

# STATES OF JERSEY



## MANAGEMENT AND MAINTENANCE OF HAVRE DES PAS BATHING POOL AND CAFE (P.68/2024) – COMMENTS

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Presented to the States on 18th October 2024  
by the Council of Ministers

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STATES GREFFE

## COMMENTS

### Summary

The Council of Ministers fully recognises the community value of the Havre des Pas Lido and is committed to rejuvenating it as a venue that can be used all year round by the whole community. An expressions of interest process for the Lido is underway and will be followed by a tender process for the future operation of the site.

Significant sums of public money have been spent on the Lido in recent years with £500,000 being spent in the current year in order to maintain and improve its infrastructure.

Every effort has been made by the present Minister for Infrastructure and his predecessors to comply with the terms of the Proposition brought by the Constable of St Helier (P.61/2022) in respect of offering a new 9-year lease to the current operator of the café at the Lido, but unfortunately it has not been possible to reach a mutually satisfactory agreement. Hence the decision was made to seek expressions of interest and to offer a lease to a successful applicant following a tender process. The current occupier, whose lease expired following a break notice coming into effect on 1<sup>st</sup> September 2021, has been asked to vacate the premises by 1<sup>st</sup> November 2024.

In order to move forward in the public interest, and to run an unhindered tender process, vacant possession of the Lido is required.

Accordingly, Ministers are not able to support this proposition. It is understood that Deputy Warr has recognised that part (a) is no longer required, which is welcomed, but Ministers are not able to support part (b) as amended, and request that Members reject the amended proposition. Adopting part (b) would maintain the unsatisfactory status quo, prevent vacant possession being taken, and stand in the way of the fresh start that is needed for the Lido.

### Commitment to Havre des Pas

The commitment of the Council of Ministers to Havre des Pas is resolute. Ministers wish to move forward with further investment in the Havre des Pas Lido, and in the wider Havre des Pas area. Our objective is to ensure that Havre des Pas is protected for the future, and from those solid foundations to enable the Lido to become a vibrant public asset which is accessible all-year round for inclusive community use.

Due notice has been given to the current occupier of the Lido that vacant possession of the site will need to be given by 1<sup>st</sup> November 2024. As part of efforts to move forward positively, the Minister for Infrastructure issued an expressions of interest document and a draft Heads of Terms for the Havre des Pas Lido and Concession on 8<sup>th</sup> October 2024. These documents were shared with States Members, the Havre des Pas Improvement Group, and the media on the same date. The expressions of interest document is publicly available [here](#).

The Minister for Infrastructure will publicly announce, on 21<sup>st</sup> October 2024, plans for significant investment in the wider Havre des Pas area, to protect this unique part of our coastline from increased risks of flooding in the future, and to improve future access to

the area for vehicles, walkers and cyclists. Members have been given notice of this announcement.

This investment, which is needed to safeguard the future of Havre des Pas, is currently estimated to be in the region of £100 million.

### The Proposition

#### Part (a)

Part (a) of the proposition is unnecessary and undeliverable within the timeframe given. Ministers are pleased that Deputy Warr has, it is understood, recognised that part (a) is not required. It is already the intention of the Minister for Infrastructure to put the contract for the Havre des Pas Lido out to tender. This tender process will commence following the closure of the expressions of interest process on 31<sup>st</sup> December 2024 and upon Jersey Property Holdings (“JPH”) taking vacant possession of the site.

The money spent on maintenance at the Lido since 2016 was confirmed in the response to [WQ.298/2024](#). Ministers recognise that this investment will need to be sustained and increased in the future. Page 68 of the Government Plan 2024-2027<sup>1</sup> stated that expenditure for major refurbishments and upgrades to the Government’s property portfolio “will also support delivery of a project to refurbish the Lido at Havre des Pas.” The clear intention to uphold this commitment was confirmed by the Infrastructure Minister initially in answer to an oral question in June 2024<sup>2</sup> when he confirmed that a feasibility study on the delivery of the Lido external works was scheduled to be completed the next week to assess the best approach for remedial works on the cracking northern staircase tower, and for a full Lido external redecoration with an estimated cost of £350,000.

This was again confirmed at a quarterly hearing of the Environment, Housing and Infrastructure Panel on 12<sup>th</sup> September 2024, where it was confirmed that £300,000 had been spent on the Lido in recent times, and plans were in place for a further £500,000 to be spent on maintenance.<sup>3</sup> Works being (and to be) undertaken include service and repairs to the sluice gate, repairs to the pool wall capping, repairs to undermining of the pool wall, repairs to the stairs and slabs, redecoration and repair to the exterior of the building, and internal electrical works. Further work will need to be determined upon taking vacant possession.

The precise detail as to how the Lido is maintained in future is a matter on which the Minister for Infrastructure is happy to liaise and agree with a future tenant, depending on the nature of the proposed operation at the Lido. Accordingly, part (a) would have been too blunt and not sufficiently fleet of foot in its reference to putting the contract for the maintenance of the Lido out to tender. A partnership approach may be the best option in this regard.

Part (a) requests that the tender process is concluded by the end of 2024. This is not practical and risks the Assembly making a request of the Minister that is undeliverable. JPH initially gave notice in February 2021 that they would be exercising the break lease

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<sup>1</sup> <https://www.gov.je/SiteCollectionDocuments/Government%20and%20administration/Government%20Plan%202024%20to%202027.pdf>

<sup>2</sup> [oq.122-2024.pdf \(gov.je\)](#)

<sup>3</sup> [Transcript - Quarterly Public Hearing with the Minister for Infrastructure - 12 September 2024.pdf \(gov.je\)](#)

of the current occupier's tenancy in September 2021. There has been no lease agreement, either express or implied, with the current occupier in respect of the Havre des Pas Lido since this date. Most recently, JPH have given notice to the current occupier to vacate the premises and are accordingly expecting to take vacant possession of the site on 1<sup>st</sup> November 2024.

It would be challenging to complete a full and thorough tender process – and one which delivers our shared ambition for the future of the Lido – within two months. In any event, the expressions of interest process previously referenced and already in process will conclude on 31<sup>st</sup> December 2024, with a tender process commencing in early 2025.

Whilst Ministers appreciate that part (a) has effectively been withdrawn, it is still relevant to highlight an apparent contradiction between part (a) of the proposition and Deputy Warr's accompanying report.

Part (a) sought a tender process, yet the report states in its very first sentence –

*“The purpose of this proposition is to ensure that this historically significant, unique, iconic and special site thrives by transitioning its management from Government oversight to a community-led charitable framework.”*

The report continues on page 4 –

*“Under current finance laws, the government ‘must’ tender the site. I hope that the government, will align with the intentions of the Lido Steering Group and the H vre des Pas Improvement Group, and support transferring full management and maintenance of the site to the new company/charity, thereby securing its future. The H vre des Pas Improvement Group are also in favour of this transition and the continuation of the existing tenant.”*

The wording of the proposition and the report are not compatible. To be clear, the participation of a community-led charitable group in the tender process would be welcomed. This must be, though, on a level basis with any other interested parties.

#### Part (b)

Deputy Warr has amended part (b), recognising that “as there is currently no lease in place and by extension no contract it is incorrect for me to ask the Assembly to “extend the existing contract.” Indeed, as previously noted, the current occupier has operated at the Lido without a lease agreement, either express or implied, since September 2021.

JPH and past Governments must take a share of responsibility for the position that all parties currently find themselves in. The current Government, including the Minister for Infrastructure, takes responsibility for the position as it has developed since February 2024. The current occupier should also take a share of responsibility for the existing position.

The current state of affairs raises a number of issues in respect of governance, procedures and making the best use of public assets. There is also a question of business ethics – including ensuring that we treat all our tenants equally. There must also be concerns around public safety. Without a lease or tenancy there is uncertainty regarding the existence or validity of insurance, adherence to regulatory requirements and

statutory compliance. The landlord has no means of enforcing the safe operation of the facility, and users of the site thus cannot be assured in this respect.

Part (b) effectively requests that we re-visit and maintain a failed approach. Enabling the current occupier to remain in place will simply prolong an unacceptable situation which has endured for three years. JPH exercised the break clause in their lease with the current occupier in September 2021. The current occupier did not vacate the site. Following the adoption of P.61/2022, efforts were made to agree a new lease with the current occupier, including on rental terms which were well below the market rate.

The current occupier was informed in writing on 2<sup>nd</sup> May 2024 by the Assistant Minister for Infrastructure that agreement on a new lease had not proved possible, and accordingly that the existing business operation would be permitted to undertake business at the Lido until 31<sup>st</sup> October 2024, after which JPH would take vacant possession of the premises. The Minister confirmed the position by way of letter dated 24<sup>th</sup> July 2024. The current occupier was asked to sign a licence to cover this period, but did not do so. Confirmation that the existing arrangements would cease on 31<sup>st</sup> October 2024 was again given in correspondence on 13<sup>th</sup> August 2024. The current occupier has given no indication of an intention to vacate the premises after 31<sup>st</sup> October.

It has been made clear to the current occupier that they are able and welcome to participate in the tender process for the new letting. The future of the Lido does not though depend on the current occupier remaining on the site. Indeed, this would hinder our efforts to move forward. Ministers request in the strongest terms possible that part (b) is rejected. It risks setting a dangerous precedent should the Assembly request the Minister for Infrastructure to allow individuals or businesses to trade on publicly owned sites absent of any contract, tenancy or formal agreement.

### Conclusion

There are many reasons to conclude that the current position at the Havre des Pas Lido is unsatisfactory. All parties must take a degree of responsibility. Now is the time, though, to look forward.

Ministers have a clear plan for the future of the Lido, and are committed to future investment to protect and enhance the Havre des Pas area. It is vital that the future offering at the Havre des Pas Lido should emphasise the importance of high-quality community facilities, especially for year-round swimmers, rather than maximising its commercial side as an events venue.

Members have a duty to the public interest, to proper governance, to equity for all our tenants and to other businesses in the area. We need a new offering for islanders at the Lido, and one that maximises its use as an inclusive community venue.

The Minister for Infrastructure, since coming to office, has acted properly, legally and professionally. States Members are asked to support this approach, and to give hope of a new, inclusive, community-based future for the Havre des Pas Lido.

## Annex

### Timeline of Key Events

*It should be noted that this timeline is not exhaustive*

01/09/2015	<p>A lease commences with “The Lido (Havre des Pas) Limited” for a 9-year term, ending on 31/08/2024.</p> <p>The lease has two break option dates – 01/09/2018 and 01/09/2021.</p>
19/11/2019	<p>Reference is made in correspondence to remind the then tenant of the break option which exists for 01/09/2021, the need for landlord consent to any alterations to the premises, and of the need for the then tenant to continue paying rent.</p>
25/02/2021	<p>Jersey Property Holdings confirms that the break option will be exercised on 01/09/2021.</p>
14/07/2021	<p>An offer of terms for a new lease is made to the then tenant.</p>
01/09/2021	<p>Jersey Property Holdings, as landlord, exercise the option to break the lease. The tenant does not comply in leaving the premises on that date.</p>
17/01/2022	<p>Correspondence with the current occupier confirms that no lease is in place, and raises concerns regarding rental payment history whilst a lease was in place, and rental arrears that remain from that period.</p>
27/04/2022	<p>P.61/2022 is approved by the States Assembly, resulting in a decision for negotiations to be initiated with the current occupier for a new 9-year lease.</p>
18/07/2022	<p>A proposed licence agreement is made to the current occupier.</p>
20/12/2023	<p>The Minister for Infrastructure makes an offer of a new lease to the current occupier and asks for this to be agreed by the end of January 2024.</p>

02/05/2024	Following further unsuccessful efforts to agree a new lease, written notice is given to the current occupier by the Assistant Minister for Infrastructure to vacate the premises by 31/10/2024. The current occupier is asked to sign a licence covering this period.
25/06/2024	The Minister for Infrastructure confirms in answer to an oral States question that a feasibility study on the delivery of the Lido externals was scheduled to be completed the next week to assess the best approach for remedial works on the cracking northern staircase tower, and for a full Lido external redecoration with an estimated cost of £350,000.
24/07/2024	The Minister for Infrastructure confirms the position above by way of letter to the current occupier.
13/08/2024	<p>A final effort is made to sign a licence for the period to 31/10/2024.</p> <p>The current occupier does not sign the lease and continues to occupy the site without a lease or licence and does not pay rent.</p>
12/09/2024	The Minister for Infrastructure confirms to the Environment, Housing and Infrastructure Scrutiny Panel that £300,000 had been spent on the Lido in recent times, and plans were in place for a further £500,000 to be spent on maintenance.