



Jersey

PLANNING AND BUILDING (COVID-19 BRIDGING ISLAND PLAN) (JERSEY) ORDER 2021

Official Consolidated Version

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Jersey

PLANNING AND BUILDING (COVID-19 BRIDGING ISLAND PLAN) (JERSEY) ORDER 2021

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Jersey

PLANNING AND BUILDING (COVID-19 BRIDGING ISLAND PLAN) (JERSEY) ORDER 2021

THE MINISTER FOR THE ENVIRONMENT makes this Order under Articles 3, 4A and 124 of the [Planning and Building \(Jersey\) Law 2002](#) –

Commencement [[see endnotes](#)]

1 Interpretation

In this Order –

“consultation period” is to be construed in accordance with Article 5(2)(d)(iv);

“initial representation” includes –

- (a) an amendment lodged by a Member and treated as a representation under Article 4(1); and
- (b) a representation by a member of the public under Article 6;

“inspector” means a person appointed under Article 7 and includes, unless otherwise indicated or required by the context, an assistant inspector designated under Article 7(7) and a substitute appointed under Article 7(6);

“Law” means the [Planning and Building \(Jersey\) Law 2002](#);

“Member” means a Member of the States Assembly;

“public” means the public of Jersey.

2 Application

This Order applies for the purposes of Part 2 of the Law in relation to a bridging plan only, and does not modify, derogate from or supersede a provision of the [Planning and Building \(Island Plan\) \(Jersey\) Order 2009](#) as that Order applies in relation to all draft Island Plans other than a bridging plan.

3 Publicity

- (1) A requirement in Part 2 of the Law or in this Order to publicise, or to announce and publish, a document, information or any other matter is satisfied by –
 - (a) making electronic copies of the document, information or matter available for downloading from a website;

- (b) making hard copies of the document, information or matter available to the public, whether upon request or by display in places open to the public at reasonable times;
 - (c) announcing information as to steps taken under sub-paragraphs (a) and (b); and
 - (d) circulating information as to those steps.
- (2) Information announced under paragraph (1)(c) must be announced –
 - (a) by at least one means considered, by the person subject to the requirement, to be likely to bring the information to the attention of the public; and
 - (b) where a website is used under paragraph (1)(a), on that website or another website linked to the first website.
- (3) Information must be circulated under paragraph (1)(d) to –
 - (a) each Member or member of the public who has made a representation under Article 6 and who –
 - (i) has provided an address for communication, whether postal or electronic, and
 - (ii) has not subsequently declined to receive circulated information;
 - (b) the Minister, if the person subject to the requirement to circulate information is the inspector; and
 - (c) any other person who, by the time at which the information is to be circulated –
 - (i) has been invited by the inspector, under this Order, to contribute in any manner to the examination in public,
 - (ii) has agreed to do so, and
 - (iii) has provided an address for communication, whether postal or electronic.
- (4) Information is circulated under paragraph (1)(d) by sending it to the address provided by a person for that purpose.
- (5) If a person is subject to a requirement in this Order to announce and publish a matter other than a document –
 - (a) that requirement is to be read as a requirement –
 - (i) to prepare a document containing information as to that matter, and
 - (ii) to announce and publish that document in accordance with paragraphs (1) to (4); and
 - (b) the person subject to the requirement may treat paragraphs (1)(c) and (1)(d) as if they referred to the information contained in the document under sub-paragraph (a)(i) of this paragraph, rather than to information as to steps taken under paragraphs (1)(a) and (1)(b).
- (6) A power or duty under this Order to publicise, or to announce and publish, a document or to announce or circulate information, is subject to a duty to edit that document or information to any extent necessary to comply with the [Data Protection \(Jersey\) Law 2018](#).

4 Representations: general

- (1) An amendment to the draft bridging plan which is lodged by a Member –
 - (a) must be lodged in accordance with Article 4A of the Law and with Article 5 or 18 of this Order, as the case may be; and
 - (b) if lodged following the invitation mentioned in Article 5(2)(c), is treated, except where otherwise indicated or required by the context, as an initial representation for the purposes of this Order.
- (2) A Member may not lodge an amendment to an amendment except in accordance with Article 4A of the Law and Article 18 of this Order.
- (3) Representations by members of the public under this Order are only to be submitted by the following means, namely –
 - (a) to the Minister, in the manner required under Article 6;
 - (b) to the inspector, in the manner required under Article 10; or
 - (c) by appearance and being heard at a thematic hearing under Article 12 or a plenary hearing under Article 13.
- (4) Without prejudice to paragraph (3), the following are not to be used as a forum for the submission of representations –
 - (a) any programme meeting under Article 9; or
 - (b) any informal resolution meeting, administrative meeting, technical seminar or site visit, under Article 11.
- (5) The Minister and the inspector may provide standard forms to assist the making of representations to them by members of the public, but the use of such forms is not required.
- (6) A member of the public submitting a representation may use that representation –
 - (a) to comment on the draft bridging plan, or on any amendment to it proposed by a Member;
 - (b) to comment on any representation already submitted by any other person; and
 - (c) to supplement or to replace, but not to repeat substantively, any points made in any earlier representation submitted by the person submitting the representation.
- (7) The Minister or inspector may invite a person who has submitted an initial representation to provide in writing, and before such date as the Minister or inspector may specify, either or both of the following, namely –
 - (a) further information or background material relevant to that representation; and
 - (b) a summary of, or briefing note on, any argument put forward in that representation.
- (8) For the purpose of paragraph (7) anything provided by the Minister to the inspector may be treated as an initial representation.
- (9) For the purpose of a requirement to announce and publish a representation, anything provided in response to an invitation under paragraph (7) is to be treated as part of the representation to which it relates.
- (10) A member of the public submitting a representation must include in that representation –
 - (a) their name and postal address; and

- (b) an indication of whether they wish to receive circulated information as to documents published in the examination in public.
- (11) If a member of the public wishes to receive circulated information other than at the postal address provided under paragraph (10)(a), they may include in the representation an alternative address for postal or electronic communication for that purpose.

5 Lodging and announcement of proposals

- (1) The Minister must publicise the Minister's proposals in respect of the bridging plan by –
 - (a) lodging those proposals in the form of a document that is a draft bridging plan; and
 - (b) announcing and publishing the matters listed in paragraph (2).
- (2) Those matters are –
 - (a) the document mentioned in paragraph (1)(a);
 - (b) the fact that the document has been lodged, the date of lodging, and (if different) the date of commencement of the consultation period;
 - (c) an invitation to Members to submit initial representations, whether by way of lodging proposed amendments to the draft bridging plan, or in the same manner as members of the public under sub-paragraph (d);
 - (d) an invitation to members of the public to submit initial representations, together with details of –
 - (i) the address to which the representations may be submitted,
 - (ii) if a facility has been made available for representations to be posted on a website, the details of that website,
 - (iii) the requirements of Articles 4 and 6 as to the form and content of representations, and
 - (iv) the date by which representations must be submitted, being no earlier than the end of the period of 12 weeks beginning with the date of lodging (the “consultation period”); and
 - (e) the Minister's appointment of an inspector to conduct an examination in public under Article 7(1).

6 Initial representations

- (1) During the consultation period, any person may submit a representation in respect of the draft bridging plan (an “initial representation”).
- (2) An initial representation submitted by a member of the public must –
 - (a) summarise, in not more than 1,500 words, the key points that the person wishes to make in respect of the draft bridging plan;
 - (b) be submitted in writing to the address or website mentioned in Article 5(2)(d)(i) and (ii), and by no other means; and
 - (c) be submitted before the closing date for representations mentioned in Article 5(2)(d)(iv).

- (3) An initial representation submitted by a Member or by a member of the public may be accompanied by a supplementary document that –
 - (a) is concise;
 - (b) supports any of the key points summarised in the representation;
 - (c) does not –
 - (i) contain any matter which is not relevant to the representation, or
 - (ii) repeat any matter in the representation or in any other document submitted by the person; and
 - (d) is not vexatious or abusive.
- (4) If, in the view of the Minister or the inspector, a document does not comply with paragraph (3), the Minister or inspector may disregard the document in whole or in part, but in such a case –
 - (a) must record that the document has been disregarded and the respect in which it does not comply with paragraph (3); and
 - (b) may notify the person who submitted the document that the document has been disregarded and of the reason for doing so, and may (if it appears that the document would otherwise be of value to the examination in public) give that person the opportunity to rectify the respect in which the document is not compliant.

7 Appointment of inspector etc.

- (1) The Minister must, before the end of the consultation period, appoint a person as inspector to conduct an examination in public, in which representations are to be heard in public before the draft bridging plan is debated by the States.
- (2) The Minister may appoint one or more persons as assistant inspectors, to assist the inspector in the discharge of his or her functions.
- (3) The Minister must set terms of reference for the inspector and assistant inspectors.
- (4) The Minister may appoint as an inspector or assistant inspector a person who –
 - (a) does not fall within paragraph (5); and
 - (b) appears to the Minister to have –
 - (i) qualifications in planning matters,
 - (ii) experience in the conduct of planning inquiries or examinations in public, and
 - (iii) no prior involvement directly or indirectly with the preparation of the draft bridging plan.
- (5) A person falls within this paragraph if that person –
 - (a) is a Member;
 - (b) holds appointment to any judicial office in Jersey;
 - (c) has fallen within any of sub-paragraphs (a) or (b) at any time within the period of 2 years before the date of the proposed appointment, other than as an inspector appointed under this Order or the [Planning and Building \(Island Plan\) \(Jersey\) Order 2009](#) or otherwise for the purposes of Part 7 of the Law;
 - (d) is providing services to the States in relation to any function under the Law; or

- (e) has a significant direct or indirect personal or financial interest in any of the matters set out in the draft bridging plan.
- (6) If, for any reason, the person appointed as inspector ceases to be an inspector before the inspector's report is produced under Article 16, the Minister must appoint another person as inspector in accordance with paragraph (4).
- (7) The Minister may designate one of the assistant inspectors to perform the functions of the inspector for any period during which the person appointed as inspector is unable to perform those functions through temporary absence or incapacity.
- (8) The Minister may appoint persons to provide the inspector with advice on any technical matter arising in the examination in public.
- (9) The Minister must, if the inspector so requests, arrange for the inspector to be able to control the content of a website which –
 - (a) is to be used by the inspector for the purposes of the examination in public;
 - (b) is to be maintained or arranged by an administration of the States; and
 - (c) may include a facility, subject to the inspector's control of the content of the website, for members of the public to submit representations by posting them on the website.
- (10) The Minister must ensure that administrative support is available to the inspector and any assistant inspectors, including in particular for the purposes of the maintenance and operation of any website under paragraph (9).

8 Inspector's general functions

- (1) Subject to the requirements of this Order and of the inspector's terms of reference, the inspector may conduct the examination in public in such a manner as the inspector thinks fit, and in particular may choose –
 - (a) the topics for examination;
 - (b) the persons to be invited to participate in any part of the examination;
 - (c) the format and nature of the examination;
 - (d) the format of evidence to be submitted.
- (2) If the inspector considers it just in all the circumstances to do so, the inspector may, in any particular case or generally –
 - (a) extend any period within which anything must or may be done by the inspector under this Order, provided that the Minister is satisfied that such an extension is consistent with the Law and with the inspector's terms of reference; and
 - (b) disregard any limitation in this Order on the form or extent, including a limitation as to the number of words, of a representation.

9 Preliminary matters (draft timetable, programme meeting, etc.)

- (1) Before the examination in public begins, the inspector must –
 - (a) consider all documents and information provided to the inspector by the Minister and relating to the draft bridging plan;
 - (b) make enquiries as to –
 - (i) which persons who have submitted representations wish to appear and be heard at a plenary hearing,

- (ii) which persons who have submitted representations would wish to appear and be heard at a thematic hearing, if selected by the inspector, and
 - (iii) which other persons, whom the inspector is considering inviting to appear and be heard at a thematic or plenary hearing, would wish to accept such an invitation;
- (c) prepare a draft list of –
 - (i) the matters to be examined at a hearing, with an indication of which, if any, are to be the subject of any thematic hearing,
 - (ii) persons who have been selected or invited and have agreed to appear and be heard at any thematic hearings, and
 - (iii) the dates on which hearings are to be held; and
- (d) announce and publish –
 - (i) the draft list prepared under sub-paragraph (c), and
 - (ii) an invitation to comment on the draft list, specifying the means by which to do so and any period following publication of the list in which to do so.
- (2) The inspector may, if the inspector considers it necessary to do so, make arrangements to hold a programme meeting.
- (3) The purpose of a programme meeting is to discuss the draft list published under paragraph (1)(c) and to assist the inspector in deciding on the timetable under paragraph (6).
- (4) If a programme meeting is held, it must be held in such a way as to be accessible to the public, and the inspector must announce and publish –
 - (a) the date, time and purpose of the programme meeting;
 - (b) if the meeting is held either wholly or partly online, details of the website or link by means of which the meeting may be accessed; and
 - (c) the address of the venue, if any, at which the meeting may be attended.
- (5) If no programme meeting is to be held, the inspector may announce and publish guidance as to how members of the public may make submissions to the inspector in respect of the draft list and the timetable.
- (6) The inspector must produce a timetable (and, if a programme meeting is held, must do so after that meeting) having regard to any time limits imposed in respect of the draft bridging plan by Article 4A of the Law, and showing –
 - (a) the closing date or dates by which any further representations under Article 10 must be submitted, and the maximum number of words to be used in such a representation;
 - (b) in respect of any administrative meeting, technical seminar or site visit –
 - (i) the date and time,
 - (ii) the venue,
 - (iii) whether it is public or private, and
 - (iv) if it is private, the persons invited;
 - (c) the date, time and venue for each hearing, and whether it is to be thematic or plenary; and

- (d) in respect of each thematic hearing, the matters to be examined and the persons to appear and be heard.
- (7) The inspector must announce and publish –
 - (a) the timetable; and
 - (b) an invitation to persons who have submitted initial representations during the consultation period, to submit further representations to the inspector, with details of –
 - (i) a postal address and an address for electronic communications, to which the representations may be sent or transmitted,
 - (ii) if a facility has been made available for the public to post representations on a website, the details of that website, and
 - (iii) the requirements of Articles 4 and 10 as to the submission of such representations.
- (8) The inspector –
 - (a) may revise the timetable if the inspector considers it expedient to do so; and
 - (b) must announce and publish any revision to the timetable.

10 Further representations

- (1) After publication of the timetable, further representations may be submitted in accordance with this Article, by –
 - (a) a Member, or member of the public, who has submitted an initial representation; and
 - (b) any other person invited by the inspector to do so.
- (2) A representation under this Article (a “further representation”) must relate to –
 - (a) a matter in relation to which the inspector has invited the representation;
 - (b) a matter which has previously been raised by a representation in respect of the draft bridging plan; or
 - (c) if a thematic or plenary hearing is to be held, a matter to be addressed at the hearing, irrespective of whether the person making it is to appear and be heard at that hearing.
- (3) A further representation –
 - (a) must be submitted –
 - (i) in writing, to the address or website mentioned in Article 9(7)(b)(i) and (ii), and by no other means, and
 - (ii) before the date specified in the timetable in respect of the hearing for which it is submitted;
 - (b) must be material –
 - (i) to the draft bridging plan, if submitted in respect of a plenary hearing, or
 - (ii) to the matters to be examined at the thematic hearing in respect of which it is submitted;
 - (c) must raise any substantial point on which that person may intend to expand by appearing and being heard at any hearing;

- (d) must not exceed the maximum number of words specified in the timetable for the hearing in respect of which it is submitted; and
 - (e) may be accompanied by a supplementary document that –
 - (i) is concise,
 - (ii) supports points made in the representation that it accompanies, and
 - (iii) does not contain any matter that is not relevant to those points.
- (4) Despite paragraph (1) the inspector may accept a representation submitted by a person not mentioned in that paragraph, if the inspector considers that the representation is material to the draft bridging plan or to the matters to be examined at a thematic hearing.
- (5) If the inspector receives a representation which the inspector considers to be material under paragraph (4), but which does otherwise not comply with a provision of paragraph (2) or (3), the inspector may require the representation to be resubmitted, in such form and complying with such provisions of those paragraphs as the inspector may reasonably require.
- (6) The inspector must, within such period prior to a hearing as the inspector considers expedient, announce and publish any further representations and supplementary documents submitted or treated as submitted in respect of that hearing.

11 Inspector's powers to hold meetings, site visits etc.

- (1) The inspector may invite any 2 or more of the persons listed in paragraph (3) to discuss at an informal resolution meeting any issue to be aired at a hearing.
- (2) The purpose of an informal resolution meeting is to seek to resolve, narrow or clarify any disagreement on the issue among any of the persons invited, before the hearing at which the issue is to be aired.
- (3) The persons are –
 - (a) any person who has submitted an initial representation in respect of the issue;
 - (b) the Minister; and
 - (c) any other person whom the inspector believes could usefully contribute to the meeting.
- (4) An informal resolution meeting must be held in private and in the absence of the inspector, and no record need be kept of it.
- (5) The inspector may, if the inspector thinks fit, hold one or more administrative meetings, technical seminars or site visits.
- (6) The purposes for which an administrative meeting may be held are –
 - (a) to discuss the conduct of the examination in public with invited persons or with any persons who wish to participate in the examination;
 - (b) to review the timetable; or
 - (c) any other purpose related to the arrangements for the examination.
- (7) Paragraph (6)(b) does not constrain the inspector's power under Article 9(8) to revise the timetable without first holding an administrative meeting.
- (8) An administrative meeting may be held in public or in private.
- (9) The purpose of a technical seminar is to provide technical information relevant to the examination in public to persons who wish to participate in the examination.

- (10) A technical seminar must be held in public.
- (11) An administrative meeting or technical seminar may take place at any time between the programme meeting and the final plenary hearing.
- (12) The inspector must cause a record to be made of any administrative meeting or technical seminar.
- (13) The purpose of a site visit is for the inspector to see any land specifically referred to in the draft bridging plan or in any representation.
- (14) The inspector may make a site visit either unaccompanied or accompanied, and at any reasonable time determined by the inspector.
- (15) If the inspector arranges to make a site visit accompanied by any person, the inspector is not required to defer the visit in the event that the person is not present at the time appointed for the visit.

12 Thematic hearings

- (1) If an inspector considers that a separate hearing would assist the examination of any matter relevant to the examination in public, the inspector may hold one or more thematic hearings on the matter.
- (2) If the inspector holds a thematic hearing, the inspector must invite, to appear and be heard at that hearing –
 - (a) the Minister; and
 - (b) such other persons as appear to the inspector to be likely to be able to contribute usefully to the examination of the subject matter of that hearing.
- (3) In considering the persons to be invited under paragraph (2)(b), the inspector must have particular regard to –
 - (a) any person who has submitted an initial representation which appears to the inspector to be relevant to the subject matter of the hearing; and
 - (b) any person who has submitted a further representation under Article 10 in respect of that hearing.

13 Plenary hearing

- (1) The inspector must hold at least one plenary hearing.
- (2) If a thematic hearing is held, the final hearing in the examination in public must be a plenary hearing.
- (3) Subject to paragraphs (4) to (6), the inspector may invite any person to appear and be heard at any plenary hearing.
- (4) The inspector must invite the Minister to appear and be heard at every plenary hearing.
- (5) A person who has submitted a further representation under Article 10 is entitled to appear and be heard at the final plenary hearing, unless –
 - (a) the representation was submitted in respect of a thematic hearing;
 - (b) the person has appeared and been heard at a previous plenary hearing; or
 - (c) the inspector considers that nothing in the person's representation needs to be heard in public at the final plenary hearing, and the inspector notifies the person accordingly.

- (6) In considering the persons to be invited under paragraph (3), the inspector must have particular regard to any person who has submitted an initial representation appearing to the inspector to be relevant to any matter to be considered in the plenary hearing.
- (7) If, before the end of the final plenary hearing, the inspector believes that it may be expedient, in the Inspector's report under Article 16, to recommend an amendment to the draft bridging plan which has not been raised in a representation, the inspector –
 - (a) must consider how best to obtain representations on the potential amendment;
 - (b) may invite any person to provide evidence or opinion as to that amendment, in such form as the inspector may consider appropriate; and
 - (c) may adjourn and reconvene the examination in public for the purpose of obtaining and considering any representations, evidence or opinion under this paragraph.

14 Conduct of hearings

- (1) A hearing must be held in such a way as to be accessible to the public, and the inspector must announce and publish the date, time and purpose of the hearing and –
 - (a) if the hearing is held either wholly or partly online, details of the website or link by means of which the hearing may be accessed; or
 - (b) if the hearing is not held online, the address of the venue at which the hearing may be attended.
- (2) A person may appear at a hearing in person, or through his or her officer (in the case of the Minister) or representative, and references in this Order to a person appearing are to be construed accordingly.
- (3) The inspector may, subject to any conditions which the inspector considers appropriate –
 - (a) allow a person appearing at a hearing to be accompanied by any person having technical knowledge of a matter to be considered in that hearing; and
 - (b) allow the person having that knowledge to speak at that hearing either in place of or in addition to the person appearing.
- (4) The inspector must not allow any cross-examination at a hearing.
- (5) The inspector must cause a record to be made of a hearing.

15 Inspector's power to exclude, etc.

- (1) In this Article "session" means a programme meeting, administrative meeting, technical seminar or hearing.
- (2) Paragraph (3) applies if the inspector considers that a person is behaving in a disruptive manner when appearing or present at a session.
- (3) The inspector may require the person to leave the session and may further –
 - (a) refuse to permit the person to return to the session or to any later session; or
 - (b) permit the person to return to the session, or to any or all of the later sessions, only on conditions specified by the inspector.
- (4) The inspector may adjourn and reopen a session at any time to deal with any disruption, or for any other purpose.

16 Inspector's report

- (1) Following the conclusion of the hearings and any site visit the inspector must –
 - (a) collate, for the purpose of the inspector's report to the Minister under sub-paragraph (c), all representations made in the examination in public;
 - (b) consider whether the draft bridging plan complies with Article 4(3) of the Law and, if not, what amendments if any should be made to it; and
 - (c) prepare and submit to the Minister a report in writing as to the draft bridging plan and the consideration of it in the examination in public.
- (2) The inspector's report must –
 - (a) include, but need not be confined to –
 - (i) the main issues raised by the representations and in the examination in public, and
 - (ii) the results of the inspector's considerations under paragraph 1(b) and (c); and
 - (b) otherwise comply with the inspector's terms of reference, which may include provision specifying a date by which the report must be submitted, provision as to the format of the report and as to submission of a draft of the report for checking for factual or typographic errors.

17 Minister's power to re-open examination in public

- (1) The Minister may direct the inspector to re-open the examination in public if it appears to the Minister that –
 - (a) there are material considerations, other than the Minister's policy, which are either not mentioned, or insufficiently considered, in the inspector's report; or
 - (b) the report contains any technical information which is incorrect in a material particular.
- (2) The inspector must comply with a direction under paragraph (1) and, in doing so, may make such arrangements as the inspector thinks fit for further conduct of the examination.

18 Minister to publish inspector's report, further amendments etc.

- (1) As soon as practicable after receiving it, the Minister must announce and publish the inspector's report and must present the report to the States.
- (2) If, having considered the report, it seems to the Minister that the draft bridging plan should be amended in any respect, the Minister may –
 - (a) lodge an amendment to the draft bridging plan accordingly; and
 - (b) lodge an amendment to an amendment lodged by any other Member.
- (3) Following publication of the inspector's report, a Member other than the Minister may lodge an amendment to the draft bridging plan, or an amendment to a previously lodged amendment, relating to any substantive issue in respect of the draft bridging plan which has already been considered, whether during the consultation process, during the examination in public, or in the inspector's report.

19 Citation and commencement

This Order may be cited as the Planning and Building (Covid-19 Bridging Island Plan) (Jersey) Order 2021 and comes into force on the day after it is made.

ENDNOTES

Table of Legislation History

Legislation	Year and No	Commencement	Project No (where applicable)
Planning and Building (Covid-19 Bridging Island Plan) (Jersey) Order 2021	R&O.36/2021	23 March 2021	

Projects available at statesassembly.gov.je

Table of Endnote References

There are currently no endnote references