

## **2.1 Planning applications, Environmental Impact Assessments and Contaminated Land by Environmental Protection**

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### **Executive Summary**

- The planning process offers Environmental Protection its first opportunity to prevent pollution which may be associated with new developments.
- There are three principal areas of the planning process that Environmental Protection is involved in: general planning applications, environmental impact assessments and developments on contaminated land.
- As the regulator of various areas of environmental legislation, Environmental Protection must ensure that any advice given in the planning process does not compromise its ability to regulate the development post completion.

### **1. Overview**

In many instances the planning process offers Environmental Protection its first opportunity to prevent pollution. Environmental Protection does this through advising, negotiating and making recommendations to the Planning Department to control activities during development that may impact upon controlled waters, which includes the marine environment. Generally Environmental Protection inform the Planning Department of any concerns, advise planners on environmental regulatory issues, negotiate with the planners and applicants and recommend permit conditions, which can be included on a planning permit, to best protect the environment. Environmental Protection act in an advisory capacity when dealing with planning applications and consideration should be made to the following:

1. Enforcement of planning conditions is carried out by the Planning Department themselves.
2. Environmental Protection should not be acting as consultants for the Planning Department or developers.
3. As the regulator of various pieces of environmental legislation Environmental Protection must ensure any advice given in the planning process does not compromise its ability to regulate the development post completion. This includes supporting or objecting to applications.

Environmental Protection's initial involvement in the planning process started in 2002 when it commented on approximately 65 planning applications that year. In 2009, Environmental Protection commented on 150 planning applications, which included a number of environmental impact assessments (EIA's).

There are three principal areas of the planning process that Environmental Protection is involved in and they are described below in the following sections.

## **2. General small scale planning applications**

Each week, Environmental Protection screens the planning applications list and requests relevant applications which may have associated water pollution/waste management issues i.e. waste sites, swimming pools, oil tanks, stables, ponds, contaminated land sites, agricultural schemes etc. As Environmental Protection receives the applications, it reviews them and liaises with applicants. If necessary, Environmental Protection provides pollution prevention guidance and submits a consultation response to the Planning Department for consideration during the planning decision process. Where appropriate, Environmental Protection recommends conditions which should be attached to the permit.

## **3. Environmental Impact Statements**

The environmental impact assessment process is split into three stages; screening, scoping and the assessment itself. Environmental Protection does not get involved in the screening but is consulted at both the scoping and assessment stage. The amount of work required for an EIA is considerably more than the most complex of planning applications. Environmental Protection reviews scoping reports and environmental statements with respect to water pollution, waste management, water resources, contaminated land and drainage. A consultation response is submitted to the Planning Department which results in an iterative process of negotiation between Planning, the applicant and Environmental Protection. Once the Planning Department is satisfied the process is complete, the associated application is determined.

Listed below are the scoping documents/environmental impact statements that Environmental Protection has commented on since 2008.

Esplanade Quarter 2008  
Energy from Waste Plant 2008  
West Mount Quarry 2008  
Plemont Holiday Camp 2009  
St Aubin's Pier 2009  
Ann Court 2009  
Water's Edge Hotel 2009  
Zephyrus Development 2009  
Sludge Treatment Works 2010  
Castle Quays 2010  
Old Dairy site, Five Oaks 2010  
Oyster Beds, Grouville 2010  
Fields 1551 & 1552 Rondel Site 2010  
JSPCA Pet Cremator - Acorn Enterprises 2010  
La Collette Asbestos Landfill 2010  
Les Ormes Sport and Leisure Centre 2010  
Metropole Hotel 2010

Stafford and Revere Hotels 2010  
Town Park 2010  
Chanson de la Mer, Trinity 2010  
Broadlands ongoing

#### **4. Contaminated land applications**

There is no specific legislation to deal with contaminated land within the Island. However, the planning process controls the development on contaminated land by requiring assessment and remediation of contaminated sites prior to development. Jersey's Island Plan 2002 Policy G17 – Contaminated Land sets out the approach to development on potentially contaminated sites. The Minister for Planning and Environment, in consultation with other States departments, uses planning conditions to require the investigation and, where required, the remediation (treating of contamination) of land to an acceptable condition as part of the process of dealing with planning applications. This is done using Supplementary Planning Guidance Planning Advice Note 2- Development of Potentially Contaminated Land - October 2005 (included within the Appendix).

Where Environmental Protection identifies an application on a site that is potentially contaminated, it recommends the inclusion of the standard contaminated land condition. Prior to commencement on site the developer is required to undertake various assessments, which need to be reviewed by Environmental Protection, Health Protection and Health and Safety. Where appropriate, Environmental Protection advises the Planning Department whether the applicant has a satisfactory remediation plan in place. Upon completion, Environmental Protection and Health Protection advise the planner on the technical aspects of the process to enable them to make the decision whether the applicant has satisfactorily completed the process, thereby allowing sign off of the permit condition.

Environmental Protection, Health Protection and Planning meet on a regular basis to discuss ongoing developments with contaminated land conditions attached to their permits. At present, there are more than 20 development sites with contaminated land conditions which have not yet been discharged (signed off).

It should be noted, there is no contaminated land registry on the island, so the identification of sites is reliant on officer knowledge and the applicant being honest at the planning stage by identifying historic uses of a site, which may have resulted in contamination.

Some sites are in close proximity to the marine environment, particularly those on the Waterfront.

**5. Budget, manpower and resources considerations**

The budgetary requirements are minimal and the principal costs are manpower. An estimate of staff time would be approximately 25 staff days a year spent on contaminated land issues associated with the planning process. The operational process of managing these sites post planning permission is currently under review to try to ensure a more robust auditing process.