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REPORT OF THE INTER-DEPARTMENTAL / AGENCY GROUP ON PPPS

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Executive Summary

Introduction
Public Private Partnerships (PPPs) have made a very significant contribution to the delivery of priority public capital infrastructure in Ireland including through the timely delivery of projects and risk transfer to private sector partners. The role of the detailed and comprehensive PPP Policy Guidelines, containing a number of value for money (VFM) tests at distinct points in the development and procurement of PPPs, was highlighted by members of the Group in terms of the achievement of VFM from these projects, measured against the cost of traditional procurement of the equivalent projects.

Background
This review examines the future role of PPPs against the backdrop of the Government's plans for a substantial increase in Exchequer-funded public capital investment in order to assess whether:-

- PPPs should be utilised to deliver a substantial *additional* amount of public capital investment over that envisaged under the new 10-year National Development Plan; or
- PPPs should be retained as a procurement option to assist in delivery of the National Development Plan, to be adopted in circumstances that PPPs demonstrably yield value-for-money (VFM).

Key Themes
In this context, the review highlighted the following key themes:-

- Maintaining the core policy objective underlying PPPs of achieving VFM while ensuring that there remains scope for PPPs to meet public investment requirements when the Exchequer capital programme is constrained.
- Taking account of the cost of future liabilities associated with existing PPPs, determining how best to ensure that recourse to further use of PPP does not create long-term financial commitments that act as a significant constraint on the public capital programme.
- Safeguarding macro-economic sustainability in light of the level of public capital investment envisaged under the new National Development Plan.
- Ensuring that procurement of public capital infrastructure through PPPs is given full and proper consideration consistent with current PPP policy guidance.

PPPs: Advantages and Challenges
A key advantage of PPPs identified by members of the Group is that they provide a way of accelerating the delivery of infrastructural investment at times of economic / budgetary difficulty for the State (i.e. when affordability is a constraint on delivery), by providing infrastructure on an "off-balance sheet" basis. Delivering projects by PPP can, in this way, facilitate a number of large projects being developed simultaneously, notwithstanding the existence of significant fiscal constraints on the State in the course of a downswing in the economic cycle, as the capital costs can be spread over the longer term.

PPPs also offer a number of other potential advantages, including:-

- the scope to harness the innovation, commercial and management expertise and efficiencies that the private sector can contribute to a project;
- the ability to assign project risks to the party best positioned to manage and mitigate the risks;
- the linking of payments to performance and availability over the lifetime of the project; and

- the requirement that the asset is properly maintained and handed back in good condition with a specified residual life at the end of the contract.

However, PPP procurement is not a panacea for public infrastructure needs and it was acknowledged that PPPs also give rise to particular challenges including:-

- the demanding nature of the initial scoping and procurement process;
- the complexity of the actual PPP contract;
- the long term nature of the agreement and requirement to manage the contract over its lifetime;
- the financial commitments that are entailed for 25+ years; and
- the need to ensure that savings secured from innovation and project management can exceed the more expensive financing costs of PPPs compared with the cost of direct Exchequer borrowing.

PPPs: Counter-cyclical role

While noting that the main driver for PPPs should be VFM for the Exchequer when compared to the cost of conventional procurement of the equivalent asset, the 'off balance sheet' classification of PPPs was noted as being a particular advantage of PPPs in times of economic and fiscal crisis, offering as discussed above a counter-cyclical investment mechanism to deliver priority capital projects when these cannot be funded by the Exchequer.

This proved very important during the recent financial crisis, when successive new 'phases' of PPPs facilitated the planning and delivery of important additional projects to supplement the Government's (limited) capital programme being delivered directly with Exchequer funding.

Under more normal economic and fiscal circumstances, however, this ability to deliver 'additionality' is less relevant as there is then no longer the same requirement to use PPPs for stimulus, to deliver additional projects to compensate for a sub-optimal level of Exchequer investment in infrastructure, as was the case in recent years.

Indeed, in the context of the Government's plans to increase public capital investment to amongst the highest levels in the EU (reaching 3.8% of GNI* by 2021 and 4% by 2024) and maintain investment at that level for the remainder of the coming decade, the pursuit of further additional investment projects by PPP over and above this planned level of public capital investment would pose a risk that such projects may not achieve VFM and/or could give rise to a level of public capital investment overall that is not consistent with macro-economic or fiscal sustainability. It is therefore very important, given that Exchequer funding is now again available for public capital investment projects, that the VFM motivation for PPPs is fully restored.

PPPs and long-term fiscal sustainability

The long-term nature of the financial commitments arising under PPPs, and the sustainability of the future costs associated with PPP projects, must also be considered in this context. At 31 December 2017, the projected future liability in respect of PPP contracts signed at that date amounted to €7.185 billion. If the projected cost of unitary payments in respect of the potential further PPPs that are currently in procurement or planning are included, this would bring the total liabilities in respect of all currently 'approved' and operational PPPs to well over €9 billion.

On an annual basis, the cost of Unitary Payment charges associated with all existing operational PPP projects is some €260m in 2018. However, there are a number of further PPP projects in construction, with yet further projects in procurement, pre-procurement and early planning stage. The unitary payment charges in respect of these new PPPs will, as they come into service, add to the above figure annually.

When all of the current approved PPPs are delivered, the total cost of unitary payments is currently expected to peak in 2023, at a cost in excess of €410m.

If no further new PPP arrangements were to be entered into, beyond those projects which have already been announced and committed to, the Exchequer is expected to be required to continue to pay:

- an average of about €400m per annum (partly indexed for inflation) in PPP unitary payments for the following 12 years, from 2024 until 2035;
- followed by an average of about €300m for the following 7 years, from 2036 until 2042;
- after which the path to zero unitary payments will still take another 11 years until 2053.

This is a significant ongoing financial commitment, which will absorb a significant amount of the discretionary capital expenditure allocation of some Departments for each of these years, before any decisions on the funding of new capital projects can be considered.

This 'sustainability' issue was originally addressed by charging the capital cost of a PPP, over its construction period, against the overall capital investment envelope for the relevant Department, essentially treating Exchequer and PPP investment equally from a budget control perspective and thus providing an overall control mechanism for sustainable investment.

However, following the fiscal crisis, when capital envelopes for Departments were significantly reduced and the Government relaunched its PPP programme as a stimulus measure to provide additional projects, this former budget control mechanism was no longer viable. Instead, in order to ensure that PPP commitments did not excessively constrain future public capital investment options, a new Investment Policy Framework for PPPs was introduced in 2015 which sought to limit the total financial exposure associated with all PPPs (existing plus new/planned) in any individual year to 10% of the aggregate Exchequer capital allocation for that year.

In light of the future liability in respect of existing and planned PPPs, and the return to a substantial level of Exchequer-funded public capital investment, it is essential that projects are judged on their merits and if PPPs offer better value for money than traditional procurement, they should be selected on that basis.

Accordingly, a return is recommended to the original budget control mechanism (i.e. capital value of PPPs should be charged to the capital allocation of Departments, effectively meaning that there will be no distinction between procurement options for budgetary control purposes) and the 10% cap on PPP costs introduced in 2015 should no longer apply.

Future Role of PPPs

In light of the role that PPPs have played in recent decades in delivering public capital infrastructure with private funding and full consideration of the life-time economic cost of projects, the Group agreed that PPPs should remain a feature - broadly to the same extent as heretofore – in overall public capital investment. An appropriate level of procurement by PPP should therefore be maintained in the new 10-year National Development Plan, thereby also maintaining existing relationships with a broad range of international investors and PPP operators and avoiding a situation where such investors lose familiarity with and knowledge of the State's capital investment plans and operational details.

There is evidence that, where Exchequer resources are available to fund priority public capital projects, there can sometimes be a reluctance to examine the potential for PPP procurement. This appears to reflect the often high degree of complexity involved in PPP procurement and the challenges that this gives rise to for Departments, particularly in circumstances where a Department may lack experience and expertise in PPP procurement.

In these circumstances, it is important that, in accordance with PSC/PPP guidance, PPP should continue to be considered as a procurement option for appropriate public capital investment projects, within the suite of capital investment mechanisms available to Departments and should be assessed on a level-playing field basis as compared to traditional procurement. Projects which have the potential for user charges or which offer the potential to generate significant third party income should, in particular, be considered in terms of their suitability for procurement as PPPs, based on a concession model.

However, decisions on pursuing further PPPs should then be taken on a case by case basis, based on the merits of using PPP in the case of each individual project, rather than seeking to launch any new 'phase' of PPPs as an additional or parallel investment 'plan'.

As an incentive to the use of PPP, where a project offers the potential for user charges (i.e. concession projects), the self-financing element of any such concession PPPs may, subject to consultation with DPER, be discounted when charging the project to the sponsoring agency's Exchequer capital allocation. This should encourage the use of PPP for the delivery of such projects.

Notwithstanding the recommended change in approach to the budgetary control mechanism for potential new PPP projects, the existing approved PPP projects, announced under Phases 1 – 3 of the Government's Stimulus PPP programme, will continue to be procured under the pre-existing policy framework, as already planned, and will be unaffected by the changes now being proposed.

As the remaining Stimulus Programme PPPs continue to be procured, the experiences and learning of the earlier projects should be absorbed to transfer and share that knowledge and innovation. The outcome of the learning can help inform future policy development for PPPs (and, potentially, for all project planning and procurement).

In this regard, a potential reform that might be considered, in recognition of the challenges that PPPs can pose for Departments in terms of the scale of project required as a prerequisite, the complexity of the contract and procurement process (given the length of the contractual arrangement), and the long term nature of the financial commitments involved, would be the possible development of a new alternative PPP model, to complement the existing PPP model. Such a new option could comprise a less complex and shorter-term alternative PPP-type contractual arrangement, that could still offer some of the advantages of PPP but for smaller scale projects (maybe €20-50m), over a shorter time period (maybe 10 years). Such an alternative PPP option, if a suitable model could be developed, could also facilitate greater competitive tension in the procurement process. It would open up the 'PPP' market to smaller domestic contractors, who tend to be too small in scale to bid (alone) for traditional PPP projects, compared with the traditional PPP market which tends to be heavily reliant on the participation of a number of larger international players to ensure competitive tension in the procurement process is maintained.

Finally, in order to improve transparency in reporting on PPPs, a number of changes in the reporting arrangements for PPPs are recommended, as set out in the recommendations section below.

1. Context

The purpose of this review is to take stock of the future role of Public Private Partnerships (PPPS) in terms of the delivery of public capital infrastructure. This is against the backdrop of the Government's plans for a substantial increase in Exchequer-funded public capital investment and continued significant State-backed investment by commercial State-Owned Enterprises (SOEs).

In this context, there is a need for clarity on the precise nature and scale of the contribution which PPPs can make to public capital investment in the period to 2027.

- In particular it is important to examine whether:-it is desirable, as argued strongly by some stakeholders, to seek to utilise PPPs to deliver a substantial *additional* amount of public capital investment over that envisaged under the new National Development Plan; or

- PPPs should be retained as a procurement option to assist in delivery of the National Development Plan, to be adopted in circumstances that PPPs demonstrably yield value-for-money for the State compared with provision using traditional procurement, consistent with the original policy approach adopted in Ireland from the mid-1990s

2. Inter-Departmental / Agency Group

In order to carry out this review an Inter-Departmental and Inter-Agency Group (IDAG) was established to review past experience with PPPs and provide an evidence based analysis of the potential for further use of PPPs (and concessions) as a procurement option for the delivery of public capital infrastructure. The Terms of Reference for the work of the Group are attached at Appendix I of this report.

The IDAG comprised relevant senior officials from Departments and agencies with relevant policy expertise and experience of PPP procurement (see Appendix II for membership of the Group).

The Group met in formal session on two occasions, but conducted most of its business electronically, including contributing to the drafting of the Group's report. Members of the Group also completed a detailed questionnaire on the key issues to be addressed under its Terms of Reference. A copy of the questionnaire is attached at Appendix III.

This report sets out the findings of the review and conclusions of the IDAG for consideration by the Minister for Public Expenditure and Reform. In the context of the preparation of the National Development Plan, a summary of the agreed key findings and recommendations have already been provided to the Minister in advance of finalisation of the full detailed report of the Group, and these are included in the National Development Plan published on 16 February.

3. Background

Exchequer funded public capital investment has traditionally been the core mechanism through which public capital infrastructure in Ireland has been put in place.

However, the requirement to ensure or restore overall fiscal sustainability, particularly during economic downturns, has limited the size of the public capital investment below the level that might be optimal in light of such factors as:-

- existing infrastructural deficits;
- the need for maintenance expenditure to maintain the quality of existing public capital stock;
- the requirement to build the economy's international competitiveness in terms of trade or foreign direct investment;
- the desire to enhance the economy's supply capacity; and
- the need to meet essential social requirement (e.g. social housing).

In line with international experience and practice, from the mid-1990s onwards, the authorities in Ireland adopted PPPs as an alternative mechanism to traditional procurement to deliver priority public capital investment projects.

4. Overview of PPPs in Ireland

PPPs were introduced in Ireland in 1997 with 5 pilot schools and the Cork School of Music. The success of these projects led to further modification of the PPP model which has continued to evolve after each project experience to:-

- reflect lessons learned;
- improve delivery; and
- adjust to best serve the State's needs.

While a broad spectrum of projects have been procured by PPP, from the National Convention Centre to Courts and Primary Care Centres, PPPs have proven to be particularly suited to the transport and education sectors. The IDAG noted on this basis that PPPs have represented an important mechanism through which to deliver capital investment projects with a proven track record, particularly for recurring projects such as, for example, the road network and schools.

One third of Ireland's c.1270km of motorway/dual carriageway network has been delivered by PPP. Transport Infrastructure Ireland has entered into thirteen road PPP contracts and also a PPP contract for the provision of motorway service areas. Through the roads PPP programme in excess of €3 billion of private finance has been invested in road infrastructure. Following the recent opening, in September 2017, of the M17 Gort to Tuam scheme, PPP operated roads now comprise some 33 per cent of the c.1270km of the motorway/dual carriageway network. A further two schemes, the N25 New Ross Bypass and the M11 Gorey-Enniscorthy scheme are currently in construction and due to open in 2019.

In the education area, 25 post primary schools, two primary schools and two higher education projects have been delivered by PPP to date. The schools have been built in 5 separate bundles and all projects were delivered on time and within budget. The school projects involved the delivery of a combination of new schools in rapidly developing areas, replacements for existing schools and new accommodation for schools formed by the amalgamation of existing schools. Service commencement of these projects was achieved at various dates between January 2003 and May 2016. It is also planned to deliver more than 50,000sqm of academic buildings for DIT at Grangegorman by way of PPP, with plans also in place to use PPP to deliver new buildings across 11 Institutes of Technology.

The IDAG concluded that PPPs have made a very significant contribution to the delivery of priority public capital infrastructure in Ireland including through the timely delivery of projects and risk transfer to private sector partners. The role of the detailed and comprehensive PPP Policy Guidelines, containing a number of VFM tests at distinct points in the development and procurement of PPPs, was highlighted by members of the Group in terms of the achievement of VFM from these projects measured against the cost of traditional procurement of the same projects.

5. Rationale for Use of PPPs

The potential value of PPPs is clearly stated in the PPP guidelines:

"*The PPP approach has the potential to offer value for money and timely delivery of infrastructure when applied to projects of the right scale, risk and operational profile. One key aspect of the PPP approach is that risk is transferred to the party that can manage it best*".

In light of this assessment, members of the IDAG were asked what, in their experience, were the main advantages and disadvantages associated with PPPs.

A key advantage of PPPs identified by members of the Group is that they provide a way of accelerating the delivery of infrastructural investment at times of economic / budgetary difficulty for the State (i.e. when affordability is a constraint on delivery). A PPP is structured so that the public sector body seeking to make a capital investment does not incur any borrowing, but rather the PPP borrowing is incurred by the private sector partner delivering the project and so, from the public sector's perspective, the PPP provides an "off-balance sheet" method of financing the delivery of new or refurbished public sector assets. In this way, investment projects which require significant up-front expenditure, which may not be affordable for the State at a particular point in time, can be procured by PPP with the State getting the use of the asset while payment is spread over the asset's working life, and is therefore affordable.

Delivering projects by PPP can, in this way, facilitate a number of large projects being developed simultaneously, notwithstanding the existence of significant fiscal constraints on the State in the course of a downswing in the economic cycle, as the capital costs can be spread over the longer term. The Group identified this benefit as particularly relevant to assessing the future role of PPPs.

A number of other advantages were also identified by the Group as being associated with using the PPP model:

- PPPs enable the public sector to harness the innovation, commercial and management expertise and efficiencies that the private sector can bring to the delivery of certain facilities and services traditionally procured and delivered solely by the public sector, with value for money benefits for the Exchequer. The innovation and best practice experienced on PPP projects can also be transferred to the benefit of subsequent traditionally procured projects.
- PPPs facilitate the assigning of risks to the party best positioned to manage and mitigate the risks, which can have value for money benefits for the State.
- PPPs also provide price certainty for the State, with no cost increases for the Exchequer arising from unexpected events, post contract close. A working example of this is the recent liquidation of Carillion which has, unfortunately, impacted on the finishing out of the construction stage of the Schools Bundle 5 PPP project. Liquidation of a company, such as Carillion plc, is an unfortunate development but would impact all projects regardless of whether procured traditionally or by means of a PPP. However, the contractual mechanisms within the relevant PPP project agreement are designed to limit the State's financial exposure. In relation to Schools Bundle 5, the private side remains responsible for ensuring completion of the schools, with no additional cost to the State. Monthly payments only commence once the full works and services as set out under the project agreement are satisfactorily delivered for each school. The fact that PPP contracts include detailed provisions that apply in the event of a situation such as this, which ensure that the project proceeds to completion without any additional costs to the State, is a significant benefit associated with PPP procurement.
- PPPs involve long-term contracts whereby payments are linked to performance and availability over the lifetime of the project, and deductions apply when the facilities are not performing or are unavailable. This has the benefit of making bidders focus on the whole life-cycle cost of the projects and not just on the upfront capital cost – which is a key benefit of the PPP approach, and should also be applied in traditionally procured projects as a standard approach.
- The construction phase of a PPP project tends to be delivered faster because the private partner does not receive any payment until the capital works have been completed.
- The PPP company is subject to handback requirements which ensure projects are handed back with a specified residual life. Under traditional procurement there is no such certainty that assets will be properly maintained.

- The defects period for PPP projects is effectively the whole life of the contract, whereas for traditional projects, contractors are only liable for defects for the first 12 months of operations.
- The level of maintenance in PPP buildings tends to be superior and more systematic compared to directly funded projects.
- Users of PPP facilities are guaranteed a level of service that will not be reduced as a consequence of financial constraints.
- Very significant due diligence is undertaken in preparing projects for procurement by PPP, and more detailed specifications are developed compared to traditional procurement, so there are less unknowns reducing the likelihood of claims post contract close. PPPs also have a strong corporate governance structure, with clear lines of accountability for all issues associated with the project.
- PPPs also bring a level innovation that is not always available through traditional procurement.
- In School PPPs, the Principal is freed up to focus on academic aspects of management, rather than the operation and maintenance of the school building.

However, PPP procurement was not identified by members of the Group as a panacea for public infrastructure needs and it was acknowledged that PPPs also give rise to particular challenges:

- The process is demanding up front: it involves identification of whole life costs of delivering the asset involved and the negotiation of a contract which typically is of 25 to 30 years duration. This complexity and the long term nature of the commitments to be entered into give rise to significant up-front costs in terms of the need for legal and other specialist advisors.
- Due to the complexity of PPP contracts, and the long term nature of the agreements to be entered into, PPPs tend to require a rather lengthy procurement process prior to the construction phase – generally longer than for equivalent projects to be procured by traditional means. Issues can also arise during this process (particularly in 'bundled' projects) that can result in delays in the procurement process.
- The risk transfer which it is intended to be achieved under PPPs may in certain circumstance turn out to be partial or incomplete and particular risks transferred may be priced at a high-level by the private sector partner.
- Bid costs associated with PPP projects have been a concern for the private sector. When launching the 2012 PPP programme, in view of the very limited PPP activity in the preceding few years coupled with the difficult recent period for the financial and construction sector, and on the strong advice of the NDFA, the Government decided that, in order to help reactivate the Irish PPP market and ensure competitive tension in the tendering process, provision would be made, on a temporary and exceptional basis, for some reimbursement of bid costs for accommodation projects under the new PPP Programme. Claims for partial recoupment of bid costs are permitted by the two unsuccessful shortlisted tenderers. However, this policy no longer applies to new PPPs, given the significantly changed environment for PPPs now as compared with when (and why) the policy was introduced. Nevertheless, one company indicated that it may not participate in any new PPP procurement competitions in the absence of a bid cost recovery policy.
- Private sector funding is generally more expensive than State borrowing, a cost that is necessarily reflected in the unitary payments paid by the State. Therefore, in order to represent value for money for the Exchequer, this additional cost of private finance in PPP projects must be capable of being offset by the savings achieved in terms of efficiency benefits in running costs (i.e. facilities management, operational costs) and/or risk transfer to the PPP company.

- The scale of the effort required by the public sector must also not be underestimated. PPPs are more resource intensive at inception and design stage than a traditional procurement, while in the procurement and delivery phase of a PPP project there is also considerable technical input from the public partner. Following delivery of the project there is a need for significant administrative resources and expertise to effectively manage the contract and ensure VFM is secured over the contract term which is generally 25 years or more. This contract management function is not generally required in the case of traditional capital investment and represents a further cost to the Exchequer.
- Because of the long term nature of the agreement (typically 25 years), difficulties can arise in the estimation of costs over such a lengthy period, when assessing value for money compared with a procurement by traditional means.
- Detailed specifications have to be developed very early in the process and it is not always easy to forecast how a service might change or develop over a 25 year period. Dealing with any changing requirements of the services can be difficult and potentially costly post contract close. The fixed nature of the PPP contract can pose difficulties in terms of a lack of flexibility in the event of any change in requirements (e.g. to address technological, demographic or policy changes). Any alterations/additions can only be made by the PPP Co, under the terms of the project agreement, and so there is no scope for competition (to ensure value for money) in securing any changes required.
- Bundling smaller projects to achieve the necessary scale for a PPP has its drawbacks. An issue arising on any one individual project within the bundle can delay finalisation of the entire PPP project.
- PPP payments are legally binding contractual commitments and, should public expenditure be constrained, these commitments may have an adverse impact on the budgets available to public authorities for other non-PPP expenditure, potentially reducing flexibility in terms of planning new infrastructure in the future.
- There is a tension between PPP companies' energy needs in the management of its obligations to preserve the fabric of the building and the fact that users pay the energy bills.
- Finally, in order to meet the latest Eurostat requirements for classification of PPPs to the balance sheet of the private partner, the State must be prepared to forgo some potential benefits that were previously associated with PPPs, such as the possibility of sharing in 'excess' profits over and above projected levels (e.g. arising from higher demand/user charges than reasonably envisaged), the ability to share equally in any gains arising from a refinancing of the project, or the ability to seek to recoup more than 50% of the cost of the project directly or indirectly from users of the asset.

6. Factors in Assessing Suitability for PPP procurement

Reflecting the issues summarised above, current PPP policy guidance identifies a number of key considerations in determining whether a project should be procured by PPP or traditional means including:-

- allocation of risk;
- quality of final product and ongoing maintenance requirement;
- deliverability of the project on schedule;
- overall costs,
- control of project; and
- resources required to oversee the project.

In response to the questionnaire members of the Group elaborated on these issues and identified a number of other factors that are also considered when determining whether PPP may be an appropriate procurement mechanism for a project, as outlined below (not necessarily in order of priority):

- the scale of the project (small projects not suitable, unless can be bundled together).
- whether there are likely significant changes required to the building or services provided over the lifetime of the project.
- whether complex (e.g. high-tech) or specialist facilities are involved, which would likely attract large risk premiums.
- whether risk-related costs can be minimalised, while also maintaining viability as a PPP from market perspective (e.g. scope for private partner to take on planning risk).
- overall cost in terms of value is a primary consideration.
- speed of delivery – Initial procurement process is longer, but construction period shorter.
- quality of the final product (tends to be high in PPPs, due to need to perform over 25 years and still be in good condition at hand back).
- willingness of sponsoring agency to engage with a PPP arrangement, including contract management responsibilities.

7. PPPs and VFM

The Group highlighted the importance of maintaining a continuing sharp focus on ensuring that the policy framework in place for PPPs delivers value-for-money (VFM) in line with the core objective of the policy framework for PPPs. The Group, however, also stressed that the VFM secured from PPPs should not be interpreted as generating a lower cost than would be achieved from traditional procurement.

In this regard the Group noted that the PPP Guidelines also state that the Public Sector Benchmark against which the cost of a PPP is compared "should be based on the whole life cost" (i.e. the procurement of capital projects should take into account the whole life cost of the project). Consequently, in assessing PPP projects the cost of the debt financing and of the maintenance and up-keep of the asset is factored into the contract, whereas it is not always for traditional Exchequer-funded capital investment for which the debt servicing cost is rolled into the national debt and upkeep costs are provided through Voted Capital Expenditure.

VFM for a PPP project is, therefore, assessed on the basis of a comparison with the notional Exchequer cost of delivering the same project, but that project is not equivalent to the actual outcome from conventional procurement as this would not encompass the procurement providing for the maintenance of the asset over its lifetime and an assured asset quality at the end of the contract.

8. Funding costs of PPPs

In circumstances where borrowing costs for the State are significantly lower than those available to private entities, as is the case at the present time and, in normal market conditions, usually applies, this poses a challenge for PPP projects to meet VFM tests when compared to traditional procurement.

The cost of financing is factored into the PPP contract upfront, and this is met through the unitary payments. Consequently, PPPs are likely to yield VFM for the Exchequer where the nature of the PPP project is such that the benefits of PPP procurement as set out in the preceding section above, are strongly manifested through the various VFM tests undertaken under the relevant PPP policy guidance.

The Group noted that it is sometimes argued in support of PPP procurement that, on account of the off-balance sheet status of PPPs, the procurement of public capital investment projects as PPPs at a point in time reduces the overall level of sovereign borrowing that would have otherwise arisen (if the project was on-balance sheet) and everything else being equal reduces the State's debt servicing costs.

However, the Group agreed when considered on an intertemporal basis, higher financing costs for the PPP partner (as compared to sovereign borrowing) are reflected in the unitary payments made by the State over an extended period of time and, in net present value terms, lead to higher financing costs for the State for PPP projects than would have arisen in the case of traditional procurement (i.e. where, as conventionally would be the case, the funding costs for the State are lower than those for non-sovereign borrowers, savings in debt service costs on account of the off-balance sheet status of PPPs are exceeded by the higher level of unitary payments reflecting higher funding costs for PPPs).

9. Key Issues

The work and discussions of the Group highlighted in particular a number of related and inter-dependent themes requiring further assessment. These issues are set out below and are discussed in the following sections of this report.

- Maintaining the core policy objective underlying PPPs of achieving VFM while ensuring that there remains scope for PPPs to meet public investment requirements when the Exchequer capital programme is constrained by an economic / fiscal downturn as occurred during the recent crisis.
- Taking account of the cost of future liabilities associated with existing PPPs, determining how best to ensure that the degree of recourse to further use of PPP is fiscally sustainable and does not give rise to a level of long-term financial commitments for the State that act as a significant constraint on the potential size of the public capital investment programme over an extended period.
- Assessing how to safeguard continued macro-economic sustainability in light of the level of public capital investment planned under the new National Development Plan and implications for the role and contribution of PPPs under the Plan.
- Examining how full and balanced consideration is given to the scope for PPP procurement given the incentive, everything else being equal, to favour conventional procurement owing to the significantly lower degree of complexity involved.

10. Counter-cyclical role of PPPs

As discussed above and is very clear from the PPP Guidance issued by the Department of Finance in 2006, from the outset it was intended that the main driver for PPPs should be value for money (VFM) for the Exchequer when compared to the cost of conventional procurement of the same asset.

PPPs also offer the advantage of being able to deliver projects on an off-balance sheet basis, but the guidance was clear that such ‘off balance sheet’ status of a project should not be the driver for pursuing PPPs in normal economic and fiscal circumstances when sufficient Exchequer resources are available to fund the public capital investment programme.

The ‘off-balance sheet’ status of PPPs and the severe constraints on Exchequer public capital investment in the wake of the economic and fiscal crisis highlighted for the Group the role of PPPs as a counter-cyclical investment mechanism to deliver priority capital projects when these cannot be funded by the Exchequer as referred to above.

During the financial crisis the Group noted that the State faced very constrained fiscal circumstances during which Ireland was unable to borrow commercially on the financial markets. As a result having initially, in the wake of the onset of the crisis, shut-down its PPP programme, the Government then restarted PPPs as part of a wider stimulus programme to seek to stimulate the economy.

As a consequence, in 2012 the Government launched a new phase of its PPP programme to deliver some much-needed capital projects using private finance, on an off-balance sheet basis. The programme included 8 projects with a combined value of c€1.4 billion, to deliver projects across the roads, education, health and justice sectors. Since then, two further phases of the new PPP programme have been launched, in 2014 and 2015 respectively, as part of the Government's stimulus initiative, with the emphasis in each case on 'additionality' – the ability to deliver additional projects to supplement the Government's (limited) capital programme being delivered directly with Exchequer funding.

This Stimulus Programme was, therefore, launched during a unique period for Ireland in terms of the severe retrenchment in public capital investment undertaken in the wake of the economic and fiscal crisis to seek to restore Ireland's public finances to a sustainable path. Members of the Group highlighted in their response to the questionnaire the extent to which the PPP procurement mechanisms enabled priority public capital investment projects to proceed as part of the stimulus programme at a time when Exchequer resources were severely constrained.

The Group distinguished this scenario from that which could potentially arise if PPPs were to be utilised to deliver substantial additional public capital investment over and above that envisaged under the Government's new 10-year National Development Plan. The Group highlighted the risk that such projects may not achieve VFM and/or give rise to a level of public capital investment overall that is not consistent with economic or fiscal sustainability.

The appropriate scale of public capital investment over the next decade is discussed in the next section which is relevant to assessing the future role of PPP in the context of the National Development Plan.

11. Appropriate Level of Public Capital Investment

The significant progress made in restoring the public finances and the transformation in economic performance in recent years has enabled Government to demonstrate its commitment to investing in public infrastructure by increasing the Exchequer funding committed to public investment between 2018 and 2021 by over €7 billion. This will result in gross voted capital expenditure increasing by approximately 48% between 2018 and 2021, reaching €8.6 billion in 2021.

A key issue for consideration in light of this substantial planned growth in public capital investment is the extent to which this proposed increase in public capital investment meets the economy's needs, consistent with the fundamental requirements of overall economic and fiscal sustainability.

The long-term average of public Gross Fixed Capital Formation (GFCF) in Ireland can be regarded as a good proxy for the equilibrium level of public investment as it removes the effects of cyclical developments which have contributed to a very significant volatility of public capital spending. Over the period 1995–2015 the share of public GFCF in GDP in Ireland was in the region of 3% equating to the average for the EU15 over the same period. This indicates that a value of 3% of an appropriate measure of national income might be considered an appropriate target for the long-term level of public capital spending for Ireland.

Under the new National Development Plan, gross voted capital expenditure will reach 3.8% of Gross National Income (GNI*) by 2021, and 4% by 2024, with sustained investment averaging 4% on an annual basis over the period 2022-2027As recently confirmed by the Irish Fiscal Advisory Council, this will see public investment in Ireland moving from relatively low levels to among the highest in the EU as a share of national income and a share of total government expenditure. This is assessed in terms of national experience and international evidence to set public capital investment at an appropriate and sustainable level, relative to economic growth and identified infrastructural needs. It will also smooth out spending on investment projects over future economic and fiscal cycles and will help prevent a return to the pro-cyclical approach to public investment previously experienced in Ireland.

12. Macro-Economic Sustainability of Public Capital Investment

The mid-term review of the 2015 Capital Plan 'Building on Recovery' published in September 2017 highlighted the crucial importance of ensuring that the substantial planned increase in public capital investment is aligned with the capacity of the economy and the construction sector to ensure that the increased resources are used efficiently, delivering real improvements in public capital infrastructure, and that the impact of the increased spending is not eroded by construction price inflation, that also contributes to overheating risks for the economy more generally.

While recognising the importance of bridging the shortfall in Ireland's public capital stock in areas such as transport infrastructure, housing, education and health, and strengthening Ireland's competiveness, it is clearly important as set out in the review to adopt a prudent and measured approach to increased investment in public infrastructure, in circumstances where there is a high degree of uncertainty regarding the cyclical position of the economy at present, and the likelihood of overheating risks being realised if the rate of investment growth outpaces the ability of the economy and the construction sector to respond to the need for increased construction capacity.

As discussed in the review of the Capital Plan, in assessing overheating risks countervailing factors also need to be considered. Efficient public capital investment alleviates congestion and bottlenecks, in themselves a source of overheating risk, and boosts the economy's supply capacity and potential growth. In addition, the Review highlighted that there are a number of steps that can also be taken to mitigate any risk that the public capital investment necessary over the coming years to support enhancing Ireland's supply potential give rise to overheating pressures. For example:

- The growth in infrastructural investment should be at a planned and moderate rate which does not outstrip the pace of the supply response feasible from the broad construction sector.
- There should be no sharp or unexpected increase in public capital spending in the short term, for which the sector is not equipped to respond.
- There needs to be a renewed strategic focus on supporting the strengthening of the capacity, capability and degree of competition of the domestic construction sector in Ireland, as well as on encouraging and promoting market entry from abroad by confirming and highlighting the planned scale of Ireland's public capital investment plans.

13. Potential Role of PPPs in Enhancing Construction Capacity

As set out above, given the transformed funding environment for public capital investment under the National Development Plan, compared with that which pertained through the earlier part of this decade, the Group agreed that it is important to formulate a strategic view on the role of PPPs in delivering infrastructure projects, and the extent to which PPPs should be used to deliver additional infrastructure, to complement that provided directly with Exchequer funding, without placing an unsustainable burden on the public finances that could severely constrain future capital budgets and/or contribute to overheating in the construction sector that could lead to poor value for money for the State.

Members of the Group pointed to the role that PPPs have played as a counterbalance to construction inflation in the economy, given that PPPs have previously tended to attract international finance (e.g. from investors and corporate entities in other EU Member States and the EIB), as well as non-domestic construction firms (as demonstrated by the many international firms delivering PPP projects at present). This was highlighted as having the potential to add to the level of competition in the area of PPPs and adds extra construction capacity, thereby reducing the pressures within existing domestic capacity.

In this regard, Exchequer-funded capital investment projects were characterised as attracting mainly domestic construction expertise, in some cases due to the smaller scale of the project, whereas PPP projects are typically larger projects (sometimes due to the bundling of projects such as schools) and hence, the size and complexity is one reason why the PPP route is chosen.

On the other hand, international firms bidding for PPPs often partner with existing Irish contractors, and so may not necessarily always add additional capacity but could actually increase the pressure on the existing capacity of the domestic construction sector. It should also be noted that many large scale traditional Exchequer-funded projects also attract international firms (e.g. the National Children's Hospital), and since the level of Exchequer investment is set to increase significantly in the coming years, this ability to attract in external capacity will not necessarily be confined solely to PPPs.

It is also worth noting that the advantage of attracting in external private finance, such as EIB lending, is also not unique to PPPs, as many traditionally procured projects have also availed of EIB financing - including Luas Cross City, the National Children's Hospital and the Department of Education's School Building Programme. The recently established EIB-Ireland Financing Group, co-chaired by the Minister for Finance and the President of the EIB, has a key role to play in this regard into the future, in terms of increasing future EIB investment activity in Ireland (whether in Exchequer funded or non-Exchequer projects) and in raising awareness in Ireland of EIB products and encouraging a strong pipeline of Irish projects to benefit from EIB financing, including under the Investment Plan for Europe.

Therefore, while PPPs have previously played a role in attracting private finance and augmenting the capacity of the construction sector, there is a lack of evidence as to whether PPPs could, uniquely, be expected to play this role in the future.

14. Ensuring long-term fiscal sustainability and affordability of PPP commitments

The long-term nature of the financial commitments arising under PPPs require that the use of such arrangements must be carefully planned in order to ensure that they are used appropriately, to address infrastructural needs in a manner that is sustainable in the long term and which the public finances can afford, while also delivering value for money for the Exchequer.

At 31 December 2017, the projected future liability in relation to PPPs where contracts had been signed at that date amounted to €7.185 billion. However, there are a number of further PPP projects in procurement, pre-procurement and early planning stage where contracts have not yet been signed, but are likely to be in the coming months or years. Assuming all of these projects proceed to contract close, this will add to the overall future liability in relation to PPPs. If the projected cost of unitary payments in respect of all of these potential further PPPs currently being progressed are included, this would bring the total liabilities in respect of all currently 'approved' and operational PPPs to well over €9 billion.

In terms of the annual budgetary impact of these future liabilities, the cost of Unitary Payment charges associated with all existing operational PPP projects is some €260m in 2018. However, as indicated above, there are further PPP projects in construction, with yet further projects in procurement, pre-procurement and early planning stage. The unitary payment charges in respect of these new PPPs will, as they come into service, add to the above figure annually.

When all of the projects currently being progressed as PPPs are delivered (i.e. those announced under Phases 2 and 3 of the Government's PPP Programme), the total annual cost of unitary payments is expected to peak in 2023, at a cost in excess of €410m.

If no further new PPP arrangements were to be entered into, beyond those projects which have already been announced and committed to, as referenced above, the Exchequer is expected to be required to continue to pay:

- an average of about €400m per annum (partly indexed for inflation) in PPP unitary payments for the following 12 years, from 2024 until 2035;
- followed by an average of about €300m for the following 7 years, from 2036 until 2042;
- after which the path to zero unitary payments will still take another 11 years until 2053.

This is a significant ongoing financial commitment, which will absorb a significant amount of the discretionary capital expenditure allocation of some Departments for each of these years, before any decisions on the funding of new capital projects can be considered.

It was in consideration of such long term financial commitments associated with PPPs that Government felt it was prudent to introduce a budgetary control mechanism for PPP commitments to ensure that Departments remained flexible and able to meet unexpected future demands.

This issue of Affordability, and the sustainability of the future costs associated with PPP projects, was addressed in the 2006 PPP guidance. At that time, the issue was addressed within the context of the multi-annual Capital Envelopes set by Government at Departmental level. For PPPs, the capital cost of a project, over its construction period, was set against the overall capital envelope limit for the relevant Department, to provide an overall control mechanism for sustainable investment, including Exchequer and PPP investment, at a macro level. In effect, this meant that all capital projects were treated equally in assessing affordability of capital investment, regardless of the method of delivery (traditional v PPP).

Following the fiscal crisis and the re-launch of the Government's PPP programme as a stimulus measure in 2012 (with a second phase in 2014), the former budget control mechanism (set in the context of Departmental Capital Envelopes, which had been due to increase annually) became inappropriate/redundant. However, there was a recognition that while the EU Fiscal Rules imposed a control on capital spending on a year-to-year basis, these rules did not directly apply in the same way to PPPs as the Fiscal Rules do not capture the long-term fiscal consequences of PPPs on Exchequer capital allocations. It was estimated at that time that PPPs gave rise to a significant ongoing financial commitment which would absorb a significant amount of Government's discretionary capital expenditure over the next decade (amounting to almost 7% on average between 2016 and 2025).

Accordingly, in order to ensure that PPP commitments did not excessively constrain public capital investment, a new Investment Policy Framework for PPPs was introduced in 2015, alongside the Capital Plan: Building on Recovery 2016 – 2021. The objective was to maintain PPPs as a procurement option but ensuring budgetary sustainability by establishing a control on the future Exchequer cost implications arising from PPPs relative to the overall projected level of direct Exchequer capital investment for each year. It was therefore proposed that the total costs associated with all PPPs (new and existing) in any individual year should not exceed 10% of the aggregate Exchequer capital allocation for that year. This replaced the pre-existing requirement which charged the capital cost of PPPs to the approved capital envelope allocation of the sponsoring agency, which in the prevailing fiscal environment had limited relevance owing to the significant retrenchment in public capital investment and the substantially reduced Exchequer capital allocations.

As noted by the Group, a consequence of the new policy framework was that PPP procurement provided the opportunity for Departments to undertake additional capital projects as PPPs over what could be funded within their allocation of Exchequer capital, providing the profile of unitary payments was consistent with the ceiling and VFM tests were met.

In addition, members of the Group highlighted that while the size of the overall PPP programme clearly needs to be managed on a sustainable basis, it is important that the requirements in place do not unnecessarily inhibit PPPs from being chosen from the range of procurement mechanisms available for capital investment projects.

The Group agreed that each project should be judged on its merits and if PPPs can offer better value for money they should be selected on that basis. While a cap or limit on the level of PPP unitary payments should be considered in the interests of controlling liabilities and so as not to reduce the level of resources for other forms of capital expenditure, this should not impede the project appraisal process and the decision on the most appropriate financing mechanism for any given project.

15. IMF PIMA Recommendations

The policy change described above in the underlying driver for using PPP was also discussed by the IMF team in their recent PIMA report, where they expressed the view that "The government has arguably placed too much emphasis on the "additionality" case for PPPs in recent years, and insufficient weight to the VFM case". The report suggests that "looking ahead to a period when more fiscal space may be available, it is important that the government takes decisions on PPPs based on value-for-money (VFM) and affordability rather than additionality, which appears to have been the dominant driver in recent years."

Noting that the Exchequer's financial commitments under PPPs/Concessions now total c€9.6 billion, the PIMA report suggests that "In a period when more fiscal space may become available for infrastructure investment, the VFM case should be given prominence." It also recommends that the current mechanism of assessing affordability of PPPs in the longer term, comprising the 10% cap on the aggregate cost of PPPs as a percentage of aggregate capital expenditure on an annual basis, should be replaced by reverting to the former control mechanism applied prior to 2012, whereby the full capital cost of all new PPPs over their construction period would be treated as a charge against the relevant Department's Exchequer Capital Allocation.

In this way, a decision on whether to procure a project by traditional means or by PPP would be made strictly on the merits of each individual project, on a case by case basis, following an assessment and comparison of the different procurement options. A final decision to procure a project by PPP would then be based on the procuring authority's assessment that this option genuinely offered the best value for money for the particular project, rather than because it offered a mechanism to deliver an additional project.

16. Proposed New Budgetary Control Mechanism for PPPs

Taking account of the issues discussed above, the Group discussed the appropriate approach to be taken to using PPP as a form of procurement in the years ahead, in the context of the new National Development Plan.

As discussed above, the established rationale for using PPP procurement was the VFM that was considered achievable by utilising private sector innovation and risk transfer to the private sector where that sector was better placed to manage that risk. However, as discussed above, against the backdrop of:-

- severe retrenchment in public capital investment;
- the initiation of the 2012 stimulus programme; and
- the introduction of the cap on unitary payments (in place of the previous control mechanism charging the full capital cost of all new PPPs over their construction period against the relevant Department's Exchequer Capital Allocation)

a situation developed where PPPs enabled projects to be delivered when the alternative was no longer the potential cost of the project if delivered with Exchequer funding, but rather no project - due to the constraints on Exchequer funding for capital investment.

However, in the context of the new National Development Plan and the significant increase in public capital investment that is now provided for into the future, this shortage of Exchequer funding for capital investment, and the resulting need for further stimulus using off-balance sheet delivery mechanisms, no longer poses the same issue for delivery of infrastructure that it did in recent years.

It is therefore important, considering the existing future liabilities in respect of PPPs and given that Exchequer-funding is now again available for public capital investment projects, that the VFM motivation for PPPs is fully restored.

The Group agreed that this could be achieved through the implementation of the recommendation of the IMF PIMA report discussed in the preceding section reinstating the previous policy approach.

17. Considering PPPs in the Context of the new National Development Plan

The Group concluded that an appropriate level of PPPs should be maintained as is currently the case in terms of the current PPP Programme.

The Group noted that as an initial response to the financial crisis, the State shut down Ireland's PPP programme, before restarting the Programme in 2012. Such stop-start approaches to any financing or investment activity can have a negative impact on the operation and management of the activity (in this case PPPs). It can result in the authorities (i.e. relevant Departments, NDFA) not being in a position to maintain relationships with investors, and it can result in potential investors losing familiarity with and knowledge of the State's capital investment plans and operational details.

The Group concluded that any perceived 'withdrawal' from the PPP market would inhibit the subsequent restarting of the State's PPP Programme in the event of a future decision to do so (e.g. in constrained fiscal circumstances), and so would not be desirable. This is particularly the case in the context of Brexit as, given the potential impact on the ability of UK-based investors to invest in Irish PPPs (notwithstanding any measures to seek to address this), it is imperative that the Irish authorities maintain existing relationships with a broad range of investors to ensure investors' awareness and familiarity with Ireland and relationships with Irish authorities. The nature of the PPP market is not that the State can 'turn off the tap' and not face significant challenges and delays in restarting PPPs when this may be necessary.

18. Complexity of PPP procurement

A key issue that also arose from the work of the Group was, given the substantial resources planned to be available for public capital investment over the next ten years, how best to ensure that the PPP policy framework in place ensures that full consideration is given to the PPP procurement on an equal footing with conventional procurement for suitable capital projects.

There is evidence that where Exchequer resources are available to fund priority public capital projects, there can sometimes be a reluctance to examine the potential for PPP procurement. This appears to reflect the often high degree of complexity involved in PPP procurement and the challenges that this gives rise to for Departments, particularly in circumstances where a Department may lack experience and expertise in PPP procurement.

As a result, there may not always be a level playing field in examining, through the PPP assessment set out in the relevant PSC/PPP guidance, whether procurement by PPP is appropriate in any particular case.

Moreover while it is clear that resource intensity of developing and managing PPP projects is greater than in the case of traditional procurement, the higher level of resources required for PPPs may be justified if the procurement option chosen offers value for money and internalises the maintenance and up-keep costs for the next 20/25 years.

19. Conclusions and Recommendations

A number of conclusions can be drawn from the above review and are summarised below:-

PPPs have been very useful in facilitating the delivery of important infrastructure, particularly in recent years when the Exchequer was seriously constrained in terms of its ability to fund infrastructure directly. PPPs, and their use of private finance on an off-balance sheet basis, enabled projects to proceed which would not otherwise have been deliverable on the basis of Exchequer funding alone.

PPPs can and do demonstrate Value for Money, reflecting the whole life cost of the project and factoring in depreciation and finance costs, with the delivery of a high quality asset at the end of the contract. By comparison, direct Exchequer-funded projects do not reflect the full life-time costs in this way and maintenance costs must be met through Departmental budgets (as set out in the recent IMF PIMA).

PPPs have the potential to offer value for money when applied to projects of the right scale, risk and operational profile. The benefits of PPPs are value for money, timely delivery of infrastructure and appropriate risk-sharing.

However, PPPs also result in long term financial commitments which must be funded for many years into the future.

PPPs should only be undertaken in circumstances where there is a robust business case and ex-ante appraisal demonstrating a clear VFM advantage over conventional public procurement reflecting, for example, timely delivery of infrastructure and appropriate risk-sharing.

PPPs should remain as a procurement option for appropriate public capital investment projects within the suite of capital investment mechanisms available to Departments and should be assessed on a level-playing field basis as compared to traditional procurement.

However, given the significant increase in planned Exchequer capital investment over the coming years, which will see public investment in Ireland as a share of national income moving from relatively low levels to among the highest in the EU, there is no longer the same requirement to use PPPs for stimulus, to deliver additional projects to compensate for a sub-optimal level of Exchequer investment in infrastructure, as was the case in recent years.

In light of the role that PPPs have played in recent decades in delivering public capital infrastructure with private funding and full consideration of the life-time economic cost of projects, PPPs should remain a feature - broadly to the same extent as heretofore – in overall public capital investment, complementing Exchequer funded capital investment projects.

Indeed, seeking to procure further/additional projects by PPP, in addition to the expanded direct Exchequer investment programme, would put even further pressure on the capacity of the construction sector to respond to the increased construction demand, without contributing to inflationary pressures and potentially undermining value for money for the increased investment.

Accordingly, value for money rather than additionality should remain the key consideration when assessing the procurement options for new projects. A scaling-up in the recourse to PPPs is, therefore, not recommended.

PPPs have an important role in contributing to the delivery of the new 10-year National Development Plan. The potential use of PPP should continue to be assessed (and encouraged) for all large scale projects, on a case by case basis, based on the value for money benefits of using PPP for any individual investment project. Projects which involve user charges or which offer the potential to generate significant third party income should, in particular, be considered in terms of their suitability for procurement as PPPs, based on a concession model. (This was also recommended by the IMF in the PIMA report). However, the very large scale and significant ambition of the National Development Plan should not be supplemented by any additional parallel programme of PPP investments.

As a budgetary control measure, and also to mitigate the potential inflationary pressures referenced above, where PPP is selected as offering the best procurement option on a value for money basis, the project should be pursued as an alternative to the use of direct Exchequer funding, rather than as an additional project. In such cases, the capital cost of the project should be charged to the relevant Department's overall approved capital investment allocation over the construction period (as if it was being delivered with Exchequer funding) – reinstating the original budgetary control mechanism for PPPs, in place of the 10% cap on unitary payments as a percentage of the aggregate annual Exchequer capital allocation introduced in the 2015 Capital Plan (which should no longer apply). This approach was also recommended by the IMF in the PIMA report.

This will avoid the situation in which excessive recourse to PPPs (on account of their off-balance sheet status) leads to the pre-emption of substantial levels of Exchequer capital resources through the obligations created by unitary payments over an extended period of time. DPER will oversee the implementation of this budgetary control mechanism and will monitor the build-up of future PPP unitary payment liabilities, details of which will be published on an annual basis as part of the budget documentation (as also recommended by the IMF in the PIMA report).

Where PPPs offer the potential for user charges (i.e. concession projects), the self-financing element of any such concession PPPs may, subject to consultation with DPER, be discounted when charging the project to the sponsoring agency's capital allocation. This should incentivise the use of PPP for the delivery of such projects.

This revised approach of charging the capital value of PPPs to the capital allocations of Departments, for budgetary control purposes, could be reviewed in the future, if the economy were to suffer another major shock resulting in the Exchequer becoming constrained in terms of being able to meet its public investment targets. The potential for PPPs to be pursued in addition to the capital allocations would then offer the option of a counter-cyclical public investment mechanism in such circumstances.

Notwithstanding the recommended change in approach for potential new PPP projects, the existing approved PPP projects, announced under Phases 1 – 3 of the Government's Stimulus PPP programme, will continue to be procured under the pre-existing policy framework, as already planned, and will be unaffected by changes being introduced.

As the remaining Stimulus Programme PPPs continue to be procured, the experiences and learning of the earlier projects should be absorbed to transfer and share that knowledge and innovation. The outcome of the learning can help inform future policy development for PPPs (and, potentially, for all project planning and procurement).

The resource issues that arise in the case of PPP procurement should be addressed by further developing information and expertise sharing between public bodies procuring public capital projects. In this regard, greater centralisation of PPP procurement expertise which at present is spread across a number of separate agencies has an important role to play. In order to address this issue, the legislative steps required to secure the proposed transfer of PPP procurement expertise from the NDFA to Transport Infrastructure Ireland should be prioritised, as soon as is feasible.

Another potential reform that might be considered, in recognition of the challenges that PPPs can pose for Departments in terms of the scale of project required as a prerequisite, the complexity of the contract and procurement process (given the length of the contractual arrangement), and the long term nature of the financial commitments involved, would be the possible development of a new alternative PPP model, to complement the existing PPP model. Such a new option could comprise a less complex and shorter-term alternative PPP-type contractual arrangement, that could still offer some of the advantages of PPP but for smaller scale projects (maybe €20-50m), over a shorter time period (maybe 10 years). Such an alternative PPP option, if a suitable model could be developed, could also facilitate greater competitive tension in the procurement process. It would open up the 'PPP' market to smaller domestic contractors, who tend to be too small in scale to bid (alone) for traditional PPP projects, compared with the traditional PPP market which tends to be heavily reliant on the participation of a number of larger international players to ensure competitive tension in the procurement process is maintained. Lastly, it is important to continue to signal to the PPP market and potential PPP participants (e.g. investors and construction firms) that Ireland remains committed to pursuing PPP procurement options where PPP has the potential to deliver VFM. This will help maintain relationships between Irish authorities and potential PPP participants to ensure that Ireland retains access to the PPP market.

20. Transparency of PPP Procurement

Finally, in order to improve transparency in reporting on PPPs, and taking account of the findings and recommendations of the recent PIMA report and also the latest Annual Report of the Comptroller and Auditor General, the Group also recommends a number of changes in the reporting arrangements for PPPs including:

- That the CBAs for PPP projects should, in future, be published (as should the CBAs for all significant public investment projects).
- That the PSB for projects should be published, following the completion of the procurement process and once an appropriate period of time has elapsed and the commercial sensitivity of the information on the project is no longer an issue.
- That post project reviews should be undertaken for each PPP project where such a review has not yet been undertaken, and these reports should also be published. These reviews should take account of the wider economic and social impact of the projects, as well as the direct impact of the project.
- That the financial information currently published by DPER on the projected future financial commitments under PPPs and concession projects should be expanded to include a detailed projection of how future commitments are distributed over the remaining years of the contracts.
- That an annex should be published as part of the Budget documentation setting out these future financial commitments in respect of PPPs and Concessions.

Appendix I

Terms of Reference for Group on Future Role of PPP in the Delivery of Capital Infrastructure

Objective:
To provide the Minister for Public Expenditure and Reform with an evidence based analysis and recommendations on the future role of using PPPs (and concessions) as a procurement option in the delivery of capital infrastructure, to complement traditional procurement methods, including an assessment of risks arising from traditional as compared to PPP procurement of large capital projects. This analysis should be completed in H1 2017, to inform the Mid Term Capital Review.

Membership:
- Chair – William Beausang, A/Sec DPER
- Nominated A/Sec or equivalent from Education, Justice, Housing, Health, Finance, Transport, TII, OPW and NDFA

Working method
- The Group will work through monthly meetings, commencing in March.
- Experience of PPPs will be gathered from Departments (draft questionnaire appended) to inform the Groups deliberations.
- The Group will also consider existing PPP guidance and governance arrangements and, with the agreement of the Chair, any other issues which may be proposed for discussion.
- DPER will provide secretariat.
- The key output will be a paper, incorporating the Group's analysis and recommendations, which can form the basis for a chapter in the Mid Term Review of the Capital Plan.

Background:
The development and maintenance of Capital projects was traditionally financed and funded through direct Exchequer resources. Since the late 1990's a stream of projects have been developed through the use of PPP's across a range of sectors.

PPP's are regarded as 'off balance sheet' when calculating the deficit from the perspective of the Fiscal Rules and adhering to the Stability and Growth Pact. This means that the initial capital cost of the project does not impact on the public finances over the construction period, but rather its cost is spread over the lifetime of the project.

In contrast to traditional procurement PPPs also pass (via contract) the risk and maintenance costs of projects to the private sector allowing the management of asset life of the capital project to be aligned to its financing. However, financing costs of PPPs exceed State borrowing costs to fund Exchequer capital projects.

PPP's are subject to the same initial value for money appraisal and evaluation as traditionally procured projects under the guidelines set out in the Public Spending Code.

Fiscal rules place limits on total spend, albeit with some limited latitude for capital spend. PPP's could offer a model that enables continued investment in key infrastructure projects, but at the expense of financial commitments that need to be met over a period of decades.

Government needs to formulate a strategic view on the extent to which PPPs can play a useful role in delivering infrastructure, without placing an unsustainable burden that severely constrains future capital budgets. Affordability, sustainability and value-for-money of PPP procurement are, therefore, key elements of the Group's work.

Appendix II

Membership of the Inter-Departmental / Agency Group on PPPs

Department of Public Expenditure & Reform (Chair)

Department of Education and Skills

Department of Finance

Department of Health

Department of Housing, Planning and Local Government

Department of Justice and Equality

Department of Transport, Tourism and Sport

Office of Public Works

Transport Infrastructure Ireland

Health Services Executive

National Development Finance Agency

Questionnaire for Departments with experience of PPP

Lessons from Practical Experience of PPPs

- How does your Department assess whether a capital project might be procured as a PPP?
- What are the biggest factors in determining whether a project should be completed by PPP or traditional methods - allocation of risk, quality of final product and ongoing maintenance, deliverability of the project on schedule, overall costs, control of project, resources required to oversee the project etc?.
- In your experience what are the advantages and disadvantages of PPPs as compared to traditional procurement? Please provide examples. On balance, and as much as possible supported by robust empirical data, do PPPs cost more or less than traditional procurement?
- Do you believe that there are particular types of infrastructure in your sector that are (i) particularly suited (ii) not appropriate for PPP procurement and /or procurement as a concession?
- What is your overall assessment of the future role of PPPs and concessions in the provision of priority public capital infrastructure in your sector?

Financial considerations for the use of PPPs

- What capacity/resources does your Department have in place to manage PPPs? Do PPPs free up other public resources by transferring risk and obligations to the private sector?
- Is there a limit on the extent to which your Department would be willing to pre-commit future capital budgets to PPP projects (for 25-30 years) – either in terms of aggregate annual unitary payments or the percentage of your Department’s overall capital allocation to meet such commitments.
- What are your views on the different models of procurement – concession (e.g. toll roads) or unitary payments?

PPP Support Structure

- Please provides your assessment on the strengths and weaknesses of the structures and institutional arrangements currently underpinning Ireland’s PPP programme (i.e. roles of sponsoring department, delivery agencies, DPER, NDFA).
- Please advise on how the structures and institutional arrangements could be improved, including whether existing roles should be changed in any significant respects to enhance the effectiveness and capability of the PPP system overall.
- What is your assessment of the PPP guidance currently in place to support PPP procurement and how it could be improved to support the objectives of Ireland’s PPP programme?

Market Conditions

- What are your views on the current capacity of the private sector to tender for and deliver PPP projects within the agreed timeframe?
- What are your views on the level of competition in the market for PPPs in your sector?

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