



BILLET D'ÉTAT

WEDNESDAY, 22nd FEBRUARY, 2006

TREASURY AND RESOURCES DEPARTMENT
STATES' LAND AND PROPERTY - MANAGEMENT AND ADMINISTRATION

V
2006

B I L L E T D ' É T A T

TO THE MEMBERS OF THE STATES OF THE ISLAND OF GUERNSEY

I have the honour to inform you that a Meeting of the States of Deliberation will be held at **THE ROYAL COURT HOUSE**, on **WEDNESDAY**, the **22nd FEBRUARY, 2006**, at 9.30am, to consider the item contained in this Billet d'État which has been submitted for debate by the Policy Council.

G. R. ROWLAND
Bailiff and Presiding Officer

The Royal Court House
Guernsey
27th January 2006

TREASURY AND RESOURCES DEPARTMENT

STATES' LAND AND PROPERTY – MANAGEMENT AND ADMINISTRATION

The Chief Minister
Policy Council
Sir Charles Frossard House
La Charroterie
St Peter Port

22nd December 2005

Dear Sir

1. Executive Summary

- 1.1 **The improved management of the States of Guernsey's extensive property portfolio (land and buildings) could result in substantial benefits for the Island.** The portfolio is currently estimated to be at least £1.5 billion in value and consists of a large variety of properties. Although progress has been made in recent years, much is still required to develop and implement best practice in property management.
- 1.2 **Property is a finite resource. It is often overlooked or undervalued, yet without it the States could not achieve any of its corporate objectives.** The various Departments pursue and achieve their service objectives through occupying and using properties situated throughout the Island.
- 1.3 **It is vital that the property portfolio of the Island's government is properly managed** so that the business of government and individual Departments' service delivery can be achieved, appropriately, safely and within budgetary limits.
- 1.4 It is important to ensure that the property needs of the various States Departments, in order to deliver their required services, are matched with the property assets owned and used by the States. **The States is a land and property owner primarily to enable the provision of public services and facilities and the delivery of States' aims and objectives.** Except in a few specific instances, the States does not own property assets solely for investment purposes.
- 1.5 There are problems with the current processes and procedures with which the States of Guernsey manages its properties, which are detailed in Paragraph 2.8 of this Report. The present situation has been brought about, at least in part,

because of the evolutionary nature of Guernsey's machinery of government (prior to the changes implemented in May 2004) and the fragmented approach inherent in a system that had such a large number of committees. Property management has improved since the machinery of government changes but could improve still further.

1.6 This Report contains a number of separate, but interlinked, matters. Those matters are:

- the processes and procedures for the management and administration of States' properties (referred to herein as "Property Transactions – Processes and Procedures");
- the rationalisation of States' properties (referred to herein as "the Rationalisation Strategy");
- and the centralisation of all States' property transactions and major property-related projects (referred to herein as "Property Centralisation").

1.7 The Treasury and Resources Department believes that current arrangements for property management and administration are ineffective and inefficient. The Department proposes changes to those arrangements to unlock the potential of the property portfolio. Those changes should deliver improvements which include:

- The pro-active maintenance or improvement of condition across the portfolio
- The simplification of processes and procedures for negotiations and approvals for land and property transactions
- The ability to benefit from appropriate property opportunities, particularly rationalisation
- Meeting existing property needs with recognised benchmark standards
- The minimisation of expenditure on the States' land and property portfolio
- Negotiation of property transactions in a more professional and timely manner
- The ability to meet the projected demands of the future
- The management of major construction projects in accordance with best practice
- The maximisation of income from its property portfolio

1.8 To implement some of the above changes, the review and the relocation of certain posts to a centralised property function within the Treasury and Resources Department is required, subject to appropriate consultation with other

Departments. This will ultimately result in reductions in overall staffing levels due to the removal of duplicated roles and economies of scale.

2. The use of property by States' Departments

- 2.1 The States of Guernsey holds substantial land and property assets in order to achieve its corporate objectives (as set out in the Policy and Resource Plan) and to provide services in the most efficient and effective manner possible. These assets include land and buildings for a strategic 'land bank'.¹ However, the States' budget should not be strained by the retention and continued use of inappropriate or resource-hungry properties. In the Audit Commission's 'Follow Up Report on the Administration of States Property' (Billet d'État II 2004), the value of the States' property portfolio was "*conservatively estimated to be approaching*" £1.5 billion (and consisted of "*a large variety of property including offices, schools, hospitals, residential properties etc.*"). By way of example, the properties include some 2,000 houses and flats and more than 20 schools and many other diverse property types.
- 2.2 With few exceptions, properties are owned by the States of Guernsey for the people of Guernsey; individual Departments are custodians of those properties. The Departments of the States of Guernsey administer, manage and use various properties to deliver the services that they are mandated to provide. Current responsibilities for properties have, in the main part, evolved since the States of Guernsey first became a landowner and, in part, have resulted from the machinery of government changes in May 2004. The responsibilities of various Departments (including their responsibilities for, and use of, properties) may be subject to future clarification.
- 2.3 The management model and policies described in this Report are not to apply in respect of property which is not wholly beneficially owned by the States, including the property assets of the Guernsey Insurance Fund.
- 2.4 The majority of properties administered and utilised by the States of Guernsey currently fall under the remit of five Departments, namely the Education Department, Health and Social Services Department, Housing Department, Public Services Department and the Treasury and Resources Department.
- 2.5 The Culture and Leisure Department, together with the Treasury and Resources Department and the Environment Department, is developing an overarching strategy for the regulation, management and maintenance of historic sites (including those held by the States). There are some 400 properties of the States that could be categorised as historic sites. The majority of those are in public ownership primarily to preserve their heritage value, either due to their

¹ In this context, the 'land bank' is the land and property that is held as part of the States accumulated reserves to allow some flexibility for the future so that the business of government can continue to be carried out in a sustainable and uninterrupted manner, even if there are changes in the economy, population structure or States' policies.

significance in Guernsey's cultural heritage or due to necessity where public ownership is essential to sustain them without compromising that heritage value.

- 2.6 The issue of ensuring the best fit between the needs of the Departments and the property assets owned by the States has been referred to in a number of reports considered and noted by the States during the last several years. On previous occasions, individual properties have been identified for disposal.
- 2.7 In 2004, the States Audit Commission stated that, "*States committees must work together in order that the property portfolio can be administered in a more structured manner, that duplication of effort can be minimised and to ensure that all States property is given the significant consideration that it deserves and not permitted to deteriorate to unacceptable levels. Committees are also encouraged to view the wider picture and focus more on corporate needs than individual committee needs.*" At its Meeting in February 2004, the States resolved, "*to note the contents of the States Audit Commission's Report, in particular its recommendation that the matter be revisited in two years' time by the Public Accounts Committee*" (Billet d'État II 2004).
- 2.8 The current arrangements for land and property management and administration are complicated and cumbersome. Although property management seems to have improved since the machinery of government changes in May 2004, there are a number of problems that mean that the property portfolio's potential is not being fully realised:
- Deterioration in condition of some properties – due to lack of funds or other priorities
 - Current systems are fragmented and cumbersome
 - Properties being held that are likely to be found to be surplus to requirements
 - Properties being unsuitable for their present use (due to condition, location, size, originally-intended function or a combination of such factors)
 - Properties being more of a drain on the States' finances than they need to be
 - The environmental impact of properties' construction and operation is unknown at present
 - Property management within the States is not always carried out by relevant specialists
 - No department has the authority to implement an overall property strategy
 - Income derived from States' property is not being maximised
- 2.9 It would be helpful if the value of property assets (in terms of their commercial value for sale or rental) were fully appreciated and considered by Departments. In some instances, Departments have acquired the use of a property at no cost or

at a peppercorn rent, which can result in the undervaluing of property resources. Additionally, the running costs of buildings can be overlooked or underestimated (in terms of maintenance, cleaning and other overheads) or are not separately identified within budgetary allocations. It is proposed that each Department should fully take into account the capital and revenue expenditure and income from all the properties it administers, manages or uses. This could achieve benefits in terms of improved usage of properties available to individual Departments, as the full financial implications of land and property use would be better understood. Future property needs must be reviewed in the same light.²

- 2.10 **Changes to the management and administration of the property portfolio, as detailed in this Report, will enable property to be more efficiently and effectively used and managed and will result in an increased income and decreased expenditure (long-term) for the States. Any properties no longer required for, or appropriate to, the States' needs will generate additional capital or income and/or reduce the demand on the public purse through their disposal by sale, long lease or beneficial arrangement.**
- 2.11 Each transaction and capital project relating to property must be subject to risk analysis in terms of both financial and health and safety requirements. It should also be reviewed in terms of potential environmental impacts (and associated costs) and sustainability. Energy efficiency (for both States' owned and leased properties) must be considered in regard to, firstly, minimising the use of scarce non-renewable resources and, secondly, the financial benefits accruing over the lifetime of the property together with life-cycle costing for major building elements.
- 2.12 Departments must have property assets that best fit their needs and are fit for purpose. It is important for all Departments that property transactions are dealt with in an appropriately professional and timely manner, with due regard to legal aspects. It is important for the States as a whole that all property transactions are dealt with such that consistency and continuity are ensured. It is important for the States and the commercial sector alike, particularly any organisations involved in construction or maintenance matters, that the States is a body with which the private sector can do business in regard to property matters. Above all, it is important that the property portfolio of the Island's government is properly managed so that the business of government and individual Department's service delivery can be achieved, appropriately, safely and within any budgetary limits. The States has a duty to ensure that value for money is achieved from its property asset portfolio.
- 2.13 In September 2005, the States considered the matter of an overspend in regard to the St Sampson's Harbour Pumping Station and North Side Fire Main (Billet

² Property considerations impact on any proposals relating to the use of land or buildings, not just specifically designated property budgets. For example, if a new staff member is recruited a budgetary allowance should be made to provide accommodation (office or otherwise) appropriate to that postholder's duties and responsibilities.

d'État XIV, 2005). In its letter of comment the Treasury and Resources Department set out its views in regard to property issues and construction projects. *“The States has to demonstrate value for money in terms of efficient and effective constructions processes, the quality of the buildings and infrastructure required, their impact on the delivery of services and the short-, medium- and long-term effect on the public purse. The property portfolio and the wider physical infrastructure of the States must be developed and managed in this light.”*

- 2.14 *“The Department will shortly be bringing to the States a Report which will put forward its proposals for a root and branch review of the management and administration of the States property portfolio. It is envisaged that these proposals, which are presently subject to consultation with States Departments, will include outline principles for the operational and financial management of capital construction projects.”*
- 2.15 *“The Treasury and Resources Department is determined that as a result of this review future large-scale construction projects carried out by the States will be managed professionally to minimise the risk of overspending and in such a way as to support fully the local construction industry.”*
- 2.16 The Treasury and Resources Department was pleased to note that the Policy Council endorsed the views of the Treasury and Resources Department as set out in its letter of 22 August 2005, with particular mention made of, *“the need for a root and branch review of the management and administration of the States property portfolio to ensure that it is managed professionally and in line with modern best practice.”*

3. Treasury and Resources Department – property functions

- 3.1 The Treasury and Resources Department is mandated to advise the States on matters relating to, *“the allocation and administration of all States resources.”* It also has to ensure that it receives and comments, *“as appropriate on the resource implications associated with all proposals and reports which are to be placed before the States by departments and committees.”* In each case, those mandated responsibilities could be read by substituting the word ‘property’ for the word ‘resource’. Property is only a part of the overall States’ resources, but an important part nonetheless. Further, the Department is specifically responsible for, *“Providing corporate property services and advice to departments and committees including the administration of certain land and properties owned or leased by the States.”*
- 3.2 In October 2003, the States considered changes to the machinery of government and it was stated that, *“The Treasury and Resources Department will be expected to work collaboratively with the Policy Council in achieving the corporate objectives of the States and in advising both the Council and the departments and committees on corporate resource issues.”* (Billet d’État

XXIV, 2003). The Treasury and Resources Department wishes to encourage and participate in inter-Departmental working to achieve the States' corporate objectives whenever and wherever possible.

- 3.3 The States must ensure that value for money is achieved through the best-fit matching of property assets with the service objectives of all the States' Departments. The Treasury and Resources Department's objectives for the management, administration and use of States' properties have shaped the development of the proposals outlined in this States Report.
- 3.4 The Treasury and Resources Department's high-level responsibilities for property matters, at present, fall into three broad categories:
- i) developing a corporate strategy for the States' property portfolio that achieves the States' objectives (as set out in the Policy and Resource Plan) and demonstrates value for money³ across all property functions;
 - ii) providing a 'Head of Profession' role, advising and assisting Departments in all property aspects including construction projects, contractual objectives, risk management and the management of disputes;
 - iii) controlling the associated 'landlord' (transactional) functions, including the acquisition and disposal of properties (whether by purchase, lease or sale) and the management and maintenance of States' buildings and land within the agreed corporate strategy (for the latter, that is to issue guidance to those Departments which have maintenance responsibility for properties and to undertake the management and maintenance of those properties designated to the Treasury and Resources Department itself).

The objectives of the Treasury and Resources Department with regard to property are:

3.5 *Strategic Objectives*

- i) To achieve best fit for the land and property assets within States' objectives;
- ii) To initiate, develop and promote good practice to achieve value for money and project delivery with particular regard to property, property transactions, construction projects and the construction industry.

³ In this context, 'value for money' is achieved when all the costs (capital and revenue) associated with a property's construction (or purchase) and future usage are properly calculated and represent an acceptable cost relative to its size and function, having due regard to fitness for purpose and the specification which should relate to the quality of materials, workmanship and finish so as not to be considered lavish or extravagant (over specified).

3.6 *Operational Objectives*

- i) To improve the condition, maintenance and efficiency of the current assets;
- ii) To deliver and provide advice and assistance in the implementation of construction projects;
- iii) To improve the management and utilisation of the estate;
- iv) To adopt/develop the assets to meet core demands and service delivery;
- v) To demonstrate good practice and value for money in the role as freeholder, lessor and lessee of land and property for the States of Guernsey.

3.7 In order to ensure consistency and continuity across Departments and the implementation of best practice in terms of property matters, it is proposed that the Treasury and Resources Department issue such property-related guidelines as it considers reasonable and necessary. It is further proposed that benchmark standards relating to property occupation and use be applied to all Departments with due consideration to core service delivery requirements.

3.8 The concept of Head of Profession of finance was formulated in 1999 for the States Treasurer (Billet d'État XI, 1999). It is intended that, if the States approves the concept of a centralised property function, a similar Head of Profession rôle would be brought to the States in due course.

3.9 In April 2002, the States considered a policy letter by the Board of Industry in regard to 'The Construction Industry and the States Capital Spending Programme' (Billet d'État VI, 2002). In that report, the Board of Industry stated that, "*Rational economic decisions about retaining, refurbishing or disposing of [States'] property cannot be made unless information is available about the value of the properties and the cost of maintenance and repair.*"

3.10 The Treasury and Resources Department is gathering information in regard to the condition and maintenance requirements of the entire property portfolio. This information includes the land and property register, condition surveys, and Departments' business plans and projected requirements for resources (including specific information regarding property resources submitted through the Policy and Resource Planning process). The information is also updated through formal and informal correspondence and discussions at political and staff-level.

3.11 The Treasury and Resources Department is compiling a complete register of the properties owned by the States, taking into account Departmental responsibilities following the machinery of government changes in May 2004.

The register will indicate the Department currently responsible for administering each piece of land and property and assist in the identification of maintenance requirements for each one. That register is (and will continue to be) updated and revised as ambiguities are resolved, future strategic uses are identified and determined and as property transactions occur.

- 3.12 The Treasury and Resources Department is co-ordinating condition surveys for the States' property portfolio so that the overall value of those properties and the cost of maintaining those properties can be quantified. The process commenced in 2003 and is continuing. It will take some time to complete, but is significant for the overall management of the States' property portfolio. Condition survey data should allow the prioritisation and best use of scarce resources across all Departments and a sustainable forward programme of works for local industry. Data is now available for Education Department properties, Housing Department properties (desk-top study to update earlier data) and a number of the Treasury and Resources Department properties. The condition surveys are dependent on budgetary and human resource availability. To date, the condition surveys cost has been £150,000. It is estimated that there will be a further cost of up to £500,000 to be phased over the next three years in order to complete this exercise.

4. Property transactions – processes and procedures

Property transactions – background

- 4.1 A property transaction is the means by which a property is:
- sold or purchased (conveyed);
 - leased in or out;
 - occupied by means of a licence;
 - has a right granted over it (right of way);
 - has a right granted for installation of cables or pipes (wayleave);
 - has a right granted to operate a business from land or premises owned by the States of Guernsey.

In all these transactions the vendor, purchaser, landlord, or tenant is the States of Guernsey, not individual Departments. For the purposes of this Report, the processes and procedures for property transactions (as detailed in Appendix I) do not apply to tenancy agreements (undertaken by the Housing Department in respect to its social landlord role) or to concession agreements for small premises within a property primarily used for States' purposes and which remain within the control of a States' Department.

- 4.2 In December 1992, the Advisory and Finance Committee advised the States that the Board of Administration considered it would be in the States' interest for the Committee to be able to grant leases of longer than seven years in respect to small retail or commercial premises without having, "*to burden the States with a Policy Letter each time a lease expires*" (Billet d'État XXII, 1992). The States approved this approach and the matter was later incorporated into the 1995 procedures for land and property transactions (which are still in effect today).
- 4.3 In May 1994, the States considered the matter of its property portfolio and the Board of Administration was authorised to make arrangements for the sale or lease of certain properties mentioned in that Report (Billet d'État XI, 1994). A more complete review of land and property transactions the following year extended the delegated powers which the States had agreed in 1994 and made further clarifications and simplifications to those land and property transaction processes and procedures.
- 4.4 On 12 July 1995, the States considered the Advisory and Finance Committee's 'Policy Planning, Economic and Financial Report 1995' which included a section regarding Land and Property Transactions (section 6.12 of that report, Billet d'État XV, 1995). At that time, the Advisory and Finance Committee considered, "*that certain changes are now appropriate to improve the procedures and to ensure that valuable States time is not taken up by dealing with relatively minor items.*" The States resolved that land and property transactions should be processed thenceforth as set out in Appendix X to that report (a copy of that Appendix X is reproduced in Appendix II of *this* Report). The various types of transactions, together with the relevant responsibilities and authorities designated to various States' committees, are detailed in that Appendix.
- 4.5 The Treasury and Resources Department reports twice a year to the States on approved purchases and sales of States' land and property (in the Interim Financial Reports and the Budget Reports).
- 4.6 In May 2003, the States considered the way forward for the machinery of government and, as part of that structure, it was proposed that, "*corporate property and landlord responsibilities*" together with, "*the provision of the strategic property function and administration of property services*" would become part of the functions and responsibilities of the 'Treasury Department' (Billet d'État VII, 2003). Thus, when the mandates for individual Departments were approved in October 2003, the responsibilities for property transactions (previously vested in the Board of Administration and Advisory and Finance Committee) passed to the Treasury and Resources Department.
- 4.7 In its Budget Report for 2005, the Treasury and Resources Department emphasised, "*that all property transactions are the responsibility of the Treasury and Resources Department and its Strategic Property Unit must be*

contacted at an early stage in any plans involving the purchase, sale or lease of land and buildings” (Billet d’État XXI, 2004).

Property transactions – the current situation

- 4.8 The current processes and procedures for property transactions are overly complex and laborious. They are outlined in Table 1 overleaf (full details in Appendix II).
- 4.9 The income and expenditure from property transactions is currently allocated according to the rules defined in Appendix X of 1995 (Billet d’État XV, 1995).
- 4.10 At its meeting of 08 December 2004, the States authorised the Minister, Treasury and Resources Department, to “*execute conveyances, leases, licences, and all other ancillary documents as may be necessary, for and on behalf of the States of Guernsey.*” (taken from the Resolutions of that States Meeting). This was to, “*regularise [a] situation by obtaining a specific States resolution*” following the identification of an oversight which had occurred when the machinery of government changed (May 2004), “*from the old Committee structure to the new Departmental structure*” (Billet d’État XXI, 2004).
- 4.11 Under Section 4(1)(a) of the Public Functions (Transfer and Performance) (Bailiwick of Guernsey) Law 1991, the Treasury and Resources Department has delegated the following powers, by its resolution on 11 May 2004, to the Chief Officer, Treasury and Resources Department, and the Director, Strategic Property Unit, Treasury and Resources Department. The Chief Officer and the Director, Strategic Property Unit are authorised (i) to confirm in writing the Treasury and Resources Department’s (or the Advisory and Finance Committee’s) approval to a sale or purchase of States’ land and (ii) to appear and represent the States of Guernsey before the Royal Court on the purchase or sale of States’ land. Further, the function of signing leases or licences for States’ land has been delegated to those two officers.
- 4.12 The major problems with the existing system of processes and procedures for land and property transactions are:
- it can be slow – and the market often does not want to wait for a Report to be submitted for the States’ approval;
 - it results in a lack of responsiveness and flexibility – so commercial opportunities are lost;
 - commercially-sensitive information (such as estimated value, lease details etc) may be made public (when a matter is referred to the full States of Deliberation for consideration) – which exposes the States to potential losses and can make other parties concerned about a potential loss of commercial edge.

Table 1 – Current processes and procedures for property transactions

Type of transaction	Negotiations done by Treasury and Resources Department ⁴ (through its Strategic Property Unit) (previously Board of Administration function)	Approval required by Treasury and Resources Department (political level) (previously Advisory and Finance Committee function)	Approval required by States of Deliberation	Relevant paragraph within Appendix X of Policy Planning, Economic and Financial Report 1995
Purchase of any property	✓	✓		1(1)
Purchase of land for telephone poles, electricity poles, sub-stations	By excepted committees (but not Housing Department)			10(c)
Sale up to £250,000	✓	✓		6(1) and (4)
over £250,000	✓	✓	✓	6 (1)
land under 10 vergées	✓	✓		6(1) and (4)
land over 10 vergées	✓	✓	✓	6(1)
Lease in inc. renewals	✓			7 (1) and (3)
up to 7 years	✓	✓		7(3)(a)
over 7 years	✓	✓	✓	7(3)(b)
Lease out inc. renewals	✓			9(1) and (3)
up to 5 years	✓			9(3)
5-7 years	✓	✓		9(3) (a)
over 7 years	✓	✓	✓	9(3)(c)
small commercial premises (7-21 years)	✓	✓		9(3) (b)
Short term leases	✓			10(1) (a)
Lease out of land for telephone poles, electricity poles, sub-stations, temporary stores or storage space	By any committee			10(1) (b)
Wayleaves	✓	✓		8 (1) and (2)
Rights of Way	Not required	Not required	Not required	-

Property transactions – the way forward

- 4.13 The clarification and simplification of property transaction processes and procedures would lessen the burden on States' time and encourage other parties to treat with the States in regard to property matters. The centralisation of the undertaking of those transactions (more fully than exists at present) would

⁴ The negotiations can also be undertaken by certain defined "Excepted Committees", as detailed in Appendix X of 1995 (Billet d'État XV, 1995).

ensure compatibility, consistency and a better management of risk. The suggested procedures for land and property transactions are as set out in Appendix I to this Report.

- 4.14 It is proposed that the Treasury and Resources Department undertake all negotiations for property transactions so that they are carried out in a fair and consistent manner, utilising the professional expertise available within the States (and with the appropriate use of expert consultants). The Departments responsible for administering each particular property will be consulted at appropriate stages as negotiations progress.
- 4.15 The only exceptions to centrally negotiated and completed transactions should be tenancy agreements by the Housing Department and concession agreements for small premises within a property primarily used for States' purposes and which remain within the control of a States' Department (i.e. for small parts of a building – examples would include a shop or catering outlet contained within an airport or leisure centre). It is proposed that tenancy agreements would continue to be undertaken by the Housing Department (acting as a social landlord under its mandate which includes its responsibility for “*the provision and management of social housing administered by the States*”), being the expert in that regard, and by individual Departments in regard to the concessions.
- 4.16 Presently, the Housing Department is permitted to dispose of ‘incompatible properties’ - under the value of £500,000 (being the value for *each* property) and subject to certain other conditions - with the prior approval of the Treasury and Resources Department. In 1995, the States approved a policy by which the Housing Authority was authorised to sell incompatible properties in order to fund replacement properties (Billet d’État XXIV, 1995). In October 2005, the States confirmed this approach when it was resolved, inter alia, to sell “*the sites of Baubigny Cottages and the Petit Bouet estate....*” and, “*that the proceeds of these sales be credited to the Corporate Housing Programme Fund for the purpose of funding new development of properties required to meet current and future social housing needs as identified through the Corporate Housing Programme.*”
- 4.17 It might be that some of the properties, which the Housing Department deems to be ‘incompatible’, would be suitable for use by another Department or that the properties are adjacent to a site that is related to other Departments’ aims, objectives, requirements and/or policies. The Treasury and Resources Department considers that it would be appropriate for the Housing Department to be subject to the same rules on the use and disposal of properties as all other Departments, including property transactions. If another Department were to require the Housing Department’s ‘incompatible properties’ then provision should be made from their budget based on values provided by the Treasury and Resources Department. The Housing Department would retain the proceeds of such sales to be credited to the Corporate Housing Programme Fund for the

purpose of funding new developments of properties to meet social housing needs.

- 4.18 The Treasury and Resources Department has responsibilities in regard to corporate property services and the allocation and administration of all States resources. Thus, the Department is required to, and does, take a central strategic overview of property matters. Individual property matters (except those of exceptional value, capital projects and particularly contentious issues) need not be referred to the States of Deliberation.
- 4.19 It is proposed that the Treasury and Resources Department be authorised to approve all property transactions as set out in Appendix I to this Report (and as summarised in Table 2 below). Property transactions relating to properties of historic importance would be referred to the States of Deliberation. It should be noted that, even if a property were not listed under the Ancient Monuments and Protected Buildings (Guernsey) Law 1967 (for whatever reason), it would still be possible to recognise its historic importance and to agree a lease or sale subject to appropriate covenants being included within the terms of that transaction.

Table 2 – Proposed processes and procedures for property transactions

<i>Type of transaction</i>	Negotiations done by Treasury and Resources Department	Approval required by Treasury and Resources Department (political level)	Approval required by States of Deliberation	Appendix I - paragraph
Purchase of any property	✓	✓		6
Sale	✓	✓		9
Properties of particular historic importance	✓	✓	✓	9(2)
Leases	✓	✓		10 and 12
Properties of particular historic importance – lease out for a period of 21 years or more	✓	✓	✓	12 (2)
Wayleaves	✓	✓		11
Rights of Way	✓	✓		13
Licences	✓	✓		13
Concessions (of small premises within a States building)	Any Department			13

- 4.20 Property transactions should continue to be subject to no objection being raised by the Law Officers of the Crown, who would be consulted in all instances in regard to legal (rather than strategic, operational or political) aspects. It is

anticipated that the Law Officers of the Crown would also comment on contractual issues as appropriate.

- 4.21 If a Department considers it expeditious to use external lawyers for any particular property matter, it should refer its request to the Law Officers of the Crown. The use of said external lawyers and the scale of fees charged will be subject to the approval of HM Procureur and the use of external lawyers should be handled through the Law Officers of the Crown. The resulting transaction documentation will need to be reviewed and approved by the Law Officers of the Crown. It is strongly suggested that the cost of using said external lawyers be incorporated in the negotiated price for the purchase, sale, or lease (or other property transaction) to show the total cost to the States. The Department requiring the transaction to take place should fund the fees of the external lawyers (until such time as they might be recouped from the disposal price, if appropriate).
- 4.22 It is proposed that the States ratify the existing signatories for property transactions (as in Appendix I (4 and 5)) in regard to the decisions of the States of Guernsey and the Treasury and Resources Department.

Property transactions – compulsory purchase legislation

- 4.23 The compulsory purchase legislation (Compulsory Acquisition of Land (Guernsey) Law, 1949) was introduced to enable the States to acquire compulsorily “‘land’ (including the temporary taking of possession thereof and the control of the use thereof) for any ‘public purpose’”. At the time at which it was considered, the States were particularly mindful of properties which had been “*altered by the enemy occupying power*” and of purposes including, “*public utility, a naval, military or air force purpose, and any educational or charitable purpose*” (Billet d’État XVI, 1948).
- 4.24 In more recent times, the purchase of land and property compulsorily might be interpreted as fulfilling a ‘public purpose’ when the community’s need (for health & safety, social, economic or environmental reasons) outweighs the private interest of an individual landowner. Certain property transactions are carried out in accordance with the spirit of the compulsory purchase legislation, although there has been no requirement to purchase property compulsorily during the last twenty years.
- 4.25 The Treasury and Resources Department recommends that the Compulsory Acquisition of Land (Guernsey) Law, 1949 be reviewed and, if necessary, amended or replaced. The States is asked to direct the Treasury and Resources Department to consult the Law Officers of the Crown in regard to drafting such amendments or replacement as might be desirable, in the first instance. The Treasury and Resources Department would only bring this matter back to the States after extensive consultation.

5. Rationalisation strategy

Rationalisation strategy - background

- 5.1 Within the 2005 Policy and Resource Plan, it was acknowledged that, *“The States have increasingly recognised the importance of ensuring that the substantial property assets of the States are properly administered and that both capital and revenue expenditure are considered carefully in the light of the island’s economic circumstances and the ability of the construction industry to meet the demand. The States have also increasingly recognised that this is best facilitated by a corporately managed strategic approach”* (Billet d’État XXII, 2004).
- 5.2 It is recognised that a definitive rationalisation strategy has not previously been placed before the States as a whole. However, in its Budget Report for 2005, the Treasury and Resources Department stated that it, *“continues to be determined to ensure that property is treated as a corporate strategic asset for the benefit of all and not just individual Departments.”* It remarked that, *“Any individual property may therefore need to be transferred between Departments (or indeed transferred to the private sector) to ensure it is used to its maximum potential for the social and economic benefit of the island”* (Billet d’État XXI, 2004). Individual properties have previously been identified as suitable for disposal and thus authorised by the States.

Rationalisation strategy – proposals

- 5.3 As part of the Strategic Property Plan (see Appendix III), the Rationalisation Strategy outlined in this Report sets out framework guidelines and an evaluation process for ‘value for money’ asset management and utilisation of the States’ property assets.
- 5.4 Rationalisation involves:
- acquiring, disposing and/or exchanging the leasehold or freehold of land and properties in order to streamline the accommodation of States’ business;
 - ensuring that the disposal or refurbishment of certain buildings, which could otherwise be considered liabilities, provides an economic solution for the States;
 - maximising the fit between States’ properties and their purposes and promoting sustainability in resource management.
- 5.5 Overall, the Rationalisation Strategy has been designed to unlock the potential of the property portfolio. The property needs of the various States Departments must be matched with the property assets owned and used by the States. The Rationalisation Strategy will review properties under standard criteria through the use of Asset Management Plans and Evaluation. Prior to the implementation

of the Strategy it is not possible to ascertain, in a structured, quantified manner, whether any particular building would be a candidate for disposal. However, the buildings which present the highest liabilities to the States tend to be those which (i) have particularly high costs associated with them (perhaps due to poor condition and/or underinvestment), (ii) are unfit for purpose, and/or (iii) are otherwise inappropriate or unsuitable for the States' needs (due to their size, shape and/or location).

- 5.6 In order to ensure that it is fully effective, the Rationalisation Strategy will apply to all States of Guernsey assets, whether these are freehold or leasehold, including those administered by trading entities⁵.
- 5.7 For full effectiveness, the Rationalisation Strategy will need to apply to all States bodies. Partial implementation could continue or worsen the present situation and would render the Rationalisation Strategy aims and objectives less achievable. Property Centralisation is an important part of the Rationalisation Strategy. In a minority of instances, an exception might be made to the provisions of the Rationalisation Strategy, but the Treasury and Resources Department would need to specifically authorise such an exception due to reasons that exceed the requirements of the Strategy.
- 5.8 The use of a property, or requirement for same, would need to be demonstrated to the satisfaction of the Treasury and Resources Department. Any property not used by any individual Department, for a particular (justified) purpose that fulfils its aims and objectives, is to be returned to the centre and held by the Treasury and Resources Department, on behalf of the States of Guernsey. An independent appeals process is considered to have value in that it might avoid protracted debate about Rationalisation Strategy decisions if a dispute were to arise between the Treasury and Resources Department and an individual Department (for example, if a decision were viewed as disproportionately disruptive). It is proposed that the Policy Council would be the most appropriate body to undertake this role.
- 5.9. The Treasury and Resources Department would consult with the Environment Department, in particular with regard to land-use classes for any properties that are proposed for disposal under the Rationalisation Strategy.

Rationalisation Aims and Objectives

- 5.10 If this Rationalisation Strategy is approved and implemented, the States of Guernsey will:

⁵ According to the States Trading Companies (Bailiwick of Guernsey) Ordinance, 2001, there are three such companies; being Guernsey Electricity Limited, Guernsey Post Limited, and Guernsey Telecoms Limited (since bought by Cable & Wireless (Guernsey) Limited). There are certain conditions under which the trading companies' properties may be sold, disposed of, encumbered and so on. The written consent of the Treasury and Resources Department (formerly Advisory and Finance Committee) is required. That written consent is not to be refused if that property has been offered for sale to the States at the open market value (within a six month period preceding that time).

- hold and maintain only the land and property necessary to deliver its aims, objectives and obligations;
- retain a strategic ‘land bank’;
- carry out strategic planning for each of its land and property assets, utilising individual Asset Management Plans and with due regard to planning policies approved by the States and executed by the Environment Department;
- ensure that any current assets demonstrate value for money in regard to management and maintenance;
- rationalise any land and property considered surplus to the States’ long-term requirements, either through long leasehold or disposal of the freehold or exchange;
- provide as many of its core corporate services as possible through the flexible use of land and buildings, with due regard to cost effectiveness and the requirements of individual Departments (as detailed in their submissions to the Policy and Resource Plan) and to planning policies approved by the States and executed by the Environment Department;
- acquire land and property assets where necessary and where a clear business case can be proven (it is recognised that there will be instances when social and economic issues take priority, even though they might not be able to be considered within a purely financial business case framework);
- explore and update initiatives to achieve value for money and best value⁶ on an annual basis (e.g. consideration as to whether specific functions, such as facilities management, could be best met by outsourcing);
- promote sustainability of human, financial and environmental resources in all buildings held by the States of Guernsey.
- assess disabled access for all buildings held by the States of Guernsey.

Asset Management

5.11 **The States is a land and property owner primarily to enable the provision of public services and facilities and the delivery of States’ aims and objectives.** Currently, land and property is held by the States of Guernsey in three key areas:

- as accommodation for States’ Departments;
- to enable Departments to deliver their mandates and services;

⁶ In this context, ‘best value’ relates to the provision of services, such that the service provider must demonstrate that it is the appropriate provider following a review that includes challenge, comparison, consultation, competition and continuous improvement. Best value does not always equate to lowest price.

- as a strategic land bank to provide potential for future growth and sustainability.
- 5.12 The Treasury and Resources Department works to ensure that **all** States' Departments are accommodated in buildings suitable for their purpose, being comparable with recognised standards and using benchmarks as appropriate.
- 5.13 The Treasury and Resources Department receives requests from Departments to use land and buildings for various reasons/purposes. The 2004 Machinery of Government changes resulted in newly created Departments and larger amalgamated Departments, which all require particular types of accommodation. Changes in service delivery and/or legislative requirements also affect the property needs of Departments.
- 5.14 *Objectives*
 - 5.14.1 All land and property not being utilised by Departments to enable their current service delivery is to be returned to the centre and held by the Treasury and Resources Department, on behalf of the States of Guernsey. The resources to maintain those assets are also to be released to the centre. The use of a property, or requirement for same, would need to be demonstrated to the satisfaction of the Treasury and Resources Department. Departments will be encouraged to consider shared use of property with others or alternative uses where appropriate. The Treasury and Resources Department will act as a holding agent for all such non-allocated properties. The Treasury and Resources Department will broker possible inter-Department 'swaps' of land and buildings to ensure best fit and value for money for the States as a whole. It will also facilitate such exchanges, or other transactions, in the commercial market.
 - 5.14.2 All land and property held by the States for ancillary activities (e.g. kiosks) will be managed commercially, with market rents being charged and development agreements used to ensure the economic viability and long-term sustainability of the asset. Due regard will be given to other Departments' service delivery.
 - 5.14.3 Management of all land and property holdings will use best practice. Reference will be made to market rents, real or notional benchmark comparisons, planned maintenance regimes, and service level agreements. Work is already underway in regard to the identification and use of best practice.
- 5.15 *Information required*
 - 5.15.1 In order to fulfil the asset management objectives, it is necessary to know:
 - what land and property assets are owned and managed by the States;
 - the Departments responsible for the assets;
 - the condition of the assets;

- the short-, medium- and long-term costs and benefits of retaining the assets.

5.15.2 The condition surveys will inform strategic planning for the complete States' property portfolio.

Asset Management Plans

- 5.16 In the 2005 Policy and Resource Plan, an undertaking was made that, *“During 2005, the Policy Council and Treasury & Resources Department will be working with States Departments on [the] approach [whereby a two-stage process integrates the top-level expression of political objectives with the business planning and service delivery at departmental level]. It is envisaged... that departments would provide a prioritised list of their major projects each accompanied by a project appraisal containing... Implications for land and property (including retention/disposal/ acquisition)”* (Billet d'État XXII, 2004).
- 5.17 As part of the Policy and Resource Plan process, each Department was asked to provide basic information concerning each land and property holding for which it was responsible as at January 2005. Further details will eventually be expanded to provide an Asset Management Plan (AMP) for each land and property holding (see Appendix IV). The results of these AMPs will be collated and evaluated by the Treasury and Resources Department in order to assess individual land and properties against the rationalisation criteria. AMPs are different to condition surveys as the latter assess the physical condition of properties against general States' benchmarks. In the case of groups of buildings of the same property type, it has been suggested that the AMP need only be completed once for a typical example (e.g. for a housing estate where all houses are of the same design, only one house need be analysed for AMP purposes).
- 5.18 An Asset Management Plan provides information in order to:
- provide a co-ordinated approach to asset management across the States, taking into account the States' corporate objectives and Departmental service delivery;
 - give clear and explicit corporate responsibility for strategic asset management;
 - enable decisions on land and property to be planned in a co-ordinated way, consistent with the corporate priorities of the States;
 - provide a performance measurement system, which is simple and robust, with indicators that relate to the States' corporate objectives;
 - provide accurate data which is organised to facilitate the analysis and performance of a particular holding and to assist asset management decision-making.

- 5.19 The principal aim of each AMP is to ensure that the opportunity cost of financial resources tied up in land and buildings is identified and minimised so that expenditure on the portfolio is directed in the most effective manner. AMPs also recognise and provide for the management of an asset in accordance with historic or environmental conservation criteria.

Evaluation

- 5.20 AMP returns will be evaluated using a colour-coded system of scoring to determine future action. Certain criteria will be weighted for the scoring procedure.
- 5.21 If the total score for a property is below 25% it will be classified as RED; between 25% and 75% AMBER; and above 75% GREEN.
- 5.22 These actions will follow the scoring of properties:

Red properties Alert for immediate processing for rationalisation

Amber properties Second tranche for rationalisation

Green properties Keep for the foreseeable future but subject to review

6. Property centralisation

Property centralisation - background

- 6.1 In the States Audit Commission's follow-up Report on the Administration of States Property, the Commission identified that, "*it is essential that all States properties be kept under continual review and administered as a total package.*" The Commission referred to the bringing together of, "*the Board of Administration Property Section and the Advisory and Finance [sic] Strategic Property Unit ... within the Treasury and Resources Department.*" and stated that, "*This greater centralisation of property management resources is a positive move.*" It also said that, "*The Commission hopes that the new Unit will be in a position to exercise effective control over all Departments in their use and management of property assets, reducing the potential for inefficiencies... **The Commission is, however, concerned that a central Strategic Property Unit cannot be truly effective when committees have the power to override strategic decisions because those decisions do not suit the committee's own agenda.** Many of the improvements noted in this report will be to little avail if the Unit's attempts to manage property in a truly strategic manner are hampered in such a way*" (emphasis as in original report, Billet d'État II, 2004).
- 6.2 In October 1999, the Advisory and Finance Committee instructed Drivers Jonas (a long-established private partnership of commercial property consultants based in London) to advise on progress and operations within the States 'Property

Triumvirate', being the Strategic Property Advisor, Head of Engineering Services and Head of Architectural Services. Whilst a number of the findings⁷ have now been implemented or superseded, there are a few points considered pertinent to this Report.

- 6.3 Drivers Jonas identified that, whilst the States operated "*on a 'collegiate' governmental basis*", there would be advantages to taking a strategic approach to the management of property, such as:
- *"Setting common property maintenance standards;*
 - *Economies of scale in procuring external services such as condition surveys;*
 - *Planning the future likely property requirements for the States' committees;*
 - *Comparing and making savings in running costs 'across the board' etc."*
- 6.4 Further, Drivers Jonas stated that, "*unless specific time and emphasis is given to the strategic property management work, the States will continue to miss out on the potential for savings, efficiencies and value generation that exist with any portfolio.*"
- 6.5 In addition to all Departments' general duty to review the responsibilities, systems and processes, following the machinery of government changes in May 2004, a central review is also being conducted. In June 2005, the Policy Council released a consultation paper entitled, "Twelve-month review of the new system of government" and invited written submissions by 29 July 2005. One of the suggestions that the Policy Council had yet to consider (Section 6 of the consultation paper) was, "*Should the existing arrangements for the States high-level property responsibilities be reviewed and is there a good case for further centralisation?*" In a letter to the Policy Council, dated 30 June 2005, the Treasury and Resources Department advised that its, "*most significant comment is that it feels very strongly that responsibility for [the] States significant property portfolio should be centralised.*"
- 6.6 Although progress has been made in recent years, much is still required in terms of developing and implementing best practice. There are many pockets of expertise and some excellent examples of property practices. However, there are also areas of concern, such that the full potential of the property portfolio remains largely unrealised.

Property centralisation – proposals

- 6.7 It is proposed that certain property management functions be centralised, in terms of strategic property planning, best practice guidance, project management (for major property-related projects) and provision of technical services.

⁷ Final Report to the States of Guernsey Advisory and Finance Committee – 'Property Triumvirate', January 2000 by Drivers Jonas

- 6.8 **It is intended that day-to-day responsive maintenance, tenancy management and the like should remain vested in the relevant Departments.**
- 6.9 There will be occasions when there is a need for urgent responsive maintenance. Additionally, specialised knowledge can be developed by individual Departments' maintenance managers such that maintenance and repairs are prioritised to deliver the core services specific to each Department (whilst following guidelines issued by the centre). It would also encourage the continuation of a sense of pride and high standards by the staff of those various Departments.
- 6.10 It is recognised that property management is only a part of the management of a tenancy agreement. It is intended that such social landlord functions would remain with the Housing Department (including prioritisation of work on properties, management of waiting and transfer lists, and tenancy issues (how a property is cared for and rent payable)), whilst strategic property planning requirements would lie within the Treasury and Resources Department and the Policy Council (and the Strategic Land Planning Group).
- 6.11 Property centralisation to the extent outlined above would benefit the States in terms of efficiencies and effectiveness, in addition to consistency and continuity, as the capabilities and resources for property management could be drawn into one unit benefiting from economies of scale and shared knowledge and expertise. There would also be advantages of operational uniformity.
- 6.12 The centralised property function would develop overarching estate management strategies that should be linked to individual Departments' property maintenance and management programmes and practices. States Departments generally recognise that their own requirements need to be balanced against the best interests of the States as a whole.
- 6.13 Major construction projects would be centrally overseen and managed so that the most appropriate programming, procurement strategies and project management are utilised. Workload and cost implications could be reduced through early consultation, professional advice and the application of the necessary expertise to procure and manage large-scale construction projects. The present decentralised property function can result in a duplication of effort from the Treasury and Resources Department and an individual Department.
- 6.14 The Audit Commission's Report on Project Management, which was published as an Appendix to Billet d'État XIII 2003 identified that "... *proper project management is essential to avoid projects going wrong, over budget, being delivered late, with an end result that is not what was originally intended and not delivering the anticipated benefits.*" It also noted that, "*The States has proved to date that it is not skilled at managing projects effectively, but it is*

encouraging that many States committees are learning the lessons of the past and are now employing more modern project management methodologies and dedicated project resources. This is to be commended.” The Commission found, *“that greater project management resources and processes need to be employed within the States to avoid the significant value for money implications caused by their absence, the Audit Commission believes that indirect benefits will also be derived from their implementation.”*

- 6.15 Capital and revenue budgetary approval processes are to remain as at present in respect to property matters. It is proposed that all major property projects be co-ordinated by the Treasury and Resources Department (through its Strategic Property Unit as amended by these centralisation proposals, together with such consultants as may be deemed necessary). It is helpful, for both client and contractor, if the States can be certain that it will act as an ‘intelligent client’ – being a project client with the right knowledge and skills in regard to specification and management of construction projects. This would progress the States towards becoming a ‘best practice’ construction client, in accordance with its Resolutions in April 2002, concerning the Board of Industry’s report on ‘The Construction Industry and the States Capital Spending Programme’ (Billet d’État VI, 2002). The definition of the project brief, the expectations of the client Department, the ramifications of post-tender changes and instructions, and the out-turns of any specific construction project are often unclear or misunderstood. Previous large States’ property projects have been successful (on-time, on-budget and producing the required facilities) but there is clearly room for improvement.
- 6.16 The primary interface between the States and the project team (including the contractor at such time as it was appointed) would be the Treasury and Resources Department, acting as the Employing Department’s agent (subject to a service level agreement or similar). Property projects, in this regard, are capital projects including (but not limited to) construction projects (including new build and demolition), refurbishment and remodelling of buildings, and extensions to buildings. ‘Major’ projects are those of a value greater than £500,000 (being the same as the value of dwellings that the Housing Department is authorised to dispose of with the approval of the Treasury and Resources Department). The Employing Department would still need to demonstrate a robust business case for the project (as at present) and value-for-money outcomes including a cost-benefit analysis. Project management would be undertaken by the centralised property function. The grant funding of social housing projects undertaken by housing associations, which form a key part of the Corporate housing Programme, will be an exception to the £500,000 rule, as the approval of their funding is subject to States’ resolutions that are enshrined in contractual arrangements entered into by the States. The management of the partnering programme for the ongoing modernisation of the social housing stock is also to remain with the Housing Department.

- 6.17 The identification of staff accommodation needs for an entire year, as opposed to piecemeal requests during a (financial) year, could have strategic advantages (i.e. needs are identified, current accommodation is assessed for sufficiency and suitability and the shortfall (or otherwise) is then forwarded for consideration as one item). Whilst individual staffing accommodation units could have a value below the £500,000 threshold, the requirement for a year as a whole might be above that value. It is noted that the Key Worker Housing Group, an inter-Departmental working party, is to bring a report to the States in 2006 with the results of its investigations.
- 6.18 The centralised co-ordination and management of major construction projects could assist in the prioritisation of capital projects, which has been increasingly recognised as a vital alternative to the ‘first come, first served’ approach which has tended to predominate in the States until now. This was recognised by the Board of Industry in 2002, when it stated that, “*..autonomous general revenue committees enjoy the freedom to promote projects on a “first come, first served” process. While the enthusiasm and commitment of individual committees in devising projects which fulfil their particular mandate is fully understood and appreciated, the resulting fragmented approach does not ensure that those projects which take place are those which deliver best value for the community.*” It went on to suggest that, “*If the States is to carry through its public commitments and if it expects to work with the construction industry to deliver best value, then a defined corporate forward programme of capital works is required as a matter of urgency.*” (Billet d’État VI, 2002) Although a capital works programme exists, there is not yet a corporate list in order of priority.
- 6.19 It is proposed that the Treasury and Resources Department undertake all property transactions, as in Appendix I.
- 6.20 The use of a property, or requirement for same, would need to be demonstrated to the satisfaction of the Treasury and Resources Department. Any property not used by any individual Department, for a particular (justified) purpose that fulfils its aims and objectives, is to be returned to the centre and held by the Treasury and Resources Department, on behalf of the States of Guernsey. A decision can then be taken as to that property’s future⁸, utilising the Rationalisation Strategy (and AMPs) and on consultation with such Departments as may have a need for such a property.
- 6.21 It might be appropriate for property resources information (usage and identified future requirements) to be submitted annually to the Treasury and Resources Department, so that unoccupied or underused premises can be further examined. This process has commenced, as Departments already submit specific

⁸ In Guernsey, Departmental submissions for the Policy and Resource Planning Report processes (from 2005) are required to refer to the ‘foreseeable future’ and to identify a five-year maintenance programme for those properties that are in use at the time the submission is made. The UK government uses a three-year period for similar policies concerning the identification and disposal of surplus property (as, for example, referred to in HM Treasury guidance DAO(GEN) 15/99).

information regarding property resources through the Policy and Resource Planning process. The initial consideration stage of property projects could provide an opportunity for *ad hoc* reviews of property requirements for a particular Department.

- 6.22 The Treasury and Resources Department has responsibilities for the “*allocation and administration of all States resources*”. For that reason, it is suggested that the centralisation of property functions should mean a development of the existing property function within the Treasury and Resources Department. It is not intended that this should imply (nor should it be inferred) that the Treasury and Resources Department is the only place in which project and property management expertise resides, far from it. However, it is intended that the centralisation of certain property functions would be the amalgamation of the best of States property personnel and practice in terms of those elements of property and project management.
- 6.23 Property centralisation should lead to operational uniformity⁹, economies of scale and the pooling of expertise and would not, therefore, increase the overall resource requirements associated with property management. There is likely to be an impact for the Treasury and Resources Department itself (including an increased workload for its staff). To implement some of the changes, the review and the relocation of certain posts to a centralised property function within the Treasury and Resources Department is required, subject to appropriate consultation with other Departments. It is envisaged that this could include staff for whom 60-100% of the time is dedicated to property and construction matters. This is likely, therefore, to include a proportion of the Guernsey Technical Services unit of the Public Services Department. It is envisaged that such a reallocation would lead to the identification of duplicated roles or responsibilities. This will ultimately result in reductions in overall staffing levels due to the removal of duplicated roles, combined with natural wastage.
- 6.24 It will be fundamental to determine the correct level of resources (being staff, budgets and properties) to achieve the outcomes outlined in this Report. In order to compare the identified required resources to current resources, there will also need to be a review of property functions throughout the States, the identification of property staff (full workload analysis) and a skills audit.
- 6.25 A suitable change management strategy will need to be developed and implemented, once the extent of the changes has been identified (following consideration of this Report). Once the States has considered this Report, the Treasury and Resources Department would develop an appropriate change management strategy, consisting of a review of the required service delivery, the number and nature of posts required to deliver it and the structure to facilitate it.

⁹ It is recognised that this operational uniformity can also be achieved through the rigorous adherence of Departments to guidance, policies, processes and regulatory compliance issued by the Treasury and Resources Department. However, in that case, the Treasury and Resources Department must have the power to *require* Departments to comply with the guidance rather than requesting it to do so.

7. Consultation

- 7.1 The Treasury and Resources Department is grateful to the other States' Departments and to the Law Officers of the Crown for their helpful and thorough participation in the consultation phases for this Report.
- 7.2 As all States' Departments use land and property to carry out their mandates (even if solely as office accommodation), the proposals contained within this States Report will impact upon all States' Departments. The property portfolio must be properly managed so that the business of government and individual Departments' service delivery can be achieved, appropriately, safely and within any budgetary limits. It should also allow some flexibility for the future so that the business of government can continue to be carried out in a sustainable and uninterrupted manner, even if there are changes in the economy, population structure or States' policies.
- 7.3 HM Procureur has commented that it would be preferable for the management and administration of States' land and property to be reviewed and referred to the States. A copy of his letter, dated 17 October 2005, is appended at Appendix V for information.

8. Conclusions

- 8.1 Changes to the current processes and procedures for the management and administration of States' land and property are essential to enable property matters to be dealt with in a professional and timely manner. Property transactions can be clarified and simplified so that it is possible to obtain value for money for the States of Guernsey in regard to its property assets and requirements.
- 8.2 There is a strong potential for financial benefits to accrue to the States if the Rationalisation Strategy is adopted as corporate strategy. These financial benefits include the disposal from the States' property portfolio of buildings which have particularly high costs associated with them or which are unfit, inappropriate or otherwise unsuitable for the States' needs. It should enable co-ordinated property maintenance programmes across the whole of the States, such that scarce resources are targeted appropriately.
- 8.3 The centralisation of certain functions of property management must offer real benefits to the States as a whole in terms of efficiencies and effectiveness, in addition to consistency and continuity. The pooling of expertise into one unit would lead to sharing of knowledge and experience, operational uniformity and the benefits associated with economies of scale. It will also result in reductions in staffing levels due to the removal of duplicated roles. Major construction projects could be centrally overseen and managed in order to ensure that the most appropriate programming, procurement strategies and project management are utilised.

Recommendations

The Treasury and Resources Department recommends the States:

1. To approve the processes, procedures and authorisations for property transactions (as set out in Appendix I to this Report);
2. To direct the Treasury and Resources Department to undertake all property negotiations, save those relating to tenancy agreements (undertaken by the Housing Department in respect to its social landlord role) or those relating to concession agreements for small premises within a property primarily used for States' purposes and which remain within the control of a States' Department (which exceptions are outlined in Paragraph 4.15 of this Report);
3. To direct the Treasury and Resources Department to review the Compulsory Purchase Law;
4. To approve the Rationalisation Strategy (as set out in Section 5 of this Report) and to direct the Treasury and Resources Department to commence the implementation of that Strategy;
5. To direct all States' bodies that there will be no exceptions to the implementation of the Rationalisation Strategy, unless specifically approved by the Treasury and Resources Department for reasons which exceed the requirements of the Strategy;
6. To authorise the Treasury and Resources Department to assume responsibility for any States' property when it deems that a justifiable case has not been made by a Department for its retention;
7. To direct the Treasury and Resources Department to act as a holding agent for properties on behalf of the States of Guernsey (as outlined in Paragraphs 5.14 and 6.20 of this Report);
8. To direct the Treasury and Resources Department to undertake the project management or project sponsor role in regard to major property projects, such that it facilitates the delivery of that property project for the benefit of the employing Department;
9. To direct the Treasury and Resources Department to undertake a full review of property workload and skills currently available within the States and to agree with the Departments concerned the reallocation of staffing to enable the approved recommendations to be carried out and if agreement cannot be reached, proposals in respect of the Departments concerned together with the Departments' views shall be referred to the Policy Council for a final decision;

10. To note and confirm that the recommendations concerning property management policies will apply only in respect of property assets that are wholly beneficially owned by the States.

Yours faithfully

L S Trott
Minister
Treasury & Resources Department

APPENDIX I**LAND AND PROPERTY TRANSACTIONS**

The Treasury and Resources Department proposes:

General provisions for land and property transactions

1. That all negotiations for land and property transactions, for the States of Guernsey, shall be conducted by the Treasury and Resources Department after consultation with any Department that may have an interest therein.
2. That when conducting such negotiations, the Treasury and Resources Department shall make it clear from the outset that the negotiations are being conducted, for their part, subject to the final approval of the terms of the transaction by the Treasury and Resources Department or by the States of Deliberation as the case may be and the approval of the Law Officers of the Crown.
3. That no commitment in respect of a proposed land and property transaction for land or property owned by the States or to be acquired by the States shall be made without the approval of the Law Officers of the Crown as to terms.
4. That the Minister, Treasury and Resources Department, or in his absence the Deputy Minister of the Treasury and Resources Department, be authorised to execute conveyances, leases, licences, and all other ancillary documents as may be necessary, for and on behalf of the States of Guernsey.
5. That the Treasury and Resources Department, when approving land and property transactions without prior reference to the States, shall authorise the Minister or Deputy Minister of the Treasury and Resources Department, or any other duly authorised officer of that Department, to execute the necessary documentation.

Purchases of land and property

6. (1) That all negotiations for the purchase of land and property by the States shall be conducted by the Treasury and Resources Department in accordance with the general provisions in paragraphs 1-5 above.
- (2) That the Treasury and Resources Department shall be empowered, subject to the necessary financial case having been made by the individual Department concerned and to funds being available, to approve purchases of land and property to be made on behalf of the States without prior reference to the States. All such approvals are to be reported to the States by the Treasury and Resources Department periodically in the Interim Financial Reports and the Budget Reports.
- (3) That the cost of purchases of land and property shall be charged to the Department on whose behalf it is made.

(4) That all purchases of land and property chargeable to the General Revenue Account shall be classified as capital expenditure.

(5) That where land and property is transferred between individual trading operations, or between a trading operation and the General Revenue Account, appropriate financial transfers will be made. The transfer should be determined by a market valuation obtained by the Treasury and Resources Department, if appropriate, from a qualified valuer (who complies with relevant standards/guidelines as issued by the Treasury and Resources Department from time to time).

Reallocation of properties

7. That the Treasury and Resources Department shall be empowered, after consultation with the appropriate States Departments, to allocate land and property owned by the States and administered by Departments whose accounts form part of the General Revenue Account to meet their requirements, whether such land or property was acquired or was allocated to a Department before or after the date of this Resolution and, where appropriate, to determine the rent for such property. Such rental sums are to be taken from the revenue budget of the relevant Department.

Register of land and property

8. The Treasury and Resources Department will maintain a register of all land and property owned or leased by the States.

Sales of land and property

9. (1) That all negotiations for the sale of land and property owned by the States, whether such land or property was acquired or was allocated to a Department before or after the date of this Resolution, shall be conducted by the Treasury and Resources Department in accordance with the general provisions in paragraphs 1-5 above. EXCEPT THAT paragraph 2 does not apply when conducting negotiations for the sale of any dwelling erected by the States for sale in connection with the States Housing Development and Loan Fund or any dwelling acquired by the States from a States Home Loans Scheme borrower.

(2) That the Treasury and Resources Department shall be empowered to approve sales of land and property to be made on behalf of the States without prior reference to the States, except for any property of historic importance.

(3) The Treasury and Resources Department will continue to report periodically on all approvals for the sale of land or property to the States in the Interim Financial Reports and the Budget Reports.

Leasing in land and property

10. (1) That when conducting negotiations for the leasing of land and property

on behalf of the States from a private individual or company or for the exercise of an option to renew an existing lease the Treasury and Resources Department shall make it clear from the outset that the negotiations are being conducted in accordance with the general provisions in paragraphs 1-5 above.

(2) That a commitment in respect of any proposed lease shall not be made without the prior approval of the Treasury and Resources Department and any Department which may have an interest therein.

Wayleaves

11. (1) That when conducting negotiations for the granting or acquisition of wayleaves the Treasury and Resources Department shall make it clear from the outset that the negotiations are being conducted in accordance with the general provisions in paragraphs 1-5 above.

Leasing out land and property

12. (1) That when conducting negotiations for the leasing of land and property owned by the States to a private individual or company, whether such land or property was acquired or was allocated to a Department before or after the date of this Resolution, the Treasury and Resources Department shall make it clear from the outset, if that be the case, that the negotiations are being conducted in accordance with the general provisions in paragraphs 1-5 above.

(2) That a commitment in respect of any proposed lease of a property of historic importance for a term exceeding twenty-one years or a commitment in respect of any proposed lease containing an option for renewal the effect of which if exercised would be to increase the original term of such a lease to a total term exceeding twenty-one years shall not be made without the prior approval of the States of Deliberation.

PROVIDED THAT the provisions of this Resolution shall not apply to the leasing of States-owned domestic accommodation by the Housing Department (in accordance with its function as a social landlord).

Minor transactions

13. That the Treasury and Resources Department shall be authorised to negotiate and make commitments in respect to any other minor property transactions as might be required, including licences to occupy; rights of way; concessions etc, in accordance with the general provisions in paragraphs 1-5 above.

PROVIDED THAT the provisions of this Resolution shall not apply to concession agreements for small premises within a property primarily used for States' purposes and which remain within the control of a States' Department.

APPENDIX II

APPENDIX X from the ADVISORY AND FINANCE COMMITTEE – ‘POLICY PLANNING, ECONOMIC AND FINANCIAL REPORT 1995 - LAND AND PROPERTY TRANSACTIONS’

[Extract from Billet d’État XV 1995. Advisory and Finance Committee – ‘Policy Planning, Economic and Financial Report 1995’, dated 05 June 1995 and considered at the States’ Meeting of 12 July 1995. (The relevant pages are pp775-776 and Appendix X pp802-805.)]

“STATES ADVISORY AND FINANCE COMMITTEE - LAND AND PROPERTY TRANSACTIONS

The States Advisory and Finance Committee proposes:

1. (1) *That all negotiations for the purchase of land and property by the States shall be conducted by the States Board of Administration after consultation and agreement with any Committee which may have an interest therein, except for such purchases as are to be made on behalf of the States by the States Housing Authority, the States Agricultural and Milk Marketing Board as respects the Dairy Trading Undertaking, the States Electricity Board, the States Post Office Board, The States Recreation Committee as respects the Leisure Centre Trading Undertaking, the States Telecommunications Board, and the States Water Board (hereinafter referred to as the Excepted Committees) which Excepted Committees shall conduct their own negotiations.*
- (2) *That when conducting such negotiations, the States Board of Administration and the Excepted Committees shall make it clear from the outset that the negotiations are being conducted, for their part, subject to the final approval of the terms of purchase by the States Advisory and Finance Committee, after consultation with the Law Officers of the Crown.*
- (3) *That the States Advisory and Finance Committee shall be empowered, subject to the necessary financial provision having been made, to approve purchases of land and property to be made on behalf of the States by the States Board of Administration and the Excepted Committees without prior reference to the States, all such approvals given in each calendar year to be reported to the States by the States Advisory and Finance Committee, after consultation with the Committees concerned in an Appendix to the Billet d’État for May in the following year.*
- (4) *That the States Advisory and Finance Committee, when approving purchases of land and property without prior reference to the States, shall authorise the President of the States Board of Administration to execute the necessary conveyance.*

2.
 - (1) *That the cost of purchases of land and property made on behalf of the States by any of the Excepted Committees other than the States Housing Authority and by the States Board of Administration in respect of the Ports shall be charged in the accounts of the appropriate Trading Undertaking.*
 - (2) *That the cost of any other such purchase made on behalf of a Committee whose account forms part of the General Revenue Account shall be charged to the General Revenue Account either in the account of that Committee or in the account of the States Board of Administration, except that any such purchase made in connection with any Fund administered by any such Committee shall be charged to the account of that Fund.*
 - (3) *That for the purposes of the control of capital expenditure:*
 - (a) *all purchases of land and property chargeable to the General Revenue Account shall be classified as major capital projects irrespective of their cost;*
 - (b) *the approval of the States Advisory and Finance Committee given under the authority of sub-paragraph (3) of paragraph 1 above to the purchase of land and property on behalf of the States shall have an equivalent effect to a Resolution of the States authorising such purchase.*
3. *That the provisions of paragraphs 1 and 2 above shall apply to transfers of land and property between any of the States Trading Committees including the States Board of Administration in respect of the Ports and between any of those Committees and a Committee whose account forms part of the General revenue Account as though such transfers were purchases.*
4. *That the States Board of Administration shall be empowered, after consultation and agreement with the appropriate States Committees, to allocate land and property owned by the States and administered by Committees whose accounts form part of the General Revenue Account to meet their requirements, whether such land or property was acquired or was allocated to a Committee before or after the date of this Resolution and, where appropriate, to determine the rent for such property.*
5. *To direct the States Board of Administration to maintain a register of all land and property owned or rented by the States other than land and property administered by the Excepted Committees other than the States Housing Authority.*
6.
 - (1) *That all negotiations for the sale of land and property owned by the States, whether such land or property was acquired or was allocated to a Committee before or after the date of this Resolution, shall be conducted by the States Board of Administration after consultation and agreement with any Committee which may have an interest therein, except for such sales as are to be*

made on behalf of the States by the Excepted Committees which Excepted Committees shall conduct their own negotiations.

(2) That when conducting such negotiations, other than negotiations for the sale of any dwelling erected by the States for sale in connection with the Homes for Workers Loan Fund or the States Housing Development and Loan Fund, any dwelling acquired by the States from a Homes for Workers Loan borrower or a States Home Loans Scheme borrower, any property where the value of realty does not exceed £250,000 or any land not exceeding ten verges in area, the States Board of Administration and the Excepted Committees shall make it clear from the outset that the negotiations are being conducted, for their part, subject to the final approval of the terms of sale by the States of Deliberation.

(3) That when conducting negotiations for the sale of any property where the value of realty does not exceed £250,000 or any land not exceeding ten verges in the area, the States Board of Administration and the Excepted Committees shall make it clear from the outset that the negotiations are being conducted, for their part, subject to the final approval of the terms of sale by the States Advisory and Finance Committee and consultation with the Law Officers of the Crown.

(4) That the States Advisory and Finance Committee shall be empowered to approve sales of land and property where the value of realty does not exceed £250,000 or any land not exceeding ten verges in area to be made on behalf of the States by the States Board of Administration and the Excepted Committees without prior reference to the States.

(5) That the States Advisory and Finance Committee, when approving the terms of sale of any property where the value of realty does not exceed £250,000 or any land not exceeding ten verges in area, shall authorise the President of the States Board of Administration to execute the necessary conveyance.

(6) The Committee shall report all approvals given in each calendar year for the sale of land or property to the States in an Appendix to the Billet d'État for May in the following year.

(7) That the approval of the States Advisory and Finance Committee given under the authority of paragraph 6.(4) above to the sale of land and property on behalf of the States shall have an equivalent effect to a Resolution of the States authorising such sale.

7. *(1) That all negotiations for the leasing of land and property on behalf of the States from a private individual or company or for the exercise of an option to renew an existing lease shall be conducted by the States Board of Administration after consultation and agreement with any Committee which may have an interest therein, except for such leasings or renewals of leases as are to*

be made on behalf of the States by the Excepted Committees which Excepted Committees shall conduct their own negotiations.

(2) That no commitment in respect of a proposed lease shall be made without consultation with the Law Officers of the Crown.

(3) That when conducting such negotiations the States Board of Administration and the Excepted Committees shall make it clear from the outset, if that be the case, that the negotiations are being conducted, for their part, subject to the final approval of the terms of the lease by the States Advisory and Finance Committee or by the States of Deliberation as the case may be in accordance with the following provisions:

(a) a commitment in respect of any proposed lease for a term not exceeding seven years or a commitment in respect of the proposed renewal of any lease the effect of which would be to increase the original term of that lease to a total term not exceeding seven years or a commitment to lease any property comprising a single dwelling shall not be made without the prior approval of the States Advisory and Finance Committee.

(b) a commitment in respect of any proposed lease for a term exceeding seven years or a commitment in respect of the proposed renewal of any lease the effect of which would be to increase the original term of that lease to a total term exceeding seven years except in respect of the leasing of a property comprising a single dwelling shall not be made without the prior approval of the States of Deliberation.

8. *(1) That all negotiations for the granting or acquisition of wayleaves shall be undertaken by the Board of Administration on behalf of committees, other than the Excepted Committees, which Excepted Committees shall conduct their own negotiations.*

(2) That when conducting such negotiations the States Board of Administration and the Excepted Committees shall make it clear from the outset that the negotiations are being conducted, for their part, subject to the final approval of the terms of the wayleave by the States Advisory and Finance Committee and consultation with the Law Officers of the Crown.

9. *(1) That all negotiations for the leasing of land and property owned by the States to a private individual or company, whether such land or property was acquired or was allocated to a Committee before or after the date of this Resolution, shall be conducted by the States Board of Administration after consultation and agreement with any Committee which may have an interest therein, except for such leasings as are to be made on behalf of the States by the Excepted Committees which Excepted Committees shall conduct their own negotiations.*

(2) *That no commitment in respect of a proposed lease shall be made without consultation with the Law Officers of the Crown.*

(3) *That when conducting such negotiations, the States Board of Administration and the Excepted Committees shall make it clear from the outset, if that be the case, that the negotiations are being conducted for their part, subject to the final approval of the terms of the lease by the States Advisory and Finance Committee or by the States of Deliberation as the case may be in accordance with the following provisions:*

(a) *a commitment in respect of any proposed lease for a term exceeding five years but not exceeding seven years or a commitment in respect of any proposed lease containing an option for renewal the effect of which if exercised would be to increase the original term of the lease to a total term exceeding five years but not exceeding seven years shall not be made without the prior approval of the States Advisory and Finance Committee.*

(b) *a commitment in respect of any proposed lease of small commercial premises for a term exceeding seven years but not exceeding twenty-one years or a commitment in respect of any proposed lease of small commercial premises containing an option for renewal the effect of which if exercised would be to increase the original term of that lease to a total term not exceeding twenty-one years shall not be made without the prior approval of the States Advisory and Finance Committee.*

(c) *a commitment in respect of any proposed lease other than a lease referred to in (b) above for a term exceeding seven years or a commitment in respect of any such proposed lease containing an option for renewal the effect of which if exercised would be to increase the original term of that lease to a total term exceeding seven years shall not be made without the prior approval of the States of Deliberation.*

PROVIDED THAT the provisions of this Resolution shall not apply to the leasing of States-owned domestic accommodation by the States Housing Authority.

10. *Notwithstanding the provisions of the foregoing paragraphs:*

(1)(a) *the States Board of Administration and the Excepted Committees shall continue to be vested with the authority of the States to exercise absolute discretion in the letting of States-owned land and property for short periods;*

(b) *all States Committees shall be vested with the authority of the States to conclude in their absolute discretion minor negotiations for the leasing of land from private individuals or companies for telephone poles, electricity poles, substations, temporary stores or storage space etc., and:*

(c) the Excepted Committees other than the States Housing Authority shall be vested with the authority of the States to conclude minor purchases of land for telephone poles, electricity poles and sub-stations, etc., without reference to the States and without subsequently reporting such purchases to the States, but referring the matter to the States Advisory and Finance Committee to enable that Committee to authorise the President of the States Board of Administration to execute the necessary conveyance.

- 11. To direct the States Board of Administration and the Excepted Committees to continue to exchange information concerning property negotiations.*

NOTES

By resolution on 10 December 1992 on Billet d'État XXII – Budget for 1993 – the original paragraph 8 (3)(b) was deleted and replaced by 8 (3) (b) and (c), and subsequently renumbered as 9 (3) (b) and (c) as above.”

CORPORATE STRATEGIC PROPERTY PLAN**1. Current Assets**

Corporate property register
Individual Departments' property plan requirements

i) Provision of Information on Portfolio

Condition Survey
Departmental Asset Management Plans

ii) Utilisation of Portfolio

Corporate links to Policy & Resources Plan and Strategic land use plan
Departmental Asset Management Plans

iii) Rationalisation Strategy

Disposals
Acquisitions
Exchanges

2. Construction Programme

(including projected annual revenue and planned maintenance costs)

Workstreams

i) Current Projects**ii) Proposed Projects****iii) Prioritisation****iv) Rolling Maintenance Programme (including planned and revenue costs)**

APPENDIX IV

ASSET MANAGEMENT PLAN – INDIVIDUAL PROPERTY / LAND HOLDING (EXAMPLE FRAMEWORK)

	<u>Answer</u>	<u>Mark</u>	<u>Weighting</u>	<u>Total</u>
i)	Address of Property:			
ii)	Type of Property: (e.g. office, school, warehouse, kiosk)			
iii)	Date built: (and any alterations)			
iv)	UPRN number:			
v)	Size / area of property Gross: (including land) Net: (building excluding land)			
vi)	Potential use class: a) past use: b) current use: c) projected use:			
vii)	Number of people accommodated:			
viii)	Value current use (at market rental): market use (at market rental): rebuild cost: potential use (taking into account use classes):			
ix)	Income p.a.			

- x) **Outgoings**
 Maintenance - revenue:
 (including Facilities Management)
 - capital:
- xi) **Condition:** Good
 Fair
 Poor
 Fit for purpose

 (Scale of 1 to 10: 10 best – 1 worst)
- xii) **Future maintenance costs:**
 i) catch up

 ii) planned
 (including cyclical, e.g. repainting)

 iii) life cycle replacements
- xiii) **Current non-financial benefits
 of the asset:**
 (e.g. tourist attraction)
- xiv) **Possible future non-financial
 benefits of the asset:**
- xv) **Development potential:**
- xvi) **Projected cost to realise
 development potential:**
- xvii) **Special circumstances:**
 (e.g. heritage, covenants,
 logistical requirements)

Total _____

APPENDIX V

Deputy L. Trott,
Minister,
Treasury and Resources Department,
Sir Charles Frossard House,
La Charroterie,
St. Peter Port,
Guernsey,
GY1 1FH.

17th October, 2005

Dear Deputy Trott,

States' approvals to property transactions

I write to confirm certain advice given to the Strategic Property Unit in connection with States' approval to property transactions. This letter supersedes mine of 9th August, 2005.

The present resolution governing the requirement for States, rather than Departmental, approvals to property transaction is a composite of previous resolutions. This resolution is, in part, now redundant, given the transfer to the following of certain States' assets and undertakings – Cable & Wireless, Guernsey Electricity and Guernsey Post. Furthermore, the functions of the Water Board have now been subsumed into the Public Services Department, but the Housing, Health and Social Services and Education Departments – the other principal Departments with property interests – have for present purposes, remain unchanged as respects their transactional powers.

The principal circumstances which prompted my discussions with the Strategic Property Unit concerning leases was as follows (and I summarise, in the interests of brevity):

- (a) leases in which the States are landlord or tenant involving a term or terms, or a commitment thereto, in excess of seven years require States' approval (unless of a minor nature);
- (b) for strategic reasons the States will not sell, but will lease, sites to Guernsey Electricity, for its installing electricity substations in strategically important States owned properties, including the Airport and the Courts extension, to give the States appropriate control;
- (c) Guernsey Electricity is increasingly reluctant to commit to the expenditure of installing substations without such leases being in place – this particularly so in the case of the Courts extension;

- (d) obtaining States' approvals to the terms of the proposed leases is considered burdensome, having regard to the technical nature of the transactions.

The present rules relating to the States granting and taking leases arises from controversy surrounding a building in The Bordage which was proposed to be leased for purposes of the then States Insurance Authority which transaction was negotiated by the Board of Administration. Without descending into history the States appointed a Committee to investigate the transaction which was perceived as having been conducted and concluded to the disadvantage of the States. One outcome was the requirement that leasing transactions of a certain length, subject to certain exceptions, should be referred to the States. The present arrangements require States' approval only in certain circumstances, which are nowadays not necessarily appropriate, given the matters to which I refer below.

In my discussions with the Strategic Property Unit we focused on the possibility of asking the States to amend the resolutions relating to the States granting and taking leases in excess of seven years, and indeed I commenced to draft a memorandum to you to that effect. However, it soon became clear to me that the issue of granting and taking leases, of whatever term, could not be realistically divorced from a thorough review of all the resolutions dealing with States' approval to property transactions, including those relating to States' loans secured on property, and accordingly I recommended that your Department urgently review such approvals, which necessarily involves consideration of at least the following:-

- (a) whether, and if so in what circumstances, or in respect of what transactions, the States, as opposed to the Treasury and Resources Department, should approve property transactions;
- (b) whether, and if so in what circumstances or in respect of what transactions, the approval of the Policy Council might be required.

The civil service, by which I include St. James' Chambers, is much better placed than thirty years ago to deal with the complexities of property transactions, particularly leases. St. James' Chambers employ experienced property lawyers, and the services of specialist lawyers in private practice are available and used. Furthermore, within the Strategic Property Unit there is a considerable body of expertise and experience now available to negotiate and progress property transactions. Such was not the case when, in particular, the resolutions relating to the granting and taking of leases were passed; and I have to question whether the States in their meetings should be engaged at all, save perhaps in respect of the sale of any property of historic importance. Careful consideration will need to be given to identifying or defining what buildings are of historic importance, though I suspect that, rather like the elephant, whilst precise definition may be difficult such a building in any case will be obvious. In this context sale ought to be taken to include the grant of a long lease of such property, and by long lease I suggest in excess of twenty-one years.

I understand that the Department are presently preparing a comprehensive States' Report dealing with all aspects of the management and administration of States' property, which in my opinion, would provide a convenient and sensible opportunity to deal with the whole issue of States' approvals to property transactions.

Yours sincerely,

J.N. van Leuven QC
H.M. Procureur

(NB The Policy Council supports the proposals)

The States are asked to decide:-

Whether, after consideration of the Report dated 22nd December, 2005, of the Treasury and Resources Department, they are of the opinion

1. To approve the processes, procedures and authorisations for property transactions (as set out in Appendix I to that Report).
2. To direct the Treasury and Resources Department to undertake all property negotiations, save those relating to tenancy agreements (undertaken by the Housing Department in respect to its social landlord role) or those relating to concession agreements for small premises within a property primarily used for States' purposes and which remain within the control of a States' Department (which exceptions are outlined in Paragraph 4.15 of that Report).
3. To direct the Treasury and Resources Department to review the Compulsory Purchase Law.
4. To approve the Rationalisation Strategy (as set out in Section 5 of that Report) and to direct the Treasury and Resources Department to commence the implementation of that Strategy.
5. To direct all States' bodies that there will be no exceptions to the implementation of the Rationalisation Strategy, unless specifically approved by the Treasury and Resources Department for reasons which exceed the requirements of the Strategy.
6. To authorise the Treasury and Resources Department to assume responsibility for any States' property when it deems that a justifiable case has not been made by a Department for its retention.
7. To direct the Treasury and Resources Department to act as a holding agent for properties on behalf of the States of Guernsey (as outlined in Paragraphs 5.14 and 6.20 of that Report).
8. To direct the Treasury and Resources Department to undertake the project management or project sponsor role in regard to major property projects, such that it facilitates the delivery of that property project for the benefit of the employing Department.
9. To direct the Treasury and Resources Department to undertake a full review of property workload and skills currently available within the States and to agree with the Departments concerned the reallocation of staffing to enable the approved recommendations to be carried out and, if agreement cannot be

reached, to refer proposals in respect of the Departments concerned together with the Departments' views to the Policy Council for a final decision.

10. To note and confirm that the recommendations concerning property management policies will apply only in respect of property assets that are wholly beneficially owned by the States.

IN THE STATES OF THE ISLAND OF GUERNSEY

ON THE 22nd DAY OF FEBRUARY 2006

The States resolved as follows concerning Billet d'État No V
dated 27th January, 2006

TREASURY AND RESOURCES DEPARTMENT

STATES' LAND AND PROPERTY – MANAGEMENT AND ADMINISTRATION

After consideration of the Report dated 22nd December, 2005, of the Treasury and Resources Department: -

1. To approve the processes, procedures and authorisations for property transactions (as set out in Appendix I to that Report).
2. To direct the Treasury and Resources Department to undertake all property negotiations, save those relating to tenancy agreements (undertaken by the Housing Department in respect to its social landlord role) or those relating to concession agreements for small premises within a property primarily used for States' purposes and which remain within the control of a States' Department (which exceptions are outlined in Paragraph 4.15 of that Report).
3. To direct the Treasury and Resources Department to review the Compulsory Purchase Law.
4. To approve the Rationalisation Strategy as set out in section 5 of that Report, but subject to the modification that the States of Deliberation, rather than the Policy Council, shall be the final arbiter in the case of a dispute between the Treasury and Resources Department and another States Department, and to direct the Treasury and Resources Department to commence the implementation of that Strategy.
5. To direct all States' bodies that there will be no exceptions to the implementation of the Rationalisation Strategy, unless specifically approved by the Treasury and Resources Department for reasons which exceed the requirements of the Strategy.
6. To authorise the Treasury and Resources Department to assume responsibility for any States' property when it deems that a justifiable case has not been made by a Department for its retention.
7. To direct the Treasury and Resources Department to act as a holding agent for properties on behalf of the States of Guernsey (as outlined in Paragraphs 5.14 and 6.20 of that Report).

8. To direct the Treasury and Resources Department to undertake the project management or project sponsor role in regard to major property projects, such that it facilitates the delivery of that property project for the benefit of the employing Department.
9. To direct the Treasury and Resources Department to undertake a full review of property workload and skills currently available within the States and to agree with the Departments concerned the reallocation of staffing to enable the approved recommendations to be carried out and, if agreement cannot be reached, to refer proposals in respect of the Departments concerned together with the Departments' views to the Policy Council for a final decision.
10. To note and confirm that the recommendations concerning property management policies will apply only in respect of property assets that are wholly beneficially owned by the States.

K. H. TOUGH
HER MAJESTY'S GREFFIER