



**OFFICIAL REPORT**

**OF THE**

**STATES OF THE**

**ISLAND OF ALDERNEY**

**HANSARD**

**The Court House, Alderney, Wednesday, 21st October 2015**

*All published Official Reports can be found on the  
official States of Alderney website [www.alderney.gov.gg](http://www.alderney.gov.gg)*

**Volume 3, No. 7**

**Present:**

**Mr Stuart Trought, President**

**Members**

Mr Matthew Birmingham

Mr Louis Jean

Mr Robert McDowall

Mr Graham McKinley

Mr Steve Roberts

Mr Christopher Rowley

Mr Francis Simonet

**The Greffier of the Court**

Mr Jonathan Anderson

**Business transacted**

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## States of Alderney

*The States met at 5.28 p.m. in the presence of  
Colonel Colin Mason, a representative of the Lieutenant-Governor  
and Commander-in-Chief of the Bailiwick of Guernsey*

[THE PRESIDENT *in the Chair*]

### PRAYERS

*The Greffier*

**The Greffier:** Good evening, Mr President.  
If you are ready I will proceed with the roll call.

5 **The President:** Yes, you can call the roll, please.

### ROLL CALL

*The Greffier*

### Confirmation of quorum

10 **The President:** Mr Greffier, can you please confirm that we are quorate for business?

**The Greffier:** Yes sir, we have seven Members present this evening.

**The President:** Thank you very much indeed.

### Best wishes to Mr Ian Tugby

15 **The President:** Before we start this evening's proceedings, I am sure that you will all know that Mr Ian Tugby is unwell and in hospital at the moment and I am sure you will all join me in wishing him a speedy recovery.

**Members:** Hear, hear.

### Convener's Report of the People's Meeting held on 14th October 2015

20 **The President:** Then, if we could move to the Convener's report, please, Mr McDowell.

**Mr McDowell:** Yes, thank you very much, Mr President, ladies and gentlemen.

25 Yes, the People's Meeting took place on 14th October in the Island Hall. The President was present. I was assisted by the Chief Executive Treasurer. There were 28 members of the public present; four members of the press and eight States Members including myself.

On Item I: Budgets for 2016 –

**The President:** Can we just wait for that Mr McDowell, until it is called? Thank you.

## Billet d'État for Wednesday 21st October 2015

### I. Budgets for 2016 and Revised Budgets 2015 – Item approved

*Item I.*

*The States is asked, after consideration of the Budget Report, to accept:*

*i. The States of Alderney Revenue and Capital Budgets for 2016*

*and*

*ii. The States of Alderney Water Board Revenue and Capital Budgets for 2016*

30 **The President:** Mr Greffier, could we move to Item I, please.

**The Greffier:** Yes, sir.

Item I is Budgets for 2016 and Revised Budgets of 2015.

35 A letter has been received from Mr Harvey, in his capacity as Chairman of the Policy & Finance Committee, and the States of Alderney have been asked, after consideration of the Budget Report, to accept: firstly, the States of Alderney Revenue and Capital Budgets for 2016 and secondly, the States of Alderney Water Board Revenue and Capital Budgets for 2016.

**The President:** Thank you very much indeed.

40 Mr McDowall, as Convener, were there any comments on Item I please?

**Mr McDowall:** Yes, indeed, Mr President, ladies and gentlemen.

The Convener and the Treasurer apologised for the technical error in the BDCC figures on the summary, which has now been resolved.

45 There were several queries on the Economic Development Initiatives, including: Investor Residence Programme; immigration/residency controls; evaluation of broadband infrastructure; blockchain technology research – where I see I agreed to hold a public presentation on the subject for further clarity; creation of Anti-Money Laundering Centre of Excellence; asset management and review of education provision.

50 The Convener gave an overview of these initiatives, thereby clarifying the queries. It was confirmed that an electronic copy of the Economic Development Plan will be available to the public in due course and indeed that will be so after the P&F meeting next Monday.

Other comments on the Item included: the amount of information included in the Budget Report. We were complimented on that.

55 The Marketing Budget: the Treasurer clarified that the increase in staff costs in 2016 is to allow the filling of a vacancy. The increase in premises figures are due to the voluntary VIC being solely used by the States of Alderney in 2016 to cover rent etc. as these costs are currently

shared with the Alderney Wildlife Trust. The reduction in marketing support is due to some work now being absorbed under economic development.

60 There were questions on the Apprenticeship Scheme. Mrs Norma Paris clarified that the extension of the Apprenticeship Scheme is a new initiative supported by a committee, which is still in the research stages.

There was a question on the St John Ambulance. It was clarified that the additional grant of £30,000 for the 2015-16 was allocated to the Budget and is towards the funding of a new ambulance. The grant will decrease to the original amount of £42,000 from 2017.

65 It was stated that the States' funding for a new ambulance with the taxpayers' money was such that the public should not be charged £200 per call out. That is those who do not subscribe to St John Ambulance. The Chief Executive advised that on-going discussions are being held with the service about the call-out charges.

70 And finally, on the Water Board, it was clarified that the standby filtration plant had been deferred to 2016-17 pending further investigations and costs.

Water contamination from something called PFOS, Perfluorooctanesulfonic acid, was raised. It was clarified: the Island's main water supply is not affected by this contamination. And it was further noted that any costs in resolving this issue will be met by Guernsey as part of the insurance claim.

75 Finally, the Water Board was praised for its work.

**The President:** Thank you very much, Mr McDowall.

I believe you wish to propose this Item as well?

80

**Mr McDowall:** Indeed I do.

Yes, Mr President, ladies and gentlemen, I would like to take this opportunity to propose the Revised Budget and Budget for 2016. I would just like to run through a few of the highlights.

85 The annual budget provides a framework. They do not bind the States to spend in any particular areas, nor do they preclude the States from choosing to vary the level and standards of service it provides. Speaking, as it were, tangentially, I would like to see us move to the zero-based budgeting at some point in the future, but that is a discussion for another time.

The 2016 revenue allocation from Guernsey is set at £1.9 million, which is similar to 2015, but there will be some small increase for expected pay awards.

90 The Capital Programme is funded by the Gaming Commission; surpluses to go with some locally raised revenue from property duties and asset sales. That is over £1.7 million for 2016. There is no cash allocation received from Guernsey in respect of capital funding.

The Water Board Revenue Account is expected to raise £645,000 from water rates and charges, which in 2016 will cover its operating costs.

95 It should also be noted that the Water Board Capital Programme continues successfully to be funded by grants from the States, which have totalled £2.2 million since 2008, with a further grant of £250,000 anticipated for 2016. I think we have to bear in mind for the future that this continued funding of the Water Board cannot take place solely from the States and, as I will say later, we have proposed a modest increase in the water rates. But the States have put a lot of money into the Water Board since 2008.

100 We have the Economic Development Reserve and I think it is important: this started in 2014 and is funded from the gaming revenues at £300,000 per annum, for a period of three years. So, that is 2014, 2015 and 2016. That is to finance research and development of initiatives to improve the economy. Some will attract inward investment by way of direct and indirect revenue. It is important to point out that, although the funding expires at the end of 2016, any unspent balances will be rolled forward until they have been expended. More importantly, each initiative is subject to an approval process for normal spending levels by Policy & Finance and will require application and measurement standards and regular updates. However, the fund does allow flexibility without affecting the Revenue Account, which is under pressure. I

110 personally hope – and it is a discussion for another time – that the continuation of that Economic Development Reserve Fund continues beyond 2016.

We also set out the initiatives in the Economic Development Plan and, as I say, that will be published, available to the public, from Tuesday, the day after the Economic Development meeting.

115 I think a couple of other points: the senior managers from each Department are delegated with full responsibility for their budgets, as Principal Budget Holders. It is important that they manage those budgets correctly and accurately, and I know there has been some considerable amount of training gone into that this year.

120 A couple of other points I would like to make: there was a small underspend in 2014, of the Revenue Budget, so the revenue allocation for 2015 is just under £1.9 million. I may also say at this point, I find it quite absurd, under the crude accounting rules that we have, that surpluses have to be sent back and cannot be rolled over and that, obviously, deficits we fund from our own sources. This is not a very sensible way of running revenue accounts and I hope this can be changed as part of the Financial Review.

125 Just two or three points in conclusion: I think we must accept that Guernsey, in response to its own growing costs and revenue challenges – and I know everyone is aware of that – will continue to seek reduced revenue expenditure and this will include contributions to Alderney. It is important that the States and the civil servants, the executive, demonstrate efficiency in spending and working practices.

130 The States of Alderney must continue to have a closer and harder look at opportunities to create direct home-grown revenue streams, as well as maximising the opportunities with existing streams, where this is justified and, over the next month or two, there will be an announcement on two modest, local revenue generating schemes.

135 The major challenge in capital spending is our capacity and resources and capability to deliver what is in the Budget. We have historically underspent, certainly for the last three years by nearly £½ million each year. Part of that is due to the rather torturous approval process; part because we often do not have the capacity and capability to deliver and that really has to be addressed seriously in this next year, if we are to show that we can responsibly manage our own budgets.

140 Finally, the Financial Relationship Review with Guernsey is particularly important for Alderney in the year ahead. It will define the main cost and income flows – some of this information is available already – but seek ways to reduce outdated bureaucracy and permit the States of Alderney a greater measure of control over the economic levers for the Island. I think that is an extremely important issue that we will hear more about over the next few months.

145 Finally, I would like to thank the Treasurer and her staff for the work in delivering a working Budget this year under the continuing costs of revenue pressure: a feature, I fear is there for all the Channel Islands for the foreseeable future.

Thank you very much.

150 **The President:** Thank you, Mr McDowall.

Mr Simonet, I believe you wish to second this motion.

**Mr Simonet:** Yes, indeed I do, Mr President. I am pleased to second the Budget.

155 I will say a few words on it now. I wish to thank Mr McDowall, firstly for his detailed and informative explanation of the Budget. Mr McDowall has worked closely with the Treasurer and our Chief Executive Officer to prepare this Budget within the framework of known and forecasted revenues, the proposed capital expenditure and our Strategic Economic Plan. Every States Department has been involved as part of this process. Every States Member has been consulted and has contributed to this Budget Report.

160 In my view, there is much to be positive about in this Report. Although the pressure on the Revenue Budget continues to present significant challenges for the delivery of services, our

States Departments, on whom this burden falls, have continued to demonstrate the determination to review and improve their working practices and make long-term savings wherever possible. They deserve our continued support.

165 I would like, at this point, to highlight the progress being made with those items that feature in the Budget Report that are designed to develop new income streams and initiatives to strengthen our economy:

Transport links: these vital services are the pillars on which our economy is built. We will continue to pursue the improvements to the level of service provided and seek alternative solutions of our own, when appropriate.

170 The investor immigration proposal: this Alderney initiative is now reaching the stage, after protracted discussions with the States of Guernsey, where the final decision cannot be too long delayed. If successful, it has the potential to provide the revenue stream to build the foundations of a vibrant and stable economy.

175 The Alderney Gambling Control Commission who supply most of our capital funding has been subjected to many serious challenges from other jurisdictions over the past few years. I am pleased to say that these challenges are being met, strategic decisions are being made and a road map for further development is in place. The outlook for next year and the foreseeable future is now one of cautious but steadfast optimism.

180 PricewaterhouseCoopers, a company that has an impeccable, world-wide reputation have established a Know Your Customer Centre of Excellence here on Alderney, with seven new quality jobs already created. If this private concept is successful, then it will provide a substantial number of career opportunities for local residents and attract new residents to the Island.

185 Mr President, this Budget also allocates funds to support financially sound and feasible initiatives such as blockchain technology; review of the BDC law; review of the company law; marina development proposal; broadband infrastructure; aviation fuel subsidy; tidal energy and much more. All designed to improve the economic performance of this Island and all are expected to be well advanced or completed during 2016.

190 This Budget is indicative of the determination of this States to build an economic platform that will serve this Island well for many years. The unmistakable message it sends to all who will listen is that Alderney has a sound economic strategy and is open for business.

Thank you, Mr President.

**The President:** Than you, Mr Simonet.

195 Does any Member wish to speak on this Item?

**Mr Jean:** If I may.

**The President:** Mr Jean.

200

**Mr Jean:** Thank you.

The Budget this year is interesting. First of all, I want to go through the Items I am concerned about and I think that we, to a degree, should all be concerned about them.

205 I am going to support the Budget. I will say that first out and I will thank Mr McDowall for working with me on particular issues this year and I realise too that Mr McDowall has to, to an extent, abide by the will of the States of Alderney and we all try to work together.

These are my concerns: the Budget talks about the increase to cover pay awards. Guernsey has the same problem. I am not happy about that, because the private sector cannot catch up. No increase in their salary.

210 There is now a proposed increase in the water rates for November. The Water Board has made a £43,000 surplus. I do not believe that we should increase the water rate. I have made that very clear before. We must be careful. The Water Board, also, is entitled to access capital

expenditure and there are States Members who are not happy about this and resent it. I do not. The Water Board has always been money well spent.

215 The Economic Development Reserve: £300,000. I have not yet seen a great yield from this, although I do know and I accept that there is a great deal going on behind the scenes.

Like, Mr Simonet, I applaud the fact that PricewaterhouseCoopers are coming, the anti-money laundering agency and I am very grateful to see that.

220 I would like to see, and I always have, money more directly spent. For instance, I see here another thing that concerns me, a very great deal of money: Island-wide broadband. Why must we pay up to £760,000? Should the operator contribute? These are questions I ask.

225 The Harbour: the VES Scheme may, in my opinion, have removed one member of staff who could have been trained to be our pilot. We have a problem there and there is a slight deficit, though less on the Harbour than 2014. My feeling about that is I am very disappointed that none of the staff would or wanted to be trained and that one member of staff that was removed may have been the solution to our problem. We must be careful, again, with money like this, because we haemorrhage money away: bringing pilots in; putting them up overnight and it is not really the solution. So we must, more avidly, look for a solution to that problem.

230 The Young Entrepreneur Scheme: I, of course, support this. I would like to know how many have benefited from it. I think, by what I have heard, not that many. I am concerned about it.

The AVGAS subsidy to AEL: why are we subsidising AEL in this way? When Mr Michaelides left the airport, AEL were only too keen to take over this operation.

235 Seventeen thousand pounds: Agriculture and Fisheries, for exploration of a marine park. I say this now; it is one of the first opportunities I have had to say it in the States: the fishermen – and there are only six or seven of them – are clearly against this and do not want it explored. I would like to see that money saved for more direct action.

240 Mentioning the VES Scheme, we will still pay for this for some years to come: £500,000. The message is getting there. We need to realise and clearly the message is getting there, that we need to try very hard to not raise expenses to the public here. We have situations where many things are doubled up and more expensive. For instance, I am delighted to see the decision not to raise the rates this year. I am delighted.

245 What I am talking about are things like: what can we do and things that we can and should be looking for ways to do, to try to remove and find a way to manage without Congé, because this impedes our property market from progressing and it means also that we have a very unusual situation here in Alderney where, on property sale, we are actually double taxed, because we also have the Guernsey Document Duty to pay. When you look at that and you pile it up together, it is quite a sum involved in buying a property in Document Duty and Congé.

250 We should also be looking ... And this is what I mean by direct action. You may find me slightly simplistic in my approach, but I assure you that I am well-meaning. I have also believed, for some considerable time, that we should be examining, closely, our domestic situation: the way our oil is delivered and supplied. We have got ourselves into a situation where AEL jumped in the middle and we have got a second retailer taking a slice of the cake. These things should be examined. We should also look and try hard to find ways to remove the £15 a tonne off the tax on oil, which the States of Alderney has self-imposed.

255 We must try to follow the tax footprint of Guernsey if the economy is to recover and, particularly for me, although, as I say, perhaps slightly more simplistic than others, my approach is very direct and I believe that these things, if one of two of them were done, would start to stabilise the situation.

I thank you, sir.

260 Also, before I sit down, would like to thank Mr McDowall for the work that we have done together and there are many good things in his Budget, which I am truly delighted about. I believe that more progress on this ... And keep going!

Thank you.



265 **The President:** Thank you, Mr Jean.  
Does any other Member wish to speak on this?  
Mr McKinley.

270 **Mr McKinley:** Mr President, I am glad that Mr Jean brought up the question of the network connection. It was actually asked at the People's Meeting by one of the attendees and it was assumed, I think, that we were going to pay for it, rather than getting any money out of it. I would ask Mr McDowall just to clarify that in fact even if we do pay for it, we will, in fact, roll over to some revenue coming from that in due course. And that would make people feel a lot happier.

275 The other question, actually, not directly related to the Budget, but something that is going around in Guernsey this very day and actually has been going round for some time, and I mentioned to Mr McDowall before the meeting: the general belief that we in Alderney are making £51 million a year from the Alderney Gambling Commission. *(Laughter and interjection)*  
280 Now I know that we here and I hope most of the people concerned with this meeting know that that is not so, but we need to clarify that situation and make it quite clear to Guernsey that we are making very much less than that. It is something, I believe, in middle of about £2 million. *(Interjection)*

Thank you, very much, sir.

285 **The President:** Thank you, Mr McKinley.  
Does any other Member wish to speak on Item I?

In that case, Mr Greffier, could I ask you to call the vote as two separate things, please: one for the States of Alderney and Revenue. *(Interjection)* Yes, just one minute. And, secondly, as part (ii), as stated in the Billet.

290 Mr McDowall, I very rudely forgot to invite you to sum up. Please do so.

**Mr McDowall:** Thank you very much, Mr President.

Yes, I would like to attempt to answer Mr Jean's questions and I know they were put in a well-meaning spirit.

295 The pay awards: I am afraid I do not control them, but I always have sympathy for whenever the private sector suffers more than the public sector.

On the water rates: the increase is 2% this year. It is better to have a small increase over a number of years, rather than some whacking increases, which I understood took place some six or seven years ago, when it was 10%-15%.

300 Economic Development: yes, there is a lot going on and the delivery is extremely important. Again, when the plans are published, I think that will give people an idea of where we are in the stages of delivery, but I do take the point.

Broadband: yes, it is important to clarify the point, both that Mr Jean and Mr McKinley made. There may be possibilities for a joint venture in this, but more importantly there will be an immediate stream of income from such investment, because effectively that will be competing against the existing provider, so a stream of income would generate with immediate effect.

Pilotage: I share your deep sympathies on that. A little bit above my pay grade to personally address, but I do understand.

310 Yes, the Young Entrepreneur Scheme, I understand that there have only been two uptakes. I think about £4,000, if I am correct.

AVGAS: it would be nice if someone would take on a business to supply our gas and it would be nice for someone to come forward on that.

315 The £17,500 marine park: as I think you know, Mr Jean, I am not a great nature lover but, with this, I would like to incorporate this as part of a proposition to look at the risks and issues of extending the territorial limit to 12 miles. So, I would wrap this up into a bigger project, not just purely for marine conservation and fish. But I do take your point.

The VES Scheme: we are where we are.

320 On the Congé on property, I am hopeful – and I hope that my hopes are not too publicly expressed at this stage, but I do hope the Financial Relationship Review will result in Alderney having more control over its property taxes and perhaps that would be a time which your comments on the Congé – very valid comments – could be addressed.

Thank you.

325 **Mr Jean:** Thank you.

**Mr McDowall:** Thank you, very much indeed.  
I would like to commend the Budget.

330 **The President:** Thank you, Mr McDowall.  
Is this a point of order?

**Mr Jean:** May I ask? I have forgotten something, on a point of order.

335 **The President:** If it is a point of order, you may make it.

**Mr Jean:** Thank you. It is very kind of you.

340 I would like to thank Mr McDowall for his replying to my questions and what I had forgotten is I would like to thank Kerry and the staff of Treasury for every time that I have contacted them, their valuable assistance which sometimes I have needed. Very swiftly and they are most obliging and most kind and I would like to thank them. Thank you, Kerry.

**The President:** Thank you very much.

345 Monsieur Greffier, if you please take the vote on this as items i) and ii), as set out in the Billet, please.

**The Greffier:** Yes, sir.

In relation to the States of Alderney Revenue and Capital Budgets for 2016.

*A vote was taken and the results were as follows:*

<b>FOR</b>	<b>AGAINST</b>	<b>ABSTAINED</b>
Mr Birmingham	None	None
Mr Jean		
Mr Simonet		
Mr McDowall		
Mr Rowley		
Mr Roberts		
Mr McKinley		

**The Greffier:** So, that is passed.

350 And in connection with States of Alderney Water Board and Revenue and Capital Budgets for 2016.

*A vote was taken and the results were as follows:*

<b>FOR</b>	<b>AGAINST</b>	<b>ABSTAINED</b>
Mr Birmingham	None	None
Mr Jean		
Mr Simonet		
Mr McDowall		

Mr Rowley  
Mr Roberts  
Mr McKinley

**The Greffier:** Again, that matter is passed, sir.

355 **The President:** Thank you very much.

**II. The Occupier's Rate 2016 –  
The Occupier's Rate (Level for 2016) Ordinance 2015 approved**

*The States of Alderney is asked:  
To approve The Occupier's Rate (Level for 2016) Ordinance 2015.*

**The President:** If we could move to Item II, please.

**The Greffier:** Yes, sir.

360 Item II is the Occupier's Rate 2016. A letter has been received from Mr Harvey, in his capacity as Chairman of the Policy and Finance Committee and the States of Alderney are asked to approve the Occupier's Rate (Level for 2016) Ordinance 2015.

**The President:** Thank you very much.  
Mr McDowall, as Convener.

365

**Mr McDowall:** Yes, thank you very much, Mr President, ladies and gentlemen.  
There were no comments upon this Item.

370 **The President:** Thank you very much.  
Do you wish to remain on your feet, Mr McDowall?

**Mr McDowall:** Yes indeed I shall.

375 I do not think I need to say too much about this. We may not have been able to hold down the water rates. We looked to hold down the Occupier's Rate. **(Mr Jean: Well done.)**  
I commend the Proposition.  
Thank you.

**The President:** Thank you very much.  
Mr McKinley, I believe you wish to second this.

380

**Mr McKinley:** I second it and, of course, I go along with it. Yes, absolutely.

**The President:** Thank you, Mr McKinley.

385 **Mr McKinley:** Perhaps the budget could go down!

**The President:** Does any other Member wish to comment on Item II?  
Mr McDowall, would you care to sum up on this?

390 **Mr McDowall:** Yes indeed, I commend the motion. It is as simple as that.  
Thank you, Mr President.

**The President:** Thank you, Mr McDowall.

Monsieur Greffier, as no one has spoken against this we can take this as passed or approved.  
Thank you very much.

395

**The Greffier:** Thank you, sir.

**III. Questions and Reports –  
Building and Development Control Committee –  
Chairman's Report – Implementation of the Planning Review**

*Item III.*

*Report on Implementation of the Planning Review from Mr Birmingham, Chairman of the Building and Development Control Committee.*

**The President:** And we will now move to Item III, please.

**The Greffier:** Yes, sir.

400

Item III is Questions and Reports. A single report has been received from Mr Birmingham in his capacity as the Chairman of the Building and Development Control Committee, relating to the implementation of the Planning Review.

**The President:** Thank you very much.

405

Mr McDowall, as Convener, were there any comments on this Item?

**Mr McDowall:** Yes indeed there were, Mr President, ladies and gentlemen.

410

Mr Birmingham provided an overview of his report on the Planning Review. It clarified that the Land Use Inspector will be appointed independently by the President. The Land Use Inspector's Report will be available to the public. The public will be able to submit proposals, both written and verbal, towards the Inquiry of the Land Use Plan.

A report from the Chairman of the Building and Development Control Committee, Mr Matthew Birmingham, regarding the Implementation of the Planning Review, is being put to the States for noting and Mr Birmingham will make a full report to the States, as he is doing. That is it.

415

**The President:** Thank you very much, Mr McDowall.

Mr Birmingham, would you care to present your Report?

420

**Mr Birmingham:** Thank you, Mr President, fellow Members.

I think I have had pleas from most of the Members, actually not to read through the entire Report and, if everybody is happy, I will just put through a quick summary.

The ARUP Review, which was undertaken last year, was an extremely comprehensive review and has led to definite root-and-branch reform of the planning system, right the way through.

425

All the recommendations fell into four separate categories, as I would put it. First, there were resource issues, both human and financial. Secondly, there were process issues in how the BDCC and the Planning Department process a planning application. Then there were policy issues, dealing with how the BDCC make their decisions and policies under which they do so. And, finally, legal implications in terms of perhaps some long-term changes to the Building and Development Control Law.

430

The Report details some of the proposed changes that we will be attempting to progress over the next six to nine months, after discussions taking place with the Law Officers. Firstly, we are

435 looking at making some changes to the existing Building and Development Control Law by  
Ordinance. The reason the Law Officers have suggested this is that, further down the road, they  
have advised us that a new Projet de Loi should be undertaken to completely reform the entire  
law, but their suggestion has been that you can alter some existing parts of the law in  
preparation for the adoption of a full Projet further down the line.

440 Now, in the next six months, we will be bringing forward some changes to the law relating to  
the impacts on biodiversity and facilitating sustainable development. There will also be an  
approach to bring forward a schedule that will describe material changes of use within the  
planning law and also some procedural detailing, based around site notices, which will actually  
go on from the current situation where we have site poles. We will also be dealing with some  
extra detail.

445 So, in the new year, it is hoped that we will have feedback from the Law Officers and have  
Ordinances that obviously will come to this body for changes to the current law.

Now, secondly and very importantly, next year sees the quinquennial Land Use Plan Review.  
There are an awful lot of changes that the BDC Committee realise are required to be reviewed  
under that particular review and many of those changes have certain impacts from the  
development law itself. So, as part of the Land Use Plan Review, we have invited ARUP, who  
450 undertook the initial review, to assist us in some of the preparation work for the Land Use Plan  
Review itself.

One of the areas that we will be specifically be looking at over the next month or so and  
coming forward with recommendations in the new year, will be relating to housing strategy and  
ARUP are currently on the Island assisting the States and in fact there are meetings tomorrow,  
455 where the States Members are invited to workshops where those matters will be dealt with.

And finally, a procedural matter of open planning meetings. Open planning meetings are  
something that the BDC Committee fully support. However, there are a certain number of  
procedural issues that we really need to look at and how we actually implement that  
recommendation.

460 Our new Planning Officer, Mr John Young, is going to prepare a report on how that is  
undertaken in other jurisdictions. He will obviously look at Guernsey and Jersey and possibly  
how those meetings are undertaken in the UK. Then, once we have that report, I hope we will be  
able to make progress towards open planning meetings for the BDCC. But I would assume that I  
will be coming back to report on that to the full States at a later date.

465 That is a summation of the Report and obviously if there are any questions, I will be happy to  
answer them.

**The President:** Thank you very much.

Does any Member have any questions on this Report for Mr Birmingham?

470 Mr Jean.

**Mr Jean:** I accept there are many good points contained in the ARUP report. However, in my  
opinion, the ARUP report –

475 **The President:** Mr Jean, this is for questions to Mr Birmingham.

**Mr Jean:** Well then, these are all questions.

**The President:** Okay.

480

**Mr Jean:** Would you not agree that the ARUP ... ? I will change it into questions!

Would you not agree that the ARUP report is rather over-optimistic in the way that it is  
written?

485 And do you think that the ARUP people should have had sight of the Cambridge report? Do you feel that this would have been helpful to them, as they did not receive a copy of it?

Do you not think that all this activity, in a time when the economy is not buoyant and the housing market is in a definite slump, and we are aware of the situation regarding the property price reduction here in Alderney ... Do you think that this is the right time to be doing a thing like this?

490 You also know, do you not think – and here we are in a situation where I am having to ask you questions and an observation I have made to you, which no one in the States of Alderney ... And I ask the States of Alderney to be aware of this. Your authority has been *usurped* in this matter. The ARUP report should have been put on the Billet as an Item.

495 **The President:** Mr Jean, can you constrain yourself to questions to the Chairman, please.

**Mr Jean:** I am. This is a question.

**The President:** You are asking questions of the whole of the States. Your questions should be directed to the Chairman –

**Mr Jean:** No, I am not. I am saying that the rest of the States should be aware that their authority has been usurped.

505 **The President:** Yes, but that is not a question to Mr Birmingham.

**Mr Jean:** And it is a question to Mr Birmingham: can I ask you *why*? Nearly nine or ten months ago, I brought this up and you said to me that this Report would be brought to the States of Alderney and it has not. And, even now, I am not able to discuss the Report, only ask you questions. So, I ask that as a question.

And it is disappointing, so I cannot discuss this Report. I am trying to work my way through this so I discuss as much of it as I can in this obsequious and strange way.

510 I believe that this report ... Do you believe that this Report is working on something which is not required at present and may not be relevant? Do you agree that a lot of money will be spent on changing things? £60,000.

And let me see what else I can turn into questions here. *(Laughter)*

You talk about public consultation and consultation with the States now. Would you not agree that they should have been consulted before?

520 Would you not agree that the Report is so far from the discussion stage, with the whole States ignored and any authority they have, as I have said?

And do you think that this is money spent wisely or a waste of a precious resource, which we are required to pick up the bill, at this present time?

525 Would you agree that the Report is written and is a good report for a buoyant economy? For perhaps a borough of England and somewhere that is buoyant and everything is functioning right and there is not this strange situation within our property markets?

I am just going to go through the last of this, to make sure that I have not missed anything.

Would you agree that there is good news ... It is a strange situation. Would you allow me to explain just the situation, so that Mr Birmingham has the background to my last question or no?

530 **The President:** In short, no.

**Mr Jean:** Alright, then I will stop for now. I think I have said enough. I have made my point and I would say that I really feel peeved over it, Mr Birmingham. I really do.

535 **The President:** Thank you.

**Mr Jean:** And the rest of the States should as well.

**The President:** Mr Birmingham, would you care to respond to those questions?

540 **Mr Birmingham:** I will try to. Though, I might need reminding of the actual points of the questions as we go through.

**Mr Jean:** You go ahead, I have got my speech here.

545 **Mr Birmingham:** Okay, so I can pick each one as I go.

**The President:** Mr McKinley.

550 **Mr McKinley:** I would like to ask to a question, please, sir.

**The President:** Of whom? Of the Chairman who is giving the Report?

**Mr McKinley:** Of Mr Birmingham, yes.

555 **The President:** Can you let him reply to the first set of questions first?

**Mr McKinley:** Yes, sure. So long as I have a chance to ask the question.  
Thank you very much.

560 **The President:** You will have. What will happen, just so it is clear: it is a report, so questions are directed to the person who is presenting the report. (**Mr McKinley:** Understood, sir.) When he has had a chance to respond to that one, then we will give the gentlemen chance to respond to the other ones.

565 **Mr McKinley:** Thank you very much, sir.

**The President:** Thank you.

570 **Mr Birmingham:** Okay. I will start with answering, I think it was about the third point.  
Mr Jean is quite right when he says that he asked me, oh it must have been about 12 months ago. I cannot remember exactly –

**Mr Jean:** Yes, correct: a year ago.

575 **Mr Birmingham:** – after the report, ‘Did I believe that the report should be open for debate?’ Now, what you actually said in your question to me was that I had actually said that I would bring it to the States for debate. That is actually inaccurate. What I said at the time is I believed that it should be fully debated and there is a possibility of bringing it to the full States. However, that is not down to the decision just of me, as Chairman; that has to be the decision of the BDCC to bring it forward and that decision to bring the full report forward was made by the BDCC to not progress in that way. And I will quickly explain why. (**Mr Jean:** Thank you.)

580 The whole report is a *very* large piece of work – as I think I did say to Mr Jean at a P&F meeting – and it is over 30 recommendations in there: some are procedural; some are legal. Therefore, trying to actually discuss the entire report, in my view, was not really a very feasible way to go forward and I believe that the right way is that you bring chunks of the report to the States in this method, so people can ask questions of the intentions of the BDCC. So, that is why,  
585 in this particular way, we have actually brought forward the report, rather than one whole unit.

I think I made the point, that if we were to stick by our normal discussion rules at a States' meeting, it would have given each States Member approximately 10 seconds on each of the recommendations in the report and I do not see that that would have been a particularly good way forward. This way, with individual items being brought forward, it does mean that the States Members can ask *very* specific questions. So, I believe that is actually the better way forward.

I cannot quite remember the first question. There was a question in there about 'Is this the right time for this report and implementation of this report?' I think there were a couple of questions that followed the same sort of style. Well, I would say, yes. I would say this is exactly the time where you need to be looking at your Building and Development Control Law to find out if it, itself, is contributing to the problems that the economy have. I have been a firm believer that over the years our current law has a number of issues in it that one might describe as anti-development, but I do not want to use that in terms of a matter of being whether you are pro- or anti-development. But, I think there are some obstacles in the current law that could cause us problems going forward, particularly relating to our economic development plans for the future.

In terms of discussion of the report, I personally think the report has had an enormous level of not only discussion but also public input and public engagement. I think the process has been extremely good. My understanding is that it has been very well received by the public in the way that the BDCC and ARUP have actually spoken to the public, spoken to stakeholders, taken their views on board and brought the review back.

In terms of cost, good things cost money. I would look at cost, in this case, as investment. We are investing in getting a very good and solid planning structure for the future. Now, I have been on the States for four years; I have been in BDCC for four years and, from where we initially were, we were immensely under-resourced; we had a solitary planning officer who not only had to deal with the day-to-day operation of the planning system, they were also tasked, effectively, with the creation of policy and process going forward, obviously in discussion with the members of the BDCC. That just was not adequate, simply not adequate and all the members of the BDCC, of this current committee and, I believe, the committee before that, have all agreed that, for the long-term benefit of the Island, it is important that we spend resource on new planning law now, to get it right for the future. And this is the important part.

Once we have got it right, once we have dealt with all the issues, that is planning law that can take us into the future for 10, 15, 20 years. It does mean, yes, we are spending money now, but we spend the money now, get it right and then that is great for the future, because it will avoid problems further down the line.

Now, those are the only questions that I can specifically remember from the points you have made. There was one right at the start which has slipped my mind, I am afraid, because I did not have a pen at the time.

**Mr Jean:** May I ask you about –

**The President:** If you would like to remind him of the first question. Please do this.

**Mr Jean:** I will attempt to from my wretched notes.

Yes, I said to you 'Did you feel that the States and public have been ignored in this respect and any authority that they have usurped?' Do you feel that at all?

**Mr Birmingham:** If I may –

**The President:** Yes, please do.

**Mr Birmingham:** I think I did answer that one in there anyhow.



640 **Mr Jean:** It must have been there in the middle. I am sorry.

**The President:** Can we just take the next question, Mr Jean, please?

**Mr Jean:** No, I think we will have to leave it.

645

**The President:** Mr McKinley, you wish to ask a question of the Chairman.

**Mr McKinley:** Before I ask the question, sir, I can assure you that Mr Jean and I have not got together on this at all, but we do get together on a lot of other things, but we have not discussed this and a lot of the questions that I want to ask –

650

**The President:** Could you ask the question of the Chairman, please?

**Mr McKinley:** Well, I am addressing ...

655

I am grateful to you, Mr Birmingham for the update in the ARUP report and the associated issues such as the Land Use Plan, but I do have some concerns and questions about the status of these projects and on the State's Overall Development Strategy. These concerns and questions stem partly from the fact that during my brief time as a States Member – I will have to do a background, if I may, sir – I have never had the opportunity to discuss these very important issues and propose changes within the full P&F Committee and I ask why? Where can we rate these proposals against other requests for funding when we are not fully briefed on those proposals?

660

I did attend an open meeting in ARUP last year before I became a States Member but I have yet to understand, fully, the ARUP report and it is a great shame that the meeting that you referred to, tomorrow, which I shall be attending, was not actually brought forward to yesterday when we would all have a much better understanding of what we are talking about. Just an observation.

665

It seems to me and to some others that this all-important Review of Development Strategy has been decided solely by the Building Development Control Committee. You have answered that question but that that is certainly the view: my view and also the view of many people, some of whom are sitting in the audience.

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I am also told that the funding for the ARUP report was authorised by the DBCC only and not by the full States and I hope that I am incorrect and have been wrongly informed on that matter.

Finally, I believe that there a concern amongst some who have submitted plans for building development, that their plans appear to be on hold, pending agreement to the full ARUP Review and the Land Use Plan. So, they are not likely to get the decision before mid-August next year. Am I correct?

675

So, I seek clarification from Mr Birmingham. And, the final question is do you intend to hold another public forum on the issue?

680

**The President:** Thank you, Mr McKinley.  
Would you care to answer Mr McKinley's questions?

**Mr Birmingham:** Yes, I will try to.

685

In terms of funds ... Well, we will start off with whether matters would be brought back to a P&F meeting. We have to realise that at the start of the year, each of the committees are tasked with their delegated authorities. And one of the specific, very important delegated authority of the BDCC is its implementation and operation of the Building and Development Control Law and everything associated with that.

690

In terms of the funding issues, all I can say on that matter is the delegated authority would be then a matter of Treasury & Finance Committee to approve or to check that we have actually

followed our delegated authorities in finance elements. I am quite sure the Treasurer or the Chairman of the Finance Committee would have brought it to our attention if we had not done so.

695

**The President:** On a point of order, Mr McDowall?

**Mr McDowall:** On a point of order, yes, Mr President.

700 We have budgeted x amount for the ARUP Review. Clearly these expenditure items will come either before Finance or P&F at the appropriate time. So, the figures quoted are what is budgeted for but not yet spent or approved.

**The President:** Thank you, Mr McDowall.

705 **Mr Birmingham:** In terms of the timing trouble, in terms of unfortunately the meeting tomorrow being with ARUP, as Mr McKinley will know or be aware, it is *very* difficult to be able to get some of our timings together. As you yourself will be aware, we could possibly have looked at doing the meeting next week but, of course, both yourself and Mr Jean would have been unavailable. You would have been in Guernsey. We have different other times, relating to other States meetings. So, in fact, trying to find a timing that suits all and also fits in with the availability of ARUP themselves to come here, is sometimes not the easiest thing for us to be able to do. So we found a date and time that we hoped would suit as many as possible. Unfortunately, as is the way, it is very difficult for it to fit for everybody.

710  
715 There was a comment relating to review of the Building and Development Control Law and applications going on hold. Now, I think I have to be *very* clear on this, because I think I know what you are referring to. So, I am also trying to be *very* clear on what I am saying. Currently, as far as I am aware, there are no planning applications pending that are not currently being dealt with by P&F. I think what you may be referring to are requests for planning guidance and planning advice that fall outside a standard planning application and relate to issues relating to C-Permit, section 33 of the Law and Exemption Ordinances.

720 The current BDCC has a clear policy, that we relate to whenever anybody requests an Exemption Ordinance. There are a series of policy guidelines that an individual has to pass before the BDCC will promote an Exemption Ordinance which then has to come to full States and be voted on by full States.

725 Now, currently, the BDCC has basically said, 'Well, as we are having a review of housing strategy, it would be somewhat perverse to be dealing with specific Exemption Ordinances relating to developments that may be effected by the adoption of that housing strategy. It may well be that the individuals who are requesting Exemption Ordinances at the moment might be in a situation subsequently with changes to the law that they will not require an Exemption Ordinance. So, we are in a hiatus at the moment with certain applications. But I think I can definitely say that any planning applications that have made have been dealt with, but applications requesting the promotion of Exemption Ordinance, at the moment, are being dealt with in exactly the way our policy guidelines state that we have. I am trying to remember the exact terminology. I think it is 'a policy relating to draft Exemption Ordinances', I think, which we have written down.

735 I think those were all the issues. Is there any other one?

**Mr McKinley:** I cannot come back on that last issue. I can find out the potential of the question and come back to you privately on that. (**Mr Birmingham:** Yes, certainly.)

740 The final question really was to do with another public forum which is not just to do with your Building Development Control Committee, but there are a number of other major issues which are facing us in the States, which I think do require – and Mr President, this is for everybody actually – public involvement and we are not involving enough with the public.

745 **Mr Birmingham:** If I can on that, certainly in terms of public involvement, the BDC Committee at the present moment in time is actively heading towards open planning meetings, subject to reports from our Senior Planner.

Any alterations to the Building and Development Control Law, as a Committee we are advised quite strongly by the Law Officers that it is very important that we undertake consultation with the public. And so I can say that, where we need and we know we need to be consulting with the public, we will be. Certainly BDCC, I am always happy to just to be able to stand up and talk about planning. Unfortunately, I do not think so many people are quite as happy listening to me about it. But, certainly the BDCC will be continuing to engage with the public as much as we possibly can.

755 **Mr McKinley:** And with other States Members as well?

**Mr Birmingham:** Oh and with other States Members. As I said, tomorrow we have two stakeholder meetings which States Members are invited to. We do have to have a certain level of caution, because obviously you do have to remember that the States, at the start of the year, does task the BDCC with operation.

I note that in this Chamber before I have had comments made, when I was a member of the BDCC, as a previous Chairman, about 'the arrogance of the BDCC in its decision making'. However, we are in a situation, well, it is not arrogance. It is what we have been tasked with in the law, at the start of the year in the remits to the committees. So, it is not a case of that we are being arrogant, we are just doing what we have been tasked to do by the States. It is sometimes, perhaps, not always understood.

**Mr McKinley:** Thank you, Mr Birmingham.

770 **The President:** Does any other States Member have a question on this Report to the Chairman?

Mr McDowall.

**Mr McDowall:** Yes, thank you.

775 Mr Birmingham, as someone who joined the BDCC earlier this year, it has been a fascinating experience, but will the ARUP proposal bring, first of all, more certainty, lower operating costs and efficiencies and simplicity to what is an extremely complex areas of legislation, which often is mind boggling to me?

780 And will it also reduce the amount of conflict and litigation which provides substantial fees for the lawyers?

And, finally, will it depoliticise what appears to be the nature of some decisions that are taken by the BDCC?

**Mr Birmingham:** Well, in answer to all those points, I hope the answer is yes to all of them.

785 I have a view about our particular planning law at the moment. I feel that it has been a process of evolution over time, as various different laws and attempts of control have actually been amalgamated. I strongly believe that actually a full review such as this can only improve the law itself. By constructing good, clear planning guidelines and planning policy, that members of the public can come in, talk to the Planning Office and get clear guidance and direction, can only make life easier, not only for the public but also, hopefully, getting us away from the positions of litigation.

795 I think there are obviously some issues there. I think Mr McDowall is alluding to perhaps, maybe, the issues that we have recently seen relating perhaps to the Land Registry. I think obviously that is not an area for the BDCC. (**Mr McDowall:** Unfortunately not.) Unfortunately not, or fortunately, whichever way you look at it. But I think it is an area that we may have to

have some further discussions on. More because of some operational issues that the States have in relating to Digimap control and there might be some input actually from the States and the Planning Department that may well be of assistance in the long-term to the Land Registry. But, as I say, that is not an area for the BDCC, but we are quite often aware and as I am sure he is, that issues do crop up relating to the Land Registry on a regular basis. (Mr McDowall: Yes, indeed.)

But, certainly, my hope and my aim specifically – and I believe the aim of the Committee – is that the whole point of this Review and this reworking of the law is to create simplicity; is to create clarity and is actually to create this system that will, going into the future, benefit the Island rather than hold it back.

**Mr McDowall:** Thank you.

**The President:** Mr McDowall.  
Mr Roberts.

**Mr Roberts:** It is a great shame this is not actually called ‘Comments and Reports’ because we could all express ourselves a lot better on the subject.

I would just like to thank Mr Birmingham on his continuing commitment to changes within Building and Development and the tireless way he has pursued this matter with ARUP.

However, can Mr Birmingham confirm a hope for a format of fairness for the individual, sometimes seemingly overlooked; a plan that is explained in a far less complicated and transparent manner; and above all protection of Alderney’s greenbelt?

Also, can Mr Birmingham confirm that all States Members outside the BDCC will be involved and consulted in the proposed changes, for this is a great issue to us all and we all need to be responsible?

**The President:** Thank you.

**Mr Birmingham:** Thank you, Mr Roberts.

One of the terribly unfortunate things about planning law is that sometimes it can get a little bit dense, so you appreciate that as a member of the BDCC. But, unfortunately, it does tend to get dense because we are dealing with very specific legal issues and therefore, sometimes the language has to be dense for a matter of clarity. It might not seem that to the layman or to even quite often to some of the States Members, but the language has to be sometimes worded in that way, but it does seem clumsy. I think a good example is the Report presented today. I did have to have the magic wand of the Law Officers shaken over the top of it. Hence, you might find that it is, perhaps, not full of my usual flowing style, when it comes to making a report.

In terms of the format: again, unfortunately, sometimes we are a bit restricted in that. As I have said, my view is, relating to anything to do with this Review in reform of the planning law, I am more than happy for as much input as possible, because the more input we get, the more likely we are to get it right and not miss out on areas.

Finally, in terms of greenbelt, that is very specific. All I can say is, myself, at this present moment – because it is not a matter necessarily we have specifically discussed at Committee, but interestingly what was brought up in a meeting earlier today – I certainly believe that one of the most important assets that the Island has is the designated area and the correct usage of the designated area is extremely important. Protection: I would say that, in some cases, parts of our designated area are overprotected, but I will go the other way and say there are other parts that are under-protected. I think it is getting the right level of protection for the right parts of the greenbelt, is the important way forward. But that is going to be subject to discussion, as we take forward and bear in mind that any changes in zoning that actually are undertaken have to go

before the Land Use Plan Inspector and that is *very* important. It has to go before the Land Use Planning Inspector and then it has to come to this body for that Land Use Plan to be adopted.

850 So, in both cases, we will have a third party view by the Land Use Planning Inspector and then the Members here have the final say on what the changes to that Land Use Plan will be.

So, we have got lots of checks and balances there.

**Mr Roberts:** Thank you.

855 **The President:** Thank you.

Does any other Member have any questions for the Chairman?

I would just like to say that, from where I am sitting, I am very pleased to see there are reports coming up before the States for questions to be asked in public of matters of importance to the public. And in case some Members feel that this format, i.e. Reports and Questions is  
860 somewhat restrictive, inasmuch as only questions may be asked, there is a facility with the current Rules where a Chairman can ask for a matter to be debated without resolution. So, people might like to bear that in mind for the future, sir, if there matters which they consider to be of significant importance to the public, they can ask them to come before the States for debate without a resolution, which would certainly help people like yourself, Mr Jean, when you  
865 would not have to pose everything as a question.

**Mr Jean:** That would help me a great deal, sir. Yes, it would.

**The President:** Okay. Thank you very much.

870 If nobody has any further questions for the Chairman, Monsieur Greffier, if you would like to bring this meeting to a close, sir.

**The Greffier:** Thank you, sir.

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**PRAYERS**

*The Greffier*

*The Assembly adjourned at 6.36 p.m.*