

### **3.10 The Deputy of Grouville of the Minister for Infrastructure regarding his policy on pursuing payments for encroachments on the foreshore: [1(641)]**

Will the Minister state when his policy of pursuing payments for encroachments on the foreshore, which he claimed some months ago would be forthcoming, will be ready and advise whether it will include the date and maps he endeavours to use to identify any encroachments?

#### **Deputy E.J. Noel of St. Lawrence (The Minister for Infrastructure):**

I am pleased to inform the Deputy of Grouville and, indeed, other Members that I signed the Ministerial Decision earlier today approving the foreshore encroachment policy and the associated departmental procedures. The decision and accompanying report and the policy will be made available to Members and, of course, to the public in short order as soon as it can be uploaded on to the gov.je website. The policy and the associated procedures do not include dates and maps which may be referred to for identifying the encroachment.

#### **3.10.1 The Deputy of Grouville:**

I am rather astounded that a decision such as this is being taken just by the Minister and that land that was given to the Island from the Crown just 2 years ago is now being treated in this way. I would like ... well, like I say, I am just a little stunned at that answer. How does the Minister know and, if he is not using maps and dates, how do people know when the encroachment may or may not have occurred?

#### **Deputy E.J. Noel:**

That is a very good question and I suspect that the Deputy may have been incorrectly informed if she understands that a map or maps exist which show a line or boundary line between the foreshore and private land. The upper extent of the foreshore is the high water mark and in all encroachment cases it is necessary to assess where the high water mark would have been before the encroachment took place. In some cases that is fairly straightforward but in other cases it is more difficult. In dealing with the foreshore encroachment since the early 1990s, Property Holdings and prior to that Property Services and the Law Officers' Department have retrieved and studied a number of drawings relating to the various parts of the foreshore, generally drawings from which seawalls were built. These drawings have often proved to be very useful in determining that the foreshore extended behind the seawall, which in most cases is the obvious reason as to why the seawall was built. Each encroachment case has to be studied on the best information available, which is reference to transactions, contracts, possibly drawings, possibly historic photographs and possibly historic papers such as committee acts. In our experience, it is very rare that a party which is suspected of encroaching can produce information to contest our belief that the foreshore has been encroached upon.

#### **3.10.2 Deputy R. Labey:**

The actions that have been taken on perceived encroachments and settled, is that in perpetuity? What implications does that have for plans in the future maybe to have a cycleway or walkway on the seaside, on the seawall from the Dicq to La Rocque?

#### **Deputy E.J. Noel:**

Firstly, I would like to correct the Deputy. There are no perceived encroachments. They were encroachments and they were proved to be such. The negotiated settlements around that vary from case to case. Some are in perpetuity. Some are shorter term agreements.

#### **3.10.3 Deputy J.A. Martin of St. Helier:**

Just a question to the Minister. I think he said that people find it hard to prove against the ministry. So, is there an appeal system and, if there is, is it not just to the Minister? Because it just seems from what I heard him say it was a sort of *fait accompli*; our judgment is final.

**Deputy E.J. Noel:**

That is not the case. As I have explained in the Assembly before, all settlements with third party landowners are indeed those. They are settlements. They are negotiated settlements. So, there is no *fait accompli*. The criteria is should we do nothing if there is an encroachment identified; that is obviously not something that the public would want to do. Can the area be reinstated, i.e. remove the encroachment? If that is not the case or if there is good reason not to pursue removal of the encroachment, a negotiated settlement is made.

**3.10.4 The Deputy of Grouville:**

I cannot understand how the Minister is defining the encroachments. If you take, for example, Victoria Avenue, the Esplanade, the Weighbridge, that was our seafront. So, the whole of the Waterfront, the way I see it, is an encroachment, so will he be going after Ports of Jersey and fining them as he is doing to private landowners in other areas? It does not only affect St. Helier. It affects all round the Island. I really do not understand how he is able to get away with this, how he is able to fine people for encroachments when there is no date and there is no map. I look forward to further explanations.

**Deputy E.J. Noel:**

Now that the policy has been finalised, I repeat my invitation to the Deputy and, indeed, any other Member who wishes to meet with my department and the Law Officers' Department, to go through the policy and the procedures and to go through how the Law Officers verify whether or not there has been an encroachment. I do not define myself, nor my predecessors or my successors. The Minister will not define what the encroachment has been. We take legal advice for that and it is the legal advice that we act upon. I believe the Deputy may have a misunderstanding with regards to the foreshore around the Port of St. Helier. That land was transferred from the Crown to the States for the States to be able to reclaim that land. That is the high-level "man in the street" version. I am sure that there is a more legally precise definition of what took place, but there was no encroachment of the foreshore because it was ourselves that took up that opportunity to reclaim that land.