

Apartment Owners' Network

Representing the owners of apartments and houses in managed estates

BY EMAIL: npf@housing.gov.ie
NPF Submissions
Forward Planning Section
Department of Housing, Planning
Community and Local Government
Custom House
Dublin D01 W6X0

31 March 2017

Dear Sirs,

**Re: Ireland 2040 – Our Plan
National Planning Framework**

On behalf of the Apartment Owners' Network I enclose a short submission in relation to the above.

Please confirm receipt of the attached in time for your extended deadline of 12 noon on Friday 31 March 2017.

Yours faithfully,

*[*Sent by email and accordingly bears no signature]*

David Rouse
Director

Encl.

Apartment Owners' Network

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Ireland 2040 Our Plan

National Planning Framework

Pre-Draft Stage

Submission

to

Forward Planning Section

**Department of Housing, Planning,
Community and Local Government**

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Abbreviations Used

DHPCLG	Department of Housing, Planning, Community and Local Government
MUD	Multi-Unit Developments, as described in Section 1(1) of the MUD Act
MUD Act	Multi-Unit Developments Act 2011
NPF	National Planning Framework
OMC	Owners' Management Company as defined in Section 1(1) of the MUD Act
PMA	Property Management Agent
PSRA	Property Services Regulatory Authority

1.0 Introduction

1.1 Executive Summary

This submission responds to the public consultation request of 2 February 2017 issued by the Department of Housing, Planning, Community and Local Government in relation to the National Planning Framework (“NPF”).

Our submission is concerned with the Housing aspects of this pre-draft stage of the consultation process.

Our initial observations are based on a high level review of the DHPCLG Position Paper “*Ireland 2040 Our Plan Issues and Choices*” (“the Position Paper”) of February 2017¹.

It is clear that with a focus on urban living, increased housing densities, and affordability, apartments will form an increasingly larger component of the housing that will be needed in Ireland in the future.

The Network submits that as a country we must re-imagine how apartment living in Ireland should work. There is a cultural change required. This should be prompted and sustained by hard-headed practicalities.

We submit that there is a pressing requirement for reform of the law and the regulation applicable to OMCs of apartment developments. More sophisticated financing structures are required. The Network is working for these changes. We submit that the NPF should support our objectives in the national interest.

1.2 Apartment numbers

It has been estimated that in Ireland 500,000 people approximately live in homes in multi-unit developments².

There has in the last 10-15 years been a rapid growth in the number of apartment/multi-unit development homes as a component of the national housing stock. According to Census 2011 there were 177,587 occupied apartments in 2011, an increase of 27% on 2006.

Apartments comprised 10.9% of all occupied households in 2011 and accounted for almost one third of all household types in Dublin City³. From 2011 to early 2015 an estimated 6,000 further apartments have been constructed in Ireland⁴. The CSO advises that figures from Census 2016 remain to be released, and are expected to be made available in April 2017⁵.

¹ <http://npf.ie/wp-content/uploads/2017/02/Position-Paper-Issues-and-Choices-Ireland-2040-web.pdf>

² Presentation to AON by Paul Mooney, Benchmark Property, 14 January 2016

³ Census 2011 Profile 4 The Roof over our Heads - Housing in Ireland

<http://www.cso.ie/en/media/csoie/census/documents/census2011profile4/Profile,4,The,Roof,over,our,Heads,Full,doc,sig,amended.pdf>

⁴ “*An Analysis of the Impact of the Multi-Unit Developments Act 2011 on New Multi-Unit Developments*”, speech Paul Mooney, Director Benchmark Property delivered to the SCSi on 03/07/2015 <http://www.benchmarkproperty.ie/blog/an-analysis-of-the-of-the-impact-of-the-multi-unit-developments-act-2011-on-new-multi-unit-developments/>

⁵ <http://census.ie/how-we-do-it/publishing-the-data/>

1.3 About the Submitter

The AON is a Company Limited by Guarantee. We are a volunteer-led, independent, non-party political group representing the interests and views of owners, both owner occupiers and investors, of dwellings in managed estates, and their OMCs, throughout Ireland.

Membership of the Network is diverse and includes owners who are directors of OMC, residents living in estates where the OMC remains controlled by the estate developer, and residents of houses in managed estates.

As of the date of this submission, residents of 300 estates approximately are recorded as being engaged with the AON- see details on www.apartmentownersnetwork.org. Many more estates engage with the Network on an ad hoc or informal basis.

The AON has working relationships with various national and local government agencies, including the ODCE, the Law Reform Commission, the Department of Justice and Equality, Society of Chartered Surveyors Ireland (Residential Committee), the PSRA, and Dublin City Council ("DCC"). The Network played a central role in securing the formulation and enactment of the Multi-Unit Developments Act 2011 ("the MUD Act").

The AON meets in open forum once a month at DCC Civic Offices, Wood Quay, Dublin 8. Meetings and activities are currently facilitated by funding from DCC, and by the involvement of volunteer members.

The Network incorporated as a CLG (No. 592683) on 10 November 2016, and is establishing formal structures as a representative organisation.

Further information about the Network's activities is available at www.apartmentownersnetwork.org.

1.4 Context to submission

Brief overview of apartment management

An OMC comprises a board of volunteer directors, typically civic-minded residents or owners in the estate. The directors are elected by the membership of the company, i.e. the wider body of unit owners. These unpaid directors are charged with the primary responsibility of managing the estate. This refers in particular to the upkeep of the common areas, and delivery of shared property services, and of ensuring adherence to the principles of good estate management. Effective stewardship of the OMC is vital to ensuring the maintenance of the estate. A good OMC means the estate is a good community in which to live.

It is important to note that while taking the form of a body corporate, an OMC is in reality a community/mutual organisation. It facilitates the orderly running of a residential estate. An OMC is a not-for-profit company. Its core function is the stewardship of the finances underpinning the successful management of the estate.

A property management agent (“PMA”) is appointed by the OMC to attend to the operational running of the estate- common area maintenance and upkeep, block insurance, domestic waste disposal, landscaping, etc.

The OMC levies an annual service charge on each unit owner. This annual management charge pays for the aforementioned services. The charge is required by law to include a contribution to a long-term sinking fund for non-recurring/capital expenditure (e.g. lift replacement).

Service charge recovery

Service charge debt recovery is widely accepted as the most significant financial challenge facing OMCs. Many OMCs are faced with current fee recovery rates of less than 70%. Aged debtors can run to five or more years, and cumulatively can represent in excess of 100% of the OMC annual budget.

Sinking Fund provision is in many cases tied up in debtors, with the priority given by the OMC to meeting the day-to-day costs of maintaining core estate services.

Our proposals around OMC regulation seek to address issues including financial under provision.

2.0 Details of Submission

We comment on the detail of our proposals. Our comments are borne out of our practical experience of issues arising in the management of multi-unit/apartment developments.

We have the following high-level observations at this pre-draft stage:

1. As noted, there is a pressing requirement for a re-imagination of how apartment living in Ireland should work. This should include statutory provision for the design, planning and implementation of enhanced common areas in apartment developments, to include-
 - a. Individual and communal storage facilities
 - b. Communal services, e.g. laundries
 - c. Community recreation areas, amenities and leisure facilities

It was interesting to observe that the sole reference in the Position Paper to apartments as a housing type was by exclusion. Figure 3.4.1 “Planning Permission Grants Houses 2001-2015” (page 32) of the Position Paper (reproduced in Appendix I to this submission) excludes apartments and flats as a housing type.

We submit that the absence of references to apartments is a good example of why there is a requirement for a cultural change in the perception of apartments as a sustainable home.

2. As noted, it is clear that apartments form a growing and increasingly significant component of the future national housing stock. There is a pressing requirement for reform of the law, the regulation, and the financing structures applicable and available to OMCs of apartment estates.

As Ireland prepares to plan for hundreds of thousands of new housing units in the period to 2040, a “lessons learned” review is required of the delivery of MUD housing in the State to date.

- a. This might involve an assessment of the success of physical planning (bricks & mortar), e.g. local authorities plan for a certain amount of car spaces, typically insufficient to satisfy natural demand, however do not as a condition of planning allow for restrictions on disruptive parking practices.
- b. The success of procedural planning requires analysis. There is little or no reference in any planning documentation as to how an OMC lease agreement should be drafted. The lease splits out how service charges must be allocated. Where commercial and residential units co-exist in one OMC, the question arises- have these leases distributed the voting power fairly? Purchasers are expected to sign up to the lease agreement as an afterthought.
- c. A review of the MUD Act to include all relevant parties and stakeholders.
- d. A regulator for OMCs. Currently we have regulation without enforcement.
- e. A census of OMCs to include:

- i. Compliance with the MUD Act
 - ii. Assessment of building defects and fire safety
 - iii. Effective planning for future upgrades/maintenance
 - f. An assessment is required of the delivery of infrastructure in conjunction with residential development – how can we ensure concurrent delivery?
3. Future financing arrangement for OMCs:
- a. Products to incentivise/encourage prudent saving by OMCs.
 - b. Lending facilities for those OMCs who meet certain compliance criteria.
 - c. Possibility of combining the above into a single fund. This might perhaps be State sponsored. If OMCs were to borrow from such a fund there would need to be a State guarantee for depositors (akin to the mutuality of Credit Unions).
4. As regards “Taking in Charge” of residential housing estates, there should be a transparent process that involves all stakeholders, including estate OMCs. This should ensure the timely and appropriate process of taking in charge of estates (roads, lighting, etc.) by local authorities. The current laissez faire approach, until such time as the developer is ready to hand over the estate, is not sustainable in the context of volunteer-led OMCs.

3.0 Conclusion

The Network wishes to thank the Department for the opportunity to make what is a very high level submission.

We trust that the views expressed will be given due consideration in the Department’s pre-draft stage deliberations.

We would be pleased to engage in further stages of the consultation, or other events, as these apply to the Housing sector.

Appendix I – Figure 4.3.1

Figure 4.3.1

Planning Permission Grants, Houses 2001 - 2015

(Excludes Flats/Apartments) Source: CSO, Statbank BHA02

