



DÍOSPÓIREACHTAÍ PARLAIMINTE  
PARLIAMENTARY DEBATES

**SEANAD ÉIREANN**

TUAIRISC OIFIGIÚIL—*Neamhcheartaithe*  
(OFFICIAL REPORT—*Unrevised*)

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## SEANAD ÉIREANN

*Dé hAoine, 28 Bealtaine 2021*

*Friday, 28 May 2021*

Chuaigh an Cathaoirleach i gceannas ar 9.30 a.m.

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*Machnamh agus Paidir.  
Reflection and Prayer.*

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### **Teachtaireachtaí ón Dáil - Messages from Dáil**

**An Cathaoirleach:** Dáil Éireann has passed the Gender Pay Gap Information Bill 2019 on 19 May 2021, to which the agreement of Seanad Éireann is desired. Dáil Éireann has passed the Counterfeiting Bill 2020 on 19 May 2021, to which the agreement of Seanad Éireann is desired. Dáil Éireann has passed, on 26 May 2021, the Criminal Justice (Perjury and Related Offences) Bill 2018, changed from the Perjury and Related Offences Bill 2018, considered by virtue of Article 22.2 of the Constitution, as a Bill initiated in Dáil Éireann, to which the agreement of Seanad Éireann is desired. Dáil Éireann has passed the Public Service Pay Bill 2020 on 26 May 2021, to which the agreement of Seanad Éireann is desired.

### **Gnó an tSeanaid - Business of Seanad**

**An Cathaoirleach:** Before we begin consideration of the legislation before us today, we will mark the national day of one of our EU colleagues. Italy's Republic Day marks when the establishment of the Republic of Italy in 1946 is celebrated. The Irish and the Italians have a history of immigration and are known as builders of nations, particularly in the United States of America. Migration between our two nations has been going on for thousands of years. Irish monks led by St. Columbanus founded a monastery in Bobbio, near Genoa, in the 7th century. There is a strong Italian-Irish community here, dating back to the late 19th century and early 20th century. They still have strong links to their ancestral homeland near Valle Camino in the Frosinone province near Rome. We all have enjoyed the fish and chips which they gifted us. There are approximately 11,000 Italians living in Ireland, working in the hospitality, financial services and technology sectors.

This year, Italy marks the 700th anniversary of the death of the father of the Italian language, Dante, who was one of the giants of world literature and culture and who is famous for

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*The Divine Comedy*. I would like to wish Ambassador Serpi and the Italians living in Ireland and around the world a happy Republic Day. *Buona festa della Repubblica*.

### **Affordable Housing Bill 2021: Committee Stage**

**An Cathaoirleach:** The Minister of State, Deputy Peter Burke, is most welcome to Seanad Éireann this morning for Committee Stage of the Affordable Housing Bill 2021. I ask the Leas-Chathaoirleach to now take over.

**An Leas-Chathaoirleach:** I welcome to the Minister of State. I congratulate the Cathaoirleach on his lovely Kerry Italian. As the Cathaoirleach said, we are on Committee Stage of the Affordable Housing Bill 2021.

Sections 1 and 2 agreed to.

### SECTION 3

**Senator Rebecca Moynihan:** I move amendment No. 1:

In page 6, to delete lines 28 to 33 and substitute the following:

“(3) Where regulations under this Act are proposed to be made, a draft of the regulations shall be laid before each House of the Oireachtas and the regulations shall not be made until a resolution approving the draft has been passed by each such House.”.

The amendment is fairly self-explanatory. It is that the regulations that will back up the parts of the Affordable Housing Bill 2021 will be laid before the Oireachtas and that a draft will be passed by a resolution of both of the Houses. I do not think I need to speak to it more, but I am pressing it.

**An Leas-Chathaoirleach:** I thank Senator Moynihan. I call on Senator Boyhan.

**Senator Victor Boyhan:** I welcome the Minister of State to the House. Before proceeding to talk briefly about Senator Moynihan’s amendment, I wish to thank the Bills Office. What an enormous task it has and it is under enormous pressure. If one looks at the legislation coming through both Houses and, in particular, how we will have to turn this legislation around for next week, I wish to acknowledge the enormous work of that office and the time pressures it is under.

This is important legislation and I am not going to dwell. It is important that we get through this business as quickly as we can. We all know the importance of affordable housing. I endorse Senator Moynihan’s proposal. It is an important one and it is important that we in these Houses are continually vigilant and aware of what is going on in relation to this legislation.

**Senator Alice-Mary Higgins:** I welcome the Minister of State to the House.

I wish to indicate support for this amendment. It is really important because, if we think back to the debates we have had on housing over the last five years, we know that points often have been made on the floor about concerns, about what might happen and about unintended consequences or sometimes even forewarned consequences to specific aspects of the policies.

We have seen that things have to get changed and tweaked. We have seen that loopholes can be exploited. We have seen that measures do not have the impact that we was hoped for at the time they were brought in. Having these regulations laid before the Houses gives the Minister of State and the Government the opportunity to get those different perspectives from people across the House, in terms of the possible implications of the regulations. There is quite a lot within this Bill that is not in the primary legislation but which will be given to the Minister to put into effect. There is a lot of nuance there. Given that and given that we want to avoid the time lags in the shifts of policy that we have seen on housing, whereby we actually are getting things right earlier, it would be a really good idea to accept this amendment.

**Senator Ivana Bacik:** I welcome the Minister of State to the House and support the amendment tabled by my Labour Party colleague, Senator Moynihan. It essentially is providing for an extra layer of Oireachtas scrutiny over measures adopted and the regulations proposed to be made under the Act.

As Senator Boyhan has said, I also commend the Bills Office on turning this around so quickly. We all appreciate the huge importance of this legislation and of any measures to expedite the provision of affordable housing. All Members are aware of huge importance of the housing issue currently, of the serious concerns across communities all over Ireland about the lack of availability of affordable housing and the lack of supply, in particular.

I should say that in my constituency of Dublin Bay South yesterday, I met residents from Irishtown and Ringsend. We met just beside the Irish Glass Bottle site, which is a site that has been mired in difficulty. It should have by now been able to provide a significant number of affordable and social houses and apartments, alongside other houses and apartments. Yet, we see this massive proposed development stalled over a period of years, real problems of consultation with local residents and real concerns about the linkage of affordability to market value rather than to income.

Senator Moynihan has spoken powerfully about our conception of affordability and how that needs to change. I heard huge concerns from residents about the lack of provision for apartments, about the issues around management fees, around the setting of rents but in particular, about the failure to provide the supply of housing for an area where it is sorely needed and where many young people are being priced out of the market or simply cannot find anywhere to live.

I therefore appeal to the Minister of State to accept this important amendment to ensure that there is provision for sufficient Oireachtas scrutiny. I look forward to engaging with the Minister of State and his colleagues on other provisions of this important Bill during the course of the day.

**Senator Fintan Warfield:** I welcome the Minister of State to the House. I understand that the Minister for Housing, Local Government and Heritage, Deputy Darragh O'Brien, has informed the House that he will be here at some point today. I also look forward to that but in the meantime, I welcome the Minister of State and look forward to positive engagement with him. Good ideas come from this side of the House. We have tabled 106 amendments today, which shows the genuine interest that we show in this Bill. I want to add my voice in respect of amendment No. 3, in terms of removing an open market dwelling from Part 2. The phrase "open market dwelling" means that the affordable housing scheme could be used to help people purchase homes at massively inflated prices. A couple, friends of mine who have no children

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and a good mortgage have made an offer on a house in Inchicore. It is what we might call a Sims house and is typical of the many houses one would see in Cabra, Drimnagh, Inchicore or Crumlin. It went on the market at €315,000. As a result of various bids, the price has risen by €100,000 in a short period. I urge the Minister of State to accept amendment No. 3 in order to remove the phrase “open market dwelling”. We will soon find out who is bidding on that house in Inchicore and why the price has risen by €100,000 in a short period. I urge the Minister of State to accept the amendment and remove the possibility of massively inflated prices.

**Minister of State at the Department of Housing, Local Government and Heritage (Deputy Peter Burke):** I thank each of the Senators for raising the various issues they have put forward. I look forward to engaging with everyone today.

I do not propose to accept this amendment because it would require all regulations to be the subject of positive approval by both Houses of the Oireachtas. The existing provision gives either House of the Oireachtas the power to pass a resolution annulling any regulations made under this legislation within 21 days of the regulation being laid before the Houses of the Oireachtas as is required. That is outlined in section 3(3).

Amendment put and declared lost.

Section 3 agreed to.

#### NEW SECTION

**Senator Rebecca Moynihan:** I move amendment No. 2:

In page 6, between lines 33 and 34, to insert the following:

“Housing policy: paramount concern

4. Subject to its obligations in relation to the provision of social housing, in the performance of all relevant functions under—

(a) the Housing Acts 1966 to 2021, and

(b) the Planning and Development Acts 2000 to 2020,

the paramount concern of a local authority shall be to secure as best it may that an adequate supply of housing is available for purchase by persons with average annual earnings who have the benefit only of a mortgage agreement entered into in compliance with the macro-prudential policy for residential mortgage lending of the Central Bank.”.

The effect of this amendment would be that the houses that are being made available on public land would be affordable in the context of people’s incomes as opposed to affordable in the context of being below market value. The a fundamental flaw with the Bill is that there is no definition of “affordability”.

On Second Stage, I referred to, for example, O’Devaney Gardens, where some of the affordable units are being made available for more than €400,000. Contrast that with somewhere such as Dun Emer, where genuinely affordable homes are being made available. My big concern in the context of this and of how Part V has operated in some respects is that some developers use construction costs and other associated costs in order to increase prices. If we are making

affordable homes available on public land, it is fundamental that they are linked to income and what people can borrow under Central Bank rules.

I do not want to see a situation similar to that, as Senator Bacik highlighted, which occurred at the Irish Glass Bottle site arising because of its location and the desirability of owning a home in the area. The Irish Glass Bottle site is on public land. We talk a great deal about having a social mix and having an income mix in areas but I do not want a situation where homes built on public land in areas where there are higher house prices will be out of reach of people on median incomes.

This amendment goes to the heart of the Bill. It is about linking affordability to income as opposed to the concept of below market value, which the Government seems to think constitutes affordability but which I do not think constitutes affordability. The Government is continuing with the policies that led us into boom-bust housing cycles in the past. Therefore, I urge the Minister of State to accept my amendment and to at least put an obligation, where we develop public lands for affordable housing, to make it affordable for people on median incomes in this country.

**Senator Ivana Bacik:** I speak in support of Senator Moynihan and our Labour Party amendment. As the Senator said, the amendment goes to the heart of this Bill and the conception of how we provide affordable housing.

Senator Moynihan has very eloquently, over some period, spoken about the need to link the conception of affordability with income rather than with market value. For us, this goes beyond just a practical change. It is a hugely important shift because it requires us to start to see housing not as a commodity but rather as a public good and not as a private asset but something that is of benefit to all our citizens, and that it is a necessity for all of us to ensure there is an adequate supply of housing. I spoke about the concerns of residents in Ringsend and Irishtown, who have watched for the last four years as nothing happened on the Irish Glass Bottle Company site where we were supposed to see a significant supply of social and affordable housing made available.

I hear from people, as I know we all do, across different communities. In Portobello and Ranelagh, I heard from young people, some of whom are my former students, who are on really good incomes by any standard and yet still cannot afford to buy within reasonable distance of where they work and wish to live. That is the difficulty that we are seeing. Across all communities there is a problem with a lack of supply of affordable housing be it apartments or houses. That is why we need to look again and review our conception of affordability.

**Senator Alice-Mary Higgins:** I agree with the broad thrust of the amendment. The caveat “Subject to its obligations in relation to the provision of social housing” is important because public land has a role in making affordable housing available for purchase. Also, public land has a really important role in the provision of public housing to people of all income categories. For example, publicly-owned public housing that might be cost-rental and remains in public ownership over a lifetime is another paramount concern that sits alongside what is suggested by the amendment.

The core point of the amendment is the idea to not focus on the homes but on their affordability and on the people who need to be able to buy them. It is important that we are very clear not just around the price tag on the house moving along with the market but about the

experience of persons who wish to purchase and that it is literally affordable to them. That is the nature of affordability. It is not sellability but affordability.

I hope that this amendment is successful. I reserve the right to table a similar amendment to build on it on Report Stage because we need to examine not just the average income but the median income as, sadly, the median income in Ireland is very much lower than the average income. I do not have the figures for this year but a few years ago we had a median income of less than €30,000, so more than 50% of people working in the State had an income of less than €30,000. We need to be really careful to think about affordability that works for people and for the majority of people across the country.

**Senator John Cummins:** I appreciate the thrust of what Senator Moynihan is trying to achieve with her amendment but it must be considered in the context of the entire Bill, particularly the affordable purchase and cost-rental schemes. The serviced sites fund is attaching to the affordable purchase scheme. The Minister indicated both in this House and elsewhere that he is looking at revising the serviced sites fund, particularly for the Dublin area where it costs more to provide houses, which will supplement and reduce the price of housing being provided by local authorities or approved housing bodies on State-owned land. When looked at overall, it is clear that there are significant affordability measures built into the Bill. I wanted to make that point.

**Deputy Peter Burke:** I thank the Senators for their comments. It is not proposed to accept this amendment. It is not clear that the provisions in the amendment, as structured, including using the phrase “paramount concern” in respect of housing authorities, would have a definite legal effect. The supply of affordable housing by a local authority is influenced by a range of considerations, including identified need, as detailed in the housing needs demands assessment process, and the cost and type of provision and funding mechanisms available. However, I can confirm that it is intended that homes with purchase prices ranging from €160,000 to €310,000 will be made available under this scheme. These will be affordable for a range of households on low to moderate incomes, and particularly for those availing of the Rebuilding Ireland home loan, which will be available for people on lower incomes.

**An Leas-Chathaoirleach:** Does Senator Moynihan wish to press the amendment?

**Senator Rebecca Moynihan:** I do.

Amendment put:

The Committee divided: Tá, 8; Níl, 16.	
Tá	Níl
Bacik, Ivana.	Ahearn, Garret.
Boyhan, Victor.	Buttimer, Jerry.
Higgins, Alice-Mary.	Byrne, Maria.
Keogan, Sharon.	Casey, Pat.
Moynihan, Rebecca.	Chambers, Lisa.
Ó Donnghaile, Niall.	Conway, Martin.
Sherlock, Marie.	Cummins, John.
Warfield, Fintan.	Currie, Emer.
	Dolan, Aisling.
	Fitzpatrick, Mary.

	Gallagher, Robbie.
	Kyne, Seán.
	McGahon, John.
	Murphy, Eugene.
	O'Reilly, Joe.
	O'Reilly, Pauline.

Tellers: Tá, Senators Ivana Bacik and Rebecca Moynihan; Níl, Senators Robbie Gallagher and Seán Kyne.

Amendment declared lost.

Section 4 agreed to.

## SECTION 5

**An Leas-Chathaoirleach:** Amendment No. 3 is in the name of Senators Warfield, Higgins, Ruane and Moynihan. Amendments Nos. 3, 28 to 33, inclusive, and 57 are related and may be discussed together by agreement. Is that agreed? Agreed.

**Senator Fintan Warfield:** I move amendment No. 3:

In page 8, to delete line 4.

This amendment relates to the reference in this section to the open market. I addressed this aspect in my earlier contribution, when I spoke about how this proposed affordable housing scheme could be used to help people purchase houses at massively inflated prices. I identified a case earlier involving friends that I spoke to yesterday, who are no longer involved in a bidding process whereby the price of a house rose from €315,000 to €415,000. This is a couple, who had been accepted for a mortgage, with good jobs and no kids, and who want to live in the city. They want to live close to town, but they cannot do so. It is not possible for them to buy a house to do up because a mortgage will not allow for that. These people have a right to live in their city, but the reference in this legislation to an open market dwelling means that the resulting affordable housing scheme could be used to help people purchase houses at massively inflated prices. We will soon find out who is bidding, if it is a real estate investment trust, REIT, and how the price of a house can be driven up by €100,000 in the space of two weeks.

**Senator Alice-Mary Higgins:** The fundamental problem with the open market being included is exactly as Senator Warfield has outlined, in that these houses cost any amount. There is an element of a blank cheque to this. When we talk about affordability, most people's understanding of it is we will be setting a ceiling on the price of houses and there will be houses at a price affordable to purchasers.

However, what is not envisaged are situations in which local housing authorities or others have to purchase houses for €600,000 or €700,000, or have to purchase houses on the open market. It is not meant to be a floor. I am concerned there are provisions in this Bill which act effectively as a floor for the property market in terms of a guaranteed amount of payment, rather than a ceiling which would put an amount over which people should not be asked to pay.

I am concerned about the open market in this regard for the same reasons, that is, there are no parameters or clear ceiling in terms of the open market. There is also a concern we could be,

and should be, providing much of this affordability as an obligation through Part 5.

I am concerned, and will come to it later, that there seems to be a similar dynamic within Part 5. That is not so robust or strong, in terms of setting the price of the houses at an affordable level, without guaranteeing public supplement, which could allow it to inflate. The open market being included in this is potentially of concern. I am worried we may see the provisions in this Bill acting as an aid to property owners. I think there may be an argument, in terms of later amendments, in exceptional circumstances. However, in general, the open market is not in these circumstances because the market has its own priority, which is the maximisation of return.

**Senator Mary Fitzpatrick:** In terms of this amendment it is important we do not confuse ourselves, or anyone watching, as to what is being proposed. The Member from Sinn Féin has spoken and articulated the challenge facing working people in this city in trying to buy their own home. It is a terrible reality and one which this Government is legislating to change. The primary objective of the legislation, as Members know, is to have the State take the lead in the provision of affordable housing and enable local authorities and approved housing bodies to deliver affordable homes, both to purchase and to rent.

However, we recognise the reality that when the Labour Party was in government, it abolished affordable housing under Part 5. We recognise there is no affordable housing being delivered in this country and we also recognise the trap people on medium incomes are in in terms of being able to buy a home. We recognise €450,000 is an unaffordable price for a modest home in our capital city. That is why we are changing the law. That is why we are legislating, so the State will take the lead in providing affordable homes - really affordable homes - similar to the affordable homes we saw in Dublin this week starting at approximately €170,000.

That is our objective but we must live in the real world. We have to live with the reality of today and there are people in this city paying substantially more for rent than they would on a mortgage. I was talking to somebody yesterday who is homeless and will be paying, and we will be paying through HAP, €2,000 per month for a two-bedroom, modest apartment in the city. A mortgage would be €1,100. We need this legislation to progress. However, if we remove the private dwellings from this legislation, the State will not be able to financially support people like Senator Warfield's friends, who could avail of the shared equity scheme and financial support from the State. That is what we will be doing. If we remove private dwellings from this, we will saying to the Senator's friends that the State will not help them financially to help them to secure their own home to reduce their cost of living, reduce the amount they are spending on rent and enable them to be able to afford a mortgage and a home for life. On that basis, we do not support this amendment.

**Senator Pat Casey:** Senator Fitzpatrick has covered most of my points. Taking a segment of housing out of affordability will add to the crisis. Every one of us who has been on a local authority knows that local authorities are buying social houses on the open market every year and families are living in such houses. Every year, each local authority is given funding to go out and buy houses for social housing. This is doing the same. It is taking houses on the private market and making them available for affordable housing. It is another way of supplying affordable housing for people who are crying out to own their own homes so I do not support the amendment.

**Senator Victor Boyhan:** I have some reservations about this because I think we need to

use all options to secure homes. Hopefully, in time, we will have options to buy affordable homes in the private sector. It is not a matter of private versus public. Every option, angle and opportunity must be about enabling people to get a home. I do not even like the slogan “housing for all”. I prefer a home for all as I think it is a nicer word. It is about homes. People do not necessarily care about who owns, builds or pays for them because, ultimately, they are paying. If it is affordable, they are happy. It is about security of tenure and affordability. I do not want to close off any opportunity but having said that, Senators Warfield and Higgins have raised some very valid issues. It is an issue of concern. We cannot have a situation where it is totally exploited and abused. I know what the Minister of State is trying to do and there is a squeezed middle. These are people who are paying sums that are way in excess of a mortgage to provide a roof over their heads and do not even own the property. Ultimately, it is dead money but it is providing some sort of roof over people’s heads. I think it best that we keep it in the Bill so I will not be supporting this amendment.

**Senator Rebecca Moynihan:** I support this amendment. Again, it goes to the heart of the problem. The skeleton of the Bill is that affordability is not actually affordability. It is below market value. Market value can mean anything. Senator Warfield spoke about a house in Inchicore. Another house in Inchicore was on the market for €475,000. I think the bidding is now up around €670,000 and is still going.

I wish to address what Senator Fitzpatrick said about the Labour Party abolishing affordable housing. The Labour Party came into government in 2011 after Fianna Fáil with their developer friends over the previous ten years not only took down the construction industry but also the banking industry and nearly took the country with it. The affordable housing scheme that was in place left people paying mortgages that they suddenly could not afford because they were out of work and paying rents to the local authority that they could not afford because they were out of work. The 20% that was introduced in 2013 was because we were not building anything and it went from 20% of land to 10% of what was built so I will not take lectures, a few of which I have heard from a few Fianna Fáil people. I heard it from Senator Chambers as well. They need to take a hard look at what they did to the construction industry and to the people still in negative equity because of the prices they paid for houses at the end of the 2000s. They would want to be very careful in their mud-slinging about what people did at certain times when it comes to housing in this country.

**Senator Ivana Bacik:** Like Senator Moynihan, I speak in support of the Labour Party amendment, along with the other amendments in this group. Our amendment goes to the heart of the Bill. We are all clear on the importance of the issues we are debating today and it is very disappointing to see cheap political point-scoring being engaged in by Fianna Fáil.

**Senator Mary Fitzpatrick:** I stated facts.

**Senator Ivana Bacik:** I remind Senator Fitzpatrick that I did not interject during her contribution. As Senator Moynihan said, people in Fianna Fáil need to take a good, hard look at themselves.

The real issue here is what was not done over the four years from 2016 to 2020, when the country was economically prospering and the then Government, in which Fine Gael was propped up by Fianna Fáil, failed to prioritise the provision of housing. We are now addressing the legacy of those four wasted years. There have been huge difficulties for construction in the past year because of the Covid crisis but those four wasted years are critical to what is happen-

ing now. Housing supply should have been prioritised in that period by a Government that, let us not forget, suffered in the February 2020 election because it failed to deliver on housing, particularly social and affordable housing. It is really disappointing to have to listen to lectures and political point-scoring when we are debating such an important issue. We did not indulge in it and it is unfortunate, to say the least, to hear it from others. Senator Moynihan is a very powerful advocate on housing, as we are all aware. Our party, the Labour Party, has a very proud tradition of delivery at local and national level on public and affordable housing. We will not take lectures from others on this issue.

The question of affordability is crucial. It is not just about the purchase cost of houses or apartments but also rental costs. Senator Boyhan spoke eloquently about security of tenure for those who are renting. The issue of market value is crucial in regard to rents because we are finding, with the huge dominance of investment funds and institutional purchasers of apartments across Dublin in particular, that there is an artificial inflation of the market value of rents. I have spoken before about seeing blocks of beautiful, recently built and furnished apartments lying empty, with the plastic sheeting still on the mattresses. The institutional investors are holding on to those apartments to keep the rents artificially inflated. That is what constitutes market value in a market dominated by a small number of large investors that are able to keep rents artificially high and thereby price people out of renting properties they would love to have as homes. Senator Boyhan is right that we are talking about homes and not just housing. It is about people wanting to have their own home. It is not just a question of houses or apartments; it is a question of homes. That is what is important here and it is very disappointing to see any attempt at cheap political point-scoring.

**Senator John Cummins:** Senator Boyhan touched on what the outcome of accepting the amendments in this group would be. They would result in the State having one hand tied behind its back. In a housing crisis, one cannot go into the sweet shop and say one will only take this bit and that bit. We need to look at absolutely every mechanism possible to deliver homes for the people of this country. Earlier this week, Fingal County Council approved a scheme to deliver 1,200 homes in Donabate. That proposal was opposed by Sinn Féin and the Social Democrats. Of the 1,200 homes to be built, 20% will be affordable, 20% social and 60% will be private homes. Senator Boyhan has made the point before that nobody cares whether houses are built by the local authority, an approved housing body, the Land Development Agency or a private developer. People want homes and that is what we are trying to provide. We cannot tie the hands of the State behind its back in this regard, which is what these amendments would do if they were passed. That is why I will be opposing them.

**Senator Alice-Mary Higgins:** I will make a few very practical points. To be clear, a number of people raised whether such houses could be purchased privately but that is not necessarily the concern I spoke about. My concern reflects some of the concern from Senator Warfield and others that we are talking about an open market dwelling without a ceiling. That is the concern. It is not an open market dwelling up to a certain amount; instead it is infinite in its amount. Therefore, I reserve the right to introduce an amendment to put a ceiling on the amount that could be spent on an open market dwelling and I hope that is something the Government will consider.

It is important when we talk to note that the concern is the market. We talk about being in the real world, so let us be in the real world. When we are in the real world in the context of the market, let us acknowledge that market logics have their role but must also be tempered. To be very clear, market logics are not about getting things out as quickly and affordably as possible

in many cases. This cannot be so when we hear, as we always do, about planning permission. The strategic housing developments, SHDs, are in place since 2016 so we are not talking about the last year where the pandemic affected building. We are talking about the last five years. We are talking about fast-track projects that have planning permission and are not waiting for it. Therefore, it is not the magic bullet we hear about. These developments have not been built because it is strategically advantageous to delay the building of these large housing estates that have benefited from fast-track planning. As we have seen, the market logic is often to delay that construction. That is why just over 30% of those who received the fast-track planning permission have commenced them. The others are sitting on them. This is despite all the lectures we received from the then Minister with responsibility for housing about how SHDs were going to be an instant supply hit five years ago. We have seen price-fixing on rental apartments because it suits them to keep a third of them off the market and the price to be higher.

The fact is that the market will do things the market wants to do - that is its nature. It is fine because the primary fiduciary duty of many people in investment funds, etc., is to maximise their return. That is fine, but we must be clear that the State's job is not simply to regard itself as sitting inside that market. When we talk about the real world, we must be clear that the market sits inside the State. It is not the real world to have prices like we have in Ireland. There is a reason they are much higher here than in other European countries. It is not the weather. It is the kinds of provisions that we have around how housing is built and provided. I am concerned that many of the measures in this Bill place the role of the State inside a market which does as it will. I agree with Senator Fitzpatrick that the State must take the lead. The State should sit outside the market, in effect, and set its parameters. That is my concern because I do not see the ceiling being applied. I do not see the conditionalities being strong enough.

On Part 5, which we will come to later, I am very concerned because when we give planning permission the State has a right to set conditions not just about who might be allowed to buy but also in relation to the prices. It should not top it up. We do not have to bridge the gap between what the market would like and what the people need. We may do some of that but we can also set rules for the market, so we are squeezing from two sides. Yes, we are bridging gaps between the need of people for homes and the market but the space we are bridging cannot be infinite. We must also be applying pressure downward on the market. Narrowing that gap is a two-way piece. That is the concern here. My concern is not necessarily with the purchase itself. As I have said, there are circumstances, usually exceptional, in which local authorities have purchased houses for social housing or affordable housing. My concern is the lack of a ceiling on that. It is a reasonable point. We must also put a downward brake on what the market is asking from the State or from anybody for some of these properties. That is why I will bring forward an amendment on Report Stage to provide a ceiling in respect of the amount that can be paid for an open market dwelling in the context of affordable housing.

**Senator Victor Boyhan:** I am interested in what Senator Higgins said and look forward to that amendment because it would address some of the concerns that have been raised. To be clear, my understanding is that this amendment seeks to remove an open market dwelling as a category of affordable housing, leaving only houses made available by a housing authority and Part V houses. That is the issue. I ask the proposers of the amendment to come back and clarify the matter. The Minister of State may address the issue. We need absolute clarity. I understand that the effect of this amendment would be to remove an open market dwelling as a category under affordable housing, leaving only houses made available by housing authorities and Part V houses. That is limiting. Everything must be under review. There is merit in the case Senator

Higgins has made for some sort of cap and there is a lot of merit in this proposed amendment. There are concerns, that is obvious, and we need to keep a strong eye and hand on these matters.

**Senator Fintan Warfield:** One of my colleagues stated that Sinn Féin opposed developments on lands in Donabate and Fingal. We fully support the development of homes on the site in Fingal. We do not support sweetheart deals for developers and the sale of public land for private developments that are far beyond the reach of ordinary working people. The Government should fund the council to develop that site.

**Senator Mary Fitzpatrick:** I would like the Minister of State to respond. I understand Senator Higgins's legitimate concern. We are all concerned that the price of housing is unaffordable and that is what this legislation is about. The Government is changing the laws so we can deliver affordable homes. The Government will use all of the State's resources, including land and assets, to deliver affordable homes. That is the purpose of the legislation. The amendment proposed by Sinn Féin seeks to delete market dwellings from this legislation. The Affordable Housing Bill is dedicated to creating a whole new programme of affordable homes that people can purchase, for the first time ever in the history of the State, and affordable cost rental homes. We are not only going to provide affordable homes to purchase, we are also going to provide affordable homes to rent with secure tenure. The only reason market dwellings are being included in the legislation is because private market homes are the only ones that have been built. They are the only ones available at the moment and, as my colleague, Senator Casey, mentioned, local authorities are purchasing private homes.

We are seeking to legislate for the provision of affordable homes not just for now but for decades to come. My understanding, and I would like the Minister of State to clarify the position, is that if we were to accept this amendment, it would mean that in the short term, the next three years, we would exclude the State from helping people to buy privately built homes on the market. The amendment would exclude the State from being able to financially support people to do that. That is wrong. If we all agree and believe that there is a housing crisis, as I and my party do, we should be using every asset and power of the State to make unaffordable homes affordable, not just in the long term. People's lives are on hold. The lives of Senator Warfield's friends are on hold. They are unable to move on with their lives because they cannot afford to buy a home. This Government is legislating to help the Senator's friends. It is legislating to help the friends of Sinn Féin, Fianna Fáil and the Labour Party, and every young person who is paying unaffordable rent or is unable to move out of his or her parents' home. That is what this legislation is aiming to do both in the short, medium and long term. If we accept the Senator's amendment, and the Minister of State might be able to confirm this, the State will not be able to use its financial power to support people to secure an affordable home in the short term. Perhaps the Minister of State can clarify that point.

**Senator John Cummins:** I wish to make a final point. In his speech on Second Stage, the Minister stated that we cannot let the perfect be the enemy of the good. We must use all of the tools at our disposal to resolve the housing crisis that we face. Ideology is not going to fix the housing crisis. If we were to take Senator Warfield's suggestion in respect of Fingal, we would go back three or four years. All of the families who would be placed in private, social and affordable homes in that area over that three or four-year period, would not be in any home. As a State, we must use all the mechanisms at our disposal. The delay tactics of the Opposition are not good enough. We should all be in there, rolling up our sleeves and working together on this legislation. Trying to put up obstacles is not the way forward. I ask the Senator to reconsider his amendment.

**Senator Alice-Mary Higgins:** To be very brief, I hear a lot about the perfect being the enemy of the good. However, we must remember that there is a concept called “the better”, for which we could still all aim. I would suggest that the best way for the Minister of State and others who have expressed concern in this is to assert that the problem is that one really cannot come in and ask for a blank cheque. That is the problem. To be clear, it is not a matter of the purchase of open market dwellings. I was most clear on that point in my first, second and third contributions. If the Minister of State were to indicate that there is going to be a cap on that, it would really help, because then we would know.

It is important to note that we are on Committee Stage of the Bill. Report Stage is on the way. Report Stage is literally for improving legislation. That is what this legislative process is for. We are actually quite within our bounds to assert that this legislation is not the best that it could be and we would like the Minister to fix it or improve it on Report Stage. That is a really legitimate thing to do. It is not an either-or and one-shot only process. Unfortunately, due to the pandemic and other circumstances, this Government in particular has got really used to legislation going through in one-shot only resolutions or using the guillotine procedure. That is not what this is. We are in the weeds here. It is about tweaking and fixing the legislation.

If we table an amendment to section 5(c), it does not mean that we are necessarily against the purchasing of homes on the open market. It means that it is phrased wrong and too openly, it does not set a cap, does not address our concerns and we would like to see a better version of it on Report Stage. That is a fairly reasonable thing to be doing. It is part of the legislative process.

**Senator Pat Casey:** I will be brief. I agree with much of what Senator Higgins has said. As we try to take more control of the housing market as a State, open market dwellings represent a source of affordable homes for people and they should not be excluded. Would those tabling this amendment to exclude this source of homes equally agree to it being applied to the social homes that the councils are currently buying for families? It is the very same principle. I would hope that the very same principles that the local authorities follow whereby they try to get value for money will be applied to this process. The processes by which they buy properties from the market are the same. However, it is all about accessing affordable houses in a housing crisis. I agree with the Senators. I would much prefer us to be dealing with local authority building first, the Part 5 housing and the cost rentals. However, while we are trying to get that up and running and while the State is trying to take back control of the housing market from the private sector, we still need to house families in affordable homes. The market can help that in the short term while we transition to the State taking a great deal more control of the housing market.

**Acting Chairperson (Senator Eugene Murphy):** Before I call the Minister of State, I remind Members that there is a large number of amendments before us today. I do not mind if we discuss this amendment until 4 p.m. but I am reminding them of that if they wish to move through the amendments. I do not want to hear anybody complaining later that we did not give enough time. Members have every right to keep speaking, but perhaps they will keep that in mind. I call the Minister of State.

**Deputy Peter Burke:** I thank the Senators for engaging on this. I will respond to the amendments together, as outlined earlier by the Leas-Chathaoirleach. These amendments refer to and are connected with the power given to local authorities in the Bill to provide financial assistance to eligible purchasers to purchase dwellings on the open market. They propose re-

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moving that power and any reference to it from the Bill. I do not propose to accept the amendments. While the currently planned housing authority affordable dwellings scheme envisages the authority providing dwellings itself, I wish to retain the possibility that housing authorities could, under this Part, make financial assistance available to eligible applicants to purchase homes on the open market. This provision is already in the Affordable Housing Bill. In terms of Part 5, the Minister has clearly outlined that he is going to introduce that in the Dáil. That will come back to this House and we will have our say in that regard.

I wish to note one or two items. I am aware of the frustration with getting affordable homes onto the market for all our citizens, and I stress all our citizens. That is very important and it is the singular focus of the Government at present, as it has articulated. I listened to the many comments that previous Governments failed and did not achieve. Those Governments were working in very difficult circumstances and they did their best. As regards the last Government, for which I was elected in 2016, it built 34,000 affordable homes since 2016. It increased production by 300%. The number was up to 20,000 before the pandemic, so huge strides were made. Consider the landscape that came from, where there were 3,000 unfinished estates in this country. Remedial schemes were trying to get funding to provide key infrastructure that should have been in place in different parts of the country. The country was trying to borrow money at an interest rate of 14%. It could not just embark on a massive capital programme of building houses. It was constrained. Over that period, we have reached a place where we can do so. I remind Members that the Government is doing its best. We all are citizens. I know what it is like trying to get into the first-time buyer's market.

Sinn Féin is suggesting that there are sweetheart deals. That does this debate a complete disservice. It does no good for anybody delivering sustainable affordable homes to our communities. I remind the Senator that he opposed the help-to-buy scheme, which provided 22,000 sets of keys to families, my and the Senator's counterparts, trying to get a home for the first time. He is opposing the Land Development Agency Bill, which provides for a key mixture of tenure ranging across social, affordable, cost rental and private. That is good for communities, making them sustainable and ensuring that everyone gets the best possible chance to realise his or her potential. That is what we need in the State.

Sinn Féin has also opposed repeated motions on Dublin City Council to deliver social and affordable homes. We see that every week. Sites have been lying idle for decades because they have not been unlocked. The Senator's party celebrates on social media when social housing units and other developments are refused permission by An Bord Pleanála. I remind the Senator of that when he is making comments about sweetheart deals. I am trying to reflect society-----

**Senator Fintan Warfield:** Sixty per cent.

**Acting Chairperson (Senator Eugene Murphy):** The Minister of State without interruption.

**Deputy Peter Burke:** I did not interrupt the Senator. He is obviously having trouble-----

**Acting Chairperson (Senator Eugene Murphy):** Senator Warfield, I am very fair in the Chair. You will be allowed to respond. I will not allow any Member to heckle the Minister of State, but you will get a chance to respond.

**Deputy Peter Burke:** The Senator obviously has a problem when he hears the truth. The truth of the matter is what his party is doing, which is opposing housing in the State, as this

Government tries to get sites that have been lying idle for decades back into use for our citizens and for sustainable communities. We have seen many examples of sites where providing community centres, parks and key infrastructure has been blocked by his party. I am in the business of politics. I am trying my very best to deliver for all the citizens of this country and provide all first-time buyers with sustainable, affordable homes. I want to help all of society. I do not take a singular, ideological approach. The more public homes there are, the more homes there are in the private sector and the more affordable homes that we can offer first-time buyers, the better it will be for everyone in society. It is important to have mixed tenures and to make communities sustainable. As I indicated in the Dáil, the Minister is reserving the right in terms of Part 5.

Reference has been made to the SHD process, which is due to end. The Government has committed to doing that. People must remember that the first decisions came through in January 2018 and 45% of those applications have now commenced. We need to have a bit of fairness and reality in the debate as well.

**Senator Pat Casey:** Hear, hear.

**Senator Fintan Warfield:** Again, Donabate was mentioned. A total of 60% of the new homes that will be sold on the site there will be sold at unaffordable prices way above €400,000. That is the deal we are getting in respect of houses built on public land.

**Senator Mary Fitzpatrick:** There-----

**Senator Fintan Warfield:** That is a bad deal.

**Senator Pat Casey:** It is not.

**Acting Chairperson (Senator Eugene Murphy):** Senator Warfield should be allowed to finish his point.

**Senator Fintan Warfield:** It is a good deal for private developers and a bad one for working people.

The Minister of State mentioned the LDA. It runs the risk of making matters even more difficult for the working people that we have mentioned to access genuinely affordable homes. I will be pressing amendment No. 3.

Amendment put and declared lost.

Section 5 agreed to.

## SECTION 6

**Senator Fintan Warfield:** I move amendment No. 4:

In page 8, between lines 12 and 13, to insert the following: “(b) arrangements with co-operatives, community housing trusts and other not for profit bodies.”.

Section 6 is about the provision of dwellings by housing authorities. It states:

A housing authority may make dwellings available for the purpose of sale to eligible applicants under affordable dwelling purchase arrangements and may, in accordance with the Housing Acts and regulations made under any of those Acts, acquire, build or cause to be

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built, or otherwise provide or facilitate the provision of, dwellings for that purpose.

We are seeking to amend section 6(2), which states: “A housing authority may, for the purposes of subsection (1), enter into ... arrangements”. We would like to see arrangements with co-operatives, community housing trusts and other not-for-profit bodies included there. Essentially, we are looking to expand the number of organisations that can deliver housing under the scheme in order to ensure the best opportunity to deliver the maximum number of units possible.

We have great local authorities. Many of us have been elected at local authority level. We also have great approved housing bodies and other entities, all of which have the capacity in terms of staff and planning expertise for residential housing delivery. What we do not have is a willingness on the part of central government - this comes back to Fingal - to fund councils to deliver large-scale developments for mixed-income and mixed-tenure housing for social and affordable rent and affordable purchase. I ask the Minister of State to support amendment No. 4. I look forward to his response on it.

**Senator Victor Boyhan:** I am very happy to support this amendment, which is a good one. It is important that in the spirit of working together we support this, and I hope the Minister of State will support it. We have seen traditionally smaller co-operatives and community housing trusts establish units. It has worked. I have been to see a few of them in the west. Some projects have run into difficulties, and that must be acknowledged too, in terms of funding and the transfer of the structures around that. It is not anyone’s fault, other than perhaps a lack of support for them at various levels through the process.

I am familiar with a number of religious trusts that have developed very effective housing, particularly in the city of Dublin. I am conscious of some in Waterford city, where congregations and religious communities have developed housing which has been very effective. They have drawn on some of their own resources. The spirit of the amendment is good. I would like to think the Minister of State will support it, or give good reasons for not doing so. It is worthy of support and I hope the Minister of State will give it that support today.

**Senator Mary Fitzpatrick:** I have tabled an amendment to this section and I would like clarification on whether it will be discussed now.

The amendment tabled by Senator Warfield speaks to the Government’s objective of trying to have not-for-profit State-led and State-sponsored provision of affordable housing. I ask the Minister of State to give strong consideration to accepting this exact wording, or certainly to incorporating the principles of the proposal in the legislation. It is reflective of the Government intentions. May I speak on my amendment now?

**Acting Chairperson (Senator Eugene Murphy):** No. Senator Fitzpatrick’s amendment will be discussed separately.

**Senator Mary Fitzpatrick:** It will add confidence to the Opposition with regard to its concerns about the Government’s intentions. We will speak to it when we get to it.

**Senator John Cummins:** I echo what Senator Fitzpatrick has said about supporting this in principle. I certainly hope Senator Warfield will take the premise of this when we discuss later amendments. What I have said heretofore is that we have to use any mechanism possible to deliver housing. I have no problem in principle with the premise of what Senator Warfield

is suggesting. We must use every delivery mechanism so we are not at a pick and mix in the Affordable Housing Bill.

**Senator Alice-Mary Higgins:** I support the amendment. It is a sign that we see support from across the House. We are not speaking to Senator Fitzpatrick's amendment, but when we will come to it I will support the thrust of it. I have also tabled an amendment on public-public partnerships in the spirit of recognising that we are in a situation where there are other ways in which this can be done.

We have heard about using different tools. I took on board many of the points that were made in the previous debate. Among the key tools are this type of co-operative and these types of bodies. Local authorities now have a capacity for direct build and, perhaps, building with public partnerships. There is real capacity there now. Fiscally it is possible and it is important for us to remember we are in a different situation now with regard to the EU fiscal rules and accessibility to 0% loans and financing. We have often heard that financing is why we have to go to the private market only, but the fact is a lot of other ways to access financing are now available to the State under the changes in the EU rules. The type of off-balance sheet focus we have often heard about is no longer a constraint in terms of dynamically moving forward. I strongly support the amendment. I have a somewhat similar amendment, although perhaps mine has a wider frame. The nuances in the amendments tabled by Senators Warfield and Fitzpatrick are perhaps even more useful than my amendment.

**Senator Pat Casey:** I would support this amendment and I will be consistent on this. I would support any vehicle that can provide access to affordable homes for people. I look forward to the Minister of State's reply to this and I hope we will be able to accept the amendment or a rewritten amendment along these lines. At the end of the day, it is about accessing affordable homes for families to live in. Whatever vehicle we need to provide this, let us use it.

**Deputy Peter Burke:** I acknowledge Senator Warfield's amendment. Without doubt it has a significant portion to play. What I would say is that capacity is the issue we are concerned about.

*11 o'clock*

While I do not propose to accept the amendment at the present time, I recognise that there is significant merit attached to it, what Senator Warfield and other Senators have brought to the debate, and for considering it in the inclusion of other specialist housing providers under this specific provision. Consideration will now be given to including other specialist housing organisations that may not be already covered under the provisions. We ask for a little more time on it but I genuinely accept the points Senators Warfield, Boyhan and others have put forward.

**Acting Chairperson (Senator Eugene Murphy):** Senator Warfield, is that acceptable to you?

**Senator Fintan Warfield:** I would like to push the amendment.

**Senator Alice-Mary Higgins:** Is the Minister of State saying he might come back on Report Stage?

**Deputy Peter Burke:** Yes.

**Senator Alice-Mary Higgins:** We might be putting our own versions on Report Stage. It

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is good to know that the Government will have its separate version. I am sorry to cut across.

**Acting Chairperson (Senator Eugene Murphy):** Senator Warfield, is that acceptable to you? The Minister of State has indicated, in reply to Senator Higgins, that he will come back on this amendment on Report Stage. The Minister of State seems to be in favour of what you are saying.

**Senator Fintan Warfield:** I think I have provided a very good amendment that I might push to a vote.

Amendment put.

**An Cathaoirleach:** Standing Order 61 provides that “the Cathaoirleach may again put the question and declare afresh the result, in his or her opinion, of the putting of the question, and a division shall take place only if such fresh declaration is challenged”. On amendment No. 4 the question is, “That the amendment be made?” Is that agreed? Agreed.

**Senator Fintan Warfield:** I move amendment No. 5:

In page 8, to delete line 13.

My amendment relates to the Land Development Agency, LDA. As members will be aware, Sinn Féin is opposed to the involvement of the agency. We do not accept the need for a new State agency for public housing delivery; rather, and I have mentioned this in the debate on previous amendments, we remain convinced that resourcing local authorities to drive ambitious public housing and regional public housing programmes to meet social and affordable need. It is more democratic for councillors and communities. It is efficient and cost-effective. Essentially, local authorities and other bodies that we mentioned in our previous amendment will do this much better and I urge the Minister of State to support the amendment.

**Senator Victor Boyhan:** I have concerns about the amendment and do not support it. While I have major concerns about the LDA, we will have opportunities under the Land Development Agency Bill to examine some of those. As I said earlier, we must have mixed tenure and use every available resource, vehicle and opportunity to provide homes for people.

There are some issues with the LDA. Some of the Senators who are present are members of the Oireachtas Joint Committee on Housing, Local Government and Heritage and recently we had a very good engagement with the Association of Irish Local Government, AILG, and the Local Authorities Members Association, LAMA. We have a very good working relationship with both the AILG and LAMA. One of the issues that we discussed in some depth was the fact that the AILG had been in touch with members of the committee to suggest a number of amendments. Not all the amendments are going to get through. In fairness to Deputy Eoin Ó Broin, the Sinn Féin spokesperson, he undertook to give serious consideration to them. I, too, undertook to pursue those amendments and we will have an opportunity.

All is not well with aspects of the LDA but, again, there are issues to be negotiated and discussed. I am conscious that there are two blocks of land in the Dún Laoghaire constituency, where I live, and the functional area of the Dún Laoghaire-Rathdown County Council. One is the Shanganagh Castle estate lands that have remained empty for years. Indeed, if Senator Michael McDowell were present he might talk about the site because he was the Minister for Justice, Equality and Law Reform at the time when a considerable amount was spent on the

site. It was a waste asset that was left there while we had thousands of people languishing on our housing list and, perhaps, the biggest number of people trying to buy housing. It is virtually impossible to buy housing. As I said earlier this week, I perused the website, *Daft.ie*, last week and saw that a broken down cottage with its windows falling out had a price tag of a few hundred thousand euro. The reality is someone would not get a loan for that purchase.

There are challenges and exciting opportunities relating the site at the Central Mental Hospital in providing mixed tenure and, hopefully, a little commercial property. I acknowledge the LDA must wash its face, pay its administration costs and develop other sites in partnership. Of course, I would like to see greater partnership. Senator Warfield made a very good point about concerns with local authorities.

At the committee meeting there was a discussion with Councillor Anne Colgan. She talked about the relationship that the local authority had with two aspects of the LDA. One was with Shanganagh Castle, which was the local authority relationship, and one was with the LDA in terms of the Central Mental Hospital Dundrum, which was formerly owned by the Office of Public Works and may still be but it is a different type of relationship. In both cases, Councillor Colgan told us that there was a positive relationship. There were difficulties but the relationship was positive, engaging and respectful. In many cases, the LDA was more forthcoming than the local authority in certain circumstances. Of course, the local authority would have said that it had concerns, the location was price sensitive, commercially sensitive, planning sensitive and there were a load of issues.

In terms of the endgame, I keep asking my colleagues and friends the following question: where are we now and where do we want to be? The target and the game are to deliver houses with mixed tenure. That is what we need to do. We want to expand the offer of who builds and creates these houses and where they are built. That synergy is so important. As we all agreed, this is about homes. Senator Warfield spoke about including community groups and trusts and the Minister acceded to and supported that amendment, for which I thank him. I am not in the business of excluding anybody. That will not get us anywhere.

We may have to tweak the legislation and curtail certain aspects of the LDA. In that regard, I will flag one area where I have a problem, namely, the perceived threat many elected members of local authorities see in respect of section 183 disposals. We can deal with that, however, using mechanisms such as arbitration. As the Minister with responsibility for local government and local democracy, the Minister will know that the only reason councillors are concerned is that elected members of all parties and none believe they can, through section 183, introduce conditionality to a release or disposal. Anyone in a local authority will be familiar with that. It is an important point and we need to bridge that gap and address the issue. I engage with the local authority members almost on a daily basis and I am picking up from members of all parties and none that we need to deal with the issue by having local authority members retain the section 183 power on the basis of applying conditionality to what lands will be used for, which must ultimately be for housing. We can address those concerns. As I said, I would have concerns about excluding the LDA entirely from this process.

**Senator John Cummins:** The net effect of this amendment would be to remove the ability of the LDA to provide affordable homes for people. Senator Boyhan referred to Shanganagh Castle. The LDA is going to break ground on that site this year to provide 597 mixed tenure homes. We will not be able to provide affordable purchase units on that site if this amendment is passed. In the same spirit of co-operation the Government showed in accepting the previous

amendment on including co-operative bodies, I ask Senator Warfield to reconsider his decision to press this amendment. The amendment would have the net effect of dismantling the ability of the LDA to provide affordable homes for people in this State. That would be a regressive step and it is not one that can be supported.

**Senator Mary Fitzpatrick:** I also appeal to Senator Warfield to withdraw this amendment. I believe the Senator understands the housing crisis. His friends are affected by it and I believe they would want every power and asset of the State to be used to help them secure an affordable home. If this amendment is made, it will curtail the powers of the Land Development Agency, which is being established as a statutory agency, to maximise State-owned lands to deliver affordable homes.

We know that our housing crisis is characterised by two elements; one is supply and the second is affordability. To increase supply, we should be using all State-owned lands to deliver an increased supply of housing, including affordable housing to purchase and rent. We must deliver rental homes that will provide people with secure homes on a long-term basis at an affordable price. That is what the Land Development Agency is being set up to do. It is being put on a statutory footing to enable the delivery of thousands of affordable homes, both to purchase and to rent. If we were to support the amendment, we would essentially be saying that this State agency cannot deliver affordable homes. Essentially, it would undermine all our efforts to address the housing crisis and to use the State's assets, lands and capacity to plan, design and fund affordable homes for our people, including for the Senator's friends.

I urge that this amendment be withdrawn. I say that because I have heard the alternative idea proposed of relying on local authorities. In that context, the Senator's previous amendment, which we supported, sought to expand the number of organisations which can provide affordable housing, such as NGOs, not-for-profits and co-operatives. We supported that amendment because we recognise - everybody should recognise it because local authorities have said it loud and clear - that local authorities do not have the capacity to deliver affordable homes. That is why I submitted my amendment. When representatives of the local authorities from the County and City Management Association, CCMA, appeared before the housing committee, they were able to identify for us their social housing targets. As the Minister of State indicated, local authorities are undertaking the biggest social housing building programme in a decade.

We want the local authorities to go further, however. We want the State to take the lead in the provision of social and affordable housing, and that is why I am seeking, by means of my amendment, to set targets for local authorities to deliver affordable homes for purchase and for rent. If we accept the amendment under discussion, however, it will undermine all our efforts. It will take away the potential for all that State-owned land to deliver hundreds and thousands of affordable homes across the country. This amendment would remove that potential, and I do not think that is what any of us wants to happen.

We all want to use all the State's assets and powers to deliver homes. From talking to people in the local authority in Dublin city, which is the biggest in the country, I know that Mr. Brendan Kenny, the deputy chief executive of Dublin City Council, DCC, gave a report to councillors some months ago which detailed how the local authority is not equipped, and would not be recommended, to set itself up as a building authority. Those are not my words or Fianna Fáil spin, they come from deputy chief executive of the largest local authority in the country. Facing the greatest level of housing pressure, he is seeking to use every available resource to solve this housing crisis, including social and affordable housing. The LDA will help DCC and all

the other local authorities to scale up from the perspective of planning, design and financing. It will also enable local authorities to not just deliver affordable homes for purchase, but also for rent. As a result, I urge the Senator to please withdraw this amendment. The Land Development Agency Bill 2020 is going to come before the House and if the Senator wishes to make amendments then, we can do so. I urge him not to undermine the power the legislation before us can bring in the context of helping all of our friends who want to have affordable homes.

**Senator Rebecca Moynihan:** I am not supporting this amendment because a properly structured and financed LDA could be a game changer in the delivery of public housing on public land in this State. Fundamentally, I am not happy with how the LDA is structured. I hear much talk about the need to use all facets of the State's capabilities. However, what we have done over the past 30 years in particular has resulted in the State pulling back from the delivery of housing. If the LDA is allowed to provide public housing on public land, and only affordable public housing, it will have the potential to be a game changer and be able to build up capacity.

We must remember that it is not developers that build houses, it is builders. Developers pull together all the parts of the process to allow builders and contractors to build houses. The LDA should be the State's developer that delivers public housing and affordable-----

**Acting Chairperson (Senator Eugene Murphy):** I am sorry for interrupting. The House stands suspended for 15 minutes in accordance with the order of the Seanad of Tuesday, 25 May.

*Sitting suspended at 11.30 a.m. and resumed at 11.45 a.m.*

**Acting Chairperson (Senator John McGahon):** I welcome the Minister of State, Deputy Burke, back. Senator Moynihan is next.

**Senator Rebecca Moynihan:** As I said, I was rambling at that stage. I made my points clear.

**Acting Chairperson (Senator John McGahon):** How kind.

**Senator Pat Casey:** Senator Warfield will not be surprised I will not be supporting this amendment either. However, I want to give another reason I will not be supporting it from those already given. Having sat on a local authority for more than 12 years, frustrated by the lack of flexibility we had in delivering both social and affordable homes, to be given a credible option to deliver that as a Member and to consider we would not vote in favour of that, is running down the local authority system. It is also running down the powers of the local authority members and, more importantly, the trust we place in our local authorities members to agree a scheme fit for purpose for their people.

On that basis alone, I could not support it. I said from the word go, my purpose here today is to provide as many vehicles as possible to build affordable homes for our people. We are now giving that to our local authority members, who are crying out for different methods of delivering homes for their people. This amendment will prevent that from happening. Everyone in this House wants to see the powers of local authorities enhanced but this amendment will reduce the potential to give local authorities the power to provide affordable homes. Like Senator Boyhan and others, I have an issue with section 183 regarding the disposal of land. Hopefully, this will be dealt with through the LDA process but removing an option to allow local authority members to deliver affordable housing through the LDA is a retrograde step and I ask the Sena-

tor to withdraw the amendment.

**Senator Pauline O'Reilly:** It seems that a lot of the amendments are about removing things. They are about removing open market dwellings from the list of affordability and now removing the LDA. The LDA exists so why not use it? This is not even saying we should dismantle the Land Development Agency, which I could understand from the Senator's ideological point of view. It is actually just saying there is a thing out there we could use, but we should not use it. It seems quite bizarre to me. The Senator may know that the 2020 National Economic and Social Council, NESC, report on housing mentions the LDA as being key to change. It says our housing policy is broken and one of the things we should do is establish cost rental on a statutory basis, which is what we are doing in this Bill. Another thing is to make amendments to Part 5, which we are also doing in this Bill. Another key element is establishing the LDA on a statutory footing as a matter of urgency with an enhanced mandate, including providing land for social housing. Essentially, the Senator is saying he does not want something that would actually provide social housing. I do not understand this at all so I will not be supporting this amendment.

**Deputy Peter Burke:** I thank Senators for engaging in the debate. I do not propose to accept this amendment. In respect of allowing, where appropriate, housing authorities to enter into such arrangements, including joint ventures, in order to deliver affordable housing for sale in one of the ways that might deliver housing, as I said previously and as some Members have referenced, the LDA will be a game changer in terms of delivering high-quality affordable houses to our citizens along with cost-rental options. This is quite rightly mentioned in the NESC report and is rightly aligned to the LDA. This is very important. The singular view that is being put forward as a solution is that we should not have mixed tenure and the mixed sustainable communities this society so badly needs. We know it makes good policy. The best option is all actors coming together from social, affordable, cost-rental and private housing to allow families to realise their potential. That is the spirit of this Bill. We are trying to ensure we have affordable homes and we are solving this crisis and are not diminishing options for any citizen. We want to provide more houses for all first-time buyers to give them the chance to get the keys to their first home.

**Senator Fintan Warfield:** The ideological point, if there is one, is that I am opposed to public land - the people's land and the land that everyone owns regardless of how much money they have - being used for unaffordable housing on the open market, being sold off cheaply and being used for houses that will cost well above what people who already own that land will be able to afford. That is the pattern I am opposed to.

**Senator Pauline O'Reilly:** This amendment concerns the LDA, which is actually a vehicle for the State to use to build homes. What the Senator is saying does not stack up.

**Senator John Cummins:** To be very clear, this amendment will prevent the LDA from providing affordable homes on State-owned land for affordable housing purchase and cost rental. If this amendment is passed, the 597 homes at Shanganagh Castle cannot proceed.

*12 o'clock*

That is what we would be voting for if we passed this amendment. It would be totally irresponsible of us to remove the ability of the Land Development Agency to provide homes on a site that is going to break ground this year. What about all the families waiting to live in those

homes? It would be reckless to do it.

**Senator Mary Seery Kearney:** This amendment is about dismantling the LDA. The whole purpose of the agency is to streamline the use of State-owned lands into facilitating the provision of housing. That anybody could possibly put forward an argument to inhibit or prevent that is absolutely bananas. It follows the trajectory and pattern of voting against housing schemes in local authorities by Senator Warfield's party. Again and again, the objective is to delay, obstruct and stop the momentum of what is a game changer when it comes to providing homes for people in an affordable manner and addressing the housing situation effectively.

*(Interruptions).*

**Senator Mary Seery Kearney:** It does not stack up.

**Acting Chairperson (Senator John McGahon):** Senator Casey, without interruption.

**Senator Pat Casey:** While one might have a objection in principle to the LDA, what is being proposed in this amendment is not acceptable. Going back to my original point, these provisions give local authority members an option to deliver affordable housing. Every scheme will have to be approved by local authority members, in agreement with the LDA, including provision to deliver affordable homes or whatever the mix is for a particular schemes. With this amendment, Senator Warfield is saying he has no trust in local authority members and is not willing to give them the option to deliver affordable and social homes for our people. He is seeking to remove a vehicle of housing delivery.

**Senator Pauline O'Reilly:** On the point raised by Senator Casey, I was a councillor, albeit for a short time, and I know there are difficulties with the LDA. That is why we are putting through the Land Development Agency Bill 2021. The National Economic and Social Council, NESC, advised us to give an enhanced mandate to the agency and that is exactly what we are doing in that Bill. Will the proposers of this amendment not try to amend the relevant Bill instead of seeking, in this amendment to the Bill before us today, to take apart the one thing that might help to solve the housing crisis?

**Senator Alice-Mary Higgins:** Many of us will be putting forward amendments to the Land Development Agency Bill 2021 when it comes to the Seanad. There have been some very good and constructive suggestions in that regard, including in terms of concerns around its provisions relating to section 183 of the Local Government Act 2001. I expect we will see very positive amendments, including some that are driven by backbench Members of the parties in government who recognise the problems with the provisions.

Although I have huge concerns about the LDA, I have not proposed to delete the line in the Bill before us today, relating to the role of the agency, which amendment No. 3 seeks to do. While this is not my amendment, I do not oppose it and I have put forward amendments, which we will discuss presently, where I seek to add conditionalities in terms of the role of the LDA. There may well end up being a role for the LDA but there are real imbalances of power in the way it currently operates. I am signalling that while I do not oppose this particular line of the Bill at this point, there must be an indication that there will not be a blank cheque and that brakes and conditionalities will be applied. My position is that it is not good enough to have, say, 100 houses that are affordable out of a development of 800 houses on public land. That is not a good deal. There is a requirement and onus on us to get the best possible deal, especially when we have the strongest hand. When we come to debate the Land Development Agency

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Bill 2021, I will be looking at provisions such as those relating to section 183 of the 2001 Act.

As Senator Casey said, it is really important that all planning arrangements are approved by local authority members and follow their vision. When we come to Senator Fitzpatrick's amendment, I recognise the idea that the vision of local authorities needs to take precedence. One of the major concerns I have about the LDA is that it may fast-track past the vision for local planning of communities brought forward by local authorities, the vision not just of their executive and staff, but their members. I am really conscious all this is taking place in the context of new local development plans being developed right across the country and those local development plans are ultimately the responsibility of local authority members. The members set out their vision and it will be really important they are able to identify in those plans not just what must be done on affordable housing, but that they identify the best way for it to be delivered. Part of that may be by direct build. With absolute due respect to the executives who were cited and referenced earlier, we know that historically there was quite a role for local authority executives in deciding to pull out of the rental role local authorities used to play. That had a very damaging impact on security of rent for many people. As such, with absolute respect to them, it is actually not their call, it will be the call of local authorities in their vision. There will absolutely be many situations where the local authority directly building, maybe in partnership with others, may be the better solution. Thus the Land Development Agency is not the only answer. I am concerned it is being presented as a vehicle that is doing things local authorities could not do when it is a vehicle doing things local authorities were not allowed to do, in many cases. Local authorities should have been supported to access the financing when they wished to buy back on that open market we heard about earlier, when prices were extraordinarily low, when they were on the floor. Local authorities which wanted to buy were told they could not and that they had to lease instead until the market had reinflated. This, therefore, is a really delicate issue.

With respect to people saying that we must look at the Bill in front of us, I agree we must. We will try to amend the Land Development Agency Bill but that is why I and others have amendments to this Bill. We are doing so in order to prepare the ground for the Land Development Agency legislation when it comes. I am not opposing the inclusion of the Land Development Agency but I will mark that the fact that I am not opposing its inclusion here does not mean I regard it as a blank cheque and does not mean that if the Land Development Agency is not sufficiently reformed and caveated and contained within local authority vision that I will not oppose it at a later point.

Amendment put and declared lost.

**Acting Chairperson (Senator John McGahon):** Amendments Nos. 6 to 9, inclusive, and 18 are related. Amendments Nos. 7 to 9, inclusive, are physical alternatives to No. 6. Amendments Nos. 6 to 9, inclusive, and 18 may be discussed together, by agreement. Is that agreed? Agreed.

**Senator Alice-Mary Higgins:** I move amendment No. 6:

In page 8, to delete line 14.

This amendment relates to public private partnerships as a mechanism for the delivery of affordable housing. The concern here is that history whereby there has been a very strong preference for public private partnerships in the provision of affordable dwellings. That is amend-

ment No. 6. I have an opposition to public private partnerships but I actually have, which I prefer, a number of amendments where I add things, since we were talking about adding things. In these amendments I am saying that it might be public private or - and this is my amendment No. 8, which is part of this grouping - “public-public” partnership arrangements. My concern is that the preference is often given to public private arrangements. There has often been a narrative that we must be doing this in a way whereby there is a private partner or an investor and that they are profiting and it effectively is building into the cost of housing a requirement for a dividend, a requirement for profit.

We talk about ideology and it is clear there has been an ideological preference for that. When one asks why, the only argument with any merit has usually been that it is about financing but that argument no longer stands up. There is no reason to have public private partnerships for the development of public lands. We can get 0% loans and financing. We know the returns for the State are there and we can cut out the requirement for dividends and returns for shareholders. We can partner with the many other groups that are listed here, including approved housing bodies. I applaud the Government for accepting the proposals of community housing trusts and co-operatives. The primary goal of all these groups is, effectively, the provision of housing. The alternative is a partnership with groups whose primary goal must intrinsically be the maximisation of return. That is their fiduciary duty. If you are on the board of a private company or an investment trust, your job is to maximise returns and profit. Those are your goals. Anybody who has been on a company board knows that. The key thing is with whom we partner, what they want and what we want. A balance is required. I believe it would be better for the State and local authorities, in choosing with whom it partners and how we deliver affordable housing, to try, so far as possible, to partner with those who share the delivery of housing and homes as the priority. It is a concern if we straightforwardly put down public private partnership as a preference, as we do at the moment.

I have proposed amendments which, if the Government is willing to accept them, would give a little more scope and address the imbalance. I talk about public-public partnership arrangements, for example where a local authority partners with a State body. We love underwriting loans. I do not know how many such pieces of legislation have come through these Houses. Some of the party spokespersons for finance have spoken on those pieces of legislation. The outcome has been that we are underwriting all kinds of loans. Let us underwrite the financing for local authorities. That is the kind of public-public partnership that could deliver in this area. That is why I have included amendment No. 8. I have joined with others to propose the deletion of the model as it stands because there are no caveats to it and I am concerned that an imbalance of intention in that partnership is not addressed. It may be that we will partner with private actors but the balance of power in that partnership needs to sit clearly with the State because we cannot rely on private actors to have the same goals as the State. They may well partner with us but we need to be clear about where responsibility and power ultimately sit in this situation. Amendments Nos. 6 and 8 are rooted in that.

Amendment No. 7 addresses what I have already said about the Land Development Agency and public private partnerships. It is fine if local authorities wish to partner with the Land Development Agency or private actors as long as the conditionalities are clear. The conditions I have set out state there could or should be such partnerships for the provision of affordable dwellings where the provision of affordable dwellings or publicly owned, social or cost-rental housing constitutes not less than 80% of such an arrangement. If a partnership is to provide affordable housing, let it be that affordable housing and publicly owned social and cost-rental

housing constitute the greater part of that partnership. There is still a margin of 20% there. I am concerned about a scenario we have seen arise from public private partnerships where a hypothetical estate of 100 houses contains ten social homes, 20 homes that are affordable and a vast majority of homes that are, by definition, unaffordable, outside the range of affordability and entirely there to maximise profit.

We have talked about mixed tenure, where investment funds own half an estate. That is not a mix. That is why I am trying to bring in caveats. I do not want to discuss specific developments. In the context of one recent development, however, it was stated that there may be 100 social units in it but that there may also be 1,000 absolutely unaffordable housing units in it. We do not need to do that. We do not need to pay that cost for the return we need. We do not need to have such unbalanced partnerships. We can get more out of these deals. We can be the stronger party in these deals. We need to assert our power as a State.

Amendment No. 7 has been accepted. I would be quite happy for the LDA and, indeed, private actors to be involved. Amendment No. 7 - and I appreciate that the Government may have a slightly different worded version of it, which I would be very happy to look at - makes it clear that the return has to be really strong. We must go into that partnership, not grateful that one, two or 50 houses might result from it but, in fact, seeking to get the best out of it.

I have spoken to amendment No. 8. Amendment No. 9 seeks to insert the following: “(d) arrangements under *paragraph (b)* or *(c)* shall be subject to the condition that affordable housing or publicly owned social or cost rental housing constitutes at least 80 per cent of such an arrangement.” The point I am making is that the Government can absolutely work with other actors, but it must make sure that it is getting a good deal.

**Senator Fintan Warfield:** For the purpose of the debate, I wish to reflect on a parliamentary question submitted in August 2020, the response to which indicated that €256.9 million was spent on public private partnerships in 2019. The public private partnership model has been criticised by numerous bodies, including the European Court of Auditors, for not delivering for taxpayers’ money, not being efficient and not delivering projects on time and within budget. In my view, the use of public private partnerships has been shown to waste taxpayer’s money, whether it is in the education, health or transport sectors. The model has been proven to be an inefficient use of public money and to lack proper transparency. The unwillingness on the part of successive Governments to acknowledge that and to move away from the public private partnership model is equally frustrating. Examples such as the national children’s hospital project, the national broadband plan and infrastructure which does not actually return to State ownership all prove the point. In the context of housing and this amendment, if we are trying to keep building costs down and other costs as low as possible in the context of schemes so that affordable prices can be assured, then we definitely need to avoid public private partnerships.

**Senator John Cummins:** As with much of this debate, it comes back to ideology. I will provide Senator Warfield with an example of a public private partnership housing scheme in my area which has been delivered as part of one of the national bundles. It is called Presentation Gardens. People will be getting the keys to those 63 homes in the next few weeks. How can Senator Warfield tell any of those who are getting one, two and three-bedroom homes that public private partnership arrangements are not working? Those people are getting homes to live in. That is something for which all of us in this House are advocating. Yet, the Senator seems to be opposed to certain mechanisms which can deliver houses. This is about maximising, and we will say that word time and again today, the ability of the State to provide homes for people

to live in. Public private partnerships have a role in that. They are not the sole mechanism for doing it. There are many mechanisms such as local authorities, the LDA and approved housing bodies. We cannot tie the State's hands in providing homes.

With regard to amendments Nos. 7 and 9 and the 80% proposal, we must be aware that we are creating national legislation, as opposed to legislation solely for the Dublin area. The Minister is on record as supporting 100% social and affordable housing on sites in Dublin. However, I will refer to my area in Waterford. There are areas in that city which, over the last ten years, because of the collapse in the housing market only had social housing built in them. There are private land banks and council land banks in those areas. Unless we have the ability to put private housing in an area we will not create the mixed communities we need. While it might be appropriate to provide 100% social and affordable homes in Dublin, it might not be appropriate in a certain area in Waterford or in other parts of the country. It might be appropriate in another part of Waterford to consider 70% or 80% social and affordable housing in that area because there is a predominance of private housing there, but in other areas there might be a predominance of a different type of housing.

We are creating national housing legislation here. It must be adaptable. The Department and the councils must be able to look at their areas. They will do that through the housing needs and demands assessments which are being done for the development plans. We cannot just stipulate something that applies to a certain section of the country and not allow other areas of the country to avail of the flexibility that is required when creating national legislation.

**Senator Victor Boyhan:** Again, I have some concerns about this amendment. Before I start, I am looking at amendment No. 7 tabled by Senators Higgins and Ruane. The effect of that amendment, if agreed to, is that any public private partnership arrangement must have 80% social and cost-rental housing. There is an acceptance in that amendment that the Senator is supportive of public private partnerships in certain circumstances.

**Senator Alice-Mary Higgins:** I said that, yes.

**Senator Victor Boyhan:** That is fair enough. That is part of the argument. The follow-on in the next amendment is that the Senator is suggesting she is not against public private partnership arrangements. It is important to clarify that. I am trying to be consistent with the argument the Senator is making with regard to amendment No. 6.

We have had bad experiences with public private partnerships. There are many partnerships and we have to partner with everybody to deliver houses, be they public, private, social, co-operative or whatever. We have had successful and not so successful PPPs in respect of critical infrastructure such as roads, leisure, sports and recreation. I can think of many places where we have had mixed results, good, bad and indifferent, and we learn all the time. The key is to keep learning from experiences with PPPs. There is a place for them, but I believe we must look at conditionality - that word again - and applying conditions. Somebody has to be vigilant in respect of what is happening. There have been good news stories, and I will not single out a particular site. As regards the elected members on local authorities, I take note of the point made by Senator Cummins that it is beyond Dublin. It is very different in the big cities. There are different values and different demands. No place is the same. I believe there is a place for public private partnerships, but under a very strict code of management, structure and oversight. We see that in Shanganagh.

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It is about homes. It is not about making developers rich. Nobody is doing something for nothing either. They must be paid. The more houses we are producing, the more people we have gainfully employed. The higher the economy is moving, the more cash that is generated in the economy and the more people we have working, the more likely we are to have the benefit of developing sites that have been zoned residential for years but have not been developed. Other sites have not been maxed out. We also have a situation where there are public private partnerships on the other side of it where developers are coming on the news and saying this is great and they guarantee they are going to do A, B and C. We must remember that they have had enhanced opportunities, for example, with higher densities. That is an important sweetener, if I dare use the word, for someone who wants to develop if they are told by the planning authority or the housing authority that it has a control in and is in favour of a higher density on a particular site. That is an advantage for somebody. No one is doing it for nothing. Let us stop coddling ourselves. People have to be paid.

We must look at the provision of houses in the wider context of providing homes for people, cranking up the engine of the economy, getting people back in their little trucks and vans, doing a day's work and earning a decent day's pay and paying their way. The knock-on effect of the construction and provision of homes, enlivening new communities and regenerating new spaces and new communities and the building of public realms is all part of the bigger picture. We must look at it holistically. There is a role for PPPs, but it needs to be guarded and kept in check. We must make sure that people are delivering and they are not getting an advantage over anybody else because that is the problem with public private partnerships, in particular when it concerns a local authority, which is not the housing authority. It is the planning authority and it has its fingers in a number of pies. We must have a level playing pitch but at the end of the day it is about building more homes and harnessing everybody, everything and every financial resource to provide much needed homes for people.

**Senator Rebecca Moynihan:** I support the amendment. It is worth bearing in mind that the private market has a role in solving the housing crisis. That relates to the many land banks that individual speculators, developers and landowners own themselves. What the amendment relates to is public land banks and public development. I live in a house beside one of the public private partnerships that succeeded in the noughties. Three PPPs in my area fell apart when the construction industry collapsed. Even in the one that was delivered in Fatima Mansions, which is now called Herberton, there were significant issues with it that left the local authority on the hook on what was local authority land. I know of other areas where public private partnerships were delivered, such as in Finglas where a friend of mine was involved in the rent-to-buy scheme, and the local authority is still paying for the fire defects.

I did not support Senator Warfield's amendment for a similar reason. The LDA could be the driver of this and essentially become the State development agency. As long as we see State land and the private sector as being the only way to deliver public, social and affordable housing, we will be at the whim of developers getting access to credit and investor funding, going bust and not checking their fire safety standards, and we will not deliver for people.

Deleting public private partnerships is an ideological side of the argument, but so too is relying on the market and private developers doing what we should do as a State, and through the LDA, upskilling and building capacity on our own public land. I support the amendments.

**Senator Pat Casey:** Again, we are dealing primarily with the local authority entering into agreements with different vehicles for the delivery of affordable homes. Amendment No. 6

removes the option of a local authority entering a public private partnership arrangement. In my county of Wicklow, in the areas where the housing crisis is at a maximum, there is no public land. If local authorities are to build social or affordable homes their only option is to reach out to the private sector, and I regret this because it is not my preferred option but it is the only option on the table. If these partnerships are managed correctly, they can provide social and affordable homes and they should not be removed as an option.

To come back to the core point of this, it is a local authority arrangement. We are putting our trust in our local authority members, whom I do trust, to ensure every scheme and proposal is fit for purpose for their area. There is a difference between Dublin and the rest of the country. There are different dynamics at play. Amendments Nos. 7 and 9 seek 80% social housing. My view is that on public land I would like to see 100% social housing but there are segments in my local area that need private housing development. For once in our lifetime, we are giving back powers to our local authority members and putting our trust in them that every scheme they propose, whether through the Land Development Agency or a public private partnership, will be suitable and fit for purpose for their local area.

With regard to the point made by Senator Higgins on public-public partnerships, I cannot understand why a local authority could not enter an agreement with another public body and perhaps the Minister of State will clarify this. I would have no problem in supporting this. Perhaps the Minister of State can clarify whether it is doable with local authority members. We have to give our local authorities every option, avenue and vehicle to deliver affordable and social homes. This includes working with every body and agency they can.

**Senator Mary Fitzpatrick:** Several important issues have been raised with regard to increasing the affordable supply and the proposal from Senator Higgins on public-public partnerships. This is all about the State taking the lead in the provision of affordable housing. When debating the previous amendment, the indication from the Minister of State was on expanding it from local authorities to NGOs and not-for-profit organisations. Our amendment will put into legislation a requirement on local authorities to publish affordable housing targets within a specified timeframe. The whole thrust of the Bill is about the State taking the lead and using every potential to deliver affordable housing. I see this amendment as overlegislating.

If we were to remove the public private partnership element, we would have to accept that we would be removing from our local authorities the power to use and make available to our citizens privately-built homes by private builders. We would be stating that as a State, we will not financially support people to buy private homes. We would have to buy in to a utopian ideal of everybody living in social housing and State-provided housing that is built by State construction companies where everybody earns the same wage and everybody is involved in the provision of social housing. The reality is that we want a mix. I believe the people whom we represent want a mix. People want to be able to own their own homes. At present, public private partnerships are delivering homes in Waterford, as Senator Cummins said, and will deliver 1,200 homes in Malahide. Even in my own constituency of Dublin Central, a planning application has gone in for O'Devaney Gardens that will deliver 1,000 homes in a constituency where there is very low home ownership. We will have a mix there of social homes, affordable purchase homes and private homes because people in my constituency want the option to own their own home. Not only will that partnership deliver more than 1,000 affordable, social and private homes, it will deliver a community crèche, a community centre, retail, playgrounds, and parks. We have also got a local employment clause on that agreement and we have an apprenticeship clause. That is really positive for my constituency. That is more than 1,000 families in

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my constituency who have an opportunity to have a secure affordable A-energy rated home on State-owned lands. If we remove the potential for that type of a partnership, that is a minimum of 1,000 families who will be immediately disappointed.

We are clearly legislating to have the State take the lead in the provision of housing. We are putting forward this legislation so that primarily local authorities, and other not-for-profit State and non-State agencies, can take the lead. We would be tying not one hand but both hands behind our back if we were to, say, legislate today to remove the potential for the State to partner with private operators to deliver, not only homes but vital social infrastructure. I ask that the Senator would withdraw the amendment.

**Senator Victor Boyhan:** It has been an interesting debate and I note that issue about flexibility. I want to address some of the issues in what Senator Casey said. The Senator touched on the lack of available land within his own local authority, in this case Wicklow County Council, and the challenges there are. I note the Senator said that we have to reach out. We have to reach out to everybody. The Senator makes that very valid point.

The Senator's preferred choice would be 100% public housing on public land. I believe that. That is the optimum, that we have public housing on public land, a public resource and we define what public housing is.

If I had my way, there would be no such thing as selling public housing. It would be a resource. It would be an asset of the State and anyone could access public housing and it would be linked to his or her ability to pay - differential rent, as we would know it, in our local authorities. That is the ultimate choice. People on the Continent have it. People in Vienna have it. One can be an architect living in a particular zone in Vienna and pay according to one's means. We are not there yet. No doubt it is a place we would all like to be. That is the point.

I suppose the point I want to take up with Senator Casey is the giving of power back to the planning authority. There are reserve functions and executive functions. We will not get into local government and analysing all of that now. The real power has to be with those who are elected by the people. They are the elected city and county councillors who make these decisions. We need to shift the balance of power there because in many authorities it is not what the elected members want. There will always be tension - that is not a bad thing in local government - but there has to be an acknowledgement that they are elected by the people to represent the people. It is in their interest and everyone's interest to build proper sustainable communities and have happy people with homes. Everyone will benefit from that.

I still think there is a need for public private partnerships. We cannot rule out the need. It is not the top priority but it has to be there somewhere. We need to do much more work on it. We should have that conditionality. Clearly, we know what we are getting into when we are getting into public private partnerships in the beginning. It should not unravel and end up being something later that was not what we set out to do. I will not talk about other infrastructural projects that are going on and the problems associated with those. We have lessons to learn from the bad experience of public private partnership.

Senator Casey made the real point. Other local authorities are similar where they do not have sufficient land bank. One could argue that happened because of bad decisions taken many years ago. In other local authorities, such as the one I live in, they say we have too much land zoned for housing and yet nobody seems to be able to afford a home. There is variance right

across the sector. I am in favour of retaining the mechanism of engaging with public private partnership. It is not the top choice but it is one that we cannot rule out.

**Senator Alice-Mary Higgins:** Senators have made some interesting points. I take on board the valid point made by Senator Casey in respect of situations where there is no public land. I hope that the Minister of State hears the following and that we can address it on Report Stage. There are different expectations in respect of how we use public land versus the partnership element. Therefore, I take on board the fact that there are situations where there may not be public land and no partnership.

I have also heard that this section on local authorities entering into arrangements for affordable housing might need real specifics on the kinds of arrangements that they enter into in general, and the kinds of arrangements that they enter into when it involves public land. The concern is that there has been, and there is, a very deeply imbedded practice that assumes that this must be done through a public private partnership.

A concern has been expressed about the Land Development Agency. It is not really with the agency *per se*. It is with the concern or the fear the agency will, in itself, have those same practices. In addition, people want to know, if we are dealing with public land through the Land Development Agency through a local authority, why we would give huge cohorts of that away. My reasonable amendment asked why would we give more than 20% of that to profit.

When we talk about a social mix we must be very clear that most people in Ireland earn well below the median income. Members will have heard that later amendments seek to peg affordability to the average income but I would like to pin it more to the median income. Please bear in mind that, literally, 50% of the population earns less than the median income.

In terms of a mix, what if one has 80%, as I have outlined in these amendments, publicly-owned social housing or cost-rental housing? As Senator Boyhan described, one can have architects. I mean social cost-rental is not simply for one category. Cost-rental or affordable housing can be for the whole spectrum of incomes and for anybody in society.

With respect, I suggest that an 80% affordable, cost-rental and social housing is a mix of tenure and the kind of mixed community that we can have. Most importantly, it is a mixed community that is sustainable because when 30%, 40%, 50%, 60% or 80% of a housing development is simply left to market and investors one does not get a mixture. What one gets is 80% controlled by one or two companies. One gets a private rental set at a particular price-point. One does not get a mix and one has no guarantees as to what happens or that there will be a sustainable mix into the future.

These amendments are about exercising as much control as we can, which is a lot more control than we chose to exercise in the past. We have a lot of control and power. Therefore, we must exercise that power and control to achieve the goals that we all have talked about of having mixed tenure communities and different kinds of housing in order to reflect a diverse society, and ensure people can plan for the long term. It is depressing for people when, for example, there are a few houses in an estate or a huge proportion of an apartment building that are a speculative asset. Such situations hollow out communities when we let that happen. The fact is that our public private partnerships have done that too often.

We talk about local authorities. It is going to be part of this Bill as I understand it. Unfortunately that will happen when it goes to the Dáil so it is difficult for us to amend it but one of

the most damaging public private partnerships has been that idea of pushing local authorities to lease when they wanted to buy and build. Those leasing arrangements really pulled the rug out and closed off options. I remember it and I remember that local authorities were expressly blocked. We are hearing about blocking but we must also consider putting constraints around the kinds of public private partnerships and when we want to have conditionalities and put caveats on them. I hope that we might all come back and agree explicit caveats on public land on Report Stage. We are doing that in the context that other public options have sometimes been blocked in the past. We know that local authorities and sometimes local authority executives have pushed for a public private partnership option at a time when local authority members would have preferred a public option. I am conscious that this option has been pushed heavily in the past and it has had some positive outcomes, as well as a lot of negative and suboptimal outcomes that could have been better.

That is why I am trying to tweak this and improve it a little bit. I take on board the point on where there is no public land but in relation to public land, these amendments should stand. I urge the Minister of State to support them or to bring forward his own version of conditionality on Report Stage.

**Senator Mary Seery Kearney:** In a country that values neutrality, it is hard to use battle analogies so I will go with the one I know best, which is that of an election campaign. The advice would always be to leave everything on the field, to do everything possible and when one stands there on the day of the count or the announcement of who has won, one will know one did everything that was possible to win that seat.

We are in a fight to ensure that people who need homes have homes, including people from every sector of our society and every type of tenure. We are in a battle royal to make sure that housing and homes are provided to people. Therefore, the idea that we would sever any possibility or any one element within that is not comprehensible to me. I understand some of the reservations coming out of the 90s and the noughties but we must have learned and put ourselves in a position to ensure that we have an armoury that reflects every possible need. As Senator Cummins said, this is about legislating for the whole country. As much as I would stand here and consider its implications for just one constituency where the need is great and where the disproportionate provisions have been great, we are legislators for the whole country. We have to ensure that what we put in place is for the whole country.

The other part of that is that to demonise the private developers is a completely wrong thing to do. There are organisations working under the radar in this country that are working alongside AHBs and other organisations to provide housing. They are putting up the equity and earning a living out of it. They are not going for a major profit but there are organisations that are doing that. They prefer to do it quietly, be it vocationally, be it that they are providing employment or be it that they have achieved a certain comfort in their lives and so now they can be much more altruistic in their focus, while ensuring their business continues. There are organisations in this country that provide that. We cannot demonise private developers and say that if there is a private element it cannot be a part of this because that would be fundamentally wrong. Do we need to ensure there is oversight and correct proportionality? Of course we do, but we cannot demonise private developers or say they cannot be involved in any way in this process. We must ensure we leave it all on the field and do everything possible to provide homes for people throughout the country.

The local authorities do not have the skills base required. They do not have whole sections

devoted to building. They rely on engagement with developers and putting developments out to tender. Why not, then, give the local authorities the option of public private partnerships, which may lead to greater negotiation and even more affordable properties? Why not put that tool on the table for them and give them that opportunity? I do not understand why Senators would stand against this. We are not saying the LDA is the only possible vehicle but, rather, that this legislation is one of two exceptional Bills in the context of a full-on frontal attack in meeting the need for homes. We must keep all our weaponry at the ready and use every opportunity to ensure the delivery of homes.

**Senator Pat Casey:** Returning to the topic of public land, I come from the perspective that we should use 100% of public land for public housing. I think everyone in this House agrees that the majority of our councillors also believe that public land should be used for public housing. It is ultimately their decision to propose development schemes. There is an element, therefore, of us putting our trust in that process. In addition, a measure at national level cannot always work its way down to the local level. Even in Wicklow, the dynamics in the north of the county when compared with the south are utterly different and unrecognisable. The challenges in south Wicklow are completely reversed in north Wicklow. Therefore, we need to allow flexibility.

If all public land is not needed for social and affordable public housing, my preferred option is to leverage other options for that land to deliver social and public homes. One of the strong aspects of this legislation is that we are restoring some level of power to local authority members. I trust them not to present a scheme that would not stand up to scrutiny or put the public interest and people first. While I understand and agree with what the Senator is saying, the dynamics are different in every county. They are even different within my county, where I could name five different sets of dynamics at work in respect of the housing crisis. We must allow this level of flexibility to our local authority members and we must accord them a level of trust to act in the right manner.

Councillors are elected to keep our local authority administrators in check. That is their function too, so they should not be hoodwinked by the administration. I would love to be a member of a local authority if it was possible to enter into agreements with the Land Development Agency and private companies. We never had that option when I was a councillor. We were stuck with the Department or forgetting about a scheme. We are giving local authorities and their members options to solve the housing crisis. While I accept the thrust of the Senator's argument, we must entrust the members of our local authorities with this flexibility and with these options.

**Deputy Peter Burke:** I thank the Senators for a debate I genuinely value. Much good content has recurred throughout the different themes. Before I address the amendments, regarding what Senators Casey and Boyhan said about the section 183 process and the LDA, the Minister, Deputy Darragh O'Brien, is working hard to try to resolve that issue. As the Minister of State with responsibility for local authorities, I know the Senators are passionate about this issue. It is important that we work to ensure local authorities do not lose any power. That is an important point for me. I also ask Members to think in the spirit of the previous amendment we accepted in terms of expanding arrangements for our local authorities and through this Bill. Amendments Nos. 6 to 9, inclusive, and amendment No. 18 are connected with the provisions of section 6(2) regarding the provision of affordable dwellings by housing authorities.

For background, section 6(1) of the Bill provides that "A housing authority may make dwell-

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ings available for the purpose of sale to eligible applicants under affordable dwelling purchase arrangements and may ... acquire, build or cause to be built, or otherwise provide or facilitate the provision of, dwellings for that purpose.” Section 6(2) allows a housing authority, for the purpose of acquiring, providing etc. the affordable dwellings referred to in section 6(1), to enter into arrangements with an approved housing body, the Land Development Agency or public private partnership arrangements.

Some of the amendments have sought to remove the Land Development Agency or public private partnerships, or both, from section 6(2). I do not propose to accept these amendments because I want housing authorities to be able to enter into arrangements with these bodies, when so doing would facilitate the provision of affordable dwellings for sale for eligible purchasers.

Amendment No. 9 seeks to add a condition to arrangements with the Land Development Agency that affordable housing or publicly owned social or cost rental housing constitutes at least 80% of such an arrangement. However, as section 6 deals with the provision of dwellings by a housing authority, which will be “available for the purpose of sale to eligible applicants under affordable dwelling purchase arrangements”. All of the dwellings, the subject of such arrangements, will be affordable dwellings. Accordingly, this amendment is not necessary or appropriate.

Section 6 on direct sales agreement provides that a housing authority may enter into a direct sales arrangement with a contractor, approved housing body, AHB, the Land Development Agency, or a public private partnership, with which it has made a section 6 arrangement for the provision of affordable housing.

Under a direct sales agreement, the provider of the housing may sell it directly to eligible applicants, nominated by the housing authority, as opposed to the housing authority having to take units into its ownership before selling them on to eligible purchasers. A similar provision is made available in regards to a developer with whom a local authority is entering a Part 5 agreement for the provision of affordable dwellings, in that the developer can sell the dwellings directly to the purchaser as part of this agreement.

Amendment No. 18 proposes to remove the reference to a public private partnership and the developer with whom the local authorities are entering into a Part 5 agreement, from that provision. This also would not be appropriate.

I absolutely understand the thrust of what Members are trying to do here. We are working with them and have displayed that in terms of the previous amendment. However, I remind Members that Part 9 of the Land Development Agency Bill, of which I know they are aware, sets conditionality in terms of affordability to the effect that 50% must be affordable. When one takes that with a provision for 20%, which we are moving to for Part 5 and the Minister has clearly said it will be well above 50% in terms of the minimum. We have to reflect on that in terms of the conditionality.

Sometimes we look back in time with rose-tinted glasses. I heard Senator Higgins asking why local authorities did not buy all these cheap houses. I was a member of a local authority going through that time, when the State was spending 50% more than it was taking in. We were perverse with debt, as a country and a local authority. Senator Higgins may remember Dublin City Council and Westmeath County Council piloted the mortgage-to-rent scheme, because there were so many distressed individuals in affordable homes at that time who could not pay

when the crash happened. There were none of the macroprudential rules or any safety catches we now have built within the system.

When I hear people asserting we should have done all this in the past, I ask them to reflect on the reality and circumstances people were living through at that time. Our local authorities and the country were saturated in debt. We need balance and perspective in the argument.

**An Leas-Chathaoirleach:** Did Senator Higgins want to come back in?

**Senator Alice-Mary Higgins:** I spoke last week about articles in the newspaper. We see local authorities now being told they should lease rather than buy. I do not want to be inaccurate but I think it might be the Heron Wood estate. I am not sure if that is correct.

*1 o'clock*

I understand the financial pressures of the time. The fact is that more was paid out in 20-year leases than could have been used to buy the houses. However, for a very long time, there has been no excuse for not having direct ownership and purchase agreements rather than leasing agreements, except that leasing agreements have been a preference. We saw in the newspapers last week how a local authority had been told that it should lease for 25 years. In another article in the same newspaper, the *Business Post*, we learned about a fund that spoke about how great it was that local authorities leased from it for 25 years because the fund got a guaranteed return for 25 years. Leasing may have come in at the time of the last recession, which I remember very well, but it became embedded as a preferred model. It is one of the forms of public private partnership we have had, which is one of the factors that has led to distrust and concern. This is not about any actors in it. It is a question of whether these are good deals for us and they do not look like good deals. That is the concern. Right now, there is literally no excuse for leasing entire estates. There is no reason for them. We do have the liquidity and the capital. We are not where we were at that point. That was because at the time, the Government at the time and Europe pursued an austerity response to a crisis, which Europe as a whole and many of its financial institutions have realised had highly negative consequences for our social cohesion and society. This is why a stimulus approach is now being taken, which I welcome. Let us recognise that we are using a stimulus approach. I am not saying everything is wonderful. I think we all know it is a really difficult time economically but there has been a realisation that stimulus and investing in public infrastructure and in secure housing is a really good thing that has really good returns.

I will not press amendment No. 6. I accept the arguments that have been made in respect of situations where those arrangements might not relate to public land. I think that is valid. It is the prerogative of others who have tabled the same amendment to decide what to do with it. I am very aware that build is one of the options on that list but what I hope the Minister of State is hearing is the extent to which it is a strong preference. We need to move away from talking about local authorities not having building units. There is no reason why there should not be. They are not there because they have not been resourced to be there. I feel the frustration from former local authority members who talk about the Department not really wanting local authorities to build. Ultimately, it is about procurement but there is no reason why local authorities should not be built up in terms of their capacity to directly procure building services. There has been a deskilling in that area much as there has been a deskilling in the maintenance area of local authorities. Those are capacities that can be created. In the past, we had building. It is not a suggestion that somebody on the executive in City Hall must go down and figure out

how deep to put the foundation on his or her own. There are people who are experts in that. It is a matter of the middleman piece. That is the fear. It is the fact that where there are middlemen, although they are not always men but often they are, in terms of that private partnership piece, that becomes an additional cost that is added in.

I will not press amendment No. 6 but I will press amendment No. 9. In respect of the public-public partnership arrangements, from what I have heard, the Minister of State believes local authorities undertaking to build are already covered by the provisions of the Bill so in respect of that understanding that there is nothing in this Bill, and I see the Minister of State nodding, I will not press amendment No. 8, although I may come back with a new version of it on Report Stage just to copper-fasten these things explicitly in respect of public land.

**An Leas-Chathaoirleach:** Is the Senator pressing amendment No. 6?

**Senator Alice-Mary Higgins:** I will withdraw it, nothing that others have co-signed it and may wish to reintroduce it on Report Stage, as is their prerogative.

Amendment, by leave, withdrawn.

**Senator Alice-Mary Higgins:** I move amendment No. 7:

In page 8, line 14, after “arrangements” to insert the following:

“, where the provision of affordable dwellings or publicly owned social or cost rental housing constitutes not less than 80 per cent of such an arrangement”.

Amendment put and declared lost.

**Senator Alice-Mary Higgins:** I move amendment No. 8:

In page 8, line 14, after “arrangements” to insert “and public-public partnership arrangements”.

I will withdraw the amendment, reserving the right to introduce a new version of it on Report Stage.

Amendment, by leave, withdrawn.

**Senator Alice-Mary Higgins:** I move amendment No. 9:

In page 8, between lines 14 and 15, to insert the following:

“(d) arrangements under *paragraph (b)* or *(c)* shall be subject to the condition that affordable housing or publicly owned social or cost rental housing constitutes at least 80 per cent of such an arrangement.”.

Amendment put:

The Committee divided: Tá, 9; Níl, 27.	
Tá	Níl
Bacik, Ivana.	Ahearn, Garret.
Boylan, Lynn.	Ardagh, Catherine.
Higgins, Alice-Mary.	Buttimer, Jerry.

Keogan, Sharon.	Byrne, Malcolm.
Ó Donnghaile, Niall.	Byrne, Maria.
Ruane, Lynn.	Casey, Pat.
Sherlock, Marie.	Cassells, Shane.
Wall, Mark.	Chambers, Lisa.
Warfield, Fintan.	Clifford-Lee, Lorraine.
	Conway, Martin.
	Crowe, Ollie.
	Cummins, John.
	Currie, Emer.
	Daly, Paul.
	Dolan, Aisling.
	Fitzpatrick, Mary.
	Gallagher, Robbie.
	Kyne, Seán.
	Lombard, Tim.
	Martin, Vincent P.
	McGahon, John.
	McGreehan, Erin.
	Murphy, Eugene.
	O'Reilly, Joe.
	O'Reilly, Pauline.
	Seery Kearney, Mary.
	Ward, Barry.

Tellers: Tá, Senators Alice-Mary Higgins and Ivana Bacik; Níl, Senators Robbie Gallagher and Seán Kyne.

Amendment declared lost.

**An Leas-Chathaoirleach:** Amendments Nos. 10, 11, 17, 23 and 36 are related. Amendment No. 11 is a physical alternative to amendment No. 10. Amendments Nos. 10, 11, 17, 23 and 36 may be discussed together by agreement. Is that agreed? Agreed.

As a courtesy to Senators who may be thinking of leaving, I should mention that the House will suspend at 1.45 p.m. for half an hour. They may wish to say their piece before that.

**Senator Fintan Warfield:** I move amendment No. 10:

In page 8, lines 25 and 26, to delete “counteract undue segregation in housing between persons of different social backgrounds” and substitute “promote sustainable mixed income communities”.

If there is an amendment on which we might find consensus on today, it is this one. I think I am right in saying that Senator Higgins has a similar amendment. She is indicating she might support mine and I appreciate that. To add clarity to the record I will read from section 6:

(4) In performing its functions under subsection (1), a housing authority shall have regard to the need to—

(a) counteract undue segregation in housing between persons of different social backgrounds

It is section 6(4)(a) we have difficulty with. That is very problematic language to be using in a Bill. It is very archaic and I would like to see it removed. We are unnecessarily labelling existing local authority developments as not ideal with respect to the type of living arrangements they present. As a result, I have brought forward a proposal that would replace what I read out with the phrase “promote sustainable mixed income communities”. I hope the Minister of State will take the amendment on board. I appreciate Senator Higgins’s support.

**Senator Pauline O’Reilly:** I agree with Senator Warfield in principle on the problematic nature of some of the language here. In removing it, however, and putting in “promote sustainable mixed income communities”, it would then lack what we might not refer to as social background, but other types of diversity. It is not just income we are talking about. We are talking about creating communities. In my housing estate, we have a community garden and it is the older people in the community who are teaching the younger people, including my own children, to grow their own. We must have a greater understanding of what a mixed community means. Income is not the only thing it means. Certainly, there is a hollowing out of Galway’s inner city. Much of it is because of Airbnb. If we are building new estates, we must be really clear that we are building communities. While I agree with some of what the Senator is saying, what he proposes instead possibly lacks a little bit of the diversity that was there from the Government, even if I do not fully agree with the language.

**Senator Mary Fitzpatrick:** The purpose of Senator Warfield’s amendment is to replace the words “counteract undue segregation in housing between persons of different social backgrounds” with “promote sustainable mixed income communities”. I agree with two points that have been made. The existing language makes me uncomfortable but we are all uncomfortable with it on foot of the historical situation. The legacy of the past is that there has been segregated housing; it was the tradition. With this Bill, we are trying to change entirely the provision of housing, particularly affordable housing. We are trying to have the State lead in the provision of affordable homes to purchase and to rent. If we can use the land in State ownership and increase the supply and provision of affordable homes to purchase and to rent, this legislation will deliver what Senator Warfield is looking to include, that is, not just the promotion but also the delivery of sustainable, mixed-income communities. That is what affordable purchase and affordable cost rental will do. If we remove the language and say we are not going to require local authorities to avoid or counteract undue segregation, we are letting them off the hook and telling them to continue what they were doing. It would mean that in the case of mixed income and mixed tenure developments, they would be able to pursue segregation and have a certain cohort of either tenants or occupiers in a segregated setting. I do not think we want that. We all want to maximise the use of the land and the provision of affordable homes by the State for rent and purchase for sustainable, mixed tenure and mixed income communities. For that reason, we will not support the amendment.

**Senator Mary Seery Kearney:** I am with Senator Warfield in spirit because the language in the Bill is awkward. I wonder why the phrase “different social backgrounds” makes me so uncomfortable. Perhaps I am uncomfortable because considering that would force me, and all of us, into a place where we recognise that there are different social backgrounds. I looked up

“social backgrounds” for the sheer heck of it in preparation for this debate. “Background” is defined in the Collins Dictionary as follows:

Your background is the kind of family you came from and the kind of education you have had. It can also refer to things such as your social and racial origins, your financial status, or the type of work experience you have.

The “social” element of the phrase is an elaboration of that. It brings a renewed focus to the things I have said over the past couple of weeks. There are communities in which there are not aspirations to third-level education. There is an acceptance of a particular role ahead of a person and I resent that. I believe every child in every school in our State should have the aspiration to be anything he or she wants to be, whether that is to go to third level or not. Those children should be able to do whatever they want. We need a recognition that there are social, income and investment differences. We need to ensure equality by discriminating in favour of those who are currently inhibited by their aspirations. If we recognise that and ensure mixed social developments for people with different social backgrounds, mixed tenure, mixed ownership and mixed aspiration, we will have a much enriched community. I feel discomfort at the language in the Bill but the Senator’s formula does not fix that. I say to the Minister that between now and the next Stage we could have a rethink of the language. I will not support the amendment but I feel discomfort at the language and we should discuss that. However, replacing those lines with “mixed income communities” does not capture the essence of what is at the heart of the legislation, that is, ensuring we do not segregate or decide that an estate is for one particular demographic. We must ensure that our community is all the richer for having everybody’s values and background together in the same living community.

**Senator Alice-Mary Higgins:** I know the comments made by Senators have been intended in a positive way. They have talked about addressing the reality of unequal social backgrounds and experiences. However, we need to be clear that this is not about people’s aspirations. It is not that people need to be inspired by seeing a rich person living next to them. I understand that is not what other Senators have suggested, as I made clear in prefacing my remarks. To be clear, I understand that. The reason I am making this point is because there has been a problem in how it has been approached in the past. While I know this is what the Minister of State means, I wish to be clear, when speaking on aspirations, that I refer to the aspirations of the State in respect of the investments it makes and the aspirations it has for people.

I have a concern around this particular argument and the promotion of the idea that we need to have greater diversity of community and background. In the past, we have seen this argument being invoked in the idea of public land needing to have a certain component of private or high-end property if it is going to be developed. When it comes to private developments that are appealing to those of a particular social and income background, however, very often the way in which those developments are framed, with all of the different caveats and the management fees that residents living in those buildings must pay, means that, for example, the social component that is meant to be happening within private developments ends up instead being moved to some other place, being supplanted or replaced in another way. My concern is that the goal of diversity in community and diversity in developments tends to be invoked very strongly in relation to any public initiative but sometimes just does not happen in the case of private developments. We have seen, for example, the development of social units within private apartment buildings. The people in these units are not able to access the shared amenities or to participate in the facilities in those developments. I have a concern in respect of that argument. I absolutely do not question its sincerity but rather how it sometimes has been invoked.

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I am uncomfortable with the language as it is placed at present. In the past, I have heard the argument and the idea that the approach will somehow be inspirational and people will have different experiences. However, they are not intrinsic.

To be clear, we should have a positive vision. It is a technical fact that my amendment and that of Senator Warfield overlap. However, I would be happy to withdraw amendment No. 11 in favour of amendment No. 10, which seeks to insert the phrase: “promote sustainable mixed income communities”. It is a very positive framing of language. I would reserve then the right to seek to add in the language in my amendment around owner-occupiers at a later Stage, perhaps on Report Stage.

Senator Pauline O’Reilly mentioned that there is not enough language in what Senator Warfield is offering in his amendment. Were the Government to accept amendments Nos. 10 and 12, there would be enough language. Amendment No. 10 mentions “sustainable mixed income communities”. Amendment No. 12 talks about “the long-term sustainability of diverse communities”. I completely agree that it is important. However, I deliberately included the phrase: “the long-term sustainability of diverse communities, including the intergenerational sustainability of urban communities” in amendment No. 12, because we are concerned that we are not seeing the intergenerational sustainability of urban communities in the city centres not just Dublin, but in Galway and other places. In many cases, people grow up in an area that has been previously a local authority housing area. They do not have the opportunity to stay in those communities and areas. I have spoken to people who really want to stay living in the city centre near their mother and their aunt and it is just not an option for them. Therefore, it is important to include the language on the long-term intergenerational sustainability of urban communities in order that we can enable that fabric to be built over years.

In both the amendments that Senator Warfield and I have tabled, the key word is “sustainability”. All of this is about teasing it out with the language and what we do not like about the Bill. The word “sustainability” is important because it does not just capture a moment in time. Whatever form of language is used, and I hope the Minister will listen to his colleagues who have asked him to refine the language, the word “sustainability” is most important. It should not just be that at the point of sale there is a snapshot of different incomes or different backgrounds purchasing in an estate. We want to ensure that the diversity is maintained ten, 20 or 30 years hence, that we do not simply have a moment of trying to ensure it in terms of who purchases, but that we try to build that in.

That is where my other amendments that are grouped in this section come in. They refer to owner-occupiers. I am hoping this is something that can be addressed and on which the Minister of State will be able to assure us. I am aware that the Government is trying to address the issue of ensuring owner-occupiers in other parts of the housing policy, but I have a concern that in a number of places, when we talk about those who might be eligible, we talk about whether they own a property already. It is important that it is not just those who do not own a property, but that those who are trying to buy affordable housing want to live in it. My concern is that the owner-occupier piece is somewhat missing from the eligible persons under this. When we talk about different experiences, we do not want a situation where there might be three or four children from one family that may be wealthy who may technically qualify for this individually. We do not want a danger that these affordable houses become starter investments. We want to ensure they are affordable for the people who are going to live in them. The Minister of State is bringing owner-occupier language into other areas, so I ask him to view these amendments in terms of how we ensure this is affordable housing for owner-occupiers, not simply that some-

body may afford it, may qualify as an eligible person, get the assistance of the local authority in purchasing it and then the person continues living elsewhere while renting it out. That is a danger and a loophole. One hopes that this would not occur, but loopholes are exploited wherever they are. I want to make sure that is there.

I apologise for speaking for a while, but this is a large group of amendments. I am very disappointed that some of the amendments have been ruled out of order as not relevant. It is very interesting that when I mentioned diverse communities the amendment was in order, but when I specifically mentioned people with a disability the amendment was out of order and not relevant to the Bill. It is relevant. We talk about different social backgrounds and diverse or sustainable communities, but people with disability are a big component of society, up to 18%, and it is important that we factor that in when we have an arrangement in respect of a new affordable housing development. I worry when I see this being ruled out of order. It is not the Minister of State's fault as it is not his prerogative. When I see this being ruled out of order it is as if we deal with people with a disability somewhere else. The UN Convention on the Rights of Persons with Disabilities provides that we think about them all the time in all the things we do in respect of community and living together, and that they come in at every point. I am very disappointed to see that amendment ruled out of order. I will reintroduce it and I hope it will not be ruled out of order, having reviewed the issue properly, on Report Stage.

**An Leas-Chathaoirleach:** The Senator should be aware that it was on the ground of being a charge.

**Senator Alice-Mary Higgins:** Okay, it was due to cost. However, everything in this housing legislation involves that. It is a question of housing for people with a disability being mainstreamed and being part of any large housing block in respect of which we are making arrangements or in which we are investing.

Perhaps the Minister of State can address these issues. I want to be very clear that in my initial comments I was not seeking to speak about any of the Members who have spoken today. I am speaking about a framing. We must be very clear that the limitation of opportunity is something that has been imposed on people in any case, and it is in the power of the State to address that.

**An Leas-Chathaoirleach:** Senators Bacik and Seery Kearney have indicated that they wish to speak, but we will call them after the break. The sitting will be suspended for 30 minutes in accordance with the order of the Seanad.

**Senator John Cummins:** Can I clarify something? Amendment No. 12 is not in the group, but it was addressed. Can we take it that it was included in the group? Senator Higgins referred to it. The group includes amendments Nos. 10, 11 and 17. Can we take it that amendment No. 12 was included, for the sake of brevity and trying to shorten the process?

**An Leas-Chathaoirleach:** It was not included, Senator Cummins.

**Senator John Cummins:** Can we take it that it was addressed?

**An Leas-Chathaoirleach:** Perhaps that judgment will be exercised later.

**Senator Alice-Mary Higgins:** I will not speak at length to it again

**An Leas-Chathaoirleach:** Thank you. We will expect co-operation on all that.

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*Sitting suspended at 1.46 p.m. and resumed at 2.20 p.m.*

**Senator Ivana Bacik:** I welcome the Minister of State, Deputy Peter Burke, back to the House after what felt like a very short break. I express my support and that of the Labour Party group for Senator Warfield's amendment No. 10. Language is very important in the Bill. I listened with great interest to the debate and to the comments of Senators from the Government parties such as Senator Pauline O'Reilly and Senator Seery Kearney. They rightly expressed discomfort at the language in the Bill in section 6(4)(a). The phrase "persons of different social backgrounds" does not sit well with me either. Language is hugely important. Before the break we spoke about using the word "home" rather than "house" which is a really important issue as well.

When one looks at the provisions of section 6, one sees that there is a much more positive use of language in section 6(4)(b), which talks about ensuring "a mixture of dwelling types". That is promoting a mixture of dwelling types rather than seeking to counteract segregation between persons of different social backgrounds. The current language is very negative. Senator Warfield's proposition that we would substitute "promote sustainable mixed income communities" is a far more positive way of expressing the same sentiment. Clearly, we are all in agreement. As Senator Warfield pointed out, this is an amendment on which there could well be cross-party agreement. Perhaps his wording is not the most elegant either, but all of us would agree that it is better than what is currently in the Government Bill. I hope the Minister of State sees fit, if not to accept this better wording, at least to commit to come back on Report Stage with something that seeks to express the same aspiration but in a more positive way, one that does not have this somewhat uncomfortable aspect that we currently see in the phrasing used in this section. One might say this is not important. It is important. Language is important in the Bill and language is very important to those who are priced out of being able to rent or buy affordable homes of their own. This is important and I express the support of the Labour Party for it.

**Senator Mary Seery Kearney:** I want to make a clarification. With huge respect, I need to put on the record, lest there be any ambiguity, that under no circumstances am I setting a situation whereby any one demographic in our State is the nirvana to which everybody else should aspire. Over the past year with Covid, we have seen demonstrations of community in every socioeconomic group and every possible profile in our State. We have seen fantastic community cohesion that many of the so-called leafy suburbs could really learn from. People have had bingo in flat complexes. There is a richness of real community spirit that everybody could learn from. There is no one particular group in our State that has it all together. Behind the doors of many of the so-called affluent leafy suburbs are women who are the subject of domestic violence who have no access to the income of that home.

All children, regardless of where they are, where they grow up and what community in the State they grow up in, should have the opportunities, resources and investment available to them that recognise the challenges within the community that may come from historic and other deprivation factors and indicators. Every child should have the aspiration to live the life they want and need. While I completely understand and agree that the language in the Bill is awkward, I cannot accept Senator Warfield's amendment because "mixed income" does not capture the diversity required. To merely differentiate people on the basis of income is not a suitable alternative either. I ask the Minister of State for a discussion and suggest that we have more appropriate language for the next time around.

**Senator Victor Boyhan:** I do not necessarily agree with what Senator Seery Kearney has said. In fact, I totally concur with Senator Warfield. It is very important that we are vigilant at all times. This is the place where we make legislation. Language is critical and we know this from the diverse views and situations in the politics of this island. Language means everything. It is how we communicate. It is how we pull in the subliminal messaging. We always need to be conscious and aware there is no inherent misunderstandings in that language. What Senator Warfield has done is call it out for what it is. It is awkward rough language that is not appropriate for legislation and needs to be resolved, which is what we are doing. We are tidying up the legislation. It is the bicameral aspect of our Parliament. We in the Seanad are looking at the legislation. It is timely and right that we highlight issues because we have to be consistent in our approach, in everything we do and in all of the policies that we espouse with regard to equality, acceptance, inclusion and diversity. We categorise through our language and our spoken word, and somehow send out the wrong or contradictory messages. Senator Bacik put it right when she spoke about the importance of language, particularly in legislation. This is a very reasonable approach and the Minister of State has been very reasonable in how he is dealing with the legislation. I do not think we are miles apart on this. I urge and encourage the Minister of State to accept the amendment.

**Senator Alice-Mary Higgins:** It has been brought to my attention there is an amendment in the group which I have not spoken to. Amendment No. 17 is eminently sensible and I hope it would happen anyway. It proposes that in performing functions under the Act, housing authorities would have regard to the appropriateness of the location of dwellings in terms of facilitating access to public transport, education services, health services and public amenities. Something we have really seen during the pandemic is that we have areas and communities where there are not the same types of amenities and access to public transport and people can become very isolated. If a local authority is entering into an arrangement on affordable housing, I am simply asking that it be required to have regard to those factors. That is very much in the spirit of what many local authorities are looking at anyway in terms of the idea of the ten-minute town or the 15-minute city. It is also in the spirit of our obligations under UN sustainable development goals. Specifically, I am thinking of sustainable development goal 11 relating to sustainable cities and communities. I sit on the Joint Committee on Climate Action and we also bring these points through about sustainable cities and communities. That is why I put public transport as one of the elements that should be part of any new public initiative on affordable housing.

The word “sustainability” is in both amendments tabled by myself and Senator Warfield. Whatever might emerge in this section in terms of the language, that word “sustainability” will have to be part of it.

**Acting Chairperson (Senator Fiona O’Loughlin):** Senator Ó Donnghaile, my apologies. You indicated to speak earlier. I had thought you were merely clarifying you were taking this instead of Senator Warfield.

**Senator Niall Ó Donnghaile:** Do not worry about that. Gabhaim buíochas leis an gCathaoirleach Gníomhach as an seal labhairt go han-tapa faoi leasú Uimh. 10 atá os ár gcomhair. I only want to indicate my thanks to colleagues who have expressed support for amendment No. 10 in the name of my colleague, Senator Warfield. I need not rehearse all the fine arguments that have been made on the importance of language, particularly in legislation as important as this. While there may be some minor disagreement on the language, the sentiment of what we are trying to do through amendment No. 10 is agreed.

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We also need to acknowledge and realise that we can only operate within the confines of the Stages that we are on in the parliamentary process. I hope that the Minister of State would consider, on that basis, accepting this amendment in the acknowledgement that the wording could be better than presented in the Bill. Indeed, if Members feel that it could be improved or refined further on later Stages, whether in this House or, indeed, beyond it, they should feel free to do that. It would send an important message to this House and to those outside it that we treat the language of legislation going through the Oireachtas with importance and that it reflects the diversity of our community and what exists beyond the confines of this place.

I hope the Minister of State will accept amendment No. 10.

**Senator Pauline O'Reilly:** I did not speak to amendment No. 17 earlier and I will come back in on that. In case it was not clear enough, I have an issue with some of the language around this and I would hope that the Minister of State will have a look at that language. The language that Senator Warfield is suggesting does not capture what we need to capture and is missing some of what is there already. Substitution is probably the wrong way to go. It is more a case of looking at all of that language.

Amendment No. 12 was discussed earlier. I am very much supportive of this idea. I had spoken earlier about my housing estate where the older people is showing the younger generation the ropes. It should not take 50 years, as it has on my estate, for that to develop. If we are looking at true sustainability and 15-minute cities, we need to make sure that everybody is captured within that 15 minutes and that they have bus stops and so on, and that it is walkable and liveable in. We have an obligation as a State to ensure that the communities that we are ramping up big time through this Bill and the LDA Bill are the kind of communities that will promote respect, diversity and inclusivity.

I would like to hear from the Minister of State what is the best way of wrapping that amendment No. 17 issue around public transport. I am not convinced that this is the correct place to insert that but I am certainly open to it. It has to be central to what we do. It is something that we speak about constantly on the Joint Committee on Climate Action. I would like the Government to come back with the word “sustainability” in this. I thank the Acting Chairperson for the time.

**Senator John Cummins:** I appreciate what is being attempted with the amendment but, like my colleagues, I believe it does not quite grasp what we are trying to achieve here. The reason I mentioned amendment No. 12 before we broke for lunch is that it should have been in this group. I will not be supporting amendments Nos. 10 and 11 because I support amendment No. 12 as it captures what we are trying to achieve. It is on that basis that I hope amendments Nos. 10 and 11 are not pressed.

**Deputy Peter Burke:** I thank Senators for their contributions on this matter. They are correct on the importance of language in legislation. This is not an issue of principle but a legal issue in terms of the direction given on the Planning and Development Acts. I agree to take another look at the amendment.

I propose to accept amendment No. 12, which was touched on by Senator Higgins, to show our commitment to working on this area. I genuinely have heard what Senators have said and I know language is important. I will try to resolve the matter and will come back to the House on it.

Amendment No. 17 proposes adding a new section to section 6 requiring housing authorities, when providing affordable dwellings under that section, to have regard to the appropriateness of the location of dwellings in respect of facilitating access to public transport, education services, health services and public amenities. This is a planning issue that will fall under and be dealt with in the development consent system, that is, the planning application for a planning permission procedure under Part 8 of the planning regulations. I do not consider this amendment necessary.

Amendment No. 23 seeks to add a condition to section 7, the direct sales agreement, that eligible applicants nominated by a housing authority will be owner-occupiers. I do not consider this amendment necessary as section 12(7)(h) provides that the affordable dwelling purchase agreement must contain a covenant “requiring that unless the housing authority gives its prior written consent, the affordable dwelling shall be occupied as the normal place of residence of the homeowner or of a member of the homeowner’s household”.

Amendment No. 36 seeks to amend section 10 to require that persons making the application for affordable dwelling purchase agreements “make a declaration of their intent to be owner-occupiers of the affordable dwelling for such a period as might be specified by the Minister”. For the reason just set out, I do not consider the amendment necessary.

**Acting Chairperson (Senator Fiona O’Loughlin):** Is Senator Ó Donnghaile pressing the amendment?

**Senator Niall Ó Donnghaile:** Yes. I do so respectful of what the Minister of State and other colleagues have said. We all have a job of work to do in this House. I do not think I am speaking out of turn when I say that there is a general consensus that the wording, as presented in the Bill, could be improved. Amendment No. 10 may not be perfect but it is an improvement as it contains the word “sustainable”, which other Senators have asked about. There is a strong case to be made for having the wording inserted in the Bill.

If there are further changes that the Minister of State or other colleagues wish to consider beyond this Stage, fair enough. That is part and parcel of the parliamentary process and what we are meant to do. I certainly believe there is merit in the amendment as it would go some way towards improving the wording of the legislation.

Amendment put:

The Committee divided: Tá, 9; Níl, 30.	
Tá	Níl
Bacik, Ivana.	Ahearn, Garret.
Boyhan, Victor.	Buttimer, Jerry.
Higgins, Alice-Mary.	Byrne, Malcolm.
Keogan, Sharon.	Byrne, Maria.
Moynihan, Rebecca.	Carrigy, Micheál.
Ó Donnghaile, Niall.	Casey, Pat.
Sherlock, Marie.	Cassells, Shane.
Wall, Mark.	Chambers, Lisa.
Warfield, Fintan.	Clifford-Lee, Lorraine.
	Conway, Martin.

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	Crowe, Ollie.
	Cummins, John.
	Currie, Emer.
	Daly, Paul.
	Dolan, Aisling.
	Dooley, Timmy.
	Fitzpatrick, Mary.
	Gallagher, Robbie.
	Horkan, Gerry.
	Kyne, Seán.
	Lombard, Tim.
	Martin, Vincent P.
	McGahon, John.
	McGreehan, Erin.
	Murphy, Eugene.
	O'Loughlin, Fiona.
	O'Reilly, Joe.
	O'Reilly, Pauline.
	Seery Kearney, Mary.
	Ward, Barry.

Tellers: Tá, Senators Fintan Warfield and Niall Ó Donnghaile; Níl, Senators Robbie Gallagher and Seán Kyne.

Amendment declared lost.

**Acting Chairperson (Senator Fiona O'Loughlin):** We move to amendment No. 11, which the Minister of State has said he is going to accept.

**Senator Alice-Mary Higgins:** No. That is the next amendment. We are on amendment No. 11.

**Acting Chairperson (Senator Fiona O'Loughlin):** Okay.

**Senator Alice-Mary Higgins:** I move amendment No. 11:

In page 8, line 25, after "in" to insert "owner-occupier".

I accept that the Minister of State seems to have reassured me but I reserve the right to retable the amendment on Report Stage. If it is possible, I ask the Minister of State to send me a short note to allay my concerns in that regard. In that context, I am happy to withdraw the amendment.

Amendment, by leave, withdrawn.

**Acting Chairperson (Senator Fiona O'Loughlin):** The Minister of State has said he is going to accept amendment No. 12. I ask Senator Higgins to move it.

**Senator Alice-Mary Higgins:** I move amendment No. 12:

In page 8, line 26, after “and” to insert the following:

“support the long-term sustainability of diverse communities, including the intergenerational sustainability of urban communities, and”.

I thank the Minister of State and colleagues across the House who have recognised the importance of sustainability and diversity. There is a common concern and passion for that kind of vision. My amendment states that the goals would be to, “support the long-term sustainability of diverse communities, including the intergenerational sustainability of urban communities”. I thank the Minister for indicating that he will accept this amendment. It is a positive message in terms of sustainable development goal 11 on sustainable cities and communities.

**Senator Fintan Warfield:** I apologise that I am only returning to the debate now. I welcome the fact that consensus has been found on this amendment.

**Deputy Peter Burke:** We are accepting this amendment and I hope that reflects the broad thrust of the day. We have accepted amendments and we have given commitments to come back on others because we genuinely value the contributions made by Senators.

*3 o'clock*

**Acting Chairperson (Senator Fiona O'Loughlin):** Hear, hear.

Amendment agreed to.

**Acting Chairperson (Senator Fiona O'Loughlin):** Amendments Nos. 13 and 14 in the names of Senators Higgins and Ruane have been ruled out of order.

Amendments Nos. 13 and 14 not moved.

**Senator Mary Fitzpatrick:** I move amendment No. 15:

In page 8, between lines 30 and 31, to insert the following:

“(6) In performing its functions under *subsections (1) and (5)*, a housing authority shall—

(a) prepare and publish plans relating to periods of three, five and ten years (in this section referred to as a “housing authority affordable housing plan”) which shall specify measures the housing authority shall undertake—

(i) to make dwellings available for the purpose of sale to eligible applicants under affordable dwelling purchase arrangements, and

(ii) to make dwellings available for designation as cost rental dwellings in accordance with *section 31*,

(b) prepare and publish the first housing authority affordable housing plan within six months of the coming into operation of this section, and

(c) conduct and publish a review by 15 September in each year of the progress made during the immediately preceding year in respect of the housing authority affordable housing plan.”.

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This amendment seeks to empower our local authorities and their members to task all the resources available to them to deliver on this legislation. As we have discussed, this is groundbreaking legislation that will see the State lead in the provision of affordable homes for purchase and for rent. We all subscribe to this aspiration and we have amended and enhanced this legislation through addressing the values involved and the tools and mechanisms we want to use. We want all available State lands and resources used. This is a practical amendment, which speaks to the mechanics of how the legislation will deliver affordable homes in each local authority area. It calls specifically on each of the local authorities to prepare and publish plans for three, five and ten years to outline what quantum of affordable homes they will deliver for purchase or rent. We hope that this will be an empowering amendment not just for the legislation but for the local authority members and the people they serve.

If accepted, this amendment would require that an affordable housing plan would have to be published each year. The targets would be three, five and ten years initially. Plans would have to state the type of dwellings that will be made available and address how those homes will be made available for purchase and for rent. Most critically, however, we are coming to this issue with a real sense of urgency and we want the first of those plans to be published within six months of this legislation coming into operation. All of us in government want to see significant delivery of affordable homes for purchase and for rent. We want our local authorities to take the lead in the provision of homes. We accept that we will need the assistance of other organisations, such as NGOs, not-for-profits and private operators, to achieve the ambitious targets we want to set.

However, we also want to empower our elected representatives in each of the local authorities. We want to not only pass this legislation to give them these powers, but also to require the executives in each local authority to work with its members to set affordable housing plans. I reiterate that we want the first of those plans to be published within six months of the legislation coming into operation. We recognise though that this is not a static situation and that it will evolve and change. Our ambition is to ensure that not only are the targets ambitious in the first instance but that they remain so in future. That is why the proposal in this amendment is for these affordable housing plans to be reviewed by 15 September each year.

This is a practical amendment and we think it is really important that it be included because it is a groundbreaking Bill. It aims to try to create a strategic change in respect of the State's role in this area. For the first time in the history of the State, this legislation is introducing the affordable cost-rental model, which can deliver security of tenure, affordable long-term rents, diverse and intergenerational communities and facilitate the Vienna model referred to by Senator Boyhan. However, we not only need the legislation to be good, we need it to be a practical tool for all of our local authority members who are elected by their local communities to deliver affordable homes and to do so on an ongoing basis and not in a static way. The members of the Fianna Fáil Party, myself included, and others who come from a local authority background come at this legislation with great ambition and enthusiasm. However, we also come at it with the legacy of much frustration, having been local authority members, having wanted to use the local authority lands to deliver affordable homes and having been prevented from doing so until now.

If the Minister of State can, we would appreciate him accepting this amendment. It is practical and pragmatic, but more than anything, not only will it help his legislation, it will help our local authority members and everybody who desperately needs an affordable home in all of our communities around the country.

**Senator Ollie Crowe:** This is my first opportunity to welcome the Minister of State, Deputy Burke, back to the Chamber and thank him for his work on the Moorhead report. Councillors throughout the country who, although well entitled to what they got, are thankful for that.

I will move on to the issue which is an urgent one throughout the country and especially in the heart of Galway city, where I am from. I know the Minister of State is familiar with the area. I cannot stress how much affordable housing is needed. I am from a working class area and our party, Fianna Fáil, has a long track record of building and delivering housing and homes when in government. It is vital. It is no secret we will live or die by this. That is the reality.

Time is moving on and urgency is required. One does not need to be a genius to state any of that. Those are the facts. It is vital for our young people. When I say young, I am talking about people in their mid-20s up to their 40s who are looking for homes and are struggling with heavy rent. It is critical. I have confidence in the Minister of State and the Minister for Housing, Local Government and Heritage, but trying to get property in Galway is frightening, as it is in all cities and throughout the country.

I do not want to take up too much time, but I will reference a scheme and ask that Senator Fitzpatrick's amendment, which I support and agree with, be accepted. I come from a local authority background and spent 11 years on a local authority in Galway city. The scheme I want to reference is in Boherboy in Cork city. There are 50 homes there. We need to ramp this up and make sure every local authority is taking action.

Sometimes I get frustrated by the local authorities because no matter how much one does, there seems to be a communications issue with the executive at times. I ask the Minister of State, Deputy Burke, and the Minister, Deputy O'Brien, to once again send a message to city and county council managers throughout the country that we need to ramp it up and get a monthly update. Significant social housing is being built in Galway city and especially in Knocknacarra and the east side, but the affordable is where I am at.

I refer to Senator Fitzpatrick's amendment again. What I want to understand in this process is in terms of square footage of the houses. A start-up home for a couple without children in Galway could be 900 sq. ft. I am asking that there would be a price associated with that and I look forward to Minister of State's response on it. One could have three different sizes. They should be limited to the size and there should be a reference to that point. In one way, I understand that there must be a threshold. That figure was worrying for people in Galway. I hope and pray that this will not be the cost of housing. I know it will not be but when one is looking at a figure of €450,000, people get scared before they even start. Can I get a response regarding square footage and size? It could be all relative. This is necessary. From talking to people, I know that would make it affordable and more manageable.

**Senator John Cummins:** I support the thrust of my colleague's amendment. We all want targets in respect of the delivery of affordable housing. If it is not this exact wording, could the Minister of State take on board the thrust of the amendment? What I would like to see is not only local authorities having targets for affordable housing built in but also the targets for the LDA, AHBs and the co-ops that we added to the Bill earlier. -We need to see them broken down in terms of cost-rental and affordable purchase. I support the thrust of the amendment but I would like to see additional measures added. If this could this be done on Report Stage, it would be a great addition to the Bill. The thrust of what we are trying to achieve is the setting down of ambitious targets and giving local authority members a say regarding those targets.

Targets have to be ambitious because if they are not, we will fail. I have every faith, however, that we will have ambitious targets across the range of sectors. People will be surprised when they see the depth of ambition across affordable housing in the coming years.

**Senator Victor Boyhan:** There is a great deal of merit in what Senator Fitzpatrick said. It is about tracking, tracing, targeting and holding people to account. There has been much talk today about empowering housing authorities and local authorities but it goes back to that thing about the executive and the reserve function. Most people here have been involved in local government at some level and we know the frustrations. Senator Fitzpatrick touched on them. She was a member of Dublin City Council for a long time so she has vast experience and is aware of the difficulties. Every time, there is a change of council, of county or city manager or whatever, there is a whole new dynamic that involves learning, getting to know people and banging one's head against the wall.

I have been speaking to councils in the past few weeks about this Bill and asking what the frustrations are. There are people who have literally been broken by the system. They came in with great ideals but they are . The problem with our elected members is that they are not planners, economists or financial people. They are ordinary, well-meaning people living in their communities who are very committed. Many of them have other expertise and experience but they are not paid to be accountants or to have the fine-grained expertise that is required. If we are talking about empowering our planning authorities, housing authorities and local authorities, we need to look at this again because it will involve a whole other level of work. It must be done professionally, involve track, trace and accountability and include targets.

I like the idea of the three-, five-, seven- and ten-year timescales. I think these are really important. I know that city and county councillors, including many of the newer people who were first elected two years ago, are struggling with their city and county development plans. They are being told "Just sit down and listen and we'll tell you what we have". There is too much land in my local authority area. We are being told by the planning regulator that we have far much land to zone for housing. Is that not a lovely thing to be able to say? The planning regulator has indicated, however, that some of this land will have to be dezoned because there is too much zoned land available. This is in an area where there is great housing demand, an issue with affordability and thousands of people on local authority housing lists. I understand there are 60 or 70 voids in my local authority area at this time, including in Blackrock, Monkstown, Seapoint, Dún Laoghaire, Dalkey, Killiney and other places where people would love to live.

There are many problems in this regard. Senator Fitzpatrick is right that it is about empowering the executives and elected members of local authorities to come together and drive the process forward. It is not a case of one versus the other. A team effort is needed and we must listen to the councillors who represent the people. It will really bring the process along if it has the support of elected members.

Reference was made to the Shanganagh site between Shankill, Killiney and Bray, which we have been waiting years to see developed. It is one of the finest sites in Dublin, served by the Luas and other public transport services, overlooking the Wicklow and Dublin mountains and two minutes from the coastline. It is a beautiful, walled-in estate, ideal for development, but somehow it has taken years to make any progress on it. To be fair, the local councillors kept pushing for it even when they were told it was not possible. Eight years ago, the talk was that it would be done by 2022. I said at the time that I could not believe it would take so long. We are almost at 2022 and there is nothing happening there.

Senator Fitzpatrick is clever and I am sure she has flagged this amendment to her party colleagues. I will be surprised if the Minister of State does not accept it. We need to add to it a provision that if the local authorities, including members, are to be involved in and driving all of this, then they need the resources to do so. We know there are issues with filling vacancies on local authorities. They have not traditionally employed the expertise needed for property real estate management, forward planning, visionary planning and everything else. That requires a particular expertise but it does not require people to be permanently employed. The expertise can be sourced in and synergised, using a system of clusters of local authorities to avail of it. We do not need to get hung up on having experts on the staff of every local authority. Councils can draw on the strengths of a pool of experts who are available to lend their services. I support the amendment in principle.

**Senator Pauline O'Reilly:** I welcome this amendment. As we have discussed, the Bill makes provision for issues the NESC has been flagging, including cost rental, beefing up the LDA to enable it to deliver its functions effectively, the provision of mixed-tenure housing and ensuring we have diversity within our communities. I have spoken passionately about the 15-minute city, which requires diversity, an intergenerational element and sustainability. I am delighted the Minister has accepted that policy. I agree there is a need for a change of wording to be considered in respect of some aspects of the Bill. Fundamentally, however, it is very good legislation.

I have concerns about the review provisions, which I have raised with the Minister. There has been much hay made of the fact we are being asked to take some things on trust. Everything is set out in the Bill but the question is when it will be delivered. A total of 6,000 adults and 2,400 children are in emergency accommodation at this time. We need to get going on that. We must take action on what is in this Bill and the Land Development Agency Bill 2021. We have to give people confidence that we will track what is happening and ensure it is all being done. That is what this amendment seeks to do. We also need to give people confidence that action is being taken on a national level. It is not just about local authorities but also what the Department and Government are doing. That will enable us to say this is great legislation, we will keep following up on it and we are going to deliver for people.

We must deliver but we also must be realistic and pragmatic in our approach. I am a passionate advocate of the Vienna model of cost rental provision. I would love to see cost rental rolled out throughout the country tomorrow, but we have to be pragmatic. The first step must be to get those nearly 10,000 people out of emergency accommodation. We must make sure that it is not just about affordability of homes and whether people can pay their mortgage. We also need to consider whether they can afford to feed themselves. Housing must be available at a cost that is affordable in terms of people's whole lifestyle and how they are using their money.

**Senator Malcolm Byrne:** I strongly support the amendment proposed by my colleague, Senator Fitzpatrick. I agree with much of Senator Boyhan's contribution, particularly on the need for expertise to be provided. Indeed, I hope that over time the LDA will have some of that expertise and offer it directly to local authorities. I hope it will provide that advice to elected members as well. Senator Pauline O'Reilly was right when she said we can debate this legislation back and forth but what matters to the people outside of these Houses is to be able to get the key into their hand so they have somewhere they can call home. That is what they want, regardless of whether it is a social house, an affordable house, their own premises or a cost-rental premises. We can pass the excellent Bill before us, we can pass the LDA Bill and we can change lots of regulations but it is only when we start to see housing being delivered that it will

matter. There is no point in us going out of these Houses and saying we have just enacted this wonderful Bill and it is great. That is not going to put a roof over anybody's head.

The test is to empower local authorities and ensure they use their powers. That is what this legislation is doing and what this amendment does. We must have a very clear measurement of what success is. We must know in every local authority area and at national level how many units are going to be built, how many will be available and when they will be available. I am conscious that the Minister, Deputy Darragh O'Brien, is going to be calling in the chief executives of the local authorities. It is all very well for the Minister to tell them to go on, get out there and do their work, but the important thing is that measurable targets are set out for each local authority area in order that we can see at a national level which of them are performing well. I favour league tables of local authorities because when one can see which authorities are doing well, one can ask the questions. This will also mean that councillors, or at least those who are interested in having homes built, will be able to hold their chief executives to account and ask why one authority is performing better than another.

The other benefit of this approach is that we may identify problems or difficulties that emerge in the system. A target may be set but something at a local level may prevent a local authority from reaching that target. It is important there is a two-way feedback process. If problems are identified in a certain local authority, it is important that they are fed back into the Custom House and that there is a response. This is not just about this Bill and the LDA; it is also about aligning every other aspect of State activity to ensure we have houses delivered. That includes Irish Water, EirGrid and connections to the electricity sector. It certainly includes speeding up decisions at An Bord Pleanála, which can cause significant delays in getting a lot of our homes built. In the measuring these targets, we must have ways of feeding issues back into government to address some concerns. If builders are able to identify specific problems or challenges at local level, it is equally important that those concerns are fed back. I have a bit of a problem with the talk we keep hearing about developers and so on. That is a bizarre term in many ways. Most of these people are builders. The local construction companies that operate in all of our communities want to get out there and build homes. When a target is set out, local builders may come back and say they are not going to be able to meet it locally because there is a problem with Irish Water and its connections or because the local authority is not giving sufficient priority to certain issues. In those circumstances, that feedback must be taken into account.

It is very encouraging that we have a full suite of measures - I know some people hate that phrase - with regard to legislation and everything else. However, that makes absolutely no difference - to the individuals and couples we all know who are striving to get roofs over their heads. I ask the Minister of State to accept the principle of this. When he comes back into this House over the coming years, he will be asked regularly whether we are reaching the targets coming in under this legislation. We want to empower local councillors to ask their chief executive if the local authority is reaching its targets and if not, why not? When problems arise, that must be communicated to the Custom House and the Department must respond.

**Senator Pat Casey:** I support the amendment. The thrust of what everybody has said so far is right. It is fine for us to talk about everything in this House but when we pass this legislation, it will be about delivery. To get real and honest delivery, we need to set ourselves targets. One way we can deliver housing is through local authorities because, to a certain extent, as public representatives, we control that space. We are a little removed from the Land Development Agency and do not have the same influence over it. The same applies to approved housing bodies. The only entities we can influence to drive the delivery of affordable homes are local

authorities. That is why I have so much faith in the scheme before us. We can talk all we like but it is all about the delivery of homes, at the end of the day. Nothing else matters.

Senator Boyhan brought up a valid point, although it is taking us slightly off the topic of this amendment, about the strategy of the national planning framework, NPF, regional plans, county development plans and the role of the office of the planning regulator. The planning framework will cause problems in the delivery of homes down the line. Let us call a spade a spade. I fully agree with the core principles of the national planning framework but those principles are not aligned with the infrastructure to deliver on them. When the strategy is then forced onto a regional plan and a county development plan, we are having major problems. Towns with tier 1 infrastructures are at levels two and three in my county. One such town has invested €100 million in infrastructure and has the potential to grow to a population of 30,000. That town has been told it can build 300 houses over the next ten years. In other places with tier 2 infrastructure that need the M11 and N11 upgraded, which will take 15 years, 50% of our population growth has to take place. You could not write it. The Minister is about to announce investment of €100 million in a waste water treatment plant for Arklow, a town that will be allowed to build 270 houses over the next ten years to accommodate a potential population growth of 30,000 people. We are in the middle of a housing crisis.

The national planning framework, regional plans and county development plans give three options. Areas can phase their zoning, change their zoning or dezone. Each of our local authorities has taken the easy option and has dezoned land.

**Senator Sharon Keogan:** Hear, hear.

**Senator Pat Casey:** As there is a lack of infrastructure where we can build homes and local authorities, in dezoning land we have increased land prices overnight. That will haunt us down the road unless this serious issue is addressed. All we are asking is that we build homes where we have tier 1 infrastructure, including water, sewerage and public transport, but we are told “No”. Three towns in my county have already exceeded their 2031 targets and are being told they cannot build any more homes, even though all the infrastructure is in place. We are in the midst of a housing crisis.

I accept the core principles of the national planning framework but those principles are not backed up by being aligned with infrastructure, nor are they backed up by incentives or deterrents. Let us call a spade a spade and say that the vacant site levy is not fit for purpose because there are too many get-out clauses. If the principles, infrastructure, deterrents and incentives were singing in harmony, we would have proper and sustainable development. Enforcing the national planning framework on counties without the necessary infrastructure is adding to this housing crisis.

**Senator Sharon Keogan:** Hear, hear. Well said.

**Senator Mary Seery Kearney:** I support the thrust and principle of Senator Fitzpatrick’s amendment. We need to mandate the members of our local authorities to hold their executive to account in the performance of their adherence to the development plan probabilities and possibilities, and in looking at the provision of housing and homes in accordance with this Bill and the Land Development Agency. It is incredibly important.

To be honest, I would go further. My favourite line in the amendment is probably the line which states that a review will be conducted and published by 15 September every year. I would

go further and assert that following up on that, league tables should be published and we should ensure that there is transparency around the impediments that have stopped development.

In the last number of years, the expenditure provided for Traveller accommodation across the country has never been met. That is shameful. This amendment would ensure that every year, 15 September would be a day of reckoning on which we assess progress and that there is a transparency around the provision of homes. We should follow up on that by ensuring that the report is submitted to both Houses of the Oireachtas and that the Minister comes to the House to provide us with an assessment of progress. All Members of the House, of all sides, should have the opportunity to ask questions and make statements and representations on behalf of local authorities and their members in respect of the issues that they have raised or the difficulties they have experienced. We must ensure that there is transparency and accountability in adhering to plans and performing in the provision of homes under both this legislation and the Land Development Agency.

**Senator Alice-Mary Higgins:** I will be brief. I agree with many of Senator Casey's points. A review of the national development plan has been completed, but the national planning framework has not been reviewed. Now all of the new local development plans are being constrained by a planning framework, which is out of sync with our national development plan. There is a disjoin there.

As a starting point, I underline that I do not believe our new local development plans should be overly constrained by the national planning framework because it needs to be reviewed. It needs to be reviewed in line with all of these goals that we have in terms of housing and climate action.

I strongly support what Senator Fitzpatrick is proposing in this amendment. It is really good to spell out the fact that there are ideas at local authority level. The Minister of State has heard it. Great ideas and visions for future plans have been proposed.

I accept that amendment No. 17, which I tabled, contains good ideas but the elements of it are part of planning. They are part of the other parts of the planning piece. The great thing about local authorities and local authority members is that all of the issues are considered. For example, they will consider how planning joins up with public transport. If we have a national childcare infrastructure, as has been proposed, they will consider how that fits into the mix. They will look at where public amenities and access to green spaces comes into it, as with the idea of the 15-minute city and the ten-minute town. The local authorities can hold all of that. Sometimes we talk about the register of infill and brownfield sites but what is really important is that attached to that is local authorities' vision for what those sites could be and how they could fulfil both social housing and affordable housing goals.

I like the role this amendment gives to housing authorities. I have seen few plans that have gone wrong in my time here. The idea of publishing a plan every three, five or ten years means that good initiatives can be scaled up and rolled out elsewhere and that problems can be addressed, rather than reviewing the plan a decade later and regretting that we did not get it right. It is a good and sensible amendment. I think the amendment should go straight into the Bill as it is. I do not know if there is any need for it to be nuanced. From my perspective, it is very sensible.

To be clear, my understanding of the amendment is that each of these iterations - the three,

five and ten-year plans - will then be voted on by the local authority so that the local authority members will agree them. Therefore, it is not simply an executive function but also a members' function. That was my understanding of it, which I just wanted to check. It is very sensible.

This should be guiding a lot of what happens. There are stored-up ideas. There have been good ideas that have been in the pipeline for decades. It would be great to see those ideas in the plan that is to be published six months after this coming into operation of this legislation.

**Senator Sharon Keogan:** If ever two Members spoke sense in this House, it has to be the last two speakers, Senators Casey and Higgins. I support Senator Fitzpatrick's amendment, but I want to know what it means for the current development plans. Certainly, the national planning framework needs a complete review at this time. I will talk about Meath. Currently, the local authority in Meath has no land where it can provide any housing. It has absolutely no land on which to build social or affordable housing. It is at a complete disadvantage. What is it doing? It is dezoning land. We all know that not all zoned land will be developed. It is clearly misguided to require dezoning of land based on an assumption that all zoned land will be developed. Elected members in drafting a draft development plan are entitled to consider that extensive dezoning may have the predictable economic effect of raising development land prices and affect the economic viability of housing developments by raising house prices and costs, including in social and affordable housing. In any proposals to reduce zoning, a planning authority is not necessarily bound to consider that all development land will be developed. I believe it should. A planning authority has to be cognisant of the fact that dezoning land for residential development inevitably tends to increase the cost of housing by pushing up the price of the remaining zoned land.

I am supporting the amendment. However, it is a big mistake to take the route of dezoning land in this country. I welcome publishing plans at periods of three, five and ten years.

**Senator Eugene Murphy:** I strongly support my colleague, Senator Fitzpatrick's, amendment. It is good to see widespread support for it in the House. The Minister, Deputy Darragh O'Brien, and the Minister of State, Deputy Peter Burke, are adamant, and we know it from what the Minister has said to us, that they will do everything that can be done to solve this housing crisis. I will repeat what I said recently in the House. None of us, regardless of what side we are on, deserves to be a Member of the Oireachtas if we cannot solve the housing issue. At the same time, however, we must acknowledge what Senators Casey, Higgins and others said with regard to the national planning framework. There must be changes in that if this is to work.

Sometimes people say housing is not an issue in some parts of the country. It is an issue everywhere. I have never seen as many renters who are nervous. They are not nervous because the landlord or landlady is saying the renter must be out in X number of months. They are just fearful of the property being sold. Despite the support of the State whereby people cannot be pushed out onto the road willy-nilly, they are still nervous. Incidentally, I note that in my part of the country, such as Longford, Roscommon, Galway and other counties, rent is costing €300 and €400 more per month than an average mortgage would cost, so people owning their houses makes perfect sense and we must move towards that. I met two couples, one in my county and one in Ballinasloe in Galway. The people in Ballinasloe are paying €1,300 rent per month. That might be hard to believe for a town in the west of Ireland. The people in my county were paying €1,100 per month. In both cases, if we had proper housing legislation in place, they could have a mortgage at €700 or €800 per month, or less.

This is a crucial time for housing. I strongly believe the Government is moving in the right direction. There has been a good debate here today. That is very important. We might have differences in opinions, but this is a good debate on housing. Senators Pauline O'Reilly, Casey and Fitzpatrick spoke strongly. If we do not deliver, it is no use. However, there is a determination to deliver and I hope we can make it work.

**Senator Aisling Dolan:** I welcome the Minister of State. It has been a long day. I support Senator Fitzpatrick's amendment. I come from a project management background. As with anything else, it is all in the scope and the preparation and identifying what is needed in advance to make sure that we reach our targets and that our projects are going to be successful. I welcome the plans we will be developing for periods of three, five and ten years. What actions will we be taking to ensure that each of the local authorities has the scope, the resources and the people in place to deliver these projects? It is not good enough after three years to point the finger and say something was not done. What are we doing to ensure the local authorities have the resources? I think specifically of counties that have very few resources. Galway has the second lowest level of funding and the council just does not have the resources to allocate to housing. We can see the impact when there is low take-up in respect of certain funds that are available, such as the repair-and-lease schemes. I very much support the amendment and I ask that we look at how we are supporting local authorities to reach these targets. We must take project management guidelines into account. It cannot just be a case of asking after three years why something was not done and pointing the finger. I do not support that at all.

Senator Murphy referred to rent. I am very supportive of mixed developments in all of the work that is being done. There is success to be had when we integrate various types of developments in order that they are not all of one type or another. To my mind, that does not bring success. When we build affordable housing and different housing models, we will know they are successful if families are in safe housing that has access to green spaces and services, and that it is not solely designated zones of types of housing. That would not be successful in rural or regional towns or in particular in towns such as Roscommon or Galway. I urge the Minister of State to take that into account and to look at what our measures of success will be.

**Deputy Peter Burke:** This has been a very good debate with extremely valuable contributions. I almost do not know where to start in view of the range of issues that were raised. I very much agree with the amendment. I support the thrust of it. The amendment relates to housing authorities proactively planning for the delivery of affordable dwellings for purchase and for cost-rental. Local authorities are required to prepare housing strategies as part of the development plan process. In doing so, they are required to identify existing need and the likely future need for social and affordable housing for purchase. National planning policy objective 37 of the national planning framework provides for a housing need demand assessment to be undertaken in each of the 31 local authority areas in order to ensure long-term strategic housing needs are met.

The Minister recently published a housing need demand assessment framework, guidance and tool. The purpose of conducting the housing need demand assessment is to: assist local authorities to develop long-term strategic views of housing needs across all tenures; provide a robust evidence base to support decisions about new housing supply, wider investment and housing-related services; inform policies about the proportion of social housing and affordable housing required; provide evidence; and inform policies relating to the provision of specialist housing and housing-related services. Local authorities will use their housing need demand assessments to inform policymaking through their housing strategies and plans which form part

of the overall development plan. While it is expected that local authorities will conduct a housing need demand assessment during the development plan process, the tool for this assessment, which estimates housing need demands across tenure types, can assist them at any time in the process of their own policy formation.

Housing authorities are also requested to identify a need for affordable housing in their areas as a response to calls for proposals under the serviced sites fund. They will work with my Department on the delivery of the projects once they get approval. In view of all the foregoing, it may be premature to impose a statutory requirement for the preparation of affordable housing plans at this juncture. I do not propose to accept the amendment. However, I will keep it under review as matters develop. I have spoken to the Minister, Deputy O'Brien, on it. He will publish the housing for all plan next month, which he advises will also have targets for each delivery mechanism attached to it. He has advised me he will review the amendment at that juncture. It is a very important amendment and I accept the thrust of it.

I will outline some points. I hear a lot of frustration about the national planning framework. Sometimes this can be a little misguided. Senators should think in terms of what direction we are taking as a country. We have the capacity to increase the population by 1 million, of which 50% will be outside the Eastern and Midland Regional Assembly area. If we go back a decade, enough land was zoned in the various local authority areas in the country to cater for population growth of 10 million citizens. What does this tell us as a Parliament? Does it tell us whether zoning is in the most appropriate place? The point made by Senator Casey on zoning being underlined by infrastructure really hit home and is very important. We need land to be zoned where it can be delivered and where the infrastructure is. In one county, a town was zoned for an increase in population of 2,500 over a six-year period. People were not happy with this and wanted more. The population of the town increased by 50 over the six-year period.

We need perspective in the debate and to be careful when we attack the national planning framework. There is huge scope within it. Local authorities have scope. Westmeath County Council has passed its county development plan. I remember looking at the regulator's opening observations and a large number of issues were raised. The local authority responded to each of those issues and where it had increased zoning in particular towns, it set out the reasons it had done so. The Office of the Planning Regulator accepted this. There is no harm in challenging our local authorities to make sure housing can be delivered in these areas.

Wicklow currently has a capacity increase of 30% and nine local authorities would have to increase their housing numbers by more than 100% over the coming six years. Ten local authorities would have to increase their housing numbers by more than 250%. When we say we do not have enough capacity or opportunities to zone land we must bear these figures in mind. It is important to prioritise where the zoning is and where the delivery is. This is key to the debate.

To be fair, when we read the national planning framework there are always frustrations but it is a reasonable document in how it tries to create the first link between a national development plan together with a planning proposal document, setting out the broad thrust of where our infrastructure should be and where our housing should be delivered to create sustainable communities, as has been spoken about so much today. Senator Crowe spoke about Galway. The Minister is bringing in the chief executives in the coming week and I will raise Senator Crowe's points on these issues with him.

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All of the points raised by the Senators are very valid. I have accepted what amendments I could at this juncture, and with regard to those amendments I could not accept, we will have a look at them and we have given good reasons for doing so.

**Senator Victor Boyhan:** I thank the Minister of State for his engagement today. I hope we will continue to have meaningful engagement and that we will not guillotine or close down this debate. There are some imaginative ways in which we can look at our schedule next week. I have some in mind already, which I will bring to the House on Monday so that we can prolong this debate. It is good we are having it because it is a very important debate.

The Minister of State has made a very valid point on the scope within the national planning framework. We are speaking about empowering the elected members of city and county councils. Ultimately, it is not the planning regulator who makes recommendations but the Minister. The regulator publishes reports. This is very important. I am conscious the Minister and the Minister of State are political individuals and this is great because they have come up through the local government system.

This goes back to the point I made on Senator Fitzpatrick's excellent amendment and tracking and tracing, following up and engaging. With that, we need to empower the elected members because many of them feel slightly daunted. In my local authority, the planning regulator has made recommendations and ultimately it is a matter for the members to discuss them and see them through, but it is a question of what does one decide. Clearly, the logic suggests one would down zone places that should never have been zoned in the first place, which do not have critical infrastructure, water or whatever, are halfway up the mountain, halfway the other side of the M50, and where there is no connectivity to a town or anything. Senator Pauline O'Reilly talked about that 15-minute town space, which is what we are all getting to. Covid has sort of forced a bit of that on us. I am walking everywhere now, for instance, to shops where there is no need to drive for a bottle of milk, or I am cycling. We are getting to know our local communities. We are getting to know our people better than we knew them because we have this connectivity within this 15-minute space north, south, east and west.

It goes back to that question, which is for another day, of how can we empower our elected members and give them the confidence, tools and knowledge to challenge the executive and make it accountable too. It is not one versus the other. It is both, but somehow that is the missing link. Many elected members say they do not have the necessary skill sets or supports, including independent planning, financial and legal advice. It is not individual advice but the corporate advice for the elected members on the local authority as we cannot have everybody look for advices. That is an area we need to address.

I agree we should encourage local authority members to actively and robustly engage with the planning regulator. There is no point in having stand-offs. The planning regulator is there and doing a job. After all, the planning regulator is doing the job that these Houses empowered him to do. Let us remember there is no point in bellyaching in these Houses about him. No doubt he is doing what the Oireachtas charged him to do. The planning regulator is a man of immense integrity with vast experience in planning and local government. Therefore, we must find the scope within the legislation and empower local authority members to challenge those issues and see where we can come from. Clearly, independent expertise is where the shortcoming is. Despite what we might like to think, elected members do not always get the support of the executive and that is a pity sometimes.

**Senator Mary Seery Kearney:** I thank the Minister of State for his remarks.

I want to briefly address the housing need and demand assessment. I downloaded all those documents that have been supplied by the Department. It is a fantastic tool and it will give us an accurate assessment. Having a tracking system that brings us back to how is that being adhered to and how is that being rolled out means we will not have a proliferation of the wrong types of development or developments that do not respond to the community need.

It is also a game changer in making sure that we have a review and we have accountability that maps the need in local areas. It is great tool. I appreciate the Minister of State's comments on it.

**Senator Mary Fitzpatrick:** I am disappointed that the Minister of State is not accepting the amendment as is but I welcome the fact that he accepts the thrust of it. It is obvious there was unanimous support in the Chamber. This is a practical amendment that will greater strengthen the legislation.

I, too, welcome the housing need and demand assessment. It is a long overdue tool. I am delighted that it is in place. It can greatly enable us to tackle the housing crisis, but it is only one side of it. That tells us the housing need.

We are proposing to take that work and build on it by getting every local authority to identify what it is setting as its targets to deliver in terms of affordable homes, both to purchase and rent, and to set out on an annual basis what it sees as being its target for the next three, five and ten years. We are asking that the local authorities would undertake and publish that first plan within six months of the coming into operation of this section. I urge the Minister of State, as he moves forward, to incorporate this facility in the legislation. It is not just the Members of this House who believe this provision is necessary to enable the legislation to deliver for citizens, it is also the local authority members for whom we speak. We look forward to engaging with the Minister of State on this matter and seeing an even greater enhancement to my amendment.

I wish to pick on the suggestion by Senator Seery Kearney for an annual once-a-year account to be given to the Houses of the Oireachtas when this legislation is up and running. I think there should be an annual debate in the same way that there is an annual debate on the budget. We have a housing crisis and we all know that it is not going to be fixed in six months. Therefore, we should, for a period, at least once a year say where we are because the Government is providing so many tools and interventions in terms of the Land Development Agency, approved housing bodies, local authorities and the private sector. We should at least review progress once a year and I ask the Minister of State to include that along with improving on my amendment.

**Senator Pauline O'Reilly:** I want to make a brief point on whether one puts something into or outside of legislation. It is important sometimes to put things in legislation because it gives people confidence. They would not have to wait on the Government to produce a policy document, which it can ultimately change, and they could see that the Government is accountable in the legislation. That is exactly what the Government is doing with the climate action Bill. It is setting down in legislation that plans will be developed by local authorities and the Government. I hope the Minister of State will give serious consideration to putting this provision into the legislation.

**An Leas-Chathaoirleach:** Does Senator Fitzpatrick wish to push her amendment?

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**Senator Mary Fitzpatrick:** I withdraw my amendment on the basis that the Minister of State will incorporate it in the next Stages.

Amendment, by leave, withdrawn.

**An Leas-Chathaoirleach:** Amendment No. 16 is in the names of Senators Higgins and Ruane.

**Senator Lynn Ruane:** I move amendment No. 16:

In page 8, between lines 32 and 33, to insert the following:

“(7) No action taken under the provisions of this section should be to the detriment of the provision of social housing by a housing authority.”.

The amendment is straightforward and states that the provisions of this section should not be to the detriment of the provision of social housing by any housing authority. It means that when we create narrative on legislation, and a huge amount of conversation has gone into affordable housing, we do not lose sight of the fact that social housing is still a priority. In addition, it seeks that no action taken within the provisions of this section would in any way hinder the building of social housing, and for us to keep social housing at the top of the priority list as opposed to affordable housing only.

**Deputy Peter Burke:** I thank Senators Ruane and Higgins for their amendment. It proposes to add another subsection, presumably (7), to section 6 which is the provision of dwellings by housing authorities. Affordable dwellings will be provided by housing authorities with assistance from the Department, including from the serviced sites fund where a clear need has been identified for such. The process sees council members consider the broader housing tenure mix and need in their local authority area in line with the programme for Government commitments to direct provision for social housing by local authorities to increase. Obviously that is linked directly to the capital plan in terms of housing numbers. It is also not considered that this could be to the detriment of the provision of social housing by a housing authority. Accordingly, I do not consider the amendment to be necessary.

Progress reported; Committee to sit again.

*Sitting suspended at 4 p.m. and resumed at 4.15 p.m.*

### **Search and Rescue System: Motion**

**Acting Chairperson (Senator Erin McGreehan):** I welcome the Minister of State at the Department of Transport, Deputy Naughton, to the House.

**Senator Gerard P. Craughwell:** I move:

“That Seanad Éireann:

recognises that:

- Ireland’s Search and Rescue (SAR) system is derived from the Irish Govern-

ment's adherence to the following international conventions and guidance manuals:

- International Civil Aviation Organisation (ICAO) Convention, Annex 12;
- ICAO Convention, Annex 14, Volume II, Heliports;
- International Convention for the Safety of Life at Sea (SOLAS) 1974: Chapter V 'Search and Rescue';
- Convention on the High Seas 1958: Article 12 'Master to render assistance and Coastal State to establish SAR services';
- Convention on Maritime Search and Rescue (1979) 'Provision of search and rescue services and RCC';
- United Nations Convention on the Law of the Sea (1982): Article 98 'Duty to render assistance';
- International Aeronautical and Maritime Search and Rescue (IAMSAR) Manuals Vol 1, 2 & 3;
- policy responsibility for maritime and aeronautical SAR services in Ireland rests with the Department of Climate Action, Communication Networks and Transport (DCACNT); this policy is implemented by the Irish Coast Guard (IRCG) as the maritime SAR Coordinator and by the Irish Aviation Authority (IAA) as the aeronautical SAR Coordinator. Land SAR is implemented by An Garda Síochána (AGS);
- DCACNT is responsible for ensuring that a National SAR Plan (NSP) is established and is fit for purpose; the National SAR Committee has been established by DCACNT as part of the NSP to monitor the performance of the Plan and report to the Minister on an annual basis, or as required on the performance of the NSP and identifying areas for improvement;
- the IRCG is required to discharge Ireland's SAR obligations by implementing the NSP for all incidents occurring in the maritime domain, or as otherwise requested by SAR authorities in other domains; the IRCG is responsible for defining the requirements for the SAR helicopter contract and maintaining effective oversight of contractual compliance;
- the National SAR Committee (NSARC) represents the interests of both SAR service providers and beneficiaries in advising on SAR policies, plans and agreements; it will be chaired by a suitably experienced and qualified person independent of the organisations represented; the members of the Committee are drawn from the primary SAR stakeholders (IRCG, IAA and AGS), as well as representatives from supporting SAR stakeholders (SAR units and SAR service providers);
- all SAR stakeholders are expected to have in place:
  - Service Level Agreements (SLAs) with the relevant SAR Coordinators based on an agreed template setting out respective roles and responsibilities, services provided, availability, Key Performance Indicators (KPIs), and oversight arrangements;

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- the NSP will be delivered on a phased basis; this will enable a managed and integrated approach to the revised SAR structures, and to the development of the necessary Memoranda of Understanding (MoUs) and SLAs between SAR stakeholders, both horizontally and vertically, within the system;

believes that:

- the planning assumptions that were developed jointly by DCACNT and the IRCG in the Future Aircraft Study Group report in 2009 that influenced the design of the current helicopter SAR contract, were flawed;

- at no time during the current contract was there a necessity to surge more than 2 SAR helicopters to a rescue; a belief that such a capability was required contradicts the cited planning assumptions that unpin the current helicopter SAR contract;

- over the course of the ongoing Helicopter SAR contract the concept of Value for Money (VFM) for the State was not realised from the manner in which the contract was structured and delivered;

- the Canadian Helicopter Company (CHC) S92 helicopters deployed to the contract were not new; the contract agreed with CHC unwisely depreciated these CHC assets over 10 years as new aircraft and not used assets;

- DCACNT does not have embedded in its permanent staff sufficient aviation corporate knowledge to construct a Helicopter SAR contract that realises full VFM to the State;

- aviation consultants contracted by DCACNT must possess optimum qualifications and operational contract experience to assist in the provision of a multi-million-euro Helicopter SAR contract;

- existing SLAs with the DOD for the provision of Fixed Wing SAR TOP COVER on an 'as available' basis does not guarantee the provision of the capability 24/7/365 required by IRCG:

- State risk of a loss of SAR services from industrial action by a single private contractor delivering all helicopter SAR is worrying; it must also be remembered that in 2016 the CHC Group filed for Chapter 11 Bankruptcy Protection in the USA;

- to address this risk the State must urgently reintroduce sovereign helicopter SAR capability delivered by the Air Corps for the new 10-year SAR contract; additional resilience would also be provided by a mix of helicopter types provided from both a private contractor and the Air Corps; this would also mitigate any risk that might arise as a result of the grounding of a specific aircraft type for whatever reason;

- Ireland's sovereign risk responsibility in international and national SAR obligations that rests solely on a single commercial contract must migrate to a hybrid model providing layers of resilience in a mix of sovereign and commercial service delivery protecting against industrial action which would ground aircraft;

acknowledges that:

- the Taoiseach, Micheál Martin, along with the Minister for Foreign Affairs and Defence, Simon Coveney, are both favourably disposed to the Irish Air Corps delivering part of the next Helicopter SAR contract;

- the provision of a Helicopter SAR service is a long-term tasking of the State and as such should assess the financial impact of leasing helicopters for the provision of this service in an informed manner;

- the National Treasury Management Agency (NTMA) can borrow money for the provision of capital assets at a more favourable interest rate than a private commercial helicopter company and that the state will pay a premium if commercial borrowing rates solely govern the next SAR contract;

- while the future Helicopter SAR contract is subject to Public Spending Code (PSC) procedure, the planning assumptions for the next contract need reviewing to ensure VFM to the taxpayer, ensuring the input of the Department of Public Expenditure and Reform (DPER) is strongly brought to bear on this procurement process;

- by utilising the Air Corps from Casement Aerodrome for East Coast SAR, it would reduce the overall size of the residual helicopter SAR contract to be tendered thereby opening the contract to a wider group of Helicopter SAR operators leading to a more competitive tendering process resulting in better VFM to the State;

- SAR providers can integrate into the NSP by detailed MoUs and SLAs;

and calls on the Government to:

- conduct an independent review of the quality and completeness of the required specialist professional SAR aviation expertise and operational helicopter SAR contract corporate knowledge being provided to the DCACNT;

- conduct an informed statistical analysis of the past 10 years IRCG helicopter SAR operations and nest requirements for the next Helicopter SAR contract around on facts based operational requirement rather than the historical Planning Assumptions of the now dated Future Aircraft Study Group of 2009;

- direct the Air Corps to assume responsibility for the provision of Helicopter SAR operations on the East Coast utilising their State existing and future helicopter assets;

- resource the Air Corps with the personnel and aircraft to provide Helicopter SAR on the East Coast;

- finance the future Helicopter SAR contract creatively through the NTMA leveraging the State's ability to borrow money at far lower interest rates than a commercial entity;

- adopt, while policy is implemented by the IRCG, a whole of Government approach, when providing SAR, recognising the capabilities available in other Government Departments to aid in the provision of SAR services, specifically the Depart-

ment of Defence.”

I will share time with my colleague, Senator Boyhan. The Minister of State is welcome to the House. Ireland has recently suffered blows with Covid-19 and the ransomware attack on the HSE. The exposure of vulnerabilities in healthcare provision and cyberdefence point to an absence of critical sovereign capability to mitigate against such threats.

The word “sovereignty” entered popular discourse in Ireland during the financial crash but its true meaning involves international recognition of a geographical territory, its borders and people. Ultimately, sovereignty is about having the resources to protect one’s citizens.

Search and rescue, SAR, is a vital national service that entails the rescue or recovery of people on land or at sea. The Air Corps has successfully delivered SAR since 1964 and continues to do so as a Defence Force task. The service is essential and cannot be compromised under any circumstances. Ireland must always retain a sovereign SAR capability provided by the Defence Forces Air Corps. The Air Corps is a State asset with aircraft, pilots, maintenance technicians, air traffic control and physical infrastructure in Casement Aerodrome, Baldonnel. Taxpayers pay to maintain Air Corps assets and their use must be maximised. The Defence Forces are the first to be called up in a State emergency and have played a significant role in tackling both of the recent crises. Since 2004, civil SAR has been provided by a private contractor. The SAR service is staffed by civilian staff, comprising highly professional and courageous pilots and crews. I acknowledge their dedication. This contract is up for review and renewal and, while SAR is an essential service, guaranteed delivery should not preclude financial prudence or value-for-money analysis.

Recent mischievous commentary in the media by vested interests committed to continuing a fully privatised SAR service erroneously suggests that the Air Corps lacked the capacity to deliver on any part of the upcoming contract. I assure the Minister of State that current Air Corps pilot strength is at an all-time high through organic pilot entry, training in Ireland and abroad and re-entry into service of former Air Corps pilots. The Air Corps is in rude good health.

Contrary to what has been reported in the media by vested interests, there are no regulatory impediments to the Air Corps being awarded part of the new SAR contract. Air Corps flying regulations are nested in the constitutional legal order of the aviation world and fully comply with Ireland’s international obligations under the Chicago Convention of 1944. Military air regulations have due regard for civil aviation and across Europe there is a total system approach to aviation safety enabled by civil-military co-operation.

The military air regulations of the Air Corps for SAR operations fulfil this mission in line with the requirements of the International Civil Aviation Organization, ICAO, and International Maritime Organization, IMO. Every EU state is responsible for establishing its regulatory regime and ensuring effective co-ordination between the maritime and aviation sectors, having due regard to the objectives of the European Union Aviation Safety Agency, EASA.

The outsourcing of SAR for the past two decades has been a high-risk activity. We must now act wisely to mitigate this risk by ensuring that a sovereign State asset, namely, the Air Corps, is tasked with providing a portion of the ten-year SAR contract. Outsourcing all SAR delivery to an international civilian company flies in the face of having State resilience and sovereign capability in times of crisis, as we have seen with Covid and the HSE ransomware attack.

The current privatised SAR contract was listed as costing €523 million when placed in 2012.

To date it has cost €640 million. By 2023, it will cost in excess of €700 million. An aviation expert from an Irish third level institution has calculated the cost of SAR being delivered by the Air Corps from 2023 for ten years at €152 million. That is east coast SAR. It would include the east coast helicopter SAR, plus the fixed-wing top cover serviced by the new CASA aircraft, which are due to be delivered soon. The saving to the Exchequer would be an estimated €389 million compared with the cost of the same service provided by a civilian contractor.

When we look back at the current contract, we can see that it was both flawed and inadequate. It betrays a lack of knowledge by the Department of an operational SAR contract, particularly the technical and operational aviation elements of it. This should never have been the case because in 2009, the Department and the Irish Coast Guard commissioned a report by the future helicopter study group on tender specification criteria for search and rescue helicopters. Of note is the report's recommendation for night-vision goggle flying and helicopter underslung operational capability for firefighting and resupply in any future contract. Sadly, the night vision part did not find its way into the 2012 contract, instead raising its head astonishingly in 2013, one year after the contract was signed. The underslung capability was contracted for but never delivered. This contrasts with the night-vision service the Air Corps has offered to An Garda Síochána and the air ambulance service since 2008, and has provided for military operations and military SAR since then.

Incredibly, in 2013, one year after the contract with CHC Helicopter was signed, the company was contracted by the Coast Guard to deliver night-vision flying capability with its five S-92 helicopters. However, the cockpits of these helicopters were not fitted for night-vision flying. This resulted in the State paying an additional €3.5 million, plus VAT, to retrofit the helicopters that were not the property of the State for night-vision flying, further increasing the value of the CHC asset at the taxpayers' expense. Furthermore, in 2015, the State purchased night-vision goggles for CHC at a cost of €570,000, with an additional spend for pilot and crew training. I understand that, to date, the training for night-vision operations has not been completed and that it is possible that no CHC helicopter contracted by the State to the Irish Coast Guard has flown a single night-vision mission despite adding €7.5 million in additional costs to the contract. In an even more serious turn, the State agreed a financial model with CHC to allow a depreciation cost structure in respect of the five helicopters provided over the lifetime of the contract as if the helicopters were new, but four of them were not new.

CHC was contracted in 2012 to provide helicopter sling load operational, HESLO, capability to carry large water buckets on its five helicopters. During the recent wildfires at Killarney National Park, its services could not be used because its aircraft were never outfitted to perform this task. Instead, the Air Corps deployed three HESLO-capable helicopters and the State contracted a fourth from Scotland. During the incident, this had an impact on the spread of the fire. Where was the Department's and Irish Coast Guard's oversight of the compliance element of the 2012 contract?

In July 2020, the Minister of State at the Department of Transport, Deputy Hildegard Naughton, issued the first annual report on the national SAR plan, which was submitted by the committee chaired by Vice Admiral Sir Alan Michael Massey, a UK SAR veteran. One of the key recommendations was the urgent requirement for a SAR assurance mechanism, which involves professional external advisers ensuring compliance with best practice. In 2017, the Department and the Irish Coast Guard sought a company to carry out this role. I can inform the House that the company contracted to carry out this potentially lifesaving role of aviation assurance compliance and to provide advice to the Department of Transport on the next SAR tender

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was only incorporated in 2014. Its first annual accounts, which, I should say, are not subject to audit, were submitted in 2015 and, crucially, its annual accounts to 31 January 2017, the year in which it won the tendered contract to provide aviation assurance compliance, showed a potential loss of £32,000, net assets of £13,000 and cash-in-bank of £9,000, and the company had just one employee, namely, the owner. The company accounts show no significant debtor or creditor balances that would confirm ongoing trade. There is no evidence of a verifiable track record of the multiple high-value contracts that were listed in the letter I received recently from Minister for Transport, Deputy Eamon Ryan.

I ask the Minister of State to explain the discrepancy between the company accounts and the list of projects that the company was said to be involved in. The taxpayer should know what distinguished this company from other companies who tendered for the contract and given the company had only one employee, what consideration was given to the possibility that this owner-director might sell the company? Was a change of control clause built into the contract? What other contracts was this company involved in as evidenced by its balance sheet? Did the State effectively purchase the services of a one-man show?

On the 14 May last, I received a reply to a letter I sent to the Minister, the Taoiseach and the Tánaiste raising my concerns in regard to the current and future SAR contracts and, in particular, about the company contracted in 2017 to provide aviation assurance compliance. The letter states, “The company customer base is impressive and varied and includes other EU Coast Guard, Oil and Gas companies, several wind energy companies, an air ambulance charity, various public bodies and national, EU and UN agencies” - this for a company that was just three years old. The letter continues: “The company uses technical and pilot specialists with decades of aviation experience including considerable helicopter and SAR experience.” The company accounts, all of which are publicly available, show zero evidence of such diverse trading activity or the hiring of expert consultants to service these suggested contracts. We already have ample evidence to show that the 2012 contract was not subjected to the scrutiny and oversight that is necessary in respect of such a critical contract. I am very concerned now that the company contracted by the Department and the Irish Coast Guard in 2017 to advise on the next SAR contract may not have the necessary skills to do so. I am seriously worried about a repeat of the mistakes made in respect of the 2012 contract.

I believe the Air Corps must be part of the new contract. The Air Corps, as a State entity, cannot formally bid on any part of this contract. It can only be tasked by the Government to do so. The Air Corps has already submitted a comprehensive proposal to the Department on why it should be granted a defined element of the helicopter contract and all of its fixed wing element. Supported by the Irish Air Line Pilots Association, IALPA, I now call on the Minister of State to make this submission publicly available. She should also publish the Department and assurance expert opinions, along with the Air Corps rebuttal of that critique. This is the only way a fair and transparent process can be seen to have taken place in the awarding of this enormous State contract.

To sum up, it would be a very smart move for Ireland to retain its sovereign capability for SAR. Ireland and the UK are the only two states in Europe that have totally outsourced SAR services to private companies. In tasking the Air Corps to operate east coast SAR from the Baldonnell base, the Department could reduce the new contract price, opening the tender to many companies. A reduced private sector involvement will drive down prices and will allow numerous aviation players to compete because of the smaller scale, which will result in a more competitive bid. In addition, the State would be sending a powerful message of support and

confidence to its military. It would also reinforce the message to international contractors that they do not enjoy a monopoly service delivery and cannot effectively charge what they want. A SARs contractor assuming that the State has no alternative or sovereign competitor is dangerous and costly. It is the aviation equivalent of an international pension fund swooping in to buy an entire housing estate, the result being the State will never own the houses, or in this case the helicopters, but citizens will be paying extortionate rent or lease costs.

The Irish Fiscal Advisory Council recently stated that official budgetary forecasts are poorly founded, major policy commitments are not built in and the promised medium-term strategy has not been delivered by the Government. The chair of the council also stated that the absence of well-founded medium-term plans and fiscal targets leaves the public finances unanchored. In light of this, I call on the Minister of State and her colleagues in the Government to act on the very serious issues that I have outlined in the interests of fiscal responsibility, public safety and national sovereignty. I thank the Minister of State for her time and I look forward to her reply.

**Senator Victor Boyhan:** I welcome the Minister of State to the House. I second the motion. First, I want to thank the members of the Irish search and rescue service who risk their lives to save the lives of many other people. Regardless of who they are or for which service they work, they face the same challenges and difficulties and they put themselves at risk for us. It is important that we never lose sight of that in any debate on SAR.

My understanding is that since 2004 the Irish Coast Guard has had overall responsibility for the provision for the search and rescue service within the Irish search and rescue domain. I understand also that the Irish Coast Guard falls within the remit of the Ministry of Transport. A SAR action steering company was established under the auspices of the Department of Transport and led by the Irish Coast Guard to manage procurement for the next SAR aviation service. Can the Minister of State confirm if personnel from the Department of Defence and members of the Air Corps are key stakeholder members of the steering group progressing the next contract, etc? Is the defence organisation supportive of the Department of Transport's plans for the next generation search and rescue contract? Has a full appraisal of the various service delivery options been completed? Has the Government at this stage ruled out the State assuming full responsibility for the service through the Air Corps? I do not propose to make a call in that regard because I am not qualified to do so, but they are kernel issues in this debate.

I again thank the Minister of State for coming to the House for this debate and I thank the Government for the countermotion. I gleaned a great deal of information from it. If nothing else, the motion and the countermotion have shone a light on a number of issues and helped me and, I think, other Members of this House to understand other aspects of the issue. I look forward to the Minister of State's comprehensive reply.

**Acting Chairperson (Senator Erin McGreehan):** Thank you Senator. It was quality rather than quantity today.

**Senator Timmy Dooley:** I move amendment No. 1:

(a) To delete references to "Department of Climate Action, Communication Networks and Transport" and "DCACNT" in each place where it occurs and substitute "Department of Transport" in each such place;

(b) To delete all words from and including "believes that:" and substitute the following:

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“notes in relation to the future service that:

- a rigorous and robust process is underway under the direction of the Department of Transport, involving all key stakeholders, to bring a business case to Government shortly on the procurement of a new IRCG aviation service;

- the process is being managed in accordance with the requirements of the Public Spending Code to deliver VFM and in accordance with the requirements of public procurement law;

- the Department of Transport has appropriate expertise available to it, including independent experts and a Process Auditor to ensure compliance;

- the process to date has involved the following key steps:

- in November 2019, the Department commenced a process to prepare for the next iteration of the Coast Guard aviation service in line with the Public Spending Code; this involved an extensive consultation process with all key State and other stakeholders in the SAR sector to consider the scope and demand for the service over the lifetime of a new contract;

- a Steering Group was established, led by the Director of the Coast Guard, comprising a range of State stakeholders and independent experts to bring a whole of Government approach to scope the requirements for the new service;

- an initial Strategic Assessment and Preliminary Appraisal report was prepared by the Department and brought to Government by the then Minister for Transport, Tourism and Sport in July 2020, following approval by the Steering Group;

- this report included a strategic assessment, setting out the context for the SAR aviation programme, an organisational overview, and a survey of existing policies and strategies relevant to the programme;

- it took on board key learnings from the existing service and contractual arrangements;

- it identified the spending objectives of the programme, including existing arrangements and relevant business needs;

- it also included an appraisal of various service delivery options, including the State assuming full responsibility for the service, either through the Air Corps or a dedicated IRCG Aviation Branch; both were ruled out for a variety of reasons including the level of risk which would be assumed by the State;

- the process is now at detailed business case stage which is focused on the remaining viable options; this business case is being prepared by KPMG with input from the Project Team and their own aviation expertise;

- while it is acknowledged that the Air Corps is not in a position to take full responsibility for this service on the basis of that initial assessment, the Department of Transport was asked by the Department of Defence to explore the viability of the Air Corps providing some element of the SAR aviation service;

- an Air Corps submission received in March is being reviewed as part of the preparation of a detailed business case on the entire IRCG aviation service;

welcomes that:

- the Department of Transport has been keen to ensure that all interested parties in the eventual tender process are dealt with fairly and transparently; to that end, a dedicated web-page was created on which all relevant information and updates on the process are provided to all at the same time;

- in light of public commentary which could lead to confusion amongst interested parties, a recent detailed update provided clarity to potential bidders as to who precisely is involved in the process and where they should look to for reliable information on it;

- this was intended to allay concerns as regards any spurious speculation outside these official communication channels;

- a Process Auditor has been appointed from the outset to ensure compliance with procurement and Public Spending Code procedures; the Process Auditor is answerable and reports to the Secretary General of the Department of Transport in relation to any concerns he may have with the process and is independent of any other reporting arrangements related to the procurement;

clarifies that:

- as this is part of a deliberative process which will lead to a Government decision in due course, members of Government have not endorsed any particular approach in advance of the process having been completed and a recommendation made to Government;

notes in relation to the existing service that:

- the previous tender was also subject to rigorous analysis and evaluation, involving all relevant stakeholders, including the Department of Defence and the Air Corps, which validated the assumptions underpinning the tender specification;

- the Department of Defence noted at the time that the Air Corps no longer had the operational or management experience required to run the SAR service and that substantial investment in equipment and training over many years would be required before an Air Corps maritime SAR capacity could be made operational again;

- it would be imprudent for any emergency service to base its requirements on historical data alone; emergency services by their nature must provide for scenarios that may happen even where the likelihood is low; a core requirement of the current service is a mass rescue scenario – which thankfully has not occurred but would require significant surge capacity which no other aviation service in the State could provide;

- the level of capacity available to the State through this contract is significant and has been utilised to supplement a wide range of aviation needs beyond purely maritime SAR, including assisting the Health Service Executive/National Ambulance Service, the island communities, An Garda Síochána for land SAR incidents and Department of Housing, Local Government and Heritage/Fire Services in context of major emergency needs;

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- the existing contract was procured by way of an open competitive tender, following extensive consultation with all stakeholders; that process was subject to independent external audit and no issues of concern were identified;

- as regards the VFM aspects of the existing contract, these were addressed as part of the original evaluation by relevant experts, including the NTMA;

- the CHC service is kept under constant review in terms of contractual performance; it was subject to a mid-term assessment to identify, inter alia, any lessons for a new service; the contract continues to deliver against the key performance measures set for it;

highlights that:

- the IRCG has a distinguished record in delivering SAR services for many decades including the management of aviation services delivered by the Air Corps and civil operators;

- the IRCG retains the services of an aviation consultant to assist in various aspects of its work; the current consultant was procured by open competitive tender in 2017 and they have provided an excellent level of service across a wide range of technical issues, including the current procurement process; its technical expertise and experience embraces all relevant matters, including Coast Guard and SAR-related issues internationally;

- there is no doubt in relation to the capability and expertise of the Air Corps in aviation matters; it is precisely for that reason that they have been involved as a strategic stakeholder in the development of this project, up and until the point they were requested by the Department of Defence to prepare a proposal to provide an element of the SAR service; in order to avoid any suggestion of a conflict of interest, their participation on the Steering Group ceased; this is about protecting the integrity of the overall process;

underlines that:

- the provision of an effective maritime SAR service is critical to Ireland as an island nation with a strong maritime sector; for that reason, decisions on a significant component of that service require careful consideration; the Government will take the required time to ensure that it procures a service that is fit for purpose, meets our domestic and international obligations, and delivers value for the significant level of investment involved;

and supports the approach being taken to this process which will provide the required input for Government to make the right decision on this important matter.”

At the outset, I wish to recognise the devotion of members of the Irish Coast Guard who have done so much to protect all of us along the shoreline and at sea. I wish to put on record our thanks to people who have lost their lives working for the Irish Coast Guard. It is well recognised that the loss of Rescue 116 was an unspeakable tragedy. Captain Dara Fitzpatrick, Captain Mark Duffy, winch operator Paul Ormsby and winchman Ciarán Smith lost their lives in serving all of us and in attempting to protect lives at sea. Some 22 years ago, Rescue 111, operated by the Air Corps, was also unfortunately subject to loss of life in Waterford. Captain Dave O’Flaherty, Captain Mick Baker, Sergeant Paddy Mooney and Corporal Niall Byrne lost their lives in serving the State while putting their lives at risk to protect others. I have seen the same thing in Clare with the loss of Cairtriona Lucas, who died some five years ago on a search and rescue mission on the seas as an experienced professional working out of the Coast Guard

base at Doolin.

In the context of this discussion we must be mindful of the job that is being delivered and the heroic efforts being made. While we identify the people whose lives were lost serving the State, we should be mindful that so many lives have been saved as a result of the work that has been done by various people. I know many of the people involved in the Coast Guard because there is a base in County Clare. I have friends in the Air Corps who have served the State and private operators along the way. Their professionalism and the work they do is second to none. We owe a duty to them to be careful and cautious about what we say and how we portray the next iteration of a contract that is to be issued. We need to be mindful of all of that.

I believe that the Private Members' motion put forward makes several unjustified claims relating to Ministers having a favoured position in respect of the ongoing procurement process and with regard to the specifications of the existing service. I believe the amendment sets out the basis for steps being taken in respect of the process to ensure it is rigorous, evidence-based and compliant. The process is following all the required steps of the public spending code for current expenditure appropriate to a service such as this. It has involved all key State and non-statutory stakeholders, including the Department of Defence and the Air Corps, from the outset. As I understand it, the project team leading this has all the expertise available to it for this stage of the process, including aviation expertise, relevant helicopter search and rescue experience and regulatory experience. The team also involves KPMG with a strong record in similar business case development.

Stakeholder engagement, including market interest engagement, has been extensive and more than adequate for the purposes of this project. A process auditor has been involved from the outset to ensure the process is compliant. Therefore, claims relating to the adequacy of the expertise available to the Department are unjustified. It is important that we put this point on the record. I am not suggesting the claims have been made by the Senators who have spoken. However, others will take from it that somehow there is something untoward here. Senators have rightly identified concerns. They need to be addressed and I believe they will be.

The amendment sets out the process that is under way. It notes that lessons are being learned from the existing service and that future demand analysis will form a key element in that business case.

The previous tender specification was premised on an extensive consultation and scoping study that involved the Department of Defence and the Air Corps. It validated some of the requirements that the motion is seeking to dispute, for example, requirement relating to surge capacity. This relates to two or more helicopters in a mass rescue scenario and the larger more capable helicopter specification.

The existing contract was procured by way of an open competitive tender. We know that Canadian Helicopters was the preferred bidder following a thorough and compliant evaluation against the award criteria set at the time. The tender process was also independently audited and signed off as compliant at the time. The result of the tender process was brought to Government for approval. It was acknowledged at the time that the Air Corps no longer had the operational or management experience required to run the search and rescue service required and that substantial investment in equipment and training over many years would be required before the Air Corps maritime SAR capacity could be made operational again. It was also acknowledged that there were significant difficulties in retaining the necessary highly skilled and

experienced helicopter pilots. Indeed, the Air Corps had withdrawn completely from maritime SAR in 2004 following operational difficulties in the provision of a consistent and satisfactory level of service. As such, re-entering this area of operations was not considered feasible.

As for the value for money aspects of the existing contract, these were addressed as part of the original evaluation by relevant experts. The contract is kept under constant review and was subject to a mid-term assessment. It continues to deliver against the key performance measurements set in the contract. Any lessons learned from the existing contract and its operation are being addressed in the development of the procurement strategy.

I wish to comment on governance arrangements for the new service. The new draft specification was published at the market webinar in September 2020. It clearly leaves open the question of helicopter type and basing options to enable greater flexibility in the options that may be offered to satisfy the requirements. It is important in the context of our discussions that we do not seek to demonise one side or the other. We must accept the limitations that certain operators have and the opportunities for the future. The debate should not be used as a way of undermining the capacity or capability of anyone in future. That will be left for an independent transparent process. We should be careful that we do not involve ourselves in that process.

**Senator Jerry Buttimer:** I second the amendment and I commend the Minister of State at the Department of Transport, Deputy Naughton, on being here today. I welcome this debate. It is important at the beginning of our debate that we pay tribute to and thank all those involved in search and rescue, in particular the men and women who put their lives at risk to save people on a daily basis. Many of us know people who have been rescued. Many of us know people who are working diligently every day. It is to that end that the language and words we use in this debate are important. It is important that we deal in fact rather than supposition. Equally important for us as parliamentarians is the integrity and transparency of the procurement process. As Senator Dooley rightly said, it must be solid and it is important that an open and competitive procurement process is not undermined, whether here in Seanad Éireann, in Dáil Éireann, in public utterances or wherever. We all remember the infamous words of John Bruton about transparency. It is important that transparency is to the core of what we do.

At the same time I welcome the Defence Forces 400-page document put forward as a plan to the Department of Transport. As Senator Dooley said, the Air Corps and Coast Guard are important component parts. The words of the Minister for Defence, Deputy Coveney, are also critical in the context that some element of this may be given to the Defence Forces. The capacity issue is vital. It is all about ensuring that we have, as the amendment states, a clear process that deals with all people in a fair transparent manner.

I am a member of the Joint Committee on Transport and Communications Networks. Senator Craughwell is also a member and has raised the matter at the committee. We are dealing with EU procurement law. We are a member state of the European Union. The members of the Joint Committee on Transport and Communications Networks have been told EU procurement law is complex and several core principles cannot be undermined. This cannot be emphasised enough. It is about public procurement. It is about ensuring that the process is fair, equitable, transparent and non-discriminatory. They are important terms. They are not terms on a page or terms for the sake of ticking a box. They are important. That is why we have to pay heed to them. Whether it is a question of the subdivision of contracts or the division of contracts, everyone wants to ensure that we have a process that is rigorous, evidence-based and fully compliant and that the integrity of the procurement process is not in any way contradicted or

contaminated. If it was, Members would be coming in here and giving out. They would be going to the Committee of Public Accounts. They would be hauling the Minister for Transport, Deputy Eamon Ryan, and the Minister for Foreign Affairs, Deputy Coveney, or whoever else in before a committee. Let us be careful in adhering to this code.

The engagement of stakeholders has been mentioned today. From the national search and rescue plan I am led to believe that there has been a huge scale of engagement. I welcome that. The plan put forward in 2019 is critical and should be followed in its essence because it is about ensuring there are well prepared, effectively deployed men and women who are trained and equipped to the highest level.

In his reply, I ask Senator Craughwell to name the sources of his information that many of us do not have. You referenced figures and you might tell us where you got them. Who gave them to you? Are they correct? I do not know. I am not eminently qualified but if you are going to come into the House to make claims, then substantiate your points.

**Senator Fintan Warfield:** Senator Buttimer should speak through the Chair.

**Senator Jerry Buttimer:** I am speaking through the Chair. I am here 14 years. I understand the process as well as Senator Warfield.

**Senator Fintan Warfield:** Senator Buttimer is saying “you”.

**Senator Jerry Buttimer:** You know what I mean. Come on. You are trying to wind down the clock.

The other point is the expertise. I recognise the input of the Air Corps, the Coast Guard and Defence Forces. I do not have the expertise and I am the first to admit it, but I have done extensive consultation and reading and I have been on the transport committee with Senator Craughwell. We got legal advice regarding the matter that is being discussed here today. I am all for stakeholder engagement but the fundamental point is that we must ensure that the search and rescue service is properly staffed and the staff are trained and equipped with the best of equipment. We must live up to our relevant international convention requirements. We have a national search and rescue plan. Ultimately, what we are talking about today is the men and women who go out every day and help to protect and save lives. It is the provision of assistance to people in dangerous situations.

I welcome the debate today. I thank Senator Craughwell for putting the motion before us. It is important that, as the Minister for Foreign Affairs, Deputy Coveney said, we recognise the Air Corps and its involvement and the value of the current contract. The Government counter-motion is quite extensive. It is not just a copy-and-paste job; it is an in-depth response. I welcome the Minister of State, Deputy Naughton.

**Senator Mark Wall:** I welcome the Minister of State, Deputy Naughton, to the House today. As other Members have said, it is very important that we start by thanking the men and women of the current SAR contract for their bravery and professionalism and what they do for us all on a daily basis. I also thank both Senators for bringing forward this Private Members’ motion. It is very important that it is discussed. I thank Senator Craughwell in particular for his work on this issue to date.

As a number of speakers have said, Ireland’s SAR system is derived from the Government’s

adherence to a number of international conventions and guidance manuals. In brief, these conventions impose obligations on Ireland to ensure that necessary arrangements are in place for distress communication and co-ordination in their area of responsibility and for the rescue of persons in distress. Policy responsibility for maritime and aeronautical SAR services in Ireland rests with the Department of Transport. This policy is implemented by the Irish Coast Guard in its capacity as the maritime SAR co-ordinator and by the Irish Aviation Authority in its capacity as the aeronautical SAR co-ordinator. Land SAR is implemented by An Garda Síochána.

Aside from the current SAR contract debate, on which I will concentrate later, there is no doubt that over the medium to long term, significant savings could be made by carrying out what could be called a whole-of-government air services needs analysis. Adopting a whole-of-government approach would reduce the Government's overall carbon footprint from air services and projected savings could be invested in other areas. We are aware that an interdepartmental group was previously formed to examine long-term options for ministerial air transport, but we are not aware of any group examining air services needs across the entirety of the Government. There can be no doubt that Government air services are being deployed independently of one another. The Department of Transport pre-tender strategic assessment failed to analyse a multitude of options available to the Irish Coast Guard in terms of aerial surveillance both in the State and through other EU agencies. An in-depth analysis of all these options would, in the opinion of some we have spoken to, cast serious doubt on the requirement for privately contracted fixed-wing or unmanned aerial systems. Questions have been asked today and previously about the Department's independent aviation technical adviser. The Minister must address the experience the company has in evaluating national search and rescue contracts. In preparing the new contract, a number of experts have stated that comparisons to other countries such as the UK and the Netherlands that operate a fully privatised SAR service are misleading. The reason put forward is that both these countries maintain military forces that have a significant number of helicopters and can operate an emergency SAR service if issues arise with the civilian operator. That is obviously not the case in Ireland. The UK has explicitly highlighted a systematic weakness of having a sole private provider in its latest national review of SAR services. This is a very important point and it has not been acknowledged in the Department's strategic appraisal.

A major concern of many, including ourselves, is that there is currently limited contingency planning in place to ensure service delivery if a private operator is unable to provide a service either through strike action or, for example, through bankruptcy. It is our understanding and an issue of concern that military operations and training on land, sea and air are not included in the current national SAR framework and guidance. This is standard practice in other countries. This places an onus and responsibility on the Defence Forces to be able to search for and, if necessary, rescue their personnel. From a practical point of view the assistance of other agencies will always be requested if required, such as the Garda or Coast Guard, but it is an important point to note. The Defence Forces will need to continue to develop a certain level of capability in this field and thus the State should seek to maximise the return on any investment in the Defence Forces.

It is very important to note in this debate that security and defence operations such as intercepting drug traffickers or any counterterrorism operations, whether that be led by the Garda or Defence Forces, cannot be carried out from aircraft on the civil register. The pilots and crew cannot be compelled to put themselves in harm's way in such operations so, again, there is a requirement on the Defence Forces to maintain a fleet of helicopters capable of carrying out these duties. The training competencies and equipment requirements for these types of mission

are so similar to SAR that obvious synergies across government can be achieved. We contend, once again, that such needs must be recognised in the new SAR contract.

The Government's amendment states: "the process is now at detailed business case stage which is focused on the remaining viable options; this business case is being prepared by KPMG with input from the Project Team and their own aviation expertise;"

It would be very helpful if the Minister of State could confirm to the House the name of the consultants being used by KPMG and the level of expertise they have.

This debate concerns important and urgent issues for the future of the Defence Forces. The SAR contract must begin to consider including the Air Corps and the Defence Forces. There must be a whole-of-government needs analysis of the Government's air services. Along with many experts in this area, we believe this would show that synergies can be made by incorporating a sovereign element in the forthcoming SAR contract. In the early 2000s, this country began to include a civilian provider in addition to the Defence Forces in providing the SAR contract. The military involvement in SAR ended in 2003. We, in the Labour Party, feel that the time has now come to incorporate and involve the Defence Forces once again in the provision of search and rescue in this country. This would provide obvious benefits to the Defence Forces in building up its competencies and assets. It would also ensure that the State is not beholden to one private operator and any unforeseen events that such dependency could result in. It is time to resource the Defence Forces, pay them properly and give opportunities to serving personnel. The Government must recognise that the forthcoming SAR contract provides this country with an ideal opportunity to begin this process, which is long overdue.

**Senator Vincent P. Martin:** I also welcome the Minister of State to the House, and concur with the words of deep sincerity and gratitude of previous speakers to the people who have kept us safe. As Senator Dooley and others have said, some of them tragically have lost their lives. I commend the bravery and dedication of all our search and rescue crews across the country. They provide an invaluable service and regularly place themselves in harm's way, risking life and limb. I commend the Irish Air Corps on its long history of service to the State, including its contribution to search and rescue operations and its current air ambulance service.

I am supporting the Government's motion today for two reasons. First, a process is under way to determine the optimal manner in which we should deliver maritime search and rescue services for the coming decade, and this House should await the results of that process and avoid unnecessary interference. The process will assess the ability of the Irish Air Corps to contribute to Ireland's search and rescue operations in the short term and bring solutions to the Government. Whatever the results of these dual processes, we must encourage in future a whole-of-government approach to aviation and ensure all Departments and State agencies work towards a common agenda. Second, the Commission on the Defence Forces is examining the future roles and structures of the Irish Air Corps at present and may make a determination on the Air Corps's long-term involvement in this field. Specifically on the Irish Coast Guard and the Air Corps, we must break down barriers between these organisations and ensure they work collaboratively. We must also ensure they are resourced adequately to carry out their important and life-saving work.

I commend Senator Craughwell for tabling this motion. As a legislator in the Upper House, he has every entitlement to do so. He is deeply passionate about Óglaigh na hÉireann's role in protecting the people of Ireland. He is deeply passionate about the Air Corps, search and

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rescue crews, and the Defence Forces. He has a track record that is second to none and he is an advocate of what is best. At the heart of what he wants are transparency and accountability. As a legislator, he has every entitlement to introduce this motion. It helps to make people think and to put this important issue on the agenda. Why not, at the appropriate time, question the entire process? Perhaps this is not the day for the Senator's specific motion but it is a brave, valiant effort to save the Exchequer millions of euro and, in doing so, provide a more efficient, independent and reliable service. This is what I interpret to be at the heart of his motivation, which is unquestioned and beyond reproach. We are fortunate in the Oireachtas to have individuals such as Senator Craughwell. Among them is Senator Wall, who contributed just before me. He comes from a county with a very fine military tradition. I detected since I became a Senator last year the total respect that we have for Óglaigh na hÉireann, An Garda Síochána, search and rescue crews and everyone else.

The Minister might update us on the Commission on the Defence Forces. We may have findings from it before the end of the year. Perhaps that will be an appropriate time to examine its recommendations in great detail. Perhaps in the not-too-distant future, we could have another motion on the floor of the House to determine the best long-term way forward for Ireland, in addition to the most modern way keeping in line with the most modern practices. The time is near for a fundamental review. We should not fear reviews. They should be able to stand up to robust scrutiny from us as legislators. That is our job. I am delighted the Minister is present today to answer on the motion. On this occasion, I am more than pleased to support the Government. Its countermeasure makes an awful lot of sense. I am 100% behind it but that is not in any way to belittle Senator Craughwell's motion.

*5 o'clock*

**Senator Fintan Warfield:** I welcome this opportunity and commend Senator Craughwell on tabling the motion. I commend all those who work in search and rescue, SAR, services and in the Defence Forces on their bravery and service. The service is literally life-saving. It involves a multi-year, multimillion euro contract. The current contract is worth between €50 million and €60 million per year so it is important that all options be examined. It is important to note that there is an ongoing tender process and that we do not want to interfere with that. The tender process, however, has to be fair and transparent, deliver value for money for the taxpayer and meet the standards of the public spending code. For such a major contract, it is important that we get it right.

Others have spoken about the importance of the SAR service. As an island nation, SAR helicopters provide essential cover around our coast. About 800 tasks are carried out every year. The service is responsible for covering a huge area of ocean. The occupation is a dangerous and selfless one. Senator Dooley mentioned those who died in service, including Captain Dara Fitzpatrick, Chief Pilot Mark Duffy, winch operator Paul Ormsby and winchman Kieran Smith, who died in a helicopter crash in 2017 while assisting a rescue operation off the coast of Mayo.

The service provided by CHC and workers to date has been essential. They need to be acknowledged and commended on saving many lives through rescues and patient transfers. The list goes on. Sinn Féin believes there is a role for the Defence Forces in this area. I do not believe anyone is suggesting the Defence Forces should take full responsibility for SAR. I am not sure that it would have the capability, as such, but we believe there is a role for them.

Some commentary to date has caused concern among some existing CHC workers. This

is not a criticism of the work done, but Sinn Féin would naturally prefer if the State provided essential services where it can and should. This can come as part of a much wider and much-needed investment in the Defence Forces. Unfortunately, the service has been allowed to hollow out, as is evident from the number of Defence Forces personnel on payments such as the family income supplement. We have heard reports about workers sleeping in their cars. The current pay and conditions are not nearly good enough considering the service the personnel provide. They must be improved. It is a sad state of affairs.

As the amendment points out, the Air Corps had confirmed it no longer had the operational or management experience required to run the SAR service and that substantial investment in equipment and training over many years would be required if it were to do so. This is evidence of the hollowing out of the Defence Forces by successive Governments.

I welcome the motion. I commend the men and women who put themselves in harm's way for our sake, including the men and women in the Defence Forces.

**Senator Malcolm Byrne:** I thank the Minister of State for coming to the House. I thank Senator Craughwell for tabling this motion. It deals with an issue about which he feels passionately.

I would like to talk about some of the general principles concerning this issue. Like others, I pay tribute to all those who have worked and lost their lives in the SAR service. It is an enormously important State service. In that regard, in principle I am concerned that we are overly reliant on for-profit providers in what I view as an essential State service. I view something like this as part of a broader question that we need to ask about national security. It is in that context that I make my remarks. We need to move towards a single Air Corps SAR base that would have 24-hour helicopter response capability. We should have surveillance aeroplanes in place and we should also have the necessary primary military radar. As we have seen, particularly in the context of the recent cyberattack, the battles we will face will be very different from those faced previously. The role of SAR needs to be integrated into other areas of defence capability.

In the context of a value-for-money audit, it is important to note that if assets are purchased by the State through a State agency, at the end of the contract, such as a ten-year contract, we would have two or three helicopters as State assets that could continue to be used. That would not necessarily be the case if a private provider is contracted to provide the service. I hope that will be taken into account.

Another issue that needs to be considered, particularly given that Covid has clearly reinforced the need for the State to maintain certain key capabilities, is that members of the Air Corps cannot strike, unlike private providers. There are good reasons that those involved in providing certain essential services are not allowed to strike. That is a factor that needs to be taken into account.

There is a broader question in the context of upskilling the military. The military has helicopters and surveillance planes. I am of the view that we need to go further in terms of what is required in that context. We need co-ordinated action through which these assets can be maximised, and that includes fisheries protection. Increasingly, there will be a requirement to use the Air Corps to address some of the concerns relating to fisheries.

In light of the direction in which we are going, particularly with cybersecurity and other areas, is it appropriate for a contractor from outside the European Union to carry out what

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is essentially a sovereign task? Members have referred to the systems in operation in other countries. There is a question around a service that is as important as search and rescue being provided by a contractor that may be from outside the European Union. Consideration should also be given to the capability of the Air Corps in that regard.

In the long term, we need to look at a more integrated approach and moving the Coast Guard into the Department of Defence. We should establish a national intelligence agency under civil control that would operate outside the Departments of Defence and Justice. The Department of Defence needs to take a full lead on the issue of cyberdefence.

I am in agreement with much of what Senator Craughwell is saying in terms of the principle. Obviously, I will be supporting the Government amendments and I am conscious that we are in the middle of a tender process but there are broader questions that need to be addressed here around the kind of challenges we will face in the next decade, including the integration of the Air Corps with SAR services, the Coast Guard and fisheries protection services. We need to look at this matter in the context of defending our economic interests as well.

I welcome this important debate. The concerns that have been expressed need to be taken on board. I look forward to the broader debate on the Defence Forces, which had to be postponed, and to hearing the outcome of the report of the commission on the Defence Forces. That is really important. The recent cyberattack emphasises the need to invest in the sector more than ever before.

**Senator Tim Lombard:** I thank the Acting Chairperson for the opportunity to speak on this important motion. I compliment Senator Craughwell on bringing it forward. It is important that there be an airing of views on all aspects of where we are going with regard to air and sea services and where SAR services fit in with those.

I come from a coastal community.

I live three or three and a half miles from the sea and we have the unfortunate and positive view of seeing these helicopters work every month. On a Sunday afternoon three weeks ago, the Waterford-based SAR helicopter had to carry out a cliff rescue at Roberts Cove and take eight people off a cliff face when the tide came in. It worked in conjunction with the local Oysterhaven coastguard service. That kind of joined-up conglomeration works very well on the ground.

Senator Craughwell raised the issue of the future of the service - where it will go, how it will get there and where it will fit into the remit. There are always opportunities to question where and when we should be changing the service. The first thing to acknowledge is that the service we have is top-class and probably unique in the global context. As Senator Dooley mentioned, several pilots and other members of search and rescue services, both private and military, have been lost in the past 20 years and they should be acknowledged. They put their lives at risk every time they are called out. Video footage of the rescue at Roberts Cove to which I referred was recorded from the perspective of the winchman. It was amazing to see where the winchman stood as the crew pulled in eight people one after another. It shows the bravery of those crew members.

This is about trying to make sure that the process of signing a new contract will be transparent and considering where the military and the air services fit in. A transparent process is very important, which is why I welcome the Government amendment. It brings great clarity. As

Senator Boyhan stated, it brings much information to the process. That is what this House is about - trying to tease out these important core issues. The House should have a good debate on the motion and then move forward, perhaps through a debate with the Minister for Defence, Deputy Coveney, in the context of where this fits into the national dynamic. That is probably to where we need to push this issue. This should be the start of an important conversation because we have changed our outlook and this is becoming a country that is very much involved in the outdoors on every level. Covid has changed our lives forever, so the need for a positive and hands-on service has never been greater. I support the Government amendment. It is an important debate that this House should have.

**Senator Maria Byrne:** I thank the Minister of State for being present. Having read the motion, I understand what Senators Craughwell and Boyhan are hoping to achieve, but I know from my own area the valid part played by the search and rescue service. I support the Minister of State in the context of the Government amendment because I believe it is about value for money. When we are looking at the value of people's lives, we cannot put restrictions on that. There is a tendering process under way. I understand that everything has been done in a valid way. All the various interest groups have been consulted, as have those who have availed of the service. I pay tribute to the Air Corps because it plays such a valid role in the delivery of search and rescue services and has been involved in so many rescues through the years. I commend all those involved.

The Government countermotion is valid because there are several proposals in the motion about which I am concerned. I understand that everything must be done through the procurement process and that it is being undertaken currently by the Department. I would hate for the House to be seen as pre-empting the results of that process. I wish the Minister of State, the Air Corps and the search and rescue service all the best because they play such a valid role. Search and rescue helicopters often fly over the River Shannon as it flows through Limerick. It is sad that there is a need for the search and rescue service to be used so regularly. I do not believe we can curtail costings around it or its usage. On some occasions, there is a need for two helicopters to take part in operations on the River Shannon. I wish all those involved in the service all the best. I support the countermotion.

**Minister of State at the Department of Transport (Deputy Hildegard Naughton):** I thank the Senators for their contributions. This debate presents an opportunity to underline the importance of the Irish Coast Guard's aviation service to Ireland as a maritime nation and I welcome the opportunity to set out the current state of play in terms of the ongoing procurement process which is being managed by my Department. The motion tabled by Senators Craughwell and Boyhan relates to the coastguard contract. As Senators are aware, the Government has tabled a countermotion which we contend clarifies some of the issues raised in the motion and sets out the process being followed to ensure we procure a fit-for-purpose coastguard aviation service once the current contract ends.

The provision of an effective maritime search and rescue service is critical to Ireland as an island nation with a strong maritime sector. Throughout Covid, we have seen just how dependent we are on the maritime and shipping sector for the supply chain of essential goods and medicines. It is to the credit of the sector that it has shown such resilience in the face of the dual challenges of Covid and Brexit. Our fishing sector is also a vital lifeblood of coastal communities, allied with a buoyant and growing maritime leisure sector. All three sectors depend on the reliability and professionalism of the Irish Coast Guard and all its component parts, including the Coast Guard helicopter service, to offer them a service which can deploy at a moment's no-

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tice to rescue them when needed and bring them to a place of safety. For that reason, decisions on a significant component of that service require careful consideration. We need to ensure we procure a service that is fit for purpose, meets our domestic and international obligations and delivers value for the significant level of investment involved.

The Coast Guard has a distinguished record in delivering search and rescue services for many decades, including the management of aviation services delivered by the Air Corps and civil operators. It is leading on this process within my Department. The current contract with CHC Ireland DAC has been in place for ten years, since July 2012, with an option to extend for a period of up to three years to 2025. The contract has been extended initially for one year, to July 2023, to facilitate a seamless transition from one service to another.

Given the significant lead-in time for a procurement of this scale and importance and to ensure we are in compliance with the public spending code, the process for scoping the new service commenced in November 2019. A steering group chaired by the director of the Irish Coast Guard was established. The group comprises all key State stakeholders, including the Department of Defence and, formerly, the Air Corps. It has aviation, legal, procurement and economic appraisal advice available to it.

The Department conducted an extensive consultation process with all key State and other SAR stakeholders to consider the scope and demand for the service over the lifetime of a new contract. A strategic assessment and preliminary appraisal was undertaken which took account of all the various inputs. This was agreed by the steering group and brought to Government in July 2020. The report set out the context for the Coast Guard's aviation programme and considered the wider whole-of-government needs, including a survey of existing policies and strategies relevant to the programme. It took on board key lessons from the existing service and contractual arrangements. It identified the spending objectives of the programme, including existing arrangements and relevant business needs. It also included an appraisal of various service delivery options, including the State assuming full responsibility for the service, either through the Air Corps or a dedicated Irish Coast Guard aviation branch. Both those options were ruled out for a variety of reasons, including the level of risk that would be assumed by the State.

We are now in the next phase of the public spending code, which is the preparation of a detailed business case for Government. This is being carried out by KPMG with input from the Department's project team and external aviation expertise. It was acknowledged that the Air Corps was not in a position to take full responsibility for this service on the basis of that initial assessment, which was agreed by the Department of Defence. However, at the request of the Department of Defence in November, my Department agreed to explore the viability of the Air Corps providing some element of the SAR aviation service as part of this business case process. An Air Corps submission received in March this year is being reviewed as part of the preparation of that detailed business case. We expect this process to be completed in the coming months and a memorandum brought to Government which will recommend a preferred option and a procurement strategy to achieve that, based on that business case.

The motion calls into question the expertise available to the Coast Guard. To be clear, the Coast Guard has decades of experience in managing aviation services, whether through the Air Corps or a civil operator since 2004. To assist in certain aspects of this work, it retains the services of an aviation consultant. The current consultant was procured by open competitive tender in 2017 based on the requirements set out at that time. It has provided an excellent level

of service across a wide range of technical issues, including the current procurement process. Its technical expertise and experience embraces all relevant matters, including coastguard and SAR-related issues internationally. KPMG has also been contracted to put the detailed business case together and, in addition to its own economic and technical expertise, it has aviation expertise available to it to support this work.

In terms of compliance issues, a process auditor has been appointed from the outset to ensure compliance with procurement and public spending code procedures. The process auditor is answerable to and reports to the Secretary General of my Department regarding any concerns he may have with the process and is independent of any other reporting arrangements related to the procurement.

As the Government countermotion makes clear, there is no doubt with regard to the capability and expertise of the Air Corps in aviation matters. It is precisely for that reason that it was involved as a strategic stakeholder in the development of this project until it was requested by the Department of Defence to prepare a proposal to provide an element of the SAR service. In order to avoid any suggestion of a conflict of interest, its participation on the steering group ceased. This is about protecting the integrity of the overall process. I am satisfied that the process under way in respect of the development of the new service is robust, rigorous and fit for purpose.

The motion refers to issues relating to the existing contract with CHCI and the manner in which the tender process was conducted. The Government countermotion seeks to correct some of the claims made and set the record straight. The existing contract with CHCI was procured by way of an open competitive tender following extensive consultation with all stakeholders. That process was subject to independent external audit and no issues of concern were identified. As regards the value for money aspects of the existing contract, these were addressed as part of the original evaluation by relevant experts, including the Department of Public Expenditure and Reform and the National Treasury Management Agency.

The CHCI service is kept under constant review in terms of contractual performance. It was subject to a mid-term assessment in 2018 to identify, *inter alia*, any lessons for a new service. The contract continues to deliver against the key performance measures set for it. This is not a fixed-cost contract. There are agreed monthly standing charges and there are variable elements on top of that. There are costs associated with modifications which are agreed with the Irish Coast Guard. There can be other additional costs, all of which are provided for in the contract terms. The contract costs, on average, approximately €57 million per year, which is broadly in line with expectations at the outset.

For clarity, the requirements set out for the current tender were also the subject of extensive consultation. The assumptions and recommendations as regards these requirements, whether for surge capacity or increased range, were all agreed and validated by the helicopter study group which comprised all key State stakeholders, including the Department of Defence and the Air Corps.

It would be imprudent for any emergency service to base its requirements on historical data alone. Emergency services by their nature must provide for scenarios that may happen, even where the likelihood of such scenarios is low. A core requirement of the current service is a mass rescue scenario, which thankfully has not occurred but would require significant surge capacity which no other aviation service in the State could provide.

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As for Air Corps participation, the Department of Defence noted at the time that the Air Corps no longer had the operational or management experience required to run the SAR service required and that substantial investment in equipment and training over many years would be required before an Air Corps maritime SAR capacity could be made operational again.

The level of capacity available to the State through this contract is significant and has been utilised to supplement a wide range of aviation needs beyond purely maritime search and rescue, including assisting the HSE, the National Ambulance Service, the island communities, An Garda Síochána for land SAR incidents and the Department of Housing, Local Government and Heritage and the fire services in context of major emergency needs.

The existing service was procured using a sound rationale and validated assumptions for potential demand. The tender process was considered robust and compliant and the terms of the resulting contract were competitive and based on a thorough evaluation of the respective bids. The contract represented the best value available from the market at the time.

The current procurement process is adhering closely to all the required steps of the public spending code for current expenditure appropriate to a service such as this. It has involved all key State and non-statutory stakeholders.

The project team leading this has all expertise it needs for this stage of the process including aviation expertise with varied and relevant helicopter, SAR and regulatory experience as well as KPMG with a strong record in similar business case development.

My Department has been keen to ensure that all interested parties in the eventual tender process are dealt with fairly and transparently. In the interests of transparency, the Department held a public webinar in September which provided analysis to date to all interested parties. A dedicated web page was created on which all relevant information and updates on the process are provided to everyone at the same time. This is in addition to broadcasts submitted via eTenders to the market. This is the place to find reliable information on the process.

I endorse the approach being taken by my Department to this process which will provide the required input for the Government to make the right decision on this important matter. Therefore, I ask Senators to support the Government's amendment.

**Senator Barry Ward:** Cuirim fáilte roimh an Aire Stáit. I take into account what she has said and if it has not been done already, I am quite happy to second the Government's amendment. What she has said gives us an insight into the services provided.

This is a very strange debate to be having. We know a tender process is under way and yet a House of the Oireachtas is discussing what some of us believe the outcome of that tender process should be, which I believe is entirely inappropriate. I do not understand why we are doing that. I do not cast any aspersions on Senator Craughwell in that regard. This is an important issue that should be discussed; I have no difficulty with that. The tenor of this debate has been very much a qualitative analysis of what we see as the two competing interests in that tender process. I am slightly uncomfortable with that. I have listened to what the Minister of State has said and she has cleared up many of the issues for me in that regard.

I would like to address some of the issues I have heard mentioned in the debate. I am a great admirer of the Defence Forces in general and of the Air Corps specifically. They do us all an enormous service on a regular basis and we can be very proud of what our Defence Forces do

both at home and internationally. However, a distinction must be made between the search and rescue role of the Defence Forces and that of civilian teams. It has been bandied about whether other countries have civilian or military facilities. I know the UK, Spain, Italy, the Netherlands, Norway and Australia have civilian services. I understand that the international trend in search and rescue is to move away from a military basis towards a civilian-run service. There are very good reasons for that. It is because the Air Corps already has a considerable amount of work to do. It is busy with obligations it has to the State, including troop movements and other activities. It already has a job and it makes absolute sense that it would not be tasked in addition to that work with the enormous responsibility of providing a constant service, not just now when I need it but every minute of every hour of every day of every week of every year. That is what SAR must be because if that is not what it is, it will cost lives. To put that burden on the Air Corps would be very substantial. That is why, internationally, SAR is increasingly becoming a civilian capacity with experts in search and rescue, and governments paying the associated costs. I think everybody agrees with that.

I am concerned about some of the comments suggesting that the Coast Guard has in any way failed us. We are incredibly lucky to have an organisation such as the Coast Guard, which is staffed and run by people who are enormously professional, tremendously competent and have a fantastic track record.

Much has been made of the fact that CHC is the company responsible for running the SAR service. CHC is an Irish company with Irish employees - more than 130 Irish residents who pay taxes here. It is a registered company in this country. Although CHC stands for Canadian Helicopter Company, it is an Irish company in no uncertain terms. All the people who supplied the Sikorsky helicopters around the coast of Ireland are Irish. I have met them.

I am from a coastal community. I know people who have been saved by them in Dún Laoghaire, Sandymount Beach and Dalkey Sound. I know individuals who have been lifted from the water to safety by these people. They live in my area. They live in Dublin. People who staff the Sligo base live in the north west and the people who staff the Waterford base live in the south east. The people who operate in Shannon live in Clare and Limerick. They are Irish people and CHC is an Irish company. I would be deeply unhappy at the suggestion that there is any deficit in the services provided by Coast Guard or CHC because I see no evidence for that.

Obviously, we are aware of a disaster that occurred some years ago off the coast of Mayo. Apart from that, however, I am not aware of any controversy in the delivery of the service. My understanding is that it has always complied with the terms of the contract and the obligations placed on it by the State, which is very important. We can rely on its track record of availability and service ability.

The other complication that exists is that while we have four bases and five helicopters to cover the Republic of Ireland, they also operate beyond the Republic of Ireland. They serve our coastal waters, where they often need to interact with vessels from other countries. More importantly, they serve adjacent jurisdictions, such as Northern Ireland and parts of the Irish Sea that are not under Irish jurisdictional control or even to the north of Northern Ireland. I do not know if that is a job that can be done by a military facility. I do not know how happy the United Kingdom would be to have an Irish military SAR aircraft flying along the coast of Antrim or something like that. It happens at the moment, but it is done by civilian aircraft under contract with the Irish Government.

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As I said at the outset, I am surprised that we are having this debate. When this process comes to pass, it is important that we look at it on the basis of measurable, clear, fair and open terms, as the Minister of State indicated. The people proposing the motion and those responding to it all want a solid, reliable search and rescue service because we know that keeps our citizens and our residents safe. That is what has been happening. The process that is put in place must be fair and transparent in that regard and must deliver, after the fact, a service to exactly the same quality as that currently available.

**Senator John Cummins:** I welcome the Minister of State. I thank her for her comprehensive response to the motion. I pay tribute to the men and women who serve this country with great diligence, professionalism and bravery day in and day out, 365 days a year, be they with the Air Corps or CHC, which won the contract nearly ten years ago to operate the SAR service for the country. I acknowledge the service personnel who paid the ultimate sacrifice in trying to protect and save lives, in particular the crews of Rescue 111, which crashed in dense fog off the coast of Tramore, not too far away from where I live, in 1999, resulting in the deaths of Captain Dave O'Flaherty, Captain Michael Baker, Sergeant Paddy Mooney and Corporal Niall Byrne, and Rescue 116 which was involved in the accident at Blackrock Island off the coast of County Mayo and resulted in the deaths of pilot Dara Fitzpatrick, whom I had the pleasure of meeting many times during my two terms as Mayor of Waterford when she was expertly providing the service from Waterford Airport, co-pilot Mark Duffy, winch operator, Paul Ormsby and winch man, Ciáran Smith.

Like Senator Ward, I question if it is right that we are having this debate at a time when the commercially sensitive tender process in regard to this service is about to commence. However, this debate does give us the opportunity to acknowledge the excellent work that, as stated by Senator Ward, goes on every minute of every day in this country, by our search and rescue personnel. The tender process will provide a contract which will come into play from 2022. As mentioned by the Minister of State, the current contract can continue until 2025 if necessary. The motion calls into question the adequacy of the process which is currently under way to deliver the required evidence basis for the Government decision. It calls on the Government to assign responsibility for the delivery of the new service to the Air Corps. The motion pre-empted the outcome of a process regarding the new service which has been under way for 18 months and is nearing completion and following which the tender process will commence. As politicians, we cannot interfere in a sensitive tender process. However, I would point out to the Minister of State that the bases at Dublin, Sligo, Shannon and Waterford have served this State very well. The crew operating from those bases have served the State well too. I accept that the State does not have a direct role in where those bases are located because the contract is between CHC and the individual airports, but I would ask that it be fed-in that the geographic location of those bases allow for quick response times across the entire coast and the English Channel. I refer to the New Ross area, which has suffered many tragedies down through the years in terms of shipping accidents. It is right and proper that the State would get value for money regarding the contract to provide search and rescue services. It is a significant contract, worth approximately €50 million to €60 million per annum for ten years. For that reason, we must be cautious about every word we utter in this Chamber and outside it. We cannot have a situation where a contract that is due to be awarded would be put in jeopardy or challenged by an unsuccessful contractor as a result of some of the utterances of politicians. We must be careful and respect the independent and transparent process that is under way.

I thank the Minister of State for her comprehensive reply. I reiterate my thanks to all of the

service personnel, past and present, who provide a world class search and rescue service for our citizens and those from foreign shores in need of their service, in particular those involved in the fishing industry. Search and rescue services in Ireland are involved in over 800 call-outs and 200 incidents per annum. It is a massive responsibility, one that I know the Minister of State takes seriously. I wish her and the officials involved in the sensitive tender process every success with it in the coming months.

**Acting Chairperson (Senator Pauline O'Reilly):** I call on Senator Craughwell to respond to the debate.

**Senator Gerard P. Craughwell:** The primary concern in any search and rescue situation is the individual or individuals on top of a mountain or in the sea who need rescuing. They do not care who rescues them. They could not care less.

There has been some talk in this debate about surge capacity. It is a nonsense argument because when the *Costa Concordia* went down in Italy helicopters from all over got involved in the rescue operation. There is no historical evidence to back up the requirement for a surge capacity. If it was required, every asset in the country and in the UK would be brought in to bear on it. With respect to flying into the UK, which was raised by Senator Ward, we do it all the time. Every day of the week we fly people over and back to the UK on military aircraft. We are called on by Northern Ireland to help there to fight fires. There is no difficulty about cross-border issues.

I did not speak about Rescue 116 because I thought it was inappropriate, but I will do so now because it has been already mentioned today. That horrific accident, which happened over four years ago, has not yet been reported on. I join with the Irish Air Line Pilots Association and the European Cockpit Association in calling on the Minister of State to issue the report. It is vitally important that following an air accident a report is issued speedily in order that we can learn the lessons.

The Minister of State spoke about KPMG advising on the business case. Can she confirm if it is Frazer-Nash, the experts employed by KPMG? It is important we know the answer to that question. Yesterday, the Secretary General of the Department of Transport told the Committee of Public Accounts that after ten years the taxpayer had nothing in terms of assets to show for a spend of €60 million per annum, or €1.1 million per week. The officials were unable to point to what we got for the €34.5 million of capital expenditure. There was no satisfactory answer given to the Committee of Public Accounts yesterday as to whether the Department forensically checks the historical and current company accounts and balance sheets of would-be contractors to the Irish Coast Guard.

Earlier, Senator Buttimer asked me to put up or shut up with regard to the numbers. The statistics I have highlighted today are freely available in the public domain. There is no need to hide them. Senator Buttimer also mentioned that this matter had come before the Joint Committee on Transport and Communications and that it had declined to pursue it. The legal advice to that committee is that it does fall within the remit of an Oireachtas committee to oversee what is going on in a Department with respect to spending. I call on the Minister of State to write to the Joint Committee on Transport and Communications requesting that it do that. The public has a right to know that the process that is being followed is 100% transparent. As mentioned by many of the speakers today, this is about transparency.

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I may be wrong, but I heard anecdotally that during a recent meeting Defence Forces officers were refused entry for fear of corrupting the system. Contrary to what we are being led to believe, the Defence Forces would not have to tender to be part of the search and rescue service. They would be tasked by the Government to do that. The Defence Forces do not tender for anything. If Government wants them to do something, it tasks them to do the job. That is not in breach of any EU regulation and so on.

There is a lot of flattery in this House of the Defence Forces. I am not saying that is the case today necessarily, but there is a lot of flattery of them. The Defence Forces are available 24-7, 365 days of the year, ready, willing and able. The one thing they cannot do, but a private contractor can do, is strike. The Air Corps would not, at any time, be found wanting.

I have one thing to say about resilience. We have five Sikorsky S-92 helicopters. What is wrong with having a couple of AugustaWestland AW139s? The answer relates to resilience. If a Sikorsky is grounded due to a technical issue, as happens in aviation, there would be a second line of support in place. Ultimately, the Air Corps should be involved in SAR to protect this State in all circumstances.

Amendment put and declared carried.

Motion, as amended, put and declared carried.

The Seanad adjourned at 5.46 p.m. until 10.30 a.m. on Monday, 31 May 2021.