

BILLET D'ETAT FOR 21-03-2007

Date: 21st March, 2007

Members of the States:

I have the honour to inform you that the Meeting of the States will be held at 5:30pm on Wednesday 21st March. This will be preceded by the People's Meeting, which will be held on Wednesday 14th March at 7:00pm. in the Island Hall.

Sir Norman Browse

Item I Chief Pleas

Item II Replacement of Main Sewer and Outfall

The following letter has been received from Mr Walden, Chairman of the General Services Committee: -
"It has for many years been known that the Island outfall sewer from the Island Hall to the outfall at Crabby is inadequate in respect of being able to deal with the flows generated and is in poor structural condition.

The outfall serves the whole of St Anne's and carries all of the foul, surface water and highway water from this catchment.

The Original town sewerage system installed in the mid 1900's terminated at the rear wall of the Island Hall, in a 36" x 24" brick egg-shaped sewer. This presumably then ran in a ditch through the Valley Gardens, followed La Vallée and ultimately discharged to the sea.

At some later stage, the ditch section was piped with a 15" salt glazed pipe, which was both inadequate to take storm flows and either laid poorly or has deteriorated since installation such that the structural condition is poor and the lengths in the Valley Garden have substantial tree root intrusion at joints (this has been verified by CCTV inspection).

The result of this is that in periods of modest rainfall, the first manhole immediately behind the Island Hall overtops and floods the top of the Valley Garden with foul sewage.

As the gradient of the existing sewer then increases down to the bottom of La Vallée, the storm flow is then contained (except for heavy rainfall events) within the sewer until it reaches the junction of La Vallée and Crabby Road.

The existing sewer gradient then decreases and even with the reduced flow lifts this cover and discharges on to the highway at this point even under modest rainfall events. There is also external flooding in the gardens of adjacent properties during these events.

During the last few years, the General Services Committee and Building and Development Control Committee have restricted new development in areas that are served by the sewer, so as not to exacerbate the situation. Connection has been refused to the Clos Carré Estate.

There have been some questions asked concerning the design of the sewer, particularly the size, on which

I comment below: -

1. The size has been determined by the States Engineer and the Assistant States Engineer, by: -

a. Calculating the maximum capacity of the existing 36" x 24" sewer.

b. Carrying out a basic catchment analysis of the area served by the sewer.

Both gave similar results.

2. It should be remembered that when the original 36" x 24" sewer was installed, most properties in the catchment would have had the roof water diverted to a cistern for domestic use - development since and the installation of piped potable water to all dwellings mean that much of this water now goes into the sewer.

3. The sewer design life is fifty years plus. It would not be prudent to install a sewer which did not have an element of "future proofing" to allow for potential new development and (as unfortunately happens), new separately-served drainage developments diverting surface water to the foul drainage systems as time goes by.

4. The actual increase in cost for increasing pipe size, say 750mm diameter to 900mm diameter is less than 10%. The increase in allowable flows is in the order of 50% - a small price to pay for "future proofing".

On the question of part replacement of the sewer, this would not achieve the aims of the project as any upstream improvements (Valley Gardens for instance) would only move the point of overflow further down the outfall i.e. into La Vallée Road itself.

Up sizing/improvements to the lower part of the outfall would have some beneficial effect with occasional tide-lock situation but would not relieve the major areas of foul water flooding.

Finally, provision has been made at the chamber at the junction of La Vallée and Crabby Road for the retrofitting of a storm water overflow should the planned installation of basic sewage treatment take place.

This overflow would allow dry weather flows to be diverted to treatment, whereas storm water flows would continue to be discharged via the new downstream combined outfall.

At the meeting of the GSC at 12.00(noon) on the 20th December 2006, returned tenders were opened for the above project. 4 tenders were received, the Committee having previously been informed that Mr JF Main had prior to that date declined to tender.

Tenders received were:-

£ Tender 1. Geomarine - £1,173,805.28 (An alternative solution costed at £565,737.54 was submitted).

£ Tender 2. Ian Tugby - no tender was included in the return envelopes, but a letter indicated he was unwilling to tender.

£ Tender 3. A J Bohan - £1,355,099.00

£ Tender 4. Crocker Civil Engineering Ltd - £1,122,979.65

Tenders were subsequently checked arithmetically and a comparison made of the parts and classes within each part.

The alternative tender from Geomarine after detailed examination, was found to be based on incorrect assumptions which invalidated the proposed works as a complete solution to the primary project problems outlined above.

Examination of the three conforming tenders, on the grounds of quality, Health and Safety, company background and value for money led the Policy and Finance Committee to resolve overwhelmingly (one abstention) to recommend the acceptance of the tender from Geomarine Ltd in the sum of £1,173,805.28 as the tender which fulfilled the States requirements best.

Additional costs for the substantial final highway reinstatement required (estimated £50K) and supervision of the works on site (estimated £35K) lead to an increase in total scheme costs of £85,000.

The Policy and Finance has approved this project and also endorsed the previous decision that £500,000 of the scheme costs be funded from the Alderney Gambling Control Commission reserves.

It is proposed that the balance of £758,805.28 is met from the Alderney Capital Allocation in which there

are funds available at present, due to previous slippage with capital projects. However as future projects are currently being prioritised by the States, and have yet to be agreed, some less urgent projects may have to be postponed.

The States is asked to resolve, after consideration of the report from the Chairman of the General Services Committee, and subject to approval by the Treasury and Resources Department, and if necessary the States of Deliberation, to: -

1. Authorise the replacement of La Vallee Sewer and outfall as detailed in the report.
2. Accept the tender from Geomarine Ltd in the sum of £1,173,805.28.
3. Approve the additional costs of £85,000 to cover highway reinstatement and supervision.
4. Vote the sum of £1,258,805.28 to cover the overall cost of the project, £500,000 of which be taken from the Alderney Gambling Control Commission reserves, and the balance of £758,805.28 from the States of Alderney Capital allocation.

Mr W Walden
Chairman"

The States is asked to resolve, after consideration of the report from the Chairman of the General Services Committee, and subject to approval by the Treasury and Resources Department, and if necessary the States of Deliberation, to: -

1. Authorise the replacement of La Vallee Sewer and outfall as detailed in the report.
2. Accept the tender from Geomarine Ltd in the sum of £1,173,805.28.
3. Approve the additional costs of £85,000 to cover highway reinstatement and supervision.
4. Vote the sum of £1,258,805.28 to cover the overall cost of the project, £500,000 of which be taken from the Alderney Gambling Control Commission reserves, and the balance of £758,805.28 from the States of Alderney Capital allocation.

Item III Renewable Energy (Alderney) Law, 2007

The following letter has been received from Mr Willmott, Chairman of the Policy and Finance Committee:

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"The States resolved in May 2005 to set up what it then described as a Commission for the Exploitation of Natural Energy. This was followed by Heads of Agreement entered into between the States of Alderney and Alderney Renewable Energy ("ARE") and, in December 2005, a formal "Agreement Relating to the Tidal Energy Project" ("the Agreement") between the same parties. During this process the name of the proposed regulatory body was changed to the Alderney Commission for Renewable Energy ("ACRE"). Clause 8.3 of the Agreement commits the States "to use all reasonable efforts to form ACRE as soon as reasonably practicable." The States has no power to do this by Ordinance so a Projet de Loi is required. The Agreement envisages the States' powers and obligations set out in it being transferred to ACRE "immediately following its establishment." The Renewable Energy (Alderney) Law, 2007 (copy attached) will, if approved by the States and sanctioned by Her Majesty in Council, establish ACRE as a legal entity. It should be noted that the Law provides (at section 29) for any amendment of it to be by Ordinance. I will be obliged if the Renewable Energy (Alderney) Law, 2007 is placed before the States at its next meeting together with an appropriate proposition.

Mr R Willmott
Chairman"

The States is asked to resolve to approve the Projet de Loi entitled "The Renewable Energy (Alderney) Law, 2007" and to request the President to seek the Sanction of Her Most Excellent Majesty in Council for it to have the force of law in the Island of Alderney.

Item IV St Anne's House

The following letter has been received from Mr Willmott, Chairman of the Policy and Finance Committee:

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"At its Meeting held on 17th September 2003 the States resolved *inter alia*, and subject to approval by the States of Deliberation, to direct the Policy and Finance Committee on completion of the works at the Island Hall and the Court House to sell St Anne's House and return the proceeds to the Capital Allocation. The States of Deliberation, in due course, noted the intention of the States of Alderney to sell St Anne's House. The works at the Island Hall have been completed but those at the Court House have yet to be undertaken.

The Alderney Gambling Control Commission currently leases premises from Alderney Electricity Limited but these are no longer available to them in the medium to long term. St Anne's House would, subject to some modification and improvement, be suitable for the needs of the Commission. However, the resolution of 17th September 2003 presently prevents the States leasing St Anne's House to the Commission, as there is a commitment to sell the property. Leasing it to the Commission would provide income while allowing the States to retain the freehold of an improved property. In principle, the Policy and Finance Committee is in favour of this but the resolution of 17th September 2003 will need to be rescinded if this is to be done.

I will be obliged if this letter is placed before the States at its next meeting together with an appropriate proposition.

Mr R Willmott
Chairman"

The States is asked to resolve that its resolution of 17 September 2003 directing the Policy and Finance Committee on completion of the works at the Island Hall and the Court House to sell St Anne's House and return the proceeds to Capital Allocation be rescinded and to further resolve that St Anne's House be leased to the Alderney Gambling Control Commission for such period and on such terms as the Policy and Finance Committee shall determine.

Item V The Housing (Exemptions) (Alderney) Ordinance, 2007

The following letter has been received from Mr Main, Chairman of the Building and Development Control Committee:

"I attach a copy of the above Ordinance.

The Committee is minded to approve the creation of a new first floor at 51 Victoria Street for the purpose of providing two units for residential use. This is conditional upon the units being made available for letting throughout the period of seven years from the date of completion of construction as permanent residential accommodation for persons ordinarily resident in Alderney, there being a shortage of such accommodation on the Island. However, the States must first approve an Ordinance under section 33(1)(c) of the Building and Development Control (Alderney) Law, 2002, prescribing Pollo Limited as a person to whom permission may be granted.

The necessary Ordinance has been drafted by the Law Officers.

I will be obliged if the Ordinance is placed before the States at its next Meeting together with an appropriate proposition.

Mr C J Main
Chairman"

The States is asked to approve "The Housing Exemptions (Alderney) Ordinance, 2007".

Item VI The Smoking (Prohibition in Public Places and Workplaces) (Alderney) Law, 2007

The following letter has been received from Mr Willmott, Chairman of the Policy and Finance Committee:-

"As things presently stand the WHO Convention on Tobacco Control ("the Convention") cannot be extended to Alderney as our existing laws are insufficient to give effect to its provisions. A first step towards compliance would be to enact legislation along the lines of that already in force in Guernsey prohibiting smoking in enclosed public places and workplaces. Similar legislation came into effect in Jersey on 2nd January 2007.

The States of Alderney has no lawmaking power at present, which would enable it to pass such legislation. I attach a copy of The Smoking (Prohibition in Public Places and Workplaces) (Alderney) Law, 2007 which, if approved both by the States of Alderney and sanctioned by Her Majesty in Council, will give the States this power.

It should be noted that the basic prohibition set out in section 1 cannot come into effect until the States so provides by Ordinance (section 6(2)), that different days may be appointed for different provisions or different purposes and that the States may provide by Ordinance for exemptions for any premises, or class or description of premises, or any part of any such premises or class or description of premises, from the provisions of the Law. Without the Law, no prohibition can be brought into effect by the States but, as stated above, such a prohibition, even when provided in a Law, cannot come into effect (with or without exemptions) unless and until the States so provides by Ordinance. There is, therefore, ample time for a full public debate of the underlying issues.

Initial public consultation, initiated by a notice in the Alderney Journal in 2005, produced little public response. As things stand, employees work in conditions where their health is placed at risk because of smoking. There also now seems to be a feeling among some in the hospitality industry in Alderney that a smoking prohibition in premises where visitors are accommodated and eat and drink would assist in maintaining Alderney's competitiveness as against jurisdictions where such a prohibition is already in place.

I will be obliged if the Smoking (Prohibition in Public Places and Workplaces) (Alderney) Law, 2007 is placed before the States at its next Meeting together with an appropriate proposition.

Mr R Willmott
Chairman"

The States is asked to resolve to approve the Projet de Loi entitled "The Smoking (Prohibition in Public Places and Workplaces) (Alderney) Law, 2007" and to request the President to seek the Sanction of Her Most Excellent Majesty in Council for it to have the force of law in the Island of Alderney.

Item VII The Alderney eGambling (Amendment) (No. 2) Regulations 2006

The following letter has been received from Mr Willmott, Chairman of the Policy and Finance Committee:-

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"I attach a copy of the above, made by the Alderney Gambling Control Commission in exercise of the powers conferred on it by sections 20 and 25 of the Alderney e-Gambling Ordinance, 2006 ("the Ordinance").

The Regulations were made on 19th December 2006 and came into operation on that day. However, by

virtue of the provisions of section 25(i)(c) of the Ordinance they must be laid before the States at its March Meeting. It will then be open to the States to annul them at this or its next Meeting (although I am not aware of any reason why it should do so and will recommend that the States resolves not to annul them). You will see that the Regulations reduce the minimum period after which a customer's notification to an e-Gambling licensee increasing or removing his self imposed limitation on his gambling activity takes effect from seven days to twenty four hours. The Employment, Legislation and Constitution Group of the Policy and Finance Committee sought clarification on behalf of the Committee of the reasons and justification for the reduction of this minimum period, which was duly provided to the Committee. It is evident that the issue was fully explored by the Commission, that legal advice was received and, most importantly, that the views of Gamcare and the United Kingdom Gambling Commission fully supported the step being taken.

I will be obliged if the Alderney eGambling (Amendment) (No.2) Regulations, 2006 are placed before the States at its next Meeting together with an appropriate proposition.

Mr R Willmott

Chairman"

The States is asked to resolve that "The Alderney eGambling (Amendment) (No.2) Regulations, 2006" not be annulled.

Item VIII The Uniform Scale of Fines (Alderney) (Amendment) Ordinance 2007

The following letter has been received from Mr Willmott, Chairman of the Policy and Finance Committee:

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"The Uniform Scale of Fines (Alderney) Law 1989 ("the Law") sets the level of fines which may be imposed in relation to offences under Alderney Laws. The last amendment of the Law was in 2001, when the present fine levels were brought into line with those then applicable in Guernsey.

It is desirable that fine levels are reviewed from time to time. The States of Guernsey approved the Uniform Scale of Fines (Bailiwick of Guernsey) (Amendment) Ordinance 2006 on 26th July 2006. The effect of this is that maximum fine levels in Guernsey now stand at twice those for similar offences in Alderney. This may lead to an increasing number of offenders being sent to Guernsey for trial on the basis that fine levels in Alderney may be insufficient to properly reflect the seriousness of the offending or there being inconsistencies in sentencing between the two jurisdictions. The Uniform Scale of Fines (Alderney) (Amendment) Ordinance 2007 (copy attached) will, if approved by the States, correct the present imbalance by bringing Alderney's fine levels into line with those applying in the equivalent court in Guernsey.

I will be grateful if the Uniform Scale of Fines (Alderney) (Amendment) Ordinance 2007 is placed before the States at its next meeting together with an appropriate proposition.

Mr R Willmott

Chairman"

The States is asked to resolve that "The Uniform Scale of Fines (Alderney) (Amendment) Ordinance 2007" be approved.

Item IX Sub-delegation of Executive Functions

The following letter has been received from Mr Willmott, Chairman of the Policy and Finance Committee:-

" Section 1 of the Government of Alderney Law, 2004 ("the Law") provides that executive functions of the States may, by resolution of the States, be conferred on a committee of the States. Ordinarily, this is dealt with by what are termed the committee mandates but it can arise under statutory powers as well. However, without the authority of the States, a committee may not sub-delegate any of its executive functions to a subcommittee without requiring that the prior approval of the committee be obtained to any action proposed to be taken by the subcommittee. In effect, this requires decisions to be referred back to the full committee. This is inconvenient and can lead to unacceptable delay in the decision making process, e.g. when considering applications for employment permits.

The Policy and Finance Committee, which now comprises all States Members, has identified a number of functions which it currently deals with under its mandate or legislation but which it believes can properly be conferred on sub-committees. It has already established a Finance Advisory Group, Waste Advisory Group and an Employment, Legislation and Constitution Advisory Group but, at present, these have no decision making powers without reference back to the committee. The committee wishes to confer the power to make decisions relating to employment permits on the Employment, Legislation and Constitution Group and the following functions on the Finance Advisory Group:-

- a. to deal with States borrowings authorised by the States for specific purposes
- b. to be responsible for States insurances
- c. to be responsible for postage stamp and coin issues and design approvals
- d. to deal with grants not exceeding £5,000
- e. to deal with Hawkers Licences

I will be obliged if this letter is placed before the States at its next Meeting together with an appropriate proposition.

Mr Willmott
Chairman"

The States is asked to resolve that the following functions be conferred on the Employment, Legislation and Constitution Group (or any other sub-committee of the Policy and Finance Committee consisting of at least three of its members and appointed by it for the purpose) without requiring the prior approval of the committee to be obtained to any action proposed to be taken by it: -

All functions of the Policy and Finance Committee arising under the provisions of The Employment Permits (Alderney) Law, 1975 (as amended).

The States is asked to further resolve that the following functions be conferred on the Finance Advisory Group (or any other sub-committee of the Policy and Finance Committee consisting of at least three of its members and appointed by it for the purpose) without requiring the prior approval of the committee to be obtained to any action proposed to be taken by it: -

- a. to deal with States borrowings authorised by the States for specific purposes
- b. to be responsible for States insurances
- c. to be responsible for postage stamp and coin issues and design approvals
- d. to deal with grants not exceeding £5000
- e. to deal with Hawkers Licences.

Item X Questions and Reports

Issued Friday 9th March 2007

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