Ms. Claragh Mulhern,
Acting Principal Planning Adviser at Department of Housing,
Local Government and Heritage,
Custom House,
Dublin, D01 W6X0

22 June 2023

Re: General Scheme of a Land Value Sharing and Urban Development Zones Bill 2022

Dear Claragh,

We write to you regarding the recently published **General Scheme of a Land Value Sharing and Urban Development Zones Bill 2022.** This submission has been prepared with the support of our members and with our advisors Deloitte.

At the outset we must recognise and welcome the considerable volume of initiatives underway and recently announced by the Department to expedite housing supply. From First Home Scheme to Development Contribution waivers to Project Tosaigh. These will hopefully contribute significantly to increased housing supply in the next number of months and years. We recently appeared at the Oireachtas Housing Committee on this matter, and we have therefore copied this letter to the members as requested.

This letter is intended to help that process and the focus of many housebuilders is now on the supply determinants of sufficient serviced and zoned land with viable planning permissions. We must emphasise that land is a raw material for housebuilders and the business model for housebuilders is to build residential units on the zoned and serviced land.

While we welcomed the opportunity to engage on the initial draft LVS general scheme published in December 2021, we are very concerned with the revised scheme proposed which includes retrospective application of the charge and adding the LVS to additional development levies. The most recent changes to the LVS proposal also apply at the planning permission stage and will increase the cost of delivering new homes. It is the housebuilder who generally applies for planning permission and will have to apply this new tax onto the costs associated with delivering homes to the purchasers.

All costs are assessed by funders at the funding application stage, following the grant of planning, and these costs are paid for by the purchasers of new homes. Of course, this is assuming that the housing project passes the viability test of the funding institution. A key concern of this measure is that any increased tax on residential developments will reduce the number of new homes that will pass this viability test. The current LVS proposal places at risk the viability of new housing projects.

For the reasons set out in this letter, we request a pause is placed on proceedings. This is essential to allow the current LVS proposal to be reviewed in careful detail, to avoid unnecessary consequences and prevent an adverse impact on the funding, affordability, and availability of new homes.

1. **Affordability of new homes**

In the live scenario outlined in Appendix 2, the cost of the LVS is estimated as €11.5k per home. Housebuilding members have noted that depending on location, the cost of the LVS could be up to €35k per home.

This is an extra cost which will ultimately have to be paid for by the new home buyer who in many cases will be a young person seeking to buy their first home. An additional burden of this nature goes against assistance currently being given by the State to such persons in the form of the Help to Buy and the First Home Scheme etc. This additional cost will in many cases have to be funded by the home buyer at elevated interest rates. The new home buyer therefore faces paying more for longer.

Due to the retrospective application proposed for the LVS, home builders will have no choice but to pass this cost on to the home buyer. Retrospective application is grossly unfair as home builders have purchased land at a price which included the zoned value of the land (or zoning potential where not yet zoned) and developed business models/secured funding based on same.

The transitional measures proposed are insufficient to overcome the inequity of applying the LVS Contribution to those who had acquired their land without knowledge of the charge (see Appendix 3 also for further examples).

The application of the transitional measures is entirely dependent on the home builder successfully being granted planning permission on applications entered before the specified cut off dates. As we have previously noted in our submissions on the RZLT, in many cases this is wholly outside the control of such builders (e.g. Planners refuse 98 homes in Greystones because town has 'already hit population target' – The Irish Times).

The proposal to add the LVS to existing development contributions rather than replace them (as originally proposed) also places continued upward pressure on home prices and reduces affordability.

2. **Certainty of regime critical to meet Housing for All build targets**

The introduction of the LVS adds to the business risk a home builder takes on and adds to uncertainty around the available return. The LVS therefore is a further disincentive to home builders to purchase land/enter the market and for banks and other funders to provide funding or equity at a time when more financing is needed.

For many years the first line in any Budget speech was there would be no change in the corporation tax rate of 12.5%. This was in recognition of the importance that certainty has to investors in Ireland.

The landscape for Irish property investors in recent years is stark by contrast. There have been several significant changes including Part V obligations, RZLT, 10% stamp duty rate on bulk residential purposes and 7.5% stamp duty on land (up from 1%/2% previously). These changes effect the investment certainty required to attract international investment.

International and national investment capital operating in residential supply is no different to other forms of FDI and needs certainty of regime to confidently invest.

Housebuilders are reporting that the changed LVS proposal has caused uncertainty with many home builders not clear on how to price land acquisitions or how to budget for future development (a key requirement in obtaining 3rd party funding). This is causing a paralysis in investment which is not in best interests of achieving an increase in housing supply.

In Appendix 1, we have also illustrated how the lack of an incentive within LVS for non-home builders to sell land may result in less land becoming available for the construction of new homes.

3. Availability of new homes

The development of private homes accounts for 170,000 of the overall 300,000 Housing for All build target. The current LVS proposal will increase the cost of delivery and result in fewer private homes being built as more developments will become unviable. Viability has been recently recognised by the Department as a fundamental issue by the recent waiver of development levies.

In addition, exemptions available under the LVS for social and affordable housing (incl. cost rental):

- disproportionately impact private home builders; and
- incentivise the development of communities based on income class (which Part V obligations were designed to prevent).

Putting private home builders at a clear disadvantage could substantially reduce the private homes delivered by 2030 (Housing for All)

It is contended that not everyone in society can qualify for social and affordable housing. There are many cases where young couples starting out will not meet the qualifying criteria. The LVS risks leaving such people behind.

Retrospective application of a 30% additional cost could result in some home builders triggering a default under existing borrowing facilities where the LVS results in an 30% fall in the value of the land being held as security by the lender.

4. Other concerns with the LVS proposal

A key tenet of the LVS Contribution is that it implements some of the key recommendations of the Kenny Report from 1973.

We note that since the time the Kenny Report was published several taxes/levies have already been implemented, including CGT (33%), VAT on the sale of a new home (13.5%), the RZLT (3%), section 48 and 49 development contributions, Part V obligations. The idea that the State does not already share in the value uplift of zoned land is misleading. To illustrate this, in Appendix 4, we have broken down the uplift in zoned land value captured by different bodies of the State in a typical development scenario.

We note that the LVS Contribution is intended to be a condition of planning and will be payable only before development commences. *In our view a payment towards infrastructure at the point of development commencing will not speed up the development process particularly when it is the lack of infrastructure capacity in many cases that is preventing development.*

Conclusion

In summary therefore, we expect the LVS to result in:

- home buyers paying more for private new homes

- foreign capital much less likely to invest in Ireland thus resulting in Housing for All targets not being met
- less private new homes being built than would otherwise be the case

This ultimately makes it more difficult for young people trying to buy their first home.

We are available for further discussion on any of the matters raised in this submission and are happy to arrange a meeting together with our advisors Deloitte in relation to same.

We request the LVS proposal is paused to allow for careful consideration of the matters outlined herein. While there was an 'in principle' support and a historical call for land activation measures from industry, there needs to be a coherent strategy in place for such measures to work in the way they are intended, supported by a fully resourced and functioning planning system. Currently, this is not the case.

We also ask that the Indecon report is released so that the potential for other unintended consequences to arise can be considered.

Should you wish to discuss any of these matters directly, please do not hesitate to contact me.

Yours sincerely,

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CC: Oireachtas Housing Committee & Minister for Housing,

Appendix 1

This example illustrates how the LVS may unintentionally disincentivise non-home builders (a farmer in this case) to sell zoned land to home builders.

Original cost	€30,000
Existing Use Value (EUV) at date zoned	€100,000
MV as zoned land	€1,000,000

Scenario if farmer sells the land	**€**	**Net sales proceeds €**
Sales proceeds (buyer applies a discount for expected future LVS contribution of €270,000)	730,000	
CGT (730k-30K-14.6k) x 33%	(226,182)	
Transaction costs on disposal (2% = 14.6k)	(14,600)	489,218

If the farmer can only realise 49% of the land value on disposal, then one would have to question if there is a lack of an incentive for the farmer to sell in such cases e.g. the return delivered may be insufficient to (1) compensate for the upheaval/disruption and (2) put the farmer back in a position with an equivalent farming business post the transaction.

There are a number of cases where the RZLT will not provide this incentive e.g. due to the land being outside the scope of RZLT due to being zoned mixed use incl. residential and being actively farmed or issues with the land from a servicing and/or capacity perspective. The farmer also had the right under RZLT rules to request for the land to be de-zoned.

In cases where either there is a lack of a sufficient incentive to sell or land is de-zoned to avoid the RZLT, ultimately the LVS/RZLT will not have contributed to increased housing supply as the land available to the home builder to build new homes is diminished.

Appendix 2

Please see below a live scenario brought to us by one of our members.

- 21.2 acres zoned Residential & Town Centre.
- Zoned since 1990's and several attempts for planning including:
  - 2017 SHD for 267 residential units, town center, creche, etc – Refused
  - 2018 SHD Preliminary Consultation - Did not proceed to application stage due to feedback from An Bord Pleanala.
  - 2022 Application for 56 houses - Refused by LA and currently on appeal since Sept 2022.
  - 2022 Application for supermarket - Refused by local authority.
  - The land is currently being farmed.
  - Land included on RZLT Map as in scope for RZLT. Appealed to local authority but retained on Map. Currently on appeal to An Bord Pleanala.

For the purposes of the below we have assumed that a new planning application for 250 units will be submitted in 2026. Where planning is subsequently granted, the incremental costs to the home builder are expected to be as follows:

	€	€
Original Cost 2019	5,200,000	
Existing Use Value at date zoned	200,000	
MV as zoned land	5,750,000	
MV with planning permission	6,350,000	
		Per Unit
Stamp duty (2%)	104,000	416
RZLT on 12.3 acres for 3 years	300,248	1,201
Part V (cede 20% @EUV)	1,230,000	4,920
VAT on sites (6.35m x 13.5%)	857,250	3,429
Sub-total excl. LVS and Development Levies	**2,491,498**	**9,966**
LVS contribution (€5.75m - €200K) x 30%	1,665,000	6,660**
Plus development levies (estimated)	3,488,180	13,953
Sub-total LVS and Development Levies*	**5,153,180**	**20,613**
Total Taxes, Part V, LVS and Development Levies*	**7,644,678**	**30,579**
Planning costs to date	657,000	2,628
Appeal costs including - legal, valuers, planners	51,500	206
Planning and appeal costs to date	**708,500**	**2,834**

***Note, this excludes CGT paid by the previous owner of the land which would be an additional contribution paid to the State in respect of the land during the development lifecycle (e.g. CGT contributed would be c.€1.2m where previous owner paid €1.6m for the land on acquisition).**

****Assuming a 30 year mortgage at a 4% year interest rate the extra cost to the end home buyer of the LVS (incl. funding) would be €11,447.**

Appendix 3

Other IHBA member examples.

Example 1 - See below two examples of when the LVS transitional measures are inadequate:

- Tier two lands which one cannot advance planning on until it is proven that all the Tier One lands capable of being developed are developed and therefore these Tier Two lands will only be brought forward later in the Development Plan Cycle which means the LVS will apply.
- Lands which are dependent on infrastructural / services / road upgrades, which have been zoned for a number of Development Plans however the delay in delivering the infrastructure will now mean that the LVS will apply to these lands. This has arisen because of the delay in the infrastructure, and not because of land hoarding.

Example 2 - Land Value Sharing Contribution Per Unit based on recent land transactions

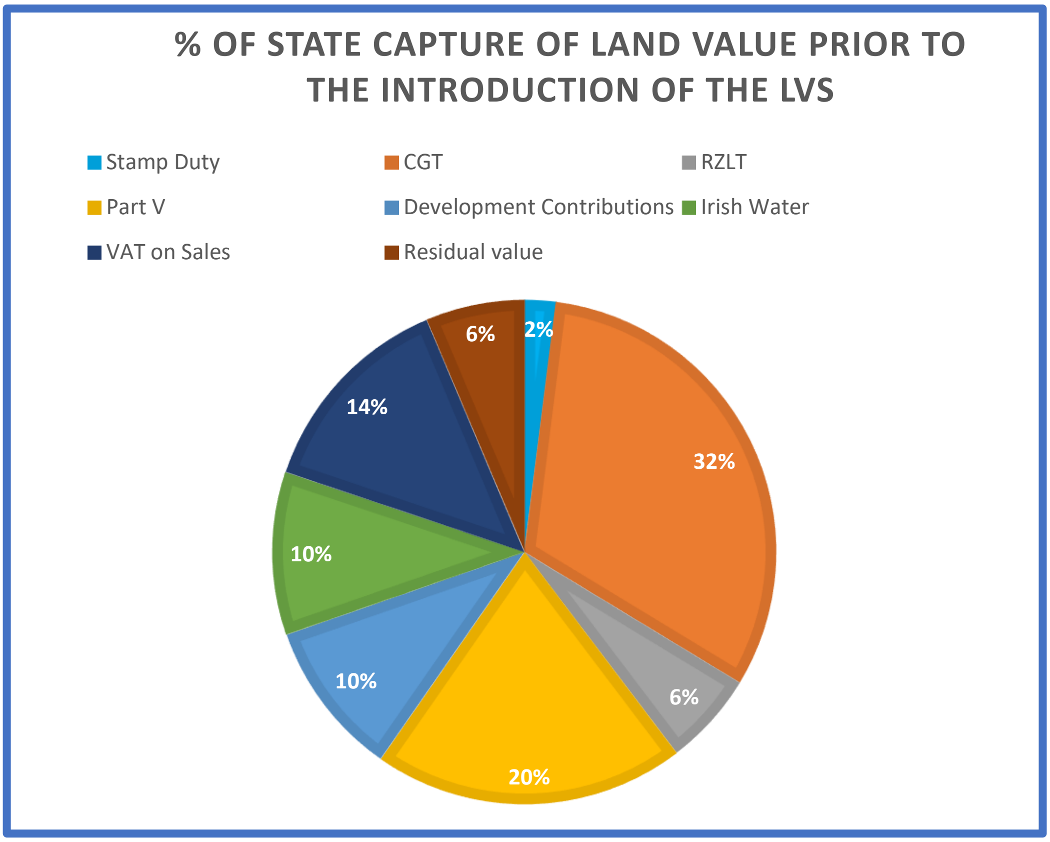
Agricultural land value = €15,000 per acre
Residential zoned land value = €400,000 per acre

Uplift €400,000-€15,000= €385,000

LVS tax €385,000 X 30% =€115,500

Based on a net density (excluding open space of 15%) of 12 units per acre in Waterford suburbs this is an additional unit cost (excl. funding) of €9,625 per dwelling unit.

Appendix 4



	Total	*Zoned value per unit (200 units)*	*State capture per unit (200 units)*
Agricultural use value of the land to vendor	€400,000		
~~Zoned land value~~ Value of land with planning permission	€10,000,000	€50,000	
Stamp duty (7.5% net of 5.5% refund)	€200,000		€1,000
CGT paid by original vendor on disposal	€9,600,000		€15,840
RZLT (2 years)	€600,000		€3,000
Part V	€2,000,000		€10,000
Development contributions	€1,000,000		€5,000
Irish Water	€1,047,200		€5,236
VAT on sale (land value only at 13.5%)	€1,350,000		€6,750
Total		**€50,000**	**€46,826***

*This example excludes LVS, special contributions and on-site infrastructure provided. If the LVS was introduced above, the LVS cost per unit would be €14,400. This would bring total value captured by the State to €61,226. This is €11,226 more than the per unit value of the zoned land. Residual value in the chart is equal to the difference between the €50,000 and €46,826.