

## **Planning and Environment Department**

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Mr Andy Tully  
U.K. Ramsar Focal Point  
Wildlife and Habitat Biodiversity Division  
Department for Environment, Food and Rural Affairs  
Zone 1/06,  
Temple Quay House,  
2 The Square  
Bristol  
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Our reference: PP/2007/0050

Dear Mr Tully,

### **Energy from Waste Plant and the Environment Scrutiny Panel's Review of the Planning Process**

With regard to the above and in particular our recent telephone conversations, I would like to confirm the situation regarding the Minister for Planning and Environment and the Environment Scrutiny Panel's respective position regarding the construction of Jersey's Energy from Waste Plant (EfW) and the adjoining Ramsar site. For clarification I would confirm that the Minister for Planning and Environment is the appropriate administrative authority for Ramsar issues in Jersey and in that context please accept this letter as the formal position of that competent authority.

During 2009 the States of Jersey Environment Scrutiny Panel investigated the planning process in relation to the approval of an EfW at La Collette in Jersey. Scrutiny Panels are charged with holding to account the business and actions of the Ministers and their Departments and are considered an important part of the governmental process. The terms of reference for the Panel's investigation in this case cast a broad view of the Environmental Impact Assessment (EIA) that accompanied the planning application for the EfW but the potential implications for the marine environment and the South East Jersey Ramsar site were those that were focused upon. Following their gathering of evidence, the Scrutiny Panel published a report in January 2010 and on 28 January forwarded you a copy of their report inviting your comments.

The Scrutiny Panel recommended – amongst other things – that an Article 3.2 Report as defined by the Ramsar Convention should be produced and submitted to the Ramsar Secretariat regarding the likely change in ecological character within the South East Coast of Jersey Ramsar Site as a result of potential water vectored contamination. The Panel considered that the report should highlight the activities proposed to assess and understand the situation and to ensure appropriate protection and, if necessary, remediation is established.

The Scrutiny Panel also forwarded a copy of their findings directly to the Ramsar Secretariat who responded in a letter of 30 March 2010 and I understand you have a copy of that letter. The Secretariat indicated that on the basis of the Panel's report it supported the conclusion that an Article 3.2 report should be prepared and submitted. As far as I am aware the Secretariat is still waiting in anticipation of that report.

You responded to the Scrutiny Panel's findings in your letter of 8 April 2010 specifically in relation to any potential submission to the Secretariat. Your letter highlighted the fact that whilst responsibility for implementation of the Ramsar Convention is devolved to Jersey any formal contact with the Ramsar Secretariat was the responsibility of the U.K. Government as the Contracting Party to the Ramsar Convention.

Whilst acknowledging the findings of the Scrutiny Panel the Minister for Planning and Environment did not agree with their conclusion and does not accept that an Article 3.2 Report is required. The Minister's response to the Environment Panel's Report, dated 10 March 2010, is attached for your information and in particular Section 20 of the recommendation section of the Report makes clear the Minister's position in relation to the Scrutiny Panels findings. As the Minister's response states;

*"There is no evidence that the ecological character of the Ramsar site is likely to change as a result of either the EfW or any other activities along the coastline. This accords with other EfWs that have been approved – Ince Marshes and Runcorn - adjacent to sensitive wetland areas including Ramsar designated site. As there is nothing to report then the purpose of a report is superfluous"*

The reasons for the Minister's position were summarised in a previous letter to you from this department dated 13 February 2009 which stated;

*"The proposal to build this plant was subject to full Environmental Impact and Health Impact Assessments. No adverse impacts on the ecology of the Ramsar site were identified, and consequently the application was approved by the Planning Minister in 2008. The plant is now under construction.*

*Because the EIA process did not identify any adverse impacts to the ecology of the Ramsar site, it was concluded that no notification was necessary under Article 3.2 of the Convention*

*With respect to the potential impacts of the plant on the adjacent Ramsar site, I would offer the following brief observations.*

*Run-off during construction phase*

*Discharges to controlled waters are controlled under the Water Pollution laws. Working methods will be specified and agreed to prevent any polluting material entering the sea.*

*Disposing of solid waste created by the plant*

*All waste disposal from the plant of its ash by-products will be regulated under the Waste Law with rigorous conditions set to prevent pollution entering the sea.*

*Emissions to air falling out over the site*

*The plant will comply with EU Waste Incineration Directive emission limit standards, a massive improvement on the current position.*

*Some of these emissions will fall on the intertidal area that comprises the Ramsar site. However, it is not considered probable that this will give rise to noticeable impacts on the*

*ecology of the marine system, particularly when the massive dilutions involved and the flushing /exchange rates experienced in the receiving water are considered. Concentrations of metals in the receiving waters will be some three orders of magnitude lower than any level of concern, even making worst case assumptions.*

*The warm water discharge*

*Warm water will be generated as part of the process of converting the heat from the plant to electricity. This will be discharged through the existing JEC culvert (there is a power station next to the site of the EFW which is no longer in routine operation). It is of much less magnitude than that already produced by the operation of the power station. It will not cause any significant change to the ecology of the Ramsar site.*

A full copy of that letter is attached for your information.

When considered as a whole the Minister's response to the Scrutiny Report provides a useful comprehensive picture as to how any concerns over the impact of the EfW have been addressed or intend to be addressed in the future.

Clearly the Minister and the Scrutiny Panel are at odds but both parties recognise the need to conclude the situation. As such the Minister and the Panel have reached an agreement that I should write to you setting out why the Minister, as the administrative authority for the Ramsar site, does not feel that an Article 3.2 Report is required. That reasoning is indicated above. Further I would be grateful if you could familiarise yourself with the Minister's response to the Scrutiny Report in order to gain an understanding of the steps that have been taken or are planned to be taken which seek to protect the marine environment.

The Minister and the Panel also agreed that you be respectfully requested to contact the Ramsar Secretariat informing them of the above so that they understand that the Minister does not consider that an Article 3.2 Report is appropriate indicating the reasons for this conclusion. This will allow the Secretariat to understand the situation and close their correspondence on the matter.

I trust you will accept this communication as an effective close to the ongoing questions and concerns that have been raised by various parties over the potential impact of the EfW on the ecology of Jersey's south East Coast Ramsar site. I look forward to our continued cooperation over Jersey's commitments to the Ramsar Convention and to providing you with further information regarding the development of the management strategy for all of Jersey's Ramsar sites in the near future

If you wish to discuss any of the above or want further clarification please do not hesitate to contact me

Yours sincerely,

Andrew Scate  
Chief Executive Officer