

STATES OF JERSEY



PROTECTION OF TREES

**Lodged au Greffe on 27th November 2023
by Deputy M.R. Scott of St. Brelade
Earliest date for debate: 16th January 2024**

STATES GREFFE

PROPOSITION

THE STATES are asked to decide whether they are of opinion –

to request the Minister for the Environment –

- (a) to establish, by the end of February 2024, a non-statutory consultative and advisory board (the 'Tree Advisory Board) to offer information and advice to the Minister in relation to the planting, protection and management of trees in line with the May 2022 Jersey Tree Strategy;
- (b) to provide appropriate officer support to the Tree Advisory Board;
- (c) to present an action plan to the States Assembly by October 2024, to be developed in consultation with the Tree Advisory Board, for progress and delivery of the actions identified in Annex 1 of the Jersey Tree Strategy, with particular focus on, but not limited to, the following sections of that Annex –
 - (i) Right Tree Right Place;
 - (ii) Establishing new woods;
 - (iii) Special Trees;
 - (iv) Tree Protection; and
 - (v) Championing; and
- (d) to lodge a proposition for debate by the States Assembly by March 2025, following consultation with the Tree Advisory Board, in which revisions are proposed to the statutory provisions regarding the listing of trees, and to the procedures for the listing of trees, in order to make the process and scope for the listing of trees more accessible to the public and more robust in terms of tree protection.

DEPUTY M.R. SCOTT OF ST. BRELADE

REPORT

The substantial tree loss resulting from Storm Ciarán has changed Jersey's landscape and undoubtedly altered the recently completed Tree Survey. Now, more than ever, the importance of replanting trees and protecting established trees to minimise further losses cannot be understated.

There nevertheless are established trees that can merit removal owing to actual or potential damage to infrastructure and/or the environment. In some cases, these trees may have been planted through an unfortunate decision of a previous landowner or random seed distribution by wildlife.

A [Tree Strategy](#) was presented to the Assembly in May 2022 (the "Strategy") which was the result of a collaboration between Government and stakeholders and tree experts across Jersey's community (spanning the areas of the community identified on page 3 of the Strategy) who participated in themed workshops on a voluntary basis.

This Proposition seeks to advance:

- (i) optimal tree planting and management; and
- (ii) systematic improvements in special tree protection, procedures and legislation

in line with the Table of specific proposed actions identified in Annex 1 ("Actions") of the Tree Strategy, with the Minister providing appropriate officer support.

For the avoidance of doubt, the criteria to be a special tree was identified in the Strategy as to include amenity and carbon, nature, role in green networks, landscape feature, as well as heritage, memorial, and ceremonial.

Part (a) of the proposition

This seeks to advance the proposal in the Tree Strategy that a "Sounding Board" be set up along the lines set out in the section of Annex 3 of the Strategy entitled "Setting up a Sounding Board".

The membership of the Tree Advisory Board would fall to be determined by the Minister. The introduction to Annex 3 of the Strategy states that the proposed group of stakeholders would –

“act as a ‘critical friend’ advising and feeding back on implementation of the strategy and help prioritise work and achieve quick wins to build momentum. The group would also ensure that it is appropriate for Jersey and uses up-to-date local information and science from several different sources.”

Establishing the Tree Advisory Board could help to advance action in response to the extensive tree damage caused by Storm Ciarán. An article in the Jersey Evening Post entitled, [‘Tree council and rainy day funding needed’ after Storm Ciarán causes worst devastation to Jersey's countryside since the Great Storm](#) (9 November 2023) reports comment from local arboriculturist Conrad Evans with respect to tree restoration referencing the Tree Advisory Council that was re-constituted in 1988 following the 1987 storm: *“The replanting happened last time due to the Tree Council. It will be*

interesting now to see if the government does the same thing. I think it should be considered.”

A Report dated October 1990 by the Chairman of the reconstituted Tree Advisory Council can be found in the Appendix to this Report providing information on its composition and a short history of its activities. This shows that much of that body’s activity consisted of supplying finance to Public Bodies such as the parishes and charities rather than directly engaging in tree planting. Problems were highlighted in the report regarding ongoing funding and the future provision of expertise.

The proposal in this Proposition differs insofar as it proposes that a new Tree Advisory Board assist government in developing and delivering Actions identified in the Strategy in accordance with that Strategy.

Part (b) of the proposition

This simply seeks that the Minister provide officer support to the Tree Advisory Board for matters such as arranging meetings to seek views and advice and producing minutes of meetings.

Part (c) of the proposition

One of the proposed main roles for the Tree Advisory Board would be to assist and advise the Minister for the Environment in producing an action plan to bring before the Assembly to develop the identified Actions put forward by stakeholders and survey respondents.

In the aftermath of Storm Ciarán, the Proposition proposes that more immediate focus should be directed towards Actions regarding the planting and replanting of trees and the identification and improved protection of ‘special trees’ to be identified in Jersey’s local communities.

Part (b) of the Proposition therefore highlights five specific areas of Actions as of particular importance including “Establishing new woods” and a “Right Tree Right Place” programme where “...*clear guidance [is created] on what right tree right places means for Jersey and factor in tree resilience to future climate change in the life of the tree (given some Jersey species will not survive predicted growing conditions).*”

An important aspect of replanting identified in the Strategy is the planting of trees in the right place to avoid unnecessary damage to property and infrastructure and unnecessary cost.

It is conceivable that individuals will endeavour to replace trees that are not the “right” kind or which are in an inadvisable place, leading to subsequent costs of replacement or removal. The advantage of such a ‘Right Tree, Right Place’ programme would be its role in avoiding and reducing the planting of the “wrong tree” in the “wrong place” that could result in that tree ultimately having to be removed or replaced at cost to the landowner.

A concern also has been expressed in the community that the approval and implementation of [P.71/2023](#) could discourage tree planting owing to anticipated increased future cost of tree management.

Whether or not P.71/2023 is approved by the States Assembly, the [Planning and Building \(Jersey\) Law 2002](#) (the “Planning Law”) currently provides for a list of protected trees (“the List”), the removal of or harm to which is a criminal offence which may require planting of a replacement tree.

The mechanism enables groups of trees to be listed as well as specific trees. For example, the Minister’s response to [WQ.429/2023](#) reveals that a copse of 90 trees in Trinity was added to the List in October 2022 and a group of over 100 trees at St Joseph’s, St John’s Road in St Helier was added to the List in April 2023.

However, the response also reveals there to be no formal application process to request the listing a tree, that this information is not held and that most proposals to consider the formal listing of a tree arise from the planning process in the context of development proposals. The response to [WQ.194/2019](#) identified there to be only 61 entries on the list at that time, 41 of which had been made in the preceding ten years.

The Minister’s decision to bring [P.71/2023](#) could advance a tree protection measure proposed by the former Minister for the Environment before the Tree Strategy was published. Both Ministerial decisions consist of action taken prior:

- (i) to the establishment of the ‘sounding board’ recommended in the Strategy; and
- (ii) the development of the Actions set out in the section of Annex 3 entitled ‘New development (above a certain scale) in consultation with the sounding board.

If [P.71/2023](#) is approved by the States Assembly, concerns would remain regarding the blanket nature of the Ministerial Order and the manner/effectiveness of its enforcement by Planning Officers.

The diameter of trunks and branches of mature trees of different species vary. Some that may merit protection could fall within the scope of the blanket exemption allowed by the proposed Ministerial Order. A Ministerial response to [WQ360/2020](#) also revealed that, of the 67 applications to remove or undertake works to trees on the List between 2015 and 2020, only one was refused (with two withdrawn)

Page 24 of the Strategy identifies that -

‘At present the Listing system is unclear, and often is confused with Tree Preservation Orders in part of the UK. Addressing this is seen as a priority by many involved in stakeholder and wider engagement.’

The other Actions identified in part (c) of the Proposition for prioritisation therefore relate to the identification and improved protection of the Island’s ‘special trees’ (which would include those with identified public amenity or heritage value), after addressing flaws in the existing statutory tree protection mechanism.

Existing funding for tree protection measures was approved by the former States Assembly on the adoption of [P.130/2020 Amd. \(21\)](#). Proposition P.130/2020 also predated the publication of the Strategy although the Report for the Proposition anticipated a few Actions relating to tree protection including the production of a

baseline tree survey and the development of the Tree Strategy, to include planning for ‘careful planting schemes to ensure the right trees are in the right location’ .

The baseline tree survey has subsequently been produced and the resulting tree map can be accessed on this [link](#). This will need to be updated in the light of the tree damage caused by Storm Ciarán but could have value in identifying ‘special trees’ for specific tree protection.

Part (d) of the Proposition

One difficulty with the listing of trees arises from the lack of compulsory requirement for the Minister’s Chief Officer to list trees proactively and the limited circumstances in which protection can be granted immediately, even on a provisional basis.

Currently, the provisional listing of trees is made by the Chief Officer under Article 60 (1) of the Planning Law’ which is only applicable if the Chief Officer – *“considers it necessary or expedient to restrain the actual or apprehended removal of, or damage to, a tree suitable for inclusion on the List of Protected Trees.”*

Part (c) of the Proposition seeks for the protection afforded by the Planning Law to be improved. This could include making it mandatory for trees to be provisionally included on the List and/or mandatory on direction of an identified body, champion or champions reflecting the work proposed in part (c) of this Proposition to be carried out in consultation with the proposed Tree Advisory Council.

Financial and staffing implications

Funding in respect of tree protection measures was set aside in the previous Govt Plan following the States Assembly’s approval of [P.130/2020 Amd. \(21\)](#). Officers have advised that, of the allocated £300,000, approximately £240,000 remains. The Proposition also refers to a further £75,000 being allocated for the years 2022, 2023 and 2024 to continue supporting this work.

In addition, the Climate Emergency Fund could be a source of funding to support tree planting initiatives along with funds from the Rural Economy Programme (of which the States Assembly approved an increase to at least £6.7million in its support of P.74/2023) and contributions from environmental charities and interested individuals and businesses.

Annex 3 of the Strategy states ‘A Sounding Board offers a relatively inexpensive resource for Government policy, and the group could bring in alternative or innovative ideas for funding, including from external sources.’

APPENDIX

138(9(3))

Report of Tree Advisory Council Chairman to
The Public Services Committee on its Past 3 Years Work

Following the reconstitution of the Tree Advisory Council as a Sub-Committee of the then Public Works Committee in January 1988, it was given a brief to govern its work by that Committee.

Its membership was agreed as follows:

- An independent Chairman
- A political representative of the Public Works Committee
- An officer of the Public Works Committee
- A technical officer of the Public Works Committee
- An officer of the I.D.C. (later joined by a member of the I.D.C.)
- An officer of the Committee of Agriculture and Fisheries
- A representative of the Men of the Trees
- A representative of the National Trust for Jersey
- A representative of the Jersey Farmers Union

and a Secretary supplied by the Public Works Committee.

Its first major task was to produce a ten year programme along the lines of the brief given it, and to hold a public seminar to receive ideas from the interested public. This programme was presented to the Public Works Committee in October, 1988 and accepted unanimously.

Because of the seasonal nature of the tree planting possibilities and the lack of a budget dedicated to it, the Council did little more that year except to clarify its own philosophy and to set up most successfully a network of Parish advisors.

The Public Works Committee agreed to take to the States a request for the provision of a Grant to the Council for 1989 and future years. The Council Chairman therefore prepared a draft Budget which he admitted was very much a "guesstimate" and which would probably have to be adjusted in the light of experience. This Budget of £80,000 was agreed by the States and enabled the Council to proceed with active work that year.

The nature of the Council and the framework of States policy regarding numbers of States employees has meant that the Public Works Department (now Public Services) has no work force available to the Council for actually carrying out the work the Council proposes. For this reason the Council has used a large part of its budget in supplying finance to Public Bodies such as Parishes, Men of the Trees and National Trust to support approved planting and management schemes. It has also joined in with the Committee of Agriculture and Fisheries in the financing of that Committee's hedge improvement scheme. It has employed private contractors for suitable other schemes. Private owners of woodland and potential woodland have been encouraged both through advice and cash to enter into long term management agreements and planting projects. The first examples of these are now beginning to take shape and are a credit both to the Council and the owners.

The Council has also begun to arrange participation with some primary schools in the provision of adjacent woodland which will be invaluable in educating the coming generations in the care of trees. Two booklets have been published to advise the public of the choice of suitable species of trees and hedging.

An attempt has been made, so far unsuccessfully, to convince the various traffic authorities that heavy traffic is ruining our country lanes and should be more rigorously controlled. The damage is caused not only through these vehicles tearing at the canopy of trees; but also through the wear and tear caused to the banks with a resultant exposure of tree roots with subsequent death or collapse of trees.

The years 1989 and 1990 have probably been the worst possible years for a programme of large scale tree planting. However it is already possible to claim that with its limited budget, the Tree Advisory Council has started on a programme, that if persevered with over a fairly lengthy period will hand over to coming generations a much healthier population of woodland, wayside and other trees.

As to the future, problems are beginning to appear. As stated at the beginning of this Report the budgetary provision was based on a stab at the probable need by the Chairman. That budget, updated for inflation, has proved quite sufficient for the work done so far. However it is likely that finance will prove to be a limit - factor if future budgets are tied to the usual target formulae. Some form of grant outside the target will be needed, either for the Tree Council to spend as a whole, or perhaps to finance specific schemes which lie outside the annual routine work of the Council.

A more serious limiting factor is the future provision of expertise. At present the Council calls on the services of the Department's Arboriculturist for this. Of late this has come into conflict with his other duties. Experience has taught the Council that while it is both convenient and cost effective to put out the practical work to contractors; this can only be done effectively if the Council has available to it the staff capable of preparing and supervising the schemes it sponsors.

Failure to overcome these two limiting factors during the next three years, will, I am afraid, destroy the enthusiasm of the members of the Council and its credibility with the public. They are matters, therefore, that have to be given due consideration by the Public Services Committee, and through the Policy and Resources Committee, the States Assembly itself.

Norman Le Brocq,
October, 1990.