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# STATES OF JERSEY



## PORTS INCORPORATION: RESPONSE OF THE MINISTER FOR ECONOMIC DEVELOPMENT TO THE PUBLIC CONSULTATION

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Presented to the States on 6th November 2014  
by the Minister for Economic Development

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STATES GREFFE



# Ports Incorporation: response of the Minister for Economic Development to the public consultation

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## 1. Introduction

The Minister for Economic Development ran a public consultation between 29th May 2014 and 15th August 2014, asking for opinions on the proposed incorporation of the Harbour and Airport as a single States-owned company.

29 responses were received, of which 18 contained some substantive content and 11 were wholly administrative – indicating attendance at public meetings, etc., requesting details on timings, etc. The substantive issues are dealt with in section 4.

After reviewing both the written response and the notes of the various meetings, certain key points can be established –

- The consultation did not grab public attention.
- The level of publicity and effort directed at this consultation was comparable to or exceeded that directed at consultations which received many more responses (EDD's consultation on Sunday trading being an example).
- This suggests that the subject matter may not be of significant interest to the public.
- The responses were generally positive, with 12 of the 18 supporting incorporation.
- There were only two negative responses, with four being neutral (in that they raised issues without stating whether they actually supported the incorporation).
- The most lengthy and complex responses were received from trade unions, these were the two negative responses.
- The most significant area of questioning at public meetings concerned the future of clubs and societies, especially in the areas of leases.

The response to a consultation can only focus on the submissions received. Particular weight must be given to those responses which raise the most significant issues, or to areas which receive the most comments.

With this as a guiding principle, while this report seeks to respond to all of the points raised, it does identify two areas for special attention – the responses of the unions (in section 4.2) and the issue of clubs and societies post incorporation (in section 6).

## 2. Background to the proposals

In October 2012 the States Assembly approved in principle the incorporation of Jersey Airport and Jersey Harbours into a single limited company, the 'Ports of Jersey Limited' to be wholly owned by the States. This followed the successful combination of the former Jersey Harbours and Jersey Airport into a single entity called the Ports of Jersey.

The primary objective of incorporation is to enable the Ports of Jersey to continue to provide essential public services to the Island in a sustainable manner, in the face of historic declining business volumes and costs that are rising faster than revenue.

This White Paper and the documents behind it detailed the case for incorporation and the evidence behind it, examined the regulatory framework that will be in place to support the Ports of Jersey Limited and provided the legal underpinning of the incorporation.

These documents all serve to support the Minister's five key proposals –

1. To incorporate the air and sea ports within a single limited company to be 100% owned by the States of Jersey and for that company to be run on a commercial basis by a board of directors appointed for the purpose.
2. To ensure that the new entity continues to conduct necessary essential functions for the island that would not normally fall within the remit of a limited company.
3. To develop a scheme of effective regulation of the new company in the interests of customers, the wider general public and the island economy.
4. For the relevant infrastructure assets currently under government administration to be transferred to the new company by freehold transfer in the case of the airport, and by under lease arrangement in the case of the harbour assets.
5. To make the appropriate changes to local legislation to allow for the above.

The Minister's intention in holding this consultation was to make the arguments for incorporation and the details of the work that has been conducted in this area available for the public to comment upon.

### **3. The consultation**

The consultation ran from 29th May 2014 to 5 p.m. on Friday 15th August 2014. It consisted of a short White Paper document, the Case for Incorporation document prepared by the Ports of Jersey, an analysis of the regulatory framework under which the ports will operate prepared by EDD, and 22 other documents dealing with various elements of the incorporation proposal. In recognition of the significant amount of information that this represented, the White Paper was designed to serve primarily as a guide to the other documents, allowing the reader to focus on the matter so concern to them.

As was a White Paper consultation, it did not contain a list of questions to be answered. The consultation consisted of the policy and legislative work that has been consulted in respect of the incorporation since the States debate on the subject in October 2012, as well as an analysis of the case behind incorporation itself. The public were given the opportunity to comment on whatever aspects of the work they wished.

Comparing this consultation with others run around the same time, the amount of effort invested in publicising the fact that a consultation was ongoing, the documents behind it and the details of the relevant public meetings was as high (indeed probably higher) than most.

The press was engaged with media releases and the consultation did receive some coverage. Access to all consultation documents was available through the states consultation portal throughout the process (and indeed still is).

Four public meetings were arranged at various locations. The Minister and/or members of the Ports Shadow Board were available at these meetings to explain the policy behind incorporation

as necessary. Technical briefings on subjects of particular interest were also held. These were open to all and invites were sent out to interested parties.

Following the disappointing attendance at the first public meeting, advertisements were taken out in the JEP to publicise the remaining three meetings-

### Notice of Public Meetings

Ports of Jersey: The Case for Incorporation


The Economic Development Minister, Senator Alan Maclean, is holding a series of public meetings to discuss the plans to incorporate Jersey Airport and Jersey Harbours as the Ports of Jersey Limited.

The Ports of Jersey will be a limited company wholly owned by the States of Jersey. Its key function will be to manage the Island's vital transport links on behalf of the government, while generating additional return to pay for the increasing costs of running these services, without any burden being imposed on the taxpayer.

The company will be given control of the airport and various harbours around the Island, including the historic outlying harbours and associated moorings.


**The Minister is holding the following public meetings to outline the incorporation proposal and to allow anyone the opportunity to express their views:**

DATE (Wednesdays)	LOCATION	TIME
2 July 2014	Arrivals Terminal, Jersey Airport	7.00pm
23 July 2014	RJA & HS, Trinity	7.00pm
6 August 2014	Albert Pier Terminal, St Helier Harbour	7.00pm



Log on to: [www.gov.je/consultations](http://www.gov.je/consultations) for full details of the consultation. Any comments or responses can be emailed to [portsincorporation@gov.je](mailto:portsincorporation@gov.je) or sent to the following address:

Ports Incorporation  
Economic Development Department  
Cyril Le Marquand House  
The Parade  
St Helier  
JE4 8QT



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**The Minister is holding the final public meeting to outline the incorporation proposal and to allow anyone the opportunity to express their views:**

DATE (Wednesday)	LOCATION	TIME
6 August 2014	Albert Pier Terminal, St Helier Harbour	7.00pm

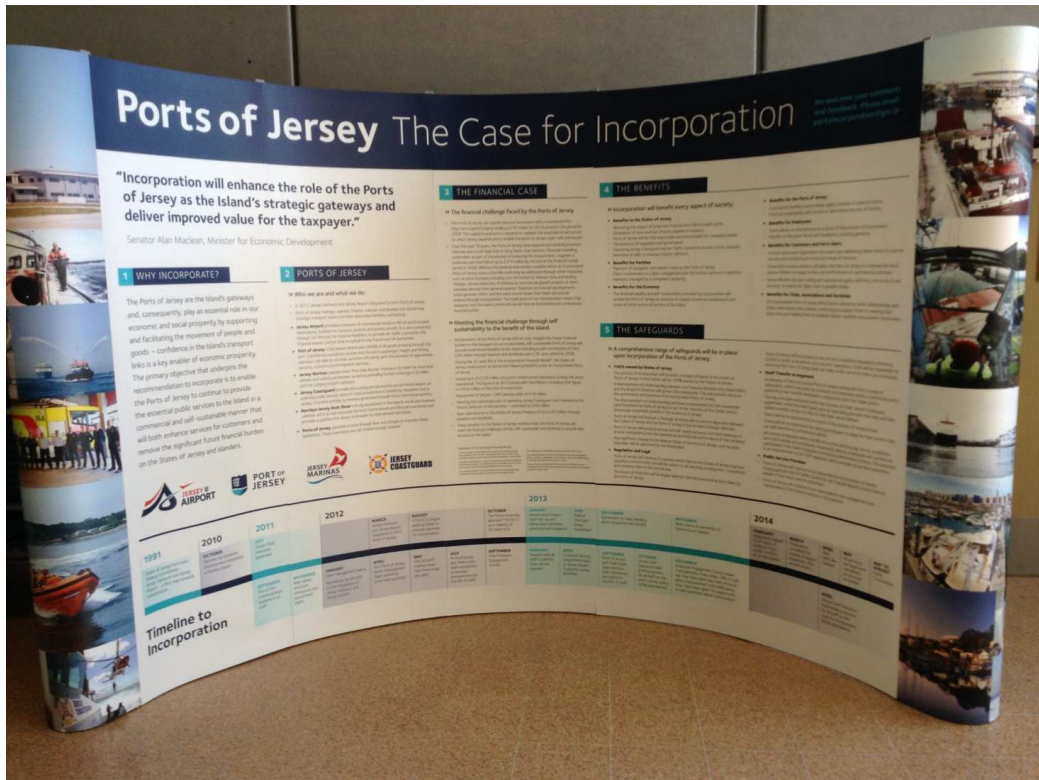


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In addition a 'story board' was developed to show key facts about the incorporation. Copies of this were positioned in high profile areas in the Elizabeth Terminal, the Airport arrivals hall and the airport departures hall. Between early July and mid-August these would have been passed by over a quarter of a million travelling passengers.



With these measures in place, together with the work of the staff of the Ports of Jersey and Economic Development to raise the profile of this consultation, it seems justified to say that there was a significant commitment to gather public responses to the incorporation proposals.

The Ports of Jersey also conducted a mails shot to 250 stakeholders, using lists of commercial clients boat owners, clubs and societies and tenants. While some of these were inevitably duplicated (in the case of boat owning tenants, for example) this served to notify those who would be most affected by the proposals. A sample letter is attached as Appendix 4.

## **4. Written responses**

As noted above, 29 written responses were received, and comments made during public meetings were transcribed and responded to either at the time or shortly afterwards.

Of the 18 written responses containing comments about the incorporation, twelve were supportive of the principle of incorporation based on the evidence provided, although some raised specific concerns or questions about matters relating to their own position.

Four of the responses were neutral, in that they did not express an opinion about the incorporation itself, but instead addressed particular issues of concern or raised points of interest.

Two of the submissions were not supportive of incorporation, and sought to address the shortcomings of the proposal.

Having received only 18 substantive responses suggests that the general public were not deeply engaged in the consultation. This was despite the Economic Development Department and the Ports of Jersey together going to considerable lengths to promote the consultation, indeed going further than many other recent consultations which have received considerably more responses.

A review of the publicity around the consultation appears in section 3. The matters raised in the responses are considered below.

### **4.1 Matters raised**

Issues and concerns raised in respect of incorporation are detailed below. Where a submission was supportive (which 12 of the 18 substantive submissions were) there was less to be said, and those submissions that identified why incorporation was a desirable outcome tended to highlight the same points that the consultation documents had already identified. Accordingly, the section below will focus on the objections and issues raised. This should not obscure the fact that two thirds of the responses were in favour or strongly in favour of incorporation, and four did not express an opinion on the wider incorporation, with only two being against.

- Ownership of key assets

#### Issue

It was suggested that the government should retain control of the strategic assets (i.e. the runway and some elements of the harbour) to ensure that any capital costs could be effectively met.

The danger was perceived to be that the government might not be fully supportive of the Ports of Jersey Limited should that company find itself with a major capital issue to deal with – i.e. if the runway or a pier were to need to be repaired unexpectedly.

This was seen as creating the risk of a ‘massive hike in dues’ to users of the facilities, with knock-on effects for the economy.

Concerns were raised that the States is prone to ‘short-termism’ in such matters.

### Response

The intention behind incorporation is to remove the operating costs of the harbours and airport from the government and to allow the Ports to generate income from commercial projects that have been shown to be unlikely to succeed under direct government control.

It will never be the situation that the capital assets passed to the new company will be completely removed from government responsibility, as there will always be a responsibility upon government (to our local heritage or to our local economy) to see the assets well maintained, repaired and in good working order.

The financial forecast of the new company includes maintenance and where necessary replacement costs for the assets that are being transferred. If some unforeseen catastrophe occurs, government, the company and the CICRA will have to decide what to do. The government as shareholder will be the ultimate decision maker in such circumstances.

There is, sadly, no magic formula that will allow the government to both avoid future responsibility for the significant capital assets being transferred and at the same time protect the local economy from transport price rises.

The Competition Regulator, the Ports of Jersey Limited, the Minister for Economic Development and the Minister for Treasury and Resources all have a legal duty under the draft Air and Sea Ports (Incorporation) (Jersey) Law to consider the effects of their actions under the Law on the local economy in the medium and long term.

This will serve to avoid short-term fixes that would damage the wider economy.

- Staff transfer arrangements

The question of staff transfer arrangement was raised. It was suggested that the current terms of transfer, in particular the rights to remain in the PECRS pension scheme and the retention of terms and conditions upon transfer, are much too generous.

The argument was made that the terms of employment of workers at the harbour and airport are outdated, and that incorporation would be an opportunity to change these terms to ones more favourable to the employer.

### Response

The terms of transfer have been subject to considerable discussion with the staff of the ports. There is no wish to unfairly penalise staff or to use the incorporation as an excuse for wage cuts or redundancies. The costs of including existing staff in the PECRS is fully budgeted for and reflected in the financial model.



The position on the treatment of staff is a balance between considering the needs of the new company and the interests of the states and the wish to act reasonably to staff as a responsible employer.

- Human rights compliance of parts of the draft Law

Concerns were raised that the Air and Sea Ports (Incorporation) (Jersey) Law contains provisions relating to the designation of 'lifeline services' that are not fully compliant with the European Convention on Human Rights. Also, there was deemed to be some undesirable 'vagueness' in some selected articles of the Law.

Response

This was a technical analysis of a discrete section of the legislation, and a response has been provided after consideration by the Law Officers. In simple terms, there is not thought to be a genuine human rights issue raised here. However, some further explanation of the legislation and the thinking behind it was provided to the respondent and a minor amendment to the Law was suggested for clarity.

- Powers of a Centenier

It was noted that the Ports of Jersey would employ the Harbour Master and Airport Director, both of whom have certain policing powers (equivalent to those of a Centenier). This was challenged as it was not perceived to be appropriate that employees of a company outside of the States held these powers.

Response

The powers of a Centenier are, as has been identified, currently vested in the Harbour Master and Airport Director. This arises from the need to ensure that the operation of the harbours and airport are supported by an 'organic' capacity to exert the necessary authority should the need arise. The fact of incorporation will not change the requirement for such capacity to be in place.

The Law provides for the existence of a Harbour Authority and an Airport Authority. These Authorities will take on many of the obligations currently conducted by government, and will be responsible (amongst other things) for the safety and security of the harbours and airport. These Authorities will each contain an individual (Harbour Master and Airport Director) who retains the powers of a Centenier as under the current arrangements, and who will swear the oath of a Centenier before the Royal Court. The Minister for Economic Development will retain the right to approve appointments to these posts, in order to ensure that candidates are acceptable to government.

At the point at which the law comes into force, and for the foreseeable future, the PoJL will be the Harbour Authority and Airport Authority for the Island. This reflects the facts that the skills, equipment and property necessary for the operation of the harbours and airport will exist inside that organisation. The result of this appointment is that as well as running these operations commercially as a company by ownership or leasehold of the assets, PoJL will also inherit the responsibility to manage them in a safe and secure manner, and to do this to the satisfaction of government.

The status as 'Authority' therefore requires the PoJL to do the jobs of government as outlined above, and grants it the tools to do so (i.e. the empowered Harbour Master and Airport Director). If, at some point in the future, another body were, for instance, to be appointed to run the harbour, and that entity would be appointed as Harbour Authority, and acquire the tools to fulfil the responsibilities that status would bring.

The Centenerial powers are therefore not directly vested in a company, or in officers within a company, but in offices of the two Authorities, being granted by the government by law. Individuals within those authorities will only be granted these powers after approval of government, as is the situation at the present time.

- Rates

Once the Ports are incorporated, foncier and occupier rates will be due to the relevant parish on the property owned by the company. If an arrangement is put in place by which the land is licensed from the government, the company will not be the 'occupier' and rates will not be payable.

Response

Any licence arrangements will be made only as an interim solution to allow the new company to operate the necessary assets while permanent arrangements are put in place. A permanent arrangement would see the relevant land assets transferred into the control of the Ports of Jersey Limited (PoJL), which would place them within the rates regime of the relevant parish.

- Potential cross-subsidy

It was noted that CICRA's outline of their intention for regulation contained a reference to potential future cross-subsidy between the operations. This was not considered to be appropriate as it could potentially affect charges levied on businesses using the facilities that were providing the subsidy.

Response

The intention in referring to potential future cross-subsidy is to ensure that government does not, by simple omission, reduce the strategic options available to it by excluding any future actions, including the introduction of cross-subsidy under some circumstances in the future. This does not mean that any cross-subsidy is planned.

Further, while landing fees will ultimately be within the control of the PoJL post-incorporation, that company, as well as the JCRA, the Minister for Economic Development and the Minister Treasury and Resources (as shareholder) all have a legal duty to act to encourage sustainable growth in the economy of Jersey in the medium to long term, as detailed in Article 5(2), Article 26(3)(a), and Article 3(5) respectively.

Separately, the 'Case for incorporation document', contains an assumption within its financial modelling '*There [will be] no above Jersey RPI price increases in relation to the pricing of services*'.

- Marina berths

Concerns were expressed about the apparent dichotomy between what a respondent understood to be a 2 year wait for marina berths until recently, contrasted with his understanding that 100 berths were now lying empty. It was suggested that this represented a downturn in fortune and did not bode well for the Ports in future.

## Response

The Ports of Jersey has indicated that there are currently 65 empty marina berths, up from 23 earlier in the year. Marine berths range in size from 6 metres to 20 metres, and the vacancies are all in the 6–13 metre range, while there is a waiting list for 14 metre plus berths. Reconfiguration of some berths is underway to increase capacity in the desired sizes, where there is substantial demand.

### **4.2 Submissions from the Trade Unions**

Two submissions were received from trade unions Prospect and Unite. These primarily dealt with the treatment of staff during and after incorporation. They took the general position that incorporation was detrimental to the interests of the staff of the Ports, and that it was therefore unwise.

EDD carefully reviewed the submissions and concluded that the issues raised in them were more significant and more complex to address than those addressed in other submissions. It was also felt that the union responses were the only significant challenge received to the principle of incorporation, and were together larger and more detailed than the other responses combined.

To reflect the material difference between these responses and the others received, as well as the fact that the unions represented a considerable proportion of the workforce of the Ports, they have been dealt with separately and published in full. Furthermore, in light of the issues raised the Minister considered that the unions required a detailed response from the Ports of Jersey itself. This is intended to serve 2 purposes –

1. To ensure that the Ports of Jersey had considered the detailed response of the unions and the implications thereof, and
2. To ensure that the Minister was appropriately advised on both sides of the issues raised and that the advice he has received was made public for transparency.

The full details of the Unions' submissions and the Ports of Jersey response can be found in Appendix 1. A summary of the key issues and responses is as follows:

<b>Trade Union Issue</b>	<b>Ports of Jersey Response</b>
<b>Safety &amp; Security</b>  Contention: Based upon experience of privatisations and outsourcing in the UK, safety & security at the Ports could be compromised due to cost cutting of skilled staff. Part of the contention was also that skilled staff would leave due to incorporation which would impact on safety and security	The Ports of Jersey (PoJ) are highly regulated entities and must conform to all national and international conventions for safety and security to remain operational – this is unchanged with Incorporation. PoJ has made commitments that everyone has a job and everyone will get paid the same – ensuring retention of key skills. Further, the business case is based on 2013 staffing levels with no reductions in staffing numbers or costs to remain self-sustainable for the next 25 years. Finally, Jersey is proceeding down a very different path to the UK privatisations cited by the Unions, and hence many of their concerns are fully addressed in the safeguards built into policy, regulation and legislation for the incorporated entity.
<b>Business/Financial Case</b>  Contention: Volume Growth is improving anyway, therefore	The financial case is constructed on a series of assumptions. The key assumptions on Long Term Capital Programme and Growth volumes have been determined by independent technical experts specifically for Jersey. The unions offer only

<p>incorporation is not necessary in order to raise finance commercially, and they do not agree with the financial case assumptions</p>	<p>generic UK wide information, on historical figures rather than projecting forward and hence do not provide credible evidence upon which to construct a long term financial model. A key objective in Incorporating the Ports is to avoid significant long term borrowing to fund the Capital Programme, hence borrowing itself is not an objective. Finally, the entire financial model has been validated independently. The unions have not offered any credible challenge to the financial model.</p>
<p><b>Reliance on the Ports/Social Impact</b></p> <p>Contention: Privatisation and outsourcing can lead to lower levels of service at higher costs and that costs would increase for Jersey residents.</p>	<p>The financial model is based on 2013 revenue and cost levels, and assumes no above RPI price increases anywhere – hence in real terms costs are flat. The financial case identifies £420 million required to simply keep the current levels of service from our facilities. Without Incorporation, the Ports would have to reduce costs and services and/or increase prices to cover the substantial short fall in cash as identified in the Case for Incorporation.</p>
<p><b>Transfer of Staff/Job Security</b></p> <p>Contention: Members are concerned about job security as well as their terms &amp; conditions following Incorporation.</p>	<p>PoJ has committed that everyone has a job, there will not be any redundancies as a result of incorporation, and everyone will get paid the same. The financial model also crystallises this commitment, in that it is based on 2013 staffing levels and costs escalated by RPI for the next 25 years. The Ports transfer policy is as good or better than UK TUPE legislation, and there is the additional safeguard that the key elements are underpinned in the Draft Air and Sea Ports (Incorporation) (Jersey) Law 201-.</p>
<p><b>Transfer of Assets</b></p> <p>Contention: The States are not earning any income through the transfer of assets to Ports, as has happened with UK Privatisations. Also, there is no protection for the assets once transferred.</p>	<p>Whereas privatisations in the UK led to government selling assets to private companies, Incorporation is creating an entity wholly owned by States of Jersey – hence it does not make any sense to charge the left pocket for right pocket ownership. Further, in order for the assets to remain viable over the long term they require £420 million in investment by PoJ. Without this £420 million the assets will have decreasing value as their lives run down. Finally, all significant balance sheet adjustments (such as asset disposals) require specific approval by States of Jersey as shareholder</p>

Please do review Appendix 1 for the full Unions' submissions, contentions and response.

## 5. Public engagement

### Public meetings

Four public meetings were held by the Minister for Economic Development, having been advertised on the States website and latterly in the JEP.

Public Consultation Meetings			
Date	Time	Venue	Attendance
25-Jun-14	1900	Albert Terminal – Gate 1	4 members of the public
02-Jul-14	1900	Airport – Arrivals	4 members of the public
23-Jul-14	1900	RJA&HS	7 members of the public
06-Aug-14	1900	Albert Terminal – Gate 1	5 members of the public

These public meetings were sparsely attended. As noted above, none of the 4 meetings attracted more than 7 members of the public. Opinions expressed at these meetings were, however, generally positive and the few attendees were given ample time to make detailed inquiries about matters of interest.

The Minister for Economic Development and/or Ports' Shadow Board Members were available at each meeting, as were the senior staff of the ports including the Chief Executive, and EDD officers. This meant that while the number of questions asked was limited, comprehensive replies could be given to each one by the relevant people.

Transcripts of these meeting are available as Appendix 2.

### Technical briefings

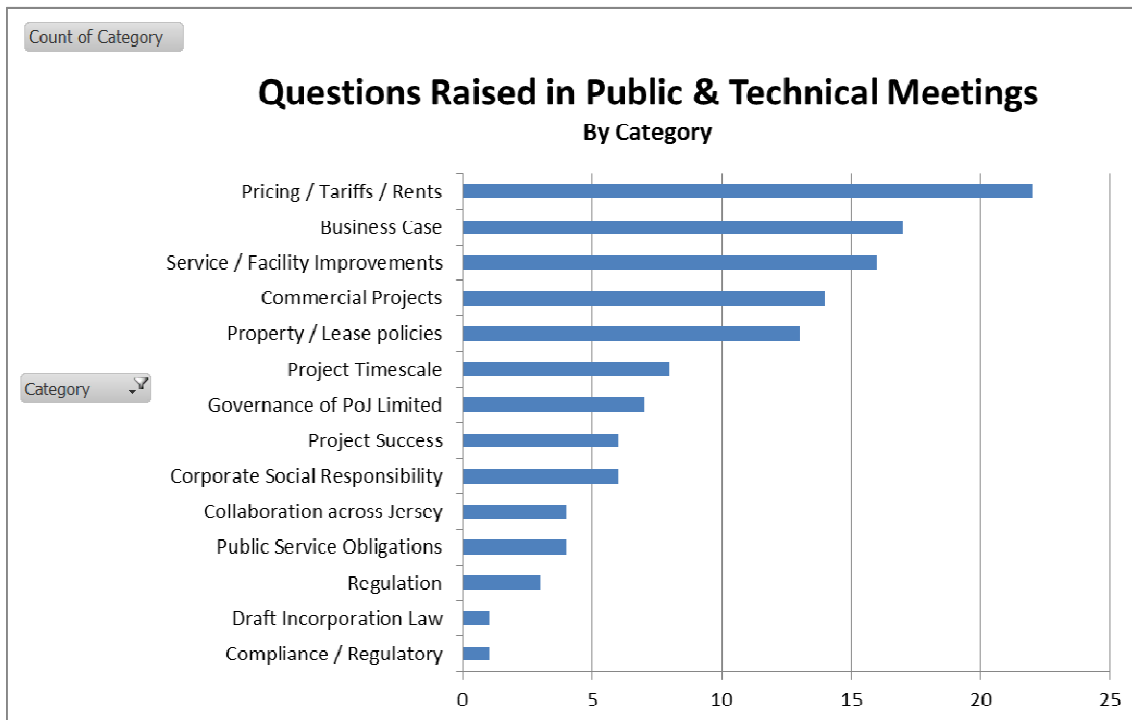
The Ports of Jersey also held briefings on subjects of particular interest. These were open access meeting but invites were sent to interested parties.

Technical Consultation Meetings (by invitation)			
Date	Time	Venue	Attendance
30-Jun-14	1430	Albert Terminal – Gate 1 Ports Commercial Tenants/Users	3 Tenants
01-Jul-14	1430	Vanguard Room, Jersey Airport Airport Tenants & Concessions	4 Tenants
08-Jul-14	1800	Albert Terminal – Gate 1 Clubs & Societies	5 Clubs & Associations
22-Jul-14	800	Rocco Tower Room, Radisson Business Briefing – Consultation	32 attended
30-Jul-14	1400	Albert Terminal Gate 3 Major Ports Commercial	8 Commercial tenants

The Technical Meetings were put in place by PoJ as a way of consulting directly with specific groups that have some form of business relationship with the Ports. This was also extended to wider groups across the business community. These meetings led to some very useful and

productive dialogue on a wide range of topics and all of the questions/issues raised are shown at Appendix 3. All of the questions were discussed and addressed fully at these meetings and there were no issues outstanding that had to be resolved. It is also worth noting that the answers to almost all of the questions raised were already contained within the Incorporation documentation.

To clarify what issues were of most interest to the attendees, and an analysis of questions asked at the themed briefings and public meetings together has been developed –



This list is slightly simplified to allow complex questions to be simply categorised, but it demonstrates the areas of public concern.

The majority of these issues are addressed in the ‘Case for Incorporation’ document, which is available as part of the consultation papers online. Additionally, responses to these questions appear in Appendix 3.

## 6. Conclusion

It is clear from the number of responses and attendance at the meetings that the consultation did not fully grasp the attention of the public, despite considerable effort being made to publicise the issue. It may be that the subject matter is not of great interest to much of the public – which would be unfortunate given the total reliance the Island has on its strategic transport links. It might also be that those parties connected with the harbours and airport tend to be better acquainted with the proposal and are generally supportive.

Nevertheless, the consultation has revealed that there appears to be no significant reservoir of dissatisfaction about incorporation, as the issue was widely publicised enough that parties with deep-seated concerns had every opportunity to bring these forward.

The exceptions are the 2 trade unions – whose points are similar as they both approach the subject from the same position. Their submissions are lengthy and detailed, as is the response of the Ports of Jersey. No analysis is made in this document of the validity of the 2 opposing positions – this will no doubt be the subject of debate between the parties as the matter progresses. It was, however, considered very important to ensure that the public is aware of the various positions on the issue.

The position of clubs and societies has been given considerable consideration during the course of the consultation, and significant efforts have been made before and during the consultation period to engage with clubs and societies. Much of this engagement has taken place outside of the consultation itself, by means of small group or one-to-one meetings. While the issues raised in the consultation are consistent with those raised at individual meetings, there may be some under reporting of engagement with clubs and societies as many have indicated that they are satisfied with their discussion with PoJ and so have not responded directly to the consultation.

The PoJ management has made significant efforts to support the various clubs, and a package of measure is being discussed with the clubs and societies at this time and while it is not currently ready for publication (as it requires agreement from many parties, not least the clubs themselves). This will form part of the PoJ's work on corporate social responsibility which will be published in due course.

## Appendix 1 – response of the trade unions prospect and unite



### Unite Response to the Ports of Jersey Incorporation

#### Introduction

This response is submitted by Unite the Union, the UK's and Jersey's largest trade union with 1.45 million members across the private and public sectors. The union's members work in a range of industries including manufacturing, financial services, print, media, construction, energy generation, chemicals, transport, local government, education, health and not for profit sectors. In the arena of transport Unite represents over a quarter of a million members in all transport modes, making it the largest transport union in the UK. Of particular interest to this response, Unite represents the largest body of staff working in the ports and civil aviation industries within the Channel Islands.

Unite is concerned over the job security and safety of staff working in an incorporated port be that within civil aviation or maritime. From bitter experience of port facilities which have left direct public sector control, in the UK, we have seen safety corners cut, a growth of casualization of staff positions resulting in a reduction in staff skill sets and the reduction of maintenance budgets.

Unite has witnessed in other ports and harbours where the management has been outsourced, in a similar fashion to that suggested, a gradual decline of infrastructure. Unutilised ferry berths have been left to rot so that maintenance staff can be cut and we have also seen a reduction in safety inspections of the sea walls. Unite is fearful that it will only need one major storm, in the ports where these type of budget cuts have been implemented before the ports which connect Jersey to the rest of Europe and the rest of the world will be lost. Of particular concern are St. Catherine's breakwater and repairs to St. Aubin and the protection of ecological habitats. At airports, terms and conditions of workers have been under considerable strain. Management teams at ports and airports have allowed the use of zero hours contractors in what is supposed to be a very secure environment, raising safety concerns especially in relation to terrorist threats.

Unite has witnessed a trend where skilled staff have left to find alternative positions elsewhere in such situations. Given these skills are in high demand on the global market these individuals talents will be lost for good and in an aging economy this is a worrying state of affairs. Unite believes this depletion of skilled staff and the use of less qualified workers, has led to accidents, delays and cancellations and therefore an increase in costs rather than any saving.

Unite has seen example after example, where outsourcing work was far more expensive, caused a reduction of quality and hence seen by many as a false economy. The result has been a series of areas where, due to their bad experiences, they have discovered the way to save money and make businesses more profitable, is to bring them back in-house.



Unite does not agree with the financial case given in the 'Case for Incorporation' document as it assumes that passenger numbers and business will continue to decline with a bleak future for both the ports and airport if it does not become incorporated. Unite believes that the end of the global financial crisis and changes to maritime environmental legislation will create many opportunities for the ports and the airport which could avoid the need to follow this path.

Part of the justification for incorporation is that the port and Airport could not develop and borrow without incorporation, yet the States have been able to do just that to find £400 million to fund two new hospitals. Jersey's Treasury Minister, Senator Philip Ozouf, has previously highlighted that the island's healthy financial position means it can get good rates from lenders. Under these circumstances there is nothing to stop the States providing the funds to realise the sort of changes highlighted in the incorporation justification documentation.

Reliance on external borrowing via an incorporation will result in the interest rate being significantly more than the rate that could be obtained by Jersey' government. This is most clearly illustrated by the proposals to develop Jersey airport and the need to provide the incorporated body with a loan on which they will pay the interest, which will no doubt reduce the dividends paid to the government.

### **Reliance on the Ports**

Jersey is reliant on its air and sea ports to bring over everything necessary to make human habitation on the Island possible. There are no pipelines to bring in the gas and oil supplies. Nor can the Island supply enough food or material to feed and clothe its population. This has been illustrated all too graphically with the loss of the Commodore Clipper ferry service due to its collision with the sea-bed<sup>1</sup>. This loss of services to the Island resulted in some shops selling out of essential products. Motorhomes are now required to make the additional journey from England to St. Malo in order to reach the Island, further deterring their presence on the Island.<sup>2</sup>

Unite believes that incorporating the management of the ports and airports under one body, run on a commercial footing, would carry with it significant risks to the continued economic viability of living in the Island. Even if there is some degree of government oversight, arguments can be made to increase charges so that the operator can "break even". Often "break even" really means once you have paid out for the dividends to shareholders of the private investors into the port, private money is generally not provided without strings that require repayment of the money invested and hence, what may provide a short-term benefit will result in a long-term deficit.

It will be the people of Jersey who will indirectly pay for this privatisation of port and airport services, as every item will be that much more expensive. Employees will be the ones directly affected by these changes, as any semblance of job security will be washed away. Doing so will deny the ports and airport staff with a future and school-leavers will not have the confidence to follow a career path into harbours or airport work. The transport industry is already suffering from a shortage of young blood as the population gets ever more elderly.

The changing age profile of the Europe's population does provide Jersey with increased tourism opportunities. Holidays in Jersey are aimed at a more relaxed market who are interested in the history and culture of the Island as opposed to the hustle and bustle of other European destinations.

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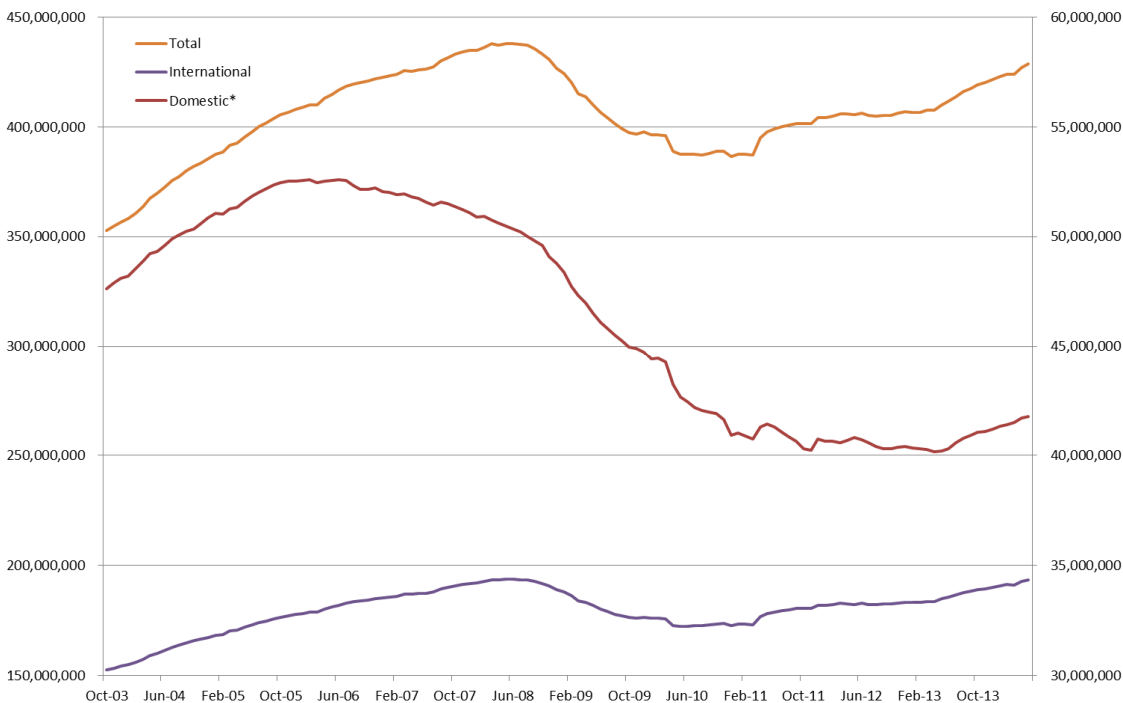
<sup>1</sup> <http://www.condorferries.co.uk/news/?m=7&y=2014>

<sup>2</sup> In order to bring a motor home on to Jersey, visitors need to obtain an entry permit from one of three participating sites.

## The Aviation Industry

According to the records from the CAA, air traffic movements on flights to European destinations increased in the last 2 years against the general trend from the rest of the British Isles<sup>3</sup>. In 2007, capacity restraints began to bite at Heathrow and domestic routes began to decline, causing a slump in the number of passengers flying on these routes. The global financial crisis then hit in 2008 and passenger numbers in general crashed. In recent months, however, passengers have begun to return to the air with an average 4% growth in the last 12 months<sup>4</sup> rather than the modelled RDC projected 0.8% growth rate. Whilst shipping was also hit hard by the recession, they too have seen signs of growth. During August 2014, airlines are increasing weekly seat capacity by 8.3% on North Atlantic carriers.

The below graph highlights the pattern of growth and decline and return to growth seen in the UK passenger aviation industry which shows that rather than looking at projections of a decline in aviation, Unite believes that aviation will be enjoying a renaissance. Flights from Jersey to European and some other International destinations have increase during the recession<sup>5</sup> mirroring what has been seen on the wider UK wide stage.



Source **CAA**

Unite therefore believes that rather than needing incorporation to see growth, the airport will be able to prosper on its own as we emerge from the recession.

<sup>3</sup> With the exception of The Irish Republic as they do not report to the CAA.

<sup>4</sup> According to data from the CAA.

<sup>5</sup> See Appendix 1

## Market forces on the maritime industry

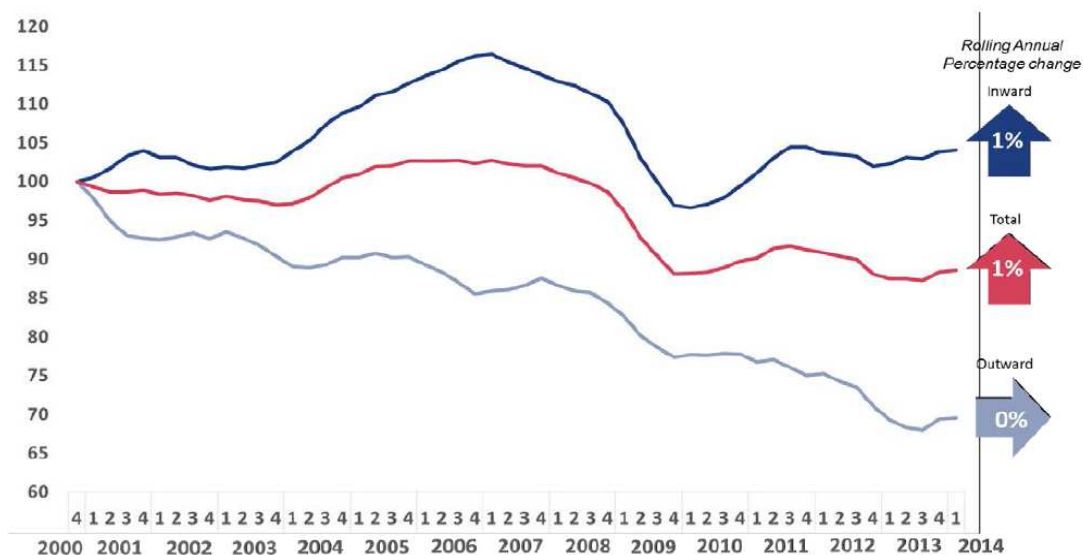
The International Maritime Organisation (IMO) and the European Commission have set environmental limits on the content of Sulphur in marine fuel oil in the designated Emission Control Area's (ECA's)<sup>6</sup> of the English Channel, North Sea and Baltic. This limit will require refineries to produce maritime marine fuel which contains 0.1% sulphur. In international waters the current limit is 3% Sulphur, but in the ECA it is currently 1% Sulphur content. Refineries have stated that it will be significantly more expensive to produce a maritime fuel which only has 0.1% sulphur and current designs for scrubbing devices to reduce the sulphur content in the flue gasses to have an equivalent result have been shown to be expensive and less efficient than thought. As a result, the current thinking is that 0.1% sulphur marine fuel oil will be \$300 to \$350 per tonne more expensive.

This situation in the English Channel and North Sea provides Jersey with a significant opportunity to capitalise on the transiting freight market. Sited just inside the European ECA, Jersey would also be ideally located to offer a ship bunkering service dedicated to selling the low sulphur fuel or alternatives.

Given this change in the maritime landscape, there is every opportunity for Jersey to reap these rewards, which could more than offset any financial losses that might have suffered in the recent past.

The truth is the freight tonnage passing through Jersey Harbours is not declining but increasing, mirroring statistics found throughout Europe. The below graph highlights the figures for UK major ports which show that the pattern of freight movements in Jersey are to be expected in today's market.

Major UK port traffic indices, tonnage: rolling 12 month totals to March 2014 (2000=100)



Jersey has weathered the financial crisis well, resulting in an ever-increasing closing trading fund balance and a reducing need to find financial support. Jersey has witnessed in recent times a significant growth in the construction industry, highlighting business confidence in the Island. This growth requires the importation of all the requisite materials and hence will in itself create more freight volume.

<sup>6</sup> [http://www.atobviaonline.com/helpFiles/WebService/index.html?seca\\_and\\_eca\\_areas.htm](http://www.atobviaonline.com/helpFiles/WebService/index.html?seca_and_eca_areas.htm)

## Outsourcing is not the solution to save money

Unite believes that the creation of a body to manage both the airport and the ports of Jersey will be a recipe for disaster and would create the environment which would ultimately lead to calls from the management of this newly created incorporation to become totally independent of governmental control. Unite has witnessed such scenarios occurring again and again, but in the case of the ports and airports of Jersey, this is one step too far.

In May 2012 a report commissioned by EPSU to Public Services International Research Unit (PSIRU)<sup>7</sup> on the re-municipalising of municipal services in Europe highlighted that since the 1980s, direct public sector provision of services has been strangled by various forms of privatisation – either the direct sale of enterprises such as energy companies to private owners, or the outsourcing of a wide range of services. The report concluded that this process was driven by political, legal, and fiscal factors. The neo-liberal belief is that markets are always in principle the best solution to any problem, and activity by the public sector is an inefficient burden on the economy. The PSIRU report echoes Unite's opinion that there have been far too many examples of market failures to believe in this view any longer.

Given the past failures of incorporation, Unite is concerned that the States are even thinking following this path again. Jersey Telecom was incorporated on 1st January 2003, and the result has been the loss of significant numbers of staff, a significant reduction in customer services<sup>8</sup>, major issues with the billing of customers and management paid significant amounts by way of bonuses<sup>9</sup>. At Jersey Post the terms and conditions enjoyed by staff have been decimated, and the level of service has been seriously diminished<sup>10</sup>.

The British Government has also seen repeated high profile examples of how outsourcing can fail and fail spectacularly. G4S in supplying security guards for the Olympics, Capita's failure to deliver court translation services, issues with Atos's work capability assessments, misreporting of out-of-hours G.P. services by Serco, and most recently, the astonishing news that G4S and Serco had overcharged the taxpayer for years on electronic tagging contracts. These failures illustrate contractors' failure to live up to standards expected, and have exposed serious weaknesses in Government's capability in negotiating and managing private contracts on behalf of the taxpayer. Incorporation of the ports and airport will create another layer of management control of the ports, reducing this capability to properly control what goes on in the vital supply line links for the Island. The House of Commons' review of these failures<sup>11</sup> highlights just some of the pitfalls that should not be followed. Unite feels that the lessons learned from this review highlight that Jersey needs to avoid the idea of relinquishing control to an incorporated body, even if it will have just one shareholder.

The arguments over long-term capital funding are often used as an excuse for the release of governmental control, yet governmental bodies are capable of borrowing at much more reduced interest rates than any corporate entity.

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<sup>7</sup> [http://www.epsu.org/IMG/pdf/Redraft\\_DH\\_remunicalization.pdf](http://www.epsu.org/IMG/pdf/Redraft_DH_remunicalization.pdf)

<sup>8</sup> A survey commissioned by the Channel Islands Competition Regulatory Authorities (CICRA) highlighted that more than 50% of customers of telecom company JT said they were not satisfied with the home phone service they receive.

<sup>9</sup> In 2009 **executives at Jersey Telecom will get paid a total of £340,000 in loyalty bonuses**

<sup>10</sup> Since Jersey Post took over, there has been a reduction to a 5 day a week service, the removal of its priority postal service, and unsurprisingly a decline in customer satisfaction.

<sup>11</sup> House of Commons Committee of Public Accounts – Contracting out public services to the private sector – Forty-seventh Report of Session 2013–14  
<http://www.publications.parliament.uk/pa/cm201314/cmselect/cmpubacc/777/777.pdf>

The Dover Harbour Board were meant to be operating the port of Dover as a Trust Port to benefit the people of Dover, but claimed that they needed the ability to borrow so that they could attract funding for an expansion of the port's facilities. The legislation was changed twice to allow the board to borrow, yet this was not enough to satisfy its management, who were hoping to convince the government to privatise the port. Unite working with local people and even the local Conservative MP were able to convince the government that the port was too vital to the economy to be allowed to be privatised, and instead the Trust was reconfigured to allow more local representation on its board of trustees.

Network Rail is an example of this, where the release of spending control and the governmental desire to allow companies to make profits from the British rail network has resulted in a £35 billion debt mountain, whilst train operating companies pocket what amounts to taxpayer funded profits. The lack of control over its spending led to the directors of this publicly-owned body awarding themselves huge bonuses for improvements that all too often proved to be based on reductions in safety.

The privatisation of the rail network in the UK is now being hailed in Europe as a model to be repeated by other European nations on the grounds of increased private investment and ridership. What the advocates of this neo-liberalism ideal fail to mention is that the level of government support for the network is up to 10 times more than it had been under public ownership, and that the fares in Britain are higher than anywhere else in Europe; that the increase in ridership coincides with the increase in congestion on the roads, resulting in passengers often having little choice in the way they travel.

The privatisation of electrical suppliers, in Britain, resulted in companies more interested in profits than the fuel poor. This in turn led to situations where ever more families are left without power, as they make the choice, to have the lights and heating on or eat, despite past governmental efforts to resolve the situation.

All privatisations and incorporations have been sold to the public on the grounds that they will attract private money and reduce the burden on the taxpayer. Unite would argue that private money is not interested in public good, only opportunities to make more money. Whilst there may be short-term gains from obtaining private funding, the long-term price to pay for this investment places the burden for paying off this investment upon future generations.

### **The transfer of staff – TOPSE**

Unite believe that the Jersey Governments proposals to force individuals into making the choice of resignation or working for the new corporate entity is one which is unbelievable. Once any protected period has passed, these staff will no longer benefit from working for a governmental body.

There is no reason why the employee reward schemes outlined as benefits of incorporation could not be applied under direct public ownership, as it is only a matter of management style. Unite would argue that listening to the workforce will always lead to ideas which can save money and improve the working practices of any corporate or government body.

Whilst Unite has been involved in the development of the Transfer of Public Sector Employees (TOPSE) Policy, it is far from happy with its outcomes, despite what may be perceived from the spin included in the consultation documentation. TOPSE is not supported by any legislation and is therefore unenforceable. The policy does not provide any protection period, resulting in a situation where, on Day 1 the member of staff is transferred with all of his terms and conditions preserved, only to lose them on Day 2. Unite believes that the aims of the policy are laudable, but fall far short of providing any real protection for the employees.

Unite is therefore extremely concerned with proposals to roll this policy out to other areas of public services, and any further plans to incorporate other areas of the civil services.

### **Disposal of Land and Assets to the Incorporation**

Unite is concerned that the States of Jersey will not be raising any revenue from the transfer of the assets of the Island to this incorporated body. The land and historical significance of the assets that will be controlled by the new body should be preserved for posterity. Unite is very concerned that once they are in private hands they can be sold off to be developed despite ministerial assurances that this will not happen.

Assurances that a developer will provide this improved facility or that, instead of another to compensate for the loss of a facility is nothing new and has nothing to do with any benefit of incorporation. There is no reason on earth why the Government of Jersey could not fund an improved leisure facility to the community in order to replace a playing field to provide a private jet hanger and secure apron parking facility, at Jersey airport. The funds raised from the hourly charges made to users of this facility could more than repay any investment of this nature.

On the area between English and French harbours stands La Folie Inn, which closed in 2004. In its time La Folie was the 'local' for fishermen and harbour workers. This part of the historical landscape of Jersey will be transferred to the ownership and responsibility of the new incorporated body, if the proposals are carried out. Unite is concerned that this heritage landmark and others like it will be sold off for some corporate expansion proposal, instead of being preserved and used for the benefit of Islanders.

### **Conclusion**

Unite is not convinced the States of Jersey has made an argument which is supported by the developments in the economic landscape or based on strong economic foundations.

Rather than taking out a loan to provide these suggested improvements the States are creating an environment where it is selling off the family silver in order to allow others to borrow on their behalf on the promise of a long-lasting reward at some later date, which will come out of the Jersey taxpayers' pockets. Having experienced the depreciation of services due to the incorporation of other public services, Jersey is now preparing to place its only physical lifeline for the import and export of people and freight from the outside world in jeopardy. Unite believes this way lies madness.

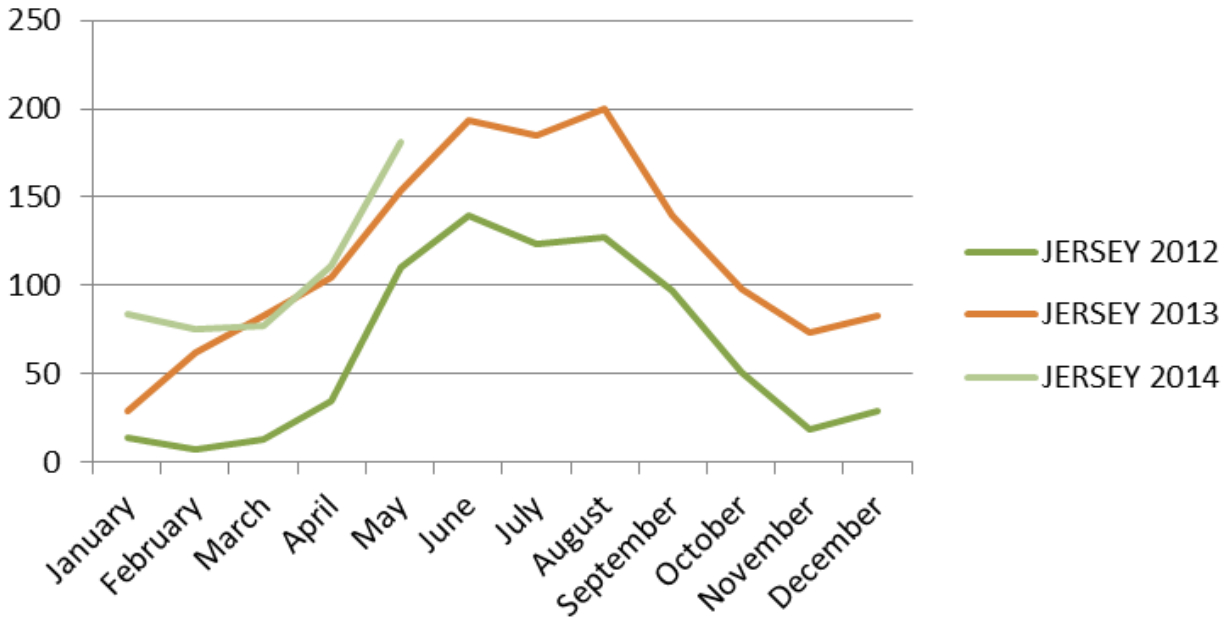
Oliver Richardson National Officer Civil Air Transport Unite the Union Transport House 128 Theobalds Road Holborn London WC1X 8TN	Robert Morton National Officer Docks, Rail, Ferries and Waterway Unite the Union Transport House 128 Theobalds Road Holborn London WC1X 8TN
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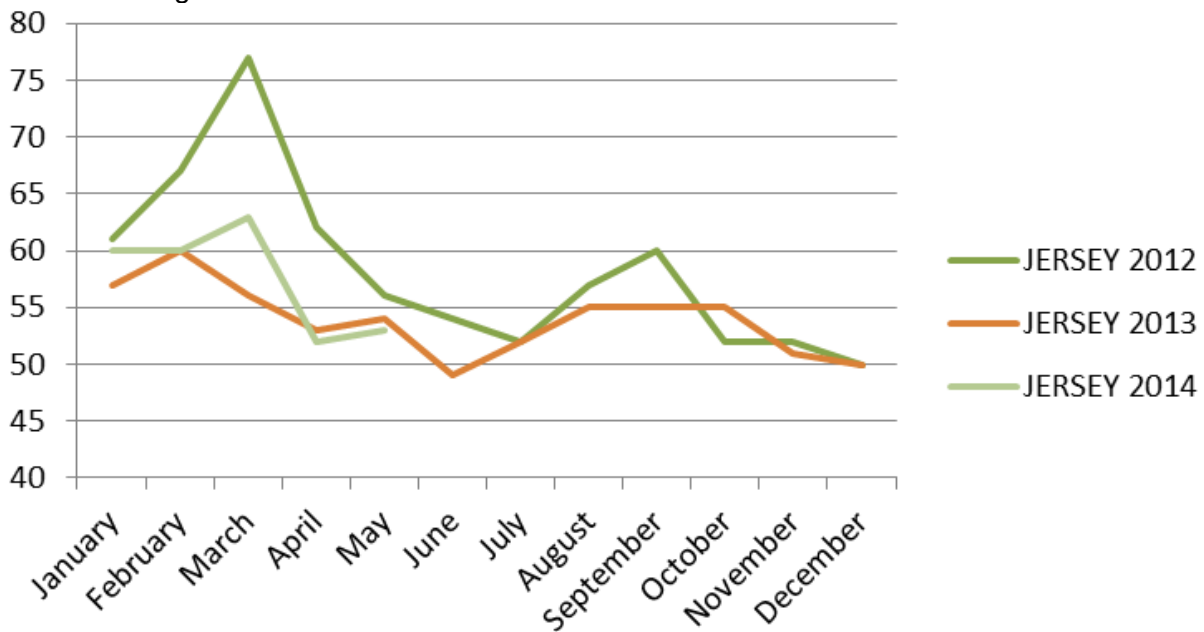
15 August 2014

Number of flights to EU destinations



Source CAA

Number of Flights to Non EU International destinations



Source CAA

# **Prospect Response to the Ports of Jersey Incorporation**

## **Introduction**

This response to the public consultation documents on the proposed Incorporation of Jersey's Ports is submitted by the JCSA/Prospect trade union representing civil servants in Jersey and both public and private sector workers throughout the U.K. Our membership in these areas work in diverse areas including the UK Civil Service, Energy and Telecommunications.

## **Job Security and Terms**

The JCSA/Prospect continues to have grave concerns about the future job security and safety of workers transferred to the incorporated Ports of Jersey. Our experience where such important services have left public control is one of early and regular reductions to pay and conditions and the greater casualization of staff and their employment. All leading to a reduction on staff skills and commitment. In canvassing our membership it is a continual theme that members fear wholesale and arbitrary reductions in their terms and conditions post-incorporation from an employer facing ever stronger financial restrictions. In the face of such an uncertain future, we may face a number of key, skilled staff seeking employment elsewhere leaving the employer with a skill deficit and a threat to service delivery. These levels of skills and experience are not readily available within Jersey, thus creating we would argue a level of threat to Jersey over and above that justifiable.

On a related point, we have continuing concerns about the legal framework in which the incorporation is being planned. In particular the proposed 'TOPSE' document seeks to force workers in the Ports of Jersey to either opt to work with the new entity or resign, is not underpinned by legislation as it is in the UK with the TUPE legislation. Whilst the JCSA/Prospect has, along with our colleagues in Unite, been actively involved in negotiations of the TOPSE Framework we remain deeply concerned at the levels of protections provided by the document both in terms of the forced transfer issue and the length of time that staff will have terms and conditions protected following incorporation.

Our members will also rightly look at the experience of workers in other incorporated bodies in Jersey, and the UK, and see that terms and conditions are a matter for regular revision. Instead we would argue that long-term commitments to workers on such important matters will generate a more beneficial and productive industrial relations context, and one which of course delivers greater service delivery for people of Jersey.

## **Business Case**

The JCSA/Prospect experience of outsourcing and privatisation is one that makes us conclude that a worsening of service delivery is a very real threat for Jersey. In case after case in the UK, services that have been outsourced and placed in the private sector have led to greater cost, inefficiency and waste, and of course a growing trend to take services back 'in-house'. Whilst it is suggested that the States of Jersey will continue to hold a controlling interest in the Ports, it would appear inevitable that calls for full privatisation will, over time, become louder. We do not believe that the evidence of Jersey Telecoms, where there have been significant staff lost and reductions in customer services and delivery, or the same scenario in Jersey Post should be replicated in the vital Ports scenario.

We do not accept the economic assumptions that are made in the business case and in particular the requirement for the Ports to be incorporated in order to borrow capital on the open market is not one that we share. We would suggest that the States does have the capacity to borrow and fund the undoubted infrastructure improvements at the Ports, and at a better interest rate than could achieved by the incorporated entity. In addition, the economic recovery, allied to the



assumptions on freight and visitor numbers, would suggest that the States could continue to take ownership of the Ports.

## **Social Impact**

Jersey is wholly reliant upon its air and sea ports to import goods and materials into the Island; and as such, the disruption to any or all of the ports' services is a major threat to the Island. The recent loss of ferry services only serves to highlight this fact. Within this context we do not believe that the placing of such crucial services in the hands of an organisation required to operate wholly in the financial market is safe or conducive to long-term security of services or the interests of the Island and its inhabitants.

It must ultimately be the case that the driver for such an incorporated Ports authority will over time be its requirement to repay debt, cut costs, thus rivalling its requirement to be the gateways into Jersey. The wealth of experience of public services and utilities placed into 'private' hands shows clearly that the needs of customers too often take second place to the requirements of the financial sector. Our members do not believe that the risks inherent in such a move should be taken in the light of such evidence.

Our union is further concerned that the costs of importing and exporting goods and materials will face cost pressures flowing from the need to operate within the financial sector. This also runs the risk of creating higher prices for customers for all goods in Jersey, as well as making conducting business in and out of Jersey more expensive; in addition the costs of leaving, taking trips from the Island, and tourism, have not been assessed.

The Ports also own large areas of what is now public land and is used for public recreation, such as sports fields. The States is simply proposing to hand this over to the private entity without any guarantees about future use or public provision. The public will feel rightly aggrieved if public spaces are lost, the heritage of the Island is not considered and leisure activities, such as the use of harbours, are all affected. The quality of life issues have simply not been answered in the proposals, and we believe they require attention if these utilities are not to be lost to Jersey in the name of corporate requirements.

## **Conclusion**

The JCSA/Prospect is not convinced that a compelling case has been made to support the case for Ports Incorporation. The economic assumptions are not well founded and contain inherent risks to the States should they not be delivered. The experience of placing such public service delivery in such private hands shows almost universally that service delivery declines as does customer satisfaction. The Ports is a crucial service to Jersey and one which we do not believe should be placed at such risk. To do so would seem to fly in the face of experience and is not a route we believe would secure universal public support.

In addition, our membership have well founded concerns about the nature of their employment following any incorporation, whilst the potential loss of skills and experience to the Ports caused by staff reductions or departures would inevitably lead to service delivery problems and safety concerns.

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# Response of the Ports of Jersey to the unions' submissions

## Overview

The submissions from the unions contain a range of topics. Some have been specifically researched, whilst others appear to be from their knowledge bank accumulated from their experience of privatising or outsourcing functions specifically in the UK. We do believe the unions have valid opinions on the topics covered, but feel that these views would benefit from taking greater account of the environment, experiences and challenges encountered in Jersey.

We have the following main topics that are raised in the Unite and Prospect responses made during our public consultation on the Ports Incorporation –

1. Likely degradation in safety or security following incorporation
2. Business case assumptions, including the need for commercial borrowing/private investment to fund the capital programme as well as growth in passengers and freight to close the funding shortfall
3. Belief that the Ports are 'privatising', and in their opinion privatisation leads to wide ranging failure
4. Commitments concerning staff transfer arrangements, including TOPSE, which in their submitted opinion provide no protection for employees
5. Incorporation places the historical and community landscape of the Island at risk, and the States do not make any gains from incorporation of the Ports through the transfer of assets to Ports.

## Key Points Summary

**Safety & Security:** The Ports are highly regulated, governed by national and international conventions. In order to remain open we must demonstrate full compliance through various audits. To suggest our level of compliance would drop as a result of Incorporation is highly misleading, and to suggest increased threat of terrorism as a result of Incorporation is inflammatory.

**Business Case:** The growth assumptions in the business case were developed by experts in the aviation and maritime sectors specifically projecting performance for Jersey over the next 25 years using their proven and robust methodologies. The entire financial model has been independently validated by internationally renowned auditor – BDO. The response from the unions only contains information of a short-term, historical or generic nature – and hence is not a proper base upon which to build a credible challenge. There are further mistaken assumptions made by the unions which we have corrected in our response.

**Privatisation vs. Incorporation:** The unions continue to misunderstand the difference between privatisation and incorporation, most probably due to their UK based experience in such matters. The key difference, outlined very clearly in our Case for Incorporation, is the significant degree of safeguards in place for the Ports of Jersey Incorporation. These are well documented in the Air and Sea Ports (Incorporation) (Jersey) Law 201-, and described further in our response.

**Staff Transfer Arrangements:** We have benefited from the unions' detailed involvement in the Staff Transfer Working Party to develop the staff transfer policy, and are pleased they have also acknowledged their engagement. By their own admission, the policy is equivalent or better than the UK TUPE legislation. In the case of pension provisions, our policy fully provides for staff to

continue to benefit from the States of Jersey scheme, where UK TUPE legislation specifically omits pensions – this is a huge advantage. Further, the provision in the staff transfer policy governing the transfer of people is entirely consistent with UK TUPE legislation. It is highly misleading for the unions to suggest this is improper when they have worked with UK TUPE legislation on countless occasions.

Historical and Community Landscape: We share the unions' opinion that retention and development of our assets for the benefit of Jersey is very important. Not only have we demonstrated intent through the La Folie development proposal in the Case for Incorporation, but also the Air and Sea Ports (Incorporation) (Jersey) Law 201- contains very specific, legally binding obligations on the Ports in these respects.

Below follows a review of each of their indicated concerns, and a response from the Ports of Jersey.

### **1. Degradation of safety or security following incorporation**

The belief seems to be that if the Ports become commercial they will cut costs to the degree that will compromise safety and security of not only the travelling public but also their employees. The submission from Unite also raised an alert on the increased terrorist threat to the island due to incorporation.

The Ports of Jersey is arguably the most intensively-regulated entity operating in Jersey. In order for the Airport and Harbour to be permitted to provide services to its customers, there are many local, national and international regulations that must be satisfied in respect of aviation and maritime safety and security. The competence of staff and contractors, adequacy of infrastructure and assets, and the quality of processes and procedures are all subject to frequent independent external scrutiny by internationally-recognised bodies. Their findings ensure impartial transparent assessment of safety and security standards. Moreover, Jersey legislation provides a mechanism to stop or reduce aviation or maritime operations at any time if they are found to fall short of required safety, environmental or security standards.

Such national and international structures include –

- ICAO (International Civil Aviation Organisation), including the Civil Aviation Publications (CAP) and enacted through a series of Jersey laws to bring them into effect
- The office of the Director of Civil Aviation (DCA), who regulates aviation safety and security compliance
- Port Marine Safety Code (PMSC), Safety of Life at Sea (SOLAS), Marine Pollution Convention (MARPOL), Standards of Training and Certification of Watchkeepers (STCW 95), Collision
- Regulations (COLREGS)
- All Jersey Occupational Health and Safety Laws.

Appendix 10 of the Case for Incorporation documents contains a fuller list of operational regulations that the Ports of Jersey adheres to for both aviation and maritime.

Irrespective of the nature of employment status, all persons or contractors follow the exact same protocols, clearances and permits – the Ports of Jersey makes no distinction of employment status in terms of safety and security access and approval.

The Ports have a full programme of audits of our compliance with all aspects of safety and security. These audits and our compliance to the international regulations are conditions of our operating licences, and cannot be compromised. Ensuring safe and secure facilities for travellers

and employees has been, and will remain, a priority irrespective of the company structure. It simply cannot be any other way.

Under the Incorporated structure, senior accountabilities for safety and security become very clear with the Board of Directors holding the ultimate accountability. Today, accountabilities are shared among various states departments and Duty Holders. Therefore Incorporation represents a significant improvement in safety and security oversight.

In terms of potential loss of skilled employees, we have regularly stressed to employees and unions that there is a job for everyone in the incorporated ports. We have put a great deal of effort into communicating and consulting with staff over the past 2 years in preparation for incorporation. The message has been clear and consistent – we want everyone to transfer and be part of the incorporated business.

We have gone as far as to develop a staff transfer policy in full collaboration with unions, to ensure that there is absolute clarity in our aims of retaining everyone in the new entity. Commitments made from management in these aspects have been communicated and discussed with employees over the past 2–3 years in 20 general staff briefing sessions, and 49 team level briefing sessions. To date, our record has been that we have fully honoured our commitments, and we will continue to do so no matter the company structure. Finally, the key terms of employee transfer are legally binding in our Air and Sea Ports (Incorporation) (Jersey) Law 201-, hence offer the legal protection for people which the unions seem to have disregarded.

We find it imprudent of union representation to suggest we would compromise these important aspects where there is no evidence to support their assertions, and in fact clear evidence that we continue to act in the best interests of Jersey, travellers and employees. It is particularly irresponsible for Unite to suggest that this would lead to a greater terrorism threat.

## **2. Business Case Assumptions**

It is important to reiterate that the business case is built upon a series of assumptions as outlined in the documentation, with the key assumptions either provided by, or validated by, expert external advice. Further, the entire financial model has been validated by an independent expert auditor – BDO. We see no such evidence, from the unions' responses, that they have undertaken a similar level of independent validation of the financials.

Some of the specific points raised by unions:

### **Growth forecasts**

The growth assumptions contained in the finance model were provided by well-respected external experts, whereby they examined Jersey-specific market and economic data to arrive at their projections. For aviation, RDC Aviation has projected a 0.8% long run (25 years) growth in passenger numbers for Jersey Airport. This has examined the nature of our business, carriers involved, economic drivers and government policies – all Jersey-specific. Additionally, they have provided a methodology assurance, which is contained in Appendix 7 of the Case for Incorporation, demonstrating the robustness of their methodologies. For maritime, Fisher Associates performed a similar level of analysis incorporating a variety of economic, population, consumption, and tourism drivers for Jersey Harbours. Fisher projected a long run 0% growth in traffic through the commercial port. They have also provided a methodology explanation for their 25 year projection which we have included in Appendix 8 of the Case for Incorporation.

The responses from both unions, and in particular the further research conducted in the Unite response, are very generic in nature and not Jersey-specific. Further, they review very short-term (i.e. immediate economic recovery, where Jersey shows some early signs of returning to growth)

or examining a medium-term historical past performance (i.e. past 10 years). However, the responses from the unions do not offer a meaningful projection of business volumes, and hence cannot in our view be used as a basis for either changing or indeed challenging the assumptions provided by expert, respected firms in these specialist sectors.

Finally, in the business case we have identified a worse case shortfall of £314 million to fund the Long-Term Capital Programme – just to maintain existing service levels, if we were to carry on with the same levels of cost and revenue performance over the past 10 years. However, basing it on the past 5 years (where we have slightly improved performance) and including the RDC and Fisher's growth assumptions, we still have a cash shortfall of £90 million. The answer is really somewhere between the two, but whatever the answer, it would become a significant, unfunded liability on the States of Jersey balance sheet.

The responses from the unions fail to address the specific, long run future growth assumptions for Jersey Airport and Jersey Harbours, and offer no firm suggestion on how the considerable funding gap will be satisfied. Hence, without any credible alternative growth projection, or any consideration of the financial implications of the adopting their short-term generic assumptions, we feel this is misleading, and therefore if adopted it places the long-term sustainability of the Airport and Harbours at serious risk.

### **Commercial Borrowing**

While the Business Case does indicate that alternative sources of funds is a benefit of an incorporated structure, the assumptions in the financial model do not contain any commercial borrowing assumptions for the Long-Term Capital Programme (LTCP). The LTCP identifies £420 million requirement for the next 25 years of asset investment solely to keep the services and facilities at their current levels.

During a period of heavy investment, from years 2022 to 2028 in the financial model, which includes the replacement of the runway, we have assumed a short-term credit facility to cover the cash-flows in these years. By the end of the model, the credit facility is completely repaid, and hence the balance sheet of the incorporated ports remains debt-free as far as the LTCP is concerned.

The main improvement in the financial projections is based on the series of commercial projects which the Ports will conduct. Rather than competing for cash devoted to the base asset investment (£420 million), we have taken a prudent assumption that these projects would be financed, as we wanted to also ensure the commercial viability would include the financing costs (no money is free money). These projects, after financing repayments, deliver c. £90 million of cash into the financial model – and it is these returns that make the difference in closing the funding gap.

The responses from the unions suggest that access to long-term commercial borrowing is a key reason for incorporating the ports. Through our financial model we have demonstrated that the Ports can be self-sustainable over the long term without any long-term commercial borrowing, if we are provided with the commercial freedom that incorporation delivers.

In the worst-case scenario, should the Ports be prevented from incorporating, the States of Jersey would have to find funds of between £90 and £314 million through another mechanism such as taxation or increases in prices for operators and the travelling public. Incorporating the Ports, and allowing them to be self-sustainable, obviates this serious financial burden for the States. Therefore, not only do we reject the notion that access to long-term debt on the open market is a primary reason for incorporation, but also it is something we are attempting to avoid for the States of Jersey overall through incorporation.

## **Private investment**

The financial model does not contain any assumptions of private investment in order for the Ports to be self-sustainable over the long term. Further, any changes to the 100% shareholding in the incorporated Ports of Jersey can only be through a full debate in the States of Jersey.

It could be that the unions continue to confuse incorporation with privatisation, which is explained later in this response. In any event, this assertion of requiring private investment into the ports, and the implications, denoted by the unions is unfounded and incorrect.

## **Cost Reductions/Price Increases**

Drawing on their experience, the unions have submitted that as the Ports become more commercial they will cut costs and reduce services.

The financial model is built on a base year cost assumption of 2013 and projected over the 25 year period with an annual RPI escalator set to 3.5% (in line with States of Jersey projections). This means that the entire compliment of Ports employees and what they receive in salary and benefits as at 2013 is carried through the entire financial model.

The out-turn of the financial model demonstrates that we fully cover our Long-Term Capital Programme (£420 million), repay the short-term cash-flow credit facility, provide the States of Jersey with £35 million in taxation and revenue gains, cover our Public Service Obligations of £50 million, and retain positive cash at the end of the financial model period. All of this is done on the basis of the 2013 cost base in relation employment and pay levels across the Ports.

As for travel and transport to/from Jersey becoming more expensive under an incorporated Ports of Jersey, we have made a clear assumption in our financial model that there will not be any price increases above RPI – hence in real terms, our pricing remains flat over the 25 year period. Not only does this assumption hold for our commercial traffic (e.g. harbour dues and landing fees), but also for our tenant rentals, leisure activities (e.g. mooring fees) and concessions. Our financial model, independently Validated by BDO, demonstrates self-sustainability without the need for significant price increases that the unions are indicating.

Additionally, section 4.11: Implications of Non-incorporation, in our Case for Incorporation document, indicates what may happen if we do not incorporate the Ports. It is stated clearly that we will have to review services and pricing in order to keep the Ports open, safe and secure. Without the commercial freedom that incorporation provides, we will have little alternative but to reduce services and costs or increase prices in order to fund the significant projected cash shortfall.

Therefore, the concern unions have expressed about service and employee reductions is completely negated in our Case for Incorporation and, in fact, these risks have a higher probability of materialising if we do not incorporate.

### **3. Privatisation vs. Incorporation**

“Privatisation” is used throughout the submissions from the unions as a description for incorporation, and they have pointed to a number of perceived failures of privatisations throughout UK. These points seem to be developed by UK-based representation of the unions, using examples from UK privatisations, most of which are irrelevant to what we are doing in Jersey.

Incorporation is a well-trodden path in Jersey, and strikes the right balance between public interest protection and the need for commercial entities to manage their businesses in the optimal manner. The primary difference between privatisation, from the illustrations submitted by the

unions, and the Ports of Jersey incorporation is the degree of safeguards committed to in the Ports incorporation.

Specific safeguards under incorporation include:

### **States of Jersey as 100% shareholder**

In the UK examples cited by the unions, these include moving the entire control of a function to a new entity completely external to the UK government. These relationships are then often managed through an agreement or contract.

A significant difference of incorporation in the Jersey context is that States of Jersey maintain full strategic control of the Ports by virtue of its 100% shareholding. Furthermore, the Air and Sea Ports (Incorporation) (Jersey) Law 201- insists that any change to this structure is brought forward to the full States Assembly for a vote.

### **Economic and operational regulation**

In the Air and Sea Ports (Incorporation) (Jersey) Law 201-, the Ports operating under an incorporated structure are fully subject to Jersey Competition Law, and therefore will be regulated by the Channel Islands Competition Regulatory Authority (CICRA). This provides consumers with comfort that the Ports will behave in a proper manner.

The Ports will also continue to be subject to the full national and international regulations for operational compliance in the areas of safety and security. These regimes continue to provide the travelling public, leisure customers and freight shippers with certainty in the high standards of safety and security required for our strategic gateways.

### **Public Service Obligations (PSO)**

The Ports of Jersey currently provide a number of services for the good of the public of Jersey. The two primary ones are Jersey Coastguard, which provide 24/7 emergency response in our ports and territorial waters, and the maintenance of our Historic Harbours, which provide tremendous amenity value to the public and visitors.

Under the Air and Sea Ports (Incorporation) (Jersey) Law 201-, the Ports are legally compelled to continue to provide these PSOs to the same standards as they are provided today. The high standards of service provision for Jersey Coastguard are ensured by our compliance to our Maritime Regulator and routine audits of performance within national and international regimes. As for the Historic Harbours, the Air and Sea Ports (Incorporation) (Jersey) Law 201- ensures oversight by the Parishes themselves in our maintenance programmes.

### **Strategic growth objective**

Article 5(5) of the Air and Sea Ports (Incorporation) (Jersey) Law 201- states:

#### **5 Primary object of POJL**

- (1) The primary object of POJL shall be to provide, or ensure the provision of, safe, secure and efficient port operations for Jersey, whether by itself or by any other person acting as its subsidiary, agent, employee or sub-contractor.
- (2) Without derogation from the primary object stated in paragraph (1), in carrying out commercial port **operations POJL shall act in the manner best calculated to secure sustainable growth in the economy of Jersey in the medium to long term.**

- (3) In paragraph (2), “commercial port operations” means any port operations licensed under Part 3 of this Law, but does not include harbour operations which form part of POJL’s public service obligations as expressed in Article 6.

The purpose of this clause, which is a new addition to the Air and Sea Ports (Incorporation) (Jersey) Law 201- as compared to previous States of Jersey incorporations, is to strategically compel the incorporated ports to operate in the best long-term interests of the Island. While the philosophy of everything that we have been doing across the incorporation programme is to conduct our business in the best interest of the Island, this is now further enshrined in the Law. This feature has been introduced specifically to ensure strategic alignment of objectives between the Ports and the States of Jersey, and must feature in every long-term decision that we take.

The response from the unions does not take any of the above safeguards into consideration, most probably due to their experience being founded in unrelated outsourcing initiatives and privatisations in the UK.

We have been entirely open and consistent that this is not privatising the Ports, and that the States do not have any intention to privatise them in the future. For the unions to suggest otherwise it is without any basis, and is unfair not only to the States of Jersey departments who have put tremendous effort into constructing the right balance of control in the proposals, but also to the wider public and those they have elected to represent them.

### **Jersey Telecom and Jersey Post**

The Union’s submission contains a number of references to the impact on staff and jobs in the incorporation of Jersey Post and Jersey Telecom. These references appear to ignore a number of significant differences between these incorporations and that of Ports of Jersey.

Jersey Post and Jersey Telecom incorporated to create competitive markets in the postal and telecommunications sectors. These competitive markets then saw a variety of new entrants establish themselves (such as Sure, Airtel-Vodafone, etc.). Rather than incorporating to create a competitive market, the Ports of Jersey are incorporating to enable business growth. The Ports will remain a natural monopoly, regulated as such, and hence will not face competition in the same way as Jersey Post and Jersey Telecoms.

In line with similar postal businesses across Europe, Jersey Post had to respond to the almost complete collapse of their traditional markets. In the case of Jersey, this was more significant due to the loss of delivery business associated with Low Value Consignment Relief (LVCR) which removed significant volumes virtually overnight. This highlights the severe pressures the company was under.

Jersey Post and Jersey Telecoms restructured their businesses in response to the increased competition within their markets, which occurred after the entities incorporated. The Ports of Jersey began our transformation 3 years in advance of incorporation, and completed our corporate restructuring (i.e. Integration) in March 2012. Ports are much further ahead of the curve than Post and Telecoms had been, and have taken learnings from their processes.

Other important distinctions include:

The Air and Sea Ports (Incorporation) (Jersey) Law 201- contains enhanced provisions in respect of the transfer of staff.



The staff transfer policy has been developed in conjunction with unions and has been communicated widely with employees. This policy has commitments comparable, or better, than UK TUPE legislation, and was not in place for the incorporations of Jersey Post and Jersey Telecoms

JT are currently implementing a number of major IT projects, namely Gigabit Jersey and the new billing system. There have been well publicised issues in both of these projects which have apparently led to service issues. However, for the Union to suggest that these issues have anything to do with incorporation is disingenuous. There is no evidence to suggest that these projects would have been implemented 'better', or service levels maintained, had JT remained within the States of Jersey. The fact that JT measure their customer satisfaction at all is a huge improvement.

In their submission, Unite states that there "... has been the loss of significant numbers of staff". In fact, JT now employ over 615 people worldwide, with 491 in Jersey compared to 477 pre-incorporation, with 120 of these are employed on the Gigabit project. Further, the Telecoms industry in Jersey employs nearly 550 people, and these new roles were only created through the incorporation of JT.

### **Outsourcing examples cited**

Unite also refers to "*how outsourcing can fail*" and cites a Select Committee report. This is an interesting reference as its main recommendations relate to aspects that the UK Government needs to improve when outsourcing services, not that that it should cease outsourcing services. It is also interesting to note that the report relates specifically to the outsourcing of services. It is, therefore, not a valid comparison as Ports of Jersey is already a separate Trading Fund and the stated intent in 'The Law' and in the Case for Incorporation is that Ports of Jersey will continue to provide the same services post incorporation as it does now. As mentioned elsewhere, there are clear safeguards in place within 'The Law' and Regulatory Framework to ensure that it does so.

The Case for Incorporation contains in Appendix 14 a number of case studies, prepared by Holman Fenwick Willan, LLP, that are much more relevant to the incorporation of Ports of Jersey.

The States of Jersey have discussed 'incorporation' a number of times in the last 15 years or so and the current Assembly voted overwhelmingly (42 votes to 5) to adopt the 'in principle' decision to proceed with incorporation. This quote from the Holman Fenwick report encapsulates many of the reasons behind this vote and directly addresses and in our view balances the concerns raised by Unite in its submission:

*The main benefit of the corporatisation of ports is that port authorities become more autonomous as the decision-making process devolves from the government to the company's directors.*

*This more dynamic decision-making process fosters competitiveness, growth and transparency in the port authority's development, and business and customer satisfaction are given priority.*

*The focus is also on sustainability and improved productivity, in order to encourage investment in the port authority's development. Overall, corporatisation of port authorities has in many cases led to increased economic profitability, enhanced employment opportunities in the port area and improved commercial flexibility.*

#### **4. Staff Transfer**

Appendix 11 of the Case for Incorporation provides all of the detail on the extensive engagement of both unions and employees on the arrangements for the transfer of employment from States of Jersey to Ports of Jersey. There has been an unprecedented level of involvement, with very beneficial input from the unions throughout the development of these arrangements which we feel have created a best in class set of documents.

Specifically, in July 2012 we formed the Staff Transfer Working Party – comprising Ports, Housing, Central HR, Prospect and Unite. Since then we have met approximately monthly, or 23 times, in order to discuss and develop policies for the transfer of staff and review of policies. A full record of attendance at these sessions is available.

This working party jointly developed the primary policy governing the transfer of employees – the Transfer of Public Sector Employees (TOPSE).

#### **Staff Transfer Policy Development**

We have benefited from the significant input from the unions in respect of the principles and commitments made in the staff transfer policy. Many of the principles are built upon the UK law, Transfer of Undertakings Protection of Employment (TUPE). The policy has been proven to be comparable, and indeed provides superior protection in some cases such as pension arrangements, to the UK TUPE legislation. In fact, an analysis undertaken by Prospect and contained in Appendix 11 of The Case for Incorporation, illustrates this fact very well.

Specific commitments made in the policy, and discussed with all Ports of Jersey employees, include:

- Protection of Terms and Conditions on transfer to the new entity – basically what people get paid before incorporation will be what they are paid after incorporation
- Continued recognition of trade unions by the post incorporated entity
- Protection of length of service
- Protection of participation in the States of Jersey Pension Scheme (UK TUPE law makes no such obligation)
- All jobs are in scope, there will be no redundancies or restructuring as a result of incorporation, and we wish everyone to transfer
- There will not be any probation period or interview process – we want everyone to transfer in their same jobs, getting paid the same amount of money

#### **What if staff do not want to transfer?**

The staff transfer policy is entirely consistent with UK TUPE legislation in this area. TUPE states very clearly that, if people are offered a comparable equivalent job in the new entity, but do not wish to take up the opportunity, they will be deemed to have resigned.

For clarity, the following extract is taken from Prospect's own members' guide to TUPE regulations:

#### ***Refusal to transfer***

*An employee can object to being transferred to the new employer.*

*However, if the employee does object to the transfer they do not have any right to stay with the old employer and will be deemed to have resigned. In most circumstances, they would not be able to take a claim for redundancy or unfair dismissal.*

In addition, quoting from the JCSA's own comparison between TUPE and the draft of the TOPSE policy that has informed the ports staff transfer policy: *"Employees can object to their proposed transfer, however in reality staff do not have the right to stay with the previous entity or employer and will have been deemed to have resigned if they refuse to transfer. In these general circumstances those members would not be able to take a claim for unfair dismissal nor would they be eligible for redundancy payments"*

It is, therefore, misleading for the unions to state that the staff transfer policy does not offer the same protection as UK TUPE legislation in this area, when, the undisputable fact is that the staff transfer policy is entirely consistent with TUPE in this area. Unite's statement that *"Jersey Governments proposals to force individuals into making the choice of resignation or working for the new corporate entity is one which is unbelievable"*. Whereas, in reality this has been a well-established provision of the TUPE legislation in the UK for many years. The unions have had countless experiences in working within UK TUPE legislation so for them to make such a statement is misleading.

Finally, the Ports of Jersey management have already been engaging with employees, most notably through the 49 team level sessions conducted over the past year, stating that if anyone does not feel that they can transfer it is better to talk earlier with managers so that we have more time to work with them on identifying other roles. If employees wait until the eve of Incorporation to signal this, we have few options remaining. In short, we are doing all that we can to make transition smooth for everyone.

## **Protection of Terms**

As stated earlier, a key pillar in our strategy surrounds people where we have an ambition to attract, retain and reward talent. It is illogical that we could be an attractive employer if we wholesale degrade conditions for people. Rather we wish to develop and reward performance and business success.

The Unions have stated that the staff transfer policy is not supported by law and is therefore unenforceable. The Unions appear to have missed some key points within the proposed new legislation. The Air and Sea Ports (Incorporation) (Jersey) Law 201- ("the Law") states that contracts *"shall not be terminated by the transfer"* which is, once again, the same provision that is embedded within TUPE.

The Law goes on to state that the terms of the contract are protected in the same way, and that collective agreements are to be transferred to the new entity, again consistent with TUPE.

Quoting again from the JCSA's comparison between TUPE and the draft of the TOPSE policy that has informed the ports staff transfer policy: *"Key terms which are covered by the protections as issues such as pay, hours, holidays and allowances. The TOPSE document which we have been consulting on contains these protections in line with TUPE legislation. Any subsequent proposed changes to contractual terms will have to comply with legal procedures for employers seeking such changes, whilst variations which are based solely on the grounds of the change will be deemed unlawful within the UK context"*. This is exactly the same position that will exist in Jersey through the enactment of the 'The Law'.

However, the Law includes a very significant improvement on TUPE in that the membership of the PECRS pension scheme is also protected. This is a key element of the benefits package for staff which is not covered at all within TUPE.

We have stated categorically, and consistently, that we will honour the existing pay, terms and conditions for all employees at the point of transfer. This is consistent with UK TUPE legislation. To amplify this, we have built this as a key assumption in the financial model for incorporation. This builds in the costs associated with all staff remaining with the organisation and that they will be paid at the same level as in 2013 (plus RPI inflation during the course of the financial model).

We firmly believe that a vibrant and growing incorporated Ports of Jersey will provide opportunities for personal and professional development beyond those capable under the current structure. A good example is our cadet scheme for the Harbours, whereby we would wish to expand this offering but require additional funding to lift the programme. We have a high ambition to lift service levels for our customers, and provide such opportunities for our people to become the best they can be.

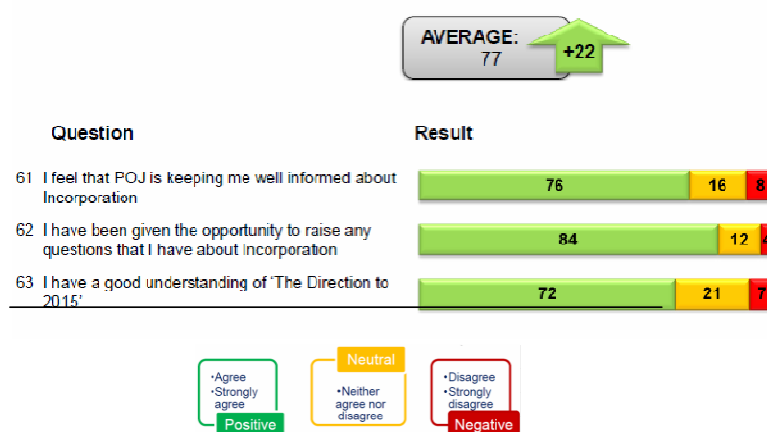
## Staff Engagement

Since September 2011, the Ports of Jersey have been on a solid path of change. One of the key pillars of this change programme is opening up the engagement with employees across the Ports. Under our medium term strategy, The Direction to 2015, launched in May 2012, we have been working hard on improving employee engagement. Such improvements include:

- Establishing a dedicated intranet site for the sharing of all information in an open and transparent manner.
- Conducting regular employee briefing sessions, so called “town hall” meetings 3–4 times per year. To date, 7 sessions have been conducted.
- Conducting annual employee engagement surveys, and working with teams to identify and implement improvements in their working environments.
- Holding Group CEO team level discussions on key incorporation topics. In October/ November 2013, a series of 31 team level meetings encompassing 85% of Ports of Jersey employees were conducted to discuss the detail of the staff transfer arrangements. In April/ May 2014, a series of 18 team level meetings encompassing 83% of Ports of Jersey employees were held to discuss the detail of the Case for Incorporation.

There are many examples of the open manner in which Ports of Jersey management have been discussing the incorporation proposals, not only with unions but also with employees directly. To illustrate the degree of this engagement, in the 2013 Employee Engagement survey we included 2 questions (61 and 62) at the request of unions, namely:

## 15. POJ Future Direction



As we had an 84% response rate for our 2013 Employee Engagement Survey, and the vast majority of people feel positive that they have been kept well informed about incorporation as well as been given opportunities to raise questions about incorporation.

## **TOPSE Application**

The staff transfer policy has been developed through an unprecedented level of engagement with unions and employees of the Ports of Jersey over the last 24 months. Such arrangements were not in place for legacy incorporations, such as Jersey Post and Jersey Telecoms, and we believe the staff transfer policy provides significant comfort for people affected by the incorporation of the Ports and, by the Union's own admission, "*The TOPSE document which we have been consulting on contain these protections in line with TUPE legislation*"

## **5. Asset Transfer**

The submissions from the unions have also made a few points in relation to the transfer of property from States of Jersey to the incorporated Ports and the potential impact on the social fabric of the Island.

### **Revenue raising from asset transfer**

The response from Unite indicates their concern that when the Ports incorporate the States of Jersey will not raise any revenue from the transfer of the assets. We believe this concern is borne from their experience of UK privatisations, which is irrelevant under the incorporation structure whereby the States of Jersey remains in 100% ownership of the company and hence the assets of the company. It would not make any sense for the States to charge the left pocket for the right pocket ownership.

Further, if the assets are to remain viable over the long term they require significant investment, to the tune of £420 million, just to maintain the current level of services and facilities. Without this investment the assets will have decreasing to zero value. As the Case for Incorporation clearly illustrates, an incorporated ports removes this significant liability from the States of Jersey, and therefore the decision is not whether to raise revenue from the transfer but to avoid the significant exposure of not transferring the assets.

### **Loss of public access/heritage space**

Within the [Air and Sea Ports \(Incorporation\) \(Jersey\) Law 201-](#) public right of access to the properties under ownership by the Ports of Jersey is guaranteed. It would be illegal for the incorporated Ports of Jersey to deny access. These provisions are contained within Schedule 1 of the Law.

The Public Service Obligations (PSO) in respect of the Historic Harbours, and illustrated under Article 6 of the [Air and Sea Ports \(Incorporation\) \(Jersey\) Law 201-](#), compel the Ports of Jersey to maintain the facilities and services pursuant to an agreement management plan. These plans have further oversight by the Parishes themselves.

Asset liquidation through the onward sale of property is also highlighted by the unions as a potential risk to the public. In the case of significant balance sheet adjustments, such as the acquisition or disposal of significant assets, these require the specific approval of the States as shareholder.

## **Commercial developments**

The submissions from the unions highlight their concern over the development of the property with detrimental impact on the public of Jersey. It is important to emphasize that all developments in Jersey, whether private or public, must conform to the strategic Island Plan as agreed by States of Jersey, and all of the normal Jersey Planning processes, policies and law. This will be exactly the same for the incorporated Ports of Jersey.

The Case for Incorporation has identified 9 initial commercial projects, and Appendix 5 holds an outline of each of these projects. The commercial freedom that incorporation enables the Ports to pursue a development and revenue diversification strategy designed to ensure a long-term self-sustainability of all current services and facilities the Ports provide for commercial, leisure and society benefits. Without such projects, the probability of the significant cash shortfall increases and the resulting requirement to increase prices or seek additional public money from general taxation.

The Unite response specifically addresses the La Folie site, an area which has been languishing for far too long. We are pleased Unite also recognises the importance of this site, as we feel it is a perfect example of the type of development the incorporated Ports would wish to pursue. Appendix 5 of the Case for Incorporation has the following outline of the La Folie project:

### **La Folie Quay and Buildings Project**

**Description/Overview:** Revitalisation and regeneration of La Folie site, to return it to marine and leisure related usage, sympathetic to its heritage and reflective of the significant public interest and affection that the site commands.

**Capital Expenditure/Initial Outlay:** £2.9 million.

**Ongoing Net Annual Revenue:** £600K.

**Comments:** The project is reliant upon securing public and government support. The proposals represent an excellent opportunity to demonstrate acknowledgment of the incorporated body's 'responsible custodianship' obligations, whilst simultaneously creating a sustainable level of new revenue.

Initial plans for the La Folie site surrounded the sale of the assets and its development into flats. However, the Ports see a much better development for the area which includes bringing this historic landmark back to life, providing commercial units for one of our key business sectors – marine leisure, and providing some heritage holiday accommodation for an improved tourism offering. Business wise, we retain the asset and derive better revenues for the long term than would have been achieved under the disposal for flats scheme.

Further, for the society and community the Ports regenerate and retain an important part of Jersey's heritage, whilst providing an improved area for the benefit of customers and the public. This is exactly the type of responsible development the Ports finds most attractive, and should wish to pursue upon incorporation.

Therefore, we feel we share the unions opinion that retention and development of our assets for the benefit of Jersey is important, particularly aspects which are sympathetic to our Island's heritage. We do absolutely dismiss their allegations that an incorporated Ports would behave in a rapacious manner towards these important elements.

## 6. Conclusion

The Ports of Jersey have conducted an unprecedented level of engagement with the unions and employees in developing plans for incorporation. We have been entirely open and transparent throughout the programme. Whilst we understand many of the concerns raised in the unions' responses, but in our view they are based on UK outsourcing and privatisation experience with little acknowledgement of what we are trying to achieve in Jersey with the Ports Incorporation. Their representations that the staff transfer arrangements, will impact on jobs/employees and hence services that the Ports provide, are without foundation and are misplaced. They fail to take into account the binding obligations enshrined in the Air and Sea Ports (Incorporation) (Jersey) Law 201- or the considerable commitments made by management. Also the Unions have been fully involved over the last 2 years in the joint development of the TOPSE policy. By their own admission, the Port's staff transfer policy is commensurate or better than the UK TUPE provisions.

To raise concerns in respect of a degradation of safety and security performance in our Ports under an incorporated structure seems to be designed more to provoke adverse public opinion than illustrate actual concern. It is unthinkable for the Ports to compromise on these critical standards for the well- being of our customers, travelling public and employees. Given the national and international regimes within which the Ports operate, and that compliance is a condition of our continued operation, we are fully committed to providing open, safe and secure facilities for Jersey.

Whilst we have learned a great deal from the experiences that the unions have had in the UK and developed much of the arrangements based on these learnings, the references they make to privatisations in the UK bear little resemblance to Incorporation of the Ports in a Jersey context. It appears that the Union's research and comparisons to the UK did not spend sufficient time understanding the significant safeguards enshrined in the Air and Sea Ports (Incorporation) (Jersey) Law 201- that are specifically designed for the comfort of the public of Jersey, the customers of the Ports and our employees.

Like the unions, the Ports firmly believe that employee engagement is critical for business success. Over the past 2-3 years the Ports have been working very hard on connecting everyone to the business, and identify ways in which to improve both working conditions and the business itself. We have benefited greatly from the employee and union engagement in our proposals and we are absolutely committed to carrying on these excellent collaborations.

**Submitted on behalf of the Ports of Jersey**  
**29 August 2014**



**Doug Bannister**  
**Group CEO ~ Ports of Jersey**

## Appendix 2 (a, b, c, d) – transcripts of public meetings

2a – 25.07.14

### NOTES OF A PUBLIC MEETING OF THE PORTS OF JERSEY HELD ON 25TH JUNE 2014 AT 7 P.M. AT THE ALBERT TERMINAL, ST. HELIER, JERSEY

#### **Present:**

Senator Alan Maclean, Minister for Economic Development (AM)  
Mike King, CEO, Economic Development Department (MK)  
Charles Clarke, Chairman, Ports of Jersey Shadow Board (CC)  
Frank Walker, Non-Executive Director, Ports of Jersey Shadow Board (FW)  
John Mills, Non-Executive Director, Ports of Jersey Shadow Board (JMi)  
Doug Bannister, CEO, Ports of Jersey (DB)  
Andrew Boustouler, Deputy CEO & Director of Resources, Ports of Jersey (AB)  
Nathan Fox, Strategy Manager, Economic Development Department (NF)  
Jim Shilliday, Project Director, Treasury & Resources Department (JS)  
Alan Smith, Non-Executive Director, Ports of Jersey Shadow Board (AS)  
Mike Collett – Non-Executive Director, Ports of Jersey Shadow Board (MC)  
Karen Skelhorn, Administration, Ports of Jersey (KS)  
James Morris (JM)  
Tim Rogers (TR)  
Myra Shacklady (MS)

#### **In Attendance:**

Aimee Maskell, AM to PM Secretarial Services (AMa)  
Edward Trevor (ET)  
Gerry O'Connor (GO)

[one further member of the public whose name I did not get]

#### **Welcome**

AM welcomed everyone to the meeting and both he and DB provided an update on the status of the Ports' incorporation.

#### **Q&A**

Questions were invited from the audience and were noted as follows

GO referred to the nine projects mentioned in DB's update and queried what they were. DB responded that they included the following:

- 1) Interim offering to create an executive lounge at the Airport;
- 2) Engineering works at the harbour including the construction of a new Ferry Speed warehouse;
- 3) The re-location of the cargo centre at the Airport;
- 4) Creating more general aviation hangarage at the Airport;
- 5) The re-design of La Folie;
- 6) Taking advantage of under-utilised capacity; and
- 7) The possible acquisition of Victoria Warehouse.



GO queried whether there were any plans for the Harbour and DB advised that the plan was to focus on the initial nine projects first. He explained, there will be other infrastructure projects going on as well (e.g. preparing for the removal of the Bailey Bridge and re configuring the Albert Pier Pontoons) but he has higher confidence in delivering the initial nine. He added that although incorporation of Ports will achieve commercial freedom, it will still have to adhere to other structures in Jersey e.g. Planning.

ET noted from DB's update that the revised Airport sales area was very profitable and queried whether consideration has been giving to doing something similar at Elizabeth Terminal, on the assumption that this would be profitable too. DB advised that the primary retail at the Airport is duty free and Condor offers that on their ships. He explained that this is necessary revenue for them and part of the reason why they provide the service. Therefore Ports would not wish to compete with them. That said, DB noted that it may be possible for more niche products to be sold at Elizabeth Terminal (e.g. Genuine Jersey products which promote the Island).

JMi asked DB to comment on Ports' relationship with its major customers, the airlines and shipping lines and DB advised that Ports are engaging with the major customer groups and all key stakeholders and meetings will take place with them as well as the public meetings. In addition, all tenants of the Ports will be invited to a meeting and meetings are also taking place with the Ports' commercial partners at the Harbours (e.g. Condor, Channel Island Lines, Ronez and the stevedores) and the Airport (e.g. the airlines and service providers). It was noted that the Ports have been in dialogue with them already and specific sessions will be scheduled in order to address any changes or concerns with them. JMi thanked DB and noted that it was important to know that they were all on board and that Ports were in good consultation with them.

There being no further questions, DB advised that three further public meetings have been arranged, details of which be found on the consultation portal ([portsincorporation.gov.je](http://portsincorporation.gov.je)) or in the Jersey Evening Post. He stressed that there are number of ways to contact the Ports team and if anyone has any feedback to make or questions to raise they can be made via the portal, by email or letter.

It was noted that the consultation process will continue until August. The feedback will then be analysed and, if necessary, any appropriate changes will be made to the law or business and it is anticipated that the outcome will be released by the end of September.

**Termination**

There being no further business to discuss, the meeting was closed at 7.40 p.m.

**NOTES OF A PUBLIC MEETING OF THE PORTS OF JERSEY HELD ON 2ND JULY 2014 AT 7 P.M. AT THE JERSEY AIRPORT ARRIVALS HALL, ST. PETER, JERSEY**

**Present:**

Senator Alan Maclean, Minister for Economic Development (AM)  
Doug Bannister, CEO, Ports of Jersey (DB)  
Andrew Boustouler, Deputy CEO & Director of Resources, Ports of Jersey (AB)  
Nathan Fox, Strategy Manager, Economic Development Department (NF)  
Jim Shilliday, Project Director, Treasury & Resources Department (JS)  
Mike Collett – Non-Executive Director, Ports of Jersey Shadow Board (MC)  
Karen Skelhorn, Administration, Ports of Jersey (KS)  
Stephen Driscoll, Group Operations Director, Ports of Jersey (SD)

**In Attendance:**

Aimee Maskell, AM to PM Secretarial Services (AMa)  
Robin Kelly (RK)  
3 further members of the public

**Welcome**

AM welcomed everyone to the meeting and both he and DB provided an update on the status of the Ports' incorporation.

**Q&A**

Questions were invited from the audience and were noted as follows

RK asked if DB could put "more flesh on the bones" of the nine projects he referred to in his speech. However, before doing so another member of public asked if the nine projects were included in the 2009 Airports Strategic Plan and SD responded that the 2009 Airports Strategic Plan had been updated by the Long Term Capital Plan. DB added that the Long Term Capital Plan looks different to the 2009 Airports Strategic Plan and is more robust.

DB advised the meeting that the nine projects are not included in the £276 million referred to in his speech and some of them are quite dull. They include:

At the Airport:

- 1) Partnering with a business to create an executive lounge at the Airport;
- 2) Building of a new cargo centre at the South side of the Airport. DB advised that planning approval has now been given for this and contracts were signed this morning. He expects work to start happening in the next few weeks which will free up the existing site.
- 3) Partnering up with Hangar 8.
- 4) Establishing more secure self-storage either in the existing hangar or the new one.
- 5) Construction of more parking for light aircraft.

At the Harbour

- 6) Acquisition of a warehouse
- 7) Construction of a new warehouse
- 8) La Folie. DB advised that the proposal is to invest, refurbish and

revitalise the pub and install commercial units next door for marine leisure and marine engineering companies with holiday heritage lets up above. He explained that this was a very good project, and a good example of the type of commercial project that the Ports of Jersey will be able to undertake in the future. He stressed that the Ports of Jersey will not sell its assets off, it will develop them and hand something back to the community. He added that the Ports of Jersey wants to invest in the growth sector of the marine leisure trade and provide cash returns and on-going revenue streams rather than sell assets off.

RK asked how the Board of Directors will be chosen, and AM responded that there is currently a shadow board and the idea is that that existing board will continue through the transition to incorporation. However, he stressed that the shadow board is only an advisory board with no executive powers.

A member of the public suggested that the Ports of Jersey will be overlooked by the Board of Directors on incorporation. He therefore queried whether Ports will carry out the Business Plan with the Board of Directors telling them how to do it or just agreeing with them. However, DB responded that just as any company has a board of directors, the Board will have certain responsibilities, and advised that their expertise will help guide the Ports of Jersey's strategic direction and development.

The same gentleman asked if Ports proposed building more warehouses for let in order to generate more revenue and DB responded that Ports of Jersey would like to pursue its core growth business plan (i.e. more passengers and more freight). He explained that freight was primarily tied to economic growth and prosperity and population and passenger numbers are a big variable based on tourism. However, those are not the only places where the Ports wish to grow. Ports also want to look at other projects which take advantage of the property assets it has (e.g. storage, light industrial or warehousing, etc.), because these are all things that can provide incremental revenue streams.

In response to a further question from the same gentleman, DB advised that whilst it would be an exciting project due to the emotion it would create, the building of a supermarket does not feature in the Ports of Jersey's business plan and neither does a cruise ship terminal. He acknowledged that "big ticket" projects will be looked at but, at present, focus was being placed on the nine projects because Ports of Jersey want to make sure they are delivered. AM added that it was unlikely that the building of a supermarket would come under EDD/Ports because the Island Plan indicates that any development of this nature or extension of retail of that size would be in St. Helier in the ring-road area, and he referred to the recent developments in this regard which he assumed the meeting were aware of.

DB advised that his primary goal was to develop projects that support ongoing revenue streams for the airport or harbours. He explained that, if a property is attached to the runway it will have greater value than just putting it anywhere where in the Island. Therefore it makes sense to consider developing those things before aviation revenue streams. AM added that legislation has been developed around the business:

hangars, jets, etc., and the Aircraft Registry will be debated in the States in the next week or two, and he suggested that that will assist with potential developments at the airport.

A member of the public confirmed that the Parish of St. Peter will be very happy with the receipt of rates following incorporation, and DB noted that St. Helier will be too. AM advised that St. Helier would be particularly happy because the Constable of St. Helier has been very keen to have rates paid on all States' properties for some time.

A member of the public noted that Jersey had Category A airspace which was similar to Heathrow, and asked whether this was an advantage for business for Jersey Airport. DB responded that in some ways it was the opposite because it was quite daunting for general aviation pilots to land here, whereas light aircraft find it easier to come to Jersey. The Airport is therefore making it more accessible for them.

A member of the public queried whether it was still proposed to dredge the rodeo in St. Helier and DB responded that some work was undertaken last year when some areas were cleared off to make it easier and safer for navigation. He explained that cruises are an area Jersey would like to investigate because it is evident that the business is there. He advised that all the cruise ships that have been booked this year have come. However, he accepted that it was not ideal that they have to put out an anchorage. The member of the public agreed and noted that they need to anchor just south of the "demi" rock and a few years ago the option of moving it and installing a swing mooring was discussed to help bring ships closer and he queried whether this was still going to happen. DB responded that, a few years ago, the East of Albert Master Plan was also prepared and there were elements of this which were still being pursued. In addition, the Harbours and Airports Master Plans were being revitalised. He confirmed that cruises were definitely on the agenda but not in the first 3 to 5 years of incorporation.

Going back to the rocks, the same gentleman queried if the removal of them from the sea bed would be pursued to enable ships to anchorage closer, and DB responded that there were no plans for that. The gentleman went on to say that by anchoring a ship out by the "demi" in strong winds can be dangerous. Furthermore, the small launchers that come in are subject to weather conditions and can't be brought in closer to St. Helier. AM noted this and advised that this was the advantage that Guernsey had: they can get their boats much nearer. However, he noted that the solution being referred to is only part of the issue because even if you can get the boat in it will have to be an ideal time of the month.

The gentleman suggested that revenue was being lost and should be looked into. DB acknowledged his point but advised that Jersey gets about 20 ships booked a year, but only delivers about 12 of them for the reasons discussed. He stressed that he would like to book 120, but that is not possible without the facilities. AM suggested that there was a question about the true value of cruise ships: they do a lot with tourist attractions, but a lot of volume is required in order to make it worthwhile. The member of the public agreed and suggested that the installation of the swinging mooring would allow the safe removal of passengers and bring revenue into St. Helier. DB agreed to ask the Port Engineer to get out the old drawings.

DB advised that, if any one required further information, it was included on the website. In addition, if anyone had any further questions or wished to provide feedback, they should e-mail via the website.

A member of the public asked one final question regarding the airport. He noted that that passengers who are leaving or arriving on flights have to go outside in inclement weather in order to get on the plane, which gives a bad impression of Jersey. DB agreed with this and acknowledged that the passenger pier was in need of work. The same gentleman advised that he noted this point on a recent Airport, but did not receive a response. DB expressed surprise at this because he was under the impression that all surveys had been responded to. He queried whether the gentleman had left his contact details and he confirmed he had left a mobile number and e-mail address. DB agreed to double-check this, as he was aware that the team at the Airport had been responding to all comments made. DB went on to say that the passenger pier was in need of investment. He explained that earlier this week a presentation was made around a number of concepts for its redevelopment. It was noted that the idea of a jet way would probably be developed. However, consideration was still ongoing as to whether this should be a double-decker or not. The gentleman suggested that instead of making such a huge investment, Perspex sides could be added to the stairways. However, DB advised that the stairs are not the assets of the Airport. The gentleman suggested that tourists may be leaving Jersey with a very bad impression of the Island, although DB noted how wonderful it was to walk off the plane when the sun is shining.

The same gentleman noted that he has just come off the beach and he believes that numbers are down by about 60%. However, AM advised that recent figures show that tourist numbers are up, as are forward bookings. Nevertheless, the gentleman noted that the operators who take things out on the water (e.g. banana boats, etc.) are also down on numbers and he suggested that it may be due to the promotion of sunscreen and the dangers of the sun. That said, AM noted that the schools break up shortly, at which time he anticipates that the numbers will improve.

**Termination**

There being no further business to discuss, the meeting was closed at 7.50 p.m.

**NOTES OF A PUBLIC MEETING OF THE PORTS OF JERSEY HELD ON 23rd JULY 2014 AT 7 P.M. AT THE RJ&HS, TRINITY, JERSEY**

**Present:**

Doug Bannister, CEO, Ports of Jersey (DB)  
Andrew Boustouler, Deputy CEO & Director of Resources, Ports of Jersey (AB)  
Darren Scott, Economic Development Department (DS)  
Karen Skelhorn, Administration, Ports of Jersey (KS)  
Alan Merry (AM)  
James Morris (JM)  
Barry Goldman, Harbour Master (BG)

**In Attendance:**

Aimee Maskell, AM to PM Secretarial Services (AMa)  
Tony Hearne (TH)  
Piers Baker (PB)  
John Richardson (JR)  
John Crosby (JC)  
Martin Walton (MWa)  
Steve Huelin (SH)  
Martin Willing (MWi)

**Welcome**

DB welcomed everyone to the meeting and the members of the public introduced themselves. He offered apologies on behalf of the EDD Minister who had been held up at his previous meeting. DB then provided an update on the status of the Ports' incorporation.

JC/JR representing the Jersey Canoe Club (JCC) noted that they had not been invited to the recent meeting with Ports and the Clubs and Associations and **IT WAS THEREFORE RESOLVED** that KS would follow up on this to ensure that they were included going forward. DB stressed that Ports want to support Clubs such as the JCC and make commitments to them.

**Q&A**

Questions were invited from the audience and were noted as follows

MWi noted that there was concern amongst the aviation community about the current "fuel crisis" and sought an update from DB on how negotiations were progressing. DB responded that it was not a crisis but an opportunity. He explained that the base line was that Ports wanted to maintain the non-exclusive nature of the fuel supply arrangement and it wants to continue to be non-exclusive. However, if that agreement continues in the long term it will centre on margin, and that is what the Ports are concerned about. Unfortunately the main supplier notified the trade on 27th June that they would be pulling out at the end of their lease. He acknowledged that the Airport needs fuel and it is therefore developing a plan in case there are further issues. In the meantime, the contingency plan is proceeding. DB stressed that this was short-term contingency, and anything long-term will go out to tender, depending on the outcome of the further negotiations. He stressed that the whole basis of the contingency plan is to ensure continuity from a valid supplier.

MWi expressed concern that the price of fuel will continue to go up, and DB advised that the Ports undertook a supplier chain analysis approximately 18 months ago which highlighted an unexplained margin. He noted that the Ports will be successful if they can deliver cheaper

and more competitive fuel.

SH noted that the public perception is that upon incorporation, Ports will be subject to competition and he queried whether that will be the case. DB responded that the Ports are a monopoly and the only leverage they have at the moment is to put prices up. However, incorporation will allow the Ports to pursue commercial projects (e.g. the cargo centre, warehouses at the Harbour, secure self-storage and the executive lounge at the airport).

SH referred to one company holding both leases at the Airport and suggested that this should not be allowed. He stressed that this was essential for competition. DB noted that there was competition in market or for market: in market is people competing and for market regular tender exercises must be undertaken to ensure the lowest cost comes in and operators are not given time to build margin. He stressed that incorporation was about building opportunities to diversify the creation of income. He suggested that if SH could deliver his marine fuel cheaper, he would get lots of people coming here to fill up, and it would be a good growth opportunity and with growth and diversity it will be possible to hold prices.

MWa queried how Ports will determine their criteria for market level rates for moorings at, for example, St. Catherine or Gorey. DB responded that market rates are used more for property so that Ports can benchmark them, whereas moorings prices are determined by Ports. However, they do benchmark mooring prices against France, Guernsey and the South Coast of England. He noted that the comparisons were not included on the Ports website, but they could be, and stressed that they were routinely checked.

MWa asked how Jersey prices compare and DB advised that Jersey is cheaper than the UK but more expensive than France. Guernsey may also be more expensive because their Harbour requires investment and they have not been putting money aside for that, so will have to put their charges up to pay for it. DB advised that Granville quadrupled their rates in one year to make an investment in infrastructure. DB stressed that he wished to make it clear that investment in the harbours were part of the Ports public service obligations. He added that Ports also have an obligation in the restructure of the historic harbours (e.g. Gorey, St. Aubin, St. Catherine), and Ports accept that they have to spend money on that infrastructure even if the money made from fees does not cover the expenditure. DB advised that Ports will provide assurance to boat owners by providing an annual historic harbour plan which will include projects such as the creation of more moorings at St. Aubin. Therefore people will be able to see what Ports are providing.

MWa noted that there was a difference between investing in a historic harbour and facilities for boat owners and queried whether there would be a burden on boat owners to look after historic structures such as Gorey Pier. DB responded that this would not be the case as Ports would provide the cash to maintain them. He stressed that "what Ports do today they will continue to do tomorrow" (i.e. after incorporation). He advised that the properties will be owned by the incorporated company and Ports do not wish to lose any good properties or drop any bad ones: they are "taking on" everything. He acknowledged that there could be a proposal in the future when the Parishes or Jersey Heritage want to take them over, but at the moment Ports do not want them to "fall between

the cracks” and it wants to ensure that all health and safety and maintenance is continued as it would be today.

MWa asked whether any specific investments were foreseen that may affect the mooring rates and DB replied that there were not. However, Ports were currently working on a crane project and looking to update cranes at some Harbours, and he was not sure of the impact of that. In addition there was a big project underway to repair Gorey Pier. He added that work was undertaken at St. Aubin and St. Catherine’s Harbours last year and 2006/07 respectively, at a cost of £4–5 million.

MWa expressed concern that there may be a temptation to improve facilities at the Harbours to attract more expensive ships, which will give the Ports greater potential to charge more for moorings. DB acknowledged that marine leisure is a good business for Ports and they do see it as a growth area. Therefore if there was a place to develop a marina it would be seen as a good investment. However, Ports do not have any plans to do that. He stressed that in respect of the heritage and wider harbours it’s a service Ports provide, rather than make money on: a cost base, not a lucrative business.

MWa queried if there were any plans for Gorey, and DB responded that at the other side of the harbour there were some reefs where some summer moorings could be created. He suggested that these would provide excellent capacity for visitors without affecting the local moorings.

MWa noted that someone with a small 12 foot fishing boat will not provide as well as something larger. He queried whether there are any plans to decrease the number of moorings for small boats to enable bigger boats to come in for bigger charges. DB advised that no plans have been made for this, although consideration has been given to it. However, he stressed that the Ports have a good dialogue with the Boat Owners Association and ideas such as this would always be discussed with them. He suggested that it would attract more business into the area and it would off-set the cost of providing facilities which are of benefit to local boat owners. He added that commercial projects will help Ports develop an asset base and in turn off set price increases. He explained that he would rather decrease prices and get more revenue from income coming in and out of the Island but he was unsure whether this could be achieved yet. However, if Ports can provide a service by being more agile commercially everyone will be happy and it will be a good news story.

MWi noted that Hangar 8 will provide good revenue for the Ports and DB agreed. He noted that a good planning meeting had taken place recently when the planning submission for the hangar had been “tidied up”. MWi asked what the timescale for Hangar 8 was and DB responded that a new cargo centre would be constructed South side of the Airport in the first quarter of 2015. Thereafter the old one will be demolished leaving a clean site for Hangar 8 to be constructed. He anticipates that the construction of Hangar 8 will begin early in the second quarter of 2015 and advised that it is a 4 month project.

MWi acknowledged that it was a good project, but queried who authorised the position of the current tower because it restricts bigger planes from landing in the Island. DB advised that the tower is in the perfect spot because it can see everything. However, MWi disagreed



noting that it restricts the taxiway. DB explained that he has been told it can't be moved and was erected in the best place and advised that the taxi limitations are based more on weight than size. Therefore the position of the tower is not an issue. Nevertheless, MWi noted that business needs are getting bigger and it was a shame that bigger planes can't come in. DB acknowledged that Bizjet corporate aviation was a growth area for Ports if cheaper fuel can be sourced. MWi agreed noting that everything else was in place for them.

PB referred back to moorings and advised that he was reassured by what DB had said today. However, he noted that one of the papers which had been distributed by Ports indicated that moorings which are already maintained by individuals but outside of Ports are not going to be increased if those individuals continue to maintain them. However, he noted that some moorings are just outside the harbour when the tide is out. He noted DB's reassurance that there will be no above RPI increases and queried whether previous huge (20, 30 or 40%) increases have now stopped. DB responded that he was content that the financial model would include no increases. However, the actual pricing decisions about what is offered will be different. He explained that the States of Jersey undertook a re-valuation of its balance sheet and Harbours went from profitable to non-profitable. Therefore increases may need to be made on charges. However, no decisions have been made in this regard and before they are made, Ports will talk to the relevant people about it.

PB expressed concern that the crane at Rozel could find its way through to mooring charges. However, DB suggested that an alternative would be to put in a crane charge for people who use it. He stressed that nothing had been decided yet but the crane needed to be replaced for health and safety reasons. MWa agreed with DB's suggestion. He suggested that Ports should offer superior facilities but only charge those who use them because it is unfair to charge those who don't. He noted that this could relate to the crane or something else. DB took this point on board but stressed that he did not wish to mislead anyone. He explained that the plan is to get into a position where Ports don't have to put prices up and he advised that if he could hold the price on moorings forever, he would. He stressed that Ports would continue to talk to the Boat Owners Association about its plans and thinking. He noted that Ports could agree trade-offs with the boat owners. For example, if something is going to cost the boat owners money and they don't want to pay, Ports won't do it (subject to health and safety issues). Either way, he assured the meeting that the process will be open.

JR queried whether, if there was no money forthcoming, no cranes would be provided at the Harbours. However, DB responded that Ports would never not provide a crane. JR suggested that incorporation comes to money, and by incorporating, Ports will lose its monopoly which will come at a cost. DB explained that to fund the ongoing requirements of Ports, £420 million is required and currently no government funding is received for this. Therefore any returns made from the commercial operations goes back into it. However, as part of the States of Jersey, Ports are restricted from commercial development. Whereas on incorporation it will be able to earn extra money from commercial projects. He advised that in the last 20 years, Ports have only undertaken 2 commercial projects: the retail area at the Airport and

the Elizabeth Marina. He suggested that 2 projects in 2 decades indicated a bad delivery record. However, this was not because Ports staff are not aware of how to run commercial projects, but because of the structure Ports is in. He referred to the recent Huelin-Renouf liquidation, and explained that Ports looked to acquire the business to ensure continuity of service. However, less than 8 hours before the deal was due to go through Court, it was pulled because the States would not commit. He acknowledged that the States don't do acquisitions, but the deal failed because they would not say yes or no, and therefore Ports had to walk away from it. However, incorporation will give Ports more freedom and enable it to spread its revenue base, which it is inhibited from doing today.

MWi queried whether the rental for the freight shed will be increased for the current tenants and DB advised that Ports are currently negotiating with them.

PB referred to the public service offerings DB mentioned, and queried how the coastguards and search and rescue will be impacted upon incorporation, and whether he anticipates them being run from one place as per the UK. DB responded that this needs to be developed, although he reiterated that "what happens today will happen tomorrow" and Ports will continue to provide the same services and functions post-incorporation. That said, in time, he hopes to follow the UK.

DB advised the meeting that PB was involved in the recent changes to the law whereby reference is now made to the Harbour Authority and Airport Authority rather than the Harbour Master and Airport Director. He explained that legal powers are therefore the responsibility of an authority company rather than an individual person.

JC advised that he was interested in the social side of incorporation. He acknowledged that this may not be of interest to DB as there was no revenue involved, but explained that the JCC was a small group of people who use the harbours to enjoy water sports. However, the building the club uses as a club house represents a significant amount of its annual budget, and the rental of it has gone up 350% in the last 6 years. Referring to one of the Ports documents, JC noted that there is a current business model for charging of rental and he accepts and understands that. However, the JCC continually provides value back into the club and would therefore look to Ports for a commitment that it would provide a rebate on its rental to enable it to invest in the next sets of individuals who use the club. DB responded that this is already happening. He explained that if the market rate was £10k, the club would pay £2k thereby offering an £8k rebate. He agreed that money should be invested into the next set of individuals of the club as they will be the Ports' "customers of the future" and, with this in mind, Ports want to "throw money" at clubs and associations such as the JCC.

JC advised that the JCC's club house was hit badly by the storms last winter and they are still waiting for the front door to be replaced. He explained that it is subject to an insurance claim but, at the moment, the building has no outside door which is a significant security breach. However, the club are having difficulty connecting with Ports in this regard. DB queried who owns the building and suggested that this needs to be established in the first instance. He acknowledged that if it is Ports responsibility it must be taken forward, and it was agreed that

JC would e-mail DB with the details and DB would look into it with his property department.

DB stressed that incorporation is about commercialisation, whereas perception is that prices will go up post-incorporation. However, JR noted that prices have gone up in respect of the JCC premises. DB explained that this is because with Ports current structure their only leverage is to increase prices. Furthermore, it is currently part of the States of Jersey whose policy is to charge market rental. He explained that this was not a Ports policy and it can therefore take a different decision following incorporation. He stated that the terms of the current arrangement needs to be understood, and putting rents up will not enable Ports to buy a new runway, but by helping businesses grow and prosper and getting more members in clubs, things will improve. JC acknowledged this, but stressed that he wanted to “plant the seed” with Ports so that when the JCC asks for some sort of rebate it doesn’t fall on deaf ears.

There being no further questions, DB notified the meeting that the consultation period regarding the Ports incorporation was open until the end of August and will be completed by the end of September. He reiterated that incorporation will have significant benefits for customers, allow a diversified revenue stream, alleviate price increases and enable the introduction of more products and services which all users of the Ports will find valuable. In addition, the States of Jersey will gain benefit from its tax revenues. Overall, he stressed that Ports are endeavouring to do what they do today but better.

DB thanked everyone for their attendance. He advised that he wanted to ensure that all questions are answered and therefore if anyone had any further questions or comments he invited them to e-mail him at [portsincorporation@gov.je](mailto:portsincorporation@gov.je) or look at the website for further information.

## **Termination**

There being no further business to discuss, the meeting was closed at 8 p.m.

**NOTES OF A PUBLIC MEETING OF THE PORTS OF JERSEY HELD ON 6th AUGUST 2014  
AT 7 P.M. AT THE ALBERT TERMINAL, ST HELIER**

**Present:**

Senator Alan Maclean, Minister for Economic Development (AM)  
Doug Bannister, CEO, Ports of Jersey (DB)  
Karen Skelhorn, Administration, Ports of Jersey (KS)  
Alan Smith, Non-Executive Shadow Board Member (AS))  
John Mills, Non-Executive Shadow Board Member (JM)  
Myra Shacklady, Ports of Jersey (MS)  
Charles Clarke, Chairman of the Shadow Board (CC)  
Margaret Llewellyn, Non-Executive Shadow Board Member (ML)

**In Attendance:**

Aimee Maskell, AM to PM Secretarial Services (AMa)  
Donald Perrin (DP)  
Keith Ireland (KI)  
Ian [?] (from Geomarine)  
Bill Gray (BG)  
Chris Ambler (CA)

**Welcome**

AM welcomed everyone to the meeting and both he and DB provided an update on the status of the Ports' incorporation.

**Q&A**

Questions were invited from the audience and were noted as follows

KI noted that 2 of the 9 commercial projects had already started and he therefore queried why they and the other projects can't take place without the Ports becoming a limited company. DB asked KI to look back in history and think of any commercial projects Harbours and Airports have delivered over the last 20 years. KI referred to the Elizabeth Marina and the new retail terminal at the Airport. DB advised that these were the only two that had been delivered in 20 years. He therefore suggested that the proposed delivery of 9 projects in the next 25 years was a very exciting prospect. He stressed that the Ports' staff cannot be blamed for the lack of commercial projects, because it was due to the current structure of the Ports. However, if the Ports become an incorporated state it will be able to do them a lot easier. He stressed that the current structure does not stop commercial projects being done but it restricts them because it is hard for the public sector to be commercial because it has to conform to States' governance and restrictions, etc. As it is bound by these States' policies, it is unable to act as commercially as it would like.

KI queried whether the 9 commercial projects will be the key areas from which the shortfall will be generated; and DB responded that that would be the case. He added that the financial model includes a flat price (i.e. nothing above RPI) and the goal is to achieve self-sustainability.

KI therefore sought confirmation on whether the price of his mooring fee would change. DB advised that "what we do today we will do tomorrow". However, today, the only leverage the Ports have is to put prices up. He noted that 4 years ago mooring prices were increased by a significant percentage. He explained that this was done in order to get the historic harbours on a more sustainable footing, but that the Ports are still "cash out" in this regard. Therefore they wish to diversify their income streams to help with that. If Ports diversify their income streams it will help prices or at least prevent Ports being pressured into putting them up. DB suggested that this would be the biggest customer benefit to come from

the incorporation. However, he stressed that he is not able to say that Ports will never put prices up, but the financial model is such that if the commercial projects are successful they will not need to put them up above RPI.

KI queried whether that would also apply to everything else, e.g. harbour dues, rental, etc., and DB responded that it would. He explained that the terms of leases as they stand today will carry on tomorrow. He added that Ports want to do things in a good and proper way and deliver value back into Jersey. For example, if there is an increased volume of visitors through the Ports then the whole Island will be busier, and prices will be able to stay down. DB noted that the Ports would rather have the double the volume in order to keep the prices down. AM advised that before the 20%/20%/10%/10% increase in pricing structure of 4 years ago, moorings were so cheap that the government couldn't cover the cost of running them, and it was unfair because they were being funded by the taxpayers of the Island who were sustaining them.

CA asked how confident DB was that the proposals will "plug" the short fall and queried if the £314 million deficit was an in capital expenditure deficit. DB advised that it is a total financial model deficit, which includes cash-flows over the investment which is required in the long-term capital programme. If Ports carry on doing nothing, with no growth there will be a deficit of £314 million. CA queried whether that figure assumes an RPI increase and DB responded that it does. However, it also includes changes in revenue because volumes have been declining, therefore that would project it forward 25 years at the 2013 base. He explained that it is the same with the cost base. This has been declining but not as fast. When RPI is added to this, costs will be rising faster than revenue which forms a gap. Consideration has therefore been given to a 5 year horizon rather than the last 10 year horizon which closes the gap. Experts (RBC and Fisher) also anticipate some growth which further closes the gap. However, the best worst case scenario is still that the Ports will be £90 million out of pocket, but that gap will be plugged by the commercial projects.

CA sought clarification of whether once Ports are incorporated and the projects are progressed Ports will be running with a £90 million shortfall. DB responded that that would not be the case. There will be a £15 million gain at the end of it. Following incorporation, Ports will have the freedom to pursue commercial enterprises outside of the public sector, which will close the gap and put a surplus in the bank. However, without incorporation, the best worst-case scenario would be a £90 million loss. DB noted that it was somewhere of the order of a hospital-like issue.

KI noted that there was a £1,600 million estimated revenue up to 2038 if Ports proceed with incorporation, and he queried how that revenue would compare if incorporation did not proceed, presuming that the revenue takes into account the 9 commercial projects. DB confirmed that it would take into account the 9 projects because that is the total financial model. He advised that without incorporation, £100 million would be shaved off, leaving a total of a little under £1.5 billion. KI therefore suggested that the commercial projects were not adding a huge amount. DB acknowledged this, but stressed that they were adding significant potential.

JM noted that the draft Law sets the company sustainable growth objectives whereby it must contribute to the economy. He suggested that this was very important, and the company will have to co-operate with that. He added that it mirrors with the Minister's duty as shareholder. He suggested that this was very interesting and different compared to other incorporations and that it was a very positive step. He stressed that the Ports have unbelievably strategic assets because people need to get in and out of the Island. It is therefore important to work hard to make them work well in every respect. In addition, there are clearly efficiencies which can be gained, and therefore if the Ports do small things better it will generate revenue and safeguard businesses.

CA queried whether a copy of the draft Law was available and JM advised that it was available on the website. He explained that page 94 sets out the powers and duties of the harbours. He added that it had been a complex process, particularly in respect of the harbour, due to the mixtures of Laws going back a number of years. However, it is now complete and awaiting States of Jersey approval subject to this consultation. It was noted that the States have agreed it in principle, and the sense the Shadow Board have received recently is that it is a "no brainer". JM referred to the Budget figures which the Minister for Treasury and Resources published recently, and noted that whilst there was a lot of allocation of funding for schools, etc., there wasn't a penny for the Harbours and Airport. KI suggested that this was wrong, considering how only a small issue at the Harbours or Airport can cause problems in the Island. However, JM stressed that the Ports are run as businesses but, as noted by DB, because they are structured within the States of Jersey, there are a number of constraints. He therefore believes that there is more potential in delivering the object of the business, and thereby providing benefit to the whole Island under incorporation. He suggested that the alternative does not bear thinking about, and noted that the Island would be "stuffed" if it had to close the airport because it couldn't afford to run it, and that taxpayers should not fund it.

DB advised that the ports are open 364 days a year/24 hours a day and he suggested that if incorporation were not to take place, consideration may have to be given to closing them a bit more if funds run out. He used the Albert Terminal as an example and noted that, whilst it was fine at the moment, replacement may prove costly, and therefore consideration may have to be given to erecting a temporary structure like a marquee instead because it's cheaper. However, he stressed that he does not want to do that because it is part of Jersey's gateways. Therefore he would rather proceed with incorporation which provides the Ports with the tools to continue to grow, invest and develop.

KI queried whether the public will notice the incorporation other than the commercial projects, and DB responded that they will. He advised that the Ports' customers are already delighted with the work the Ports do. He referred to a recent Saturday when the queues stretched outside of the airport building. The next week a team got together and came up with some ideas and implemented them, and the longest queue the following Saturday was only 30 minutes long and now it is down to 16 minutes, despite the volume going up by 1,400 people. Furthermore, people that need to go through quickly, go through in 6 minutes.

Entertainment has also been provided in the upstairs area by way of stilt-walkers and a bouncy castle. DB advised that this demonstrates a different management approach, focusing on customers rather than a States of Jersey monopoly. MS advised that she spoke to someone at the Airport who was travelling with her children last Saturday. She told MS that she travels all over the UK about 9 times a year, and she reported that she was enjoying her experience and that her children were having a great time.

DB accepted that he wouldn't stop doing this without incorporation, but it would involve taking some hard decisions because it would be necessary to choose between paying for, for example, maintenance work or continuing to focus on customers. However, at the moment, DB is planning for a Ports of the future, which he believes should be a commercial self-sustainable world where its customers are happy to give it money.

DP queried how many people in the room own boats in the harbour and 4 people put their hands up. He accepted that they were very lucky. He went on to say that the public are led to believe that there is benefit from French boat owners coming to the Island because they spend money. However, he believes they bring their own things with them and they do not spend money in Jersey. He suggested that Jersey needs to realise that the good days are over and the cost of everything is going to rise, and what is happening around the world will eventually come to an Island like this. He queried why there were pictures of agriculture and tourism around the Albert Terminal but none of finance, and AM responded that there are a number of finance-related pictures at the Airport and he often gets criticised for there being too many of them, and therefore an attempt is made to mix them up. DP queried how many people work in the finance industry and 2 people put their hands up. He therefore suggested, as he noted he had to Senator Philip Ozouf recently, that the finance industry in Jersey was dead. He added that if Scotland becomes independent, it will die even faster. AM disputed this point and advised that Jersey's finance industry was highly regulated and highly thought of, and that it takes a lot to build that up. DP queried why the finance industry continues to lay people off if this is the case, and AM responded that this is the longest and deepest recession Jersey has ever experienced. Despite this, pre-2008 there were 13,000 people employed in the finance industry and today there are just over 12,000. He therefore suggested that compared to other jurisdictions this indicates a very good performance.

DP continued that he believes Jersey prices itself out of the market and suggested that the tourism industry is also failing. By way of example, he noted that Le Petit Train was always empty. He therefore recommended to those who owned a boat that they should sell it quickly. That said, AM advised DP that there are waiting-lists for moorings. MS added that Harbours undertake a benchmarking exercise in respect of the costs of moorings every year, and Jersey is approximately 50% less than the UK and 50% more than France. She added that the gap with the UK has closed slightly because of the recession and because Ports have stuck to a June RPI increase. KI suggested that it was difficult to make comparisons because of the different facilities offered in Jersey, France and the UK.

DP expressed concern that as a taxpayer he was paying for people to have a boat. AM therefore suggested, on a positive note, that if DP did not wish to subsidise boat owners, he must be in favour of incorporation and DP advised that he was.

CA queried why the States debate on incorporation was not taking place before the elections and AM responded that time had run out to do this. He advised that the original target was to get it debated in this particular States Assembly, but this target has been missed. Therefore, providing there are no showstoppers, a proposition will be lodged with the new States Assembly in the very early term.

Geomarine queried when DB/AM anticipated the incorporation will actually happen and whether a date had been set, and AM advised that it will depend on the elections and formation of the new States Assembly. However, it is anticipated that the proposition will be lodged in September, the new States will be formed, and hopefully the debate will take place in February with a view to the new body being in place by 1st July 2015.

DB explained that there are a number of critical paths following a positive debate. These include giving staff 3 months to evaluate everything and think about their contracts. He noted that a month is then needed to prepare them, which totals a 4 month lead time for this exercise. However, because that is within Ports control and because the issue has been discussed with the staff for such a long time, it may be possible to cut that down. In addition, the primary legislation needs to go through Privy Council, be evaluated in London and then come back. DB advised that this took approximately 8 weeks for Housing, therefore he is anticipating a turnaround time of 10–12 weeks for the Ports because it is more complicated than any other incorporation. He therefore hopes that 1st July 2015 will be the incorporation date.

Geomarine queried whether Ports would therefore still be “handcuffed” to the States systems until 1st July 2014, and MS responded that Ports are already adopting commercial attitudes and processes and getting staff to do the same.

BG noted the millions of pounds required to maintain and run the Ports, and suggested that the only way the Ports can make money is by increasing the amount of people that come into them. However, people don't tend to come back to Jersey unless it is on business. DB acknowledged that the Ports' core business is passengers at the Airport, and he advised that this is up 3%. He believes that this has increased because Jersey is now linked to markets which Ports know will develop growth (e.g. EasyJet, who have put on a number of different routes) and he stressed that conscious decisions have led to this.

BG queried whether Ports' input makes certain airlines come to the Island, and MS responded that Ports have gone out and talked to them and told them about the market-place. She explained that there are 220,000 extra seats to Gatwick this year, and both operators (BA and EasyJet) are showing signs of growth of 5,000 additional passengers a month each, all of which are new business.



BG queried if the airlines do Jersey's advertising for it, and AM advised that this was the case because a significant amount of people make the decision to travel on websites such as EasyJet. Therefore they were an important brand for the Island to secure. DB added that Ports think about what is attractive for routes here, and negotiations can sometimes take 18 months. He explained that Ports have an idea of what they want to achieve, and people are talking to operators and planning routes all the time, and through these relationships it is possible to undertake 50/50 advertising.

DB reassured BG that Ports are trying to grow core passenger volume through the Airport. However, there is still property to develop there such as the cargo centre and the corporate aviation hangar (Hangar 8). He added that business jets and corporate aviation could be an alternative income stream if fuel pricing is right, because people will come to Jersey to fill up, and the same will apply to the harbours in respect of the new boat trade, super yacht refuelling and trade through the Caribbean.

DP queried if Jersey was getting many French visitors to the Island as they all appeared to be schoolchildren, who were unlikely to spend much money. Geomarine noted that there were a lot of Italian, Dutch, German and other European people coming here on the boat bringing their cars, not just French. DB added that when the statistics are received, it is not possible to distinguish the schoolchildren from the adults. However, MS advised that interestingly, in marine leisure this year, French were the most popular visitors, with Dutch second, and she suggested that when the weather is good people travel to Jersey from Northern Europe. AM added that Germany is a good market for Jersey, which is growing. He noted that there are direct flights to/from Germany and a number of tour operators operating to the Island. He explained that a recent conference he was aware that Jersey was getting a lot of buy-in from the German market and representatives in Germany bring in specific groups through the season. MS reported that this year there was a direct charter from Copenhagen with Albatros, which operated for 16 weeks on a weekly basis which is being expanded upon. In addition, there was a 10 week charter with Vienna, and they want to do 10 weeks next year.

KI queried whether Ports have looked at any other ports around the world that have been incorporated and been successful that are representative of Jersey. DB advised that he has been in position for just over 3 years, and he has looked for jurisdictions that have combined Harbours and Airports, but he has not found one yet. However, in terms of incorporating or corporatizing or moving port operations (not airports), independent analysis has been undertaken on other ports which have been incorporated over the years, and what they have achieved. He acknowledged that some of these are not close or similar to Jersey, but it was possible to learn from them and it is clear that if you get operations away from government you will always get improvement.

BG noted that there were a number of incorporations taking place, e.g. Housing and Tourism, and he asked whether they will all work together. He suggested that Ports will need to work very closely with Tourism to get passengers through the Ports, but queried whether immigration and other government departments will still work with the incorporated bodies. AM advised that this was happening already pre-incorporation and would continue post-incorporation.

BG queried whether, following incorporation, if the Ports think they can make money on a particular project they can go ahead and go down that road and keep going, as opposed to what currently happens, whereby the States agree to do something and then keep changing it. AM explained that incorporation will allow the Ports to act more commercially, but the shareholding will still be owned by the States of Jersey, and the Minister for Treasury and Resources will have the shareholding responsibility. The Ports' role will be making sure the greater interests of the economy are taken into consideration. For example, they can't just put up costs without considering what impact that will have on the Island, the tourism industry, etc. They will also have to operate under certain Regulations, including oversight from the JRCA (to ensure they don't put their costs up unrealistically). DB added that in law, the Ports have a sustainable growth objective for the Island, which has never featured in an incorporation law before. This calls on the Ports to do the right thing. He explained that currently Ports work closely with Jersey Telecom, Jersey Post, Jersey Electricity and all utilities that affect its business, and Ports will continue to co-operate with them following incorporation. CA suggested that it would be easier to maintain this relationship as an incorporated entity, and by working together relationships between the States of Jersey and the utility companies will be even stronger than before. He explained that Jersey Electricity already work very closely with the Ports, but incorporation will provide an opportunity to work even more closely on other areas. He agreed that the tourism point made by BG was a good one, and that Ports' business was closely linked with the economic activity of the Island, but particularly tourism in order to generate traffic, and stressed that Ports should work with Tourism. CC advised that DB sits on the Tourism Shadow Board and is therefore already working closely with them.

AM advised that Ports are also subject to a public service obligation in respect of the outlying harbours and the coastguard. He advised that the outlying harbours are a liability and do not make a return, and the coastguard in other jurisdictions are funded from general taxation. However, in Jersey they are both funded through the Harbours from harbour dues, and he noted the new company will be required to maintain this. AM stressed that as part of its remit the incorporated company will take on revenue-generating aspects of the business, as well being required to deliver on the public service obligations.

BG advised that he uses the outlying ports and he talks to visitors who come back to Bonne Nuit time and time again, and a number of them have expressed disappointment that the restaurant has been closed. He noted that when he visits Cornwall he goes to the small ports, and he stressed that they need to be maintained for visitors and locals alike. AM reassured him that their maintenance was included in the new company's remit. DB added that Ports have a strong relationship with the Boat Owners and Sports Associations who use the outlying harbours

and are working with them to support them. He explained that Ports meet with them monthly on a tactical basis and quarterly on a strategic basis. In addition, MS advised that she attends their AGMs and quarterly meetings. BG advised that the Bonne Nuit Boat Owners' Association are worried about maintenance and sought reassurance that Ports will look after harbours such as this, which he believes are important, albeit not commercial. DB responded that Ports never want to return to the States of Jersey for additional funding for the outlying harbours. Therefore, they need to make enough money to keep them going. He advised that considerable amounts of money have been spent on St. Catherine's (£14 million), St. Aubin (£2.5 million) and Gorey (£3 million) in recent years, and MS stressed that Ports can add to that list. DB reported that Ports want the outlying harbours to be good prosperous communities for the people who use them all the time and also to be attractive for those who visit them, whether that be in a car or a boat. He stressed however, that the café at Bonne Nuit was not the responsibility of Ports but the responsibility of the Connétable. He reassured BG that the outlying harbours were "part and parcel" of Ports' overall product, and they want to them to be safe, attractive and well used. He added that the more they are used, the more costs can be offset from dues.

BG sought DB's views on reclamation at the harbours as a way to make them bigger. DB acknowledged that reclamation opens up a lot of opportunities. He explained that St. Helier is currently restricted in the operation of its Ro-Ro ships, and if it had better-built facilities and deeper water, then Jersey could be more attractive for them and cruise-ships, which bring in lots of money. He advised that there is an East of Albert Plan, and to unlock that would cost £30 million without any return. More planning is being undertaken on that Plan to see what can be done in the medium term. This includes relocating the fuel farm from where it currently is, because it is de-valuing some of the neighbouring properties. He suggested that that would open up a number of opportunities for that particular area.

There being no further questions, DB notified the meeting that the consultation was reaching its closing stages. It was noted that this was the final public meeting, although a number of other more specific meetings have also taken place with tenants, port users, boat owners, etc. He explained that at the end of the consultation period (18th August 2014) all feedback received will be put into a document which will be completed by the end of September. He advised that some law drafting time has been reserved in case the Law needs amending based on the feedback received.

DB thanked everyone for their attendance. He advised that he wanted to ensure that all questions are answered, and therefore if anyone had any further questions or comments he invited them to e-mail him at [portsincorporation@gov.je](mailto:portsincorporation@gov.je) or write to him c/o the Airport or look at the website for further information.

## **Termination**

There being no further business to discuss, the meeting was closed at 8.15 p.m.

## Appendix 3 – Questions from technical briefings

As noted in the main document, these Technical Meetings were put in place by Ports as a way of consulting directly with specific groups that have some form of business relationship with the Ports. This was also extended to wider groups across the business community. These meetings led to some very useful and productive dialogue on a wide range of topics, and all of the questions/issues raised are shown here. All of the questions were discussed and addressed fully at these meetings, and there were no issues outstanding that had to be resolved. It is also worth noting that the answers to almost all of the questions raised were already contained within the Incorporation documentation.

Date	Meeting Title	Category	Questions raised
25/06/2014	Public Consultation Meeting – Albert Terminal Gate 1	Commercial Projects	What are the other projects that you have mentioned?
		Commercial Projects	Do you not have any other projects for the harbour?
		Commercial Projects	Would a retail area like that airport not be suitable at the harbour?
30/05/2014	Ports Commercial Tenants/users – Albert Terminal Gate 1	Pricing/Tariffs/Rents	Is setting fees totally independent of the States?
		Project Timescale	What is the timescale for Incorporation?
01/07/2014	Airport Tenants/ Concessions – Vanguard Room	Compliance/Regulatory	Does the model have any significant changes to Civil Aviation?
		Project Timescale	What is the timescale?
		Project Timescale	When in the timescale would you speak with the Aero Club about arrangements?
		Project Success	Is there any reason that incorporation should not happen?
		Project Success	Why has incorporation failed before?
03/07/2014	Public Consultation Meeting – Arrivals	Commercial Projects	Can you tell us about the 9 projects?
		Commercial Projects	Are the 9 projects in the 2012 plan?
		Governance of PoJ Limited	How do you choose your Board of Directors?
		Commercial Projects	Dredging for a Cruise Liner Birth is this still on the cards?
		Service/Facility Improvements	Cruise liners are subject to winds, are you planning to bring them in closer?
		Service/Facility Improvements	Swing mooring was mentioned a few years ago are you still considering this?
		Service/Facility Improvements	Gate to steps of aircraft if raining leaves passengers wet – are there any plans to improve?

<b>08/07/2014</b>	Clubs & Societies – Albert Terminal Gate 1	<b>Pricing/Tariffs/Rents</b>	The people who have properties on Ports land will they have ground rent to pay in the future?
		<b>Pricing/Tariffs/Rents</b>	Who will decide on the rental?
		<b>Property/Lease policies</b>	What about security of tenure?
		<b>Property/Lease policies</b>	If we do not like your terms and conditions what right of appeal do we have? Is there an ombudsman that they can go to?
		<b>Property/Lease policies</b>	Is 9 years an arbitrary figure or is this the longest plan that you will go to?
		<b>Property/Lease policies</b>	We are planning to extend and we couldn't extend our building knowing that we would have to renegotiate again in 9 years if we were going to spend £300k.
		<b>Pricing/Tariffs/Rents</b>	Has someone been out and looked at the areas and worked out what the commercial rate will be for ground rent?
		<b>Pricing/Tariffs/Rents</b>	Does this mean the 100% shareholder will insist that you apply the same logical?
		<b>Property/Lease policies</b>	Would there be any consideration of gifting land?
		<b>Corporate Social Responsibility</b>	Is there any scope for a Business Manager for mentoring and sharing knowledge and expertise on funding, etc.?
		<b>Corporate Social Responsibility</b>	Is there is a point of contact of the Board for Clubs and Societies to go to?
		<b>Property/Lease policies</b>	Is there room for a tenants association?
		<b>Property/Lease policies</b>	St. Helier Boat Owners have, ever since WEB allocated the land around the marina, had constant battles led by Myra around a range of issues, as harbours owns the marina and WEB owns the land. Looking at the plans allocated, there have not been any changes made around there, or if it is not possible to negotiate, to get more land. How do you anticipate a better relationship?
		<b>Project Timescale</b>	What are the timescales?
<b>Project Timescale</b>	What are the timeframes for Incorporation?		

<b>22/07/2014</b>	Business Breakfast Briefing – Radisson Blu	<b>Regulation</b>	Will the New Company be responsible for all the services that Economic Development have an interest in, like Condor, and how will that be transferred?
		<b>Commercial Projects</b>	Why can you not carry out the 9 key projects without incorporation?
		<b>Project Success</b>	What about the negatives should Government decide against it and not incorporate, what are the problems you will face?
		<b>Collaboration across Jersey</b>	How do you see Incorporation of the Ports dovetailing with the aspirations of Visit Jersey in conjunction with the Tourism and Hospitality Industry and any impact or benefit on that?
		<b>Project Success</b>	How many States Members are on your side for Incorporation?
		<b>Public Service Obligations</b>	Looking at your financial burdens of the Public Service Obligations did you look at offloading some of them in the new model, i.e. Coastguard?

	<b>Governance of PoJ Limited</b>	Do any other jurisdiction with a similar nature to our Island have this model in place already?
	<b>Governance of PoJ Limited</b>	Who would actually monitor the performance of the Ports once incorporated?
	<b>Service/Facility Improvements</b>	The Condor deal has just been done – what changes will be made at the Harbour for visitors as it is poor?
	<b>Collaboration across Jersey</b>	Will incorporation benefit from revenue generated from Aircraft registration/Shipping registration?
	<b>Project Success</b>	Is it all down to Political votes?

<b>23-Jul-14</b>	Public Consultation Meeting – RJA&HS	<b>Service/Facility Improvements</b>	We are very concerned in the aviation community about the fuel crisis: How are negotiations going over the fuel crisis?
		<b>Pricing/Tariffs/Rents</b>	Prices have been going up all the time
		<b>Governance of PoJ Limited</b>	The perception of where you are right now and after you are incorporated: is this going to stay the same?
		<b>Service/Facility Improvements</b>	Are you telling Rubis that they must not have exclusivity, as this is essential?
		<b>Service/Facility Improvements</b>	
		<b>Property/Lease policies</b>	Are you in charge of the fuel farm at La Collette?
		<b>Property/Lease policies</b>	Who owns the land?
		<b>Pricing/Tariffs/Rents</b>	How do you determine your criteria of market level rates for moorings?
		<b>Pricing/Tariffs/Rents</b>	How do they compare with the prices that are charged at the moment?
		<b>Service/Facility Improvements</b>	There is a slight difference in investing in a historic harbour and the facilities for the boat owners. The harbour is a historic monument; is there going to be some burden on boat owners with regard to the repair of historic structures, i.e. Gorey Pier?
		<b>Pricing/Tariffs/Rents</b>	Do you see any specific investments that will affect the mooring rates in the near future?
		<b>Service/Facility Improvements</b>	There must be the temptation to improve "facilities" to attract more expensive ships that have greater potential for charges.
		<b>Service/Facility Improvements</b>	What about Gorey Harbour?
		<b>Pricing/Tariffs/Rents</b>	Do you have any plans to decrease the moorings for the very small boats and invite larger boats for more money?
		<b>Commercial Projects</b>	Hangar 8: What is happening?
		<b>Commercial Projects</b>	What is the timescale for this?
		<b>Service/Facility Improvements</b>	Who on earth authorised the position of the current and very beautiful tower? From a pilot's point of view, it restricts the taxiway to an aeroplane no bigger than a 737 200.
		<b>Service/Facility Improvements</b>	It could have seen everything on the east side of the airfield, it has restricted the taxiway.
		<b>Service/Facility Improvements</b>	The previous people that occupied those jobs frankly made the wrong decisions and unfortunately it cannot be moved, but it would be good to move the taxiway.
		<b>Pricing/Tariffs/Rents</b>	Moorings: Can you assure us that the huge above-RPI increases have stopped?

	<b>Service/Facility Improvements</b>	So in reality the long-awaited crane at Rozel could actually find its way through to mooring charges!
	<b>Pricing/Tariffs/Rents</b>	The difficulty is that if you think everyone should be using that facility and charging everyone accordingly!
	<b>Service/Facility Improvements</b>	So we come up with the money or you don't have a crane?
	<b>Business Case</b>	At the end of the day incorporation comes down to money, and under that you are going to lose your monopoly, so is that not going to cost you? And how are you going to fund that without Government funding?
	<b>Business Case</b>	So that is where you have got to make up the difference?
	<b>Public Service Obligations</b>	PSO: Coastguard and Search and Rescue – how do you envisage this working? Do you see a chief Coastguard? Do you see Search and Rescue and Pollution Control all under one umbrella that it is in the UK? Would the chief Coastguard be the Harbour Master? Do you have ideas on how you would do this?
	<b>Corporate Social Responsibility</b>	We are interested in the social side of incorporation which is probably not going to generate you much revenue: in terms of ours it is not even tens of thousands, but we represent a small group of Jersey inhabitants that enjoy water sports, and the building that we currently lease represents a significant amount of our annual budget to such an extent that it has gone up in 6 years by approximately 350%. What we understand from your documents is that there you have the current Business level that you are currently charging for the rentals, and we understand that and we have managed to do that and pay for that, but we virtually provide zero value in terms of new kit and training up new people back into the club, and what we would like to try and get is a commitment that we can try and get a rebate, which will mean so much to us. It might only be a few thousand pounds, but this would make a tremendous difference to us to reinvest in the next set of individuals coming through.
	<b>Corporate Social Responsibility</b>	Our building was hit by the storms and we are still waiting on a replacement, and 6 months down the road we are still waiting for an outside door.
	<b>Corporate Social Responsibility</b>	It is basically the garage door and it has still not been dealt with; we believe that it has been agreed for an insurance replacement, but we are still waiting for dates. We are struggling with any sort of communication.
	<b>Corporate Social Responsibility</b>	For us to obtain a rebate would make such a difference to us.



30/07/2014	Major Ports Commercial Meeting	<b>Business Case</b>	Why didn't the system work before or was one making a profit and the other making a loss so you brought them both together?
		<b>Pricing/Tariffs/Rents</b>	Harbour dues: Are we going to get to a stage where we understand where they actually come from and what they cover?
		<b>Pricing/Tariffs/Rents</b>	Is there a cargo due on air freight?
		<b>Pricing/Tariffs/Rents</b>	You mentioned no above-RPI increases.
		<b>Regulation</b>	It is about the transparency and the accountability that you have if you now compete against your own customers, even if it was only for a short period of time. How would that work as you would be the referee and the player? As this is quite a conflict of interest.
		<b>Pricing/Tariffs/Rents</b>	I wouldn't want to argue against the shipping operators, but certainly the air verses the sea story is a sensitive issue from Condor's side. Say Myra does and gives a fantastic set of deals and incentives to the airlines.
		<b>Pricing/Tariffs/Rents</b>	How do you ensure that there is fairness or transparency in air and sea passengers, as this is within your gift?
		<b>Commercial Projects</b>	You mentioned over the last 20 years the Ports had done 2 capital projects. How many have the Airport done?
		<b>Public Service Obligations</b>	Where does the income come from for the harbours, i.e. Gorey, etc.? Does anything come from the States?
		<b>Pricing/Tariffs/Rents</b>	How are the costs paid for? Is it the income from both harbours and airport? Does that also mean that mooring fees will go up to cover the costs of the harbour?
		<b>Pricing/Tariffs/Rents</b>	Does this mean that once the 20, 20, 10, 10 is completed we will then go to RPI increases?
		<b>Pricing/Tariffs/Rents</b>	Have all the price increases come in now with the 20, 20, 10, 10?
		<b>Property/Lease policies</b>	A lot of this has actually been about the harbour dues going up, how much of it is actually including the surrounding land for land rental, etc., or is this something totally different?
		<b>Property/Lease policies</b>	Down at La Collette there are different parts of La Collette with different rates, as some are JPH and some are harbours. Are there any plans to level this out?
		<b>Property/Lease policies</b>	Existing leases for the tenants what will happen to them?
		<b>Property/Lease policies</b>	Will they be up for negotiation nearer the time?
		<b>Project Success</b>	Is there any outstanding debts from harbours when you incorporate, will the new company inherit them?
<b>Business Case</b>	As a trading company will there be a certain level that you have to make?		
<b>Governance of PoJ Limited</b>	How can you run a harbour being based at the Airport? This is a question that is always asked and I would like to be able to answer it.		



		<b>Governance of PoJ Limited</b>	There used to be a Harbour Office – is it still there? There is no presence and people ask where the Harbour Office is. I think the fear is that the Senior Management Team are based at the Airport, and the misconception is that the Airport is running the Harbour.
		<b>Regulation</b>	Is there a risk of losing the fact that you are a compliance authority?
		<b>Business Case</b>	What about cost savings? How are you going to address this?
		<b>Business Case</b>	Roughly how many people do you employ?
		<b>Business Case</b>	Do you have seasonal staff?
		<b>Governance of PoJ Limited</b>	What will the new Company name be?
		<b>Project Timescale</b>	When will you incorporate?

<b>06/08/2014</b>	Public Consultation Meeting – Albert Terminal Gate 1	<b>Commercial Projects</b>	You mentioned 9 projects and that you had started 2 of them already, I wondered why they could not be done regardless of becoming a limited Company?
		<b>Commercial Projects</b>	Are those the key areas that you are going to generate cash from to avoid the £314 million shortfall, or are there other areas that this will come from?
		<b>Pricing/Tariffs/Rents</b>	So my mooring fees are not going to change?
		<b>Pricing/Tariffs/Rents</b>	Does this also apply to ferries and airlines?
		<b>Business Case</b>	How confident are you about plugging the shortfall with your Capex programme?
		<b>Business Case</b>	Assuming you are incorporated and you are allowed to progress the commercial opportunities, will you be running a £90 million shortfall?
		<b>Business Case</b>	I read in the paperwork there was a £1.6 million estimated revenue up to 2038 if you proceed with incorporation, how does this compare with revenue if we didn't incorporate?
		<b>Commercial Projects</b>	So the commercial projects are not actually adding a significant amount?
		<b>Draft Incorporation Law</b>	Is the draft Law available?
		<b>Business Case</b>	With the exception of projects, will the public notice a difference?
		<b>Collaboration across Jersey</b>	Can I ask how many people in the room have a boat in the harbour? 4. You must think you are really lucky to have a boat in Jersey as I bet the mooring fees are more expensive elsewhere, but we are led to believe that the French people come with their yachts and that they spend lots of money here, but I have sat and watched them mooring up and 5 minutes later, out comes the baguettes and wine, they are not spending money here, they have come for the day. The good days are over and everything will rise, everything that is happening in the world today will bring problems to a small Island like this. Mr. Maclean, looking around the room tonight, why have we got agriculture and tourism photos, why do we not have any from the finance industry on here?
		<b>Project Timescale</b>	Why are we not doing this before elections?
		<b>Project Timescale</b>	When do you think it will happen?

	<b>Commercial Projects</b>	Are you going to continue your projects, etc., until you get released from the States?
	<b>Business Case</b>	To make all the money you have to get it from somewhere, so given the airport the only way you can make money is to double up the people that come through the airport?
	<b>Business Case</b>	So is it your input that has made them come and bring more flights here?
	<b>Business Case</b>	So they are doing the advertising for you?
	<b>Business Case</b>	Are we getting the amount of French people over here that we are making out to be?
	<b>Business Case</b>	Are there any other Ports that have Incorporated?
	<b>Collaboration across Jersey</b>	Do these corporations work together: yours is Harbours and Airport, but do you rely on Tourism to get those people coming through? Do you work together?
	<b>Service/Facility Improvements</b>	As a boat owner I use the outlying harbours and spending many hours at Bonne Nuit, I talk to the visitors who return and they ask why the Restaurant is closed and will not be open for the season – why is this?
	<b>Public Service Obligations</b>	As a committee member I am a little worried about the maintenance of the outlying harbours.
	<b>Business Case</b>	What are your views on reclamation and making the harbour bigger?

## Appendix 4 – Mail out letter

### Economic Development Ports of Jersey

Jersey Airport  
St Peter, Jersey, JE1 1BY  
Tel: +44 (0) 1534 446000 (Jersey Airport)  
Tel: +44 (0) 1534 447788 (Jersey Harbours)



28 May 2014

Our ref: Consultation\_20140528

Dear

In October 2012, the States of Jersey Assembly approved in principle the incorporation of Jersey Airport and Jersey Harbours into one single limited company, to be known as Ports of Jersey and wholly owned by the States of Jersey. This approval allowed us to take the necessary action to prepare for the incorporation process, including the production of appropriate legislation for consideration by the States Assembly.

Over the past 18 months a dedicated project management team, with involvement from many States of Jersey departments, has taken the required steps to prepare for the incorporation and details of the proposition, including the draft law, have now been completed. The next key stage of the process is a public consultation, which will run between Thursday 29 May and Friday 15 August 2014.

The incorporation programme is likely to be a talking point in the months ahead through the local and trade media as well as within the business community. I therefore, feel it is important to contact you in advance to provide an update on progress and the next steps.

An integral part of this 'Road to Incorporation' programme has been establishing clear and open lines of communication between Ports of Jersey and all of our interested parties as I am keen to discuss the challenges facing the Ports as well as the opportunities created through incorporation. Therefore, we will be holding various briefings and meetings during the course of the consultation period and we hope to find a time that will be convenient for you to attend as we wish to ensure that you have the opportunity to raise any questions and/or concerns that you may have.

In the meantime, I would encourage you to review the various documents relating to the incorporation programme, available on the consultation website from 29th May, [www.gov.je/consultations](http://www.gov.je/consultations) and if you have any further questions or comments please contact us either directly by telephone or email [portsincorporation@gov.je](mailto:portsincorporation@gov.je)

Yours sincerely

A handwritten signature in black ink, appearing to read "Doug Bannister".

**Doug Bannister**  
Group Chief Executive Officer