

Mr. Michael McGrath TD,
Minister for Finance
Government Buildings,
Merrion St Upper,
Dublin 2

11th September 2023

Re: The Application of Residential Zoned Land Tax

Dear Minister,

The Irish Home Builders Association represents Irelands homebuilders. Our members are involved in the construction of over 80% of Irelands housing and the IHBA support home builders to deliver quality homes and advocate on behalf of housing and planning matters to deliver more homes for more people.

The RZLT was introduced by the Department of Finance and the Revenue Commissioners in conjunction with the Department of Housing, Local Government and Heritage as Section 80 of the Finance Act 2021 and it has been described as a tax to *activate land* for residential purposes. We have made previous submissions to both the Department of Housing and the Department of Finance, and we attach these submissions prepared in conjunction with our advisers Deloitte.

Our concern in relation to the current application of the Residential Zoned Land Tax is the way it may apply to builders attempting to activate residentially zoned lands but who are delayed from activating the sites for housing by factors outside of their control. Most housebuilders support the principle of the RZLT but alterations are required to ensure that it does not apply as another taxation measure on housebuilders and ultimately buyers of new homes.

Many members have now made appeals from the mapping process by Local Authorities to An Bord Pleanála. We have set out in the appendices some examples of lands that were included in the mapping process conducted by Local Authorities as being potentially subject to this new tax and are now under appeal to An Bord Pleanála. It is our understanding that there are currently over 600 appeals to ABP adding to the extraordinary back log of planning decisions that have yet to be decided.

It is our strong belief that the legislation and the subsequent mapping process has failed to consider the following scenarios:

- Landowners who have tried and failed to get planning permission on lands in the past, for reasons outside of their control, and are currently trying to resolve the outstanding planning issues;

- Lands that are currently in the planning system, i.e., lands that are subject to a current planning application – either with a Planning Authority or An Bord Pleanála;
- Lands that are currently under construction (e.g., a large / phased development) that are not yet fully completed and where the phasing has been agreed with the Local Authority as part of compliance with planning.
- There are also considerable interpretation issues in relation to whether lands are serviceable or capable of being serviced or where significant infrastructural upgrades are needed. There is also a need to address mixed use schemes where one can have a mix of commercial and residential and / or apartments which are not viable to construct and the RZLT will apply. A viability assessment framework should be introduced as part of the process.
- Lands that are subject to transport route selection studies that have not yet concluded. In these circumstances a planning application would be deemed to be pre-mature.

These are just some examples but in summary no lands should be included as subject to further taxation where the delay in the commencement or the “activation” of the lands is outside the control of the builder.

We have included real examples in the appendices of situations where land has been included in the mapping process and may now be subject to this extra taxation on the delivery of housing. This runs contrary to general Government policy of controlling and reducing housing delivery costs.

We acknowledge the many schemes and initiatives that have been put in place to aid housing delivery in recent times, but we must ask that amendments are made to the Finance Acts and /or Guidelines to ensure that the raw material for the delivery of housing is not subject to yet more taxation. We have gone through a period of considerable material costs inflation due to factors outside our control and housing delivery, viability and affordability are still very sensitive to any further cost increases.

Yours Sincerely,



Conor O'Connell
Director

CC – Mr. Darragh O' Brien, Minister for Housing, Local Government & Heritage

Appendix 1

Examples from Builders following the Local Authority mapping process that are currently under appeal.

Builder A

“The first example is for a site which has planning on part of it for houses, the remainder of the land which is capable of delivering 140 units is sterilised currently due to being on a route corridor for a new road network which the Local Authority said would be premature pending the determination of the route selection. However, this land was deemed land that falls under the RZLT. Second example is open space that forms part of a planned development that is completed and the open space is now selected for RZLT.

Both examples should not have been put on the register and only increase the workload of the board unnecessarily. “

Builder B

Example 1

“Our lands included in the draft RZLT maps are zoned ‘Mixed Use’ which has an objective to ‘*provide for mixed use development*’ and subject to SLO 4, which has clear requirements in respect to the delivery of employment uses as the predominant use on the lands. Whilst it is accepted that the zoning allows for some residential use, it is clear that the lands are required under the Town and Environs LAP to provide for both employment and residential uses. The point here is that an application for residential development would not be considered until the commercial aspect of the development is completed yet there is simply no demand for commercial space in this location. “

Example 2

“The draft and supplemental mapping put all existing commercial space in , which was built in circa 2006, in scope for RZLT. A submission was made to the Local Authority to amend the mapping, including in some cases by owners/operators of the commercial units. The mapping was not amended by the Local Authority and an appeal to ABP is now being prepared. “

Builder C

“We were recently refused planning permission by xxxx County Council for xxxx homes in phase one of c. 500-unit development due to the core strategy numbers for the town already being exceeded. Frustratingly, this followed the Councils inclusion of the entire landbank in the RZLT maps which is aimed to stimulate development! Both the decision and RZLT are the subject of appeals, but we are not confident on either with the new ABP Board seeming to uphold the Council decisions and recommendations even more than normal recently.”

Probable time line for a development we are involved in and the net effect of the tax.

Date	RZLT Scenario	Planning Application Scenario
September 2022 - February 2023:		Pre-planning engagement with stakeholders including preparation of planning permission application
November 2022:	Local Authority RZLT Maps first published	
January 2023:	Submission on RZLT to Local Authority	
April 2023:	RZLT Decision by Local Authority	
April 2023:		Planning Application lodged to Local Authority for c. 100 new homes
May 2023:	RZLT Appeal to An Bord Pleanála	
June 2023:		Local Authority Refuse planning permission
*September 2023	Expected RZLT Decision within 18 weeks	
*October 2023:		Assume unsuccessful determination of planning appeal, determined within 18 weeks
May 2024:	RZLT paid assuming unsuccessful appeal (submitted May 2023)	
May 2025:	RZLT paid	
May 2026:	RZLT paid	
May 2027:	RZLT paid	
May 2028:	RZLT paid	
September 2028:		Projected first opportunity for new planning application in line with new 2028-2034 CDP (unless favourably varied in the meantime)
May 2029:	RZLT paid	
September 2029:		Assume grant of planning permission

**Using ABP target or Statutory Timeline*

Result - In this situation as landowners, we have done everything in our power to acquire planning permission and commence development. It is clear that there is no attempt to land hoard. However, the decisions of the local authority and An Bord Pleanála will have added **18%** of the market value to the cost of the land (3%*6 occasions of charge). The additional RZLT cost in this example and those that follow ultimately place upward pressure on the price of new homes and increase the affordability challenges for prospective home buyers. I appreciate that this is an extreme case, but it will hopefully emphasise the urgent need for change of the current legislation.

Builder E

“Yesterday we received notification on a decision from An Bord Pleanála (ABP) on our Appeal on the inclusion of 4 different parcels of land on the map of the Residential Zoned Land Tax. ABP have confirmed ‘the determination of the local authority’ – i.e. that the lands remain included. The County Development Plan objective xxxxx – states: ‘New developments requiring a connection to the WWTP will not be permitted until the necessary infrastructural upgrades are in place’ We are going to be taxed for several

years because xxxxxx County Council and Uisce Éireann have not resolved infrastructural deficiencies and appear to have no plan forthcoming to do so.

Planning cannot commence due to the statement in the County Development Plan. We are eager to develop these sites as there is considerable demand for housing within the town and we have the means of bringing these units to market, could planning be granted.

If we cannot develop the land and are not responsible for the delay how can we be deemed liable for RZLT for not activating the lands? Decisions from xxxxxx County Council and ABP both appear to be in contravention to the application of the tax and the guidance notes and examples issued.”