

STATES OF JERSEY

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BELLOZANNE SCRAP METAL YARD, BELLOZANNE VALLEY, ST. HELIER: LEASE TO PICOT AND ROUILLE LIMITED (P.170/2004) – AMENDMENT (P.170/2004 AMD.) – COMMENTS

**Presented to the States on 26th October 2004
by the Environment and Public Services Committee**

STATES GREFFE

COMMENTS

Deputy R.C. Duhamel of St. Saviour has proposed an amendment to the Lease between the Public and Picot & Rouille Limited in relation to the property known as Bellozanne Scrap Metal Yard, Bellozanne Valley, St Helier, to reduce the term from 9 years to 2 years to coincide with implementation of the waste management strategy following the findings of the current Scrutiny Panel enquiry.

The Committee opposes this amendment for a number of reasons.

1. It is unnecessary to require the shortening of this lease because all agreements issued by the Department of Property Services on behalf of the Public contain a "Public interest clause". In the circumstances where an event is prejudicial, the Public is able to terminate the agreement upon declaring what the Public interest is in relation to the property in question. The Department of Property Services has advised that, in order to provide the safeguard Deputy Duhamel has requested, the "Public interest clause" can be extended to specifically allow the Public the right to terminate the Lease on giving an agreed period of notice, if any part of the waste management strategy affected the Bellozanne Scrap Metal Yard or its operation. This would also be preferable to having a fixed termination date as it allows more flexibility in providing termination, as and when the waste management strategy policy dictates.
2. There is also a requirement within the Lease for the operator to sign a Service Level Agreement with the Environment and Public Services Committee which sets out the operator's responsibility and liabilities in relation to its activities on the demised property. This can be changed at any time by reasonable negotiation and with reasonable notice being given. Therefore should the operating procedures need to change in accordance with the waste management strategy, this could be done without affecting either the term or any other conditions of the proposed Lease. There is also the provision within the agreement that should the Service Level Agreement be terminated by either party for whatever reason then the Lease for the Bellozanne Scrap Metal Yard would terminate concurrently.
3. The reduction in the length of the lease could also compromise the Island's ability to deal effectively with scrap metal. The current operators need the security of a 9 year lease to maintain and progress their business whether that be dealing with the End of Life Vehicle Directive or the implementation of the policy on white goods. A financial institution will not lend funds on expensive plant and equipment normally written off over 5 or 7 years when a lease only covers 2 years.
4. The operation of a Scrap Metal Yard is fundamental to the waste strategy. This amendment could seriously affect this operation.
5. The amendment states that there will be no manpower or financial implications. This statement is not correct because the terms and conditions of the lease would have to be renegotiated, possibly requiring future States approval. With a lease of such a short term as being proposed, it is likely to place a greater liability on the Lessor, for instance, a Lessee is unlikely to accept full maintenance responsibilities for the site during such a short period. If this is the case, the Environment and Public Services Committee may have to pay for any maintenance required during the period. It should also be noted that, while further negotiations are taking place, the proposed uplifting in rental would be postponed until such time as agreement and approval are secured and therefore there is likely to be a loss in rental income.

Accordingly, the Environment and Public Services Committee maintains its recommendation of a 9 year lease to Picot and Rouille in relation to Bellozanne Scrap Metal Yard, Bellozanne Valley, St Helier.