

# STATES OF JERSEY



## **REG'S SKIPS LIMITED – PLANNING APPLICATIONS (R.118/2010): COMPENSATION AND FURTHER ACTION (P.130/2010) – FOURTH AND FIFTH AMENDMENTS – (P.130/2010 Amd.(4)&(5)) – COMMENTS**

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**Presented to the States on 27th October 2010  
by the Minister for Planning and Environment**

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**STATES GREFFE**

## COMMENTS

I proposed a Committee of Inquiry to investigate all of the planning issues in this case.

The Committee of Inquiry has now completed their first report and this has been presented to this Assembly as R.118/2010.

Whilst the Committee of Inquiry was broadly commendatory of my actions in relation to Reg's Skips and, whilst the error that was at the source of the problems occurred before my appointment, I am nonetheless responsible for the actions of my Department. Consequently, I again reiterate my wholehearted and unreserved apology to Mr. and Mrs. Pinel, the owners of Reg's Skips, for the distress this episode has caused to them, and for the role that the Planning Department played.

I can confirm that I have signed a Ministerial Decision to effect the two *ex gratia* payments as recommended by the Committee of Inquiry and I have lodged an amendment to this proposition seeking States approval for these proposals. Specifically, I received advice that the payments cannot be made under the provisions of the current Planning and Building (Jersey) Law 2002 and therefore the approval of the States Assembly is required.

I have instigated an external review of all the planning processes, with an objective of reviewing every element of our decision-making. Specifically, the review is looking at the mechanisms and controls surrounding the writing of planning conditions, which is of course at the core of the problems identified by the Committee of Inquiry. The review is presently underway, and I expect to be implementing improvements based on its findings before the end of the year. This review is being undertaken by the consultancy section of the Planning Officers Society for England and Wales.

### **The main proposition**

In relation to the specific points of Senator Shenton's proposition, I can comment as follows.

I have already agreed to make the *ex gratia* payments as outlined in the Committee of Inquiry Report and have lodged an amendment to effect the approval of the States to make these payments. Parts (a) and (b) of Senator Shenton's proposition are thus satisfied.

I have asked my Department to re-profile existing revenue budgets for 2010 for this purpose and this addresses part (c) of the proposition.

This Assembly, in accepting P.97/2010, has agreed to undertake a study of land suitable for waste recycling operations.

In addition, the emerging Island Plan already includes a policy framework to allow private sites to be assessed for this type of use. This policy has not been challenged by the waste industry. However, no private sites have been proposed as part of this review for inclusion within the Island Plan for these uses. It is therefore the case that part (d) of the proposition has been satisfied.

Part (e) of the proposition requests that the actions of the officers involved are referred to the States Employment Board.

The key events in this case took place 5 years ago. Although some staff remain, most of the officers identified by the Committee of Inquiry are no longer employed by the Planning and Environment Department.

Appropriate management actions have already been taken within my Department under the guidelines laid out in civil service procedures under the direction of the Chief Officer of Planning and Environment.

Whilst the effects of the errors on Mr. and Mrs. Pinel were very significant, the errors will not be repaired and the hardship endured by the Pinels will not be reversed by seeking to focus on individual officers, as this was a systemic failure.

This error must be placed in the context of the 2,500 applications that are processed annually. The process improvement review presently underway will reduce errors further, but because of the very nature of planning there will always be errors, albeit we will continue to seek every method to reduce their number.

I cannot see that reference to the States Employment Board will deliver further improvements and therefore do not support part (e) of this proposition.

#### **Amendments for additional payments**

In terms of additional payments over and above the recommendations contained within the report, I can comment as follows.

I would respectively ask Members to refer to the Committee of Inquiry Report, especially in paragraphs 16.13 to 16.16. The Committee did not feel that my Department was responsible for the costs incurred by the owners of Reg's Skips from the Appeal stage onwards, i.e. from February 2008.

In the strict legal sense, the Planning Department is not legally liable for any of the costs as ruled by the Court of Appeal in 2008. From the advice I have received, the Committee of Inquiry Report is unlikely to provide any further evidence which will make the prospect of overturning that decision likely. I do, however, agree with the moral arguments in this case and that is why an *ex gratia* payment is recommended.

The costs incurred by Reg's Skips largely emanate from legal bills and I will leave it to members to consider whether or not these were justified and reasonable. This comment is not in any way a criticism of Mr. and Mrs. Pinel.

I would respectively ask the House to accept the findings of the Committee of Inquiry as they stand.

#### **Financial and manpower implications**

The financial implications for increasing the payment as outlined in the amendments do need consideration. I have asked my Department to reprioritise the revenue budget for 2010 to enable the recommended payments to take place. It is clear to me that within such a small departmental budget, the likelihood of finding further funds at this point in the financial year is severely limited. The Department has already been severely stretched in finding the necessary £160,000 from its remaining revenue budget. Any further additions to this amount will therefore need funds to be identified centrally for this purpose.