An Chomhairle Náisiúnta Eacnamaíoch agus Shóisialta
National Economic & Social Council

Urban Development Land, Housing and Infrastructure: Fixing Ireland's Broken System

No. 145 April 2018

An Oifig Náisiúnta um Fhorbairt Eacnamaíoch agus Shóisialta
National Economic & Social Development Office NESDO

National Economic and Social Council

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Abbreviations

AHBs
Approved Housing Bodies

APOCC
All-Party Oireachtas Committee on the Constitution

BRS
Business Rate Supplement

CIL
Community Infrastructure Levy

DRAM
Development Rights Auction Model

EIB
European Investment Bank

GLA
Greater London Authority

LIHAF
Local Infrastructure Housing Activation Fund

MCIL
Mayoral Community Infrastructure Levy

NAMA
National Asset Management Agency

NDP
National Development Plan

NPF
National Planning Framework

NRDA
National Regeneration and Development Agency

PDP
Property Development Programme

SDZs
Strategic development zones

SVT
Site Value Tax

TfL
Transport for London

TIF
Tax Increment Financing

Preface and Acknowledgements

The report addresses a number of challenges identified in the Government's strategy Project Ireland 2040. These include provision of affordable rental and/or owner-occupied housing for a growing proportion of the population and a sustained increase in the level of investment in public infrastructure. The report builds on the four reports on housing and land agreed by the Council is recent years: *Social Housing at the Crossroads: Possibilities for Investment, Provision and Cost Rental* (2014); *Homeownership or Rental: What Road is Ireland On?* (2014); *Ireland's Rental Sector: Pathways to Secure Occupancy and Affordable Supply* (2015); and *Housing Supply and Land: Driving Public Action for the Common Good* (2015). In adopting its work programme for the period 2017 to 2019, the Council identified housing and land as an important topic for further work. This reflected its ongoing concern about the supply and affordability of housing. In autumn 2017 the NESC Secretariat prepared two background papers *International Approaches to Land Use, Housing and Urban Development* and *Land Value Capture and Urban Public Transport.* In December 2017, the Council discussed an initial draft on of the role of land use, land value, locational value instruments and urban development policy in addressing these challenges. Building on this work, in February 2018 NESC organised a workshop on international approaches to active land management, housing affordability and use of various instruments to fund infrastructure. It featured expert speakers from the Netherlands, Austria and the UK, and was attended by senior actors from government departments and agencies, as well as a representative from each of the pillars on the Council. The workshop, and subsequent Secretariat communications with the international experts, threw new light on a number of aspects of the issues under discussion. This learning is reflected in the final report. The members of the farming pillar entered reservations on some of the policy ideas in the report, particularly around their potential impact on the property rights of citizens, and have conveyed these to the rest of the Council. The Council is united in recognising the urgency of the housing problem and the need to ensure its supply and affordability.

The Council wishes to acknowledge the assistance of several individuals and organisations in the preparation of this report. A workshop was organised on international approaches to active land management, housing affordability and the funding infrastructure. The Council is grateful to the speakers and other participants at this workshop. The speakers were: Barrie Needham, Emeritus Professor Spatial Planning, Radboud University, Nijmegen; Dr Wolfgang Förster and Werner Taibon, Partners on Urbanism and Sustainable Housing (PUSH), Vienna; Graeme Craig, Commercial Director, Transport for London; Steve Fyfe, Head of Housing Strategy & Anne Morgan, Head of Strategic Planning, Greater Manchester Combined Authority; Professor Michelle Norris, University College Dublin; Niall Cussen and Barry Quinlan, Department of Housing, Planning and Local Government. Helpful comments on the material on the Netherlands were provided by Barrie Needham as well as Professor Willem K. Korthals Altes, Delft University, The Netherlands.

The Council retains all responsibility for the information and views presented in this report

Executive Summary

The Challenge: Affordable Housing and Infrastructure Investment

Ireland must urgently find a way to provide affordable rental and/or owner-occupied housing for a growing proportion of the population. In addition, we need to achieve a sustained increase in the level of investment in public transport infrastructure. In this report, the Council argues that land use, land value, locational value instruments and urban development policy are central in addressing these twin policy challenges, although, as noted in the Preface the members of the farming pillar entered reservations on some of the policy recommendations.

The Problem: A Dysfunctional Housing and Development Land System

The availability of land for housing in appropriate locations, in a way that is consistent with affordability, has long been an unresolved policy issue in Ireland.

Economic analysis of housing and urban development identifies the critical role of land supply and land cost in housing and infrastructure (see the Council's 2004 report *Housing in Ireland: Performance and Policy)*. The supply conditions of land can vary for two main reasons: the decisions of land owners on whether they will sell, develop or hold their land; and decisions of public authorities on zoning, planning and infrastructure. Public decisions on zoning, planning and infrastructure often confer disproportionately large benefits on the owners of land. Planning, of the kind found in Ireland and Britain, can prevent undesired development, but lacks the ability to ensure that development takes place. Land can be zoned for housing, and even serviced, but there is no guarantee that it will be used within a reasonable period. To date, there has been limited housing development on land sold by NAMA. Indeed, the supply conditions of land help to create the speculative development land and housing market. The focal point for competition is land acquisition and land hoarding, rather than quality or value for consumers. Overall, the supply of land is uncertain, patchy and costly. This tends to make the housing system risky, unstable and unaffordable.

Ireland's approach to infrastructure also has a number of weaknesses:

- It has been highly pro-cyclical, reflecting periodic economic and fiscal crises.

- There has been an inability, even when resources were available, to identify and undertake 'game-changing' public infrastructure projects.

- The cost of land has formed a major component of the cost of infrastructure.

Effective Approaches Internationally: Active Land Management

There are effective approaches to these issues. In countries such as Austria, the Netherland and Germany, they involve a combination of:

- active land management by highly skilled and respected public authorities;

- active urban development, including both planning and infrastructure;

- housing policies that focus on achieving permanent affordability (where housing costs are no more than 30-40 per cent of household income); and

- increasing use of a range of locational value mechanisms to help fund infrastructure.

Publicly owned land plays an important role, allowing integrated urban development, provision of quality affordable housing and timely and cost-effective infrastructure. Effective approaches also mobilise development land in private ownership to create housing and quality urban neighbourhoods. Our research and dialogue with international experts reveals the following features of active land management:

- It typically involves close collaboration between public urban development bodies, private owners of urban development land, development enterprises and not-for-profit housing entities.

- It depends on the existence of highly skilled and respected public agencies capable of managing land, and driving urban development and infrastructure investment.

- Incentivisation of productive engagement between the public and private actors depends on framework conditions, in particular the status of the urban development bodies, their planning powers and a credible system of compulsory purchase of urban development land at below full development value, used as a last resort and under judicial supervision.

Lessons and Recommendations for Ireland

Recommendation 1: Ireland must change its *system* of urban development, land management and housing provision

The dramatic experience of boom, bust and prolonged stasis makes it clear that the problem is largely systemic. It is a mistake to see the current crisis as simply a legacy of the crash, which, as it fades, will yield a return to 'normality'. It is the system that shapes the interaction of the different elements and actors. Dysfunctional patterns, interactions and outcomes are hard-wired into our approach. Without a change in the system, we are condemned to an endless sequence of isolated measures. Reforms should be based on a coherent, evidenced-based view of what an effective and inclusive system of urban development, land management and housing affordability looks like—as set out in the Council's work (NESC 2004; 2014a; 2014b; 2015a; 2015b).

The National Planning Framework (NPF) and the National Development Plan (NDP) set out clear and inspiring principles and goals: compact growth (40 per cent of housing development within or close to existing built-up areas); higher housing and job densities; much greater use of brownfield sites, under-used land and buildings; and integration of policies and objective for the protection of biodiversity into statutory development plans. To achieve these, we need to change the system of urban development, land management and housing provision. But adoption of the NPF and NDP also creates the perfect moment, and probably the last chance, to start the transition to a better system.

Recommendation 2: Build affordability into policies that are designed to increase the supply of housing, starting with land and cost rental

While an increase in the supply of housing can have some effect in reducing its market price, the nature of housing markets, land markets, credit markets and urban development means that this is not in itself a reliable or sustainable means of achieving housing affordability. Ireland must now engineer affordability into the supply of housing through systems of land management, cost rental and social housing. International experience suggests that cost rental is the most effective and fiscally sustainable way of achieving permanent affordability (as explained by the Council in its 2014 report *Social Housing at the Crossroads: Possibilities for Investment, Provision and Cost Rental*). Cost rental uses modest supply-side supports, such as land and finance at favourable rates, to underpin affordability, and it makes this permanent by ensuring that rents cover costs and that the equity that accrues as loans are repaid creates a revolving fund, used in the service of further affordable housing. Cost rental makes rental a realistic and secure long-term option, quite different from the current Irish system (as explained in the Council's 2015 report *Ireland's Rental Sector: Pathways to Secure Occupancy and Affordable Supply*). It also avoids the creation of segregated social housing occupied only by those on low incomes and dependent on welfare.

Recommendation 3: Give public institutions a strong developmental mandate, political authorisation and executive capacity to drive sustainable urban development

Government has announced the establishment of a National Regeneration and Development Agency (NRDA). It is to work with local authorities, government departments and other bodies to secure the best use of public lands and infrastructure and to drive the renewal of strategic areas. This is an important policy development and the Council strongly supports it.

Effective active land management involves public authorities working with a range of private and non-for-profit development and housing organisations. A wide range of contractual, joint venture, partnership models and financing arrangements are used. This requires well-staffed and well-led urban development agencies that are dedicated to the task and have the professional competence to draw up master plans and engage in complex arrangements for implementation with the private sector and community groups.

In moving to a new Irish system, a number of other institutional possibilities will need to be considered. Beyond the establishment of the NRDA, it may be necessary to create new entities at municipal level, or other spatial scales, and/or to enhance the remit and capabilities of existing bodies.

Recommendation 4: Use publicly-owned land to increase the supply of housing, ensure affordability and create quality residential developments

The most critical resource available to the State is land in public ownership. A substantial amount of state-owned land exists in our cities and towns, including large city-centre areas that were former docks or rail depots, other areas in key locations and along new public transport corridors opened up by infrastructure projects, such as the Luas Cross-City line in Dublin.

Publicly owned sites now have a central role in addressing the housing crisis and starting the transition to a new system of active land management and urban development. There is an element of trade-off between two important goals: making housing affordable and capturing value to support the funding of infrastructure. However, it is possible and desirable to pursue both goals and, viewed from a longer-term perspective, they are complementary.

In using state land for housing and related infrastructure, there are a number of priorities:

First, it is vital that the land be put in the hands of actors who will develop it in a timely and appropriate manner, rather than seeking to maximise state revenue by selling it outright, without regard to when and how the land will be developed. This would constitute a change from the approach adopted by many public bodies, including NAMA. As well as direct use, state-owned land should be used to provide opportunities for a range of actors with the capacity to build appropriate housing, but who may not have the capital to meet the upfront cost of land purchase, including approved housing bodies (AHBs), community land trusts and other co-operative groups, developers and individuals (self-build).

Second, public land should be used to create permanent housing affordability. This can be achieved through cost rental, social housing and affordable housing for purchase, subject to conditions that ensure permanence. The relative advantages of homeownership and rental, and the need for honest discussion of aspirations and policy possibilities, are discussed in the Council's 2014 report *Homeownership or Rental: What Road is Ireland On?*

Third, in the case of significant public sites, the area should be master-planned before entering partnership or other arrangements with development entities.

Fourth, given the fiscal constraints on capital investment, the opportunity should be taken to use public land in a way that creates locational value and garners a share of this to support the cost of investment in infrastructure (see Recommendation 6). This could include long-term leasing or licensing arrangements.

Fifth, development on public land should deliver a step-change in the level of environmental sustainability of Irish urban areas.

Recommendation 5: Work with private holders of urban development land to ensure the delivery of affordable housing and sustainable urban development

Current arrangements with respect to urban development land in private ownership, such as the vacant site levy, while useful, are not sufficient to assure appropriate housing supply and affordability. It is now necessary to create the conditions and institutions for more active land management and new kinds of relationships between public authorities and private holders of development land. The forthcoming establishment of the NRDA is an important step in the right direction. It is vital to recognise that the NRDA can, and should, go well beyond simply bringing more publicly-owned land into housing provision, in order to simply increase supply. It also has the potential to model new patterns of housing provision and to change the relationship between public bodies and private owners of urban development land (as proposed in the Council's 2015 report *Housing Supply and Land: Driving Public Action for the Common Good*). Indeed, as in other countries, a key function of the new agency should be to work with the owners of private land. There are a number of mechanisms and models to ensure more effective relationships between public bodies and private actors: joint ventures combining public and private land, land readjustment as undertaken in Germany, and planning conditions concerning affordability and social infrastructure.

More effective engagement between public bodies and private holders of urban development land will require enhanced compulsory purchase powers. This is necessary to ensure that owners of urban development land engage constructively with the public agencies. International evidence shows that the dynamic of the land market changes where there is a credible possibility of public purchase of urban development land at less than its full development value, even where the compulsory purchase powers are rarely used. They ensure that all actors take planning seriously.

In addition to the major reforms recommended here, introducing a site value tax (SVT) on development land would have a number of advantages. First, it would have less distortionary effects than other forms of taxation. Second, it could promote improved land use. Third, it could, arguably, ensure greater fairness as it would play a role in recovering some of the value added to land by public investment and services. However, such an arms-length instrument would not be sufficient to achieve the desired pattern of land use and urban development. This requires the active land management, institutional development and affordable housing policies set out above. While driving these reforms, Ireland should learn more about how countries such as Denmark design and implement a site value tax.

Recommendation 6: Use the potential of locational value creation and sharing to help fund strategic infrastructure, particularly public transport infrastructure

Ireland must now actively explore the use of locational value creation and sharing instruments to support its new ambition for enhanced infrastructure and sustainable urban development. This should be part of a broader commitment to complement state expenditure with alternative sources of financing and more innovative and tailored funding mechanisms. In addition to development levies, the range of possible locational value mechanisms include: property tax in the vicinity of transport amenities; site value tax; tax increment financing;[1] direct public or joint development; sale or lease of land; auctioning of development rights or air rights, and leasing of commercial space.

Recommendation 7: Adopt an ambitious national programme of specific, understandable and socially accepted flagship projects

Government should start the transition to a new system by driving a number of major projects to provide affordable housing, quality urban development and strategic infrastructure. It can draw on the experience of projects such as the Dublin Docklands Development Authority and Grangegorman Development Agency. Both were highly ambitious and transformative urban regeneration projects. They both involved bespoke institutional development agencies engaging with a range of complex and interconnected policy issues: land management and development, planning, infrastructure funding and a multi-institutional environment. Delivery of such flagship projects will reveal the need for connections across policy areas and co-operation between agencies.

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1 Tax increment financing is the allocation of increases in total property tax revenues above an agreed baseline to public transport investment within a designated area.

Chapter 1
Introduction

While there are many aspects to Ireland's housing crisis, the issue of how to provide affordable rental and owner-occupied housing for a growing proportion of the population remains paramount. With the adoption of Project Ireland 2040, it is also accepted that Ireland needs to achieve a substantial and sustained increase in the level of investment in public transport, particularly in urbanised settings. This report explores the role of land use, land value, locational value instruments and urban development in addressing these twin policy challenges.

The effective availability of land for housing development in appropriate locations, in a way that is consistent with housing affordability, has long been an important and unresolved policy issue in Ireland. The land issue is part of the boom-bust cycle in housing. Borrowing by developers for land purchase, in expectation of higher property values, was central to the boom and subsequent collapse.

The servicing of land and the provision of infrastructure to support sustainable housing development is costly. On the other hand, the value of serviced building land supported by infrastructure will be a multiple of its original value. This difference in value, when garnered appropriately, has the potential to pay for some or all of the costs of servicing land and providing infrastructure. The supply of housing is often constrained by insufficient investment in infrastructure.

In seeking to identify how Ireland might address the twin policy challenges of housing supply and infrastructure funding, the Council has examined effective approaches internationally. These examples reflect the complexity of the challenge created by the combination of land, housing systems, planning, urban development, infrastructure and the building industry. The Secretariat prepared two papers on these issues: *International Approaches to Land Use, Housing and Urban Development* and *Land Value Capture and Urban Public Transport*.

Building on this work, in February 2018 NESC organised a workshop on international approaches to active land management, housing affordability and use of various instruments to fund infrastructure. It featured expert speakers from the Netherlands, Austria and the UK, and was attended by senior actors from government departments and agencies, as well as a representative from each of the pillars on the Council. The workshop, and subsequent Secretariat communications with the international experts, threw new light on a number of aspects of the issues under discussion. In particular, it deepened our understanding of:

- how active land management works in countries with an effective approaches to urban development and housing affordability, such as the Netherlands and Austria;

- the central role of highly skilled public entities in leading urban development and housing delivery, working with a range of not-for-profit and private development and housing organisations;

- the way in which Transport for London has transformed its mandate and operations, to use its land assets and capabilities to generate new value in key localities and to engineer a sharing of value that supports increased provision of affordable housing, economic regeneration and investment in quality public transport; and

- the need for a sustained commitment to active land management, institutional innovation and policy reform to foster compact and sustainable urban development premised on affordable housing and quality public transport.

The findings of the Secretariat papers and the discussion at the workshop are summarised in this report and inform the Council's policy recommendations. As noted in the Preface, the members of the farming pillar entered reservations on some of the policy recommendations.

The structure of this report is as follows:

- Chapter 2 explains the economic analysis of land and its role in shaping the supply and cost of housing. The factors governing land supply and their implications for housing supply and affordability are discussed.

- Possible policy responses to the land question in broad terms are then considered in Chapter 3.

- While a number of generic and theoretical solutions are often proposed, the Council believes that it is more useful to look at the practical approaches in the Netherlands, Austria and Germany. These are explained in Chapter 4 and are shown to be effective in addressing the challenges of affordable housing and sustainable urban development.

- Chapter 5 provides an overview of international approaches to locational value creation and sharing and the financing of urban public transport infrastructure. It pays particular attention to the way Transport for London (TfL) has transformed its mandate to become a key actor in urban development and the increased supply of affordable housing.

- Chapter 6 outlines seven recommendations on how Ireland should apply the lessons of international experience.

In housing economics, real-estate studies and policy, a range of terms are used to describe the value generated by public decisions on zoning, planning and investment in infrastructure. Among these are *betterment value, planning gain, land value* and *locational value*. Likewise, a range of terms are used to describe the policy instruments applied to garner some of that value to support public purposes, such as funding part of the cost of infrastructure and supporting the provision of affordable housing. For reasons explained in Appendix A, the Council thinks the term *locational value* is the most appropriate and encompassing. Likewise, we refer to the relevant policies as locational value instruments or mechanisms. Where appropriate, we refer to locational value creation and sharing.

Chapter 2
Understanding the Role of Development Land in Housing Supply and Affordability

2.1 Introduction

The development of new housing requires land. However, it is challenging to ensure a supply of urban development land in suitable locations to support the planned development of urban areas. This chapter sets out the problems posed by the availability and cost of land for effective housing development and the ways in which these issues are evident in Ireland's experience.

2.2 Supply Conditions of Development Land: Economics, Planning and Business Models

The supply conditions of development land can vary for two main reasons: the decisions of land owners to sell or develop their land, and decisions on planning and infrastructure. The land market and the planning systems shape the business model adopted by enterprises in property development. This section outlines research in the UK that clearly illustrates how similar land and planning influences have created a business model which is not operating in the best interests of consumers, wider society or indeed the economy.

2.2.1 Land Supply Is Variable and Uncertain

In its work on housing, the Council has always begun from an analysis of the market for urban development land, the building industry and the planning system. Among other things, such an analysis emphasises the degree to which the supply of urban development land is variable and uncertain. The implications of this variability and uncertainty are an important part of a framework for understanding the role of land in the housing system (Evans, 2004). That framework provides an insight into past policy initiatives and future policy possibilities (NESC, 2004).[2]

[2] In its 2004 report *Housing in Ireland: Performance and Policy*, the Council examined the relationship between land prices and house prices (NESC 2004: 22-25 & 185-91). It discussed the commonly heard idea that 'it is not high land prices that cause house prices, but high house prices that cause high land prices' (NESC 2004: 188). The report explained that this is true at any given moment, where the supply of land is fixed. But it is quite

There are a number of reasons why supply of urban development is both uncertain and variable (Evans, 2004). First, landowners may have motives other than maximising the current income from their land. Second, speculation on future increases in development land values may lead to land being used in a way that does not maximise current income. Third, the market for urban development land is characterised by information inefficiencies and uncertainty, which can mean that land is not smoothly allocated to its most current profitable use. Since much land is not advertised, developers have to search for sites, a process that can be costly. When sites are found, owners have to be negotiated with; these owners will have different motivations regarding their land and different reservation prices.

Landownership can be viewed as creating an option for development and this influences landowner's decisions. (Bentley, 2017). Indeed, researchers have increasingly applied financial options theory to the valuation of development land. From this perspective, development land has a current value based on the expected value of developing it immediately, but also an 'option value' because of the ability to postpone development into the future. If this option value exceeds the value of immediate development, then the optimal decision from the owner's perspective will be to delay development. Research has found that increased uncertainty increases the option value of development land (Costello & Leishman, 2011). This suggests that the long-observed high volatility of house prices in Ireland creates a higher option value of development land and hence less development than would otherwise be the case.

Sometimes there are particular problems in regard to the market for urban development land. When an area is subject to structural change affecting land use, the owner's perception of the value of their land may not reflect its actual market value. In Britain, 'There is strong research evidence from a number of studies that unrealistic expectations of what land might be worth is partly responsible for semi-permanent vacancy' (Adams, 2015: 1).

A distinctive characteristic of land is the fixed location of each piece of land. This means that the relative location of sites, in particular their contiguity, may be of overriding importance. This has significant implications:

> If the likelihood of a piece of land being put on the market depends solely on the owner's preferences, then the sites which are sold for development are unlikely to consist of sites adjacent to each other at a favourable location. Development is likely to sprawl in a quasi-random way across the landscape, sprawl which was seen in Britain between the wars and which continued to occur in countries like Australia and the United States after the Second World War (Evans, 2004: 181).

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illegitimate to drop the qualification and say that since high house prices determine land prices, the supply of land is irrelevant and will not affect either the price of land or the price of housing. In other words, *the supply conditions of land* have a major influence on the degree to which a given demand for housing translates into an increase in land prices and house prices (NESC 2004: 22-3 & 188-89).

Governments use a variety of policies to avoid such an undesirable pattern of development, and these have a range of impacts on the housing system. Planning is often used to control such development, although the extent of this control depends on the attitude the planning authorities take to dispersed development. The planning system itself then becomes an important influence on the supply conditions of land. Planning can control undesirable development, but in doing so it often increases the scarcity value of land and housing. Indeed, planning policy can cause higher land prices even where there appears to be sufficient land available. While planning of the type undertaken in Ireland and the UK can prevent development, it cannot ensure that land allocated for development is actually built upon.

Dominant Business Models: Risk, Land Holding and Build-Out Rates

The uncertainty and variability of land supply is one important factor that shapes the business practice of developers and others in the market. On the one hand, it increases the uncertainty and risk that developers face; on the other, it gives great market power to particular owners of urban development land. If developers and builders are to maintain continuity in their operations, they need to ensure that they have an ongoing supply of suitably located sites. They cannot rely on the market making land available at the time they require it. To ensure adequate land, developers need to invest in land banks. The practice of land banking by developers, in turn, becomes another influence on the supply of land in the market. Because the land that is available for development is limited, developers compete with one another for a scarce supply of sites. This tends to create rising land prices, and it 'encourages developers to buy land ahead of development to make absolutely sure of their own land stocks while, at the same time, making it more difficult for their competitors to find land on which development would be permitted' (Evans, 2004: 178).

The biggest risk undertaken by developers is purchase of land. The price they are willing to pay for development land depends on the price they expect to be able to charge for homes, less the projected costs of producing the homes and a profit margin. A report published by KPMG and Shelter has described the resulting 'land-price trap' as follows:

> Whoever bids most optimistically—either betting on higher house prices or lower build costs will win the site. This ratchets up the target price at which builders must sell homes to make their profit margins, forces down the quality and size of new build homes, and puts downward pressure on affordable housing obligations (Jefferys *et al.*, 2014: 38).

The land-price trap also has the effect that 'development tends to be close to the margin of viability—and hence vulnerable to any shock' (*ibid.:* 38). Following a fall in house prices, it may be the case that land cannot be developed in a viable way, given the high price paid for the development land during the period of bullish expectations.

Having acquired the land, the developer must then manage the development to recover land costs and achieve a profit. This prompts them to build at a rate that does not undermine house prices. Developers will not wish to build more houses in a given period than can be sold at the market price in the area concerned (Bentley, 2017).

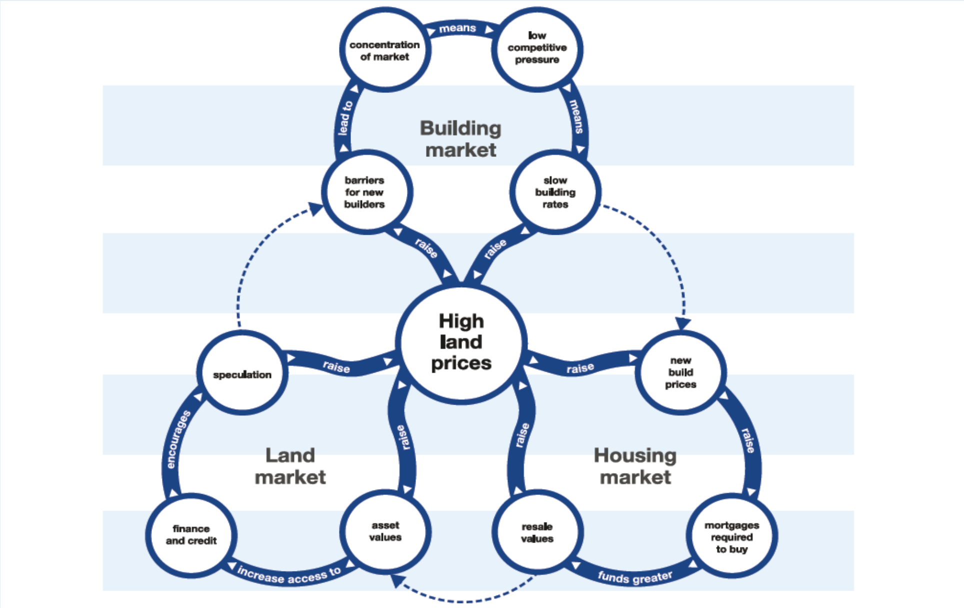
Given the strong cycle, developers are sometimes unable to sell houses at the price expected when they bought the land. In Ireland, this occurred on a large scale at the end of the last housing boom. In this situation, the extra supply of housing will unintentionally improve affordability. However, this is clearly not a desirable or sustainable way to achieve housing affordability. The collapse in housing and land prices severely damaged the capacity of the housing industry and, of course, the whole Irish economy.

Jefferys *et al*. (2014) highlight the way in which the land market in the UK—in combination with the building and second-hand homes markets—currently interact in a way that pushes up land prices. It is high land prices, this study argues, that are at the very centre of the UK's dysfunctional housing supply system. Figure 2.1 shows how high land prices lead to a number of vicious circles concerning land and housing. First, they mean that builders must target high house prices for new houses and avoid actions that would reduce prices; second, they support high land prices, and represent a barrier to entry to new builders, and, third, they encourage speculation and further increases in land prices.

The effect of this interaction of the housing market, the building market and the market for development land is that competition occurs at the wrong stage. In the economy at large, competition typically leads to better value and quality for consumers. However, a feature of the housing development business in countries such as Ireland and the UK is that the most intense competition takes place at the land buying stage (see Figure 2.2). The process is described by Jefferys *et al*. as follows:

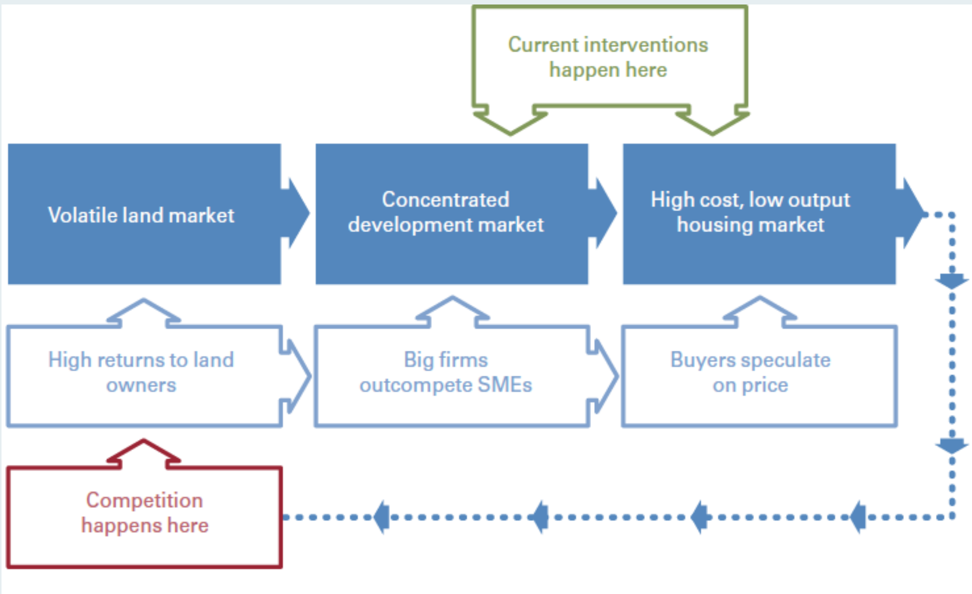
> The rational business strategy to manage land market risks is to minimise build costs and maximise sale prices by releasing homes slowly. This strategy is only possible because there is little competitive pressure at the consumer end of the development process, which might otherwise push prices downward. Competition for expensive land makes it hard for small builders to enter the market or grow. SMEs also struggle to raise sufficient finance from increasingly risk averse banks, leading to ever greater concentration in the industry (Jefferys *et al*., 2014: 9).

Figure 2.1: Rising Land Prices and Interconnected Markets



Source: Jefferys *et al.*, 2014

Figure 2.2: Competition at the Wrong Stage



Source: Jefferys *et al.*, 2014

These problems tend to give rise to protracted arguments and accusations, in which various actors—planners, land-development enterprises and speculators, builders, buy-to-let investors and others—are periodically blamed for the instability and unaffordability of the housing system. But careful, objective analysis shows that the problem is largely systemic. As Evans observes, the negative nature of the planning system in the UK 'gives great market power to particular owners of land. It is illogical to blame the landowners for exercising this power, rather than examining the workings of the system that gives them this power' (Evans, 2004: 175).

The systemic nature of the problem also has implications for the kinds of measures that can reduce the cost of housing and create greater affordability. Changing the price of one parcel of development land in isolation will not improve the housing situation. A developer who obtains land at a lower price will still charge the maximum for housing that the market will bear. For this reason, the Council proposes an integrated set of measures designed to improve the supply and affordability of housing. Indeed, as explained in Chapter 4 countries with an effective system of affordable housing rely significantly on cost rental and other mechanisms to secure permanent affordability. It is the overall system of land management, housing provision and secure rental that underpins affordability.

Fundamental change is required to move to a new model of housing development: 'One that does not rely on high house price inflation alone to increase supply; one that can meet affordable housing need; one that creates attractive new places, not comparatively small homes without access to local services' (Jefferys *et al.*, 2014:11).

In Chapters 3, 4 and 5, we show that the approach in a number of European countries—more systematic active land management, when combined with effective policies for housing affordability—proves that there are possible reforms and housing policies that can both improve housing affordability and the capacity to invest in infrastructure.

2.3 Development Land, Housing Cost and Infrastructure in Ireland

The problems posed by the interaction of the housing, building and development land markets, set out in generic terms above, have long been evident in Ireland's housing experience. There is a considerable volume of zoned and serviced land in place.[3] However, even where there is serviced land, it is not necessarily used or

[3] The supply of different categories of land in the Dublin area is monitored by the Dublin Housing Supply Coordination Taskforce. The situation in the third quarter of 2017 was as follows. Land on which planning permission was granted and could be implemented immediately and on which construction had not commenced could provide approximately 21,900 units. Sites where planning permission was being sought or was under appeal could provide a further 10,750 units. In addition there was serviced land on which an

made available for development. *Rebuilding Ireland* pointed out that access to land at a reasonable price remained a key barrier for developers:

> As this Plan has been developed, a consistent message that has come through from many local authorities, housing providers and funders is that one of the best ways to ensure availability of reasonably priced housing is ensuring that there is a good supply of "ready-to-go" development land that is available at a cost that reflects the realistic value of what can be developed on those lands, taking account of all the usual input costs. Despite a large reserve of zoned land across all our planning authorities, not all of that land would appear to be readily available to the broad range of housing providers. It is often reported that landowners may not sell their lands to housing providers until prices match their expectations, regardless of what may be a realistic land price in terms of the overall price of housing that it is economically viable to provide on those lands (Government of Ireland, 2016).

There is a large supply of vacant and derelict property in Irish urban areas. The register of vacant land for the Dublin City Council area alone has 200 sites, valued in the region of €220m. This is not the full extent of vacant property in Dublin. Small sites (below 0.05 hectares) are not included, while there are also other criteria to be met for inclusion in this register.[4] There is a separate register of derelict sites, with 61 properties on the Dublin City register in August 2017.

Following Ireland's crash, a substantial volume of development land came under the control, but not ownership, of NAMA. But, to date, there has been very limited housing development on land sold by NAMA. According to its 2016 annual report, just 6 per cent of the residential development land sold by NAMA had been built on to date. It notes that some of the sites may be inhibited by one or more constraints relating to commercial viability, infrastructure or suitable planning permission (NAMA, 2017). In commenting on the annual report, the chief executive said the reasons for the slow development of the sites needed examination, but he identified hoarding as a huge issue (O'Donovan, 2017). This is a significant example of the problem of land suited to housing not being developed. In other cases, NAMA has funded development rather than selling the land. An estimated 7,200 residential units were delivered between 2014 and end-2017 through NAMA funding of development on land in its portfolio. In addition, at the start of 2018,

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appropriate planning policy was in place or being put in place that could provide more than 44,000 units. There was further land that needed infrastructural investment with potential for 54,100 units (Housing Supply Coordination Task Force for Dublin, 2017).

4 The criteria for inclusion on the vacant sites register are as follows. The site has an area in excess of 0.05 hectares and is zoned for either residential or regeneration purposes. In the case of residential land, the site is: (i) situated in an area in need of housing; (ii) the site is suitable for the provision of housing, and (iii) the site or most of the site is vacant or idle. In the case of regeneration land: (i) the site, or most of the site is vacant or idle; and (ii) the site being vacant has an adverse effect on existing amenities or reduces the amenity provided by existing public infrastructure and facilities. Details of ownership, title to the site and the market value pertaining to the site have to be ascertained before a site is included on the register.

9,500 residential units are under construction or have planning permission, while it is intended to submit planning applications for another 8,500 units during 2018 (NAMA, 2018).

The current system of planning conditions and development contribution schemes/fees in Ireland represent a type of betterment levy as they seek to capture part of the value that is added through public investment in infrastructure.[5] Nonetheless, *Rebuilding Ireland* identifies infrastructural blockages as one of the main impediments to development of certain key sites. To help address this, government has allocated €150m of exchequer money to be matched by €50m of local authority funding to create a Local Infrastructure Housing Activation Fund (LIHAF). This €200m is to be invested over the period 2017 to 2019.

As part of the dysfunctional overall system, there are undoubtedly problems in Ireland's approach to planning. In the past, planning was too liberal in some parts of the country. But, as Evans' analysis shows, it remains the case that, in areas of high housing demand, planning decisions give strong market power to the owners of development land. The legislative basis for planning took effect with the introduction of the 1963 Planning Act. Prior to that, approval was not needed for development. As Dunne pointed out in his evidence to the All-Party Oireachtas Committee on the Constitution in 2004, the 1963 Act meant that landowners no longer had the automatic right to develop their land. The granting of the right to develop on some land means that it acquires much-enhanced value. There is also the unintended effect, as Dunne noted, that the planning system puts owners of development land in something of a monopoly position. Even without a planning system, the owners of the most suitable land for urban development would enjoy monopoly power. The solution to this may seem obvious: 'Simply zone and service more land than that required to meet forecasted development needs' (Dunne, 2004: A66). However, there is an understandable reluctance among local authorities to do this, given the costs. As Dunne says, 'plainly it would be wasteful to provide services to land that may not be developed for a generation' (*ibid.:* A66).

In its 2004 report *Housing in Ireland: Performance and Policy*, the Council also drew attention to the disadvantages of a sprawling pattern of development. The term 'sprawl' was not used as a synonym for greenfield development; even if we achieved the desired shift towards greater concentration of development within built-up areas, there would still be a considerable amount of greenfield development, given overall population growth. The Council used the term sprawl to refer to a particular, low-density form of housing development. The following were

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[5] A background paper in 2015 from the Department of Transport notes that the current development contribution mechanisms have enabled much essential public infrastructure to be funded since 2000, in combination with other sources of (mainly exchequer) funding (DTTS, 2015). The recently completed LUAS Cross-City line has been funded through a combination of state expenditure, a European Investment Bank (EIB) loan and Dublin City Council's Supplementary Development Contribution Scheme (i.e. a developer's levy). There are also currently three Section 49 Supplementary Development Contribution Schemes in place that are supporting investment by Iarnród Éireann.

identified as the components of post-war suburban development in Ireland and many other countries:

- housing arranged in pods involving a like-tree pattern;
- shopping centres that are places used exclusively for shopping;
- civic institutions—schools, churches, town halls—separate from each other and each with its own parking area;
- office parks and business parks, as places only for work; and
- roadways—miles of roads and pavements necessary to connect the other four disassociated components (NESC, 2004: 124).

This pattern of development has implications for daily life. In particular, it creates a high level of car dependence. Furthermore, it makes extensive use of development land, even though that is the most scarce factor of production:

> Not only is the density of housing low, but large amounts of land are devoted to roads per head of population and each public amenity (school, church, pub), has a separate car park. Another feature of sprawling development is that things which are physically adjacent are frequently far away by road (NESC, 2004: 124).

The recently published *Project Ireland 2040: National Planning Framework* (NPF) points out that at present, as in recent decades, the fastest-growing areas are at the edges of and outside towns and cities, and that this trend has several negative implications. First, it creates a need for continuous catching-up in the building of new roads and services, as well as high car dependence. Second, it results in the run-down of city and town centres as well as established suburban areas. Third, the dominance of greenfield development is not conducive to the creation of attractive, liveable, high-quality urban places. Fourth, this pattern of development contributes to carbon emissions above the EU average through higher transport and energy demand. Indeed, excessive greenfield development has other negative environmental effects, including loss of biodiversity.

One of the major objectives set in the *Project Ireland 2040: National Planning Framework* (NPF) is to have more development take place within existing built-up areas. It sets a target that at least 40 per cent of new housing nationally will take place within the existing built-up areas of cities, towns and villages. Indeed, within the five main cities it intends that 50 per cent of all new homes will be created within existing built-up areas. This will involve more development taking place on brownfield land; i.e. vacant or derelict urban land. It also affords an opportunity for an increased focus on protecting biodiversity in accordance with the *National Biodiversity Action Plan 2017-2021*. The urgent switch to more compact development outlined in the NPF will require a different approach to planning and land management.

An example of an earlier planning reform that proved beneficial was the introduction of strategic development zones (SDZs) through planning legislation in 2000. One of its advantages is that, once approval of the overall plan for the development of an SDZ is in place, it is not possible to appeal to An Bord Pleanála against the decision by a planning authority on an individual planning application within the SDZ. While SDZs were an important innovation, and helped in creating significant urban developments such as Adamstown, the reform was not sufficient to address all the systemic problems that bedevil the provision of sustainable urban quarters and affordable housing.

Achieving the goal of sustainable and compact urban growth requires sustained investment in high-quality, integrated, sustainable public transport systems and supporting amenities (Government of Ireland, 2018). However, as shown in later chapters, this requires that key weaknesses in Ireland's approach to infrastructure policy be addressed.

First, the traditional approach to infrastructure policy has been characterised by the adoption of a highly pro-cyclical approach to capital investment. This led to a boom-and-bust approach to capital expenditure. Transport investment, in particular, has been subject to quite dramatic cyclical variations. Following the global financial crisis, exchequer allocation to transport investment fell from a peak of around €3bn in 2008 to approximately €855m in 2013 (DTTS, 2015). This represented a reduction from 1.64 per cent of GDP in 2008 to 0.52 per cent in 2013. This stop-start approach has served to both limit the capacity for long-term strategic planning and undermine the quality of the transport network (European Commission, 2016).

Second, there has been an enduring inability, even when resources were available, to identify and deliver 'game-changing' public transport infrastructure projects—i.e. the type of investment that can change the spatial distribution of economic activity and population settlement.

Third, in the delivery of Irish infrastructure, the cost of land, especially for linear developments, has formed a major part of the overall expenditure on infrastructure (Forfás and Irish Academy of Engineers, 2011). For example, land acquisition accounted for 18.5 per cent of the total €8bn expenditure on completing Ireland's inter-urban motorway system in the period 2002-2008. Similarly, in making the case for substantial investment in a comprehensive all-island motorway/dual-carriageway system, the joint IBEC-CBI All-Island Investment Project drew attention to the fact that the most variable cost is that of land acquisition. The outcome of negotiations with landowners can have a substantial impact on the overall cost of the proposals set out in that study (IBEC and CBI, 2016).

Chapter 3
Policy Responses—Theoretical and Real

3.1 Two Generic but Unsatisfactory Solutions

In response to the problem of high land prices, a number of generic solutions are sometimes proposed:

- Some propose radical deregulation of planning controls on new development, so as to relieve the 'artificial scarcity' that seems to underpin high land prices.

- An alternative proposal is to accept the high cost of land in urban areas, but seek to recoup the value uplift by means of high taxes on land sales or development.

Neither of these two approaches constitutes a satisfactory solution. If planning deregulation is to significantly reduce the scarcity value of urban development land, it would need to be done on a very large scale—and even then it might not make housing affordable in a stable and enduring way. It would mean giving up on seeking to achieve quality urban development that is economically, socially and environmentally sustainable. That is not to deny that there is scope for considerable benefit from reform of the planning system.

As regards the second generic idea noted above, there is undoubtedly scope for generating and recovering land and locational value through various instruments. However, if done in the wrong way, this can freeze the land market and damage the current and future supply of housing. As outlined in Chapter 2, land supply is not fixed; it can be uncertain, patchy and volatile. And this can combine with features of a speculative building industry to make housing prices high, unaffordable and unstable.

Consequently, a clear and meaningful statement of the issue must go beyond the analytical identification of the distinctive features of land, and related general theoretical solutions of the kind noted above. It must take account of what effective real-world approaches to housing and infrastructure have been adopted internationally, and what measures might be suitable within an Irish context. These reflect the complexity of the challenge created by the combination of land, housing systems, planning, urban development, infrastructure and the building industry.

3.2 What Effective Solutions Look Like: Outline of International Experience

International experience shows that there are effective approaches to these issues. But they are more complex than widespread deregulation to address scarcity or recouping high land value via taxes or levies. Effective solutions involve a combination of:

i. active land management by highly skilled and respected public authorities;

ii. active urban development, including both planning and infrastructure;

iii. housing policies that focus on achieving permanent affordability; and

iv. the emergence of a building industry that has the organisational, financial and technical resources to work effectively within these approaches.

The rest of this chapter highlights some key aspects of international experience. In the following two chapters we explain in greater detail the approach of several European countries to land management, housing and the funding of infrastructure.

The Netherlands has long pursued an effective strategy on active land management that supports the provision of affordable housing, quality development and investment in infrastructure. The Dutch model was at its most effective when it combined active land management with a high level of social housing output operating on a cost rental basis. Recent examples of successful European developments in which the infrastructure and preparation of land for development was financed by the uplift in land value include: new suburbs in the German city of Freiburg; Hafen City in Hamburg and the former port of Hammarby in Stockholm.

A McKinsey Global Institute study, *A Blueprint for Addressing the Global Affordable Housing Challenge*, argued that finding land in an appropriate location is the most critical step in developing successful affordable housing:

> Nothing has greater impact on the success of affordable housing initiatives than acquiring land in the right place at the right price. Minimizing land cost is essential for creating housing at affordable price points, and it is critical that the land be in the right location. As has been seen in too many cities, housing built in the wrong location, no matter how well constructed and maintained, will fail. In the right locations—where residents are within reach of jobs, schools, and vital services and where they can become part of the diverse fabric of the city—affordable housing can truly fulfil its promise as the foundation for a decent standard of living (Woetzel *et al.*, 2014: 49).

It is important to note the breadth of policy mechanisms that the McKinsey study identified as capable of unlocking urban land for the provision of affordable housing. It lists six types of instrument:

i. smart transit-orientated development;

ii. releasing public land for development;

iii. unlocking serviced idle land through incentives and penalties;

iv. enabling development through land assembly or readjustment;

v. ensuring clear titles and formalising informal land use; and

vi. improving land use rules and using inclusionary planning.

This list confirms the key lessons of effective public land management and urban development in Germany, Austria, Scandinavia and the Netherlands. At the heart of these are three key elements: the lead role of public authorities in urban development and transport planning; a focus on housing affordability in the planning and supply stage; and instruments for locational value creation and sharing, which help to fund the cost of infrastructure investment and/or land acquisition and, in some cases, the provision of affordable housing.

In Ireland, the Kenny proposals of 1973 were largely of this type: the land required for urban development over the coming decade would be identified and acquired at close to existing use value (see Chapter 6 for further discussion of the Kenny report). Three decades later, the *Ninth Progress Report* of the All-Party Oireachtas Committee on the Constitution (APOCC, 2004) recommended the implementation of a similar approach to capturing betterment. In its 2004 report *Housing in Ireland: Performance and Policy*, the Council concluded that there was a strong case for local authorities to use their compulsory purchase powers to acquire certain lands before they are zoned for residential development (NESC, 2004). Active land management also involves assembling contiguous parcels and making them available to development actors at a reasonable price if they undertake the kind of development set out by planners in the relevant plan for a specified zone (such as in an SDZ) (NESC, 2015b).

It is important to see that active land management can also reduce the volatility of the housing system. In an unstable system, such as Ireland's, a surge in demand usually faces constrained short-run supply. This generates high land and house prices. These prices are read as permanent and thus give the wrong signal to house builders, house buyers and banks. This reinforces the housing and building boom and amplifies the cycle. The banking of development land by the relevant public authority allows it to moderate the effect of surges in demand on price, by preventing a highly constrained short-run supply giving the wrong signal. In such a system, policy sets a *ceiling* on the degree to which land scarcity can feed into house prices (Saiz, 2014). In its 2015 report, *Housing Supply and Land: Driving Public Action for the Common Good*, the Council argued that, since the economic crisis and the creation of NAMA, Irish public policy is more likely to set a price *floor* for development land, thus feeding into higher housing prices (NESC, 2015b).

Beyond housing, there is increasing international use of locational value creation and sharing instruments to finance infrastructure investment. Indeed, this is notable in countries—such as the UK, US and France—that do not have a long history of active land management. Locational value instruments involve the use of a range of policy mechanisms that recover for the public some of the economic value added to land and property by, for example, investment in public transport.

When combined with an integrated approach to transport investment and land-use planning—transit-oriented development—locational value creation and sharing can be an effective policy mechanism for both financing transport infrastructure and supporting sustainable urban development, including the increased provision of affordable housing.

3.3 The Question Reformulated

Given the characteristics of land and the nature of effective international approaches, the question is: what changes to Ireland's traditional and current approaches would improve housing and infrastructure provision? This question will be addressed in Chapter 6. First, Chapters 4 and 5 document in more depth the relevant international patterns summarised above.

Chapter 4
International Approaches to Land Use, Housing and Urban Development

This chapter describes approaches to land management and housing in the Netherlands, Germany and Austria.

4.1 The Netherlands[6]

The Netherlands is widely regarded as having an effective system of land-use planning that includes active land management. In a comparative study of sustainable urban development in Europe, Hall (2014) places the Netherlands in first place. According to Needham (2014), most people have good houses in good housing areas, and town centres are healthy, both economically and socially. There is also a strong emphasis on the environmental sustainability of development and many places have put eco-town principles into effect (Hall, 2014).

In the post-war period, municipalities dominated the development land market. Municipalities (or municipal land companies) acquired land from the original owners, subdivided it for different purposes, serviced the land and provided infrastructure. Finally, serviced land was sold to developers, housing associations (for social housing), owner-occupiers and others for purposes such as providing schools. In this period, the municipalities were able to acquire the land at low prices. The difference between the price at which land was acquired and the price at which serviced land was sold covered the costs of providing infrastructure and enabled low-cost land to be provided for social housing. One reason for the low price of land was that the high share of social housing in total housing output reduced the real market value of land (Van der Krabben & Jacobs, 2013). This highlights the systemic nature of the elements that make up effective approaches to urban development and housing affordability.

The model came under pressure during the 1990s for a number of reasons, including cuts in social housing and higher house prices. The areas intended for housing development were announced well in advance and private developers became substantial buyers of land. As a result, the municipalities had to pay higher prices.

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[6] This section draws on Needham (2014).

Three broad approaches are now used to enable the municipalities to pursue active land policies in the changed circumstances: the building claims model,[7] joint ventures and concessions. They are often combined within the one plan area.

The building claims model: this involves commercial developers voluntarily selling the land to the municipality at a price similar to, or sometimes even lower than, that at which they had purchased it. The municipality then services the land and installs infrastructure as before. This has the advantage that one organisation (the municipality) is responsible for servicing the whole area of the plan. However, the system has evolved over the decades. The municipalities are now in a weaker position. They can no longer decide to whom they will sell the serviced land, which limits their ability to sell to competing builders. Conversely, developers now have more influence over the content of a local development plan. Developers have reduced their risk, while securing guaranteed access to serviced land at a set price for housing and they can choose when to build (Van der Krabben & Jacobs, 2013). However, there are variations in building claims arrangements and in the relative influence of the municipality and developers.

Joint ventures: this model involves establishing a company to undertake the land development function, with the shares divided between the developers and the municipality. The partners might contribute land already owned in the area in exchange for shares in the company. The company acquires land and services it, and then sells the serviced land for development. The shareholders will agree among themselves as to whom the land will be sold, and at what prices. The profits on land development are divided proportionately by the shareholders.

The concession model: this comes closest to the commercial development model used for large projects in many countries. In this case, the raw land is acquired, serviced and developed by one or more developers. The municipality co-operates with the developer, provided that the developer co-operates (and *vice versa*). Negotiations take place between the municipality and the developers regarding the arrangements for land servicing, how this is financed and the content of the plan.

Before a land-use plan is adopted, the municipality will take action to ensure that some of the development gain can be secured for infrastructure works, etc. The knowledge that this will take place depresses the market value of the land. Under legislation that came into effect in 2008, it is possible to attach financial conditions to the granting of a planning permit. Those conditions can include matters such as paying for infrastructure, but also a contribution towards the costs of land for social housing, for parks, and even for paying compensation to those with property which might decrease in value because of the new development (Needham, personal communication).

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7 The building claims model was also used prior to the 1990s.

The Netherlands has continued to be successful in delivering quality housing at scale in a planned manner. However, in recent times housing shortages have been experienced in major cities.

Where a land-use plan has been adopted, compulsory purchase is permitted if needed to achieve the plan. A number of procedures must be undertaken to implement compulsory purchase and establish the required compensation. Compulsory purchase can be used if a landowner is unwilling or unable to develop the land in accordance with the municipal plan or to sell to the municipality. This could arise, for example, because the landowner does not intend to develop housing on the land designated for this purpose. Korthals Altes (2014) explains that compulsory purchase can also be applied where a landholder intends to develop housing at a higher price range than that specified in the municipal plan.

An application for compulsory purchase may be contested on the grounds that an owner is able to show that they are willing and able to develop the land in line with the municipal plan. This is called a 'self-realisation claim'. Some authors argue that the self-realisation principle has reduced the bargaining power of municipalities and threatens their ability to undertake integrated development. However, research by Korthals Altes (2014) has shown that the courts reject a large majority of self-realisation claims.

The starting point in valuing land for compulsory purchase is the average value of the land within the designated plan area. Two points worth noting in relation to this are as follows. First, it is the *average* value within the plan area as a whole that is paid, not the value of the individual plot. Thus, land that is to be used for a house or office receives the same value as land to be used as a park. Second, the land value is reduced to take account of the cost of providing infrastructure (Needham, 2014).

In practise, compulsory purchase is seldom used in the Netherlands (Korthals Altes, 2014). However, it remains a factor in the background when municipalities are negotiating with private land owners. This is referred to by Needham as 'negotiating in the shadow of the law' (Needham, 2018). According to Korthals Altes, the combination of planning and compulsory purchase powers means that Dutch landowners must take planning seriously: landowners who do not implement the plan in the way the local authority has stipulated may have their land acquired via compulsory purchase.

Since 1985, municipalities have been able to designate areas in which they intend to use pre-emption rights.[8] The right of pre-emption means that the owner has to offer the land for sale to the municipality before it can be offered to another buyer. The price paid in this case is the same as when compulsory purchase is applied, but the

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8 From 1985 to 1996 pre-emption rights could be used for urban renewal only and were rarely used. In 1996 these rights were extended to municipalities that were planned to grow according to national or provincial spatial planning policy. The law was changed in 2004 and now all municipalities may use these rights; in 2006, 68 per cent of municipalities were doing so (Needham, 2014).

process is quicker. The right of pre-emption limits the ability of the land owner to sell their land to a developer at a higher price than the municipality would pay. The establishment of a pre-emption right in an area is usually done before the land-use plan has been prepared, in order to prevent a rush of sales. Pre-emption rights were used by 68 per cent of municipalities in 2006 (Needham, 2014).

Active land management in the Netherlands is complemented in some cities by a system of public leasing of land. Since 1896, the standard method of land disposal used by the municipality of Amsterdam has been to provide ground leases on land rather than sell it. The person taking out a lease on land has the right to use the land and buildings on it in accordance with the conditions of the lease in exchange for annual ground rent payments to the land owner. In some cases there is the option of paying all future ground rent payments over the remaining period of the lease in a single payment; this is known as paying a premium. As a result, the city now owns 80 per cent of the land in Amsterdam (OECD, 2017b). Leasing, rather than full sale of land, was introduced as a means of allowing the community to gain from future increases in land value and to reduce speculation. There are benefits for the leasee as well. Those leasing land do not have to pay the upfront cost; this reduces the entry barrier for developers, creating more competition. Leasing has been used to facilitate housing associations by making land available at lower ground rents. Large increases in lease payments on the renewal of leases became a source of dissatisfaction and hence of political pressure to change the system. As a result, in recent years Dutch cities have moved away from leasing towards full sale of land and giving leaseholders the option to convert to ownership. However, it is argued by the OECD (2017b) that, in doing so, the municipalities have, on balance, moved away from a useful policy instrument for land value capture and active land management. The OECD suggests that the issue of large increases in lease payments could have been addressed through more regular revaluations.

The work of the city council in Amsterdam in preparing new land for development is separate from the long-term administration of land leases. At the end of the redevelopment project, the ground lease right is initially sold to the Ground Lease Corporation which, in turn, will provide leases to individuals or organisations. This makes it possible to establish the financial results of each project: in the short term, costs are incurred and revenue received from selling ground lease rights to the Ground Lease Corporation, with either a profit or loss.[9] For the Ground Lease Corporation, the biggest cost is the interest on the finance used to purchase the ground-lease right, while their revenue is the annual ground-rent payments plus premiums (Van Veen, 2005).

[9] If leasing of land were to be used (again) as a method of disposing of public land in Ireland, the intermediary of a leasing corporation could be a useful component. This device enables the local authority to recover land development costs within a fairly short period, while the longer-term benefits of leasing (as discussed in the text) can be still be secured. The accounting implications for the overall public finances would depend on how Eurostat would classify the leasing entity.

4.2 Germany

The housing market in Germany is characterised by a large private rental sector with high security of tenure and stable house prices. Historically, it has had a high level of housing output; housing completions since the 1950s are double the level achieved in the UK. However, current output is below the level needed and there are substantial housing shortages in the rapidly growing cities. Despite the difficulties, a recent comparative study of Germany and the UK argues that Germany is in a better position to respond to the pressures. Germany's land supply is more responsive. Local authorities play a more proactive role in the land market. There is a much closer alignment between the granting of planning permission and new housing supply in Germany than in England (Davies *et al.*, 2016).

In Germany, it is the responsibility of the municipality to service the land and provide the local infrastructure in an area approved for development. This includes streets, parking areas, technical services, green space and social infrastructure such as playgrounds. Municipalities are entitled to recoup up to 90 per cent of the cost from the land owners. This puts the former in a strong position to influence the shared facilities and to recoup the related costs. The provision of the infrastructure is commissioned by the municipality. It can, however, contract this out to the developer (Needham, 2012). Another provision is that the owner has to pay compensation for the destruction of nature that occurs as a result of the development (Baing, 2010).

Where development is desired but is not taking place, the area concerned may be designated an 'urban development zone' and made subject to an 'urban development measure'. This allows for the swift acquisition of land (large derelict sites as well as greenfield land) for building purposes. Using this legislative measure, the municipality has the right to purchase the land at its existing value. The municipality uses this measure to assemble land, and provides the public infrastructure. It then sells building plots to buyers who undertake to build on the land in accordance with the local area plan. The cost of this measure is covered by the difference between the initial value of the land and its value following the infrastructure being put in place. There are strict conditions on when this measure may be used:

> It can only be used if the land is not brought forward for development in other ways; that is, a power of last resort, and owners are able to prevent the process from happening if they themselves bring the land forward for development in accordance with the plans (Davies *et al.*, 2016: 18).

While this is not typical of the way in which land is developed in Germany, it acts as an incentive for owners to develop their land (Davies *et al*., 2016).

Land readjustment is one of the main means used to assemble land for development. The German model of land readjustment works as follows. The process is formally initiated by the municipality, which decides the boundaries of the scheme. The municipality virtually merges all of the land into one area, and a plan is devised for developing the combined land in the scheme. Some land is allocated for public purposes such as roads, parking lots or playgrounds. The remaining land is then redistributed among the original landowners. Two methods are used in reallocating land to the owners. One is based on size. In this case, the municipality can retain up to 30 per cent of the combined land area on greenfield land for public purposes, without compensating the landowners. In the case of previously developed land, the maximum the municipality can retain without compensation is 10 per cent. The landowner receives a building plot proportionate to the size of the original holding, but one that should be of higher value. The other method is based on value. In this case, the landowner is entitled to receive a building plot that is at least as valuable as the original plot. If this plot has increased in value as a result of the land readjustment, the landowner is required to make a payment to the municipality for this. This contributes to the municipality's costs in undertaking the readjustment (Davy, 2007). According to Davy, most landowners whose properties have been included in land readjustment are happy with the process.

Recent examples of successful urban development using locational value creation and sharing instruments are Hafen City in Hamburg and urban extensions in Freiburg. In each case, the city authorities already owned the land or acquired it for the redevelopment. Masterplans were prepared and infrastructure was built. Costs are either wholly or partly recovered by selling serviced plots to developers of various kinds, including co-operatives (*Baugruppe*). These new developments were designed to achieve high levels of environmental sustainability, particularly in the case of Freiburg. Its development includes high-quality public transport, the use of district heating and renewable energy.

In Hamburg, a city-owned development company is responsible for managing Hafen City, a dockland redevelopment project that is one of the largest urban regeneration initiatives in Europe. The cost of the infrastructure for developing this 157-hectare site is funded by the sale of sites, while the project also received federal government funding. A feature of this ambitious project is that it has enabled the supply of housing for ownership and rent at affordable prices. The use of locational value creation and sharing instruments, as well as risk reduction, has also been central to successful urban development in the environmentally friendly city of Freiburg (Hall, 2014: Box A). This is described in Box 4.1.

Analysis of the Freiburg case reveals an important set of relationships between the quality of new areas, the desire and demand to live and work there, and the value of the assets and properties created:

> This mode of development depends vitally on one precondition: the city acquires the land and builds the necessary infrastructure before development takes place, using investment funds through a trust. The city's investment is then recovered by selling off sites to builders and individuals. This has worked triumphantly, because good location and brilliant design have generated huge demand, effectively allowing the process to self-fund itself. And, by engaging the future residents in the design process from the start, many of the development risks are

> simply removed, generating strong built-in neighbourliness and accumulated social capital as soon as the first residents move in (Hall, 2014: 258).

Box 4.1: Urban Development in Freiburg

Freiburg is a German university city with a population of 230,000, located beside the Black Forest, with an extremely high level of environmental sustainability. The strategic plan for the city aims to keep the city compact by redeveloping brownfield rather than greenfield land. In recent years two brownfield sites became available on the urban periphery. One of these was an old sewage works (Rieselfeld) and the other an old French army barracks (Vauban). Both have been developed as urban extensions within a 15-minute tram journey from the city centre. In both cases, the vision was to produce low-energy developments with no very tall buildings, since these are not suited to families.

In the case of Rieselfeld, the original plan was that half of the supply was to be social housing. However, government cuts led to this being reduced to one-quarter. The municipality, which owned the land, borrowed the money to pay for infrastructure and planning and was able to recover this money by selling serviced sites. Sites are made available to groups who came together to submit a preliminary design. On this basis, it was possible to provide homes (for ownership) at up to 25 per cent below the usual price.

In the case of Vauban, a model was adopted whereby each piece of the development (a superblock of buildings plus semi-public space) would be undertaken by local co-operative building groups (Baugruppe). These not only commissioned groups of houses but also designed and managed the common spaces. This was applied in Rieselfeld too.

The process of preparing the city land-use plan was highly participatory from the start, with 19 working groups involved. According to Hall, the outcome in both Vauban and Rieselfeld is a development of 'quite extraordinary quality' characterised by a universal devotion to good architecture:

> **The overall lesson is that new city quarters can be developed that are as attractive and valuable as historic ones, provided there is sufficient long term investment up front in the public realm and infrastructure (Hall, 2014: 262).**

Both Rieselfeld and Vauban were built without any contribution from the city budget. All of the money was repaid by land sales.

The central role of quality—of urban space and housing—in creating value and thereby making development and value-sharing possible was a central theme to emerge at the February 2018 workshop organised by the Council. It confirms a central proposition in the Council's 2004 report *Housing in Ireland: Performance and Policy*. The Council rejected 'the idea that a greater quantity of housing must be at the expense of quality development. Increased housing quantity and better quality neighbourhoods can be complementary and, indeed, mutually reinforcing. This requires a clear vision of the kinds of high-quality, integrated, sustainable neighbourhoods that are worth building' (NESC, 2004: 4).

4.3 Austria

Housing in Austria is characterised by both affordability and stability. Housing output was sustained during the economic crash and there is a substantial ongoing level of new housing output that is affordable. Austria provides extensive, but modest, supply-side subsidies for housing, mainly in the form of low-cost finance. It is estimated that in 2014 around two-thirds of new housing in Vienna was subsidised to some degree (Mundt & Amann, 2016). Despite this, total public expenditure on housing is not high by international standards. Total state support for housing in Austria is 1.0 per cent of GDP, compared to 2.0 per cent in the US (Förster, 2018). Yet Austria achieves far better housing outcomes, in terms of supply, quality, affordability and social integration. This is because in the US much of the expenditure takes the form of tax concessions, which tend to operate on the demand side and also to favour the well-off. By contrast, in Austria the moderate level of the subsidies, and other measures, are concentrated on the supply side. They engineer cost-effectiveness, quality and affordability into the provision of housing, neighbourhoods and infrastructure. Limited-profit housing associations use modest subsidies in the form of low-cost finance to provide rental accommodation at affordable rents based on costs; they provide a leading example of an effective cost rental housing sector. Housing associations also provide owner-occupied housing subject to income limits and price regulation of subsequent sales (Förster, undated-b).

Social housing accounted for between 28 and 37 per cent of all housing built in Austria between 2000 and 2014. Its share was higher in regions of high population growth, and represented over half of housing output in Vienna between 2000 and 2008. Social housing output played an important stabilising role following the global financial crisis (Norris & Byrne, 2017). The market for single-family homes is dominated by self-builders who buy or inherit building plots (Mundt & Springler, 2016).

Land policy plays an integral role in supporting the development of affordable housing (Lawson, 2009). Municipalities are 'legally encouraged' to provide land for social housing at affordable prices, although this is not always done. The strong position of the limited-profit housing associations in the housing market enables them to be competitive in the land market.

There has long been strong public intervention in the land market in Vienna. In 1984, the Housing Fund (Wohnfonds Wien) was established to provide land for subsidised housing and to supervise the restoration and upgrading of old dwellings. This is a public body to which municipal land was donated (Lawson, 2009). It is set up as a company rather than part of the city administration. Hence, it is independent of political procedures. The initial transfer of land provided this body with capital worth €45m (Förster, 2018). Since then, it has operated on a self-funding basis in buying, developing and reselling land. It sells land to affordable housing providers at a price that it is sufficient to cover its costs, yet is low enough to underpin housing that is affordable. The fund does not have any special legal rights in buying land. However, it does have a monopoly position in buying land in some housing areas. It buys land in designated housing areas. For the most part, it is not in competition with privately financed developers, who mainly buy land in high-prestige areas for upmarket housing. This reflects the fact that the subsidised housing providers serve a large proportion of the housing market, including middle-class tenants (Förster, personal communication).

Since its establishment, the Housing Fund has provided land for more than 51,000 apartments. In addition, the renovation of more than 150,000 dwellings has been subsidised, including energy efficiency improvements (Förster, undated-a).

On larger sites, the Housing Fund organises developer competitions, open to both limited-profit housing associations and commercial developers. The winning proposers get to buy the land at a moderate cost and receive a low-interest loan that covers 35 to 40 per cent of the project costs (Holeywell, 2013). The Housing Fund benefits from exemption from tax, on the condition that its profits are limited to 4 per cent (Förster, personal communication).

Chapter 5
Locational Value Mechanisms and the Funding of Urban Transport Infrastructure

5.1 Introduction

This chapter describes international experience of using locational value mechanisms to support the funding of strategic public transport infrastructure in urbanised locations. It provides an overview of the rationale for investment in public transport and the means of garnering some of the increased location value to help fund this investment and, indeed, wider investment in sustainable urban development and affordable housing. It also provides a detailed account of the interesting recent approach of Transport for London (TfL). The closing section provides some conclusions.

5.2 Public Transport Infrastructure and Value Creation

Investment in quality public transport infrastructure can generate a range of benefits for diverse sets of stakeholders: public transport users; businesses and employees; commercial and residential property owners; developers; the general public, and government. These benefits include increases in the value of commercial and residential properties and land; increased private investment and development, and the unlocking of land for new housing and affordable housing. Investment in public transport can also enhance labour-market access, productivity, commercial activity and employment.[10] Where investment in public transport facilitates a shift away from car usage, there are also environmental benefits. The generation of these benefits is enhanced when public transport investment is part of a broader suite of policies designed to foster place-based economic and social regeneration.

A range of policy instruments have been developed to collect a proportion of the enhanced locational value associated with increased investment. These can be

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[10] For example, see Cox & Davies, 2014; MIER, 2009; Rosewell & Venables, 2014; Venables, 2015; Vickerman, 2008; Volterra Partners, 2014.

placed in two general categories: tax or fee-based instruments, and development-based value-capture mechanisms (Table 5.1).

Table 5.1: Location Value Capture Policy Instruments

Tax or Fee-Based	Development-Based Value Capture
Tax Increment Financing (TIF): This mechanism allocates any increases in total property tax revenues, above an agreed baseline, to public transport investment within a designated TIF zone.	**Direct Public or Joint Development:** Government/public body owns or acquires land and either undertakes development or partners with the private sector to do so. Revenue from the real-estate development contributes to the funding of transport infrastructure.
Land Value Tax/Location Benefit Levy: Tax on the (rental) value of land/commercial buildings in the vicinity of a public transport amenity. This tax/levy is distinct from a conventional property tax.	**Sale or Lease of Land:** Government/public body sells or leases to developers land of which the value has increased relative to the initial public acquisition price as a result of public investment and/or regulatory change, in return for an upfront payment, leasehold charge or annual land-rent payment.
Income or Payroll Tax: Income earners or employers in the region served by the new transport infrastructure pay an extra increment of income or payroll tax that is allocated to the public transport body.	**Sale or Lease of Development Rights or Air Rights:** Similar to Sale or Lease of Land, but in this instance it is air or development rights that are sold or leased. The added value from the new public transport system is capitalised into the sale or lease price.
Special Assessment Districts: Areas benefiting from improvements in public transport self-impose an additional tax to help finance the said infrastructure improvements. Common in the US, special assessment districts are generally subject to a vote by the group who will pay the tax.	**Land Readjustment:** Landowners pool their land and contribute a portion of their land for sale to raise funds and partially defray public infrastructure development costs that will have raised the value of the land in question.
Sales Tax Levy: Increases to existing or new retail sales taxes are allocated to the funding of a particular transport project.	**Transport Company Business Diversification:** The Transport Agency diversifies its business model to generate additional revenue to fund the core business of transport provision.
Transport-focused Development Fees: Developers in the vicinity of a new public transport investment pay extra fees for new building projects.	**Rezoning:** Changes in land-use policy allow commercial and/or residential development. This will often include enabling higher-density housing development.
User Fees: The users of public transport services pay an additional fee for the new and/or improved services.	**Leasing of Commercial Space:** The public transport agency retains ownership of the commercial space in and around stations and leases it out to businesses at market prices.

The additional revenue generated by these policy mechanisms is often reinvested in public infrastructure, as opposed to being consumed within the general tax-take. In general, these instruments tend to be used as part of a package of measures designed to contribute to infrastructure investment, rather than just one policy instrument being chosen. The London case (below) provides an illustration.

The finance associated with these instruments can provide a new funding source for capital investment. The increasing demand for quality urban transport, the enormous cost of major transport infrastructure, and constraints on central public expenditure mean that such new sources of funding are needed. Locational value mechanisms have enabled national and sub-national governments to deliver new infrastructure which they would not otherwise be able to fund, or to bring forward planned infrastructure projects ahead of time.

More generally, incorporating locational value mechanisms into public transport projects can also encourage greater discipline in project selection and a stronger developmental ethos, and facilitate the integration of land use and transport planning. For example, the Australian Government (2016) argued that the need to focus on leveraging alternative funding sources tends to enhance the technical design, scope and policy ambition of projects.

The use of locational value mechanisms can also facilitate the emergence of a more developmental approach to transport infrastructure. Rather than seeking to address narrowly defined problems—such as alleviating congestion or improving travel times—the focus shifts to how investment in transport can contribute to economic growth, competitiveness and sustainable urban (re)development (Australian Government, 2016; Knowles, 2012; National Bank, 2014; Suzuki *et al.*, 2015). This approach to 'transit-orientated development' is increasingly seen as a means of facilitating sustainable urban development (Cervero & Murakami, 2004; Falk, 2017; Hall, 2014; Woetzel, 2014).

5.3 Transport for London: An Evolving Approach to Location-Based Value Mechanisms

London requires a sustained programme of investment in public transport upgrades and extensions if it is to address the growing pressure on transport capacity, housing supply and affordability, and to drive continued economic and employment growth in the capital (Crossrail 2 Growth Commission, 2016; GLA, 2017; TfL, 2017).

Consequently, a new, stable and more sustainable approach to funding public transport is required (GLA, 2017). The adoption of a range of locational value mechanisms, along with the acquisition of greater fiscal autonomy and road-user charging, are now considered by the city's mayor and the Greater London Authority as essential (GLA, 2017; TfL, 2017). Indeed, the approach to these issues has evolved to incorporate a stronger focus on urban development, property and affordable housing.

This section outlines three features of the evolving approach led by TfL:

- alternative ways of funding and financing;
- transition to property development and affordable housing; and
- organisational and institutional factors.

5.3.1 Alternative Ways of Funding and Financing Infrastructure

In the period since 2010, TfL has displayed increased willingness to embrace new ways of financing and funding strategic infrastructure, using various locational value mechanisms.

In 2010, a number of initiatives were introduced to support the funding of the £15bn Crossrail 1 project:

- The Business Rate Supplement (BRS), levied on all commercial businesses that rent for more than £55,000 in the GLA.[11] By early 2017, approximately £1.6bn in revenue had been generated by the BRS. It is estimated that, when the BRS concludes (in 2033-34), it will have contributed £4.1bn, which is around 27 per cent of the total project budget.
- The Mayoral Community Infrastructure Levy (MCIL) and Section 106 agreements. Combined, these are expected to generate £600m (4 per cent of the total budget).
- Property Development Projects: TfL aims to raise £500m from 12 Property Development Projects over and around Crossrail's central London stations.

In 2017, TfL produced a new study titled *Land Value Capture*. It argues that, since public transport generates significant positive externalities, it is not fair or feasible that all the burden of funding should fall on commuters and/or the general tax system. Furthermore, given the combination of reduced levels of central government funding and the growing costs of meeting London's future transport needs, TfL suggests that land-value capture mechanisms must be a core element in the funding of necessary maintenance, upgrades and line extensions. In that report, in addition to those listed above, it proposed the following measures:

- zonal assignment of growth in Stamp Duty Land Tax;[12]

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11 In 2017, the Mayor of London approved that the rateable value threshold above which the BRS should apply should be increased from £55,000 to £70,000.

12 This is the term used for stamp duty in England and Northern Ireland.

- full zonal retention of business rates; and
- a new land-value capture charge.

The proposed new land-value capture charge would be a focused tax on residential property in areas benefiting from new transport facilities. It would be based on the increase in property value in the area concerned relative to property values in a wider control area. It was also proposed to apply a similar charge on tenants, though only to new residents (purchasers or tenants).

In addition, TfL proposed a Development Rights Auction Model (DRAM). This requires the relevant transit authority, working with urban planners, to draw up an integrated development plan in a defined zone around a major transport facility. Within this zone, the planning and consenting of land use, density and transport investment are fully integrated. The next step envisaged in the model is a periodic development rights auction. It is proposed that development rights on land voluntarily put forward by landowners be auctioned in assembled packages to a competitive field. Non-operational, but developable, publicly-owned land would also be entered into the auction as part of standard public-sector pooling arrangements. Financial gains above a reserve price for the larger site of packaged land are then shared between the landowners and auctioneering authority, most likely on a 60:40 basis. No development taxes (Community Infrastructure Levy (CIL) or Section 106) are payable by those participating in this scheme. If landowners decide not to participate, they have the choice of self-developing or not developing. In the former instance, they will be liable to a higher CIL. It is proposed that the proceeds from the auction and the CIL would be used to fund infrastructure costs and affordable housing within the designated zone. Developers who are successful in the auction would immediately be assigned development rights that enable them to develop in line with the development.

The proposed DRAM creates some pressure on landowners to participate (higher CIL), but otherwise it is voluntary. Where landowners hold out, the TfL report suggests that a combination of measures could help mitigate, if not fully remove, the hold-out problem. These include: early engagement and consultation with landowners regarding the zonal plan; financial incentives to co-operate; the imposition of higher levies for self-development; and a credible threat of compulsory purchase.

TfL research suggests that the application of DRAM to a small number of appropriate projects, currently in the pipeline, could generate around £3bn in land-value capture to support infrastructure and affordable housing. As part of a new memorandum of understanding on further devolution of powers to the GLA, signed in March 2017, a joint taskforce involving TfL has been established to explore the options for piloting a DRAM on a major infrastructure project in London.

The model has a number of potential benefits. First, it could provide upfront revenue without having to undertake expensive land acquisition. Second, the integration of planning, consenting of land use and density rules with transport investment would facilitate a focus on smart transit-orientated development within the designated zone. Indeed, these policies are designed to maximise development (and value creation) within the designated zone, thus benefiting landowners, the transit authority and developers. For landowners, the advantages of the DRAM are that participation is voluntary. They retain most of the uplift in land value and have the opportunity through land pooling to maximise the value of their land by making it part of a larger development project that has planning permission. Finally, developers who are not landowners do not have to engage in pre-planning speculative land purchase. In addition, if successful in the auction, they have full planning rights to invest in accordance with a development-focused Zonal Plan.

5.3.2 Transition to Property Development and Affordable Housing

In 2016, TfL initiated a 10-year Property Development Programme. It aims to generate approximately £900m in net revenue by 2021-22. This is to fund reinvestment in transport infrastructure, which will help improve the physical quality of transport hubs and the associated public realm.

The programme will use a proportion of TFL's 5,700 acres of land and properties. It will generate a long-term development pipeline, with the aim of delivering around 10,000 homes, 50 per cent of which will be affordable, by 2021. These targets are set at programme level, which means that there can be some variation across sites and projects. This portfolio approach enables TfL to meet its income targets by prioritising financial returns on certain high-potential sites.

A 75-strong property development team has been established to manage and deliver this programme. This provides TfL with strong capabilities in key areas such as real estate and urban development. The new team was recruited from leading private-sector development companies and consultancies. It is assisted by internal expertise in the areas of engineering, finance, procurement, planning and communications support. A non-executive advisory committee—comprising leading individuals from the private sector with extensive experience and expertise in urban property development—was also established. This has been important in both providing advice and building the reputation of TfL as a key player in the development market.

Over the course of 2016 and 2017, TfL brought a number of sites to the market that will ultimately provide approximately 1,000 homes, with an expectation that half of these will be affordable. TfL has established a Property Partnership Framework with 13 leading developers. This provides it with an opportunity to foster long-standing, strategic relationships with developers who have extensive experience of urban real estate and commercial development. An early example of its work with developers is the decision in March 2017 to select Triangle London Developments—a consortium of the developer U&I and the housing association Notting Hill—to build 400 homes, develop commercial, retail and office space, and provide an improved transport hub and new village square at Kidbrooke in Greenwich. This four-acre site was awarded using the TfL's Property Partnership Framework and a joint-venture partnership was being established to deliver the project. This site, which had been vacant for eight years, benefits from its proximity to the Zone 3 Kidbrooke national rail station and Henley Cross bus station. TfL has also begun to release a number of small sites that are targeted at SME builders rather than larger development consortia. Indeed, two of these have been released as community land trusts.

TfL sites are usually located near town centres, and the organisation believes it is critical that it create attractive, well-designed and sustainable places. This includes meeting ambitious low-carbon, energy efficiency and sustainability standards agreed with the GLA. It is also developing a new strategy to improve the digital connectivity of future development sites.

In seeking to meet targets for both housing and capital return, TfL's development strategy is based on retaining ownership of land, building a mix of affordable and market-priced homes, and developing commercial and retail space. Most of the additional revenue it hopes to generate is expected to come from the rental income from residential and commercial property development.

As noted in the previous section, the organisation is also working with private and public owners of land in what are termed Property Development Projects. These are focused on sites with the potential to develop around 3m sq. ft. of high-quality office, retail and residential developments over and around TfL's central London stations. A team within TfL is working with developers to identify ways of maximising the development potential of sites and deliver mutual gains for all parties involved.

Finally, it is important to note that TfL's current value-creation and urban development strategy is not premised on changes in compulsory purchase powers, but works within the existing statutory framework. However, the Crossrail 2 Growth Commission has highlighted the key role that land assembly has to play in unlocking land for housing. It has called for both greater use of existing powers of acquisition and strengthening of Crossrail 2's powers under compulsory purchase legislation. This would enable the assembly of land beyond that required for delivering infrastructure works. The National Infrastructure Commission (2017) has also made the case for strengthening and streamlining mechanisms for compulsory purchase in order to accelerate and reduce the cost of land assembly. For its part, TfL has called on the UK Government to make the process of acquiring land through compulsory acquisition more transparent.

5.3.3 Organisational and Institutional Factors

A number of organisational and institutional factors underpinned TfL's adoption of an ambitious developmental mandate. Institutional culture and mandate are crucial in determining the willingness and capacity of transit authorities to embrace alternative funding models and adopt a more proactive approach to creating value and urban place-making (Salon, 2014; Salon *et al.*, 2017). Salon notes that it is common to find public transport bodies that are heavily reliant on a combination of state funding and fare-box revenue, and also have a narrow service-orientated mandate.

A change in organisational culture, and the adoption of a more developmental and ambitious mandate, have been key to TfL's willingness and capacity to adopt a new value-creation and place-making strategy. However, the shift was also influenced by the growing constraints on central government funding and the pressures this created for TfL. The use of new locational value mechanisms to fund Crossrail signalled a new era for TfL in its engagement with alternative means of funding and with a wider array of stakeholders. The funding mechanisms worked, but there was also the sense of a missed opportunity, given the expected scale of private-sector development and property/land-value uplift associated with such a major infrastructural investment. This prompted TfL and Crossrail Ltd 2 to consider, and begin to put in place, mechanisms that would generate even more income for the Crossrail 2 project.

A further evolution in TfL's organisational culture was its fundamental reimagining of the role and potential of its surplus land sites. These came to be seen as both potential sources of long-term revenue for the organisation and as a foundation for developing sustainable high-quality urban neighbourhoods. Despite the funding challenge, it was not inevitable that this reimagining would occur. TfL could have continued with a policy of disposing of such assets on a case-by-case basis to raise short-term capital. The new approach emerged because key individuals in the organisation authorised support for a greater focus on both commercial development and housing provision. The operational/service divisions of TfL, with responsibility for underground and surface transport, had to be convinced that the new approach to the commercial development of surplus sites would help to generate long-term income that could be reinvested in transport infrastructure.

This change in organisational culture has also underpinned the emergence of a more ambitious developmental mandate that combines value creation with the development of sustainable urban communities. The London Mayor's target of 50 per cent affordable housing on publicly-owned land clearly reinforced the need for TfL to be ambitious and innovative in how it developed its surplus sites. While the ambitious affordability targets were set by the mayor, it was TfL's own decision to embrace a broader mandate. This was stimulated by internal debate and deliberation, rather than any statutory or legislative change. Indeed, in seeking to deliver its ambitious programme, TfL recognised the need to engage with other key public organisations, with a view to encouraging a similar change in their organisational culture.

It is important to note that TfL was also given the authority to develop locational value mechanisms and adopt a more developmental strategy (Salon, 2014). TfL is part of the Greater London Authority (GLA) and is chaired by the Mayor of London. It is responsible for enacting the mayor's transport strategy and managing most of London's integrated multi-modal transport system. This not only enables planning and investment at a city-region scale, but also gives the organisation strategic influence on transport investment across all authorities in Greater London (Wilcox & Nohrová, 2014). The GLA had the power to introduce a BRS. The mayor has the political authority to adopt a mayoral CIL and to allow TfL to adopt a portfolio approach rather than seek to maximise the commercial return on each individual site. Furthermore, a key objective of TfL's Property Development Programme (PDP) is to deliver the mayor's commitments in relation to affordable housing. The close relationship between TfL's PDP and the GLA has been a pivotal factor in the success of the organisation's approach. This supportive institutional context not only enhances TfL's authority as a transport agency, but also ensures that it can harness both political support and sources of additional revenue to implement its ambitious transport and place-making strategy.

Finally, TfL's place-making and development activities are underpinned by a commitment to fostering long-term, collaborative and proactive relationships. These deliver mutual benefits for both public and private actors. Its Property Partnership Framework has led to the establishment of a number of project-specific, joint-venture partnerships. In designing and developing these types of projects, TfL works closely with local communities, borough councils, the mayor's Design Advocates[13] and other stakeholders. The need to foster local community support for such projects is recognised as particularly important. In addition, the Property Development Team's close and effective relationship with the GLA is considered to have been pivotal in the organisation being able to develop a strategy capable of delivering 50 per cent affordable housing to date. The Property Development Projects associated with Crossrail 2 involve working with public and private owners of land to ensure that these stakeholders also embrace TfL's value-creation and place-making strategy. This is a major challenge, which involves convincing private actors of the benefits of cooperating with TfL in pursuing development activity.

5.4 Conclusions

This review of international experience indicates that locational value mechanisms are not only an effective way of financing transport infrastructure, but can also be an effective urban policy and planning instrument to promote economic competitiveness and improve access to housing (Suzuki *et al.*, 2015).

A range of instruments can be used to support investment in transport and wider investment in affordable housing. These include tax or fee-based instruments such as: tax increment financing, land value tax/location benefit levy, income or payroll tax, special assessment districts, sales tax levy, transport-focused development fees and user fees. They also include a second category, development-based value-capture mechanisms, such as direct public or joint development, sale or lease of land, development rights or air rights, land readjustment, transport company diversification, rezoning and leasing of commercial space. The TfL case illustrates that these are most effective when seen as part of a suite of measures.

[13] Fifty Design Advocates (leading architects and designers) were named by London Mayor Sadiq Khan to work with City Hall and London boroughs to drive forward his Good Growth by Design programme.

Institutions with the authority, capacity and willingness to embrace a more innovative and sophisticated approach to funding transport infrastructure are critical. The London case, as well as other international examples (Salon, 2014; Salon *et al.*, 2017), demonstrate that a crisis in transport financing can serve as a catalyst for new approaches to funding (TfL, 2017; Salon *et al.*, 2017; Schlickman *et al.*, 2016). It is now accepted by key stakeholders in London that the adoption of a range of locational value mechanisms, along with the acquisition of greater fiscal autonomy and road-user charging, are essential in ensuring the delivery of a more efficient and fair funding system for London's transport infrastructure and services (GLA, 2017; TfL, 2017). This reflects the commitment of both the GLA and TfL to an ambitious transport strategy. Without this commitment, TfL could have responded to the reduction in grant funding by scaling back on services or focusing on maintaining a 'steady state' system.

Instead, in TfL the organisational culture changed. This was supported by political authority afforded to the organisation by the GLA and the mayor. The change was driven from inside the organisation, with the initial appointment of staff to a small team. That team now has almost 70 people with critical skills in areas such as real estate and urban development. This investment has been key to the organisation exceeding its targets for both affordable housing and financial returns. The TfL case confirms other international research which shows that a lack of expertise in the area of private real-estate development is a major barrier to transit agencies adopting joint development mechanisms to support capital funding (Salon *et al.*, 2017).

TfL is working in innovative and collaborative ways with public and private stakeholders and land owners. This includes the Property Partnership Framework and emerging Property Development Projects associated with Crossrail 2. If applied in Ireland, the DRAM being explored in London could have a number of benefits for Irish transit authorities. Its potential should be examined further by Irish policy-makers.

Finally, the story encapsulates the emergence of a more developmental approach to transport investment. For example, Crossrail 2 is now seen as an integrated and transformative transport and land-use project that aims to enhance accessibility, reduce congestion, stimulate economic development and dramatically increase the supply of housing. In seeking to deliver this mega-infrastructure project, and achieve the policy goals noted above, a range of policy instruments are now being considered.

Chapter 6
Applying the Lessons of International Experience to Ireland

The comparative review of international practice has highlighted core policy lessons or principles that both government and non-government actors in Ireland need to embrace in order to adequately address the housing crisis and the transport infrastructure funding challenge.

Drawing on this analysis, and the evidence presented at the expert workshop held in February, the Council makes the following recommendations.

Recommendation 1: Ireland must change its *system* of urban development, land management and housing provision.

Recommendation 2: Build affordability into policies that are designed to increase the supply of housing, starting with land and cost rental.

Recommendation 3: Give public institutions a strong developmental mandate, political authorisation and executive capacity to drive sustainable urban development.

Recommendation 4: Use publicly-owned land to increase the supply of housing, ensure affordability and create quality residential developments.

Recommendation 5: Work with private holders of urban development land to ensure the delivery of affordable housing and sustainable urban development.

Recommendation 6: Use the potential of locational value creation and sharing to help fund strategic infrastructure, particularly public transport infrastructure.

Recommendation 7: Adopt an ambitious national programme of specific, understandable and socially accepted flagship projects.

Recommendation 1: Change the *system* of urban development, land management and housing provision

Ireland must now change its overall system of urban development, land management and housing provision. The dramatic experience of boom, bust and prolonged stasis makes it clear that the problem is largely systemic. It is a mistake to see the current crisis as entirely a legacy of the crash, which, as it fades, will yield a return to 'normality'. It was normality that gave rise to the boom and bust, and now has the system locked in check. It is the system that shapes the interaction of the different elements and actors. As a result, dysfunctional patterns, interactions and outcomes are hard-wired into our system of urban development, land use and housing.

Without a change in the system, we are condemned to an endless sequence of isolated measures that seek to generate a little more viability, a slight reduction in risk, a marginal increase in supply, a slightly higher share of affordable housing and a minor shift from greenfield to brownfield development. We have been taking such isolated measures for long enough to learn that they are not working. As the Council noted in 2015, this frequently involves *one* problem—be it the planning process, standards, costs, finance or land hoarding—being described as *the* problem, and one marginal action advanced as *the* solution (NESC, 2015b). Indeed, sometimes one policy initiative cancels out the effect of others. Besides not working, the focus on a succession of discrete issues both creates and reinforces the game of 'pass the parcel', in which blame is passed between government, local authorities, landholders, developers, builders, and even the homeless. As the quote from Evans in Chapter 2 makes clear, it is illogical to blame various actors for exercising what power they have, 'rather than examining the workings of the system which gives them this power' (Evans, 2004: 175).

Of course, systemic change results from a set of individual actions and reforms. We outline the main lines of reform below. These differ from the succession of marginal measures in being based on a coherent, evidenced-based view of what an effective system of urban development, land management and housing affordability looks like. The process of reform will involve many specific actions, some of which have not yet been identified. The guiding criterion must be whether those actions move us towards a more effective system.

The National Planning Framework (NPF) and the National Development Plan (NDP) set out clear and inspiring principles and goals concerning spatial development, land use, housing, protecting biodiversity and well-being. The NPF emphasises making better use of under-used land and buildings, including infill and brownfield sites as well as vacant and under-occupied buildings. Under the Irish Human Rights and Equality Commission Act 2014 there is a duty on the public sector 'to take proactive steps to eliminate discrimination, promote equality and protect human rights of people who use their services, people affected by their policies and people employed in the organisation'. The Council believes that, to achieve these goals, we need to change the system of urban development, land management and housing provision. But the adoption of the NPF and NDP also creates the perfect moment, and probably the last chance, to start the transition to a better system.

Recommendation 2: Build affordability into policies that are designed to increase the supply of housing, starting with land and cost rental

Ireland is in the midst of a housing crisis. To address it, we have to figure out how to provide affordable rental and/or owner-occupied housing for a growing proportion of the population.[14] International experience suggests that cost rental is the most effective and fiscally sustainable way of achieving permanent affordability. It uses modest supply-side supports, such as land and finance at favourable rates, to underpin affordability; and it makes this permanent by ensuring that rents cover costs and that the equity that accrues as loans are repaid creates a revolving fund, used in the service of further affordable housing (as outlined in the Council's 2014 report *Social Housing at the Crossroads: Possibilities for Investment, Provision and Cost Rental*). Cost rental makes rental a realistic and secure long-term option, quite different from the current Irish system (as explained in the Council's 2015 report *Ireland's Private Rental Sector: Pathways to Secure Occupancy and Affordable Supply*). It also avoids the creation of segregated social housing occupied only by those on low incomes and dependent on welfare.

The affordability must be built into policies that are designed to increase the supply of housing, both for renting and owner-occupation. In housing studies and housing policy, the internationally accepted definition of affordability is housing that costs no more than 30 to 40 per cent of household income (NESC, 2015a). While an increase in the supply of housing can have a limited effect in reducing its market price, the nature of housing markets, land markets, credit markets and urban development mean that this is not in itself a reliable or sustainable means of achieving housing affordability.

The countries reviewed engineer affordability into the supply of housing through systems of land management, cost rental and social housing. The review also emphasises an important role for locational value-creation instruments in underpinning sustainable urban development and affordability.

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[14] In its 2015 report, *Housing Supply and Land: Driving Public Action for the Common Good*, the Council discussed the changing balance between homeownership and rental. This highlighted the significant attractions of home ownership and the challenges involved in crating affordability in each tenure.

Recommendation 3: Give public institutions a strong developmental mandate, political authorisation and executive capacity to drive sustainable urban development

Achieving the ambitious goals of Project Ireland 2040 will require a fundamentally new approach to relationships between housing, transport and urban development. In particular, there is a need for public institutions with a strong developmental mandate that have the political authorisation and executive capacity to take action and drive sustainable urban development. It will be critical that the design of ambitious new strategies and policy innovations, and the necessary increased emphasis on public and private collaboration, be combined with the establishment of authoritative public development institutions. Otherwise, there will remain a gap between knowledge, plans and insights, on the one hand, and, on the other, the authority and capacity to take action that can make a real difference to housing, transport and urban development.

The NPF announced the establishment of a National Regeneration and Development Agency (NRDA) to work with local authorities, government departments and other public bodies to co-ordinate and secure the best use of public lands and infrastructure and to drive the renewal of strategic areas. This is an important policy development and the Council strongly supports it. It is critical that such a public body promote urban development, through master planning and other measures. Additionally, it should embed permanently affordable housing in its strategic objectives and actions.

The characteristics that are likely to make for an effective agency include:

- a clearly defined mandate to supply serviced land for permanent affordable housing and public services such as schools;

- an adequate level of capital and ability to raise finance;

- co-ordination with other institutions providing infrastructure, particularly transport infrastructure;

- a sufficient number of highly skilled staff with both public-sector and private-market expertise;

- operational independence and autonomy—including the capacity to establish new development institutions in particular areas—along with effective arrangements for accountability;

- the ability to partner with and advise existing public bodies to use their power and resources to establish new development institutions to drive development in specific locations (see, for example, Limerick 2030);

- that it starts by leveraging land in public ownership, and that, over time, it continues its work by acquiring private land where possible; and
- that it works closely with place-based development institutions to deliver major projects.

Achieving tangible progress with regard to housing and active land management will require creative thinking, a multi-dimensional approach and intensive and ongoing collaborative action between public and private sector actors.

In his study of successful urban developments in European countries, Hall emphasised the central role of authoritative public agencies taking the lead in this process:[15]

> Whether the precise agent is the city planning department (as in Stockholm or Freiburg) or a dedicated public agency (as in Hamburg Leipzig or the Dutch VINEX developments), the key to success is a well-staffed and well-led planning office with a dedication to the task and the professional competence to draw up master plans and engage in complex arrangements for implementation with the private sector and with community groups. In every successful case, the detailed case studies show that from the start the public agency took the lead: it drew up a master plan, usually in considerable detail as to the layout of streets and buildings and open spaces—even down to the detailed height and massing of individual blocks—before inviting private or communal agencies to make their proposals for detailed development of individual elements (Hall, 2014: 305).

While this process is led by a public agency, it involves deep and ongoing engagement with both private actors and communities.

As outlined in Chapter 5, the establishment of new development institutions in London—with the powers to combine land-use planning, land assembly, consenting and new forms of financing—is key to ensuring that Crossrail 2 is able to deliver a substantial increase in housing supply (Crossrail 2 Growth Commission, 2016; National Infrastructure Commission, 2016). However, there is also scope for existing institutions to re-examine their mandates and organisational assets to see how they can be more innovatively used to support the achievement of strategic policy goals.

In moving to a new Irish system of urban development, land management and housing provision, there are number of other institutional possibilities that will soon need to be considered. Beyond the establishment of the NRDA, it may be necessary to create new entities at municipal level, or other spatial scales. In the case of the

[15] In its 2015 report, *Housing Supply and Land: Driving Public Action for the Common Good*, the Council recommended that the public system use its authority, capacities and resources to take the lead in the resumption of housing supply (NESC, 2015b).

Netherlands, the role of public land development is undertaken by either the municipality or a municipal development company.

Recommendation 4: Use publicly-owned land to increase the supply of housing, ensure affordability and create quality residential developments

The most immediate resource available to the State is land in public ownership. A large amount of state-owned land, amounting to 1,900 hectares, has been identified as suited to housing, with a potential to provide at least 50,000 housing units.[16] Indeed, that is not the full extent of state land potentially available. The NPF points out that many areas of our cities, town and villages contain land and buildings not developed or being used to their full potential and that a substantial proportion of these lands is in public ownership. These include large city-centre areas that were former docks or rail depots, and other large areas in key locations (including the city centres of Cork, Galway, Limerick and Waterford) and along new public transport corridors opened up by infrastructure projects such as the Luas Cross-City line in Dublin.

Effective international approaches and Irish experience suggest that, in using state land for housing and related infrastructure, there are a number of guiding principles and objectives.

First, it is vital that the land be put in the hands of actors who will develop it in a timely and appropriate manner, rather than seeking to maximise state revenue by selling it outright, without regard to when and how the land will be developed. This would constitute a change from the approach adopted by many public bodies, including NAMA. As well as direct use, state-owned land should be used to provide opportunities for a range of actors with the capacity to build appropriate housing, but who may not have the capital to meet the upfront cost of land purchase, including approved housing bodies (AHBs), community land trusts and other co-operative groups, developers and individuals (self-build).

Second, public land should be used to create permanent housing affordability. This can be achieved through cost rental, social housing and affordable housing for purchase, subject to conditions that ensure permanence.

Third, in the case of significant public sites, the area should be master-planned before the public authorities enter partnership or other arrangements with development entities.

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[16] This consists of 1,700 hectares owned by local authorities and the Housing Agency and 200 hectares in the ownership of other state and semi-state bodies.

Fourth, in a context of fiscal constraints on capital investment, the opportunity should be taken to lead urban development in a way that creates locational value and garners a share of this to support the cost of investment in infrastructure. This could include long-term leasing or licensing arrangements through which payment for the land is partly met through revenue-sharing when the developed properties are sold.

Fifth, development on public land should deliver a step-change in the environmental sustainability of Irish urban areas.

The preparation of land for development can be used as a way of recovering the costs of infrastructure investment on state-owned land. By undertaking investment—such as Local Infrastructure Housing Activation Fund (LIHAF) funding or larger-scale public transport investment—before disposing of land, it is possible to lease, or in some cases sell, serviced land for housing, thereby recovering the cost of this investment.[17]

Arrangements for deferred payment for land would facilitate participation by those with development, design and building skills, but who have limited equity for land purchase. This would support stronger competition in building and design. This can be achieved by long-term leasing, where the public body retains landownership in the long term, or by licensing of builders. The way in which long-term leasing could work is explained further below.

In the case of a large area of public land that requires major investment in infrastructure over several years, the early sale of the land is not the most effective way to help with either paying for the infrastructure investment or providing affordable housing. As the development proceeds and the investment in infrastructure takes place, land values can be expected to rise substantially. If the land is sold or leased as the development progresses, the increase in the land value can be used to fund infrastructure.

The appropriate mix of housing on public land will vary by area. In the allocation of publicly-owned land, a first priority should be to ensure sufficient land for social housing. A substantial volume of public land will be needed to deliver the social housing targets set out in current policy (Government of Ireland, undated). A second priority should be to provide land for cost or affordable rental for intermediate households.[18] The combination of social and cost rental within one development would generate mixed-income housing. In the current Irish context, AHBs cannot compete in the private land market. A multi-annual release of land for

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17 With leasing, the value is recovered over time. In the case of Amsterdam, a dedicated leasing body raises finance and buys the land from another part of the municipality. This enables the land development costs to be recovered in a reasonably short period, while the leasing entity receives land rents over time and benefits from further land value capture from future increases in lease payments.

18 Intermediate households are those that struggle in the private rental sector and the market for homeownership, but may not be eligible for social housing or, even if they are eligible, are unlikely to be allocated any, given its scarcity.

AHBs would support the development of their social housing output as well as cost or affordable rental housing. This requires adoption of a policy for permanent affordable rental. The emergence and eventual dominance of cost rental housing providers in Austria has been supported (among other measures) with public land.

Where provision of owner-occupied housing is envisaged on land currently in public ownership, this should also be done in a way that promotes affordability on an ongoing basis. If land is provided at a discount, this should be passed on to the house purchaser and subsequent purchasers; i.e. the goal should be permanent affordability.

There are a number of ways of supporting the achievement of the objectives outlined above, both in the short and long term. One is long-term leasing of publicly-owned land. With long-term leasing, the local authority or other public body would own the freehold interest in the long term, and lease the land to others who could develop and own buildings on it. Leasing of land reduces the capital initially required by developers as well as the initial purchase price.[19] The occupier would own the dwelling, but ownership of the land would remain with the local authority. In areas where land costs are high, this approach means that the initial house price can be much lower than in a conventional purchase. The resident would pay ground rent to the council and the price of the dwelling is controlled when it is sold, so that it is also affordable to the next purchaser. Rental housing and, indeed, other types of building could also be done on this basis. With this model, the public owner benefits from land value uplift in both the short and long term. Land is permanently removed from speculative forces. This is the model used by community land trusts, whereby the ownership of the land is vested in a trust, with individuals and organisations owning the buildings.

Sometimes, the level of debt tied to the land bought in earlier years by local authorities is an obstacle to using it for social or affordable housing. In these circumstances, there is a case for central government help in clearing the debt.[20]

Publicly owned sites now have a central role in addressing the housing crisis and starting the transition to a new system of active land management and urban development. There is an element of trade-off between two important policy goals: making housing affordable, and capturing land value to support the funding of infrastructure. For example, if land is provided free of charge, say to a non-profit housing entity, this maximises the initial impact on affordability but value is not captured to help pay for infrastructure or to recoup the cost of land acquisition. However, it is possible and desirable to pursue both goals and, viewed from a

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19 The lower purchase price may be offset by ongoing land rental payments. However, there is still the benefit of a lower entry cost and hence a lower deposit is required. In addition, if a discount is given in the land price to boost affordability, leasing can be used to ensure that this discount is preserved for future buyers.

20 The repayment of an existing government debt is deemed a ‘financial transaction’ in terms of Eurostat classifications and does not affect the annual room for manoeuvre in budgetary decisions; i.e. it does not use fiscal space. The proceeds from privatisation revenue could be used for this purpose.

longer-term perspective, they are complementary. When costs are recovered and reinvested in further land acquisition and development, it is possible to have a continuing impact on housing supply and affordability. The Housing Fund in Vienna is an example of an agency that is able to supply land for affordable housing at prices that are affordable for not-for-profit housing providers, while at the same time covering the fund's cost of land (see Chapter 4).

Recommendation 5: Work with private holders of urban development land to ensure the delivery of affordable housing and sustainable urban development

As well as creating a new approach to the use of public land, it is important to change the way in which urban development land in private ownership is used to deliver development and housing. Indeed, most land with the potential for development is in private ownership. The main lesson from international practice is that effective approaches:

i. typically involve close collaboration between public urban development bodies, private owners of land and development enterprises, and not-for-profit housing entities;

ii. depend on the existence of highly skilled and respected public agencies capable of managing land and infrastructure investment, and

iii. require incentivisation of real engagement between the public and private actors, which depends on framework conditions, in particular the status of the public bodies, their planning powers and a credible system of compulsory purchase at below full development value, to be used as a last resort and under judicial supervision.

The task is to work out how to apply these lessons in Ireland.

To begin, it is important to see that current arrangements with respect to urban development land in private ownership are not sufficient. A new levy on vacant land will soon come into effect. This creates some pressure to develop land. But it is unlikely to fully resolve the issue—either in terms of supply or the high share of land costs per housing unit. In addition, it is sometimes suggested that planning permissions be made on the basis of 'use it or lose it'. Planning permissions are currently subject to time limits, but these can generally be extended. A strict application of a 'use it or lose it' approach is unlikely to provide a satisfactory solution. First, it would only apply where planning permission had been granted, and thus would not address other land. Second, assuming the land for which permission has been granted is suited for development, it would be a bad outcome from a societal perspective were such planning permissions to be revoked. Indeed, in the context of Ireland's current housing crisis, the threat implicit in 'use it or lose it' would itself lose credibility and, therefore, effectiveness.

Consequently, it is necessary to create the conditions and institutions for more active land management and new kinds of relationships between public authorities, private holders of development land and development actors. The forthcoming establishment of a new agency, the NRDA (discussed above) is an important step in the right direction. Whether further institutional reform or creation is necessary at municipal level is a question for later consideration.

As regards the NRDA, it is vital to recognise that this can, and should, go well beyond simply bringing more publicly-owned land into housing provision—although that is important. It also has the potential to change the relationship between public bodies and private landowners. Indeed, as in other countries, a key function of the new agency should be to work with the owners of private land. There are a number of mechanisms and models to ensure more effective relationships between the public and private actors:

- As shown in the case of Transport for London, the public agency's ownership of land should give it significant influence with owners of contiguous land. It should use this, plus its privileged links with infrastructure agencies and other bodies, to maximise the locational value of any given site or neighbourhood.

- It should consider joint ventures with private developers and investors.

- International experience shows that requiring private developments to include a significant share of affordable housing (for rental or purchase), in addition to the current social housing requirement, tends to moderate the value and cost of land, since its value tends to reflect what it can be used for.

- It can undertake land readjustment to reorganise land, without it having to be purchased by the public agency.

To establish these enhanced approaches to engagement between public bodies and private landholders will require stronger compulsory purchase powers. This is necessary to ensure that owners of land will engage constructively with the public agencies. Reforms to compulsory purchase were a central element of the recommendations of the 1974 Kenny Report. The main features are summarised in Box 6.1, which also reports a key view on how enhanced compulsory purchase powers relate to property rights. International evidence shows that, where there is a credible possibility of public purchase of urban development land at below full development value, this changes the dynamic of the land market, even where the compulsory purchase powers are rarely actually used. As the Dutch expert cited in Chapter 4 points out, the threat of compulsory purchase ensures that all actors take planning seriously.

In Irish policy and law, compulsory purchase can, in principle, be applied where the owners of land designated for development are not interested in its development. But this rarely occurs, as the compulsory purchase process is considered cumbersome and costly.

International experience shows that, where there is a possibility of compulsory purchase at a price below the full development value, public bodies can buy land at lower prices in voluntary sales. Landowners would also be more willing to reach agreements with private developers at prices consistent with viability. In this context, it would be possible to set more ambitious affordable housing requirements in private developments, such as the requirement set by the Mayor of London for 35 per cent affordable housing in all new private developments (Bentley, 2017).

It should be noted that, where land was actually purchased at some discount to the full developmental value (a premium to its existing use value), and is then disposed of at a price sufficient to cover servicing and other infrastructure costs (and the initial land cost plus financing), it would not be necessary to charge development levies.

Box 6.1: The Kenny Report Revisited

The enormous boom and bust in the Irish housing and land system has brought the issue of land cost, and the Kenny proposals, back into the policy discussion (Kitchen *et al.*, 2014). Following a rigorous examination of the alternatives, the 1974 Kenny report recommended that public bodies be given the power to acquire land at a discount to its developmental value. The approach was as follows. On application by a local authority, the High Court would designate areas that, in the opinion of the court, met two conditions: (i) the land would probably be used during the following ten years for housing, industrial or other development, and (ii) the land either had been or would be increased in market price by works carried out by local authorities. All of the land within the designated area could be purchased by the local authority at existing use value plus 25 per cent.

In 2004, in the context of the emerging Irish housing bubble, this approach was reiterated in the *Ninth Progress Report* of the All-Party Oireachtas Committee on the Constitution (APOCC, 2004). This report proposed that it was appropriate for the State to recover land value not only from physical infrastructure but also from the value added to land through zoning. In its 2004 report *Housing in Ireland: Performance and Policy*, the Council also recommended that local authorities use their compulsory purchase powers to acquire certain lands before they are zoned for residential development (NESC, 2004).

There seem to be a number of reasons why the Kenny proposals for active land management were not adopted at the time or subsequently. At the time, housing affordability was promoted through extensive mortgage interest relief and substantial construction of social housing. Indeed, even though these policy approaches were greatly reined back, there seems to have remained a faith, not supported by experience—or, indeed, by housing and urban economics—that speculative development of owner-occupied housing might deliver housing affordability and a sustainable pattern of urban development. Subsequently, there may also have been lack of confidence that Ireland has an institution capable of undertaking the land development role. In addition, one tool of active land management internationally, credible powers of compulsory purchase, has not been seen as practical.

A question regarding the validity of this approach is whether it would be consistent with constitutional property rights. This question was examined at length in the Kenny report itself and re-examined by the APOCC. While the APOCC report noted that it was impossible to be definite on this question, it nonetheless reached the following conclusion:

> **Judged by contemporary case-law, it is nevertheless very difficult to see why the recommendations contained in the Kenny Report would not survive constitutional scrutiny. In the *Planning and Development Bill* the Supreme Court held that the Oireachtas was entitled to conclude that 'the provision of affordable housing and housing for persons in special categories and of integrated housing was rationally connected to an objective of sufficient importance to warrant interference with a constitutionally protected right and, given the serious social problems which they are designed to meet, they undoubtedly relate to concerns which, in a free and democratic society, should be regarded as pressing and substantial.' By extension, therefore, the imposition of price controls on building land would be regarded as an objective of social importance which would warrant interfering with a constitutional right (APOCC, 2004: 39).**

It is important to note that stronger compulsory purchase powers, allowing the possibility of purchase at less than full development value, would apply to brownfield sites. Indeed, this is important in the context of the major new emphasis on brownfield and city sites outlined in Project Ireland 2040. The existing use value of industrial and other under-used city land is much lower than the value of residential land. A key part of the reforms and initiatives proposed by the Council is that the principles of sustainable urban development set out in Project Ireland 2040 be adhered to. Indeed, urban land markets are often characterised by market failures leading to widespread vacant and derelict land; policy intervention, therefore, is required to make better use of urban land.

With changes in the structure of the Irish economy, there is a real possibility of rezoning under-used industrial land for residential use. In this situation, it would be desirable for a public body to purchase the land in advance of rezoning and therefore garner the associated increase in value. The land could then be prepared for residential use and made available for affordable housing using the arrangements described earlier for public land. Likewise, where major new development is planned on land currently zoned for agricultural use, it would be beneficial in some cases if such land could be purchased in advance by a public body.

A number of variations on compulsory purchase were identified in a report by the Scottish Land Reform Review Group:

- The introduction of legislation that would allow the application of compulsory sale orders on vacant urban land in defined circumstances. This could bring vacant urban land back into use and help establish realistic market values in areas where the land market is frozen.

- The creation of a mechanism of majority land assembly. This measure would facilitate the assembly of land in fragmented ownership for the purpose of redevelopment. When one developer has acquired a high threshold of the ownership interest in an area (such as 90 per cent), the remaining ownership interest in the land could be compulsorily acquired by that developer. This measure was introduced in Hong Kong in 1999 (LRRG, 2014).

These measures should be considered in the reform of the Irish system.

In addition to the major reforms recommended above, in strengthening the policy instruments that influence land use, consideration should be given to a site value tax (SVT). While we discuss this under the heading of private land, such a tax could apply also to land owned by public bodies.

In Box 6.2 we outline the nature of an SVT, identify some of its advantageous features, as highlighted in economic analysis, and note the history of the idea in Irish policy analysis and discussion. Among its attractions are that it would have less distortionary effects than other forms of taxation; it could promote improved land use, and it has distributional appeal, since it would play a role in recovering some of the value added to land by public investment and services. The ability of an SVT to significantly improve land use would depend on the level at which it is set. Despite its undoubted advantages, such an arms-length instrument would not be sufficient to achieve the desired pattern of land use, urban development or housing affordability.

Box 6.2: Site Value Tax—Advantageous Features

A site value tax (SVT) is an annual property tax based on site values. It would apply to developed land, derelict land, vacant land and zoned sites—but not to agricultural land. In contrast to Ireland's existing local property tax (based on self-assessment of the market value of a property), an SVT tax takes no account of the value of buildings on the land. The site value would include the value added to the land by the services and infrastructural support supplied by government or public utilities (e.g. water supply, public transport, electricity supply, etc).

Economic analysis suggests that a site value tax could have a number of advantageous features—relative to taxes generally and to other forms of property tax. Relative to the major forms of taxation—income taxes, indirect taxes and profits taxes—an SVT is likely to have less distortionary effects. Major forms of taxation, while essential for public revenue, are normally expected to have some negative impact on economic activity, since they change the incentives facing economic actors[21]. A site value tax based on the value of unimproved land would have very limited distortionary effects on the investment decisions of households and businesses (Blochliger, 2015). Related to this is an equity or distributional argument in favour of SVT. The value of a piece of land, especially urban or development land, largely reflects the wider economic, social and business opportunities available in an area. In this regard, public investment in infrastructure adds significantly to land value. If an SVT were in place, some of this increased value would automatically be recovered by the State. Relative to other taxes on property and property transactions, an SVT is likely to promote more efficient land use, since it would create a disincentive to leaving land idle, vacant or derelict. Indeed, in areas of high land value, an SVT could encourage more intensive use of land and compact growth. It could also help to reduce land speculation. Relative to a vacant land tax, an SVT would not be limited to officially designated 'vacant land', and could yield more revenue. An SVT would apply within the structure of social, environmental and economic goals embodied in planning and other legislation.

Ireland has long had a relatively low share of property taxes in total revenue. Given this, and the advantageous features noted here, the case for an SVT has featured in Irish policy discussion over the decades. The Commission on Taxation (2009) considered that there was a strong economic rationale for the introduction of an SVT. However, it did not recommend its introduction at that time because of its concerns about the operational issues in implementing it, as well as the challenge of communicating its benefits to the public. The National Competitiveness Council recommended an SVT on commercial property and land zoned and serviced for development, which would replace commercial rates and the vacant land tax (NCC, 2015). Various economic, social and environmental organisations have also made the case. Indeed, the Smart Taxes Network argues that the operational issues need not be an overwhelming obstacle (Smart Taxes, 2011). Most recently, in its 2018 *Economic Survey of Ireland,* the OECD argued for a site value tax, among a number of other proposed measures on housing (OECD, 2018).

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21 This does not apply to certain environmental taxes, which can correct market distortions, rather than create them.

As noted throughout this report, the central lesson from countries with effective approaches to land, urban development and housing is the need for *an activist, hands-on, developmental approach, led by public bodies but engaging a wide range of private actors*. Indeed, in its 2004 report *Housing in Ireland: Performance and Policy*, the Council made the following summary observation: ‘the instruments that can address these challenges are to be found more in the areas of planning, urban design, infrastructural investment, land management and public service delivery, than in manipulating tax instruments to alter the supply or demand for housing’ (NESC, 2004: 4). Indeed, the Council believes that the disastrous experience since 2004 reinforces the view that, in the area of housing and urban development, reliance on passive arms-length policy instruments is unlikely to be sufficient to yield the desired outcomes. The distinction between an incentive-based and a coordinative approach to Ireland’s current crisis of housing supply and affordability is further discussed in the Council’s 2015 report *Housing Supply and Land: Driving Public Action for the Common Good* (NESC, 2015b).

The major focus of reform should be in the areas discussed above:

- institution building for active land management and urban development;
- policies to underpin permanent affordability, and
- mechanisms to generate and share greater locational value associated with transport and other infrastructure.

While driving these reforms, Ireland should learn more about how countries such as Denmark design and implement a site value tax.

Recommendation 6: Use the potential of locational value creation and sharing to fund strategic infrastructure, particularly strategic public transport infrastructure

Ireland must now fully explore the potential of locational value creation and sharing instruments to fund strategic infrastructure, particularly strategic public transport projects. This should be part of a broader commitment to complement state expenditure with alternative sources of financing and more innovative and tailored funding mechanisms.

Major investment in public transport infrastructure needs to be fully integrated with land-use planning to support increased housing provision, enhanced affordability and more sustainable urban development. This affords an opportunity to harness the potential of major urban transport infrastructure as an enabler of economic, social and environmental change. Project Ireland 2040 has highlighted that investment in high-quality sustainable and integrated public transport, managing the supply of development land and locational value-sharing are all necessary to support the increased provision of housing and compact urban development.

International practice shows that there is increased interest in adopting an ambitious approach in which locational value creation and sharing mechanisms are used. Based on the international review, this suggests a number of strands of alternative funding and financing.

One strand is the European Investment Bank (EIB). Over the last decade, the EIB has provided more than €6.8bn for long-term investment across Ireland, in education, energy, transport, social housing, healthcare, agriculture and water projects, as well as investment by small business and corporate research and development. In moving to a more proactive relationship with the EIB, a new EIB-Ireland Financing Group, chaired by the Minister for Finance, has been created, and the EIB has recently established an office in Dublin. Discussions between the Government and the EIB now occur in three working groups made up of officials from a range of departments, agencies and semi-state companies. The involvement of the EIB creates an opportunity to bring the financial expertise and market knowledge of both national and international financing bodies more upstream in the national development process. This should provide a stronger platform for identifying new and innovative financing and product solutions. It is an opportunity to access both longer-term and lower-cost capital and also the EIB's technical expertise in project design and delivery. The involvement of the triple-A-rated EIB can also help crowd in other sources of institutional finance.

A second strand is to consider a broader range of infrastructure funding and financing mechanisms. In addition to development levies, the range of possible locational value mechanisms include: property tax in the vicinity of transport amenities; site value tax; tax increment financing;[22] direct public or joint development, sale or lease of land; auctioning of development rights or air rights, and leasing of commercial space. As noted in Chapter 5, the Development Rights Auction Model being explored in London could have benefits for transit authorities in Ireland, and its potential should be examined.

A third strand is the use of blended funding and financing packages. These are tailored to different types of infrastructure assets and projects. Indeed, locational value mechanisms seem to be most effective when they are part of a 'blended' capital structure. That can include fare-box revenue, state expenditure and other sources of institutional investment. Using a combination of locational value mechanisms serves to both enhance revenue-raising capacity and reduce risk.

In addition, international experience highlights the importance of the expertise, time and skills required to design and secure alternative sources of funding and finance. The research suggests that this will require the State to adopt a more active

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[22] Tax increment financing is the allocation of increases in total property tax revenues above an agreed baseline to public transport investment within a designated area.

and enabling role and to become more directly involved in networks of public and private actors. There is a need to consider how best to incentivise policy innovation in the funding of infrastructure. One factor is political leadership, which can encourage new ways of capturing value and funding infrastructure. An interesting early example is the work of CIÉ's Group Property Management team to generate revenue for the company through a combination of the disposal of property assets and rental income from development agreements, commercial lettings and fibre-optic licensing agreements.[23]

As outlined in Recommendation 4, one of the key insights from emerging international practice is the need to move away from using public land to maximise short-term state revenue. A longer-term developmental perspective can generate a more stable and sustainable flow of revenue for investment in public infrastructure. But it can also contribute to the achievement of other national policy goals concerning housing supply, affordability and access. Transport for London's property development programme uses locational value creation and sharing to support both investment in transport infrastructure and increased supply of affordable housing.

Finally, the research highlights the benefits of linking transport investment more directly to robust place-making in line with the ambitious agenda set out in Project Ireland 2040. The Crossrail 2 project in London shows that there is an opportunity for major urban transport projects to be re-imagined as nationally significant land-use, housing and transport projects that have a pivotal role in delivering a range of economic, social and environmental policy goals.

Recommendation 7: Adopt an ambitious national programme of specific, understandable and socially accepted flagship projects

To drive the systemic reform outlined above, and to address the urgent crisis of housing supply and affordability, government should now adopt an ambitious national programme of specific, understandable and socially accepted flagship projects for providing affordable housing and quality urban development and delivering strategic public infrastructure. Vigorous execution of specific projects is the best route to comprehensive reform and will help identify which locational value mechanisms are needed.

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23 CIÉ policy is premised on deriving the maximum benefit possible from its property assets in order to fund public transport investment into the future. Currently, CIÉ is auctioning four development sites through a competitive tendering process. One of the sites is being sold off while in the other three instances the sites are being offered by way of development agreements, subject to an annual site licence fee, followed by the higher of a premium rent or an income-sharing arrangement with the preferred bidder.

Government should draw on the experience of projects such as the Dublin Docklands Development Authority and Grangegorman Development Agency. Both were highly ambitious and transformative urban regeneration projects. They both involved bespoke institutional development agencies engaging with a range of complex and interconnected policy issues: land management and development, planning, infrastructure funding and a multi-institutional environment.

Delivery of these flagship projects will reveal the need for connections across policy areas and co-operation between agencies in order to resolve practical challenges. It will indicate how existing policy initiatives can be combined with the institutional assets, authority and resources of relevant stakeholders. A project-based approach can also facilitate stronger articulation of the key social, economic and environmental objectives of the project in question.

Within major development and infrastructure projects there is a meshing of ends (urban development, affordable housing and transport investment) and means (financing, funding and active land management) (Sabel & Jordan, 2015). Once this is accepted, the key challenge is to create institutional entities and mechanisms that can deliver progress on the ground, identify blockages and unforeseen difficulties, engage relevant actors in resolving them and, where necessary, invoke high-level government authority to decide or revise. Such projects could change policy discourse on active land management and locational value mechanisms away from an abstract debate about the merits of a range of instruments, towards a focus on what package of measures is most appropriate to the context and content of a particular project. In other words, the doing of these projects will be a catalyst for the policy innovation and systemic change that is required to achieve Ireland's goals.

Appendix

A Note on Terminology: Betterment Value, Land Value and Locational Value

It is important to say a little about the terms used to discuss the issue of land supply, land value, land costs and policies used to address the associated challenges. One reason is that the terminology tends to differ across different fields of expertise. Another is that, in our view, a somewhat misleading label to describe key policy instruments has stuck in much of the literature, although this is starting to change.

We wish to clarify why, among the range of terms used—betterment value or planning gain, land value, land value capture, locational value and locational value-sharing—the Council thinks the term locational value is the most appropriate.

In housing and real-estate studies, the term ‘betterment value’ was often used to describe the increase in land value that resulted from investment in infrastructure, zoning and the granting of planning permission. Likewise, ‘betterment capture’ or ‘betterment sharing’ was used to describe policies aimed at garnering such value to help fund infrastructure investment. These were the terms used by the Council in its 2004 report *Housing in Ireland: Performance and Policy* (NESC, 2004). However, these terms were not easily understood outside housing economics and real estate, and have a somewhat old-fashioned air.

In much recent discussion of these issues, the terms ‘land value’ and ‘land value capture’ are used. In particular, the term ‘land value capture’ is used to refer to various policy mechanisms that are designed to accrue a proportion of the windfall gains related to increases in land value that arise due to public investment (e.g. new transport infrastructure), publicly approved changes in land use, or broader societal changes such as economic or population growth (OECD, 2017a; Walters, 2013). There seem to be a number of reasons why this term is so widely used. One is that it reflects an analytical idea, concerning the supply and value of land, that has a long history in the economic literature dating back to the work of John Stuart Mill and Ricardo in the 19th century. Another is that it makes it easy to explain the logic and justification for ‘land value capture’. For example, Walters (2013) notes that the current literature on this subject reflects a substantial consensus that a proportion of the ‘unearned increments’ can and should be recaptured by the broader community for reinvestment in infrastructure and services. Indeed, he cites the UN statement, ‘The unearned increment resulting from the rise in land values resulting from change in use of land, from public investment or decision or due to the general growth of the community must be subject to appropriate recapture by public bodies (the community)' (United Nations 1976, cited in Walters, 2013: 2).

The problem with this terminology is that it is somewhat misleading regarding both the nature of the value arising and the range of policy instruments now used to garner value to help fund infrastructure or other public purposes. This terminology and approach implicitly assumes that all 'added value' is capitalised in land prices and, therefore, policy mechanisms should focus on collecting a proportion of this additional value. Indeed, some do argue that increases in real property values represent an appropriate and comprehensive index of all the benefits generated by public investment in transport development, including improved accessibility and an increase in business opportunities (Medea & Modelewska, 2009). Indeed, there is an extensive literature on the generally positive impact of transport investment on commercial and residential property prices (Australian Government, 2016; Gibbons & Machin, 2005; National Bank, 2014; RIC Policy Unit, 2002; Salon, 2014; Smith *et al*., 2017; TfL, 2017). Of course, such a positive impact does not imply that all the value created is capitalised in land values.

However, the set of policy instruments cited as 'land value capture' mechanisms is generally much wider than measures focused on land or property prices (OECD (2017a). As discussed in Chapter 5, as well as property taxes of various kinds, that set includes income or payroll taxes, special assessment districts, sales tax levies, transport-focused development fees, user fees, joint development ventures, public leasing of land or commercial space, and sale of development rights. Partly for this reason, the term 'locational value' is increasingly evident in discussion of these issues. Salon (2014) suggests that, given the range of economic benefits associated with improvements in public transport, it is more appropriate to use the concept of locational value. This reflects the fact that many of the benefits are in part a manifestation of access-enhanced location value (*ibid*.). Indeed, as discussed in Chapter 5, a growing literature highlights the wider economic, social and environmental benefits associated with quality public transport and other infrastructure. Furthermore, the international practice described in Chapter 4 and 5 includes many cases in which public agencies act, often in concert with private actors, to both create additional value and achieve an appropriate sharing of it. The broader concept of locational value also seems relevant given the wider range of mechanisms used to garner value to help fund infrastructure.

Consequently, in this report we generally use the term 'locational value'.

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