small number of case studies which were undertaken to establish the practical application of the Part V process. The key findings from consultations with local authorities and other stakeholders are also presented.
- Section 5* Examines the options to recast Part V taking into account lessons from the Part V experience in Ireland and elsewhere as well as the existing Land Rezoning Tax. A series of questions are also included which are intended to stimulate discussion and debate during the public consultation process.

The Executive Summary contains the summary and conclusions.

The Appendices contain supporting information referred to throughout the document.

1.5 Acknowledgements

The review was managed by a Steering Group made up of representatives from:

- The Department of the Environment, Community and Local Government
- Housing Agency, and
- Local Authorities

We had a series of meetings with the Steering Group during the course of our work. We also consulted extensively with a number of stakeholders including representative of the local authorities, the approved housing bodies and house builders.

Specifically, consultations were undertaken with the following:

- Dublin City Council
- Cork County Council
- Meath County Council
- Galway County Council
- Kildare County Council
- The Irish Home Builders' Association
- Irish Council for Social Housing
- Clúid Housing Association

We would like to register our appreciation for the high level of co-operation and assistance received from all concerned. We understand that this document is to be used to help inform and frame the consultation process which will include a public call for submissions and a number of themed workshops with all stakeholders.

2. Housing and Planning Policy - Context Review

2.1 The Changed Economic Context

It is important to acknowledge at the outset of this review the changed economic realities which have transpired over the past five years. The Irish economy and the construction sector in particular have been dramatically transformed since the economic collapse in 2008.

- Following an average annual growth in GNP of 5.8% over the decade 1997-2007, the Irish economy experienced the most severe economic downturn on record. In the four years 2008-2011 inclusive, the economy contracted by 11.1%. A combination of factors was responsible, notably the international downturn, an overvalued property market, the related difficulties in the banking sector, the deterioration in the public finances and a loss of competitiveness. The latest economic data show that real GDP was up marginally in the first six months of 2012 (+0.5%), while real GNP grew by 2.3% on the same period in 2011.
- The deterioration in the public finances since 2008 has changed the position with respect to public capital budgets over the medium term. The total public capital allocation for housing has declined from €2.2 billion in 2008 to an estimated €1 billion in 2012. As a result the likelihood is that the conventional means of increasing provision for social and affordable housing (i.e. new build) will be less achievable, due to funding constraints.
- The culmination of adverse economic events has resulted in a record increase in the number of people becoming unemployed, with the unemployment rate reaching 14.7% in Q1 2012 and remaining at that level in Q2 2012. This has placed immense pressure on the country's social housing waiting list. The net housing need figure at present shows that 98,318 households were in need of social housing support at 31st March 2011, up almost 75% from the corresponding figure in 2008 (56,249).

The conditions in the housing market have also changed significantly. The Planning and Development Act, 2000 was introduced following a period of rapid house price inflation in the late 1990s, high housing demand, rising supply levels (albeit supply failed to keep up with demand), and increased affordability problems for first-time buyers. At the peak of the property market (December 2006), the average first-time buyer (FTB) couple across the State was paying around 26% of their joint disposable income in net mortgage repayments. In Dublin the corresponding proportion for the average FTB couple was 32.5%. The average FTB house price nationally had reached €280,000 and almost €361,000 in Dublin.

Conversely, the housing market over the past six years has been characterised by falling house prices across the State, a significant contraction in house building, a sharp slowdown in housing demand and mortgage lending and weak consumer confidence levels. Average house prices across the country were down by 50% in August 2012 from the peak (September 2007)⁸. The projected new

⁸ http://www.cso.ie/en/media/csoie/releasespublications/documents/prices/2012/rppi_aug2012.pdf

housing supply nationally is forecast to fall to around 4,500 this year from the peak of 93,419 in 2006, which would be the lowest level since records began in 1970.

The one positive factor which has emerged has been the significant improvement in housing affordability since early 2007 for those persons in employment. With FTB couples currently contributing around 12% of their joint disposable income in net mortgage repayments⁹ and with house prices currently back to 1999 levels, this raises an issue around whether there is likely to be a requirement for affordable housing for purchase over the medium-term.

2.2 Overview of Relevant Policy Documents

The overall strategic objective of Irish housing policy is to “enable all households access good quality housing appropriate to household circumstances and in their particular community of choice”¹⁰

The general thrust of housing policy is that those who can afford to house themselves from their own financial resources should provide for their housing needs, whether through home ownership or private rented accommodation (the private housing market), and that a range of targeted supports should be available to others having regard to the nature of their need (through the public housing system). Housing policy is based on a multi-stranded approach, involving various interventions and supports in the public housing market.¹¹

Over the period to 2011 housing policy was focused on increasing the overall supply of housing and improving access to home ownership for those persons who were unable, due to escalating house price inflation, to provide their own housing needs in the private market. Within this, there was also a focus on the first-time buyer.

This review of Part V is conducted within the context of a range of national housing and planning policy documents that set the current policy direction. The following comprise the most relevant documents.

2.2.1 Housing Policy Statement, June 2011¹²

The 2011 Housing Policy Statement by the DECLG acknowledged that overstimulation of the housing market was a key causal factor in the scale of the economic downturn which commenced in 2008. While accepting that home ownership will continue to be the tenure of choice for the majority of households, it attributes the ultimate aspiration of home ownership in Irish society as playing a key role in where the housing market is today.

The statement accepts that recovery of the housing market will be part of Ireland’s wider economic recovery. An important component of their overall strategic objective is that people will not treat housing as a commodity and a means of wealth creation.

A key element of the statement is that there is to be a review of Part V of the Planning and Development Act 2000. Specifically in regard to social and affordable housing, a number of points are made.

⁹ EBS/DKM Affordability Index available at www.dkm.ie

¹⁰ <http://www.environ.ie/en/DevelopmentHousing/Housing/HousingPolicy/>

¹¹ The various public sector housing measures are summarised in Appendix 1.

¹² <http://www.environ.ie/en/DevelopmentHousing/Housing/PublicationsDocuments/FileDownload,26867,en.pdf>

Affordable Housing

The policy statement is written against the background of pressure on State resources and the need to focus those limited resources on the most acute housing need. In this regard, the Statement notes that measure of net income required to service a particular mortgage (i.e. affordability) has returned to levels last seen in the early to mid-1990's, before house prices spiralled out of control. It acknowledges that the artificial provision of affordable housing is a symptom of and not a solution to market failure. It states that if the mistakes of the past are not to be repeated, there should be no need for national programmes of affordable housing provision by the State. Consequently, the statement concludes that Government is therefore standing down all existing affordable housing programmes to reflect current affordability conditions.

Social Housing

The provision of social housing is to focus on meeting the most acute needs. Notwithstanding that, the Department realises that the need for social housing supports is high and while it continues to increase, the intention is to address the problem using a variety of mechanisms. The main measures outlined are as follows:

- ✓ Rent Supplement is recognised as being a de facto social housing support despite being intended as a short term income support. Responsibility for the housing needs of long-term rent supplement recipients is to be transferred to the local authorities on a phased basis. The number of people claiming rent supplement rose from 60,200 in 2005 to 96,800 by end 2011. Rent supplements are paid out for around 40 per cent of private rented properties. Over 55,000 people have been on the rent supplement scheme for 18 months or more.
- ✓ In March 2012, the Government agreed to proposals for the transfer of responsibility for providing financial assistance to persons on rent supplement from the Department of Social Protection to housing authorities. The Housing Authorities will provide this service using a new Housing Assistance Payment.

Rent supplement was not designed to be a long term housing support and will effectively be integrated with other social housing support systems in accordance with the Housing Policy Statement.

- ✓ The Rental Accommodation Scheme (RAS) will continue to play an important role as part of long-term social housing supports. The RAS was introduced in July 2004 for persons who are in receipt of rent supplement for more than eighteen months. At end March 2012, 53,935 rent supplement supported households met the 18 month criterion. However the DECLG website reports that a total of 18,011 households were transferred to RAS by end 2008. Information for the period 2010 to May 2012 shows that 15,097 households have been transferred from Rent Supplement to RAS and other social housing options¹³. The RAS involves local authorities sourcing accommodation for these households by making use of the private and approved housing sector and entering into contractual arrangements to secure medium to long-term availability of rented accommodation. There are approximately 9,000 landlords nationally registered under the RAS.

¹³ <http://debates.oireachtas.ie/dail/2012/07/17/00378.asp#N3>

The RAS is a collaborative project between the DECLG, local authorities, the Department of Social Protection (DSP) and Community Welfare Service within the DSP. The policy statement provides for an accelerated rate of transfer of households from rent supplement to RAS.

- ✓ The Leasing Initiative (introduced in February 2009) is an integral part of the social housing programme and involves local authorities and/or approved housing bodies leasing approximately 2,000 units from property owners for a period of between 10 and 20 years. Under this initiative, properties are tenanted, managed and maintained by the local authority/approved housing bodies with rent guaranteed for the whole lease period.

Properties are leased from the private sector and used to accommodate households from local authority waiting lists. Leased properties are allocated to tenants, in accordance with the allocation schemes used by local authorities. An important point in regard to the Leasing Initiative is that proposals are evaluated by local authorities with a view to ensuring that the overall social mix of a development is not adversely impacted.

- ✓ The Housing Policy Statement recognises the capacity and track record of the approved housing bodies by putting approved housing bodies at the heart of the Government's vision for housing provision. The use of loan finance by approved housing bodies is seen as having the potential to develop a stronger, more sustainably funded approved housing bodies, without relying on capital funding from the Exchequer. In addition, it can promote the evolution of mixed tenure communities through the provision of housing for market sale and rent, as well as social renting and offers a path to ownership via sales to tenants under incremental purchase arrangements.
- ✓ Other mechanisms such as purchase to lease agreements, build-to-lease and the sourcing of loan finance by approved housing bodies are also highlighted as playing an important role in addressing social housing support.

2.2.2 Planning Policy

Housing policy interacts with a suite of planning policy documents at national, regional and local level that influence the location, design, mix, layout and other characteristics of residential development. This section identifies where the planning system directly influences the provision and location of social and affordable housing under Part V.

Strategic Policy

The spatial distribution of future housing supply is governed by strategic policy at national, regional and planning authority level, through the framework set out in the Planning and Development Acts.

The **National Spatial Strategy 2002-2020** (2002) establishes a detailed sustainable development framework for strategic spatial planning for the country. In relation to housing, five public policy priority areas are highlighted

- *the need to implement a strategic spatial framework for Ireland (NSS p102)*
- *integrating the location of housing with the location of good transport facilities, particularly public transport (NSS p102)*
- *zoning and servicing of residential lands to ensure a good supply of land relative to development needs(NSS p102)*
- *provision to meet social and affordable housing requirements (NSS p102)*

- *Socially diverse local communities located in well-planned development can foster a sense of place, pride, security and neighbourliness. It is important that new housing development secures a good social mix. Part V of the Planning and Development Act 2000 provides mechanisms to assist the achievement of this objective.*
(NSS p104)

These policies are carried through at a regional level in **Regional Planning Guidelines**, which in turn inform the content of **development plans** at the planning authority level. The core strategy of the development plan identifies how the policies and objectives of the plan are consistent with national and regional policies, and identify core aims that define population projection and distribution and consequent land use zoning provisions. The development plan is required to have sufficient land zoned to meet the required housing demand as set out in the housing strategy.

Part V Procedure / Housing Supply

'Part V of the Planning and Development Act 2000 – Housing Supply: Guidelines for Planning Authorities' was issued by the Department of the Environment, Heritage and Local Government following the publication of the Planning and Development Act in 2000. The document provides advice in relation to all aspects of the Act from preparing housing strategies, identifying need for social and affordable housing and reaching agreements on the provision of social and affordable housing units in the planning process. Revisions to the guidelines have subsequently followed by way of Department Circulars and other publications to accommodate amendments to legislation and revisions to recommended procedures and processes. These documents include *Implementation Issues* (DEHLG, 2002), *Further Guidance on Implementation Issues* (DEHLG, 2003), *Part V Resource Pack – Concluding Part V Agreements* (DEHLG and Affordable Homes Partnership, 2006, update 2007), DEHLG Circular AHS 4/06, November 2006 and 'Part V of the Planning and Development Acts 2000 - 2006; Implementation Issues' (DEHLG, 2006).

Key points in relation to making an agreement under Part V as a condition of planning permission are:

- *The need to develop a shared approach between the applicant and the planning authority (and an approved housing body, where relevant);*
- *The need for the planning authority to have regard to the objectives set out in its Housing Strategy;*
- *The need for the planning authority to have regard to the overall coherence of the proposed development and to the views of the developer in relation to the impact of the proposed agreement on the development;*
- *The importance of arranging joint planning and housing teams to negotiate Part V agreements. Where they are available, local authority architects should be also involved to ensure the design quality of the housing to be handed over to the authority;*
- *The importance of recording the essential elements of the proposed agreement.*

The guidance emphasises the importance of undertaking pre-planning consultations on Part V and sets out advice on how a range of matters relating to Part V should be dealt with efficiently in the planning process. The Resource Pack on Concluding Part V agreements provides guidance on the various issues arising and includes a structured step by step framework to assist in reaching Part V agreements. In terms of reaching early agreements, it emphasises the important role of meaningful pre-planning discussions between developers and local authorities. The Step by Step process is described further in Section 2.4 / Figure 1.

Planning Guidelines

In addition to the strategic policy on spatial location and mixed communities, planning guidelines issued by the Minister of Environment, Community and Local Government influence the actual design and layout of all residential development, including that of social and affordable housing delivered under Part V.

Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities, was issued in May 2009. It forms the principal policy document guiding the design and layout of residential schemes in Ireland. The guidelines emphasise a phased and sequential approach to the zoning and development of land for development, the availability of public transport and the setting of appropriate density levels, introducing high quality sustainable developments, delivering quality homes and neighbourhoods, places where people actually want to live, work and raise families, and places that will continue to work for succeeding generations. The Guidelines are accompanied by 'Urban Design Manual: A best practice guide' (2009), which provides best practice advice on the practical implementation of the policies contained in the guidelines.

For planning purposes, minimum standards for apartment units are set in '**Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities**' (2007).

The **Development Management Guidelines 2007** promote best practice at every stage in the development management process. This includes consultations and agreements in relation to compliance with Part V. The guidance re-iterates the advice set out in '*Part V of the Planning and Development Act 2000 – Housing Supply: Guidelines for Planning Authorities*'

2.3 Affordable and Social Housing Initiatives under Part V

The housing supply provisions of Part V of the Planning and Development Act, 2000 followed, at that time, a series of measures introduced by Government to help the housing market in the latter 1990s¹⁴. The provisions in the Planning and Development Act, 2000 were initially set out under Sections 93 to 101 and were intended to help meet the housing needs of 'eligible' persons for 'affordable' housing and those persons defined as eligible for social housing under the Housing Act, 1988.

Part V defined "*affordable housing*" as houses or land made available in accordance with *Section 96(9) or (10)* for eligible persons.

"*Eligible person*" meant a person whose relevant income would be inadequate to obtain a sufficient mortgage to purchase a house because the payments calculated over the course of a year would exceed 35% of that person's annual income net of income tax and pay related social insurance.

The allocation of affordable housing (*Section 98*) was done in accordance with a scheme established by each planning authority which determines the order of priority to be accorded to eligible persons. The determination was to have regard to a number of factors, including their accommodation needs, their housing circumstances at the time of application and their income or other financial circumstances.

¹⁴ See range of reports and other housing market initiatives including the series of Bacon Reports 1998-2000 at <http://www.environ.ie/en/Publications/DevelopmentandHousing/Housing/>

Qualification criteria for social housing support are referred to in the Social Housing Assessment Regulations 2011 (S.I. No 84 of 2011 as amended by S.II. No. 136 of 2011 and S.I. 321 of 2011). Applicant households must be qualified, meaning that the household meets eligibility criteria and is in need of social housing support.

2.4 Aims and Objectives of Part V

The overall objectives of the many housing initiatives introduced post the late 1990s were to improve access to home ownership for first time buyers, restore balance to the housing market, dampen down house price increases and help lower income households into home ownership.

The main objectives of Part V were similarly aimed at:

- Accommodating those people who, due to the escalation in house prices over the mid to late 1990s and beyond, were unable to purchase a home due to affordability constraints, and
- Ensuring an adequate housing supply to meet the demand from all sectors of the market, with the added objectives of
- Promoting more socially integrated communities, and
- Capturing betterment value.

2.4.1 Housing Strategy

The main mechanism for delivering on these objectives was the Housing Strategy. *Section 94(1)(a)* of the Planning and Development Act, 2000 states that:

“Each planning authority shall include in any development plan it makes in accordance with *Section 12* a strategy for the purposes of ensuring that the proper planning and sustainable development of the area of the development plan provides for the housing of the existing and future population of the area in the manner set out in the strategy.”

The Act specifies that the Housing Strategy shall take into account:

- The existing and likely future need for housing of the existing and future population in the areas covered by the Development Plan.
- The need to ensure that sufficient and suitable land is zoned in the Development Plan for residential use (or for a mixture of residential and other uses), to meet the requirements of the Housing Strategy and to ensure that a scarcity of such land does not occur at any time during the period of the Development Plan.
- The need to ensure that housing is available for persons who have different levels of income and in particular for those in need of social or affordable housing in the area covered by the Strategy. The Housing Strategy shall therefore provide that as a general policy a specified percentage, not being more than 20% of the land zoned in the Development Plan for residential use, or for a mixture of residential and other uses, shall be reserved for social and/or affordable housing.

- Ensure that a mixture of house types and sizes is developed to reasonably match the requirements of the different categories of households, as may be determined by the Planning and Housing Authorities covered by the Strategy.
- Counteract undue segregation in housing between persons of different social backgrounds. A planning authority may indicate in respect of any residential area that there is no requirement for social/affordable housing in respect of that area, or that a lower percentage than that specified in the Housing Strategy may instead be required.

2.4.2 The Part V Agreement

The Part V agreement between the applicant/developer and the planning authority sets out the conditions with the grant of planning permission required by the applicant/developer regarding their obligations under Part V of the Planning and Development Act, 2000 (as amended). The method of compliance that is agreed under Part V must then be delivered in tandem with the overall development. This agreement may be any of the following:

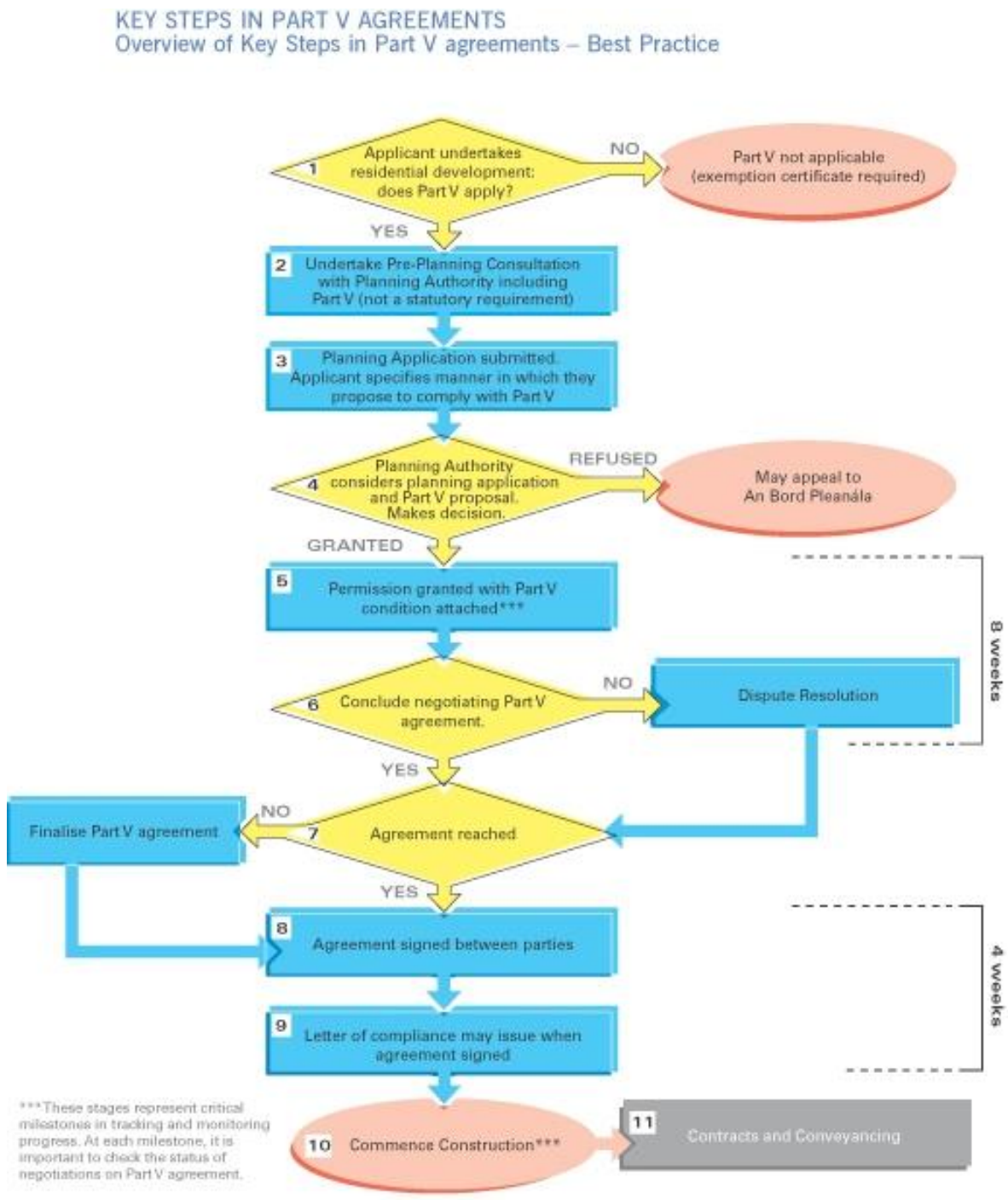
- 1) The transfer of the ownership of up to 20% of the land to the planning authority or a housing association for social and affordable housing.
- 2) The building of social and affordable houses and their transfer to the planning authority or a housing association.
- 3) The transfer of a number of fully or partially serviced sites to the planning authority.
- 4) The transfer of other land within the planning authority area.
- 5) The building and transfer of social and affordable houses on other land within the planning authority area.
- 6) The transfer of serviced or partially serviced sites on other land within the planning authority area.
- 7) Payment of an amount specified in the agreement.
- 8) A combination of 1-7.

The first option, the transfer of land, is the default requirement set out in the Planning and Development Act, 2000. The decision on whether sites or houses are to be transferred or whether a monetary payment is to be made in lieu of land is a matter for negotiation between the planning authority and the developer and is subject to agreement between the parties.

Figure 1 outlines the Key Steps in Part V Agreements. It can be seen that there are ten steps (inclusive) from when an Applicant decides to undertake a residential development to the commencement of construction. These steps involve the submission of a planning application which must specify the manner in which the applicant proposes to comply with Part V and the granting of such planning permission conditional on the Part V agreement.

The agreement is to be reached within an eight week period. In practice, this was rarely achieved, particularly in relation to reaching agreement on values.

Figure 1 Key Steps in Part V Agreements



Source: Part V Resource Pack published by DECLG, June 2007.

Disputes may be referred to An Bord Pleanála or a property arbitrator, depending on their nature.

There are certain exemptions to Part V in that it does not apply to developments of fewer than four houses or for housing on land of 0.1 hectares or less.

2.4.3 Calculation of Payment by the Applicant

The aggregate monetary value of the transfer of property or payment must be equivalent to the monetary value of the land that the local authority would acquire if it chose to accept its Part V contribution in the form of land.

The payment calculations for the main options are as follows:

Financial contribution

(Development value of site – existing use value) x (% reserved for Part V in the development plan).

Transfer of Land

To be paid at existing use value of the land calculated by reference to its existing use on the date of the transfer of ownership, unless bought prior to the 25th August 1999 in which case Section 96(6) of the Planning and Development Act 2000 as amended applies. If purchased prior to the 25th August 1999, the transfer value is generally the greater of 1) the price paid for the land or the price agreed to be paid for the land pursuant to the agreement or option (plus interest on any mortgage) or 2) the value of the land calculated by reference to its existing use on the date of the transfer of ownership of the land to the planning authority.

Transfer of Units and Sites

The compensation payable is made up of the construction cost (excluding VAT and builder's profit), attributable development costs, profit (up to 15%) and the site cost based on existing use value, plus VAT at 13.5%.

2.4.4 Social Integration

A key objective of Part V is the development of mixed communities and the avoiding of large concentrations of single tenure houses or social segregation. This permitted planning authorities to specify differential targets for social housing across its functional area to rebalance social housing location.

Within particular planning decisions, the clearest way to deliver mixed communities is to provide on-site social and affordable housing units. However, this may not always be possible or practical. Notably, in areas where high existing land values exist, it may be more effective to provide social or affordable housing off-site.

There are a number of examples of where Part V helped contribute towards sustainable communities. A recent success comprised a Part V scheme in Monard in County Tipperary which was awarded a Community Housing Award by the Irish Council for Social Housing¹⁵.

2.4.5 Capture of Betterment Value

The rationale for Part V agreements at the time of its introduction was that it was a mechanism¹⁶ which allowed the betterment value from a grant of planning permission for residential development to be captured for the benefit of the community as a whole and in so doing, to further increase the provision of social housing. The mechanism recognises that land values can increase for a number of reasons, including the grant of planning permission.

¹⁵ The development included an innovative grey water recycling system and used renewable energy technologies (e.g. solar panels) which helped reduce carbon emissions and address fuel poverty for low income families.

¹⁶ Other mechanisms for capturing planning gain comprise development contributions/levies and the Land Rezoning Tax/Capital Gains Tax.

The Part V contribution, whether in the form of land, units, sites or a financial compensation, allows that uplift in land values from the granting of planning permission to be shared for the benefit of the community. This assumes that, irrespective of the option proposed to meet the Part V obligation by an applicant, the result is some positive impact on the overall levels of social housing supply.

Other mechanisms, such as development contributions, are designed to require a contribution towards expenditure incurred or proposed to be incurred by a planning authority in respect of works to facilitate a proposed development. They do not attempt to capture the increase in value of a site due to the granting of a development consent.

Recouping betterment

The concept of capturing planning gain, also known as ‘recouping betterment’ has been the subject of a number of reports over the past forty years.

The first main assessment of the issues associated with rising land prices [the Kenny Report¹⁷] recommended that “all or a substantial part of the increase in the value of land attributable to the decisions and operations of public authorities....shall be secured for the benefit of the community”.

A subsequent report¹⁸ over a decade later from the Joint Oireachtas Committee on Building Land stated that the objective of development land policy should be to ensure that land is used to get maximum benefit for the whole community.

In 2004, in the midst of the last boom, the All Party Oireachtas Committee on the Constitution¹⁹ similarly agreed that increases in land values, resulting from zoning or planning permission, should be recovered for the community, although quantifying such increase and separating them out from other causes of the increase in value was considered difficult.

A later report from the National Economic and Social Council (NESC, 2004) concluded that measures aimed at achieving a greater sharing of betterment should not be relied upon to yield increased supply and hence lower market price. Although designed to capture planning gain, it is arguable, in the assessment of the performance of Part V (Section 3), whether it alone delivered an increase in housing supply.

Link to land values

A key issue with mechanisms to recoup betterment is that they are inextricably linked to increases in land values. However, the price of building land can exhibit significant swings over its life cycle, with periods of static or even falling real prices alternating with periods of rapid escalation. These phases can last for many years and the boom period from about 1995 to 2007, accompanied by rapidly falling interest rates, created a sustained rise in land prices far outstripping the general inflation rate. Part V was introduced in 2000, partly to capture the gain from the significant uplift in land prices. With the land component of any transfer paid for by the local authority at existing use value, there would have been a significantly higher gain for the community by the end of the boom compared with earlier in 2000 when Part V was introduced. The fact that the supply of zoned development land is finite, notwithstanding the dramatic rise in the demand for housing over the period, would have accentuated the extent of this planning gain captured.

¹⁷ Report of the Committee on the Price of Building Land, chaired by Mr. Justice Kenny, 1973.

¹⁸ Report of the Joint Committee on Building Land, chaired by Robert Molloy, TD, June 1985.

¹⁹ Report on Private Property by the All-Party Oireachtas Committee on the Constitution, chaired by Denis O’Donovan, TD, 2004.

In the period post 2007, as house prices commenced their rapid decline, following the changed economic circumstances, land prices too fell sharply. In the scenario which transpired over the past five years, with zoned development land prices falling back towards their existing use value, there would have been little or no benefit for the community.

2.5 Changes to Capital Gains Tax

2.5.1 Introduction

Part V of the Planning and Development Acts operates alongside the wider framework of national taxation policy and local charges. Part V contributes to the delivery of units for social and affordable housing in combination with other sources of funding, including a proportion of direct central government spending generated from taxation revenue.

The objective of Part V to capture a proportion of the betterment value generated in a grant of planning permission is, in many ways, mirrored by the 'Land Rezoning Tax' introduced in the *National Asset Management Agency Act 2009*.

2.5.2 Application of new Capital Gains Tax provisions

The Revenue Commissioners document '*CGT1 Guide to Capital Gains Tax*' (2012)²⁰ describes the application of this change to Capital Gains Tax provisions. This tax is charged at a rate of 80% in respect of a disposal of development land where both a rezoning and a disposal took place on or after 30 October 2009. The *Finance Act 2010* widened the scope of the provision by introducing a 'Relevant Planning Decision', which includes both a rezoning and a material contravention of a development plan. This change applies to decisions made on or after 4 February 2010.

A 'relevant planning decision' will, in general terms, mean a change in the zoning of land from non-development land-use to development land-use or from one development land-use to another development land-use, including a mixture of such uses. It also applies to a decision to grant permission for a development that would materially contravene a development plan.

The 80% rate is charged on the amount by which the land increased in value as a result of the 'relevant planning decision'. The remainder of the gain will be taxed at the 30% rate with effect from 7 December 2011.

The Land Rezoning Tax will not apply in relation to gains derived from 'relevant planning decisions' where:

- The disposal of land occurs as a result of a Compulsory Purchase Order;
- The disposal is by a company in which the National Asset Management Agency owns any part of the ordinary share capital, or by a company which is an effective 75% subsidiary of such a company; and
- The disposal is of a site of 0.4047 hectares or less, whose market value at date of disposal does not exceed €250,000, other than where the disposal forms part of a larger transaction or series of transactions.

²⁰ <http://www.revenue.ie/en/tax/cgt/leaflets/cgt1.pdf>

2.5.3 Interaction with Part V

The Land Rezoning Tax introduced by the NAMA Act 2009 captures 80% of the uplift in value on sites that have been rezoned and disposed of since October 2009. This has many similarities to Part V. However, there are notable differences that are relevant to the future delivery of social and affordable housing objectives. The two mechanisms are compared in the following table.

Table 1 Comparison of Part V and the Land Rezoning Tax		
	Part V	Land Rezoning Tax
Type of decision	planning permission	new rezoning
Class of development	Residential development	All development land
Restrictions on application	residential development [zoned land, 4 or more units, 0.1ha site]	Land rezoned and disposed after 2009
Amount of uplift captured	All uplift on up to 20% of land	80% of uplift
Who captures the gain	Planning Authority	Central Government
Use of gain	Social and affordable housing	Central Government funds
Basis: Lower Value	Existing use value	Current land value
Basis: Higher value	Residential value on foot of planning permission	Rezoned value
Payment / Delivery due	Commencement of development	Disposal of land
Meets housing demand	Can <u>directly</u> deliver required housing tenures	Can <u>indirectly</u> deliver required housing tenures
Impact on communities	Can <u>directly</u> integrate housing tenures	Can <u>indirectly</u> integrate housing tenures

Currently, both of these mechanisms for capturing the uplift in values are in force. However it is important to acknowledge that as the Land Rezoning Tax only applies to lands zoned after October 2009, and given that the amount of land currently zoned residential is likely to be adequate for a long time, the prospects for any significant returns being captured from such a tax are likely to be extremely limited for the foreseeable future.

The impact on the development process is dependent on the date that the underlying lands were rezoned.

Land rezoned after the Land Rezoning Tax Introduced

Where land is rezoned after 2009 and disposed of, following the introduction of the Land Rezoning Tax, the tax will absorb 80% of the uplift in value. This draws to the State the majority of the uplift in value (on disposal of the land).

In addition, where there is a planning permission for residential development, a condition under Part V on the same site could draw in up to 20% of the notional uplift from existing use to its value as a residential site.

Therefore, in theory, the combination of Capital Gains Tax and Part V could see over 100% of the uplift in value on lands zoned after 2009 being captured from land owners and developers by the State and the planning authority.

Land rezoned before the Land Rezoning Tax Introduced

Where the lands have been rezoned before 2009 and thus prior to the introduction of the Land Rezoning Tax the capture of 80% of the uplift value will not apply. Betterment capture will be achieved solely through Part V agreements on planning permissions.

2.5.4 Implications for Part V

The dichotomy in the Land Rezoning Tax liability, based on when the land was rezoned, is likely to have an implication for what lands are made available for development and will be the subject of residential planning applications. Lands with an established zoning from before 2009 are more likely to become available for residential development given the impact of the Land Rezoning Tax on newer zoned lands. If residential development land is weighted towards older established zoned land, then Part V will play an important role in capturing some betterment value to the State and local authorities.

The high rate of the Land Rezoning Tax may deter landowners or developers from seeking a rezoning of their lands to facilitate additional housing, or seeking planning permission for any housing on their lands, thereby reducing supply to the market generally.

Part V was commenced in 2000, prior to the introduction of the Land Rezoning Tax. The future role of Part V will need to fully take into account the implications of the Land Rezoning Tax and ensure that the local capture of uplift to deliver Social and Affordable housing can be consistent with national taxation policy to capture capital gain on rezoning.

The overall balance of taxes and charges that apply to development needs to be reviewed to ensure that the total expenditure does not make the delivery of development uneconomic or inefficient.

2.6 Mechanisms Used in Other Countries

The terms of reference requested a review of the experiences with respect to how the planning gain is extracted in a number of other countries, notably the UK, the USA and Australia. The range of mechanisms in place in each country is set out below.

A useful summary of the planning obligations in a number of European countries is contained in Box 1, based on recent research by CECODHAS Housing Europe, the federation of public, cooperative and social housing bodies²¹.

2.6.1 England

Within the planning consent process, the most important source of land and units for social or affordable units is through the making of agreements known as 'Section 106 agreements', having been initially introduced in Section 106 of the Town and Country Planning Act 1990. Section 106 agreements were initially envisioned as securing infrastructure provision for new developments, but have become primarily associated with the delivery of units for social and affordable housing.

The extent of affordable housing to be sought is set out locally through strategic planning policies of the planning authority. Typically there is a requirement to seek between 20% and 30%, although this extends up to 50% in certain locations such as London. The required percentage for affordable

²¹ http://www.housingeurope.eu/www.housingeurope.eu/uploads/file_/HER%202012%20EN%20web2_1.pdf

housing is determined through local planning policies on the creation of mixed communities and through the housing strategy for the area, which will also set out a split in the required provision between social, intermediate and other classes of housing need.

Typically, the developer will have a prior agreement that a particular housing association will develop the affordable or social housing, before the planning permission is sought. The housing association will then manage or sell the properties as appropriate.

Under Section 106 agreements, the extent of affordable housing is negotiated between the developer and the local authority to find a mutually acceptable agreement. The agreement is made on the basis of an assessment of the financial viability of the scheme with a contribution towards the affordable housing element. There is no standard agreement or assumptions on costs, profits or other valuations, although models have been set up and used by various councils to set out benchmarks for the contribution to affordable housing. Housing may be delivered under this mechanism with or without public subsidy.

Providing land for affordable housing can also be achieved through development of 'Exception sites'. These are sites that are not zoned for development, and would not normally be considered for development under the current planning policies. As a result, the value of land would not normally be considered as exceeding its current use value. Under this mechanism the landowner sells at a price (with a small allowance for betterment) after which planning permission can be granted for housing which is affordable by virtue of the lower land cost. This is overwhelmingly used in rural areas, where it more straightforward to establish that development would not be permitted.

2.6.2 United States

Policies among states and municipalities across the United States are very different. In Massachusetts, for example, the planning system is home rule, which means that every municipality has local control of land use and zoning. This is very challenging, especially when it comes to both market rate and affordable housing. A number of cities and towns, especially those in the suburbs, practice exclusionary zoning, where they zone for large homes large plots (e.g. one or two acres). This has led to large amounts of sprawl and an affordability issue for moderate to middle income families. In many cases, cities and towns want to grow their economic base, but they have no particular interest in housing the potential workforce that would come with the jobs.

State level policies are used to incentivise communities to plan ahead for housing. The State provides some incentives, through funding or tax credits, to support housing production, but the State does not own the units.

In Massachusetts inclusionary zoning or density bonus is applied through State legislation to all municipalities, and its use is increasing across other states. The aim is to provide affordable housing within development schemes. Many programmes offer incentives that reduce developers' project costs, using mechanisms such as density bonus, land purchase assistance, bond financing and reductions in parking provisions. Developers that choose not to provide affordable housing directly are required to contribute to a fund to develop off-site options.

Some states, including Massachusetts apply a 'zoning override law' (under Massachusetts Comprehensive Permit Law 40B), whereby a developer can compel a local municipality to accept a higher density development that includes affordable housing, thereby overriding local policies.

Another concept that has been used is expiring use, where developers agree to low percentage loans for housing in turn for offering their units as low income housing for a thirty-year period with the agreement that after thirty-years the units become market rate. Current experience in Boston is that large numbers of such units are close to maturing as market rate housing and are being lost to the affordable market.

2.6.3 Australia

The land-use planning process can influence the supply and range of housing produced both in new development areas and in regeneration. Providing for social and affordable housing using planning mechanisms is an important contributor to creating sustainable communities, through supporting economic, environmental and social objectives.

The active use of the planning system has been increasingly used to encourage better housing outcomes for communities including facilitating the delivery of housing with an appropriate mix and range. These mechanisms complement direct provision, funding or assistance for investment in affordable housing.

A range of mechanisms is available to State authorities to deliver affordable housing within residential planning permissions. The examples set out below are related to land supply and the development management process.

Land supply and development policies – measures can be taken to incentivise the bringing forward of suitable lands for development at the appropriate time. Through housing market analysis, encouraging zoning changes, together with the provision of appropriate infrastructure, land is made available to be developed. Punitive charges can be applied to discourage the withholding of land identified for growth, or additional charges applied for releasing land out of sequence.

Betterment capture – this model puts obligations onto land-owners as land is zoned for development, such as an obligation to provide affordable housing. The mechanism to calculate this is based on capturing some of the uplift in land values, and can be calculated as a development contribution. This system has worked best in developing areas in periods of high housing demand and high land values.

Planning Incentives – Bonus systems can be used to relax planning standards in exchange for affordable housing in designated areas. These are most common in negotiations on specific developments. These may include permitting higher densities of development or in reducing site setbacks, or reductions in public open space or car parking requirements. The projected profit from the amended standards is shared between the developer and the council, which can use its share to purchase units within the scheme or contribute to subsidising housing rental. In other models, developers may be encouraged to provide specific need housing types. Alternative incentives may include expedited planning assessments or reduction in other charges.

These forms of intervention can reduce the cost of provision of social housing or affordable housing, where costs are reclaimed by the local authority and strengthen the position of social housing providers. The model is voluntary. It is most attractive and successful in period of high values and high demand. Reducing development control standards may, however, be interpreted as reducing the quality of the finished developments.

Mandatory Requirements – This type of planning mechanism requires developers to include or contribute to affordable housing as a condition of development approval. Policies may be site-specific, area-specific or applied across the jurisdiction of an area. In Australia, these mandatory requirements have typically been based on fixed rate provision (such as requiring a fixed proportion of the development to be affordable), rather than as a negotiated solution (such as Section 106 agreements in the UK). These mechanisms have generally led to adjustments in local land values to accommodate the required affordable housing provision. Mandatory requirements have been most successful in areas with high land values, where land for affordable housing would otherwise be difficult to acquire.

Box 1: Social Housing in Planning Obligations

“It is an increasingly widespread practice to **set a minimum percentage of social housing in new developments**. For instance in **England**, the Section 106 Agreement is a legally binding agreement between the Local Planning Authority and the developers, which often requires developers to minimise negative impacts on the local community, and carry out tasks that would provide community benefits. Provided local planning authorities have policies in their adopted statutory development plans that assess the need for new affordable housing in their districts, they may require private developers to contribute to meeting this need. When developers agree to make contributions, these are made legally binding contracts under Section 106 of the Town & Country Planning Act 1990 (S106 agreements) as part of the process of gaining planning permission. Similar mechanisms are in place in many other countries. For instance in **Ireland**, Part V of the Planning and Development Acts requires that up to 20% of the sites or units in a new private housing development be also made available to the local authority for social rented and affordable ownership dwellings planning permissions. Similarly, in **Spain**, since the establishment of regional legislation on urban planning, in each new urban development a minimum of 30% of the land must be used for protected housing. The minimum percentage is set by the new Law on State Land, which is currently being discussed in Parliament. Also in the Flemish Region in **Belgium**, a recent decree established the involvement of the private sector in social housing provision: in each new estate development (consisting of over 10 houses/50 apartments) at least 20% has to be social housing, 40% if the land belongs to the public sector. In **France**, the Solidarity and Urban Renewal Law (SRU) sets the obligation to have at least 20% of social housing in every municipality which counts more than 3500 inhabitants. Then it is up to the municipality to decide how to implement this percentage and to set the rules in its urban plan. For instance, Paris has decided that in each new development private developers have to reserve 25% of the area for the construction of social housing unless it already represents over 20% of housing in the area).

These types of practices provide for **ready supply of suitable units** to be used as social housing, and have been adopted to the aim of **increasing social mix and avoid social and spatial segregation** that occurs when social housing is concentrated in certain areas/estates. Nevertheless, they imply that **social housing provision is tied to the provision of market housing** and therefore might not be particularly useful to increase the availability of affordable housing in times of crisis and low levels of construction by private developers.”

2.7 Review of Consultations

During 2012, DKM Economic Consultants and Brady Shipman Martin consulted with the Irish Council for Social Housing (ICSH), Clúid Housing Association, the Irish Home Builders’ Association (IHBA), Kildare County Council, Meath County Council, Dublin City Council, Cork County Council and the Department of Community Heritage and Local Government (DECLG).

2.7.1 Aims and Objectives of Part V

There was widespread approval for the principle of capturing betterment value through the planning process. While the IHBA expressed the desire to see a moratorium on the application of Part V, it did not express an opposition to the principle.

Similarly, the principle of integrated communities was seen as being socially beneficial by all consulted. However, the view was expressed that social integration will not achieve its optimum while a financial contributions option is in place.

It was widely recognised that Part V (or some variation of it) could contribute to providing necessary social housing. However, given the current demand for housing and the lack of building at present, Part V could not be the only solution. A wider source of housing is required.

Different views emerged on the need for affordable housing. The majority of consultees saw it as not being relevant in the current climate, others identified that there would always be people who were just below the threshold to purchase their own house and that the system should continue to provide for their needs.

Housing Strategies were viewed as being an appropriate way of integrating housing policy with that of planning, and of identifying housing need for the planning authority area. It was recognised that Part V's effectiveness depended on local solutions rather than on a blanket approach across the country. The delivery of units within each scheme was seen as a suitable approach within large urban areas. In smaller settlements, away from the cities, where demand was less, direct on-site provision of either social or affordable housing was not necessarily appropriate.

Some persons expressed the view that Part V in its current form is unsustainable due to the connection to land values and as a result it cannot effectively deliver upon its primary objectives.

2.7.2 Process

While the stakeholders consulted were satisfied with Part V in principle, there was also general agreement that the current format needs to be reformed. Local authorities and the housebuilders considered the process of negotiating a Part V agreement as being both cumbersome and time-consuming.

The legislative amendment in 2002 was seen by both housebuilders and local authorities as having been beneficial by giving more flexibility in reaching appropriate solutions to site-specific issues. However, the legislation was identified as being overly ambiguous in many matters that led to legal disputes and contributed to lengthy and protracted negotiations. This includes the date at which valuation is taken.

Notwithstanding the agreement on the need for reform, there were divergent views regarding the precise nature of how a more efficient mechanism should evolve.

The IHBA referred to inefficiencies and a lack of commerciality in local authority administration and in pre-planning meetings but particularly in acquiring and managing units, for example where completed units lay idle and untenanted while the remainder of the private units were being sold. It is worth pointing out however that some local authorities have moved to direct sales by the developer to affordable purchases.

The process of finding agreement on values requires professional inputs from quantity surveying, to valuation and - when units are being sold - estate agency skills. This introduces a significant cost to the public service in administering the process of acquisition of units, and disposal in the case of affordable housing.

The length of time to reach agreements led to many difficulties. In some cases units were sold privately in advance of a Part V agreement. Where agreements were not completed early, additional difficulties arose in relation to calculation of values.

Approved housing bodies were generally commended on their performance under Part V to date. It was strongly advocated that their role should be expanded upon. For their own part, approved housing bodies emphasised the need to be able to negotiate with developers at the pre-planning stage and stressed that they were becoming involved too late in the process at present. In the context of reduced public funds for provision, the ability of approved housing bodies to source private funding to provide additional units is seen as critical.

2.7.3 Changed Economic Context

The changed economic context has had considerable impacts on the functioning of Part V itself and was attributed by the IHBA as a reason as to why Part V should be suspended temporarily. The call for a suspension was justified by the realisation of extra jobs and the increased Exchequer contribution that would result from such a 'stimulus measure'.

It is widely recognised that Exchequer funding towards the provision of social housing will be extremely limited going forward. This was acknowledged by the consultees, who accepted that approved housing bodies should take on an increased role in housing delivery.

The financial experience of Part V since the economic downturn has been poor, imposing a large burden onto the local authorities and the State. This has resulted from:

- The cost of acquiring affordable houses from developers was sometimes higher than the market value of the units,
- The burden of holding unsold affordable houses, particularly in areas where demand is unlikely to increase,
- The servicing of loans on unsold affordable houses,
- Subsidising the cost of affordable houses to ensure that sales were achieved, and
- Agreements to acquire units in permitted schemes.

2.7.4 Mechanism for Calculating Part V Obligation

It was widely agreed that the method of reaching a negotiated agreement has been inefficient, cumbersome and unwieldy. The common view was that a simpler approach would be preferable. A variety of forms were put forward to make Part V more effective going forward, including the view that the connection with land values needs to change.

2.8 Conclusions

It is as a result of the substantially changed conditions in the housing market compared with the boom period that the Part V review is being undertaken. The main positive development, however, has been the significant improvement in housing affordability.

The Housing Policy Statement recognises the changed economic circumstances and the pressure on State resources and sets out a new framework for housing policy which uses a variety of mechanisms to address the provision of social housing.

The aims and objectives of Part V were similar to the many housing initiatives introduced post the late 1990s to improve access to home ownership with the added objectives of promoting more socially integrated communities and capturing betterment value.

The practice of setting a minimum percentage of social housing in new developments is increasingly being used in a number of European countries. A range of mechanisms are used in Australia and the USA through the planning consent process to capture betterment value and deliver social and affordable housing.

There was common approval during the consultation process for the principles of capturing betterment value, achieving integrated communities and on the value of housing strategies in development plans.

The experience of Part V since the economic downturn has been poor, imposing a large financial burden onto the local authorities and the State.

In summary, notwithstanding calls from some to suspend it, there was also general agreement that the current format needs to be reformed and made more efficient and more flexible to cope with the changing economic conditions but there were divergent views regarding the precise nature of how a more efficient mechanism should evolve.

3. Review of Effectiveness of Part V

This section includes a detailed assessment of what has been achieved under Part V to date against targets. As part of this effectiveness review, a financial analysis is undertaken to assess the economic efficiency of the Part V mechanism at delivering housing output.

Table 2 Summary Table of Performance of Part V

		2002-'11	
Housing	Total Social and Affordable Units	15,114	<i>units</i>
Land	Land Transferred	67.52	<i>hectares</i>
	Based on estimated average density of 35 per ha.	2,363	<i>units</i>
Financial	Financial Compensation	136,100	€, <i>000</i>
	Based on average build cost of €165,000 per unit ²²	824	<i>units</i>
		2003-11	
Sites	Sites Acquired	944	<i>sites</i>
		2003-11	
	Withering Levy	13,716	€, <i>000</i>

3.1 Performance of Part V

The commencement of Part V constituted new territory for local authorities and developers. For many, the period following commencement of the initiative in 2000 involved a steep learning curve in the early years as the various parties came to grips with the new legislation. At the outset, there was considerable uncertainty about how the process was to work and negotiations were often, and continue to be in some cases, protracted and time consuming. Even after the progress made over the initial five-year period, the initiative really only began to make a contribution to housing supply in 2005/2006.

Data on the performance of Part V to date in terms of the delivery of social and affordable housing units is reported on the DECLG's website and shows the progress each year in regard to the number of units, acquired, in progress and proposed. There is separate data on the transfer of sites, land and the extent of the financial contribution.

The total acquisitions of social and affordable housing units under Part V amounted to 15,114 units over the period 2002-2011 inclusive. The majority comprised affordable housing units (62%) while social housing units accounted for 38%, including acquisitions by the approved housing bodies.

²² This is the average all-in cost of construction across the State for the period 2002-2012 according to the DECLG.

Indications for 2012 suggest an estimated total contribution of 233 units, including 108 social and 125 affordable, many of which will transfer to social.

The extent to which Part V contributed to housing supply over the period is shown in Table 3 at just 2.7% of total completions across the State or 3.8% when all one-off dwellings²³ are excluded. However it is important to include the full contribution in respect of the other options, notably the transfer of sites or land or financial contributions (see following sections and Table 8).

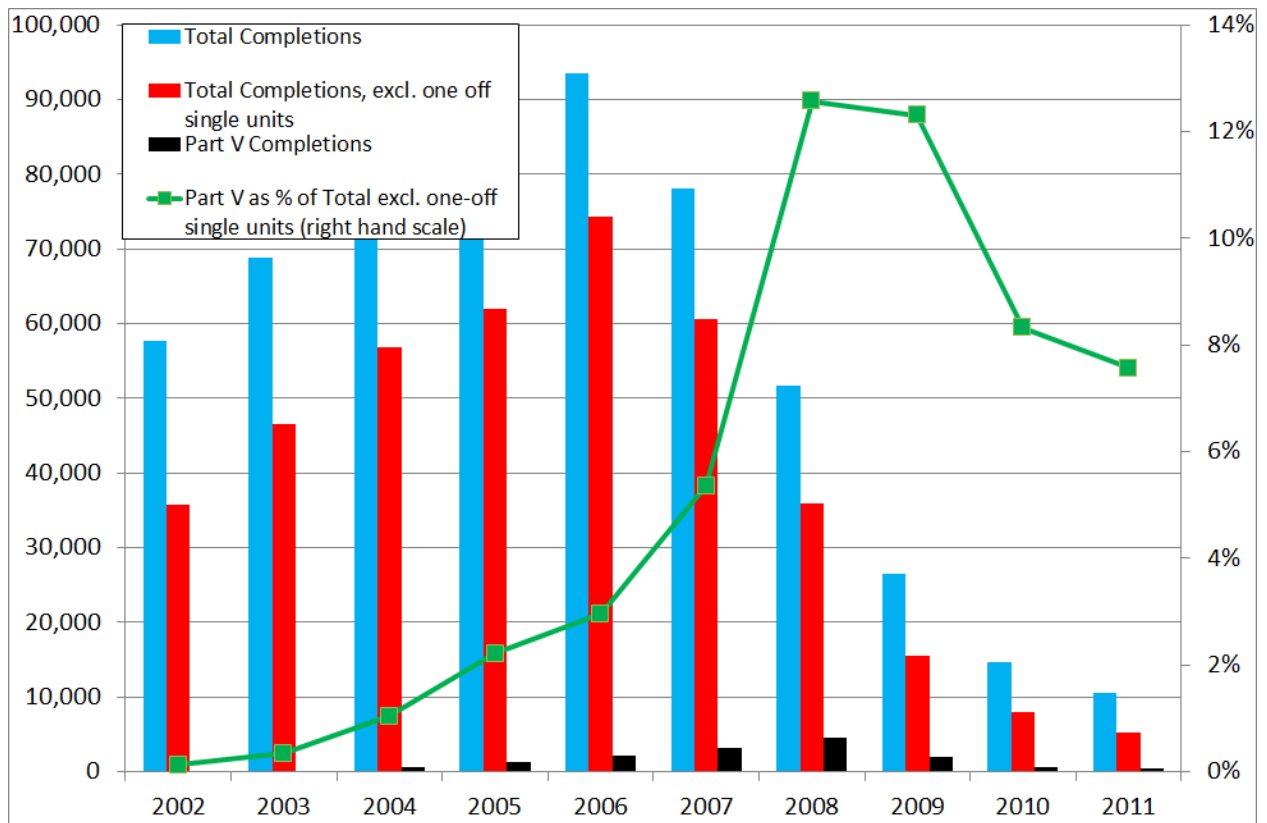
Table 3 Total Housing Output under Part V 2002-2011		
	Total Acquisitions	2002-2011
Affordable Housing	9,393	62.1%
Social Housing	3,757	24.9%
Approved Housing Bodies	1,964	13.0%
Total	15,114	100.0%
National Completions		
Total Dwellings		559,097
<i>Part V as % of Total</i>		2.7%
Total Dwellings excl. one-offs		400,682
<i>Part V as % of Total</i>		3.8%

Source: www.environ.ie

Figure 2 charts Part V’s contribution to the total housing supply over the period 2002-2011. It is evident that a number of years had elapsed before Part V began to impact housing supply - it was 2007 before it accounted for more than 5% of total completions excluding one-offs – it made its greatest contribution in 2008 at 12.6% of total completions excluding one-offs. However over the entire period 2002-2011 it delivered below its potential and only began to make a real contribution around the time the property market crash commenced.

²³ The estimate used for one-offs from 2004 onwards is the number of one-off single units commenced in the previous year, as published on www.environ.ie. Prior to 2004 the figures represents the number of bungalows and detached units completed each year.

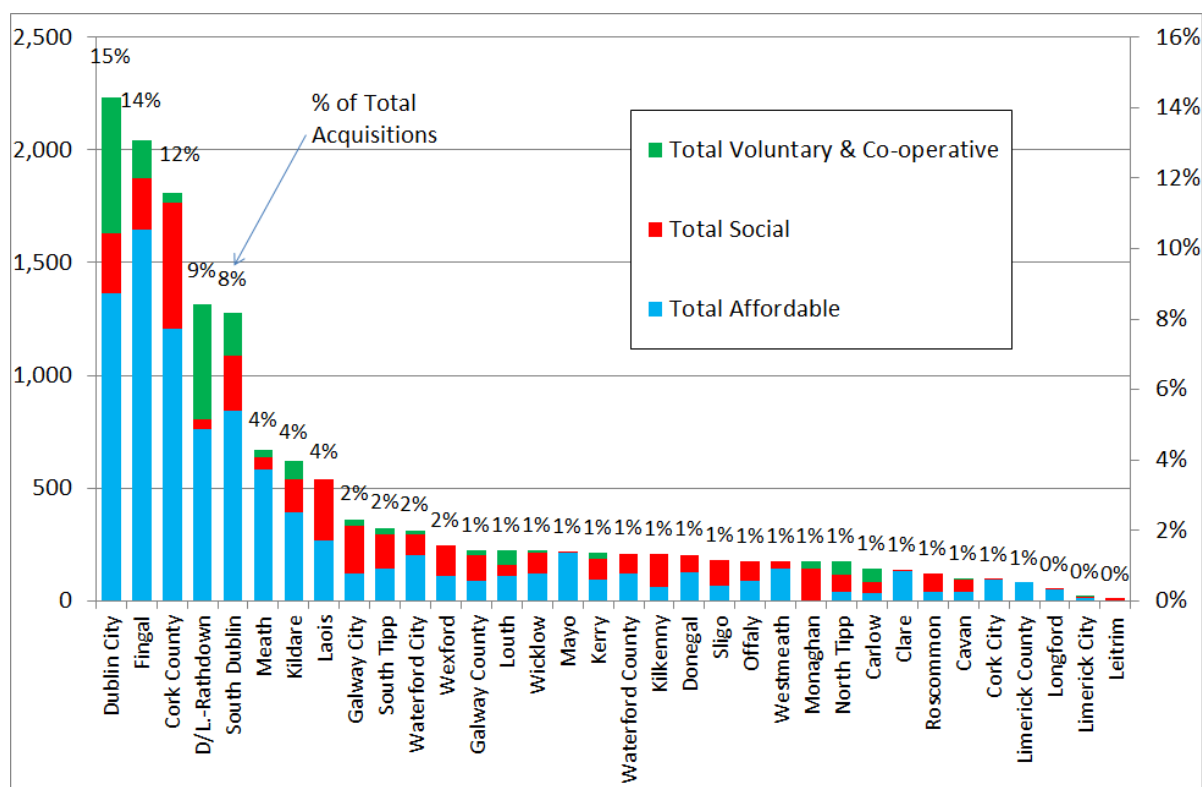
Figure 2 Part V Contribution to Housing Supply 2002-2011



Source: www.environ.ie and DKM

Figure 3 shows the distribution of acquisitions by county under each of the three categories. The areas accounting for the highest proportions of the total were Dublin City (15%), Fingal (14%) and Cork County (12%), each accounting for more than 10% of the total. Dun Laoghaire Rathdown (9%) and South Dublin (8%) county councils each represented just below 10% of the total. Meath, Kildare and Laois each accounted for around 4% of the total while Galway City, South Tipperary and Waterford City each contributed between 2% and 4% of the total. The remaining counties each represented less than 2% of the total while Longford, Limerick City and Leitrim had a relatively insignificant number of Part V acquisitions over the period.

Figure 3 Total Housing Acquisitions by County under Part V 2002-2011



Source: www.environ.ie

Table 4 sets out the progress each year in regard to acquisitions, units in progress and proposed over the period. It is assumed that the units in progress would have become acquisitions at some stage over the period. However, based on the total of 22,408 units reported to be in progress, there would appear to be a gap of 7,294 units which were not acquired by the end of 2011, when set against actual acquisitions over the period.

It is clear from the annual distribution of acquisitions that the vast bulk of them, at almost 90%, were acquired over the period 2005-2009. The impact of the housing crash is evident in 2010 and 2011 as the number of acquisitions declined sharply in each year. Indeed agreements on some of these acquisitions made have been reached in the preceding years.

Table 4 Total Housing Output under Part V 2002-2011

	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2002-11
Acquired	46	163	591	1,371	2,198	3,246	4,518	1,914	672	395	15,114
In Progress	0	723	1,910	2,566	3,845	5,329	4,159	2,079	1,018	779	
Proposed	0	1,214	2,885	3,418	3,392	2,565	2,910	2,445	2,416	1,441	

Source: www.environ.ie

Note: The total units 'in progress' will include all of those properties which were acquired over the period. It is also assumed that the units 'proposed' (22,686 in total) would have progressed to units 'in progress' and eventually onto 'acquisitions' although the gap of 7,294 [22,408 in progress less 15,114 acquisitions] appears to remain outstanding.

3.1.1 Affordable Housing Supply

As previously noted, affordable housing units made up 62% of the total units acquired over the period 2002-2011. The dominance of the affordable units acquired is also evident from Figure 3. The annual distribution shows the acquisition of affordable units was concentrated in the years around when house prices reached their peak. A total of 7,706 affordable units were acquired in the four years 2005-2008 inclusive, representing 82% of the total over the period 2002-2011. That proportion reaches 91% when the units acquired in 2009 are included. The gap between acquisitions in progress and actual acquisitions suggests there would appear to be around 4,500 units which had not been acquired by the end of 2011.

Table 5 Total Affordable Housing Output under Part V 2002-2011

	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2002-11
Acquired	46	88	374	962	1,600	2,063	3,081	827	254	98	9,393
In Progress	0	484	1,215	1,587	2,476	3,293	2,387	1,227	619	614	
Proposed	0	697	2,259	2,751	2,616	1,603	2,042	1,362	1,504	849	

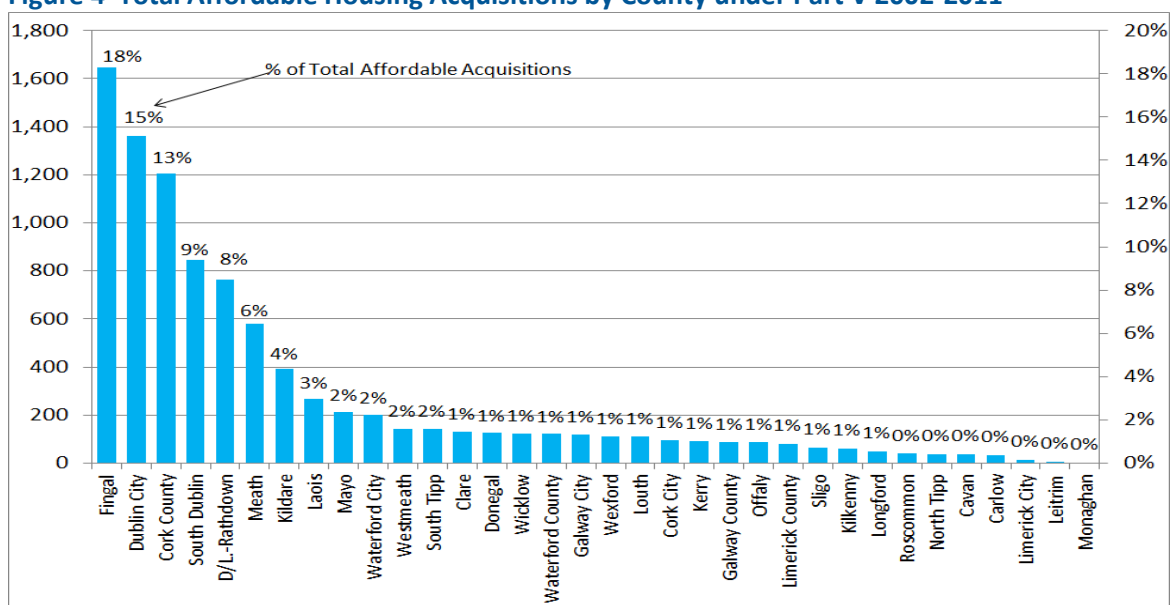
Source: www.environ.ie

Note: The total units 'in progress' will include all of those properties which were acquired over the period. It is also assumed that the units 'proposed' would have progressed to units 'in progress' and eventually onto 'acquisitions' although the gap of 4,509 [13,902 in progress versus 9,393 acquisitions] remains an issue.

From the consultations it was clear that there were affordable units in some local authorities where agreements had not yet been reached on the transfer prices.

The next chart shows the distribution of the affordable units acquired by county. Fingal provided the highest number of affordable units (18% of the total) followed by Dublin City (15%) and Cork County (13%). South Dublin and Dun Laoghaire Rathdown provided 9% and 8% of the total respectively. The counties of Meath, Kildare and Laois, which ranked amongst the fastest growing counties over the period 2006-2011, had the next highest proportions. Almost all other counties provided less than 200 affordable units over the entire period, with the counties to the right of Longford in the chart providing less than 50 affordable units. Monaghan was the only county which did not acquire affordable units.

Figure 4 Total Affordable Housing Acquisitions by County under Part V 2002-2011



Source: www.environ.ie

3.1.2 Social Housing Supply

As previously stated, one of the main objectives of Part V was to capture the planning gain for the community allowing an increased supply of social housing to be delivered to meet the needs of those unable to provide their own housing needs. In the case of agreements where houses were transferred, a total of 3,757 social housing units were delivered in the period 2002-2011 (excluding units by approved housing bodies).

Table 6 Total Social Housing Output under Part V 2002-2011

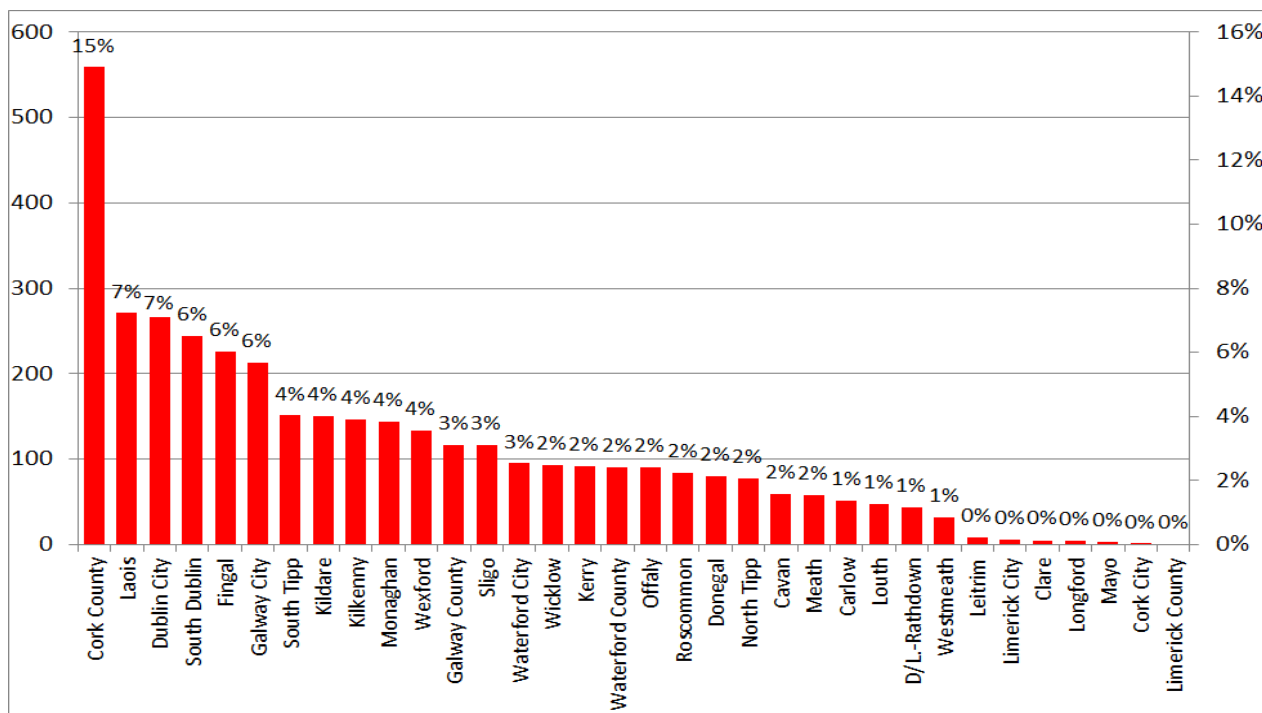
	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2002-11
Acquired	0	75	135	203	508	790	1,075	535	311	125	3,757
In Progress	0	180	435	836	1,091	1,539	974	544	220	113	
Proposed	0	396	513	399	486	678	633	989	857	541	

Source: www.environ.ie

Note: The total units 'in progress' will include all of those properties which were acquired over the period. It is also assumed that the units 'proposed' would have progressed to units 'in progress' and eventually onto 'acquisitions' although the gap of 2,175 [5,932 in progress versus 3,757 acquisitions] remains outstanding.

Cork County acquired 15% of the total, followed by Laois and Dublin City at 7% each. Dublin City, South Dublin and Fingal each accounted for 6% of the total while Dun Laoghaire Rathdown acquired around 1%. Thus Dublin as a whole acquired 20% (780 units) of the total acquisitions of social housing units over the period 2002-2011. Taking the five main urban areas (borough and county councils), they accounted for 50% of total acquisitions (1,861) over the period. Of the latter total, Dublin and Galway accounted for 60%. Limerick City and Cork City between them only acquired a total of 7 social housing units over the period. There were seven local authorities (including Limerick City and Cork City) which acquired relatively insignificant numbers of units, each below 1% of the total. Limerick County made no acquisitions over the period.

Figure 5 Total Social Housing Acquisitions by County under Part V 2002-2011

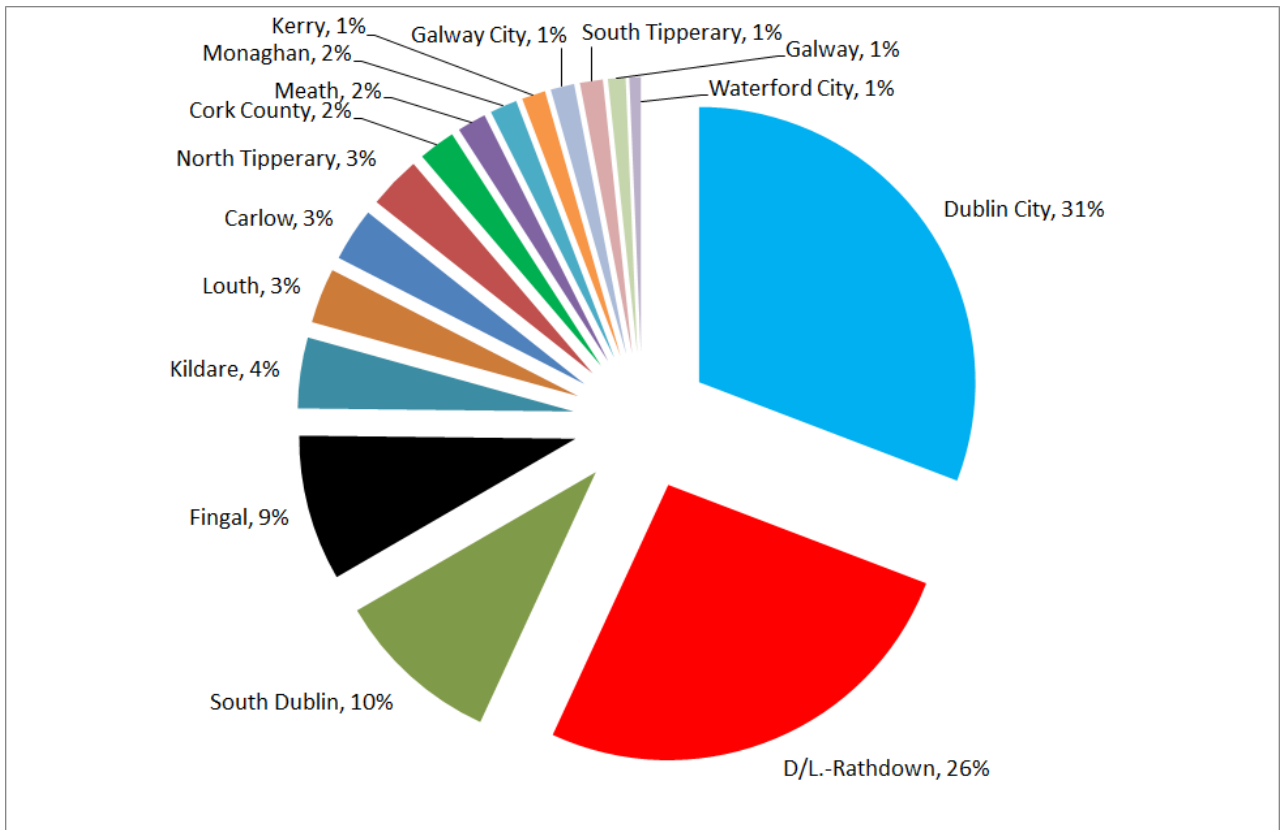


Source: www.environ.ie

3.1.3 Approved housing bodies

Just 1,964 social and affordable units were acquired by approved housing bodies across 19 counties. Three-quarters of the total were acquired across the four local authority areas of Dublin. The overall delivery represents around 16% of the total units delivered by approved housing bodies over the period 2002-2011.

Figure 6 Total Housing Acquisitions by the Vol and Co-op Housing Sector under Part V 2002-11



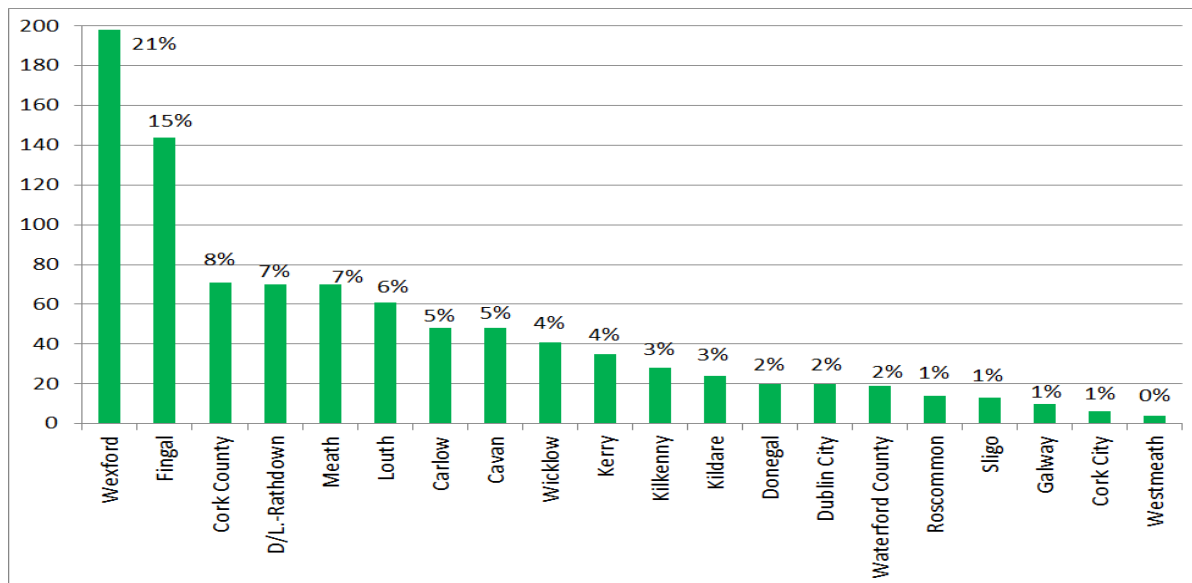
Source: www.environ.ie

Taking the total social housing units delivered under Part V by local authorities and approved housing bodies, Part V accounted for 5,721 units, which represented almost 13% of the total social housing units completed across the State over the period 2002-2011.

3.1.4 Transfer of Sites/Land

In addition to acquisitions, sites (fully/partially developed) were also acquired over the period 2003-2011. These sites were to provide a total of 944 units across 20 counties but it is not clear how many of these dwellings were provided. The distribution across the 20 counties shows Wexford acquired the largest number of sites followed by Fingal.

Figure 7 Total Units by County to be provided on Sites acquired under Part V 2002-2011

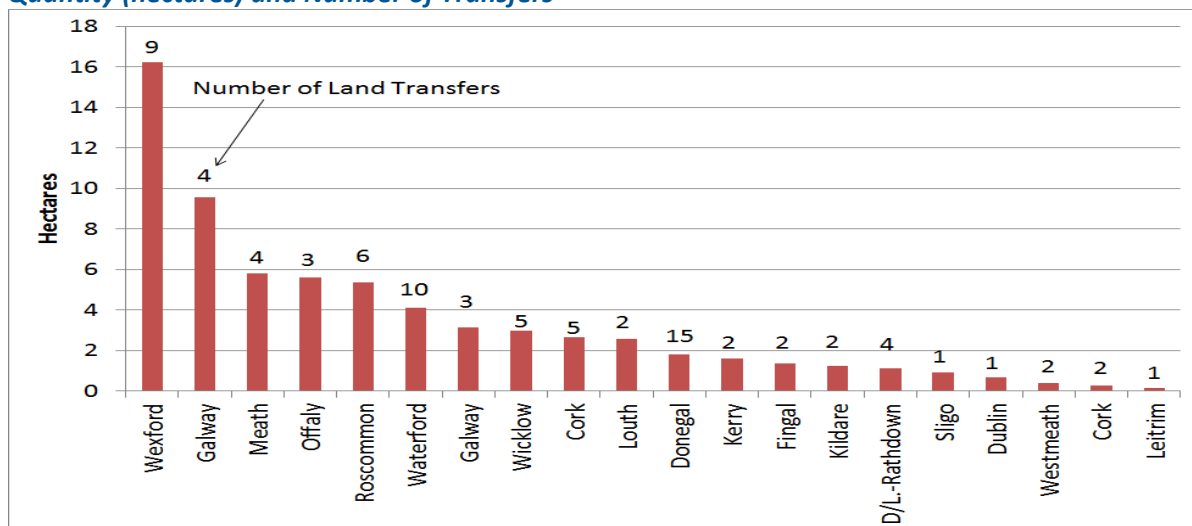


Source: www.environ.ie

The total number of land transfers was 83 resulting in a total area of 67.52 hectares. This is an average of 0.81 hectare per land transfer. Taking an average of 35 units per hectare this is equivalent to 28 dwellings per land transfer. Almost all of the land transferred (95%) was transferred in the period 2005-2010.

Figure 8 Land Transfers to Local Authorities 2003-2011 under Part V

Quantity (hectares) and Number of Transfers



Source: www.environ.ie

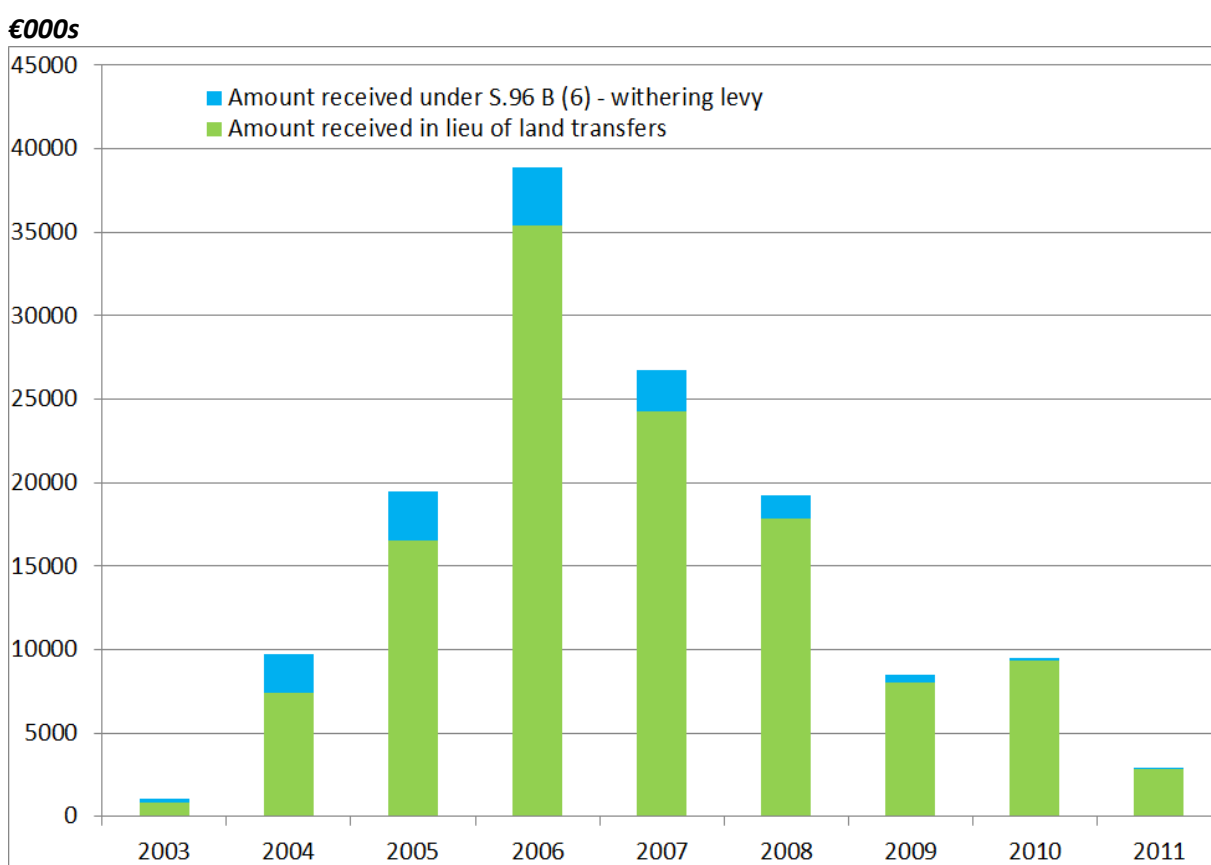
The most sites were transferred in Donegal with a total of 15 sites in 1.81 hectares, which is an average of 0.12 hectares or 4 units per land transfer, based on an average of 35 units per hectare.

3.1.5 Financial Compensation

A number of local authorities received payments in lieu of land transfers from 2003 onwards see Figure 9. The total financial contribution amounted to €122.4 million or €136.1 million when the €13.7 million received under Section.96 B (6) – withering levy – are included. The highest contribution was received in 2006 at almost €40 million. Over three-quarters of the total financial contribution were received over the four years 2005-2008.

A breakdown by local authority shows that Dun Laoghaire Rathdown received the largest financial contribution at 15% of the total or €20.8 million. This was followed by Kildare (12% of the total) and Cork County (10%). For the remainder, 12 counties received between €3.5 million and €7.5 million, 11 counties received between €1 million and €3 million, and 8 counties received less than €1 million. Waterford City received the smallest contribution at €58,000.

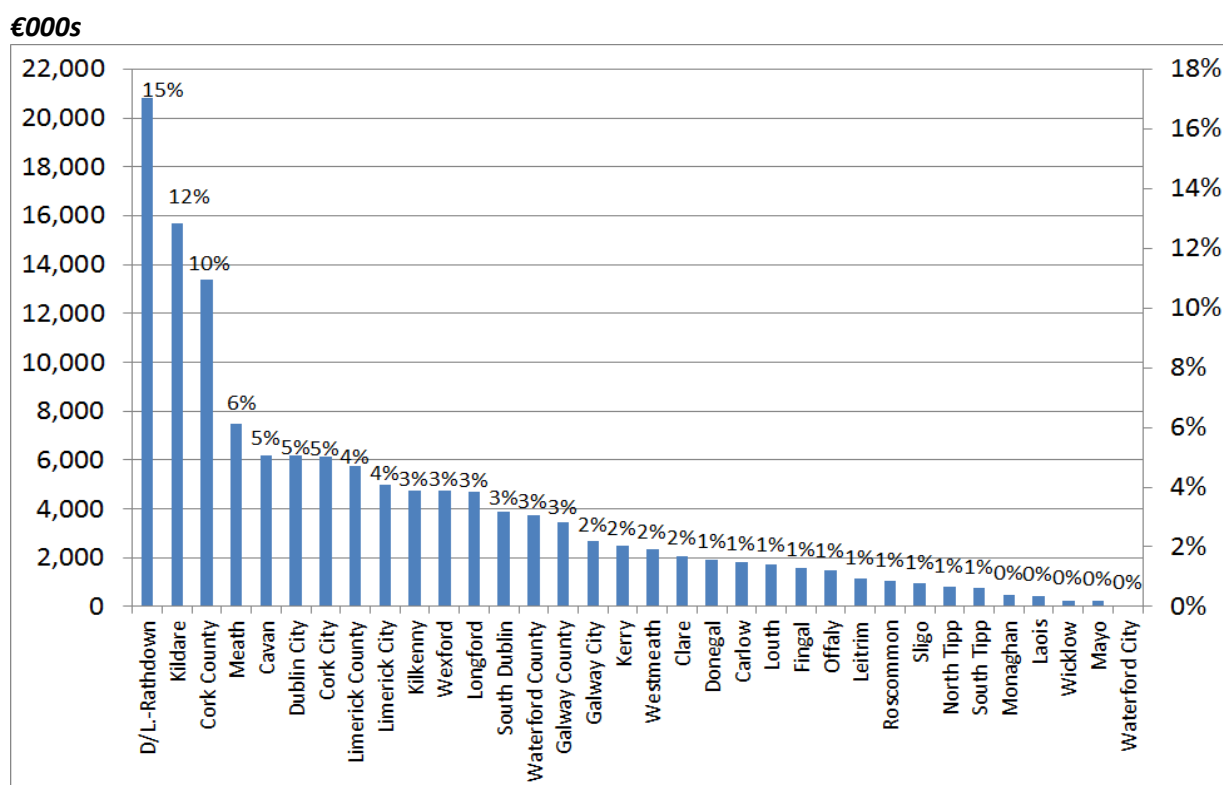
Figure 9 Total Payments in Lieu of Land Transfers to Local Authorities 2003-2011 under Part V



Source: www.environ.ie

* Including amounts received under Section.96 B (6) - withering levy.

Figure 10 Total Payments in Lieu of Land Transfers to Local Authorities 2003-2011 under Part V



Source: www.environ.ie

* Including amounts received under Section.96 B (6) - withering levy.

3.2 Financial Analysis of Part V

The financial analysis of Part V is carried out from the perspective of the Exchequer. This requires establishing how cost effective Part V has been over the last decade for the Exchequer compared with the alternative of the traditional procurement route, namely the provision of social housing units funded from the Exchequer capital budget.

Thus for the purpose of this analysis, the main options are described as follows:

For Social Housing:

Option 1: The social, approved housing body units are provided via the traditional route whereby the local authorities fund construction solely from the Exchequer capital budget.

Option 2: The local authorities acquire the social housing units in the open market, again funded from the Exchequer capital budget.

Option 3: The units are provided under Part V also funded from the Exchequer capital budget.

For Affordable Housing:

The affordable units could have been provided via a number of alternatives such as expanding other affordable housing schemes which provide a site at discount or site subsidy or via the provision of affordable rental accommodation. The latter could have been supplied by a combination of either leasing arrangements as with the existing leasing initiative, Rent Supplement, the Rental Accommodation Scheme or via the provision of subsidies to landlords to encourage the supply of rental accommodation. For ease of illustration here it is assumed that the persons assisted under

the affordable component of Part V would otherwise have remained in their existing accommodation or rented in the private sector, resulting in a zero cost to the Exchequer. Thus the financial analysis which follows focuses on the alternative mechanisms for providing the social units delivered under Part V. The only charge which arises for the affordable units is an administration charge for local authorities.

Key assumptions used in the financial analysis

The **number of units** assumed in each scenario is the total number of social housing units provided under Part V (5,721 units), comprising those acquired by the local authorities and approved housing bodies, plus those to be provided on the sites transferred (944 units), i.e. a total of 6,665 units.

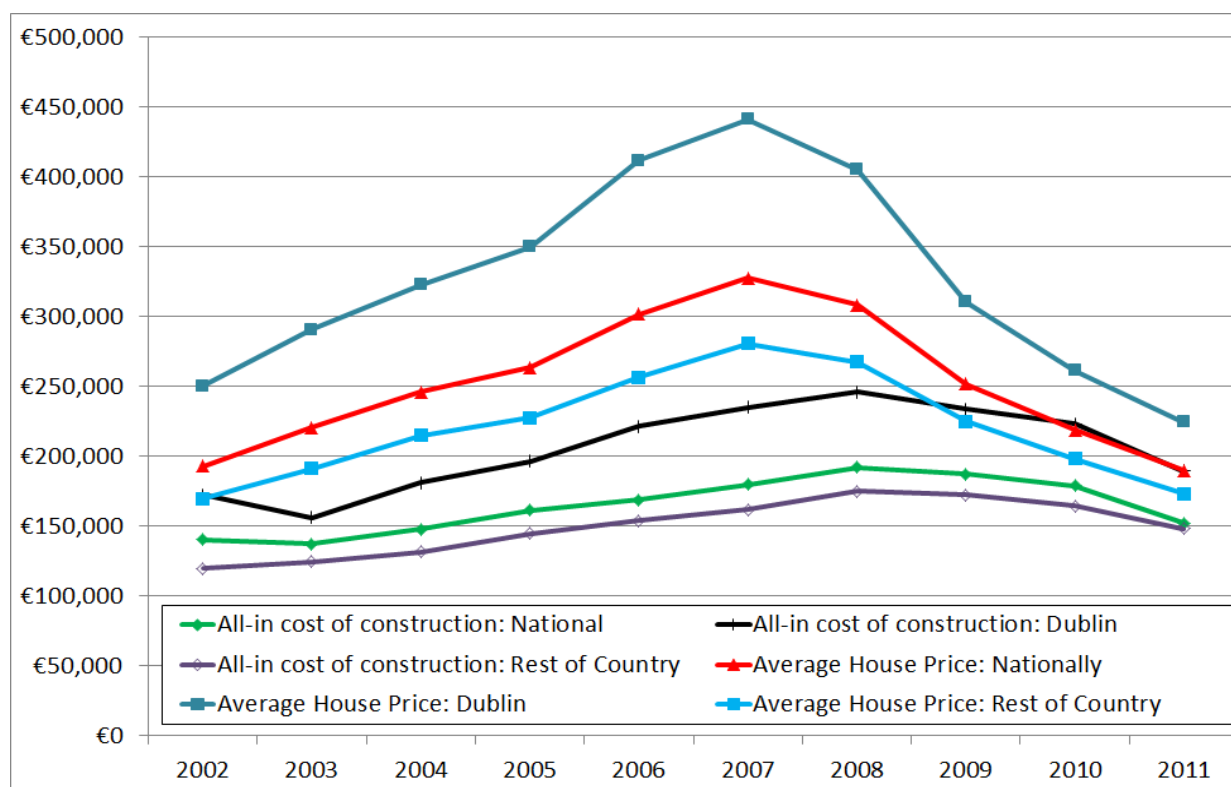
The costs used to ascertain the acquisition cost of the dwellings in each Option are as follows:

Option 1 uses estimates for the **all-in cost of construction for a local authority dwelling**, provided by the DECLG. These figures are lower than the average house price used in Option 2, presumably due to economies of scale and the capacity of the local authority to negotiate better costs than the private individual. This Option could also have a lower cost if, for example, the local authorities had their own land bank, suitably located in the appropriate areas. In this case they would not have had to purchase land in the open market. However, there would be a higher administration and resource cost associated with Option 1 in terms of managing the public procurement process, preparing and evaluating tender documents and managing the construction process, compared with purchasing the units in the open market.

Option 2 uses the **average property prices in Dublin and across the rest of the country** over the period 2002-2011 based on data from the Permanent-tsb/ESRI Property Price Index to 2005 which is updated using the CSO Residential Property Price Index to 2011.

The next chart provides a comparison of the all in cost of construction for a local authority dwelling with average house prices over the period 2002-2011.

Figure 11 All-in Cost of Construction of Local Authority Dwelling vs. Avg Property Price 2002-11



Source: DECLG, Permanent-tsb and CSO Property Price indices.

Option 3: The transfer price is assumed to be the average market price less the discount received on the acquisition of the social units - the assumption, based on consultations with the DECLG, is that the level of discount in the early years was 20% of the average house price, rising to 40% at the peak and falling back to 10% in 2011. There is no calculation of the discount on the affordable units as it is assumed that the price paid by the affordable purchaser is the same as the transfer price negotiated between the house builder and the local authority.

It is assumed that the Part V social and affordable units would have **an additional resource cost in terms of administration** to reflect the time involved in the Part V process. The administrative burden is assumed to be the same whether the local authority manages the construction process itself (in terms of public procurement, tendering etc.) or negotiates the delivery under Part V. Thus a figure of **€3,000 per unit**, approximately 1.2% of the average house price over the period (€252,000) is assumed for the administration cost charge under Option 1 and Option 3. The figure is assumed to be lower at €1,000 per unit under Option 2 when the local authority buys the units in the open market.

It is assumed that any **service charges** which are due on the social units, mostly in regard to apartments, would have to be paid under all options and these are thus excluded in the financial analysis.

As it is not known how much of 67.52 hectares of the land transferred was developed, it is assumed that none of this was developed over the period and thus it remains on the books of the local authorities at current land values, estimated at **€100,000 per hectare**. In the absence of an official land price database, this assumption is derived on the basis of various land deals nationwide that

have made it into the public domain. Several publications by estate agents have also been consulted as a reference guide.

Under each option, the position at the end of 2011 is such that local authorities would have a stock of social housing units acquired either under Part V or via the traditional route which would need to be managed and maintained over the life of the units and for which in turn they would receive a rental income. It is assumed that all units delivered would result in the same rental income and would have the same management and maintenance costs over the period. For the purposes of illustration, these elements are assumed to cancel each other out under each option.

In regard to unsold affordable units, there are losses arising on those units remaining unsold. According to the DECLG, the **total the number of unsold affordable units is around 2,500**, approximately three quarters of which are located in Cork and Dublin. These are valued at the **current average price of €150,000 per unit**²⁴.

Unsold affordable units are assumed to be left over since 2006 and a large number of them have moved to leasing but the local authorities continue to have loans outstanding on these units. It is assumed that all management fees are paid by the house owner in the case of affordable units. The losses on the unsold affordable units are estimated assuming they were acquired at a discount in the period 2006-2011 and are currently valued based on an average value of €150,000 per unit in 2012. The differences between the discounted price paid at the time and the current value represents the loss per unit, estimated at €98 million (undiscounted) for the 2,500 unsold units (see Appendix 2).

Option 1: Local authorities build social housing units via the traditional procurement route

Based on the average all-in cost of providing a local authority house over the period 2002-2011 plus the administration charge of €3,000 per unit, the total cost of providing the 6,665 units (comprising the 5,721 social units acquired via Part V plus the 944 units to be provided on sites acquired) would have been €1.26 billion (undiscounted) or an average of €189,000 over the period. This would have had to be funded by the Exchequer in addition to the public capital provision already provided for housing over the period of €16.1 billion²⁵. The discounted value (at 4%) of the total all-in cost plus the administration charge is €1.5 billion.

Option 2: Social housing units purchased in the open market

The acquisition of the same units in the open market, based on the average house price and including the lower administration charge of €1,000 per unit, would have been closer to €1.93 billion (undiscounted), implying an average cost of around €290,000 over the period.

The total discounted value (at 4%) of the total acquisition cost plus the lower administration charge is €2.3 billion.

Option 3: Units are provided under Part V

Under Option 3 the financial analysis is carried out for the period 2002-2011 based on the total social and affordable units, including those units to be developed (as social) on sites acquired. For ease of illustration the land transferred is included at current land values.

²⁴ This absolute figure used the national average house price as per the permanent tsb/ESRI index (discontinued in 2009) which is updated using the CSO Residential Property Price Index.

²⁵ Public Capital Programme in Revised Estimates for Public Service, 2012, Department of Public Expenditure and Reform.

Thus the main costs included in the financial analysis below are as follows:

- ✓ Costs of administration of social and affordable housing units (estimated at €3,000 per unit)
- ✓ The losses arising on affordable units not yet disposed of (estimated at 2,500 units at end 2011) which are valued at the current average price of €150,000 per unit.

The main benefits include:

- ✓ The discount received on the acquisition of the social units - the assumption is that the level of discount in the early years was 20% of the average house price, rising to 40% at the peak and falling back to 10% in 2011.
- ✓ The cash paid in lieu of units = €136 million.
- ✓ The land acquired in lieu of units = 67.5 hectares, estimated at current land values (i.e. €100,000 per hectare).

The following Table provides a summary of the financial analysis of Part V based on the costs and benefits from the Exchequer point of view and compares it with Options 1 and 2. Detailed Tables are contained in Appendix 2.

Table 7 Summary of Financial Analysis of Part V*

	2002-2011 Values 000 Undiscounted	2002-2011 Values 000 Discounted @ 4%
Option 1: Overall Capital Costs under Traditional Construction 2002-2011	€1,258	€1,496
Option 2: Overall Capital Costs when Acquired in Open Market 2002-2011	€1,932	€2,315
Option 3: Part V		
- Total Discount Savings under Part V 2002-2011	€617	€746
- Total Financial Compensation	€136	€168
- Total Value of Land Transfers	<u>€7</u>	<u>€7</u>
Total Benefits under Part V	€760	€920
Total Costs under Part V, made up of	€146	€160
Administration of Social and Affordable units	€48	€58
Total Losses on Unsold Affordable Units	<u>€98</u>	<u>€102</u>
Total Net Benefits under Part V	€614	€761

* Detailed tables are contained in Appendix 2.

Note: A discount rate (effective interest rate) of 4% is used in calculating the Net Present Values above.

The financial analysis of Part V shows a net benefit to the Exchequer of €614 million or €761 million in discounted terms over the period 2002-2011. Thus in discounted terms, the total cost of providing the social units under Part V over the ten years, including the administration charge for the social and affordable units, was €735 million [€1,496m less €761m] when compared with the cost under Option 1 or €1.6 billion [€2,315m less €761m] when compared with Option 2.

Thus Part V as a mechanism for meeting social housing supply benefited the Exchequer, based on the above analysis and provided value for money, notwithstanding the limited number of units it provided over the period in the context of total housing supply.

3.3 Conclusions

A review of the performance of Part V to date shows that it delivered 15,114 units or 3.5% of the total dwellings delivered (excluding one-offs) over the period 2002-2011. The majority were affordable units (62%), followed by social units which made up 38%, which includes units acquired by approved housing bodies.

In addition to the above acquisitions, sites (fully/partially developed) were also acquired over the period 2003-2011 which were to provide a total of 944 units across 20 counties. There was also a total financial contribution of €136.1 million, over three-quarters of which were received over the four years 2005-2008.

Based on the financial analysis of Part V compared with the traditional construction procurement route, the total cost of providing the social and affordable units under Part V over the ten years, including the administration charge for the social and affordable units, was €735 million [€1,496m less €761m] when compared with the cost under Option 1. The analysis concludes that there was a net benefit to the Exchequer of €614 million or €761 million in discounted terms over the period 2002-2011, indicating that Part V provided value for money, notwithstanding the limited number of units it delivered over the period in the context of total housing supply.

4. Impacts of the Part V Process

This section provides a summary of the impacts (outcomes) of what has been achieved by Part V over the period 2002-2012 from a number of different perspectives. It provides an assessment of impacts on the planning process, on social integration, on approved housing bodies on the housebuilding sector. Implementation issues are also discussed and are informed by a small number of case studies which were undertaken to establish the practical application of the Part V process. The key findings from consultations are also presented.

4.1 Performance of Part V against Targets

While the introduction of Part V was not accompanied by any specific targets at the time, the Planning and Development Act did place a statutory obligation on planning authorities to ensure that sufficient land was zoned for housing in their development plans to meet the projected housing requirement over the plan period, including social and affordable housing.

Part V delivered less than its potential

The total estimated contribution of Part V in units over the period 2002-2011 is derived below, based on using an average density per hectare of 35 units for the land acquired and an average build cost of €165,000 per unit²⁶ for the financial compensation. This Table is merely intended to establish what Part V could potentially have delivered, based on translating what was received into units.

Table 8 Summary of Housing Outputs under Part V (Measured in units)

Total All Social and Affordable units	15,114	Units
Total units to be provided on sites acquired	944	Units
Land Transferred	67.52	Hectares
Based on estimated average density of 35 per ha	2,363	Units
Financial Compensation	136,100	€000
Based on average build cost of €165,000 per unit	824	Units

Total S&A Units under Part V (estimated) 19,245 Units

% of total completions (excl. one-offs) 4.8%

Potential Social and Affordable units :

Based on 15% of total completions (excl.one-offs) 60,102 Units

Source DECG, DKM analysis

²⁶ This is the average all-in cost of construction across the State for the period 2002-2011 according to the DECLG.

Part V did not apply to residential developments on unzoned lands or lands zoned for other purposes or on developments of fewer than 4 houses. It is also important to point out that Part V did not apply until Housing Strategies had been prepared and adopted as part of the city or county development plans (mostly at end of 2001). In the absence of the number of units which would have been covered by these exemptions, the figure excluding one-off units is used for comparison.

As a mechanism designed to increase social and affordable housing supply, the actual total of 15,114 units or just 3.8% of all dwellings excluding one-offs delivered over the period 2002-2011 is a relatively small contribution. When the potential units are included which were capable of being delivered on the sites transferred and using the financial contribution, the total number of units delivered is estimated at 19,245 (4.8% of total). This figure is compared with the potential delivery of Part V on the basis that up to 20% of all land zoned for residential development was to be reserved for the provision of social and affordable housing. With 400,682 units in total, excluding one-offs, completed over the period 2002-2011, and assuming an average contribution of say 15%, on the basis that not all Housing Strategies specified the full 20%, this would imply a potential contribution from Part V of around 60,000 units, which is substantially in excess of the estimated contribution from Part V.

However for the reasons outlined above it is the case that a number of years had elapsed before Part V began to impact housing supply. 2005 was the first year when it delivered more than 1,000 units, equivalent to 2.2% of total completions excluding one-offs and by 2008 it made its greatest contribution at 12.6%.

Impact on the social housing lists

An alternative approach to measuring the impact of Part V is to examine the extent to which it contributed to meeting the housing needs of those not in a position to provide their own accommodation needs from their own resources.

The latest assessment of social housing need was carried out in March 2011. At that time there were 98,318 households in need of housing which is over twice the number on the list in March 2002. It is acknowledged that the onset of recession has led to an increase in unemployment since 2008, with the result that numbers on social housing lists have risen sharply over the past four years. However, in the period 2002-2008, which would have coincided with the key years for the delivery of units under Part V, the total number of households in need of housing increased by almost 8,000 or by 16%. This increase compares with a total of 5,721 social housing units delivered under Part V in the same period.

The figures include households in receipt of Rent Supplement and on the Rental Accommodation Scheme (RAS), as those persons seeking such assistance were to register on the local authority housing list²⁷. However, these applicants are likely to be accommodated in the private rented sector and are thus never likely to require social housing. The lists are thus likely to be overstated. However, even allowing for the overstatement, Part V made little inroads on the social housing lists. The next assessment in 2013 will provide a more realistic estimate.

²⁷ An estimated 96,800 households are currently in receipt of Rent Supplement of which almost 55,000 have been receiving it for 18 months or more. Around 15,097 households were transferred to the Rental Accommodation Scheme and other social housing options between the beginning of 2010 and May 2012 (see Section 2.2.1).

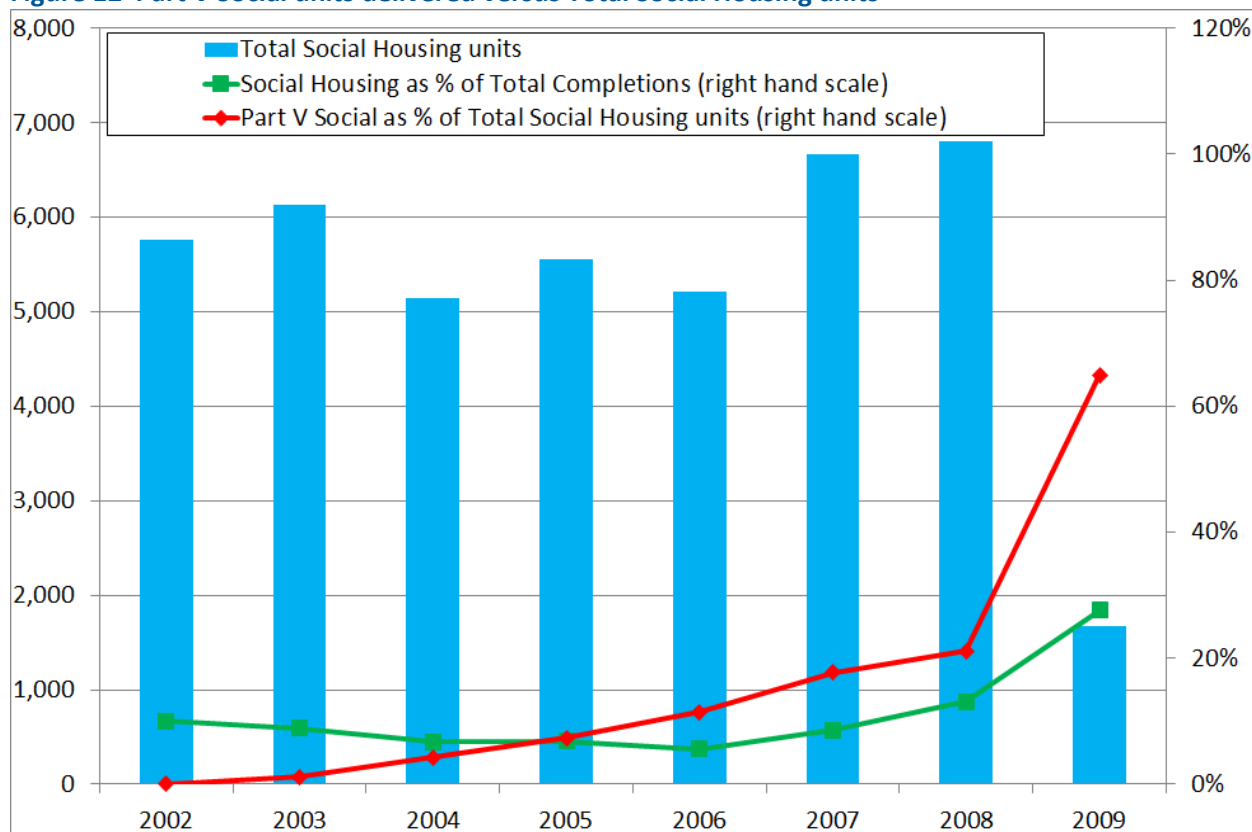
Table 9 Local Authority Assessment of Social Housing Needs 2002-2011

Category of Need	2002	2005	2008	2011	% Change in Need from 2008 to 2011*
Homeless	2,468	2,399	1,394	2,348	68.4%
Travellers	1,583	1,012	1,317	1,824	38.5%
Unfit accommodation	4,065	1,725	1,757	1,708	-2.8%
Overcrowded accommodation	8,513	4,112	4,805	4,594	-4.4%
Involuntary sharing	4,421	3,375	4,965	8,534	71.9%
Leaving institutional care	82	262	715	538	-24.8%
Medical or compassion reasons	3,400	3,547	8,059	9,548	18.5%
Older Persons	2,006	1,727	2,499	2,266	-9.3%
Person with a disability	423	480	1,155	1,315	13.9%
Unable to meet the cost of accommodation	21,452	25,045	29,583	65,643	121.9%
Total	48,413	43,684	56,249	98,318	74.8%

* The methodologies used to collect the 2008 and 2011 data differ, which limits any comparison between the two years. Further details can be found at www.environ.ie

In an interesting comparison with the total number of social housing units provided by local authorities and approved housing bodies, the Part V social housing contribution peaked in 2009 at 65% of the total social housing units delivered. An estimated 44,654 social housing units were constructed in the period 2002-2011 of which Part V contributed around 13% (5,721 units). 2008 represented the peak year with 6,800 new social housing units delivered, including 1,437 under Part V (21%).

Figure 12 Part V Social units delivered versus Total Social Housing units



Source: www.environ.ie and DKM estimates

Note: As data for social housing units completed in 2010 and 2011 is not available, DKM has estimated the figures at 1,000 and 700 units respectively, compared with 1,673 units in 2009.

The Leasing Initiative

The Social Housing Leasing Initiative was introduced by the Department in 2009 to develop the capacity of local authorities to respond to housing needs. While traditional build/buy approaches had been broadened with the introduction of Part V and the Rental Accommodation Scheme, long-term leasing arrangements further extended the sources of supply. In addition the use of long term leasing allows for a more efficient and effective use of available public resources.

Under this initiative, vacant properties or properties to be constructed are leased from the private sector and used to accommodate households from local authority waiting lists. Rent is guaranteed for the term of the lease which can range from 10 to 20 years, and the local authorities or approved housing bodies manage and maintain the properties.

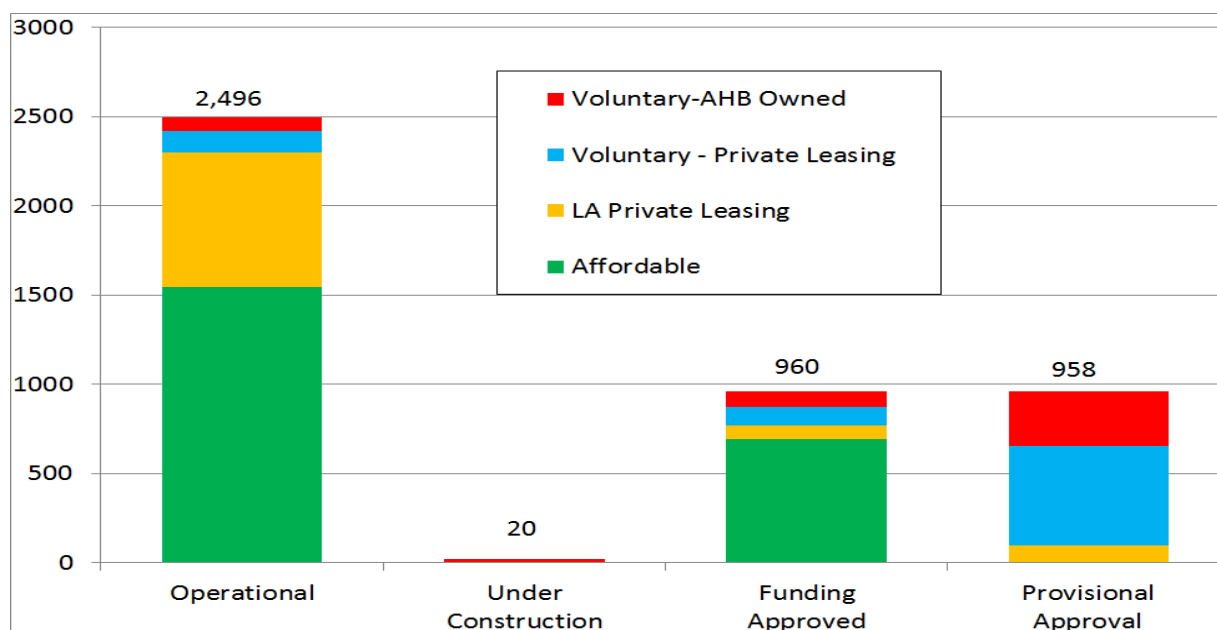
Since the initiative commenced in early 2009, 52 housing authorities and 21 approved housing bodies were issued with approval by the DECLG to enter into long-term leasing agreements with property owners by end December 2011. In total these approvals encompassed over 4,400 units. There were a total of 2,496 units deemed operational and a further 980 units were at the point where legal agreements and negotiations were being finalised at the end of 2011. A further 958 were at the provisional approval stage. The total number of social housing units approved under the Leasing Initiatives includes over 2,200 affordable units which were almost all delivered under Part V and are included in the total figure of 15,114 in Table 4.

Table 10 Cumulative increase in Leasing, 2010 and 2011

	Operational end-2010	%	Operational end-2011	%
Affordable	1,070	82%	1,546	62%
Standard LA Private Leasing	151	12%	753	30%
Voluntary Private Leasing	82	6%	123	5%
Approved Housing Body	0	0%	74	3%
Total	1,303	100%	2,496	100%

Source: DECLG 2012

Figure 13 Leasing at end of December 2011 (units)



Source: DECLG 2012

Of the 2,496 operational units at end 2011, 1,546 unsold affordable units were managed by approved housing bodies. Dublin City Council (404), Cork County Council (314), South Dublin County Council (276) and Fingal County Council (140) account for over 45% of the units that are operational nationwide. A total of 13 housing authorities had 1 unit while 8 authorities had no units under long term leasing.

4.2 Impact on Local Authorities and the Planning Process

Within the local authorities, the resources required for Part V involved a number of departments including Planning, Housing and Legal. Local authorities would have dedicated considerable resources to the implementation of Part V over the past decade, resulting in additional costs for local authorities.

The introduction of the Part V provisions also resulted in local authorities having to deal with all builders building on sites in excess of 0.1ha. In the past local authorities only had to deal with the specific group of builders who competed in the market for public sector housing projects. This has implications for the workload of local authorities, their staffing requirements and their output rate.

Legislation under Part V not only seeks to deliver units, sites or land for social and affordable housing, but also to ensure that provision is spatially balanced, creating mixed neighbourhoods, and that it reduces the level of concentration of social housing.

The available published data delivered under the Part V process identifies the numbers and extent of delivered units. However, it does not address the wider spatial delivery within the area of each planning authority.

Case Studies – Desktop Review

As part of this review, a number of planning authorities were interviewed on the qualitative impacts of Part V on the timing, location and quality of social and affordable housing delivered through the planning permission process.

In addition, a sample of planning permissions was reviewed within a number of development areas to examine how the process of making Section 96 (Planning & Development Act 2000 as amended) agreements was carried out and to assess the qualitative aspects of social and affordable housing units delivered in practice.

The review of housing agreement files comprised reviewing the experience in three towns of different characteristics:

1. Bandon County Cork, a town outside the metropolitan area of Cork city, but one with some commuter pressures;
2. Ashbourne, Co. Meath, where demand was largely driven by accessibility and proximity to Dublin City; and
3. Pelletstown, Dublin 15, a new developing area within the metropolitan area of Dublin city, where the standard form of development is high density apartments, linked to the city centre along a rail corridor.

In the **Cork County Council** area, the experience of Bandon was examined. Seven schemes were reviewed across the town. The planning applications for each of these were lodged between 2003 and 2008, and proposed a total of 429 units, predominately in the form of houses. The schemes delivered 42 affordable units and 10 social units in total.

Provision was generally by way of on-site delivery of units, with one scheme meeting its provision by financial contribution. The units were typically integrated within the schemes, with units peppered throughout the schemes. One scheme grouped the affordable housing in its agreed provision. Social and affordable units were of the same design as the units for private sale and were not distinguishable. These units were also well-dispersed in the schemes and not in inferior locations in respect of access, visibility or proximity to open space or other facilities. All of the schemes were located within 1km of the town centre or other local facilities. Delivery of these units did not lead to any further concentration of social housing units in the town.

In the process of making agreements under Section 96, an agreement in principle was made in advance of lodgement of the planning application in only one case. Agreement on which units to acquire took between 4 months and 2 years to agree, taken from the date of lodgement of the planning application. Negotiation on values took between 1 year and 2 years and ten months to conclude.

Within **Meath County Council**, the experience of Ashbourne was examined. Seven schemes were examined with both town centre apartments and standard housing proposed. The planning applications for each of these were lodged between 2002 and 2008. The schemes were agreed to deliver 37 social units and 111 affordable units.

Provision was generally by way of on-site delivery of units. The units were typically integrated within the schemes. In the largest scheme, affordable units were grouped within three areas of the development. In other schemes units were peppered throughout in smaller groups. Social and affordable units were of the same design as the units for private sale and were not distinguishable. These units were not typically in inferior locations in respect of access, visibility or proximity to open space or other facilities. All of the schemes were located within 1km of the town centre or other local facilities. Delivery of these units did not lead to any further concentration of social housing units.

In the process of making agreements under Section 96, the process was long and drawn out. While proposals for meeting Part V requirements were made as part of the planning application, they were not to the satisfaction of the planning authority. In a number of cases agreements on which units to take had not been completed between lodgement and 2008, with delays resulting from scheme revisions, proposed phasing of development and the wider uncertainty within the property market. In some instances units had been completed and sales begun before the planning authority could agree which units to acquire. Planning enforcement was used to finalise agreements with certain developers. Similarly, agreement on values was slow and arduous. In one instance, the final delivery of social housing was in the form of two units provided free-of-charge to the council rather than the acquisition of 16% of the units.

In the **Dublin City Council** area, the experience of Pelletstown was examined. Six schemes developed by the two major land owners in the area were lodged between 2001 and 2006, following the enactment of the Planning and Development Act 2000. 150 units were delivered for social and affordable housing. These included some units to be provided in lieu of provision within future phases.

All units were in the form of apartments to be provided on-site. The distribution of units differed under different planning applications. Some of the affordable housing units were peppered throughout the scheme and social units provided in a group within the same blocks. A second approach taken was to deliver the social and affordable housing in separate blocks to the private-sale units, with the involvement of an approved housing body to manage the social and affordable blocks. The approved housing body played a role throughout the design process and discussed its requirements with the planning authority prior to lodgement.

The social and affordable residential blocks are located to the north of the developed area and are distinguishable from the private-sale blocks, although the units are not inferior in quality or design. The units are further from local services than the remaining units, though they are well-connected and within 500m of high-quality open space, retail, transport and other requirements. As a new developing area, there is no high concentration of social housing.

Discussions on the Part V provision were held with the planning authority prior to lodgement of the planning applications, although there was no formal agreement in principle at this stage. Agreement on which units to acquire took between 4 months and 2 years and 9 months to complete. Negotiations on values took between 1 year and 2 years and 8 months to complete. The process on agreement was complicated by on-going revisions to planning applications while negotiations were taking place.

Summary of Findings from Consultations and Desktop Review

Practice differed between planning authorities on the making of agreements. In general, the process and procedures for making agreements could be long and drawn out. However, procedures improved over time, although certain developments reviewed did not see full engagement by the developer until very late in the construction process.

The approach of planning authorities was generally consistent during the process in reaching agreement. However, by 2008, where development had not commenced, some councils notified applicants of possible changes in their requirements, for example, opting for a financial contribution rather than the original agreement to deliver units. Another council stated that no agreement is in place until everything is agreed, including unit values and the units chosen. One council maintained a consistent approach through its consultations with applicants.

Discounts of between 20% and 44% off the market price of the units were achieved when units were sold in the rising market. Discounts in excess of 12.5% were offered on the affordable units in the schemes reviewed when they were put to the market in 2008, often funded by the financial payments raised under Part V.

More generally the Part V provisions allowed local authorities to build up land banks at a time when they may not have been able to purchase land otherwise, due to competition from private builders, and the substantial escalation in land prices in urban areas. Local authorities noted the significant gain in terms of sustainable communities.

4.3 Impact on Social Integration

Part V delivered social and affordable housing in mixed communities peppering units within schemes. This is a key success of Part V. As demonstrated above, the primary method of meeting Part V requirements has been through the delivery of units on-site. This has seen the physical mixing of housing types within new schemes. On the basis of the areas examined, the quality, accessibility and integration of the units have been successfully delivered.

The units delivered in the schemes reviewed have been typically well-located with respect to facilities, generally not distinguishable from private owner occupied houses and well-integrated in the communities examined. Matching social and affordable housing demand and supply was not always achieved. In the larger urban areas and developing areas projecting large populations, the production of housing on-site was seen to match existing or projected social or affordable housing demand. In more rural locations, there was seen to be a disconnect between supply and demand. This was most noticeable and critical following the economic downturn where demand for affordable housing in particular was extremely low, while housing supply in these areas remained high. This experience was most pronounced where planning authorities sought units rather than financial contributions.

The involvement of approved housing bodies assisted in the delivery of units. This was best achieved when the body was involved from early in the design process, prior to lodgement of the planning application.

Some concerns were expressed by the housebuilders as to the management of the social housing units, both in delays in tenancing and in on-going maintenance.

Review of Consultations

It was noted that academic research suggests that mixed tenure is more successful than mono tenure. It was generally agreed that the existing policy did achieve social integration, albeit the process may not have been the most efficient.

Social integration has materialised under Part V despite claims that local authorities' bargaining power was often underutilised or compromised and as a result they received blocks of social housing in the least favoured ends of various developments.

The tendency for local authorities to opt for financial contributions over land was raised as a major concern which was seen as an inhibitor of social integration.

4.4 Impact on Approved Housing Bodies

The Government is committed to developing the role of approved housing bodies and to expanding the contribution of the sector to social housing. Under Part V planning authorities are required to take a proactive role in facilitating the involvement of approved housing bodies in providing housing on land or sites earmarked for transfer by developers for social housing.

However under Part V the approved housing bodies only acquired 1,964 units over the period 2002-2011. This level compares with a total delivery of around 12,000 units by the sector over the same period and a total stock of 27,000 homes managed by approved housing bodies.

The funding environment for the sector has changed dramatically in recent years, resulting in a new approach to housing delivery by Housing Associations. Such approaches now include sourcing private finance to purchase units, utilising the private sector leasing scheme; and managing unsold affordable housing. The expectation is that approved housing bodies will take on a greater role in the provision of social housing in the future, a view also expressed in the Government's Housing Policy Statement.

Review of Consultations

The approved housing bodies are satisfied with the aims and objective of Part V. Some mixed experiences were reported in that they received some houses in locations that they would not have received otherwise, while, in other locations, they also found that they were in receipt of houses (and particularly apartments) that the Local Authorities did not want to manage.

Housing Associations tended to be successful due to their commercial remit and due to their tendency to refuse to accept 'risky' properties that were not situated in the main urban areas. They are however known to have had particular difficulties with management fees. In some case they ended up with less than ideal agreements that had been settled by local authorities prior to them becoming involved. While associations have the best record at paying service charges, the predominant difficulties arose with developer retained units, where the developer was not paying the fees. Approved housing bodies are keen to be permitted to negotiate directly with developers early on in the process, ideally at the pre-planning stage. This would lead to the very important issue of management fees being addressed at an early stage but would also address delivery, timescale and cost.

In regard to leasing, the issue was raised in regard to availability payments as to why they were linked to market rents rather than the cost of funds associated with finance borrowed to purchase units. Concern was raised regarding the funding of the availability payment going forward if, for example, the number of units entering into long-term leasing agreements was to increase to 4,000+ units. The Housing Associations are keen to obtain a multi annual scheme of funding, in regard to availability payments, to enable them to do better deals with housebuilders.

The view was expressed that Part V needs to include other mechanisms which provide permanent social housing solutions, such as an option to rent and then buy, incremental purchase and affordable rental ownership.

Part V units and units leased are mostly used for meeting general need as they are not suitable for special needs and vulnerable client groups, due to the necessity for the needs of such groups to be

factored into account at the design stage. It is the case that many of these units were not designed with a view to accommodating the more vulnerable client groups.

4.5 Impact on Housebuilding Sector

One of the principal effects of the Part V housing supply measures has been the creation a third housing market category, or a three-tier as against a two-tier market. In addition to the normal two-tier system of public and private provision, the creation of a third category, the 'affordable' category, was a significant change in the approach to housing policy, and involved a major expansion of the State's role in the housing market.

This new category was created to cater for the significant group of people, notably first-time buyers, who could no longer afford entry to the private housing market. This group was perceived to include employed persons in the low- and middle-income bracket who had traditionally been catered for in the private market, and whose aspirations to home ownership had historically been realised in that market. The "high and often disproportionate value" placed on owner occupation is now recognised in the Government's Housing Policy Statement as being "detrimental to Ireland's society and economy". It would have also resulted in increasing housing demand over and above what it might otherwise have been at a time when demand in the 'private' housing market was well above normal demand levels.

The likelihood is that the absence of this 'affordable' category would have resulted in a greater number of those persons who availed of it either opting to rent or remain in their existing accommodation instead of buying. Had this been the case, the current difficulties with respect to the numbers in mortgage arrears and negative equity would have been less serious.

The preparation of housing strategies was a major positive outcome of the Part V housing supply provisions. There was, however, a significant time lag between the adoption of housing strategies and the delivery of units under Part V. The first Housing Strategy was adopted by Fingal County Council in April 2001 while all other Housing Strategies had commenced by the 1st November 2001. The real impact of the Part V provisions did not emerge until 2005/06²⁸.

The overall potential contribution of Part V, based on agreements reached, is estimated at just 19,245 units or just 4.5% of total completions excluding one-offs. In terms of housing supply this would appear to be a very limited return on the investment made by both local authorities and developers.

Review of Consultations

The general comment noted by the IHBA regarding the current impact of Part V was that there is a need to get the housing market working again and Part V is one factor that is constraining housebuilding in today's market.

The view was expressed that Part V failed in its objective to deliver adequate social housing due in part to the complex and time consuming process involved. More generally, the view was expressed that those involved in Part V negotiations need clearer guidelines relating to the determination of the transfer price and timescale.

²⁸ This is partly explained by the fact that many of the units provided in the early years were on foot of planning permissions which predated the Housing Strategies and thus were not subject to Part V.

Affordable housing came under particular scrutiny as it was suggested that it accentuated the emphasis on owner occupation, resulting in resources being diverted from the provision of social housing.

It has been recommended that there should be an option to rent to buy, having incremental purchase as part of that option. Affordable rental ownership was also recommended.

The role of local authorities should be as facilitators and confined to procurement, with housing associations taking on a more responsible role.

The system of house building was not considered to be demand led, with the result that houses ended up in undesirable locations. There needs to be more engagement between the developer and the local authority regarding where supply is actually needed, i.e. more emphasis on Development Plan/Housing Strategy. In this regard the preparation of housing strategies was considered a positive impact of Part V.

4.6 Other Impacts

4.6.1 Vacant Stock

The issue of vacant stock in unfinished housing estates raises a number of considerations with respect to Part V.

The build-up of new unsold vacant stock was estimated by the DECLG²⁹ at 18,638 in 2011 or almost 1% of the total housing stock, 23% less than the corresponding figure reported in the 2010 Survey. There will also be the vacant units which are expected to be released by NAMA³⁰ (an estimated 2,000), although a number may already be included in the 18,638 figure above. Based on the outstanding vacant stock of 18,638, the total Part V contribution, based on say 15%, would provide up to 2,800, although the Part V contribution is likely to have been already made in those cases.

The most recent results from the 2011 Census estimated the total vacancy rate (new and second-hand) across the housing stock at 14.5% including holiday homes or 11.5% excluding vacant holiday homes. This compares with an expected vacancy rate of 5-6% in a normally functioning market.

Table 11 Housing Stock and Vacant Dwellings, 2011

State	2011
Housing stock 2011 (Number)	1,994,485
Vacant dwellings 2011 (Number)	289,451
<i>Of which</i> holiday homes (Number)	59,395
Vacancy rate 2011 (%)	14.5
Vacancy rate 2011 (%) (excluding holiday homes)	11.5
Actual change in vacant dwellings 2006-2011 (Number)	18,190

Source: CSO 2011 Census of Population

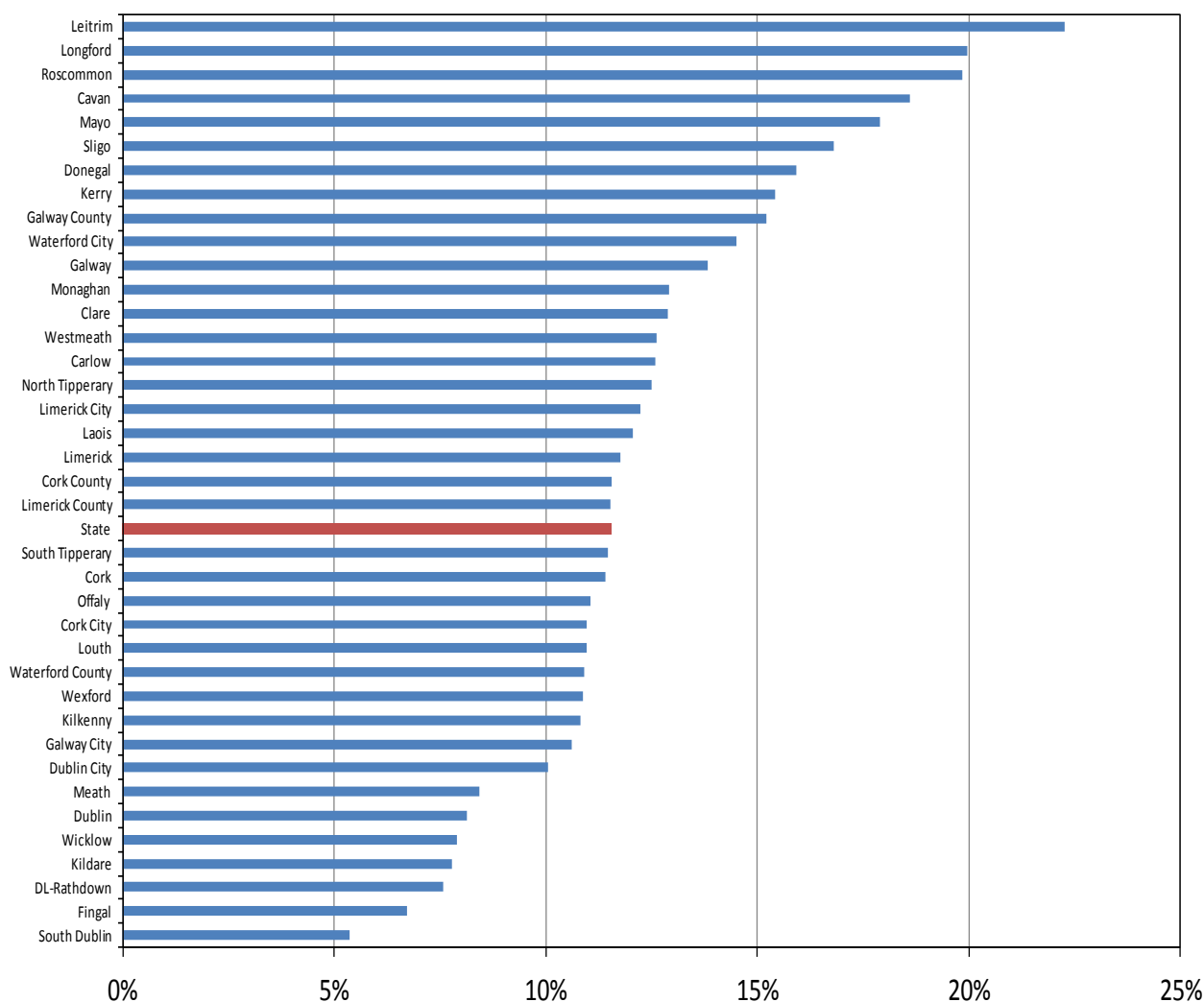
<http://www.cso.ie/en/media/csoie/census/documents/census2011pdr/Census%202011%20Highlights%20Part%201%20web%2072dpi.pdf>

Figure 14 below illustrates vacancy rates by county in Ireland as per the 2011 Census. It is based on the total number of unoccupied vacant houses and flats as a percentage of the overall housing stock.

²⁹ <http://www.environ.ie/en/Publications/DevelopmentandHousing/Housing/HousingSurvey2011/>

³⁰ <http://www.environ.ie/en/DevelopmentHousing/Housing/News/MainBody,29071,en.htm>

Figure 14 Vacant Properties excluding Holiday Homes



Source: CSO 2011 Census of Population³¹

There is likely to be limited new build and consequently lower Part V contributions in those counties with vacancy rates above the State average. Leitrim, Longford, Roscommon, Cavan and Mayo have the highest vacancy rates ranging from 18%-22%. Sligo, Donegal, Kerry and Galway County have also considerable levels of vacant stock.

In contrast, the urban areas such as Dublin, Kildare, Cork and Galway have lower vacancy rates, particularly in Fingal, Dun Laoghaire-Rathdown and South Dublin. These counties (below the State average in Figure 14) are likely to be among the areas where the market picks up first, resulting in social housing units delivered from Part V (in its current form). This pattern of delivery should be considered in the context of the national social housing waiting list.

A visual representation of the vacant stock, including unfinished housing estates, in Ireland and Dublin is outlined overleaf. The west of Ireland has notably the highest vacancy rates and it can be

³¹

<http://www.cso.ie/en/media/csoie/census/documents/census2011pdr/Census%202011%20Highlights%20Part%201%20web%2072dpi.pdf>

seen that the urban areas, such as Dublin and Cork are not without their share of unfinished housing estates, although the distribution is dispersed across Dublin (Figure 15 and 16). Any Part V agreements not yet completed on these developments is likely to act as a constraint in bringing them to the market.

4.6.2 National Asset Management Agency (NAMA)

In an effort to achieve a greater social dividend, NAMA and the DECLG agreed, at the end of 2011, to make 2,000 housing units available this year for households on the social housing lists through leasing agreements with Local Authorities and approved housing bodies. The agreement also included a commitment to:

- ✓ Put more housing units on the market;
- ✓ Put aside more money to finish projects pending their sale or leasing for social housing purposes;
- ✓ Assign designated staff to manage legal and other problems that might be associated with completing transactions.

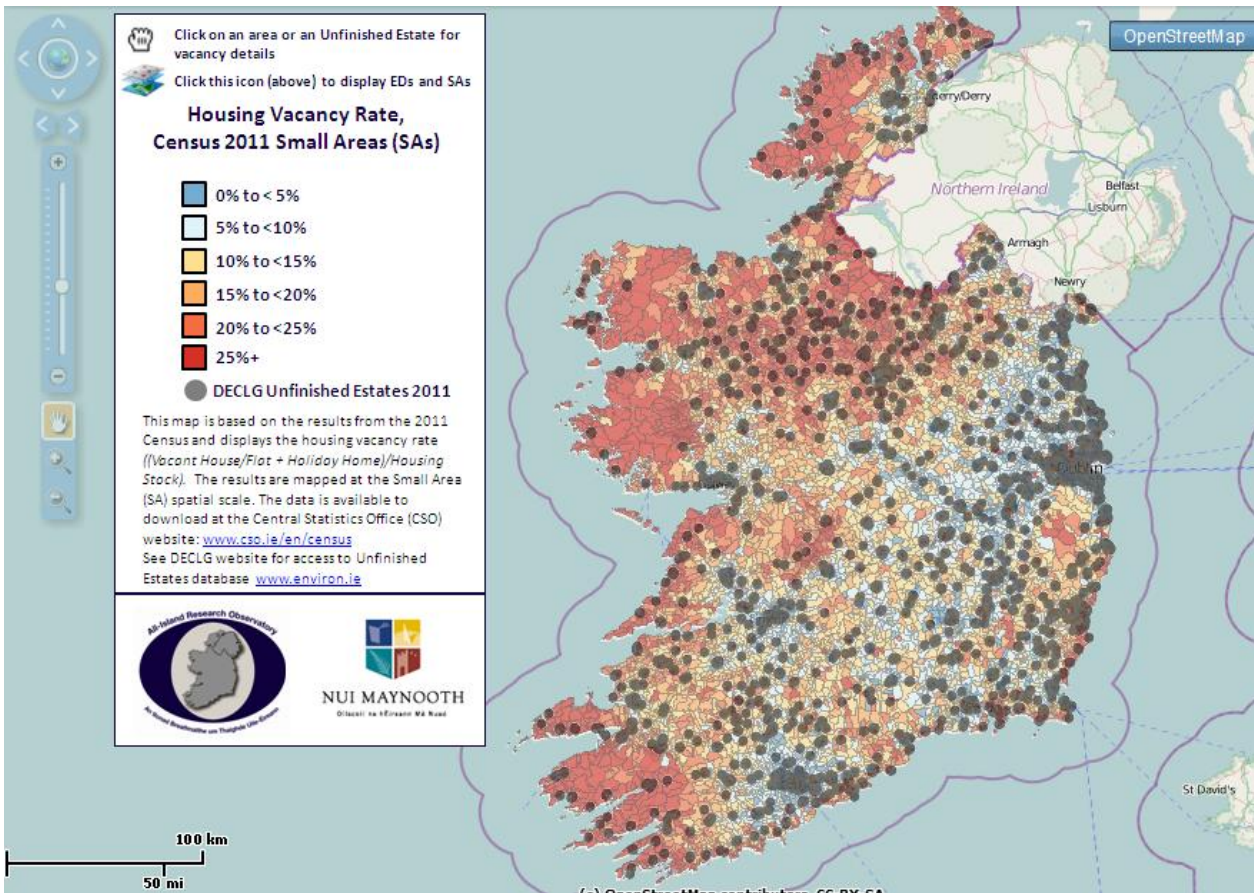
Due to implementation issues with the above measure, NAMA established a new company in August 2012 to fast-track the acquisition of almost 2,500 vacant properties for social housing by the end of 2013. The new specially established company, National Asset Residential Property Services Ltd, has been incorporated to acquire properties and will take possession of debtor properties that it deems to be suitable. The logic is that the debtor can then reduce what it owes on its NAMA loan, while the company in turn leases the property directly to the local authority or housing association.

Those consulted agreed that this new Special Purpose Vehicle (SPV) is likely to speed up the process and ultimately provide social housing through leasing for rent or purchase. It has been received particularly well because one single organisation has become accountable and as a result will have a particular onus to deliver. Despite its potential to free up units for social housing purposes, it is not envisaged that the SPV will be a panacea for the empty and unfinished housing estates.

It was announced by NAMA's Chief Executive in September 2012³² that the Agency was at an advanced stage in the process of transferring residential units to the State for social housing provision under the Social Housing Leasing Initiative. In addition to the 2,000 units identified for transfer in December 2011, a further 3,800 units were announced in June 2012 which are being assessed by local authorities.

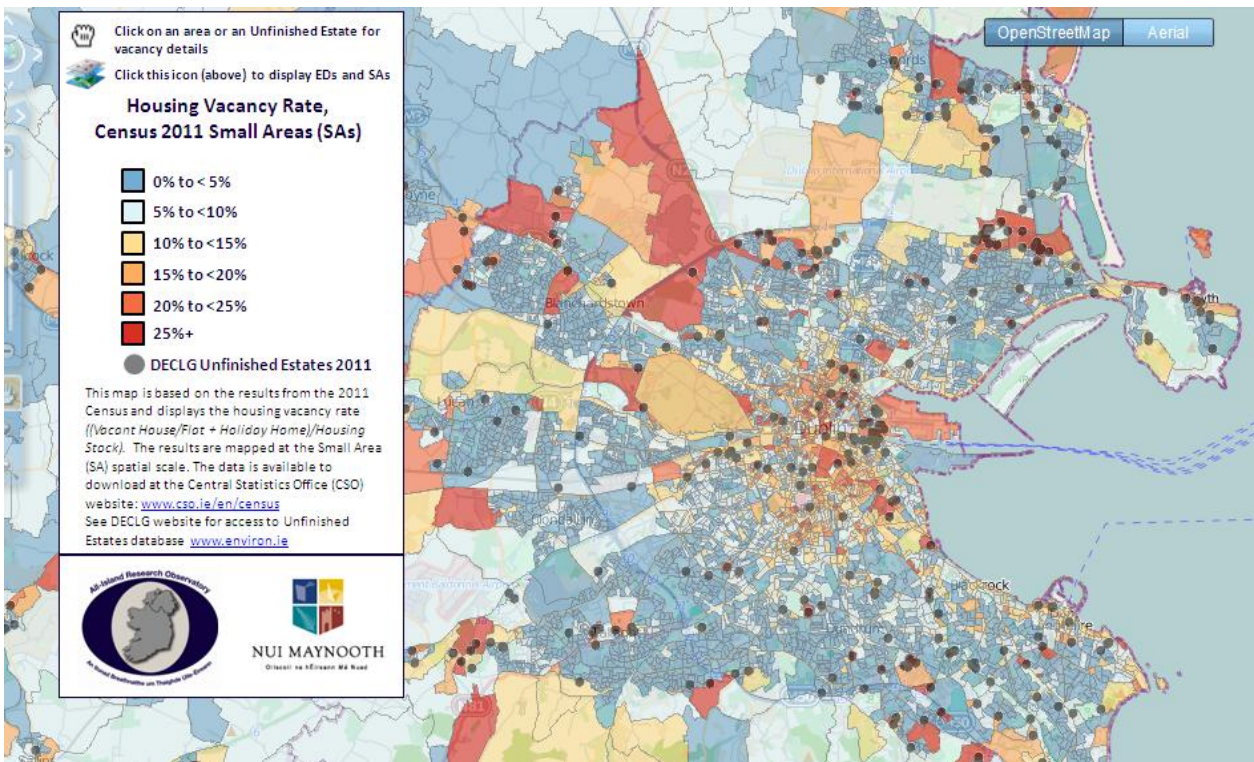
³² Construction Industry Federation National Conference 'Building for the future of the construction sector' – Brendan McDonagh, NAMA

Figure 15 Housing Vacancy Rates and Unfinished Housing Estates – Ireland



Source: CSO Census 2011 and <http://www.airo.ie/mapping-module/census>

Figure 16 Housing Vacancy Rates and Unfinished Housing Estates – Dublin



Source: CSO Census 2011 and <http://www.airo.ie/mapping-module/census>

4.7 Conclusions

As a mechanism designed to increase social and affordable housing supply, the total number of units delivered is estimated at 19,245 (4.8% of total), when all of the options chosen are translated into units. The real impact of the Part V provisions did not emerge until 2005/06.³³ The potential contribution, excluding one-offs, is estimated at around 60,000 units. However, it is acknowledged that this figure is at the higher end of what it could have delivered as it is based on a market figure which includes a number of units which would have been exempted from the requirements of Part V, particularly in the early years of its operation.

The Leasing Initiative has resulted in a further almost 2,500 units being provided under long-term leasing agreements in the two years 2010-2011 since it commenced – this total includes 2,200 affordable units which were almost all delivered under Part V. There is to be a further 2,500 vacant units provided for social housing via a Special Purpose Vehicle established by NAMA.

Practice differed between planning authorities on the making of agreements. In general, the process and procedures for making agreements could be long and drawn out. However, procedures improved over time, although certain developments reviewed did not see full engagement by the developer until very late in the construction process.

Social integration has been a positive outcome of the Part V housing supply provisions but the tendency for some local authorities to opt for financial contributions over land or properties was raised as an inhibitor of social integration.

The sector reported mixed experiences with Part V in that they received some houses in locations that they would not have received otherwise, while, in other locations, they also found that they were in receipt of houses (and particularly apartments) that the Local Authorities did not want to manage. Housing Associations, however, had particular difficulties with management fees and were keen to be permitted to negotiate directly with developers early on in the process, ideally at the pre-planning stage.

The funding environment for approved housing bodies has changed dramatically in recent years, resulting in new approaches to housing delivery by Housing Associations, which are likely to gather momentum going forward.

One of the principal effects of the Part V housing supply measures has been the creation of a third housing market category, or a three-tier as against a two-tier market. The focus on the 'affordable' category was considered to have resulted in resources being diverted from the provision of social housing.

The issue of Part V agreements not yet reached on unfinished housing estates is likely to act as a constraint in completing these units and bringing them to the market.

³³ This is partly explained by the fact that many of the units provided in the early years were on foot of planning permissions which predated the Housing Strategies and thus were not subject to Part V.

5. Options to Recast Part V

5.1 Context

The current review of Part V is intended to examine how Part V could be recast to ensure it contributes to social housing need and achieves its main objectives in the future. The assessment has concluded on what those objectives should be (see below) but firstly, it is important to acknowledge the substantially different housing market which currently exists compared to that which prevailed when Part V was first introduced in 2000.

The “boom to bust” period which has transpired has been unprecedented and has resulted in a long and protracted period of weakness, following the strongest housing boom on record. At the time that Part V was introduced, the housebuilding industry was delivering 50,000 new units per annum. The exceptional period which followed was associated with a record level of housebuilding of almost 100,000 units at the peak in 2006. The annualised estimate for commencements in 2012 is around 4,200, based on data for the first seven months of the year. Moreover, with the prospects for housebuilding in the medium term suggesting that a minimum of around 15,000 to 20,000 new households will be formed each year over the coming decade³⁴, a mechanism which relies on a continued strong level of new housebuilding to deliver increased social housing is unlikely to work.

The 2011 Housing Policy Statement has changed the balance and direction of housing policy. Affordable Housing programmes have been indefinitely suspended to reflect current conditions. A series of measures have been proposed to address the continuing high demand for Social Housing, including a more prominent role for private landlords and approved housing bodies. It is important to note that Part V is only one such measure. Funding from central government and private finance enables such housing to be constructed directly through alternative mechanisms³⁵.

In this context, any recasting of the current legislation will need to recognise the change of emphasis away from owner-occupation, the standing down of affordable housing schemes, the stronger role for approved housing bodies and the expansion of leasing options.

The recasting of Part V assumes a continuation of the Land Rezoning Tax

In the context of this review, it is important to acknowledge the existence of the Land Rezoning Tax which is charged at a rate of 80% in respect of the disposal of development land rezoned on or after 30 October 2009. This assessment of the options for recasting Part V assumes that this tax will co-exist with whatever mechanism is selected following the public consultation. Given the potential of the Land Rezoning Tax to capture a far larger amount of betterment value³⁶ for the State on lands rezoned after October 2009 than is possible under Part V agreements, the question that has to be addressed is whether there is now a need for Part V or any other mechanism designed to capture an obligation from development and landowners? This is a fundamental question and implies that the recasting of Part V must be coordinated with other mechanisms which exist, notably the Land Rezoning Tax and other taxes, development contributions and costs so as to ensure that housing can be effectively and economically delivered. **However it must also be recognised that as the Land Rezoning Tax only applies to lands zoned after October 2009, and given that the amount of land**

³⁴ Duffy, D and FitzGerald, J. (2012). “The Irish Housing Market “Quarterly Economic Commentary, ESRI, Summer 2012.

³⁵ Appendix 1 contains a list of the current public housing interventions aimed at increasing social housing supply.

³⁶ See Section 2.4.5 for a discussion on betterment value.

currently zoned residential is likely to be adequate for a long time, the prospects for any significant returns being captured from such a tax are likely to be extremely limited for the foreseeable future.

5.2 Lessons from the Part V Experience

The review of Part V has identified a number of common features and lessons that future practice should address.

- The initial introduction of Part V was met with resistance as developers sought to back-end Part V negotiations and agreements. All stakeholders including local authorities, housebuilders and approved housing bodies as well as the general public had to come to grips with the new legislation in the early years. Part V did not start making a real contribution until around 2005 and continued to do so until 2008 when the market stagnated.
- The experience of implementing Part V in practice highlighted the need to meet local housing demands with local solutions rather than following a common national method of implementation. Clear and evidence-based objectives in Housing Strategies and in housing policy at local level can assist in better matching Part V delivery to underlying local demand.
- Part V enabled social and affordable housing to be delivered within private housing schemes, contributing to social integration.
- The delivery of Part V units was a more effective process when agreements were made early and details were determined before commencement of development.
- Frequent amendments to planning permissions affected the ability of planning authorities to make Part V agreements that could be implemented.
- Ambiguities in the underlying legislation led to costly challenges and lack of agreement between housing authorities and developers.
- Prolonged periods of negotiation have been a costly and inefficient use of resources for both developers and local authorities.
- Some local authorities were under pressure to build up social and affordable units which resulted in a corresponding increase in debt levels.

These lessons bring insight into the operation of the Part V process and inform the selection of Options for recasting Part V which are considered below. Any model to deliver Social and Affordable Housing through the planning permission process should seek to overcome difficulties that have arisen with the mechanism in the past.

5.3 Is Part V still relevant?

5.3.1 Role of planning permissions in delivery of social housing

The rationale for Part V agreements at the time of its introduction was that it was a **mechanism³⁷ which allowed the betterment value from a grant of planning permission for residential development to be captured for the benefit of the community as a whole** and in so doing, to further increase the provision of social housing. The mechanism recognises that land values can increase for a number of reasons, including the grant of planning permission.

³⁷ Other mechanisms for capturing an obligation from development and landowners comprise development contributions/levies and capital gains tax.

Given existing depressed land values, Part V is unlikely to deliver betterment value in the short term. Therefore, it does not currently provide a subsidy or funding for additional social housing units if it remains in its current form.

Part V has been successful at **delivering mixed tenure and social integration**. There was general unanimity among consultees that this objective should be retained in the future.

The **preparation of a Housing Strategy** to establish, inter alia, the future housing needs of the population of an area **has been beneficial** in informing wider local housing policy and the preparation of county development plans. This aspect of Part V will remain relevant to any future mechanisms but the model needs to be reviewed while the process of adopting housing strategies needs to be made more efficient.

Part V **enabled the acquisition of land by local authorities** which they would otherwise have had to bid for in the open market, enabling social integration and a spatial balance in housing classes to be delivered. This is not currently a major constraint given existing land values. However, it will become relevant again when land values recover.

Part V forms one element of a set of costs that must be accounted for in the decision to undertake residential development, a set that also includes any Land Rezoning Tax, increased building control costs and design requirements, general development contributions, supplementary contributions and any special contributions for infrastructure. In the absence of a normal functioning market, where a price cannot be achieved that meets construction costs and reasonable profit, few houses will be built. **Part V will only continue to be relevant if it can justify its cost within the overall set of impositions on development costs.**

Section 5.2 above highlighted a series of lessons learned from the operation of the existing legislation and guidance. To retain any relevance in the future, an amended Part V would need to be reframed to address the difficulties identified. If these at least are not addressed, the retention of Part V in its current format would represent a retrograde step.

However, **in principle any mechanism that delivers social housing units or sites, captures betterment value and achieves social integration remains relevant**, provided it is more efficient than the current system.

5.3.2 Interaction with the Land Rezoning Tax – Capture of Betterment

The objective to **capture betterment value from the uplift in the value of development land** is valid in principle. There has been a long-standing recognition of the need to ensure that the uplift in the value of land, brought about through the decisions taken by the State or local authorities, generates social benefits and is not simply a profit to the landowner. Part V has gone some way towards achieving this objective.

The Land Rezoning Tax mirrors some of the objectives of Part V such as the capture of betterment value and has the potential to capture a far larger share of the betterment value of the land than Part V. Whether a Land Rezoning Gain is accrued in practice is dependent on the extent of rezoning since 2009 and whether development will be delivered on those lands. The likelihood is that the amount of land currently zoned residential is likely to be adequate for a long time, implying that the prospects for any significant returns being captured from such a tax are likely to be extremely limited for the foreseeable future.

It is questionable whether there is a need for Part V to capture betterment in the long-term if it replicates only a small element of what the Land Rezoning Tax could achieve. However, the abolition of Part V due to the introduction of this tax should be carefully assessed against its likely incidence and the contribution that it could make to delivering on social housing objectives. The advantages of only using the Land Rezoning Tax are as follows:

- 1) There would be the potential to recoup betterment across all development classes, not solely from residential development on zoned land.
- 2) The 80% capture is significantly higher than the existing 20% limit on Part V.
- 3) In capturing betterment value, Part V and the Land Rezoning Tax achieve similar objectives.
- 4) If the Land Rezoning Tax and Part V both were to apply, there would be the potential for over 100% of the betterment value of the land to be captured. This would not be a reasonable outcome for the landowner.
- 5) The national collection of the tax would enable the allocation of funding to areas most in need of social housing investment, if it could be ring-fenced for social housing provision.

But there would also be a number of disadvantages with only having the Land Rezoning Tax as opposed to Part V, notably:

- 1) The Land Rezoning Tax only applies to rezoning decisions made after 2009.
- 2) Rezoning decisions are likely to be less common in the future, restricting the extent of lands affected by the Land Rezoning Tax.
- 3) This creates two distinct markets for residential development: i) that subject to the Land Rezoning Tax and ii) other development.
- 4) The uncertainty in tax generated makes forward planning of social housing investment more difficult, unless the funds are ring-fenced for social housing.
- 5) Part V is more straightforward in its application. It applies to any residential planning permission irrespective of land transfer details.
- 6) There may be mechanisms to avoid incurring the tax, e.g. through Joint Ventures or long term leases.
- 7) As the tax would be collected at national level, there would most likely be a loss of direct local control of potential social housing funding, unless it was ring-fenced for social housing.

5.4 Options for Recasting Part V

Following extensive research and consultations during this assignment, there was general agreement that the existing Part V mechanism needs to be improved. As a result the option to retain it in its current format is not considered.

5.4.1 Summary of the main objectives of any new recast Part V or Alternative Mechanism

Based on the review of the aims and objectives of Part V, it is recommended that any future mechanism should be clear and transparent in its methodology and implementation and have the following primary objectives:

- It must be coordinated with other mechanisms, the Land Rezoning Tax and other taxes, charges and costs so ensure that housing can be effectively and economically delivered,
- It should continue to counteract undue social segregation between persons of different backgrounds by delivering mixed tenure estates,

- It should support sustainable communities,
- Any new mechanism must capture some obligation from new residential development for the provision of social housing in the community,
- It should deliver value for money for the taxpayer for the resources invested, and
- It should be efficient and sufficiently flexible to cope with the changed economic conditions and should include all tenures.
- Approved housing bodies need to play a more central role and become involved at an earlier stage in the process.

5.4.2 Key questions influencing the options

Based on the assessment of Part V the questions which arose were as follows:

- 1) Does one abolish it entirely or suspend it, in which case you lose some of the benefits?
Or
- 2) Amend the existing mechanism?

- 3) Does one create an entirely different type of mechanism which can deliver the benefits of Part V?

- 4) Should any new mechanism be based on capturing the betterment value from planning permissions for the community?

Following on from the assessment, consideration is initially given to whether the existing Part V legislation should be abolished or suspended. This first option is examined with regard to the existing context and the range of interventions and alternative funding sources for delivering social housing which are currently available, including the Land Rezoning Tax.

The alternative to the abolition or suspension of Part V is to continue to use a method of capturing an obligation to provide social housing from developers via planning permissions, either by way of financial payment or otherwise, such as delivery of units or land. The options set out below pay particular attention to the lessons learned and the experience of those participating in the process as well as the changed economic environment.

The full range of options considered is as follows and are summarised in Figure 17:

- A. Abolish or Suspend Part V
- B. Streamline Part V
- C. Widen the scope of development subject to Part V
- D. Adopt a Development Contribution basis
- E. Negotiation Solution
- F. Inclusionary Zoning and other approved housing mechanisms

The advantages and disadvantages of each option are considered overleaf.

Figure 17 Options for Recasting Part V

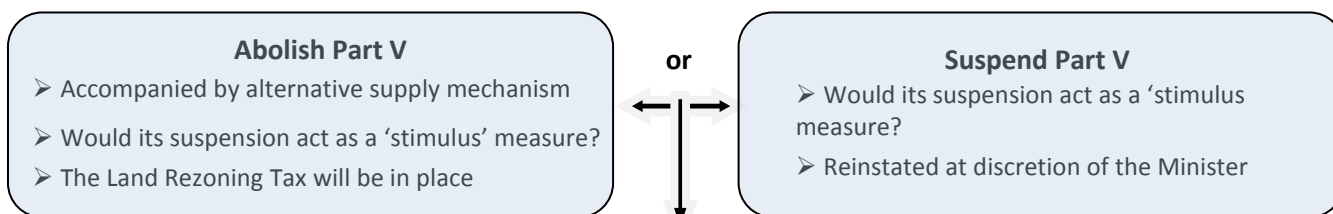
Existing Legislation

Part V of the Planning & Development Act 2000

- Captures up to 20% in ‘betterment value’ from grant of planning permission.
- Lengthy negotiation process in reaching agreements.
- Not sufficiently flexible for changed market realities which have transpired in the past 5 years.

1. This review of Part V identifies that it is no longer fit for its original purpose or suitably flexible in the current economic environment. There was also general agreement in the extensive consultations that the existing mechanism is no longer workable.
2. It is assumed that the Land Rezoning Tax remains in place under all options.
3. Any recasting would need to be coordinated with other mechanisms such as the Land Rezoning Tax and other taxes, charges and costs to ensure that housing can be effectively and economically delivered.

Option A – Abolish or Suspend Part V



Options (B-F) for Recasting Part V of the Planning & Development Act 2000

Option B: Streamline the Current Process

- Menu of improvements to existing Part V is proposed which are intended to address ambiguities and tighten the legislation
- Simplify the valuation process using standardised tables
- There is an understanding of the current system

Option C: Widen the Scope of Development

- Currently limited to residential development
- Could extend to all development on all land
- Would generate additional sources of funding
- Increases cost of development in all classes
- Risks to economic competitiveness and jobs

Option D: A Development Contribution Basis

- Seeks direct contribution as required
- An appropriate charging basis would be required
- Could encourage development in priority areas
- Would not depend on land values
- Would be more efficient

Option E: Negotiated Solution

- Negotiate on what is mutually acceptable
- No standard agreement on costs/profit
- Contribution assessed on viability of scheme
- Captures betterment value of the land
- Used in England and Australia

Option F: Inclusionary Zoning

- Provision of social higher density
- Incentives may be in a variety of forms such as higher density developments/fast planning decisions
- Potential conflict with other planning criteria
- Careful guidelines would be required for this model

5.5 Option A - Abolish or Suspend Part V

There are a number of factors that undermine the current workability of Part V to deliver a substantial contribution to social housing need.

Of key importance is the potential influence of the Land Rezoning Tax that imposes an 80% rate on capital gains from rezoning of land made after 2009. This tax is due on the transfer of the land. As the tax applies at 80% on all development land, and not solely on residential planning permissions at a rate of up to 20%, the tax, as already mentioned, has the potential to capture significantly more than the amounts generated by Part V on planning decisions. The actual impact will depend on the extent of future rezoning and the transfer of that rezoned land in the future.

If this tax can capture substantial returns, it would make Part V significantly less relevant and less justifiable in the future.

Secondly, current market conditions are unlikely to generate a substantial contribution to meeting social housing need from Part V. With extremely low numbers of houses being proposed and constructed, there is very little potential to deliver social housing under existing development. Moreover, where development is proposed, depressed land values minimise betterment value that can be captured on the lands subject to planning permission.

Thirdly, there is concern that Part V is a burden on the development system, introducing additional costs that deter housebuilders from pursuing development projects, and that the abolishment or suspension of Part V may encourage a recovery in housebuilding. In this regard it is worth noting that on the 6th September 2012 the UK Government announced measures to encourage the recommencement of stalled housing sites in England³⁸, and in particular the intention to:

- Legislate to allow developers to appeal where they calculate that the current cost of S106 obligations is unaffordable;
- Allow developers to replace affordable housing obligations with private sector rented housing to help viability – with £200 million in funding support for institutional investment in private renting; supporting 15,000 additional affordable homes “through the use of loan guarantees, flexibilities and capital funding.”

This could, in certain circumstances, have the effect of removing the affordable housing requirement within planning permissions.

Under Option A, it is envisaged that the abolition or suspension would not be taken in isolation, but would be accompanied by an alternative mechanism or mechanisms outside the planning permission process, such as the Rental Accommodation Scheme (RAS), Rent Supplement, Housing Assistance Payment (HAP), the Leasing Initiative and Private Finance. It is acknowledged that some mechanism is needed to meet social housing provision but it does not need to be Part V.

Advantages of abolishing/suspending Part V

- 1) It should encourage a recovery in residential construction activity.
- 2) Greater activity would have beneficial employment implications.
- 3) It would reduce overall construction costs for developers.

³⁸ http://www.rtpi.org.uk/media/1605470/affordable_housing_and_section_106_final.pdf

- 4) Less bureaucracy associated with the development process.
- 5) Lower administration costs for local authorities with the negotiation process for Part V removed.
- 6) A temporary suspension may encourage a short term boost in housing activity, especially if the suspension required actual delivery within a specified period.
- 7) The existence of the Land Rezoning Tax could capture significant benefits from zoning decisions.
- 8) If the Land Rezoning Tax and Part V both were to apply, there would be the potential for over 100% of the betterment value of the land to be captured. This would not be a reasonable outcome for the landowner.

Disadvantages of abolishing/suspending Part V

- 1) No direct social integration achieved through planning permissions.
- 2) Other revenue generating measures would need to fund the delivery of social housing, e.g. the Land Rezoning Tax.
- 3) The capture of betterment value through the grant of planning permission would not arise for society.
- 4) The cost of Part V is not the major impediment to the delivery of additional housing units in the market at present.
- 5) There would be uncertainty regarding the status of existing planning permissions where agreements have not been finalised.
- 6) As the Land Rezoning Tax would be collected at national level, there would most likely be a loss of direct local control of potential social housing funding, even if the tax is ring-fenced for social housing.

5.6 Option B - Streamline Part V³⁹

On the basis of the consultations held and the planning permissions reviewed in the course of this assessment, a number of amendments to the existing Part V mechanism are proposed to help streamline and improve the procedures and processes involved. A menu of improvements is set out below, some or all of which could be adopted.

Affordable Housing

- Setting the requirement for affordable housing to 0% within the current system.

Housing Strategies

- Review the appropriateness of 20% in the context of housing need.
- Requiring housing strategies and development plans to give more direction in respect of how Part V is to be delivered.
- Establishing more direct policies on housing sizes required, type of units, mix of units etc.
- The Housing Strategy model needs to be reviewed while the process of adopting housing strategies needs to be made more efficient.

Part V Agreements

- Requiring agreements to be made before the commencement of construction, in respect of units to be taken and the value of any financial obligation from developers.

³⁹ This Option examines a number of ways in which Part V would be streamlined and made more efficient. However a number of amendments are proposed, each of which constitutes a sub-option in its own right. The difficulty is that most of these amendments would ultimately need to be addressed if a more workable and more efficient Part V is to be delivered.

- Enabling local authorities to identify their preferred options for Part V delivery to give greater control in negotiations (i.e. land need not be the default option).
- Enabling local authorities to target delivery to the most appropriate locations to match projected social housing demand, thus avoiding a 'one-size fits all' approach.
- Tightening legislation to address current ambiguities, e.g. in respect of date of acquisition / transfer of land.

Simplify the process of establishing the betterment value from planning permission

- Developing local models/standardised tables to provide a template for costs of development for use in negotiations.
- Establish an independent group, comprising statutory agencies, professional bodies and stakeholders, to determine an appropriate charging basis based on reliable values to reflect the underlying existing values of land, as Greenfield, residential, commercial and other uses as appropriate. Similarly, an agreed method of costing for the construction of residential units would be required, allowing for different forms of development such as houses or apartments.
- The financial obligation could still be delivered by way of a number of options as appropriate – on-site delivery of units, delivery of land, financial transfer, on- or off-site leasing etc.

Options for capturing planning gain

- Facilitating the delivery of completed units at zero cost, e.g. rather than the subsidised purchase of 20% of units within a scheme, the planning authority could acquire a smaller number of units at no cost (based on the value of the betterment captured).
- Allowing more flexible options such as the provision of units for Rental (including Rental Accommodation Scheme) and Social Leasing.
- Developing other funding mechanisms - options to purchase with lease agreements, build to lease, and the sourcing of loan finance by approved housing bodies for construction and acquisition.

Increasing Role for Approved Housing Bodies

- Involving Housing Associations at an earlier stage in the negotiation process.
- Allowing Housing Associations to negotiate directly with developers.

Advantages of streamlining Part V

- 1) There is an understanding of the current system which has developed over 12 years of operation.
- 2) This option would tighten up aspects of the legislation that are currently causing confusion amongst stakeholders. It should also ensure a more concrete agreement in addition to certainty regarding units/sites to be transferred and the financial contribution.
- 3) It would result in a more flexible set of options for local authorities.
- 4) The basis for calculation of the standardised tables would be straightforward, clear and transparent for all parties in advance of the planning process.
- 5) This approach would simplify and shorten the process of agreement.
- 6) The agreement with the planning authority would relate only to the form of delivery, not the values. The actual units could be delivered in the most appropriate form by the planning authority.
- 7) The overall expanded role of the Housing Associations should help to achieve the objective of value for money due to their commercial awareness.

- 8) Where standard tables are used, there would be more certainty surrounding the developer's Part V obligations, which would lead to more effective planning. It would also result in fewer disputes and alleviate the administration burden.

Disadvantages of streamlining Part V

- 1) The delivery of new units would still be dependent on an upturn in new planning permissions for private housing.
- 2) There would be a reliance on the ability of Housing Associations to absorb the increased capacity, particularly with the reduction in the availability of funding from local authority and central government sources.
- 3) Where standard tables are used the direct link between betterment capture and the underlying value of the land would be broken, as the tables would be an approximation of the actual uplift in land values. This would reduce the connection between the financial obligation incurred and the uplift in value on the site resulting from the planning permission granted.

5.7 Option C – Widen the Scope of Development subject to Part V

Currently, development that is affected by Part V is limited to residential development (or mixed use development of which residential is a part) on lands in excess of 0.1 ha. This excludes a large extent of development that arguably contributes to creating demand for social and affordable housing, and that benefits from betterment value when planning permission is granted. Broadening the scope of Part V would broaden the potential to capture value from planning decisions and potentially increase housing supply.

This option could include extending Part V to apply to

- All residential development, whether on zoned land or not,
- All development on zoned land, or
- All development on all land.

Advantages

1. A broader scope for Part V housing would generate additional sources of funding for social housing provision.
2. Betterment would be captured from a wider source, capturing additional social benefit for the community.
3. It would reduce the benefits / incentive to seeking residential development on unzoned lands, rather than in settlements targeted in statutory policy.

Disadvantages

1. This would increase the costs to development in all classes including one-off housing.
2. This could reduce economic competitiveness and stifle job creation.

5.8 Option D – A Development Contribution Basis

Such an option would treat the delivery of social housing as an infrastructural requirement of an area in a similar way to the delivery of water services or road infrastructure.

However, it would not attempt to capture betterment value from the specific land and would not be related to the characteristics of the individual site itself. Instead it would seek a direct contribution to the cost of the necessary investment.

In this model, the contribution to provide such housing would be calculated by reference to a tabulated rate, and would be an extension to the model used in General Development Contributions Schemes made under Section 48 of the Planning and Development Acts.

As with Option B, determining an appropriate charging basis would require reliable values to reflect the underlying existing values of land, as Greenfield, residential, commercial and other uses as appropriate. Similarly, an agreed method of costing for the construction of residential units would be required, allowing for different forms of development such as houses or apartments.

As the model would not attempt to capture the betterment value on a site, it could be used to encourage development into priority areas, through differential rates in separate parts of a planning authority area.

Advantages of a development contribution basis

1. The basis for calculation would be straightforward, clear and transparent for all parties in advance of the planning process.
2. This approach would simplify and shorten the process of agreement.
3. The charge applied would be consistent across all developments and would not be dependent on land values.
4. The agreement with the planning authority would relate only to the form of delivery, not the values. The actual units could be delivered in the most appropriate form by the planning authority.
5. This model could be used to incentivise development into priority areas.

Disadvantages of a development contribution basis

1. This model would not capture betterment value.

5.9 Option E – A Negotiated Solution

The most common system of capturing an element of social and affordable housing in the UK planning system is by way of 'Section 106' agreements. A similar approach is also followed widely in Australia. Under this form of model, the extent of *affordable housing*⁴⁰ is negotiated between the developer and the local authority to find a mutually acceptable agreement within the planning permission process. The agreement is made on the basis of an assessment of the financial viability of the scheme with a contribution towards the social housing element.

There is no standard agreement or assumptions on costs, profits or other valuations, although models have been set up and used by various councils to set out benchmarks for the contribution to affordable housing. The contribution to social housing may be in the form of constructed units, land or the provision of a financial contribution that can act as a capital subsidy to housing production or leasing.

⁴⁰ The expression 'affordable housing' is used in the Australian context to include both low cost market housing and subsidised housing (irrespective of tenure, ownership or financial arrangements) that is available to people who cannot afford to purchase or rent houses generally available in the private market. For consistency here the terms social housing is used in an Irish context.

Advantages of a Negotiated Solution

- 1) The extent of social housing delivered would be based on capturing the betterment value of the land with housing development consent.
- 2) Funding for social housing would be generated through the gain to the community.
- 3) The extent of the betterment that would be captured would be related to the profitability of the proposed development, rather than on a generic basis. Therefore, it would not result in schemes becoming unprofitable as a direct result of the social housing requirement.
- 4) The model would not be directly related to the price paid for the development site.
- 5) The extent, location and form of social housing would be agreed in advance of development consent, providing clarity on what would be permitted and its role within the scheme.
- 6) Off-site provision could be an option where the site would not be suited to direct provision of social or affordable housing.

Disadvantages of a Negotiated Solution

- 1) Units would generally be provided in separate blocks rather than integrated within the overall scheme (this would be more pronounced where apartments are provided).
- 2) The extent of units provided would be part of a negotiated agreement. Without clear parameters for values, potential profits, etc., this option could be an extended and time-consuming process.
- 3) There would be an incentive to play down the profitability of schemes to reduce the requirement for the provision.
- 4) The longer lead-in time to making a planning application could delay the delivery of all housing proposals.
- 5) There would be a lack of transparency to the public as to the reasons for the extent of social and affordable housing.
- 6) The negotiation on the extent of social housing requirements would directly impact on the design of the scheme, further complicating the process.
- 7) This method would substantially complicate the appeal process, as it would introduce negotiations on values.

5.10 Option F – Inclusionary Zoning and Other Approved Housing Mechanisms

Inclusionary zoning provides incentives to developers to provide social or affordable housing within their schemes. The provision of such housing is a voluntary decision of the developer.

The incentives may be in a variety of forms, such as higher density of development, changes to development management standards or parking requirements, quicker planning decisions or reductions in development contributions.

This model would need careful guidelines on practice and standards to alleviate any concerns which might arise in this regard and to ensure that negotiated solutions accord with proper planning and sustainable development, and that they are transparent in identifying the benefit to the community.

Advantages of Inclusionary Zoning and Other Approved Housing Mechanisms

- 1) In theory, social housing would be funded through the additional yield from higher density development, without public subsidy.
- 2) In the Australian model, the 'profit' from the higher density can be shared between the developer and the planning authority, giving wider flexibility in delivery.

- 3) Encouraging higher density development, particularly in town centres or at transport nodes, would be consistent with national planning policy for compact development.
- 4) A voluntary approach would be more acceptable to developers than a compulsory approach.

Disadvantages of Inclusionary Zoning and Other Approved Housing Mechanisms

- 1) Such a model would create the potential for conflicts of interest for local authorities, between their role in ensuring high quality development and their need to deliver social housing solutions.
- 2) There could be a lack of clarity in measuring how the community benefits from the loosening of development standards.
- 3) There could be a lack of transparency in seeing how negotiations and agreements are made between local authorities and developers.
- 4) Current market conditions do not favour higher density development, particularly in apartment construction.
- 5) Moving from houses to apartments would introduce a step-change in underlying costs and could act as a disincentive to developers to increase density.
- 6) In general, development plans already typically propose higher density in appropriate areas. Increasing density higher still through inclusionary zoning may conflict with other planning policies, such as amenity, adequate access to sunlight, traffic congestion etc.
- 7) There may be a perception that reducing development standards would lead to inferior quality development.
- 8) As a voluntary option, there is a risk that social housing would not be provided in all suitable locations, and may be concentrated away from areas seen as 'desirable'.

The above provides a menu of options for further discussion and refinement during a public consultations process. These options are not mutually exclusive and the consultation process will inform the selection of a recommended solution. A series of question follows which are intended to stimulate discussion and debate on the way forward.

5.11 Questions to help the Consultation Process

5.11.1 Aims and Objectives

- a) Are the aims and objectives of Part V of the Planning and Development Act 2000 still relevant?
- b) Is Part V still relevant in the context of the Land Rezoning Tax on newly rezoned land post 2009?
- c) If relevant, what should the future aims and strategic objectives of Part V be?
 - Should a 'planning gain' or achievement of betterment value continue to be an objective over the next decade, given the link with land values?
 - Is the policy of promoting mixed tenure and sustainable communities worth continuing?
 - Should value for money be a primary objective of any future mechanism?
- d) Has Part V been too focused on urban areas, particularly Dublin? How well has it worked and is it needed outside of the urban areas?

5.11.2 Past Experience of Part V

- a) Did Part V meet its objectives?
- b) Part V delivered 15,114 social and affordable units, i.e. 3.5% of total dwellings excluding one-offs over the period 2002-2011. Why did it make such a limited contribution? How can it make a greater contribution to social housing supply in the future?
- c) Social integration has been a positive outcome of the Part V housing supply provisions but many local authorities have tended to opt for financial contributions. Does this act as an inhibitor of social integration?
- d) How do you ensure that financial contributions are more effective at delivering social housing units?
- e) What method of delivery best achieves social balance and community integration?
- f) How can Part V deliver its objectives in the medium-term given the limited new build expected over the coming years?
- g) Should Part V be applied to all new residential developments, i.e. incorporating those schemes currently exempt?
- h) Is 20% of a development site or units an appropriate maximum provision under Part V? Should it be higher or lower? Should it vary across local authorities? How should the percentage be determined?
- i) How can the stock of vacant/unfinished dwellings be released to provide more social housing?
- j) Does NAMA have a role in delivering additional social housing under Part V?

5.11.3 Additional delivery options

- a) How should affordable housing be addressed in the current and future context and should it continue to be included in the Part V provisions? Should there be alternative supply mechanisms for meeting affordable or should it be left to the private market?
- b) How much flexibility should be given to planning authorities in choosing the preferred delivery option?
- c) What additional delivery options would you like to see in future Part V agreements? Should the options include Social Leasing, Renting in the private sector (Rent Supplement or RAS), Incremental purchase/Shared Ownership?
- d) Does Leasing provide a long-term solution given the commercial motives of developers who are more focused on selling properties, repaying debt and making profits?
- e) What, if any, are the current issues with respect to Part V affecting outstanding planning permissions?

5.11.4 Process

- a) Did the DECLG provide sufficient and clear guidance to the stakeholders and local authorities responsible for the management of Part V? Was Part V too rigid?
- b) Has the process been an efficient one? What measures can be taken to reduce delays and costs to both local authority and developers and make the process more efficient?
- c) Local Authorities do not have a commercial remit unlike developers? Is this an issue influencing the lack of efficiency of the process?
- d) Should Local Authorities take on a reduced role in the negotiation of Part V agreements?
- e) What changes need to be made to ensure a greater supply of social housing in the future?
- f) Should housing strategies continue to be part of the Part V housing supply provisions? If so, is there scope for improving the approach to undertaking a housing strategy?
- g) What difficulties / inconsistencies / ambiguities exist in the system – e.g. legislation?
- h) What improvements should take place with respect to:
 - The agreement on the mix of units / design within the scheme
 - The agreement on values
 - The agreement on choice of units
 - Timing of agreements
 - Changes to agreements on foot of amendments to planning permission
 - Co-ordination between housing and planning departments
- i) How should outstanding Part V agreements be handled?

5.11.5 Role for Approved Housing Bodies (AHB)

- a) Should AHB's negotiate directly with developers early on in the process, say at the pre-planning stage?
- b) Should a multi-annual fund (in terms of leasing funding) be available to AHBs to allow them to negotiate better deals with developers and in regard to private finance for leasing?

5.11.6 Future Options?

- a) Should Part V be retained and if so why?
- b) Should Part V be abolished and if so why?
- c) Should Part V be suspended until such time as the housing market recovers and if so why?
- d) Streamlining Part V would involve making a series of further amendments to the existing regime. What are the most important changes that need to be made to ensure an efficient system and optimum delivery of social housing?

- e) Could the process be simplified and made more efficient if obligations were calculated via standard tables, determined using a set of reliable values for land and construction costs?
- f) Should social housing be treated as an infrastructural requirement and therefore included in the determination of development contributions?
- g) Should a system, similar to 'Section 106' agreements in the UK be adopted whereby the extent of social housing negotiated between the developer and the local authority is made on the basis of an assessment of the financial viability of each scheme? In this regard, should developers be allowed to appeal where they calculate that the current cost of their Part V obligations is unaffordable, as in the UK?
- h) Is inclusionary zoning the way forward? Should incentives be provided to developers to encourage development in particular locations?

Appendix 1 Public Interventions and Supports in the Housing Market

The provision of social housing is to focus on meeting the most acute needs. Notwithstanding that, the DECLG realises that the need for social housing supports is high and while it continues to increase, the intention is to address the problem using a variety of mechanisms. The current range of public housing interventions is listed in the Box below. In the short-term, the focus is more likely to be on mechanisms which do not require substantial funding from the Exchequer.

Measure 1: Local Authority Housing

Construction and acquisition of local authority dwellings

Rental Accommodation Scheme

Social Housing under 2000 and 2002 Planning Acts - Part V Schemes

DEHLG Leasing Initiative (since 2009)

Measure 2: Approved Housing Mechanisms

Approved housing bodies provide housing for rent through private finance

DEHLG Leasing Initiative (since 2009)/Capital Assistance Scheme(CAS)

Social Housing under 2000 and 2002 Planning Acts - Part V properties

Communal Facilities in approved housing

Measure 3: Housing Stock Improvements

Local Authority maintenance and management of housing stock.

Regeneration Schemes

A central heating installation programme for the 30% of the LA stock without CH (since 2004)

Housing Adaption Grant Scheme

Measure 4: Accommodation for Groups with Specific Needs

Provision of Traveller accommodation

Accommodation services for homeless, elderly and those with special needs.

Appendix 2 Financial Analysis of Part V

The following Tables provided the background data on the financial analysis of Part V as discussed under Section 3.2.

The scenarios presented required a number of assumptions to be made which are set out in the text accompanying Section 3.2.

Table 12 Financial Analysis of Part V

Units Acquired	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2002-2011
Social Housing	0	75	135	203	508	790	1075	535	311	125	3757
Affordable	46	88	374	962	1600	2063	3081	827	254	98	9393
Approved Housing Bodies	0	0	82	206	90	393	362	552	107	172	1964
Total units acquired	46	163	591	1371	2198	3246	4518	1914	672	395	15114
Total units to be provided on sites acquired	0	50	106	57	84	122	163	265	68	29	944
Total Social units acquired (including units to be provided on sites acquired)	0	125	323	466	682	1,305	1,600	1,352	486	326	6,665
Land transferred (ha)	0	1.24	7.35	11.60	16.34	9.71	6.67	12.51	1.31	0.80	67.5
OPTION 1 Buy Social units in Open Market											
	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2002-2011
Average House Price (€)	€192,883	€220,527	€245,990	€263,694	€302,013	€327,726	€308,315	€251,845	€218,820	€190,081	
Dublin	€250,602	€290,951	€322,872	€349,866	€412,040	€441,347	€405,362	€310,541	€261,337	€224,717	
Rest of country	€170,060	€191,383	€215,206	€227,927	€256,740	€280,550	€267,458	€225,134	€198,329	€173,315	
Total acquisition costs in open market €m.	€0	€30	€97	€134	€212	€456	€486	€337	€107	€64	€1,925
Administration of Social units (€1,000 per unit)	€0.0	€0.1	€0.3	€0.5	€0.7	€1.3	€1.6	€1.4	€0.5	€0.3	€7
Total acquisition costs for social in open market €m.	€0.0	€30.6	€97.1	€134.8	€212.7	€457.8	€487.5	€338.5	€107.8	€64.6	€1932
OPTION 2: Traditional Build											
	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2002-2011
Average All-in cost of construction per unit											
Dublin €	172,379	156,300	181,401	196,606	221,563	235,059	246,095	233,922	223,285	189,792	
Rest of country €	119,818	124,733	131,894	144,783	153,937	162,044	175,169	172,607	164,801	148,321	
Total Social and Vol and Co-op units:											
Dublin	-	66	157	231	227	562	372	384	124	123	2,246
Rest of country	-	9	60	178	371	621	1,065	703	294	174	3,475
Plus units on sites acquired:											
Dublin	-	-	96	-	11	-	48	-	50	29	234
Rest of country	-	50	10	57	73	122	115	265	18	-	710
Total units	-	125	323	466	682	1,305	1,600	1,352	486	326	6,665
Total Affordable units:											
Dublin	41	73	276	526	834	932	1,499	231	144	61	4,617
Rest of country	5	15	98	436	766	1,131	1,582	596	110	37	4,776
Total units	46	88	374	962	1,600	2,063	3,081	827	254	98	9,393
Total cost of building via traditional route											
Dublin €m	-	10	46	45	53	132	103	90	39	29	547
Rest of country €m	-	7	9	34	68	120	207	167	51	26	690
Total cost of building via traditional route €m	-	18	55	79	121	253	310	257	90	55	€1,238
Administration of Social units (€3,000 per unit) €m	€0.0	€0.4	€1.0	€1.4	€2.0	€3.9	€4.8	€4.1	€1.5	€1.0	€20
Total cost of building via traditional route €m	€0.0	€18.1	€56.1	€80.8	€123.1	€256.4	€314.9	€261.0	€91.7	€55.6	1,258

Table 12 Continued

OPTION 3: PART V	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2002-2011
Benefits under Part V											
Rate of discount under Part V (est) per unit (% of house price)	20%	20%	25%	30%	40%	40%	40%	20%	10%	10%	
Dublin	€50,120	€58,190	€80,718	€104,960	€164,816	€176,539	€162,145	€62,108	€26,134	€22,472	
Rest of country	€34,012	€38,277	€53,801	€68,378	€102,696	€112,220	€106,983	€45,027	€19,833	€17,331	
Total discount on social units (€m)	€38,577	€44,105	€61,497	€79,108	€120,805	€131,091	€123,326	€50,369	€21,882	€19,008	
Dublin	€0.0	€3.8	€20.4	€24.2	€39.2	€99.2	€68.1	€23.8	€4.5	€3.4	€286.9
Rest of country	<u>€0.0</u>	<u>€2.3</u>	<u>€3.8</u>	<u>€16.1</u>	<u>€45.6</u>	<u>€83.4</u>	<u>€126.2</u>	<u>€43.6</u>	<u>€6.2</u>	<u>€3.0</u>	€330.1
Total savings on units acquired (€m.)	€0.0	€6.1	€24.2	€40.3	€84.8	€182.6	€194.3	€67.4	€10.7	€6.4	€617.0
Total Financial Compensation	€0.0	€1.1	€9.7	€19.5	€38.9	€26.8	€19.3	€8.5	€9.5	€2.9	€136.1
Land transferred (67.52 hectares) @ current land values	€100,000 per ha									6.75	€6.8
Total Benefit of Part V	€0.0	€7.2	€33.9	€59.8	€123.7	€209.4	€213.6	€76.0	€20.2	€16.1	€759.8
Costs under Part V	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2002-2011
Administration of S&A units (€3,000 per unit)	€0.1	€0.6	€2.1	€4.3	€6.8	€10.1	€14.0	€6.5	€2.2	€1.3	€48.2
Losses on unsold affordable units (2,500 units)					505	651	972	261	80	31	2,500
Bought at discount for (€m)					€91.5	€128.0	€179.8	€52.6	€15.8	€5.3	€473.0
Value @ market price 2012 @ €150,000 per unit											€375.0
Total losses on unsold affordables										€98.0	€98.0
Total Costs under Part V	€0.14	€0.64	€2.09	€4.28	€6.85	€10.10	€14.04	€6.54	€2.22	€99.25	€146.1
Net Benefit to Exchequer	-€0.14	€6.53	€31.84	€55.52	€116.89	€199.25	€199.55	€69.42	€17.97	-€83.16	€613.7
NPV @ Discount Rate of 4%	-€0.20	€9.29	€43.58	€73.06	€147.90	€242.42	€233.45	€78.08	€19.44	-€86.49	€760.5
Total NPV of Net Benefit of Part V 2002-2011 (€m.)	€760.5										