

**WRITTEN QUESTION TO THE MINISTER FOR PLANNING AND ENVIRONMENT  
BY THE DEPUTY OF ST. MARY  
ANSWER TO BE TABLED ON TUESDAY 24th MARCH 2009**

**Question**

As the La Collette Phase 2 Reclamation Site is porous to the sea and adjoins a site of exceptional ecological importance, and is therefore extremely environmentally sensitive, can the Minister provide the Assembly with a complete list of the permissions, laws, regulations, protocols and other documents which define and regulate all the different activities on the site, including the construction and operation of the new incinerator, giving, an indication of the purpose, scope and content of each document and, if possible, a website reference for each?

**Answer**

The activities at La Collette, as far as they concern the Laws which are within the remit of the Minister, are described below. The principal control mechanisms in Laws are described in relation to these activities along with the purpose and scope of the controls. Links to the Jersey Law website are provided

**Planning and Building (Jersey) Law 2002**

The Planning law is in place to provide for the orderly, comprehensive and sustainable development of land that best serves the community of Jersey as a whole. The process can also impose necessary controls on development and the use of land on the Island but should not replicate or duplicate other controls that might be available. Development – which is defined amongst other things as building or engineering operations or the change of use of land – requires planning permission. Any application for permission is considered against all material considerations including the Island Plan and any other strategies or programmes that have been approved by the States.

The following Planning Permissions authorize the activities at La Collette in a land use context

Planning Permit 17742 (18 October 1991) granted planning permission for the formation of a breakwater that created the La Collette II reclamation project. The aim of the project was to form a new area for development but also to provide a solution to the disposal of non-organic waste for the Island. Planning Permit 17742/B (12 September 1995) gave permission for infilling of the area created by the breakwater and in particular allowed for superfilling over and above the height of the breakwater where the site was to be used for the disposal of ash from the incinerator at Bellozanne. This was located on the north-eastern area of the site and allowed for superfilling up to 8m above the level of the top of the breakwater.

This Permit has authorized the tipping activities at La Collette since that time.

Planning Permit 17742/C (18 October 1996) granted permission for landscape tipping along the north eastern edge of the La Collette site – again over the ash pit areas - up to a maximum height of some 10m above the level of the top of the new sea wall.

Planning Permission P/2002/2597 allowed for the establishment of a timber and green waste reception and recycling (composting) on the La Collette site until December 2007. Application RC/2007/2971 sought to extend that temporary permission until such time as a new composting facility is established.

In April 2008 an application was submitted to re-locate the reception for commercial green waste within the La Collette site (P/2008/0958). The application was approved on 12 November 2008

In September 2008 an application was received to enlarge the bus depot at La Collette to facilitate the Energy from Waste Plant construction.(P/2008/0098) The application was approved on 12 November 2008.

An application for outline planning permission for the erection of an Energy from Waste Plant was received in

January 2007. (PP/2007/0050). This permission was granted after due consideration in October 2007. As the application was in outline various matters relating to the final arrangement of the Energy from Waste Plant were reserved for future consideration.

In September 2008 a submission was made that sought to discharge the reserved matters of the outline permission (RM/2008/2086). After due consideration these reserved matters were approved at the end of October 2008.

Both the outline application and the reserved matters submission were accompanied by an Environmental Impact Statement (EIS) as the result of an Environmental Impact Assessment (EIA) in connection with the proposal.

All of the above applications were publicized in accordance with the relevant procedures at the time.

#### Waste Management Activities at La Collette

Listed below are a number of waste management activities which are currently being carried out or proposed for the La Collette site.

1. Land reclamation. The deposit of construction and demolition wastes to reclaim land from the sea.
2. Bioremediation. The bioremediation of oil contaminated soils prior to deposit in the land reclamation site.
3. Ash disposal. The deposit of ash from incineration of wastes in containment cells above mean high water.
4. Aggregates recycling. The processing of construction and demolition wastes to produce recycled aggregates.
5. Green waste composting. The reception and treatment of green waste to create compost.
6. Asbestos reception facility. The reception and secure storage of asbestos wastes.
7. In addition to the above activities the construction of new Energy from Waste facility is being undertaken at La Collette.

#### Enactments controlling activities

These activities are carried out under a number of Laws, either directly through a specific authorisation issued for a particular activity or landuse, or more generally with provision in Law to prohibit undesirable consequences of an activity e.g. the pollution of controlled waters.

The relevant Laws are described in more detail below.

- Planning and Building (Jersey) Law 2002
- Water Pollution (Jersey) Law 2000
- Waste Management (Jersey) Law 2005

This is not however an all inclusive list as there will be other Laws which have a bearing on how activities carried out at La Collette are carried out which are outside the remit of the Minister for Planning and Environment e.g. Health & Safety and Statutory Nuisance.

#### Water Pollution (Jersey) Law 2000

The Water Pollution (Jersey) Law 2000 provides for the protection of the aquatic environment from all forms of pollution.

There are two basic concepts underlying this new Law. Firstly 'controlled waters' are what the Law is designed to protect and 'pollution' is what the Law is protecting them from.

'Controlled waters' include the territorial seas of the Island up to the 12 mile limit, coastal waters, as far as the highest tide, including bays and inlets, surface water including streams, brooks, reservoirs etc. and groundwater i.e. water under the surface of the earth.

In this law, the definition of pollution is in line with modern European thinking and with the OSPAR Convention

for the Protection of the Marine Environment of the North-East Atlantic. Thus, pollution includes the introduction of substances or energy into controlled waters that cause or may cause a hazard to human health or water supplies, harm to any living resource or aquatic eco-system, damage to any amenity value or interference with any legitimate use of controlled waters. It also covers the introduction into controlled waters of a substance or energy that contributes to pollution, but which may not be the sole cause.

For example, if a contractor when constructing the incinerator caused a leak of oil to the sea that resulted in loss of marine life, then they may be guilty of an offence and subject to a fine and/or imprisonment. This is an offence of strict liability, which means that an intention to pollute is not a necessary ingredient of the offence.

If any person wishes to make an introduction into controlled waters that would otherwise be in contravention of the Law (Article 17 (1)), then the person can apply for a discharge permit. The process for approving any discharge permit is detailed within the Water Pollution (Jersey) Law 2000. It requires the consent of the regulator (the Environment Division) who will set limits on water quality in order to ensure that the marine environment is protected.

An application for a discharge permit for the controlled discharge of treated brackish water (rainwater and tidal ingress) arising from the construction work to the incinerator has been received by the Minister for Planning and Environment and is currently being considered. The permit has been advertised in the Jersey Gazette and is currently undergoing public consultation.

The permit will only be approved when the regulator is absolutely satisfied that the treatment process and regular monitoring of discharged water is sufficient to ensure that no harm to the ecology of the marine environment and Ramsar site occurs.

It is expected that a further discharge permit for the cooling water for the EFW will be applied for prior to its commissioning. The same strict appraisal and public consultation will take place to ensure that any discharge will not harm the marine environment.

Deemed discharge permits in the La Collette area currently exists for the cooling waters of the JEC Power Station and the interceptors from the fuel farm. There are also two Transport and Technical Services pumping stations located within the La Collette area which are regulated under the Pumping Stations composite discharge permit.

#### Waste Management (Jersey) Law 2005

The Waste Management (Jersey) Law 2005 came into force in two stages in November 2006 and February 2007.

Waste management activities are defined in the Law as the deposit, keeping, treatment, disposal or recovery of controlled waste on any land, or by means of any mobile plant. "Controlled wastes" are those hazardous, healthcare, municipal or household wastes which are subject to the provisions of the Law.

The waste management activities at La Collette must be carried out in accordance with a waste management licence that is issued under the Law by the Minister. In addition, the Law prohibits unlicensed activities or activities carried out in a manner that is likely to cause pollution.

"Pollution" is defined within Article 1 of the Law and includes the introduction into the environment of any substance or energy, if its introduction results or is likely to result in a hazard to human health or food or water supplies; harm to any living resource or ecosystem; damage to any amenity; or interference with any legitimate use of land, water or air.

The Planning & Environment Department are currently pursuing and considering applications for waste management licences. Under the transitional provisions in the Law, operators of existing waste activities who have submitted applications can continue lawfully until their applications are determined and a waste management licence is in force.

The status of the existing waste management operations are indicated in Table 1 below.

Table 1 – Waste Management Licence Application Status.

	Waste Management Activity	Operator	Application status
1	Land reclamation.	T&TS Department	Application submitted
2	Bioremediation.		
3	Ash disposal.		
4	Aggregates recycling.	Contractor to T&TS Department	Application submitted
5	Green waste composting	T&TS Department	Application submitted
6	Storage of asbestos.	Contractor to T&TS Department	Working Plan submitted, application form in amendment for submission
7	New Energy from Waste plant.	Application not yet submitted. Proposed future activity	

The construction of the new Energy from Waste facility is underway. A waste management licence will need to be issued before the reception and disposal of waste activity can commence.

When issued, licences will authorise the operator to carry out specific activities at La Collette and contain a number of conditions to control how the operation can be carried out. The licence conditions are required to control the licenced activities taking place at the site in order to prevent pollution of the environment. The licence will require each licensed facility to be constructed, operated, maintained and monitored to provide a high standard of environmental protection.

Licence conditions will be used to set the standards to which the site must operate. The operator must manage the site operation and provide a working plan which describes how those standards will be met.

Licence conditions are legally binding. The site will have to operate in accordance with the standards and methods detailed within its licence conditions and working plan. Breach of a licence condition is an offence under the Law.

The Law allows that any conditions imposed may cover any of the following matters -

- (a) the design or construction of any plant that is to be used for the purposes of the activity to which the licence relates;
- (b) the manner in which the activity is to be carried on;
- (c) the times at which the activity may be carried on;
- (d) the types and quantities of waste that may be received and dealt with in any specified period;
- (e) emission and discharge limits;
- (f) the keeping of records, the period or periods for which they shall be kept, the making of returns and the giving of other information in respect of the activity; and
- (g) time limits for complying with any conditions.

#### Website references

Website references for the Laws are provided below from the Jersey Law website,

- Planning and Building (Jersey) Law 2002 [http://www.jerseylaw.je/law/display.aspx?url=lawsinforce%2fconsolidated%2f22%2f22.550\\_PlanningandBuildingLaw2002\\_RevisedEdition\\_1January2008.htm#Toc175470268](http://www.jerseylaw.je/law/display.aspx?url=lawsinforce%2fconsolidated%2f22%2f22.550_PlanningandBuildingLaw2002_RevisedEdition_1January2008.htm#Toc175470268)
- Water Pollution (Jersey) Law 2000 [http://www.jerseylaw.je/Law/display.aspx?url=lawsinforce%2fconsolidated%2f27%2f27.800\\_WaterPollutionLaw2000\\_RevisedEdition\\_1January2008.htm](http://www.jerseylaw.je/Law/display.aspx?url=lawsinforce%2fconsolidated%2f27%2f27.800_WaterPollutionLaw2000_RevisedEdition_1January2008.htm)
- Waste Management (Jersey) Law 2005 <http://www.jerseylaw.je/Law/display.aspx?url=lawsinforce%>

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