

# Economic Development Department

# White Paper

Ports of Jersey Incorporation

29<sup>th</sup> May 2014

## **Purpose and type of consultation**

To set out the Minister for Economic Development's proposals for the incorporation of the harbours and airport as the Ports of Jersey Limited.

## **Closing date**

5pm on Friday 15<sup>th</sup> August 2014

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## **Summary**

In October 2012 the States Assembly approved in principle the incorporation of Jersey Airport and Jersey Harbours into a single limited company, the 'Ports of Jersey Limited' to be wholly owned by the States. This followed the successful combination of the former Jersey Harbours and Jersey Airport into a single entity called the Ports of Jersey.

The primary objective of incorporation is to enable the Ports of Jersey to continue to provide essential public services to the Island in a sustainable manner, in the face of historic declining business volumes and costs that are rising faster than revenue.

As the business of the Ports of Jersey is our vital transport links, it cannot simply cut services to lower costs, nor can it charge the public higher prices to increase revenue without unwelcome effects on individuals and the economy. The government cannot passively accept the £314 million overall cash shortfall that, unless the situation changes, could occur by 2038. To meet this cost from government revenues would mean finding the money through some additional taxation.

At the time of the States debate in 2012, it was assumed that incorporation would be the best option to meet this challenge. Now, just over 18 months later, the work

towards incorporation has been completed, and that assumption has been borne out by the evidence contained in the attached documents.

This White Paper and the documents behind it detail the case for incorporation and the evidence behind it, examine the regulatory framework that will be in place to support the Ports of Jersey Limited and provide the legal underpinning of the incorporation.

These documents all serve to support the Minister's five key proposals-

1. To incorporate the air and sea ports within a single limited company to be 100% owned by the States of Jersey and for that company to be run on a commercial basis by a board of directors appointed for the purpose.
2. To ensure that the new entity continues to conduct necessary essential functions for the island that would not normally fall within the remit of a limited company.
3. To develop a scheme of effective regulation of the new company in the interests of customers, the wider general public and the island economy.
4. For the relevant infrastructure assets currently under government administration to be transferred to the new company by freehold transfer in the case of the airport, and by under lease arrangement in the case of the harbour assets.
5. To make the appropriate changes to local legislation to allow for the above.

The Minister's intention is to make the arguments for incorporation and the details of the work that has been conducted in this area available for the public to comment upon.

**Please send your comments to:**

Ports of Jersey Incorporation  
Economic Development Department  
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Cyril Le Marquand House  
The Parade,  
St. Helier,  
JE4 8UL

**How to contact us:**

**Email:** [portsincorporation@gov.je](mailto:portsincorporation@gov.je)

**This consultation paper has been sent to the following individuals / organisations:**

The Public Consultation Register  
Business partners of the Ports of Jersey – aviation and maritime

**A series of public briefings will be held as part of this consultation, at which the Minister and the Ports of Jersey team will be available to answer any questions from the public.**

**The schedule of public meetings is available online at:**

[www.gov.je/consultations](http://www.gov.je/consultations)

## **Ministerial Foreword**

The Ports of Jersey (PoJ) comprise the Island's key strategic transport assets, the Port of St Helier and Jersey Airport, the historic harbours plus numerous associated maritime and aeronautical assets and functions.

Jersey Airport provides a comprehensive network of commercial routes to 48 UK and European destinations, facilities for business aviation, and for local and visiting private aircraft. It is also contracted, through the Minister for External Relations, to provide air traffic control for the Channel Islands Control Zone on behalf of the French and UK authorities.

In addition to commercial port activity, Jersey Harbours provides marinas and moorings for local boat owners and visitors, including the 'Five Gold Anchor' status marinas in St. Helier, as well as moorings in the outlying harbours and maintenance of those harbours.

Importantly, Jersey Harbours also provides the coastguard service for our territorial waters, an essential public service, which in most jurisdictions is funded by taxpayers, but which in Jersey, is funded entirely by revenue generated through Ports commercial activity.

The PoJ is currently operated through two Trading Departments constituted under the Public Finances (Jersey) Law 2005 overseen by a Shadow Board appointed in 2010.

Through P.70/2012, the Assembly gave its in principle approval for the incorporation of the PoJ, following precedent set in respect of Jersey Telecom and Jersey Post. Incorporation will result in the creation of a single entity, with an independent Board. The States will retain 100% shareholding with shareholder responsibility discharged by the Minister for Treasury and Resources.

Following the States decision, as the Minister for Economic Development charged the PoJ Shadow Board with taking all necessary actions to prepare for incorporation. A key component of this work, captured in this Report, has been to demonstrate that incorporation will enhance the role of the Ports of Jersey as the Island's strategic gateways and, in doing so, deliver improved value for the taxpayer.

This report captures the result of a vast volume of work undertaken by the Shadow Board, the management and staff of the PoJ, officers from EDD, Treasury, Law Draftsmen and Law Officers and others. It demonstrates that, through incorporation, a serious potential fiscal challenge for the Island can be overcome, and enables the

Ports to become self-sustainable and make a positive contribution to public finances whilst retaining and enhancing their key role in Island life.

I am sure that you will find the case as compelling as I do.

***Senator Alan Maclean***

**Minister for Economic Development**

(This is also the Ministerial Foreword to the Case for Incorporation.)

## **Supporting documents attached**

The three key documents are-

### **The Case for Incorporation**

This document considers the challenges facing the harbours and airport now and in the future, and makes the case that incorporation is the best method by which to create an effective and sustainable ports organisation to meet those challenges. The document goes into a very high level of detail and thus runs to 57 pages, but the executive summary is a more modest 8 pages long and serves to outline the objectives of incorporation, the structure and goals of the incorporated entity, and the safeguards that will exist around it.

### **Incorporation of the Ports of Jersey - the regulatory framework**

This compliments the 'Case for Incorporation' by detailing the regulatory structure that will sit around and over the Ports of Jersey Limited. It deals with the potential pitfalls of creating a corporatised entity and examines how the various Ministers and the economic regulator will be empowered by Law and by various agreements to manage any risks that arise. It also considers how the government can channel and direct the dynamism of the new company to maximise the benefit to the Island.

### **The draft Air and Sea Ports (Incorporation) Jersey Law 201-**

This Law creates the company, gives it an asset base, determines how it will interact with the government and regulators, sets objectives and duties for all parties concerned and makes numerous consequential changes to existing legislation to accommodate the operation of the harbours and airport by a States-owned company. Like any Law, it is a complex technical document which does not lend itself to simple review, but the explanatory note that precedes it explains what each section of the Law does, and it will be of considerable interest to those who wish to examine the legal underpinning of the incorporation.

Supporting these three key texts are more specific documents that reflect various aspects of the work conducted on this project since October 2012. It is unlikely that

any consultees will find all of the appendixes of equal value to them, so they are précised below to allow the reader to look at their particular areas of interest.

## **Appendixes**

**Appendix 1a** is the original proposition as approved by the States of Jersey on 9<sup>th</sup> October 2012 by 42 votes to 5. This was the means by which the States gave approval to the incorporation project and the basis for the further work detailed in this package of documents.

**Appendix 1b** contains the comments of the Economic Affairs Scrutiny Panel on the original proposition. In brief, the Panel concluded at the time that this was the right course of action, subject to the outcome of the detailed work that needed to be done before incorporation could happen.

**Appendix 2** is the 'Principles of Incorporation' document. This serves to detail the fundamental principles underpinning incorporation, in an accessible manner and without jargon or unnecessary legal detail. A small addendum is attached addressing a few issues that changed between the time of drafting and the completion of the project.

**Appendix 3** is a copy of the Air and Sea Ports (Incorporation) Jersey Law 201-. This is included here to support cross-referencing from the main Case for Incorporation document.

**Appendix 4** is a joint validation by two external companies, Capita Symonds and Validus, of the proposed capital investment for the plan airport and harbours for the years 2014-38. It provides a review of the intended investment plans in summary terms.

**Appendix 5** gives some detail of the 'Commercial Projects' programme, demonstrating identified an initial tranche of 9 projects, highlighting the principal financial statistics and providing an overview of the feasibility and practical implications of to each project.

**Appendix 6** is an exercise in updating the financial assumptions included in the original proposition P.70/2012 from October 2012 to its present form. This was a financial responsibility exercise validated by BDO intended to ensure that no

significant changes to the case for incorporation had occurred in the intervening period.

**Appendix 7a, b and c** contain the executive summary of the report of RDC Aviation on 'volume assumptions' made about the airport. This was intended to ensure that the assumptions made in financial planning for the incorporated company were based on independently developed figures concerning passenger numbers. It also contains the terms of reference of engagement and the methodology which RDC Aviation used.

**Appendix 8a, b and c** contain the executive summary of the report of Fisher Associates on 'volume assumptions' made about the harbour. This was intended to ensure that the assumptions made in financial planning for the incorporated company were based in independently developed figures concerning future numbers of passengers and volumes of freight and fuel. It also contains the terms of reference of engagement and the methodology which Fisher Associates used.

**Appendix 9** is a package of maps showing the property to be transferred into the administration of the Ports of Jersey Limited. This is broadly the same as that attached to the original proposition but has been the subject of considerable review and discussion in the intervening period.

**Appendix 10** is a list of the regulatory agencies that will have some duty of oversight over the Ports of Jersey Limited. The context around this list sits in the main Case for Incorporation document, which references the list in section 7.2.5.

**Appendix 11** is a submission from the Group Chief Executive Officer, Ports of Jersey to the States Employment Board detailing the development process behind the employee transfer arrangements and the process of consultation and engagement that has been conducted around them.

**Appendix 12** is a draft agreement between the Chief Minister and the Ports of Jersey Limited detailing the terms on which the Ports of Jersey Limited can participate in the Public Employees Contributory Retirement Scheme (the Civil Service pension scheme). This is intended to allow the current and future employees of the Ports of Jersey Limited to be part of the scheme.



**Appendix 13** is a letter from the Channel Islands Competition Regulatory Authority (the CICRA) to the Economic Development Minister detailing the general principles of economic regulation of an entity like the Ports of Jersey Limited, and outlining the approach that the Jersey Competition Regulatory Authority (the part of the CICRA empowered by law to conduct the economic regulation) will take.

**Appendix 14** contains several case studies regarding other ports that have been incorporated, produced by Holman Fenwick Willan LLP.

**Appendix 15** is a statement by the Ports of Jersey Limited on 'corporate social responsibility'. This outlines how the company will continue to support the wider community by providing help and assistance to clubs and societies by grants, discounts, or the provision of free services.