

STATES OF JERSEY



OUR HOSPITAL PROJECT: ACQUISITION OF LAND AT OVERDALE

Lodged au Greffe on 6th October 2020
by the Council of Ministers

STATES GREFFE

PROPOSITION

THE STATES are asked to decide whether they are of the opinion:

(a) to approve the acquisition by the Public of the land and properties required to deliver the Our Hospital project at Overdale Hospital, including, where appropriate land or property to accommodate the hospital buildings and their reasonable curtilage and any other properties to facilitate access to the site as identified in the relevant drawing for the adopted site in Appendix 1.

(b) to negotiate with the owners for the purchase of the said land and properties at a fair and proper price to be agreed by the Minister for Infrastructure;

(c) to agree, in principle, that the Minister for Environment should be empowered, in exercise of the powers conferred by Article 119 of the Planning and Building (Jersey) Law 2002 and subject only to the approval of requisite funding, to acquire the land and any interest therein by compulsory purchase on behalf of the Public in accordance with the provisions of the Compulsory Purchase of Land (Procedure) (Jersey) Law 1961;

(d) to authorize the Attorney General and the Greffier of the States on behalf of the Public to pass any necessary contracts in connection with the acquisition and subsequent sale of the site and adjoining land.

COUNCIL OF MINISTERS

REPORT

Introduction

Should the Assembly adopt Overdale as the preferred site for Our Hospital, the process of assembling the necessary property to deliver the scheme and securing planning permission must commence.

In order to deliver Our Hospital on the Overdale site, land currently outside public ownership will need to be acquired, either through negotiation and agreement or through compulsory purchase. Based upon the current emerging design, these lands and properties may be needed either for the hospital build or to enable access improvements to the immediate or strategic highway network.

All the properties that need to be acquired are included within the boundaries of the Plan that the States is asked to approve, set out at Appendix 1. The Plan is based on the currently anticipated road and building layouts, but these are subject to change as the detailed design is prepared. If any of the identified land is no longer needed, the purchase will not be pursued for the project. The Plan also includes highways that are in both public and Parish ownership. Small areas of land directly adjacent to the public highways will need to be acquired to improve the overall highway network. The extent of works will be determined by further highway design works.

A plan illustrating the early scheme design for Overdale, including the necessary highway works, is attached at Appendix 2.

It is the Government of Jersey's preferred approach to acquire any necessary properties or land through negotiation and fair and proper compensation. It is not the Government of Jersey's preferred approach to use compulsory purchase powers.

However, the delivery of a new hospital depends on timely resolution of any land ownership issues to ensure the project is not compromised. The use of the compulsory purchase process will enable the Our Hospital project to be delivered without the additional risk of costly delay. This report includes the following sections:

- Section 1: The Need for Potential Compulsory Purchase
- Section 2: The Compulsory Purchase Process
- Section 3: Financial and Manpower Implications
- Section 4: Conclusion

Section 1. The Need for Potential Compulsory Purchase

1.1 The Planning and Building (Jersey) Law 2002 confers upon the States power to acquire land by compulsory purchase for the purposes of that Law. A Law which confers a power to acquire land by compulsory purchase is called "a special law". The procedure which is followed is laid down in the Compulsory Purchase of Land (Procedure) (Jersey) Law 1961. That Law itself does not confer any power to acquire land by compulsory purchase. Rather, this regulates the procedure which is to be followed whenever the

States have decided to exercise their power under a special law to acquire land by compulsory purchase.

1.2 A compelling case in the public interest is required in order to use the compulsory purchase law. The public interest in the acquisition of land for a new hospital has to be weighed with the rights of the affected owners.

1.3 A new hospital is needed to replace Jersey's existing hospital, which is reaching the end of its useful life. The necessity for a new hospital to deliver healthcare into the future was recognised in 2012 and recent work in connection with the Our Hospital project has reinforced the need for modern medical services. The existing hospital will become increasingly more difficult and more expensive to maintain, and from 2026 the difficulties and maintenance cost increase significantly. The history of seeking to provide a new hospital is well known and is set out in the Council of Ministers' Proposition that proposes Overdale as the preferred site. Both the Our Hospital Political Oversight Group and Council of Ministers consider that there is a significant public interest in delivering a hospital on the Overdale site and that the scale and importance of this project to the community means it is considered to outweigh the individual property ownership of the sections of land required. However, this conclusion has not been lightly reached, and there will be an impact on the rights of the property owners and occupants.

1.4 Consideration of this Proposition will take place after the States Assembly have agreed the preferred site for Jersey's new hospital. The normal procedure and preferred approach for acquiring land for a Government project is through negotiation and agreement. For most projects, if property cannot be acquired by negotiation and agreement then alternative solutions are sought. In this case, a thorough and evidenced-based selection process has taken place and to identify the most appropriate site for the Our Hospital project. Purchase of the necessary land will ensure new health and care facilities can be delivered in time for 2026, when they will be most needed

1.5 Negotiations to seek an agreed level of compensation will commence and continue but, in line with the timeline set out below, the land will need to be secured by a certain date so that the build phase of the project can commence. This Proposition seeks authority to pursue an agreed settlement with relevant owners. If an agreement with landowners cannot be reached, this Proposition also seeks authority to be able to, in principle, take possession of the land at an appropriate point, in accordance with the Compulsory Purchase of Land (Procedure) (Jersey) Law 1961. In accordance with this legislation, a separate approval from the States of Jersey will be required for the requisite funding at a later date.

1.6 As well as being a mechanism to acquire land, the Compulsory Purchase of Land (Procedure) (Jersey) Law 1961 can be used to address any covenants or similar constraints on land that may be acquired by the Government. Any party that has the benefit of a covenant on land can be appropriately compensated for that benefit. In a similar manner if a landowner cannot be identified the compulsory purchase process effectively protects the interests, in so far as value of the land in question, of that unknown owner. In practical terms it can mean that compulsory purchase powers are

exercised to protect both Government and those who might benefit from covenants or similar on land even where purchase has been agreed with the landowners, but beneficiaries of covenants are unknown at the time of purchase.

Section 2. The Compulsory Purchase Process

2.1 Article 3 of the Compulsory Purchase of Land (Procedure) (Jersey) Law 1961 provides –

“3 Plan to be prepared and money voted

No land may be acquired by compulsory purchase on behalf of the public unless –

(a) a plan showing the land to be acquired has been approved by the States; and

(b) a credit of the monies necessary to meet the expenses to be incurred in the acquisition of the land has been voted by the States.”.

The above describes the role of the States in respect of compulsory purchase, and in that role the States will be acting in an administrative, rather than a legislative, capacity. The plan indicated in paragraph 3(a) is attached at Appendix 1.

2.2 As described in paragraph 1.5, the approval for a credit of the monies for any compulsory purchase referred to in paragraph 3(b) will be brought forward in a separate Proposition at a later date. It is anticipated that these monies may also be incorporated into a wider financing request for Our Hospital.

2.3 If the Assembly agrees that the compulsory purchase process can be used at an appropriate point in the project timeline and funding has been approved for such a use, any land or building owner who has not reached a negotiated compensation for their land will be served with a series of statutory notices under the 1961 Law

2.4 Where it is necessary to determine compensation for the compulsory purchase as none could be agreed, the Greffier of the States will apply to the Royal Court to refer it for determination by a Board of Arbitrators. The Board will then make an independent judgement on the compensation that would be due.

2.5 Any valuation will be on the basis of the amount which the land might have been expected to realise if sold on the open market by a willing seller on the date that the Public take control of the land.

Section 3. Financial and Manpower Implications

3.1 The project must include funds to acquire the land forming the Our Hospital site and associated areas of land. In this case the total estimated value of the properties that will need to be acquired is £16.6 million. The exact spend profile for the spend of the budget to acquire properties will depend on the ability to negotiate and agree appropriate compensation.

3.2 The approval for funding for any compulsory purchase will be brought forward in a separate Proposition at a later date. It is anticipated that these monies may be incorporated into a wider financing request for Our Hospital. The approval for funding any negotiated purchases will be on a case by case basis.

3.3 There are no additional manpower implications for the States arising from this proposition.

Section 4. Conclusion

4.1 The Our Hospital project team will continue to engage with owners of the land and properties required to deliver Our Hospital at the Overdale site in order to pursue negotiated and agreed compensation.

4.2 However, the possibility of such a settlement not being reached in a reasonable timescale adds significant risk to the completion of the project, both in terms of delivery time and costs, with a significant inflationary effect over the lifetime of the project in the event of delay.

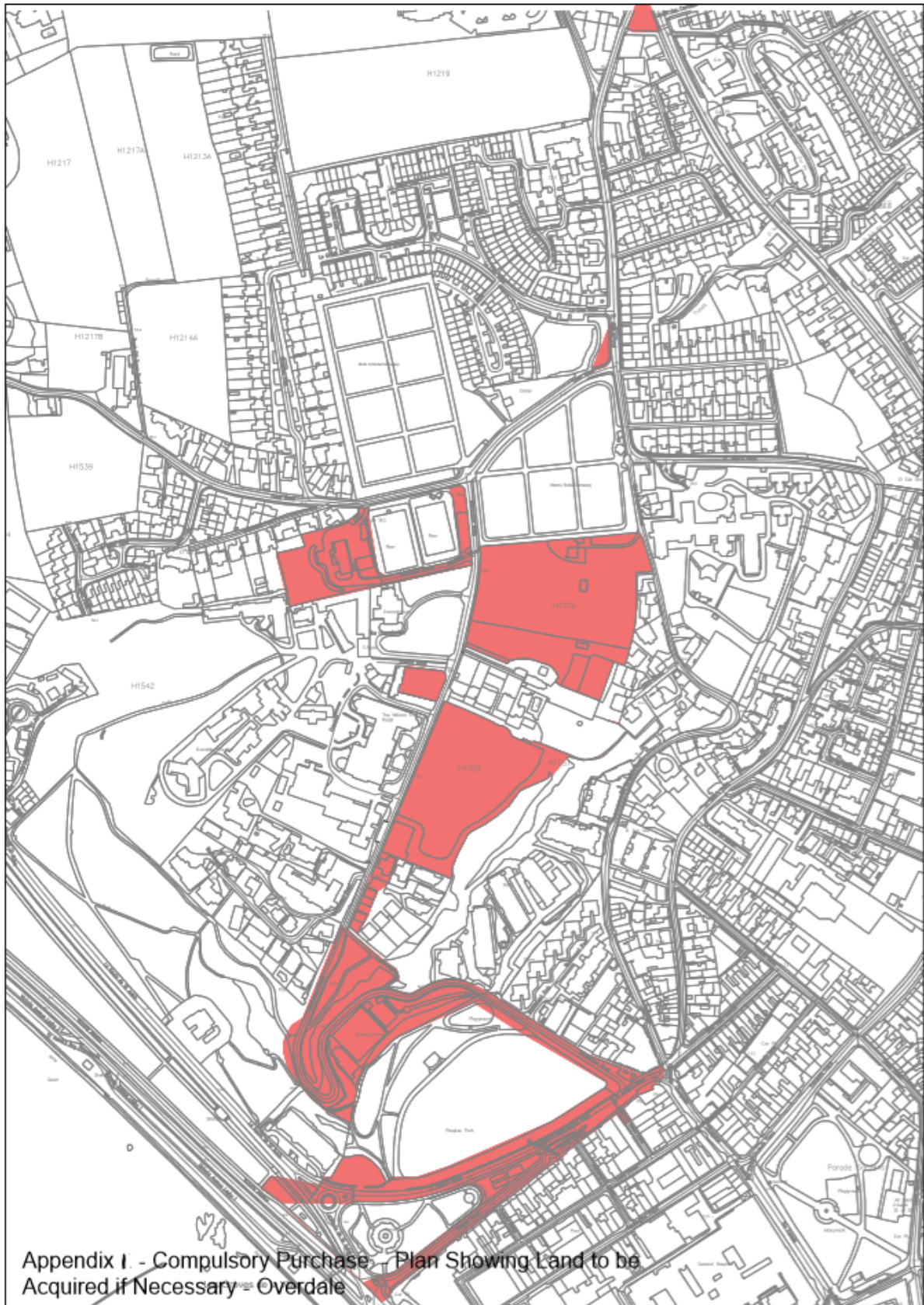
4.3 To address this risk, the States is requested to support the acquisition of land and properties identified on the plan attached at Appendix 1 by negotiation and agreement with respective owners wherever possible. However, where this cannot be achieved, the States is requested to support the acquisition of properties by compulsory purchase where necessary in order to deliver the project.

Table 1: Compulsory Purchase Timeline

November 2020	States Assembly to identify a site and authorise compulsory purchase, should this be required.
Q4 2020	Negotiations with owners
Q1/2 2021	Negotiations continue Compulsory purchase notices are served subject to approval of finances.
Q2 2021	Negotiations continue but if agreement cannot be reached land is vested in Public. Compensation is likely to be settled by the arbitrators

Q2 2021	Planning applications submitted for Overdale demolition and site clearance and Bowling Green demolition and Westmount Rd construction
Q3 2021	Planning application submitted for New Hospital

Appendix 1: Compulsory Purchase – Plan Showing Land to be Acquired if Necessary



Appendix 1 - Compulsory Purchase - Plan Showing Land to be Acquired if Necessary - Overdale

Appendix 2: Our Hospital Overdale Demonstrating Emerging Scheme Including Highway Works

