



OFFICIAL REPORT

OF THE

STATES OF DELIBERATION

OF THE

ISLAND OF GUERNSEY

HANSARD

Remote Meeting, Guernsey, Thursday, 23rd April 2020

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Present:

Sir Richard J. Collas, Kt, Bailiff and Presiding Officer

Law Officers

R. M. Titterington, Q.C. (H.M. Comptroller)

People's Deputies

St Peter Port South

Deputies P. T. R. Ferbrache, D. A. Tindall, B. L. Brehaut, R. H. Tooley

St Peter Port North

Deputies J. A. B. Gollop, C. N. K. Parkinson, L. C. Queripel, M. K. Le Clerc,
M. P. Leadbeater, J. I. Mooney

St Sampson

Deputies L. S. Trott, P. R. Le Pelley J. S. Merrett,
G. A. St Pier, T. J. Stephens, C. P. Meerveld

The Vale

Deputies M. J. Fallaize, N. R. Inder, M. M. Lowe,
L. B. Queripel, S. T. Hansmann Rouxel

The Castel

Deputies R. Graham L.V.O, M. B. E, C. J. Green, B. J. E. Paint,
M. H. Dorey, J. P. Le Tocq

The West

Deputies A. H. Brouard, A. C. Dudley-Owen, E. A. McSwiggan,
D. de G. de Lisle, S. L. Langlois

The South-East

Deputies H. J. R. Soulsby, H. L. de Sausmarez, P. J. Roffey,
R. G. Prow, V. S. Oliver

Representatives of the Island of Alderney

Alderney Representatives S. Roberts, A. Snowdon

The Clerk to the States of Deliberation

S. Ross, esq. (H.M. States' Greffier)

Absent at the Evocation

Miss M. M. E. Pullum, Q.C. (H.M. Procureur) ; Deputy J. C. S. F. Smithies (*relevé à 10h31*)

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States of Deliberation

The States met virtually at 9.30 a.m.

[THE BAILIFF *in the Chair*]

PRAYERS

The States' Greffier

EVOCAATION

Tribute – Liberation at Biberach Camp – 75th Anniversary

The Bailiff: Members of the States of Deliberation, good morning to you all. It is good to hear you all and welcome to this second day of this virtual States' Meeting. Before we start, I am just going to ask you to pause and reflect for a moment, because today happens to be the 75th anniversary of the liberation of the camp at Biberach, in which many Guernsey people were interned and, half an hour ago, a few of the Biberach Friends of Guernsey gathered at the entrance at the gate of the Police College, which now stands on the former campsite, in the presence of the Mayor, Herr Zeidler, where they placed some flowers in memory of the deported and interned Islanders, for whom this day, 75 years ago, was so exciting.

They have asked me to pass that message on and to let you know that the Mayor gave a short address, in which he paid tribute to commemorate those who were interned and also spoke of the reconciliation that has been achieved over the years. It just seems to me, particularly as we are debating the anti-tank wall at L'Ancrese, it is perhaps appropriate just to pause and reflect for a few moments on those who were deported and interned, both Islanders deported and interned in Germany and elsewhere, and also those of course who were interned here in Guernsey, some of whom would have been responsible – slave workers – for building the tank wall that we are currently debating.

So I would just ask you to remain silent and pause and reflect on what this day would have meant 75 years ago to those Guernsey people who were liberated in Biberach.

Thank you very much. I think that is very appropriate.

Procedural – Timing of Debate on P&R policy letter

The Bailiff: Just before we start, I did say when we closed yesterday evening, I would be inviting you to consider, first thing this morning, when we might debate the Rule 18 Proposition, laid by the Policy & Resources Committee yesterday. At the suggestion of Deputy St Pier, with which I believe Deputy Trott is in agreement, I am proposing that we defer to the end of today, or the end of business, whichever is the earlier, a decision on when that will be debated. Having said that, Greffier, will you please call the resumption of the debate on the Requête?

Billet d'État X

REQUÊTE

IV. Requête – Suspension of Carrying Out of Works further to Proposals for the Partial Removal of the Anti-Tank Wall in the Eastern Part of Pembroke Bay (L'Ancrese East) and the Managed Re-Alignment of the Coastline in that Area – Debate continued

Article IV.

The States are asked to decide:

Whether, after consideration of the Requête dated 27th November 2019, they are of the opinion:

1. To agree that the carrying out of any works to implement the managed realignment of the coastline at L'Ancrese East as set out in Section 7 of the policy letter of the Committee for the Environment & Infrastructure dated 18th August 2017 and described in Section 6, Volume 1 of the report "Guernsey Coastal Defences" prepared by Royal Haskoning Dhv further to the Resolution of the States made at their meeting on 29th September 2017 be suspended.
2. To agree that the period of suspension shall be 10 years from the date of this Resolution or such shorter period as the States may at any future time by resolution determine.
3. To direct the Committee for the Environment & Infrastructure to arrange for implementation of a maintenance schedule as proposed in Recital 6.
4. In the event of a failure of the wall, resulting in the ingress of the sea onto the common, to direct the Committee for the Environment & Infrastructure to revert to the States with proposals for minimising any damage to the common, which may include a proposal for managed re-alignment in accordance with the Resolution of the States of 29th September 2017 referred to in Recital 1.

The States' Greffier: Billet d'État X. Proposition 2019/143, the continuation of the debate.

The Bailiff: I will call first Deputy Gollop.

30 **Deputy Gollop:** Thank you very much sir, Mr Bailiff and also for your thoughtful tribute about World War II. I had the privilege, when I was sat on Culture & Leisure Committee, of sitting with two very venerable Members who both spent part of their childhoods in that camp. That is well made. Of course it does bring to focus one aspect of the debate before us today.

35 Deputy Tooley made an interesting observation yesterday that it was very unlikely you would hear anything new today or different speeches, because if you perused Hansard or radio recordings you would find that most speeches would touch on topics that were said when this first came before the Chamber.

40 I would disagree with that in one respect, apart from the factor Deputy Meerveld said about the financial position, that I of course did not speak much, if at all, unusually, in those debate. There were reasons for that. At the time I was appreciating being President of the Development & Planning Authority and, despite the timely remarks that Deputy Tindall has made, which was not dissimilar to what we were told, I did feel it difficult to express a point of view on that subject, so I abstained and recused myself for much of the debate, along with several other Members.

45 That decision at the time was made easier because it happened to coincide with an important South-West Regional Planning Authority Conference, to which I went to several sessions and seminars, at St Pierre Park Hotel, meeting planners from Devon and Cornwall and so on and I had to make a speech and it coincided.

50 The other aspect was that the legal advice at the time was slightly different in that I think it was not that we could not speak, but we might conflict ourselves if we spoke, if our reasons for supporting or opposing the *sursis* or the requête were in any way linked to the planning application of the scheme, for example, it might have been possible to have opposed the scheme on grounds relating to cost, for example, but not necessarily on the visual impact of the scheme.

I personally think we should pause and review on this issue for a number of reasons. One reason, I would say, is that there has been such opposition to it from important stakeholders, ranging from the Vale Commons Council to perhaps the Vale Douzaine, to café users, to golfers and so on.

55 The second reason is that, although we had a close vote on this in the Committee, I think it was a finely balanced judgement as to whether we should consider the edifice to be a kind of special building. I accept that it might not fully pass the criteria as we set in terms of uniqueness of the world, but I think it is unusual, a bit like Deputy Smithies' Churchill Tank. It is a very important piece of our Occupation and packed with history.

I am aware that some people, of course, would be opposed to it on precisely those grounds, that it was built by an evil regime that were using slave workers, but I think the vast majority of public feedback we have had has been to retain the wall as part of our history and I do regret that, despite the best efforts of Festung, that we have a certain lack of clarity as to our policy and strategic oversight of the Occupation history/heritage and that it seems to have fallen in between a little bit of a gap between when special monuments and buildings end and tourism policy, Fortress Guernsey and so on, begin.

60 So I think the history is one reason to be cautious and at this stage go for the Brouard Requête. Another reason, as I have already said, is the overwhelming, I think, popular feeling, especially from habitants of the Common and parishioners of the Vale, that it is very much as part of their childhood and I think it is probably fair to say that more of the supporters of retaining it have had strong local childhood roots with Guernsey than perhaps some of the more logical alternatives.

65 Although we should always respect consultants, and I for one am not going to pretend to be a coastal engineer or a geomorphologist, I think Members such as Deputy Inder and others have raised substantial doubt, not about the engineering credibility of the advice, but about the history and the context behind it because, for example, it is more than probable, looking back to the military history, to Frank E. Wilson's *Railways of Guernsey* book and photographs, pre-war and early war time, that there was a much greater degree than we realised of Belle Greve Bay-style shingle banks in the area.

80 That needs to be fully factored in because some of the advice we were given was we were not 100% certain as to whether it was entirely in the 1930's a sandy bay. It was probably more of a mixture and, in that context, we should be cautious and I think follow the line of the Brouard Requête because we cannot 100% be certain, despite the professionalism of the Royal Haskoning firm that they are the only game in town and I personally would like to see other advice long term.

85 Also, a fourth reason is there could be material consequences and repercussions, such as 18 months or more of an unusual beach, of rubble, or perhaps erosion of the common, of discolouration, of ecological effects, and of course the probable relocation of a much-loved kiosk facility that, once this dreadful crisis is over, people would want to use, especially if travel opportunities are reduced. There will be more staycations and people wishing to avail themselves of Guernsey's wonderful natural heritage.

90 So I think for many reasons we should have supported it. Finally, when Deputy Inder and Deputy Ferbrache put forward their *sursis*, I actually thought that it would romp home because of the uncertainty of the time and I was disappointed that we ended up having to have a material vote.

I think, environmentally, we have to balance what could be an attractive vision of a sand dune natural bay, with the reality of both uncertainty and significant local feeling against the project, as well as the commercial uncertainty for perhaps both the golf course and local tourism, such as the kiosk.

100 I think when you look at the picture in the round, one also has to have almost a Scottish jury-type of approach to this that, regardless of the merits Deputy Brehaut's Committee have put out, the case is really not proven.

105 Finally, one argument of Deputy Brehaut I do accept is the need to invest in our infrastructure and ensure the economy continues going, both now and in the foreseeable future but, actually, spending up to £100,000 a year on basic maintenance work when, as Deputy de Lisle rightly says, we have a small land area, would I think more profitably use local contractors and labour and skilled artisans than bringing in offshore projects for a one-hit major infrastructural change we might regret. So for all of those reasons, I urge Members to support the Deputy Brouard Requête.

The Bailiff: Thank you. Next Deputy Dorey, to be followed by Deputy Leadbeater.

110 **Deputy Dorey:** Thank you Mr Bailiff. As we debate this topic again, we could all dust off our previous speeches and use them again, as there are no new reasons to justify the Assembly reaching a different conclusion. Deputy Gollop just said about pause and review because of opposition. But that opposition's comments are the same as was made before the 2017 debate.

115 Ultimately, the question for Members is do they have confidence in specialist professional engineers or are they going to spend money trying to shore up this failing wall and have the risk of the damage and cost if it was to fail and still having to find a long-term solution.

120 The professional engineers have been challenged by the previous Committee, the current Committee, the States' officers, States' Members and the public at meetings we arranged before the previous debate. The realignment has been agreed as the best solution.. Yesterday, the managed realignment was called an experiment. That is an unfair term. It is based upon the knowledge and calculations of experienced, professional engineers.

125 We can be even more confident about the outcome from photos taken in 1933. These were included in the previous Report, which clearly shows a very attractive beach with sand dunes, without any walls. Deputy Gollop referred to was there really a sandy beach? He just needs to look at the previous report and see those photos.

130 Also we have a sandy beach, with a shingle ridge on the east side of the slipway, without any wall. There have been comments that the sand was used by the Germans, but Festung Guernsey said that the sand mostly came from the sandpits of Les Ammareurs. These had less salt content, making them better for concrete. This appears to be the most likely source of the sand.

135 Beach sand and pebbles could be used as a last resort, but a mined beach, covered in barbed wire and explosive anti-tank obstacles would have been problematic to excavate for material. In addition, photos show the sand at a high level after the Occupation. I have heard the amount of £300,000 being referred to in this debate, but the Requête tells us it will be prudent to have a maintenance budget of £200,000 set aside –

The Bailiff: I see, Deputy Dorey, there is a point of correction from Deputy Inder.

140 **Deputy Inder:** Sorry, Deputy Dorey, it was something that you said earlier. Two things in fact. One, you referred to the word 'experiments'. Through you, sir, if the engineering firm cannot guarantee where the end beach line will be, I am afraid that is an experiment. Secondly, Deputy Dorey only refers to the 1933 sepia-toned images, which very rarely or, if at all, show any contrast at the beach. Everything looks like sand. What Deputy Dorey should refer to and has chosen not to refer to is the 1942 images of the area, before the wall was built, where there was clearly the contrast that showed the shingle bank, which went down to about three metres above the half-tide line. Let us use all the evidence not just the evidence that suits.

145

The Bailiff: Deputy Dorey.

Deputy Dorey: I do not think those were points of correction at all.

150 **The Bailiff:** I think that was a matter of opinion.

Deputy Dorey: Absolutely and the photos are clearly in the previous report and I think were circulated by Deputy Brehaut. So I will continue. I think I will just repeat the last sentence. I have heard the amount of £300,000 be referred to in the debate, but the Requête tells us it would be prudent to have a maintenance budget of £200,000 set aside. These amounts are totally inadequate, as it is based on a very significant area, when in the Requête it refers to Panel 11. It is in fact 11 panels, which need strengthening, due to their poor state, not just panel 11.

155 This is covered in the letter of comment from E&I, which I will summarise. Panels 4 and 5 have been repaired, each cost £100,000, but this was only a short-term solution. Additional rock armour will be needed to last the 10 years. Eleven panels need repairing. If they cost the same amount as panels for and fie, then it will cost a minimum of £550,000 for those 11 panels.

160 However, if a piecemeal approach was to be adopted due to the cost of mobilisation and the need to do repairs beyond the panel, an allowance for design and maintenance costs, the cost will be £75,000 per panel and a total cost of £825,000. Very different from the numbers in the Requête.

165 Proposition 4 of the Requête refers to what would happen if the wall fails and directs E&I to revert to the States for minimising any damage to the common. I think somebody else has got their microphone on. I keep getting an echo in my voice. But, if not, I will carry on.

170 If there was a failure, the water would be funnelled through that failure, causing considerable damage to the common. There will be a need for immediate action, as has happened when we get previous failures, such as at Basel. It would be the most irresponsible Government to leave the water funnelling through the failure until there is States' debate on what to do about it. But that is what are told in Proposition 4.

175 A small breach in a coastal wall at Basel cost five times what it would have cost to carry out planned maintenance. Works at Perelle, following a breach, cost £415,000, 10 times more than the average cost of planned maintenance. In comparison, planned maintenance at Bulwer Avenue, for an area over 20 times the size of Perelle or Basel cost £348,000.

The additional expenses of emergency repair extend from the repeated mobilisation of equipment and resources, increased labour costs and work being completed in a disjointed manner.

180 At L'Ancrese, repairs will be expensive if there is a breach, because the poor condition of the wall means that heavy machinery cannot be used in places behind the structure. The States should not gamble in these difficult times on there being no major collapses in this period at L'Ancrese. We cannot afford to lose and face a huge bill in several years' time. A temporary repair would only address a limited area and further collapses could occur, incurring additional expense.

185 The underlying problem will still exist and a coastal defence solution will still be required for L'Ancrese East. The cost will be much greater than the proposed solution set out in the Requête. In the event there is a major collapse of the anti-tank wall, the area will need to be stabilised before a major repair could be undertaken.

190 The cost could escalate to possibly millions of pounds. This is based on the fact that other emergency repairs have cost between five and 10 times more than the cost of planned works. It is important to highlight this significant financial risk to the States at a time of economic challenge. Also I should highlight that if the Requête succeeds, at the end of the 10-year period, we would be still protecting a failed structure, built on sand and shingle. The problem will still remain. A long-term solution will still be needed.

195 There have been some comments made at the debate about the groynes not being attractive. One of the groynes would link with the existing rock outcrop in the bay and the other groyne will be about the same length as the slipway. As was shown in the photo montages, the expectation is

that they would be largely covered by sand. This needs to be compared with having additional rock armour in front of the 11 panels, which will not be attractive.

200 Also, the repairs to the panels themselves are not attractive. Just look at panels four and five, with rock armour in front of them. The rock armour reduces the useable area at the top of the beach. In contrast, the removal of the wall or the increase of usable area at the top of the beach make it warmer and drier.

205 Reference has been made in the debate to the 15th hole. I will read from the 2017 Report on page 12.

The management of the golf club have raised a further specific concern regarding the risk to the 15th hole. This is based on a perception that there is a real risk of erosion of the land to the south of the Loophole Tower. None of the studies' conclusions suggest that this is at all likely. The worst-case scenario, i.e. the greatest extent of erosion, which is the least likely outcome, stops several metres to the north of the Tower and touches the track that passes there.

210 So I think that covers the 15th hole argument. Deputy Brouard also referred to some sand dunes, which used to be on the seaward side of the wall. The reflective energy caused by the anti-tank wall, at its current location, would have caused the loss of those sand dunes. Erosion in front of a hard defence is a well-known, documented phenomenon. In comparison, a beach dissipates the energy of the waves and allows the sand dunes to be formed at the top of the beach.

215 Finally sir, I urge Members to reject the Requête. The significant cost of the repairs is considerably higher than those stated in the Requête. It is a minimum of £550,000 and could be up to £825,000 and there is a substantial risk of a failure, incurring costs, which could be five or ten times greater than any planned maintenance. Please reject this Requête. Thank you.

The Bailiff: Next Deputy Leadbeater, to be followed by Deputy Green.

220 **Deputy Leadbeater:** Thank you, sir. I think it is quite lucky that I followed Deputy Dorey, actually, because he is referring to the letter of comment from E&I to a reply to the letter from P&R and I will refer to that as well. Reading it, I was not sure if I was reading a letter of comment on a policy letter and a requête or a fantasy novel. Because some of these figures are just ludicrous.

225 We have got here, paragraph six, put it simply the approach proposed by the Requête would cost £550,000 in the best case or £11 million in the worst case – £11 million. This, as Deputy Brehaut has said, is a very small part of this wall, 130-metre section. Eleven million pounds represents £84,500 a linear metre. Now I will just put this into context because the policy letter they are going to be debating on Longue Hougue South, to build that breakwater, the estimated figures we have got is that would cost £33,000 to £50,000 a linear metre. These costs are not accurate.

230 There is another thing that is not accurate in this letter of comment and that is the comparisons. We have got comparisons with the walls at Perelle, at Vâzon, Bulwer Avenue. Completely different types of structures. These are stone structures that require constant pointing, constant maintenance to keep the sea out. Not a concrete big section, those big panels like we have at L'Ancrese East. You are comparing apples and oranges here. It is just ridiculous to put these sorts of figures to comparison for any maintenance work that might be undertaken at L'Ancrese East. It is just completely irrelevant to the debate that we are having.

235 As Deputy Dorey says, there may be 11 panels that are a little bit suspect, that will need some work done in the next five years. Fine. But I do not think it will cost the figures that he is saying. We have got some brilliant civil engineers over here. We do not need a consultant to come in and tell us how to stabilise a small wall, basically, which is what it is, a small concrete wall, or a section of a small concrete wall.

240 In the current economic climate, we have got to be very careful about our expenditure, very careful about our expenditure and I think proactive maintenance as is suggested in the Requête is the way forward. It is not going to cost any of the figures that E&I say that it is going to. It is not going to whatsoever, in my opinion. And it is not just my opinion, it is the opinion of other professionals that I have spoken to.

245 Sorry, sir, I have lost my notes. This is what I want to concentrate on really, the figures. I think
the figures that we are being told, coming out of Environment & Infrastructure, I have got to say
this is not an attack on E&I specifically for figures, because a lot of the figures that get put in front
of us are question marks. You cannot see any calculations to see how these figures have been
arrived at, so they can be scrutinised properly. A lot of these figures, as I have said before, are
250 plucked out of the air.

But to say a 130-metre linear metre section of wall, if there was some sort of breach – and there
would never be a breach like there was at Perelle – Perelle has got, as Deputy Brehaut highlights in
his letter, all the infrastructure, etc. that is not present at L'Ancrese. So it is wrong to use that as
a ... [*Inaudible*]. It is never going to cost £11 million to repair that wall at L'Ancrese. Never. So, to
255 see that in black and white is just madness. I will leave it there, sir. Thank you.

The Bailiff: Next, Deputy Green, to be followed by Deputy Langlois.

Deputy Green: Sir, thank you very much. I can be brief. I do have a certain sympathy, to some
260 extent, with this Requête, the Propositions in this Requête, and to some of the points that have
been made so far in support of it. Although, if I am honest, I was slightly surprised that the Requête
was laid for debate in the current circumstances in any event.

But there are one or two questions that I am concerned about and I would be grateful if Deputy
Brouard, when he comes to sum up, can deal with these. Two questions in particular. The first one
265 is this: if we adopt essentially the make-do and mend approach that Deputy Brouard is advocating,
if that does not work and we have an unplanned structural failure of the wall, it will presumably cost
significant sums of money, many millions, potentially, to actually repair in those circumstances. This
Requête is, in other words, not risk-free, if that is the case. So I want to know from Deputy Brouard,
really, how he sees that gamble.

270 Another question for Deputy Brouard really is this, is it better to send some money now, rather
than potentially spend a lot more down the road. Does it actually make sense to spend something
now when it the Island is likely to be depressed? That to me is a key point in this whole debate, so
I would like some reassurance from the lead requérant on that.

275 Secondly, I think this is perhaps a more major point, I think my main concern here is this: how
do we actually rationalise justifying supporting this Requête, because has there been any change in
material circumstances since we actually debated this in 2017, when the States decided, rightly or
wrongly, by majority, to go with the managed realignment policy as the correct way forward?

I suppose what I am struggling with sir is I need to be clear in my own mind as to what has really
triggered this Requête and the alternative approach that is set out in the Propositions of the
280 Requête. What has actually changed here? So I am inherently, kind of notionally sympathetic to
what Deputy Brouard is putting forward with this Requête and his fellow requérants of course, but
I want to be convinced on rational grounds, really. So I will listen intently to what Deputy Brouard
and other supporters say in the rest of this debate, particularly Deputy Brouard in his closing
submissions, because I want to understand how this Requête is justified from a rational point of
285 view. Thank you.

The Bailiff: Next, Deputy Langlois, to be followed by Deputy Le Pelley.

Deputy Langlois: Thank you, sir. As we all know, under the 2017 States' Resolutions, P&R has
290 delegated authority to approve any Committee's project to a value not exceeding £2 million, a
category into which this project falls. I have no recall of an individual Member of P&R, or indeed
T&R previously, leaving a Requête to postpone any Committee's project, never mind one in the
sub-£2 million category.

Deputy Brouard could have made his case, not in an opening speech, but around the table with
295 his fellow Members of P&R when they discussed E&I's outline business case. Instead he decided it
was worth the States' time to re-run the 2017 tank wall debate almost verbatim. As Deputy Gollop

has reminded us, Deputy Tooley made an acute observation, that anyone reading the Hansard record of the 2017 debate would have garnered virtually all the conjecture and information that has been presented to the Assembly in Deputy Brouard's speech and those of his supporters.

300 It is all there. The disparaging of consultants, the threat the common will flood, the claim to permanent loss of sand, *etc.* Nothing new, except of course something we are going to hear a lot over the coming months, that the pandemic changes everything. Well this is exactly the scale of project that will help our local construction industry get back on its feet in due course.

305 I would like to widen consideration of the L'Ancrese anti-tank wall. We have all spent too long with our noses pressed against that decaying mass of concrete when there is a wider context. One of the Island's defining characteristics is that along the coast and the south-west, bays are generally fringed by sea walls, whilst those in the north of the Island have a more natural relationship with their hinterland.

310 The difference did not arise with a view to coastal defence. Those markings and old maps of L'Ancrese Deputy Brouard noted are as likely to indicate military defences. The difference arose because the 19th Century coast road was in the main laid tight to the beaches of the south-west, necessitating monumental granite support walls. Whereas in the north, the coast road could meander inland, away from the dunes and the shingle banks. It is that distinctive pattern that makes the presence of the L'Ancrese anti-tank wall so very anomalous. An unwelcome intruder on a part

315 of our coast that never required a substantial sea wall, as the road ran hundreds of yards inland. Now the eastern section of the Germans' wall is relentlessly cracking apart, as it pivots about its base. It is worth spending hundreds of thousands of pounds annually, maintaining sea walls, where a breach would damage roads, the main services running under them, and the buildings Islanders have erected in their lea. None of that is true at L'Ancrese East.

320 There was an interesting painting in the late former Deputy Roger Perrott's collection, showing the whole sweep of Rocquaine Bay before the sea walls were constructed. It brought back memories of the large areas of sand dunes and marram grass opposite L'Érée Hotel, that had survived until my youth.

325 However, subsequently, the States decided to excavate all the sand, backfill with rubble and erect the second ugliest sea wall in the Island. A tragic and pointless act of vandalism, but as far as I am able to determine, not a UK consultant in sight. A groyne or two on the beach would have been a small price to pay to save those dunes.

330 The dunes will never return, but the Germans did a less destructive job at L'Ancrese than the States did at L'Érée. They were, after all, in a bit of a rush. We therefore have a great opportunity, not only to avoid endless unquantifiable expenditure on patching up the wall, whilst risking an uncontrolled failure, but also to re-establish the beach's relationship with its hinterland, going some way to restoring at least part of L'Ancrese Bay to its attractive and natural former state. I hope the States will reject this Requête as by far the worst option available to us. Thank you.

335 **The Bailiff:** Deputy Le Pelley and then Deputy Merrett.

Deputy Le Pelley: Thank you, sir. I will be brief. First of all can I thank you for your tribute to the Liberation of Biberach earlier today, it is the reason when I was President of Education, Sport & Culture, we used to fly the flag at the Town roundabout from 23rd April, right the way up until 16th

340 May, because that was when the Liberation of Biberach started and when the Liberation of Alderney concluded. So that is why we used to run it rather longer than just the month of May. I need to declare an interest, sir, if I can, right at the outset. I am Secretary of the Friends off the Biberach Association. I am also the vice-president of the Channel Islands Occupation Society. Having said that, I would like to say that I am in favour of the Requête. I think this is one of the many items

345 that needs to have funds stopped and/or redirected, given the current situation we find ourselves in with the coronavirus situation. We need to curb our spending, rein in our spending, not put the next generation or two having to repay what will become an enormous national debt. Earlier, you asked the President of Education,

350 Sport & Culture for his view and he has yet to speak but when this was last debated, you asked me, as the then President of Education, Sport & Culture, for review, and informed the Meeting that all five Members of the then Committee were in favour of retaining this wall.

Deputy Dorey has asked why should we be debating this item now. Well the vote in 2017 was 19-17. That only counts for 34 people. Six people were either absent or abstained or did not vote. I appreciate we are now one Member sadly short, with the demise of Deputy Kuttelwascher, but there are still five positions that are not known.

355 Deputy Gollop referred to this as an historic site and it is an area of special interest for tourism. Many people in the recent past have visited the Island and they have come over here on holiday but it has been actually a working holiday and they have come over here at their own expense and spend many hours excavating various sites, without pay, because they are looking for military research, items and bits and pieces that they can do for their research.

360 They have centred on many and various World War II constructions. Alderney has a section of wall, it is in a very good condition, I believe. So does Jersey. I think we need to maintain the sections of the German-built sea wall for defensive purposes that we have. There is a section at Rocquaine, which has got one or two very interesting, or had some very interesting bunkers and cupolas with 4.7 anti-tank guns in them and I think that this one at L'Ancrese is also worthy of being maintained, albeit it has had some holes knocked in so that the Liberation forces could land their supplies on L'Ancrese beach, once it had been cleared.

365 The loss of the German gun battery at the 1950's, during the scrap metal drive, deprived Guernsey of many sites, which now – today – would have been greatly valuable in historic sites. There is a growing, or there was before coronavirus 19 came in, there was a growing interest in tourism to various historic sites and I think that, in the same way that the Falklands were advised after the 1982 invasion to just destroy ... [*Inaudible*] actually anticipated that there could be an opportunity for tourism, which could centre on what happened in the Argentinean invasion is a lesson that we could also learn as well.

375 I mentioned earlier the scrap metal drive of 1950, we lost an awful lot of stuff there, which would have been absolutely gold dust really for people who were looking to actually come and do various bits of research into what happened in the Occupation over here in Guernsey.

Now I also need to say that Festung Guernsey, which I am not a member of but it is linked in a way to the Occupation Society ... [*Inaudible*] past presidents, both groups and their executives have 380 unanimously stated that they are in favour of maintaining the wall. I am also reminded of what Deputy Brouard has said in his opening speech, that the views of the habitants have not been considered here. The views of the golfers, the sporting element, have not been considered properly either. Nor have the views of those running the refreshment facility at the eastern end been properly considered.

385 Deputy Leadbeater has spoken much sense. He is more of a construction man than I am and he knows how to build walls. I am not so sure that I follow his ... [*Inaudible*] but I think he is right that one type of wall is very different to the other and needs totally different solutions to sort it.

I think we also have the risk, if we were to run with what E&I have proposed in the past, to put at risk the very scenic views at L'Ancrese, with all these horrible groynes and things. It is a lovely 390 beach, it is a very favoured beach, even with living out in St Pierre du Bois in the 1950's and 1960's, our day out was to L'Ancrese. It was a splendid beach and it had fantastic views from just offshore and also from the shore looking out. It would be a great shame to see this bay desecrated in that sort of way.

I really do think that Members need to think long and hard about the financial costs of actually 395 doing nothing or of doing something which is only half thought-through and of doing something now, given the totally different circumstances that we find ourselves in, where we could find ourselves having massive debt, which could leave generations in the future paying. The German Reparations from World War I did not actually finish until about 2015 or so, just shy of 100 years. I do not want to find young Guernsey people shouldering a massive debt because we have had to 400 borrow.

I think we do need to look at cutting our costs, cutting our cloth to fit what we have got. It may be that we have to think about whether we can afford to do the education programme and save £157 million, or some of it, most of it, moving forward. This is just one of many items that needs to be completely reconsidered. I will stop there. Thank you.

405

The Bailiff: Thank you. Deputy Merrett and then Deputy Le Tocq.

Deputy Merrett: Thank you, sir. I also wish we had a guillotine motion and it was decided by a majority that we would put that into these Rules. I do not usually like a guillotine motion but I think debates such like this, or repetitive debates, it would be certainly something I would consider.

410

I think some of the speeches so far, sir, have been very self-indulgent and I am really concerned, and I hope Deputy Le Pelley was not alluding to this, we debate every close vote from the last three-and-a-half years, because clearly that would be quite ridiculous. I would like to know from Deputy Brouard, when he sums up, if he does agree with Deputy Langlois that the scale of this project is such that it could help the local construction in the shorter term.

415

I will also cut my speech short because of what Deputy Green said, because his questions I think were pertinent and I would like those to be responded to as well. Probably not only by Deputy Brouard but also by a Member of E&I, the question I am asking myself sir is, is this worth the short-term pain for a long-term gain?

420

Basically, should we invest in this and have a short-term pain but actually on longer term it will be to the benefit to our community? Please, I ask Members, there is a toilet and a café not very far from the toilet and café that is already *in situ*, so I think we can over-egg that pudding a little bit. Then the last question for Deputy Brouard is this, sir, and I think also for what Deputy Le Pelley was saying.

425

If we believe this historical monument, that it should be retained because of its historical benefit, then why are not Members going down that route? Do we need ... or part of this wall because obviously is quite a large wall, those particular panels, or A. N. Other part of this wall that needs some protection as an historical monument. That is a different argument to the one that E&I have put forward at this debate and at our previous debate.

430

I am not inclined to change my vote from the last debate unless I hear something that is substantially different and I think the only thing that is substantially different is how we invest in our local economy over the next term, the next one to two years, to try to bring us back to the quality of life and the opportunities that our community had previously to Covid-19. To spend so much more money over a longer period, than over the short period, to me at this juncture seems a very false economy. I look forward to hearing the summing up from Deputy Brouard. Thank you, sir.

435

The Bailiff: Deputy Le Tocq.

Deputy Le Tocq: Thank you, sir. I will just pick up on one point that my SACC colleague Deputy Merrett mentioned. Whilst I sympathise with her with regards to the guillotine motion, it is only of use in the manner in which she imagines it if the majority of States' Members are willing to support such motions and, in my experience, the Assembly has not generally been of that view and particularly at the moment to do votes of that sort would be a favour waste of time. So I have not particularly changed my mind on that one.

445

I am going to be brief with regards to this Requête because, one, Deputy St Pier has highlighted a lot of things that the three Members of P&R who are not conflicted by being signatories of the Requête feel on this issue and we have not really changed in those views. But I do want to underline one particular issue.

450

This is I hope one that resonates with a majority of States' Members and Deputy Brouard will know this, because I did try to persuade him to withdraw his Requête. It is certainly, from my perspective not the right to be debating this sort of issue. That is because I firmly believe that the

455 challenges before us now are such that we are going to have to revisit our whole capital
prioritisation and indeed the projects like this that are currently in line, because of the huge financial
pressures against us.

We have got waiting on the list of things to debate a very important policy letter that P&R have
put, which involves some major decisions with regards to borrowing and the future it will affect in
Guernsey. As a result, sir, I really do not believe this is a good time to be debating this. I can
understand and sympathise that had we not been in the middle of a pandemic of this nature and
460 the election taking place in June, there would have been all sorts of political reasons for moving
ahead with it. But sir we have not got the detail in front of us.

The economic pressures that are upon us and will be upon us need to come into play here and
it needs to be brought to bear on all our decisions on capital projects. Yes it may well be that we
choose to invest in certain things that will help our economy to recover and grow, but we are not
465 best placed to deal with that piecemeal in this fashion. So I cannot currently support the Requête
and, as I said, primarily because of timing. This is not the right time to be dealing with this matter.
Thank you, sir.

The Bailiff: Deputy de Sausmarez, I think you are the only person waiting to speak. Deputy de
470 Sausmarez.

Deputy de Sausmarez: Thank you, sir. I was chatting last night to someone who really knows a
thing or two about nature and biodiversity and wildlife, who told me that she was actually throwing
things at her screen listening to what Deputy Brouard had said about the environmental impact of
475 the wall. People pick and choose which experts they would like to heed and I really would like to
defer to the people who know a thing or two about biodiversity and the environment, when it comes
to things like this.

Because, in fact, the removal of that section of the anti-tank wall would be fantastic for
biodiversity. It should really be viewed as a habitat restoration project. Open dune is one of the
480 rarest habitats in Guernsey and it is the top bit of dune, at the top of the beach, which is covered
by marram grass, which was referred to be Deputy Langlois. Dunes are home to some really rare,
special species that can live in no other habitat, for example the silvery leafcutter bee and the
Cornish shield bug and plants like sea rockets and sea holly. I will also add that our much-loved
scaly cricket, an invertebrate that lives in a shingle bank, has been found in the vicinity of L'Ancrese
485 as well.

Coastal infrastructure is one of the biggest threats to this habitat, so huge swathes of
internationally important habitat would have been destroyed when that wall was built and this is an
opportunity to restore some of it.

I make this point because I think pick and choose when they want to prioritise environmental
490 concerns. I am conscious that we are going to hear from a lot of people later on in this States'
Meeting when it comes to inert waste, telling us that nothing is more important than the scaly
cricket, nothing is more important than the marine ecosystem and I am always the first to agree
that environmental concerns should really be given far more weight than they typically are in many
of our States' decisions.

495 But the irony, the hypocrisy really does stick in my craw that people will pick and choose when
to be environmentally conscious, depending on whether it suits their argument or suits their other
reasons for supporting or not supporting something. Really, I think the idea of pouring however
many more litres – I do not know what the metric is for concrete actually when you are pouring it
in – it is not going to have a positive environmental impact keeping that section of the wall propped
500 up.

So that is my point on the environmental impact. We have a chance to actually do something
really good for once and have a positive environmental impact. It could be a fantastic project but
this Requête chooses to ignore the real environmental impacts and actually suggests things that
would have a more negative environmental impact instead.

505 I am confused as to why this Requête again is ... well, I am not really confused. I can understand
the realpolitik behind why the Requête was brought when it was. It is extraordinary. It is going to
cost more, the figures mooted on the Requête are based, as Deputy Dorey explained, on a
fundamental misunderstanding of the information given to Deputy Brouard and I think some of the
confusion that Deputy Leadbeater was articulating boils down to the fact that the difference in cost
510 projection comes down to the difference between planned and unplanned works and I really would
caution for anyone who was worried about the 15th hole the golf course, or worried about water
ingress into the common, that the effect of an unplanned failure of ingress of seawater into the
common, as I think the Requête said, would be catastrophic said.

That would have a far more detrimental impact than anything that was done in a planned way.
515 So I really would caution, for anyone who cares about the land behind that wall, for anyone who
cares about the golf course, the more prudent approach is to do something in a planned way to
protect it, especially in light of climate change and rising sea levels. It is really important that we
have effective sea defences – sorry this is the effect of home schooling, sorry about the interruption!

It is too late now and I think very few people will have actually taken the time to research the
520 proposals and understand. It is so frustrating, hearing all of this pseudo-science. The benefit of
using Teams as the States' Meeting medium is that we can actually see the armchair experts. They
are literally in their armchairs, it is wonderful. It is just so much of it, it is just extraordinary, it is based
on misunderstanding.

Please, let us revert to evidence-based decision-making, so I think if anyone really cares about
525 the land behind the wall, cares about the common, cares about the golf hole, the 15th hole, really
the planned proposal is the more prudent course of action and certainly it is the more cost-effective
action, because the cost of having to deal with unplanned events, unplanned failures, could be eye-
wateringly high, and that is not something we would want to contend with in the current situation.

So I would urge Members to reject the Requête and do what is best for the common and for the
530 beach, for their habitat especially, that really important habitat. Please let us restore it. Please,
anyone who holds environmental concerns dear to them, would clearly reject that on those grounds
alone, not to mention the cost impacts and not to mention the social impacts of what would happen
in the event of an unplanned failure. Thank you.

535 **The Bailiff:** I am going to call next Deputy Smithies, who has had a few technical problems this
morning, but joined us some time ago. He needs to be relevéd, so you may be relevéd and you may
speak now. Deputy Smithies.

540 **Deputy Smithies:** Thank you very much, sir. I hope you can hear me.

The Bailiff: Yes I can. Loud and clear.

545 **Deputy Smithies:** Thank you, sir. Technical problems, I do apologise. I will support this Requête
and I have been consistent in my opposition to the plans for the destruction of the wall. I would
have signed the Requête if I had been asked. I can assure you I will not be speaking for long, as all
the arguments have been very well rehearsed already. We are now in a crisis, when we will soon be
debating the need to raise £0.5 billion in borrowing. So that is what has changed. We need all the
cash we can save and this seems a very easy way to start. Please support the Requête and save the
money now. Thank you, sir.

550 **The Bailiff:** And now Deputy Hansmann Rouxel.

555 **Deputy Hansmann Rouxel:** Thank you, sir. I really just wanted to add a few final points. One
was in response to Deputy Brouard's assertions around consultants and comparing it to the process
that we had with the incinerator. The entire premise and the reason why we ended up with so much
trouble was the overarching policy. The information coming from the politicians – our job – is to

create policy that solves long-term problems. If we are giving the consultants the incorrect or incomplete information for the assumptions that they base their information on with their expertise is flawed to begin with, then you get a flawed result.

560 Now the overarching policy, once it was eventually outlined, we had the waste hierarchy, which meant that you had a diminishing amount of waste because that is part of your overall policy and that fits in with the global policy, it fits in with other policies that exist within a network of policies that we have, as the Government works and moves things forward.

565 Now the policy that we have around coastal defences is where this part of the problem exists and this is the fundamental flaw in the Requête. Where is the money going to come from? Now we know that prices and policies and procedures we have in place, in order to assign capital funds, and there are a lot of gateways and checks and balances put in place in order for us to obtain those funds.

570 Now we are going through that process because we have taken the L'Ancrese sea wall/anti-tank wall, out of where it was sitting within our coastal defence system. Every year, as E&I, we have a rolling budget for coastal maintenance and defence. Now in the 2012 Royal Haskoning debate and the creation of a policy framework in order to firstly look at the effects of climate change, but also create a policy framework, a way of organising the priority of funds and which projects come and in which order.

575 So every year we have a rolling maintenance of these projects and those projects are based on a hierarchy and the hierarchy is based on what is behind, what is the coastal defence protecting? At Bulwer Avenue, at Admiral Park, there are very clear assets behind those structures. So if any maintenance needs to take place, those parts of our coastal defence come right up to the top of the category. But we have two anomalies, and this is something we have tried to explain over and
580 again. And I apologise for having to explain this again, but it is difficult for Members to fully appreciate this when they do not sit with the mandate of E&I and have these things every day. These are our expertise that we have developed over a period of time, managing the coastal defences.

585 You have the Fermain sea wall and the L'Ancrese anti-tank wall, and the part of the anti-tank wall that we are talking about does not have things behind it that allow it to reach up in the priority stakes. Coupled with that, Deputy Langlois mentioned the roads, the idea that we built these coastal defences to protect the roads, the infrastructure, and then people build houses behind those roads and they are then protecting those houses from egress from the sea, from the natural processes of the sea.

590 What we do have at L'Ancrese is a natural sea defence and the ability to restore that natural sea defence. It is not taking away a sea defence, it is changing the sea defence from a hard structure to a soft structure. That priority within our yearly budget is where the Fermain sea wall and the L'Ancrese anti-tank wall kept falling down in priority, so you cannot really put them in the maintenance budget.

595 In the Requête, and it mentions in the letter of comment, we will get this maintenance fund from somewhere. But in order to get the maintenance budget, to raise any funds through the States, we do need to justify why we are releasing the funds. So if the Requête passes, we will have a Requête, which has flawed numbers, as pointed out by Deputy Dorey, and a flawed premise in order to continue. So what we will have to do, every year, we will have to put together and look at how we
600 prioritise that money. Where does it come from? It is not going to come from the coastal defence budget because the whole point of this project is to take it out of that yearly cycle.

605 Coupled with that, we have also via that yearly coastal maintenance budget, officers with E&I and P&R have worked very hard to make that process smooth, to have a clear structure around that, so that there is a long-term maintenance schedule that can actually start to have clear results and we are not spending money retroactively. We are proactively maintaining our coastal defences.

This put a spanner into that and it is a false premise that we would be saving money, because we will not, and where is the money going to come from? Those are the only things that we should

be thinking about now and we should be making evidence-based decisions and, I am very sorry, but the Requête is not based on any science or any evidence whatsoever.

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The Bailiff: I do not think there is anybody else wanting to speak. If I have missed anybody, please turn your microphone on and tell me that you wish to speak. If not ... Deputy Laurie Queripel.

Deputy Laurie Queripel: Thank you for calling me, sir.

615

I did want to start my remarks by saying that I very much agree with the spirit of something Deputy St Pier said a few weeks ago, when we were meeting at St James'. I cannot repeat him word for word, or recall what he said word for word, but what he said was this: everything has changed because of Covid-19 and some of the things that we might debate could be seen as being indulgent or self-indulgent. So, in the spirit of that, I have many pages of notes of this debate but I have put them aside and I am just going to give a potted version of them all. I feel that I have to respond to a few things before I do that, that were said by other Members.

620

Deputy Dorey spoke about the certainty attached with this realignment project, that there was very little risk attached to it. That, I think, runs contrary to the presentation I attended at St Sampson's School in 2017, when the representative of Royal Haskoning was there and on the screen that he had available to him for his presentation, he presented a number of scenarios that showed profiles of where the little beach might end up. Admittedly, it was the worst-case scenario, but in one of the profiles, indeed the water came quite close to the loophole tower.

625

Yes, that was a very worst-case scenario. But this is not, pardon the pun, a cut-and-dried issue. There is some variation in how things might end up and that was highlighted during that debate. The chap that did that presentation was actually questioned on that. So there is a bit more to this than Deputy Dorey was saying. It is not as certain as he was making out.

630

Deputy Langlois, sir, spoke about the sea defences in various parts of the Island and how in other parts of the Island there are hard defences, how in the north we have a sort of soft defence approach to sea defences. I do not know if he has spoken to people who live in the areas of Rousse and the Picquerel, because they are very concerned about the deterioration of natural sea defences in that area and they feel that needs some attention. I think once again, there is one side of the story being given here, but there are concerns in certain parts of the north about the state of the sea defences and about the fact that flooding ...

635

I will give way to Deputy Dorey, sir. I think he is looking for a point of correction.

640

The Bailiff: Sorry, I had muted my microphone. I was calling Deputy Dorey for his point of correction.

Deputy Dorey: Thank you, Mr Bailiff.

645

It was just a point that Deputy Queripel made about the certainty of the solution. I read out from the report, which was debated in 2017, and specifically said:

The worst case scenario (i.e. the greatest extent of erosion, which is the least likely outcome) stops several metres to the north of the tower and touches the track ...

– by it. So I do not think I did emphasise there was a definite solution. I emphasised what the worst-case solution was and it still would not affect the golf course or the loop tower.

Thank you.

650

The Bailiff: Deputy Queripel. You may resume. Your microphone is still muted.

Deputy Laurie Queripel: Thank you, sir.

As I recall from that presentation, the worst-case scenario did not look quite as good as Deputy Dorey is describing, but I think we will have to agree to differ on that one because there was actually, I seem to recall, quite a reaction in the audience. There were gasps, actually, when the worst-case scenario was shown. Deputy Dorey might be looking at something different to what I saw. What I saw was causing some concern. But anyway, we can leave that one.

Going back to the point about Deputy Langlois, I think that perhaps somebody from E&I needs to speak to some of the people who live around the Picquerel and Rousse area because they are concerned about the state of the sea defences in that area.

Also, Deputy Le Tocq, sir, I think he has been reading my emails from the last few weeks and actually think that those emails are now beginning to gain some traction. Because I have been saying for a couple of weeks now that as an organisation we are going to have to revisit everything that we do, whether it is projects that have been approved in the past or whether it is allocations from the Capital Reserve that have been previously made, or whether it is workstreams that are on the go at the moment, we are going to have to revisit and reprioritise in light of Covid-19. I have been making that point for a long time now and I am glad that other Members are picking up on it in a very meaningful way.

I am not or have never been for the spending of £1 million-plus on this realignment project, but given our current predicament that we find ourselves in, I am not even very keen to support the spending of whatever needs to be spent in order to repair the wall with £300,000, which is the figure that is being disputed.

Deputy Paint said yesterday, and I realise there is a risk attached to this and I realise that Deputy Brouard has spoken to the right people in order to try and ascertain of the risk, but Deputy Paint said yesterday actually something along these lines: if you left things as they were and just maintained the rock armour and kept a watchful eye on it, things would not change very much for several years. I think that is probably the case, but I know there is a risk attached to it. As things currently stand, I might even have to think about asking – presuming that the Requête succeeds – for a separate vote on 6, because I think actually there is a case for saying just leave things as they are and keep topping up the rock armour.

As I say, I am just going to give a sort of potted version of some of the notes that I had for this debate. I think we need to understand how we got here and how we got to this place in the first place, of having the wall in this poor condition. It is quite a shameful process, actually, sir, and it is a process that has been a culture in the States for many years, and I can just give it a couple of examples.

What happens is that a situation is engineered in order to bring about a certain outcome, almost a *fait accompli* and I think that is what has happened with this situation in regard to the wall at L'Ancrese. I remember going to a meeting with Deputy Fallaize and former Deputy Tony Spruce, this was in the last term, with the then President of the Environment Department and one or two supporting officers. Actually, it turned into quite a difficult and heated meeting because we learnt that very little money over many years had been spent on just maintaining the wall as and when it needed to be.

As that had happened, if there had just been tiny maintenance at the right time, of the right type, we would not be in this position now. There are examples I can give of that kind of approach to deliberately allowing things to deteriorate so you get to a point where you have little choice but to do something different. This is not a reflection on the current E&I Committee, this is a situation

they have largely inherited. They are choosing to run with it but they did not create this situation in the first place.

700 There are a couple of examples in the last term. If I remember rightly, there was talk about needing to replace the harbour work boat, to get a brand new boat in place of the old one, because the old one was not fit for purpose. If I remember correctly, Deputy Paint stepped in there and eventually it was decided that that boat should not be replaced and it had some life in it, as long as it was repaired and maintained properly.

705 The same thing happened in regard to the *Leopardess*, the Sea Fisheries vessel. Thankfully, Deputy Soulsby brought an amendment that said actually that whole issue should be looked at again. The proposal was to buy a new vessel to replace it and to get rid of the old one. As far as I know, the *Leopardess* is still working and still functioning and still fit for purpose and that was because, once again, somebody stepped in at the last minute to say, 'Actually this could be
710 maintained rather than replaced.' So we have a history of allowing things to deteriorate to such a point when they need to or they are close to needing to be replaced and not repaired and maintained.

There has been a lot of rhetoric around the wall being obsolete. It is redundant. It is no longer relevant because it was built as an anti-tank defence and not a sea defence. We all accept that. Its
715 primary purpose was as an anti-tank defence. Deputy Brouard, when he spoke, he spoke about a certain German officer or commander saying it was a bit more than a sea wall defence. I do not know who it was, it might have been Colonel Klink, but it was a bit more than an anti-tank defence, it was built with sea defence in mind, but that has not really been the main purpose of it.

I think we all accept that. But nonetheless it has been doing a pretty good impression of being
720 a sea defence. It has been defending the amenities there, the toilets, the kiosk, both generally in the past were very popular and very well used, it has been defending those things. Do not forget, this is not a point where I think people undervalue these amenities. These were assets were put in place at taxpayers' expense. Taxpayers' money was spent on creating these assets. These well-used, popular assets, and now people are going to be denied the use of these assets if that wall comes
725 down.

Regardless of what other Members have said, and the golf club have been reticent about this, there is a risk to some extent to a part of the golf course and there is certainly risk to the path that runs adjacent to it. So that wall, regardless of whether it is primarily an anti-tank defence, has been
730 doing a pretty good Rory Bremner, a pretty good impression of a sea wall defence.

Also, if we are talking about things being obsolete or no longer relevant or beyond their purpose then surely that same sort of thing will have to be applied to the Loophole Tower? Surely now its original purpose is redundant? I do not see any time soon Napoleon rampaging across the sea, with his horse, to invade the Island. Yet, rightly so, that Loophole Tower is seen as important part of our heritage and our history. Perhaps the same sort of thinking, to some extent, could be applied to the
735 anti-tank wall at L'Ancrese.

I think it is conveniently forgotten, sir, that that anti-tank wall is part of a much bigger structure. I do not see anybody talking about taking the vast majority of the rest of the structure down because that is once again doing a very good job of being a sea defence. Also, I just want to refer to something Deputy Inder spoke about yesterday. He was correct, I am told, that what was being
740 proposed was not all that has been currently approved; it is not an experiment. But it is an experiment to some extent. It is not re-establishing the whole natural shoreline. It is just reinstating a partial inlet – an inlet bay, basically.

As Deputy Inder said, although the long-term objective, as I appreciate, will be to create a sort of blue lagoon, for a couple of years at least it is going to be a brown lagoon and be a very messy
745 situation indeed.

Deputy Brehaut spoke yesterday and I think he is right. When I talk about us having to revisit all that we are doing at the moment and re-prioritise, he is right, I am not talking about austerity, austerity, austerity. I realise that we will have to spend some money in order to create an economic stimulus, in order to help our local businesses and help the local economy.

750 But the question has to be asked, is this the right project to be focusing on when we talk about economic stimulus and helping local businesses? Deputy de Lisle said yesterday actually the money that E&I want to spend on this project would be far better spent on work needed on sea defences on other parts of the Island and I think he is absolutely right. There are far better projects to spend our precious resources on than this one.

755 I think that Deputy Hansmann Rouxel has said this is false economy because in the end we will have to spend perhaps more money to sort this situation out. I think the situation that we are in at the moment, any savings we can make in the shorter to medium-term have got to be a good thing. If this Requête passes, and things work out as the Requête suggests, perhaps in 10 or 12 years' time, we will be in a much better position financially.

760 We might be in a position we were in just a few weeks ago, or a few months ago, to be able to sort something like this out, but I think in the meantime, going with this Requête, for the reasons given by other Members and by the reasons I have alluded to here, I think is the best way to go, so I will be supporting the Requête and I encourage other Members to do so. Thank you.

765 **The Bailiff:** I now call Deputy Dudley-Owen and it may be that, when she has finished, I will be proposing that we take a short break, but Deputy Dudley-Owen.

Deputy Dudley-Owen: Thank you, sir.

770 I have been told by one of my colleagues that I sound quite faint so I am not going to turn on my video for this speech, but please sir can you confirm that you can hear me loud and clear?

The Bailiff: Yes, I can hear you loud and clear and I could before when your camera was on as well. Maybe others were having difficulty but I was not.

775 **Deputy Dudley-Owen:** Okay, alright, I will continue. First of all I would like to thank you again for your very thoughtful tribute this morning. As you know, my mum and my uncle were both born during the Second World War, during the time that my grandparents were interned, in the camp in Biberach, and that experience had a profound effect on my family. One of the enduring benefits has been the close relationship, which began with my grandmother and a lady from the local town, who
780 allowed her to share her room to give birth to my uncle. That relationship has endured to the present day, with four generations, so really I do appreciate the remembrance and I think my mum has been talking on the radio this morning about it.

I will be brief. There has been an awful lot of comment in regard to the Requête and we do have a lot of work left to discuss today and decisions that we are being asked to make at very short
785 notice, which do require our urgent attention and time. As one of the signatories to the Requête, like many of my colleagues, I have no civil engineering experience, so I really appreciate sincerely the advice that Royal Haskoning has given to the Committee *for the* Environment & Infrastructure. This debate is undoubtedly one of the more technical that we have had to deal with, for the reasons that I just outlined, and I have to rely on those who do have relevant knowledge, as Deputy
790 Hansmann Rouxel has well-articulated when she spoke, in relation to the hard facts and scientific reasons to pull down or retain the wall.

The Committee Members for Environment & Infrastructure, however, do not have a monopoly on those facts and Deputy Leadbeater has disputed the figures given in the letter of comment and he states that the costs are not accurate and he queries the comparison of costs that have been
795 given. He raised a very pertinent point about our ability to carry out proactive maintenance, using local expertise, not just in terms of civil engineering and also labour.

Deputy Langlois countered this point when he said it was precisely the scale of the project that Environment & Infrastructure are planning that will help our local contractors get back on their feet, but I would suggest that capital expenditure coming off a crisis such as that we are in needs to be
800 concentrated on projects which have more strategically and proven benefits than this contentious sea wall.

805 However, as Deputy Le Pelley has alluded, this is wider than just the science, which even itself has been disputed. This wall is undoubtedly a site of real historical significance with the Island and I understand it is one of the few that exists. Deputy Merrett asked about the long-term gain and this is the reason that, primarily, I support this Requête, because I believe that this wall is a very important part of our history. It is a living example of German architecture from World War II and a subject that is very close to our hearts in Guernsey, as I mentioned when I just opened a few minutes ago.

810 I believe that an approach was made some time ago to safeguard the wall as a listed building and I would appreciate some clarification from Deputy Brehaut about this. I also understand that an approach was made, informally and perhaps rather tongue in cheek, to the Education, Sport & Culture, at the time of the debate a few years ago, to take on the wall, which we probably would have done, if we had had the budget, given that all the Members unanimously supported the retention of the wall.

815 It may have fallen under the radar for some Members but only this year, after two years of hard work by the Visit Guernsey team, the Bailiwick of Guernsey was accepted for membership of the Liberation Group in Europe. This membership allows us to showcase the Island's unique Occupation and Liberation history to almost 400,000 Liberation Route website visitors and 28,000 social app followers, all with an interest in World War II remembrance tourism.

820 This large, virtual audience in good times translates into millions of visitors from remembrance tourists living in Europe, UK, Canada and the USA every year to the Atlantic Wall and Festung sites along the northern European coast. We are now listed amongst world famous World War II points of interest, such as the Normandy landing beaches and memorials and the Route has a strong following. I do not think that we can underestimate the significance of that membership and the part that the L'Ancrese sea wall plays in that.

825 Tourism industries around the world, sir, have been brought to their knees and in Guernsey the tourism industry is no different. The industry has been hit hard and fast by the virus crisis and our heritage has been pointed to many as one of our finest selling points pre-virus and it is more important now than ever that we use and enhance the assets that we have.

830 We have evidence that these will benefit us in the future and these will help us recover from the economic tragedy that we force upon ourselves as a result of the pandemic. The wall has a very significant part to play in our recovery, so I ask Members please to support this Requête. Thank you.

The Bailiff: Thank you.

835 Members, it is now 11 a.m. I propose that we adjourn now and resume at 11.10 a.m., when unless three are any further speeches, we will go through the closing sequence where the four committee Presidents consulted on the Requête will have a chance to reply to the debate before Deputy Brouard replies.

We will rise now and resume at 11.10 a.m.

*The Assembly adjourned at 11.01 a.m.
and resumed at 11.11 a.m.*

840

Requête –
Suspension of Carrying Out of Works further to Proposals
for the Partial Removal of the Anti-Tank Wall in the Eastern Part
of Pembroke Bay (L'Ancrese East) and the Managed Re-Alignment
of the Coastline in that Area –
Debate continued –
Propositions carried

The Bailiff: We are ready to resume, then, and I will call Deputy Soulsby, to be followed by Deputy Graham.

845 **Deputy Soulsby:** Thank you, sir. I have still got 'The States' Meeting will resume shortly' on my screen. Oh, there we go!

I was not going to speak in the debate but Deputy Dudley-Owen made me rise to my virtual feet over the comments she just made. I have got to start by saying I am no expert on walls. I am not an engineer or anything, but I do know quite a bit about coastal geomorphology, that was my original background, and I just cannot believe some of the things, some of the uninformed opinion that has
850 been stated about the coastal geomorphology around the area that we are talking about. Deputy Brouard started also, trying to do down the experts. It is a classic way of trying to get your opinion across when the evidence goes against what you are trying to say.

I went to that Royal Haskoning presentation a long time ago now, the original one that they did, and I still say it is one of the best presentations and best reports that I have written since I have
855 been in the States; I think it has only been surpassed by the one produced by Solutions for Public Health on the review of drugs and treatments, which was absolutely superb.

That is one aspect. I think we either use experts or we do not, depending on what suits us sometimes. I think that might be something that crops up in a later debate if we get onto it. In terms of what Deputy Dudley-Owen was saying about how important this wall was for tourism and how
860 we need to spend money on this wall that is so important, I think really whatever we decide today is really going to be worth diddly-squat for the future. We really have to think that whatever we do here, we are going to have to look at everything in the round, whether we want to keep the wall on or not. Everything is going to have to be prioritised.

By saying this is very important for tourism really does underestimate what we are going to
865 actually have to do for tourism and what we do for our economy in the future. Repairing the wall is not going to do it, as far as I am concerned, we are going to have to really think about different ways of doing things, putting investment in places, having real big projects that actually make a difference to our economy. Instead of a tank wall, for instance, we might need to be looking at things that they did in Cornwall to rejuvenate its tourist history, particularly around the Eden Project,
870 something like that, which also links through to biodiversity, climate change, everything that we know is hitting us now, and we have got to think about a new normal.

This whole crisis really requires us to think differently on what we want for our new future to be and it is going to be different from what it has been. We have got to look to the future, what that new normal should be, not what we have been living through, what that past has been and wanting
875 to preserve. We have got to look at what should be new and what will really help us and our children and the future generations to come. Thank you.

The Bailiff: Thank you. Next, Deputy Graham.

880 **Deputy Graham:** Thank you, Mr Bailiff.

I too, like Deputy Soulsby, was not intending to speak, but I have been drawn into the conversation by the contribution from Deputy Dudley-Owen. I am an ex-military man and I have an interest in military history but not only military history but also the history of these Islands. I have to tell you that the anti-tank wall at L'Ancrese as an example of German defence work during the

885 Second World War is remarkably uninteresting. It is remarkably boring. It could not be more boring and it could not be less interesting as an example of that.

The notion that there are millions of tourists out there who will no longer come to Guernsey because we are going to lose 130 metres of a very long anti-tank wall is frankly ridiculous. For those who really get their kicks out of poring over remarkably boring and uninteresting anti-tank walls, 890 there will still be several hundred metres of it left anyway. There may be reasons why we should retain the wall intact, but one of them is not to protect our tourist industry, believe you and me.

The Bailiff: Does anyone else wish to speak before we go into the closing sequence? I see and hear no one wanting to do so.

895 So, in the closing sequence, I should start with Deputy Tindall, is there anything further you wish to say, Deputy Tindall?

Deputy Tindall: Yes please, sir.

900 **The Bailiff:** Deputy Tindall, then, as President of the Development & Planning Authority.

Deputy Tindall: It has been raised about the question of listing the wall, so I just think I should clarify that point. The DPA considered the listing of the L'Ancrese Wall, against pre-agreed criteria, at its meeting on 30th June 2018 and agreed that there was insufficient information to justify its 905 listing as a protected monument. As a result, the DPA wrote to both the Channel Islands Occupation Society and Festung Guernsey, to ask them for supporting information and to date, despite reminders, have not received any response. Thank you, sir.

The Bailiff: Thank you. Next the President of the Committee *for* Education, Sport & Culture, 910 Deputy Fallaize.

Deputy Fallaize: Thank you, sir. I will make points, which are mainly related I think to the Committee's mandate, but I want to respond as well to one or two of the slightly unrelated points made in the course of the debate. I think that a case could be made for voting in favour of 915 Proposition 1 in the Requête. I have always been a slightly sceptical supporter, if that is not a contradiction in terms, of the Committee's proposed scheme, and I have been and remain slightly sceptical that the bay will end up looking like some of the more optimistic artist impressions, which were made available to Members of the States and members of the public at some of the presentations.

920 Nevertheless I have slightly reluctantly supported the original scheme, because I think it is probably the most logical of a set of not very attractive options. Although there could be a case made for Proposition 1 in the Requête, the four Propositions really have to be read conjunctively.

I do not think the States can vote in favour of Proposition 1 and against the other Propositions in the Requête and I think that although there may be some attraction in Proposition 1, the Requête 925 misses ... because of Propositions 2, 3 and 4, which together I think are an extremely weak case.

The consequences of a sudden, unplanned breach could be quite catastrophic to the area behind the wall. Catastrophic to the few but not unimportant structures, which are there, and catastrophic to the land far beyond any area of land, which is likely to be impacted by the Committee's scheme.

930 Proposition 4 in the Requête is meant to deal with this risk of catastrophic, unplanned sudden failure in the wall but sir it is unsatisfactory to say the least. We are asked to agree at Proposition 4 that, in the event of such a failure of the wall resulting in the ingress of sea onto the common, the correct solution is that the Committee *for the* Environment & Infrastructure should revert to the States with some proposals.

Well, sir, clearly in the event of a catastrophic failure of the wall and the flooding of the common, 935 it is not satisfactory to say, 'The way we are dealing with that is a States' Committee should prepare

a policy letter and report to the States.' That simply would not be an adequate response. I think, if for no other reason, the Requête should fall on those grounds.

I think Deputy Inder wishes to raise a point of correction, sir.

940 **The Bailiff:** Yes. Point of correction, Deputy Inder.

Deputy Inder: Yes sir. Just briefly. Deputy Fallaize has mentioned catastrophic failure a few times. What Proposition 4 says in the event of a failure of the wall, that is not necessarily the whole wall catastrophically failing.

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The Bailiff: Deputy Fallaize.

Deputy Fallaize: I do not think, sir, that was a point of correction. The Proposition says:

In the event of a failure of the wall, resulting in the ingress of the sea onto the common ...

950 Now Deputy Inder may be prepared to see the ingress of sea onto the common as a relatively minor event in the life of our parish, but I am not. I think that the ingress of the sea onto the common ... and this Proposition and the Requête do not speculate how far onto the common that ingress of sea would be. Potentially it could be quite a considerable distance onto the common. I think that is a very serious issue and has very serious risk and I do not think it is adequate to say, in the event
955 that happens, that a States' Committee will just have to produce a policy letter and revert to the States.

So I think the idea that the supporters of the Requête can wrap themselves up in the flag of protecting the common and protecting the parish is highly misleading, because what is proposed in this Requête is that there could be a failure of the wall, it could be sudden, it could be unplanned,
960 it could result in the ingress of sea onto the common and the only thing they have to offer is that, at that point, a States' Committee has to produce a report for the States. I do not think that is satisfactory protection of the common.

Secondly, in terms of expenditure, which is perhaps where Proposition 1 could be seen as slightly attractive, given the current financial challenges that face the States, in fact the course of action
965 proposed by the Requête includes expenditure which is very unpredictable. It could be less expensive than the original scheme, or it could be much more expensive than the original scheme.

Given the new financial challenges which face the States, I do not think now is the time to replace the relative certainty of the expenditure associated with the original scheme with the very uncertain expenditure associated with the course of action proposed in the Requête so I think that the course
970 of action in the Requête could well be more damaging to the common and more expensive and therefore should fall for those reasons.

I also want to say something about Proposition 2. I have already spoken about Propositions 3 and 4. Proposition 2 proposes that the course of action set out in the Requête should apply effectively for 10 years, so the original scheme should be suspended for 10 years and replaced with
975 the course of action in the Requête for 10 years. I cannot see the sense in that. The problem with the wall, for many years, has been that the States have not set out an approach to the issue of coastal structures, in a long-term way.

The Requête prolongs the short-term approach, which ironically in the long term is likely to be more expensive and more disruptive than actually settling on a policy for this area of the coast and then putting it into effect. Finally, sir, in relation to the points made by Deputies Le Pelley and
980 Dudley-Owen on heritage, obviously the wall is one of several fortifications around the Island, which are of historical importance and are of architectural interest to people who take an interest in German military design. I agree with the comments just made by Deputy Graham in relation to quality but, nevertheless, this is bound to be of interest to people who are interested in German
985 military design.

Of course, the original scheme which the Requête is now trying to overturn, in effect, does provide for most of the wall to remain intact. There is also, I think, some dispute over what constitutes heritage in this context, because the objective of the original scheme is that this area of the coast would revert to its more natural, original state. One can dispute whether it would actually return to that state, but that is a matter of who has the greatest expertise in this issue.

While I think in fairness, Deputy Inder and others have raised some very good questions over a number of years, about the analysis behind the original scheme, if I am forced into a corner, I would rather back the coastal engineering advice of Royal Haskoning above that of Deputy Inder. Therefore I am prepared to accept that the objective of the original scheme is more likely to result in a return of this part of the bay to its more natural state, and it could be argued that the way that it was for hundreds or thousands of years is more consistent with the Island's heritage than the construction that was put up during the Occupation.

I do not think heritage concerns should be dismissed, but I do not think those people who want to see the original scheme defeated and this Requête approved have an exclusive right to claim that they are protecting the heritage interests of the Island. But in any event, if the long-term preservation of the wall, for heritage purposes, is to be the primary consideration above all others, then I think it is worth noting that neither the approach of recent years, nor the extant Resolution from the Committee *for the Environment & Infrastructure*, nor the prayer of the Requête are designed to achieve the long-term preservation of the wall for heritage purposes.

I think the Requête has been put forward from a well-intentioned perspective, but I think it fails in terms of protection of the common, because the Requête is the course of action, which is most likely to result in a sudden and unplanned breach of the wall and ingress of sea onto the common. The Requête is potentially the most expensive course of action in the long term and it does not protect the wall for heritage purposes, even though it has been presented on that basis. It is not actually capable of achieving that objective.

So for all of those reasons, I cannot support the Requête, notwithstanding the appeal to some extent of Proposition 1. I think read conjunctively, the Propositions in the Requête should fall. Thank you, sir.

The Bailiff: I call next the President of the Committee *for the Environment & Infrastructure*, Deputy Brehaut.

Deputy Brehaut: Thank you very much, sir. Just working backwards, I will make few observations. I thank you Deputy ... *[Inaudible]* for her speech – apologies – her observations, particularly with regard to what Royal Haskoning has said and her assessment of their work was a useful intervention. I appreciate that. I would also like to thank Members of my Committee for their contribution, particularly Deputy Hansmann Rouxel, who took time out ... *[Inaudible]*

Deputy Fallaize is actually right to point out the failings within the Requête, which seek to do it in the short-term and then if our plan does not work, then revert to what E&I is proposing anyway. Just to spend money in the short-term, having the notion at the back of your mind that something could still potentially fail just is not the best solution. We need the long-term view when we are dealing with the wall.

I think it is important to point out to Deputy Dudley-Owen that the wall is 95% or more intact. This might be described, or will be, rather. This is the tail-end of the wall, which the engineers of the 1950's felt would be ... Am I very quiet, I am told? Sorry, I will move a bit closer. Thank you, Deputy Dudley-Owen.

We must remind ourselves that the engineers in the 1950's believed that the wall at the eastern end of the bay was essentially ... that at some time it would ... *[Inaudible]* and they were not in favour of building the kiosk facility behind the wall because they felt that ultimately the wall would fail and it would offer the kiosk facility behind no shelter.

Also, if you are bringing tourists over, as a tourist you have to ask yourself what are you looking at? We are almost into Trigger's broom territory here: are you looking at the 1977 repair, the 1984

1040 repair, the 2017 repair? The foot of the wall that is now visible is the work of the States, it is not a German structure. What value does it have when actually it is largely a structure that has evolved now over 75 years, to something that looks very different? So it is not original in that regard any longer.

1045 Deputy Laurie Queripel, I take his point about the interpretation of how the States behaved in the past, which is this willing neglect, that if we leave something to get in such a state of disrepair, then it makes it easier for us to then make some intervention. It may be contentious but because something is happening, something is always better than nothing.

1050 But I would remind him that when Deputy Burford and myself, I was the deputy minister for the environment at the time, when we took up those roles in 2012 – was it? – we had £50,000, the coastal defence budget; £50,000 is what we had to spend on the Island's coastal infrastructure in total. Just £50,000. It was not a case of the lack of will and I think it is important to remember, of course, this was post-FTP, the financial transformation process meant there was a great reluctance to spend on coastal structures.

1055 It makes me feel uncomfortable when we challenge consultants that we have paid large sums of money for their advice and then, in their absence, we choose to then challenge and ignore it and again I just want to, on record, put my disappointment that if Deputy Brouard felt there was new evidence or he had found this flaw in our scheme or this nub of information that he felt was fundamental to overturn the advice of Royal Haskoning then, really, we should have seen that part of his speech and he could have shared that information with us yesterday.

1060 We should not forget that Royal Haskoning are engaged by the States and they are in the gainful ... [*Inaudible*] assessments around projects. So we trust them in that regard and we surely give value and the appropriate weighting to that evidence, yet choose to ignore it in the context of the tank wall.

1065 Deputy Inder said yesterday that the Royal Haskoning engineer did point this out. He said when you get the wash out from behind the wall it will not look pretty. One of the reasons for that is probably since, certainly since the 1960's, the States have put a great deal of material on the landward side of the wall and if you visit the wall in the winter the material from the landward side of the wall gets drawn out through the suction of the tide and ends up on the bay.

1070 Before the kiosk can be opened every summer, the paths have to be reinstated, material has to be put back, and that disappears every winter. Over the past five years, I think it is more than this, but I think, I will use the lower figure, we have spent, or rather STSB and before them PSD, have spent about £25,000 just in aggregate and material that gets drawn out, gets sucked out from under the wall and ends up on the beach. So it will not look pretty, because a lot of the material has been put there by the States anyway.

1075 We cannot afford to ignore the cost of the repair and the maintenance of the kiosk. It is a great facility during the summer. I suggest to anyone who visits the facility during the winter, it is not pretty and I think there is real potential in doing something other than what we do with that kiosk at the moment that would bring something back to that area and look quite attractive and very different.

1080 I just want to make a comparison to the Alderney Breakwater here and I make no apologies for looking to the support of the Alderney Reps. When I took up the position as President of E&I, myself and my Committee have worked very hard to ensure that there has been the appropriate level of maintenance and expenditure on the Alderney Breakwater and, over a period of time, long before I was President, many millions of pounds were spent, in excess of £15 million has been spent on the Alderney Breakwater.

1085 There was a time when PSD, also facing the FTP crisis that they did, they chose not to spend on the Alderney Breakwater and the make-do-and-mend ultimately catches you up. I would just draw a comparison there. We have invested heavily in Alderney Breakwater because it is the right thing to do. We have underinvested, we need to spend money now and failure is a very real ...

Deputy Prow referred to again the beach and the groyne –

1090 **The Bailiff:** There is a point of correction, I think from Deputy Lowe.

Deputy Leadbeater: No, it is Deputy Leadbeater sir.

The Bailiff: Deputy Leadbeater. I just had 'ML'. Deputy Leadbeater, point of correction.

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Deputy Leadbeater: Yes sir. Deputy Brehaut keeps comparing the big, concrete structure at L'Ancrese to stone structures such as that at Perelle and the Alderney Breakwater now. He could never have a catastrophic breach of the wall, like we saw at Perelle, or like you could have at the Breakwater, on a concrete structure such as L'Ancrese. So I would like Deputy Brehaut to stop comparing the two please.

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The Bailiff: I am not sure that was a point of correction.

Deputy Brehaut: In the 1970's the States were faced with a situation where they were advised to move the L'Ancrese waves west of the tank wall because the tank wall was seriously undermined, it was extremely unsightly and unattractive for visitors. Now what visitors sit on at L'Ancrese West is a platform, a plinth, that actually is there to protect the tank wall and interestingly that will need some repairs in the years ahead because the underpinning is showing signs of failure, so there will need to be expenditure there.

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The reason the wall at the west is still there is that the States wanted to remove it but could not afford to. Because concrete structures are far more difficult to dismantle and deal with. When they fail, they do not fail in neat little blocks of Guernsey granite, they fail massively and by the cubic metre.

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If L'Ancrese, and this is the point, seeing as I have had this interjection from Deputy Leadbeater, if L'Ancrese wall failed and a large portion of the wall collapsed, what you have to do is then do an interim repair to protect the land behind. So you are not even dealing with the failure, you are just doing interim repair to make that area safe.

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Then you would have to have detailed plans drawn up to carry out a repair, and to carry out the repair to remove the interim work you have done. So as with the repointing, estimates can increase tenfold, bearing in mind you are duplicating work and the initial work you are doing is at a time when people do not expect to do it and when they may not be ready and available.

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Deputy Stephens posed a question to me, to the Committee, how much do you think the deferral will cost you? I have to ask the question to Deputy Stephens, when she signed up to postpone work and ending our intervention on the wall, what did she cost that figure at? When Deputy Stephens opted to support the Requête, signed in favour of a 10-year moratorium on expenditure on the wall, what did she think the figure would be 10 years hence, when the States had to take some intervention?

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If we would never have had the original *sursis*, if we would not have had this Requête and all the uncertainty around it, we could have pretty much cracked on with it, but the process of drawing E&I back to the States' Assembly all the time, that deferral comes at a cost. I think the signatories need to reflect on that. If we go with the Requête and there is a failure some time later it will because of the Requête.

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Again, there was a reference to the Atlantic defence and I think it may have been Deputy Gollop who referred to the Atlantic defence. I have got very mixed feelings on this revision of local history. My parents and grandparents would have removed these structures themselves from the Island that they valued and the Island they had before the Occupation and the Island they inherited after the German Occupation. They would have removed these structures themselves, given half the chance, because the bay was defaced by this huge German structure.

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Interestingly, our grandchildren and great-grandchildren, these structures remind them of their grandparents' past and they perhaps hang onto them more than their parents, grandparents and

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great-grandparents wanted to. Certainly, my family members at the time would have wanted these structures removed.

1145 Deputy Gollop is right to talk about childhood recollections of the beach, post-Occupation. The beach was there then. The two metres of sand has been lost and, as I said yesterday, a slipway had to be put in to ensure that people get onto a disappearing, lowering beach safely.

1150 Again, an intervention from Deputy Inder with regard to a shingle bank. The shingle bank thing is just bogus. Can we have bogus red herring? I think we have just found one. The wall exists. We cannot ignore the fact that the wall exists and it is there, it is where it is. So we have to take some intervention in the acknowledgement that the wall is staying, so what is the minimum intervention we can take, along with the groyne structures, to reinstate the sand, to raise the level of the bay and Deputy Inder is bring a point of order, sir.

The Bailiff: Point of order, Deputy Inder.

1155 **Deputy Inder:** Sir, this is probably going to be my last mention of the subject for the rest of my life, but I do object to the President of Environment & Infrastructure suggesting that the information is bogus. I really do object to that. It is absolutely clear that the 1942 RAF overhead observation shot shows a shingle bank and he has got to stop saying it, because it is just not true.

1160 **The Bailiff:** Deputy Brehaut.

1165 **Deputy Brehaut:** In fact, the RAF over-flies from that period were put on the table in the Members' Room by E&I. We were using the same material, both of the images from the RAF, and they are very fantastic images. We used them to evidence our case for the intervention on the wall. I am not saying that the shingle bank is non-existent, I am saying the argument really does not have any weighting, bearing in mind we are talking about the wall and the wall is where it is. Our modest intervention of the wall is an effort to get sand back to the bay. The shingle bank thing I would say is interesting from a historical perspective but really not relevant or valid and because the wall exists and we are simply looking to remove 130 metres of it.

1170 I did touch on the remarks made by Deputy Leadbeater before. I still think we come down to this. If you make-do-and-mend you are making do and you are looking to spend much more later. Deputy Le Pelley referred to the VCC, the Vale Commons Council. My experience of the Commons Council, I have met with them on certainly one occasion formally and informally. Their main focus is the golfing element, the representatives I have dealt with, the main focus at the time was the golfing component as opposed to the tenement angle. Clearly the golfing community feel there is a risk.

1180 Why they feel there is a risk, and I think this was overlooked at the time, the proposals from E&I today, or whenever we tabled them, were a compromise set of proposals, because there were early discussions regarding *[inaudible]* in the L'Ancrese East. It was decided not to remove the wall but in discussions around removing the wall, we then had these images of the loop towers being lost, of the common being flood, of the golf course being lost, and I think that is still in the public, collective memory, this idea that the wall in its entirety was going but of course it clearly is not.

1185 So the concerns that remain with the VCC and other groups probably stem from the initial ... I took part obviously in the presentation carried out by Royal Haskoning and Members, after that presentation, came up to me and said that initially they were not in favour of the proposals but they thought that the arguments put forward by Royal Haskoning were convincing. There was a large number of opponents in the room, obviously, but not everyone was dead set against that.

1190 In closing sir, I think we ... *[Inaudible]* ... this complacency, Members just want to make a decision, get on and that times are tough, it is self-indulgent, let us vote the Requête through and move on. If we do that and vote the requête through today ... If you do this today and you vote the proposals through, it is simply deferred expenditure. Do we spend more in 10 years from now, when we have

seen the moratorium period through, or do we invest at a time when the industry is looking for work?

1195 Do you invest during a time when the economy is flat, when people are looking for work and that is reflected in labour rates, or do you do the work again 10 years' hence and the market has recovered and you then struggle to find the right people to do the work?

1200 I will just end on this. I think, if we have visitors on the bay five years from now and you are showing visitors around, the alternatives are you could be walking through the common, through an opening and out through the wall, with the rock armour structures slowly being, with the sand accreting to them ... with the level of the bay not being overly attractive in the first couple of seasons, it would be clear to them how the bay could look. Or do you leave yourself in the position where you have to explain to them that there is this random pile of rock armour disfiguring a wall that is in this arguably ... [*Inaudible*] ... and may fail at some time.

1205 I would ask Members please do not vote for the Requête today simply to put this argument to bed for once and for all. Please vote against the Requête, knowing that voting for it would be much more costly a number of years from now. Thank you.

The Bailiff: I now call the President of the Policy & Resources Committee Deputy St Pier.

1210 **Deputy St Pier:** Thank you very much, sir.

1215 I will be brief in really just addressing one issue, which has arisen during the debate. Just picking up on Deputy Laurie Queripel's highlighting that I said in St James' a month ago that everything has changed. That of course is correct, but in relation to how that impacts on our capital programme, I would suggest that it will clearly impact on our capital programme. We will have to decide what projects need to be reprioritised, which we might wish to accelerate, which we might wish to decelerate or which we might wish to not undertake at all.

1220 But those that are currently before us for decisions and there is this one. We have of course the Longue Hougue South, the inert waste project up for discussion later in this States' Meeting. The States' Trading Supervisory Board have a policy letter in relation to baggage handling, so I would suggest that the appropriate way for us as an Assembly to deal with that is not for us to be turning those projects off in a kneejerk reaction on the floor of the Assembly but to be relying on the business case process, which I have obviously spoken about at some length in the Assembly before, as the appropriate point at which we will be able to determine whether we wish to proceed with projects, whether they still make sense at that stage.

1225 So I think, as I said, when I opened in responding to Deputy Inder, this project and indeed many of the other projects coming forward people will have strong opinions on them in both directions. But I do not think that should be used as an excuse or a cover for making a decision in relation to our capital programme, without having had the opportunity to consider the programme as a whole.

1230 So really what I am saying is that the appropriate point at which any project should be deferred or is at the consideration of the business case stage, if clearly in relation to this one, if Policy & Resources were to decide that a case has not been made, for whatever reason, or that it was not the right time to be doing it in the context of the whole, then of course it would then be incumbent on the sponsoring committee to bring the matter to the States of Deliberation at that point if they felt that they were not content with the use of delegated authority by P&R or the refusal to use delegated authority to sanction the project to proceed.

1235 So I think, as I have said before, I think the Assembly should have confidence in its processes and should allow this project to proceed to that next stage, at which a decision can then be made in the context of full information being presented on the back of the full business case, sir.

1240 **The Bailiff:** Thank you.

Now, finally, the lead requérant, Deputy Brouard, will reply.

Deputy Brouard: Thank you, sir and thank you to all the Members who have kindly contributed, both for and against. I am just going to pick up a few of the comments that have come through today. Deputy St Pier started the debate yesterday, mentioning about the high risk, there is a high risk if we do not carry on with E&I's proposals of removing the wall.

From my point of view, it is at that turning point, that I looked at it the other way around. I think the high risk is to remove the wall. I am much more comfortable with keeping a structure that I reasonably know and a structure that we can reasonably repair or maintain or put rock armour in front to protect it. For me, that is the much lower risk than taking the high risk of something that has not been done before in the Island.

I cannot recall many places on the Island where we have put in rock armour groynes down the beach. There are some, I think, wooden groynes at L'Ancrese, at Vazon. I know from my school days, I was sent away to boarding school, big places like Bournemouth and that along the south coast used to have quite a history of having groynes along the beach to stop their sand moving to the next beach. But Guernsey, certainly, we have got a lot of history of using pretty heavy rock armoury on most of the coast, all the way up from ... well, all the way around our coast, we have been using rock armour for many years and it has been quite successful. I think the high risk is by removing.

If that is the argument then we are also then maintaining a very high risk with the remaining 700 metres. We cannot be a little bit pregnant. The high risk is either there or it is not, so I think that is a little difficult.

Deputy Brehaut, not surprisingly, obviously he is supporting the original proposal. I do have an apology, I did mislead the Assembly. I think I mentioned four vergées of land that would be encroached; sorry, it should be two. That was my mistake on that.

Deputy Brehaut mentioned it is not a pristine beach. I do appreciate that point because, obviously, the anti-tank wall is there but, for me, it is the groynes that will be spoiling the beach and I have got nothing to say to Deputy Brehaut about him not playing by the rules. I do not know what that argument was about because I have not accused him of not playing by the rules, I am sure E&I have done everything absolutely proper and I hope he will concede that so did the requérants. We went and met with the officers to get the advice that we needed.

With regard to the number of emails, I think his point was that he has not had that many. There again, does the IoD represent all the IoD members? Do the Chamber of Commerce, when they write to us, represent all their members? There is a considerable amount of support from the golf clubs to have the Requête.

Deputy Inder mentioned the sand and I thank him for his support. He is obviously very knowledgeable on this particular subject.

Deputy Prow – again thank you very much for Deputy Prow, who attended the meetings with the staff. I thank him for that.

Deputy de Lisle, yes but concerned about the budget and I think that is one aspect that has certainly changed since it started and it was not main concern, the funding, as such, but it was one of the elements and I think Deputy de Lisle did a good point of bringing it around.

Deputy Paint, also very supportive, over the longer term. Deputy Paint also mentioned that we had the debate and there is nothing new. I can understand that point, because that means that we will never ever go back and revisit something. If we have made a mistake or we are travelling the wrong way on holiday ... I made a decision to turn left out of the hotel, do I continue to drive left until I reach somewhere although in hindsight I should have turned right because that was the right direction to go?

I think we do have to sometimes re-check ourselves and that is why we have the facilities of bringing the Requête. I perhaps must touch on the timing. The timing has not been of my choosing. The Requête would have been in play much earlier last year. I think it got to be published around November time. After that, the timetable has been taken away from it.

I have struggled with myself as to whether or not I should have asked for it to be pulled to a different time but, on balance, I think we carry on and have the debate. But I did check it, because

1295 as I said when I opened the speech, you have that concern as to whether or not we should be debating something of this now. But we are going to be debating very many similar things of this and also, if we do need to save money, which I think we do now, this is one opportunity.

I will just pick up another point I think that Deputy St Pier made in his closing remarks. When the business case will go to ... trust the system, I think Deputy St Pier was saying, because he was saying that the business case will obviously come from E&I, so E&I are all supportive of it so that will come forward. Policy & Resources, by the looks of things, looks like it is a 3-1 in favour of this, so the business case will be approved. I cannot see the business case will then make it a check at that time. So I think the right time, to do it now, is open and transparent, and ...

1305 **The Bailiff:** There is a point of correction, Deputy Brouard.

Deputy St Pier: Yes, thank you. My point of correction is simply this. The fact that three Members of the Policy & Resources Committee oppose the *sursis* at this point does not of course pre-judge what their view may be in relation to a full business case that they have not yet seen and I think it would be misleading to suggest otherwise.

Deputy Brouard: I fully appreciate that point, Deputy St Pier, but the writing is certainly on the wall, as far as I am concerned, and certainly my time in politics has certainly shown that people do change but they do change quite reluctantly and it does not happen perhaps that often.

1315 Deputy Meerveld, again, we have to be very careful of our funding, especially at this time.

I thank Deputy Stephens for her support.

Deputy Gollop, I thought, made a particularly good speech this morning. I thank him for that.

Deputy Dorey, we need to have confidence in the specialist engineers. Yes, but of course we are looking at plan 7b. There was also plan 1, 2, 3, 4, 5, 6, 7a and 7b.

1320 There are many different ways that this particular project could have been taken forward, so it is not as though we necessarily have got that golden nugget in the Proposition that we are seeking to amend. I think he also picked up on the panel. I am not an expert on these panels but according to my notes here, panels four and five have been done and cost around about £100,000. That may need some extra work to put larger stones in place. Panels eight and nine, immediately need to do some spending work to shore up those and I noted on my papers here from the meeting that there was concern over panel 11 as well. But there also 11 panels in the area that could, one day, need work. Or there are 11 panels in that section.

1325 Deputy Leadbeater, thank you very much for your support and the figures yes, the £11 million, I must admit, I did have a paragraph on it on my original speech but I thought, no, it was just fantasy figures. I just could not understand how we could get to an £11 million spend.

1330 Deputy Green did ask a couple of questions. Is it a point of saving some money now but we are going to spend more in the future? I do not know. This is where one has to take a judgement call. My opinion and the opinion of the requérants is that we can do some modest work now, that is going to cost about £100,000 and then possibly put away about £200,000 for repair work over the next 10 years.

1335 That versus the £1 million plus for removal of the wall, it literally comes down to that call. He asked what has changed after the vote –

The Bailiff: Deputy Brouard, there is another point of correction, from Deputy Dorey. Deputy Dorey?

Deputy Dorey: Sorry, can you hear me now?

The Bailiff: Yes, we can.

1345 **Deputy Dorey:** Sorry, my microphone had come out. I have the notes from the meeting that Deputy Brouard had with officers and it says, 'A minimum of 11 panels will most likely need attention over the 10-year period.' We also have an engineering analysis of the panels and it lists 11 that need attention. Thank you.

1350 **Deputy Brouard:** Thank you, Deputy Dorey. And panels, in particular the ones that are most concerning, are four/five, which have been dealt with or at least partly dealt with, eight and nine are the ones that are immediate and panel 11 is of concern. That is how the figures came out.

I was just answering Deputy Green's point, what has changed after the vote? I think, for me, I would never have believed that the States would have voted for these proposals and, for me, I could not leave the States – obviously at some stage I will do – having not tried my best to stop the groynes going down the beach. If I fail today and the requérants fail, well we failed but I think that was, for me, I just think an unacceptable engineering proposal to the issue that we had.

1355 Deputy Langlois made some points about the rock armour. Yes, there are lots of beaches in the northern part of the Island, which have got rock armour on the beach and I agree with him, it is not particularly attractive to have the rock armour. It is really much nicer to have a shingle bank or whatever, but that is not the issue we have. The issue is to make the E&I scheme it needs some very big groynes going down the beach and that is where the problems start to come.

1360 Deputy Le Pelley mentioned historical context. Now Deputy Merrett asked some questions about the scale of this project and she is looking for projects that help local businesses. Well, there is work required under the Requête and that is the work on panels eight and nine and possibly some work on number 11, plus some maintenance work.

1365 Now that is all, I am assuming, fairly much local work. If you go for the E&I scheme, that is going to be a substantially much bigger project but not also that will involve a lot more consultants' fee, the impact assessment, the environmental impact assessment. So there is certainly work under the Requête for local and, hopefully, if it is passed today and I hope it is, some of that work can perhaps start in this summer to be able to have the reinforcing done before the winter storms set in.

1370 Deputy Le Tocq mentioned about the timing of the Requête. The timing has been in Policy & Resources' hands to a large extent, because myself and Deputy Stephens were excused and Policy & Resources does the timing of States' debates. I appreciate there is a position whereby they have to –

The Bailiff: Deputy Brouard there is another point of correction, from Deputy Brehaut.

1380 **Deputy Brehaut:** Thank you, I am genuinely reluctant to intervene but it is difficult. Deputy Brouard said work has been commenced. We have to realise what is before us today, the proposals put forward by E&I are costed and funded. We have gone through the capital prioritisation process. If Members vote for this Requête, that is dead.

1385 Deputy Brouard then has to embark on a process to get the capital to do the project he wants to do. So it is not a question of simply dispensing with ours and seamlessly moving onto another. Deputy Brouard will have to respect the same processes that E&I have.

1390 **Deputy Brouard:** Thank you for that information. I was not going to – and I am not – but I have been in touch with the States' Treasurer about this and also one of the officers and they have given me a detailed listing of the realignment of the L'Ancrese Wall. I can just read part of the email to you. It is part of the minor capital coastal schedule, an estimated value £1.1 million ...

I cannot see any issue with regard to the funding under the coastal repairs budget, according to ... certainly the States' Treasurer did not alert me that there would be any issue with regard to that. But thank you for that intervention.

1395 Deputy de Sausmarez, a very interesting point about the biodiversity because we are going to be, shortly maybe, talking about the inert waste project, where there is for environmentalists ... and I do consider myself to be concerned about the environment – we have the loss of sea grass, the

1400 Spur Point issue, the scaly crickets on the beach, which will all be subsumed with the inert waste policy which her team is bringing forward. Yet she is making quite an argument about the fact we could create an interesting biodiversity project here, if it was successful. I hope she uses the same logic when she is looking at the reclamation at Spur Point that she is using for the argument of taking away the L'Ancrese sea wall.

1405 The other thing was the evidence-based decision making. I think the evidence for me is that I have not seen many, in fact I have not seen any places where an anti-tank wall has been removed and they have tried to create a new bay and a new beach head. I have not seen that work. We have not done it elsewhere on the Island. I do not know of anywhere else in the world where it has been done. But on evidence-based decision making we have used rock armour, we have used it successfully in other parts of the Island. I think that, for me, is far more evidence and far less risk than removing the wall.

1410 Deputy Laurie Queripel, thank you for his support and Deputy Dudley-Owen as well. Deputy Fallaize made a couple of points, but I will just pick up on one of them. He likes the appeal of Proposition 1. In fact, so do I. But when we went to the staff, my idea was some sort of gradual decline, but it was the encouragement from the staff, from the meeting myself and Deputy Prow went to, from the staff, that they would prefer to have a managed situation rather than one of just natural decline, because of the risks that they could see from that. So that is why, on number one, 1415 was built Propositions 2, 3 and 4, to give that stability to that issue.

1420 I think just a few final points. Deputy Brehaut, in summing up, was ... we take the advice of experts but yes there are many different ways that this wall can be looked after and managed and we just happened to have option 7b on the table from the expert. He mentioned the cost of a washout. Part of the washout is caused by the overtopping and that, to a large extent, is negated by putting rock armour in front, as I explained yesterday, on that video that I was trying to describe. It is really quite incredibly how the rock armour soaks up the wave impact and stops that overtopping. So hopefully that will be another saving.

1425 Looking at, he mentioned about local contractors looking for work; there is going to be quite a bit of maintenance work and putting in the rock armour in place in the future. Of course the rock armour that is being suggested by the staff at E&I was to be of a larger size than is being used for the initial temporary works on panels four and five and the idea of that was, if you in the future, decided that you do want to go for the groynes down the beach, the stone is already there. So that is a saving towards one of the main expenses, which is obtaining the rock armour in the first place. So the rock armour will be sized that it could be used later. I do not think it should be, but if you do 1430 want to it would give you that option.

1435 So just a final summing up. Please, I cannot tell you which argument is going to be best for you. Personally, it is the groynes down the beach and the prevention of people being able to walk along the beach coming up to the high tide. The advice from the consultants, will it work, are they right? Is it the right project for Guernsey?

1440 Without the wall my interpretation is that the beach is eroding. I am not sure that the sand dunes will form as hoped and, as Deputy Inder has made on several points, this is the back end of a dune system, not the front end of the dune system. Is it the rising sea levels and the frequent storms or the risk of flooding? Is it the loss of facilities, the café and the toilet? Is it the historical connection? Is it the moral call of deliberately flooding land when the overwhelming desires of those who manage that land is for the wall to stay?

1445 With the Covid pandemic, with our finances, a make-do-and-mend attitude, I think mentioned by Deputy Green, is far more appropriate than a gamble. But even if the gamble pays off, even if it pays off, it would leave massive groynes down the beach, no toilets, no café, no longer able to walk the beach from two-thirds tide up and a £700,000 hole at least in our finances.

I thank all those who contributed and may I have a recorded vote, please? Thank you.

The Bailiff: Yes and there have been several requests for a recorded vote. There are four Propositions. I have not heard anybody request a separate vote on any of the Propositions so, unless

1450 somebody requests that now, I will be putting all four Propositions to you together. Nobody is requesting a separate vote so over to you Greffier, please, for a recorded vote, on the four Propositions, on the Requête.

There was a recorded vote.

Not carried – Pour 18, Contre 18, Ne vote pas 2, Absent 1

POUR	CONTRE	NE VOTE PAS	ABSENT
Alderney Rep. Roberts *	Deputy Tindall	Alderney Rep. Snowdon *	Deputy Gollop
Deputy Ferbrache	Deputy Brehaut	Deputy Lester Queripel	
Deputy Leadbeater	Deputy Tooley		
Deputy Mooney	Deputy Parkinson		
Deputy Le Pelley	Deputy Le Clerc		
Deputy Stephens	Deputy Trott		
Deputy Meerveld	Deputy Merrett		
Deputy Inder	Deputy St Pier		
Deputy Lowe	Deputy Fallaize		
Deputy Laurie Queripel	Deputy Hansmann Rouxel		
Deputy Smithies	Deputy Graham		
Deputy Green	Deputy Dorey		
Deputy Paint	Deputy Le Tocq		
Deputy Brouard	Deputy McSwiggan		
Deputy Dudley-Owen	Deputy Langlois		
Deputy de Lisle	Deputy Soulsby		
Deputy Prow	Deputy de Sausmarez		
Deputy Oliver	Deputy Roffey		

* denotes Deputies who voted by proxy.

Deputy Inder: Sir?

The Bailiff: Yes Deputy Inder?

1455

Deputy Inder: I do not know if this helps at all, but I have had a notification from Mr John Gollop on how he would like to vote. It might be too late, but I have had a written confirmation from him how he would like to vote.

1460

The Bailiff: I think it is too late. It would be no different if we were in the Chamber and somebody was absent from the Chamber and we called a vote and they were not present but came in once the vote had finished. We would not count their vote then.

1465

Deputy Inder: I received it at 12.19 p.m. sir, via WhatsApp. I obviously defer to your judgement.

The Bailiff: I think we are following proceedings as closely as we could. If we were in the Chamber, that would be the position, if we were in the Chamber. I think it is quite right you do not tell us how he would have voted.

1470

I have just been advised as to what the vote is. It is unfortunate perhaps that he has not voted because the voting is 18 in favour, with 18 against, two abstentions and, of course, Deputy Gollop, one absent. So it is not carried and, under the provisions of the Reform Law, in the event of a tied vote, I have to declare the Proposition lost. So I declare the Requête lost.

Ah, I see, sorry. Slightly unfortunate, there is now a message from Deputy Gollop saying that he was on Teams but his phone did not work.

1475 **Deputy Lowe:** It is a bit unfortunate with the technology. We had the same yesterday, if you remember, when Deputy St Pier was not in the Chamber or sitting in front of his laptop and Deputy Le Tocq came in at the end to be able to give a vote.

1480 **The Bailiff:** Yes, but I think that was before we had actually closed the voting and gone to the counting.

Deputy Lowe: Possibly so, sir. It is just with technology that Deputy Gollop has had trouble with his phone.

1485 **The Bailiff:** Deputy Fallaize wishes to invoke Rule 26(9) and, for those who do not carry that Rule in their head I will say:

On the announcement of the result of the division, any Member may challenge the accuracy thereof and thereupon a fresh division shall take place. Such further division cannot be challenged.

1490 It does not exactly fit the bill, but the analogy I was drawing of Deputy Gollop not being in the Chamber apparently was not accurate, because he was listening in to the debate and because he is operating on his phone, he simply had a problem with the phone. He says *6 did not work.

Deputy Lowe: Can we go for Rule 26(9), please, sir? Would that be more appropriate?

1495 **The Bailiff:** Obviously half of you want me to do that, the other half obviously do not! I think in the circumstances, given that Deputy Gollop tells me that he was in the Meeting and on Teams, but his phone did not work, I have to accept what he is saying and, in those circumstances, I will allow a further vote. It is just a technical problem, had he voted, he clearly attempted to vote but just could not manage it, the result would have been different and I think if I do not allow Rule 26(9) and a further vote, people will forever say that it should have been.

1500 I am not explaining myself very articulately but yes, in the circumstances, because he was in the Meeting and it was a technological failure rather than anything else, I will allow a further vote, so Greffier will you please go through the roll call again?

1505 Just before you do that, I am told that Deputy Gollop may no longer be in the Meeting. Deputy Gollop, are you there? There is no point doing this if Deputy Gollop is not going to participate this time. Deputy Gollop, are you there and in a position to vote? Or if not, have you instructed your proxy to vote on his behalf?

Deputy Inder: Sir, I have confirmation of his proxy vote. This is Deputy Inder speaking.

1510 **Deputy Le Clerc:** This is Deputy Le Clerc, sir, and Deputy Gollop has now let me have his proxy vote.

The Bailiff: Okay. In that case we will go through the vote again. A fresh division is taking place and this division cannot be challenged.

There was a recorded vote.

Carried – Pour 19, Contre 18, Ne vote pas 2, Absent 0

POUR

Alderney Rep. Roberts*
Deputy Ferbrache
Deputy Gollop*
Deputy Leadbeater
Deputy Mooney

CONTRE

Deputy Tindall
Deputy Brehaut
Deputy Tooley
Deputy Parkinson
Deputy Le Clerc

NE VOTE PAS

Alderney Rep. Snowdon*
Deputy Lester Queripel

ABSENT

None

Deputy Le Pelley	Deputy Trott
Deputy Stephens	Deputy Merrett
Deputy Meerveld	Deputy St Pier
Deputy Inder	Deputy Fallaize
Deputy Lowe	Deputy Hansmann Rouxel
Deputy Laurie Queripel	Deputy Graham
Deputy Smithies	Deputy Dorey
Deputy Green	Deputy Le Tocq
Deputy Paint	Deputy McSwiggan
Deputy Brouard	Deputy Langlois
Deputy Dudley-Owen	Deputy Soulsby
Deputy de Lisle	Deputy de Sausmarez
Deputy Prow	Deputy Roffey
Deputy Oliver	

* denotes Deputies who voted by proxy.

1515 **The Bailiff:** Members, I have now been advised that the voting was 19 in favour, with 18 against and two abstentions. It is clearly very unfortunate that we had that technical problem, but I know Deputy Gollop has been having technical problems throughout these virtual Meetings and I think, clearly, if we had stuck with the original vote, it would not have represented the view of the Assembly, the majority of the Assembly. So I now declare that the four Propositions in the Requête were carried.

1520

1525 **Deputy Brehaut:** Can I say, sir, just for the record, I am completely content, because Deputy Gollop had made his intent absolutely clear on the vote and I think it was quite appropriate we did go to him, bearing in mind he had made several attempts to make his intent clear to at least three other Members. Thank you, sir.

The Bailiff: Thank you for that, Deputy Brehaut.

Procedural – Technical problems with remote voting

1530 **Deputy Le Clerc:** Sir, may I just make a comment?

The Bailiff: Yes, who is this?

1535 **Deputy Le Clerc:** This is Deputy Le Clerc. It was just to say that I think it is really important that if you have got a proxy that, in advance, you have some indication from that proxy on how they are likely to vote because, with the best will, technology, sometimes the messages do not get through. So I think it is important to remember that for everybody.

1540 **The Bailiff:** Thank you, Deputy Le Clerc. I think that is very appropriate to say that. Perhaps you could mention that to Deputy Gollop and make sure that, for future votes, if he does wish his vote to be counted, he should let you or Deputy Inder, his alternate proxy, know how he would want to vote, because we do know he has been struggling throughout these virtual Meetings. He does not have a laptop, for some reason, he is on his mobile phone and it is always very difficult for him.

1545 **Deputy Le Clerc:** Yes, I have done that, sir.

The Bailiff: Thank you very much.

Deputy Trott: May I make a brief comment, it is Lyndon here?

The Bailiff: Yes, Deputy Trott?

1550

Deputy Trott: It is this. Sometimes the interpretation of the Rules can differ between yourself and the Deputy Bailiff –

The Bailiff: He gets it right, I get it wrong, I am afraid!

1555

Deputy Trott: I would not say that. Would you, sir, on my behalf, communicate to him that you have now set the precedent and that precedent does need to be maintained? Deputy Gollop is not exclusive in experiencing technical difficulties and the problem that we have experienced a few moments ago may well be replicated in the future and consistent application is essential.

1560

Thank you, sir.

The Bailiff: I do wonder whether it would be useful if SACC could give this some consideration and let SACC decide, because Rule 26(9), maybe, is a Rule that needs to be looked at in the context of these remote Meetings. It certainly would be helpful if there was a clear Rule. There is nothing in the Rules that deal with the situation that I was faced with just now and, as I just said, drawing an analogy with what is in the Chamber was not very helpful because in the Chamber, if somebody is present, we hear them.

1565

In effect Deputy Gollop was present in the Meeting but he simply could not communicate his vote. I see Deputy Le Tocq agreeing and Deputy Laurie Queripel as well. I think it would be helpful if SACC would just look at it and clarify so that we have a clear Rule and then there need be no different interpretations or misinterpretations, some might say, between myself and other presiding officers and of course there will soon be a new deputy presiding officer, so there could be three different interpretations in these coming months.

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Deputy Trott: Sadly, sir.

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The Bailiff: Thank you, Deputy Trott.

Procedural – Debate on P&R policy letter on 29th April

The Bailiff: That brings us now to 12.34 p.m., I was perhaps going to suggest we go on a bit later, but it seems pointless starting the debate on the next requête before lunch. I think probably this is the time when it would be appropriate to break for lunch.

1580

I would just say that Deputy Trott and, I guess, Deputy St Pier, have confirmed that they would wish the debate on Rule 18 policy letter that was laid yesterday to take place next Wednesday, which will give an opportunity for Members to study and scrutinise the policy letter that was issued to raise questions, which Policy & Resources will have an opportunity to answer and it would also give an opportunity for a virtual presentation by P&R to States' Members.

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So Rule 18, and this Rule is clear, it does not need interpretation, Rule 18 leaves the decision to the presiding officer to decide the date when a Rule 18 Proposition will be debated and I have decided that it will be next Wednesday. So whenever we finish the business that is presently before us, we will adjourn this Meeting, it may be today, it may be tomorrow, until 9.30 a.m. on Wednesday, when P&R's Rule 18 policy letter, circulated yesterday will be debated.

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Having said that, we will rise for lunch. Would Members be content if we came back at 2.15 p.m.? I put to you the Proposition that we resume at 2.15 p.m. rather than 2.30 p.m. – 2.15 p.m.? You have another meeting?

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A Member: A CCA meeting now.

1600

The Bailiff: Right, that is in the lunch break, Okay, well if it is a CCA meeting in the lunch break, I will propose then that we stay with a 2.30 p.m. meeting as normal. We will resume at 2.30 p.m. I make that clear, 2.30 p.m. Thank you, everyone.

*The Assembly adjourned at 12.36 p.m.
and resumed at 2.30 p.m.*

REQUÊTE

V. Ensuring that a Policy Letter on the policy governing 5G Technology is debated by the States' Assembly – Debate commenced

Article V.

The States are asked to decide:-

Whether, after consideration of the Requête dated 20th January 2020, they are of the opinion:

1. To direct the Committee for Economic Development to present a policy letter to the States of Deliberation no later than the end of the current political term, detailing its recommended policy on 5G technology, including specific reference to the licence conditions and criteria.

OR, only if Proposition 1 shall have fallen,

2. To direct the Committee for Economic Development to present a policy letter to the States of Deliberation no later than the end of 2020, detailing its recommended policy on 5G technology, including specific reference to the licence conditions and criteria.

The States' Greffier: Article V – Requête – Ensuring that a policy letter on the policy governing 5G technology is debated by the States' Assembly.

1605

The Bailiff: And debate will be opened by the lead requérant, Deputy de Sausmarez.

Deputy de Sausmarez: Thank you, sir.

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In the interests of keeping this debate short, I intend to keep to the broad-brush strokes of the Requête and would ask others, in the same spirit, to keep debate concise. With that in mind, I will take the opportunity to stress that this debate is not about whether we should or should not have 5G in Guernsey, it is about whether or not the States should debate and shape the Island's 5G policy. I hope that it will not be used as an opportunity to delve into the minutiae of technological detail, or indeed the minutiae of any health concerns.

1615

The Requête is asking for a policy letter, so that we can have a properly informed debate later in the year. The requérants did discuss whether or not we should withdraw the Requête, given the current circumstances, and that the Committee for Economic Development has now agreed to bring a policy letter by the end of the year. We decided that we would lay it because the debate itself is an opportunity for the Assembly to articulate, concisely, the issues Members believe should be addressed in the policy letter. Guidance that I hope the Committee for Economic Development will find useful.

1620 The Requête sets out, quite clearly I hope, the case for debating and deciding our 5G policy at Government rather than at committee level. In 2010, an independent review of Guernsey's utility regulatory regime concluded that:

A number of important challenges lie ahead for the States and for the regulatory framework in telecoms. The most important among these will be the development of an appropriate policy regulatory approach, with respect to the roll out of new technology and next generation network infrastructure.

1625 In our accompanying policy letter, the Commerce & Employment Department noted that the States had not provided sufficient clarity to the regulator on their general and strategic objectives and recommended the adoption of the six principles for economic regulation. One of these principles is accountability, which states that:

Independent regulation needs to take place within a framework of duties and policies set out by the democratically accountable States of Deliberation.

1630 A decade on, the States is still waiting for the opportunity to set that most important policy and regulatory approach. We have been promised a policy letter many times in this political term, so when the Committee did a U-turn on that promise late last year, it was clear we would need to bring the Requête. I am pleased that since the Requête's publication, they have gone full circle and confirmed that they will now bring a policy letter before the end of the year, so here is what I hope that policy letter will cover.

1635 The first question I hope it will address is why 5G? Who will it be for? What benefits will it bring them or what problems will it fix? Many businesses are, as I understand it, likely to prefer to use fibre over wi-fi. Will 5G be primarily aimed at the domestic market? If so, what practical applications will it have? Is it really about being able to download a film with a smartwatch in seconds rather than minutes?

1640 If that is the kind of thing it boils down to, it would be useful to understand what kind of demand the Committee is anticipating for that kind of use and at what kind of cost, to both the consumer and the taxpayer, an issue that will of course need to be given particularly careful thought in the context of the Covid-19 situation.

1645 The Future of Telecoms document, that Economic Development published in 2018, glances over this question of why 5G. Beyond rather vague aspirations lifted from telecoms industry publications along the lines of 'boundless connectivity for all' and 'deliver innovation', it does not really attempt to explain who might need it or want it and why. The closest the policy document gets is to say:

The advantages of 5G will be much greater data speeds ... and much lower latency with capacity for a massively increased number of devices when compared to current 4G networks.

1650 Now, I am not saying there are not any possible benefits to 5G. Far from it. I think there is some potential for some innovative and exciting applications, such as remote surgery, self-driving vehicles and more advanced drones. But our policy needs to consider whether, when and how applications like these are likely to benefit Guernsey and, even more importantly, whether our network structure actually facilitates that kind of innovation.

1655 We are beginning to see some genuine innovation in New Zealand, for example, because their Government set a clear policy and invested in it accordingly. They mandated a single fibre network at wholesale level. Assets were pooled and strict regulation was developed and applied. This meant that innovators could access a single network at the same cost. They went from having three incumbent operators to upwards of 100 retail operators, stimulating competition and innovation in a way that seems to have been very well received by industry and the community alike.

1660 The Future of Telecoms document envisaged a single 5G network shared between the operators to meet the needs of the Island, but since then it appears the Committee has changed its mind. We now have a situation where each operator will be responsible for its own network and give the spectrum licences. I am concerned this will lead to a duplication of infrastructure and cherry picking by the operators to provide 5G to the most profitable parts of the Island, which logic suggests will

lead to some parts of the Island missing out. Under this proposal, provision seems likely to be neither ubiquitous nor equitable. Indeed, this problem is made explicit in the Future of Telecoms document. It says:

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... this sector statement recognises that the commercial economic case is unlikely to be made for superfast broadband capability to remote rural areas without supportive intervention from Government. Whilst this sector policy statement does not specifically invoke the Universal Service Obligation (USO) giving everyone the legal right to request a broadband connection, it does place a requirement on CICRA to encourage the market to deliver superfast broadband connections to all residential properties within three years. This will be supported by a Government commitment that in areas where the commercial business case is not economical then CICRA will develop the regulations to enable direct Government support.

I am not convinced that line of regulatory approach is working, even at this nascent stage of 5G. Late last year, having invited tenders for the 5G spectrum, the regulator instructed the telecoms companies to work together. Yet, on the very day this Requête was lodged in January this year, CICRA issued a draft decision, alleging that two of our telecoms companies had breached competition law by engaging in anti-competitive behaviour.

1670

An added complication of course will be the fact that we are now moving to an insular regulatory model, with the break-up of CICRA announced yesterday morning by Deputy Parkinson. This is all the more reason for a considered approach to what really is critical national infrastructure, as evidenced particularly over the last few weeks.

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Guernsey is, from what I can tell, almost unique in its lack of Government investment in its broadband infrastructure. Jersey's and even Alderney's governments have invested in theirs but we seem to have taken a hands-off, leave it to the market, each operator to their own, kind of approach.

In other words, we still do not have the strategic direction that the 2010 Report was calling for. Quite clearly this is the kind of policy issue that the States as a whole should debate and decide how much should this Government invest and against what objectives? Clearly these questions are even more pertinent now than when this Requête was lodged, given the fundamental impact that the type of public health crisis and the huge economic shock it will have.

1680

Some further questions that I hope will be explored in Economic Development's forthcoming policy letter: should we be aiming to implement 5G potentially ahead of the UK? Do we want to be a 5G test bed and is it a feasible proposition, if so? How much new infrastructure will be necessary to support 5G? People tend to think of the masts and it is true that we are likely to need a lot more of those, but the fibre networks will also need to be upgraded, which means digging up the roads, presumably more than once, if we are no longer aiming for a single shared network.

1685

One telecoms provider already has in the region of 500 kilometres of fibre in the ground, I believe. Are we expecting other providers to put in parallel grids? What impact will that have in financial and societal terms? For how long will 3G and 4G be available and what will be the cost of maintaining 5G simultaneously? How will planning policy accommodate the greater number of masts that will be required and what will happen in the event that sufficient masts are not permitted to deliver adequate coverage? What will the requirement for adequate coverage mean for private householders or landowners if they do not want masts on their property?

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The cyber security aspects of 5G have had a high-profile public airing over the last year or so and there is a lot of geopolitics around that. The UK has come to a decision about the role in its infrastructure of high-risk vendors, including but not limited to companies based in China. But the guidelines that it has set are not ones that we could reasonably comply with here. This raises a host of regulatory issues. There is a further complication that part of the critical communications infrastructure between France and the UK runs through Guernsey – another aspect that raises questions that our own regulator is unlikely to be able to deal with alone.

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Another aspect that I would like the policy letter to address is the environmental impact of 5G. The massively increased number of devices referred to in the Future of Telecoms paper will come at some cost in terms of energy, resources and climate impact. There is also some scientific literature available on the effects of electro-magnetic radiation on wildlife, including birds, insects – especially bees – and plant health. So I hope this too will be given some consideration in the policy letter.

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1710 Now no one can have missed the fact that there are plenty of people in the community who have voice their concerns over the health implications of wireless 5G technology. I would suggest that this debate is not the time to explore these concerns but the degree and nature of the concerns is something that I hope the Committee *for* Economic Development will address in their policy letter.

1715 The only health-related aspect that I will specifically speak to is the ICNIRP regulations. At the moment there is no political input into our health and safety standards. There is a kind of *pro forma* consultation that takes place between the regulator and the Director of Public Health, who I should add is a bit busy at the moment, and then effectively we follow the UK.

1720 It is worth noting that other jurisdictions receive exactly the same information from ICNIRP, but many seek to set their standards to tighter criteria and/or certain different criteria for nurseries, schools and care homes for example. We, by virtue of following the UK, have adopted by default one of the most general, I do not think that is quite the right word, set of standards of anyone.

1725 It should not just be a *pro forma* process between statutory officials. It should be a political decision that takes into account a broader range of factors. Concern or nervousness in the community over an emerging technology is a valid political consideration to take into account when setting those standards as is the unavailability of longitudinal types of studies.

1725 Even if we ended up with exactly the same plans as now, the point is that we should make a conscious and considered political decision. We should not be letting the bureaucratic tail wag the policy dog. I am glad the Committee *for* Economic Development to make specific reference to this aspect in their policy letter. I look forward to the debate, which I hope will be concise. And that is it. Thank you.

1730 **The Bailiff:** Thank you very much. Now a total of five Committees have been given the opportunity to comment on this Requête.

A Member: Good speech, Lindsay.

1735 **The Bailiff:** Sorry? I have not said very much yet and somebody has said I am making a good speech. I think they are probably referring to Deputy de Sausmarez. The five Committee Presidents have the opportunity to comment on this policy letter and I will call them. First of all, Policy & Resources Committee. Is it Deputy St Pier, or is it Vice-President Deputy Trott who is on the mic? I am not sure.

1740 **Deputy St Pier:** Does Deputy Trott wish to take this, sir?

The Bailiff: It sounds as if he does not.

1745 **Deputy St Pier:** If he does not, I will sir, merely to draw attention to the Policy & Resources' letter of comment of 21st February, which obviously has been circulated. Certainly, we agreed with the assertion in the Requête that in the year since the need for appropriate policy concerning new technologies and in a next generation network, since that was first recognised, the relevance of this matter of course has only increased and we have seen that, with the public interest and concern
1750 around some of this technology.

1755 Notwithstanding the stated intention, and I am sure the President of the Committee *for* Economic Development will speak of the intention of his Committee to deliver a policy letter by the end of this year in order that it has the direction and approval of the States to prioritise that work, my Committee does recommend that Proposition 2 should be supported and I think the response, which I am sure of the President of Health & Social Care will speak to as well, does demonstrate support for that approach.

We did also note in our letter, sir, that the Committee would ask for Economic Development to make the request of Environment & Infrastructure that, during the development of our policy letter, consultation is undertaken with the Committee *for the* Environment & Infrastructure and I would

1760 hope that the President of the Committee for Economic Development will be happy to confirm that his Committee will be pleased to undertake that sir. But I have nothing further to add at this stage.

The Bailiff: Thank you. So I now call the President of the Committee *for* Economic Development, Deputy Parkinson.

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Deputy Parkinson: Thank you, sir.

As I announced in my President's Update to the Assembly on 5th February, the Committee has already announced its intention to bring a policy letter on the policy governing 5G technology, including specific reference to the licence conditions and criteria and we undertook to do that before the end of this year, 2020.

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It now seems to us sensible to have another look at the whole telecoms strategy in the light of the Island's experience during the Covid-19 crisis. I made reference to this yesterday. The current Telecoms Strategy predates most of the existing members of the Committee and has clearly been subject to the most enormous press-test, as I said yesterday, during this crisis, and there may well be lessons to be learned.

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Does our telecoms infrastructure adequately support the Island-wide delivery of health services, education – when so many children have been home-schooled – and indeed businesses, which are remotely working and indeed of course the life of the States of Guernsey, which is entirely now dependent on the new technologies that we are using? So we need to see what lessons can be learned from our experience and have a look to see whether the Telecoms Strategy, now several years old, is actually appropriate, given what we have learned and what we expect to happen in the future.

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I also said yesterday that we will be laying before the States new guidelines for the policy direction of the GCRA. We did not know back in February that Guernsey was going to be rowing its own boat in terms of regulation, but that decision was forced upon us by Jersey and now that we are going to be operating our own regulator, we need to consider what its remit should be and the criteria it should apply in exercising its powers.

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So there is a whole complex array of policy here, of which 5G forms a part, and my Committee has undertaken that we will be working with all good speed to get policy letters before the States, covering each and every one of these aspects. Doing this by the end of the year will hopefully enable us to have time to consult, not only with other States' Departments, including Environment & Infrastructure, Health and Education, but also of course with industry and with the new regulator.

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So this is going to be a large and complex piece of work. It is a suite of pieces of work, really, and 5G and guidance to the regulator on the issue of licences, will form a part, but by no means the major part, of that work. So in my Committee's view this Requête is completely unnecessary. It simply deals with an aspect of quite a large range of issues that the States needs to grapple with and we have already undertaken to come back to the States before the end of this year on that one aspect. We will do so, along with a number of other equally important aspects of our Telecoms Strategy, and for that reason I consider, frankly, that the debate on this Requête is really a waste of parliamentary time. Thank you, sir.

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The Bailiff: Next, the President of the Committee *for the* Environment & Infrastructure, Deputy Brehaut.

Deputy Brehaut: Thank you, sir. I have nothing to add actually, other than to underscore the references already made with regard to cross-community consultation on the issue, sir. Thank you.

1805

The Bailiff: Thank you. Now the President of the Committee *for* Home Affairs, Deputy Lowe.

Deputy Lowe: Thank you, sir.

1810 The Committee *for* Home Affairs considered the Requête, in relation to its mandated responsibilities, the foremost of which being to keep the Bailiwick safe and secure. Now I do need to clarify that by safe, we mean keeping people protected from criminal acts, violations, etc. and not safe in terms of public health, environmental health or health and safety. These are mandated responsibilities of others.

1815 In terms of security, such as in respect of telecommunication infrastructure, the focus is principally on the security of the systems and data flowing through them. The Committee is alert to the number of security risks created by modern telephony systems and is satisfied that, through the application of the Cyber Security Strategy, appropriate measures are being put in place to safeguard the integrity of data and systems. In addition, the Bailiwick Security Policy, the telecommunications supply chain security framework and the Data Protection Law all provide appropriate mechanisms to make sure the right security safeguards are in place in respect of the operation of 5G.

1820 The security requirements, which are being developed in partnership with our UK National Security Agency partners, will result in detailed guidance with the telecoms regulator on the cyber standards and the practices expected of industry. As Members will, I am sure, appreciate from a data and systems security perspective, 5G, or Fifth Generation, to give it its full title, is simply the latest iteration of mobile network. The requirements for a 5G service to meet the security and data safeguards, which will be set out, are only as would be required of any generation of telecommunications technology. Thank you, sir.

1830 **The Bailiff:** Thank you and finally the President of the Committee *for* Health & Social Care, Deputy Soulsby.

1835 **Deputy Soulsby:** Last but not least. I have little to say in my capacity as President. I will be wanting to speak later on in the debate in a personal capacity. Just to reiterate what is in our letter of comment, where we state that Guernsey's Director of Public Health and Director of Environmental Health and Pollution Regulation published, in late 2019, a joint position statement, setting out that, having reviewed published research, there is insufficient evidence of adverse health or environmental effects of an electro-magnetic field, EMF radiation, connected to the use of 5G frequencies and that the Committee has full confidence in the integrity and vigour of this advice. I will just add that I think that that paragraph probably has more resonance than it did over a month ago, as we listen intently to the advice of the Director of Public Health on a regular basis.

1845 **The Bailiff:** Thank you. Now we have three amendments that have been laid, including one by Deputy de Sausmarez, seconded by Deputy Merrett. Deputy de Sausmarez, would you wish to take that one first?

Deputy de Sausmarez: Yes please, sir.

1850 **The Bailiff:** As you are the lead requérant, I will give you that opportunity. So we will take Amendment 2 first.

[Amendment 2](#)

To delete Proposition 1 and renumber Proposition 2 accordingly.

Deputy de Sausmarez: Thank you, sir.

1855 I am just trying to get it up on the screen. Really this is just a technical amendment to acknowledge the fact that there has been quite a long lag time, since we lodged the Requête, and Proposition 1 ceases to be relevant, just not achievable, and as Deputy Parkinson well explained in his speech just a short while ago, there was very good reason to allow Economic Development to use the time available in the rest of the year to bring that policy letter.

1860 So really, this amendment is just to strike out Proposition 1, so there is a single Proposition to be voted on at the end of the day, which is to instruct or to direct Economic Development to bring that letter by the end of the year and it does not complicate things by adding in a June 2020 date, so I hope that makes sense and should be fairly uncontroversial.

The Bailiff: Deputy Merrett, do you second the amendment?

1865 **Deputy Merrett:** Yes sir.

The Bailiff: Does anybody wish to debate the amendment? No, I see nobody wanting to, so we will go straight to the vote. Please vote, using the Chat function.

Members voted Pour.

1870 **Deputy Tindall:** Sir, I do not seem to be able to get to the Chat function, so I am not sure what I have typed. I do apologise. There are blue boxes all over the place! I meant to put Pour, but I am not sure. Sorry to interrupt.

1875 **The Bailiff:** Thank you. I think the messages are overwhelmingly in favour. That was Deputy Tindall who intervened. You did vote Pour. Yes, the votes are overwhelmingly in favour, so I declare Amendment 2 carried.

We will then go to Amendment 1, to be laid by Deputy Lester Queripel. Deputy Queripel.

[Amendment 1](#)

To insert the following Proposition after Proposition 1:

"2. To direct the Development and Planning Authority to withhold judgement on applications for the siting of 5G masts and related equipment, until such time as a 5G policy (in line with the requirements set out in the Requête) has been debated and agreed by the States of Deliberation".

Deputy Lester Queripel: Sir, thank you. I will try and do this on camera and join you on the screen. **(The Bailiff:** Lovely!)

1880 Sir, it is a simple amendment and I thank Deputy Leadbeater for sharing my concerns that we are doing things the wrong way around at the moment and for agreeing to second the amendment. I say it is a simple amendment because, although the States have not yet agreed on a policy for 5G, applications have already been submitted to the Planning Office for 5G masts.

1885 The reality is that those masts could be installed before the States have even decided on a policy. Surely the States do need to decide on a policy first, to ensure things are done the right way around? That is what Deputy Leadbeater and I think. We can only hope that the majority of the States resonate with that view and support the amendment.

1890 Now, prior to this debate, a member of the public asked me, if the planning officers could refuse permission for the masts to be installed. I explained that the officers have to work within the confines of the policy of the IDP. As long as the applications comply with the policies, then there is every possibility that permission would be granted, because the applications cannot be rejected on anything other than the policies that are currently in place.

The safety levels of 5G are not planning policies and the fact that the States have not yet decided on the policy for 5G will be completely irrelevant. The officers cannot consider those. The person I

1895 was speaking to was absolutely astounded to hear that, sir, and the first thing they said to me was should not something be done about that? So I explained to them, I was working on an amendment that actually did seek to do something about that. In response to that, sir, the person I was speaking to said, 'Let us hope your colleagues can see the sense and support your amendment.'

1900 But when I told him there is no guarantee of that happening, he said, 'Why on earth would anyone vote against an amendment that seeks to do things the right way around?' That, of course sir, is exactly what we needed to hear during this debate. If there are Members of the Assembly who are not in favour of doing things the right way around, then they need to speak up and tell us why, because there are people out in the community that need to know that and Members of the Assembly who need to know that.

1905 Before I close, sir, I feel the need to elaborate a little more on our doing things the wrong way around. Because by continuing to do that, we potentially – we do not know this – but we potentially put at risk the health of every single member of our community and not only that but we also bring the States into disrepute. So if colleagues are concerned about that and they want to do things the right way around, then they will vote in favour of this amendment. If they are not concerned about that, then they will vote against the amendment.

I ask for a recorded vote when we go to the vote. Thank you.

The Bailiff: Deputy Leadbeater, do you second the amendment?

1915 **Deputy Leadbeater:** I do sir.

The Bailiff: And Deputy de Sausmarez, do you wish to speak at this stage?

Deputy de Sausmarez: No, thank you, sir.

1920 **The Bailiff:** Does anybody wish to speak on Amendment 2? Yes, Deputy Laurie Queripel.

Deputy Laurie Queripel: Thank you, sir. Thank you for calling me.

1925 I know that Deputy de Sausmarez said, when she opened on the Requête that this Requête and requérants, she said in effect, are neutral on the subject of 5G. The Requête is actually about the States debating and agreeing a 5G policy and the issues that should be addressed in the context of a 5G policy and one cannot argue with that. That is a sound argument.

1930 But actually, if anybody be in any doubt, I am a signatory to the Requête and I think this amendment fits perfectly into that neutral category. Because, as Deputy Lester Queripel said, at the moment we have a classic example of putting the trap before the pony. Even a neutral observer would say the order of things is wrong at the moment. It is not logical. How can you have a situation where masts and 5G kit can be located or erected in various parts of the Island, prior to a 5G policy being considered and debated and agreed upon by the States?

1935 So that policy might eventually contain conditions, stipulations, guidance and in addition to that, I am sure the industry, in any case, would want certainty in regard to these issues, from the States and the various bodies that would have to deal with it, so planning and the regulator.

Now just by way of example, if you do things the wrong way around, this is the kind of thing that happens. This is a story that appeared in the *Bailiwick Express* recently. Of course, other media outlets are available, but this is in regard to this very issue that we are talking about now. It says:

A telecoms provider is withdrawing its plans to install phone antennae on a supermarket, claiming the Government's 5G policy, or lack of it, is at odds with local planning laws.

1940 The company, sir, was Airtel-Vodafone. The technical head of the company said ...

... this saga demonstrated the disconnect between the Government of Jersey's five-year strategy and other Government policies in Jersey in regard to regulation and to planning.

So they decided to withdraw the application and the reasons they gave were due to conflicting feedback they had received on the site design from the planning and building control authority. So clearly there is confusion there and not clarity. The company went on to say, the provider went onto say:

The chain of events around this planning application highlight how far apart the Government of Jersey's telecom policy is from the reality of local planning laws and brings into question whether it is possible to deliver 5G in line with the Government's ambition as laid out in its telecoms strategy action plan.

1945 They went on to say:

5G technology will potentially mean a proliferation of masts.

Now my understanding is that in some cases that could be more no more than 100 yards apart and that also brings into consideration the idea of, in some cases, that certain things would have to make way for that technology for it to work or to accommodate it. In some cases, things like trees might have to be cut down. So, surely that must all be a consideration for planning and for the regulator?

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Now, in addition to that, I was looking at an article in a health magazine recently and in this article, which was provided by engineers at Michigan Technological University, it is talking about wireless technology generally, but of course this will apply to 5G technology too and on the kit.

Cell towers for mobile networks should be placed at least 500 metres, on third of a mile, from schools, hospitals and densely populated areas, such as high-rise buildings

1955 A group of engineers is recommending and these engineers, as I say, are from the Michigan Technological University.

It is an approach that has already been adopted by planners in India and something similar should be built into US planning laws.

Clearly, they are referring to their own country there, sir. And Joshua Pearce, a member of the team, goes on to say:

Few independent human studies have shown that people living close to a cell tower, or some people living close to a cell tower because some people are more sensitive to these things, are more likely to report headaches, dizziness, depression and neuro-behavioural symptoms. I am a pro-tech, pro-human person, so I think there are ways for us to have our cell phones and minimise potential risk, without waiting to find out that putting a cell tower on top of a school was a bad idea.

Another quote from this article in this magazine, was written by Dr Joel Moskowitz., the director of the Center for Family and Community Health in the School of Public Health at the University of California, Berkeley. He says:

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Since 5G is a new technology, there is no or little research on health effects, so we are flying blind.

He said:

There is considerable evidence about the dangers from the early 2G and 3G technology. A lack of Government funding has limited independent research into the 4G networks, even though they were introduced 10 years ago.

So sir, it seems clear to me that if proper consideration, such consideration as Deputy de Sausmarez has laid out in opening on the Requête and Deputy Lester Queripel has laid out in regard to speaking to the amendment, it seems to me that there might yet be all sorts of conditions and stipulations and guidance that would have to come, be formed after a 5G policy, so I have no doubt that this amendment is very relevant, is called for and is necessary.

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Also, sir, I would just like to refer to a letter that I wrote to the planning officers in relation to the application by a telecoms provider to put up 5G masts on top of Beau Sejour Leisure Centre and at

1970 the fish cart at the Castle Pier and I think this just backs up the idea that this amendment is seeking to put things in the right order, the right way around, and without a policy in place these things really need to be called into question. It is the wrong order of things at the moment.

I said, in this letter, sir:

To say the least, these applications are premature. The States have yet to debate or agree a policy around 5G technology. Currently no policy directions are being given by the States in regard to licensing conditions, criteria and other matters relating to 5G.

So the very things that the Requête talks about.

These details when they emerge may include restrictions on where 5G masts and kit can be located. Perhaps, due to human health and environmental concerns or risks. Some jurisdictions are putting their rollout of 5G on hold for reasons similar to the above. Other jurisdictions limit where such equipment can be erected. For example, not on public buildings, schools among them, or with certain distances of residential areas.

1975 I have mentioned India, sir; Australia have the same approach as well. We know that the rollout of 5G has been put on hold in places like Brussels ...

I then went on to say:

Great play has been made that through Future Guernsey, formerly the Policy & Resource Plan, policies across the States should, whenever and wherever possible, be compatible and complementary, creating a States-wide cohesive, joined-up policy approach. If any States-approved 5G policy were to stipulate restrictions and conditions of the nature I have described, this would most certainly not be the case through these applications and indeed any others being approved.

1980 I went on to quote the example from Jersey, sir. So I think for me, there is plenty of evidence there to show that not only do we need a 5G policy before 5G is commenced upon in any real way. But I also think we need what this amendment is calling for, to make the picture and complete other things the right way around. Thank you, sir.

1985 **The Bailiff:** Now Deputy Gollop had asked if he could speak very early on. I had said I would call him first. I did not. Deputy Gollop are you there? If so, do you wish to speak on this amendment? Deputy Gollop? No, I do not think he is there.

In which case, I will call Deputy Parkinson.

1990 **Deputy Parkinson:** Thank you, sir. This amendment asks the States to direct the Development & Planning Authority to withhold approval for the siting of 5G masts and related equipment and seeks to direct the Channel Islands Competition Regulatory Authority to terminate the process for telecom operators to acquire innovation and trial licences for 5G. Now clearly the first aspect is a matter for the DPA and so I will leave Deputy Tindall and her colleagues to respond on that.

1995 **Deputy Gollop:** I am here.

The Bailiff: Deputy Gollop. Sorry, I have called Deputy Parkinson now. I will call you next.

2000 **Deputy Parkinson:** But in terms of the direction to the Channel Islands Competition Authority, obviously now the Guernsey Competition Regulator, that as it were falls within the mandate of my Committee. There is very limited trialling of 5G in the Bailiwick at present and the technology subject to a certain amount of political interest, because of the uncertainty about the security implications of Chinese equipment, which has thrown the programme of one of the telecoms companies, certainly, into some disarray for the time being. But if the amendments are successful obviously it would potentially prevent new development or trialling of 5G technology.

2005 Clearly, although this has been presented by the proposers and by Deputy Laurie Queripel as putting the horse before the cart, you can equally make the argument that without doing some –

The Bailiff: Deputy Parkinson. One of the Deputy Queripels, I am not sure which, wishes to raise a point of order.

2010

Deputy Parkinson: Fine. Go ahead.

Deputy Lester Queripel: Deputy Lester Queripel, sir.

2015

The Bailiff: Deputy Lester Queripel.

Deputy Lester Queripel: Sir, Deputy Parkinson is talking about both amendments at the same time. That is not permitted in the Rules. He should stick to the first amendment, on the DPA, surely?

2020

Deputy Parkinson: Fine. Well, I am responding to the direction to my Committee and the directions for CICRA, if I may continue?

Deputy Lester Queripel: That is the point I am making, sir. He is talking about the amendment that has not been laid yet, sir.

2025

The Bailiff: Yes, we are dealing with Amendment 1, Deputy Parkinson, which is the direction to the DPA to withhold judgement on applications until such time as a 5G policy has been debated.

Deputy Parkinson: Alright sir. In that case, I will leave it to the DPA to respond to that amendment. Thank you, sir.

2030

The Bailiff: And you will speak later?

Deputy Parkinson: Yes.

2035

The Bailiff: In that case, Deputy Gollop wishes to speak on this amendment.

Deputy Gollop: Hello?

2040

The Bailiff: Yes, Deputy Gollop, we can hear you.

Deputy Gollop: Thank you, sir.

It is ironical really that today we are discussing the future, to a degree, of telecommunications and the Requête and indeed the Deputy Laurie Queripel-placed amendment because, technologically, this Covid crisis has not only put great pressure on all of our systems, with some great innovations and solutions coming forward from both the States and many other persons, but it has also left relative Luddites like me needing perhaps a degree of extra toleration and assistance.

2045

Indeed, I do not want to be like the unfortunate politician, I believe in Wales, who did not realise his mic was on and said some unfortunate comments. That can be an issue. I certainly am minded to not only support the Requête but the amendment that Deputy Laurie Queripel has just spoken on, because I think that there have always been uncertainties about both the strategy and, to a degree, the planning points.

2050

To deal with the planning points first, I am of course both a past President of the DPA and was a member of the Environment Board. I used to attend the open planning meetings just as an observer, before then. I well remember a previous Minister of the Environment Department having applications like we are discussing now and I think it was Deputy Paint who was not satisfied about the desirability of placing these masts in a locale close to parishioners or Islanders who had reservations about it.

2055

2060 But there was not necessarily a policy framework that easily covered this and if the policy, as the
DPA of course suspect, is about improving connectivity and bandwidth then issues such as health
do not come into it and of course there can also be a conflict with issues such as the aesthetic
nature. Planning by its very nature would not wish necessarily to see masts which in any way
undermine public views or scheduled buildings.

2065 Therefore, I think it is more than sensible to support what amounts to a moratorium at this stage,
as long as it does not overly adverse our economy. Strangely enough, despite my issues with my
phones and apps and iPads and everything else, I was chosen by letter to be a guinea pig for one
of the phone companies' 4.5G tests. I did not actually respond in the affirmative, probably because
I did not fully understand the implications.

2070 Nevertheless, I have been aware for a year or so that we have been in a hybrid situation where
4G has been tested for 5G. I would perhaps, not correct, but add an appendix to something Deputy
de Sausmarez said earlier. She spoke when the Requête was placed that there was a view from
CICRA that there had been issues of anti-competitive practice by one or more firms. I believe the
two firms concerned were just given a provisional ruling and rights to argue their case, especially
as I think their counter arguments might be the Government were in one or both Islands were
2075 encouraging a degree of co-operation and proactivity.

So leaving that aside, I would say that much as I support increasing fibre technology and Deputy
de Sausmarez, in a way answered her own point in saying that in terms of self-drive vehicles or
medical innovation you do not know where you might go with 5G. I think it is a classic example, was
it not the late Henry Ford –

2080

The Bailiff: Deputy Gollop, are you now speaking generally?

Deputy Gollop: I am speaking generally as well.

2085

The Bailiff: And you will not speak again, then?

Deputy Gollop: I think that is correct.

2090 If you had asked what 19th century people would have wanted, they would have said a faster
horse rather than a motor car. Perhaps none of us foresaw the consequences of video recorders
replacing cinemas and so on. I very much support the Requête, amended or unamended. But I think
the amendment gives more teeth to the Requête because when I first read the Requête, I thought
this is all very good but it sets a context and explores procedure but does not have too much beef
in it. I think the moratorium on masts actually answers many of the more sceptical public points and
so, as Deputy Laurie Queripel said, it adds significantly.

2095 I think there has been a degree of policy making by stealth here, because, for example, we never
saw the Telecommunications Strategy placed before the States. It was then clearly changed. There
was then a reorganisation of CICRA. I am fascinated by something Deputy Parkinson said about the
changing nature of CICRA for Guernsey because one wonders if there has been a political or
economic move in Jersey, and of course the States of Jersey do to a degree own one of the leading
2100 telecommunications firms, as a change of policy in regulation and that is why we were left to paddle
our own canoe.

I just suppose that. I do not have any evidence for that. There may be other factors to do with
energy, or some other consideration. But I think we need to be put in the picture as to whether
Jersey and Guernsey telecommunications policies are now differing, especially at a time when we
2105 need to work together.

And then we have the 5G summit. I was still President of the Planning Authority at the time and
I was told by a fellow Member at a Douzaine meeting that they had got a lot out of it, and I said, 'I
wish I had gone.' They said, 'You would not have been eligible to go because you were not
considered a relevant official.' That was galling in a way because what was happening was people
2110 on some committees were not getting involved and those on Economic Development were.

2115 I have often wished that I served on Economic Development because I think sometimes the Committee loses opportunities because it is not, and needs to be more in the future, not proactive and interventionist enough. Deputy de Sausmarez makes a very key point in suggesting that even Alderney, let alone Jersey and other communities, are more proactive in focusing on investment. It is not just enough to have a policy of a strategy of a map, you have to walk the talk a bit. I do think we need a more interventionist Economic Development kind of ministry, although that goes beyond the scope of this.

2120 I am interested in building the best possible future of telecommunications but I also want it to be robust in terms of cost, equity and ensuring that despite no material evidence that health risks are fully covered. I did attend several meetings with Dr Deborah Davies and other people who had concerns about 5G internationally.

2125 I think it is an issue that many people are worried about. I do not support false rumour-mongering but I think it has to be considered in the mix and I think the evidence that we have had today that maybe we will not get universal cover for the maximum 5G across the Islands is concerning, because I had always imagined that, although we have our rural areas, Guernsey at 24 square miles, Sark and Alderney nearby, is sufficiently small and tightly populated and affluent to imply that we should get 100% coverage in every part of the Island, except perhaps maybe coastal Islands.

2130 So, for all of those reasons, I think it is very important that Economic Development are instructed to come back, as soon as possible, ideally well before Christmas, and this is actually part of our recovery strategy, hopefully, as well, with setting the goals for 5G and how the three or more operators will work together or separately and how they will deliver, either without additional state finance, hopefully, or with a degree of state support, the maximum economic, commercial and residential and social communications for Guernsey, because the last thing we need in the future is to be behind the curve but, at the same time, being very sensitive to our community, environmental and personal health needs. Thanking you.

The Bailiff: Deputy Inder, do you wish to speak on this amendment?

2140 **Deputy Inder:** Yes sir, just very briefly. Just for clarification, hopefully, when Deputy Lester Queripel sums up, it says to direct the Development & Planning Authority to withhold judgement on applications. Does that mean suspend, is that DPA speak for suspend the approval of applications for siting of 5G masts? That would be my first question. Secondly sir, this morning we debated a Requête where I was critical of the sponsoring Committee not seeking some form of planning approval before they would expend a certain amount of money working out whether ...
2145 sorry, expending an amount of money on a project before seeking planning approval.

2150 I am not sure what to do about this one, particularly, because I think we have got a sort of responsibility here. If this Requête passes and we come back, as Economic Development, before the end of December and let us say it gets defeated and we do not have 5G and we struggle on with our current ...

2155 I think there is a bit of me that says I am obliged to vote for this because, one, I think Deputy Queripel is right, both the Queripels in fact are right, in that things should be done in the right timelines and I do not see any point of asking or allowing, effectively, companies to carry on making applications for masts, and the costs involved with that, in the knowledge ... *[Inaudible]* ... they must not allow 5G in the future. But the other side of me wonders would they do it anyway and take that risks for themselves?

2160 But finally sir, I think I am likely to vote for this amendment, but I might not vote for the Requête in its entirety later. I do not know if I have made much sense, but I am a little bit confused on this one and I would not mind some clarification for something I have not been very clear on.

The Bailiff: Deputy Leadbeater and then Deputy Oliver.

Deputy Leadbeater: Thank you, sir. I will be brief.

2165 When Deputy Lester Queripel approached me at the States' Meeting in St James' and asked me to second this amendment, we had a brief discussion and it took me all of 30 seconds to agree to second it. I think it has been articulated, certainly, very well by both Deputy Lester Queripel and Deputy Laurie Queripel that this is cart before horse.

2170 Deputy Inder has just said about the costs to some of the telcos that they are going to invest and they will cover that cost, they will take the risk. That is fair enough but these things are resource-intensive, so they will take up a lot of resource at the DPA and those resources could be applied somewhere else because, currently, we do not have a 5G policy so we should not be issuing planning permission for 5G masts. Thank you, sir.

The Bailiff: Deputy Oliver.

2175

Deputy Oliver: Thank you, sir.

2180 It was just to help Deputy Inder in his quandary about this Requête. I am not saying whether he should vote for it or not, but just to let him know that, in the pipeline there are two applications for masts to be erected with a planning application and these will be considered at an open planning meeting. Obviously all the open planning meetings have now changed with the lockdown but they are to be considered at open planning, just to let him know. Thank you.

The Bailiff: No one else? Deputy Tindall indicated she wishes to speak before the summing up so I will call Deputy Tindall to speak on this amendment.

2185

Deputy Tindall: Yes sir. I have to say first of all, and I do not like correcting a colleague of mine, but I think it is only fair to say that, as far as I am aware, we have not agreed to having any applications for 5G antennae, or indeed masts, go to an open planning meeting. We did have a request but that was decided against, in the majority, and the decision was delegated to officers and approved. So unless I have missed something, I am afraid there are not any going to an open planning meeting at the moment.

2190

2195 Anyway, back to the amendment, the DPA have sought advice on this amendment and have been informed that we would be unable to comply with such a direction to withhold judgement or, in DPA speak, not making a decision on applications for the siting of 5G masts and related equipment until there is an agreed 5G policy, the DPA must therefore continue to apply the current policies within the current Law.

2200 Land planning legislation requires that, once an application has been properly made and advertised and comments considered from the public, the DPA must then go on to consider it on the basis of the material considerations in force at the time. The DPA cannot impose a planning condition unless it is for a planning purpose.

2205

2205 In any event, planning permissions are subject to the applicant obtaining all necessary licences and other permissions before use. Deputy Lester Queripel mentioned in his speech that applications have been made and approved. That is the two that I was referring to earlier. That is correct, except that these were for 5G antennae, not masts. For those that do not know, a mast is a neutral structure to which a number of antennae are attached and an antenna is a small piece of equipment, which is attached to an existing mast or structure.

2210

2210 However, I would also add that 5G antennae can be erected without the need for planning permission, for example where internal to a building or a very small scale not amounting to development. So this amendment would not affect such antennae. Upgrading existing antennae to those suitable for 5G can also take place in certain circumstances, without the need for planning permission, under the current planning exemptions. I hope that helps Members in deciding whether to support this amendment, sir. Thank you.

2215 **The Bailiff:** I see no one else wanting to speak. Deputy de Sausmarez, do you wish to speak on the amendment before I go to Deputy Lester Queripel to reply?

Deputy de Sausmarez: Thank you, sir. Just having a few sound issues.

2220 **The Bailiff:** You are very quiet. Deputy de Sausmarez, I cannot hear you at all.

Deputy de Sausmarez: Is that any better?

The Bailiff: Yes, that is better.

2225 **Deputy de Sausmarez:** It sounds as though the main issue from the DPA's point of view is with the wording of the amendment but I think, if I understood Deputy Tindall correctly, she says the DPA would be unable to comply with this. Other than that, I do agree with the raw logic, as outlined by the other speakers, but obviously it will be a judgement of the States as to whether this amendment should be approved if the Development & Planning Authority are not able to comply with it.

2230 **The Bailiff:** I see Deputy Merrett has asked to speak and I was calling you as the penultimate speaker immediately before calling Deputy Lester Queripel, so you are too late, I am afraid, Deputy Merrett. Deputy Lester Queripel.

2235

Deputy Lester Queripel: Sir, thank you. It has never been made clear to me why the DPA could not comply with this amendment. I was told, several days after lodging this with the Greffe, that it would possibly be considered to be *ultra vires*, unlawful. An email I received from HM Procureur, a couple of days after that, told me that, due to what the amendment seeks to achieve, it may cause the planning officers to act unlawfully due to their having a duty to progress applications and a resolution to try to stop them doing that could be open to challenge.

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2245 But the words 'may' and 'could' do not mean that is what is going to happen. Those are unknowns. The words 'may' and 'could' do not justify to me, or Deputy Leadbeater not pursuing and progressing this amendment, which is why we have progressed it. I still think that it is a simple amendment, sir. It is asking the Assembly if they want to continue doing things the wrong way around or would they rather do things the right way around?

2250 **The Bailiff:** Deputy Lester Queripel, if I can interrupt you, I can see that there is a request for advice from HM Comptroller, I do not think HM Procureur is in the Meeting. Would it help you if we heard from HM Comptroller at this point?

Deputy Lester Queripel: Sir, yes please.

The Bailiff: HM Comptroller are you listening, or HM Procureur?

2255

2260 **The Comptroller:** Sir, it is HM Comptroller. Yes, I have been listening. I think the issue is probably that the Development & Planning Authority operates within a legislative framework in accordance with agreed policies. It has also got to be cognisant, I think, of natural justice and precedent. It is bound by statute to deal with applications that are submitted to it in a timely fashion and I do not think that this directive can prevent the authority if it wishes to proceed to make a decision on something.

2265 It seems to me that, if the States were to approve the amendment and, ultimately, to approve it as a Proposition, it would be perhaps a preferential direction. I do not think it is mandatory. It is a matter that the Authority might wish to take into account, but whether it is a justification to delay a decision, I probably doubt that. So I do not know if that helps. As I say, I think if the States were

to approve this, I think it is a wish rather than a mandatory direction that stops the Authority from proceeding.

The Bailiff: Thank you. Deputy Lester Queripel, back to you.

2270

Deputy Lester Queripel Thank you. I thank HM Comptroller for that. My understanding sir is that it is the States who make the laws and the policies, so surely those laws and policies can be amended if that is the will of the States and in this case if it is the will of the DPA? I have not seen a piece of legislation that says the States cannot direct officers or get involved with operational issues. I have never been presented with that piece of legislation. If Deputies think operations can be improved in some way then they do what I am doing, they try to amend things, they try to improve things.

2275

The Bailiff: Deputy Lester Queripel, would it help you if HM Comptroller perhaps explained whether primary legislation can simply be amended by a Resolution?

2280

Deputy Lester Queripel: Yes please, sir. Thank you.

The Comptroller: Sir, thank you for that. I think the States of course could enact legislation and change the legislative framework that the Authority operates under, but that is not what this amendment seeks to do. It seeks to direct the Authority to do something, which I am not sure the Authority need do. Of course, the States could change the Planning Law. That is a different issue.

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The Bailiff: Thank you. Deputy Lester Queripel.

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Deputy Lester Queripel: Sir, as I said earlier, I have never seen a piece of legislation that says the States cannot direct officers or get involved with parochial issues. I take on board very much what HM Comptroller says, but surely if this amendment succeeds, the DPA could resolve the issue if the will was there? If the States directed it to. It seems to me sir we get more and more tied up with bureaucracy and red tape. I will not labour that point. I will just perhaps go into Deputy Inder's request for clarification.

2295

The Bailiff: There is a request for a point of correction from Deputy Tindall.

Deputy Tindall: Sir, I just wanted to clarify, this is not an operational matter, this is a question of the legislation and what the legislation requires of us to do. It is not a question of just directing officers, we would be directing officers to go against legislation, which of course is not within our power, it is with the States to change the legislation, as you have described. Thank you, sir.

2300

The Bailiff: Deputy Lester Queripel.

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Deputy Lester Queripel: Shall we put it to the vote, sir, to the Assembly that we change the legislation, through the Chair?

The Bailiff: You could do that but you would then need a Proposition that directs the preparation of legislation and that is not the amendment that is before the Assembly at the moment.

2310

Deputy Lester Queripel: In that case, I am in a dilemma sir, because it sounds as though if we pursue with the amendment, even if it succeeds, it is not going to achieve anything. Am I right in saying that?

2315

2320 **The Bailiff:** HM Comptroller gave you his advice. It is not for me to add to it. He said it would be a wish, rather than mandatory. That was his advice and that is the advice he has given to States' Members, and they will vote on the amendment, taking that into account.

2325 **Deputy Lester Queripel:** Okay sir. In that case, I will just deal with Deputy Inder's request for clarification. He asked for clarification on the intention of the amendment, if I remember correctly, and it is simply asking the DPA to not make a judgement on the applications for those masts until such time as the States have actually decided on a policy for 5G. As I said sir, and I keep saying, it is a simple amendment. I hope that clarifies the intention and I would just ask now, sir that we go to the vote.

2330 **The Bailiff:** We go to the vote on Amendment 1, proposed by Deputy Lester Queripel, seconded by Deputy Leadbeater, and there has been a request for a recorded vote. So we will have a recorded vote, please, Greffier.

There was a recorded vote.

Not carried – Pour 10, Contre 25, Ne vote pas 4, Absent 0

POUR	CONTRE	NE VOTE PAS	ABSENT
Deputy Gollop	Deputy Ferbrache	Alderney Rep. Roberts	None
Deputy Lester Queripel	Deputy Tindall	Alderney Rep. Snowdon	
Deputy Leadbeater	Deputy Brehaut	Deputy McSwiggan	
Deputy Le Pelley	Deputy Tooley	Deputy de Sausmarez	
Deputy Merrett	Deputy Parkinson		
Deputy Laurie Queripel	Deputy Le Clerc		
Deputy Paint	Deputy Mooney		
Deputy Brouard	Deputy Trott		
Deputy Prow	Deputy St Pier		
Deputy Oliver	Deputy Stephens		
	Deputy Meerveld		
	Deputy Fallaize		
	Deputy Inder		
	Deputy Lowe		
	Deputy Smithies		
	Deputy Hansmann Rouxel		
	Deputy Graham		
	Deputy Green		
	Deputy Dorey		
	Deputy Le Tocq		
	Deputy Dudley-Owen		
	Deputy de Lisle		
	Deputy Langlois		
	Deputy Soulsby		
	Deputy Roffey		

2335 **The Bailiff:** We will pause a moment while the votes are counted; before we turn to Amendment 3. I have been told that the voting was 10 votes in favour, with 25 against and four abstentions. I declare Amendment 1 lost.

That brings us to Amendment 3, to be laid by Deputy Lester Queripel, seconded by Deputy Leadbeater. Deputy Lester Queripel.

[Amendment 3](#)

To insert the following Propositions after Proposition 2:

'3. To agree that the States should issue a States' Direction under Section 3(1A) of The Regulation of Utilities (Bailiwick of Guernsey) Law, 2001:

i) To direct the Channel Islands Competition Authority to terminate the process for Channel Islands' telecommunication operators to acquire innovation and trial licences for 5G testing in the Bailiwick of Guernsey through Ofcom or any other method until such time as a 5G policy (in line with the requirements set out in the Requête) has been debated and agreed by the States of Deliberation'.

ii) To direct the Channel Islands Competition Authority to modify conditions under section 8 of The Telecommunications (Bailiwick of Guernsey) Law, 2001 on current innovation and trial licences for 5G testing in the Bailiwick of Guernsey through Ofcom or any other method to cease such trials until such time as a 5G policy (in line with the requirements set out in the Requête) has been debated and agreed by the States of Deliberation'.

4. To direct the Committee for Economic Development to consult with the Channel Islands Competition Authority, the States of Alderney and Chief Pleas, in order to recommend to the States whether:

i) the Channel Islands Competition Authority should terminate the process for Channel Islands' telecommunication operators to acquire innovation and trial licences for 5G testing in the Bailiwick of Guernsey through Ofcom or any other method until such time as a 5G policy (in line with the requirements set out in the Requête) has been debated and agreed by the States of Deliberation and

ii) that the Channel Islands Competition Authority should modify conditions under section 8 of The Telecommunications (Bailiwick of Guernsey) Law, 2001 on current innovation and trial licences for 5G testing in the Bailiwick of Guernsey through Ofcom or any other method to cease such trials until such time as a 5G policy (in line with the requirements set out in the Requête) has been debated and agreed by the States of Deliberation.

5. To direct the Committee for Economic Development, after consulting in accordance with Proposition 4, to make the recommendation to the States on the issuance of the States' Direction as set out in Proposition 1 within 5 working days of the date of the approval of these Propositions.

6. To agree that, if the Committee for Economic Development recommends to the States that the States' Direction as set out in Proposition 1 should be so issued ("the Positive Recommendation"), the States' Direction be issued on the day that the Positive Recommendation is lodged at the Greffe.

7. To agree that if the Committee for Economic Development does not recommend to the States that the States' Direction as set out in Proposition 1 should be issued ("the Negative Recommendation"), the States' Direction should be issued in any event on the day that the Negative Recommendation is lodged at the Greffe.

8. To agree that, if any aspect of the above Propositions are not technically correct in any degree, the Committee for Economic Development are directed to act in accordance with the legislation in order to fulfil the aims of the Propositions and, if they are unable to do so, to advise the States within 5 working days of the date of the approval of these Propositions.

Deputy Lester Queripel: Sir, thank you. I will try to do this on camera again, sir.

2340 I will start by expressing my grateful thanks to two of my colleagues, not just one. First of all, Deputy Leadbeater for seconding and when I approached him to ask him if he was willing to second, as he had already explained earlier, he had no hesitation whatsoever. In fact, the words had barely led my mouth when the word 'yes' came out of his mouth and I took great encouragement and inspiration from that.

2345 The second colleague I want to thank is Deputy Tindall because Deputy Tindall made monumental efforts in helping me compile this amendment and she made those efforts because she wants the Assembly to have this debate. Whether or not she supports the amendment is irrelevant, I just wanted to put on record my thanks to her for making so much effort to get us to this stage, because we did have to overcome quite a few obstacles and jump through quite a few hoops in our attempts to compile this amendment. It took a long time, it took a lot of work because 2350 it was obvious we needed as comprehensive as possible an amendment to lay in front of the Assembly.

2355 It did concern me, however, that it took so long for us to get the guidance from the Law Officers. That is not a criticism of the Law Officers; it is just stating a fact. It took a long time for us to get guidance on this because they are extremely busy in other areas. But of course we are all busy in all sorts of areas and I appreciate, I have got a lot of respect for the Law Officers, utmost respect for the Law Officers, but in times of crisis, other business needs to go on, but the reality is that 5G is considered to be as much of a health risk as Covid-19, by millions of people throughout the world.

2360 So that is why I applaud and commend and wholeheartedly thank Deputy Tindall for her tenacity in getting this amendment together, because it needed to at least try to encompass everything and of course Proposition 8 is the Proposition that asks Economic Development to comply with the Propositions and Resolutions as they are passed if things are not technically correct.

2365 So why do Deputy Leadbeater and I think this amendment is so important? Well, once again sir, we are doing things the wrong way around and we really do think we need to do things the right way around. If we carry on doing things the wrong way around, then not one but two things will happen, the first one being that we potentially put every single member of the community at risk and the second one being that we bring the States into disrepute. The same two reasons, of course, that we laid the first amendment.

2370 The reason we are doing things the wrong way around is the same as the previous amendment. Applications to install masts have already been submitted to the Planning Office. Permission could be granted for those applications at any time, licences have been issued for trials to take place and consequently those trials and tests are now taking place.

The Bailiff: Deputy Lester Queripel, Deputy Tindall has a point of correction.

2375 **Deputy Lester Queripel:** Okay sir.

Deputy Tindall: Thank you, sir.

2380 I just want to reiterate, no application has been made for a mast. Two applications were made for antennae and they have been approved. Thank you, sir.

The Bailiff: Deputy Lester Queripel, please continue.

2385 **Deputy Lester Queripel:** That is my not knowing the difference between a mast and an antenna, sorry about that. Again, probably it is my fault, but I did not know they had been approved. I thought they were awaiting approval, so again I have to apologise on that one. I did not even know they had been approved, sorry. Anyway, I do get the feeling I am trying to walk through a field of treacle in a pair of Wellington boots here sir, but I will carry on.

2390 **Deputy de Lisle:** Sir, a point of clarification, if I may.

Deputy Lester Queripel: Sir, there is no such thing as a point of clarification.

Deputy de Lisle: Is there not? Well, a point of order, then.

2395 **The Bailiff:** There is a point of order if there is a breach of a Rule that you are wishing to raise. What Rule do you say has been broken by Deputy Lester Queripel?

2400 **Deputy de Lisle:** Well, he has not told us what the amendment is all about, for a start. I mean people that are listening in just do not know what is going on. He is congratulating everybody around him but I think it is a matter of priority, first, to establish what it is that you are putting forward.

The Bailiff: Well, that is my fault and the Deputy Greffier's fault, between us. I thought I had made it clear that we are debating Amendment 3, which of course has been circulated and Deputy Lester Queripel had the right to ask for it to be read, but he did not request that it be read. If any member of the public listening wants to know what it is, it is available on the States' website and they can read it there.

Deputy Lester Queripel: Sir, I had already explained what this is all about. This is for us to do things the right way around, so I am not quite sure where Deputy de Lisle is coming on that one. But I will continue. We are doing things the wrong way around – I will just go over this again for the benefit of Deputy de Lisle and perhaps anyone that is not picking up on what I am saying here.

We are doing things the wrong way around; we have not got a policy in place for 5G and yet we are allowing licences to be issued for tests, we are allowing tests to be carried out and we are making decisions on applications for masts. That is all before we have got a policy in place. It is to put a hold on all of that, that is the intention of both of these amendments. The intention of this amendment, specifically, is broadening it out to the licences, the tests and the test themselves, until such time as policy has been decided on by the States.

Now I want to make it absolutely clear here – and this is why I resonate with Deputy de Sausmarez, what she said earlier – this amendment is not asking the views of the Assembly on whether they think 5G poses a risk to health or not. That is not what this amendment is about. The time for that debate will be when the actual policy letter itself is laid in front of the States.

What this amendment is asking the States to do is to decide whether they want to do things the right way around. But in support of this amendment, I think it is important that I say what I am about to say. On October 2nd last year, Dr Deborah Davis, a senior US Government health advisor, and highly acclaimed scientist, who is also a Nobel Prize winner, gave a presentation here in the Island on 5G at St James' and this is what Deputy Gollop was referring to. This is the scientist that Deputy Gollop was referring to early on.

The presentation was organised by a group of Islanders, who very much felt that they wanted to alert their fellow Islanders to the potential dangers of 5G. Now, I am sure my colleagues will recall, we were all invited to that presentation, and the heading at the top of the email invitation read as follows: *Say No to 5G in Beautiful Guernsey*. Just to emphasise once more, that is not what Deputy Leadbeater and I are saying. We are not saying we should be saying no to 5G here in Guernsey. We are saying we think we should do things the right way around.

The presentation itself was headed up *5G – Is it Safe?* I went along to that presentation, sir, and I was surprised to see well over 300 people there. I was surprised it was an excellent turnout because the weather was a damp, windy, cold October evening. I am sure those people had other things to do, but they were concerned enough to come along to a presentation, they wanted to hear what Dr Deborah Davis was going to say.

She began her presentation by telling us that 5G and wireless radiation are the most under-appreciated and unrecognised threats to public health facing the world today. She went on to say that the Environment Minister for Brussels had recently said, in a statement concerning 5G:

The people of Brussels are not guinea pigs, whose health I am willing to sell at a profit and we cannot afford to leave anything to doubt.

Dr Davis then went on to say that tests on 5G can be carried in a safe environment, behind closed doors, away from the public, because the levels of wireless radiation can be measured just as easily that way. Now sir, I am not a scientist, I never wanted to be a scientist, but I think when scientists express concerns, we really do need to listen to them. As Dr Davis said at that presentation, surely better to be safe than sorry?

Here in the Island at this moment, hundreds of people are doing their absolute utmost to save lives and ensure we stay out of harm's way of the deadly coronavirus that has us at its mercy at the moment. We are very much in unknown territory with the virus, but of course we are also very much in unknown territory with 5G. How do we know 5G radiation will not claim lives? The answer to

those is of course we do not know. So, surely we need to have the debate on 5G and once we have had that debate, then all these things can take place.

2455 **A Member:** I am but I have turned it off. Lester is driving me nuts. I would have walked out of the Assembly.

The Bailiff: Do you know that your microphone is on, Deputy Oliver?

2460 **Deputy Lester Queripel:** I am not sure if Deputy Oliver meant she would walk out of the Assembly if I was speaking in the Assembly, sir ...

The Bailiff: Maybe it was not Deputy Oliver. I am not sure who it was and I was wrong to attribute it to her, and I apologise if I identified the wrong Deputy.

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Deputy Oliver: Sir, I did not say anything, it was not me.

The Bailiff: Sorry Deputy Oliver, I apologise.

2470 **Deputy Lester Queripel:** Sir, somebody definitely said they would have walked out of the Chamber. Anyway, I am coming to a close, sir. So, as I said before, Dr Davis said surely it is better to be safe than sorry and surely we need to do things the right way around? Bearing in mind our number one objective as a Government is to ensure the wellbeing of the people, surely we have a duty to ensure that we are doing things the right way around and we need to put a policy in place first and, as I said earlier, all the other things can happen after the policy is in place, if that is what
2475 the policy and the States decide?

Again, if there are Members of the Assembly who are not going to support this amendment, then they need to speak and tell us why they are not going to support it because, once again, there are people in the community that need to hear that and there are Members of the Assembly that
2480 need to hear why any Member of this Assembly would not want to support doing things the right way around.

I was disappointed in the previous debate, sir, very few speakers and no indication as to whether or not they were going to support or reject the amendment, and yet it was rejected by quite a number of Members. The majority of the Assembly rejected it. They did not say why. No one said
2485 why in a speech, why they are rejected it, and I really ask them to say why. Their community needs to know why they would rather do things the wrong way around and not do things the right way around. So I hope Members who intend voting against this amendment do speak in this divide.

To close, this amendment seeks to rectify the current situation, doing things the wrong way around. Deputy Leadbeater and I can only hope our colleagues resonate and agree with our
2490 concerns and support the amendment. Once again, I ask for a recorded vote when we go to the vote. Thank you.

The Bailiff: Deputy Leadbeater, do you formally second the amendment?

2495 **Deputy Leadbeater:** Yes, I do sir.

The Bailiff: Well then, it has just turned 4 p.m. I think probably let us take a break now before we open debate and there has been a request for a 15-minute break and I know that the States' Greffier and his team in the Court building who are working hard all the time also would appreciate
2500 a 15-minute break. So we will resume in 15 minutes' time.

*The Assembly adjourned at 4.03 p.m.
and resumed at 4.16 p.m.*

**Ensuring that a Policy Letter on the policy governing 5G Technology is
debated by the States' Assembly –
Debate concluded –
Proposition carried as amended**

The Bailiff: Well Members, we will resume debate on Amendment 3 and I will go first to the lead requérant, Deputy de Sausmarez.

Deputy de Sausmarez: I have got nothing to add at this stage, sir, thank you.

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The Bailiff: Thank you. In that case Deputy Tindall.

Deputy Tindall: Thank you, sir. I feel ...

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The Bailiff: I think you have muted your microphone.

Deputy Tindall: Errant double click, sorry about that! Thank you, sir. I feel, well, wholly responsible, as I wrote this amendment, to explain why it was written in this way, what it intends to achieve and then briefly ... But I will start first of all with making it clear, my position on the amendment. Something that Deputy Lester Queripel said, which I want to ensure I am not associated with because, even though he did not imply it was me, my name was immediately prefaced by the comment. I have to say that 5G is not considered a health risk and refer the Assembly to the Public Health advice on this and until that changes, I follow that evidence and that position.

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I also see 5G as a means to achieving a resurgence to our economy, which I think is vital at the moment and that should be good for Guernsey, unless or until that Public Health advice changes. I also, support the principle of a debate of 5G in a policy letter, because it does clearly need to be discussed and all views aired.

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So, sir, I assisted, by drafting this amendment, because primarily I did not want the amendment directing the DPA to do something which could have been challenged and so cost the States in respect of any such legal challenge. So I do agree, I do want this particular issue of 5G testing before the policy letter is debated, to be discussed in this forum and hence the reason why I helped draft this amendment.

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Originally I drafted it on around 19th March, so it has been around quite a while. But unfortunately, Deputy Lester Queripel only got the legal advice last night. I struggled with my own version of the telecommunications legislation, which includes the regulation of utilities and the other telecom communications law.

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It is quite a long amendment but, fundamentally, I think that the words of the CEO of CICRA is really the best place to explain the background to it. I was very grateful to Mr Byrne, who answered my questions, giving me permission to share what he says. My question was basically what is the position for CICRA for testing 5G at the moment? He said:

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The CICRA position was set out for telecom operators last year and is unchanged. It is as follows: Given the current 5G work programme, no further allocation of spectrum will be recommended to Ofcom until we have clarification from the States of Guernsey as to their short and long-term policies for 5G. We are regularly engaged with States' officials to that end. We have reminded licensees who have or may be acquiring 5G innovation test spectrum and licences from Ofcom that these are only to be used for test purposes and operators cannot rely on keeping the exact frequency or the bandwidth allocation should they be successful in inquiring commercial spectrum licences in the future. The key points

are: 5G test licences, spectrum, are issued and managed by Ofcom directly; they cannot be used commercially and there is no guarantee that an operator will get spectrum when the award process is run.

Then he referred me to the website. So to clarify, I asked him, just to be absolutely clear, basically if this is what the States requires then it needs to advise CICRA to cease the CICRA and Ofcom-agreed process for Channel Island operators to acquire innovation and trial licences to stop the testing of 5G on-Island.

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So, if I can refer Members to Amendment 3, basically, Proposition 3 is to direct the Channel Islands Competition Authority to do just that. To stop this quick means of getting a temporary licence to do these trial licences to do 5G testing, but also to look at whether or not the ones that have already been approved under this Ofcom short process should actually cease. In other words, stop all 5G testing, pending the policy letter.

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Now, the second part of it, which was the bit that, unfortunately, may seem very convoluted is, basically, under the legislation, there is a process by which CICRA gets advised/directed. That really was the bit that I was seeking advice on because it does seem a little bit back to front in the sense of what we had to ask Economic Development to come back with a recommendation, in order to do this. We cannot, under the legislation, just go straight to CICRA. So that is what 4 and 5 were about and to really get ED, Economic Development, to do this process, to get this direction, under the legislation, to CICRA.

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Again, I am sure that maybe Deputy Lester Queripel or someone else may wish to have the Law Officers' advice on this as to the effect of this. I am sure that Deputy Parkinson may raise it in his speech. But the main thrust of the concern that was raised last night of this amendment, as I say, that I drafted in mid-March, is that, if you give a recommendation, it has got to be from Economic Development's point of view. You cannot give them a direction to tell them what to recommend.

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My point is that I would expect Economic Development, certainly having sat on it and been involved in the Telecoms Strategy, to come back to the States with a recommendation to say, 'No, we should be going on with testing, Public Health is fine, at the moment we should carry on, we should be ready to get on with what we need to do for the economy.' That is what I would expect them to say, but this amendment is trying to get them to come back to the States with that, so that then a discussion and debate and, if necessary, a change to that recommendation can be made if the majority of the States believe 5G testing should stop.

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Now, as I say, I hope that is a relatively straightforward explanation of what is and was a really difficult amendment to draft and hopefully it has almost got the right thing. The only difference, to a certain extent, between Amendment 1, in that we, as DPA could not adhere to it, is that this is something that is slightly different. I do not think it is something that Economic Development cannot adhere to, other than the fact that they can choose what they recommend. But, again, I feel this is an amendment that is for the States to decide whether they will give that spirit of the direction to ED to enable a discussion on whether, through the Law, to actually have a CICRA direction to stop 5G testing.

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As I say, I am sorry that it is so convoluted. I hope that explains it. I know I am not allowed to give way, but I have already had emails asking me to explain the background to it, so I am more than happy to try and explain behind the scenes, if anyone has any further questions, but I hope that helps. Thank you, sir.

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The Bailiff: Next, I will call Deputy Parkinson and then Deputy Laurie Queripel.

Deputy Parkinson: Thank you, sir and thank you to Deputy Tindall for her explanation and I think that will hopefully illustrate to Members just how complicated this area of regulation is. The spectrum licences are actually issued by Ofcom in the UK and Ofcom has been issuing short term trial licences for bits of 5G spectrum, to allow telcos to do testing. Now Deputy Tindall attempted to describe the relationship between CICRA and Ofcom and I think it would be fair to summarise it as saying Ofcom acts on a recommendation from CICRA and CICRA has, for the time being, agreed

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not to recommend the issue of any long-term spectrum licences in relation to 5G until the States' policy on 5G has been determined.

2590 This is all complicated, of course, by the fact that CICRA is imminently about to disappear and will be replaced in the Guernsey context by the Guernsey Competition Regulatory Authority. But the point is, only short-term licences for trialling 5G have been issued and no long-term licences will be issued and, in fact, the take-up of the short-term licences has been really modest. As I understand it the telcos can do quite a lot of testing, within their existing spectrum licences and indeed using existing infrastructure, possibly with the addition of some antennae to existing masts.

2595 So it is not that they cannot do anything in this space, but clearly if they want to establish, for example, how many masts would be needed to provide 100% service to the Island and I note Deputy Gollop's comments earlier about the desirability of covering the whole Island, then they may need to run trials to see how far the radio signals and transmissions can reach.

2600 So, although there is very limited activity in this area and, at the moment, the telcos are not pressing us to make any faster progress with 5G, I am not minded to support this amendment because, some Members have referred to the cart before the horse and I do not think that is a fair description. If we are going to bring policy letters to the States before the end of this year on a new telecoms strategy on including the policy in relation to 5G and, in due course, in relation to the regulatory background, then it may well be necessary for us to get some information to do some research on how many masts would be needed to cover the whole Island for 5G purposes and indeed whether the spectrum could be provided from the existing masts or perhaps the existing masts with some extra antennae.

2605 I think actually to do some testing in that area might be necessary to inform the policy letters that we will be bringing to the States. So I think to refuse to conduct any more testing would be a dangerous precedent. It would run counter to evidence-based decision-making and could potentially put us at a disadvantage in developing 5G technology, if that was the direction that the States chose to go.

2615 Now the alternative to 5G is fibre to the home and, as stated in the existing Telecoms Strategy, this will take longer, do more environmental harm – by for example requiring cables to be laid in roads – and will cost the taxpayer a lot more. That latter point is critical, given the current pressures on public finances.

2620 So I am not saying here that we should be pursuing the 5G route. That was certainly the policy direction of the existing Telecoms Strategy, which as I said earlier, actually predates most of the Members of the current Committee. What I am saying is that, in considering what the future Telecoms Strategy should be, we should have full information on 5G and the alternatives to meet the Island's telecom needs.

2625 So that is my position on the substance of this amendment, but I do want to make some comments echoing in a way the comments already made by Deputy Soulsby and Deputy Tindall on the significant amount of misinformation that is circulating about 5G. It is being bandied around on the internet that the coronavirus pandemic was caused by 5G and that is just simply, as I understand it, not supported by any scientific evidence.

2630 The World Health Organization has refuted any link between 5G and the Covid-19 pandemic and there is no credible evidence that 5G increases the risk to health of other forms of mobile telephony. If and when the World Health Organization and other people like the UK regulator Ofcom, make a decision that 5G does pose some kind of threat to anyone's health, then obviously that is something that all States' Members will want to take into consideration, but I am not going to be railroaded into making a decision prejudicial against 5G on the basis of a whole load of baloney, frankly, circulating on the internet.

2635 So I am not going to support this amendment. I would ask other Members not to support the amendment. It is possible, although there is no evidence, there is extensive demand for 5G trialling at the moment, it is possible that some trials will need to be carried out to enable evidence-based decisions to be made when the States comes to debate the Island's telecoms' new strategy and for that reason I just think that this should be dismissed.

Thank you very much, sir.

2640 **The Bailiff:** Next, Deputy Laurie Queripel, to be followed by Deputy Ferbrache.

Deputy Laurie Queripel: Thank you, sir.

I was going to say, before Deputy Parkinson spoke, that a number of the points I made in regard to the previous amendment really are applied to this one and are relevant. But I just want to pick up on something Deputy Parkinson said. He said that the World Health Organization and the regulators, at the moment, within the industry, are saying there is not a problem.

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2650 But I have just pointed out, when I spoke in my previous speech there in regard to the other amendment, there are many people you could class as experts who are saying there might be a problem. Now the World Health Organization have already said that wireless technology could constitute a risk in regard to health and they are particularly talking about certain types of cancers, so they have acknowledged that it could constitute a risk and there are, as I say, other people that could be classed as experts, doctors, scientists, who are saying there is a risk here. The trouble is the research and the tests needed to show that have not been conducted.

2655 The regulators that were saying there is not a risk, they are part of the industry I am afraid. They are not independent. They are paid by the industry, they are part of the industry. All the people in the industry that are saying there are not any problems are just going according to industry tests and industry opinion. They are not taking into any consideration any of the other scientists and doctors and other independent tests are showing there could be problems. So I think that should balance out what Deputy Parkinson said.

2660 But, as I say, what I said before, there is a lot of tie-up on what I said before in regard to the previous amendment on this, but my question will be this, sir: how can the regulator, before they are the recipients of a clear, States-approved 5G policy, that might include conditions and stipulations, approve licences for this testing activity, knowing that actually when that 5G policy comes out, those applications, although it will be retrospective of course, might contravene those conditions and stipulations.

2665 Now, just to help Deputy de Lisle, because he sounded a bit confused about the amendments, I will just quote a few lines directly from this amendment, in 3i)

To direct the Channel Islands Competition Authority –

– which the name will change, of course, quite soon –

– to terminate the process for Channel Islands' telecommunication operators to acquire innovation and trial licences for 5G testing in the Bailiwick of Guernsey through Ofcom or any other method until such time as a 5G policy (in line with the requirements set out in the Requête) has been debated and agreed by the States of Deliberation.

2670 Now, I have heard what Deputy Parkinson said. He actually feels that approving this amendment and we had approved the last one, his version of these things are, that will actually be putting the cart before the horse. I do not agree with that –

2675 **The Bailiff:** Deputy Laurie Queripel, there is a point of correction from Deputy Parkinson. Sorry, I did not spot it. Deputy Parkinson.

Deputy Parkinson: Yes, Deputy Queripel was saying how can the regulators issue licences before the States have arrived at a policy and I thought I had made it clear in my speech that they are not issuing long-term licences for 5G at the moment. So they are not going to issue any licences other than any short-term licences in relation to testing.

2680 **The Bailiff:** Deputy Laurie Queripel.

2685 **Deputy Laurie Queripel:** I did understand that, sir, but I have actually just read from the amendment, which relates to trials and testing so I think that covers that. But just going on, sir, if for legal reasons or any other reasons the States is not able to directly instruct the regulator, and I must say that makes me despair slightly, it makes me think that, as politicians, we are playing around the periphery while all the important stuff is going on and we cannot really have much of a say on it, unfortunately. But I will put that aside.

2690 But if for legal reasons or other reasons we cannot do, at the very least, approving this amendment would show clear intent and the will of this States and that surely must count for something?

2695 Secondly, sir, it will also show, in my opinion, sound and logical decision making and thinking on behalf of the States, because in my opinion – despite what Deputy Parkinson says and he is clearly entitled to his opinion – this is the right way around of doing things, so I will be supporting this amendment sir. Thank you.

The Bailiff: Thank you. Now Deputy Ferbrache.

2700 **Deputy Ferbrache:** Thank you, sir.

I have much respect for Deputy Lester Queripel and Deputy Leadbeater, but they are the ones who got the procedure completely and absolutely wrong in this particular matter and, also sir, I note on my States-owned laptop, that it is now 1639, so taking off the 15-minute or so break that we had just shortly, we have been debating this for one hour 54 minutes or thereabouts. One hour 54 minutes, I speak generally as well so I will not be speaking again, in relation to a Requête which sought a policy letter by the end of this term on the States' policy on 5G.

2705 We had at the very earliest in this afternoon session Deputy Parkinson said his Committee will, before the end of this year, bring a policy letter dealing with the Telecoms Strategy, including 5G. Yet here we are with people worrying about their jobs, with people worrying about their mortgages, with people being concerned whether they can pay their bills, spending two hours on something, which should have been agreed in two minutes. I do not believe that that is a good use of States' time. I agree absolutely with what Deputy Parkinson said earlier this afternoon, that it is a waste of political time, and it is very sad and I think it is very shameful.

2710 In relation to Deputy Lester Queripel's challenge as to why people can vote against these amendments, I actually, because of the way the votes fell, was the first person to vote Contre. Just as he said Deputy Marc Leadbeater had no time at all, in other words he agreed instantly to second both these amendments, I thought instantly that both were waste of time. Both were unnecessary.

2715 The first one, which we have actually disposed of, sought to direct the Development & Planning Authority to do something which was illegal. The Comptroller was very judicious in his comments when he was –

The Bailiff: Deputy Ferbrache, there is a point of correction, I think from Deputy Leadbeater.

2725 **Deputy Ferbrache:** Sir, I give way, of course.

Deputy Leadbeater: Thank you, sir.

2730 I would just like to correct Deputy Ferbrache in that I did not agree to second both the amendments in an instant. Deputy Lester Queripel and I had a discussion about both issues, about the licences and about the planning permission, and after that discussion, he had articulated points to me and I agreed after we discussed it.

2735 **Deputy Ferbrache:** Of course, I accept that completely. That was not my understanding of what Deputy Lester Queripel said earlier but I fully accept what Deputy Leadbeater has said. But, in any event, I got to the Road to Damascus a bit earlier than Deputy Leadbeater, albeit in a different direction, because I had no hesitation in thinking that both these amendments are a waste of time.

2740 In relation to the first amendment, which has been dealt with, the Planning Authority were being asked to do something that was illegal; they could not have dealt with, they could not have taken any heed of and, if they had, that decision would have been instantly challengeable as being *ultra vires* and that should have been known to anyone and we have had, of course I respect the advice of HM Comptroller, my own legal opinion, having been a lawyer for very many years was perhaps even more direct.

2745 In relation to this amendment, we have procedures, which have been followed. Now CICRA, or the Channel Islands Competition Authority, is a creature of statute. It has been set up by statute. It should be independent of the States. Of course the States can express a view, and so it should at the appropriate time. The appropriate time is when Deputy Parkinson's Committee bring their policy letter to the States in the next eight or nine months or so.

2750 I do not dismiss the health concerns, do not get me wrong for a second, because there are views on both sides. It is a nonsense to say that it has caused anything to do with the coronavirus, but people do have genuine concerns about health aspects in relation to 5G. The time for that to be aired is when the policy letter is debated in a few months' time. As Deputy Parkinson has again said, and I did not know this before, CICRA have agreed not to issue any long-term licences, so what is the concern? Why are we bothering with all this now?

2755 I say, respectfully, to Deputies Queripel plural and Deputy Leadbeater, that this is an amendment, and I am surprised, the last one got 10 votes, I hope this one gets less votes. Again, I am surprised that Deputy de Sausmarez and others, having had a very clear indication given by Deputy Parkinson – and good faith is presumed, we are all told to treat with States' Members with respect – has decided to keep this debate going for over two hours.

Thank you very much, sir.

2760 **The Bailiff:** Does anyone else wish to speak, before I call upon Deputy de Sausmarez to exercise her right to make the penultimate speech, if she wishes to do so? I see no one asking to speak, so I turn to Deputy de Sausmarez.

Deputy de Sausmarez: Thank you, sir.

2765 I do not have anything in particular to add. I am still a little bit confused by Deputy Ferbrache's accusation that I have somehow kept this debate carrying for longer. I have not contributed to debate on the amendment at all, really. My only query is to note that the process, convoluted as it is, would seem to take some time. I am afraid I do not have a specific indication of how long it might take, but it does seem to me that, by the time we actually go all the way through that process, the policy letter would probably be upon us anyway. So that is the only observation I would make.

2770 Other than that, I have got nothing further to add to the debate that has taken place so far. Thank you.

The Bailiff: Deputy Lester Queripel will reply to the debate.

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Deputy Lester Queripel: Sir, thank you.

2780 Just to start by clarifying on the issue of seeking legal guidance, as Deputy Tindall went to great lengths to point out, this amendment was laid 10 days ago and yesterday, after nine days of lodging it with the Greffe, we finally got that legal advice that it could be considered to be unlawful. But then again it is a 'could' and 'could' does not mean it is going to be ...

What really gets me, as my brother Deputy Laurie Queripel highlighted earlier, is that we set policies for CICRA and the DPA and yet it seems like we have to try to walk through fields of treacle in Wellington boots, to actually instruct and direct them. That is something that I will pursue at a later date.

2785 But I just want to go back to Deputy Tindall, because she went to great lengths to explain why there are so many Propositions and what they seek to do, and I thank her for that and I thank her once again for the tremendous amount of work she has put into this. She explained the spirit of

2790 direction to enable the discussion to take place is in the hands of Economic Development. So surely, on that point, there is no reason to vote against this amendment? It would be up to Economic Development to pursue it.

Deputy Parkinson, the President of Economic Development, said that this issue is further complicated because CICRA in Jersey will be doing their own thing as of June, so I do not see how it can be further complicated because surely CICRA can do this work before Jersey parts company with Guernsey?

2795 He also went to great lengths to point out that it has not been proven that 5G poses any risk to health and he is absolutely right. The tests are still taking place. Specs tests are still ongoing. But likewise, of course, there has been no evidence provided to prove that 5G does not pose a risk. As Dr Deborah Davis said, surely it is better to be safe than sorry?

2800 Anyway sir, as I said in my opening speech, this is not asking the Assembly to decide whether they think 5G is safe or not, it is simply asking the Assembly to decide whether they want to do things the right way around or not, put a hold on tests and licences being issued until such time as the States have put a policy for 5G in place. Of course, in doing that, doing things the right way around, we would then only allow 5G to be put in place when it is proven to be safe.

2805 Sir, Deputy Ferbrache said we have been debating the issue for one hour and 54 minutes. He thought it was far too long and he thought it was disgraceful. But his speech on education lasted one hour and 23 minutes. So I will leave that one with the Assembly to ponder. I could not see anything in the Education debate that could possibly pose a threat to health.

2810 That of course is debatable, but I could not see anything in that debate that potentially posed a threat to health and he spoke on that for one hour 23 minutes. Here we are discussing something that could be – no one is saying it is – potentially, so surely it is better to be safe than sorry, but he is saying a debate of one hour and 54 minutes is disgraceful. As I said, sir, I will leave that one with the Assembly to ponder.

2815 As I said earlier, we did really need to hear Deputies who intend voting against this amendment to explain why they intended voting against it. We have heard a couple, neither of which were really convincing, because they were not really focusing on the amendment, they were not really focusing on the issue, they were not really focusing on what we are seeking to do, Deputy Leadbeater and I are seeking to do.

2820 It is to just do things the right way around. So, I am sure Members have already decided which way they are going to vote, whether they want to do things the right way around or not and I think I asked for a recorded vote in my speech, sir, but if I did not, I am asking for one now, please. Thank you, sir.

The Bailiff: Thank you. You did ask for a recorded vote. So we will go to a recorded vote on Amendment 3, proposed by Deputy Lester Queripel and seconded by Deputy Leadbeater.

There was a recorded vote.

Not carried – Pour 8, Contre 26, Ne vote pas 5, Absent 0

POUR

Deputy Gollop
Deputy Lester Queripel
Deputy Leadbeater
Deputy Le Pelley
Deputy Merrett
Deputy Fallaize
Deputy Laurie Queripel
Deputy Paint

CONTRE

Deputy Ferbrache
Deputy Tindall
Deputy Brehaut
Deputy Tooley
Deputy Parkinson
Deputy Le Clerc
Deputy Mooney
Deputy Trott
Deputy St Pier
Deputy Stephens
Deputy Meerveld
Deputy Inder

NE VOTE PAS

Alderney Rep. Roberts
Alderney Rep. Snowdon
Deputy McSwiggan
Deputy de Sausmarez
Deputy Prow

ABSENT

None

Deputy Lowe
Deputy Smithies
Deputy Hansmann Rouxel
Deputy Graham
Deputy Green
Deputy Dorey
Deputy Le Tocq
Deputy Brouard
Deputy Dudley-Owen
Deputy de Lisle
Deputy Langlois
Deputy Soulsby
Deputy Roffey
Deputy Oliver

2825 **The Bailiff:** We will just pause for a few moments, while the votes are counted.

The voting was eight votes in favour, with 26 against, and five abstentions. I declare Amendment 3 lost.

That brings us to general debate, for those who have not already spoken in general debate. Who wishes to go first? Yes, Deputy de Lisle.

2830

Deputy de Lisle: Thank you, sir.

I just had a couple of points that I wanted to bring forward. My concern in the whole area of 5G of course is the roll out that could mean 150 new mobile masts around the Island and also the facts that have been brought out with regard to that, the statement from Public Health England on 5G that it is possible that there may be an increase in overall exposures to radio waves when 5G is added to the existing network.

2835

That is a concern of the public here and that has to be looked at very carefully and I think that we have to look at it from the point of view of going a little beyond, perhaps, the comfort that some are given with respect to the international body that provides testing with regard to the health impact for Guernsey, anyway.

2840

But I supported the fact that we should allow the testing because we want to know just what it does mean in terms of the number of masts, and I am talking about masts rather than antennae, the degree to which we can utilise the current masts, because there are 48 already in the Island, so if we can use those 48 and a minimum of additional, or whether in fact we should be looking at fibre, as they have done in Jersey. Jersey is covered by fibre Island-wide, where we are not. It means our receptions through broadband are fairly poor in many parts of Town and other parts of the country as well.

2845

But to look at whether we are going to be over-burdened with masts and the potential health implications of that, and of course the environmental impact of those masts also strewn around the Island, or whether in fact we should be looking at fibre, Island-wide and utilising an alternative in that way. So as a result, I approve of the idea that we should be testing in order to find out exactly the direction of play in the future, with regard to 5G, or going for the 4G+, which Jersey Telecom have been touting with us as a department in our discussions with the operators.

2850

But I have the reservations, because I went through the whole process of mast development when Airtel came into the market as a new operator and there was some reluctance to share at that time but, eventually, we got sharing in place, and we were able to limit the number of new masts that were needed by Airtel at that time.

2855

So I just make these points. Definitely concerned with regard to the potential health aspects and the number of new masts that will be required on the Island. Just to make the point there is no doubt that short-term exposure to high levels of electro-magnetic fields can be harmful to health.

2860

The focus of international research is the investigation of possible links between cancer and electro-magnetic fields at power stations and radio frequencies. So it has not really been extended, the research has not been extended to the extent that we need with respect to the area that we are discussing today.

2865 There are new concerns in Europe. In fact, many areas have stopped 5G, stating that there was a detrimental impact to health and the Netherlands, Geneva, Florence, Rome have halted or limited 5G, in addition to Brussels, on health concerns. So we have to be looking at all this in the round and making an overall decision as to where we go with this and I feel that testing is important so that we can get to grips with the whole situation as quickly as possible.

2870 Thank you, sir.

The Bailiff: I call Deputy Tooley.

Deputy Tooley: Thank you, sir. I will be brief.

2875 I am speaking in the hope of encouraging brevity generally in this debate. I think the lead requérant has made the point on numerous occasions that the purpose of this Requête is not to encourage debate about the merits or otherwise of 5G. This is not the time for that debate. This is not the time to discuss the health implications or the lack of them or even what I think is probably far more pertinent, whether the usefulness of 5G would justify the cost implications.

2880 This debate is simply to resolve that the States would like Economic Development to return to the States with a policy paper to discuss that overall Telecoms Strategy and I appreciate that Deputy Parkinson and other Members of Economic Development have said that they would be more than happy to do that but, obviously, at the time the Requête was lodged, it was not certain that there would not be an election and another Committee or other individuals in control of that, which as I understand it is why the Requête is still here.

2885 I think it is useful for us to place on record that this is something we need to debate, but this is not the time for that debate and I would encourage others, if they are making speeches, not to try to delve into the merits or dis-merits of the technology itself. This is to discuss the need for debate and not to have the debate itself.

2890 Thank you, sir.

The Bailiff: Yes, Deputy Lester Queripel.

2895 **Deputy Lester Queripel:** As we all know the reason the States have not yet decided on the policy for 5G is because Economic Development have been dragging their heels on this whole issue for several months now. I think they owe the community and the Assembly an apology, to be honest, for their tardiness. I think it is important for me to mention that and get it onto Hansard, sir, because the fact of the matter the Requête should never even have been in place in the first place.

2900 It was because of the Committee's failure to deliver that it was and that has now cost a considerable amount of money and a fair bit of time, which is why I think they owe the community and this Assembly an apology. I say that for two reasons, primarily. There will now need to be two debates on 5G, when there should have only needed to have been one, and there would have been no need to debate the amendments.

2905 Seeing as though we are where we really should not be, I think it is absolutely vital that we support this Requête to get us where we should have been and where we really need to be, and that is deciding a policy for 5G. No Committee of the States can expect to fall asleep on an issue and not be brought to task and it is because the Committee have fallen asleep on this issue that there was a need for this Requête. They needed a wake-up call to rouse them from their slumbers.

2910 As we all know, it is our duty, as politicians, to ensure the wellbeing of the community and to be able to do that, we need to be fully informed. It does concern me, time after time, but it concerns me once again here, the levels of communication coming from within a States' department have been extremely poor and we do really need to learn a lesson from that and I do hope that Economic Development will learn a lesson from that, because that message is relayed to us in paragraph 12 of this policy letter, where we are told the Committee did not tell the public that it was not going to be bringing a policy letter to the States for the States to be able to debate the whole issue of 5G.

2915

It also says that neither did the Committee tell the public that 5G trials would be starting imminently. Now, that is another example of our really needing to improve our levels of communication.

2920 It is a short speech, I am sure everyone will be glad to hear, and moving towards a close. When Deputy Parkinson spoke at the beginning of the debate, he said this Requête was unnecessary and superfluous. Of course, he would say that, would he not, because he is fighting his corner? He is doing his best to defend his Committee's lethargy.

2925 The reality is his Committee had fallen asleep on this one and they did need a wake-up call. This Requête succeeding will shortly administer that wake-up call and I ask for a recorded vote, sir, when we go to the vote, in closing.

Thank you, sir.

The Bailiff: Thank you. Next, Deputy Tindall.

2930 **Deputy Tindall:** Thank you, sir.

2935 Deputy de Sausmarez posed a question about 5G planning policies in her opening speech and was commented on in Deputy de Lisle's speech, so for information and very briefly, the current main planning issues, which are in force at the moment and will remain until changes to the 5G policy letter are any new masts would need to comply with the strict criteria of IDP Policy S5, development of strategic importance, as it would apply. So there is a high bar for new masts, which require sharing wherever possible and prevent proliferation. Although, as identified earlier, no long-term licences are being granted at this time, so this policy should remain unused.

2940 For antennae, this is supported by small-scale infrastructure policy IP11. It states that proposals for small-scale infrastructure will be supported where this would contribute to the maintenance and support of efficient and sustainable infrastructure and accord with other relevant policies of the plan. An applicant will also be asked to provide information to demonstrate that emissions are in accordance with their licence limits and areas accessible to the public are below the public exposure guidelines of the international commission on non-ionising radiation protection, ICNIRP, as mentioned by Deputy de Sausmarez in her opening speech.

2945 In addition, the Office of Environmental Health and provisions regulations will be consulted. Planners would also, as normal, need to consider the material considerations, such as design and visual impact. The installation of the antennae will therefore be required to meet other relevant States' legislation, in addition to any conditions attached to a planning permission, except those of course I mentioned previously, which do not require planning permission, as they are exempt.

2950 Therefore, if the States of Deliberation, through the Economic Development policy letter, agree to implement legislation or licensing conditions restricting the number or location of 5G antennae, this would also have to be complied with. I hope that helps sir, thank you.

2955 **The Bailiff:** Thank you. Does anyone else wish to speak before we go through the closing sequence? I do not see anyone requesting to speak, so I will call first the President of the Committee for Health & Social Care, Deputy Soulsby.

Deputy Soulsby: Sir, no, I have nothing else to say.

2960 **The Bailiff:** Thank you. The President of the Committee for Home Affairs, Deputy Lowe.

Deputy Lowe: Nothing to add. Thank you, sir.

2965 **The Bailiff:** The President of the Committee for the Environment & Infrastructure, Deputy Brehaut.

Deputy Brehaut: No, nothing to add, sir.

2970 **The Bailiff:** The President of the Committee *for* Economic Development, Deputy Parkinson. Mind you, you have already spoken. No, nothing from him.
President of the Policy & Resources Committee, Deputy St Pier.

Deputy St Pier: Nothing from me, sir.

2975 **The Bailiff:** In that case, Deputy de Sausmarez will reply.

Deputy de Sausmarez: Thank you, sir.

I do not have much else to add, in fact. It did spiral into the kind of debate – at times it spiralled into the kind of debate – I was really hoping to avoid but I really welcome Deputy Parkinson's opening remarks, which were quite some time ago now, that he and his Committee are going to be bringing a policy letter on the Telecoms Strategy in the round.

2980 In fact, when I originally considered bringing this Requête and had some conversations with some of my colleagues, I and others did consider whether we should be directing Economic Development to do exactly that but decided to keep the Requête focused on this one issue so that it could not be accused of being too far ranging.

2985 But I think, given the circumstances in particular, it is really welcome news and I thoroughly welcome and endorse that decision by Economic Development. It would have been great if we had seen it earlier but, in some respects, actually perhaps the timing is fortuitous, given the current context.

2990 So all I will say is I would urge my colleagues to support this Requête and, assuming that it is approved, which I hope it will be, I would urge Economic Development to please return to the States with that policy letter as soon as they are reasonably able to do so, having consulted all their political colleagues but probably more importantly industry actors and anyone else that they need to consult, so I would urge them to bring that back as soon as possible. But I thank my colleagues very much for enabling this debate and recommend the Requête to my colleagues.

2995 Thank you.

The Bailiff: We have had a request for a recorded vote. I remind Members that, as a result of the success of Amendment 2, laid by Deputy de Sausmarez, seconded by Deputy Merrett, there is only one Proposition left in play and that is:

To direct the Committee for Economic Development to present a policy letter to the States of Deliberation no later than the end of 2020, detailing its recommended policy on 5G technology, including specific reference to the licence conditions and criteria.

3000 On the States' website, where I am looking it ends with the words, 'The States are asked to decide :-' I think those words should not be there. Deputy de Sausmarez can you clarify?

Deputy de Sausmarez: Hello sir?

3005 **The Bailiff:** I am looking on the State's website, at the Proposition. Maybe if I open the Requête in the right-hand column? Sorry, those words, 'The States are asked to decide:- ' should not be there. If I turn to the Requête itself, they do not appear there. The Proposition is:

To direct the Committee for Economic Development to present a policy letter to the States of Deliberation no later than the end of 2020, detailing its recommended policy on 5G technology, including specific reference to the licence conditions and criteria.

That is the Proposition that we are voting on. We will have a recorded vote.

Carried – Pour 26, Contre 10, Ne vote pas 3, Absent 0

POUR	CONTRE	NE VOTE PAS	ABSENT
Deputy Tindall	Deputy Ferbrache	Alderney Rep. Roberts	None
Deputy Tooley	Deputy Parkinson	Alderney Rep. Snowdon	
Deputy Gollop	Deputy Mooney	Deputy Brehaut	
Deputy Lester Queripel	Deputy Trott		
Deputy Le Clerc	Deputy Inder		
Deputy Leadbeater	Deputy Smithies		
Deputy Le Pelley	Deputy Graham		
Deputy Merrett	Deputy Le Tocq		
Deputy St Pier	Deputy Soulsby		
Deputy Stephens	Deputy Roffey		
Deputy Meerveld			
Deputy Fallaize			
Deputy Lowe			
Deputy Laurie Queripel			
Deputy Hansmann Rouxel			
Deputy Green			
Deputy Paint			
Deputy Dorey			
Deputy Brouard			
Deputy Dudley-Owen			
Deputy McSwiggan			
Deputy de Lisle			
Deputy Langlois			
Deputy de Sausmarez			
Deputy Prow			
Deputy Oliver			

3010 **The Bailiff:** Well, the voting on the amended Proposition was 26 in favour with 10 against and three abstentions. I declare it carried.

REQUÊTE

**VI. Extension to the Bailiwick of the UK-US Extradition Treaty of 2003
and changes to the processes relating to the approval of international instruments –
Sursis Motivé approved**

Article VI.

The States are asked to decide:-

Whether, after consideration of the Requête dated 5th February 2020, they are of the opinion:-

1. To agree that before any request is made for the UK-US Extradition Treaty of 2003 to be extended to the Bailiwick, the States of Deliberation must approve a proposition that such a request be made, and the States of Alderney and Chief Pleas of Sark must also be consulted; and

2. To direct the Policy & Resources Committee, in consultation with other Committees of the States, to develop proposals for a modernised approach to the adoption of international treaties and conventions in Guernsey, which includes a greater degree of democratic scrutiny and engagement by the States Assembly as set out in this Requête, to replace the 1987 Resolution, and to return to the States with proposals no later than the end of 2021.

The Bailiff: That would bring us to the third Item, the third Requête, that has been held over from previous Meetings and I see that Deputy Fallaize is proposing that we adjourn that until tomorrow. I was hoping, given the *sursis motivé*, that maybe that could be dealt with quite quickly.
3015 Deputy Merrett, can you just give an indication of how long you are likely to be in your opening speech and on laying your *sursis motivé*?

Deputy Merrett: I do not intend to be long, sir.

The Bailiff: If we are not going to have a lengthy debate, I do not see why we would need to defer that until tomorrow. My inclination would be to move on today, so Greffier, can you please stick with the running order previously published?
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The States' Greffier: Yes sir. Article VI – Requête – Extension to the Bailiwick of the UK-US Extradition Treaty of 2003 and changes to the processes relating to the approval of international instruments.
3025

The Bailiff: Deputy Merrett.

Deputy Merrett: Thank you, sir.
3030

It is my understanding that I only get one opportunity at an opening speech, so I will be brief with that and then I will lay the *sursis* immediately afterwards. The Prayer of the Requête explains the intent in detail. Firstly, I do wish to thank the fellow requérants, that is Deputies Ferbrache, Green, Fallaize, Hansmann Rouxel and McSwiggan and Alderney Representative Snowdon. In the Requête, the first Proposition seeks to put beyond any doubt that it is the will of the States and that they must approve the Proposition before any request is made to extend through the Bailiwick the UK-US 2003 Extradition Treaty.
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Why do we feel a need to do this, sir? After all, Home Affairs' letter of comment has said it is not needed. Well, I will remind Home Affairs and Policy & Resources that we have evidence of previous agreements being made on our behalf even when there was explicit expectation they would be returned to the Assembly before it is ratified. I am referring to firstly treaties being signed, or in this case a customs arrangement, being signed on behalf of us all.
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On this occasion, there was the President of Home Affairs who, on 20th February 2018, agreed a customs arrangement with the UK Financial Secretary to the Treasury, Mel Stride MP. The agreement was signed in November, even though the July policy paper entitled 'Customs, Duties
3045

and Associated Powers Required in Respect of Brexit', stated clearly in Proposition 2, also a Home Affairs' policy paper:

Direct the Committee *for* Home Affairs to enter negotiations regarding a customs arrangement with the UK and report back to the States with recommendations in relation to entering any such arrangements as set out in Paragraph 5.5.

3050 5.5. stated sir that the States would be asked to approve any new customs arrangements and the key word here, sir, 'before' they are entered into by the Bailiwick. Bear in mind this Assembly had not given explicit consent to arrangements or treaties to be signed as it was the intention that we should be asked to approve them before they were entered into. That sir, on that occasion, was really explicit. Luckily on this occasion we were content with it but what if we had not have been?

3055 This really concerns me, as Members may recall I am very concerned that treaties or customs arrangements can be signed or ratified on our behalf without any debate in the Chamber, notwithstanding, of course sir, that the Committee *for* Home Affairs is deemed as the competent authority for Bailiwick customs matters.

Further, I am led to believe that the Committee considered and agreed to the arrangement at Policy & Resources. So that is all very good, sir, and of course I was not and the majority of Members were not and that was the agreed direction of this Assembly in July 2018.

3060 Thankfully, it was ratified in December of that year, but even though there was a States' Resolution, the President of Home Affairs arguably continued anyway. So if Members agree to Proposition 1, it is explicit and beyond any doubt that it is the will of the States that no one enters into any agreement or indeed even makes a request before this Assembly has the opportunity to approve it.

3065 Proposition 2 is easy to explain. If Members tried, like I did, to search for the 1987 Agreement, they would have failed to do so as it was pre-*Hansard*. Well, I have been determined and with very much appreciated support I have located it. I will speak briefly to it. It is clear from reading it that it needs updating.

3070 The agreement basically says that if the States' Advisory & Finance Committee, if it appears that the terms of an international agreement involves questions of human rights, if they – and only they – are of the opinion or it is likely to be considered controversial ... Well I think it is clear that something that one person might consider controversial, the next may not. ??? [17:24:32] is teaching us this. What perhaps, for example, President Trump might consider is not controversial, the rest of the world arguably might think it is. It is probably also proved with regard to human rights.

3075 Further, and the States' Advisory & Finance Committee considers necessary or expedient or if it agrees or not agrees to the application to the Island, it can ask for agreement from the States. These to me, sir, are subjective. Does it appear? Are they of the opinion? Are they likely to consider something controversial, or consider it necessary or purely just as necessity for speed?

3080 So the second part of the 1987 Agreement has never, in my term of office, been adhered to at all. It has never been honoured. Maybe that *per annum* appendix will be included in the Billet, setting out the title and a brief description of each international agreement received in the preceding year and give details of the action taken.

3085 There is evidence, sir, that we are not abiding by the 1987 Agreement anyway and I am pleased this is recognised in Policy & Resources' letter of comment or recognised the extent the 1987 Agreement needs updating. Of course, that was agreed and was achievable by a certain timeline. Of course, that may not now be the case and that, sir, I will finish on and I do wish to lay the *sursis*.

Thank you, sir.

3090 **The Bailiff:** Thank you. Two Committees have been consulted. The President of the Policy & Resources Committee, or vice-president. Do either of you wish to speak at this point?

Deputy St Pier: Sir, in view of the *sursis*, I have nothing to add.

3095 **The Bailiff:** Thank you and the President of the Committee *for* Home Affairs, Deputy Lowe, do you wish to speak?

3100 **Deputy Lowe:** I will do sir, bearing in mind Deputy Merrett spent most of her speech having a go at Home Affairs. I think I need to come back on that. Yes, we entered an agreement to work towards having a binding agreement, sir, and that is exactly what will come before the States, along with the draft legislation. So I hope that explains to Deputy Merrett, which I have explained before previously in the States, but I am happy to repeat it. Because clearly there is some misunderstanding.

3105 The Committee *for* Home Affairs notes the views of the requérants but is not persuaded that measures they propose are necessary. We are aware that this Requête is to follow on from points made by a number of requérants during the debate on the Extradition (Bailiwick of Guernsey) Law 2019 in September 2019.

3110 Sir, the Committee *for* Home Affairs is not actively considering the extension of the UK and US Extradition Treaty to Guernsey. However, if and when it needs to do so, it would have no objection to the matter being subject to a States' debate, as would have almost certainly have happened in any event. In summary, while we are not fundamentally opposed to the Requête, the Committee simply considers it to be unnecessary.

Thank you, sir.

[Sursis Motivé](#)

The States are asked:

To sursis the Propositions and to direct the Policy & Resources Committee to include the Requête in a Schedule for future States' Business for consideration at a States Meeting before the end of the political term.

The Bailiff: Thank you. Now Deputy Merrett do you wish to lay your *Sursis*? Sorry, we cannot hear you.

3115 **Deputy Merrett:** Sorry, sir. The *Sursis*, I decided with permission from the requérants early days of the first initial public health emergency and we simply believe that this is something that can wait and be debated in due course, we would like it to be debated in this political term, which has of course now been extended.

3120 Further the timeline in Proposition 2, we do not know if that is going to ... [*Inaudible*] any more. What was achievable at the time of writing no longer is. So we feel quite strongly that we need to free up the officers' time so we are now in the next couple of weeks, months, we would like to return to this Requête in due course. That is all I need to say, sir.

The Bailiff: Deputy McSwiggan, do you formally second the *sursis*?

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Deputy McSwiggan: Yes sir.

3130 **The Bailiff:** Does anybody wish to debate the *sursis*? No, I see nobody wanting to do so. So we will go straight to the vote on the *sursis*, which for anyone listening is to *sursis* the Propositions and direct the Policy & Resources Committee to include the Requête in a Schedule for Future States' Business, for consideration at a States' Meeting before the end of the political term. Votes are coming in already. Please vote using the Chat function.

Members voted Pour.

3135 **The Bailiff:** Clearly an overwhelming vote in favour. I declare the *sursis* carried. That is the end of debate on that and it is now just about 5.30 p.m. I propose that we rise now and resume tomorrow at 9.30 a.m., having concluded the business that has been held over from previous Meetings.

Thank you, Members, and we will see you at 9.30 a.m. tomorrow.

The Assembly adjourned at 5.30 p.m.