



Chief Executive's Report on Submissions received on the proposed Material Alterations to the draft Poolbeg West Planning Scheme.

Introduction

This report forms part of the statutory procedure for the making of a planning scheme in relation to a designated Strategic Development Zone (SDZ), as required by the Planning and Development Act 2000, as amended.

A Strategic Development Zone (SDZ) is an area of land that is proposed to contain developments of economic or social importance to the state. In May 2016 the Government designated the lands at Poolbeg West as a Strategic Development Zone (SDZ), and specified Dublin City Council as the Development Agency (SI No.279 of 2016).

At a special council meeting held on the 18th of May 2017, Dublin City Council, having considered the Poolbeg West draft planning scheme and the Chief Executive's report Numbers 141/2017 and 176/2017, resolved to make, subject to variations and modifications as agreed at the meeting, the Poolbeg West draft planning scheme. This was subject to the making of a determination as to whether a strategic environmental assessment or an appropriate assessment or both such assessments, were to be carried out as respects one or more proposed variations or modifications that would, if made, be a material alteration of the draft planning scheme.

Whilst the majority of modifications agreed at the council meeting did not constitute material alterations, a number of the modifications agreed did, and as such required further public display period under the Planning and Development Act 2000, as amended. As part of statutory procedure the material alterations to Poolbeg West Planning Scheme were placed on public display for a four week period from 14th June until 12th July, 2017 inclusive. A total of 59 submissions were received during the relevant period.

For each proposed material alteration set out, this document provides a summary of the content of relevant submissions received, and also gives the response and recommendation of the Chief Executive in each case, for Members consideration. It should be noted that the Members' consideration is confined to the proposed material alterations only.

The report hereunder contains the following:-

- Material alteration Reference and content as published for the display period.
- Relevant submission numbers.
- A summary of the issues raised by the submissions/observations received.
- The Chief Executive's response to the issues raised.
- The Chief Executive's recommendation.

Next Stages

The Members will consider the Chief Executive's Report on Submissions Received on proposed amendments and the Chief Executive's Report on Councillors' Motions on the Submissions at a City Council on Monday 2nd October 2017.

Prior to this Members motions can be submitted by 5.00pm on Friday the 8th of September. The Chief Executive will then prepare a report on these motions, and circulate this second report to Members in advance of the meeting of the 2nd of October 2017.

When a Planning Scheme is adopted by the City Council there is a 4 week period during which appeals may be lodged with An Bord Pleanála. When an appeal timeline has been decided by An Bord Pleanála, members will be informed.

Material Alteration Reference 1

Insert text in Section 3.5, 'social housing provision' after the first paragraph (page 12)
Of the 3,500 new homes permissible on the site under this Planning Scheme, 900 will be delivered as either social and/or affordable units including units for senior citizens. A minimum of 350 (10%) will be delivered as social housing in accordance with the provisions of Part V of the Planning and Development Act 2000, (as amended). In addition, given public investment in enabling infrastructure for the area and in order to ensure a proper and sustainable tenure mix, a commercial agreement with confirmed funding will be entered into, prior to commencement of development, between Dublin City Council, the Department of Housing, Planning, Community and Local Government and the owners/developers of the residential element of the overall SDZ area which will ensure the delivery of the balance of the social/affordable homes. This objective takes account of and implements Government Policy as set out in the 'Action Plan on Housing and Homelessness Rebuilding Ireland' including Actions 2.4 and 2.8 (delivery of additional social housing over and above Part V through a variety of means), Action 2.16 (housing for older people, including assisted living), Action 3.1 (Local Infrastructure Housing Activation Fund (LIHAF)) and Action 4.6 (affordable rental), together with policies promoting tenure diversity in the City Council's Housing Strategy. In addition, Dublin City Council will be given an option, as part of the SDZ to acquire, at market rate, 100 housing units."

Submission Numbers; 2, 16, 18, 20, 30, 40, 58, 59

Summary of Issues;

Submissions received either express support for this material alteration or seek changes to it.

One submission refers to the final sentence of the material alteration, which states 'In addition, Dublin City Council will be given an option as part of the SDZ to acquire, at market rate, 100 housing units'. The submission emphasises that the high cost of removing and treating contaminated material in addition to normal costs, would give rise to higher than average market rates.

A submission on behalf of the IGB (Irish Glass Bottle) Housing Action Group requests that additional text be included as set out in Italics in brackets below;

In addition, given public investment in enabling infrastructure for the area and in order to ensure a proper and sustainable tenure mix, a commercial agreement with confirmed funding will be entered into, prior to commencement of development, between Dublin City Council, the Department of Housing, Planning, Community and Local Government *"(relevant stakeholders to include representatives of the IGB Housing Action Group representing local community interest and nominated approved Voluntary housing bodies)"* and the owners/developers of the residential element of the overall SDZ area which will ensure the delivery of the balance of the social/affordable homes.

Also, the IGB Housing Action Group supports the proposed additional 100 units at market rate.

One submission expresses support for the content of the IGB submission in relation to the alterations.

A submission on behalf of Sinn Fein welcomes progress over and above standard social housing requirements, and seeks that the plan commit to a minimum of 900 units (rather

than a maximum). The submission requests that the words 'a minimum of 'should be inserted before the figure of 900 in the first line of the alteration, such that it would read; '*Of the 3,500 new homes permissible on the site under this planning scheme, a minimum of 900 will be delivered as either social and/or affordable units including units for senior citizens*'. Sinn Fein also state that the Government also needs to put in place an affordable housing model as a matter of urgency.

One submission questions the additional 550 social/affordable units and seeks an explanation as to why the earlier figure is not adequate. It also queries how the proposed figures represent proper sustainable planning. It is asserted that no numerical planning data has been offered in support of the proposed additional units.

A submission on behalf of Becbay Ltd. (in receivership) and Fabrizia Developments Ltd (also in receivership), acting through the statutory receiver, seeks modifications to this alteration in order ...

- a) ... to clarify that any commercial agreement will be independent of and separate to the planning scheme having regard to Part IX and Part V of the Planning and Development Act (2000) as amended, and subject to the receivers powers/obligations.
- b) ... to clarify that the number of social units will be provided in accordance with Part V of the act (max of 10%) and the housing strategy, and that the no. of affordable units that may be provided pursuant to a commercial agreement is proportionate and pro-rata to the total number of units permitted.
- c) ... to simplify/clarify the text by removing text which is not relevant or is unnecessary.

In the above regard, the statutory receiver requests specific text changes to the alteration have been set out as summarised below;

- Reference to 'public investment in enabling infrastructure for the area' should be omitted, as this is being addressed by the LHAF programme.
- The matter of proportionality is stressed, - i.e. that the 10% social housing requirement will be proportional to the total no. of units delivered (to an upper limit of 3500). The achievable number of total units will not be known until detailed design is addressed. The commercial agreement would be a proportionate number of some 470-550 affordable units. "Up to" 900 units should replace '900 units', because the number of social units delivered will be proportionate to (i.e. 10% of) the overall housing figure, which will be somewhere between 3000 and 3500 units and not necessarily 3500.
- Reference to 'commercial agreement with confirmed funding' falls outside the provisions of the Act and cannot be enforced by way of condition. The terms of a commercial agreement do not relate to planning matters and should not be included in the scheme. Reference to a commercial agreement being entered into 'prior to commencement of development 'should be omitted. It would not be lawful to require delivery of homes in excess of the statutory Part V requirement. Any commercial agreement should be progressed separately to the defined provisions of the planning scheme.
- Additional text is suggested to include reference to the negotiations to reach a commercial agreement being entered into in good faith by the three parties involved, consistent with statutory obligations.
- The second paragraph of the proposed material alteration (including reference to the option of acquiring 100 units at market rate) should be removed as it is unnecessary.

Chief Executives Response;

In relation to the comment that removing and treating contaminated material in addition to normal costs would give rise to higher than average market rates, remediation works are a necessary requirement for development, in the initial phase. Market rates will fluctuate for a variety of reasons and are not solely influenced by site preparation costs.

The IGB Action Group's suggested additional wording to the text of the proposed alteration, whereby stakeholders are specifically mentioned (i.e. "*relevant stakeholders to include representatives of the IGB Housing Action Group representing local community interest and nominated approved Voluntary housing bodies*") is considered excessive and unnecessary. The alteration text which refers to a commercial agreement between Dublin City Council, the Department of Housing, Planning, and Local Government and the owners/developers of the residential element of the overall SDZ area is considered adequate as it reflects the parties to the agreement. The Council took on the concerns of stakeholders from the consultation process to date and relevant submissions in negotiating the agreement.

Sinn Féin's recommendation in their submission is to add text in bold as follows;

*' Of the 3,500 new homes permissible on the site under this planning scheme, **a minimum of 900 will be delivered as either social and/or affordable units including units for senior citizens**.'*

For this change to be realistic, the Council would need to be satisfied that some figure in excess of 900 units could be achieved. The matter of the quantum of units achievable was discussed in detail at the Council Special Meeting on May 18th 2017, whereby a range of motions were considered and agreement reached (by vote) on the wording to be included in the material alteration.

This said, it should be noted that a minimum of 350 units would be delivered as social housing as per the text of the proposed alteration, and that under the Part V provisions there is no impediment to any person from using more than 10% of residential land for social housing.

In relation to the comment on the need for Government to put in place an affordable housing model, this is a matter to be addressed by central Government and the Department of Housing Planning and Local Government, which is aware of affordability issues – particularly in the Dublin area where the problem is most acute.

In response to the submission received which suggested that an explanation was required as to why the earlier social/affordable figures were not adequate, this has been the subject of much discussion during each stage of the preparation of the planning scheme. In summary, there is a concern that many on lower incomes would be unable to afford to live within the SDZ as market forces favour very high property prices and rents in this area, which a desirable place to live for many on higher incomes because of its central location. The content of previous Chief Executives reports (addressing submissions and motions), and also minuted Council meetings are relevant.

The modifications sought to the alteration in a submission on behalf of Becbay Ltd. (in receivership) and Fabrizia Developments Ltd (in receivership), are addressed in turn hereunder (modifications sought in the submission are in italics) ;

- a) *... to clarify that any commercial agreement will be independent of and separate to the planning scheme having regard to Part IX and Part V of the Planning and Development Act (2000) as amended, and subject to the receivers powers/obligations.*

The proposed alteration relates to additional text, and the current wording was carefully considered at the Council Meeting on May 18th. Whilst the commercial agreement would indeed be the outcome of a separate process, it is nevertheless

considered appropriate to include reference to the agreement in the planning scheme, particularly given that the commercial agreement will be the main means by which social and affordable units will be delivered for the area. The Planning Act provides that developers may offer social housing above the statutory minimum.

- b) *... to clarify that the number of social units will be provided in accordance with Part V of the act (max of 10%) and the housing strategy, and that the no. of affordable units that may be provided pursuant to a commercial agreement is proportionate and pro-rata to the total number of units permitted.*

The wording agreed by the Council in May for the alteration states “A minimum of 350 (10%) will be delivered as social housing ...” To now change this to a maximum of 10% would not only cap the social unit numbers, but would also fix the affordable quantum at 550 units (i.e. to make up the 900 figure), and indeed the maximum number of units which could be delivered in the SDZ, regardless of future design outcomes.

. This would be a significant departure from the wording agreed, which was the outcome of considerable discussion following the Chief Executive’s reports on both draft stage submissions and later motions. Furthermore, the legislative requirement as set out in Section 94(4) (c) and (d) of the Planning and Development Act (2000) as amended states the following;

(c) Subject to paragraph (d), a housing strategy shall provide that as a general policy a specified percentage, not being more than F216 [10 per cent], of the land zoned for residential use, or for a mixture of residential and other uses, shall be reserved under this Part for the provision of housing for the purposes of either or both subparagraphs (i) and (ii) of paragraph (a).

(d) Paragraph (c) shall not operate to prevent any person (including a local authority) from using more than F216 [10 per cent] of land zoned for residential use, or for a mixture of residential and other uses, for the provision of housing to which paragraph (a) applies

Clearly, having regard to the second paragraph above, there is no impediment to the 10% requirement being exceeded, and therefore to apply a maximum of 10% would be unnecessary in this context.

- c) *... in order to simplify/clarify the text by removing text which is not relevant or is unnecessary.*

It is not considered appropriate to remove the entire second paragraph as it provides important context by way of reference to Government Policy. It also sets out references in ‘Rebuilding Ireland’ document, which support provision of social housing over and above the standard 10%.

The submission from the statutory receiver seeks that reference to ‘public investment in enabling infrastructure for the area’ (first paragraph) should be omitted, as this is being addressed by the LIHAF programme. The LIHAF programme is however relevant to infrastructural provision serving the Poolbeg area and it therefore remains relevant, as it is public investment.

The matter of proportionality is stressed in the Receivers submission, - i.e. that the 10% social requirement should be proportional to the total no. of units delivered (to an upper limit of 3500). The submission seeks that the text be changed to “up to” 900 units, rather than ‘900 units’, because the number of social units delivered will be proportionate to (i.e. 10% of) the overall housing figure, which will be somewhere between 3000 and 3500 units.

In response to this, it is relevant that the proposed material alteration is based on a set absolute figure of 900 units (to include a minimum of 350 social) rather than a proportion of the overall housing figure proposed. At the May special meeting of the Council, the figure of 900 social and/or affordable units was the subject of much discussion on foot of eleven separate motions, and the adopted text was subject to a Council vote.

Changing the text by way of potentially reducing the deliverable social and affordable figures could lead to a lower overall quantum of development at a time when maximising housing provision is much needed. This would not be in line with the general aim of the material amendment.

Reference was made to 'commercial agreement with confirmed funding' falling outside the provisions of the Act and being unenforceable by way of condition. The submission states that the terms of a commercial agreement do not relate to planning matters and should not be included in the scheme. The submission also seeks that reference to a commercial agreement being entered into 'prior to commencement of development' should be omitted, and goes on to assert that it would not be lawful to require delivery of homes in excess of the statutory Part V requirement. Any commercial agreement should therefore be progressed separately. In response to this, the legislative requirement as set out in Section 94(4) (c) and (d) of the Planning and Development Act (2000) as quoted above, states that the 10% requirement shall not operate to prevent any person (including a local authority) from using more than 10 per cent of land zoned for residential use, or for a mixture of residential and other uses, for the provision of social housing.

In relation to the suggested addition of text to include reference to the negotiations to reach a commercial agreement being entered into in good faith by the three parties involved, and consistent with statutory obligations, this is not considered necessary as the wording of the material alteration already achieves this purpose. It is considered entirely appropriate that the commercial agreement be entered into prior to commencement of development, as an open-ended timeline may result in an agreement which does not deliver the agreed social and affordable element.

The submission also seeks the removal of the second paragraph (including reference to the option of acquiring 100 units at market rate) in its entirety, because it is unnecessary. In response to this, it is relevant that the paragraph makes a number of references to specific actions in the 'Rebuilding Ireland' document which provide context for the text of the first paragraph of the material alteration. The paragraph also includes reference to the Councils Housing Strategy. On this basis, this paragraph is not considered superfluous and should remain. The text was agreed by vote at the special Council meeting on May 18th, which related to 11 separate motions.

Chief Executives Recommendation;

No changes recommended.

Material Alteration Reference 2

Amend 'Table 3.1 – Mix of Unit types in SDZ' to

Apartment Unit Type	% of SDZ Scheme
1 beds	20-25% (up to a quarter of which may be studios)
3+ beds	20% minimum
2 beds	up to 60% (balance)

Submission Numbers; 16, 18, 20, 40, 59

Summary of Issues;

Comments received on the material alterations in relation to the mix of units include requests to increase/decrease the proportion of different unit types.

A submission on behalf of the IGB Housing Action Group refers to Table 3.1 and seeks a maximum of 20% 1 beds, i.e. instead of 20-25% as set out in the material alteration. The submission also sets out a desired split for 550 affordable units as 60% affordable purchase and 40% affordable rental, and provides some detail in relation to these. One submission expresses support for the content of the IGB submission in relation to the alterations.

A submission by Declan Brassil & Co. on behalf of Becbay Ltd. (in receivership) and Fabrizia Developments Ltd (in receivership), acting through the statutory receiver, states that this alteration will reduce the total housing yield and the number of social and affordable units, and as such, this alteration should be rejected. The following mix is sought in order to ensure consistency with the Development Plan.

Unit type	% of SDZ scheme
1 beds	25-30%
3+ beds	15% minimum
2 beds	Balance

It is also asserted that the proposed material alteration is not consistent with the demographic evidence base, which informed the preparation of the Draft Scheme, and the mix as is set out in the first paragraph of section 3.3 in the draft text. The submission states that the alteration increased the proportion of 3 beds, for which there is least demand, and reduced the proportion of one beds, - for which there is greatest demand. The alteration will also reduce the total housing yield and related social /affordable units. The predominant type of housing in the area is 3+ bedrooms, and the demand now is for one and two bed roomed units. On this basis the alteration should be omitted.

Chief Executives Response:

The content of submissions and the range of concerns included therein has afforded an opportunity to re-evaluate the matter of unit types and their suitability to this area.

Recent figures released by the Housing Agency (in their 'National Statement of Housing Supply and Demand) show that in the period between 1986 and 2016, the national proportion of 4 and 5 person households fell from 46% to 30%, whilst the percentage of one and two person households rose significantly from 38% to 52% during the same period.

In relation to the submission from the IGB Housing Action Group, the proportion of 1 bed units has already been reduced from 25-30% in the draft scheme, to a proposed 20-25% in

the material variation. The suggestion of reducing this to a maximum of 20% is not supported by evidence-based data in relation to actual housing demand. Section 3.3 of the Draft Planning scheme refers specifically to high demand for one and 2 bed units in this area of the City, and for this reason, it is not recommended that the one-bed proportion should be reduced.

2016 Census data, recently released, shows that during the period 2011-2016, the national figure for average family size, measured by number of children, has remained the same, at 1.38. The 2016 figure for county Dublin, 1.17, is significantly lower than this national figure. On this basis, available Census data does not significantly alter the evidence-base for figures contained in the draft scheme.

In regard to the desired split for 550 affordable units as 60% affordable purchase and 40% affordable rental, this is a matter to be discussed as part of the legal agreement, having regard to the circumstances at the time.

In relation to the submission made on behalf of Becbay Ltd. and Fabrizia Developments Ltd (both in receivership), the following was sought by these companies to ensure consistency with the Development Plan.

Unit type	% of SDZ scheme
1 beds	25-30%
3+ beds	15% minimum
2 beds	Balance

The 1 bed percentage sought in the above is the same as that in the draft scheme. The alteration proposed to the draft scheme came on foot of 6 separate motions, whereby 5% less 1 beds was accepted, i.e. 20-25%, counterbalanced by a 5% increase in 3+ bed roomed units (minimum). However, the evidence base for the proportion chosen, as set out in the draft scheme in section 3.3 (first paragraph) refers to the high demand for one and two bed units, with approx half of total families in the local area being 2 person families and a further 25% being 3 person families (Census 2011). If we also look at private households in the area (Electoral Division) by size, families of 1-3 persons comprise 80% of the total, with families of 4+ persons making up just under 20% (2011). This 20% figure of course reflects the fact that there are a substantial number of traditional houses with gardens located in the Ringsend and Irishtown area.

Also relevant are social housing need figures for the city, which point to a need for 56% one bed units and 33% 2 beds (2015). A small number of 'build to rent' units are also allowed for in the planning scheme, and these allow for high proportion smaller units.

If we consider the above data in conjunction with the Census figures stated earlier, it is considered most appropriate to retain the 1 bed percentage requirement of the draft scheme at 25-30%, and also to reduce the 3+ bed proportion to 15% minimum in order to ensure a high proportion of 2 bed units (which are also in high demand). The resulting requirements across all three unit types would then be consistent with Development Plan requirements for the mix of apartment unit types (as set out in section 16.10.1).

Chief Executives Recommendation

To amend Material Alteration Number 2, by reverting figures in Table 3.1 to those contained in the earlier Draft Scheme, i.e.

Apartment Unit type	% of SDZ Scheme
1 beds	20-25% 25-30% (up to a quarter of which may be studios)
3+ beds	20% 15% minimum
2 beds	up to 60% (balance)

Material Alteration Reference No. 3

Amend Objective CD 8 to

(i) To require all developments over 50 residential units/5000m² to provide 5% social, cultural, creative and artistic purposes in the SDZ as identified in a cultural and community audit. Each block Masterplan/application needs to demonstrate how this is being incorporated. This space can be provided in tandem with community needs identified through community audits (see CD 9 below) to achieve viable economies of scale.

(ii) Developers to consult with the Arts Office of Dublin City Council, Local Communities and residents in developing the social, cultural, creative and artistic needs of the SDZ.

Submissions 39, 44, 38, 18, 45, 43, 22, 21, 53, 16, 42, 17, 36, 35, 19, 34, 32, 20, 46, 49, 41, 48, 40, 50

Summary of Issues

The Department of Housing, Planning, Community and Local Government have concerns regarding this alteration. It is stated that while recognising the need to provide such spaces, the current threshold would take up an equivalent of 175 dwelling units which the department considers to be excessive. It also recommends the threshold of 200 residential units/20,000 sq m and text similar to that in paragraph 4.3.4 of the North Lotts and Grand Canal Dock SDZ

A number of submissions fully support the 5% social, cultural, creative and artistic spaces in the SDZ. The IGB group would like such uses to be provided in both the SDZ and the local area and as such the text be amended to include "and local area". Some artistic, creative, cultural and community uses have made submissions to be included in the SDZ.

The Green Party Councillors also support the proposed material alteration and request that the text be amended to read as follows;

"To require all developments over 50 residential units/5000m² to provide 5% space for social, cultural, creative and artistic purposes within the Poolbeg West SDZ. Each block Masterplan/application needs to demonstrate how this is being incorporated. This space can be provided in tandem with needs identified through cultural and community audits (see CD 9 below) to achieve viable economies of scale" (i.e. omit reference to a cultural and community audit)

Becbay and Fabrizia have submitted that this alteration be consistent with the Dublin City Development Plan and as such amend the objective to have a threshold of 200 residential units/20,000sq m developments.

Chief Executives Response

Dublin City Council will promote social, creative and artistic spaces in the SDZ. The amendment to require all developments over 50 units/5,000 sq. m to provide 5% space for social, cultural, creative and artistic purposes is considered disproportionate and over-prescriptive. An equivalent of 175 of the potential 3500 units (900 social and/or affordable included) would be taken up by artistic, social, cultural and creative uses. In addition 5% of the commercial floor space equates to a further 4,000sq. m approx

The North Lotts & Grand Canal Dock Planning Scheme, approved by DCC and referred to the DHPLG as a good example to follow, contains an objective (CD21) to carry out and maintain a community audit for the entire SDZ, which will expand on and complement the Cultural Audit to be updated every 2 years.

On foot of this objective consultants carried out a Social Infrastructure Audit (draft) 2015. The main findings were that the Docklands has a strong concentration of existing infrastructural facilities, and that most of the social infrastructural needs of the area do not require capital investment in new facilities, but that the emphasis should be on supporting services,

programmes and capacity building. That said, the Audit identified the need for a number of cultural / arts physical spaces in the Docklands / Dublin Port, including a maritime museum, subject to feasibility, a space for youth arts, and for small galleries and flexible studio spaces in the area. The audit does not set a minimum floor space for cultural uses in all new development.

The City Council is currently working with the Arts Council and the Department of Arts, Heritage and the Gaeltacht to investigate how opportunities for artists' spaces can be provided in the city in recognition of the shortage of such spaces across the city. Preliminary findings indicate that artists' studios should be clustered in groups of 10 to 20 studios on ground and upper floors with shared facilities.

In the UK, affordable artists' studios are provided by organisations e.g. Acme. Acme provides 15 sites in Greater London with an average studio size of 35m². On the above analysis a 20 studio cluster plus communal facilities would equate to 20 small apartments rather than the 175 apartments plus which would be needed to comply with a 5% requirement.

In addition to the above, 5% of the SDZ would not constitute a direct equivalent of 175 units as submitted by the DHPLG. Social, community, creative and artistic activities can be flexible in nature requiring both internal and external spaces. An updated cultural and community Audit should guide the nature and location of such uses in the SDZ. It is acknowledged that artists' studios are only part of the social and community facilities needed to create a vibrant neighbourhood.

It is a real concern that to require that the 5% minimum of all applications will be accommodated in buildings, would reduce the viability of the overall SDZ scheme. The inflexibility of such uses would result in vacant units and dead frontage which would undermine the vitality and image of the Poolbeg West.

It is concluded that the Social and cultural infrastructure needs for the SDZ and the locality should be derived from the Social Infrastructure Audit 2015, as updated and including specific reference to artists' studios.

It is recommended that the threshold be revised to 200 units/20,000 sq. m. A community audit submitted with large development proposals shall provide a specific range of community facilities required for the area. Uses for social, cultural, creative and artistic spaces should be considered on both the ground floor level and upper floors where applicable to achieve variety in building vitality.

Chief Executives Recommendation

Amend Objective CD 8

From

- (i) To require all developments over 50 residential units/5000m² to provide 5% social, cultural, creative and artistic purposes in the SDZ as identified in a cultural and community audit. Each block Masterplan/application needs to demonstrate how this is being incorporated. This space can be provided in tandem with community needs identified through community audits (see CD 9 below) to achieve viable economies of scale.**
- (ii) Developers to consult with the Arts Office of Dublin City Council, Local Communities and residents in developing the social, cultural, creative and artistic needs of the SDZ.**

To

- (i) To require all developments over 200 residential units / 20,000m² to provide 5% social, community, creative and artistic space(s) in the SDZ as identified in an updated 2015 Cultural and Community Audit, to be completed within 6 months.**

Each application must demonstrate how this is to be provided for as part of the Implementation of the SDZ scheme set out in Chapter 12. This space can be provided in tandem with community facilities to achieve economies of scale and community synergies. The scheme shall aim to provide for artists studios comprising 10 – 20 studios in one or more clusters.

- (ii) Developers to consult with the Arts Office of Dublin City Council, the Art Council, the Department of Arts, Heritage and the Gaeltacht, Local Communities and residents in developing the social, cultural, creative and artistic needs of the SDZ.

Include text in chapter 9 page 48

Also required is the allocation of space at ground floor level and upper floor levels where applicable for social, cultural, creative and artistic purposes.

Material Alteration No. 4.

Delete all words from and inclusive of the film, TV and digital content industries in line one to vision a Reality and to adopt the following paragraphs as follows so that it will read:
Dublin Bay Studios: A once in a lifetime opportunity for Dublin
That the area designated as B2 in the Strategic Development Zone be shown for mixed
use, including film, TV and digital content production studios And that such a facility
would allow for the provision of sound stages, post Production and
digital services, workshop areas, ancillary support and admin buildings, backlot
(outdoor, green area)

Submission Numbers: 4, 6, 7, 8, 9, 10, 11, 13, 14, 17, 20, 23, 25, 27 (Dublin Port), 29, 30, 38, 39, 44, 51, 54, 55, 57, 60

Summary of Issues

A significant number of the submissions support the re-allocation of B2 lands to Mixed Use. These were from a range of businesses, industry groups, political representatives and individuals and made reference to Dublin Bay Studios (DBS) and the economic opportunities any such proposal would create. It was also requested that the reference to 'including film, TV and digital' within the B2 lands be altered to 'include film, TV and digital'. The re-allocation of the Bissett Engineering site to Mixed Use was also welcomed in a submission made on behalf of this company.

A number of concerns were however raised with regard to re-allocation of B2 lands to Mixed Use, including a submission from the Dublin Port Company (DPC). DPC note that it is their intention to develop the B2 area exclusively for port related purposes in order to cater for an anticipated growth in port activities and that DBS have no legal interest in the lands. DPC states that any displacement of future port activities is not in the interests of the proper planning of the area and conflict with Statutory Instrument. No. 279 of 2016 (Designation of the SDZ: Poolbeg West) leading to inherent contradictions within the SDZ Planning Scheme (notably Section 5.4.3 and in Section 9.4). It is also stated that any displacement of activities would require the reconsideration of previous proposals to secure land by way of infill (as per the Dublin Gateway project which occurred within a Natura 2000 site).

DPC, the Irish Glass Bottles (IGB) Action Group (supported by the Sean Moore Road Residents Association) and Clanna Gael Fontenoy GAA Club have also raised concern with regard to the re-allocation of the Bissett Engineering Site for 'Mixed Use' and the reduction in the buffers/transition area amenity space. The IGB Action Group suggested that further 'community gain' should be identified within the SDZ to compensate for the loss of park area.

Chief Executives Response

The re-allocation of the B2 lands from 'Industrial and Port Zone' to 'Mixed Use' enables the use of these lands to be developed for both film, TV and digital content industries as well as port related activities. The proposed change in wording from 'including film, TV and digital' to 'include film, TV and digital' would make the provision of these uses a requirement of the SDZ Planning Scheme. Designating lands specifically for the use of a film, TV and digital would place restrictions on any future expansion within the B2 lands by the DPC. This would lead to fundamental conflicts within the SDZ Planning Scheme and with Statutory Instrument. No. 279 of 2016, and as such cannot be supported.

The concerns of DPC and others are noted and it is acknowledged that the re-allocation of lands to 'Mixed Use' may raise expectations that a broad range of uses/intensive forms of development (such as residential uses) may be facilitated within the B2 lands, which could lead to conflicts within the SDZ Planning Scheme and with adjoining industrial uses. To

address these concerns, and add clarity, the term 'Mixed Use' should be expanded to make reference to 'Commercial and Industrial (including Port Related Activities) within the B2 lands. It should also be noted that a whilst the mixed use designation reduce the size of the Port Park it does not exclude the future use of the Bissett Engineering as Open Space, in principle, as this is a permissible use within current zoning (Z14), is consistent with the formation of a 'buffer' and/or 'road reserve' (as per Section 11.4.4 of the Draft SDZ Planning Scheme) and is consistent with the DPC Masterplan 2012-2040.

Chief Executives Recommendation

That the reference to Mixed Use on Material Alteration Map 2 (i.e. Figure 9.1) be modified to include:

Mixed Use **Commercial and Industrial (including Port Related Activities)**

That Material Amendment No. 4 be modified as follows

Delete all words from and inclusive of the film, TV and digital content industries in line one to vision a Reality and to adopt the following paragraphs as follows so that it will read:

Dublin Bay Studios: A once in a lifetime opportunity for Dublin that the area designated as B2 in the Strategic Development Zone be shown for **Mixed Use Commercial and Industrial (including Port Related Activities)** including film, TV and digital content production studios And that such a facility would allow for the provision of sound stages, post production and digital services, workshop areas, ancillary support and admin buildings, backlot (outdoor, green area).

Material Alteration No. 5

Insert additional bullet point to Section 11.5.1, Pg 65

- **“Whilst no minimum height has been set for Landmark or Gateway buildings where such buildings are required they shall be of sufficient height (compared with adjacent buildings) so as to ensure legibility throughout the SDZ and enhance the diversity of the skyline, particularly when viewed from surrounding areas”**

Submission Numbers: 2, 17, 20, 28, 31, 58, 59

Summary of Issues

A range of views were received in relation to the proposed increases in height. A number of submissions supported the increase in units and subsequent building heights, stating that it would result in a level of development that is more appropriate for the SDZ lands. A number of concerns were raised with regard to the visual impact of the proposed increases in height, with particular reference to views from areas of amenity along Dublin Bay and Sean Moore Road. A number of submissions also raised concerns noting that there was no information on how the proposed increase in height would benefit the scheme in terms of urban design or what the impacts would be in terms of overshadowing (in particular to internal courtyards), wind or micro climate effects.

A number of submissions also suggested further layout changes that would increase the scale and position of block sizes (as per March 2017 submission from Ballymore) and the Neighbourhood Square. Other issues were raised with regard to fire and safety requirements and increased height on the school site. Clarification was also sought if the ‘no minimum height’ reference in regard to landmark buildings was meant to state ‘maximum’ height and if landmark building would be available for cultural uses (see CE Report on Motions).

It should be noted that detailed submissions in relation to height were also received with reference to Map 1, including a submission from the receivers (Beccab) for the IGB Action Group (see also Section X - Map 1 below).

Chief Executives Response

The increase in building height (in particular the landmark buildings) will raise the profile of development within the SDZ lands when viewed from Dublin Bay and areas to the south. Sufficient design safeguards are however in place within the SDZ Planning Scheme and the City Development Plan 2016-2022 to ensure tall buildings are of a high quality. As such the visual impact will be positive, and will contribute to the development of an attractive and interesting urban skyline.

The rationale for the increase in building heights is provided within Chief Executive’s (CE) reports on Submissions (April 2017) and Motions (May 2017). These increases were applied in accordance with the height strategy (as per Section 11.5.3 of the SDZ Planning Scheme) in a manner that enhanced the urban structure, increased the diversity of the skyline and minimised overshadowing impacts. It should be noted that Appendix 4 (Shadow Diagrams) will be updated upon publication of the SDZ Planning Scheme and that all proposals for development will be subject to a detailed Shadow Impact Assessment and Wind Impact Analysis (as per Section 11.5.12 of the SDZ Planning Scheme).

In response to other issues raised with regard to heights

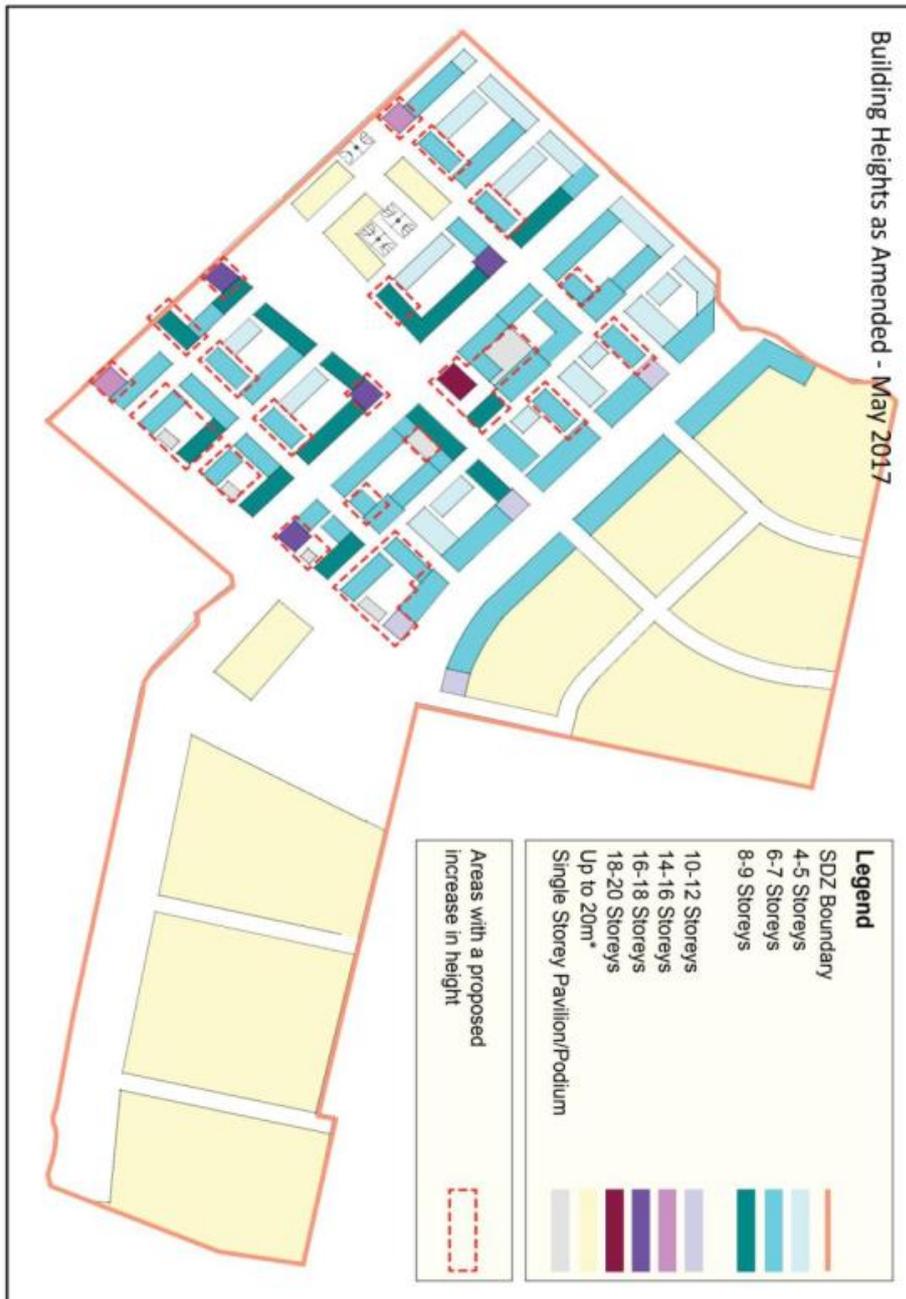
- No increase in heights on community school sites has been proposed. 20m is the equivalent of the 4-5 storeys applied within the initial Draft (March 2017).
- The 'no minimum height' reference is correct.
- Cultural uses are facilitated within a number of areas throughout SDZ, including commercial areas and as supplementary retail frontages.
- The provision of fire and safety equipment is subject to building/HSA national standards.
- Issues raised in regard to block layouts were addressed in the CE Report on Submissions. It should be noted that minor changes in building layouts and streets alignments were made to accommodate additional building heights.

Chief Executives Recommendation

No amendments proposed.

Material Alteration Map 1

Amend Figure 11.2 – Block Form and Layout within the Draft SDZ Planning Scheme Plan, with concurrent increases in building height as illustrated below



Submission Numbers: 16, 24, 26, 31, 33

Summary of Issues

A submission from Becbay, whilst welcoming the increases in height, raised concern that proposed range of heights are not sufficient to accommodate 3500 dwellings (it is stated that they will only deliver a maximum of 3,300 homes). An alternative height plan, which generally consists of increasing buildings heights to 8-9 storeys along Sean Moore Road,

South Bank Road, an internal east-west street and the school site is presented. Becbay have also requested that building heights throughout the SDZ Planning Scheme be consolidated to specify a range of heights within each block itself, rather than along the individual buildings around its perimeter. It is stated that this would provide greater flexibility and improved daylight within the courtyards.

A submission from The IGB Housing Action Group and Sean Moore Road Residents Groups support the retention of heights along Sean Moore Road at 4-5 storeys. Concern was however raised that the map contained buildings of 6-7 and 8-9 storeys in this location.

A submission from Bissett Engineering request that Figure 11.2 of the SDZ Planning Scheme be amended to enable a landmark building of up to 18- 20 storeys on the said site. Reference is made to the site's 'pivotal' location and the opportunity to create a focal visual focal point for the Planning Scheme area.

A submission from Clanna Gael Fontenoy raises concern in regard to the proximity, height and layout of buildings adjacent to the club. It is stated that the development will be 'visually oppressive' and 'overbearing' diminishing the amenities enjoyed by the Club and its members.

Concerns have also been raised that the indicative street network and 20m height limits shown within the B2 lands would create difficulties for the development of the Dublin Bay Studios. It was requested that the height limit be increased to 28m, consistent with the standards contained for commercial buildings within the Development Plan 2016-2022.

Chief Executives Response

The urban form (including building heights) has been extensively modelled in preparation of the SDZ Planning Scheme and can accommodate 3000-3500 dwellings. There are also a number of measures that have been included in the scheme, such as an additional setback storey (Section 11.5.1), a reduction in the proportion of commercial space (see Chapter 9 of the CE Report on Submissions) and the provision of studio apartments (as per national guidelines) that will assist in reaching the upper limit of 3500 dwellings. It is unclear from the Becbay submission if these measures have been taken into account.

The changes proposed by Becbay were generally been previously addressed in the CE Report on Submissions. It was noted that proposed distribution of blocks/heights places significant pressure on the urban design framework and undermines the height strategy as:

- An increase of 8-9 storeys on local or minor streets, away from the main movement corridors, reduces the legibility of the urban structure and could result in buildings that are twice the height of the street width. Where this to occur along the length of a local street, or within successive blocks, a canyon like effect would result.
- A uniform increase in height to 8-9 storeys along Sean Moore Road would be overly dominant and over bearing in contrast to the three storey houses opposite.
- By narrowing the range of building heights across the site, the diversity of the skyline would be reduced.
- Overshadowing of internal courtyards and public streets would be substantially increased. As noted above, where an increase in block size to occur to support additional height, any benefits in terms of solar access to internal courtyards are also largely negated.

Notwithstanding the above, some scope for an increase in building heights was identified. As part of an ongoing review to accommodate 3500 units, those changes which were consistent with the height strategy have been incorporated into the scheme which went on public display.

It is agreed that higher buildings on school/community sites would provide a stronger edge to the park. Concerns are raised however with regard to compatibility between uses with a substantial residential component on these sites combined with a school use and/or co-shared facility (security, provision of open space, noise). It is also noted that a number of the proposed increases in height relate to buildings identified within the Scheme for commercial use (i.e. those along South Bank Road) and therefore would not increase the capacity of the SDZ lands to deliver housing.

When determining the appropriate height limit for the B1 and B2 lands regard was had to Section of 15.1.1.9 of the CDP which states that the Poolbeg West SDRA will be predominantly under 28m in height (4-7 storeys commercial). The proposed height limit of 20m is at the lower end of this range and is the equivalent of five commercial storeys. As noted in the CE Report on Submissions, a general height limit of 20m is proposed as this would cater for large warehouse structures (such as those associated with a film studio) and office development up to 5 storeys. This will ensure that development within the B1 and B2 lands, which is largely generally industrial in nature and form, will be of a lower profile than more attractive forms residential development within the A1 lands.

With regard to the height of development on the Bissett Engineering site, the Urban Design approach provides scope for a landmark building where the shoreline pivots toward the Poolbeg Peninsula. Such a building is already provided for within the SDZ Planning Scheme in the form of an 18 storey gateway building on the A1 lands where there is certainty over its deliverability (i.e. outside of the Eastern By-Pass Road reservation). It is also noted that the Bissett Engineering site was re-allocated to 'Mixed Use' at the Special Council Meeting of 18 May 2017 to safeguard the existing use, not facilitate the intensification of development on the site. The provision of a 20m height limit on the Bissett Engineering site is adequate in this regard.

A number of minor amendments have been made to the block layouts to facilitate the increases in density/height. The alignment of the Coastal Link was moved north to increase the setback between development the southern side of the link and Clanna Gael Fontenoy. Development in this area is massed toward the car park and clubhouse. The inner 'Gateway' building has been located adjacent to the clubhouse building. This is consistent with the height strategy which includes slimly located landmark buildings along parallel strategic links to the north (Central Boulevard and South Bank Road).

The building heights illustrated on Map 1 along Sean Moore Road are as per the initial Draft SDZ Planning Scheme (January 2017).

With regard to the proposed street network within the B2 lands. As noted within the in the CE report on submissions all proposals for planning permission, including Dublin Bay Studios or indeed other proposals compatible with the Planning scheme have potential to improve pedestrian linkages. The proposed linkages are identified as 'flexible', meaning they could be provided in a number of different ways.

Chief Executives Recommendation; No amendments proposed.

Material Alteration Map 2

To amend Fig. 8.1, 9.1 and associated drawings so that the site is shown for development/infrastructure in the longer term, with open spaces shown by hatched lines in the short term, with the exception of the John Bissett site which will be shown for mixed use development



8.2 Indicative Sustainable Urban Drainage



9.1 Land Use





Submissions 33, 26, 27, 20, 15

Summary of Issues

Submission supports the material alteration for the re-designation of the site from open space to mixed use. Clanna Gael Fontenoy CLG is concerned about the impact of this material alteration with regards to the reduction of the allocated area for use as the Port Park. The reduction may not be sufficient to accommodate Gaelic games. Dublin Port has concerns regarding the designation of mixed use on B2 lands. It is stated that Dublin Port owns B2 lands and stressed that these lands will be developed for Port related activities and the inclusion of this alteration in the final scheme would be contrary to proper planning. TII request that the final scheme reflects the statement that the extent of development of the commercial area to the north of South Bank Road may be affected by SPAR/Eastern bypass reservation corridor as stated in the Chief Executive's report on submissions.

Chief Executives Response

In considering the Draft Poolbeg West Planning Scheme, the elected members of Dublin City Council considered that the existing Bissett Engineering industrial activity is an established use for over 20 years providing employment in the area. The elected members then agreed that B2 lands be allocated mixed use in recognition of this established use. Therefore, the re-designation of B2 lands to mixed use is to facilitate the existing (Bissett Engineering) industrial use only and B2 lands may still be developed for Port related activities. It therefore recommended that clarity should be provided in figure 9.1 of the planning scheme.

It is the objective of the draft planning scheme to offer new amenities and recreational activities and to support the upgrade of existing parks and amenity areas adjoining the SDZ (see G18). The Port Park might not be sufficient to accommodate Gaelic games, but it can

accommodate other recreational activities such as soccer kick around space, facility for all weather pitch, summer science projects, dog walking spaces etc.

Chief Executives Recommendation

That the reference to Mixed Use on Map 2 (i.e. Figure 9.1) be modified to include:

Mixed Use Commercial and Industrial (including Port Related Activities)

SEA and AA Determinations

(for content, please refer to text of the material alterations document)

Submissions 17, 2, 40

Summary of Issues

Submissions agreed with the SEA and AA determinations. Amending of text is recommended to provide clarification in the screening SEA determination. It is submitted that the Council should explain in greater detail what Strategic Environmental Assessment (SEA) Screening Determination and Appropriate Assessment (AA) determination mean relative to cultural entities such as Museum who apply for space in Poolbeg West.

Chief Executives Response

The Planning Scheme preparation process has followed and continues to follow the requirements set out in the Planning and Development Act 2000 (as amended) and associated Regulations.

The following environmental assessments were undertaken alongside the preparation of the Scheme: Strategic Environmental Assessment (SEA); Appropriate Assessment (AA); Strategic Flood Risk Assessment (SFRA) and Contamination and Remediation Assessment (CRA).

The SEA was undertaken in order to comply with the SEA Directive and transposing Regulations, and the Environmental Report that accompanied the Draft Planning Scheme contained the findings of this assessment. SEA facilitates the integration of environmental considerations into plans/schemes etc. through the systematic evaluation of the likely significant environmental effects of implementing a plan/scheme before a decision is made to adopt it.

The (Stage 2) AA was undertaken to comply with the EU Habitats Directive (Directive 1992/43/EEC). AA is a focused and detailed impact assessment of the implications of a strategic action or project, alone and in combination with other strategic actions and projects, on the integrity of a European Site in view of its conservation objectives. An AA Natura Impact Report was prepared that contains the findings of this assessment.

An SEA Statement and an AA Statement will be prepared on final adoption of the scheme, demonstrating how environmental and ecological considerations have been integrated into the Planning Scheme.

Chief Executives Recommendation

No Change

List of Submissions received on proposed Material Alterations

Number	First Name	Surname	Organisation	On behalf of
2	Lorna	Kelly		
3	Joan	McArthur	Sandymount & Merrion Residents Association	
4	Gareth	Lee	Animation SKILLNET	
5	Patrick	Hickey	Rothco Group	
6	Colm	Sexton	Cinetex Films	
7	Niall	Murphy		
8	Paddy C.	Courtney		
9	Paddy	Finn		
10	Barry	Keating		
11	Mary	Furlong	Windmill Lane Pictures Limited	
12	Kelly	Campbell		
13	Triona	Campbell Bernardo		
14	Russ	Russell	Russell Curran Productions	
15	Tara	Spain	Transport Infrastructure Ireland	
16	Declan	Brassil	Becbay Ltd. (In Receivership), and Fabrizia Developments Ltd. (In Receivership), acting through the Statutory Receiver, Mr David Carson c/o Deloitte Deloitte House, Earlsfort Terrace, Dublin 2	
17			Discovery Dublin Interactive Science Centre Project	
18	Cllr Claire	Byrne	The Green Party	
19	Helen	Carey	Fire Station Artists' Studios	
20	Susan	Cummins	IGB Housing Action Group	
21	Mark	O'Kelly	Creative Spaces Collective	
22	Gerard	Byrne	Creative Spaces Collective	
23	Angela	Doval		
24	Alan James	Moloney Morris	Lens Media for Dublin Bay Studios	
25	Ed Andrew	Guiney Lowe	Element Pictures	
26	Bernard	Barron	Clanna Gael Fontenoy	
27	Eamonn	O'Reilly	Dublin Port Company	
28	Fergus	Sharpe	Dublin Chamber of Commerce	
29	Torlach	Denihan	Audiovisual Federation	
30	Cllr Daithí	Doolan	Sinn Féin	
31	Stephen	Little	Stephen Little Associates	Ballymore Group
32			Fire Station Artists Studios	
33			John Spain Associates	John Bissett Engineering Ltd.
34	Kevin	Gaffney	Fire Station Artists Studios	
35	Fiona	Reilly	Fire Station Artists Studios	
36	David	O'Kane	Fire Station Artists Studios	
37	David	Clements	National Transport Authority	
38	Carolyn	Jones		

39	Alan	Butler		
40	Colm	MacAthlaoich	The Black Church Print Studio	
41	Niamh	O'Malley		
42			Dept. of Housing, Planning, Community & Local Government	
43	Jacinta	Lynch	Creative Spaces Collective	
44	Aleana	Egan		
45	Aoife	Tunney	Contemporary Public Projects	
46	Dave	Smith	Mabos	
47	Dave	Smith	Mabos	
48	Lorraine	Barry	Ringsend & Irishtown Community Centre	
49	Peter	Prendergast	Monster Truck Gallery and Studios	
50	Yvonne	Heery		
51	Brain	Dalton	RTE	
52	Sarah	Casey		
53	Davey	Moor		
54	Vincent	McCabe	Dublin Docklands Cultural Forum	
55			Screen Producers Ireland	
56	Jane	Fogarty		
57	Robert	Hartigan		
58	Clinton	O'Rourke		
59	Christine	Fitzpatrick	Sean Moore Road Residents Association	
60	Rebecca	Bourke	Assembly	

Owen P. Keegan
Chief Executive
Dublin City Council

Dated 20th September 2017