



X
2020

BILLET D'ÉTAT

WEDNESDAY, 22nd APRIL 2020

VOLUME 1

ELECTIONS AND APPOINTMENTS

1. Committee for Home Affairs - Appointments to the Population Employment Advisory Panel, P.2020/28
2. States' Trading Supervisory Board - Appointment of Non-Executive Directors - Guernsey Electricity Limited, P.2020/71

ITEMS DEFERRED FROM MEETING ON 18TH MARCH, 2020

3. Development & Planning Authority - The Island Development Plan - Five Year Review of the Island Development Plan, P.2020/23 (**SEE VOLUME 2**)
4. Requête - Suspension of Carrying Out of Works Further to Proposals for the Partial Removal of the Anti-Tank Wall in the Eastern Part of Pembroke Bay (L'Ancrese East) and the Managed Re-Alignment of the Coastline in that Area and Establishment of a Moratorium Period of 10 Years During which Time Suitable Maintenance is Undertaken to Provide Stability to the Wall. P.2019/143
5. Requête - Ensuring that a Policy Letter on the Policy Governing 5G Technology is Debated by the States Assembly, P.2020/8
6. Requête - Extension to the Bailiwick of the UK-US Extradition Treaty of 2003 and Changes to the Processes relating to the Approval of International Instruments, P.2020/18

CONTINUED OVERLEAF

LEGISLATIVE BUSINESS

Legislation Laid Before the States

The Air Navigation (Fees) (Amendment) Regulations, 2019
The Air Navigation (Bailiwick of Guernsey) (Foreign Aircraft Operations)
(Amendment) Regulations, 2019
The Companies (Recognition of Auditors) (Amendment) Regulations, 2020

Legislation for Approval

7. Committee *for* Health & Social Care - The Capacity (Bailiwick of Guernsey) Law, 2020, P.2020/50
8. States' Assembly & Constitution Committee - The Reform (Guernsey) (Amendment) (No.2) Law, 2019 (Commencement) Ordinance, 2020, P.2020/34
9. Scrutiny Management Committee - The Scrutiny of States and Public Bodies (Guernsey) Ordinance, 2020, P.2020/39
10. Committee *for* Economic Development - The Guernsey Competition and Regulatory Authority (Amendment) Ordinance, 2020, P.2020/40
11. Committee *for* Economic Development - The Guernsey Competition and Regulatory Authority (Amendment) (No. 2) Ordinance, 2020, P.2020/69
12. Policy & Resources Committee - The Marriage (Bailiwick of Guernsey) Law, 2020, P.2020/61

OTHER BUSINESS

13. Committee *for* Employment & Social Security - Housing Appeals Tribunal - Minor Constitutional Changes and Appointment of Housing Appeals Panel Members, P.2020/31
14. Committee *for the* Environment & Infrastructure and States' Trading Supervisory Board - Planning for a New Facility for Managing Residual Inert Waste, P.2020/29
15. Policy & Resources Committee - Schedule for Future States' Business, P.2020/49

BILLET D'ÉTAT

TO THE MEMBERS OF THE STATES OF THE ISLAND OF GUERNSEY

I hereby give notice that a Meeting of the States of Deliberation will be held via **MICROSOFT TEAMS LIVE**, on **WEDNESDAY**, the **22nd April, 2020** at **9.30 a.m.**, to consider the items listed in this Billet d'État which have been submitted for debate.

R. J. COLLAS
Bailiff and Presiding Officer

The Royal Court House
Guernsey

17th April, 2020

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

COMMITTEE *FOR* HOME AFFAIRS

APPOINTMENTS TO THE POPULATION EMPLOYMENT ADVISORY PANEL

The States are asked to decide:-

Whether, after consideration of the Policy Letter 'Appointments to the Population Employment Advisory Panel' dated 17th February 2020, they are of the opinion:-

1. To elect as ordinary members of the Panel-
 - a. Ms Lucy Kirby, as the Population Employment Advisory Panel E-industry and potential new sectors representative, for the remaining period of Mr Brassell's original term (i.e. until October 2022), and
 - b. Mr Kenny McDonald, as the Population Employment Advisory Panel Service Industries, for the remaining period of Mr Edgar's original term (i.e. until September 2020).

The above Propositions have been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications in accordance with Rule 4(1) of the Rules of Procedure of the States of Deliberation and their Committees.

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

COMMITTEE FOR HOME AFFAIRS

APPOINTMENTS TO THE POPULATION EMPLOYMENT ADVISORY PANEL

The Presiding Officer
States of Guernsey
Royal Court House
St Peter Port

17th February 2020

Dear Sir

1 Executive Summary

- 1.1 In 2013 (Billet d'État XI¹), the States of Deliberation agreed to the establishment of an Advisory Panel to provide independent advice in relation to population management policies to the then Policy Council. In 2015 (Billet d'État XIV²), the States of Deliberation approved the Constitution of the panel.
- 1.2 It was further agreed by the States of Deliberation in 2015 that the Panel Members would be appointed by the States of Deliberation on the recommendation of the Policy Council. This responsibility subsequently transferred to the Committee for Home Affairs ("The Committee") following the changes to the machinery of government on 1st May 2016.
- 1.3 In September 2016 (Billet d'État XXIII³), the panel was renamed the Population Employment Advisory Panel (the Panel) and the States of Deliberation appointed the original members to the Panel. The Mandate of the Panel was amended at this States' meeting to provide that:

"The six ordinary members shall [...] serve a four year term of office, save that the membership shall be staggered such that three of the ordinary members are replaced every two years. As a consequence, three of the original members will be elected for only a two year term of office."

¹ [Billet d'État XI, 2013](#)

² [Billet d'État XIV, 2015](#)

³ [Billet d'État XXIII 2016](#)

2 Panel Current Membership

2.2 The sector grouping and the current Panel Members are as follow:

Construction/Infrastructure/Utilities	Mr Tim Guilbert
E-Industry and potential new sectors	Mr Tony Brassell
Finance and Professional Services	Tim Martin
Public Sector (including private health and education)	Mr Tim Langlois
Service Industries	Mr Mark Edgar
Tourism and Hospitality	Mr Luke Wheadon

2.2 The Committee was notified on 10th January 2020 of the resignations of Mr Brassell and Mr Edgar, so two Panel positions need to be filled for the remaining periods of the respective terms of appointment of each representative.

2.3 The Committee would like to take this opportunity to put on record its thanks and appreciation to all the Panel members for the time they dedicate to their roles.

3 Appointment of new Panel Members

3.1 E-Industry and potential new sectors Representative

Ms Lucy Kirby is the Head of Digital for the Committee *for* Economic Development and the Director of the Digital Greenhouse. Ms Kirby will bring to the Panel a wide view of the transformation of the economy and wider society through digital adoption. Ms Kirby is currently driving the development and growth of Guernsey's digital and entrepreneurial ecosystem through the Digital Greenhouse.

3.2 Service Industry Representative

Mr McDonald's carer in the retail industry spans over 30 years, during which time he has worked for Sainsbury's, Le Riche Group and currently with the Channel Islands Cooperative Society. Mr McDonald is currently responsible for the operation and development of all the Channel Islands Co-operative retail outlets in both Jersey and Guernsey. Mr McDonald is a member of the Guernsey Chamber of Commerce sub-group and he is the secretary of the Retail Sector LBG

Group which has been set up to spearhead the retail industry's focus on developing and supporting the growth of the retail industry.

4 Compliance with Rule 4

4.1 Rule 4 of the Rules of Procedure of the States of Deliberation and their Committees sets out the information which must be included in, or appended to, motions laid before the States.

4.2.1 ☐ In accordance with Rule 4(1), the Propositions have been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications. Her Majesty's Comptroller has advised that there is no reason in law why the Propositions should not to be put into effect.

4.3 In accordance with Rule 4(4) of the Rules of Procedure of the States of Deliberation and their Committees, it is confirmed that the propositions above have the unanimous support of the Committee.

4.4 In accordance with Rule 4(5), the Propositions relate to the duties of the Committee to advise the States and to develop and implement policies on matters relating to its purpose including the Population Management Regime.

Yours faithfully

M M Lowe
President

M P Leadbeater
Vice-President

V Oliver
P R Le Pelley
J C S F Smithies

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

STATES' TRADING SUPERVISORY BOARD

APPOINTMENT OF NON-EXECUTIVE DIRECTORS – GUERNSEY ELECTRICITY LIMITED

The States are asked to decide:-

Whether, after consideration of the policy letter entitled 'Appointment of Non-Executive Directors – Guernsey Electricity Limited' dated 2 April, 2020, they are of the opinion:-

1. To approve the appointment of Miss Tania Songini as a non-executive director of Guernsey Electricity Limited with effect from the 2020 Guernsey Electricity Annual General Meeting.
2. To approve the appointment of Professor Ian Chapman as a non-executive director of Guernsey Electricity Limited with effect from the 2020 Guernsey Electricity Annual General Meeting.

The above Propositions have been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications in accordance with Rule 4(1) of the Rules of Procedure of the States of Deliberation and their Committees.

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

STATES' TRADING SUPERVISORY BOARD

APPOINTMENT OF NON-EXECUTIVE DIRECTORS – GUERNSEY ELECTRICITY LIMITED

The Presiding Officer
States of Guernsey
Royal Court House
St Peter Port

2 April, 2020

Dear Sir

1 Executive Summary

- 1.1 The purpose of this policy letter is to seek the States' approval for the appointment of two new non-executive directors to the Board of Guernsey Electricity Limited (GEL).

2 Background

- 2.1 Under the terms of the States Trading Companies (Bailiwick of Guernsey) Ordinance, 2001 (as amended), non-executive directors of the States Trading Companies¹ are appointed by the States upon the recommendation of the States' Trading Supervisory Board (STSB).
- 2.2 In accordance with the company's succession plan established by GEL in consultation with the STSB and, as a result of current and anticipated vacancies on the GEL Board, the company undertook an open recruitment process to identify candidates. Before doing so, it undertook an analysis of the skills against which it wanted to recruit and then consulted with the STSB to agree and finalise these. An advert was then placed in the Guernsey Press and other media platforms to seek applications from interested individuals, which were then shortlisted against the agreed set of key criteria.
- 2.3 A total of twenty-seven applications were received which were considered alongside the candidates included in the STSB's business adviser pool, as

¹ For the purposes of the Ordinance, only Guernsey Electricity Limited and Guernsey Post Limited are designated as States Trading Companies.

established by the Board in 2019². Following the review process, a short list of eight candidates was put forward for interview by GEL's Remuneration and Nominations Committee.

2.4 Following the recruitment process, GEL recommended to the STSB the appointment of Miss Tania Songini and Professor Ian Chapman as non-executive directors of the company. Having carefully considered these recommendations, the STSB supports these proposed appointments, which GEL is recommending become effective from the 2020 Guernsey Electricity AGM.

2.5 Summaries of the candidates' curriculum vitae are included in Appendix 1.

3 Compliance with Rule 4

3.1 Rule 4 of the Rules of Procedure of the States of Deliberation and their Committees sets out the information which must be included in, or appended to, motions laid before the States.

3.2 In accordance with Rule 4(1), the Propositions have been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications.

3.3 In accordance with Rule 4(4) of the Rules of Procedure of the States of Deliberation and their Committees, it is confirmed that the propositions above have the unanimous support of the Board.

3.4 In accordance with Rule 4(5), the Propositions relate to the duties of the STSB to carry out the States' role as shareholder of any incorporated companies which are owned by the States and which the States have resolved to include in the mandate of the Board.

Yours faithfully

P T R Ferbrache
President

J C S F Smithies
Vice-President

P J Roffey
Member

² The STSB's business adviser talent pool was established in 2019 following an open recruitment process seeking experienced business leaders to provide additional commercial expertise to the different trading assets at board level.

S J Falla MBE
Non-States Member

J C Hollis
Non-States Member

CURRICULUM VITAE

Miss Tania Songini

Miss Songini currently holds a portfolio of non-executive director and chair of the audit committee positions. She is on the board of several energy and infrastructure companies including Thrive Renewables (a company developing, constructing, operating wind/solar energy and storage projects) and the Private Infrastructure Development Group (an investor in infrastructure development in Sub-Saharan Africa and South Asia).

Miss Songini holds a Masters degree (Honours) in International Politics and Economics from the University of Rome in Italy.

Before transitioning to a portfolio career, Miss Songini worked for the German Engineering company, Siemens, for eighteen years (1997-2015), in Germany and UK, with the last fifteen years as Group Finance Director in Logistics, Healthcare and Energy. During this period her responsibilities covered a wide variety of commercial areas and geographies: finance and IT, strategy and M&A, back office operations, bids and contractual negotiations, project management and supply chain, across Europe, USA, Africa and Latin America.

Between 2011 and 2015, Miss Songini worked as Group Finance Director for Siemens Energy in UK and NW Europe with annual sales of € 3.6 billion, 120 reports and a focus on the onshore/offshore wind, interconnector and high voltage substation businesses. Under her oversight the business grew profits by 3% (6 to 9%), mainly through savings generated by a strategic decision to shift installation resources to the UK and a restructuring of the Transmission business.

As Group Finance Director at Siemens Healthcare UK and NW Europe (2005-2011) Miss Songini oversaw the integration of a number of acquisitions, including Bayer Diagnostics, outsourced transactional finance and IT functions reducing costs, and set up and grew the PPP Hospital Managed Services business.

In her time as Project Manager at Siemens Management Consulting (2003-2005) she worked on a number of strategy, benchmarking and cost reduction projects in Siemens' Telecommunication and Industrial Automation businesses.

Miss Songini's strengths include: understanding market drivers to challenge strategy; providing oversight as NED ensuring governance and a strong risk management framework; multi-year experience in financial/risk management, managing large complex projects and operations; track record in organisational change; building effective partnerships at all levels. She is fluent in six languages.

Professor Ian Chapman

Prof Chapman is the current CEO of the UK Atomic Energy Authority in the UK. UKAEA is the UK's largest research and innovation organisation in nuclear energy, employing 1800 people and home to the largest EU science facility in the UK. His role includes leading a world-leading research and innovation programme, considerable media and public outreach, property development of nearly 1000 acres, developing cross-governmental EU exit policy, business development and management of a £250M-turnover organisation with £Bns of assets, a large pension scheme and a captive insurance company.

Having been educated in Guernsey, Prof Chapman has a degree in Mathematics and Physics from Durham University and a PhD in plasma physics from Imperial College London. He now holds a visiting professorship at Durham University and is a Fellow of the Institute of Physics.

Prior to becoming CEO of UKAEA, Prof Chapman held various roles within the organisation, including leading the UK fusion programme and leading the EU-wide JET physics programme on secondment to EUROfusion, the largest research consortium across Europe.

Prof Chapman provides advice on energy programmes in the US, China, Singapore and Korea. He is on the Advisory Board of the Princeton Plasma Physics Laboratory in the US and chairs an International Atomic Energy Agency Research Committee. He has won numerous prizes for his research, including most recently the Royal Society Kavli Medal for Research in Energy.

Prof Chapman's skills include managing large-scale engineering assets, leading innovation programmes, developing corporate strategy, implementing organisational change, managing risk and business development.

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

REQUÊTE

**SUSPENSION OF CARRYING OUT OF WORKS FURTHER TO PROPOSALS FOR THE PARTIAL
REMOVAL OF THE ANTI-TANK WALL IN THE EASTERN PART OF PEMBROKE BAY (L'ANCRESSE
EAST) AND THE MANAGED RE-ALIGNMENT OF THE COASTLINE IN THAT AREA AND
ESTABLISHMENT OF A MORATORIUM PERIOD OF 10 YEARS DURING WHICH TIME SUITABLE
MAINTENANCE IS UNDERTAKEN TO PROVIDE STABILITY TO THE WALL**

The States are asked to decide:-

Whether, after consideration of the Requête dated 27th November, 2019, they are of the opinion:-

1. To agree that the carrying out of any works to implement the managed re-alignment of the coastline at L'Ancrese East as set out in Section 7 of the Policy Letter of the Committee *for the* Environment & Infrastructure dated 18th August 2017 and described in Section 6, Volume 1 of the report "Guernsey Coastal Defences" prepared by Royal Haskoning Dhv further to the Resolution of the States made at their meeting on 29th September 2017 be suspended.
2. To agree that the period of suspension shall be 10 years from the date of this Resolution or such shorter period as the States may at any future time by resolution determine.
3. To direct the Committee *for the* Environment & Infrastructure to arrange for implementation of a maintenance schedule as proposed in Recital 6.
4. In the event of a failure of the wall, resulting in the ingress of the sea onto the common, to direct the Committee *for the* Environment & Infrastructure to revert to the States with proposals for minimising any damage to the common, which may include a proposal for managed re-alignment in accordance with the Resolution of the States of 29th September 2017 referred to in Recital 1.

The above Propositions have been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications in accordance with Rule 4(1) of the Rules of Procedure of the States of Deliberation and their Committees.

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

REQUÊTE

SUSPENSION OF CARRYING OUT OF WORKS FURTHER TO PROPOSALS FOR THE PARTIAL REMOVAL OF THE ANTI-TANK WALL IN THE EASTERN PART OF PEMBROKE BAY (L'ANCRESSE EAST) AND THE MANAGED RE-ALIGNMENT OF THE COASTLINE IN THAT AREA AND ESTABLISHMENT OF A MORATORIUM PERIOD OF 10 YEARS DURING WHICH TIME SUITABLE MAINTENANCE IS UNDERTAKEN TO PROVIDE STABILITY TO THE WALL.

THE HUMBLE PETITION of the undersigned Members of the States of Deliberation SHEWETH THAT:

1. At their meeting on 29th September, 2017 the States of Deliberation resolved as follows –
 - "1. To endorse the proposal to implement the managed re-alignment ("Option 7b") of the coastline at L'Ancresse East as set out in Section 7 of this Policy Letter and described in Section 6, Volume 1 of the report "Guernsey Coastal Defences" prepared by Royal Haskoning Dhv."¹
2. The managed re-alignment ("Option 7b") referred to in the above recited Resolution involves the removal of 130 metres of anti-tank wall in the Eastern part of Pembroke Bay, construction of rock armour groynes and creation of a managed realignment of the beach head in the area at an estimated cost of £1,000,000.
3. On 6th November 2018 the Committee for the Environment & Infrastructure submitted a planning application in connection with the works described in order that the scope of any required Environmental Impact Assessment (EIA) could be determined. Advice on the required EIA is awaited and the works now appear unlikely to commence before the summer of 2020.
4. Your Petitioners recognise that the integrity of the section of wall that will be effected by the proposed works will gradually decline if no works are carried out. They further recognise that some maintenance should be carried out in order to ensure that it is kept safe. However they are of the view that the carrying out of the totality of the works comprised in "Option 7b" will, amongst other things, detract significantly from the attractiveness of the area. In particular your Petitioners believe that the construction of the rock armour groynes on what is a pristine beach area will not prove

¹ See item 11 on Billet d'État No. XVIII of 2017.

to be visually attractive, and there are substantial risks that the envisaged re-alignment of a bay within a bay may not occur.

5. In the current circumstances your Petitioners believe that there is merit in agreeing to suspend implementation of Option 7b for a period of at least 10 years, unless the States at any future time by resolution determine otherwise.
6. If suspension of implementation of Option 7b were agreed, your Petitioners believe that maintenance should be undertaken to provide stability to the wall to give the optimum chance of the wall remaining intact for the 10 year period referred to in Recital 5. This is envisaged to involve work, as undertaken at panels 4 and 5 in 2018, to fill the voids in the wall and provide reinforcement to the toe of the wall. There will be the requirement to spend in the short term in the region of £100,000 at panels 8 and 9 to undertake similar work as carried out at panels 4 and 5. In addition it would be prudent to add additional rock armour to the toe of panels 4 and 5 as the previous work was undertaken with a short design life. The only other panel of concern at the moment is panel 11 which may require a similar spend during the moratorium period. It would be prudent to have a maintenance budget of £200,000 set aside and taken from the Minor Capital Allocation for Coastal Repairs budget to cover the estimated cost of any maintenance programme. It should be remembered that the addition of further heavier rock armour to panels 4 and 5 and the new heavier rock armour to panels 8 and 9 will of course be available and is needed, for the managed re-alignment (Option 7b) if it does go ahead in the future.
7. The option to suspend implementation of Option 7b, do no maintenance and intervene only in the event of a health and safety issue arising or a significant failure in the wall causing damage to the common was considered by your Petitioners. Adopting such an option would involve the enhanced risks of a breach in the wall occurring and damage caused by the ingress of the sea onto and erosion of areas of the common. In addition, any failure in the wall in those circumstances would then make access and repair more difficult. Although not the Petitioners favoured solution as detailed in Recital 6, it would in the opinion of the Petitioners nonetheless be in preference to the managed re-alignment (Option 7b) described in Recital 1.
8. Your petitioners acknowledge that if there is a failure of the wall, resulting in damaging ingress of the sea onto the common, this issue should revert to the States to decide whether to revert to managed re-alignment (Option 7b) or another course of action.
9. Your petitioners confirm that the Propositions set out below have been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications.

THESE PREMISES CONSIDERED, YOUR PETITIONERS humbly pray that the States may be pleased to resolve:

1. To agree that the carrying out of any works to implement the managed re-alignment of the coastline at L'Ancrese East as set out in Section 7 of the Policy Letter of the Committee *for the* Environment & Infrastructure dated 18th August 2017 and described in Section 6, Volume 1 of the report "Guernsey Coastal Defences" prepared by Royal Haskoning Dhv further to the Resolution of the States made at their meeting on 29th September 2017 be suspended.
2. To agree that the period of suspension shall be 10 years from the date of this Resolution or such shorter period as the States may at any future time by resolution determine.
3. To direct the Committee *for the* Environment & Infrastructure to arrange for implementation of a maintenance schedule as proposed in Recital 6.
4. In the event of a failure of the wall, resulting in the ingress of the sea onto the common, to direct the Committee *for the* Environment & Infrastructure to revert to the States with proposals for minimising any damage to the common, which may include a proposal for managed re-alignment in accordance with the Resolution of the States of 29th September 2017 referred to in Recital 1.

AND YOUR PETITIONERS WILL EVER PRAY
GUERNSEY

This 27th day of November 2019

Deputy A.H. Brouard
Deputy T.J. Stephens
Deputy N.R. Inder
Deputy L.B. Queripel
Deputy P.T.R. Ferbrache
Deputy A.C. Dudley Owen
Deputy R.G. Prow

The original signed copy of this Requête is held at the Greffe
and is available to view on request.

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

REQUÊTE

**ENSURING THAT A POLICY LETTER ON THE POLICY GOVERNING
5G TECHNOLOGY IS DEBATED BY THE STATES ASSEMBLY**

The States are asked to decide:-

Whether, after consideration of the Requête dated 20th January, 2020, they are of the opinion:-

1. ☐ To direct the Committee *for* Economic Development to present a policy letter to the States of Deliberation no later than the end of the current political term, detailing its recommended policy on 5G technology, including specific reference to the licence conditions and criteria.

OR, only if Proposition 1 shall have fallen,

2. ☐ To direct the Committee *for* Economic Development to present a policy letter to the States of Deliberation no later than the end of 2020, detailing its recommended policy on 5G technology, including specific reference to the licence conditions and criteria.

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

REQUÊTE

ENSURING THAT A POLICY LETTER ON THE POLICY GOVERNING 5G TECHNOLOGY IS
DEBATED BY THE STATES ASSEMBLY

THE HUMBLE PETITION of the undersigned Members of the States of Deliberation
SHEWETH THAT:

1. ☐ In June 2018, the Committee *for* Economic Development (“the Committee”) published its first ever telecommunications strategy, *The Future of Telecoms*. The strategy states:

“The three key objectives are:

- 1. ☐ Provision of Fibre to business districts within 2-3 years
- 2. ☐ Provision of high quality residential broadband to all residential properties within 2-3 years
- 3. ☐ Provision of next generation mobile technology in line, or earlier than the UK”

2. ☐ With specific regard to the third objective, next generation mobile, the strategy explains:

“Planning and standardisation activities for 5th generation (5G) mobile networks is already underway and all of the big Telecoms Infrastructure providers have active 5G research and development projects, and early technology trials are underway at numerous locations around the world.”

3. ☐ Your Petitioners note that the telecommunications strategy has been neither debated nor endorsed by the States of Deliberation, although there has long been an expectation that there will be a chance to debate the issue. At the time that *The Future of Telecoms* was published on the official website for the States of Guernsey in June 2018, the public was informed that:

“A further Policy Letter on the implementation of that strategy will be submitted to the States in 2019.”

4. ☐ In November 2018, the Channel Islands Competition & Regulatory Authorities (“CICRA”) hosted a 5G summit involving government officials, senior telecoms industry and digital sector leaders, and experts from the UK “to discuss and

debate opportunities for the Channel Islands as the advent of 5G technology draws nearer”.

5. □ In December 2018 the Committee published some FAQs on 5G in response to increasing public interest in the issue. Concerns expressed by the community focused on a variety of different aspects of 5G. These include (but are not limited to): questions around the relative costs and benefits of 5G; issues around cybersecurity, data protection and privacy; and potential health and environmental impacts, especially those relating to non-ionising radiation, as well as queries around the scope, transparency and accountability of ICNIRP, the organisation whose guidelines inform our health and safety standards.
6. □ In January 2019, the Committee’s lead for Digital, Deputy Dudley Owen, wrote a letter that was published in Guernsey Press. It was written in response to a number of letters from members of the public on the issue. Deputy Dudley Owen’s letter reiterated the fact that 5G would be debated by the States in 2019:

“During 2019, the Committee *for* Economic Development will publish a policy letter, to be debated by the States, which will set out the next stage of the telecommunications strategy. Central to that is the roll-out of 5G.”
7. □ In April 2019, the Committee requested that CICRA launch a draft ‘statement of intent’ consultation process with telecoms companies and other interested parties to understand their views on the spectrum requirements and the proposed licencing process required to help meet those objectives, especially in relation to the rollout of 5G technology. This consultation took place during May and June 2019.
8. □ In June 2019, the Committee updated the P&R Plan with regards to digital connectivity, a States-approved policy priority, as follows:

“Digital connectivity and infrastructure

In summer 2018 the Committee *for* Economic Development published a telecommunications strategy following consultation and engagement with the public and private sector in the island. The States of Guernsey’s Economic Development Strategy confirmed that the implementation of the telecommunications strategy was a critical priority, and resources have been prioritised to develop a government and regulatory framework to deliver the objectives of the strategy and to foster investment in the infrastructure required. A policy letter will be debated by the States’ Assembly in 2019.”

9. In September 2019, the States was informed in statement by the President of the Committee:

“The Committee has now had the opportunity to consider the feedback from that consultation and will be providing an update to States members on next steps within the next few weeks.”

10. In October 2019, a document called ‘Future of Telecoms Strategy – update for States members’ was emailed to deputies by an officer on behalf of the Committee. This update announced that a policy letter was no longer required. The Committee argued that this was because it had become apparent through the consultation that the move towards 5G would be incremental, using existing 4G networks to deliver ‘4G+’ and then variables of 5G, rather than a new, single standalone 5G network. The Committee argued that because of this evolutionary approach it would “not be practical to seek a single licence for the issuance of suitable spectrum in initial 5G deployments”. However, the Committee confirmed that the roll out of a full island-wide 5G network remains a core objective, anticipating that the full deployment of the standalone version of 5G will take place post 2022.

11. The update confirmed that the Committee intends “to direct CICRA to issue licences to allow telecoms operators access to appropriate spectrum to facilitate the initial evolutionary deployment of 5G”, and that licences will be subject to clear conditions and criteria on security, health and safety, planning requirements, network speed and a commitment on deployment timescale and Bailiwick coverage.

12. Your Petitioners note that, although there had been a lot of public interest in the issue, including a high profile community-led campaign focused on the anticipated States debate, the Committee did not publicly communicate its decision that it would no longer be bringing a policy letter to the States. Neither did it take the opportunity to confirm to the public (as per the update for States members) that 5G trials would be starting imminently.

13. In November 2019, 5G trials commenced. The Committee’s lead for Digital, Deputy Dudley Owen, announced:

“The trials will be an opportunity to gain first-hand local experience of the new technology before a wider roll-out is commenced.”

14. Your Petitioners are of the firm opinion that 5G technology is an important policy area that should be debated by the States Assembly before any wider rollout is commenced.
15. The Telecommunications (Bailiwick of Guernsey) Law 2001 provides that the Guernsey Competition and Regulation Authority (GCRA) (“the Authority”) may grant licences for operators in the Bailiwick. The duties of the Authority are contained in the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001. The States of Deliberation gave the Authority powers under the Law to set and determine the standards against which licences are granted.
16. In 2006, the States approved an Amendment to the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001 that allows the States to provide directions to the Authority in a number of areas:
- “(1A) The States may, on the recommendation of the Commerce and Employment Department made after consultation with the Director General, and without prejudice to the provisions of subsection (1), by Ordinance give the Director General directions of a strategic or general nature including, without limitation, directions concerning the priorities to be taken into account by him in the exercise of his functions and powers in respect of any utility service.”
17. In September 2011, the Commerce and Employment Department brought a policy letter titled ‘Review of Utility Regulation’, which looked at all areas in the Authority’s mandate and made various observations and recommendations. One relevant observation was as follows:
- “Whilst the Director General has performed his statutory duties in accordance with the legislative requirements, it could be said that the States have not provided sufficient clarity on their general and strategic objectives. [...] [T]here is scope for the States to provide greater clarity in certain areas where it considers this necessary.”
18. Pursuant to this policy letter, the States agreed to adopt the Six Principles for Economic Regulation, the first of which is Accountability. The definition for Accountability begins as follows:
- “independent regulation needs to take place within a framework of duties and policies set by the democratically accountable States of Deliberation.”

The fourth principle is Coherence, the definition of which begins as follows:

“regulatory frameworks should form a logical part of the States of Guernsey’s broader policy context, consistent with established priorities”

19. ☐ The report forming the basis for (and appended to) that policy letter, A Review of Guernsey’s Utility Regulatory Regime, carried out by the Regulatory Policy Institute in 2010 states:

“a number of important challenges lie ahead for the States and for the regulatory framework in telecoms. Most important among these will be the development of an appropriate policy and regulatory approach with respect to the rollout of new technologies and next-generation network infrastructure.”

20. ☒ Your Petitioners contend that in the decade since that observation was made, the need for an appropriate policy and regulatory approach with respect to the rollout of new technologies and next-generation infrastructure is more urgent than ever. Your Petitioners note that the Committee already has the vast majority of the information it needs to pull together a policy letter on 5G, as it has already written a telecommunications strategy, seen the results of CICRA’s consultation with industry and is in the process of developing licence conditions and criteria.

THESE PREMISES CONSIDERED, YOUR PETITIONERS humbly pray that the States may be pleased to resolve:

1. ☐ To direct the Committee *for* Economic Development to present a policy letter to the States of Deliberation no later than the end of the current political term, detailing its recommended policy on 5G technology, including specific reference to the licence conditions and criteria.

OR, only if Proposition 1 shall have fallen,

2. ☐ To direct the Committee *for* Economic Development to present a policy letter to the States of Deliberation no later than the end of 2020, detailing its recommended policy on 5G technology, including specific reference to the licence conditions and criteria.

AND YOUR PETITIONERS WILL EVER PRAY

GUERNSEY

This 20th day January, 2020

H L de Sausmarez

L B Queripel

V S Oliver

J S Merrett

M J Fallaize

E A McSwiggan

S L Langlois

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

REQUÊTE

**EXTENSION TO THE BAILIWICK OF THE UK-US EXTRADITION TREATY OF 2003
AND CHANGES TO PROCESSES RELATING TO THE APPROVAL OF
INTERNATIONAL INSTRUMENTS**

The States are asked to decide:-

Whether, after consideration of the Requête dated 5th February, 2020, they are of the opinion:-

1. To agree that before any request is made for the UK-US Extradition Treaty of 2003 to be extended to the Bailiwick, the States of Deliberation must approve a proposition that such a request be made, and the States of Alderney and Chief Pleas of Sark must also be consulted; and
2. To direct the Policy & Resources Committee, in consultation with other Committees of the States, to develop proposals for a modernised approach to the adoption of international treaties and conventions in Guernsey, which includes a greater degree of democratic scrutiny and engagement by the States Assembly as set out in this Requête, to replace the 1987 Resolution, and to return to the States with proposals no later than the end of 2021.

The above Propositions have been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications in accordance with Rule 4(1) of the Rules of Procedure of the States of Deliberation and their Committees.

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

REQUÊTE

EXTENSION TO THE BAILIWICK OF THE UK-US EXTRADITION TREATY OF 2003
AND CHANGES TO PROCESSES RELATING TO THE APPROVAL OF
INTERNATIONAL INSTRUMENTS

THE HUMBLE PETITION of the undersigned Members of the States of Deliberation
SHEWETH THAT:

INTRODUCTION

1. International agreements (treaties and conventions) govern relationships between nations (for example, on tax or trade) or set down common standards on matters of global concern (such as human rights or climate change).
2. Participating in such international instruments is an important part of the development of Guernsey's reputation as a mature democracy, capable of a positive role on the global stage.
3. International agreements are not binding on Guernsey (or the Bailiwick) unless Guernsey (or the Bailiwick) has requested or acquiesced to their application. Guernsey does not generally have the power to sign treaties and conventions in its own right (although in some cases, particularly in respect of tax and social security agreements, this has been entrusted to the Island). Instead, Guernsey adopts international instruments by making a request to the United Kingdom, on behalf of the Crown, to extend their territorial scope to us. Current practice, which is accepted by the UN, is that the extension of an agreement can take place at the time of the UK's accession or ratification of that agreement or at a later date.
4. The Policy & Resources Committee is mandated to carry out the States of Guernsey's functions in relation to international agreements pursuant to a Resolution of the States of 25 February 1987. The power to make this request sits with the Policy & Resources Committee (and its predecessors, since 1987) by delegated authority from the States. The Resolution on Article VIII of Billet d'Etat IV of 1987, which sets out the process as it presently stands, states:

"1. That each international agreement in the application of which to this Island the Insular Authorities are invited to acquiesce shall be referred by the Bailiff to the States Advisory and Finance Committee [*now the Policy & Resources Committee*]

and that the States Advisory and Finance Committee shall make to the Bailiff its recommendations as to whether a notification of acquiescence in the application of an agreement to this Island either in whole or with reservations or of non-acquiescence should be made and thereupon the Bailiff shall communicate with the proper quarter in accordance with such recommendations provided that:--

- (a) where the terms of any international agreement appear to the States Advisory and Finance Committee to involve questions of human rights and fundamental freedoms, or matters which, in the opinion of the States Advisory and Finance Committee are likely to be considered controversial, the terms of the proposed agreement shall be laid before the States;
- (b) where the subject matter of the agreement relates to a subject which is the concern of any other States Committee, the States Advisory and Finance Committee shall refer the agreement to that Committee with a request for its views;
- (c) where the States Advisory and Finance Committee or a States Committee concerned considers it necessary or expedient that the matter of acquiescence or non-acquiescence in the application to this Island of an agreement should be submitted to the States for a decision, the matter shall be so submitted by the States Advisory and Finance Committee together with any necessary clarification and recommendations; and
- (d) where the views of the States Advisory and Finance Committee and of any other States Committee concerned are not in accord on the matter, the difference between them shall be submitted by the States Advisory and Finance Committee to the States for a decision thereon.

“2. That the States Advisory and Finance Committee shall submit annually to the Bailiff for inclusion as an appendix to a Billet d'Etat a report setting out the title and brief description of each international agreement received by the States Advisory and Finance Committee in the preceding year and giving details of the action taken in relation to that agreement.”

5. There are a number of situations when international agreements must be referred to the States for consideration before P&R seeks their extension. These are:
 - i. If the treaty involves fundamental freedoms or questions of human rights;
 - ii. If the treaty is otherwise controversial in nature ('in the opinion of [P&R] is likely to be considered controversial');
 - iii. If P&R and/or the Committee(s) which is mandated to deal with the topic(s) covered by the international agreement considers it 'necessary or

- expedient that the matter of acquiescence or non-acquiescence ... should be submitted to the States for a decision’;
- iv. If there is a difference of opinion between P&R and the Committee whose mandate the treaty touches on, in respect of its extension.
6. The authors of this Requete are seeking to introduce additional transparency into this process.
 7. The first aim of this Requete is to establish a clear States' direction that the UK-US Extradition Treaty of 2003 (**'the Extradition Treaty'**) must be referred to the States for consideration before any extension is sought. This follows a recent debate on Guernsey's own Extradition law. Although the Extradition Treaty should be brought to the States as a result of the tests set out in paragraph 5 above, this Requete seeks to put the matter beyond doubt.
 8. In developing this Requete, it became clear that it would be appropriate, in a modern democracy, to improve parliamentary scrutiny of the process by which Guernsey adopts international instruments in general, by requiring Committees to seek direction from the States at an early stage in regard to the extension (or otherwise) of international agreements where this is practicable. Following discussions with representatives of the Policy & Resources Committee, we are recommending that P&R review the 1987 Resolution and revert to the States, during the next term, with proposals for an improved and more transparent process.
 9. The changes proposed in this Requete are consistent with the States' Policy & Resource Plan, especially the commitment to establishing Our Place in the World as a mature and independent jurisdiction, including through the adoption of appropriate international standards, and the development of Guernsey's autonomy in respect of the legislative process and the adoption of international agreements.

PART 1: THE UK-US EXTRADITION TREATY OF 2003

10. On 26th September 2019 the States of Deliberation resolved to approve the Extradition (Bailiwick of Guernsey) Law, 2019. During the debate on that *Projet*, queries were raised in relation to the UK-US extradition treaty of 2003 (**'the Extradition Treaty'**), which came into force in 2007 but which has not been extended to the Bailiwick.
11. Extradition between the Bailiwick and the US is currently governed by the UK-US extradition treaty of 1972, which extends on its face to the Bailiwick.
12. If the Extradition Treaty were to be extended to the Bailiwick, it would provide a new framework to allow for the extradition of Guernsey residents to the US.

13. Primarily because of the continued existence of the death penalty in 29 American states, extradition to the US raises serious human rights issues.
14. We understand that extension of the Extradition Treaty is not currently under active consideration by any Committee of the States. Accordingly, the States of Deliberation have not been consulted on whether or not it should be extended to the Bailiwick. However, the recent changes to Guernsey's own Extradition legislation has brought this issue into the spotlight; and the absence of a strong civil society voice, dedicated to the protection of human rights and fundamental freedoms in Guernsey, makes it all the more important that the States itself should show leadership on this matter.
15. In view of the serious human rights concerns identified above, we consider that any decision to extend the Extradition Treaty must be taken by the States as a whole, and not delegated to any individual Committee of the States. While the treaty process established by the 1987 Resolution would provide for this, following debate on the Extradition Law *Projet*, we consider it essential that this matter be put beyond doubt. This Requete allows the States to make a clear resolution to that effect, rather than leaving it to the discretion of any Committee to determine, at any future date, whether or not to refer the Extradition Treaty back to the States before seeking its extension.

PART 2: EXTENSION OF INTERNATIONAL TREATIES AND CONVENTIONS

16. In drafting this Requete, its authors had cause to consider whether the overall process for seeking the extension of international conventions and treaties to Guernsey (or the Bailiwick) remains appropriate.
17. One of the four themes of the Policy & Resource Plan during this States' term has been "*Our Place In The World*", and one of its central priorities the development of Guernsey's "*Mature International Identity*". It has never been more important for Guernsey to demonstrate that it has an appropriate, transparent and democratic approach towards international engagement, including the adoption of international treaties and conventions which reflect the Island's values.
18. The authors of this Requete do not consider that substantial changes to the current process are needed. However, the opportunity for parliamentary scrutiny (and public awareness) of the international instruments adopted by Committees of the States under delegated authority should be a minimum requirement.
19. There are many cases where Committees bring policy letters on specific subjects which, among other things, include a recommendation that a certain treaty or convention should be extended to Guernsey. In those cases, the need for

transparency is satisfied. However, in other cases, P&R and the relevant Principal Committees may operate under delegated authority alone, without any reference to the States.

20. We are advised that the UK's Constitutional Reform and Governance Act 2010 "gave parliament a statutory role on treaties that includes a new power to block ratification."¹ A treaty is negotiated and signed by the UK government, and then (in the majority of cases) laid before parliament for a period of 21 days, during which time the parliament can move that the treaty must not be ratified. This process can, in theory, be repeated so that ratification is postponed indefinitely. In practice, it is rare for treaties to be signed but not then ratified in the UK (because the government usually commands a majority in parliament). If it did happen, it would usually be because the treaty has not been pressed for ratification due to international events rather than due to issues within parliament.
21. It is not straightforward just to mirror this process in Guernsey. There is not the same distinction between parliament and government; and, as Guernsey is not a sovereign state, it does not have the same authority to enter into treaties in its own right. Instead, Guernsey (or the Bailiwick) acquiesces or makes a request to the UK for it to extend the territorial scope of treaties to the island(s). The decision is made by the UK on our request, and the States cannot subsequently refuse to ratify the treaty in the same way the UK parliament might.
22. Discussions with the External Affairs team have identified a number of areas where Guernsey's experience of entering into international treaties has changed significantly since the 1987 Resolution was made. For example, Guernsey has asserted a more independent international identity, and has been granted entrustment to negotiate and enter directly into certain kinds of international agreement – particularly relating to tax and social security matters.
23. The authors of this Requete have been grateful for open dialogue with the External Relations team. It is clear that the process of adopting international treaties and implementing treaties negotiated under entrustment by Guernsey does require modernising. The authors of this Requete are of the opinion that an element of wider engagement with the States – based on a similar approach to that used in the UK, but one which fits our unique governance arrangements and constitutional position – should be central to that.
24. We recognise that there will always be instances where a certain amount of speed and flexibility is needed, which might not fit easily with a parliamentary process. For example, we are advised that, at present, there is often a need to enter tax

¹ See House of Commons Library (2017) "Parliament's role in ratifying treaties" Briefing Paper no. 5855 [Online] Available at: <https://researchbriefings.files.parliament.uk/documents/SN05855/SN05855.pdf>

information exchange agreements (TIEAs) on relatively short timeframes, and these could not be brought to the States in advance – however, the States has agreed the principle of TIEAs, and individual agreements are pursued in the context of that overall framework. We consider that there are certain types of agreement that would suit this approach, and would welcome its continuation in future, in the context of an overall improved and modernised approach to international agreements.

25. Accordingly, the second part of this Requete invites the States to agree that the Policy & Resources Committee, in consultation with other Committees of the States, should revisit Guernsey's approach to adopting international treaties and conventions, and should develop a process to replace the 1987 Resolution, which includes a greater degree of democratic scrutiny by ensuring that the States are sighted on – and have an opportunity to challenge, if need be – treaties and conventions at a suitably early stage in the process.

RULE 4 INFORMATION

26. In accordance with Rule 4(1), this Requete has been submitted to Her Majesty's Procureur for her advice on any legal or constitutional implications.
27. In accordance with Rule 4(3), we understand funding for a Treaty Officer within the External Affairs function was secured within the 2020 budget (although the role has not yet been recruited), providing the necessary capacity to address this work, and that this Requete should not have any additional financial implications.
28. In accordance with Rule 4(4), this Requete has the full support of its seven signatories.
29. In accordance with Rule 4(5), this Requete contributes to "Our Place in the World" – especially the development of Guernsey's mature international identity – which is one of the four pillars of this term's Policy & Resource Plan. The proposals in this Requete will enhance transparency and democratic engagement with regard to Guernsey's participation in international agreements and its consequent obligations and should further safeguard the human rights and fundamental freedoms of our community.
30. Rule 4(5) also requires us to report "what joint working or consultation has taken place with other Committees in the preparation of the propositions." The Requete was first discussed with P&R's lead member for External Affairs on 24 October 2019, and a helpful response was provided on his behalf. Officers of the External Affairs function have provided thorough and helpful responses to our questions, in their professional capacity, as we have progressed the drafting of the Requete. A near-final version was shared informally with the President of P&R in early January,

and the final version sent to the full Committee thereafter. While P&R have advised that they are unable to schedule this for consideration before the submission deadline, we appreciate their engagement to date, which has been helpful in formulating the proposals set out in this Requete.

THESE PREMISES CONSIDERED, YOUR PETITIONERS humbly pray that the States may be pleased to resolve:

1. To agree that before any request is made for the UK-US Extradition Treaty of 2003 to be extended to the Bailiwick, the States of Deliberation must approve a proposition that such a request be made, and the States of Alderney and Chief Pleas of Sark must also be consulted; and
2. To direct the Policy & Resources Committee, in consultation with other Committees of the States, to develop proposals for a modernised approach to the adoption of international treaties and conventions in Guernsey, which includes a greater degree of democratic scrutiny and engagement by the States Assembly as set out in this Requete, to replace the 1987 Resolution, and to return to the States with proposals no later than the end of 2021.

AND YOUR PETITIONERS WILL EVER PRAY
GUERNSEY

This 5th day of February 2020

Deputy J S Merrett

Deputy M J Fallaize

Deputy P T R Ferbrache

Deputy C J Green

Deputy S T Hansmann Rouxel

Deputy E A McSwiggan

Alderney Representative E A J Snowdon

STATES OF DELIBERATION

of the

ISLAND OF GUERNSEY

DEPUTY J.S. MERRETT & SIX OTHERS

REQUETE: 'EXTENSION TO THE BAILIWICK OF THE UK-US EXTRADITION TREATY OF 2003 AND CHANGES TO PROCESSES RELATING TO THE APPROVAL OF INTERNATIONAL INSTRUMENTS'

The President
Policy & Resources Committee
Sir Charles Frossard House
La Charroterie
St Peter Port

10th February 2020

Dear Deputy St Pier,

Requete;

EXTENSION TO THE BAILIWICK OF THE UK-US EXTRADITION TREATY OF 2003 AND
CHANGES TO PROCESSES RELATING TO THE APPROVAL OF INTERNATIONAL
INSTRUMENTS'

In accordance with Rule 4. (2) of the Rules of Procedure of the States of Deliberation and their Committees, the requearants request that the requete is considered before the end of this political term.

Yours sincerely,

J S Merrett

M J Fallaize

PTR Ferbrache

C J Green

ST Hansmann Rouxel

EAJ Snowdon

E A Mc Swiggan

STATUTORY INSTRUMENTS LAID BEFORE THE STATES

The States of Deliberation have the power to annul the Statutory Instruments detailed below.

No. 131 of 2019

THE AIR NAVIGATION (FEES) (AMENDMENT) REGULATIONS 2019

In pursuance of regulation 2 of The Air Navigation (Fees) Regulations 2013, The Air Navigation (Fees) (Amendment) Regulations 2019 made by the Economic Development Committee on 30th December 2019, are laid before the States.

EXPLANATORY NOTE

These Regulations amend The Air Navigation (Fees) Regulations 2013 which sets the relevant fees for foreign Aircraft operations.

These Regulations are to come into force on 1st January 2020

The Regulation was made by the Economic Development Committee in exercise of its powers under Article 66A(1) of the Reform (Guernsey) Law 1948, and came into force on the 1st January 2020. Under the proviso to Article 66A(1) of the Reform (Guernsey) Law 1948, the States of Deliberation have the power to annul the regulation.

No. 132 of 2019

THE AIR NAVIGATION (BAILIWICK OF GUERNSEY) (FOREIGN AIRCRAFT OPERATIONS) (AMENDMENT) REGULATIONS 2019

In pursuance of section 2 of The Aviation (Bailiwick of Guernsey) (Foreign Aircraft Operations) (Amendment) Ordinance 2009, The Air Navigation (Bailiwick of Guernsey) (Foreign Aircraft Operations) (Amendment) Regulations 2019 made by the Economic Development Committee on 30th December 2019, are laid before the States.

EXPLANATORY NOTE

These Regulations amend The Aviation (Bailiwick of Guernsey) (Foreign Aircraft Operations) (Amendment) Ordinance 2009 which sets the relevant fees for foreign Aircraft operations.

These Regulations are to come into force on 1st January 2020

The Regulation was made by the Economic Development Committee in exercise of its powers under Article 66A(1) of the Reform (Guernsey) Law 1948, and came into force on the 1st January 2020. Under the proviso to Article 66A(1) of the Reform (Guernsey) Law 1948, the States of Deliberation have the power to annul the regulation.

No. 14 of 2020

THE COMPANIES (RECOGNITION OF AUDITORS) (AMENDMENT) REGULATIONS, 2020

In pursuance of section 537 of the Companies (Guernsey) Law, 2008, “The Companies (Recognition of Auditors) (Amendment) Regulations, 2020”, made by the Committee *for* Economic Development on 25th February, 2020, are laid before the States.

EXPLANATORY NOTE

These Regulations approve rules of the Institute of Chartered Accountants in England and Wales for the purpose of the regulation of recognised auditors in the conduct of audit work under Part XVIA of the Companies (Guernsey) Law, 2008 (“the Law”).

In addition, these Regulations amend section 2740 of the Law to include disclosure of information to the Guernsey Financial Services Commission in the exemption set out in subsection (4).

These Regulations come into force on 15th March, 2020.

The full text of the legislation can be found at:

<http://www.guernseylegalresources.gg/article/90621/Statutory-Instruments>

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

PROJET DE LOI

Entitled

THE CAPACITY (BAILIWICK OF GUERNSEY) LAW, 2020

The States are asked to decide:-

Whether they are of the opinion to approve the draft Projet de Loi entitled "The Capacity (Bailiwick of Guernsey) Law, 2020", and to authorise the Bailiff to present a most humble petition to Her Majesty praying for Her Royal Sanction thereto.

This proposition has been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications in accordance with Rule 4(1) of the Rules of Procedure of the States of Deliberation and their Committees.

EXPLANATORY MEMORANDUM

The Capacity (Bailiwick of Guernsey) Law, 2020 is largely based on the provisions of the Mental Capacity Act 2005 (as subsequently amended), but is intended to take into account the current processes and requirements of the Bailiwick.

Part 1 (Preliminary) sets out the key interpretative provisions, defining terms which are used throughout the Law, and lists the decisions which may not be made on behalf of a person who lacks capacity under the Law.

Part 2 (Persons who lack capacity) states the principles of the Law (e.g. a person is assumed to have capacity unless it is established that they lack capacity), lists what must be proved before a person lacks capacity and enshrines the key principle that any decisions taken on behalf of a person who lacks capacity must be made in the best interests of that person. Part 3 (Powers of and applications to court and tribunal) sets out the general powers of the court and the Mental Health and Capacity Review Tribunal.

Part 4 (Lasting powers of attorney) introduces lasting powers of attorney which allow a grantor (a person with capacity) to appoint an attorney who may deal with their health and welfare, or property and financial affairs, or both, when the grantor no longer has capacity. Part 5 (Advance decisions to refuse treatment) establishes ADRTs (also known as living wills) which allow a person with capacity to make a decision to refuse specified treatment when they no longer have capacity. Part 6 (Advanced care plans) allows a person to make an advanced care plan setting out their wishes in relation to

the care and treatment that they would wish to receive when they lack capacity (including interests, food and even funeral arrangements).

Part 7 (Independent capacity representatives) establishes the role of ICRs who have the function of assisting persons who lack capacity and may challenge decisions taken on their behalf. Part 8 (Protective authorisation scheme) introduces the concept of a "significant restriction of a person's personal rights" (which is defined as a deprivation of liberty in accordance with ECHR case law). This scheme will give clear legal power for e.g. care placements and hospitals to ensure that people who lack capacity remain in safe environments for the purposes of their treatment and care, and is the equivalent of the Deprivation of Liberty Safeguards and Liberty Protection Safeguards schemes in England and Wales. Protective authorisations may be issued or reviewed by Capacity Professionals (who are independent decision-makers in the same vein as Approved Social Workers under the Mental Health (Bailiwick of Guernsey) Law, 2003).

Part 9 (Safeguarding) provides the States with an Ordinance-making power to make provision for safeguarding measures in relation to vulnerable persons aged 18 or over.

PROJET DE LOI

ENTITLED

The Capacity (Bailiwick of Guernsey) Law, 2020

ARRANGEMENT OF SECTIONS

PART 1 PRELIMINARY

1. Key interpretative provisions.
2. Excluded decisions.

PART 2 PERSONS WHO LACK CAPACITY

Principles

3. Principles.

Preliminary

4. Persons who lack capacity.
5. Inability to make decisions.
6. Best interests.
7. Limitation on significant restriction of P's personal rights.
8. Permitted acts in connection with care or treatment.
9. Permitted acts: limitations.
10. Payment for necessary goods and services.
11. Expenditure.

PART 3 POWERS OF AND APPLICATIONS TO COURT AND TRIBUNAL

12. Interpretation of Part 3.

General powers of the Court

- 13. Power to make declarations.
- 14. Power to make decisions: general.
- 15. Section 14 powers: health and welfare.
- 16. Section 14 powers: property and financial affairs.

General powers of the Tribunal

- 17. Power to make declarations.
- 18. Power to make decisions: general.
- 19. Section 18 powers: health and welfare.
- 20. Power of Tribunal to refer matters to the Court.

Applications to the Court and Tribunal

- 21. Applications to the Court and the Tribunal.

PART 4
LASTING POWERS OF ATTORNEY

General

- 22. Lasting powers of attorney.
- 23. Creation etc. of lasting powers of attorney.
- 24. Appointment of attorneys.
- 25. Restrictions
- 26. Gifts.
- 27. Limitation on power to dispose of real property.
- 28. Register of Lasting Powers of Attorney.
- 29. Protection of attorneys and others if no power created or power terminated.

Powers of Court in relation to lasting powers of attorney

- 30. Powers of Court relating to validity.
- 31. Powers of Court relating to operation.

Miscellaneous

- 32. Interpretation.
- 33. Disclosure of information or documents.
- 34. Liability of Her Majesty's Greffier.

PART 5
ADVANCE DECISIONS TO REFUSE TREATMENT

- 35. Advance decisions.
- 36. Making etc. advance decisions.
- 37. Effect of advance decisions.
- 38. Validity and applicability of advance decisions.

PART 6
ADVANCED CARE PLANS

- 39. Advanced care plans.
- 40. Making etc. advanced care plans.

PART 7
INDEPENDENT CAPACITY REPRESENTATIVES

- 41. Arrangements and appointments.
- 42. Functions.
- 43. Serious medical treatment.
- 44. Provision of accommodation.
- 45. Safeguarding and other cases.
- 46. Person subject to protective authorisation scheme.

PART 8
PROTECTIVE AUTHORISATION SCHEME

- 47. Significant restriction of a person's personal rights.
- 48. Capacity Professionals.
- 49. Protective authorisation.
- 50. Qualifying requirements.

Requirements and assessments

- 51. The age requirement.
- 52. The capacity (functional) requirement.
- 53. The significant restriction requirement.
- 54. The cognitive impairment (diagnostic) requirement.
- 55. The contrary decisions requirement.
- 56. The best interests requirement.
- 57. Assessments.

Processes

- 58. Protective authorisation process A.
- 59. Protective authorisation process B.
- 60. Protective authorisation process C.
- 61. Power of Capacity Professional to extend protective authorisation granted by prescribed person under process C.
- 62. Portability of protective authorisation.
- 63. Suspension of protective authorisation.
- 64. Variation of protective authorisation.
- 65. Cessation of protective authorisation.
- 66. Renewal of protective authorisation.
- 67. Consultation.

Reassessment and challenge

- 68. Power and duty of Capacity Professional to re-assess the qualifying requirements.
- 69. Challenge to protective authorisation.
- 70. Referral of protective authorisation.

Representatives

- 71. Person's representative.

General

- 72. Amendment of this Part.

PART 9 SAFEGUARDING

- 73. Safeguarding.

PART 10 GENERAL PROVISIONS

Research

- 74. Research: power to make Ordinances.

Criminal provisions

- 75. Ill-treatment or neglect.
- 76. Effect on criminal law.

General

- 77. Disclosure.
- 78. Power to carry Law into effect by Ordinance.
- 79. Savings and transitional provisions, etc.
- 80. Code of practice.
- 81. Laying of regulations.
- 82. Special provisions governing application of regulations and codes of practice to Sark.
- 83. Rules of court.

Miscellaneous

- 84. Citation.
- 85. Commencement.

PROJET DE LOI

ENTITLED

The Capacity (Bailiwick of Guernsey) Law, 2020

THE STATES, in pursuance of their Resolution of the 16th March, 2016^a, of the 27th February, 2020^b and of the X X 2020^c, have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law throughout the Bailiwick of Guernsey.

PART 1

PRELIMINARY

Key interpretative provisions.

1. (1) In this Law, and in any Ordinance or subordinate legislation made under this Law, unless the context otherwise requires -

"advanced care plan" has the meaning given in section 39,

"advance decision" has the meaning given in section 35(1),

^a Article III of Billet d'État No. VII (Vol. II) of 2016.

^b Article VI of Billet d'État No. V of 2020.

^c Article ** of Billet d'Etat No. ** of 2020.

"**attorney**", in relation to a lasting power of attorney, has the meaning given in section 22,

"**Bailiwick**" means the Bailiwick of Guernsey,

"**bankrupt**" means -

- (a) that a declaration of insolvency has been made in respect of a person by the Royal Court under the Loi ayant rapport aux Débiteurs et à la Renonciation, 1929^d,
- (b) that a Commissioner or Committee of Creditors has been appointed by the Royal Court under that Law to supervise or secure a person's estate,
- (c) that a person's affairs have been declared to be in a state of "*désastre*" at a meeting of that person's arresting creditors held before a Commissioner of the Royal Court,
- (d) that an interim vesting order has been made against a person in respect of any of that person's real property in the Bailiwick, or
- (e) that a composition, compromise or arrangement with creditors has been entered into in respect of a person

^d Ordres en Conseil Vol. VIII, p. 310.

whereby that person's creditors will receive less than 100 pence in the pound,

"Capacity Professional" has the meaning given in section 48,

"Chief Pleas" means the Chief Pleas of Sark,

"Committee" means the States of Guernsey Committee for Health and Social Care,

"grantor", in relation to a lasting power of attorney, has the meaning given in section 21,

"guardian" means a *curateur, tuteur* or other guardian,

"health record" has the meaning given in section 92 of the Data Protection (Bailiwick of Guernsey) Law, 2017,

"the Human Rights Convention" has the same meaning as **"the Convention"** in the Human Rights (Bailiwick of Guernsey) Law, 2000^e,

"ICR" has the meaning given in section 41,

"Island authority" means the States of Guernsey, the States of Alderney or the Chief Pleas of Sark, and includes any committee thereof,

^e Order in Council No. XIV of 2000; as amended by No. I of 2005; Ordinance No. XXXVII of 2001, No. XXXIII of 2003, No. XX of 2015 and No. IX of 2016; and G.S.I. No. 27 of 2006. See also Ordinance No. XXXIII of 2009 and No. XX of 2015.

"lasting power of attorney" has the meaning given in section 21,

"life-sustaining treatment" means treatment which in the view of a person providing health care for the person concerned is necessary to sustain life,

"Mental Health Law" means the Mental Health (Bailiwick of Guernsey) Law, 2010^f,

"P's representative" has the meaning given in section 71,

"parental responsibility" has the same meaning as in section 5 of the Children (Guernsey and Alderney) Law, 2008^g or section 4 of the Children (Sark) Law, 2016^h (as the case may be),

"permitted act" has the meaning given in section 8,

"prescribed" means prescribed by regulations made by the Committee,

"property" includes any thing in action and any interest in real or personal property,

^f Order in Council No. XV of 2011.

^g Order in Council No. XIV of 2009; as amended by No. IV of 2018; Ordinance No. XI and No. XLVIII of 2009; No. XX of 2015; No. IX of 2016; and No. VI of 2017.

^h Order in Council No. VIII of 2016; as amended by Ordinance No. IX of 2016; and by Sark Ordinance No. I of 2017.

"protective authorisation" has the meaning given in section 49,

"public authority" has the same meaning as in the Human Rights (Bailiwick of Guernsey) Law, 2000,

"the qualifying requirements" has the meaning given in section 50,

"Royal Court" means the Royal Court sitting as an Ordinary Court,

"relevant instrument" has the meaning given in s.22(2)(b),

"significant restriction" has the definition given in section 47,

"States" means the States of Deliberation,

"treatment" includes a diagnostic or other procedure,

"Tribunal" means the Mental Health and Capacity Review Tribunal,

"uniform scale" means the uniform scale set out in the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989ⁱ, and

"will" includes codicil.

ⁱ Ordres en Conseil Vol. XXXI, p.278; amended by Order in Council No. XVIII of 2009 and No. IV of 2018; Ordinance No. XXII of 1998, No. XXIX of 2006 and No. XXIX of 2013.

(2) For the purposes of this Law, a person ("**D**") restrains another person ("**P**") if D -

- (a) uses, or threatens to use, physical, mechanical or chemical restraint, or any other type of force, on P to secure the doing of an act which P resists,
- (b) restricts, or threatens to restrict, P's freedom of movement (including, but not limited to, isolation, seclusion or segregation), whether or not P resists, or
- (c) authorises another person to do any thing set out in paragraph (a) or (b);

Provided that D does more than merely restrain P if D's act would be a significant restriction of P's personal rights.

(3) In subsection (2) -

"physical restraint" means the use of physical contact which is intended to prevent, restrict or subdue movement of any part of P's body,

"mechanical restraint" means the use of a device which is -

- (a) intended to prevent, restrict or subdue movement of any part of P's body, and

- (b) for the primary purpose of behavioural control,
and

"**chemical restraint**" means the use of medication which
is -

- (a) intended to prevent, restrict or subdue
movement of any part of P's body, and
- (b) for the primary purpose of behavioural control.

(4) In this Law, references to making decisions, in relation to an attorney under a lasting power of attorney or a guardian appointed by the court, include, where appropriate, acting on decisions made.

(5) The States may by Ordinance amend the definitions in subsections (1) to (3).

Excluded decisions.

2. (1) Nothing in this Law permits a decision on any of the following to be made on behalf of a person ("P") -

- (a) giving consent to -
 - (i) a marriage or civil partnership,
 - (ii) have sexual relations,
 - (iii) a decree of divorce being granted or an order

dissolving a civil partnership being made,

(iv) P's child being placed for adoption by the Committee or any other adoption agency,

(v) the making of an adoption order in relation to P's child,

(vi) sterilisation or fertility treatment, and

(vii) participation in a high risk financial investment,

(b) discharging P's parental responsibilities in matters not relating to a child's property, and

(c) voting at an election for any public office or at any referendum.

(2) Nothing in this Law authorises any person -

(a) to give P treatment for mental disorder, or

(b) to consent to P being given treatment for mental disorder,

if, at the time when it is proposed to treat P, P's treatment is regulated by Part VIII of the Mental Health Law.

(3) For the purposes of this section -

- (a) **"mental disorder"** and **"treatment"** have the same meaning as in the Mental Health Law,
- (b) **"high risk financial investment"** means a financial investment by a person which a reasonable observer would consider to be a high risk taking into account all relevant factors including -
 - (i) that person's financial circumstances,
 - (ii) the likelihood that the original investment could be substantially reduced,
 - (iii) that person's previous history of investment, and
 - (iv) any wishes on that investment previously expressed by that person whilst that person had capacity to make the investment, and
- (c) **"referendum"** means any referendum carried out under any enactment.

PART 2
PERSONS WHO LACK CAPACITY

Principles

Principles.

3. The following principles apply for the purposes of this Law -
- (a) a person ("P") must be assumed to have capacity unless it is established that P lacks capacity,
 - (b) P is not to be treated as unable to make a decision -
 - (i) unless all practicable steps to help P to do so have been taken without success, nor
 - (ii) merely because P makes an unwise decision,
 - (c) an act done, or decision made, under this Law for or on behalf of P must be done, or made, in P's best interests, and
 - (d) before the act is done, or the decision is made, regard must be had to whether the purpose for which it is needed can be as effectively achieved in a way that is less restrictive of P's rights and freedom of action.

Preliminary

Persons who lack capacity.

4. (1) For the purposes of this Law, a person ("P") lacks capacity in relation to a matter if, at the material time -

(a) P is unable to make a decision in relation to the matter,
and

(b) P's inability is due to an impairment of, or a disturbance
in the functioning of, the mind or brain, whether the
impairment or disturbance is permanent or temporary.

(2) A lack of capacity cannot be established merely on the basis of an unjustified assumption by reference to factors including (but not limited to) -

(a) P's age, gender, sexuality, disability, race or appearance,
or

(b) P's condition or an aspect of P's behaviour.

(3) In proceedings under this Law or any other enactment, any question whether P lacks capacity within the meaning of this Law must be decided on the balance of probabilities.

(4) Subject to section 16(3), no power which a person ("D") may exercise under this Law -

(a) in relation to P who lacks capacity, or

- (b) where D reasonably thinks that P lacks capacity,

is exercisable in relation to a person under 16.

Inability to make decisions.

5. (1) For the purposes of section 4(1), a person ("P") is unable to make a decision if P is unable -

- (a) to understand the information relevant to the decision,
- (b) to retain that information,
- (c) to use or weigh that information as part of the process of making the decision, or
- (d) to communicate P's decision (whether by talking, using sign language or any other means).

(2) For the purposes of -

- (a) subsection (1), the information relevant to a decision includes information about the reasonably foreseeable consequences of -
 - (i) deciding one way or another, or
 - (ii) failing to make the decision,

- (b) subsection (1)(a), P is not to be regarded as unable to understand the information relevant to a decision if P is only able to understand it, or an explanation of it, given to P in a way that is appropriate to P's needs and circumstances (including using simple language, visual aids or any other means), and
- (c) subsection (1)(b), the fact that P is able to retain the information relevant to a decision for a short period only does not prevent P from being regarded as able to make the decision.

Best interests.

6. (1) In determining for the purposes of this Law what is in the best interests of a person ("P"), the person making the determination ("D") -

- (a) must, so far as reasonably practicable, permit and encourage P to participate, or to improve P's ability to participate, as fully as possible in any act done for P and any decision affecting P,
- (b) must not make it merely on the basis of an unjustified assumption about what might be in P's best interests, by reference to factors including (but not limited to) -
 - (i) P's age, gender, sexuality, disability, race or appearance, or
 - (ii) P's condition or an aspect of P's behaviour, and

(c) must consider all the relevant information and circumstances and, in particular -

(i) D must consider -

(A) whether it is likely that P will at some time have capacity in relation to the matter in question, and

(B) if it appears likely that P will have capacity, when that is likely to be,

(ii) where the determination relates to life-sustaining treatment, D must not, in considering whether the treatment is in P's best interests, be motivated by a desire to bring about P's death,

(iii) D must consider, so far as is reasonably ascertainable -

(A) P's past and present wishes and feelings (and, in particular, any relevant written statement made by P when P had capacity), and

(B) the beliefs and values that would be likely to influence P's decision if P had capacity, and

(C) any other factor that D reasonably believes that P would consider relevant, and

(iv) D must take into account, if it is practicable and appropriate to consult them, the views of -

(A) anyone named by P as someone to be consulted on the matter in question or on matters of that kind,

(B) anyone engaged in caring for P or interested in P's welfare,

(C) any attorney under a lasting power of attorney granted by P, and

(D) any guardian appointed for the person by a court,

as to what would be in P's best interests and, in particular, as to the matters mentioned in subparagraph (iii).

(2) The duties imposed by subsection (1) also apply in relation to the exercise of any powers which are exercisable -

(a) under a lasting power of attorney, or

(b) by a person under this Law who reasonably believes that another person lacks capacity.

(3) In the case of an act done, or a decision made, by a person other than a court having jurisdiction in relation to that act or decision, there is sufficient compliance with this section if (having complied with the requirements of subsection (1)) D reasonably believes that what D does or decides is in the best interests of P.

(4) For the purposes of subsection (1), "**relevant information and circumstances**" means the information and circumstances -

(a) of which D is aware, and

(b) which it would be reasonable to regard as relevant.

(5) For the avoidance of doubt, nothing in this section prevents P from being placed out of the jurisdiction where it is necessary and proportionate to do so, having regard to P's needs and any relevant circumstances.

Limitation on significant restriction of P's personal rights.

7. (1) Subject to the provisions of this section, this Law does not authorise a person ("D") to significantly restrict the personal rights of another person ("P").

(2) D is authorised to significantly restrict P's personal rights if, by doing so, D is giving effect to a relevant decision of the Court.

(3) D is authorised to significantly restrict P's personal rights if the

restriction is authorised under Part 8.

(4) D is authorised to significantly restrict P's personal rights while a decision as respects any relevant issue is sought from the Court if -

(a) there is a question about whether D is authorised to significantly restrict P's personal rights under subsection (2) or (3),

(b) the significant restriction -

(i) is wholly or partly for the purpose of -

(A) giving P life-sustaining treatment, or

(B) doing any vital act, or

(ii) consists wholly or partly of -

(A) giving P life-sustaining treatment, or

(B) doing any vital act, and

(c) the significant restriction is necessary in order to -

(i) give the life-sustaining treatment, or

(ii) do the vital act.

(5) For the purposes of this section -

- (a) "**a relevant decision of the Court**" is a decision made by an order under section 14(2) in relation to a matter concerning P's health and welfare, and
- (b) a "**vital act**" is any act which the person doing it reasonably believes to be necessary to prevent a serious deterioration in P's condition.

Permitted acts in connection with care or treatment.

8. (1) Where a person ("**D**") does an act in connection with the care or treatment of another person ("**P**"), subsection (2) applies to that act (a "**permitted act**") if -

- (a) before doing the act, D takes reasonable steps to establish whether P lacks capacity in relation to the matter in question, and
- (b) when doing the act, D reasonably believes that -
 - (i) P lacks capacity in relation to the matter, and
 - (ii) it will be in P's best interests for the act to be done.

(2) Subject to subsection (3), D does not incur any liability in relation to the permitted act that D would not have incurred if P had -

- (a) had capacity to consent in relation to the matter, and
 - (b) consented to D's doing the act.
- (3) Nothing in this section -
- (a) excludes D's civil liability for loss or damage, or D's criminal liability, resulting from D's negligence in doing the permitted act, or
 - (b) affects the operation of sections 35 to 38 (advance decisions to refuse treatment).

Permitted acts: limitations.

9. (1) If D does an act that is intended to restrain P, it is not a permitted act unless -

- (a) D reasonably believes that it is necessary to do the act in order to prevent harm to P, and
- (b) the act is a proportionate response to -
 - (i) the likelihood of P's suffering harm, and
 - (ii) the seriousness of that harm.

(2) Subject to subsection (3), an act is not a permitted act if it conflicts with a decision made by -

(a) an attorney under a lasting power of attorney granted by P, or

(b) a guardian appointed for P by a court in the Bailiwick,

within the scope of the authority of the attorney or guardian (as the case may be).

(3) Subsection (2) does not prevent a person -

(a) providing life-sustaining treatment, or

(b) doing any act which that person reasonably believes to be necessary to prevent a serious deterioration in P's condition,

while a decision as respects any relevant issue is sought from the Court.

Payment for necessary goods and services.

10. (1) If necessary goods or services are supplied to a person ("P") who lacks capacity to contract for the supply, P must pay a reasonable price for them.

(2) For the purposes of this section -

"**necessary**" means suitable to P's condition in life and to P's actual requirements at the time when the goods or services are supplied, and

"**services**" includes accommodation.

Expenditure.

11. (1) If a permitted act involves expenditure, it is lawful for D -
- (a) to pledge P's credit for the purpose of the expenditure, and
 - (b) to apply money in P's possession for meeting the expenditure.
- (2) If the expenditure is borne for P by D, it is lawful for D -
- (a) to reimburse himself out of money in P's possession, or
 - (b) to be otherwise indemnified by P.
- (3) Subsections (1) and (2) do not affect any power under which (apart from those subsections) a person -
- (a) has lawful control of P's money or other property, and
 - (b) has power to spend money for P's benefit.

PART 3

POWERS OF AND APPLICATIONS TO COURT AND TRIBUNAL

Interpretation of Part 3.

12. For the purposes of this Part, "**Court**" means the Royal Court sitting as an Ordinary Court.

General powers of the Court

Power to make declarations.

13. (1) The Court may make declarations as to -
- (a) whether a person ("P") has or lacks capacity to make a decision specified in the declaration,
 - (b) whether P has or lacks capacity to make decisions on such matters as are described in the declaration, and
 - (c) the lawfulness or otherwise of any act done, or yet to be done, in relation to P.

(2) For the purposes of this section, an "**act**" includes an omission and a course of conduct.

Powers to make decisions: general.

14. (1) This section applies if a person ("P") lacks capacity in relation to a matter or matters concerning -

- (a) P's health and welfare, or
- (b) P's property and financial affairs.

(2) The Court may, by making an order, make any decision on P's behalf in relation to any matter falling within subsection (1).

(3) The powers of the Court under this section are subject to the

provisions of this Law and, in particular, to sections 3 (the principles) and 6 (best interests).

(4) The Court may make such further orders or give such directions as it thinks necessary or expedient for giving effect to, or otherwise in connection with, an order made by it under subsection (2).

(5) Without prejudice to section 6, the Court may make an order or give any directions on such terms as it considers are in P's best interests, even though no application is before the Court for an order or directions on those terms.

(6) An order of the Court (including any directions) may be varied or discharged by a subsequent order.

(7) Nothing in this Part limits the power of the Court -

(a) to order, authorise or secure the doing of any thing, or

(b) to make orders and give directions or authorities,

under the Third Schedule to the Mental Health Law.

(8) For the avoidance of doubt, the Court may, pending the determination of an application to it in relation to P, make an order or give directions in respect of any matter if -

(a) there is a reason to believe that P lacks capacity in relation to that matter,

- (b) the matter is one to which its powers under this Law extend, and
- (c) it is in P's best interests to make the order, or give the directions, without delay.

Section 14 powers: health and welfare.

15. Without prejudice to the generality of section 14, the Court's powers under that section as respects P's health and welfare extend in particular to -

- (a) deciding where P is to live,
- (b) deciding what contact, if any, P is to have with any specified persons,
- (c) making an order prohibiting a named person from having contact with P,
- (d) giving or refusing consent to the carrying out or continuation of a treatment by a person providing health care for P,
- (e) giving a direction that a person responsible for P's health care that would allow a different person to take over that responsibility, and
- (f) making any order in relation to a protective authorisation made in accordance with Part 8.

Section 14 powers: property and financial affairs.

16. (1) Without prejudice to the generality of section 14, the Court's powers under that section as respects P's property and financial affairs extend in particular to -

- (a) the control and management of P's property,
- (b) the sale, exchange, charging, gift or other disposition of P's property,
- (c) the acquisition of property in P's name or on P's behalf,
- (d) the carrying on, on P's behalf, of any profession, trade or business,
- (e) the taking of a decision which will have the effect of dissolving a partnership of which P is a member,
- (f) the carrying out of any contract entered into by P,
- (g) the discharge of P's debts,
- (h) the discharge of any of P's obligations, whether legally enforceable or not,
- (i) the settlement of any of P's property, whether for P's benefit or for the benefit of others,
- (j) the execution for P of a will,

- (k) the exercise of any power (including a power to consent) vested in P whether beneficially or as trustee or otherwise, and
- (l) the conduct of legal proceedings in P's name or on P's behalf.

(2) No will may be made under subsection (1)(j) at a time when P has not reached 18.

(3) The powers under section 14 as respects any other matter relating to P's property and financial affairs may be exercised even though P has not reached 16, if the Court considers it likely that P will still lack capacity to make decisions in respect of that matter when P reaches 16.

General powers of the Tribunal

Power to make declarations.

17. (1) The Tribunal may make declarations as to -
- (a) whether a person ("P") has or lacks capacity to make a decision specified in the declaration,
 - (b) whether P has or lacks capacity to make decisions on such matters as are described in the declaration, and
 - (c) the lawfulness or otherwise of any act done, or yet to be done, in relation to P.

(2) For the purposes of this section, an "**act**" includes an omission and a course of conduct.

Powers to make decisions: general.

18. (1) This section applies if a person ("**P**") lacks capacity in relation to a matter concerning P's health and welfare.

(2) The Tribunal may, by making an order, make any decision on P's behalf in relation to any matter falling within subsection (1).

(3) The powers of the Tribunal under this section are subject to the provisions of this Law and, in particular, to sections 3 (the principles) and 6 (best interests).

(4) The Tribunal may make such further orders or give such directions as it thinks necessary or expedient for giving effect to, or otherwise in connection with, an order made by it under subsection (2).

(5) Without prejudice to section 6, the Tribunal may make any order or give any directions on such terms as it considers are in P's best interests, even though no application is before the tribunal for an order or directions on those terms.

(6) An order of the Tribunal (including any directions) may be varied or discharged by a subsequent order.

(7) The States may by Ordinance make provision to extend the power of the Tribunal to make decisions in relation to any matter concerning P's property and financial affairs.

(8) For the avoidance of doubt, the Tribunal may, pending the determination of an application to it in relation to P, make an order or give directions in respect of any matter if -

- (a) there is a reason to believe that P lacks capacity in relation to that matter,
- (b) the matter is one to which its powers under this Law extend, and
- (c) it is in P's best interests to make the order, or give the directions, without delay.

Section 18 powers: health and welfare.

19. (1) Without prejudice to the generality of section 18, the Tribunal's powers under that section as respects P's health and welfare extend in particular to -

- (a) deciding where P is to live,
- (b) deciding what contact, if any, P is to have with any specified persons,
- (c) making an order prohibiting a named person from having contact with P,
- (d) giving or refusing consent to the carrying out or continuation of a treatment by a person providing health care for P, and

- (e) giving a direction that a person responsible for P's health care allow a different person to take over that responsibility, and
- (f) making any order in relation to a protective authorisation made in accordance with Part 8.

(2) When making a decision in a matter concerning P's health and welfare, the Tribunal may also make any ancillary decision but only if it is ancillary to a decision on P's health and welfare in relation to -

- (a) the control and management of P's property,
- (b) the carrying out of any contract entered into by P,
- (c) the discharge of P's debts,
- (d) the discharge of any of P's obligations, whether legally enforceable or not, and
- (e) any other matter which is ancillary to a decision taken in relation to P's health and welfare.

Power of Tribunal to refer matters to the Court.

20. (1) The Tribunal may refer any matter to the Court where the Tribunal thinks it is in the interests of justice to do so in such manner and within such period as may be prescribed by rules of court.

(2) For the avoidance of doubt, on a reference to the Court sitting under this section, that Court has the powers set out in sections 13 to 16.

(3) For the purposes of this section -

- (a) the Tribunal may be constituted by a single member of the Tribunal sitting alone, and
- (b) for the avoidance of doubt, that member may sit outside the Bailiwick in order to exercise those powers.

Applications to the Court and Tribunal

Applications to the Court and Tribunal.

21. (1) No permission is required for an application to the Court or the Tribunal for the exercise of any of their powers under this Law -

- (a) by a person who lacks, or is alleged to lack, capacity,
- (b) if such a person has not reached 18, by anyone with parental responsibility for that person,
- (c) by the grantor or attorney under a lasting power of attorney to which the application relates,
- (d) by a guardian appointed by a court for a person to whom the application relates,
- (e) by a person named in an existing order of the Court or

the Tribunal, if the application relates to the order,

(f) by P's Representative under section 69, or

(g) by an ICR under section 69,

but any application must be made in accordance with rules of court made under section 83.

(2) Subject to any rules of court, permission is required for any other application to the Court or the Tribunal.

(3) In deciding whether to grant permission, the Court or the Tribunal must, in particular, have regard to -

(a) the applicant's connection with the person to whom the application relates,

(b) the reasons for the application,

(c) the benefit to the person to whom the application relates of a proposed order or directions, and

(d) whether the benefit can be achieved in any other way.

PART 4
LASTING POWERS OF ATTORNEY

General

Lasting powers of attorney.

22. (1) A lasting power of attorney is a power of attorney under which the grantor ("P") confers on the attorney ("A") authority to make decisions about all or any of the following -

- (a) P's health and welfare or specified matters concerning P's health and welfare, and
- (b) P's property and financial affairs or specified matters concerning P's property and financial affairs,

and which includes authority to make such decisions in circumstances where P no longer has capacity.

(2) For the avoidance of doubt, the authority conferred by a lasting power of attorney is subject to -

- (a) the provisions of this Law and, in particular, sections 3 (the principles) and 6 (best interests), and
- (b) any conditions or restrictions specified in the instrument conferring the authority (the "**relevant instrument**").

Creation etc. of lasting powers of attorney.

23. (1) The States may by Ordinance make such provision as they think fit in relation to lasting powers of attorney.

(2) Without limiting the power contained in subsection (1), the States may, in particular, provide for -

- (a) the creation, registration, activation, amendment, suspension, revocation and review of lasting powers of attorney,
- (b) the content of relevant instruments, and
- (c) the creation and punishment of offences for contravention of any provision of this Part or the Ordinance.

Appointment of attorneys.

24. (1) An A must be -

- (a) if the power relates to P's health and welfare, an individual who has reached 18, or
- (b) if the power relates to P's property and financial affairs, either such an individual or a person holding a full fiduciary licence for the purposes of the Regulation of Fiduciaries, Administration Businesses and Company

Directors, etc. (Bailiwick of Guernsey) Law, 2000^j.

(2) An individual who is bankrupt may not be appointed as A under a lasting power of attorney in relation to P's property and financial affairs where

-

(a) the declaration, appointment or order was made, or

(b) the composition, compromise or arrangement was entered into,

(as may be applicable having regard to the definition of "**bankrupt**") not less than 10 years before the appointment as A is made.

(3) Subsections (4) to (7) apply in relation to an instrument under which two or more persons are to act as As of a lasting power of attorney.

(4) The instrument may appoint them to act -

(a) jointly,

(b) jointly and severally, or

(c) jointly in respect of some matters and jointly and severally in respect of others.

^j Order in Council No. I of 2001; there are amendments not relevant to this enactment.

(5) To the extent to which it does not specify whether they are to act jointly or jointly and severally, the instrument is to be assumed to appoint them to act jointly.

(6) If they are to act jointly, a failure, as respects one of them, to comply with the requirements of subsection (1) or (2) prevents a lasting power of attorney from being created.

(7) If they are to act jointly and severally, a failure, as respects one A, to comply with the requirements of subsection (1) or (2) -

(a) prevents the appointment taking effect in that A's case, but

(b) does not prevent a lasting power of attorney from being created in the case of the other A.

(8) An instrument used to create a lasting power of attorney -

(a) cannot give A power to appoint a substitute or successor, but

(b) may itself appoint a person to replace A on the occurrence of an event set out in an Ordinance made under section 23 which has the effect of terminating A's appointment.

Restrictions.

25. (1) A lasting power of attorney does not authorise A or, if more

than one, any A to do an act that is intended to restrain P, unless -

- (a) P lacks, or A reasonably believes that P lacks, capacity in relation to the matter in question,
- (b) A reasonably believes that it is necessary to do the act in order to prevent harm to P, and
- (c) the act is a proportionate response to -
 - (i) the likelihood of P's suffering harm, and
 - (ii) the seriousness of that harm.

(2) Where a lasting power of attorney authorises A to make decisions about P's health and welfare, the authority -

- (a) does not extend to making such decisions in circumstances other than those where P lacks, or A reasonably believes that P lacks, capacity,
- (b) does not permit A to consent to the grant of a protective authorisation under Part 8,
- (c) is subject to sections 35 to 38 (advance decisions), and
- (d) subject to subsection (3), extends to giving or refusing consent to the carrying out or continuation of a

treatment by a person providing health care for P.

(3) Subsection (2)(d) -

- (a) does not authorise the giving or refusing of consent to the carrying out or continuation of life-sustaining treatment, unless the relevant instrument contains express provision to that effect, and
- (b) is subject to any conditions or restrictions in the relevant instrument.

Gifts.

26. (1) Where a lasting power of attorney confers authority to make decisions about P's property and financial affairs, it does not authorise A (or, if more than one, any A) to dispose of P's property by making gifts except to the extent permitted by subsection (2).

(2) Subject to any conditions or restrictions in the instrument, A may make gifts -

- (a) on customary occasions to persons (including A) who are related to or connected with P, or
- (b) to any charity to whom P made or might have been expected to make gifts,

if the value of each such gift is not unreasonable having regard to all the circumstances and, in particular, the size of P's estate.

(3) For the purposes of subsection (2)(a), "**customary occasion**" means -

- (a) the occasion or anniversary of a birth, a marriage or the formation of a civil partnership, or
- (b) any other occasion on which presents are customarily given within families or among friends or associates.

Limitation on power to dispose of real property.

27. (1) Where -

- (a) A proposes to dispose of P's real property (whether for value or otherwise), and
- (b) P does not have capacity to consent to that disposal,

A may only dispose of that real property in accordance with the provisions of an Ordinance made under section 23.

(2) Where A disposes of P's real property other than in accordance with the provisions of an Ordinance made under section 23, A is guilty of an offence and is liable -

- (a) on summary conviction, to imprisonment for a term not exceeding 2 years or a fine not exceeding level 5 on the uniform scale, or both,

- (b) on conviction on indictment, to imprisonment for a term not exceeding 10 years or a fine, or both.

Register of Lasting Powers of Attorney.

28. (1) Her Majesty's Greffier shall establish and maintain a register to be called the Register of Lasting Powers of Attorney ("**the Register**").

(2) The Register -

- (a) need not be kept in documentary form, and
- (b) shall include the following details in relation to each lasting power of attorney -
 - (i) whether the lasting power of attorney relates to health and welfare, property and financial affairs, or both (as the case may be),
 - (ii) the name and address of each A, and
 - (iii) any other prescribed information.

(3) Subject to such circumstances as may be prescribed, in which Her Majesty's Greffier may impose a prohibition or restriction on the publication or communication of information appearing on, or relating to, any entry on the Register, Her Majesty's Greffier shall, on payment of the prescribed fee, supply copies and extracts (certified or uncertified) of any entry in it.

Protection of attorneys and others if no power created or power terminated.

29. (1) Subsections (2) and (3) apply if a lasting power of attorney -

(a) was purported to be created, but

(b) for any reason, was not created,

regardless of the time of the act or transaction in question.

(2) An A who acts in purported exercise of the power does not incur any liability (to P or any other person) because of the non-existence of the power unless at the time of acting A -

(a) knows that a lasting power of attorney was not created,
or

(b) is aware of circumstances which, if a lasting power of attorney had been created, would have terminated A's authority to act as an attorney.

(3) Any transaction between A and another person is, in favour of that person, as valid as if the power had been in existence, unless at the time of the transaction that person has knowledge of a matter referred to in subsection (2).

(4) If the interest of a purchaser depends on whether a transaction between A and the other person was valid by virtue of subsection (3), it is conclusively presumed in favour of the purchaser that the transaction was valid if -

(a) the transaction was completed within 12 months of the

date on which the lasting power of attorney was created,
or

- (b) the other person makes a sworn declaration, before or within 3 months after the completion of the purchase, that the other person had no reason at the time of the transaction to doubt that A had authority to dispose of the property which was the subject of the transaction.

(5) A "**sworn declaration**" for the purposes of subsection (4)(b) means a declaration made under oath or by affirmation before a notary public or other person entitled to administer oaths.

Powers of Court in relation to lasting powers of attorney

Powers of Court relating to validity.

30. (1) This section and section 31 apply if -

- (a) a person ("P") has executed or purported to execute an instrument with a view to creating a lasting power of attorney, or
- (b) a lasting power of attorney has been created by P.

(2) The Court may determine any question relating to -

- (a) whether one or more of the requirements for the creation of a lasting power of attorney have been met, or

- (b) whether the power has been revoked or otherwise come to an end.
- (3) Subsection (4) applies if the Court is satisfied -
 - (a) that fraud or undue pressure was used to induce P -
 - (i) to execute an instrument for the purpose of creating a lasting power of attorney, or
 - (ii) to create a lasting power of attorney, or
 - (b) that an A under a lasting power of attorney -
 - (i) has behaved, or is behaving, in a way that contravenes A's authority or is not in P's best interests, or
 - (ii) proposes to behave in a way that would contravene A's authority or would not be in P's best interests.
- (4) The Court may -
 - (a) direct that any act required to create the lasting power of attorney is not to be done, or
 - (b) if P lacks capacity to do so, revoke the lasting power of

attorney.

(5) If there is more than one A, the Court may under subsection (4)(b) revoke the instrument or the lasting power of attorney so far as it relates to any A.

Powers of Court relating to operation.

31. (1) The Court may determine any question as to the meaning or effect of a lasting power of attorney or an instrument purporting to create one.

(2) The Court may -

(a) give directions with respect to decisions -

(i) which A has authority to make, and

(ii) which P lacks capacity to make,

(b) give any consent or authorisation to act which A would have to obtain from P if P had capacity to give it.

(3) The Court may, if P lacks capacity to do so -

(a) give directions to A with respect to the rendering by A of reports or accounts and the production of records kept by A for that purpose,

(b) require A to supply information or produce documents or things in A's possession as attorney,

- (c) give directions with respect to A's remuneration or expenses,
- (d) relieve A wholly or partly from any liability which A has or may have incurred on account of a breach of A's duties as attorney.

(4) The Court may authorise the making of gifts which are not within section 26(2) (permitted gifts).

Miscellaneous

Interpretation of Part 4.

32. (1) For the purposes of this Part –

- (a) "A" means an attorney appointed under a lasting power of attorney, and
- (b) except for section 30 and 31, "P" means the grantor of the power of attorney.

(2) Where two or more As are appointed under a lasting power of attorney, references to an attorney or "A" are to all As or any A, unless the contrary intention appears.

(3) For the purposes of this Part, "**the Committee**" includes any person appointed or otherwise directed by the Chief Pleas of Sark, or one of its committees, to deal with safeguarding matters.

Disclosure of information or documents.

33. (1) Without prejudice to any other power of disclosure -

(a) Her Majesty's Greffier may disclose to the Committee,
and

(b) the Committee may disclose to Her Majesty's Greffier,

any information or documents provided for the purposes of this Part where the Greffier or the Committee (as the case may be) believes that such disclosure is necessary in order to safeguard P or P's interests.

(2) Except as provided by subsection (3), the supply of information under this section is to be taken not to breach any restriction on the disclosure of information (however arising or imposed).

(3) This section does not authorise the doing of anything that contravenes the Data Protection (Bailiwick of Guernsey) Law, 2017^k.

Liability of Her Majesty's Greffier.

34. No liability shall be incurred by Her Majesty's Greffier, or any person responsible to Her Majesty's Greffier, in respect of anything done or omitted to be in the discharge or purported discharge of any of their functions under this Part or under any Ordinance made under section 22, unless the thing was done or omitted to be done in bad faith.

^k No. VI of 2018; as amended by No. IV of 2018; Ordinance Nos. X and XI of 2008 and No. I of 2019; and G.S.I. No. 21 of 2019.

PART 5
ADVANCE DECISIONS TO REFUSE TREATMENT

Advance decisions.

35. (1) An advance decision to refuse treatment (an "**advance decision**") is a decision made by a person ("**P**") that if -

- (a) at a later time and in such circumstances as P may specify, a specified treatment is proposed to be carried out or continued by a person providing health care for P, and
- (b) at that time P lacks capacity to consent to the carrying out or continuation of the treatment,

the specified treatment is not to be carried out or continued.

(2) For the purposes of subsection (1)(a), a decision may be regarded as specifying a treatment or circumstances even though expressed in layman's terms.

Making etc. advance decisions.

36. (1) P may make an advance decision if, at the time of making the decision, P -

- (a) has reached 16 years of age,
- (b) has the capacity to make that decision, and

- (c) is not placed under undue pressure to make that decision.

(2) An advance decision must be made in -

- (a) the prescribed form, or
- (b) a written document including the same information as set out in the prescribed form,

and must be signed by P.

(3) P may amend or revoke an advance decision at any time when P has capacity to do so by using -

- (a) the prescribed form, or
- (b) a written document including the same information as set out in the prescribed form,

which is signed by P.

(4) For the avoidance of doubt -

- (a) any reference in this section to a form or document being "**signed by P**" includes a reference to another person signing that form or document in P's presence and at P's direction,

- (b) an advance decision must be witnessed by another person only if it relates (in full or in part) to life-sustaining treatment,
- (c) where an advance decision must be witnessed -
 - (i) P must -
 - (A) sign, or
 - (B) where another person signs the form or document in P's presence and at P's direction, acknowledge that signature on,

that form or document in the presence of the witness, and
 - (ii) the witness must sign that form or document, or acknowledge that signature, in P's presence.

Effect of advance decisions.

- 37. (1) If P has made an advance decision which is -
 - (a) valid (in accordance with section 38(1)), and
 - (b) applicable to a treatment (in accordance with section 38(3) or (4) as appropriate),

the decision has effect as if P had made it, and had had capacity to make it, at the time when the question arises whether the treatment should be carried out or continued.

(2) A person will only incur liability for carrying out or continuing the treatment if, at the time, that person -

(a) is satisfied that an advance decision exists which is valid and applicable to the treatment, and

(b) carries out or continues that treatment nonetheless.

(3) A person does not incur liability for the consequences of withholding or withdrawing a treatment from P if, at the time, that person reasonably believes that an advance decision exists which is valid and applicable to the treatment.

(4) The relevant court may make a declaration as to whether an advance decision -

(a) exists,

(b) is valid, and

(c) is applicable to a treatment.

(5) Nothing in an apparent advance decision stops a person -

(a) providing life-sustaining treatment, or

- (b) doing any act that the person reasonably believes to be necessary to prevent a serious deterioration in P's condition,

while a declaration as respects any relevant issue is sought from the relevant court.

(5) Unless the context requires otherwise, for the purposes of this section, "**relevant court**" means -

- (a) in respect of Alderney, the Court of Alderney,
- (b) in respect of Sark, the Court of the Seneschal, and
- (c) in any other case, the Royal Court sitting as an Ordinary Court.

Validity and applicability of advance decisions.

38. (1) An advance decision is not valid if P -

- (a) has revoked the decision at a time when P had capacity to do so,
- (b) has, under a lasting power of attorney created after the advance decision was made, conferred authority on the attorney (or, if more than one, any of them) to give or refuse consent to the treatment to which the advance decision relates, or
- (c) has done anything else clearly inconsistent with the

advance decision remaining P's fixed decision while P had capacity.

(2) The existence of any lasting power of attorney other than one of a description mentioned in subsection (1)(b) does not prevent the advance decision from being regarded as valid and applicable.

(3) An advance decision is not applicable to the treatment in question if -

- (a) at the material time P has capacity to give or refuse consent to it,
- (b) that treatment is not the treatment specified in the advance decision,
- (c) any circumstances specified in the advance decision are absent, or
- (d) there are reasonable grounds for believing that circumstances exist which P did not anticipate at the time of the advance decision and which would have affected P's decision had P anticipated them.

(4) An advance decision is not applicable to life-sustaining treatment unless -

- (a) the decision is verified by a statement by P to the effect that it is to apply to that treatment even if P's life is at

risk, and

- (b) a prescribed person has signed the advance decision to confirm that P has been given appropriate advice (including but not limited to) advice in relation to -
 - (i) the specified treatment,
 - (ii) the consequences of P's decision, and
 - (iii) other possible treatment options available for the medical condition which is proposed to be treated by the specified treatment.

PART 6

ADVANCED CARE PLANS

Advanced care plans.

39. (1) An advanced care plan is an expression of the wishes and preferences of a person ("P") in relation to -

- (a) P's future care, health and welfare, including but not limited to -
 - (i) where P would like care to be provided,
 - (ii) how P would like care to be provided,
 - (iii) whether P objects to care being provided in a

way which might require a protective authorisation under Part 8,

- (iv) who should be consulted in relation to any decisions about P's care,
 - (v) any religious, spiritual or ethical views which P would wish to be respected when care is provided, and
 - (vi) any other wishes and preferences in relation to P's care, health and welfare, and
- (b) any wishes and preferences relating to end of life care and associated arrangements (including but not limited to funeral arrangements and transplantation of human tissue),

and for the purposes of this subsection, "care" is to be given its widest possible meaning.

(2) An advanced care plan -

- (a) shall be taken into account by a decision maker, or other person carrying out an assessment, when considering P's best interests, but
- (b) for the avoidance of doubt, is not binding on any decision maker or person carrying out an assessment.

Making etc. advanced care plans.

40. (1) P may make an advanced care plan if, at the time of making the decision, P -

- (a) has reached 16 years of age,
- (b) has the capacity to make decisions of the type contained in the advanced care plan, and
- (c) is not placed under undue pressure by another person to make that decision.

(2) An advanced care plan must be made in -

- (a) the prescribed form, or
- (b) a written document including the same information as set out in the prescribed form,

and must be signed by P.

(3) P may amend or revoke an advanced care plan at any time when P has capacity to do so by using -

- (a) the prescribed form, or
- (b) a written document including the same information as set out in the prescribed form,

which is signed by P.

- (4) For the avoidance of doubt -
 - (a) any reference in this section to a form or document being "**signed by P**" includes a reference to another person signing that form or document in P's presence and at P's direction, and
 - (b) an advanced care plan need not be witnessed by another person.

PART 7

INDEPENDENT CAPACITY REPRESENTATIVES

Arrangements and appointment.

41. (1) The Committee must make such arrangements as it considers reasonable to enable independent capacity representatives to be available to represent and support -

- (a) persons to whom acts or decisions proposed under sections 43 and 44 relate,
- (b) persons who may be affected by a safeguarding inquiry or issue for the purposes of section 45, and
- (c) persons who fall within section 46.

(2) In making arrangements under subsection (1), the Committee must have regard to the principle that a person to whom a proposed act or decision relates should, so far as practicable, be represented and supported by a person who is independent of any person who will be responsible for the act or decision.

(3) The arrangements may include provision for payments to be made to, or in relation to, persons carrying out functions in accordance with the arrangements.

(4) A person may only be appointed as an independent capacity representative (an "ICR") if that person is approved by resolution of the Committee.

(5) For the avoidance of doubt, the Committee may, by further resolution, revoke or suspend any approval made under subsection (4).

(6) The Committee may, by regulations, make such other provision as to the appointment of ICRs as it thinks fit.

Functions.

42. (1) The functions of an ICR are to -

- (a) provide support to the person ("P") for whom the ICR has been appointed so that P may participate as fully as possible in any relevant decision,
- (b) obtain and evaluate relevant information,
- (c) ascertain what P's wishes and feelings would be likely to be, and the beliefs and values that would be likely to

influence P, if P had capacity,

- (d) ascertain what alternative courses of action are available in relation to P,
- (e) obtain a further medical opinion where treatment is proposed and the ICR thinks that one should be obtained, and
- (f) do, or arrange to have done, any other reasonably practicable thing to support P.

(2) The ICR may take all steps necessary to carry out the functions set out in subsection (1), and in particular -

- (a) may interview P in private, and
- (b) may, at all reasonable times, examine and take copies of
 -
 - (i) any health record of P, and
 - (ii) any record of, or held by, an Island authority and compiled in connection with a social services function,

which the person holding the record considers may be relevant to the ICR's investigation.

(3) For the avoidance of doubt, an ICR has the same rights to challenge any decision as if the ICR were any other person engaged in caring for P or interested in P's welfare.

(4) The Committee may by regulation -

(a) amend subsection (1), and

(b) make such other provision as to the functions of ICRs as it thinks fit.

Serious medical treatment.

43. (1) Subject to subsection (5), if an Island authority -

(a) is proposing to provide, or secure the provision of, serious medical treatment for a person ("P") who lacks capacity to consent to the treatment, and

(b) is satisfied that there is no person, other than one engaged in providing care or treatment for P in a professional capacity or for remuneration, whom it would be appropriate to consult in determining what would be in P's best interests,

the Island authority must, before the treatment is provided, instruct an ICR to represent P.

(2) If the treatment needs to be provided as a matter of urgency, it may be provided even though the Island authority has not complied with subsection

(1).

(3) The Island authority must, in providing or securing the provision of treatment for P, take into account any information given, or submissions made, by the ICR.

(4) For the purposes of subsection (1), "**serious medical treatment**" is treatment which involves providing, withholding or withdrawing treatment in circumstances where -

- (a) in a case where a single treatment is being proposed, there is a fine balance between its benefits to P and the burdens and risks it is likely to entail for P,
- (b) in a case where there is a choice of treatments, a decision as to which one to use is finely balanced, or
- (c) what is proposed would be likely to involve serious consequences for P.

(5) The Committee may by regulations amend the definition set out in subsection (4).

(6) This section does not apply if P's treatment would be provided under the Mental Health Law.

Provision of accommodation.

44. (1) Subject to subsection (4), an Island authority may request the appointment of an ICR if it -

- (a) proposes to make arrangements -
 - (i) for the provision of accommodation (whether in a hospital, care home or any other placement) for a person ("P") who lacks capacity to agree to the arrangements, or
 - (ii) for a change in P's accommodation to another hospital, care home or placement,

which is likely to be provided for a continuous period of at least 28 days, and

- (b) is satisfied that there is no person, other than one engaged in providing care or treatment for P in a professional capacity or for remuneration, whom it would be appropriate for it to consult in determining what would be in P's best interests.

(2) If the Island authority has made arrangements described in subsection (1)(a), but -

- (a) did not instruct an ICR to represent P before making the arrangements because it was satisfied that the provision was not likely to be for a continuous period longer than 28 days, and
- (b) subsequently has reason to believe that the

accommodation is likely to be provided for a continuous period of at least 28 days,

it must re-consider whether to request the appointment of an ICR.

(3) The Island authority must, in deciding what arrangements or further arrangements to make for P, take into account any information given, or submissions made, by the ICR.

(4) Subsection (1) does not apply if -

(a) P is accommodated as a result of an obligation imposed or an order made under the Mental Health Law, or

(b) P -

(i) has capacity to decide whether or not P wishes an ICR to perform the functions set out in section 42, and

(ii) does not wish an ICR to perform those functions.

Safeguarding and other cases.

45. (1) An Island authority may request the appointment of an ICR -

(a) where -

(i) a safeguarding investigation of any description is being carried out, or

(ii) an allegation has been made,

which might affect the appropriateness of any person to make decisions or be consulted on behalf of P, or

(b) where the Committee otherwise considers that it is appropriate in order to safeguard P.

(2) For the purposes of this section, "**safeguarding investigation**" means any investigation undertaken in accordance with an Ordinance made under section 73.

(3) For the avoidance of doubt, an Island authority may request the appointment of an ICR in relation to any other case where there is not a requirement to do so in this Part.

Person subject to protective authorisation scheme.

46. (1) Subject to subsection (8), an Island authority must request the appointment of an ICR where -

(a) a person ("P") -

(i) is, or is proposed to be, accommodated in a hospital, care home or other placement by or on behalf of the Island authority,

(ii) receives, or may receive, services provided by or on behalf of the Island authority,

- (b) P will, or it is likely that P will, become subject to a protective authorisation as a result of that accommodation or provision of services, and
- (c) the Island authority is satisfied that there is no person, other than one engaged in providing care or treatment for P in a professional capacity or for remuneration, whom it would be appropriate to consult in determining what would be in P's best interests.

(2) The Island authority must request the appointment of an ICR where a person ("P") is subject to the protective authorisation scheme and -

- (a) a Capacity Professional requests the appointment of an ICR, or
- (b) the Capacity Professional is satisfied that there is no person, other than one engaged in providing care or treatment for P in a professional capacity or for remuneration, whom it would be appropriate to consult in determining what would be in P's best interests.

(3) A Capacity Professional may request the appointment of an ICR where the Capacity Professional thinks that it is appropriate, in particular where -

- (a) P or P's Representative requests the appointment of an ICR,

- (b) P's Representative could not otherwise carry out the functions set out in section 71(3), or
- (c) a safeguarding investigation is being carried out or an allegation has been made which might affect the appropriateness of P's Representative or any other person to make decisions or be consulted on behalf of P in relation to the protective authorisation.

(4) Where an ICR is appointed under this section, the ICR, in addition to the functions set out in section 42(1) -

- (a) must take such steps as are reasonably practicable to help -
 - (i) P and P's Representative, as the case may be, to understand the following matters -
 - (A) the effect, purpose and duration of any, or any proposed, authorisation,
 - (B) any conditions to which the authorisation is, or is proposed to be, subject,
 - (C) the right to request a re-assessment of the qualifying requirements for the protective authorisation by a Capacity Professional,

- (D) the right to make an application to a court or the Tribunal challenging the protective authorisation,
 - (E) any other right to make a complaint concerning the protective authorisation, and
 - (F) how to exercise the rights set out in items (C) to (E), and
- (ii) P and P's Representative, as the case may be, to exercise the right to -
 - (A) request a re-assessment of any of the qualifying requirements, or
 - (B) challenge the protective authorisation, and
- (b) where it is in P's interests to do so, may exercise the right to -
 - (i) request a re-assessment of any of the qualifying requirements,
 - (ii) challenge the protective authorisation, or

- (iii) make a complaint concerning the protective authorisation.

(5) For the avoidance of doubt, if the ICR helps P or P's Representative to -

- (a) request a re-assessment of any of the qualifying requirement for the protective authorisation, the ICR may -

- (i) make submissions to the Capacity Professional on the question of whether a qualifying requirement should be re-assessed, and

- (ii) give information, or make submissions, to any person carrying out a re-assessment, and

- (b) challenge the protective authorisation, the ICR may -

- (i) assist P, P's Representative and any other person acting on P's behalf to make submissions, and

- (ii) make submissions,

in support of that application.

(6) For the purposes of this section, "**safeguarding investigation**" means any investigation undertaken under Part 9.

(7) Nothing in this section shall prevent an ICR from subsequently being appointed as P's Representative under section 71 in relation to the same person.

(8) Subsection (1) does not apply where P -

- (a) has capacity to decide whether or not P wishes an ICR to perform the functions set out in section 42, and
- (b) does not wish an ICR to perform those functions.

PART 8

PROTECTIVE AUTHORISATION SCHEME

Significant restriction of a person's personal rights.

47. (1) For the purposes of this Part, a significant restriction of P's personal rights (a "**significant restriction**") occurs when -

- (a) a person ("**P**") is confined in a particular restricted space for a not negligible time,
- (b) P has not validly consented to that confinement, and
- (c) the arrangements which include the confinement ("**the relevant arrangements**") are made by, or are due to an action of, a person or body responsible to, or regulated by, an Island authority,

and, for the avoidance of doubt, includes a deprivation of liberty within the meaning

of Article 5(1) of the Human Rights Convention.

(2) For the purposes of subsection (1), "**confined**" and "**confinement**" means where P -

- (a) is prevented from moving from the place in which P is required to reside, in order to live where and with whom P chooses, and
- (b) is subject to continuous supervision and control.

(3) For the avoidance of doubt -

- (a) a significant restriction does not occur -
 - (i) where P is detained in an approved establishment in accordance with the Mental Health Law, or
 - (ii) where P is admitted to a hospital or other establishment for the provision of prescribed medical treatment,
- (b) a significant restriction does not occur where P has not reached 16, and
- (c) relevant arrangements for the purposes of subsection (1) can include where -

- (i) P resides in a private dwelling, and
- (ii) care or treatment is provided by, or is due to an action of, a person or body responsible to, or regulated by, an Island authority.

Capacity professionals.

48. (1) The Committee, after consultation with the Medical & Emergency Services Committee of the Chief Pleas of Sark, may by resolution approve Capacity Professionals for the purposes of carrying out -

- (a) the functions set out in this Part and any relevant code of practice, and
- (b) such other functions as are conferred upon Capacity Professionals under this Law or any other enactment,

upon such terms and subject to such conditions as it thinks fit.

(2) For the avoidance of doubt, the Committee may, after consultation with the Medical & Emergency Services Committee of the Chief Pleas of Sark, by further resolution, revoke or suspend any approval or vary the terms and conditions of any approval made under subsection (1).

(3) A Capacity Professional shall carry out the functions set out in subsection (1) with fairness, impartiality and independence and in a manner that is in the best interests of any person who is the subject of any such function.

(4) The States may by Ordinance make such provision as they see

fit in relation to -

- (a) rights of entry for Capacity Professionals to any placement where a person is subject to a protective authorisation,
- (b) rights for Capacity Professionals to require information or the production of documents from any person in relation to protective authorisation,
- (c) the creation and punishment of offences for contravention of any such rights.

Protective authorisation.

49. (1) A protective authorisation in relation to a person ("P") authorises -

- (a) relevant arrangements which are a significant restriction, and
- (b) any act done which is required by or ancillary to those arrangements, including the conveyance of P to and from a placement as may be required from time to time for the purposes of the relevant arrangements.

(2) For the avoidance of doubt, a protective authorisation does not authorise an arrangement or act which would only be a restriction with P's rights under article 8 of the Human Rights Convention.

(3) Where the placement is not a hospital operated by the Committee or a private dwelling, a protective authorisation may only be granted in relation to a placement which has been approved by or on behalf of the Committee.

(4) For the purposes of subsection (3), a placement may only be approved by the Committee where it is satisfied that, having taken into account the qualifications and quality of the management, personnel and facilities of the placement, the relevant duties and functions set out in this Law, and particularly this Part, will be carried out or performed (as the case may be).

(5) A protective authorisation must be granted in the prescribed form.

Requirements and assessments

Qualifying requirements.

50. The requirements ("**the qualifying requirements**") for the purposes of a protective authorisation in relation to a person ("P") are -

- (a) ☐ the age requirement,
- (b) the capacity (functional) requirement,
- (c) the significant restriction requirement,
- (d) the cognitive impairment (diagnostic) requirement,
- (e) the contrary decisions requirement, and
- (f) the best interests requirement.

The age requirement.

51. The age requirement is satisfied if P is assessed to have reached 16.

The capacity (functional) requirement.

52. The capacity (functional) requirement is satisfied if P is assessed to lack capacity in relation to the question whether or not P should be accommodated in the placement under the arrangements for the purpose of being given the relevant care or treatment.

The significant restriction requirement.

53. The significant restriction requirement is satisfied if the arrangements made, or proposed to be made, in relation to P by the person or body amount to a significant restriction for the purposes of section 47.

The cognitive impairment (diagnostic) requirement.

54. (1) The cognitive impairment (diagnostic) requirement is satisfied if P is assessed to have a cognitive impairment.

- (2) For the purposes of subsection (1), "**cognitive impairment**" -

- (a) means an impairment or disturbance in the mind or brain, whether temporary or permanent, which has an adverse effect on that person's ability to carry out normal day-to-day activities, and
- (b) for the avoidance of doubt, includes a mental disorder within the meaning of section 1 of the Mental Health Law, but disregarding section 1(3) of that Law in

relation to persons with learning disability.

The contrary decisions requirement.

55. The contrary decisions requirement is satisfied if -

- (a) P is assessed not to have previously expressed an objection to the arrangement, including by way of a valid advance decision to refuse treatment under Part 5, or
- (b) P's guardian or attorney (if any) is assessed not to have expressed an objection to the arrangement, if within the scope of that guardian's or attorney's authority.

The best interests requirement.

56. The best interests requirement is satisfied if -

- (a) the grant of a protective authorisation -
 - (i) will allow the provision of necessary care and treatment to P in a proportionate manner and in the less restrictive manner, and
 - (ii) is otherwise appropriate, including having regard to the likelihood of P suffering harm and the seriousness of any such harm, and
- (b) the arrangements will be the least restrictive practicably available option to best promote P's best interests and

welfare.

Assessments.

57. (1) Subject to subsection (2), a prescribed assessment must be completed by a prescribed person or a Capacity Professional.

(2) For an assessment required under -

(a) section 50(a) (age), and

(b) section 50(b) (capacity), (c) (significant restriction), (d) (cognitive impairment) and (e) contrary decisions,

a prescribed person may rely upon an equivalent assessment.

(3) An "**equivalent assessment**" means, for the purposes of -

(a) subsection (2)(a), an assessment which the Capacity Professional is satisfied is reliable, and

(b) subsection (2)(b), an assessment which has been -

(i) completed in the previous 12 months, and

(ii) which has been reviewed by a Capacity Professional who is satisfied that it does not require an update.

(4) Where a Capacity Professional is satisfied that an equivalent

assessment requires an update, the Capacity Professional must complete, or arrange for the completion of, a new assessment.

Processes

Protective authorisation process A.

58. (1) This process applies where the relevant arrangements are provided, or are to be provided, by or on behalf of the Committee, except where P is admitted to hospital.

(2) Where a prescribed person believes that -

- (a) those arrangements in relation to P amount to, or will amount to, a significant restriction, and
- (b) P lacks capacity to consent to those arrangements,

that person must apply to a Capacity Professional to oversee the completion of the assessments of the requirements set out in section 50.

(3) Where P, P's Representative or an ICR object to the arrangements, a Capacity Professional -

- (a) must complete the assessments required by section 50(b) (capacity), (c) (significant restriction) and (f) (best interests), and
- (b) may complete, or arrange for the completion of, the other assessments required.

(4) Under this process, a protective authorisation may be granted by a Capacity Professional for a period not exceeding 12 months.

Protective authorisation process B.

59. (1) This process applies where the relevant arrangements are not provided, or are not to be provided, by or on behalf of the Committee and, for the avoidance of doubt, includes where they are, or are to be provided, by or on behalf of the Chief Pleas of Sark.

(2) Where a prescribed person believes that -

(a) those arrangements in relation to P amount to, or will amount to, a significant restriction, and

(b) ☐ P cannot consent to those arrangements,

that person must -

(i) grant a protective authorisation for a period not exceeding 28 days, and

(ii) apply to a Capacity Professional to oversee the completion of the other assessments required by section 50.

(3) A Capacity Professional -

(a) must complete the assessments required by section 50(c)

(significant restriction) and (f) (best interests), and

(b) may complete, or arrange for the completion of, the other assessments required.

(4) Under this process, a protective authorisation may be granted by a Capacity Professional for a period not exceeding 12 months.

Protective authorisation process C.

60. (1) This process applies where the relevant arrangements relate to P's admission to a hospital operated by the Committee.

(2) Where a prescribed person believes that -

(a) P is likely to remain admitted to hospital for a period of up to 28 days only,

(b) those arrangements in relation to P amount to, or will amount to, a significant restriction, and

(c) P cannot consent to those arrangements,

that person must grant a protective authorisation for a period not exceeding 28 days.

(3) In any other case, where a prescribed person believes that -

(a) the arrangements in relation to P amount to, or will amount to, a significant restriction,

- (b) P cannot consent to those arrangements,

that person must -

- (i) grant a protective authorisation for a period not exceeding 28 days, and
- (ii) apply to a Capacity Professional to oversee the completion of the other assessments required by section 50.

(4) Where a prescribed person has granted a protective authorisation under subsection (2) but believes that P is likely to remain admitted to hospital after the expiry of the original 28 day period, that person must apply to a Capacity Professional to oversee the completion of the other assessments required by section 50.

- (5) A Capacity Professional -

- (a) must complete the assessments required by section 50(b) (capacity), (c) (significant restriction) and (f) (best interests), and
- (b) may complete, or arrange for the completion of, the other assessments required.

(6) Under this process, a protective authorisation may be granted by a Capacity Professional for a period not exceeding 12 months.

Power of Capacity Professional to extend protective authorisation granted by prescribed person under process C.

61. A Capacity Professional may extend a protective authorisation granted by a prescribed person under section 60(2) for a period of up to 7 days where that Professional believes it is necessary to do so in the best interests of P.

Portability of protective authorisation.

62. Where a person ("P") is -

- (a) subject to a protective authorisation, and
- (b) moved to a new placement,

that protective authorisation continues to have effect, and a further protective authorisation is not required, if a Capacity Professional believes that the relevant arrangements in the new placement would not require a material condition to be varied by imposing a further restriction on P.

Suspension of protective authorisation.

63. A protective authorisation -

- (a) may be suspended by a Capacity Professional for a period not exceeding 1 month, but
- (b) may only be re-activated subsequently where a Capacity Professional believes that the relevant arrangements would not require a material condition to be varied by imposing a further restriction on P.

Variation of protective authorisation.

64. A Capacity Professional may vary a protective authorisation if that Professional is satisfied that -

- (a) consultation under section 67 has been carried out,
- (b) a re-assessment of the relevant qualifying requirements has taken place,
- (c) the variation is due to a change of P's placement.

Cessation of protective authorisation.

65. (1) A protective authorisation ceases to have effect where -

- (a) the period for which the protective authorisation was granted has expired, without it being renewed or extended,
- (b) a Capacity Professional discharges the protective authorisation, or
- (c) the Tribunal makes an order discharging the protective authorisation.

(2) For the avoidance of doubt, a protective authorisation does not automatically cease to have effect if P becomes subject to an order under the Mental Health Law.

Renewal of protective authorisation.

66. (1) A Capacity Professional may, on one or more occasions, renew a protective authorisation in accordance with this section for a specified period ("**the renewal period**") of up to 12 months.

(2) For the avoidance of doubt, a protective authorisation which has ceased to have effect cannot be renewed.

(3) A Capacity Professional may renew a protective authorisation if -

(a) the Capacity Professional is satisfied -

(i) that the qualifying requirements continue to be met, and

(ii) that it is unlikely that there will be any significant change in P's condition during the renewal period which would affect whether those requirements are met, and

(b) the Capacity Professional has carried out consultation under section 67.

Consultation.

67. (1) Consultation under this section must be carried out with -

(a) the person subject to the protective authorisation ("**P**"),

- (b) P's Representative (including an attorney under a valid lasting power of attorney granted by P or a guardian appointed for P by a court), or any person named by P as someone to be consulted about arrangements of the kind in question, and
- (c) any person engaged in caring for P or interested in P's welfare.

(2) The main purpose of the consultation under this section is to try to ascertain P's wishes or feelings in relation to the arrangements.

(3) If it is not practicable or appropriate to consult a particular person falling within subsection (1), the duty to consult that person does not apply.

Reassessment and challenge

Power and duty of Capacity Professional to reassess the qualifying requirements.

68. (1) Subject to subsection (2), a Capacity Professional may at any time complete, or arrange for the completion of, any reassessment required for the grant of a protective assessment.

(2) A Capacity Professional must complete, or arrange for the completion of, the relevant reassessments -

- (a) if a reasonable request is made by a person named in section 67(1),
- (b) if P becomes subject to an order under the Mental Health

Law,

- (c) if subsection (3) applies, and
- (d) if (in any other case) a Capacity Professional becomes aware of a significant change in P's condition or circumstances.

(3) This subsection applies where -

- (a) the arrangements provide for P to reside in, or to receive care or treatment at, a specified placement,
- (b) the Capacity Professional becomes aware that P does not wish to reside in, or to receive care or treatment at, that placement.

Challenge to protective authorisation.

69. (1) The following persons may apply to the Tribunal to challenge a protective authorisation in relation to a person ("P") -

- (a) P,
- (b) P's Representative,
- (c) an ICR, or
- (d) where P is under 18, any person with parental responsibility.

(2) Any application to the Tribunal must be made in accordance with rules of court made under section 83.

Referral of protective authorisation.

70. (1) Without prejudice to any other power or duty to refer a matter to the Tribunal, and subject to subsection (2), a Capacity Professional may refer P's case to the Tribunal for consideration.

(2) A Capacity Professional may not make a referral under subsection (1) where an application has been made to the Tribunal under section 69 and -

(a) it has not been withdrawn, or

(b) no determination has been reached by the Tribunal in relation to the application.

(3) Any referral to the Tribunal must be made in accordance with rules of court made under section 83.

Representatives

Person's representative.

71. (1) Where a protective authorisation is granted in relation to a person ("P"), a Capacity Professional must appoint a representative for P ("**P's Representative**") as soon as reasonably practicable.

(2) A person may only be appointed as P's Representative if that

person -

- (a) has attained the age of 18,
 - (b) consents to carry out the functions set out in subsection (3), and
 - (c) is, in the opinion of the Capacity Professional, an appropriate person to -
 - (i) carry out those functions, and
 - (ii) otherwise represent P in relation to the protective authorisation.
- (3) The functions of P's Representative are to -
- (a) maintain regular contact with P, whether by visiting in person or otherwise, and
 - (b) in relation to the protective authorisation -
 - (i) provide support to P so that P may participate as fully as possible in any relevant decision,
 - (ii) obtain and evaluate relevant information,
 - (iii) ascertain what P's wishes and feelings are, or would be likely to be if P had capacity, in

relation to the relevant arrangements for P's care,

(iv) represent P's wishes and feelings in relation to any reassessment or challenge (including making any application), and

(v) do, or arrange to have done, any other reasonably practicable thing to support P.

(4) P's Representative may take all steps necessary to carry out the functions set out in subsection (3), and in particular -

(a) may interview P in private, and

(b) may, at all reasonable times, examine and take copies of -

(i) any health record of P, and

(ii) any record of, or held by, an Island authority and compiled in connection with a social services function,

which the person holding the record considers may allow P's Representative to carry out the functions set out in subsection (3).

(5) For the avoidance of doubt, P's Representative has the same

rights to challenge any decision as if the representative were any other person engaged in caring for P or interested in P's welfare.

(6) Where P's Representative is appointed under subsection (1), the Capacity Professional must take such steps as are reasonably practicable to help P and P's Representative understand -

- (a) the effect, purpose and duration of the protective authorisation,
- (b) any conditions to which the authorisation is subject,
- (c) the right to request a re-assessment of the qualifying requirements of the protective authorisation by a Capacity Professional,
- (d) the right to make an application to the relevant court or tribunal challenging the protective authorisation,
- (e) any other right to make a complaint concerning the protective authorisation,
- (f) how to exercise the rights set out in paragraphs (c) to (e), and
- (g) the right to request the appointment of an ICR under Part 7.

(7) Where P's Representative -

- (a) no longer wishes to carry out the functions set out in subsection (3), or
- (b) is, in the Capacity Professional's opinion, unfit or otherwise unable to carry out those functions,

the Capacity Professional may appoint another person as P's Representative in the first person's place in accordance with this section.

- (8) The Committee may by regulation -
 - (a) amend subsections (2) and (3),
 - (b) make such other provision as to the functions of representatives appointed under this section as it thinks fit.

General

Amendment of this Part.

72. (1) The States may by Ordinance amend this Part where it appears to the States to be necessary or expedient to do so for the purpose of -

- (a) protecting persons who fall within this Part from harm,
- (b) promoting the proper care of those persons,
- (c) facilitating the fair and efficient carrying out of the

functions of Capacity Professionals, P's Representatives and ICRs, and

- (d) discharging any international obligation to which the Bailiwick, or any part thereof, is subject.

(2) An Ordinance made under this Law by the States applying in Sark ceases to have effect in Sark if, at the first or second meeting of the Chief Pleas of Sark following the approval date, the Chief Pleas resolve to disapprove its application to Sark.

(3) If the Chief Pleas of Sark resolves to disapprove the application of an Ordinance in accordance with subsection (2), the Ordinance ceases to have effect in Sark, but without prejudice to -

- (a) anything done under the Ordinance in Sark, or
- (b) the making of a new Ordinance having effect in Sark.

(4) Subsection (1) is without prejudice to any other provision of this Law conferring power to make Ordinances and vice versa.

PART 9 SAFEGUARDING

Safeguarding.

73. (1) The States may by Ordinance make such provision as they see fit in relation to safeguarding vulnerable persons aged 18 or over ("**vulnerable persons**").

(2) The Chief Pleas of Sark may by Ordinance make such provision as they see fit in relation to safeguarding vulnerable persons.

(2) Without limiting the power set out in subsection (1) or (2), an Ordinance under that subsection may, in particular, make provision in relation to -

- (a) the grounds for, and conduct of, safeguarding enquiries,
- (b) the establishment of any body to help and protect vulnerable persons in the Bailiwick or any part thereof,
- (c) the grounds for, and conduct of, safeguarding vulnerable persons reviews,
- (e) the disclosure, and sharing, of information for the purposes of safeguarding vulnerable persons, and
- (f) rights of entry and rights to require information or the production of documents from any person in relation to any safeguarding enquiry or safeguarding vulnerable persons review,
- (g) the creation and punishment of offences for contravention of any rights set out in paragraph (f).

PART 10
GENERAL PROVISIONS

Research

Research: power to make Ordinances.

74. The States may by Ordinance make such provision as they think fit in relation to research involving persons who lack capacity.

Criminal provisions

Ill-treatment or neglect.

75. (1) A person ("D") -

(a) who ill-treats or wilfully neglects a person ("P") who lacks, or whom D reasonably believes to lack, capacity to consent to the acts which constitute the ill-treatment or wilful neglect, and

(b) who -

(i) has the care of P,

(ii) is an attorney under a lasting power of attorney created by P, or

(iii) is a guardian appointed by the court for P,

is guilty of an offence.

- (2) A person guilty of an offence under this section is liable -
- (a) on summary conviction, to imprisonment for a term not exceeding 2 years or a fine not exceeding level 5 on the uniform scale, or both,
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 5 years or a fine, or both.

Effect on criminal law.

76. For the avoidance of doubt, it is hereby declared that nothing in this Law is to be taken to affect the law relating to murder or manslaughter, or the operation of section 5 of the Homicide and Suicide (Bailiwick of Guernsey) Law, 2006¹ (criminal liability for complicity in another's suicide).

General

Disclosure.

77. (1) A person ("A") may disclose any information or document to another person ("B") for the purposes of -
- (a) carrying out a function under, or making a decision in accordance with, this Law, or
 - (b) permitting B to carry out any preparatory steps related

¹ Order in Council No. XX of 2009.

to carrying out such a function or making such a decision,

where it is the best interests of the person for whom the function is being carried out or in respect of whom the decision is being made (as the case may be) for the disclosure to take place.

(2) Except as provided by subsection (3), the supply of information under this section is to be taken not to breach any restriction on the disclosure of information (however arising or imposed).

(3) This section does not authorise the doing of anything that contravenes the Data Protection (Bailiwick of Guernsey) Law, 2017.

(4) This section does not affect a power to supply information that exists apart from this section.

Power to carry Law into effect by Ordinance.

78. (1) The States may by Ordinance make such other provision as they think fit for the purposes of carrying this Law into effect in Guernsey and Alderney.

(2) The Chief Pleas may by Ordinance make such additional provision as they think fit for the purposes of carrying this Law into effect in Sark.

Savings and transitional provisions, etc.

79. (1) The States by Ordinance may make such provision as they see fit in relation to savings and transitional provisions, including the making of consequential amendments and repeals.

(2) Without limiting the power under subsection (1), an Ordinance made under this section may amend the Mental Health (Bailiwick of Guernsey) Law, 2010 or any enactment made under that Law in order to make any amendments necessary for the purpose of this Law in relation to the Mental Health and Capacity Review Tribunal.

(3) This section is without prejudice to section 20 of the Interpretation and Standard Provisions (Bailiwick of Guernsey) Law, 2016^m.

Code of practice.

80. (1) The Committee shall prepare and issue a code of practice (a "code") -

- (a) for the guidance of persons assessing whether a person has capacity in relation to any matter,
- (b) for the guidance of persons acting in connection with the care or treatment of another person,
- (c) for the guidance of attorneys under lasting powers of attorney,
- (d) with respect to advance decisions and advance care plans,
- (e) for the guidance of persons acting in connection with

^m No. V of 2018; as amended by Ordinance Nos. XXII and XXVI of 2018.

protective authorisations, and

- (f) with respect to such other matters concerned with this Law as it thinks fit.

(2) The Committee may from time to time revise a code.

(3) It is the duty of a person to have regard to any relevant code when acting in relation to a person who lacks capacity and is doing so in one or more of the following ways -

- (a) as the attorney under a lasting power of attorney,
- (b) as a person acting in relation to a protective authorisation,
- (c) in a professional capacity, or
- (d) for remuneration.

(4) If it appears to a court or tribunal conducting any criminal or civil proceedings that -

- (a) a provision of a code, or
- (b) a failure to comply with a code,

is relevant to a question arising in the proceedings, the provision or failure must be taken into account in deciding the question.

(5) Before preparing or revising a code, the Committee must consult such persons as it considers appropriate, including but not limited to -

(a) the Policy and Finance Committee of the States of Alderney, and

(b) the Policy and Finance Committee of the Chief Pleas.

(6) The Committee must arrange for any code that it has issued to be published in such a way as it considers appropriate for bringing the code to the attention of persons likely to be concerned with its provisions.

Laying of regulations.

81. Regulations under this Law shall be laid before a meeting of the States as soon as possible after being made; and, if at that or the next meeting the States resolve that the regulations be annulled, then they shall cease to have effect, but without prejudice to anything done under them or to the making of new regulations.

Special provisions governing application of regulations and codes of practice to Sark.

82. Regulations made, and any code of practice issued, by the Committee shall not have effect in respect of Sark until, and unless, they have been approved by resolution of the Medical & Emergency Services Committee of the Chief Pleas.

Rules of court.

83. (1) Subject to subsection (3), a court may by order make rules dealing with all procedural and incidental matters arising under this Law, and generally for carrying this Law into effect.

- (2) Rules under subsection (1) may, without limitation be made -
- (a) in respect of the practice and procedure to be followed in connection with proceedings before the court under this Law, and
 - (b) without prejudice to the generality of paragraph (a), generally in respect of -
 - (i) applications under this Law (including the hearing and determination of applications otherwise than in open court),
 - (ii) practice and procedure under this Law before the court, and
 - (iii) in the case of the Royal Court, practice and procedure under this Law before the Tribunal,
 - (c) in respect of evidence including, without limitation, rules as to the admission of evidence and evidential presumptions,
 - (d) for the visiting and interviewing of persons in private by or under the directions of the court, and
 - (e) in respect of the joinder of such persons as parties.

(3) Rules made under subsection (1) by the Court of Alderney or the Court of the Seneschal shall, without prejudice to the validity of anything done under them, or to the making of new rules, cease to have effect -

(a) if they are disapproved by the Royal Court, immediately upon such disapproval, or

(b) if they are not approved by the Royal Court within 3 months after being made, at the expiration of those 3 months.

(4) Subsection (1) is without prejudice to any other power to make rules.

(5) Unless the context requires otherwise, for the purposes of this section, "**court**" means -

(a) in respect of Alderney, the Court of Alderney,

(b) in respect of Sark, the Court of the Seneschal, and

(c) in respect of Guernsey, the Royal Court (and for the purposes of this section, "**the Royal Court**" means the Royal Court sitting as a Full Court).

Miscellaneous

Citation.

84. This Law may be cited as the Capacity (Bailiwick of Guernsey) Law,

2020.

Commencement.

85. (1) This Law shall come into force -

(a) in respect of Guernsey and Alderney, on the day appointed by Ordinance of the States, and

(b) in respect of Sark, on the day appointed by Ordinance of Chief Pleas.

(2) An Ordinance made under subsection (1) may appoint different dates for different provisions and for different purposes.

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

COMMITTEE *FOR* HEALTH & SOCIAL CARE

THE CAPACITY (BAILIWICK OF GUERNSEY) LAW, 2020

The President
Policy & Resources Committee
Sir Charles Frossard House
La Charroterie
St Peter Port

6 March, 2020

Dear Sir,


Preferred date for consideration by the States of Deliberation

In accordance with Rule 4(2) of the Rules of Procedure of the States of Deliberation and their Committees, the Committee *for* Health & Social Care (CfHSC) requests that the Projet de Loi entitled 'Capacity (Bailiwick of Guernsey) Law, 2020' be included on the schedule for consideration at the States' meeting to be held on 22nd April 2020.

This request is made on the basis that the drafting of the Projet de Loi has been progressed with some importance, given the significance of the Law to the community. The States has agreed on two separate occasions that such a piece of legislation should be developed; most recently on 26th February 2020, when the Propositions of a Policy Letter setting out some supplementary matters were unanimously approved. This has guided the preparation of the Law accordingly.

The Capacity Law has been the Committee's top legislative priority and is an important part of the Disability & Inclusion Strategy. The CfHSC is therefore keen to secure the approval of the States in the timeliest way.

Yours faithfully,


H J R Soulsby
President

R H Tooley
Vice President

E A McSwiggan

R G Prow

D A Tindall

R Allsopp, OBE

Non-States Member

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

**THE REFORM (GUERNSEY) (AMENDMENT) (NO. 2) LAW, 2019 (COMMENCEMENT)
ORDINANCE, 2020**

The States are asked to decide:-

Whether they are of the opinion to approve the draft Ordinance entitled "The Reform (Guernsey) (Amendment) (No. 2) Law, 2019 (Commencement) Ordinance, 2020", and to direct that the same shall have effect as an Ordinance of the States.

This proposition has been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications in accordance with Rule 4(1) of the Rules of Procedure of the States of Deliberation and their Committees.

EXPLANATORY MEMORANDUM

This Ordinance brings into force the Reform (Guernsey) (Amendment) (No. 2) Law, 2019 on 22nd April, 2020.

The Reform (Guernsey) (Amendment) (No. 2) Law, 2019 (Commencement) Ordinance, 2020

THE STATES, in exercise of the powers conferred on them by section 48 of the Reform (Guernsey) (Amendment) (No. 2) Law, 2019^a and of all other powers enabling them in that behalf, hereby order:-

Commencement of the Reform (Guernsey) (Amendment) (No. 2) Law, 2019.

1. The Reform (Guernsey) (Amendment) (No. 2) Law, 2019 shall come into force on the 22nd April, 2020.

Citation.

2. This Ordinance may be cited as the Reform (Guernsey) (Amendment) (No. 2) Law, 2019 (Commencement) Ordinance, 2020.

^a Order in Council No. ** of 2020.

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

THE SCRUTINY OF STATES AND PUBLIC BODIES (GUERNSEY) ORDINANCE, 2020

The States are asked to decide:-

Whether they are of the opinion to approve the draft Ordinance entitled "The Scrutiny of States and Public Bodies (Guernsey) Ordinance, 2020", and to direct that the same shall have effect as an Ordinance of the States.

This proposition has been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications in accordance with Rule 4(1) of the Rules of Procedure of the States of Deliberation and their Committees.

EXPLANATORY MEMORANDUM

This Ordinance empowers the States Scrutiny Management Committee (the "SMC") to apply to the Royal Court for an Order requiring a person to appear before and produce documents to that committee or a scrutiny panel appointed by it, and provides for privilege, confidentiality and immunity in respect of evidence given to the SMC or a scrutiny panel.

Section 1 requires the SMC to ask a person to produce documents or appear before it to give evidence before applying to the Court for an Order requiring that person to do so, and to accommodate certain requests if made by that person in response to such a request. It goes on to provide the grounds for an application to the Court by the SMC if a person refuses to comply with a request made by it, and to make further provision in respect of such applications. Section 2 makes provision in relation to Orders made pursuant to an application under section 1, including provision as to the service of such Orders.

Section 3 amends Article 20E of the Reform (Guernsey) Law, 1948, and provides that a person appearing before the SMC or a scrutiny panel ("a witness") may refuse to answer a question on the grounds of a privilege conferred by that Article. Section 4 provides grounds on which a witness may challenge a question put to him or her by the SMC or a scrutiny panel, and for such a challenge to be considered in closed session. Section 5 confers a right on a witness to request the SMC or scrutiny panel to go into closed session for part of his or her evidence on specified grounds. Section 6 confers immunity from proceedings on witnesses and excludes answers given by witnesses from use in other proceedings, but allows the person chairing the meeting to withdraw that immunity and/or exclusion from further questions, having given a warning to that effect, if the chairperson is of opinion that the witness may be abusing

such protection. The section does not preclude the institution of criminal proceedings under section 8.

Sections 7 to 9 create criminal offences. Section 7 makes it an offence without reasonable excuse to disobey a Court Order requiring a person to produce documents to the SMC, or to appear before the SMC or a scrutiny panel, or to refuse to comply with a requirement to be examined before or answer any lawful and relevant question put by the SMC or scrutiny panel. It makes clear that exercising a right conferred under sections 3 to 5 – for example, to challenge a question under section 4 – is a reasonable excuse for these purposes. Section 8 creates an offence (in standard terms) of making false statements and producing false or misleading information and documents, and section 9 makes it an offence to interfere with witnesses appearing before or producing documents to the SMC or a scrutiny panel. Sections 10, 11 and 12 deal with interpretation, citation and commencement.

The Scrutiny of States and Public Bodies (Guernsey)

Ordinance, 2020

ARRANGEMENT OF SECTIONS

Formal requirements to give evidence and produce documents

1. Requests and applications for orders to appear, produce documents, or both.
2. Imposition of formal requirement by the Ordinary Court.

Scrutiny hearings before the SMC and scrutiny panels

3. Privilege.
4. Challenge to question put by the SMC or a scrutiny panel.
5. Confidentiality.
6. Immunity of person appearing before, or producing documents to, the SMC or a scrutiny panel.

Offences

7. Disobedience to formal requirement.
8. False or misleading evidence.
9. Interference with witnesses.

General

10. Interpretation.
11. Citation.
12. Commencement.

The Scrutiny of States and Public Bodies (Guernsey)

Ordinance, 2020

THE STATES, in pursuance of their Resolutions of the 18th February, 2016^a, and in exercise of the powers conferred on them by sections 20H and 20I of the Reform (Guernsey) Law, 1948 as amended^b, and all other powers enabling them in that behalf, hereby order:-

Formal requirements to give evidence and produce documents

Requests and applications for orders to appear, produce documents, or both.

1. (1) Before applying for an Order imposing a formal requirement under section 2 that a person –

- (a) produce documents to the SMC, or
- (b) appear before the SMC or a scrutiny panel to give evidence, or to give evidence and produce documents,

the SMC must request the person so to produce documents, appear to give evidence, or appear to give evidence and produce documents (as the case may be).

^a Article II of Billet d'État No. IV of 2016.

^b Ordres en Conseil Vol. XIII, p. 288; amended by Order in Council No. II of 2007; No. XXII of 2008; and the Reform (Guernsey) (Amendment) (No. 2) Law, 2019. There are other amendments not relevant to this Law.

(2) A request under subsection (1) may be in such form as the SMC thinks fit.

(3) Where a request is made under subsection (1) for the person to appear before the SMC or a scrutiny panel, the SMC must –

- (a) accommodate any reasonable request by the person as to the date and time of the appearance, and
- (b) where it appears to the SMC appropriate to do so, having regard to the nature of the evidence or documents and the grounds set out in section 4(1), undertake to hear the evidence in closed session or receive the documents in confidence.

(4) If a person fails to comply with a request made under subsection (1), the SMC may apply to the Ordinary Court for an Order under section 2 on the grounds that -

- (a) the SMC or scrutiny panel is, or is about to be, engaged in scrutiny of the conduct, policies, use of resources, or activities in general, of one or more committees of the States of Guernsey, other public bodies or organisations in receipt of public funds, and
- (b) the person to whom the request has been made appears to the SMC to have knowledge or information which is relevant to that scrutiny, and

- (c) the SMC has complied with subsection (1) and (if applicable) subsection (3), but
 - (d) the person has refused without reasonable cause to comply with the request made under subsection (1).
- (5) An application under subsection (4) must in all cases –
- (a) ☐ describe the conduct, policies, use of resources, or activities in general which are or are about to be scrutinised,
 - (b) ☐ specify each of the committees of the States of Guernsey, other public bodies or organisations in receipt of public funds which are or are about to become the subjects of that scrutiny, and
 - (c) ☐ subject to Rules made under section 2(6), be served on the person.
- (6) Where an application under subsection (4) is for an Order that the person be required to appear, the application must –
- (a) indicate, in general terms, the issues on which the SMC or scrutiny panel proposes to question the person, and
 - (b) state the date and time when, and place where, the SMC requests that that person be required to appear.

(7) Where an application under subsection (4) is for an Order that the person be required to produce documents, the application must describe the documents that are the subject of the application (whether by specifying the documents, or by reference to their subject matter or any other factor) and state how they are relevant to the matter that the SMC or a scrutiny panel is investigating.

Imposition of formal requirement by the Ordinary Court.

2. (1) On an application being made under section 1(4), if the Ordinary Court is satisfied (on the balance of probabilities) that –

- (a) the scrutiny referred to in the application falls within the mandate of the SMC,
- (b) the person to whom the proposed Order is requested to be addressed has knowledge or information which is relevant to that scrutiny,
- (c) the SMC has complied with section 1(1) and (if applicable) section 1(3) but the person has refused without reasonable cause to comply with the request made under section 1(1), and
- (d) it is reasonable in all the circumstances for that person to be required to do so,

the court shall make an Order imposing a formal requirement on that person to –

- (i) produce documents to the SMC, or

- (ii) appear before the SMC or a scrutiny panel and give evidence, or give evidence and produce documents, as the case may be.

(2) An Order imposing a formal requirement to produce documents may require the person to whom it is addressed to produce –

- (a) all documents,
- (b) specified documents,
- (c) documents described by reference to their subject matter or any other factor,

which in the opinion of the court are relevant to the matter that the SMC or a scrutiny panel is investigating; and may include ancillary provisions concerning, for example, the preservation, security and confidentiality of such documents.

(3) If the court makes an Order under subsection (1) requiring a person to appear before the SMC or a scrutiny panel, the date on which that person is to appear must be at least five working days after the date on which the Order is served on the person.

(4) The SMC shall cause the Order imposing a formal requirement to be served on the person to whom it is addressed by delivering it to that person personally, or by leaving it at that person's business or private address with another apparently responsible person who undertakes to bring it to the attention of the person to whom it is addressed; and the person effecting service on behalf of the SMC

shall endorse the method and date of service on a copy of the Order.

(5) An Order imposing a formal requirement may only be served in the Bailiwick.

(6) For the avoidance of doubt the Royal Court may make Rules of Court governing the procedure for the making, hearing and determination of applications for Orders under this section, including rules prescribing circumstances in which such applications may be dealt with ex parte.

Scrutiny hearings before the SMC and scrutiny panels

Privilege.

3. (1) In Article 20E of the Reform (Guernsey) Law, 1948 -

(a) for paragraph (a), substitute -

"(a) the Scrutiny Management Committee or any standing or ad hoc panel appointed pursuant to the powers and duties of that Committee to carry out particular aspects of its mandate, or to scrutinise particular matters within its mandate, on that Committee's behalf," and

(b) at the end of the words insert ", including privilege against self-incrimination and legal professional privilege".

(2) A person appearing before the SMC or a scrutiny panel may at

any time refuse to answer a question on the ground of a privilege conferred by that Article.

Challenge to question put by the SMC or a scrutiny panel.

4. (1) A person appearing before the SMC or a scrutiny panel may challenge a question put by the SMC or scrutiny panel on the ground that –

- (a) the question is not relevant to, or necessary for the consideration of, the matter that the SMC or scrutiny panel is investigating,
- (b) the question concerns matters which are currently, or are shortly to be, under consideration by a court,
- (c) if the person is a Member of the States of Deliberation or a civil servant, giving the evidence or producing the documents would contravene the Code of Conduct binding upon that person as such, or
- (d) the prejudice to the person, the States of Guernsey or any third party that would ensue if he or she answered the question so far outweighs the usefulness of the answer to the SMC or scrutiny panel that it would be unreasonable to require the person to answer.

(2) The SMC or scrutiny panel shall consider any such challenge in closed session and thereafter (in public session if evidence is being taken in public session) shall -

- (a) direct that the question be answered, or that the question need not be answered, and
- (b) inform the person of the reasons for that direction.

Confidentiality.

5. (1) A person appearing before the SMC or a scrutiny panel may at any time request that the SMC or panel -

- (a) go into closed session to hear all or any part of the oral evidence which the person has been requested or required to give, or when examining any document which the person has been requested or required to produce, or
- (b) undertake not to publish, or to publish only in redacted form, all or any part of the oral evidence which the person has been requested or required to give, or any document which the witness has been requested or required to produce, or
- (c) both,

and may insist that the SMC or scrutiny panel go into closed session whilst the person makes, and whilst the SMC or scrutiny panel rules on, that request.

(2) The grounds for making a request under subsection (1) are that further disclosure of the evidence or information would or may -

- (a) risk serious damage to the public interest,
- (b) constitute a contempt of court in respect of matters which are currently, or are shortly to be, under consideration by a court,
- (c) endanger any significant public or private commercial interest,
- (d) if the person is a Member of the States of Deliberation or civil servant, contravene the Code of Conduct binding upon that person as such,
- (e) prejudice the person, the States of Guernsey, or any third party, to such extent as to so far outweigh the value of publication that it would be unreasonable to require the person to answer questions or produce documents without acceding to the confidentiality request.

(3) For the avoidance of doubt, if the SMC or scrutiny panel rules against a request under subsection (1) made by a person who has been required to give evidence, the person may nevertheless thereafter challenge a question under section 4 (unless a challenge to that question has already been made under that section).

Immunity of person appearing before, or producing documents to, the SMC or a scrutiny panel.

6. (1) Subject to the succeeding provisions of this section -

- (a) no civil proceedings or criminal proceedings may be instituted against any person in respect of any words spoken or written by that person in the course of giving evidence, or contained in any document produced by that person and accepted by the SMC or a scrutiny panel in the course of a scrutiny investigation, and
- (b) an answer given by a person to a question put to that person, an oral or written statement made by a person, or a document produced by a person, in the course of the person's appearance before the SMC or a scrutiny panel shall not be admissible in evidence against the person in any other civil proceedings or criminal proceedings.

(2) Subsection (1) does not preclude the institution of criminal proceedings under section 8 (false or misleading evidence).

(3) If it appears to the person chairing a meeting of the SMC or a scrutiny panel ("**the chairperson**") at which evidence is being taken that a person is or may be abusing the immunity or exclusion provided for in subsection (1), the chairperson shall warn that person ("**the witness**") that he or she may withdraw those rights if the witness continues in his or her abuse of the immunity or exclusion; and that warning must be recorded in the minutes of the meeting.

(4) If, having issued a warning under subsection (3), the chairperson is of the opinion that the witness is persisting in his or her abuse of the immunity or exclusion, and that its withdrawal is in the public interest, the

chairperson may withdraw it by so informing the witness, whereupon the immunity, the exclusion, or both (as the case may be), shall not apply in respect of any further evidence given to that meeting by that witness, and that withdrawal must be recorded in the minutes of the meeting.

Offences

Disobedience to formal requirement.

7. (1) A person who, without reasonable excuse –
- (a) ☐ disobeys an Order of the court imposing a formal requirement to produce documents to the SMC or to appear before the SMC or a scrutiny panel, or
 - (b) having so appeared, refuses to comply with a requirement to be examined before, or to answer any lawful and relevant question put by, the SMC or scrutiny panel as the case may be,

is guilty of an offence; and for the avoidance of doubt, exercise of the rights conferred by sections 3 to 5 constitutes a reasonable excuse for the purposes of subparagraph (b).

(2) A person guilty of an offence under subsection (1) shall be liable to imprisonment for a term not exceeding six months, or to a fine not exceeding level 4 on the uniform scale, or to both.

False or misleading evidence.

8. (1) A person is guilty of an offence if he or she, when giving

evidence or producing documents in response to a request made, or an Order imposing a formal requirement, under this Ordinance -

- (a) makes a statement which he or she knows or has reasonable cause to believe to be false, deceptive or misleading in a material particular,
- (b) recklessly makes a statement, dishonestly or otherwise, which is false, deceptive or misleading in a material particular,
- (c) produces or furnishes, or causes or permits to be produced or furnished, any information or document which he or she knows or has reasonable cause to believe to be false, deceptive or misleading in a material particular, or
- (d) recklessly produces or furnishes, or recklessly causes or permits to be produced or furnished, dishonestly or otherwise, any information or document which is false, deceptive or misleading in a material particular.

(2) A person guilty of an offence under subsection (1) shall be liable to imprisonment for a term not exceeding 12 months, or to a fine not exceeding level 5 on the uniform scale, or to both.

Interference with witnesses.

9. (1) A person is guilty of an offence if he or she, by fraud, intimidation, force or threat, by the offer or promise of any inducement or benefit, or

by other improper means -

- (a) induces or attempts to induce another person who has been requested or formally required to appear before or produce documents to the SMC or a scrutiny panel, to refrain from doing as requested or formally required, or
- (b) influences or attempts to influence another person in respect of any evidence given before the SMC or a scrutiny panel in response to such a request or formal requirement.

(2) A person guilty of an offence under subsection (1) shall be liable to imprisonment for a term not exceeding 2 years, or to a fine not exceeding level 5 on the uniform scale, or to both.

General

Interpretation.

10. In this Ordinance -

"**civil proceedings**" includes regulatory proceedings and disciplinary proceedings,

"**closed session**" means a part (or the whole) of a meeting of the SMC or a scrutiny panel from which the public and media are excluded, and which is not to be publicly reported; and "public session" is to be construed accordingly,

"a scrutiny investigation" means an investigation being conducted by the SMC or by a scrutiny panel within the terms of the SMC's mandate,

"a scrutiny panel" means a standing or *ad hoc* panel appointed pursuant to the powers and duties of the SMC to carry out particular aspects of the SMC's mandate, or to scrutinise particular matters within the SMC's mandate, on the SMC's behalf, and

"the SMC" means the States Scrutiny Management Committee, or such other committee as the States may from time to time constitute with a mandate to scrutinise the conduct, policies, use of resources, and activities in general, of committees of the States of Guernsey, other public bodies and organisations in receipt of public funds.

Citation.

11. This Ordinance may be cited as the Scrutiny of States and Public Bodies (Guernsey) Ordinance, 2020.

Commencement.

12. This Ordinance shall come into force on the day appointed by regulations of the SMC, and such regulations may appoint different days for different provisions and different purposes.

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

**THE GUERNSEY COMPETITION AND REGULATORY AUTHORITY (AMENDMENT)
ORDINANCE, 2020**

The States are asked to decide:-

Whether they are of the opinion to approve the draft Ordinance entitled "The Guernsey Competition and Regulatory Authority (Amendment) Ordinance, 2020", and to direct that the same shall have effect as an Ordinance of the States.

This proposition has been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications in accordance with Rule 4(1) of the Rules of Procedure of the States of Deliberation and their Committees.

EXPLANATORY MEMORANDUM

This Ordinance amends the Guernsey Competition and Regulatory Authority Ordinance, 2012 ("the Ordinance"):

- i. to extend the power of the Guernsey Competition and Regulatory Authority (the "Authority"), under paragraph 13 of Schedule 1 to the Ordinance ("Schedule 1"), to arrange for any of its functions under the Ordinance, any relevant Ordinance, or any other enactment to be exercised in its name by any of its members, officers or employees (the "power of delegation"), so that the power of delegation extends to certain functions which would otherwise be excluded, as a result of the provisions of paragraph 13(1)(b) of Schedule 1.
- ii. to clarify, for the avoidance of doubt, that the Chief Executive of the Authority may further delegate functions that have been delegated to him by the Authority under paragraph 13(1) of Schedule 1.

Section 2 inserts a consequential amendment, to make paragraph 13(1)(b) of Schedule 1 subject the provisions of a new paragraph 13(3).

Section 3 inserts a new paragraph 13(3) to Schedule 1, which specifies the functions that may be the subject of an arrangement of the Authority under paragraph 13(1), notwithstanding the provisions of paragraph 13(1)(b).

Section 4 amends paragraph 14 of Schedule 1 to clarify, for the avoidance of doubt, that the power of the Chief Executive of the Authority to arrange, by an instrument in writing, for any of his functions under the Ordinance, any relevant Ordinance, or any other enactment to be exercised in his name by any of the officers or employees of the

Authority named or described in the instrument, extends to any functions that have been delegated to him by the Authority under paragraph 13(1) of Schedule 1. This provision ensures that the principle of administrative law known as *delegatus non potest delegare* does not operate so as to prevent delegated powers from being further delegated in these circumstances.

The Ordinance shall come into force on the 1st May, 2020.

The Guernsey Competition and Regulatory Authority (Amendment) Ordinance, 2020

THE STATES, in pursuance of their Resolution of the 18th July, 2019^a, and in exercise of the powers conferred on them by sections 1, 5 and 6 of the Competition (Enabling Provisions) (Guernsey) Law, 2009^b and all other powers enabling them in that behalf, hereby order:-

Amendment of 2012 Ordinance.

1. The Guernsey Competition and Regulatory Authority Ordinance, 2012^c is amended as follows.

2. In paragraph 13(1)(b) of Schedule 1 immediately before the words “any function which” insert “subject to the provisions of subparagraph (3),”.

3. After paragraph 13(2) of Schedule 1 insert the following subparagraph -

“(3) Notwithstanding the provisions of item (b) of subparagraph (1), the following functions may be the subject of an arrangement of the Authority under subparagraph (1) and are accordingly not excluded by item (b) from the application of that subparagraph -

^a Article 4 of Billet d'État No. XIII of 2019.

^b Order in Council No. XV of 2009; amended by Ordinances No. XIII of 2012; and No. IX of 2016.

^c Ordinance No. XIII of 2012; amended by No. IX of 2016.

- (a) to serve a notice on an undertaking under section 23(1), (2) or (3) of the Competition Ordinance requiring the furnishing or production of information or documents,
- (b) to refuse an undertaking consent for the provision of copies of documents under section 26 of the Competition Ordinance instead of originals or to impose, vary or rescind any term, or condition in respect of any such consent,
- (c) to give an undertaking a direction under section 27(1) of the Competition Ordinance,
- (d) to refuse an undertaking access to documents or to allow an undertaking to copy documents under section 28(2) of the Competition Ordinance or to impose, vary or rescind any term or condition in respect of any such access or copying,
- (e) to exercise any relevant power in relation to an undertaking (to the extent that the power is one of the functions specified in any other item of this subparagraph) at the request of an overseas competition authority (within the meaning of section 60 of the Competition Ordinance) under section 30(1) of that Ordinance,

(f) to omit, pursuant to the provisions of section 45(2) of the Competition Ordinance, any matter from a statement of reasons given to the undertaking, and

(g) without prejudice to item (f), to exercise any function set out in sections 43, 44 and 45 of the Competition Ordinance in relation to any function specified in any other item of this subparagraph;

and in this subparagraph the “**Competition Ordinance**” means the Competition (Guernsey) Ordinance, 2012.”.

4. In paragraph 14 after the words “or any other enactment” insert “(including, for the avoidance of doubt, any functions delegated to him by the Authority under paragraph 13(1))”.

Citation.

5. This Ordinance may be cited as the Guernsey Competition and Regulatory Authority (Amendment) Ordinance, 2020.

Commencement.

6. This Ordinance shall come into force on the 1st May, 2020.

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

**THE GUERNSEY COMPETITION AND REGULATORY AUTHORITY (AMENDMENT) (NO. 2)
ORDINANCE, 2020**

The States are asked to decide:-

Whether they are of the opinion to approve the draft Ordinance entitled "The Guernsey Competition and Regulatory Authority (Amendment) (No. 2) Ordinance, 2020", and to direct that the same shall have effect as an Ordinance of the States.

This proposition has been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications in accordance with Rule 4(1) of the Rules of Procedure of the States of Deliberation and their Committees.

EXPLANATORY MEMORANDUM

This Ordinance amends Schedule 1 to the Guernsey Competition and Regulatory Authority Ordinance, 2012 to permit the Committee for Economic Development (rather than the States of Deliberation) to appoint, or revoke the appointment of, the Chairman of the Guernsey Competition and Regulatory Authority.

The Guernsey Competition and Regulatory Authority

(Amendment) (No. 2) Ordinance, 2020

THE STATES, in pursuance of their Resolution of the 12th December, 2019^a, and in exercise of the powers conferred on them by sections 1 and 6 of the Competition (Enabling Provisions) (Guernsey) Law, 2009, as amended^b, and all other powers enabling them in that behalf, hereby order:-

Amendment of the Ordinance.

1. The Guernsey Competition and Regulatory Authority Ordinance, 2012, as amended^c ("**the Ordinance**"), is further amended as follows.

2. In Schedule 1 to the Ordinance -

- (a) in paragraph 1(2), delete the words "the States on the recommendation of",
- (b) in paragraph 1(4), for the words "the States (in the case of the Chairman) or the Committee (in the case of the ordinary members)" substitute "the Committee",
- (c) immediately after paragraph 1(4), insert the following

^a Article XIV of Billet d'État No. XXIV of 2019.

^b Order in Council No. XV of 2009; as amended by Ordinance No. XIII of 2012 and No. IX of 2016.

^c Ordinance No. XIII of 2012; as amended by No. IX of 2016.

subparagraph -

"(4A) The appointment of a member under this paragraph shall be laid before a meeting of the States as soon as possible and shall, if at that or the next meeting the States resolve to annul it, cease to have effect, but without prejudice to anything done by the Authority or by that member during his appointment.", and

- (d) in paragraph 3(2), for the words "The States may, on the recommendation of the Committee," substitute "The Committee may".

Citation.

3. This Ordinance may be cited as the Guernsey Competition and Regulatory Authority (Amendment) (No. 2) Ordinance, 2020.

Commencement.

4. This Ordinance shall come into force on the 23rd April, 2020.

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

POLICY & RESOURCES COMMITTEE

THE MARRIAGE (BAILIWICK OF GUERNSEY) LAW, 2020

The States are asked to decide:-

Whether, after consideration of The Marriage (Bailiwick of Guernsey) Law, 2020, and the Policy Letter dated 30th March 2020 they are of the opinion:-

1. To agree that marriage between certain persons who were formerly related by marriage or civil partnership, as set out in paragraph 2.3 to 2.7, is not prohibited.
2. To agree that a marriage is formed once the celebrant has signed the return, as set out in paragraph 2.8 to 2.11.
3. To approve the Projet de Loi entitled 'Marriage (Bailiwick of Guernsey) Law, 2020' and to authorise the Bailiff to present a most humble petition to Her Majesty praying for Her Royal Sanction thereto, that includes the minor amendments to policy matters included in Propositions 1 and 2 and as explained in the enclosed Policy Letter.

The above Propositions have been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications in accordance with Rule 4(1) of the Rules of Procedure of the States of Deliberation and their Committees.

EXPLANATORY MEMORANDUM

This Law will repeal and replace the "Loi ayant rapport aux Mariages Célébrés dans les Iles de Guernesey, d'Auregny et de Serk", of 1919, and related legislation, that sets out the formalities and procedures of marriages in the Bailiwick.

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

POLICY & RESOURCES COMMITTEE

THE MARRIAGE (BAILIWICK OF GUERNSEY) LAW, 2020

The Presiding Officer
States of Guernsey
Royal Court House
St Peter Port

30th March 2020

Dear Sir

1. Executive Summary

- 1.1□ This Policy Letter seeks the States' approval to repeal and replace the existing law governing how and where couples marry, in order to ensure that marriage is simpler; fits the needs of a modern society; is inclusive; and maintains sufficient safeguards to prevent illegal, sham or forced marriages, in line with the extant Resolutions¹ relating to the Policy Letter entitled 'Reform of the Marriage Law', dated 14th January 2019² ("the 2019 Policy Letter").
- 1.2□ The purpose of the Projet de Loi ("Projet"), (Appendix A), is to set out the new procedures and formalities of marriage to ensure ceremonies are legally recognised. The updated law is also intended to cover the whole Bailiwick, bringing greater consistency and clarity to the marriage formalities and requirements across the islands.
- 1.3□ A Policy Letter accompanies this Projet as it sets out the reasons why certain proposals, not specifically covered by the 2019 Policy Letter and extant Resolutions, should be included in the legislation, in line with H M Greffier's Submission of Propositions to the States, Directive No.1³.
- 1.4□ There has been Bailiwick-wide consultation with the States of Alderney and Sark Chief Pleas who have confirmed support for the progression of this Projet. Celebrants were also consulted, including consultation with celebrants regarding

¹ [Billet d'État III of 2019 – Resolutions](#)

² [Billet d'État III of 2019 \(P.2019/10\)](#)

³ [Directive No.1 of 2018 - The Submission of Propositions to the States](#)

specific aspects of the law reform relating to religious content ceremonies and the authorisation period for civil celebrants. The Dean of Guernsey was also consulted in relation to provisions for the Church of England. Those consulted were in the main supportive of the proposals as incorporated into the Projet.

2. The Projet

- 2.1□ The Projet appended to this Policy Letter has been written to give effect to the decisions of the States of 28th February, 2019 ([Billet d'État III of 2019](#)). However, it is necessary to draw Members' attention to matters which have been raised during the legislative drafting process that were not specifically covered by the 2019 Policy Letter.
- 2.2□ The Policy & Resources Committee is supportive of these revisions and as such they have been incorporated into the Projet, subject to the States' approval. The relevant matters are as follows:

Prohibited Degrees⁴

- 2.3□ The 2019 Policy Letter stated that in drafting the new legislation, the opportunity would be taken where possible to incorporate and modernise provisions relating to the procedures and formalities of marriage presently contained in other enactments, including prohibited degrees of consanguinity. However, the 2019 Policy Letter concluded that "no substantive amendments" were required, which in this instance is not the case.
- 2.4□ To ensure compliance with human rights requirements and alignment to other jurisdictions there is a requirement to remove the prohibition of marriage between certain parties who were formerly related by marriage. For example, amendments to legislation in England and Wales (The Marriage Act 1949 (Remedial) Order 2007), which have since been replicated in Jersey through the Marriage and Civil Status (Amendment No.4) (Jersey) Law 2018⁵, removed this prohibition.
- 2.5□ The amendments arise from the deliberation of a case by the European Court for Human Rights ("ECHR") (B. and L. v. the United Kingdom, 13th September 2005⁶) that deemed that the marriage law in England & Wales, which prohibited any marriage between a person and the parent of their former spouse and between a person and the former spouse of their child, violated the European Convention

⁴ 'Prohibited degrees refers to the extent of relationships between two individuals, by consanguinity (blood) or affinity that would legally forbid marriage.'

⁵ [Marriage and Civil Status \(Amendment No.4\) \(Jersey\) Law 2018](#)

⁶ [Application No36536/02](#)

for the Protection of Human Rights and Fundamental Freedoms, specifically Article 12: The right to marry and to found a family.

- 2.6□ In light of the precedent set by the ECHR case and subsequent legislative changes in other jurisdictions, the Law Officers have advised that legislative provisions which absolutely prohibit marriage between parties who were formerly related by marriage should be removed. Such marriages will not be prohibited so long as both parties are aged 18 or over at the time of the marriage and the younger of the couple has never lived with the other as a child of the family. This is consistent with the provisions in England and Wales and in Jersey and removes the bar whilst protecting against the possible exploitation of the younger party by a person who has been in a position of parental authority.
- 2.7□ It is also proposed that the existing prohibitions concerning relationships by marriage or former marriage should be extended to relationships by civil partnership or former civil partnership. This is also consistent with England and Wales and with Jersey.

Formation of marriage

- 2.8□ The formation of marriage refers to the point, or act, in the ceremony where a marriage becomes legally binding. At present, there is no provision identifying the moment when a marriage is formed and it is desirable that this should be clarified to avoid doubt.
- 2.9□ The 2019 Policy Letter provided that a marriage would be formed 'once both parties and witnesses sign the registration form'. No requirement was included for the celebrant to have also signed the return form.
- 2.10□ From a legal and practical perspective it is proposed that this be amended such that the marriage is formed once the celebrant, having had the opportunity to observe the demeanour of the parties and their signatures on the return form, and being satisfied as to their identity and that they are freely consenting to the marriage, has signed the return.
- 2.11□ The proposed amendment provides an additional layer of protection against illegal marriage and aligns with the provision in Jersey.

3. Consultation

- 3.1□ Section 6.1 of the 2019 Policy Letter directed further stakeholder consultation to determine the specifics of provisions relating to religious content in civil and non-religious ceremonies, and the authorisation period for civil marriage celebrants. A consultation document seeking celebrants' views on those aspects of the

reform was conducted in early 2020. In addition, the consultation sought celebrants' views on the proposed change to the provisions regarding the formation of marriage, as set out in Section 2.9 of this Policy Letter, recognising that this matter is relevant to the duties of a celebrant. The majority of the responses received were positive about the proposals as incorporated into the Projet.

3.2□ The Dean of Guernsey has been consulted on matters relating to celebrants and the Church of England, and has indicated support for the Projet.

3.3□ As the new law is intended to cover the whole Bailiwick, the governments of Sark and Alderney were consulted and they confirmed that they were content with the proposals as set out in the draft Policy Letter and Projet. In order for the legislation to apply to the Bailiwick as a whole, the Projet will need to be approved by the States of Deliberation, the States of Alderney and Sark's Chief Pleas before it is submitted for Royal Sanction.

4.□ **Resource implications**

4.1□ There are no additional resource implications caused by the inclusion of these two supplementary matters of policy (prohibited degrees and the changes to when a marriage is legally formed) within the Projet.

5.□ **Legislative implications**

5.1□ Additional provisions identified in this Policy Letter have been incorporated into the Projet for consideration by the States.

5.2□ Provision will be made for matters of detail relating to implementing these Propositions to be included in subordinate legislation such as Regulations.

6. **Operational implications**

6.1□ There will be no further operational implications if this Projet is approved.

7. **Timeframe**

7.1□ The legislation could be enacted in the first part of 2021, subject to Her Majesty's Royal Sanction.

8. **Conclusions and recommendations**

8.1□ This Policy Letter seeks the States' approval of the new legislation that will repeal and replace the existing law governing the procedures and formalities necessary to form a legal marriage.

8.2□ A Policy Letter accompanies the Projet as it sets out the reasons why certain proposals which were not specifically covered by the 2019 Policy Letter and extant Resolutions should be included in the legislation. These proposals relate to:

- (a)□ Prohibited degrees; in respect of which the States is asked to agree that marriage between certain parties who were formerly related by marriage is not prohibited; and
- (b)□ Formation of marriage; in respect of which the States is asked to agree that the marriage is formed once the celebrant, having had the opportunity to observe the demeanour of the parties and their signatures on the return form, and being satisfied as to their identity and that they are freely consenting to the marriage, has signed the return.

8.3□ The two matters have been incorporated into the Projet (attached as Appendix A) which is presented to the States for approval.

8.4□ The Committee is unanimously supportive of these additions and recommends that the States support the Propositions to which this Policy Letter is attached.

9. Compliance with Rule 4

9.1□ Rule 4 of the Rules of Procedure of the States of Deliberation and their Committees sets out the information which must be included in, or appended to, motions laid before the States.

9.2□ In accordance with Rule 4(1), the Propositions have been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications. She has advised that there is no reason in law why the Propositions should not be put into effect.

9.3□ In accordance with Rule 4(5), the Propositions relate to the duties of the Committee as set out in section (a) of its mandate.

Yours faithfully

G A St Pier
President

L S Trott
Vice-President

J P Le Tocq
T J Stephens
A H Brouard

APPENDIX A – THE MARRIAGE (BAILIWICK OF GUERNSEY) LAW, 2020

PROJET DE LOI

ENTITLED

The Marriage (Bailiwick of Guernsey) Law, 2020

ARRANGEMENT OF SECTIONS

PART I

GENERAL RESTRICTIONS ON MARRIAGE

1. Prohibited degrees.
2. Persons already married or in civil partnership.
3. Minimum age for marriage.
4. Consent to marriage of minor.

PART II

PERSONS WHO MAY SOLEMNISE MARRIAGES

5. Persons who may solemnise marriages.
6. Marriage without celebrant void.

Registrar-General of Marriages

7. Registrar-General and Deputy Registrars.

Authorisation of marriage celebrants

8. Register of marriage celebrants.
9. Application for authorisation.
10. Determination of application.
11. Savings for pre-commencement authorised persons.
12. Attachment and variation of conditions.
13. Duties of civil celebrants and authorised religious officials.
14. Duration and renewal of authorisation of civil celebrants.
15. Duration of authorisation of religious officials.
16. Inspection and investigation of celebrants.
17. Suspension and termination of authorisation.

18. Notice of refusal of application, attachment of conditions, termination etc.
19. Appeals against decision of Registrar-General.
20. Removal of name from register.

Clerk in Holy Orders of the Church of England

21. Clerk in Holy Orders of the Church of England

PART III
MARRIAGE AUTHORISED BY LICENCE OF REGISTRAR-GENERAL

Notice of marriage

22. Notice of marriage.
23. Determination of acceptance of notice of marriage.
24. Filing of notice and publication.
25. Reduction of publication period and relaxation of other requirements in certain circumstances.
26. Caveat against marriage or certificate of no impediment.
27. Forbidding of issue of licence or certificate of no impediment.
28. Issue of licence.
29. Change to date, time, location or celebrant of intended marriage.
30. Person to whom licence is to be delivered.

Solemnisation of marriage

31. Date of marriage.
32. Time of marriage.
33. Location of marriage.
34. Form of marriage.
35. Religious content.
36. Formation of marriage.

Miscellaneous provisions

37. Void marriages.

PART IV
MARRIAGE ACCORDING TO RITES OF CHURCH OF ENGLAND

38. Authorisation of marriage.
39. Remarriage of divorced persons.

- 40. Notice of marriage.
- 41. Determination of acceptance of notice.
- 42. Retention of notice and publication.
- 43. Caveat against marriage.
- 44. Issue of licence.
- 45. Duration of licence.
- 46. Person to whom licence is to be delivered.
- 47. Witnesses.
- 48. Formation of marriage.
- 49. Observance of liturgical rubric.
- 50. Void marriages.

PART V REGISTRATION OF MARRIAGES

- 51. General Register of Marriages.
- 52. Persons by whom marriages are to be registered.
- 53. Return to be made to Registrar-General.
- 54. Correction of errors in register.
- 55. Certified copies of entries in register.

PART VI GENERAL AND MISCELLANEOUS

- 56. Disclosure by Registrar-General.
- 57. Issue of certificate of no impediment for marriage outside the Bailiwick.
- 58. Proof of certain matters not necessary to validity of marriages.
- 59. Omission of particulars in exceptional circumstances.
- 60. Fees and charges.
- 61. Offences relating to false or misleading information etc.
- 62. Offences relating to solemnisation of marriage.
- 63. Offences relating to registration of marriage.
- 64. Provision, retention and publication of documents in electronic form.
- 65. Provision of translation of documents.
- 66. General provisions as to regulations.
- 67. Repeals.
- 68. Interpretation.
- 69. Citation.
- 70. Commencement.

SCHEDULE: REPEALS.

PROJET DE LOI

ENTITLED

The Marriage (Bailiwick of Guernsey) Law, 2020

THE STATES, in pursuance of their Resolutions of the 28th day of February, 2019^a and the ** day of **, 2020^b, have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the Bailiwick of Guernsey.

PART I

GENERAL RESTRICTIONS ON MARRIAGE

Prohibited degrees.

1. (1) It shall not be lawful for two persons to marry if one of them is, in relation to the other –

- (a) a parent or grandparent,
- (b) a sibling,
- (c) a sibling of a parent or grandparent,

^a Article VI of Billet d'État No. III of 2019.

^b Article ** of Billet d'État No. ** of 2020.

- (d) a child or grandchild,
- (e) a child or grandchild of a sibling,
- (f) an adoptive parent or child, or a former adoptive parent or child,

and a reference to a sibling shall include a reference to a brother, sister, half-brother or half-sister.

(2) Subject to subsection (3), it shall not be lawful for two persons to marry if one of them is in relation to the other –

- (a) a child or grandchild of a former spouse,
- (b) a child or grandchild of a former civil partner,
- (c) the former spouse of a parent or grandparent, or
- (d) the former civil partner of a parent or grandparent.

(3) Any such marriage as is mentioned in subsection (2) shall not be void by reason only of affinity if both the parties to the marriage have attained the age of 18 years at the time of the marriage and the younger party has not at any time before attaining the age of 18 years been a child of the family in relation to the other party.

(4) For the purposes of subsection (3), "**child of the family**", in relation to any person, means a child who has lived in the same household as that

person and been treated by that person as a child of that person's family.

(5) Any reference in this section to a relationship between two persons by blood shall include such a relationship without regard to whether such relationship arises by lawful marriage.

(6) Where two persons consent to or acquiesce in a marriage in contravention of this section, such marriage is void.

Persons already married or in civil partnership.

2. (1) It shall not be lawful for two persons to marry if, at the time of the marriage –

(a) either of them is already lawfully married, or

(b) either of them is a civil partner or, for the avoidance of doubt, they are civil partners of each other.

(2) Where two persons consent to or acquiesce in a marriage in contravention of this section, such marriage is void.

Minimum age for marriage.

3. (1) It shall not be lawful for two persons to marry if, at the time of the marriage, either of them is under the age of 16 years.

(2) Where two persons consent to or acquiesce in a marriage in contravention of this section, such marriage is void.

Consent to marriage of minor.

4. (1) Subject to subsection (2), where a party to a proposed marriage is a minor aged 16 or 17 years who has not previously been married or a civil partner, the consent, in such form or manner as may be prescribed, of the following is required –

- (a) every person who has parental responsibility in respect of that minor under the Children (Guernsey and Alderney) Law, 2008^c ("**the said 2008 Law**"), the Children (Sark) Law, 2016^d ("**the said 2016 Law**") or the Child Protection (Sark) Law, 2020^e, or
- (b) a court, by way of a specific issue order made for the purpose under section 17 of the said 2008 Law or section 16 of the said 2016 Law, as the case may be.

(2) Where the Registrar-General or the Dean, as the case may be, is satisfied that the consent of any person whose consent is so required cannot be obtained by reason of absence or inaccessibility or by reason of that person being under any disability –

- (a) if there is any other person whose consent is also required, the Registrar-General or the Dean (as the case may be) must dispense with the consent of the person

^c Order in Council No. XIV of 2009; amended by No. IV of 2018; Ordinance Nos. XI and XLVIII of 2009; Nos. IX and XX of 2016; No. VI of 2017.

^d Order in Council No. VIII of 2016.

^e Approved by the Chief Pleas of Sark on 22nd January, 2020.

whose consent cannot be obtained, or

- (b) if there is no other person whose consent is also required, the Registrar-General or the Dean (as the case may be) may dispense with the consent of the person whose consent cannot be obtained.

PART II

PERSONS WHO MAY SOLEMNISE MARRIAGES

Persons who may solemnise marriage.

- 5. (1) A marriage may be solemnised by –
 - (a) the Registrar-General,
 - (b) a civil celebrant, authorised for the purposes of this Law by the Registrar-General ("**civil celebrant**"),
 - (c) where the marriage is to be solemnised according to the rites of the Church of England, and subject to subsection (2), a clerk in Holy Orders of the Church of England, or
 - (d) where the marriage is to be solemnised according to the rites or usages of a religious organisation other than the Church of England, and subject to subsection (3), a person nominated by the relevant governing authority of that religious organisation and authorised for the purposes of this Law by the Registrar-General

("authorised religious official") .

(2) Subsection (1)(c) is subject to section 7(1) of the Same-Sex Marriage (Guernsey) Law, 2016^f ("**the 2016 Law**"), to section 7(1) of the Same-Sex Marriage (Alderney) Law, 2017^g ("**the 2017 Law**") and to section 7(1) of the Same-Sex Marriage (Sark) Law, 2019^h ("**the 2019 Law**").

(3) Subsection (1)(d) is subject to sections 8 and 9 of the 2016 Law, sections 8 and 9 of the 2017 Law and sections 8 and 9 of the 2019 Law.

(4) In subsection (1)(d), and for the purposes of this Law, "**relevant governing authority**" means the person or persons recognised by the members of the relevant religious organisation as competent for the purposes of nominating officials for the purposes of this Law, and "**relevant religious organisation**" means the religious organisation which is seeking to nominate a person as an authorised religious official.

(5) A marriage solemnised otherwise than according to the rites of the Church of England shall be solemnised on the authority of a licence issued by the Registrar-General under Part III of this Law.

Marriage without celebrant void.

6. Where two persons consent to or acquiesce in a marriage otherwise than in the presence of a person mentioned in paragraph (a), (b), (c) or (d) of section 5(1) who is authorised under the provisions of this Law to solemnise that marriage,

^f Order in Council No. II of 2017.

^g Order in Council No. I of 2018.

^h Approved by the Chief Pleas of Sark on 17th December, 2019.

such marriage is void.

Registrar-General of Marriages

Registrar-General and Deputy Registrars.

7. (1) Her Majesty's Greffier is the Registrar-General of Marriages for the Bailiwick of Guernsey ("**Registrar-General**").

(2) The Registrar-General may from time to time appoint one or more deputies ("**Deputy Registrars**") to perform the duties, and exercise the powers, of the Registrar-General in the absence of, or as directed by, the Registrar-General.

(3) The Registrar-General and Deputy Registrars must perform the duties imposed, and exercise the powers conferred, on the Registrar-General under and in accordance with this Law and any other relevant enactment.

(4) The Registrar-General and Deputy Registrars must, before entering office, take an oath, or make a solemn affirmation, before the Royal Court, the Court of Alderney or the Court of the Seneschal, well and faithfully to discharge the duties of such office.

(5) A person who immediately before the commencement of this Law was, under the Marriage Law 1919, a Deputy Registrar, is deemed to have been appointed, on the date when such officer was in fact so appointed, under and for the purposes of this Law.

(6) A person who immediately before the commencement of this Law was, under the Alderney Marriage Law, the Registrar of Marriages in the island of Alderney, is deemed to have been appointed, on the date when such officer was in

fact so appointed, a Deputy Registrar under and for the purposes of this Law.

Authorisation of marriage celebrants

Register of marriage celebrants.

8. (1) The Registrar-General must establish and maintain a register of persons, in such form as the Registrar-General may determine, who are –

- (a) civil celebrants, for the purposes of section 5(1)(b), or
- (b) authorised religious officials, for the purposes of section 5(1)(d).

(2) The register established and maintained in accordance with subsection (1) must be available for inspection free of charge at all reasonable times during normal working hours.

Application for authorisation.

9. (1) An application for authorisation of a person as a civil celebrant or as an authorised religious official must be made to the Registrar-General in such form, and accompanied by such information and documents, as the Registrar-General may determine.

(2) Upon receipt of an application under subsection (1), and at any time thereafter, the Registrar-General may require the applicant to supply such additional information or documents as the Registrar-General reasonably considers necessary for the purpose of determining the application.

(3) The Registrar-General may, for the purpose of assessing

whether the applicant has the personal attributes, skills and experience required for authorisation as a civil celebrant or as an authorised religious official, as the case may be, interview the applicant and may invite any other person to assist in the interview process.

(4) The Registrar-General may require the applicant to undertake such training as the Registrar-General thinks fit according to the qualifications, skills and experience of the applicant including training to ensure that the applicant has sufficient knowledge of the law applicable in the Bailiwick relating to the solemnisation of marriages and the duties of a civil celebrant or authorised religious official necessary to ensure that marriages are solemnised in compliance with that law.

(5) The Committee may, without prejudice to subsections (1) to (4), by regulations make such provision as it considers necessary or expedient for the purposes of this section, including –

- (a) the procedures to be followed in making and determining an application for authorisation,
- (b) the matters to be taken into account by the Registrar-General in determining such an application, including any required relevant skills and experience, any relevant qualifications awarded by any organisation or body, and any other matters which may in the opinion of the Committee affect a person's fitness to be a civil celebrant or an authorised religious official, and
- (c) requirements as to the training of applicants as a

condition of authorisation as a civil celebrant or as an authorised religious official.

Determination of application.

10. (1) The Registrar-General may, having taken into account in respect of any application for authorisation as a civil celebrant or authorised religious official such matters as may be prescribed under section 9(5), and such other matters as may in the Registrar-General's opinion affect the applicant's fitness to be a civil celebrant or an authorised religious official, as the case may be –

- (a) grant the application, subject to such conditions as may be prescribed or as the Registrar-General may consider necessary or expedient, or
- (b) refuse the application.

(2) Where the Registrar-General grants an application under subsection (1)(a), the applicant's name, and such other details as the Registrar-General may determine, must be entered on the register established under section 8, provided that the applicant has paid the prescribed fee.

(3) A civil celebrant must, before solemnising any marriage, take an oath, or make a solemn affirmation, before the Royal Court in such form as may be prescribed.

(4) A person may not simultaneously be both a civil celebrant and an authorised religious official.

Savings for pre-commencement authorised persons.

11. (1) A person who, immediately before the commencement of this Law, was an authorised person ("**authorised person**") with reference to a licensed building for the purposes of –

(a) Article 25 of the Marriage Law 1919, or

(b) Article 21 of the Alderney Marriage Law,

is, subject to subsections (2) and (3), deemed to be an authorised religious official for the purposes of section 5(1)(d), and such deemed authorisation shall, subject to suspension or termination under section 17, be of unlimited duration.

(2) The Registrar-General must, upon application by the relevant governing authority of the religious organisation in question, and subject to the satisfactory completion of training by the authorised person under subsection (3), enter in the register established under section 8 the name and details of a person deemed to be an authorised religious official under subsection (1); and that person is deemed to have been so authorised under and for the purposes of this Law on the date when the name and details were so entered.

(3) The Registrar-General may require an authorised person to undertake such training as the Registrar-General thinks fit prior to entry of the authorised person's name and details on the register established under section 8.

Attachment and variation of conditions.

12. The Registrar-General may, from time to time, in respect of the authorisation of a civil celebrant, or authorised religious official, as the case may be –

(a) attach any condition, whether prescribed or otherwise,
or

(b) vary any condition previously attached,

as the Registrar-General considers necessary or expedient.

Duties of civil celebrants and authorised religious officials.

13. A civil celebrant or authorised religious official must –

(a) comply with the provisions of this Law, with the Code of Conduct and any guidance issued by the Registrar-General, and with any conditions attached to the authorisation (whether under section 10(1)(a) or under section 12), and generally conduct himself or herself in a manner consistent therewith,

(b) comply with the directions from time to time of the Registrar-General issued in relation to the person's functions under this Law,

(c) notify the Registrar-General in writing without delay of any changes to the details entered in the register established under section 8 and of any matter which might affect the person's authorisation as a civil celebrant or authorised religious official.

Duration and renewal of authorisation of civil celebrants.

14. (1) Subject to the provisions of this section, unless previously

terminated under this Law, the authorisation of a civil celebrant shall terminate at the end of the period of five years beginning with the date on which the name and details of the civil celebrant, as the case may be, was first entered on the register established under section 8, or the date of the last renewal of such entry, as the case may be.

(2) A civil celebrant may, within one year prior to the date when the authorisation would otherwise terminate in accordance with subsection (1), apply for the authorisation to be renewed (or further renewed).

(3) An application under subsection (2) must be in such form, and be accompanied by such information and documents, as the Registrar-General may determine.

(4) In determining an application for renewal, the Registrar-General may follow such procedures as he or she may determine, and must take into account –

- (a) such matters as must or may be taken into account in determining an application for authorisation under section 9, and
- (b) the performance of the applicant's functions since authorisation.

(5) The Registrar-General may, before determining an application for renewal, require the applicant to undertake such further training and assessment as the Registrar-General may consider necessary or expedient for the purpose of assisting in the determination of the application.

(6) The Registrar-General may, having followed the procedures and taken into account the matters referred to in subsection (4) and any further training and assessment undertaken under subsection (5) –

- (a) renew the authorisation for a further period of five years, subject to such conditions as may be prescribed or as the Registrar-General may consider necessary or expedient and to payment by the applicant of the prescribed fee, or
- (b) refuse the application for renewal.

Duration of authorisation of religious officials.

15. The authorisation of an authorised religious official shall, subject to suspension or termination under section 17, be of unlimited duration.

Inspection and investigation of celebrants.

16. (1) The Committee may prescribe a scheme for the purpose of enabling the Registrar-General to monitor the performance of civil celebrants and authorised religious officials.

(2) Without prejudice to the generality of subsection (1), such a scheme may make provision –

- (a) enabling the Registrar-General to inspect the performance of the functions of such marriage celebrants,

- (b) as to the notice of any such inspection (if any) required to be given to such marriage celebrants,
- (c) for the circumstances in which the Registrar-General may investigate any matter concerning such a marriage celebrant and the powers of the Registrar-General to carry out, and take action in consequence of, such an investigation.

Suspension and termination of authorisation.

17. (1) Subject to section 18, the Registrar-General may suspend, or terminate, a person's authorisation as a civil celebrant or authorised religious official ("**authorised celebrant**") if the Registrar-General is satisfied that any of the circumstances specified in subsection (2) apply.

(2) The circumstances are that the authorisation, or any renewal of such authorisation, was made by mistake or procured by fraud, or that the authorised celebrant –

- (a) no longer meets the prescribed requirements for authorisation,
- (b) has breached a condition attached to the authorisation under section 10(1)(a) or 12,
- (c) has failed to comply with the provisions of this Law or with the Code of Conduct or with any guidance or directions issued by the Registrar-General or otherwise failed conscientiously to perform the duties of a civil

celebrant or authorised religious official,

- (d) has become incapacitated or otherwise unfit or unable to discharge the functions of a civil celebrant or authorised religious official,
- (e) is, in the Registrar-General's opinion, otherwise no longer a fit and proper person to be a civil celebrant or authorised religious official.

(3) The Registrar-General may at any time require an authorised celebrant to –

- (a) supply such additional information, or
- (b) undertake, and complete to the satisfaction of the Registrar-General, such further training,

as the Registrar-General may reasonably consider necessary in order to enable the Registrar-General to reach a decision under this section, and the Registrar-General may treat a refusal to supply such additional information, or to undertake such further training, as a circumstance under subsection (2) in which a person's authorisation as a civil celebrant or authorised religious official may be suspended or terminated.

Notice of refusal of application, attachment of conditions, termination etc.

18. (1) If the Registrar-General decides to –

- (a) refuse to grant an application for authorisation, or for

renewal of authorisation, as a civil celebrant or as an authorised religious official,

(b) attach to an authorisation any condition other than a prescribed condition, or vary any condition previously attached, or

(c) suspend an authorisation,

the Registrar-General must serve on the person a notice stating –

(i) the terms of and the reasons for the decision, and

(ii) particulars of the right of appeal under section 19.

(2) The Registrar-General must not terminate an authorisation under section 17 unless the Registrar-General has served on the authorised celebrant a notice in writing –

(a) stating the Registrar-General's intention to terminate the authorisation and the reasons for such termination,

(b) stating that the authorisation will be terminated unless, not later than a date specified in the notice, being a minimum of 21 days from the date of service of the notice, the

authorised celebrant satisfies the Registrar-General that the authorisation should not be terminated, and

- (c) informing the authorised celebrant that any representations made to the Registrar-General before the specified date will be considered by the Registrar-General,

and the Registrar-General has considered any representations so made.

(3) Where an authorisation is suspended, or a notice is served on a person under subsection (2), the person must not solemnise a marriage unless and until the person is notified by the Registrar-General that –

- (a) the suspension has been lifted, or
- (b) the authorisation will not be terminated.

(4) Where the Registrar-General decides, having served notice and considered any representations in accordance with subsection (2), to terminate an authorisation under section 17, the Registrar-General must, within 14 days after the date specified in the notice, serve on the person a notice stating –

- (a) that the authorisation has been terminated, and
- (b) particulars of the right of appeal under section 19.

Appeals against decision of Registrar-General.

19. (1) A person aggrieved by a decision of the Registrar-General under this Part may appeal to the Royal Court sitting as an Ordinary Court ("**the Court**") against the decision.

(2) The grounds of an appeal under this section are that -

- (a) the decision was ultra vires or there was some other error of law,
- (b) the decision was unreasonable,
- (c) the decision was made in bad faith,
- (d) there was a lack of proportionality,
- (e) there was a material error as to the facts or as to the procedure.

(3) Subject to subsection (4), an appeal under this section must be instituted –

- (a) within a period of 28 days immediately following the date of the notice of the decision,
- (b) by summons served on the Registrar-General stating the grounds and material facts on which the appellant relies.

(4) The Registrar-General may, where an appeal under this section has been instituted, apply to the Court, by summons served on the appellant, for an order that the appeal be dismissed for want of prosecution, and on hearing the application the Court may –

(a) dismiss the appeal or dismiss the application (in either case, on such terms and conditions as the Court may direct), or

(b) make such other order as the Court considers just.

The provisions of this subsection are without prejudice to the inherent powers of the Court or to the provisions of rule 52 of the Royal Court Civil Rules, 2007ⁱ.

(5) On an appeal under this section the Court may -

(a) set the decision aside and, if the Court considers it appropriate to do so, remit the matter to the Registrar-General with such directions as the Court thinks fit, or

(b) confirm the decision, in whole or in part.

(6) On an appeal under this section against a decision of the Registrar-General, the Court may, on the application of the appellant or the Registrar-General or of its own volition, and on such terms as the Court thinks just,

ⁱ O.R.C. No. IV of 2007; amended by O.R.C. No. II of 2008; No. IV of 2009.

suspend or modify the operation of the decision pending the determination of the appeal.

(7) An appeal from a decision of the Court under this section lies to the Court of Appeal on a question of law.

Removal of name from register.

20. (1) The Registrar-General must remove the name of a person from the register established under section 8 if the Registrar-General is satisfied that –

- (a) the person has requested that his or her name be so removed,
- (b) at the end of the period referred to in section 14(1), no application for renewal of the authorisation of a civil celebrant has been made or, where such an application has been made, it has been refused, and no appeal has been instituted in the period provided for appeals or, where an appeal has been instituted, such appeal has been dismissed,
- (c) the person has died,
- (d) the relevant governing authority of the religious organisation which nominated an authorised religious official has notified the Registrar-General in writing that it no longer desires that the person be authorised,
or

(e) the authorisation of the person has been terminated under section 17 and no appeal has been instituted in the period provided for appeals or, where an appeal has been instituted, such appeal has been dismissed.

(2) Where a person's name has been removed from the register in accordance with subsection (1), the person's authorisation must be treated as terminated.

Clerk in Holy Orders of the Church of England

Clerk in Holy Orders of the Church of England.

21. (1) A person is a clerk in Holy Orders of the Church of England ("**clerk in Holy Orders**") if the person is the Dean or Vice-Dean of Guernsey or a priest or deacon of the Church of England who is duly authorised to minister in the Bailiwick of Guernsey.

(2) The Registrar-General may require a clerk in Holy Orders to undertake such training as the Registrar-General thinks fit including training to ensure that such clerk has sufficient knowledge of the law applicable in the Bailiwick relating to the solemnisation of marriages and the duties of a marriage celebrant necessary to ensure that marriages are solemnised in compliance with that law.

PART III
MARRIAGE AUTHORISED BY LICENCE OF REGISTRAR-GENERAL

Notice of marriage

Notice of marriage.

22. (1) Where a marriage is intended to be solemnised on the authority of a licence issued by the Registrar-General, notice of marriage must be given to the Registrar-General by both persons to be married, jointly, in such form and including such information as may be prescribed or as the Registrar-General may determine, in accordance with this section.

(2) A notice under subsection (1) must include a statement of the intended date, time and place, or either of two places, of the marriage, the name of the marriage celebrant who is to solemnise the marriage and, in relation to each of the persons to be married –

- (a) name, surname, any former names or surnames and date of birth,
- (b) sex,
- (c) nationality and place of residence,
- (d) immigration status in the Bailiwick,
- (e) occupation,
- (f) marital status and, if either of the persons to be

married has been married or in a civil partnership, how the marriage or civil partnership ended.

- (3) A notice under subsection (1) must be accompanied by –
- (a) such documents or other evidence supporting the information provided as may be prescribed or as the Registrar-General may determine,
 - (b) a declaration, in such form as the Registrar-General may determine, signed by each of the persons to be married –
 - (i) that he or she believes that there is no impediment of kindred or affinity or other lawful hindrance to the marriage,
 - (ii) where one of the persons to be married is, and will at the date of the marriage be, a minor who has not previously been married or a civil partner, that the consent of the person or persons whose consent to the marriage is required under section 4 has been obtained, that the necessity of obtaining any such consent has been dispensed with under that section, that a court has consented to the marriage under that section, or that there is no person whose consent is so required,

- (iii) in relation to a notice of a marriage to which section 1(2) applies, that the younger of the persons to be married has not, at any time before attaining the age of 18 years, been a child of the family in relation to the other,
 - (iv) that he or she believes that all of the information stated in the notice, and all information and evidence supplied with the notice, is true, and
- (c) the prescribed fee.

Determination of acceptance of notice of marriage.

23. (1) The Registrar-General may, having received notice of marriage in accordance with section 22, require the persons to be married to provide such additional information or documents as the Registrar-General may reasonably consider necessary for the purpose of determining whether to accept the notice of marriage, and in particular (without limitation), in order to –

- (a) verify the accuracy of the information contained in the notice or the authenticity of the supporting documentation,
- (b) be satisfied that the persons to be married are both capable of consenting to the marriage and do freely consent to enter into the marriage,
- (c) be satisfied that there is no other ground for not

accepting the notice of marriage,

and the Registrar-General may, for that purpose, interview the persons to be married and any other person.

(2) The Registrar-General may reject any information, document or evidence provided under this section or under section 22 if the Registrar-General has reasonable grounds for suspecting that the information, document or evidence is false in any particular, and in such a case the Registrar-General may proceed under this Law as if the rejected information, document or evidence had not been provided.

(3) If the Registrar-General is satisfied that there is no reason why the intended marriage cannot take place, the notice of marriage shall be accepted.

Filing of notice and publication.

24. (1) Subject to the provisions of this section, the Registrar-General must file and retain all notices of marriage which have been accepted under section 23, and, subject to section 59, such notices must be available for inspection free of charge at all reasonable times during normal working hours.

(2) The date on which the Registrar-General files a notice of marriage in accordance with this section is deemed to be the date on which the persons to be married have given notice of the intended marriage.

(3) As soon as reasonably practicable after notice of marriage is filed the Registrar-General must publish –

(a) on the Royal Court website, and

(b) in any other place that the Registrar-General thinks fit,

the names of the persons to be married (subject to section 59), the date of the intended marriage and such other details as may be prescribed.

(4) Subject to section 25, such publication must continue for a minimum period of 21 consecutive clear days prior to the date of the intended marriage.

(5) A notice of marriage is void after the expiration of the period of one year beginning on the date on which notice is deemed to have been given under subsection (2).

Reduction of publication period and relaxation of other requirements in certain circumstances.

25. (1) If, on an application made to the Registrar-General, the Registrar-General is satisfied that there are compelling reasons for reducing the period referred to in section 24(4) because of the exceptional circumstances of the case, the Registrar-General may reduce that period to such shorter period as he or she considers appropriate.

(2) Without limitation, the circumstances mentioned in subsection (1) include –

(a) that one of the persons to be married is ill and is unlikely for that reason to be able to enter into the marriage if the said period of publication is not reduced,

(b) such other circumstances as may be prescribed.

(3) The Registrar-General may, if the period of publication is reduced under this section, also waive or disapply any requirement –

(a) to provide original or duly authenticated documents,

(b) to attend at the office of the Registrar-General, or

(c) as may be prescribed,

to the extent only that the Registrar-General thinks necessary in the circumstances.

(4) Regulations may make provision with respect to the making, and granting, of applications under this section, and such provision may include (without limitation) the medical or other evidence to be provided in support of an application to reduce the said period of publication.

Caveat against marriage or certificate of no impediment.

26. (1) Any person may enter a caveat with the Registrar-General, at any time before the solemnisation of a marriage in the Bailiwick or the issue of a certificate of no impediment under section 57.

(2) A caveat entered under subsection (1) must be signed by or on behalf of the person by whom it is entered, and state the person's place of residence and the ground of objection on which the caveat is founded.

(3) Where the Registrar-General receives an objection in

accordance with subsection (1) –

- (a) in any case where the Registrar-General is satisfied that the objection relates only to a misdescription or inaccuracy in the notice of marriage or licence, the Registrar-General should notify the persons to be married of the nature of the objection and make such enquiries into the matter as he or she thinks fit, and make any necessary correction to any document relating to the marriage, or
- (b) in any other case, pending further consideration of the objection, suspend the issue of the licence or the certificate of no impediment or, if the licence has already been issued, advise the marriage celebrant that the marriage should not be solemnised pending such consideration.

(4) If any caveat is entered in accordance with subsection (1), no licence or certificate of no impediment may be issued or, if the licence has already been issued, the marriage must not be solemnised until –

- (a) the Registrar-General, having examined the ground of the objection and being satisfied that the ground ought not to obstruct the marriage, has removed the caveat, or
- (b) subject to subsection (5), the caveat is withdrawn by the person who entered it.

(5) In the case of a licence for the solemnisation of a marriage to which section 1(2) applies, where a caveat is entered under subsection (1) on the ground that the persons to be married have not both attained the age of 18 years or that the younger person has at any time before attaining the age of 18 years been a child of the family in relation to the other, then –

(a) notwithstanding that the caveat is withdrawn by the person who entered it, no licence or certificate of no impediment may be issued, and the marriage in the Bailiwick must not be solemnised, unless the Registrar-General has examined that ground of objection and is satisfied that that ground ought not to obstruct the marriage, and

(b) either of the persons to be married may apply to the Royal Court sitting as an Ordinary Court ("**the Court**") for a declaration that, both those persons having attained the age of 18 years and the younger of those persons not having at any time before attaining the age of 18 years been a child of the family in relation to the other, there is no impediment of affinity to the solemnisation of the marriage.

(6) The Registrar-General may refer the matter of a caveat to the Court, which may uphold or remove the caveat, and no appeal shall lie from a decision of the Court.

(7) The Court, in any proceedings before it under this section,

may order the person who entered the caveat to pay all or part of the costs of the proceedings and damages to the persons against whose marriage the caveat was entered.

Forbidding of issue of licence or certificate of no impediment.

27. (1) Any person whose consent to a marriage intended to be solemnised on the authority of a Registrar-General's licence is required under section 4 may forbid the issue of such a licence, or of a certificate of no impediment under section 57, by writing, at any time before the issue of the licence, the word "forbidden" next to the entry of the notice of marriage filed under section 24 together with his or her name and place of residence and the capacity, in relation to either of the persons to be married, in which the issue of the licence is forbidden.

(2) Where the notice of marriage has been filed in electronic form, a person wishing to exercise the power conferred by subsection (1) to forbid the issue of a licence may do so by requesting the Registrar-General to record that the person forbids the issue of the licence and the Registrar-General must enter the information required by subsection (1) in electronic form.

(3) Subject to subsection (4), where the issue of a licence is forbidden under subsection (1), the notice of marriage is void.

(4) Where, under section 4(1)(b), a court has consented to a marriage, and the consent of the court has the same effect as if it had been given by a person whose consent has been refused, that person shall not be entitled to forbid the issue of a licence for that marriage under this section, and the notice of marriage is not void by virtue of this section.

Issue of licence.

28. (1) Subject to the provisions of this section, the Registrar-General may, not earlier than the day following the expiration of the period referred to in section 24(4), or such reduced period as the Registrar-General may determine under section 25, issue a licence in such form as the Registrar-General may determine.

(2) The persons to be married must, not later than the last working day before the date of the intended marriage –

- (a) attend at the office of the Registrar-General together,
- (b) provide the originals, or duly authenticated copies, of the documents required to be provided for the purpose of sections 22 and 23 (if not already provided),
- (c) provide such other evidence or further evidence, including photographic evidence, as the Registrar-General may reasonably consider necessary for the purpose of determining whether to issue a licence,
- (d) sign a signature verification form in such form and containing such particulars as the Registrar-General may determine, and
- (e) pay the prescribed fee.

(3) Where, due to exceptional circumstances which could not reasonably have been foreseen, the persons to be married are unable to attend at the office of the Registrar-General on or before the last working day before the date of

the marriage, the Registrar-General may permit the requirements in subsection (2) to be completed on the day of the marriage: Provided that such permission must not be given unless the Registrar is satisfied that those requirements can reasonably be satisfactorily completed prior to the time specified on the licence for the solemnisation of the marriage and during normal working hours.

(4) The Registrar-General must not issue a licence if –

- (a) he or she has reason to believe that there is a lawful impediment to the intended marriage,
- (b) a caveat has been entered under section 26 which has not been withdrawn or removed in accordance with that section,
- (c) its issue has been forbidden under section 27,
- (d) it appears to the Registrar-General that either of the persons to be married is incapable of consenting to the marriage or does not freely consent to enter into the marriage, or
- (e) any other ground exists for not issuing a licence.

(5) Subject to subsection (7), a licence issued under this section shall authorise the solemnisation of the marriage of the persons named in it –

- (a) on the date and at the time specified in the licence, and

- (b) at the place, or either of two places, so specified,
- (c) subject to subsection (6), by the marriage celebrant so specified.

(6) A licence issued under this section authorises, but does not oblige, a marriage celebrant to solemnise the marriage to which it relates.

(7) A licence issued under this section is not valid if the notice of marriage in respect of the intended marriage is void by virtue of any provision of this Law and no person may solemnise the marriage on the authority of such a licence.

Change to date, time, location or celebrant of intended marriage.

29. (1) Where the persons to be married wish to change the date, time or location of the intended marriage, or the identity of the marriage celebrant who is to solemnise the marriage, both persons to be married must notify the Registrar-General in writing, accompanied by the prescribed fee, of the proposed change a minimum of 21 clear days prior to –

- (a) the date specified in the notice, or the licence if already issued, as the date for the intended marriage, or
- (b) if the date is to be changed to a date earlier than that specified in the notice or the licence, as the case may be, the new date.

(2) Upon receipt of a notification under subsection (1), and

provided that the Registrar-General is satisfied that the proposed change would not result in a contravention of any provision in or under this Law or any other enactment, the Registrar-General shall make the corresponding amendment to the notice of marriage filed under section 24 and, if a licence has already been issued under section 28, issue an amended licence.

(3) Notwithstanding subsections (1) and (2), if in the case of an emergency or due to exceptional circumstances such that it becomes impossible or impracticable for a marriage to be solemnised –

- (a) on the date,
- (b) at the time,
- (c) in a location, or
- (d) by the marriage celebrant,

specified in the notice of marriage, and it is thereby impossible to comply with subsection (1), a marriage solemnised on a different date, at a different time, at a different location or by a different marriage celebrant shall not be void by virtue only of lack of compliance with subsection (1); provided that the persons to be married must notify the Registrar-General in writing of any such change as soon as reasonably practicable before (if possible) or after the solemnisation of the marriage stating the reasons for the lack of compliance.

Person to whom licence is to be delivered.

30. Where a marriage is intended to be solemnised on the authority of a Registrar-General's licence, the licence must be delivered to the marriage celebrant in

whose presence the marriage is to be solemnised together with –

- (a) the signature verification form signed by the persons to be married in accordance with section 28(2)(d), and
- (b) a marriage return form, in such form and containing such particulars as the Registrar-General may determine.

Solemnisation of marriage

Date of marriage.

31. (1) Subject to subsection (2), a marriage may be solemnised on any date which has been agreed between the marriage celebrant and the persons to be married and which falls during the period –

- (a) commencing on the day after the expiration of the minimum publication period mentioned in section 24(4), or such reduced period as the Registrar-General may determine under section 25, and
- (b) ending on the day before the notice of marriage becomes void in accordance with section 24(5).

(2) Except where section 29(3)(a) applies, a marriage must be solemnised on the date specified in the licence issued in respect of that marriage.

Time of marriage.

32. (1) Subject to subsection (2), a marriage may be solemnised at any

time of day which has been agreed between the marriage celebrant and the persons to be married.

(2) Except where section 29(3)(b) applies, a marriage must be solemnised at the time specified in the licence issued in respect of that marriage, or within one hour thereafter.

Location of marriage.

33. (1) Subject to subsection (2), a marriage may be solemnised at any place in the Bailiwick (including, for the avoidance of doubt, its territorial waters and airspace), which has been agreed between the marriage celebrant and the persons to be married.

(2) Except where section 29(3)(c) applies, a marriage must be solemnised at a place described in the licence issued in respect of that marriage.

Form of marriage.

34. (1) Subject to the following provisions of this section, a marriage may be solemnised between the persons named in the licence issued in respect of that marriage according to such form and ceremony as has been agreed between the marriage celebrant and the persons to be married.

(2) A marriage must be solemnised in the presence of two witnesses who have attained the age of 18 years in addition to the marriage celebrant.

(3) During the solemnisation of a marriage, each party must say to the other –

- (a) "I do solemnly declare that I do not know of any lawful reason why I, [AB], may not be joined in marriage to [CD]", and
- (b) "I call upon the persons here present to witness that I, [AB], take you, [CD], to be my lawful wedded wife [or husband, as the case may be]".

Religious content.

35. (1) No religious service may be used at any marriage solemnised by the Registrar-General or by a civil celebrant ("**the proceedings**").

(2) Without prejudice to the generality of subsection (1), the proceedings must not –

- (a) be led by a minister of religion or other religious leader,
- (b) include vows or extracts from an authorised religious marriage service or from sacred religious texts,
- (c) involve any religious ritual or symbol, or permit prayers,
- (d) include any form of worship.

(3) But the proceedings may include limited use of readings, songs or music that contain references of a religious nature in an essentially non-religious context provided that the Registrar-General or civil celebrant is satisfied

that the extent of the proposed use of such readings, songs or music during the proceedings is not such that it would contravene subsection (1).

(4) For the purposes of this section any material used by way of introduction to, in any interval between parts of, or by way of conclusion to the proceedings must be treated as forming part of the proceedings.

Formation of marriage.

36. (1) After the parties have made the declaration in section 34(3), the parties to the marriage and the witnesses must sign and date the marriage return form.

(2) If the marriage celebrant –

- (a) is satisfied that the parties to the marriage who have made the said declaration are the same persons whose signatures are on the signature verification form, and
- (b) has no reason to believe that either of the parties to the marriage is incapable of consenting to the marriage or has not freely consented to enter into the marriage,

the marriage celebrant must sign and date the marriage return form.

(3) The marriage is formed when the marriage return form has been signed by the parties to the marriage, the witnesses and the marriage celebrant.

(4) Where a person who is required to sign and date the marriage return form is unable to do so by reason of physical disability, a representative may

sign on the person's behalf at his or her direction.

Miscellaneous provisions

Void marriages.

37. Without prejudice to any other provision of this Law or any other enactment or rule of law by virtue of which a marriage is deemed to be void, where two persons knowingly and wilfully consent to or acquiesce in a marriage under this Part –

- (a) without having given due notice of marriage under section 22 to the Registrar-General,
- (b) without a licence having been duly issued under section 28 by the Registrar-General,
- (c) on the authority of a licence that is invalid by virtue of section 28(7),
- (d) on the authority of a licence that has been issued after either person to be married has provided information or documents to the Registrar-General that is or are false or inaccurate in a material particular, including (without limitation) information as to a person's immigration status,

the marriage is void.

PART IV

MARRIAGE ACCORDING TO RITES OF CHURCH OF ENGLAND

Authorisation of marriage.

38. A marriage according to the rites of the Church of England may be solemnised by a clerk in Holy Orders on the authority of a licence issued by the Dean.

Remarriage of divorced persons.

39. No clerk in Holy Orders is compelled –

- (a) to solemnise the marriage of any person whose former marriage has been dissolved and whose former spouse is still living, or
- (b) to permit the marriage of such a person to be solemnised in the church of which the clerk in Holy Orders is the minister.

Notice of marriage.

40. (1) Where a marriage is intended to be solemnised according to the rites of the Church of England, notice of marriage must be given to the Dean by both persons to be married in such form and including such information as the Dean may determine, in accordance with this section.

(2) A notice under subsection (1) must (without limitation)

include a statement of the intended date, time and place of the marriage and, in relation to each of the persons to be married –

- (a) name, surname, any former names or surnames and date of birth,
- (b) sex,
- (c) nationality and place of residence,
- (d) immigration status in the Bailiwick,
- (e) occupation,
- (f) marital status and, if either of the persons to be married has been married or in a civil partnership, how the marriage or civil partnership ended.

(3) A notice under subsection (1) must be accompanied by –

- (a) such documents or other evidence supporting the information provided as the Dean may determine,
- (b) a declaration, in such form as the Dean may determine, signed by each of the persons to be married –
 - (i) that he or she believes that there is no impediment of kindred or affinity or other lawful hindrance to the marriage,

- (ii) where one of the persons to be married is, and will at the date of the marriage be, a minor who has not previously been married or a civil partner, that the consent of the person or persons whose consent to the marriage is required under section 4 has been obtained, that the necessity of obtaining any such consent has been dispensed with under that section, that a court has consented to the marriage under that section, or that there is no person whose consent is so required,
- (iii) in relation to a notice of marriage to which section 1(2) applies, that the younger of the persons to be married has not, at any time before attaining the age of 18, been a child of the family in relation to the other,
- (iv) that he or she believes that all of the information stated in the notice, and all information and evidence supplied with the notice, is true.

Determination of acceptance of notice.

41. (1) The Dean may, having received notice of marriage in accordance with section 40, require the persons to be married to provide such additional information or documents as the Dean may reasonably consider necessary for the purpose of determining whether to accept the notice of marriage, and in

particular (without limitation), in order to –

- (a) verify the accuracy of the information contained in the notice or the authenticity of the supporting documentation,
- (b) be satisfied that the persons to be married are both capable of consenting to the marriage and do freely consent to enter into the marriage,
- (c) be satisfied that there is no other ground for not accepting the notice of marriage,

and the Dean may, for that purpose, interview the persons to be married and any other person.

(2) If the Dean is satisfied that there is no reason why the intended marriage cannot take place, the notice of marriage may be accepted.

Retention of notice and publication.

42. (1) Subject to the provisions of this section, the Dean must retain the information given in notices of marriage which have been accepted under section 41 in such form as the Dean may determine.

(2) The date on which the Dean accepts a notice of marriage in accordance with section 41 is deemed to be the date on which the persons to be married have given notice of the intended marriage.

(3) As soon as reasonably practicable after notice of marriage is

accepted the Dean must transmit to the Registrar-General, and the Registrar-General must publish –

- (a) on the Royal Court website, and
- (b) in any other place that the Registrar-General thinks fit,

such details, including the names of the persons to be married (subject to section 59) and the date of the intended marriage, as may be prescribed, and, subject to subsection (4), such publication must continue for a minimum period of 21 consecutive clear days prior to the date of the intended marriage.

(4) Section 25 applies to publication under this section as it applies to publication under section 24.

(5) A notice of marriage is void after the expiration of the period of one year beginning on the date on which notice is deemed to have been given under subsection (2).

Caveat against marriage.

43. (1) Any person may enter a caveat with the Dean, at any time before the solemnisation of a marriage.

(2) A caveat entered under subsection (1) must be signed by or on behalf of the person by whom it is entered, and state the person's place of residence and the ground of objection on which the caveat is founded.

(3) Where the Dean receives a caveat in accordance with subsection (1), no licence may be issued or, if a licence has already been issued,

solemnisation of the marriage must not take place, until –

- (a) the Dean has examined the ground of the objection to the issue of the licence and is satisfied that the ground ought not to obstruct the marriage, or
- (b) subject to subsection (4), the caveat is withdrawn by the person who entered it.

(4) In the case of a licence for the solemnisation of a marriage to which section 1(2) applies, where a caveat is entered under subsection (1) on the ground that the persons to be married have not both attained the age of 18 years or that the younger of those persons has at any time before attaining the age of 18 years been a child of the family in relation to the other, then –

- (a) notwithstanding that the caveat is withdrawn by the person who entered it, no licence may be issued and the marriage must not be solemnised unless the Dean has examined that ground of objection and is satisfied that that ground ought not to obstruct the marriage, and
- (b) either of the persons to be married may apply to the Royal Court sitting as an Ordinary Court ("**the Court**") for a declaration that, both those persons having attained the age of 18 years and the younger of those persons not having at any time before attaining the age of 18 years been a child of the family in relation to the other, there is no impediment of affinity to the

solemnisation of the marriage.

(3) The Dean may refer the matter of a caveat to the Court, which may uphold or remove the caveat, and no appeal shall lie from the decision of the Court.

(4) The Court, in any proceedings before it under this section, may order the person who entered the caveat to pay all or part of the costs of the proceedings and damages to the persons against whose marriage the caveat was entered.

Issue of licence.

44. (1) Subject to the provisions of this section, the Dean may, not earlier than the day following the expiration of the period referred to in section 42(3), or such reduced period as the Registrar-General may determine under section 25, issue a licence in such form as the Dean may determine.

(2) The persons to be married must –

- (a) attend at the office of the Dean,
- (b) provide the originals, or duly authenticated copies, of the documents required to be provided for the purpose of sections 40 and 41 (if not already provided), and
- (c) sign a signature verification form, in such form and containing such particulars as the Dean may determine.

(3) The Dean may not issue a licence if –

- (a) he or she has reason to believe that there is a lawful impediment to the intended marriage,
- (b) a caveat has been entered under section 43 which has not been withdrawn or removed in accordance with that section,
- (c) it appears to the Dean that either of the persons to be married is incapable of consenting to the marriage or does not freely consent to enter into the marriage, or
- (d) any other ground exists for not issuing a licence.

(4) A licence issued under this section authorises, but does not oblige, a clerk in Holy Orders to solemnise the marriage to which it relates.

(5) A licence issued under this section is not valid if the notice of marriage in respect of the intended marriage is void by virtue of any provision of this Part and no clerk in Holy Orders may solemnise the marriage on the authority of such a licence.

Duration of licence.

45. Where a marriage is not solemnised within the period of one year beginning on the date on which notice of the marriage is deemed to have been given under section 42(2), the licence is void and no clerk in Holy Orders may solemnise the marriage on the authority of such licence.

Person to whom licence is to be delivered.

46. A licence issued under section 44 must be delivered to the clerk in Holy Orders who is to solemnise the marriage together with –

- (a) the signature verification form signed by the persons to be married in accordance with section 44(2)(c),
- (b) a marriage return form, in such form and containing such particulars as the Registrar-General may determine.

Witnesses.

47. All marriages solemnised according to the rites of the Church of England must be solemnised in the presence of two or more witnesses in addition to the clerk in Holy Orders by whom the marriage is solemnised.

Formation of marriage.

48. (1) After the clerk in Holy Orders by whom the marriage is solemnised has declared in the authorised words that the marriage has been completed, the parties to the marriage and the witnesses must sign and date the marriage return form.

(2) If the clerk in Holy Orders by whom the marriage is solemnised –

- (a) is satisfied that the parties to the marriage are the same persons whose signatures are on the signature verification form, and

- (b) has no reason to believe that either of the parties to the marriage is incapable of consenting to the marriage or has not freely consented to enter into the marriage,

the clerk in Holy Orders must sign and date the marriage return form.

(3) The marriage is formed when the marriage return form has been signed by the parties to the marriage, the witnesses and the clerk in Holy Orders.

(4) Where a person who is required to sign and date the marriage return form is unable to do so by reason of physical disability, a representative may sign on the person's behalf at his or her direction.

Observance of liturgical rubric.

49. The solemnisation of marriage according to the rites of the Church of England must be in accordance with the rubric prefixed to the office of matrimony in the Book of Common Prayer, and with any Canon or regulations made under the Church of England (Worship and Doctrine) Measure 1974^j, as it applies to the Bailiwick by virtue of the Church of England (Worship and Doctrine) Measure 1984 (Channel Islands) Order 1984^k, and with any other Canon or regulations applicable in the Bailiwick, concerning the solemnisation of marriage, so far as they are consistent with this Law.

Void marriages.

50. Without prejudice to any other provision of this Law or any other

j Measure No. 3 of 1974.

k U.K. S.I. No. 1689 of 1984.

enactment or rule of law by virtue of which a marriage is deemed to be void, where two persons knowingly and wilfully consent to or acquiesce in a marriage according to the rites of the Church of England –

- (a) without having given due notice of marriage to the Dean under section 40,
- (b) without a licence having been duly issued in accordance with this Part,
- (c) on the authority of a licence which is invalid by virtue of section 44(5),
- (d) on the authority of a licence that has been issued after either person to be married has provided information or documents to the Dean that is false or inaccurate in a material particular, including (without limitation) information as to a person's immigration status,
- (e) where the marriage is solemnised by a person who is not a clerk in Holy Orders,

the marriage is void.

PART V
REGISTRATION OF MARRIAGES

General Register of Marriages.

51. (1) The Registrar-General must continue to maintain a General Register of Marriages ("**the Marriage Register**") in such form as the Registrar-General may determine.

(2) Subject to the provisions of this Part, the Registrar-General may determine the procedures and requirements for the registration of marriages and for the making of returns and provision of copies in connection with such registration.

Persons by whom marriages are to be registered.

52. A marriage must be registered in accordance with this Part –

- (a) in the case of a marriage solemnised by a civil celebrant or by an authorised religious official, by the civil celebrant or authorised religious official, as the case may be, who solemnised the marriage,
- (b) in the case of a marriage solemnised according to the rites of the Church of England, by the clerk in Holy Orders by whom the marriage is solemnised,
- (c) in any other case, by the Registrar-General.

Return to be made to Registrar-General.

53. (1) Every person who is required under section 52(a) or (b) to register a marriage must, within 72 hours of the solemnisation of the marriage, complete and deliver to the Registrar-General the marriage return form relating to the marriage.

(2) The Registrar-General must, upon receiving a return delivered in accordance with subsection (1), enter in the Marriage Register such particulars relating to the marriage as may be prescribed.

(3) An entry made under subsection (2) may be in such form as the Registrar-General may determine.

Correction of errors in register.

54. (1) Where it appears to the Registrar-General that an entry in the Marriage Register contains an error of form or of substance, other than a clerical error or an error which is not of material significance, the Registrar-General must apply to the Royal Court sitting as an Ordinary Court ("**the Court**") for permission to correct the error.

(2) If, on an application under subsection (1), the Court grants permission to correct an error in the Marriage Register, the Registrar-General must make the correction in the margin of the entry in question, without any alteration of the original entry.

(3) Any such marginal entry made by the Registrar-General must include the signature of the Registrar-General, the date the correction is made and the date when the permission under subsection (1) is granted.

Certified copies of entries in register.

55. (1) The Registrar-General must, upon application by any person and payment of the prescribed fees –

- (a) permit the person to search the Marriage Register at any reasonable time during normal working hours,
- (b) supply a copy of any entry in the Marriage Register, certified as a true copy of such entry by the Registrar-General.

(2) Such copy supplied under subsection (1) must be accepted as evidence of the marriage in question without further proof provided that the document is certified in accordance with this section and affixed with the seal of the Registrar-General.

PART VI

GENERAL AND MISCELLANEOUS

Disclosure by Registrar-General.

56. (1) The Registrar-General may disclose to any person any information or documents obtained in the exercise of the Registrar-General's functions under this Law and may request further information from any person for the purpose of –

- (a) verifying the accuracy of any information or the authenticity of any documentation provided to the

Registrar-General for the purposes of this Law, or

- (b) determining any matter which the Registrar-General is required to determine under this Law.

(2) Without prejudice to the generality of subsection (1), the Registrar-General may, for the said purposes, disclose information or documents to, or request information from, the following –

- (a) Her Majesty's Procureur,
- (b) a police officer, customs officer or immigration officer,
- (c) any committee of the States of Guernsey, the States of Alderney or the Chief Pleas of Sark,
- (d) the Royal Court of Guernsey, the Court of Alderney or the Court of the Seneschal.

(3) The Registrar-General may, at the request of a person who carries out functions in another jurisdiction, similar to the functions of the Registrar-General, in respect of persons entering into a marriage in that other jurisdiction, disclose any information that the Registrar-General reasonably believes may assist that other person in the exercise of his or her functions in that other jurisdiction.

(4) The Registrar-General may disclose information or documents to, and request information from, any person who carries out functions in another jurisdiction similar to the functions of an officer of police, customs officer or immigration officer in the Bailiwick, and who is investigating the immigration status

of a person intending to marry in that other jurisdiction, for the purpose of assisting that other person in the exercise of his or her functions in that jurisdiction.

(5) Except as authorised by this section, the Registrar-General must not disclose information in relation to which a person ("**identifiable person**") is identified or identifiable unless –

- (a) the identifiable person has given consent for the disclosure,
- (b) at the time of the disclosure, the information is or has already been made public as a result of steps deliberately taken by the identifiable person, or
- (c) the disclosure is necessary for the purposes of –
 - (i) any legal proceedings, including any proceedings in connection with this Law, or
 - (ii) complying with any enactment or court order.

(6) A person who contravenes subsection (5) is guilty of an offence and liable –

- (a) on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding level 5 on the uniform scale, or to both, or
- (b) on conviction on indictment, to imprisonment for a

term not exceeding five years or a fine, or both.

Issue of certificate of no impediment for marriage outside the Bailiwick.

57. (1) A person resident in the Bailiwick who wishes to be married in a country or territory outside the Bailiwick where the law of that country or territory requires the person to obtain a certificate of no impediment to be issued by the domestic authorities in the Bailiwick may make an application for such a certificate to the Registrar-General.

(2) Such application must be made in such form as the Registrar-General may determine and be accompanied by –

- (a) a notice, dated and signed by the applicant, containing the full names and former names, nationality, date of birth, sex, address, marital status and occupation, and such other details as may be prescribed in relation to each of the persons to be married,
- (b) where the applicant is a minor who has not previously been married or a civil partner, a declaration signed by the applicant that the consent of the person or persons whose consent to the marriage is required under section 4 has been obtained, that the necessity of obtaining any such consent has been dispensed with under that section, that a court has consented to the marriage under that section, or that there is no person whose consent to the marriage is so required,
- (c) a declaration that the applicant believes that there is no

impediment of kindred or affinity or other lawful hindrance to the marriage, and

(d) the prescribed fee.

(3) The Registrar-General must issue a certificate of no impediment, in such form as the Registrar-General may determine, if –

(a) a notice containing the details which would be required to be published under section 24(4) if the marriage were to be solemnised in the Bailiwick has been published in the same manner and for the same period (subject to any reduction by the Registrar-General upon an application under section 25) as required under that subsection,

(b) the Registrar-General has no reason to believe that there would be an impediment to the marriage if it were to take place in the Bailiwick,

(c) its issue has not been forbidden under section 27,

(d) it does not appear to the Registrar-General that either of the persons to be married is incapable of consenting to the marriage or does not freely consent to enter into the marriage, and

(e) no other ground exists for not issuing a certificate of no impediment.

Proof of certain matters not necessary to validity of marriages.

58. (1) Where a marriage has been solemnised under this Law, it is not necessary in support of the marriage to give any proof –

- (a) that any person whose consent to the marriage was required by section 4 of this Law had given such consent,
- (b) in the case of a marriage to which section 9 of the 2016 Law, section 9 of the 2017 Law or section 9 of the 2019 Law applies (opt-in to marriage of same-sex couples), that the relevant governing authority of the religious organisation has given its consent as required under those sections,
- (c) that the marriage celebrant was authorised under this Law to solemnise the marriage and he or she solemnised the marriage in accordance with the conditions of his or her authorisation,

nor may any evidence be given to prove the contrary in any proceedings touching the validity of the marriage.

(2) A marriage which is solemnised by the Registrar-General or by a civil celebrant otherwise than in accordance with section 35 is valid notwithstanding such non-compliance.

Omission of particulars in exceptional circumstances.

59. Where the Committee has determined that there are exceptional circumstances, the Registrar-General may omit details in respect of names from –

- (a) a notice available for inspection under section 24(1),
- (b) details required to be published under section 24(3) or 42(3),
- (c) a licence issued under section 28,
- (d) a signature verification form,
- (e) a certified copy of any entry in the Marriage Register,
or
- (f) a certificate of no impediment to marriage.

Fees and charges.

60. (1) The Committee may by regulations prescribe fees and charges payable in relation to the exercise or performance of functions under this Law, payable in such manner as may be prescribed.

(2) Without prejudice to the generality of subsection (1), such regulations may prescribe the fees and charges payable in respect of –

- (a) applications for and grant of authorisation as a civil celebrant or authorised religious official, annual fees payable in respect thereof, and fees for renewals of

such authorisations,

- (b) training of civil celebrants, authorised religious officials and clerks in Holy Orders of the Church of England,
- (c) applications for and acceptance of notices of marriage,
- (d) publication, and applications for a reduced period of publication,
- (e) applications for and issue of Registrar-General's licences and certificates of no impediment,
- (f) the entry of a caveat and the forbidding of the issue of a Registrar-General's licence or certificate of no impediment,
- (g) notification to the Registrar-General of changes of date, time, location or celebrant,
- (h) solemnisation of marriages by the Registrar-General in the office of the Registrar-General or in another location,
- (i) registration of marriages,
- (j) correction of errors in the Marriage Register, and

- (k) searches of the Marriage Register, and provision of extracts or certified copies of entries.

Offences relating to false or misleading information etc.

61. (1) It is an offence for a person, for the purposes of purported compliance with, or for any purpose connected with, any provision of or under this Law to do any of the following –

- (a) make a statement which that person knows, or has reasonable cause to believe, to be false, deceptive or misleading in a material particular,
- (b) dishonestly or otherwise, recklessly make a statement which is false, deceptive or misleading in a material particular,
- (c) produce or furnish or cause or permit to be produced or furnished any information or document which that person knows, or has reasonable cause to believe, to be false, deceptive or misleading in a material particular, or
- (d) dishonestly or otherwise, recklessly produce or furnish or recklessly cause or permit to be produced or furnished any information or document which is false, deceptive or misleading in a material particular.

(2) A person who, being required to do so under or for the purposes of this Law, fails to provide the Registrar-General or the Dean with any

information which is in that person's possession, knowing or having reasonable cause to believe –

- (a) that the information is relevant to the exercise by the Registrar-General or the Dean of any functions under this Law, and
- (b) that the withholding of the information is likely to result in the Registrar-General or the Dean, as the case may be, being misled as to any matter which is relevant, and of material significance, to the exercise of those functions,

is guilty of an offence.

- (3) A person guilty of an offence under this section is liable –
 - (a) on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding level 5 on the uniform scale, or to both, or
 - (b) on conviction on indictment, to imprisonment for a term not exceeding five years or a fine, or both.

Offences relating to solemnisation of marriage.

62. (1) It is an offence for the Registrar-General, knowingly or wilfully, to –

- (a) issue a licence for an intended marriage in respect of

which the notice of marriage is void under section 24(5) or 27(3),

- (b) issue a licence for an intended marriage, or a certificate of no impediment, where the period referred to in section 24(4), or any reduced period under section 25, has not expired,
- (c) issue a licence for an intended marriage or a certificate of no impediment in relation to which a caveat has been entered under section 26 and not withdrawn or removed in accordance with that section,
- (d) authorise the solemnisation of a marriage to which section 9 of the 2016 Law, section 9 of the 2017 Law or section 9 of the 2019 Law applies (opt-in to marriage of same-sex couples), unless the relevant governing authority of the religious organisation has given its consent as required under those sections.

(2) It is an offence for any person, knowingly or wilfully, to solemnise a marriage –

- (a) which is void by virtue of any provision of this Law or of any other enactment or rule of law or custom,
- (b) which the person is not authorised under the provisions of section 5(1) to solemnise,

- (c) the licence in respect of which is void by virtue of any provision of this Law.
- (3) A person guilty of an offence under this section is liable –
- (a) on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding level 5 on the uniform scale, or to both, or
 - (b) on conviction on indictment, to imprisonment for a term not exceeding five years or a fine, or both.

Offences relating to registration of marriages.

63. (1) It is an offence for a person –
- (a) without reasonable excuse, to refuse or omit to register any marriage which the person is required by or under this Law to register,
 - (b) knowingly to register any marriage otherwise than in accordance with the requirements by or under this Law,
 - (c) to fail, without reasonable excuse, to deliver any document which the person is required by or under this Law to deliver, or to carelessly lose or damage, or cause to be lost or damaged, such a document while it is in the person's possession,

and a person guilty of an offence under this subsection is liable to a fine not exceeding level 3 on the uniform scale.

(2) It is an offence for a person –

- (a) knowingly or wilfully to register any marriage which is void by virtue of any provision of this Law,
- (b) knowingly or wilfully to provide false particulars for the purpose of the registration of a marriage under this law,
- (c) wilfully to destroy, damage or alter, or cause to be destroyed, damaged or altered, or allow to deteriorate, or cause to be allowed to deteriorate, any document which is kept for the purposes of or under this Law,
- (d) wilfully to make or cause to be made a false entry in the Marriage Register or make or cause to be made any certified copy of any entry therein, or certify any such copy, which is false in any particular, knowing such entry or particular to be false,
- (e) to forge, or cause to be falsely made or forged, the Marriage Register or any document required to be kept for the purposes of or under this Law, or any certified copy of any entry in the Marriage Register.

- (3) A person guilty of an offence under subsection (2) is liable –
- (a) on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding level 5 on the uniform scale, or to both, or
 - (b) on conviction on indictment, to imprisonment for a term not exceeding five years or a fine, or both.

Provision, retention and publication of documents in electronic form.

64. For the avoidance of doubt, except where the contrary intention appears in or under this Law, or the Registrar-General otherwise requires, and without prejudice to the Electronic Transactions (Guernsey) Law, 2000^l, the Electronic Transactions (Alderney) Law, 2001^m or the Electronic Transactions (Sark) Law, 2001ⁿ, as the case may be –

- (a) any documents or information required by or under this Law to be retained or stored,
- (b) any application, documents or information so required to be provided to any person, and
- (c) any publication so required to be made,

^l Order in Council No. VIII of 2001; amended by Ordinance No. XXXIII of 2003; No. XIV of 2014; No. IX of 2016; No. XXIV of 2017.

^m Order in Council No. XXVI of 2001; amended by Alderney Ordinance No. VII of 2017.

ⁿ Order in Council No. X of 2001; amended by Sark Ordinance No. 125; Sark Ordinance No. II of 2015; No. XII of 2017; No. XIII of 2018.

may be retained, stored, provided or published by electronic means.

Provision of translation of documents.

65. Where an original document or information required to be provided to the Registrar-General or the Dean under this Law is in a language other than English, the document or information must be accompanied by a translation certified by the translator to be a true and accurate translation of the original document or information.

General provisions as to regulations.

66. (1) In addition to regulations made under any other provision of this Law, regulations may provide for all procedural, practical and incidental matters which may be necessary for bringing this Law into effect.

(2) Without prejudice to the generality of subsection (1), regulations under this Law –

(a) may, subject to subsection (3), make provision in relation to the creation, trial (summarily or on indictment) and punishment of offences, and

(b) may empower the Registrar-General to issue codes or guidance in relation to any matter for which regulations may be made under this Law.

(3) Regulations under this Law may not –

(a) provide for offences to be triable only on indictment, or

- (b) authorise the imposition –
 - (i) on summary conviction, of imprisonment for a term exceeding 12 months, or a fine exceeding level 5 on the uniform scale, or
 - (ii) on conviction on indictment, of imprisonment for a term exceeding two years.

(4) Before making any regulations under this Law, the Committee must consult –

- (a) in the case of regulations having effect in Alderney, the Policy and Finance Committee of the States of Alderney, and
- (b) in the case of regulations having effect in Sark, the Policy and Finance Committee of the Chief Pleas of Sark,

in relation to the terms of the proposed regulations; but a failure to comply with this subsection does not invalidate any regulations made under this Law.

(5) Regulations made under this law cease to have effect –

- (a) in Alderney if, within the period of four months immediately following the date on which the regulations are made by the Committee ("**the relevant**

date"), the States of Alderney resolve to disapprove the application of those regulations to Alderney, and

- (b) in Sark if, at the first or second meeting of the Chief Pleas of Sark following the relevant date, the Chief Pleas resolve to disapprove the application of those regulations to Sark.

(6) If the States of Alderney or the Chief Pleas of Sark resolve to disapprove the application of any regulations in accordance with subsection (5), those regulations cease to have effect in Alderney or (as the case may be) Sark, but without prejudice to –

- (a) anything done under those regulations in Alderney or (as the case may be) Sark, or
- (b) the making of new regulations having effect in Alderney or (as the case may be) Sark.

(7) Regulations under this Law must be laid before a meeting of the States of Deliberation as soon as practicable and if, at that or the next meeting, the States of Deliberation resolve to annul them, they shall cease to have effect, but without prejudice to anything done under them or to the making of new regulations.

Repeals.

67. The enactments mentioned in the first column of the Table in the Schedule are repealed to the extent set out in the second column of that Table.

Interpretation.

68. (1) In this Law, unless the context otherwise requires –

"**the 2016 Law**", "**the 2017 Law**" and "**the 2019 Law**": see section 5(2),

"**Alderney Marriage Law**" means the Loi ayant rapport aux Mariages célébrés dans l'Île d'Auregny of 1923^o,

"**authorised religious official**": see section 5(1)(d),

"**certificate of no impediment**": see section 57,

"**civil celebrant**": see section 5(1)(b),

"**civil partnership**" means a civil partnership formed under the Civil Partnership Act 2004^P (**the 2004 Act**"), or under the Civil Partnership (Jersey) Law 2012^q, or which is treated under the 2004 Act as having been formed by virtue of an overseas relationship being registered, and which has not been dissolved or annulled, and "**civil partner**" is construed accordingly,

"**clear day**" means a period of 24 hours ending at midnight,

"**clerk in Holy Orders**": see section 21,

^o Ordres en Conseil Vol. VII, p. 121; amended by Vol. XIII, p. 416; Vol. XV, p. 382; Vol. XX p. 267; Vol. XXII, p. 560; Vol. XXXI, p. 306; Order in Council No. XIV of 2005; Alderney Ordinance No. II of 1978; No. VIII of 2018.

^P An Act of Parliament (2004 c. 33).

^q Ch. 12.260.

"Code of Conduct" means the Code of Conduct for Marriage Celebrants issued from time to time by the Registrar-General,

"the Committee" means the States of Guernsey Policy & Resources Committee,

"Dean" includes a Vice-Dean and includes any clerk in Holy Orders authorised in writing by the Dean to carry out functions of the Dean under this Law, to the extent of that authorisation,

"Deputy Registrar" means a Deputy Registrar appointed by the Registrar-General under section 7(2),

"document" includes a document in electronic form,

"immigration officer" means an immigration officer appointed for the purposes of the Immigration Act 1971^r under paragraph 1(1) of Schedule 2 to that Act, and includes a customs officer authorised to act as an immigration officer in accordance with that paragraph,

"marriage celebrant" means any person who is permitted to solemnise marriage under section 5(1),

"Marriage Law 1919" means the Loi ayant rapport aux Mariages

^r An Act of Parliament (1971 c. 77).

Célébrés dans les Îles de Guernesey, d'Auregny et de Serk, 1919^s,

"Marriage Register" means the General Register of Marriages maintained in accordance with section 51,

"marriage return form" means the marriage return form delivered to the marriage celebrant or to the clerk in Holy Orders who is to solemnise the marriage, as the case may be, in accordance with section 30 or section 46,

"minor" means a person under the age of 18 years,

"non-business day" has the meaning given in the Non-Business Days Order, 1993^t,

"normal working hours" means the hours of opening of the offices of the Registrar-General in Guernsey, Alderney or Sark, as the case may be,

"notice of marriage" means a notice of marriage given under section 22 or 40,

"office of the Registrar-General" means the office of the Registrar-General in the island in which a marriage is intended to be solemnised,

"prescribed" means prescribed by regulations of the Committee,

^s Ordres en Conseil Vol. VI, p. 57; amended by Vol. XV, p. 200; Vol. XX, p. 267; Vol. XXX, p. 114; Vol. XXXI, p. 278; Vol. XXXIII, p. 444; Vol. XXXV(1), p. 398; Order in Council No. III of 2014; Recueil d'Ordonnances Tome XXI, p. 104; Ordinance No. XIII of 2017.

^t G.S.I. No. 28 of 1993.

"Registrar-General" means the Registrar-General of Marriages and includes a Deputy Registrar,

"Registrar-General's licence" means a licence issued under section 28,

"regulations" means regulations of the States Policy & Resources Committee,

"relevant governing authority": see section 5(4),

"signature verification form" means the form signed by the persons to be married in accordance with section 28(2)(d) or section 44(2)(c),

"working day" means any day except a non-business day, during normal working hours.

(2) Any reference in this Law to an enactment of the States of Jersey, of the Parliament of the United Kingdom, of the Scottish Parliament and of the Northern Ireland Assembly, and to a Measure of the National Assembly for Wales is, unless the contrary intention appears, a reference to that enactment or Measure as amended, re-enacted (with or without modification), extended or applied.

Citation.

69. This Law may be cited as the Marriage (Bailiwick of Guernsey) Law, 2020.

Commencement.

70. This Law shall come into force on the day appointed by Regulations of the Committee and different dates may be appointed for different provisions and for different purposes.

SCHEDULE
REPEALS

Section 67

(1) ENACTMENT	(2) PROVISIONS REPEALED
Loi de 1840 ayant Rapport au Registre Général des Naissances, des Mariages et des Morts ^u	The whole Law
Loi ayant rapport aux Naissances, aux Mariages et aux Morts, enregistrée sur les records d'Auregny le 6 juillet 1850	The whole Law
Loi ayant rapport aux Mariages Célébrés dans les Îles de Guernesey, d'Auregny et de Serk, 1919	The whole Law
Loi ayant rapport aux Mariages Célébrés dans l'Île d'Auregny, 1923	The whole Law
Loi supplémentaire relative aux Mariages, 1926 ^v	The whole Law

^u Ordres en Conseil Vol. I, p. 60.

^v Ordres en Conseil Vol. VIII, p. 42.

(1) ENACTMENT	(2) PROVISIONS REPEALED
Loi sur les Empêchements au Mariage à cause de Parenté et sur l'Etablissement de la Juridiction Civile dans les Causes Matrimoniales, 1936 ^w	The whole Law
Matrimonial Causes Law (Guernsey), 1939 ^x	Article 63
Births, Deaths and Marriages Certificates (Miscellaneous Provisions) (Guernsey) Law, 1951 ^y	Section 3
Marriage Law, 1919 (Provisions applicable to Alderney) Law, 1951 ^z	The whole Law
Marriage (Amendment) Law, 1951 ^{aa}	The whole Law
Marriage (Alderney) (Amendment) Law, 1953 ^{bb}	The whole Law
Marriage (Enabling) (Guernsey) Law, 1961 ^{cc}	The whole Law
Registration of Births, Deaths and Marriages (Miscellaneous Provisions) (Bailiwick of Guernsey) Law, 1979 ^{dd}	Section 2

^w Ordres en Conseil Vol. X, p. 308.

^x Ordres en Conseil Vol. XI, p. 318. There are amendments not relevant to this enactment.

^y Ordres en Conseil Vol. XV, p. 46; amended by Vol. XXVII, p. 40; Vol. XXXIII, p. 444; G.S.I. No. 59 of 2012. There are other amendments not relevant to this enactment.

^z Ordres en Conseil Vol. XV, p. 196.

^{aa} Ordres en Conseil Vol. XV, p. 200; amended by Ordinance No. VII of 2010.

^{bb} Ordres en Conseil Vol. XV, p. 382; amended by Ordinance No. VII of 2010.

^{cc} Ordres en Conseil Vol. XVIII, p. 312.

^{dd} Ordres en Conseil Vol. XXVII, p. 40; amended by Vol. XXXIII, p. 444.

(1) ENACTMENT	(2) PROVISIONS REPEALED
Marriage (Guernsey) Law, 1987 ^{ee}	The whole Law
Births, Deaths, Marriages and Legitimacy (Bailiwick of Guernsey) (Amendment) Law, 1991 ^{ff}	Section 2
Marriages (Amendment) (Guernsey and Sark) Law, 1993 ^{gg}	The whole Law
Marriage (Alderney) (Amendment) Law, 2005 ^{hh}	The whole Law
Marriage (Special Licences) (Sark) Law, 2013 ⁱⁱ	The whole Law
Same-Sex Marriage (Guernsey) Law, 2016	Sections 10 and 11
Same-Sex Marriage (Alderney) Law, 2017	Sections 10 and 11
Same-Sex Marriage (Sark) Law, 2019	Sections 10 and 11
Marriage Fees (Guernsey) Ordinance, 1978 ^{jj}	The whole Ordinance
Marriage (Fees) (Alderney) Ordinance, 1978 ^{kk}	The whole Ordinance
Births, Deaths and Marriages (Fees) (Amendment) Ordinance, 1991 ^{ll}	Section 1 and the Schedule

^{ee} Ordres en Conseil Vol. XXX, p. 114.

^{ff} Ordres en Conseil Vol. XXXIII, p. 444.

^{gg} Ordres en Conseil Vol. XXXV(1), p. 398.

^{hh} Order in Council No. XIV of 2005.

ⁱⁱ Order in Council No. III of 2014.

^{jj} Recueil d'Ordonnances Tome XXI, p. 104; amended by Tome XXV, p. 238; Ordinance No. XIX of 2006; No. 60 of 2012; No. 82 of 2018.

^{kk} Alderney Ordinance No. II of 1978; amended by No. XVII of 2018.

^{ll} Recueil d'Ordonnances Tome XXV, p. 238.

(1) ENACTMENT	(2) PROVISIONS REPEALED
Marriage Fees (Guernsey) (Amendment) Ordinance, 2006 ^{mm}	The whole Ordinance
Marriage (Residence Qualification) (Alderney) Ordinance, 2008 ⁿⁿ	The whole Ordinance
Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009	Section 11
Marriage (Special Licences) (Residence Qualification) (Sark) Ordinance, 2014 ^{oo}	The whole Ordinance.
Fees (Alderney) Ordinance, 2018 ^{pp}	Sections 5 and 7 and Schedule 3
Same-Sex Marriage (Consequential and Miscellaneous Amendments and Contrary Provisions) (Guernsey) Ordinance, 2017 ^{qq}	Paragraph 1 of Part I of Schedule 1
Same-Sex Marriage (Consequential and Miscellaneous Amendments and Contrary Provisions) (Alderney) Ordinance, 2018 ^{rr}	Paragraph 1 of Part I of Schedule 1
Same-Sex Marriage (Consequential and Miscellaneous Amendments and Contrary Provisions) (Sark) Ordinance, 2020	Paragraph 1 of Part I of Schedule 1

^{mm} Ordinance No. XIX of 2006; amended by G.S.I. No. 4 of 2009.

ⁿⁿ Alderney Ordinance No. IV of 2008.

^{oo} Sark Ordinance No. II of 2014.

^{pp} Alderney Ordinance No. XVII of 2018.

^{qq} Ordinance No. XIII of 2017.

^{rr} Alderney Ordinance No. VIII of 2018.

(1) ENACTMENT	(2) PROVISIONS REPEALED
Marriage Fees (Guernsey) Regulations, 2012 ^{ss}	The whole instrument
Marriage Fees (Guernsey) Regulations, 2018 ^{tt}	The whole instrument

^{ss} G.S.I. No. 60 of 2012.

^{tt} G.S.I. No. 82 of 2018.

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

COMMITTEE FOR EMPLOYMENT & SOCIAL SECURITY

**HOUSING APPEALS TRIBUNAL – MINOR CONSTITUTIONAL CHANGES AND APPOINTMENT
OF HOUSING APPEALS PANEL MEMBERS**

The States are asked to decide:

Whether, after consideration of the Policy Letter entitled ‘Housing Appeals Tribunal – minor constitutional changes and appointment of Housing Appeals Panel members’, dated 2nd March 2020, they are of the opinion:

1. To note the resignations from the Housing Appeals Panel of those five individuals whose names are listed in paragraph 3.1 of that Policy Letter.
2. To note the expiration on 31st July 2019 of the terms of the appointments to the Housing Appeals Panel of those three individuals whose names are listed in paragraph 3.2 of that Policy Letter.
3. To appoint Mr Keith Bell to the Housing Appeals Tribunal Panel for a term of office beginning on 1st May 2020 and ending on 30th April 2025.
4. To appoint Ms Hayley Cooper to the Housing Appeals Tribunal Panel for a term of office beginning on 1st May 2020 and ending on 30th April 2025.
5. To reappoint Ms Natasha Newell to the Housing Appeals Tribunal Panel for a term of office beginning on 1st May 2020 and ending on 30th April 2025.
6. To appoint Ms Julia Anne Springett White to the Housing Appeals Tribunal Panel for a term of office beginning on 1st May 2020 and ending on 30th April 2025.
7. To reappoint Mr John Martyn Weir to the Housing Appeals Tribunal Panel for a term of office beginning on 1st May 2020 and ending on 30th April 2025.
8. To appoint Ms Julia Anne Springett White as Chair of the Housing Appeals Tribunal Panel for a term of office beginning on 1st May 2020 and ending on 30th April 2025.

9. To appoint Mr Keith Bell as Deputy Chair of the Housing Appeals Tribunal Panel for a term of office beginning on 1st May 2020 and ending on 30th April 2025.
10. To rescind resolutions 1 and 11b of Article XXIV of Billet d'État XIV of 31st July 2015.
11. To make ineligible for appointment to the Housing Appeals Tribunal Panel any person working in the service of the Committee *for* Employment & Social Security, whether as an employee, statutory office-holder, or otherwise.
12. To direct the preparation of such legislation as may be necessary to give effect to the above decisions.

The above Propositions have been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications in accordance with Rule 4(1) of the Rules of Procedure of the States of Deliberation and their Committees.

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

COMMITTEE *FOR* EMPLOYMENT & SOCIAL SECURITY

HOUSING APPEALS TRIBUNAL – MINOR CONSTITUTIONAL CHANGES AND APPOINTMENT
OF HOUSING APPEALS PANEL MEMBERS

The Presiding Officer
States of Guernsey
Royal Court House
St Peter Port

2nd March 2020

Dear Sir

1. Executive summary

- 1.1. This Policy Letter sets out the proposals to appoint Mr Keith Bell, Ms Hayley Cooper, and Ms Julia White to the Housing Appeals Tribunal Panel (“the Panel”), and to reappoint Ms Natasha Newell and Mr John Weir to the Panel for a period of five years. It also sets out proposals for Ms Julia White to be appointed as the Chair and Mr Keith Bell as the Deputy Chair of the Panel.
- 1.2. The Policy Letter seeks to amend the rules for the appointment of members to the Panel, so that a person who is currently employed by the Committee *for* Employment & Social Security (“the Committee”), is not able to be proposed to be appointed to the Panel while they are working in the service of that Committee, whether as an employee, statutory office-holder, or otherwise. Further, this Policy Letter also proposes the rescission of a number of 2015 resolutions of the States, to ensure that the rules relating to the Panel align with other States tribunals.

2. Background

- 2.1. If Housing or the Guernsey Housing Association make a decision in relation to a tenant or applicant which that person feels is unreasonable, unfair, or against the law, that person has the right to ask the Housing Appeals Tribunal (HAT) to review that decision. The first step is for an internal review to be carried out by a senior officer who has not been involved in the case. After an internal review has been carried out, if the tenant, or prospective tenant, continues to feel aggrieved by the decision, they can apply to have their case heard by the HAT.

- 2.2. The Tribunal consists of a panel of independent members who were appointed by the States and who meet as required to hear and determine appeals. Three members from the Panel form a Tribunal to hear each individual case. The Panel was established under the States Housing (Tribunal and Appeals) (Guernsey) Regulations, 2005, (“the Regulations”).
- 2.3. On 31st July 2015¹, the States approved the appointment of six new members to the Panel, who joined two existing members to form a panel of eight members, which included a Chair and Deputy Chair.
- 2.4. Since that time, the Deputy Chair has reached the end of her term of service in July 2017 and retired from the Panel, and four other members tendered their resignation, three within a period of just a few months. The number of active members therefore dwindled from eight to three and Housing officers began the recruitment process for new members in April 2018.
- 2.5. Although applications for new Panel members were considered, the process was not completed, as there were insufficient applicants. Since that time, the remaining three panel members reached the end of their terms of service in July 2019. Further recruitment for new members commenced in January 2020.

3. Resignations

- 3.1. The States is asked to acknowledge the resignations of the following Panel members, who have retired from their duties:
- Reverend Linda Le Vasseur;
 - Ms Judith Dyke;
 - Ms Patricia Holland;
 - Ms Lesley Le Page on 11th June 2018; and
 - Ms Suzanna Morgan.
- 3.2. The Panel members who reached the end of their terms of service on 31st July 2019 were:
- Ms Natasha Newell (Chair);
 - Dr Elina Steinerte; and
 - Mr John Weir

¹ Minor constitutional changes to the Housing Appeals Tribunal and appointment of members to the Housing Appeals Panel - [Billet d’État XIV of 2015, Volume II, Article XXIV](#)

4. Recruitment and appointment

- 4.1. The Committee considered applications for new Panel members, and as a result, proposes that Mr Keith Bell, Ms Hayley Cooper and Ms Julia White are appointed to the Panel, and that Ms Natasha Newell and Mr John Weir are reappointed to the Panel. A profile on each of the appointees is set out in the appendix to this Policy Letter.

Appointment of Chair

- 4.2. With the expiration of the term of service of Ms Newell, who was the Chair of the Panel, a new Chair was sought.
- 4.3. The Committee proposes that Ms Julia White should be appointed as the Chair of the Panel.

Appointment of Deputy Chair

- 4.4. With the resignation of Reverend Le Vasseur, who was the Deputy Chair of the Panel, a new Deputy Chair was sought.
- 4.5. The Committee proposes that Mr Keith Bell should be appointed as the Deputy Chair of the Panel.

5. 2015 resolutions and amendment to Regulations

- 5.1. The following resolutions were made on 31st July 2015²:

- “1. To agree that the Housing Appeals Panel should comprise of a minimum number of eight members and to amend the regulations accordingly.
11. To approve the introduction into the regulations the means by which members may resign from the Housing Appeals Panel. This includes the introduction of new provisions which specify that Panel members cease to be members when/if:
- a) they reach the end of their term of appointment as specified by the States decision which confirmed their appointment;
 - b) they reach the age of 72 years or, if the Royal Court sitting as a Full Court so determines, by reason of special circumstances in any particular case, 75 years;

²

Minor constitutional changes to the Housing Appeals Tribunal and appointment of members to the Housing Appeals Panel - [Billet d'État XIV of 2015, Volume II, Article XXIV](#)

- c) they resign from their duties:
 - in the case of the Chair, submitting their resignation to the Bailiff; and
 - in the case of any other member, submitting their resignation to the Tribunal's Chair.
- d) they are removed from office by the Royal Court sitting as a Full Court if the Court is satisfied that they:
 - have misbehaved in their office;
 - are incapable of continuing as a member by reason of physical or mental illness;
 - have been declared insolvent; or
 - have been unavailable without reasonable cause to sit as a member of the Tribunal for a period in excess of six consecutive months.

12. To approve an amendment to Part II of the regulations to specify the maximum time period associated with the internal review process, as detailed in paragraph 7.3 of that Policy Letter."

- 5.2. It has come to the Committee's attention that the above amendments to the 2005 Regulations were drafted, but never made, following the 2015 Debate. As time has moved on, the Committee has some views on the appropriateness of pursuing some of the above resolutions.

Number of Panel members

- 5.3. The Committee is of the opinion that it is unnecessary to maintain a Panel of eight Members for two reasons. Firstly, a low number of appeals is made to the Housing Appeals Tribunal, with one not having been received since 2013. Secondly, the Review of the States of Guernsey's Arm's Length Bodies will be recommending that the following tribunals are merged in the future: Social Insurance, Income Support, Family Allowances, and Housing Appeals. This will mean that a whole separate Panel of members will not be required specifically for Housing Appeals.
- 5.4. Further, should a requirement for a minimum number of eight Panel members be enforced, the Committee would need to undertake further recruitment, and return to the States with another Policy Letter recommending the appointments. This is assuming that a further three individuals would come forward during the recruitment process, noting that the last two rounds of recruitment, in April 2018 and January 2020 have generated only five suitable candidates. The Committee is therefore recommending the rescission of resolution 1, as listed in paragraph 5.1 on the previous page.

Means by which members may resign from the Housing Appeals Panel

In relation to resolution 11, the Committee agrees with this resolution, and intends to make the relevant changes to Regulations, with the exception of resolution 11b, which sets an upper age limit for Panel members. In order to be consistent with its decision to remove the retirement age for members of the Employment & Discrimination Tribunal Panel, as well as with the Longer Working Lives Strategy, the Committee proposes to rescind resolution 11b of that Policy Letter, so that an upper age limit for Panel members is not imposed.

Maximum time period associated with the internal review process

- 5.5. The Committee is satisfied that it is appropriate that the maximum time period associated with an internal review process is 28 days, and will set this out in Regulations, as directed by the States in 2015. As stated in the 2015 Policy Letter, it will be in the interest of Housing and the appellant for this timeframe to be set out in Regulations, meaning that Housing will be required to undertake an internal review of a decision and the appellant or applicant would be required to provide additional information and documents needed to progress the appeal within that timeframe. Following receipt of any additional information, Housing would have further time to complete the internal review. The Committee agrees that the Regulations should be amended to this effect.

6. Ineligibility for appointment to the Panel

- 6.1. In recruiting additional members for the Panel, the Regulations specify that the following people are not eligible to be appointed to the Panel:
- Members of the States of Deliberation and States of Election;
 - Members of the States of Alderney and the Chief Pleas of Sark;
 - any Constable or Douzenier; and
 - any Procureur or Overseer of the Poor or a member of a Parochial Outdoor Assistance Board.
- 6.2. On reflection, the Committee proposes that, in addition to those people listed above, a person should also not be appointed as a Panel member while they are currently working in the service of the Committee for Employment & Social Security, whether as an employee, statutory office-holder, or otherwise. It therefore recommends that the Regulations are amended to that effect.

7. Conclusions

Resource and Implementation Plan

- 7.1. The Committee has considered the resources required to implement the propositions set out in this Policy Letter, and concludes that no additional resources are required.

Compliance with Rule 4 of the Rules of Procedure

- 7.2. The Committee has consulted with the Law Officers regarding the legal implications and legislative drafting requirements resulting from the propositions set out in this Policy Letter.
- 7.3. The Committee has set out its proposals for minor constitutional changes and the appointment of five members to the Housing Appeals Panel throughout this Policy Letter, and seeks the States support for the propositions, which are based on the Committee's purpose. In particular, the propositions are aligned with the priorities and policies set out in the Committee's Policy Plan, which was approved by the States in June 2017³. The Committee's Policy Plan is aligned with the States objectives and policy plans.
- 7.4. In accordance with Rule 4(4) of the Rules of Procedure of the States of Deliberation and their Committees, it is confirmed that the propositions have the unanimous support of the Committee.

Yours faithfully

M K Le Clerc
President

S L Langlois
Vice-President

J A B Gollop
E A McSwiggan
P J Roffey

M J Brown
Non-States Member

A R Le Lièvre
Non-States Member

³ Policy & Resource Plan – Phase Two ([Billet d'État XII of 2017](#), Article I)

8. Profiles of recommended appointees to the Panel

Mr Keith Bell

- 8.1. Mr Bell is an experienced company/commercial/corporate and employment lawyer. He was, until recently, a senior associate in the corporate department in Babbé and is currently working with them on a part-time consultancy basis. He is a solicitor and chartered secretary, corporate governance professional, and an accredited mediator.

Ms Hayley Cooper

- 8.2. Ms Cooper was Legal Aid Administrator at the Guernsey Legal Aid Service until 11th February 2018 and acted as Deputy Legal Aid Administrator on a temporary basis until 31st August 2019. Ms Cooper is a Solicitor of the Supreme Court of England and Wales (non-practising). She is currently a member of the panel that is reviewing the independent bodies operating at 'arm's length' from the States of Guernsey, a review commissioned by the Policy & Resources Committee.

Ms Natasha Newell

- 8.3. Advocate Newell is an Advocate of the Royal Court and an English barrister. She is Counsel at Carey Olsen where she works on complex litigation, with an emphasis on employment and regulatory matters. She served as Chair of the Housing Appeals Tribunal between 2015 and 2019.

Mr John Weir

- 8.4. Mr Weir is a retired Chartered Surveyor with extensive real estate experience. He is currently Chair of the Tax on Real Property Appeals Panel, sits on the Planning Appeals Panel and has applied to be reappointed onto the Housing Appeals Panel.

Ms Julia White

- 8.5. Ms White is currently Chair of the Social Insurance Appeals Tribunal, Deputy Chair of the Tax on Real Property Appeals Panel and Vice-President of the Guernsey Tax Tribunal. Ms White was admitted as an Advocate of the Royal Court in 2001 and retired from private practice in November 2016.

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

COMMITTEE *FOR* EMPLOYMENT & SOCIAL SECURITY

HOUSING APPEALS TRIBUNAL – MINOR CONSTITUTIONAL CHANGES AND
APPOINTMENT OF HOUSING APPEALS PANEL MEMBERS

The President
Policy & Resources Committee
Sir Charles Frossard House
La Charroterie
St Peter Port
GY1 1FH

2nd March 2020

Dear Sir

Preferred date for consideration by the States of Deliberation

In accordance with Rule 4(2) of the Rules of Procedure of the States of Deliberation and their Committees, the Committee *for* Employment & Social Security requests that 'Housing Appeals Tribunal – minor constitutional changes and appointment of Housing Appeals Panel members' be considered at the States' meeting to be held on 22nd April 2020.

It would be helpful for the policy letter to be considered at the earliest opportunity, as the Housing Appeals Tribunal has been without Panel members since the expiry of the terms of office of the previous Housing Appeals Panel members on 31st July 2019. Consideration of the above policy letter at the States meeting to be held on 22nd April 2020 would enable the new Panel members, should the States approve the propositions, to commence their duties from 1st May 2020.

Yours faithfully



Michelle Le Clerc
President

Shane Langlois
Vice President

John Gollop, Emilie McSwiggan, Peter Roffey

Mike Brown, Andrew Le Lievre
Non-States Members

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

COMMITTEE *FOR THE* ENVIRONMENT & INFRASTRUCTURE
AND
STATES' TRADING SUPERVISORY BOARD

PLANNING FOR A NEW FACILITY FOR MANAGING RESIDUAL INERT WASTE

The States are asked to decide: -

Whether, after consideration of the policy letter entitled 'Planning for a New Facility for Managing Residual Inert Waste' of the Committee *for the* Environment & Infrastructure and the States' Trading Supervisory Board, they are of the opinion:-

1. To direct the Development & Planning Authority to prepare proposals for a Local Planning Brief for a new residual inert waste facility at Longue Hougue South and to direct the Development & Planning Authority and the Committee *for the* Environment & Infrastructure to take all necessary steps under the Land Planning legislation to lay such proposals before the States for adoption.
2. To rescind Resolutions 1 to 3 on Article XIV of Billet d'État No. XXIV of 2017 insofar as they:
 - a. direct the Committee *for the* Environment & Infrastructure and the States' Trading Supervisory Board to take steps, and
 - b. delegate authority to the Policy & Resources Committee to approve expenditure,

in relation to a second site from the short list of possible options presented to the States in December, 2017 for inert waste management with the intent that those Resolutions just apply to the identified site at Longue Hougue South, as set out in paragraphs 3.1. to 3.7 of the policy letter.
3. To approve the Inert Waste Strategy as set out in Appendix 2 to the policy letter.

The above Propositions have been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications in accordance with Rule 4(1) of the Rules of Procedure of the States of Deliberation and their Committees.

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

COMMITTEE *FOR THE* ENVIRONMENT & INFRASTRUCTURE
AND
STATES' TRADING SUPERVISORY BOARD

PLANNING FOR A NEW FACILITY FOR MANAGING RESIDUAL INERT WASTE

The Presiding Officer
States of Guernsey
Royal Court House
St Peter Port

2 March 2020

Dear Sir

1 Executive Summary

- 1.1 The Committee *for the* Environment & Infrastructure (CfE&I) has considered and supports the recommendations made to it by the States' Trading Supervisory Board (STSB) as the Waste Disposal Authority (WDA). This joint policy letter recommends: -
- (a) To direct the Development & Planning Authority (D&PA) to prepare a Local Planning Brief for a new residual inert waste facility at Longue Hougue South, and for directing the D&PA and the Committee *for the* Environment & Infrastructure to take all necessary steps under the Land Planning legislation to lay such proposals before the States for adoption;
 - (b) To formally approve the Inert Waste Strategy set out in Appendix 2.
- 1.2 Currently, residual inert waste is disposed of at the Longue Hougue Reclamation Site. This site will reach the end of its operational life when it reaches capacity and the latest estimates are that this will be by around the end of 2022. While there scope to reduce the amount of residual waste produced - through better prevention, reuse and recycling - there will be an ongoing requirement for a replacement recovery or disposal facility.
- 1.3 The current project timeline indicates a new facility at Longue Hougue South could be operational by the summer of 2024. While ongoing reuse and recycling initiatives could extend the remaining life of the current facility, it is likely that some stockpiling of residual inert waste will be required, in the short term, after the existing site is full. It is therefore proposed that Guernsey Waste seeks the necessary planning approvals from the DPA and a waste licence from the Office of Environmental Health and Pollution Regulation (OEHPR) to stockpile inert waste for a limited period, at the Longue Hougue Reclamation site, until the new facility is operational.

- 1.4 This policy letter also provides an update on progress with the project since December 2017¹, when proposals for a replacement facility for managing inert waste were considered by the Assembly. The 2017 policy letter outlined the strategic case, and provided a short-list of options and a preferred way forward, to go forward for an Environmental Impact Assessment (EIA).
- 1.5 An EIA is required to be carried out and an accompanying Environmental Statement (ES) setting out the finding of the EIA is required to be submitted in relation to development plan policies and planning applications relating to waste disposal or processing of waste (other than small scale recycling or sorting facilities).
- 1.6 In accordance with the planning requirements², the STSB has carried out a detailed Environmental Impact Assessment (EIA) for the site at Longue Hougue South. This identifies the extent of the potential impacts of the proposed use on the site, and what mitigation may be required. A Non-Technical Summary of the EIA is included at Appendix 1. The EIA fulfils, in part, the Resolutions following the policy letter of December 2017. Paragraphs 3.1 to 3.7 of this policy letter explain further why Resolutions 1 to 3 of December 2017, requiring or authorising steps to be taken in relation to two EIAs for two sites - are proposed to be rescinded, insofar as they apply to a second site.
- 1.7 This is also a timely opportunity to request the States formally adopt the Inert Waste Strategy (Appendix 2), which was previously considered at the December 2017 States meeting. This sets out the high level strategic direction for the management of inert waste in Guernsey, and complements the island's Solid Waste Strategy.

2 Introduction

- 2.1 In December 2017, States Members considered a joint policy letter from CfE&I and STSB, which set out proposals for the future management of inert waste. This included the outcome of a detailed options appraisal, which began with a list of around 50 potential solutions and possible sites. These had been assessed against various criteria, including capacity, practicality, value for money, potential future uses and environmental factors. That evaluation process was subject to extensive consultation with relevant local organisations, environmental groups, the construction industry, site users, and the general public.
- 2.2 The process was carried out in accordance with legislative requirements, to arrive at a short list of the Best Practical Environmental Options. These were set out in the 2017 policy letter, which recommended the development of Longue Hougue South as the 'preferred way forward' for inert waste management.

¹ Inert Waste Strategy and a Proposal for a New Facility for Managing Residual Inert Waste, Article XIV of Billet d'État No XXIV of 2017.

² Schedule 1 of The Land Planning and Development (Environmental Impact Assessment) Ordinance, 2007.

- 2.3 Following a successful amendment to the original propositions, the States directed the CfE&I and STSB to identify a second site from the shortlist to undergo a detailed EIA along with Longue Hougue South. The CfE&I and STSB were also directed to present the findings of both EIAs to the States as soon as practicable, and recommend a preferred way forward for the management of inert waste in the medium term.

Roles and functions

- 2.4 The CfE&I is responsible for waste policy and strategy development, and also for the periodic review of the Waste Management Plan, following recommendations made to it by the Waste Disposal Authority (WDA). The Committee is mandated to advise the States on strategic level land use planning, and environmental and infrastructure policy matters, including solid waste. The Committee is also responsible for the setting up and administration of Planning Inquiries.
- 2.5 The STSB, as the WDA, has various statutory functions. It is responsible, inter alia, for ensuring provision of waste and recycling services and facilities, including for the management of inert waste. These functions are delivered, operationally, through Guernsey Waste.
- 2.6 The DPA is responsible for advising the States on land use policy and developing and implementing those policies. This includes the preparation of development plans, subject plans, local planning briefs, and other relevant instruments.
- 2.7 Inert waste is produced from excavation, construction and demolition activities, and mainly comprises rubble, hard-core, concrete, bricks, tiles and other ceramics, clean soil, and mixtures of these items.
- 2.8 This policy letter :
- Provides a report on the EIA undertaken at Longue Hougue South (as required under Resolution 2, following the December 2017 policy letter);
 - Recommends that the States now direct the D&PA to prepare a LPB in relation to the site, allowing for it to be developed as a new residual inert waste management facility;
 - Recommends that the D&PA, together with the CfE&I, take all necessary steps to bring this forward for the States to consider for adoption; including laying such proposals before the States (i.e. the LPB, the Inspector's Report, the EIA and the D&PA response to the Inspector's Report);
 - Requests the formal approval of the proposed Inert Waste Strategy, considered previously by the States in December 2017 but not formally adopted; and
 - Sets out the plans for the Longue Hougue (North) existing Reclamation Site to be used for stockpiling inert waste as an interim measure, subject to obtaining any necessary statutory consents, including planning permission and waste licencing.

3 Residual Inert Waste Replacement Facility Environmental Impact Assessment (EIA)

- 3.1 Following the States' direction in December 2017 to identify a second option from the shortlist, further analysis was subsequently carried out to identify which of the other shortlisted options should be taken forward.
- 3.2 Les Vardes Quarry had been considered a potential longer term option, but not a viable alternative within the timescales required. The site is still an operational quarry, and is currently safeguarded for future water storage, as required by the island's Strategic Land Use Plan.
- 3.3 The remaining options included three small former quarries and a potential coastal land reclamation site to the north of Mont Cuët.
- 3.4 The site near Mont Cuët is more exposed to wave action than Longue Hougue South. It would therefore involve significantly more engineering to construct a suitable breakwater for land reclamation in this location. This would make it a much more costly option, to provide a site with significant less capacity, and likely to have little beneficial value for future development uses, compared to Longue Hougue South. This option was therefore considered to not represent good value for money.
- 3.5 Of the three small former quarries, two are in private ownership. One of the owners of La Paradis declined permission for further investigation, which just left L'Épine and Guillotin quarries. These are relatively close, and in combination would still only provide a short-term solution – following which the most likely follow-on site would be Longue Hougue South. However, they represented the most viable available option for further analysis.
- 3.6 The CfE&I and the STSB therefore requested £500,000 funding to carry out a detailed EIA on the two former quarries and Longue Hougue South. The Policy & Resources Committee, in exercising its delegated authority, declined the funding for the EIA on the quarries. It did not consider it to be good value considering as it was unlikely they would emerge as a preferred alternative to Longue Hougue South.
- 3.7 The President of STSB subsequently updated the Assembly on 24th October 2018³, setting out that the project was proceeding with an EIA on one site only. In summary, having re-evaluated all the shortlisted options, Longue Hougue South remains the preferred way forward.
 - It offers the best fit in terms of meeting the agreed Critical Success Factors and Investment Objectives.
 - It could be constructed to be available for operation by 2024 and has the largest capacity of all options that are available in the necessary timeframe.

³ Statement on the Inert Waste Project, given by Deputy Peter Ferbrache, President of STSB, 24th October 2018.

- It is also likely to have beneficial value for future development uses, once it has reached capacity.
 - It is expected to meet the definition of recovery, which is preferred to disposal in the Waste Hierarchy.
- 3.8 The value of any land created, taking into account possible future uses and detailed design options, will be explored as part of a future Outline Business Case (OBC). That will be prepared following the States decision on adoption of the LPB.
- 4 Completion of the EIA for Longue Hougue South**
- 4.1 The extent of the potential Longue Hougue South development is detailed in Appendix 1, Longue Hougue South EIA, Non-Technical Summary (fig 4).
- 4.2 Following the statement by the STSB President in October 2018, Royal HaskoningDHV was commissioned to undertake an EIA for Longue Hougue South. The subsequent studies and preparation of the Environmental Statement took just over one year to complete.
- 4.3 An EIA is a formal process of evaluating the likely environmental impacts of a project, positive or negative. This considers all relevant topics, under three areas: physical environment, biological environment and human environment. A detailed EIA is required to be able to satisfy the requirements of Policy S5: Development of Strategic Importance which requires demonstration that the particular choice of location for the proposed development can be clearly justified and that the proposals represent the best practicable option, taking into account all relevant economic, social and environmental considerations.
- 4.4 This will be a key consideration of the independent planning inspector at the Planning Inquiry into the Local Planning Brief (LPB) required for the site, in accordance with the statutory requirements which is the next stage. The States will then consider the LPB and the report of the independent inspector and decide whether to approve the LPB for the site. If the States approves the LPB it will be formally adopted and will become an additional policy to the Island Development Plan (IDP) and will enable detailed planning applications to be submitted for the facility.
- 4.5 The EIA for Longue Hougue South involved a wide range of environmental studies. Relevant expert advice, drawing extensively on local knowledge, was used to assess what changes or impacts might arise due to the construction and operation of an inert waste facility. Where adverse impacts are anticipated, measures to reduce these have been proposed. The final or residual impacts take into account the suggested mitigations.
- 4.6 Royal HaskoningDHV has produced an independent report - called the Environmental Statement (ES) - setting out the findings of the completed EIA. This is available on the States of Guernsey's website at www.gov.gg/inertwaste, and will be submitted to the DPA for the development of a LPB. A non-technical summary is attached at Appendix 1, and is also available on the website.

- 4.7 The potential cumulative impacts of the project are summarised in the Non-Technical Summary. A range of mitigation measures have been identified to reduce the severity of potential impacts during construction and operation of the site. The long-term impacts after mitigation are limited to significant local visual change and smothering of geological deposits, with minor traffic noise and habitat loss impacts; potentially significant ecological impacts are proposed to be mitigated by translocation exercises. The ES clearly identifies the residual impacts after mitigation. The evidence suggests that, on the basis of the environmental impact assessment findings, there is no reason why the project should not proceed to the next stage.
- 4.8 The CfE&I and the STSB recommend the States now direct the DPA to prepare a local planning brief, allowing for the development as required by the Island Development Plan. This would include a planning inquiry, providing a further opportunity for consultation with key stakeholders, including the public, and be overseen by an independent inspector.

5 Forecast Inert Waste Tonnages and Expected Operational Life of Facilities

- 5.1 Forecasts of the remaining life for the current reclamation site and the anticipated operational life of Longue Hougue South are based on estimated future tonnages of residual inert waste that are expected. These take account of a number of factors, but are largely based on the long-term average of historical data and more recent changes in recycling. See Appendix 3, Actual and Forecast Volumes Chart for further information.
- 5.2 The forecast tonnages have been impacted by several recent changes in the last few years. These include the diversion of significant quantities of inert waste material to cover Mont Cuët landfill site, and an improvement in the recycling of some inert waste material (e.g. aggregate). Both have reduced inputs into Longue Hougue.
- 5.3 Diversion of non-recyclable material to Mont Cuët is coming to an end, which will result in more material reverting to Longue Hougue for disposal.
- 5.4 As the same time, a significant amount of material arriving at Longue Hougue is now being recycled, rather than being used for land reclamation. This is as a result of a new contract that began in April 2019, which has resulted in some types of inert waste being diverted. It is anticipated this will continue, helping to reduce the amount of material requiring disposal (or recovery) in the future.
- 5.5 These factors have impacted on the amount of material being disposed of (one contributing to an increase and the other a decrease) and have been taken into account in the latest forecast. The upper, lower and conservative forecasts have therefore been updated with the latest data, since the completion of the annual survey at Longue Hougue in the summer of 2019. This forecast constitutes an update to the figures provided in the ES.

- 5.6 The prediction for the end of operational life of the current Longue Hougue Reclamation Site (i.e. when the site reaches capacity, conservative case) is now estimated to be December 2022. See below, Figure 1: Aerial Photo of Longue Hougue, taken in April 2019, showing the remaining void area left to be filled at the north of the site.



Fig. 1: Aerial Photo of Longue Hougue Reclamation Site, April 2019

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- 5.7 However, the trend on inert waste volumes can change significantly, depending on a number of different factors, which will impact on the above estimates. These include:
- the buoyancy of the construction industry;
 - the number of large construction projects requiring demolition and excavation; and
 - the amount of inert waste re-used and recycled.
- 5.8 The estimated fill rate is therefore forecast as a range, taking into account the above factors. The mid-range is at around 80,000 tonnes per annum (tpa), whilst the upper level is estimated at 120,000 tpa and the lower level at 55,000 tpa. These fill rates would result in an operational life of a new site at Longue Hougue South of between 10 years and 21 years, with a mid-point estimate of 14 years.

- 5.9 If the fill rate for the new residual inert waste site is slower than predicted, that could extend the payback on the capital investment. This could extend the length of time for the loan agreement and consequently a higher gate fee to the end user. Initial sensitivity testing has been carried out and further work will be done during the assessment for the Outline Business Case, which will be prepared for consideration, subject to the adoption of the LPB.
- 5.10 Some types of inert waste material, where it is required, could be diverted to other strategic projects, provided they are formally identified as such. These may take immediate priority and will help to divert inert waste (if only for a short period of time) from the residual inert waste facility, consistent with the Inert Waste Strategy. This would have an effect on the time period for the recovery of capital investment for the core facility, and whilst diverting some types of inert waste material to strategic projects may provide other benefits for the States, a different economic model may be required as a result.

6 St Peter Port Harbour Development and Inert Waste

- 6.1 In May 2019, the States considered a Requête⁴ in relation to the Development of the St Peter Port Harbour. This proposed in effect a land reclamation site to the east of the QE2 marina with potentially two drivers for the creation of land through reclamation, namely:
- to provide land for additional port infrastructure; and
 - to provide a site for the disposal of the island's inert waste.
- 6.2 Following a successful Amendment (detailed in an Amendment Report)⁵ the States agreed to carry out a detailed analysis of the harbour's requirements, and whether such a land reclamation east of the QE2 Marina should be the optimum solution for the harbour's needs.
- 6.3 The Amendment Report set out why a land reclamation site at this location *should not be considered as an inert waste facility*. This included why the proposals in the Requête did not provide the necessary evidence to satisfy the requirements of planning and environmental policy and legislation within the available timescales. In summary, Longue Hougue South was identified as the best option to provide a site for inert waste disposal following a comprehensive site selection process that took more than 18 months and was carried out in accordance with statutory requirements and best practice, and there remains an urgent need to progress such a solution for inert waste.

⁵ Amendment Report at Amendment 1, Requête (as above)

- 6.4 The Amendment Report provides further details as to why an inert waste land reclamation facility at St Peter Port would not satisfy the requirements of planning and environmental policy and legislation. The Island Development Plan would allow an inert waste management facility to be considered as a Development of Strategic Importance⁶, provided it could be clearly demonstrated as in the public interest. However, a wide-ranging review has already identified Longue Hougue South as the best location. To comply with the States land use policy, a similar comprehensive study would have to indicate the St Peter Port Harbour option is better or at least equal to Longue Hougue South for it to be considered principally as an inert waste site. The previous in-depth evaluation process did not support such a conclusion.
- 6.5 There are other considerations as to why a facility in the area of St Peter Port Harbour would not be ideal in terms of its location, including the potential impacts of long-lasting disruption of around ten years or more, both to port operations and other aspects of the island's 'capital', including impacts on traffic and congestion.
- 6.6 The IDP would also allow land reclamation to provide ports and harbour infrastructure to be considered as Development of Strategic Importance. This requires a comprehensive study to identify the best site, having considered all the alternatives and a detailed analysis of future port requirements and options for locating any new infrastructure, taking account of all relevant economic, social and environmental considerations. The STSB has established a Harbour Development Programme which has commenced a detailed analysis of the future harbour requirements. Progress on the harbour requirements and options will be reported to the States by December 2020. The D&PA are working with the relevant Committees and stakeholders to develop a Local Planning Brief (LPB) for the St Peter Port Harbour Action Area (SPPHAA).
- 6.7 In addition, an EIA has now commenced in relation to a potential land reclamation and its potential future development uses at a site east of the QE2 marina at St Peter Port, and will include a wider baseline review to encompass the St Peter Port harbour area. That will help inform the D&PA's work on a LPB for the SPPHAA and will support the objectives of the Harbour Development and any potential future land reclamation scheme.

7 Stockpiling

- 7.1 The Amendment Report recognised that some inert waste could have commercial and strategic value if able to be used for an identified strategic development, for example for future land reclamation or land raising or other enabling development and that therefore there may be a benefit to stockpiling some suitable inert waste material for a limited period. As such, it was subsequently resolved⁷ that the STSB be directed,

⁶ Island Development Plan, Policy S5.

⁷ Resolution 6 of the 23rd May 2019, on Article VI of Billet d'État No VIII of 2019.

“... in consultation with the Development & Planning Authority, to consider options, including potential locations, to enable the temporary stockpiling of residual inert waste; and to make recommendations to the Committee for the Environment & Infrastructure on such options, as well as estimates of any associated costs, by December 2019...”

- 7.2 The Project Team has identified that there is likely to be a short-term need for stockpiling of unsorted residual inert waste material prior to the commissioning of the new inert waste facility, as set out in the Inert Waste Strategy. It is anticipated that a new residual inert waste facility will not be available until 2024, due to the statutory processes and approval and construction timescales. In the meantime, it is anticipated that the current site at Longue Hougue will be full by December 2022. Therefore it is likely that there will be a need for some stock piling of residual inert waste, as a mitigating measure.
- 7.3 The merits of stockpiling inert waste for use for particular strategic development and the identification of a site for stockpiling for a temporary period for these purposes, can only be assessed once a strategic need and site has been formally identified. This will then determine the type of inert waste materials that might be suitable for the proposed development and if further processing, for example sorting, may be required. The processes required may influence the choice of stockpiling site. Relevant approvals would also be needed for such material to be processed and then stored. If processing such as sorting is needed (other than small scale sorting and recycling), an EIA is required as part of the planning process. Depending on the location and scale of stockpiling, a Development Framework may also be necessary. The costs of these assessments and processes could be in the region of £150k to £200k. Should strategic developments require it, then a funding source for the stockpiling assessments and processes would need to be identified.
- 7.4 The policies of the IDP allow for the principle of stockpiling of inert material on some sites and the temporary stockpiling of inert waste material on other sites may be possible, subject to planning approval and appropriate waste licences being granted. Consideration has been given to potential sites for the stockpiling of residual inert waste for a temporary period of up to four years.
- 7.5 Informal advice received from the Planning Service in relation to stockpiling inert material is that, subject to planning permission, this may in principle be possible on land which is designated as a Key Industrial Area (KIA) or a Key Industrial Expansion Area (KIEA) in the IDP8.

⁸ The most relevant planning policies in this instance are Policy MC5(A): Industry, Storage and Distribution Uses in Main Centres and Main Centre Outer Areas - Within KIAs and KIEAs, and Policy MC5(B): Industry Storage and Distribution Uses in Main Centres and Main Centre Outer Areas - Outside of the KIAs and KIEAs and Policy IP2: Solid Waste Strategy.

- 7.6 KIAs have been identified as areas where industrial and storage and distribution development should be consolidated. There are four KIAs identified in the IDP (Pitronnerie Road, Northside, Saltpans and Longue Hougue). KIEAs are identified on land adjacent to the KIAs and also at La Villiaze, St. Saviour's.
- 7.7 The IDP states that a Development Framework will be required for each KIEA and for the undeveloped part of the Saltpans KIA. The Plan also states that development may be supported prior to the approval of a Development Framework where it is unlikely to inhibit the implementation of industrial or storage and distribution development and would not prejudice the comprehensive development of the site and that a KIEA will only be released for development where it has been demonstrated that no alternative sites are available within any of the KIAs or Main Centres and Main Centre Outer Areas.
- 7.8 The IDP states that the Longue Hougue Key Industrial Area is reserved for heavy and specialist industrial development which cannot be easily located on other industrial sites owing to its potential negative impacts on neighbours, such as through the noise, dust, vibration, smells and emissions associated with the processes undertaken, and for strategic infrastructure, including development associated with the processing of waste.
- 7.9 In this policy context, there is considered to be potential scope under the policies of the IDP, subject to planning permission, for the use of an area designated as a KIA or a KIEA for the stockpiling of inert waste. However, having regard to the likely impacts of such use, albeit of relatively short duration, it is considered that the Longue Hougue Key Industrial Area, or KIEA where the use would not prejudice the comprehensive development of the site, would represent the best potential option for the stockpiling of inert waste.
- 7.10 In addition, an EIA would be required in respect of a proposal for stockpiling involving any processing of inert waste, for example to meet a materials specification for the proposed site or use. This is because it would amount to processing of waste, rather than storage, with the only exemption to this being for small-scale sorting.

Costs of Stockpiling

- 7.11 Assuming a new facility is available by the summer of 2024, it is estimated that there may be a requirement to stockpile residual inert waste at the existing Longue Hougue site for a period of approximately 18 months, until a new facility becomes available. Based on current forecasts, it is estimated that between 80,000 and 180,000 tonnes will need to be stock piled and then subsequently moved to the new site. This would entail a cost of approximately £0.4m to move the material from Longue Hougue to Longue Hougue South (based on 120,000 tonnes). The maximum capacity allowable within the site area has been estimated (based on a number of assumptions) to be in the region of 180,000 tonnes. The cost to move the material would be included within the overall capital cost for the project.

- 7.12 The costs associated with stock piling inert waste material for use on identified strategic development sites will differ according to the location, including transportation distances, access and other logistical factors.

8 Funding Options for the new Residual Inert Waste Facility

- 8.1 The initial investment proposal for a residual inert waste facility was set out in the December 2017 policy letter, following the completion of the first stage business case phase, the Strategic Outline Case (“SOC”). The project will be subject to a more detailed financial and economic appraisal at the Outline Business Case stage, subject to adoption of the LPB. It is anticipated that a policy letter outlining these investment proposals and the recommendation to commence a procurement process may come forward in the first half of 2021.

Longer Term Funding

- 8.2 The Inert Waste Project has been identified in the Medium-Term Financial Plan⁹ as a Large ‘Pipeline’ project in the ‘Maintain Category’. The SOC originally set out an indicative capital investment figure in the region of circa £30m, potentially to be funded by a loan from the States Capital Reserves and funded by gate fee income.
- 8.3 In the statement to the States by the President of STSB in October 2018, an update on the potential cost of the land reclamation project was provided. This provisional estimate was given as in the region of £45 million. This followed some initial work in 2018 on market testing costs for the materials, supply and build for a breakwater for the land reclamation site.
- 8.4 During 2019, further value engineering and design optimisation has been carried out with breakwater engineering design experts at Royal HaskoningDHV. This work and other assessments indicate at this juncture that the substantive capital costs, taking into account the build and completion of the site, are still within this range.
- 8.5 The financial estimates will continue to be refined in the work towards the Outline Business Case. The estimates remain provisional until such time as a procurement process has been undertaken.

Shorter Term Funding Arrangements

- 8.6 The December 2017 policy letter included a budget of £1.1m for the Design and Analysis stage to take the project forward to a Full Business Case. Following the completion of the EIA, the work in 2020 and 2021 will include the preparation and drafting of an LPB, a planning inquiry on the LPB, and consultancy support and expert witnesses to support this process. Further design and site analysis and professional fees will also be needed before the Outline Business Case (OBC) can be prepared and authorisation sought from the States to tender the required contracts and services.

⁹ Policy & Resources Plan, Phase 2, Appendix 1: Medium-Term Financial Plan, 2017-2021, p101

- 8.7 As a result of the successful Amendment in December 2017, Resolution 3 increased the Design and Analysis budget from £1.1m to £1.6m to allow up to an additional £500k to be expended on a second EIA and further assessment of the 'preferred way forward'. The Policy & Resources Committee were delegated authority to approve expenditure for this stage. As P&RC did not approve the second EIA proposal, the Project is currently working to a budget estimate of £1.1m for the Design and Analysis stage.
- 8.8 Following expenditure on the completion of the EIA and Environmental Statement in 2019, the balance of budget remaining for the Design and Analysis stage (for 2020 and 2021 inclusive) is approximately up to a maximum of £800k. The budget estimate is set out as follows:

Remaining Analysis and Design Phase Costs for 2020 to 2021

Design and Analysis phase costs							
£000's	Paid	Remaining spend			Grand	Risk	
	2018/19	2020	2021	Total	Total		
EIA Professional fees	230	-	-	-	230	0%	-
Communications prof' fees	-	25	-	25	25	0%	-
Prep'n local planning brief	-	100	50	150	150	20%	30
Planning Inspector	-	-	52	52	52	50%	26
Site Evaluation Fees	-	30	-	30	30	25%	8
Other Professional fees	68	108	-	108	176	30%	32
Site Design	-	150	62	212	212	50%	106
External Legal Counsel	-	9	9	18	18	20%	4
Subtotal before risk adj	298	422	173	595	893		205
Risk		137	69	205	205		
Grand Total Costs, incl risk	298	559	242	800	1,098		

Table 1: Design & Analysis Budget 2020 & 2021 and Expenditure for 2018/19

- 8.9 The budget includes an element of risk, which has been applied across each line item, according to the anticipated level of uncertainty as to the estimated cost of professional fees likely to be incurred. Where some initial quotations or indicative amounts have been provided, the risk adjustment percentage applied is lower. There are unknown risks regarding the extent or type of professional fees that may be required over the next two years. Part of the figure is likely to include Quantity Surveyor expertise, Project assurance and internal financial team cost recovery, during the OBC and FBC stages, in order to manage costs throughout the whole procurement process.

- 8.10 Additional costs have now been included for expert resources to develop the LPB and to provide support for the D&PA at the Planning Inquiry. Since the December 2017 budget estimate it has been identified that the D&PA now has insufficient resources to prepare an LPB in the timeframe required, given other priorities and requirements placed upon it for 2020 and 2021. The estimate for the cost of the LPB has a level of risk uncertainty, depending on how the Planning Inquiry proceeds.

9 Timescale and Implementation Plan for the Inert Waste Strategy

- 9.1 The Inert Waste Strategy provides an implementation plan for all inert waste streams across the Waste Hierarchy. The aspects of the implementation plan relating to the provision of facilities for the management of residual material will take the form of three phases: short, medium and long term.

- **Short Term:** Stockpiling of inert waste at the existing facility which can then either be:
 - utilised, where it is required, for strategic or other projects that may come forward; or
 - deposited at the new facility when available.
- **Medium Term:** Provision of services and facilities at the proposed preferred first site, currently identified as Longue Hougue South.
- **Long Term:** Further work will be required to explore a long-term solution or solutions which will be informed by monitoring and review and considered in the context of other strategic projects.

- 9.2 The Inert Waste Project to deliver the medium-term facilities has the following key milestones and outline target dates for delivery :

Key Milestones

Key Milestone	Completion Date
Detailed EIA for the preferred way forward	November 2019
States decision on propositions/policy letter	March 2020
Local planning brief (including Public Inquiry)	Q2 2020/Q1 2021
Procurement for design of site	Q2 2021
Outline Business Case - phase 2 and policy letter decision on investment	Q2/Q3 2021
Tender construction contract	Q3 2021
Full Business Case approval to tender solution (assuming delegated to P&RC)	Q1 2022
Award construction contract and final design	Q2 2022
Planning application	Q3 2022
Waste management licence & FEPA ¹⁰ licence	Q3 2022
Existing Land Reclamation reaches capacity and stockpiling commences	Q4 2022
Site construction likely to complete (Based on commencement in Q3 2022)	Q2 2024

Table 2: Key milestones

- 9.3 The key date for commencement of site construction has been delayed by approximately 9 months, due to some delays in the approval process relating to the potential second option for an EIA and the St Peter Port Harbour Requête. The likely time to complete construction may be 6 months longer than the previous estimated 12 month construction period. For these reasons, the new facility is not likely to be commissioned until Q2 of 2024. Going forward, there are a number of risks to the project which may impact on key milestones, particularly if the requisite approvals are not granted within the timescales required.
- 9.4 Assuming the new facility at Longue Hougue South commences in 2024, it is forecast that the site may reach the end of its operational life by around 2039, and potentially as late as 2045, which is close to or beyond the original 20-year strategy time frame.

¹⁰ Any land reclamation proposal will require a licence under the Food & Environmental Protection Act 1985 , as extended with modifications to the Bailiwick, before rock armour can be deposited on the sea bed.

10 Strategic & Legislative Context

- 10.1 The mandate of the CfE&I includes advising the States, and developing and implementing policy and strategy, regarding infrastructure and solid waste. Waste policy is one of five priority areas the Committee has identified as significant and critical to the delivery of the themes/outcomes in Phase One of the Policy & Resources Plan.
- 10.2 The States of Guernsey has legislation and policy in place to ensure that an EIA in relation to a new inert waste land reclamation site, is carried out in a consistent way to meet the needs of the island. The Land Planning and Development (Environmental Impact Assessment) Ordinance, 2007 sets out the requirements for EIA in relation to developments with potential for significant environmental impacts. The type of development that the Longue Hougue South falls into means that an ES is required to accompany the planning application. The ES is the documentary evidence of the entire EIA process. Further legislation and best practice and guidance used to approach the EIA in this case is documented in section 1.5.3 at Appendix 1: Non-Technical Summary.
- 10.3 In developing the Inert Waste Strategy, the policy approach has taken into account the existing related strategic policy and legislative framework. The work on the proposed Strategy and actions arising out of it have been influenced by the States' Policy & Resource Plan (now the "Future Guernsey Plan"), the Solid Waste Strategy, the Strategic Land Use Plan and the IDP, and developed consistent with the provisions of the Environmental Pollution (Guernsey) Law, 2004 ("the Environmental Pollution Law").

Solid Waste Strategy

- 10.4 The island's Solid Waste Strategy is based on the Waste Hierarchy¹¹, an internationally accepted principle and guide to sustainable waste management. It identifies the preferred order for managing waste, with the aim of extracting maximum practical benefits from products and materials and generating the least amount of waste, namely:
- Prevention;
 - Reuse;
 - Recycling;
 - Recovery; and then finally
 - Disposal.

¹¹ Waste Hierarchy: Directive 2008/98/EC on Waste (Waste Framework Directive), Article 4.

Island Development Plan

- 10.5 The IDP contains a number of policies with which the Inert Waste Strategy must be consistent, particularly regarding options for the management of inert waste. These are explained in further detail in the Inert Waste Strategy (see Appendix 2).

Environmental Pollution Law, 2004

- 10.6 The Environmental Pollution Law¹² requires the STSB as the Waste Disposal Authority to identify the Best Practical Environmental Options (BPEOs) for the selection of appropriate waste facilities¹³. The methodology adopted by the STSB, as the WDA, has at its core the protection of the environment. In the UK, the accepted interpretation of the similar term 'Best Practicable Environmental Option' is "*the option that provides the most benefits or the least damage to the environment, as a whole, at acceptable cost, in the long term as well as in the short term*". Therefore, the STSB has adopted a process in identifying the BPEOs for management of inert waste, which is broadly based on the UK BPEOs process whilst taking into account the differences in the local legislation and circumstances.

11 The Inert Waste Strategy

- 11.1 The Inert Waste Strategy was developed as part of the CfE&I's priorities for Phase 2 of the Policy and Resource Plan (June 2017), which was endorsed by the States of Deliberation. The Strategy (see **Appendix 1**) contains some minor updates since it was originally considered and noted by the States in December 2017.
- 11.2 The CfE&I's Policy Priority Plan¹⁴ included a commitment to bring to the States an Inert Waste Strategy for the identification and delivery of optimal solution(s) for the management, use and disposal of Guernsey's inert waste over the next 20 years. The States of Deliberation agreed to develop a strategy for inert waste to provide a more detailed framework for the inert waste stream for each level of the waste hierarchy. The States noted the principles as set out in the Inert Waste Strategy, which informed the final Resolutions as Amended of December 2017; however, it is recommended that the Strategy is now formally adopted.
- 11.3 In the Guernsey context, land created by land reclamation and infilling existing quarries can have a significant beneficial value in the future. Such development can therefore be considered to be situated higher up the hierarchy than a site with no or little potential future value which would simply be considered a disposal site. Provided they meet the requirements specified in the Inert Waste Strategy and can deliver the best overall environmental outcome, this does not conflict with the overall aims and objectives of the waste hierarchy or of the Solid Waste Strategy.

¹² Environmental Pollution (Guernsey) Law, 2004

¹³ See section 30 (I) (d) of the Environmental Pollution Law

¹⁴ Included in Phase 2 of the Policy & Resources Plan, June 2017

11.4 The Strategy therefore proposes the following waste hierarchy for inert waste on Guernsey:

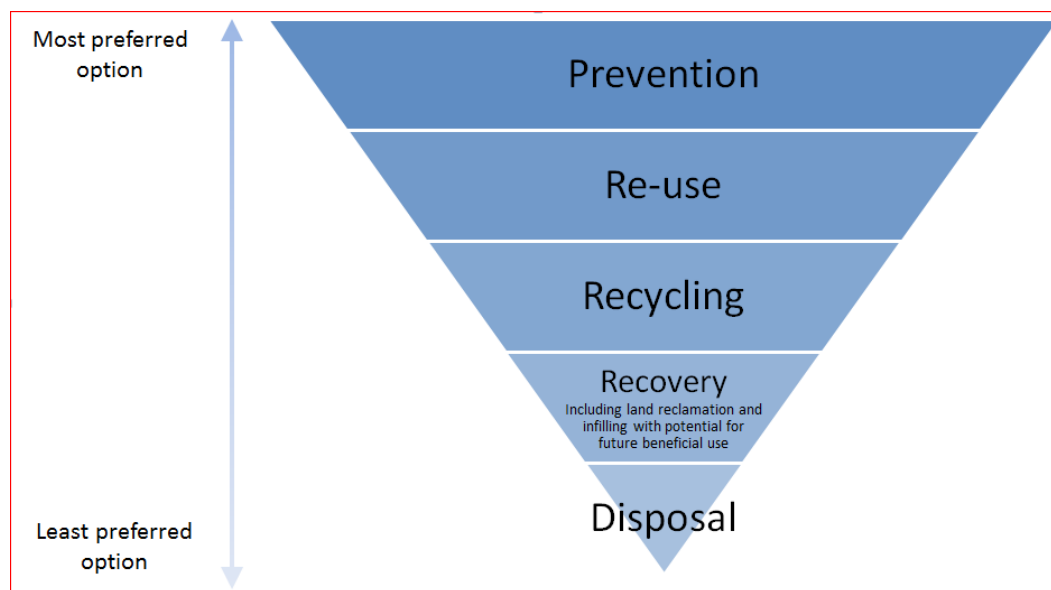


Fig. 2. The Waste Hierarchy for Inert Waste

11.5 The Inert Waste Strategy recommends that in certain circumstances, coastal land reclamation or quarry infill using residual inert waste could be treated as 'recovery' rather than 'disposal'.

11.6 The implementation of the short- and medium-term phases of the Strategy for managing Inert Waste involves:

- (a) continuing to dispose of residual inert waste at the current Longue Hougue Reclamation Site until the site reaches capacity;
- (b) the provision of guidance to parties involved in construction and demolition on the implementation of site waste management plans;
- (c) collecting and compiling data from site waste management plans to better establish a baseline, with a view to setting targets for recycling and re-use;
- (d) providing temporary solutions at the current Longue Hougue Reclamation Site, prior to the new facility becoming available;
- (e) provision of a new on-island facility for residual inert waste through recovery (as defined in the Strategy, where for example, land reclamation has a beneficial value) firstly, and then to disposal via land reclamation or quarry infill with no beneficial value; and
- (f) any strategic projects, including land reclamation projects that could require inert waste could be actively identified for the diversion and use of material, prolonging the lifetime of any residual inert waste facility. The principles of the Inert Waste Strategy should be taken into account when developing all future

States policy and strategic projects in terms of potential hierarchical uses for inert waste.

- 11.7 Since drafting the Inert Waste Strategy, further work has progressed on re-use and recycling initiatives. The D&PA have proceeded with the development of Site Waste Management Plans, guidance and monitoring arrangements. In April 2019, States Works commissioned a recycling contract to recycle aggregates at the Longue Hougue site.

12 Engagement and Consultation

- 12.1 The Inert Waste Project has consulted stakeholders at various stages and key milestones of the project. Stakeholders were involved in the process to identify the preferred way forward for an inert waste facility, commencing with workshops held in early 2017. Stakeholders provided input into an options review, by assessing the environmental, social and economic criteria to be considered in the high level BPEO assessment and their relative weightings. The process was iterative, with output from workshops fed back to consultees and shared with stakeholders for further comment. A public drop-in was also held in November 2017 where the results of the BPEO process were available.
- 12.2 The Inert Waste Strategy has also been subject to the appropriate consultation to ensure that States bodies, non-Governmental Organisations (NGOs) and the private sector, including the construction and demolition industry, were involved in developing the Strategy. This included stakeholder workshops and requests for feedback on a consultation document covering the evidence base and approach to developing the Strategy, the Strategy itself, and the options which comprise the Strategy.
- 12.3 A number of presentations and reports have since been provided to States Members and to the STSB, CfE&I and P&RC meetings. The Strategic Outline Business Case was considered by the P&RC on 31st October 2017, before the December 2017 policy letter.
- 12.4 The STSB President provided a Statement at the October 2018 States meeting, providing Members with an update on progress with the Inert Waste Project and the intention to progress with one EIA on the Longue Hougue South Site.
- 12.5 A Stakeholder Engagement Plan (SEP) was produced as part of the Environmental Statement for the EIA and is available online at www.gov.gg/inertwaste. This sets out all the stakeholder and consultee engagement undertaken as part of the initial scoping for the EIA and the subsequent communications on the findings of the EIA. The Environmental Statement is précised in a Non-Technical Summary, which provides a useful communication tool for engagement and is a standalone document.

- 12.6 The general approach to engagement for the EIA work stream of the Inert Waste Project included a range of workshops, drop-ins/public forums and formal presentations to suit the different stakeholder groups. The Stakeholder list is detailed in the SEP and includes: experts/technical consultees such as States bodies and Ecology/Environment Non-Government Organisations; general businesses and business representatives; users of inert waste management facilities – including the construction industry and other representatives of waste producers; neighbours including near neighbours; the general public, and the media.
- 12.7 The most recent engagement took place in November 2019, on the outcomes of the EIA and publication of the ES. This included presentations to Douzainiers and consultees and a public drop-in event. The Planning Inquiry and any publicity in connections with any subsequent planning application will provide a further opportunity for engagement with key stakeholders, including the public.

13 Conclusions

- 13.1 Since the December 2017 policy letter, the STSB on behalf of the States of Guernsey commissioned Royal HaskoningDHV to carry out a detailed EIA of the site at Longue Hougue South. The assessment findings, including the potential cumulative impacts of the project, are summarised in the Non-Technical Summary at Appendix 1. A range of mitigation measures have been identified to reduce the severity of potential impacts during construction and operation of the site. The long-term impacts *after mitigation* are limited to significant local visual change and smothering of geological deposits, with minor traffic noise and habitat loss impacts; potentially significant ecological impacts are proposed to be mitigated by translocation exercises. **The EIA and the residual impacts identified after mitigation have provided the evidence to suggest that there is no reason with respect to the environmental assessment why the project should not proceed to the next stage, allowing for more consideration.**
- 13.2 In view of the remaining capacity at the current residual inert waste site at Longue Hougue and in line with the proposed Inert Waste Strategy and the legislative requirements for the WDA to identify Best Practical Environmental Options, work on the preferred way forward at Longue Hougue South needs to continue urgently. This includes: the preparation of an LPB and related public inquiry into that brief; adoption of the LPB by the States; consideration of the potential future use of land created and its value; and further work on the design and site analysis. It is then intended to bring forward an Outline Business Case before seeking approval from the States to tender for building construction. These next steps are expected to cost up to £800k to bring the project up to the OBC stage.
- 13.3 At this juncture, the States are being asked to direct the D&PA and the CfE&I (which has responsibility for planning inquiries) to prepare a Local Planning Brief and to take all necessary steps, including the holding of a Planning Inquiry, in accordance with Planning legislation to lay the proposals before the States for adoption.

- 13.4 The proposed Inert Waste Strategy sets out the approach to the Waste Hierarchy for the inert waste stream. The States are asked to formally adopt this strategy, to ensure a robust and comprehensive framework for the sustainable and appropriate management of the inert waste stream.

14 Compliance with Rule 4

- 14.1 Rule 4 of the Rules of Procedure of the States of Deliberation and their Committees sets out the information which must be included to, or appended to, motions laid before the States.
- 14.2 In accordance with Rule 4(4) of the Rules of Procedure of the States of Deliberation and their Committees, it is confirmed that all the propositions above has the unanimous support of the Committee *for the* Environment & Infrastructure and of the States' Trading Supervisory Board. The policy letter was approved by the States' Trading Supervisory Board on the 13th February 2020, which was carrying one vacancy at the time.
- 14.3 In accordance with Rule 4(5), the preparation and agreement of the propositions and content of the policy letter relate to the duties of the STSB and the CfE&I and has involved joint working between the Committee *for the* Environment & Infrastructure, and the States' Trading Supervisory Board. The Development & Planning Authority have been consulted on the 22nd January 2020 and the Policy & Resources Committee have also been consulted on the 25th February 2020, in relation to the propositions and policy letter.

Yours faithfully

Committee *for the* Environment & Infrastructure

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M H Dorey
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Non-States Members, STSB

Appendix 1

REPORT

Longue Hougue South EIA

Non-Technical Summary

Client: States of Guernsey

Reference: PB5312-RHD-ZZ-XX-RP-Z-0001

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Date: 15 November 2019

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Table of Contents

1	Introduction	1
1.1	Purpose of this Non-Technical Summary.....	1
1.2	Need for the Project.....	1
1.3	The Project and its Location	1
1.4	Alternatives	6
1.5	Legal Requirements	7
2	Environmental Impact Assessment	9
2.1	The EIA Process	9
2.2	Assessment.....	9
2.3	Coastal and Marine Processes	10
2.4	Marine Sediment and Water Quality	12
2.5	Surface Water and Flooding	13
2.6	Land Use, Land Quality, Soil Quality, Geology and Hydrology	15
2.7	Traffic and Transport	16
2.8	Air Quality.....	18
2.9	Noise and Vibration	19
2.10	Population and Human Health.....	21
2.11	Material Assets (Archaeology, Built and Cultural Heritage).....	22
2.12	Landscape and Visual Character.....	24
2.13	Marine Ecology.....	25
2.14	Terrestrial Ecology and Ornithology.....	26
2.15	Natural Capital.....	28
3	Summary	28
3.2	Cumulative Impact Assessment.....	33
3.3	Mitigation.....	33
3.4	Monitoring	34
4	References	35

Table of Tables

Table 1	Construction Phase Residual Impacts	29
Table 2	Operation Phase Residual Impacts	30

Table of Tables

Figure 1	Location of Longue Hougue South	2
Figure 2	The Outline Extent of the Project.....	3
Figure 3	Current Site Characteristics.....	4
Figure 4	Site Layout during Construction and Operation	5
Figure 5	Shortlist of Inert Waste Management Options Considered	7
Figure 6	Photograph of the shore at Longue Hougue South.....	10
Figure 7	Predicted changes in local tidal current velocity caused by the presence of the Project during and incoming spring tide (top) and during an outgoing spring tide (bottom).....	11
Figure 8	Flood risk map for Guernsey	14
Figure 9	Location of Traffic Counters and Traffic and Transport Study Area	17
Figure 10	Air Quality Monitoring Locations	19
Figure 11	Baseline Noise Monitoring Positions/Study Area Assessment Receptors	20
Figure 12	Heritage Assets within 2km of the Site	23

1 Introduction

1.1 Purpose of this Non-Technical Summary

1.1.1 This report is a non-technical summary of the findings of the Environmental Impact Assessment (EIA) for a new inert waste management facility at **Longue Hougue South**, Guernsey. What an EIA is and what it does is described in **Section 2**. It will be used to support a planning application, and this non-technical summary is provided as part of the EIA and is meant to be read as a stand-alone document.

1.1.2 Inert waste comes from construction, demolition and excavation activity. It is material that does not dissolve, burn or otherwise physically or chemically react or biodegrade when it comes into contact with other matter, therefore the potential to cause pollution is insignificant. Examples are bricks, tiles, concrete and glass.

1.2 Need for the Project

1.2.1 In recent years, the States of Guernsey has relied on coastal land reclamation at Longue Hougue for the disposal of inert waste. The site, which has been operational since 1995, is nearing the end of its life. It is estimated to have less than five years' capacity remaining, depending on demand.

1.2.2 Royal HaskoningDHV was commissioned to develop a long-term strategy for future inert waste management for Guernsey. Multiple options were assessed, and an extension to the current coastal land reclamation site, to the south of Longue Hougue, was identified as the preferred option for future containment of residual inert waste.

1.3 The Project and its Location

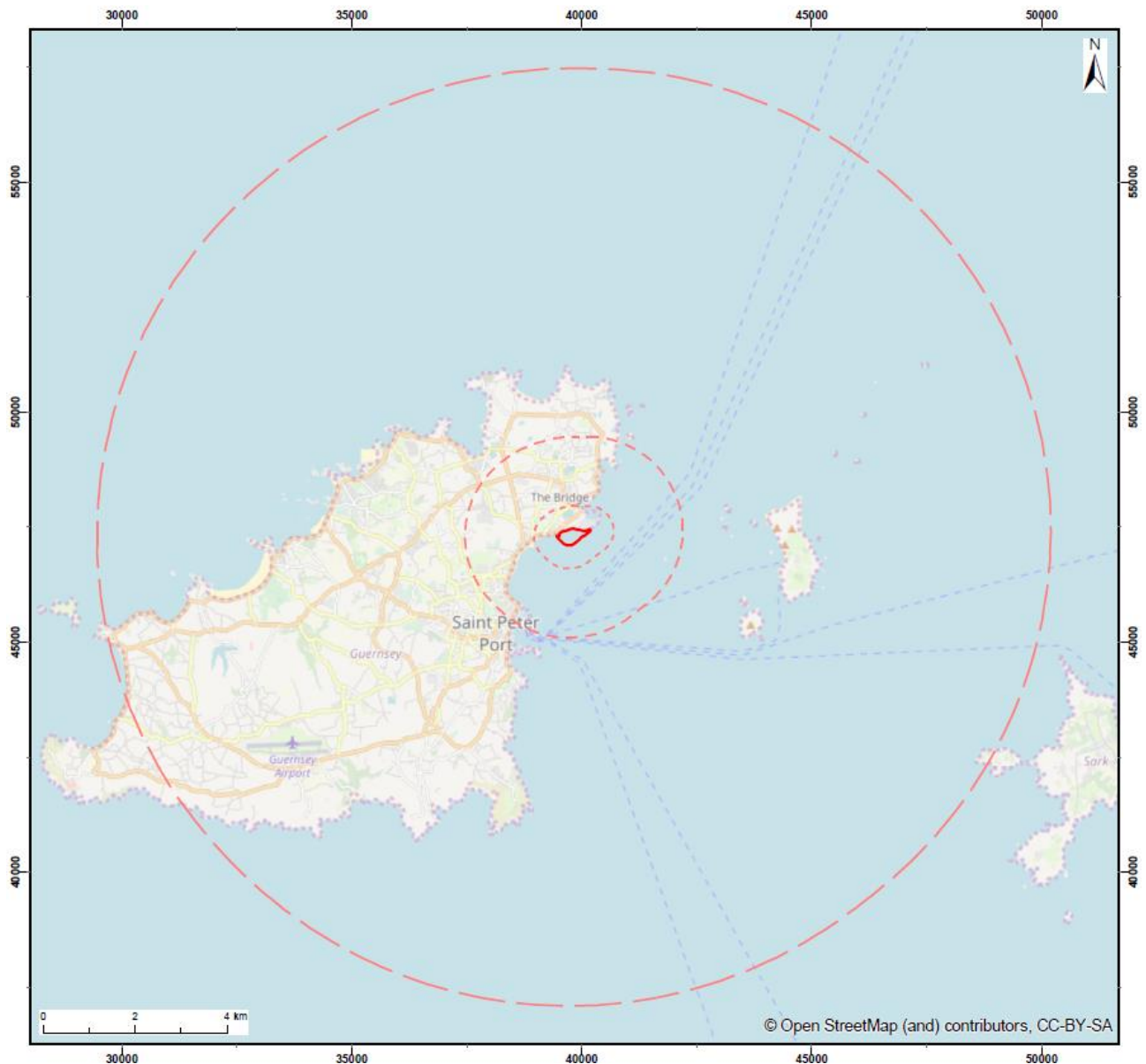
1.3.1 The project will claim an area of land from the sea between Spur Point and the current Longue Hougue facility. This will be done by building a breakwater structure that will gradually be filled with Guernsey's inert waste.

1.3.2 The location is provided in **Figure 1**, and the site surroundings shown in **Figure 2**.

1.3.3 **Figure 3** presents the characteristics of the site and surrounding area.

1.3.4 The site will be adjacent to the current residual inert waste facility, the Longue Hougue reclamation site (see **Figure 4**), to the south and south-west.

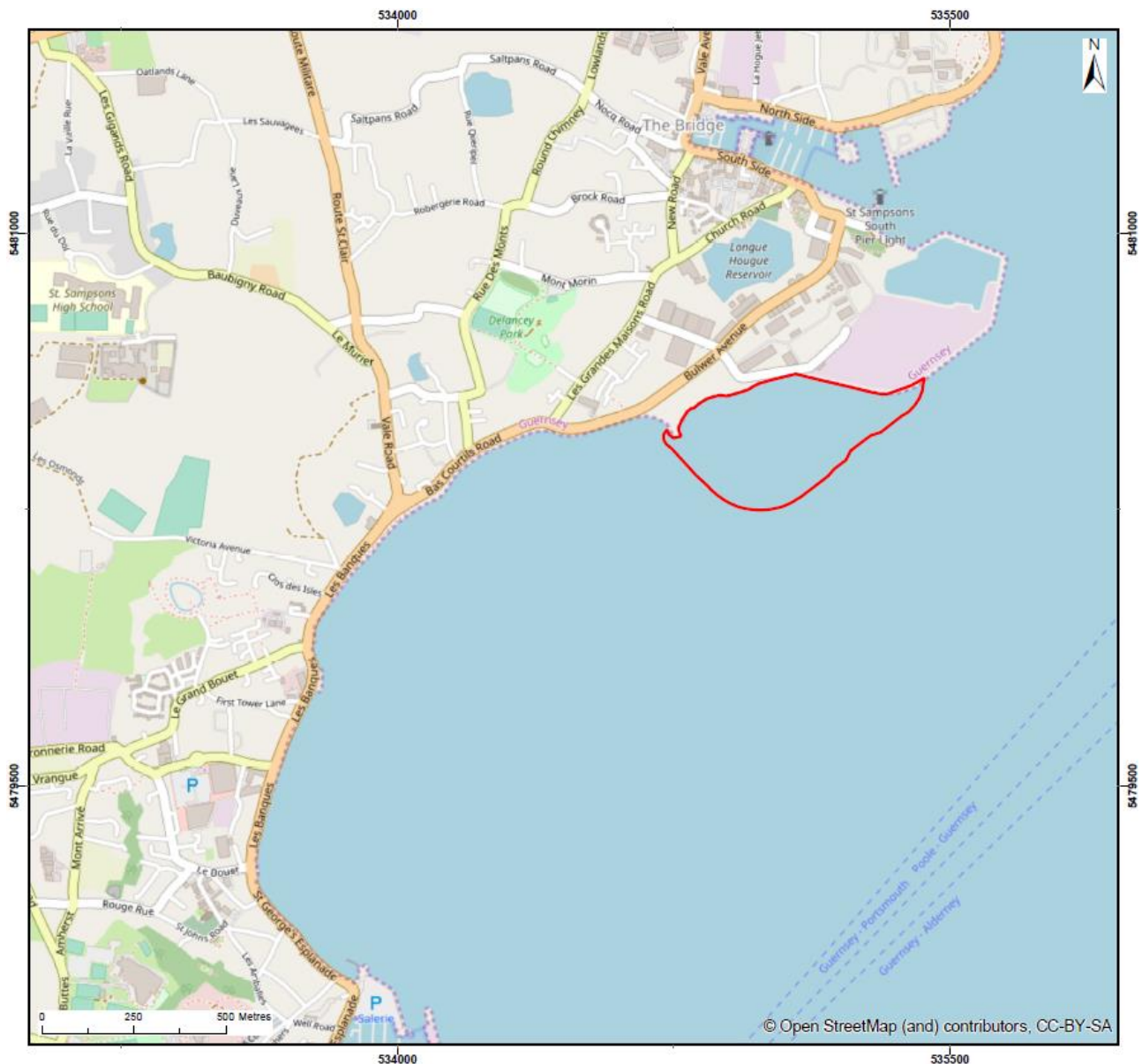
Figure 1 Location of Longue Hougue South



Note: Dotted lines indicate distances of 0.5km, 2km and 10km. These are called “buffer zones” and are used in the assessment process

- 1.3.5 The site includes a beach approximately 35m wide, and the headland of Spur Point. The southern part can be reached from the footpath to Spur Point via Bulwer Avenue. The site can also be accessed from a States-owned (but not public) access road in the industrial area of St Sampson. To the north and north-west of the site, there are residential properties in the small strip of land between Bulwer Avenue and the beach area which forms the site boundary.

Figure 2 The Outline Extent of the Project



Note: the red line represents the outer boundary of the project.

- 1.3.6 To build the breakwater, large rocks will be imported to Guernsey by ship. They will be brought to the site by barge, which will anchor on either the north side of the existing Longue Hougue site or offshore of Belle Greve Bay. The rocks will be transported from the barge to the site by dumper truck or small barge. The breakwater will be constructed by gradually piling the rocks on top of one another in a controlled way until there is a link from the Longue Hougue site to Spur Point. This will create a wall to the sea.
- 1.3.7 This phase is anticipated to take a maximum of 36 months. The layout of the site during construction and operation is shown in **Figure 4**.

Figure 3 Current Site Characteristics

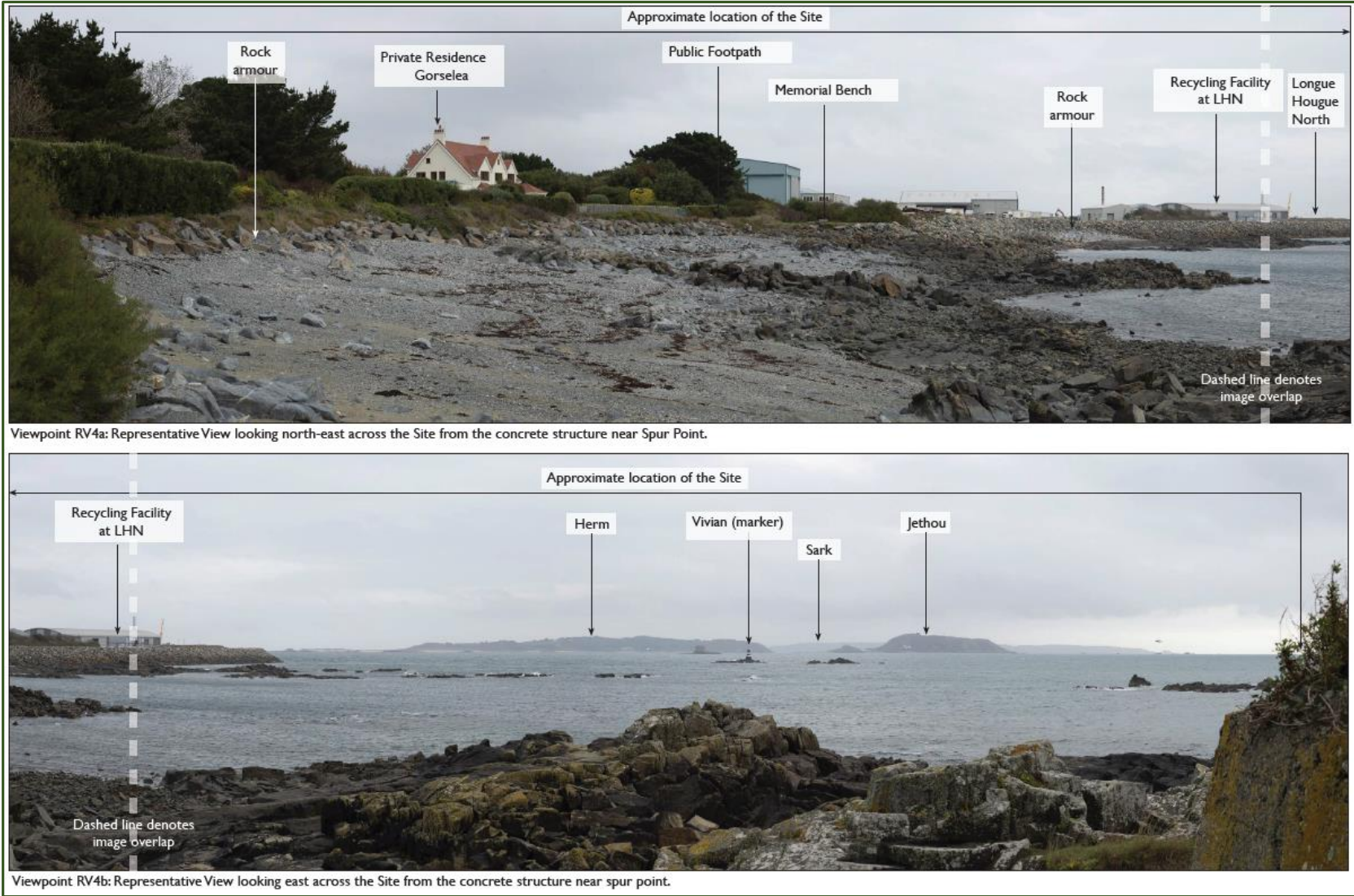
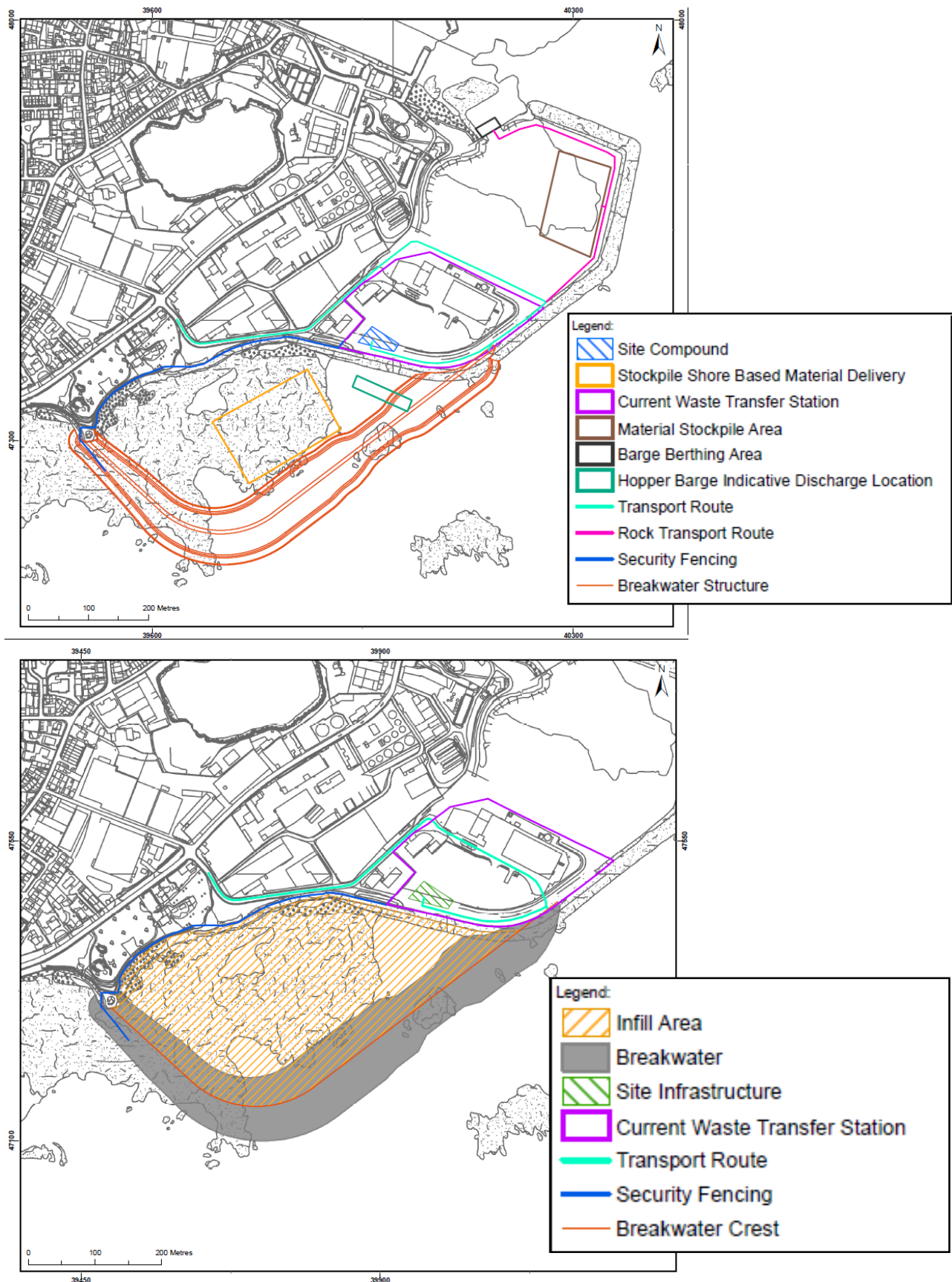


Figure 4 Site Layout during Construction and Operation

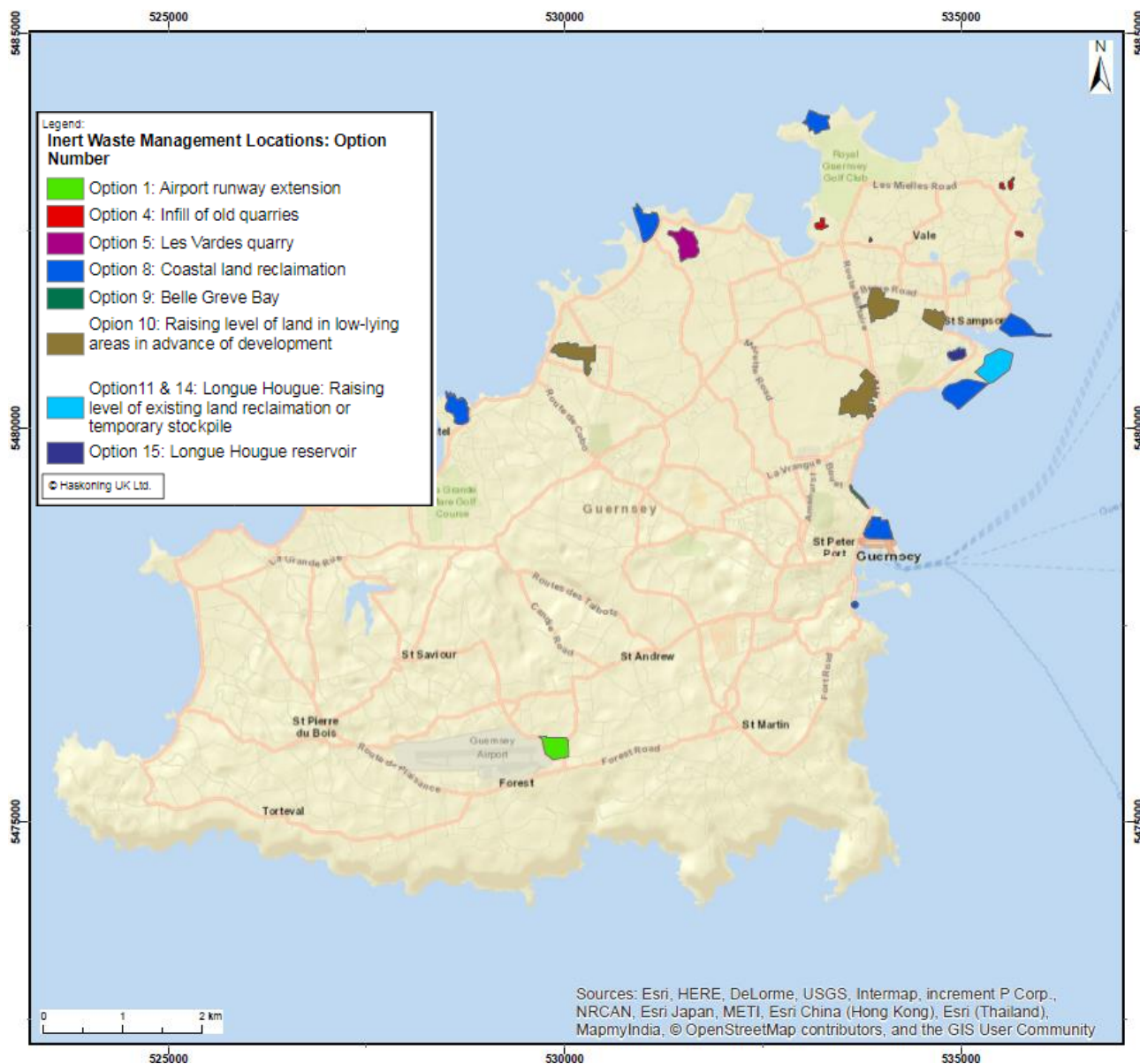


- 1.3.8 After the breakwater is constructed, the site will gradually be filled with Guernsey's inert waste. The capacity will be approximately 715,000 cubic metres, and how long it will take to fill will depend on the volume of inert waste generated each year. The prediction of 12 years is based upon the current amount produced, whilst improvements to recycling and re-using inert waste will help to extend the life of the facility.
- 1.3.9 It is expected that the site will be open in 2023/4.
- 1.3.10 The expected opening hours will be between 0800 to 1600 Monday to Friday. The site will not be open on weekends or Bank Holidays.
- 1.3.11 An alternative use will be found for the site once its function as an inert waste facility is complete. This has not yet been determined and will depend on the future requirements of the States of Guernsey. The EIA does not therefore consider the future use of the site, which will be subject to planning requirements and may require a separate EIA.

1.4 Alternatives

- 1.4.1 An assessment of alternative options and locations for inert waste management was carried out. This considered more than 50 potential options. From this 'long-list' of options, a number of potential options were screened out based upon practical and legal factors, to deliver an initial shortlist for more detailed consideration.
- 1.4.2 The shortlisted waste management options were evaluated for their environmental constraints, benefits and costs. The locations of potential disposal sites that were considered are shown on **Figure 5**. Alternative designs within the site were also assessed.
- 1.4.3 A high level impact assessment on the shortlist of options was carried out. It showed Longue Hougue South to have limited and manageable environmental impacts compared to other options. It also offers the largest capacity of the sites available in the necessary timeframe, and thus the cheapest cost per cubic metre of inert waste of any of the available options.
- 1.4.4 An added benefit will be increased coastal defence for properties behind Belle Greve Bay. Once full, it could provide added space for mixed or industrial use or other valuable uses required in the future. Land available for these uses is typically in very short supply in Guernsey.

Figure 5 Shortlist of Inert Waste Management Options Considered¹⁵



1.4.5 It should be noted that any future development at the site when it is completed may be subject to a separate EIA.

1.5 Legal Requirements

1.5.1 Guernsey has legislation and policy in place to ensure that an EIA is carried out in a consistent way to meet the needs of the island.

1.5.2 The Land Planning and Development (Environmental Impact Assessment) Ordinance, 2007 sets out the requirements for EIA for developments and policies relating to proposed developments. The type of development that the Longue

¹⁵ See Chapter 4 – references: Royal HaskoningDHV, 2017

Hougue South project falls into means that an Environmental Statement (ES) is required to accompany the application for consent to build it. The ES is the documentary evidence of the entire EIA process.

1.5.3 The approach to the EIA and the production of the ES must follow other legislation and consider other relevant best practice and guidance including:

- Land Planning and Development (Guernsey) Law 2005;
- Land Planning and Development (General Provisions) Ordinance 2007;
- Strategic Land Use Plan 2011 and the Island Development Plan 2016; and
- Relevant UK and EU Directives for environmental quality standards (such as The Bathing Water Directive, Directive on Environmental Quality Standards, Conservation of Habitat and Species Regulations 2017, Marine and Coastal Access Act 2009 and The Air Quality Directive).

2 Environmental Impact Assessment

2.1 The EIA Process

- 2.1.1 An EIA is a process of evaluating the likely environmental impacts (positive and negative) of a project to identify what the consequences (i.e. the effects) of it will be.
- 2.1.2 This is done by collecting information before the project starts, to set a baseline. Studies and expert advice are then used to predict what the change (i.e. **impact**) will be because of the project. The significance of that change determines the environmental **effect**. This is carried out over a wide range of environmental studies to ensure the project is fully considered.
- 2.1.3 A process known as ‘scoping’ is used to identify what environmental studies are required in the EIA for a project. Relevant topics fall under the three general areas of physical environment, biological environment, and human environment.
- 2.1.4 An informal scoping report was prepared and consulted on in February 2019 to inform the assessment.
- 2.1.5 A report is produced at the end of the EIA process. This is called the Environmental Statement (ES). The full Environmental Statement for this project will be submitted to the Development & Planning Authority for the development of a local planning brief and subsequent consideration of planning approval.
- 2.1.6 This non-technical summary is a separate document to the ES and summarises the EIA process and conclusions.

2.2 Assessment

- 2.2.1 To accurately assess the potential impacts of the development, the environmental parameters that might be impacted are identified and a baseline established. This is usually undertaken using existing data from a wide variety of sources, with site specific survey information to fill any gaps.
- 2.2.2 Impacts of the project are then assessed against this baseline. Receptors are identified as those that may be influenced by any effect. The assessment will consider the size or magnitude of the impact, the sensitivity and value of who or what will be impacted, and for what duration. This identifies the significance of an impact on a variety of receptors.
- 2.2.3 Where the effect of any impact is identified as significantly adverse, mitigation measures must be provided to reduce this. The assessment is then repeated with mitigation in place to identify what the ‘residual’ impact would be.

2.2.4 The EIA must also consider other plans or projects where impacts could overlap and/or affect the same environmental receptors. This is called a cumulative impact assessment.

2.2.5 The following sections describe the baseline environment and key impacts identified for each topic.

2.3 Coastal and Marine Processes

2.3.1 The site sits within a rocky bay exposed to waves and very strong tidal currents. A 570 million year old geological feature called St Peter Port Gabbro rock is present within the bay (**Figure 6**).

Figure 6 Photograph of the shore at Longue Hougue South

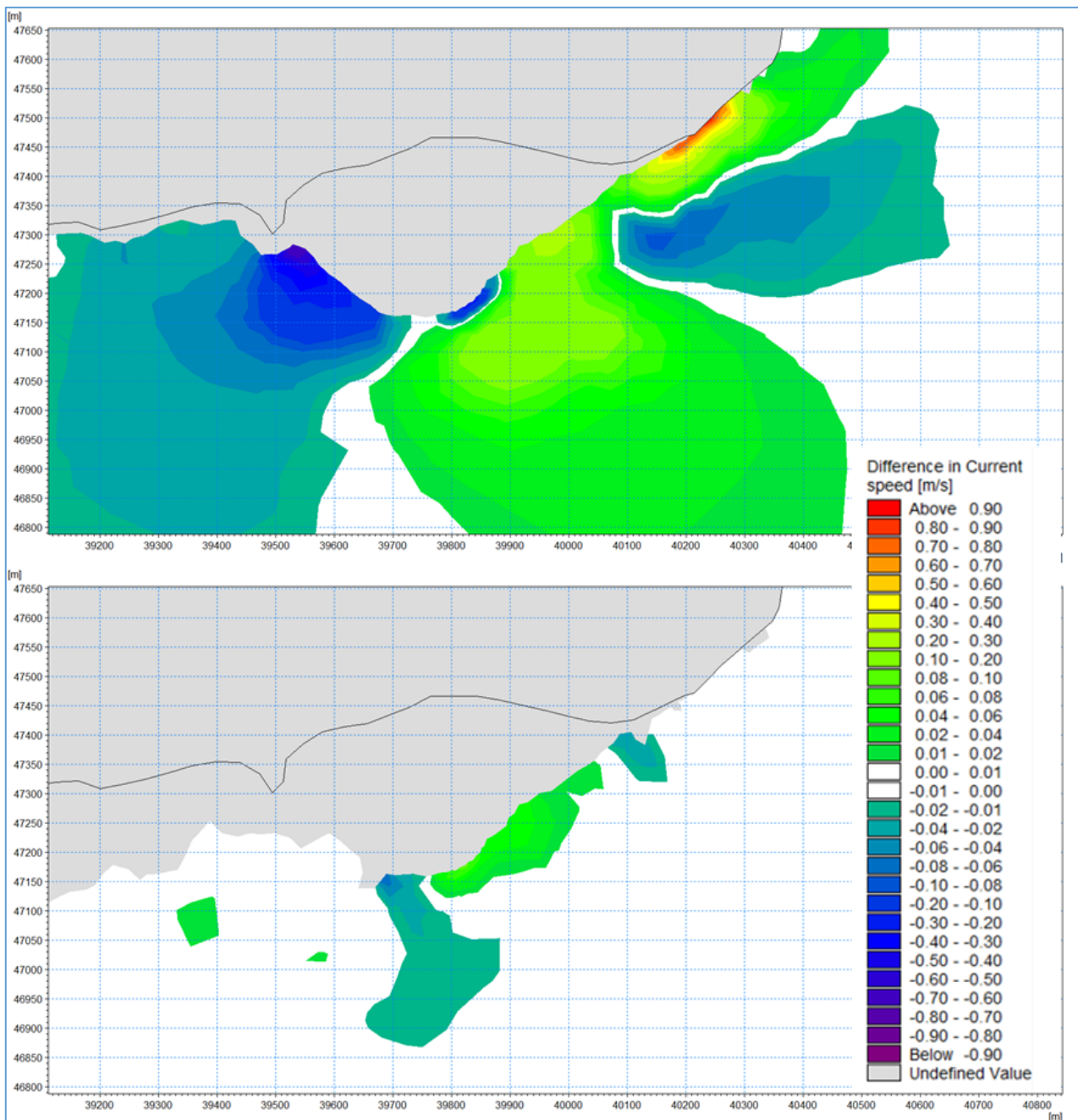


Note: The large dark grey boulder (centre) is St Peter Port Gabbro bedrock.

2.3.2 The interaction of the depth of the sea bed, the tides and local currents are complex. Experts therefore use computer modelling to establish the baseline and identify how the project will influence the coastal system. It uses data local to the area, including depths, wave conditions, current speed and direction, and predicted future sea level rise. A sea bed survey was also carried out at locations in and around the site.

2.3.3 First the model predicts what the current coastal environment is. Then, the project is introduced, and the model is re-run to see if there would be any changes to the local tidal currents, waves, and movement of sediment during and after construction. The results are shown in **Figure 7**.

Figure 7 Predicted changes in local tidal current velocity caused by the presence of the Project during and incoming spring tide (top) and during an outgoing spring tide (bottom)



2.3.4 The model predicts some potential changes to wave and tidal processes, but not sufficient to have a significant adverse impact to coastal and marine processes.

- 2.3.5 It shows both an increase and decrease in the speed of tidal currents after the breakwater has been constructed.
- 2.3.6 The current speed will increase in two areas - next to the breakwater and next to the existing Longue Hougue facility. The maximum increase in tidal current speed next to the breakwater is 20cm/sec. This speed increase rapidly decreases to 5cm/sec as you travel out to sea. Next to the existing Longue Hougue facility the maximum increase is 80cm/sec, which also decreases to 5cm/sec around 300m offshore.
- 2.3.7 The maximum decrease in tidal current speed was 60cm/sec at Spur Point.
- 2.3.8 These changes are very small compared to the normal current speeds seen around the site, which can be up to 270cm/sec. Any change is only felt very close to the site boundary and reduces towards the centre of Belle Greve Bay. There is no change predicted to the waters surrounding the Herm Ramsar site or across the approaches to St Sampson's Harbour.

2.4 Marine Sediment and Water Quality

- 2.4.1 There is potential for an increase in suspended sediment during the placement of the first layers of rock for the breakwater. However, given the lack of fine sediment in and around the construction area and the temporary nature of the impact, its effect is considered to be minor adverse and no mitigation is required.
- 2.4.2 Any contaminants present within seabed sediments could also be released if the sediment is disturbed during construction.
- 2.4.3 The project area comprises mostly bedrock. Samples were taken from the few small sandy areas present within and around the construction area and analysed to identify if there were any contaminants of concern. Only one sample point had an exceedance against the relevant standards¹⁶. It showed a marginally higher concentration of chromium compared to the trigger value. This was the only substance that exceeded the relevant trigger threshold.
- 2.4.4 At this sampling point, sediments containing low concentrations of chromium could be released into the surrounding marine environment. However, it is approximately 300m from the closest construction work, therefore unlikely to be affected by construction of the breakwater. The impact is therefore considered minor adverse, so no mitigation is required.

¹⁶ The Centre for Environment, Fisheries and Aquaculture Science Action Level 1

- 2.4.5 Marine vessels will be used for some elements of the breakwater construction. The spillage of mobile liquid pollutants (such as fuels and lubricants) is therefore possible. However, these will be carried in small quantities.
- 2.4.6 On land, good construction management measures will ensure the proper storage of potential pollutants. Emergency response procedures and equipment such as oil booms and silt traps will be kept onsite, with staff trained in their use. A Construction Environmental Management Plan (CEMP) will be produced to identify appropriate procedures to ensure there is no unacceptable harm to human health or the environment. No planned direct discharges are expected during construction so the risk of accidental pollution of the marine environment is deemed to be low.
- 2.4.7 Due to the nature of the waste facility, there is potential for fine inert material to seep through the gaps between the rocks in the breakwater into the marine environment, increasing suspended sediment and lowering water quality. A geotextile lining within the breakwater could be used to prevent this. In addition, or if use of a geotextile is not possible, selective placement of fine material further from the breakwater would reduce this risk. However, the coastal processes assessment has identified that if fine material does pass through the breakwater, the strong tidal currents around the site would disperse it very quickly. Therefore, the impact is predicted to be negligible.

2.5 Surface Water and Flooding

- 2.5.1 The site sits within an urban area and will be bordered by residential properties and Bulwer Avenue. Longue Hougue Reservoir is 300 metres to the north east. The project consists of reclaiming from the current land boundary out to sea, increasing the area of land present during the operation phase. This will be permeable so rain water and run-off will travel down through the site directly into the sea.
- 2.5.2 Although Guernsey is at risk from coastal flooding, the site is not within a current flood risk area (as it is located within the subtidal or intertidal zones). However, it is within an area similar to the existing Longue Hougue reclamation area that could be subject to coastal flooding in 2061 with sea level rise (**Figure 8**).
- 2.5.3 The receptors within the Surface Water and Flooding study area are of varying sensitivity and value. The marine water body is the most sensitive because of the species that are present within it.

Present day 1:250 year flood risk area

1: 250 year epoch 1
 1: 250 year epoch 2
 1: 250 year epoch 3

- ¹⁷ See Chapter 4 – references: *Royal Haskoning* (2012)

Centre at Longue Hougue is obstructed (over time), which would be prevented by extending the outfall.

- 2.5.6 Surface water changes from the site will have a minor impact to the marine water body through accidental release of contaminants.
- 2.5.7 The project will build upon the existing defences along the island's east coast. This will provide a positive impact through the raising of the current coastal defences, which is considered to be a minor beneficial impact based on professional opinion.

2.6 Land Use, Land Quality, Soil Quality, Geology and Hydrology

- 2.6.1 The site is within an area of foreshore and offshore and surrounded by an urban area, a key industrial expansion area, a harbour action area and an area of biodiversity importance (ABI) at Spur Point (see **Section 2.13**). Three residential properties sit adjacent to the project area and another is approximately 200m away. There are no sources of contamination or soils within the site. Beneath the land next to the site, water is found underground in pores and soil or pores and crevices in rock (groundwater), as the rocks are porous and saline water moves inland from the sea. No groundwater pathways between the coast and Longue Hougue Reservoir are anticipated.
- 2.6.2 Local and UK guidance¹⁸ regarding management of land contamination, control of asbestos, and management of health and safety in construction was used in preparing the EIA.
- 2.6.3 The assessment considered the known history of the site, its past use and the proposed future end-use (for the purpose of this EIA, 'end-use' has been assumed to be the site filled to completed levels, but with no subsequent operational activities on it). Impacts on construction workers and the general public from disturbance of potentially contaminated sites were considered to be of minor adverse significance. The use of Personal Protective Equipment (PPE) will mitigate any adverse impact on construction workers, and the CEMP will detail how the contractor will protect the environment during construction. This will be approved before work starts.
- 2.6.4 The St Peter Port Gabbro rock is unusual and is only found on the south east coast of Guernsey. The example at Spur Point will be lost as a result of the project, therefore the impact to geology is high. It is proposed that chunks / small boulders are removed from the site during the construction phase and placed around the southern boundary of the site. This will allow the public to see the interesting geology and maintain geologist access to the rock. The residual impact is therefore considered to be moderate adverse.

¹⁸ See chapter 4 – References: OEHPR, 2017; Environment Agency, 2016; SoG, 2013.

- 2.6.5 There will also be a loss of an ABI at Spur Point. Over the lifetime of the site as an operational inert waste management facility, with infilling activities occurring, there will be a change from coastal habitat used for recreation to open land with potential for other uses. Impacts on the ABI are considered in **Section 2.13 Marine Ecology** and **Section 2.14 Terrestrial Ecology and Ornithology**. Following the mitigation discussed in these sections and given that open land on the island is a finite resource, the residual impact is considered to be moderate beneficial.

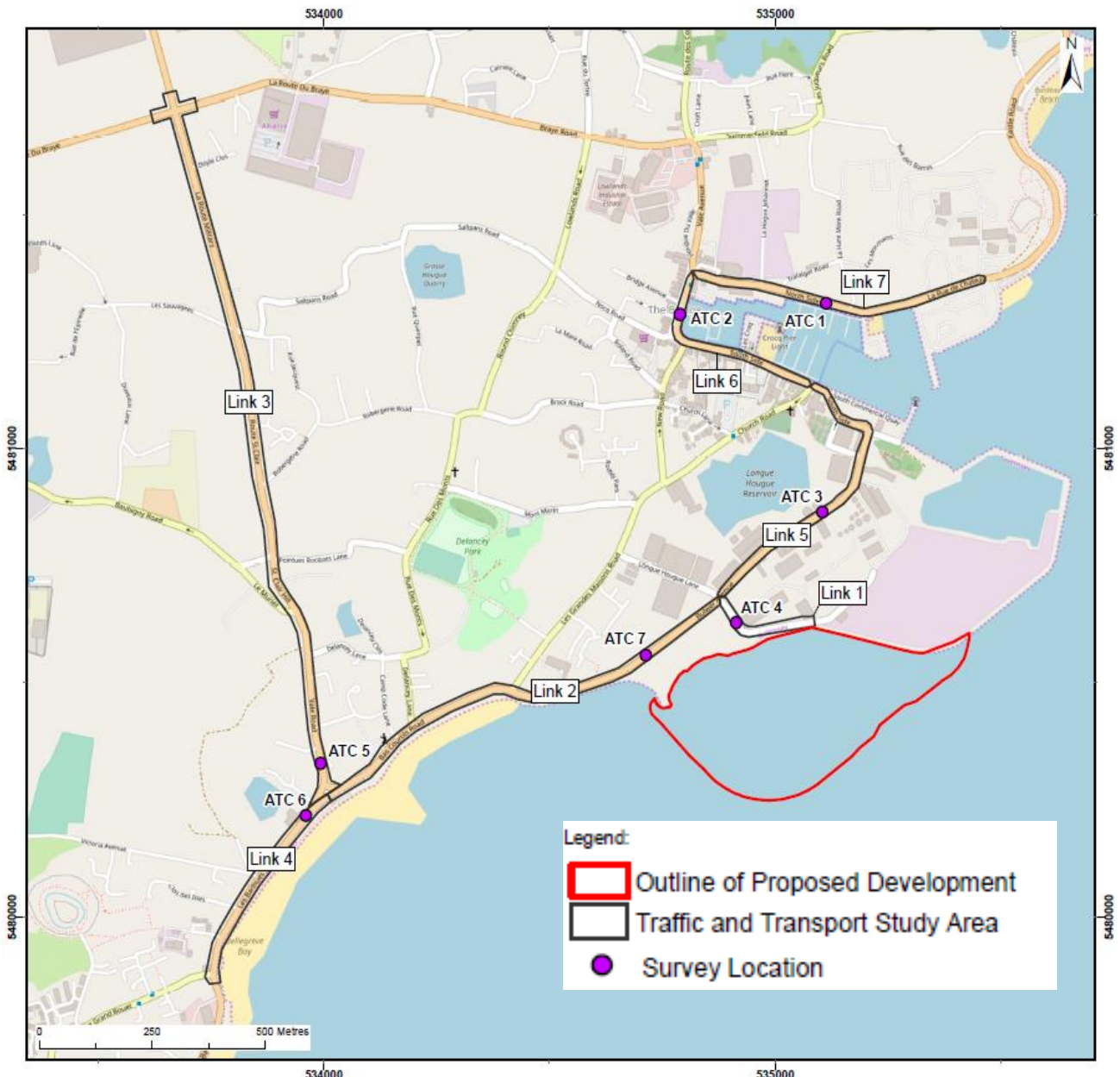
2.7 Traffic and Transport

- 2.7.1 Baseline traffic surveys were undertaken over seven days in April 2019, using automatic counters in a number of locations (**Figure 9**). Vehicle type, volume and speed were recorded 24 hours per day.
- 2.7.2 A prediction of future traffic volumes was produced using data provided by the States of Guernsey for the current Longue Hogue reclamation site. This was used to assess the potential increases on existing vehicle movements in the traffic and transport study area. These background traffic flows were obtained through a series of surveys in March 2019.
- 2.7.3 The assessment concluded that during the construction phase, the greatest daily increase in vehicles would be in Longue Hogue Access Road (a 6.2% increase in total vehicles and 9.7% increase in HGVs). For other roads this ranges from 0.3% to 0.8% and 2.5% to 6.9% for total traffic and HGVs respectively. Overall this would result in a temporary (and intermittent) minor adverse impact, and driver delays would not be discernible from current daily traffic fluctuations.
- 2.7.4 The maximum increase in vehicles during the operational phase of the facility is expected in the early years, with the volume of traffic subsequently decreasing in line with reductions in waste. In the worst case year, the maximum daily increase on the Longue Hogue Access Road is 9.4% for total vehicles and 36.6% for HGVs. The next largest increase is on Bulwer Avenue where the maximum daily increase would be 1.1% for all vehicles and 11.2% for HGVs.
- 2.7.5 The data was assessed in accordance with industry guidance¹⁹ to determine the potential environmental impacts from the introduction of the project.
- 2.7.6 An increase in traffic during construction and operation could increase road accidents. To understand the number of incidents that occur around the site, data on collisions reported to Guernsey Police in the last five years (2013-2018) was analysed. This showed 123 collisions within the assessment area - 5.7% involved HGVs, 76.4% caused damage only and 14.6% involved vulnerable road users. A

¹⁹ Guidelines for the Environmental Assessment of Road Traffic

concentration of collisions is present at the Halfway junction of Les Banques and Vale Road. This allowed the assessment to predict how an increase in traffic as a result of the project would affect the nearby road network.

Figure 9 Location of Traffic Counters and Traffic and Transport Study Area



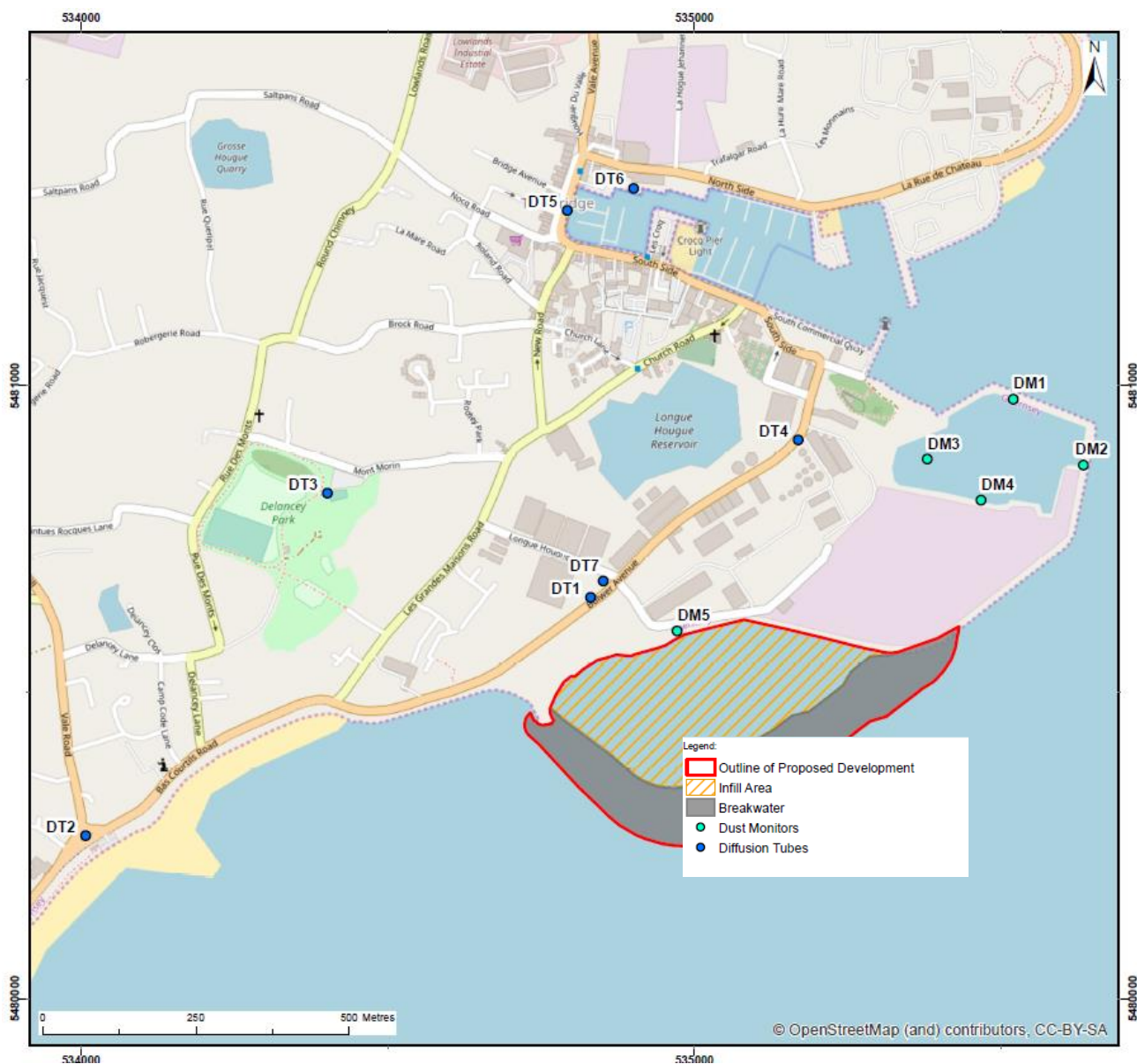
2.7.7 The assessments showed that a minor adverse impact on road safety (i.e. a slight increase in number of collisions) would be experienced. A minor adverse impact on driver delay is also predicted, but this is not likely to be distinguishable from current baseline traffic patterns. The impact on pedestrian and cycling amenity is considered to be negligible.

2.8 Air Quality

- 2.8.1 The air quality assessment covers chemicals, small particles and dust in the air. These are mostly caused by traffic and industrial activity. Guernsey does not have specific air quality standards and objectives, so the standards and objectives set in UK Law have been used in this assessment.
- 2.8.2 Sensitive receptors identified include local houses, human receptors and ecological sites.
- 2.8.3 Air quality at Bulwer Avenue, adjacent to the site is good, with both nitrogen dioxide (NO₂), particulate matter (PM₁₀ and PM_{2.5}) recorded as being 'well below' the objective identified in the UK guidelines.
- 2.8.4 Site specific monitoring of NO₂, PM₁₀ and PM_{2.5}, and dust was carried out for three months in seven locations in and around the site (**Figure 10**). Predicting future air quality around the project site is a complex process that must consider many factors such as wind direction and speed, and vehicle type and numbers. A computer-based model was therefore used. Any uncertainty in the model's predictions was minimised by following UK guidance²⁰.
- 2.8.5 Emission increases from road traffic during both construction and operation phases are predicted to be insignificant.
- 2.8.6 The dust assessment considers the abundance of sensitive receptors and their proximity to the site as well as the extent of dust-causing activities during construction and operation. It determined that without mitigation measures there was a high risk of impacts resulting from construction activities.
- 2.8.7 However, the project should have no impact on sensitive receptors if standard dust mitigation measures for a 'high risk' site are followed during construction and operation. These may include recording all dust or air quality-related complaints or incidents; a stakeholder engagement plan; erection of solid screens to minimise dust spread; and locating dust-causing activities as far from sensitive receptors as practically possible. These will be detailed in a Dust Management Plan.

²⁰ Defra, Institute of Air Quality Management (IAQM) and Environmental Protection UK

Figure 10 Air Quality Monitoring Locations



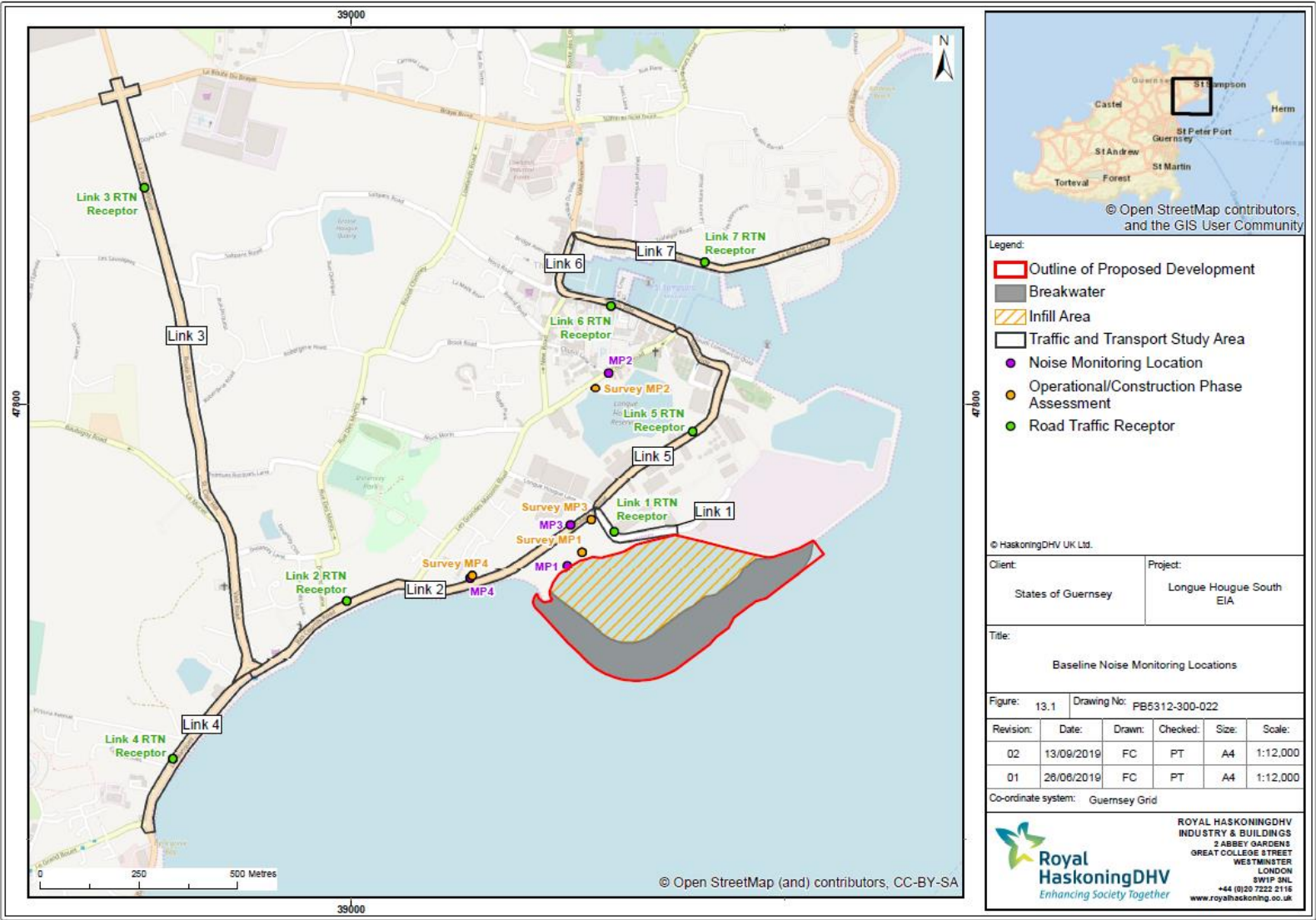
2.9 Noise and Vibration

2.9.1 The noise and vibration assessment was carried out in accordance with the relevant British Standard²¹, and traffic noise calculated in accordance with industry standard²². Noise monitoring points (MPs) were assigned at four locations that could potentially experience impacts (**Figure 11**), to measure the baseline and assess noise impacts resulting from the project.

²¹ BS 4142:2014+A1:2019 – Method for Rating and Assessing Industrial and Commercial Sound

²² The Calculation of Traffic Noise, 1988

Figure 11 Baseline Noise Monitoring Positions/Study Area Assessment Receptors



- 2.9.2 Without mitigation, a minor adverse impact was predicted for MP1 and MP2 during the construction phase for night-time work only. To mitigate this, a construction noise management plan will be implemented. This could include physical measures, such as locating on-site structures (e.g. cabins and walls) to screen sensitive receptors; logistical measures, such as restricting noisy deliveries to daytime where possible; and a community engagement process. Following these mitigation measures, the residual impact is considered negligible.
- 2.9.3 Changes in road traffic levels during construction and operation are predicted to have, at worst, a minor adverse impact on noise-sensitive receptors, so no mitigation is required.
- 2.9.4 Construction of the breakwater at its closest location is approximately 130m from receptor MP1. Vibration impacts from large construction vehicles driving over rough ground may occur. The impact on MP1 will be no worse than minor adverse.
- 2.9.5 During operation, various activities associated with both the site compound (e.g. crushing plant) and the infill zone (e.g. excavators, waste transporters) will produce noise that could have adverse impacts on adjacent residential areas. The operational noise from the site is predicted to have a minor adverse impact on MP1 (**Figure 11**), and of lesser significance for other residential receptors. To mitigate this, a 1.8m moveable barrier will be erected to attenuate noise that could be experienced at MP1 from infill tipping works. The residual impact is not considered to be significant.

2.10 Population and Human Health

- 2.10.1 The assessment of impacts on Population and Human Health was carried out in line with best practice guidance from the World Health Organisation (WHO) and Public Health England (PHE).
- 2.10.2 Impacts of increased industrialisation are discussed in **Section 2.12**, with respect to the landscape character change.
- 2.10.3 The infill of Spur Bay will result in the loss of habitat for birds and may therefore reduce birdwatching in the area. Some angling frontage along the seaward perimeter will also be lost. However, all birds recorded on site are common and there are many better birdwatching and angling locations around Guernsey, so these impacts are considered to be minor adverse.
- 2.10.4 The coastal path around the site is used to access the foreshore for ormering and for walking and would be lost as a result of the development. This length is a 0.56km stretch that ends on public highway. This is considered to be a minor adverse

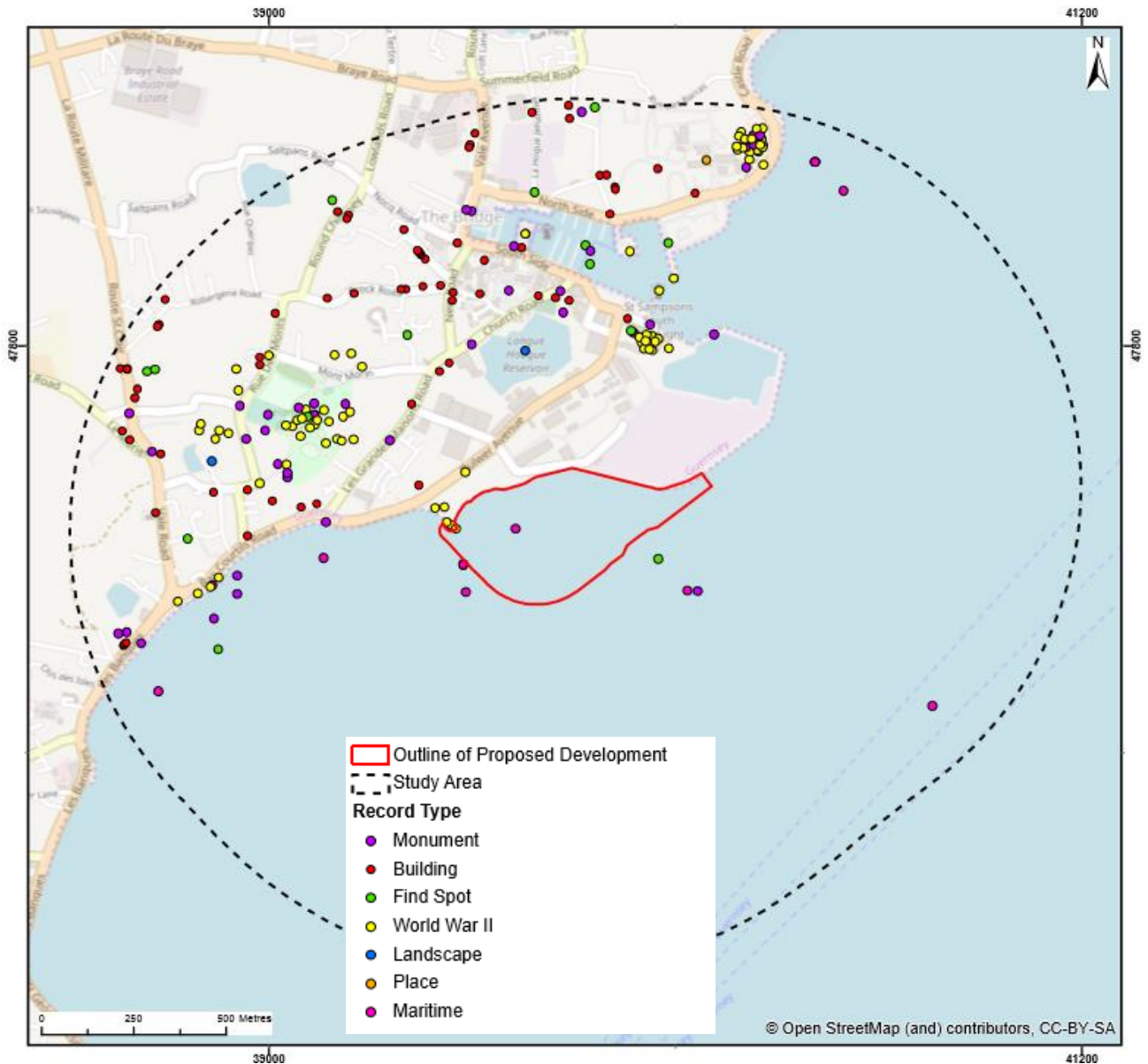
impact, along with the remainder of impacts on recreational resources which are considered to be negligible or of no significance.

- 2.10.5 There is a doctors surgery approximately 210m north of the site boundary. Presence of the construction site could potentially deter visitors from attending. However, the surgery is within a residential area and does not overlook the site, and there will be no barriers to access. The vast majority are therefore unlikely to change their behaviour therefore the impact is considered to be minor adverse.
- 2.10.6 Impacts on human health from traffic and transport impacts are predicted to be, at worst, minor adverse. These are discussed in further detail in **Section 2.7**.
- 2.10.7 Impacts on human health from air quality impacts are not predicted to be significant. These are discussed in further detail in **Section 2.8**.
- 2.10.8 Impacts on human health from noise and vibration impacts are predicted to be of minor adverse significance and are discussed in further detail in **Section 2.9**.

2.11 Material Assets (Archaeology, Built and Cultural Heritage)

- 2.11.1 The assessment of impacts on material assets was carried out based on the principles of the Guernsey historic environment policy.
- 2.11.2 There is no potential for prehistoric remains to be buried within the project area because the site is made up of rocks and very little sediment. There is also no geology recorded from the two most recent geologically significant time periods (Pleistocene and early Holocene epochs).
- 2.11.3 A search of the Guernsey Sites and Monuments Record found 215 heritage assets within a 1km study area (**Figure 12**). The majority were World War II military sites, followed by historic buildings and monuments.
- 2.11.4 The brig “*Sovereign*” is reported to have been wrecked near Spur Point in 1843, and although the exact location of any remains is unknown, documentary evidence suggests they could be located within the development site.
- 2.11.5 Construction of the breakwater will destroy the fragmented remains of a gun emplacement on the foreshore and change the physical context of its surviving foundation. However, it is currently in a poor state and without intervention will likely be lost to the sea in the near future. It has been suggested this asset could be recorded and preserved as part of the scheme, which would constitute a major positive impact.

Figure 12 Heritage Assets within 2km of the Site



- 2.11.6 A 'Protocol for Archaeological Discoveries' will be implemented during construction. This will ensure good practice is used to retain any finds in the best condition for further assessment and conservation where necessary.
- 2.11.7 During operation, there will be a minor adverse impact to previously undiscovered archaeological remains. There will also be a minor adverse effect on the surroundings in which nearby heritage assets are experienced (their 'setting').

2.12 Landscape and Visual Character

- 2.12.1 Site visits were undertaken to survey the site and its context to inform the landscape baseline and identify receptors and viewpoints. Potential impacts to views, setting and character areas were assessed through a Landscape / Townscape / Seascape and Visual Assessment, in accordance with best practice²³.
- 2.12.2 Effects from construction, such as lifting and other machinery, would not be out of context with the industrial setting of the surrounding area. The most affected receptors were the local rocky shore landscape, the adjacent residential properties, and users of the public footpath around the edge of the site. These would experience significant adverse landscape and visual effects during construction and operation.
- 2.12.3 It was concluded that road users, recreational users of Belle Greve Bay, ferry users, fishermen and recreational boat users will experience moderate adverse visual effects during construction and operation. Moderate and minor visual effects could be experienced by those that can see the site from their properties, the nearby road, boats or ferries, and from Salerie Battery, Beau Sejour leisure centre and Delancey Park. Minor adverse effects are expected on those that can see the site from Vale Castle or Fort George.
- 2.12.4 Receptors in and around the residential properties, along the coastal path, and on the road immediately adjacent may experience substantial adverse impacts on landscape and visual amenity. This is because views of the cove/sea will be progressively walled off and movement of machinery will reduce the peacefulness of the gardens, footpath and open space.
- 2.12.5 To reduce the magnitude of visual impact on Spur Point from other viewpoints, a recommendation has been made for the breakwater crest to tie in at the north-east corner of Spur Point. The crest and breakwater would then be situated behind Spur Point from views from the west. This would prevent the breakwater overwhelming and supplanting Spur Point, leaving the natural landscape feature. This measure would not perceptibly reduce the infill capacity within Longue Hougue South. The final design would incorporate this recommendation.
- 2.12.6 In addition, planting on the boundary of the site is recommended to further reduce visual impacts. This would entail low level salt-tolerant planting on the current coastline and tree planting on the private access road leading in to the site. Excavated St Peter Port Gabbro could also be placed on the boundary. It is recommended that the planting is monitored annually for several years, to ensure

²³ Landscape Institute and Institute of Environmental Management and Assessment 'Guidelines for Landscape and Visual Assessment' (third edition)

vegetation is established, and to review planting / landscaping opportunities as the site is infilled over time, in line with the potential end use.

2.13 Marine Ecology

- 2.13.1 The site sits within the Foreshore Area of Biodiversity Importance (ABI), which encompasses all intertidal habitat in the north of the island. It includes both terrestrial and marine habitats in the intertidal area and is an important consideration for the Project, because the area to be reclaimed is partly within the ABI. Some of this protected area will therefore be permanently lost.
- 2.13.2 An intertidal survey by Environment Guernsey in 2015 documented 20 different habitat types in the site area. These are typical of rocky shores that are exposed to waves and include lichens; red, brown and green seaweeds; barnacles; and limpets.
- 2.13.3 An intertidal and boat-based survey was undertaken in July 2019, using drop-down video and grab sampling to determine the subtidal and intertidal habitats in and around the site. The survey found broadly the same habitats. Maerl, a red coralline algae, was documented (290m) outside of the proposed breakwater structure.
- 2.13.4 A subsequent, more detailed series of surveys confirmed the presence of a moderate-size eelgrass bed within the site footprint. This is a rare and ecologically important habitat and provides nursery grounds for various fish species. There are however two other confirmed large eelgrass beds nearby in Belle Greve Bay, and eelgrass has been recorded in a further 37 locations around the coast. The bed within the site footprint represents less than 8% of confirmed eelgrass habitat (totalling more the 150,000m² at other surveyed locations around the island).
- 2.13.5 To mitigate for the potential habitat loss of eelgrass within the site, the current eelgrass beds should be translocated to an adjacent site, potentially within Belle Greve Bay, to provide compensatory habitat. The survival rate of eelgrass beds following initial translocation is considered to be 35%²⁴, although the bed may expand to its current size in the future. When the translocated eelgrass has been given time to recolonise to its original size or greater, the impact is considered to be negligible. Less than 5% of the eelgrass habitat present in Guernsey is expected to be lost temporarily, but the full extent is expected to be restored over time.
- 2.13.6 An Eelgrass Translocation Plan should be developed prior to any construction commencing, and a monitoring plan (for a period of at least 3 years following translocation) should be put in place to ascertain its success. Re-seeding can be implemented if significant areas die off within the translocated bed.

²⁴ See chapter 4 – References: MMO, 2019

- 2.13.7 Marine mammals, including common dolphin and grey seal, are occasionally seen in the waters around Guernsey, and there is a grey seal haul-out site on Herm. A key impact to all marine mammals from any marine activity is underwater noise. However, the activities associated with construction of the breakwater, including the placement of rock on the seabed, have not been found to generate underwater noise levels loud enough to cause any impact on marine mammals.
- 2.13.8 Another important factor to consider is the risk of collision with vessels. Due to the close proximity of the site to St Peter Port, any marine mammals would be accustomed to the presence of vessels and well adapted to avoiding collision. No significant impacts are expected.
- 2.13.9 Some of the ABI will be lost due to construction of the breakwater and infill area. As this will affect less than 1% of the overall Foreshore ABI, this impact is considered minor adverse and no mitigation will be required other than that mentioned above for specific species within this ABI.
- 2.13.10 Some intertidal habitat will be disturbed or lost as a result of the development, but it is a very small proportion of Guernsey's intertidal habitat and has not been identified as ecologically important. The impact is therefore classed as negligible, so no mitigation is required.

2.14 Terrestrial Ecology and Ornithology

- 2.14.1 There is potential for the loss of 500m² of scrub and grassland, and a length of dry-stone wall during operation as they lie within the site boundary. These form part of the Spur Point ABI, so this would be considered a major adverse impact. However, the majority of this habitat can be retained by agreeing an operational boundary for the infill and retaining a vegetated buffer. This would limit the loss to a small area of tamarisk on the shoreline only, so the residual impact would be negligible.
- 2.14.2 There are trees with potential bat roosts as close as 75m from the breakwater. Due to tidal constraints, some construction work must take place at night, during which light spill may prevent bats from foraging. This would be classed as a medium-term major adverse impact. However, positioning of lights will be considered during the detailed design phase to ensure no light spills onto the possible roosting area, so there will be no residual impact.
- 2.14.3 There is potential for some bat-foraging area to be lost (terrestrial and intertidal habitats). However, the intertidal area is not the preferred foraging area for pipistrelle and grey long-eared bats, the two species known to be present in the surrounding area. The impact is therefore considered negligible. Furthermore, agreeing an operational boundary for the infill and retaining a vegetated buffer (as detailed above) would result in no residual impact.

- 2.14.4 Grey long-eared bats avoid lit areas while foraging and are therefore susceptible to foraging disruption from light from night-time construction. This would be classed as a medium term major adverse impact. Consideration of light positioning in the detailed design phase will ensure light spill over avoids potential foraging areas so there would be no residual impact.
- 2.14.5 The construction and operation of the facility would result in the loss of 2,000m² of habitat for the scaly cricket, which is only found at a few locations through the UK and Channel Islands. Spur Point is one of 12 known sites across Guernsey with scaly cricket populations. The permanent loss of a rare, high-value species is considered as a major adverse impact. However, scaly crickets would be translocated to suitable alternative locations, thus maintaining overall population levels. Shingle from Spur Point would also be used to re-nourish other shingle habitats in Guernsey. The residual impact following these mitigation measures is considered as minor adverse.
- 2.14.6 There is no suitable habitat for slow worm within the site boundary, but some is present in the gardens adjacent to the site. Slow worm could therefore potentially be basking within the site during construction. They are of high ecological value so construction could cause a major adverse impact. A precautionary method of working will be prepared which advises contractors on what to do if a slow worm is discovered on site during construction. It would also be highly likely to move away from the site unaided if disturbed. Overall this will mean there is no residual impact.
- 2.14.7 There is potential for dust and particulate matter smothering during construction to have an adverse effect on coastal habitat that provides a feeding area for wintering birds. However, any dust will be washed away by the tide, so this is considered to be of negligible significance.
- 2.14.8 Construction works have the potential to indirectly disturb breeding birds in the scrub habitat around Spur Point. All wild birds are protected under the Animal Welfare Ordinance so any disturbance would be classed as a major adverse impact. If possible, works close to the scrub habitat will take place outside of the breeding season. If this is not possible, a 30m buffer of scrub adjacent to the working area will be removed, to prevent birds nesting before the season begins.
- 2.14.9 The noise impact assessment (see **Section 2.9**) suggested construction activities could have a moderate adverse disturbance effect on shag, oystercatchers, curlews, and sandwich terns. These are high value species, but the level of noise that would occur would only result in a low level behavioural response such as birds moving slightly to find suitable alternative habitat, which is available across Belle Greve Bay. To mitigate this disturbance, work on the westernmost 200m of the site could be

undertaken between May and September, avoiding the wintering birds season. If this schedule is followed, there would be no impact on these species.

- 2.14.10 Cormorant, a medium-value species, are also predicted to experience low-level noise disturbance. The impact of this is considered to be minor adverse.

2.15 Natural Capital

- 2.15.1 Natural capital is the world's stock of natural resources, which includes geology, soils, air, water and living organisms. It is from this natural capital that humans derive a wide range of benefits, often called ecosystem services, which make human life possible. The project is predicted to have both positive and negative impacts.
- 2.15.2 Small scale losses of angling frontage and coastal bird watching habitat are predicted as a result of the development. There will also be a small-scale loss of shell and stone resource and carbon sequestration (from eelgrass reduction).
- 2.15.3 A medium scale loss of landscape is predicted (see **Section 2.12**). Medium scale damage to a heritage asset will be offset by its preservation via protection from sea-level rise (see **Section 2.11**).
- 2.15.4 A small-scale improvement to flood defence is predicted because the breakwater will raise current flood defences and provide greater protection to infrastructure and properties adjacent to the site.

3 Summary

- 3.1.1 Significant impacts as a result of the construction and operation phases of the project identified in the ES are described in **Table 1** and **Table 2**.

Table 1 *Construction Phase Residual Impacts*

Topic	Impact	Residual Impact Significance
Marine Sediment and Water Quality	Deterioration in water quality due to increase in suspended sediment	Minor Adverse
	Release of contaminated sediments	Minor Adverse
	Accidental release of contaminants	Low Risk
Land Use, Land Quality, Soil Quality, Geology and Hydrogeology	Disturbance to potentially contaminated sites	Minor Adverse
	Disturbance to geological sites	Moderate Adverse
	Disruption to land use	Moderate Adverse
Traffic and Transport	Road safety	Minor Adverse
	Driver delay	Minor Adverse
Noise and Vibration	Road traffic noise	Minor Adverse
	Vibration from construction works	Minor Adverse
Population and Human Health	Recreational resources	Minor Adverse
	Community assets	Minor Adverse
	Human Health	Minor Adverse
Material Assets (Archaeology, Built & Cultural Heritage)	Impact on the setting of gun emplacement at Spur Point	Major Positive
	Impacts on the setting of heritage assets	Minor Adverse
Landscape Character and Visual Amenity	Effects on landscape character areas	Minor Adverse to Substantial Adverse
	Visual effects on viewers at recognised views	Negligible to Moderate Adverse
	Visual effects on receptor groups	Negligible to Substantial Adverse
	Visual effects from Conservation Areas	Minor Adverse
Marine Ecology	Habitat alteration	Negligible to Minor Adverse
	Changes to water quality and impacts on habitats and species	Negligible to Minor Adverse
	Collision risk with marine mammals	Minor Adverse

Table 2 *Operation Phase Residual Impacts*

Topic	Impact	Residual Impact Significance
Surface Water and Flooding	Reduced flood risk – surface waterbody, Infrastructure and property properties with and adjacent to the site	Minor Positive
	Alteration to land use	Moderate Positive
Traffic and Transport	Road safety	Minor Adverse
	Driver delay	Minor Adverse
Noise and Vibration	Road traffic noise	Minor Adverse
Population and Human Health	Recreational resources	Negligible and Minor Adverse
	Human health	Minor Adverse
Material Assets (Archaeology, Built & Cultural Heritage)	Direct impact on maritime and aviation archaeology below high water	Minor Adverse
	Impacts on the setting of heritage assets	Minor Adverse
Landscape Character and Visual Amenity	Effects on landscape character areas	Minor Adverse to Substantial Adverse
	Visual effects on viewers at recognised views	Negligible to Moderate Adverse
	Visual effects on receptor groups	Negligible to Substantial Adverse
	Visual effects on viewers in Conservation Areas	Minor Adverse
Marine Ecology	Loss of habitat in the Foreshore ABI	Minor Adverse
	Loss of intertidal habitat	Negligible to Minor Adverse
	Loss of eelgrass	Minor Adverse
Terrestrial Ecology and Ornithology	Loss of wintering bird foraging habitat	Minor Adverse
	Reduction in scaly cricket population	Minor Adverse

Topic	Impact	Residual Impact Significance
Natural Capital	Damage to a heritage asset offset by its preservation asset via protection from sea-level rise	Major Positive
	Loss of shell and stone resource	Small-scale Adverse
	Loss of angling locations	Small-scale Adverse
	Loss of bird watching habitat	Small-scale Adverse
	Loss of carbon sequestration	Small-scale Adverse
	Improvement in flood defence	Small-scale Positive
	Loss of bird watching habitat	Small-scale Adverse
	Loss of landscape	Small-scale adverse

3.1.2 The following impacts were found to be negligible or no impact, following the mitigation described where appropriate:

- Construction phase dust and particulate matter.
- Construction phase road traffic emissions.
- Operational phase road traffic emissions.
- Operational phase dust.
- Changes in suspended sediment concentrations due to the construction of the breakwater.
- Changes in sea-bed level due to the construction of the breakwater.
- Changes to the tidal current regime due to the presence of the facility.
- Changes to sediment transport and erosion / accretion patterns due to the project.
- Changes to the wave regime due to the presence of the facility.
- Increased suspended sediments – habitats.
- Increased suspended sediments – fish species.
- Increased suspended sediments – Maerl beds.

- Direct impact on maritime and aviation archaeology below high water.
- Direct impact on buried archaeology and cultural heritage assets above high water.
- Direct impact on all other World War II heritage assets.
- Direct impact conservation areas and built heritage assets.
- Indirect impact associated with changes to coastal processes.
- Direct impact on World War II heritage assets.
- Temporary habitat loss within Spur Point ABI.
- Indirect disturbance to terrestrial and coastal habitats from dust and particulate matter emissions.
- Direct impact to potential bat roosts.
- Visual disturbance to wintering birds.
- Noise disturbance to birds.
- Impacts upon prey species.
- Loss of intertidal and terrestrial bat foraging habitat.
- Potential for increased surface run-off – surface waterbody, infrastructure and property properties with and adjacent to the site.
- Reduced flood risk – surface waterbody, Infrastructure and property properties with and adjacent to the site.
- Pollution of surface waterbody due to accidental release of fuels, oils, lubricants and construction materials.
- Potential for increased surface run-off.
- Reduced flood risk.
- Temporary habitat loss / disturbance within Spur Point ABI.
- Terrestrial habitat loss within Spur Point ABI.
- Change to habitats in Herm, Jethou and the Humps Ramsar.
- Severance (the separation of people from other people and places by a major traffic route).
- Pedestrian and cycling amenity.
- Deterioration in water quality due to long-term changes in the hydrodynamic regime.
- Release of contaminated sediment during operation phase.

- Increase in suspended sediment concentrations during operation phase.
- Loss of small mammal, wall lizard and wintering bird habitat.
- Operation phase noise.
- Disturbance to fish habitats.
- Loss of eelgrass beds.
- Changes to marine habitats due to a change in tidal flow rates.

3.2 Cumulative Impact Assessment

- 3.2.1 Potential cumulative impacts have been considered with reference to other known proposed developments in the surrounding area. All key developments that are currently within the planning system have been screened. Most of the cumulative impacts are limited to noise, visual and traffic disturbance, if construction periods overlap.

3.3 Mitigation

- 3.3.1 Where possible, mitigation measures have been identified to reduce the severity of potential impacts during construction. A summary of these is provided below:
- Implementation of Construction Environmental Management Plan to prevent or respond to accidental spills and leaks;
 - Implement Asbestos Management Strategy and adopt cover layers;
 - Excavation and placement of St Peter Port Gabbro on the edge of the site;
 - Best practice dust minimisation and suppression techniques via the implementation of a Dust Management Plan;
 - Implementation of a construction noise management plan;
 - Use of a protocol for archaeological discoveries during construction;
 - Preservation of the World War II gun emplacement during construction;
 - Rock deposition by barge to occur at north-east end of the site;
 - Translocation and, if necessary, re-seeding of eelgrass in a suitable location;
 - Positioning of any lighting to avoid light spills along the landward boundary;
 - Precautionary method of working to be used;
 - Translocation of scaly cricket habitat to suitable location;
 - Consideration of timing to avoid the wintering bird period;
 - Management of breeding bird habitat to avoid disturbance.

3.3.2 Where possible, mitigation measures have been identified to reduce the severity of potential impacts during the operation phase. These are summarised below:

- Use of geotextile or prioritising placement of fines away from breakwater in the Site Operational Plan;
- Re-routing/protection of waste transfer station drainage;
- Best practice dust minimisation and suppression techniques
- Use of moveable 1.8m high acoustic barrier(s) when infilling activities are located within 100m of MP1;
- Planting of salt-tolerant trees and shrubs on the landward boundary of the site to reduce landscape impact;
- Revise design so the breakwater ties in to the north-east / east of Spur Point to reduce landscape impact.

3.4 Monitoring

3.4.1 It is recommended that the following is undertaken:

- Monitoring of the Construction Environmental Management Plan;
- Daily visual inspections of suspended sediment concentrations;
- Off-site visual inspections for dust; and
- Monitoring of the future use, site infilling activities and potential landscaping enhancements every five years;
- Eelgrass growth and health should be monitored annually for three years post translocation;
- Two years' monitoring of scaly cricket translocation.
- Noise monitoring when infilling activities are closer than 100m to the nearest receptor (MP1).

4 References

Environment Agency (2016). Land contaminated: technical guidance available here: <https://www.gov.uk/government/collections/land-contamination-technical-guidance>

MMO (2019). Identifying sites suitable for marine habitat restoration or creation. A report produced for the Marine Management Organisation by ABPmer and AER, MMO Project No: 1135, February 2019, 93pp

Royal HaskoningDHV (2017). Guernsey Inert Waste Management Strategy High Level EIA.

Royal Haskoning (2012). Guernsey Coastal Defences Flood Risk Assessment Studies. Volume I – Report. Report to States of Guernsey, March 2012.

Royal HaskoningDHV (2019). Longue Hogue South Environmental Statement.

States of Guernsey (2016). Health and Safety Executive Control of Asbestos Approved Code of Practice - The Health and Safety at Work (General) (Guernsey) Ordinance, 1987. Available here: <https://www.gov.gg/CHttpHandler.ashx?id=75204&p=0>

The office of Environmental Health and Pollution (OEHPR) (2017). Guidance - Planning Application: Contaminated land available here: <https://www.gov.gg/CHttpHandler.ashx?id=105675&p=0>

Appendix 2

Draft Inert Waste Strategy

1 Introduction

1.1 The States of Guernsey Inert Waste Strategy

1.1.1 This document sets out the strategy for the management of inert waste in Guernsey. This will complement the already approved Solid Waste Strategy.²⁵

1.1.2 The following sections set out:-

- The strategic context;
- A summary of the background research that has been used to inform the Strategy;
- The Strategy objectives and proposals; and
- Recommendations for monitoring and review.

1.2 What is Inert Waste?

1.2.1 There is a definition of inert waste contained in legislation²⁶ i.e. “waste” which:

- does not undergo any significant physical, chemical or biological transformations,*
- does not dissolve, burn or otherwise physically or chemically react, biodegrade or adversely affect other matter with which it comes into contact in a way likely to give rise to environmental pollution, and*
- has insignificant total leachability and pollutant content and the leachate of which has insignificant ecotoxicity (and, in particular, does not endanger the quality of any water)."*

1.2.2 Inert waste is produced from **excavation, construction and demolition** activities, and mainly comprises rubble, hard-core, concrete, bricks, tiles and other ceramics, clean soil, and mixtures of these items.

²⁵ Billet d’Etat IV 2012; Billet d’Etat II and XXVI, 2014; Billet d’Etat V and XXIV, 2017; and Billet d’Etat XI of 2018.

²⁶Waste Disposal and Recovery Charges (No. 2) Regulations, 2019 as revoked and replaced

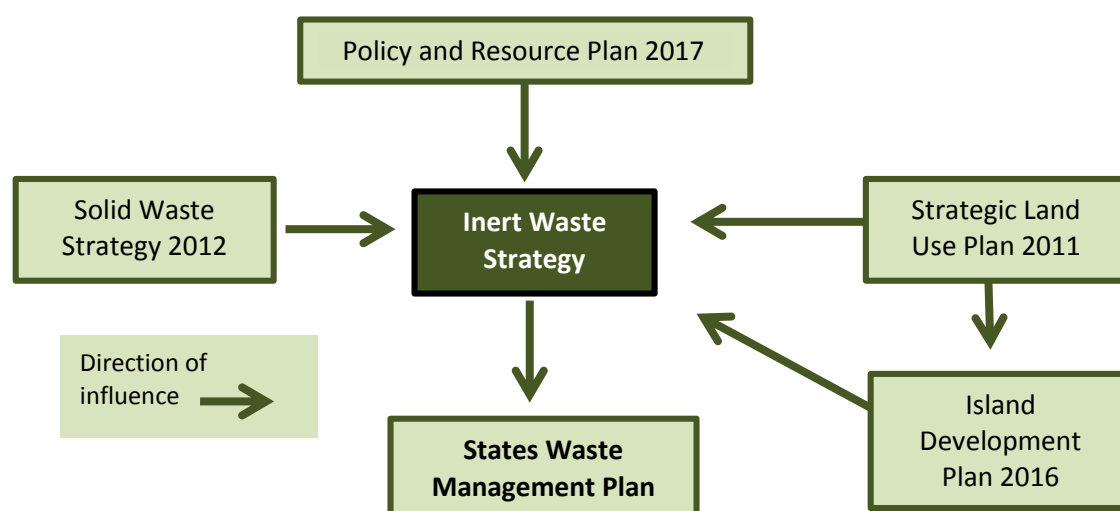
1.3 Why does the States of Guernsey need an Inert Waste Strategy?

- 1.3.1 In recent years, Guernsey has relied on coastal land reclamation to dispose of inert waste from construction and demolition activity. The Longue Hougue Reclamation Site, on the east coast of Guernsey, has received the island's inert waste since 1995. Recent surveys have indicated that the site is likely to be full by December 2022.
- 1.3.2 The Solid Waste Strategy is primarily focussed on the management of household and commercial waste. It focusses on disposal of inert waste and states that *"Future inert waste disposal will be reliant on further land reclamation projects"*²⁷, which is limited in outlook and does not provide a strategic or sustainable direction for the future management of inert waste. A Strategy is therefore required to formalise the States' position in relation to inert waste, which complements the approved Solid Waste Strategy 2012, and which will provide a framework for the future which can be taken into account by Islanders and businesses and against which sound investment decisions can be made.

2 Strategic context

2.1 The Strategic Framework

- 2.1.1 The Inert Waste Strategy sits within the existing related strategic policy and legislative framework that applies to the States of Guernsey (the States). This is summarised in the diagram below, along with the high-level relationships between individual elements.



- 2.1.2 The key policy instruments within the strategic framework, which have influenced the Inert Waste Strategy, are summarised below.

²⁷ Billet D'État No IV of 2012

2.2 The Policy & Resource Plan

- 2.2.1 The Policy & Resource Plan (P&R Plan), is a high-level strategic plan, developed in two phases, which lays down a framework of policy direction to guide the planning and coordination of the work of the States. It is the overarching policy tool which guides decision-making within the States.
- 2.2.2 Phase One of the P&R Plan was approved by the States in November 2016. This set out, at a high level, the vision for the Island in 20 years' time and what needs to be focused on over the next 5 years towards achieving the vision. Phase two of the P&R Plan was approved by the States in June 2017 and focuses in more detail on the priorities of the Principal Committees over the next 5 years to achieve the outcomes identified in Phase One.
- 2.2.3 The mandate of the (CfE&I) includes advising the States, and developing and implementing policy and strategy, regarding infrastructure and solid waste. Waste policy is one of five priority areas the Committee has identified as significant and critical to the delivery of the themes/outcomes in Phase One of the P&R Plan.
- 2.2.4 The CfE&I Policy Plan recognises the need for an overarching strategy for the management of inert waste which identifies optimal solutions for the management, use and disposal of Guernsey's inert waste over the next 20 years including waste minimisation and prevention, reuse, recycling and recovery as well as disposal. It promotes the waste hierarchy for the management of inert waste.
- 2.2.5 This CfE&I key priority is underpinned by a number of P&R Plan Phase One themes and objectives, including:
- "Strong, sustainable and growing economy"
 - "Mature International Identity"
 - "Ensure we have fit-for-purpose infrastructure to deliver services appropriately"
 - "Protect and enhance our natural environment".
- 2.2.6 The Inert Waste Strategy will also support the delivery of a key priority identified in the Committee *for* Economic Development's Policy Plan to: "Provide support to the construction industry through the active encouragement of strategic development and assisting in the removal of barriers to business, so that it can assist in the competitive and efficient delivery of sustainable economic growth"

2.3 Solid Waste Strategy

- 2.3.1 In light of best practice, the States have adopted the Waste Hierarchy²⁸ which is an internationally accepted principle and guide to sustainable waste management, as an overall approach to the management of all solid waste.
- 2.3.2 The Waste Hierarchy sets a high level priority order for the management of waste as: Prevention – Re-use – Recycling – Recovery – Disposal. (See diagram in section 5.4)
- 2.3.3 The States Solid Waste Strategy focuses on reducing residual waste (gradually increasing up to a 70% recycling target by the end of 2030) and prioritises measures to minimise the amount of household and commercial waste that requires treatment and disposal.
- 2.3.4 The Solid Waste Strategy sets out the objectives for the island's waste management, and as such sets the framework for management of inert waste.

2.3.5 The key provisions within the Solid Waste Strategy that are pertinent to the development of the Inert Waste Strategy are:

- Consider the waste hierarchy specifically for inert waste and adopt the most appropriate methods to manage inert waste;
- Land reclamation will likely be required for future inert waste disposal;
- A need to develop an environmentally, economically and socially sustainable waste strategy that is practicable and adaptable to meet Guernsey's needs currently and in the foreseeable future; and
- Ensure the Inert Waste Strategy complies with the legislative and planning processes for securing future sites.

2.4 Strategic Land Use Plan

- 2.4.1 The Strategic Land Use Plan (SLUP), issued in 2011, is a statutory document prepared by the former Strategic Land Planning Group²⁹ and approved by the States³⁰ and which formed part of the former States Strategic Plan. Responsibility for the review and preparation of the SLUP now rests with the CfE&I.

²⁸ Waste Hierarchy: Directive 2008/98/EC on Waste (Waste Framework Directive), Article 4.

²⁹ Under the terms of the 2005 Planning Law (Part II, Section 5). It was prepared by the former Strategic Land Planning Group; this function transferred to the CfE&I in the reorganisation of States' Affairs in 2016.

³⁰ Billet d'État No. XIX of 2011.

2.4.2 The SLUP sets out a 20-year agenda for land use planning in Guernsey, and provides a high-level spatial planning framework to guide the preparation of Development Plans, setting out detailed, specific policies in relation to the management of development under those Development Plans. Any options for the management of inert waste which are to be included within the Strategy must be consistent with the policies of the SLUP.

2.4.3 Specifically, the following, reflecting the purpose, core objectives and certain specific policies of the SLUP, have helped shaped the Strategy:

- Enable the wise management of island resources;
- Enable support for policies relating to conservation of energy and reduction of the carbon footprint;
- Development is undertaken in a sustainable manner ensuring care for the island's physical environment;
- Identify more sustainable approaches to waste management to reduce greenhouse gas emissions;
- Minimise the production of waste;
- Areas of land reclamation can enhance the roles of the Main Centres or be required to accommodate strategic development with a high environmental impact;
- Provide additional capacity by extending existing or providing new infrastructure;
- The location of strategically essential development should have first priority in existing and new areas of land reclamation
- Development plans must identify sufficient land for future solid waste treatment solutions and associated infrastructure.

2.5 Island Development Plan

2.5.1 The Island Development Plan (IDP), approved by the States in November 2016, sets out detailed land planning policies for the whole of Guernsey. It translates the high level SLUP policies into practice. The IDP's principal aim is:

"To ensure land planning policies are in place that are consistent with the Strategic Land Use Plan and which help maintain and create a socially inclusive, healthy and economically strong island, while balancing these objectives with the protection and enhancement of Guernsey's built and natural environment and the need to use land wisely."

2.5.2 As such, the IDP contains a number of policies with which the Inert Waste Strategy must be consistent, particularly regarding options for the management of inert waste:

- Development required to implement the State's Waste Strategy will be supported where it is in accordance with all relevant policies of the Island Development Plan.
- The IDP recognises that Longue Hougue Key Industrial Area is an established location for waste management, including disposal of residual inert waste and proposals for facilities at this existing site would, in principle, be supported provided they do not prejudice the long-term development of St Sampson's Harbour Action Area and accord with all other relevant policies of the Island Development Plan.
- Other than proposals for waste facilities at the current Longue Hougue Key Industrial Area, proposals for new waste facilities required as part of the States' Waste Strategy, including land reclamation will be considered Development of Strategic Importance and so would have to be considered, on a case by case basis, under the particular policies relating to such development.
- The IDP seeks to direct the development of other new waste management facilities towards designated Key Industrial Areas or Key Industrial Expansion Areas mainly within the Main Centres and Main Centre Outer Areas. However, under the policy for Development of Strategic Importance, proposals for waste management facilities required as part of the States' Waste Strategy located elsewhere on the Island can also be considered on a case by case basis.
- IDP policies for sustainable design and construction and minimisation of waste at construction sites require the production of site specific waste management plans for some developments. These plans provide a key tool in the implementation of this Strategy.

3 Current Situation and Challenges

3.1 Current Situation

Approach to Waste Management

- 3.1.1 The Solid Waste Strategy reflects the waste hierarchy. However this is currently focussed on the management of household and commercial waste, and provides limited information or guidance relating specifically to the inert waste stream. It states that “*Future inert waste disposal will be reliant on further land reclamation projects*”. It is recognised that this focusses on disposal and doesn’t provide a strategic or sustainable direction for the future management of inert waste for each of the levels of the waste hierarchy.
- 3.1.2 The local construction industry currently reuses, recycles and recovers some inert waste that is generated by building projects. However, data is only starting to be captured by which to quantify these activities, or to identify any waste prevention measures that may be being implemented.
- 3.1.3 The Inert Waste Strategy aims to resolve this via the effective use of data collected through the site Waste Management Plans³¹ required for some developments by IDP policies (see 3.1.20 below).
- 3.1.4 Residual inert waste is inert waste that cannot be reused or recovered and which cannot be recycled. This material is currently deposited at the Longue Hougue Reclamation Site.

Capacity and trends at Longue Hougue

- 3.1.5 The States has collected data on inputs into the Longue Hougue residual inert waste facility since 1998. To determine the remaining life of the site, a capacity assessment was carried out in spring 2017. This predicted a ‘best case’ future arisings of 70,000 tonnes per annum. The latest survey (at July 2019) has revised this figure to an average conservative estimate for future residual inert waste of around 80,000 tonnes per annum.

³¹ The site waste management plans described in the Island Development Plan are mandatory for some development projects during the demolition and construction phases on particular development sites. These are different from the Waste Management Plan which relates to the management of the disposal and recovery of waste on the whole Island.

3.1.6 The amount of residual inert waste arising is linked to activity in the construction industry. The volumes entering Longue Hougue have declined in recent years, and this trend is expected to continue due to a number of factors. These include uncertainty associated with general market conditions and the consequences of the UK leaving the European Union. However, it is acknowledged that an upturn in development generally and/or the identification and commencement of major strategic development requirements could significantly alter the trends. Furthermore, the cost of primary materials being produced locally and those being imported, and the costs associated with disposal, means developers are likely to re-use as much inert material for construction purposes as possible. This will be further influenced by waste prevention, minimisation, recycling and recovery measures introduced by this Inert Waste Strategy.

3.1.7 The most recent capacity assessment for the current residual disposal site at Longue Hougue predicted that the current site may reach the end of its operational life by December 2022. No matter how much of the inert waste stream is reduced, re-used or recycled, there is a strong business need for a recovery or disposal service for residual inert waste, as the Longue Hougue Reclamation Site is nearing capacity. There is an urgent need therefore to secure a replacement facility for the recovery or disposal of residual inert waste.

3.1.8 The States may also wish to divert residual inert waste, where it is required, to strategic projects that may come forward including land reclamation. These may take immediate priority and will help to divert inert waste (if only for a short period of time) from more permanent solutions but a different economic model may be required as a result as this could affect the time period for the recovery of capital investment for a core facility.

Best Practicable Environmental Option process

3.1.9 To fulfil the requirement for inert waste management, a wide range of potential options have been considered to identify preferred future solutions. This optioneering process provided the methodology for the formulation of the Inert Waste Strategy, and used the Best Practicable Environmental Option (BPEO) process to identify the most appropriate approach. The methodology adopted to identify the BPEOs has at its core the protection of the environment. This is consistent with the general scheme of the Environmental Pollution (Guernsey) Law, 2004 ("the Environmental Pollution Law") which relates to protection of the environment across land, air and water and defines pollution of the environment to include harm to human health and other living organisms. In the UK, the accepted interpretation of the similar term "Best Practicable Environmental

Option" is "*the option that provides the most benefits or the least damage to the environment, as a whole, at acceptable cost, in the long term as well as in the short term*". A process was, therefore, adopted in identifying the BPEOs for management of inert waste, which is broadly based on the UK BPEOs process whilst taking into account the differences in the local legislation and circumstances.

- 3.1.10 The BPEOs procedure establishes, for a given set of objectives, the option that provides the most benefits or the least damage to the environment, as a whole, at acceptable cost, in the long term as well as in the short term. It is important to note that the designated States Waste Disposal Authority (WDA) (the STSB is currently designated) has a legal responsibility to identify the 'Best Practical Environmental Options' (BPEOs) for the recovery or disposal of waste, as required by the Environmental Pollution (Guernsey) Law, 2004³².
- 3.1.11 The WDA appointed Royal HaskoningDHV to undertake a High Level Environmental Impact Assessment and options assessment to assist in identifying a short list of options and a 'preferred way forward', using established 'BPEOs' methodology.
- 3.1.12 An original long list of 50 indicative options, ranging from off island solutions of exporting the waste or disposing of it at sea to on island solutions including a review of all existing quarries were independently assessed and screened against local constraints such as existing use, capacity and whether any protected designations or particular constraints apply to the site. This initially identified those options that were unviable due to capacity limitations, land use limitations, and/or a policy, regulatory, financial and logistical restrictions. This initial screening ruled out certain options, including export of residual inert waste and disposal at sea.
- 3.1.13 The remaining on island options were then assessed using BPEOs evaluation criteria. These criteria included the economic, social and environmental implications of each option, using an appropriate assessment framework for Guernsey. This enabled the initial long list to be filtered down into a short list and a preferred way forward identified for the Inert Waste Strategy.
- 3.1.14 The criteria used for the BPEOs assessment, and the weighting factors applied to each criteria, were reviewed at stakeholder workshops in April 2017. The feedback from these were considered and appropriate adjustments were made to the criteria and weighting.
- 3.1.15 Based on the environmental and cost and affordability criteria selected options were identified as 'leading options' by virtue of their BPEOs score. None contained a major negative environmental constraint.

³² See section 30 (l) (d)

- 3.1.16 The options were further evaluated by a sensitivity analysis; and a workshop was staged for stakeholders in July 2017 to conclude a short-list of strategic options.
- 3.1.17 The sensitivity analysis has led to a revised ranking of the medium list of options, which consists of new residual site options, behavioural change options and temporary measures.
- 3.1.18 The management of inert waste will not focus on one residual site as a sole 20 year solution. The objectives of the Inert Waste Strategy will be achieved by a combination of solutions that take into account behavioral changes and new facilities in the most appropriate location.
- 3.1.19 The BPEOs process is reported in the States of Guernsey Inert Waste Management Strategy the States of Guernsey Inert Waste Management Strategy - Options Report - Stage 1, Task 3 (Royal HaskoningDHV, 2017). The recommendation of the evaluation was that on-Island land reclamation and infilling existing quarries would be the most appropriate method for residual inert waste management for Guernsey.

The Role of Site Waste Management Plans

- 3.1.20 The IDP sets out a requirement for the mandatory use of site waste management plans for some development projects during the demolition and construction phases. These include demolition and rebuild of dwellings on a one for one basis, the demolition and rebuilding of redundant buildings or dwellings that have permission to be subdivided, or where development is for five or more dwellings or for any development of a minimum of 1,000 square metres floor area. These plans demonstrate how waste associated with the development process is to be dealt with and will provide a detailed breakdown of estimated waste arisings, and demonstrate how it will be minimised, reused or recycled / recovered (on or off the site), and how any residual will be dealt with.
- 3.1.21 The site waste management plans are fundamental to the implementation of the inert waste hierarchy and recording of inert waste data and therefore the success of the Strategy. They will help establish a baseline of how inert waste is managed in accordance with each step of the hierarchy.
- 3.1.22 Guidance has been issued by the Development & Planning Authority on how these plans should be completed.

3.2 Challenges

- 3.2.1 The development of the Inert Waste Strategy has presented a number of challenges, some of which have had an influence on the eventual outcome. Some of the key issues encountered are summarised below, along with any impacts.

Table 3.2 Challenges encountered in the development of the Inert Waste Strategy

Challenge	How this influenced the Strategy
Absence of data	There is no baseline data for inert waste other than residual deposits at Longue Hougue and recycled aggregates produced by Island Aggregates. The Strategy has identified the use of site waste management plans as the primary means of future data gathering.
Timescales for implementation	The estimated remaining lifespan for the Longue Hougue site of approximately 2 years means an 'interim' solution is likely to be required to maintain residual inert waste management until a new solution is available. Consequently the Strategy has also identified options for the short term.
Regulation	The existing strategic framework for waste management sets the context for the Strategy. It will fill a perceived gap in the Solid Waste Strategy regarding inert waste. The consideration of options must follow the required environmental impact assessment processes.
Waste hierarchy	Currently, inert waste is managed across all elements of the hierarchy, but there is a lack of information on how much is managed through prevention, reuse, recycling and recovery. The standard waste hierarchy definition of disposal would include land reclamation. However, in the Guernsey context, it is considered that there is overlap with recovery due to the potential benefits associated with land created through reclamation (see below). The Strategy addresses this by adjusting the hierarchy in relation to inert waste.
Market	By adopting the waste hierarchy, the Solid Waste Strategy has provided a framework for increasing reuse and recycling options on the island. The Inert Waste Strategy will include an inert waste hierarchy. New opportunities may become available for the construction industry as a consequence.
Best Practice	Learning from best practice in other islands, such as setting realistic targets, providing temporary facilities to provide interim solutions and adopting relevant approaches to the waste hierarchy in accordance with Guernsey legislation having regard to EU law and guidance on the principle which derives from EU legislation.
Strategy lifespan	Prior to stakeholder engagement, an initial Strategy period of 20 years was proposed. Feedback from consultation asked for a much longer timeframe (i.e. 50-60 years) to ensure the Strategy was aligned with estimated lifespans for buildings. It was decided to retain the 20 year plan due to the major uncertainties in planning at such a protracted timescale.

- 3.2.2 The existing situation regarding inert waste management on the island and the challenges which the island faces present a series of drivers for change which have influenced the development of the Inert Waste Strategy.

Table 3.3 Main drivers influencing development of the Inert Waste Strategy

Main drivers influencing development of the Strategy
<ul style="list-style-type: none">• A gap in the strategic policy for waste management for Guernsey meaning inert waste is not adequately covered by the existing strategic framework;• Uncertainty over the future scenarios for inert waste management brought on by a lack of robust data on the issue;• A lack of understanding of the potential value of residual inert waste to strategic projects and the potential value of land created;• An absence of public awareness of the need to manage inert waste higher up the waste hierarchy;• Inconsistency in how the industry adopts the waste hierarchy for inert waste;• A finite life for the existing residual inert waste management facility at Longue Hougue and the need for the development of a new solution.

4 Consultation & Learning from Best Practice

4.1 Consultation

- 4.1.1 The Inert Waste Strategy has been subject to a consultation process in order to ensure that States bodies, non-Governmental Organisations (NGOs) and the private sector are involved in the process of developing the Strategy. Consultation has taken the form of stakeholder workshops and requests for feedback on a stakeholder consultation document covering the evidence base and approach to developing the Strategy, the Strategy itself, and the options which comprise the Strategy. The following stakeholder consultation activities have been conducted during the development of the Inert Waste Strategy:

Table 4.1 Stakeholder consultation undertaken to inform the Strategy

Activity	Dates (2017)	Stakeholder Groups Involved	Focus
Options Appraisal workshop	6 April	States bodies, NGOs, private sector representatives	<ul style="list-style-type: none"> • Presentation of the long-list of options to stakeholders. • Priorities when selecting preferred options. • Stakeholder comments on the long-list of options. • Stakeholder comments on the methodology used to achieve the long-list.
Stakeholder Consultation Document	15 May to 5 June	States bodies, NGOs, private sector representatives	<ul style="list-style-type: none"> • Identification of weighting for environmental criteria used in the BPEOs process. • Formal written feedback on the appraisal process.
Inert Waste Strategy development workshop	26 July	Members of the STSB and CfE&I, States bodies, NGOs, Construction Industry & other private sector representatives.	<ul style="list-style-type: none"> • Presentation of the approach to the Strategy to stakeholders. • Assessment of current positions regarding inert waste management. • Review of hierarchical options for inert waste. • Identification of constraints to inert waste management.

4.1.2 The stakeholder consultation process was used to influence decisions made during the development of the Inert Waste Strategy, especially decisions surrounding the selection of the short list of options and the relative importance of the environmental and technical criteria used to make this selection. The table below summarises the key recommendations from the stakeholder workshop which have influence decisions made with the Strategy.

Table 4.2 Outcomes of stakeholder consultation on the Inert Waste Strategy

Outcomes of stakeholder consultation on the Strategy
<p>BPEOs process</p> <ul style="list-style-type: none"> • Weighting for environmental criteria used in the BPEOs were modified, with affordability being given greater weighting. • Socio-economic value was seen as important, but there were questions about how this is valued and how it can be measured. <p>Waste hierarchy & the Strategy</p> <ul style="list-style-type: none"> • Requests for allowance to be built into the adoption of the waste hierarchy to 'flex' it for inert waste. • Recycling - material is not always available when needed. • Targets for site-specific development were not identified as important, but collection of inert waste data was. It was anticipated that 2-3 years' worth of data should be collected before targets can be developed. • Timescales – 20 years is considered relevant for a Strategic purpose, but there needs to be a longer-focussed vision in the strategy up to 60 years hence factor in a 5 year review to consider the lifecycle of buildings and lack of natural stone or raw materials as a critical factor for the future. <p>Options for inert waste management</p> <ul style="list-style-type: none"> • The lead-in time for the options is important. • The need for industrial land in selected areas is identified as part of the 10 year plan. • Consideration of whether inert waste can be diverted to States strategic development/projects • Impact on quarrying by any strategic approach is viewed to be negligible.

4.2 Learning from Best Practice

4.2.1 Lessons can be learnt from the approach to inert waste management adopted by other island communities. Research into the waste management strategies was undertaken to determine if there were any island related best practice measures that could be adapted to suit the issues on Guernsey. The islands considered were:

- Iceland
- Isle of Man
- Jersey
- Malta
- St Helena

4.2.2 The following observations relevant to inert waste management on Guernsey were derived from the review of policies adopted by other island communities:

- None of the islands had a dedicated inert waste strategy upon which Guernsey could model its approach. Only one island included reference to inert waste within its strategic waste management policies. Therefore, the adoption of this Strategy for inert waste would be considered best practice amongst its peers;
- In all islands reviewed, there appeared to be links between waste policy and planning policy;
- Only those islands which referred to EU legislation had targets for both waste and inert waste and these were the same as the EU targets for 2020 set at 70% for reuse, recycling or recovery by other means (with one exception which had a 90% diversion from landfill target);
- All islands referred to a waste hierarchy;
- Research shows that there is evidence that others have made reference to amending the internationally accepted waste hierarchy to suit the requirements of specific island communities, and the environmental impacts of each option;
- A number of islands have seen a shift change in promotion of the waste hierarchy via targeted education;
- An option to consider is the use of temporary residual inert waste facilities if any new residual facility cannot be brought on line by the time the current Longue Hougue facility becomes full; and
- Research indicates that development led site waste management plans are likely to result in decreased quantities of residual inert waste sent to reclamation facilities.

5 The Inert Waste Strategy

5.1 Overview

- 5.1.1 Although the Inert Waste Strategy generally promotes the waste hierarchy adopted for household and commercial waste set out in the Solid Waste Strategy this does not fit exactly to the circumstances for inert waste for Guernsey. Therefore, this Strategy includes a revision to the waste hierarchy for inert waste for Guernsey, to adjust it to facilitate the sustainable management of this waste stream over the next 20 years.

- 5.1.2 In doing so it recognises the potential value of land created through land reclamation and infilling quarries and of the potential value of residual inert waste to strategic developments, where it is required, and other development projects. The reasons for the changes to the hierarchy for inert waste are set out below. The Strategy includes solutions to manage residual inert waste which cannot be prevented, reused, recycled or otherwise recovered when the current Longue Hogue facility becomes full.
- 5.1.3 The Strategy is set out to include short term interim solutions and a medium and long-term phase to cover the next 20 years. Although feedback from consultation workshops considered a much longer timeframe (i.e. 50-60 years) was appropriate it is considered that the 20 year horizon of the Strategy is nevertheless appropriate due to the major uncertainties involved with planning at such a protracted scale. The Strategy does include, however, recommendations for regular monitoring and review which will inform the future needs beyond the 20 year timeframe.
- 5.1.4 The approach has been informed through consultation and feedback with stakeholders and through careful consideration of current policy and legislative requirements as core principles.
- 5.1.5 The development of the Inert Waste Strategy has been particularly mindful of current ongoing work on other strategic projects and programmes, for example the Hydrocarbons Programme and the development of St Peter Port Harbour Action Area. The Strategy is intended to compliment and facilitate other Strategic projects and ensure that the potential benefits and value of land created to other strategic projects is taken into consideration when identifying future preferred ways forward.

5.2 Objectives

The key objective of the Inert Waste Strategy is to identify a preferred way forward that achieves the following:

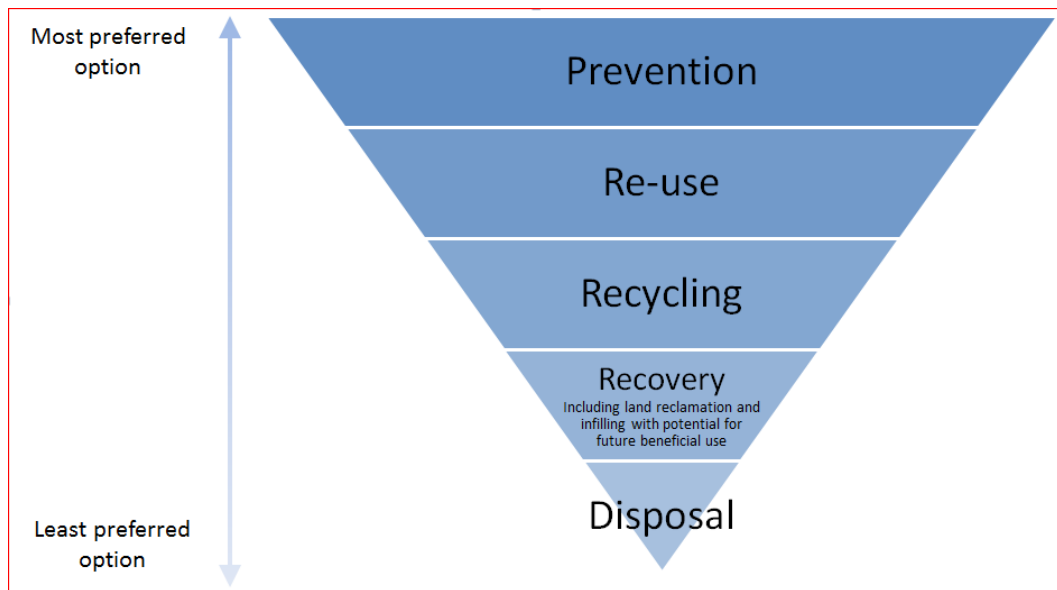
- Striking an appropriate balance for Guernsey between delivering sustainable levels of waste minimisation/reduction, reuse and recycling and minimising residual inert waste for disposal;
- Identifying the best practical environmental options;
- Satisfying the needs of the island;
- Taking into account the views of stakeholders and interested parties; and
- Representing best value for money.

5.3 The Inert Waste Hierarchy

- 5.3.1 As explained above the waste hierarchy adopted for household and commercial waste set out in the Solid Waste Strategy does not fit exactly the circumstances for inert waste for Guernsey.
- 5.3.2 In the Guernsey context, it is recognised that, even if not identified at the project's inception, land created by land reclamation and infilling existing quarries potentially has a significant beneficial value in the future, and therefore where land reclamation and infilling existing quarries has potential future value these should be situated higher up the hierarchy than a site with no or little potential for future use which is simply a disposal site.
- 5.3.3 The waste hierarchy reflects international best practice as defined in the European Waste Framework Directive³³; however, this also provides scope for deviation from the hierarchy to encourage the options that deliver the best overall environmental outcome. In developing the Inert Waste Strategy, the specific set of circumstances (i.e. the needs of Guernsey) for a specific waste stream (inert waste) have been taken into account to recognise that this waste is a potential resource in the island context.
- 5.3.4 Based on all the research undertaken it is considered that there is latitude to depart from the hierarchy for land reclamation and infilling of existing quarries where there is beneficial value so that they are treated as elevated up the hierarchy and prioritised where they meet the requirements that are specified in the Inert Waste Strategy and would deliver the best overall environmental outcome and that this will not conflict with the overall aims and objectives of the waste hierarchy or of the Solid Waste Strategy.
- 5.3.5 This approach also reflects the references to land reclamation in the SLUP which highlights the potential to enhance the roles of the Main Centres or to accommodate strategically essential development or otherwise enable the objectives of the SLUP to be met through land reclamation.
- 5.3.6 Similarly where inert waste can be diverted to strategic developments, or other developments, where it is required, it has a beneficial value which should be reflected in the position in the hierarchy.

³³ European Directive 2008/98/EC on Waste, Article 4

5.3.7 The Strategy therefore proposes the following waste hierarchy for inert waste on Guernsey:



Site Waste Management Plans

5.3.8 Site waste management plans will be the main tool to promote the inert waste hierarchy. They will focus on providing measures to manage construction projects so that waste is managed in accordance with the hierarchy to encourage:

- Effective design and stock control;
- Reuse and refurbishment of existing infrastructure;
- Use of reclaimed materials and products;
- Use of renewable materials;
- Recycling of construction, demolition and excavation waste; and
- Procurement of products and materials with good practice levels of recycled materials.

5.3.9 Guidance has been issued by the Development & Planning Authority (DPA) to engage and inform the construction industry and other parties involved with building projects to ensure that these plans are completed in a consistent way. This has been developed in consultation with the Construction Industry Forum.

5.3.10 This will not only deliver a consistent approach to the inert waste hierarchy but will enable the collection of data that will further influence decision-making on future targets and management options for inert waste as the Strategy beds in.

5.3.11 The Strategy promotes the following hierarchical approach for inert waste:

Prevention

- 5.3.12 Waste minimisation in the construction industry involves measures to design out waste prior to construction to minimise the consumption of finite natural resources as well as planning to limit waste arisings during the construction phase of a project.
- 5.3.13 It is recognised that measures for prevention can only go so far and that there will be inert waste arisings that require management according to other hierarchical options.

Re-use

- 5.3.14 The relevant approaches to re-use would be where an item or materials have carefully been removed with a specific purpose of being reused again for the same purpose, following minor treatment. This would include cleaning mortar from bricks and granite, or grout from fully intact tiles to enable these items to be used again, particularly where there is a specific characteristic of the materials that would support maintaining the relevant character of a building.
- 5.3.15 There is some limited evidence that this approach is already carried out on the island but further measures are required to collect data and improve this where practical.
- 5.3.16 However, reuse cannot be applied to mixed inert wastes, such as general hard-core and clean soil. These represent the majority of inert waste arisings, so hierarchical measures would need to focus on maximising recycling and recovery measures, in accordance with the needs of the island.

Recycling

- 5.3.17 The aggregates industry on the island are actively involved in recycling inert material as part of construction and demolition projects, particularly the recycling³⁴ of 'above-ground' materials, such as rubble, hard-core and mixtures of concrete, bricks, tiles and other ceramics. Such activities are covered by the waste licensing regulations to ensure the recycling is carried out in a manner that does not pose an unacceptable risk to human health or the environment. The States of Guernsey have contracted a company to carry out recycling on site at Longue Hogue.

³⁴ These recycling processes are implemented to generate low-grade fill material that aligns with specifications for secondary aggregate or low-grade primary material as provided for in Guernsey Technical Standards issued in accordance with the Building (Guernsey) Regulations, 2012.

5.3.18 The Inert Waste Strategy promotes this practice by providing a framework via the effective use of site waste management plans.

5.3.19 These recycling activities do not apply to clean soils or mixed inert wastes that cannot be processed to appropriate Technical Standards for a defined market use. However, such material can be used beneficially where the development allows via recovery.

Recovery

5.3.20 Naturally occurring material that is excavated within a development can be used on a site for construction purposes. In reality, this already happens on the island. This Strategy for inert waste recommends that this practice continues because it is in the best interests of the islands sustainability to make the best use of materials excavated from the site and also it preserves natural resources that would have to be imported from elsewhere.

5.3.21 Excavated material that is not naturally-occurring, or other mixed inert waste, can be used for construction purposes, e.g. as low grade fill where it is demonstrated to be suitable for use.

5.3.22 Where excavated material is used in construction, this may be considered 'recovery' and is a lower hierarchical option than recycling. Recovery is defined for the purposes of the relevant part of the European Pollution Law³⁵, using a very similar definition to that in European Union waste legislation i.e. "recovery" means "any operation the principal result of which is waste serving a useful purpose by replacing other materials which would otherwise have been used to fulfil a particular function, or waste being prepared to fulfil that function, in a plant or in the wider economy". This definition also reflects Court of Justice of the European Union case law on earlier related waste legislation, where that court held, on the basis of wording in legislation at that time that³⁶ *"the essential characteristic of a waste recovery operation is that its principal objective is that the waste serves a useful purpose in replacing other materials which would have been used for that purpose, thereby conserving natural resources"*.

Land Reclamation/Quarry Infill and diversion of inert waste to strategic developments

5.3.23 In the Island context, there is potential benefit to land reclamation/quarry infill to provide future land, particularly where the location of such reclamation can be demonstrated to provide land of value (socially, economically or environmentally), or a specific need for the land has been identified at a strategic level.

³⁵ Abfall case (Abfall Service AG ASA) C-6/00, the European Court.

³⁶ Section 30 (3) (b), Environmental Pollution Law

5.3.24 Land reclamation has in the recent past, been the option provided for the disposal of residual inert waste (i.e. inert waste that cannot be prevented, reused directly, recycled or otherwise recovered).

5.3.25 The use of residual inert waste for land reclamation/quarry infill is most usually considered to be disposal. However, it is considered that, in the Guernsey context, this does not attach sufficient value appropriate to the creation of potentially beneficial land, or to the value of inert waste where it is required for a strategic development project. Therefore, for the purpose of this Strategy, the 'recovery' tier of the waste hierarchy shall also include:

1. Inert waste materials required and specified for a strategic development project,
2. Land reclamation/quarry infill with an identified future development use, and
3. Land reclamation/quarry infill, which has a potential for future beneficial use in accordance with States approved policies.

Disposal

5.3.26 The requirements for handling residual inert waste at any new land reclamation or quarry infill site under recovery, as at the current Longue Hougue facility, will be subject to stringent waste acceptance criteria to ensure the waste is appropriate for the purpose. Where residual inert waste fails to achieve these criteria, it will require disposal e.g. as specially controlled waste at an appropriate site.

5.3.27 Disposal of inert waste sits at the very bottom of the hierarchy. This Strategy identifies that an appropriate approach to the disposal of inert waste that cannot be prevented, reused, recycled or otherwise recovered is through quarry infill or land reclamation with no future beneficial use.

5.4 Phasing of the Inert Waste Strategy Implementation

The Strategy proposes a phased approach to implementation of the Strategy.

Short term (five years)

5.4.1 Continuing to dispose of residual inert waste at the current Longue Hougue Reclamation Site until the site reaches capacity.

- 5.4.2 The implementation of site waste management plans through the policies of the IDP which will provide the initial method by which the inert waste hierarchy will be applied to the activities and practices of parties involved with construction and demolition. This will be alongside the provision of guidance to parties involved in construction and demolition on the implementation of site waste management plans including:
- Consistency in how the site waste management plans will be compiled for each project;
 - A simple tool for collating inert waste quantities in a consistent manner according to inert waste hierarchical options to facilitate data collection;
 - Advice about when the site waste management plans will need to be submitted to the DPA; and
 - Details about how the DPA will monitor and review such plans.
- 5.4.3 Collecting and compiling data from site waste management plans to better establish a baseline, with a review after three years with a view to setting targets for recycling and re-use. Data from site waste management plans will be compiled and published annually to enable the island's inert waste baseline to be established.
- 5.4.4 An increased level of information sharing will be promoted to ensure that the Strategy is implemented effectively. This will include:
- Circulation of inert waste management guidance and a range of other engagement, advice and education initiatives, to the Guernsey Building Trades Employers Association; Construction Industry Forum and other key stakeholders;
 - Formalising an annual review and publication of data from site waste management plans and any site for the management of residual inert waste, to allow the construction industry to make informed decisions; and
 - An annual survey of the construction industry to find out barriers/opportunities to effective management of inert waste according to the inert waste hierarchy as a consequence of implementing the Inert Waste Strategy.
- 5.4.5 Effective implementation of site waste management plans will be monitored by regular feedback with the construction industry to refine and improve data collection and consistency in application from practical experience. The Inert Waste Strategy promotes the roll-out supported by an education and awareness campaign to ensure that these plans continue to be deployed effectively on new construction projects.

- 5.4.6 Provide temporary solutions at the current Longue Hougue Reclamation Site, prior to the new facility becoming available if required. This Strategy concludes that stockpiling material at the existing land reclamation site at Longue Hougue is the most appropriate temporary solution for managing residual inert waste, until another solution becomes available.

Medium term (up to 15 years)

- 5.4.7 Whilst the amount of inert waste that is recycled and re-used can be maximised, there will remain a need to manage a proportion of residual inert waste on island either through recovery or disposal. The Inert Waste Strategy is to provide a new on-island facility for residual inert waste through recovery (as defined in the Strategy) firstly, then to disposal via land reclamation or quarry infill with no beneficial value. As part of any planning application process for waste disposal or processing facilities (other than small scale recycling or sorting facilities), it is recognised that Environmental Impact Assessments (EIA) and Environmental Statements will need to be undertaken in accordance with relevant legislation³⁷.
- 5.4.8 Data will also be used to determine the future life of facilities that have been developed for the management of residual inert waste and the effectiveness of the inert waste hierarchy.
- 5.4.9 Once established, targets for recycling and re-use will be monitored annually.
- 5.4.10 Effective implementation of site waste management plans will continue to be monitored by regular feedback with the construction industry to refine and improve data collection and consistency in application from practical experience.
- 5.4.11 The Inert Waste Strategy assumes that in the first instance, the operation of the residual inert waste facility is the responsibility of the States but recognises that other potential services achieved by partnering with the private sector should also be explored.
- 5.4.12 Any strategic projects, including land reclamation, that could require inert waste should be actively identified as the use of material in this way would prolong the lifetime of any residual inert waste facility. The principles of the Inert Waste Strategy should be taken into account when developing all future States policy and strategic projects in terms of potential beneficial uses for inert waste.

³⁷ The Land Planning and Development (Environmental Impact Assessment) Ordinance, 2007

Long term (15 years plus)

- 5.4.13 The data collated during the short and medium term implementation of the Inert Waste Strategy will allow the States to review and update targets. Long-term monitoring and review of the Strategy will be measured against the metrics that will have been developed according to the baseline.
- 5.4.14 There may be a requirement to identify more than one site for residual inert waste management within the Strategy period (i.e. 20 years), and the selection of any further site/s should also take into consideration the longer term strategic requirements of the States both during and beyond the existing strategy period.

6 Monitoring and Review

6.1 Performance targets

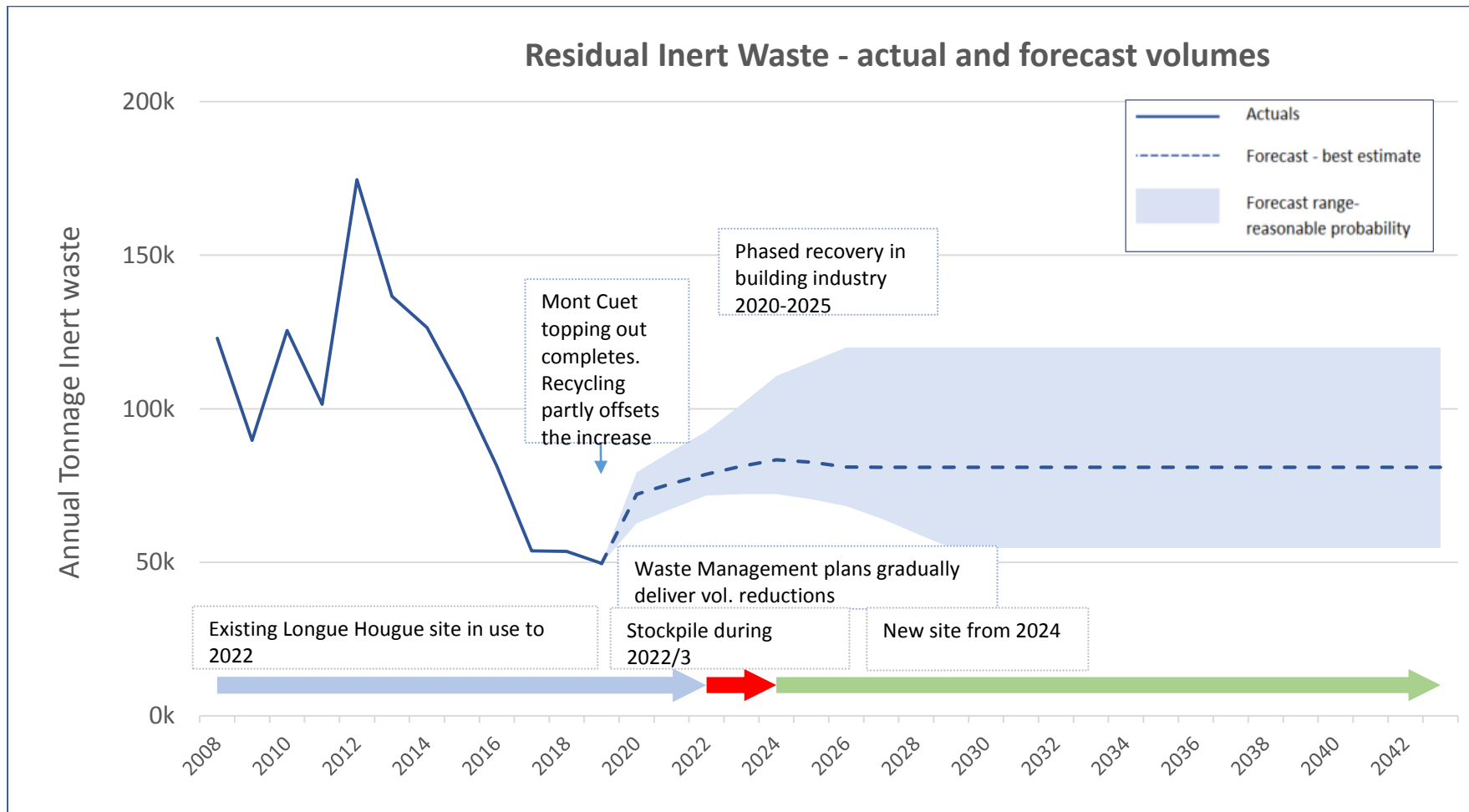
- 6.1.1 Under the EU Circular Economy Package of legislation, there is an EU target, set at 70%, for re-use, recycling and other material recovery of non-hazardous construction and demolition waste by the end of 2020³⁸. Although the Inert Waste Strategy considers that this target could potentially be achieved in Guernsey if some land reclamation and quarry infill is considered recovery (in line with the principles identified in this Strategy), more data is required on the total amount of inert material that is generated at source, and how this is dealt with, before any performance targets can be determined which are appropriate for Guernsey.
- 6.1.2 The site waste management plans will provide the mechanism to collect data. Guidance will be provided by the DPA to set the appropriate format for the construction industry to provide inert waste data to enable effective establishment of the baseline.
- 6.1.3 Targets for each tier of the inert waste hierarchy should be implemented following three years of data collection after the adoption of the Strategy.
- 6.1.4 Data on inert waste management will be published annually and will be reviewed to enable more refined reporting once the baseline is established and effective monitoring targets are set.

³⁸ See Article 11 (2) of the EU Waste Framework Directive. This excludes naturally occurring material defined in the European Waste Catalogue code 17 05 04 (i.e. soil and stone not containing dangerous substances)

6.2 Review

- 6.2.1 This Inert Waste Strategy is for a period of 20 years. Estimates and assumptions made to inform this Strategy will be monitored on an ongoing basis to ensure that the Strategy remains appropriate to Guernsey's needs.
- 6.2.2 A formal Inert Waste Strategy review will be undertaken every five years following the implementation of this Strategy. This review will take into account the evidence used in compiling this Strategy, and consider any insight gained from experience, including performance monitored against future targets that will be established once the baseline inert waste management data is better understood and a review of the appropriateness of those targets.
- 6.2.3 Progress on the implementation and delivery of the Inert Waste Strategy and achieving targets will be reviewed and reported on an annual basis.

Appendix 3





States' Trading Supervisory Board

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Guernsey
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tradingassets@gov.gg
www.gov.gg

Deputy Gavin St Pier
The President, Policy & Resources Committee
Sir Charles Frossard House
La Charroterie
St Peter Port

19th February 2020

STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

COMMITTEE FOR THE ENVIRONMENT & INFRASTRUCTURE
AND
STATES TRADING SUPERVISORY BOARD

PLANNING FOR A NEW FACILITY FOR MANAGING RESIDUAL INERT WASTE

Dear Sir,

In accordance with Rule 4(2) of the Rules of Procedure of the States of Deliberation and their Committees, the STSB requests that the Propositions concerning the policy letter entitled 'Planning for a New Facility for Managing Residual Inert Waste' be considered at the States' meeting to be held on 22nd April 2020.

It is important that the Policy Letter for the above is considered without further delay, as Resolutions of the 'Inert Waste Strategy and a Proposal for a New Facility for Managing Residual Inert Waste', of December 2017, directed the States' Trading Supervisory Board and the Committee *for the* Environment & Infrastructure, to present the findings of the Environmental Impact Assessments to the States as 'soon as practicable'. An Environmental Impact Assessment on the site at Longue Hougue South has been duly completed in November 2019.

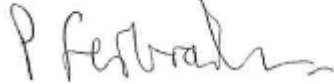
In view of the remaining capacity at the current residual inert waste site at Longue Hougue and in line with the proposed Inert Waste Strategy and the legislative requirements for the WDA to identify Best Practical Environmental Options, work on the preferred way forward at Longue Hougue South needs to continue urgently.

The current forecasts estimate that there may be a requirement to stockpile residual inert waste at the existing Longue Hougue site for a period of approximately 18 months, until a new facility becomes available. This would entail a cost of approximately £0.4m to move the material from Longue Hougue to Longue Hougue South (based on 120,000 tonnes).

Any delays in approvals may increase the period of time for stockpiling and resultant costs.

Thank you for your consideration.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'P T R Ferbrache'.

P T R Ferbrache

President

States Trading Supervisory Board

A handwritten signature in black ink, appearing to read 'B L Brehaut'.

B L Brehaut

President, CfE&I

Committee *for the* Environment & Infrastructure

c.c. propositions@gov.gg

ORIGINAL PROPOSITION

**THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY**

POLICY & RESOURCES COMMITTEE

SCHEDULE FOR FUTURE STATES' BUSINESS

The States are asked to decide:-

Whether, after consideration of the attached Schedule for future States' business, which sets out items for consideration at the Meeting of the 20th May 2020 and subsequent States' Meetings, they are of the opinion to approve the Schedule.

STATES OF DELIBERATION

SCHEDULE for FUTURE STATES' BUSINESS (For consideration at the Ordinary Meeting of the States commencing on the 22nd April, 2020)

Items for Ordinary Meeting of the States commencing on the 20th May, 2020

- (a) communications by the Presiding Officer including in memoriam tributes;
- (b) statements;
- (c) questions;
- (d) elections and appointments;
- (e) motions to debate an appendix report (1st stage);
- (f) articles adjourned or deferred from previous Meetings of the States;
- (g) all other types of business not otherwise named;

P.2020/62 – The Alderney Property Tax (Enabling Provision) Law, 2020*

P.2020/63 – The Human Tissue and Transplantation (Bailiwick of Guernsey) Law, 2020*

P.2020/64 – The Population Management (Guernsey) (Amendment) Law, 2019 (Commencement) Ordinance, 2020*

P.2020/65 – The Machinery of Government (Transfer of Functions) Ordinance, 2020*

P.2020/66 – The Pilotage (Amendment) Ordinance, 2020*

P.2020/67 – The Banking Deposit Compensation Scheme (Bailiwick of Guernsey) (Amendment) Ordinance, 2020*

P.2020/68 – The Taxation of Real Property (Guernsey and Alderney) (Amendment) Ordinance, 2020*

P.2020/47 – Committee *for the* Environment & Infrastructure - States of Guernsey Energy Policy 2020-2050*

P.2020/53 – Policy & Resources Committee - Review of the Jurisdiction of the Ecclesiastical Court in relation to Grants of Representation regarding Personal Property*

P.2020/72 – Policy & Resources Committee - Amendments to the Legal Framework Relating to Beneficial Ownership of Legal Persons*

P.2020/70 – Policy & Resources Committee - Minor Changes to the Document Duty (Guernsey) Law, 2017*

P.2020/73 – Committee *for* Employment & Social Security - Diffuse Mesothelioma Payment Scheme*

P.2020/74 – Committee *for* Health & Social Care and Policy & Resources Committee - Urgent Capital Bid - Replacement of the Electronic Patient Records System*

P.2020/59 – Committee *for* Economic Development - Proposed Amendments to the Preferred Debts (Guernsey) Law, 1983*

P.2020/xx – States' Assembly & Constitution Committee – Schedule of States' Meetings from 1st of September 2020 to 31st of August 2021*

(h) motions to debate an appendix report (2nd stage);

(i) Schedule for future States' business.

Amendments to the proposed meeting dates and order are permitted only for those items marked with an *.

Items for Ordinary Meeting of the States commencing on the 17th June, 2020

(g) all other types of business not otherwise named;

P.2020/32 – States' Trading Supervisory Board - Guernsey Airport Hold Baggage Screening System Upgrade*

P.2020/27 – Committee *for the* Environment & Infrastructure - Third Party Planning Appeals*

P.2020/42 – Committee *for* Health & Social Care - Modernisation of the Abortion (Guernsey) Law, 1997*

P.2020/30 – Committee *for the* Environment & Infrastructure - Proposed Introduction of a General Housing Law*

P.2020/46 – Committee *for* Education, Sport & Culture - Active 8: A Plan for Sport - 2021-2030*

P.2020/33 – States' Trading Supervisory Board - The Future Guernsey Dairy Project*

Amendments to the proposed meeting dates and order are permitted only for those items marked with an *.

Items for Special / Ordinary Meeting of the States commencing on the 15th July, 2020

(g) all other types of business not otherwise named;

P. 2020/xx States' Accounts

P.2020/26 – Policy & Resources Committee - Revision of the Double Taxation Arrangements made with the Isle of Man and New Zealand, and New Double Taxation Arrangement with Estonia*

P.2020/43 – Policy & Resources Committee - Improving Living Standards*

P.2020/48 – Policy & Resources Committee - Seafront Enhancement Area Programme Update*

P.2020/44 – States' Assembly & Constitution Committee - Review of the Code of Conduct for Members of the States of Deliberation*

P.2020/41 – Committee *for* Employment & Social Security - Proposals for a New Discrimination Ordinance*

P.2020/54 – Committee *for* Home Affairs - Justice Review Report*

Amendments to the proposed meeting dates and order are permitted only for those items marked with an *.