

STATES OF JERSEY



PLANNING AND ENVIRONMENT: DIVISION INTO 2 MINISTERIAL OFFICES (P.3/2010) – COMMENTS

**Presented to the States on 23rd February 2010
by the Minister for Planning and Environment**

STATES GREFFE

COMMENTS

Deputy Le Claire's proposition is to create an additional Ministerial position and split the Ministerial post of Planning and Environment, into a Minister for Planning and a Minister for the Environment.

The primary reason is that separation will give greater prominence to environmental issues by minimising the inherent tension between environmental protection and development pressures and re-enforcing the role of the environment champion.

In addition, the Deputy outlines the very real need to ensure Members' Questions are answered appropriately, that the public are informed of any potential risks and that the environment is properly protected through up-to-date, robust regulation.

The Council of Ministers recognises that by bringing this proposition, the Deputy is seeking to achieve laudable aims, however, the Council does not support the mechanism which is proposed. Separating the existing Ministerial position will not achieve greater environmental protection nor will it address his other concerns.

The Deputy's proposition is accompanied by a previous proposition, P.114/2008, debated and rejected by the States in September 2008; and P.47/2009, re-lodged in April 2009 and subsequently withdrawn.

Whilst it is true that the membership of the States is now different, the central argument remains largely the same.

Managing the inherent tension between development pressure and the environment

There are undoubtedly inherent and unavoidable tensions between development – which is deemed necessary for economic and social purposes – and the protection of the environment. This pressure is witnessed across the globe and is a normal occurrence. Splitting the Planning and Environment Ministry will not remove this tension. It would still exist and will still need to be reconciled.

The balancing of these tensions and competing priorities is the responsibility of the Minister, who has access to specialist staff, information and resources. Planning and Environment staff work together to ensure these tensions are managed on a daily basis. Splitting the current Ministerial position would remove the very structure that allows the conflicts and tensions to be resolved. It would simply displace them to two different Ministerial positions and create greater separation between staff with planning expertise and staff with environment expertise. It would worsen the situation that the Deputy seeks to solve.

Town and Country Planning is an environmental discipline in its own right. It is a tool used to protect the Island's environment from inappropriate development whilst facilitating necessary development in a manner that minimises harm. The notion of "Planning" as a subset of "Environment" is widely understood in other jurisdictions, including the UK, Scotland, Wales, Eire, Isle of Man and Guernsey, where it is also the convention for "Planning" to sit within "Environment".

However, even if the planning function was to be located elsewhere, a standalone Environment Ministry would still need to manage complex tensions and competing priorities on a daily basis, for example, the issuing of licences to discharge effluent into controlled waters or, to cite the Deputy's example, the need to secure funding to implement the EU's comprehensive Bathing Water Directive.

One of the key jobs of the Chief Officer for the Planning and Environment Department is to ensure that the Department operates as single entity. At officer level, the Department now meets regularly as a management board across all disciplines, and officers are increasingly adopting a team approach in their work-streams.

Current ongoing work which is being delivered collaboratively across disciplines includes energy policy and building bye-laws amendments, supplementary planning guidance for contaminated land, guidance on site waste management plans, sustainable homes guidance and Strategic Environmental Assessment guidance.

Reporting to one Ministerial team for Planning and Environment is crucial to ensure this integrated approach continues.

An Environment Champion

A fundamental change has been made since the States decided to reject this proposition in 2008. The Assistant Minister for Planning and Environment has been appointed with specific responsibility for the environment. He does champion environmental issues both within the States and within the Department. He liaises with internal bodies such as the Environment Scrutiny Panel and external bodies such as Jersey Environment Forum, the Advisory Group on Environmental Sustainability, the National Trust for Jersey, the Société Jersiaise and other informal pressure groups. He has also developed a number of environment work-lines which are now encapsulated within the Department's Annual Business Plan.

His role does not preclude others from acting as environment champions. The Council of Ministers consider that all States Members should speak on the environment's behalf whenever they feel it is appropriate, in the same way that it is expected that Members should champion a whole plethora of issues.

It is important to remember that the Minister for Planning and Environment, in law, retains overall responsibility for his Department. It is therefore proper and expected that he too speaks on environmental issues, when it is appropriate. This must not be construed as over-riding the Assistant Minister, but should be seen as strong team-working.

Public information and Members' Questions

The Deputy rightly points out that all Members' Questions must be answered in an accurate, timely and appropriate fashion. This is essential to the ability of the States to function.

There is however, in some circumstances, a legitimate balance to be made between answering questions in the Chamber and straying into areas of commercial confidentiality. In the case specified by the Deputy in his report, the Minister considered that it was not appropriate to release confidential information by way of a verbal answer. He considered it was more appropriate for a confidential note to be

prepared. This is his prerogative. It would be the prerogative of any Minister for the Environment regardless of whether or not they had responsibility for planning.

Splitting the Ministerial function will change nothing in this regard.

Proper regulation of the environment

The Deputy is concerned that there are lax controls over the environment in Jersey and that these result in adverse impacts on human health.

It is important to note that the environmental protection regime operating on the Island has been significantly strengthened since the year 2000. In that period of time, we have introduced a new Waste Management Law, a new Water Pollution Law, a new Animal Welfare Law, an Environmental Impact Order, a new Plant Health Law, a Conservation of Wildlife Law, a new Water Resources Law, and planning guidance for dealing with contaminated land. In addition, there have been regular updates to Regulations affecting other areas of the environment, including fisheries.

In addition, as set out in the Strategic Plan and Business Plan, the Department is planning on extending this control regime and starting work on significant new legislation around air quality, contaminated land and a review of the existing waste law.

Considerable steps have been made to increase the environmental protection regime which operates on the Island. It is clear from the amount of legislation in place and planned, that controls are far from lax, and to think otherwise would be questioning the expertise and dedication of the staff working in this area.

Splitting the Ministerial position would not have a beneficial effect on this work programme. It would lead to the doubling of the administration for both Planning and Environment, and by virtue of that would deflect resources away from the front-line environmental protection work.

Financial and legal issues

The proposition correctly identifies that there are practical, financial and legal issues that would need to be addressed if the Ministry were to be split. These are not insurmountable but they are complex and expensive.

Changes to legislation relating to the Articles which govern the make-up of the States or the Laws administered by the current Planning and Environment Department would be time-consuming and costly. Prioritising them would be difficult, if not impossible, to justify in an already stretched Law Drafting service that must focus existing resources on supporting development of the very same legislation and regulation which the Deputy rightly notes is so essential to protecting our environment.

The creation of two separate Ministerial positions would cost money and resources necessary to serve an additional Minister within a small department. It is likely to create pressure to create two separate departments. This is likely to cost in excess of £250,000 and would result in the need for additional resources and duplication of work – for example, the need for separate printing of business plans, finance and Human Resources. It would also necessitate a review which would divert us from more pressing issues. At a time when the States are being challenged to produce

savings of £50 million over the next 3 years, additional spend for no or little gain is not prudent and would result in core services needing to be reduced to fund the additional costs of either an extra Minister or the departmental split.

Conclusion

The Council of Ministers recognises the need, so clearly stated by the Deputy, to afford our environment the highest possible levels of protection. It also recognises that the need grows on a daily basis. But it disputes that the solution outlined in this proposition will achieve the desired aims. It will absorb precious resources for little proven gain.

The current Planning and Environment function is working well and staff are increasingly working as one entity to reconcile environmental issues with development pressures. They promote and protect the environment both in physical and legislative terms and ensure all new development is appropriate.

The Environmental Champion role delivered by the Assistant Minister is bringing benefits. It is complementing the work done by other States Members to ensure a voice is heard for the environment.

Therefore, the Minister for Planning and Environment does not support this Proposition.