

## 5 Development of a proposed national science centre

**5.1** The Office of Public Works (OPW) is responsible for managing and maintaining a substantial property estate. The portfolio includes office accommodation for government departments, properties for An Garda Síochána and specialised spaces such as public offices, laboratories, cultural institutions, warehouses, heritage properties, visitor centres and sites.

**5.2** The heritage properties held by the OPW include buildings accommodating national cultural institutions, such as premises used by the National Museum, the National Gallery, National Concert Hall and the Irish Museum of Modern Art. Most of the occupiers of the OPW's buildings are statutory public bodies.<sup>1,2</sup>

**5.3** For the portfolio it owns, the OPW bears the cost of maintenance of the building fabric and pays for any required renovations or improvements. It also invests in the acquisition or procurement of new buildings as required to meet the needs of the public bodies it accommodates.

**5.4** The OPW also frequently undertakes capital projects sponsored by other public sector bodies, acting as their agent/contracting authority. Under standard government accounting rules, expenditure in respect of such projects is carried out by the OPW in the first instance as a charge on a client-specific 'suspense' account and is either pre-funded or recouped from the relevant vote.<sup>3</sup>

### *Focus of this examination*

**5.5** The 2024 appropriation account for Vote 13 Office of Public Works includes the disclosure of a contingent liability in respect of an agreement for lease entered into with a registered charity — Irish Children's Museum Ltd — to accommodate a proposed national science centre for children (the science centre).<sup>4</sup> The disclosure note does not state the estimated cost or the anticipated timing of the potential liability.<sup>5</sup>

**5.6** The OPW entered into the original agreement for lease to provide a premises for the science centre in 2003. This was replaced by a successor agreement for lease of premises in 2013.

**5.7** This examination was undertaken to review the circumstances that have given rise to the contingent liability and to assess whether the agreement for lease was executed in compliance with relevant policies and with the formal approval of the appropriate authorities.

**5.8** The examination team interviewed OPW staff members and reviewed a substantial volume of documentation retained by the OPW. This included emails, letters, records, legal correspondence and internal memos.

1 The OPW stated that it also has a number of short and long-term historical lease or licence arrangements with non-public bodies, including community groups and agencies. These agreements are in respect of buildings for which there is no State-use requirement.

2 The OPW also holds one property in trust — Barretstown Castle.

3 It is the OPW's policy that major capital works are pre-funded.

4 The term 'science centre' is used throughout this report when referring to the project overall. Legal documents refer to the building intended for the science centre as a 'museum' or 'cultural building'.

5 [Central Government Accounting Standard 19 — Provisions, contingent liabilities and contingent assets](#) allows the omission of value and timing of contingent liabilities where they cannot be reliably estimated.

## Events leading to the 2003 agreement for lease

- 5.9** In July 2000, at the request of the then Tánaiste and Minister for Enterprise, Trade and Employment, a task force, reporting to Forfás, was asked to bring forward a proposal for the establishment of a science centre in Ireland.<sup>1,2</sup> The report of the task force recommended that the Government establish a science centre comprising a major facility in Dublin and two related smaller centres located in Cork and Galway.
- 5.10** In 2001, the OPW commissioned designs from an external architect for a major redevelopment of a site of 3.4 hectares that it owns at Military Road, Kilmainham, near Heuston railway station. Referred to as the 'Heuston Gate' development, it envisaged a competitive process to be put in place to construct 14 individual buildings, as well as restoration of protected structures and national monuments on the State-owned land. The accommodation was intended to cater for a mix of office, commercial, residential and cultural uses.
- 5.11** The *Programme for Government* published in June 2002 included a commitment to "...support the establishment, following competitive funding procedures, of interactive science centres and awareness programmes aimed at enhancing knowledge and interest in science".
- 5.12** Reports of the time indicate that several proposals to deliver a national science centre were considered by the Department of Enterprise, Trade and Employment. Reportedly, all the proposals included requests for provision of premises and outlined the level of potential recurrent State support required.
- 5.13** The proposal received from Irish Children's Museum Limited (ICML) included provisions that the science centre was to be accommodated in a purpose-built building in the Heuston Gate development.

## Initial project planning 2003 to 2004

### *Appraisal of initial proposals*

- 5.14** ICML had approached the OPW directly to discuss the possibility of leasing a building to house a science and technology museum in one of the State-owned heritage buildings. A file note, dated from April 2003, indicates that the OPW, aware of the requirement for a cultural aspect to be included at the Heuston Gate development, suggested the site to ICML. The provision of a modern, purpose-designed cultural building at Heuston Gate was intended to be fully funded through proceeds from the commercial exploitation of the wider development, with no direct expenditure from the Exchequer or cost to ICML.<sup>3</sup>
- 5.15** A preliminary estimate, dated July 2003, indicated that the building would cost around €14.3 million to construct. However, the OPW could not provide any evidence of a formal assessment of the opportunity cost of incorporating the premises in the Heuston Gate development e.g. in terms of best alternative public uses foregone, or potential higher returns on the overall development.
- 5.16** The OPW provided the examination team with a copy of a financial plan presented by ICML in July 2003. The plan set out the projected cash flows of the project and included a State subsidy of €100,000 per annum towards operating costs.

<sup>1</sup> The taskforce was established to make policy recommendations aimed at improving public awareness of science, technology and innovation.

<sup>2</sup> Forfás, dissolved in 2014, was the national policy advisory board for enterprise, trade, science, technology and innovation.

<sup>3</sup> It was intended that the cost of developing the cultural building would be borne by the developer as part of the overall development of Heuston Gate. The OPW was to retain ownership of the cultural building on completion.

- 5.17** The Department of Enterprise, Trade and Employment selected the proposal put forward by ICML on the basis that it did not require any direct State funding, and that the board members included internationally recognised experts in the field, with links to the children's museum in Boston. The Tánaiste and Minister for Enterprise, Trade and Employment gave approval to accept the proposal from ICML in September 2003.
- 5.18** The examination team found a lack of transparency surrounding the selection process. There is no evidence that the proposal from ICML, or other proposals received, were subject to a formal evaluation, and there is no clear evidence that a competitive process was conducted. Furthermore, there is no evidence that the Department of Enterprise, Trade and Employment, or any other State body, carried out an *ex ante* appraisal or formal business case for the project, as was required by the capital expenditure guidelines in force at that time, (see Figure 5.1).
- 5.19** No formal decision was made identifying a body to act as 'sponsoring agency' for the project, and the sanctioning authority for the project was not clearly established. As a result, the project lacked formal management, planning and oversight arrangements from the outset.

**Figure 5.1 Compliance with the *Guidelines for the appraisal and management of capital expenditure projects in the public sector, 1994***

Preliminary assessment requirements	Finding
Avoid premature commitments, irrevocable commitments should only be made after all appraisal stages have been passed and final approval obtained.	No evidence of preliminary or detailed appraisal undertaken prior to commitment or at any stage of the project.
Clear objectives understood by both the Sponsoring Agency and Sanctioning Authority.	No formal appointment of Sponsoring Agency or Sanctioning Authority.
Sponsoring Agency has overall responsibility for proper planning and management of project.	No formal arrangements in place to plan, manage or approve the project.
Clearly establish the appropriate Sanctioning Authority at the outset (e.g. Government approval, Department of Finance, etc.)	

Source: Department of Finance, 1994 guidelines. Analysis by the Office of the Comptroller and Auditor General.

### ***Negotiation of lease***

- 5.20** In September and October 2003, records indicate that the science centre project and related legal arrangements were discussed between the OPW, ICML and the Chief State Solicitor's Office. Correspondence was exchanged among the parties and amendments were made to draft legal documents.

- 5.21** The Chief State Solicitor's Office advised the OPW on the terms of the lease for the building to house the science centre. It recommended the inclusion of a conditional clause — if the Heuston Gate development did not proceed, the agreement to lease would not have effect. However, the conditional clause was not included in the 'agreement for lease' or 'indenture of lease'. In effect, the decision by OPW not to include this clause exposed the State to a greater level of risk and restricted the OPW's ability to terminate the lease agreement.
- 5.22** The OPW signed an 'agreement for lease' with ICML on 29 October 2003. The key elements of the 2003 agreement are detailed in Figure 5.2.

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**Figure 5.2 Key features of the 2003 agreement<sup>a</sup>**

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Clause	Features
Parties to the lease	OPW (landlord) and ICML (tenant)
Location of premises <sup>b</sup>	Heuston Gate, Military Road, Kilmainham
Building type	Construction of a new building
Size of building	4,645 m <sup>2</sup>
Term of lease <sup>c</sup>	20 years
Annual rent <sup>c</sup>	€1 (if demanded)
Completion date	7 days from the completion of tenants works or 52 weeks from the completion of the landlords works.
Landlord's works	Construction of a shell and core stage of a dedicated children's museum comprising the following: an appropriate car park for visitors and staff; building to be fully fitted, equipped and serviced with all utilities, computer cabling, connections and services such that the building on completion will be turnkey; landlord to landscape, finish the land and open spaces surrounding the museum, and construct adequate means of entrance and exit.
Time period of landlord's works	Not specified
Tenants works	Fit out of the demised premises as a children's museum.
Rescission (circumstances under which the agreement for lease could be revoked or cancelled)	If the tenant stops focusing on running an interactive children's museum, goes into liquidation or seriously breaches the agreement.  If the demised premises are required in the event of a national emergency.
Architect	External architect
Termination clause	If no acceptable planning permission has been obtained by the landlord within a period of three years, the landlord is entitled to end this agreement.

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Source: Office of Public Works. Analysis by the Office of the Comptroller and Auditor General.

- Notes:
- a The 2003 agreement comprises the agreement for lease and the indenture of lease.
  - b Depicted in the map attached to the indenture of lease.
  - c Information referenced from supplementary documents outside the formal lease agreements.

- 5.23** The agreement, which was shared with the then Department of Enterprise, Trade and Employment before it was signed, included a provision for a representative from that Department to be appointed to ICML's board. The Department appointed a board member in September 2004 and the same individual remained on the board until 31 December 2022.

### ***Authority to enter into an agreement for lease***

- 5.24** When reviewing the draft agreement for lease, the Chief State Solicitor's Office advised the OPW to seek the consent of the Minister for Finance prior to the execution of the agreement.<sup>1</sup> There is no evidence that the OPW sought or received specific sanction for the agreement for lease from the Department of Finance.
- 5.25** An OPW memorandum prepared in November 2003 — after the agreement for lease had been signed — stated that the OPW held delegated sanction from the Department of Finance to lease out State property for periods under 21 years. The OPW deemed this sanction as sufficient authority to enter into the agreement for lease for a term of 20 years.
- 5.26** The memorandum states the sanction was issued by the Department of Finance in September 1957. The sanction referred to contains a condition that 'economic rents' were to be applied in such leases, and that transactions of a novel character would require specific sanction. The proposed peppercorn rent, and the fact that a new building was to be constructed to accommodate the science centre, indicate that specific Department of Finance sanction for the 2003 lease should have been applied for.

### **Project planning and delays from 2005 to 2012**

- 5.27** Planning permission for the Heuston Gate development was secured on 14 June 2005. This permission provided for a new four-storey building of 5,902 m<sup>2</sup> for the science centre, an increase of 27% over the area set out in the agreement for lease.<sup>2</sup>
- 5.28** In 2006, ICML approached the Department of Enterprise, Trade and Employment seeking funding for the science centre fit-out costs. Records indicate that the Department of Enterprise, Trade and Employment approved plans to fund €4.5 million for the fit-out and design element over a four-year period, of which €582,259 was paid from 2006 to 2008.
- 5.29** ICML also approached the then Department of Arts, Sport and Tourism seeking additional funding averaging 39% of the company's projected ongoing operational costs. A file note in that Department records a recommendation that a maximum of 20% of the centre's operational costs should be provided. The Department approved provision of a total of €650,000, of which €587,500 was paid to the company between 2006 and 2008.

<sup>1</sup> The function of formally sanctioning public expenditure proposals transferred to the Department of Public Expenditure on its establishment in 2011.

<sup>2</sup> The size of the science centre set out in the 2003 agreement for lease was determined by the outline planning permission.

- 5.30** On 5 February 2007, the then Taoiseach made a formal speech at the unveiling of a model and architectural design for the science centre. Referring to the science centre as a "...key project within the programme for government", it was indicated that the OPW would provide 80% of the initial funding for this project through the site provision, design and building at the Heuston Gate development. However, there were no references made to the cost of this element of the project.
- 5.31** Over the period 2005 to 2008, plans for the science centre progressed. This included a research trip to similar facilities in the USA and Canada, attended by representatives from ICML, the Department of Enterprise, Trade and Employment, and the OPW. Following the trip, there was a request from ICML for additional exhibition space.
- 5.32** In April 2008, the OPW submitted a revised planning application for the building. The revised application included an 8,472 m<sup>2</sup> building spanning four to five storeys, featuring an eight-storey atrium. The proposed size was 82% more than the building provided for in the original agreement for lease and 44% more than the building provided for in the planning permission granted in 2005. While a preliminary costing, dated March 2008, estimated that the re-designed building would cost €35.8 million to construct, there is no evidence that these amendments in scale were formally evaluated or approved. However, the OPW has stated that the proposed increased size was approved internally at Commissioner level.
- 5.33** Due to the financial crisis in the period 2008 to 2012, and the contemporaneous property crash, the Heuston Gate development did not advance beyond planning permission.
- 5.34** In 2009, ICML wrote to several government ministers seeking an update on the status of the project. In June 2009, the Department of Arts, Sport and Tourism decided to end its funding for the science centre project and wrote to ICML stating that final funding of €50,000 for 2009 would be paid. This brought the Department of Arts, Sport and Tourism's total funding for the project, for this period, to €637,500.
- 5.35** The correspondence also suggested that ICML consider a potential collaborative project with the (then operating) Science Gallery in Trinity College. The letter also referred to the Department of Enterprise, Trade and Employment as the lead government department for the project.
- 5.36** The OPW informed ICML in 2009, 2010 and 2011 that financial constraints existed and funding for the project was not available. In 2011, the Department of Enterprise, Trade and Employment reiterated to ICML the OPW's position regarding the lack of funding available but stated that it remained 'committed in principle' to the project.

### **Lease settlement agreement in 2013**

- 5.37** In spring 2012, the OPW and ICML discussed the possibility of accommodating the proposed science centre in the CHQ building in the Dublin Docklands. The OPW formally offered accommodation in the building to ICML in October 2012. This offer was declined.

### ***Referral to arbitration***

- 5.38** In November 2012, ICML signalled its intent to invoke arbitration as provided for under the terms of the 2003 agreement. It proposed to seek to obtain an order of specific performance requiring the OPW to ensure the science centre building was constructed as originally designed and to compel the OPW to meet its contractual obligations.
- 5.39** In the period leading up to the 2013 settlement agreement, the OPW obtained legal advice from its appointed advisers, including the Chief State Solicitor's Office and senior counsel. During this time, the OPW also provided the Secretary General of the Department of Public Expenditure with documentation on the matter and informed the Department of the possibility of arbitration proceeding.
- 5.40** Legal advice indicated that the OPW's obligation under the agreement for lease was legally binding and that there was a likelihood of a liability to pay damages to ICML should the agreement be breached. The potential damages were estimated to range from €250,000 (reflecting the amount contributed from private donations) to €30 million. The latter figure was equivalent to the estimated potential cost (in 2013) of constructing the building at the scale to which the OPW had by then agreed.<sup>1</sup>
- 5.41** The OPW was also advised that mediation or the offer of an alternative location for the science centre should be considered to reach a settlement with ICML without proceeding to arbitration. However, the proposed alternative location, the CHQ building at Dublin Docklands, was declined again in June 2013.
- 5.42** Arbitration was originally scheduled to take place on 30 September 2013, but it did not proceed. Instead, a settlement was reached three days before the scheduled hearing. The settlement terminated the agreement for lease entered into between the parties in October 2003 and introduced a new agreement for lease (the 2013 agreement).

### ***Revised lease agreement main features***

- 5.43** The new agreement provided for a building on an OPW-owned site at Earlsfort Terrace, adjacent to the National Concert Hall, to accommodate the science centre.<sup>2</sup> The key features of the 2013 agreement are set out in Figure 5.3.
- 5.44** The 2013 agreement included the provision of a building, delivered through a mix of renovation and new build, which, at 9,580 m<sup>2</sup>, was more than double the size of the original building planned for Heuston Gate. The OPW stated that the increased size of building was a result of the assessment of the existing building layout, development of plans to use a combination of new build and renovation of existing building, and the most efficient use of the space available at the new site.
- 5.45** The *Public Spending Code* (the Code) came into effect on 2 September 2013, shortly before the signing of a new agreement for lease for the science centre project. The Code set out a revised statement of the rules, procedures and guidance to ensure value for money in public spending across the public service, applying to all organisations that use public funds.

<sup>1</sup> In April 2011, an external quantity surveyor estimated that the cost of constructing the proposed 8,472 m<sup>2</sup> building would be €25 million.

<sup>2</sup> The agreement for lease contained the form of lease that was to be granted once the various commitments by both parties had been complied with. The lease has not yet been granted as all triggering events have not yet occurred.

**Figure 5.3 Key features of the 2013 agreement<sup>a</sup>**

Clause	Features
Parties to the lease	OPW (landlord) and ICML (tenant)
Location of premises <sup>b</sup>	Earlsfort Terrace, Dublin 2
Building type <sup>b</sup>	Renovation of existing state asset
Size of building <sup>b</sup>	9,580 m <sup>2</sup>
Term of lease	20 years
Annual rent	€1 (if demanded)
Completion date	7 days from the completion of tenants works or 18 months from the completion of landlord's works.
Landlord's works	Redesign the layout of the demised premises, carry out all works and take all steps necessary to refurbish and fit out the demised premises so that same shall be fit for use as a first-class interactive science museum for children.
Time period for landlord works	36 months
Tenant's works	Fit out of demised premises as a national interactive science museum for children, specifically the installations and commissioning of the exhibits therein.
Rescission	If the demised premises is required in the use of a national emergency.  If the tenant stops focusing on running an interactive children's museum, goes into liquidation; or seriously breaches the agreement.
Architect	OPW architect
Termination clause	None

Source: Office of Public Works

Notes: a The 2013 agreement consists of the settlement agreement and the agreement for lease, both signed on 27 September 2013.

b Information referenced from supplementary documents outside the formal lease agreements.

- 5.46** Projects exceeding a €20 million threshold required a formal cost-benefit analysis under the Code. A cost-benefit analysis would have required a critical assessment of the costs and risks associated with accommodating the science centre at Earlsfort Terrace and to evaluate alternative options for the use of the site (e.g. by the adjacent National Concert Hall, which also accommodates the National Symphony Orchestra).
- 5.47** The OPW did not conduct an appraisal of the provision of the site, nor an assessment of the cost of relocating the project to Earlsfort Terrace, prior to committing to it as part of the settlement agreement. The OPW stated that there was limited time to resolve the impending arbitration, and the site was considered suitable as it was an existing vacant State-owned building requiring a new use and investment.



- 5.48** The OPW has stated that the requirement to carry out a cost-benefit analysis was not applicable to the science centre project at the time of the 2013 agreement as the estimated cost of the proposed work was deemed to be under the €20 million threshold. In support of this statement, the OPW provided a high-level estimate, prepared internally, which costed the project at €13 million (see Annex 5A). However, the estimate supplied was prepared almost a year after the settlement agreement was signed, and is lacking the detail that would be commensurate with a project of the proposed scale (even at a cost of €13 million). It also did not place a value on the site or existing buildings, and there were a number of significant exclusions from the estimate. It was also significantly at odds with the estimate independently prepared for the OPW in 2011 which had estimated the cost of constructing an 8,472 m<sup>2</sup> building, at Heuston Gate, at €25 million (i.e. just under €3,000 per m<sup>2</sup>).
- 5.49** In accordance with the thresholds at the time, specific approval from the Department of Public Expenditure was required for any project involving capital expenditure over €20 million. However, there is no evidence that the proposed renovation/extension of premises at Earlsfort Terrace was submitted to the Department of Public Expenditure for approval. However, there is evidence that the Department was aware of the developments.
- 5.50** In October 2013, the Minister for Public Expenditure and Reform, on behalf of the Minister for State with responsibility for the OPW, submitted a memorandum for information to the Government noting the agreement to lease the north block of the Earlsfort Terrace complex to ICML for 20 years.
- 5.51** The memorandum also noted that an interdepartmental group, chaired by the OPW and including five other government departments, had been established to coordinate the State's engagement with ICML.<sup>1</sup> The OPW has confirmed that the interdepartmental group, chaired by an OPW Commissioner, last met in May 2014.
- 5.52** Following the signing of the new agreement for lease in September 2013, the OPW provided ICML with an office space at Earlsfort Terrace which ICML has occupied, at no charge, since 2013. The OPW stated the office space is provided for under a clause in the 2013 settlement agreement which allowed ICML access to the premises that may reasonably be required for preparatory work on the science centre. The OPW also stated that as no landlord/tenant relationship exists between the parties, rent for this office space is not chargeable.

1 The interdepartmental group consisted of representatives from the Department of Jobs, Enterprise and Innovation; the Department of Arts, Heritage and the Gaeltacht; the Department of Education and Skills; the Department of Children and Youth Affairs; and the Department of Transport, Tourism and Sport.

2 The then Department of Arts, Heritage, Regional, Rural and Gaeltacht Affairs; Department of Education and Skills; and the Department of Jobs, Enterprise and Innovation.

3 The letter of offer stated that the funding was provided on a once-off basis and did not imply any future funding commitments by the State in respect of the project.

## Project delays 2013 – 2021

- 5.53** Planning permission for the science centre at the Earlsfort Terrace site was obtained on 14 September 2016. The OPW stated that due to competing priorities for scarce capital resources available to it at the time and the unavailability of specific funding for the project, the implementation of the 2013 agreement, in line with planning permission received in 2016, did not proceed.
- 5.54** In September 2016, Exchequer funding of €300,000 was approved for the recruitment of a CEO at ICML, to be provided over three years by three government departments.<sup>2</sup> The funding was conditional on ICML securing matching funding.<sup>3</sup> The then Department of Arts, Heritage, Regional, Rural and Gaeltacht Affairs acted as a central paying agency. Only one payment of €75,000 was made — in December 2016 — comprising €25,000 from each Department/Vote.

- 5.55** A series of cost reviews, undertaken by an external consultant over the period 2015 – 2018, estimated the total construction costs for the building at Earlsfort Terrace at €36.35 million (including VAT). <sup>1</sup> This represented almost three times the estimate prepared internally in 2014 (€13 million).
- 5.56** In 2018, the Department for Culture, Heritage and the Gaeltacht and the Minister of State for the OPW sought to bring a memorandum to government highlighting the need for State funding to progress the project. However, the Department of Public Expenditure considered that the memorandum should not proceed for various reasons, including the absence of a cost-benefit analysis as required under the *Public Spending Code*.
- 5.57** In July 2019, the Minister for Culture, Heritage and the Gaeltacht submitted a memorandum to government regarding *Project Ireland 2040 — the capital investment programme for the arts: masterplan for development of Earlsfort Terrace*. The Minister asked the Government to note the existing legal agreement for the development of the science centre, including both capital and current cost estimates. However, no financial information was provided at the time.
- 5.58** The memorandum outlined the then Department of Culture, Heritage and the Gaeltacht's intention to work with the OPW to carry out a full evaluation of the proposal. This evaluation was also to consider the possibility of exploring alternative approaches to delivering the science centre. However, the examination team found no evidence that this evaluation was undertaken and there is no specific mention of the science centre in *Project Ireland 2040*.
- 5.59** The Department of Culture, Communications and Sport confirmed that an internal review of the project was carried out at this time. The Department stated the review found that the project did not meet the requirements of the *Public Spending Code*.

### Arbitration process initiated in 2021

- 5.60** In 2021, the ICML initiated arbitration proceedings against the OPW because of the unfulfilled obligation committed to under the 2013 settlement agreement. A joint submission to the arbitrator outlined the dispute and procedure at the start. Legal issues were later set out in the pleadings.
- 5.61** The arbitrator made two decisions.
- In June 2022, a determination confirmed that ICML was entitled to specific performance but did not direct either party to take action.
  - In July 2022, an interim award required the OPW to apply for planning permission, obtain tenders and pre-qualify contractors for the agreed site by 30 November 2022. The OPW was also directed to give ICML quarterly updates and to cover the arbitration costs.
- 5.62** The OPW has stated that the arbitration findings are legally binding, compelling them to proceed with the construction. The OPW lodged a new planning application to Dublin City Council on 29 September 2022 to build the science centre at the Earlsfort Terrace site. At the same time, pre-qualification for main contractors commenced.

<sup>1</sup> These cost reviews were more detailed and included elements such as design team fees, contingency, development charges and statutory contributions.

- 5.63** However, due to a delay in the planning application decision, the OPW did not progress the pre-qualification process. Planning permission was granted on 28 March 2024, and the OPW has current and valid planning permission for the science centre until May 2029.
- 5.64** In July 2025, ICML's legal advisors wrote to the arbitrator noting that little progress had been made by the OPW and requesting a further hearing to address implementation of the interim award and to progress the final award. As of September 2025, the arbitrator has yet to reconvene the parties or issue the final arbitration order.

### ***Estimates of cost***

- 5.65** Based on a costing prepared by external advisors, the OPW estimated the cost of delivering the project at the Earlsfort Terrace site to be €70.4 million (including VAT) as of May 2024. This figure excludes the cost for exhibition and planetarium fit outs, which, in line with the agreement for lease, are to be funded by ICML. The OPW described this cost as an entire project cost, inclusive of contingencies for inflation, and price and design risk.<sup>1</sup>
- 5.66** Given construction cost inflation, the project to which the OPW appears to be committed is likely to cost in excess of €70 million, but has not been subject to a capital appraisal process.
- 5.67** To date, no formal sanctioning authority or sponsoring agency has been appointed, and it remains unclear which vote will ultimately bear the cost of the development. Funding for the science centre is not currently included in any department's capital expenditure programme.
- 5.68** The OPW has stated that a government decision will be required to agree the provision of capital funding and to appoint a project sponsoring agency and sanctioning authority.

### **Costs to the Exchequer to date**

- 5.69** Through State funding provided to ICML, legal costs, surveys, site works, consultants, and statutory applications, the State has incurred over €4.27 million on the science centre project to date (see Figure 5.4). This does not include the costs of staff and management resources across a number of government bodies.
- 5.70** The legal costs incurred to date include a payment of €307,500 towards ICML legal costs incurred in September 2013 and OPW legal costs of €255,252. This does not include 2021 arbitration costs which are yet to be determined. ICML legal costs are currently under review with the State Claims Agency — the arbitrator has determined that the OPW is responsible for these costs in full.

<sup>1</sup> This cost also includes elements such as design team fees, development charges and utility contributions.

**Figure 5.4 Costs of the national science centre project, August 2025<sup>a</sup>**

	<b>2003 agreement — Heuston Gate site</b>	<b>2013 agreement — Earlsfort Terrace site</b>	<b>Legal costs (to date)</b>	<b>Total</b>
	<b>€'000</b>	<b>€'000</b>	<b>€'000</b>	<b>€'000</b>
Office of Public Works	828 <sup>b</sup>	1,370 <sup>c</sup>	563	<b>2,761</b>
Department of Enterprise, Tourism and Employment	582	—	—	<b>582</b>
Department of Culture, Communications and Sport	638	75 <sup>d</sup>	—	<b>713</b>
Other	217 <sup>e</sup>	—	—	<b>217</b>
<b>Total</b>	<b>2,265</b>	<b>1,445</b>	<b>563</b>	<b>4,273</b>

Source: Analysis by the Office of the Comptroller and Auditor General

- Notes:
- a The amounts paid were confirmed with the current government departments depicted in this figure.
  - b The expenditure incurred by the OPW was for planning applications, site surveys and consultants at the Heuston Gate site.
  - c The expenditure incurred by the OPW was for planning applications, site surveys and consultants at the Earlsfort Terrace site to date.
  - d Consists of €25,000 from the then Department of Arts, Sport and Tourism; Department of Education and Skills; and the Department of Jobs Enterprise and Innovation (see paragraph 5.54).
  - e Records indicate a total of €217,150 was paid from Forfás, Pobal, the Department of Climate, Energy and the Environment, and Fáilte Ireland from 2006 to 2008. An amount of €124,200 appears to have been paid by Forfás. The examination team could not verify the total as Forfás was dissolved in 2014.

## Current market conditions

- 5.71** The proposal for a national science centre was approved over 20 years ago. Since then, the context for cultural and interactive attractions in Ireland has shifted significantly. Several facilities aimed at developing an interest in science and/or engaging children have opened and subsequently closed, indicating challenges in sustaining such ventures.
- 5.72** Separately, a privately-funded interactive science and sports centre spanning over 10,000 m<sup>2</sup> has been operating in Sandyford in Dublin since 2018, with approximately 300 interactive exhibits focused on science, technology, engineering, the arts and mathematics. Given its scale, facilities and established presence, the continued operation of this enterprise may limit the demand for another similar attraction in Dublin. The operation of this privately funded enterprise also raises the risk of a State aid challenge. These are factors that may be relevant to any formal appraisal of the proposed publicly supported science centre.

## Views of the Accounting Officer of the Office of Public Works

The proposal to develop a science centre was originally initiated in the early 2000s with a commitment in a Programme for Government. Government sponsorship and financial support for the project was driven through the Department of Enterprise, Trade and Employment with financial support also to be provided by the Department of Arts, Sport and Tourism.

The role of the Office of Public Works was to design and oversee the construction of a facility to be located at the Heuston Gate development. The OPW's role in this respect was similar to its undertaking of capital projects as a contracting authority for client bodies. These capital projects are funded from the relevant Votes for these client bodies.

The project scope developed over time. Initially the Heuston Gate masterplan of June 2003 included an outline museum/cultural space of 3,716 m<sup>2</sup>, prior to ICML being selected as operator. The October 2003 lease with ICML for circa 4,645 m<sup>2</sup> was based on initial high-level accommodation schedules and not a specific brief. Site visits to other science centres indicated that the proposed space and requirements for the science centre were inadequate, as noted in the October 2006 report prepared by the OPW. The revised plan provided for an 8,472 m<sup>2</sup> building, with the Department of Enterprise, Trade and Employment listed as the client on the 2008 planning application.

The 2013 lease located the centre in the largely vacant north wing of the Earlsfort Terrace complex, which was in need of investment to maintain the building. The site was located in a central cultural quarter with good transport links. The building's large rooms can support the required science exhibits and its reuse provides a sustainable approach to preserving a historic site. This plan provided for a science centre building totalling 9,580 m<sup>2</sup>. The increase in area relates to the re-use of an existing building and protected structure with a higher proportion of circulation area than in the new purpose built design proposal at Heuston Gate.

Arising from the financial constraints in 2009 development of the project ceased. Since 2012 the project has been the subject of various legal proceedings through arbitration processes. As the contracting authority, the OPW has been the respondent in these proceedings with no sponsoring department being party to the proceedings.

The most recent outcome of the arbitration proceedings is that the arbitrator found that the OPW was in breach of its contractual obligations to construct a science museum facility in Earlsfort Terrace in accordance with a lease agreement entered into by both parties in 2013. In his determination of 25 June 2022, the arbitrator found that the OPW is in breach of its contractual obligations to build the proposed museum, and that in principle, ICML was entitled to an order of specific performance. The arbitrator then made an interim award (26 July 2022) requiring the OPW to progress the project.

In July 2025, ICML sought a final award from the arbitrator to order the OPW to construct the science centre at the NCH site in accordance with the planning permission received in March 2024 and to provide a definitive timeline showing the milestones to completion of the works.

As Chairman of the OPW, I have advised representatives of ICML that, notwithstanding the OPW's legal obligation to meet a final award of specific performance from the arbitrator, once granted, that the critical issue of how the project is financed and from what Vote remains to be resolved. I fully accept that there is a binding arbitration award. However, the development of the project will require further consultation with departments who sponsored the initiation and development of this project. The Vote for the OPW provides capital allocations for flood risk management and OPW estate management, and does not provide capital funding for projects outside of these defined expenditure programmes. The OPW, as a contracting authority in this case, does not provide funding for the capital works development for the science centre project.

In my view, and while the OPW will comply with its legal obligations, there are fundamental questions remaining regarding funding for the operation of the science centre in the medium-term. The issue of the source and quantum of ongoing operational funding required for the science centre requires examination/evaluation by the relevant sponsoring department.

I share the key learnings from this examination that the roles and responsibilities of project sponsor and contracting authority should have been clearly defined from the outset. More robust project governance, with a clearly identified project sponsor, would have provided safeguards in respect of the other clear learnings from this project, around the scope of the project, in addition to the appropriate oversight of costs.

## Conclusions

### *Inadequate project governance*

- 5.73** The 2013 *Public Spending Code*, and the earlier capital appraisal guidelines, clearly set out the requirement for and role of the 'sponsoring agency' in effectively managing public investment projects. The sponsoring agency is responsible for overseeing the full project lifecycle — from planning and appraisal, to procurement and delivery, and subsequent operation.
- 5.74** For the science centre project, no formal decision has been identified regarding the appointment of a sponsoring agency, and this remains unresolved to date. This lack of formal governance arrangements has exposed the Exchequer to unnecessary risk, and there is a lack of clarity as to what the project is expected to achieve, and how it is to be funded. Absent a formal public sector sponsor, this project should not have proceeded to a significant formal commitment of public resources.
- 5.75** Without another public body acting in the role of sponsoring authority, the OPW had no client for the project to develop a science centre building. Without a client providing clear instructions and undertakings, the OPW should not have entered a formal commitment in respect of the science centre. It also did not have the authority to agree to the lease without a specific Department of Finance sanction for the proposal.

- 5.76** In entering into binding financial commitments in the absence of a formal client for the science centre, the OPW effectively took on the obligations attaching to the project. The OPW did not apply the safeguards designed to ensure that public funds are used effectively and efficiently in the development of the science centre project. To date, there still has been no formal evaluation or appraisal of the project from the State's perspective and no sanction by the Department of Public Expenditure. On that basis, key decisions and commitments appear to have been made by the OPW without appropriate authority or oversight.
- 5.77** Without a comprehensive assessment of the project's financial viability, long-term costs and potential returns, there is no assurance about whether the investment in the science centre potentially represents value for money or aligns with broader fiscal priorities.

### *Project scope drift*

- 5.78** In October 2003, the OPW entered into an agreement for lease with ICML for a 4,645 m<sup>2</sup> building which was yet to be constructed at the Heuston Gate site. In the course of seeking planning permission for the building from Dublin City Council, and in other planning exercises for the science centre undertaken with the proposer, significant project drift occurred.
- 5.79** Under the replacement agreement for lease in 2013, the OPW committed to deliver a 9,580 m<sup>2</sup> facility on the site at Earlsfort Terrace — more than twice the size of the project originally committed to and in a much more valuable and sensitive location.

### *Project cost overrun*

- 5.80** It was originally intended that the science centre would be developed as part of a wider property development undertaken by the OPW. By rolling the project into the bigger scheme, it was envisaged that the science centre could be developed without the need for direct Exchequer funding to cover the capital costs. As a result, this appears to have been interpreted as a 'no-cost' project which therefore did not require the application of the appropriate capital appraisal controls.
- 5.81** While the OPW estimated project costs at various stages, there is a lack of evidence that these costings informed the key decisions made as the proposed building increased in scale and the original Heuston Gate development was abandoned. Estimates of the cost of locating the project in Earlsfort Terrace do not appear to have been prepared prior to legally committing to the provision of the site. This indicates shortcomings in cost control and expenditure governance which failed to protect the taxpayer's interest.
- 5.82** As of May 2024, the projected cost (based on an external costing provided to the OPW) had risen to €70.4 million (including VAT). This figure may not reflect current market conditions and could increase further when the project is put to tender.

**Annex 5A    Reproduction of August 2014 cost estimate of  
constructing the science centre at Earlsfort  
Terrace site**



Architectural Services

**Re: Exploration Station / Childrens' Science Museum, Earlsfort Terrace.**

This letter supersedes that of 25th August 2014. I overstated the floor area on my initial report. The following is based on the floor areas as provided by you.

I have examined the drawings for the above and estimate that the cost of the proposed work would, at today's prices, be in the region of the following:

	€
New Build	7,000,000
Work to Existing	4,000,000
Demolitions and Siteworks	500,000
	11,500,000
VAT	1,552,500
	13,052,500

Say **€13,000,000**

This Estimate is based solely on block drawings with no details available. It is therefore a high level estimate. A further breakdown of costs is not feasible.

*Basis of Estimate:*

- Drawing Nos. H.14.003 Proposed Basement Floor Plan, August 21014
- Drawing Nos. H.14.003 Proposed Ground Floor Plan, August 21014
- Drawing Nos. H.14.003 Proposed First Floor Plan, August 21014
- Drawing Nos. H.14.003 Proposed Second Floor Plan, August 21014
- Drawing Nos. H.14.003 Proposed Third Floor Plan, August 21014
- Drawing Nos. H.14.003 Proposed Fourth Floor Plan, August 21014
- Drawing Nos. H.14.003 Existing Sections, May 21014

The above amounts exclude the following:

- Contingencies
- Cost fluctuations / Inflation
- Professional fees and VAT thereon
- Allowance for art
- Planning and fire safety fees
- Service charges
- Statutory contributions
- Development Charges

The estimate is based on a floor area of 3,904m<sup>2</sup> (New Build) and 5,336m<sup>2</sup> (existing).

While I understand that the Mechanical and Electrical work may be carried out under a separate contract, for estimating purposes I have applied Mechanical and Electrical costs proportionately to the relevant area of the existing building

If you have any queries on the above, please contact me.

26<sup>th</sup> August 2014

