

States of Jersey
States Assembly



États de Jersey
Assemblée des États

Corporate Services Scrutiny Panel



States of Jersey Development Company: Interim Report

Presented to the States on 11th October 2010

S.R.10/2010

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1. EXECUTIVE SUMMARY

The Corporate Services Scrutiny Panel has formed a Sub-Panel and reviewed P.73/2010, a proposition of the Council of Ministers. The proposition, if adopted, would establish the Jersey Development Company and place it within a structured regeneration process.

This is an interim report and the Sub-Panel will present its final report after the debate on the 12th October 2010. Due to a number of issues, which will be discussed in this report, we feel that our review was unable to continue into the final report stage, as we were not provided with the information we requested to satisfy our Terms of Reference.

2. INTRODUCTION

The Sub-Panel's Terms of Reference are as follows:

1. To consider the proposition lodged by the Council of Ministers: "Property and Infrastructure Regeneration: The States of Jersey Development Company Limited" (P.73/2010), with particular reference to the following:
 - a. Proposals for Property and Infrastructure Regeneration – Objectives for the States of Jersey;
 - b. Regeneration Zones;
 - c. Structure;
 - d. The role of the States Assembly;
 - e. Regeneration Steering Group;
 - f. The States of Jersey Development Company Limited;
 - g. Jersey Property Holdings;
 - h. The Minister for Planning and Environment and his Department;
 - i. The Regeneration Process;
 - j. Role of the Minister for Treasury and Resources.
2. To assess whether the accepted recommendations made in S.R.9/2009 have been followed and implemented by the Council of Ministers.
3. To establish whether the scope, role and remit of the Jersey Development Company structure proposed in proposition P.73/2010, due to be debated on the 19th July 2010 for new arrangements for property and infrastructure regeneration would be appropriate.
4. To examine any further issues relating to the proposition that may arise in the course of the Scrutiny Review and which the Panel considers relevant.

On 7th June 2010, the Council of Ministers lodged *Property and Infrastructure Regeneration: the States of Jersey Development Company Limited* (hereafter known as "P.73/2010").

This is the fourth review the Corporate Services Scrutiny Panel has undertaken surrounding WEB and the establishment of a "new" company to approach property and infrastructure regeneration.

The third review (S.R.9/2009) undertaken most recently by the previous Sub-Panel reviewed P.79/2009, however, during the debate it was referenced back. P.79/2009 re-issue was lodged after a significant delay due to an apparent "dispute" between the DTZ independent report and WEB; this will be discussed further on in the report.

The Sub-Panel received P.79/2010 re-issue in its draft format from the Chief Ministers Department. It primarily raised concerns because it did not clearly separate the Jersey Development Company (hereafter known as “SoJDC”) and the Waterfront Enterprise Board (hereafter known as “WEB”). It became apparent that even though all the previous Sub-Panel’s recommendations had been accepted, draft P.79/2010 re-issue appeared not to adhere to what had been recommended and certainly merited a review. During a meeting with the Chief Minister, the issue was highlighted and resulted in the lodging of P.73/2010.

BACKGROUND INFORMATION

WEB was set up by the States of Jersey in 1995 to manage the development of the St Helier Waterfront. It is owned by the Jersey public and represented by the States of Jersey. The company was incorporated in Jersey on the 21st February 1996 when one million shares of £1 each were issued to the States of Jersey. In 1997, WEB’s authorised share capital was increased from £1 million to £20 million.¹

WEB’s main objectives were to promote, co-ordinate and implement a comprehensive strategy for the development of the St Helier Waterfront.

3. THE PROPOSITION

P.73/2010 presents new proposals for structuring the planning, development and implementation of major property and associated infrastructure regeneration projects in Jersey, making particular reference to St. Helier. Within P.73/2010, it explains that since WEB’s inception, WEB has performed dual roles due to a lack of clarity in its remit.

The following points have contributed to the delay of the final report of the Sub-Panel. All the relevant correspondence has been appended to this report.

PUBLIC HEARINGS

The Sub-Panel has held Public Hearings with:

- Jersey Property Holdings,
- Chief Minister’s Department, public and private
- Waterfront Enterprise Board
- Treasury and Resources Department

¹ “Web History” found at www.jerseywaterfront.je/webhistory, accessed August 2010

We had originally only invited the Assistant Minister for Treasury and Resources and Director of Property Holdings, however, the Deputy Chief Executive and Chief Officer of Resources insisted that he also attended. We were surprised to hear that he had not been involved with the development of P.73/2010 or the DTZ reviews:

Deputy Chief Executive and Chief Officer of Resources:

“...as a representative of the Chief Minister’s Department I have not been closely involved with the DTZ W.E.B. issue because I have been involved in some other ... as I am sure you are aware, there have been major issues of significance recently. So my knowledge of what has been going on in the Chief Minister’s Department in relation to this review is very, very limited.”²

We failed to see any reason why the Deputy Chief Executive and Chief Officer of Resources attended the Hearing in the first instance when he had not been involved with the DTZ or indeed WEB. He was unable to answer our questions relating to the DTZ reviews and WEB which was a waste of valuable time during the Public Hearing.

DTZ

DTZ is a company which carried out two reviews relating to the SoJDC. One reviewed the proposals for SoJDC and is subsequently attached to P.73/2010 and the second reviewed WEB (R.67/2010) which has been published separately as a Report to the States.

At the start of its review the Sub-Panel Chairman met with the Chief Minister, Treasury and Resources Minister, Chief Executive and Assistant Chief Executive. We are minded that this was a private meeting, however, it was heard that an original draft of the DTZ report had been submitted to WEB for factual checking.

The Sub-Panel also heard that factual “disputes” between DTZ and WEB had caused a delay in its final report. In answer to this, the Chief Minister said *“It may have been a word used carelessly because I do not think it was so much disputes as to differences of opinion as to what were the true facts behind the matter, what the true interpretation of those facts”³*.

Following further investigation into DTZ’s Terms of Reference for its review, the Sub-Panel were under the impression Scrutiny would receive a copy of the report at the factual checking stage and then it would be published to all States Members:

² Transcript from Public Hearing with Property Holdings, 15th July 2010, p.3

³ Transcript from Public Hearing with the Chief Minister, 18th August 2010, p.14

The outcome of the review should be a report setting out the key findings from the above, which will be discussed and facts checked with the board of WEB and which will be shared with the Scrutiny Panel [our emphasis] and published to all States Members in advance of the debate. It should be noted that the findings will become public domain.⁴

We wrote a letter on the 16th July 2010 (Appendix One) requesting the original DTZ report. Access was subsequently denied in a response letter which was sent from the Chief Minister's Department on the 21st July 2010 (Appendix Two), because it was understood that DTZ submitted early working drafts on the implicit understanding that they would not be published. It was the Sub-Panel's intention to view the first draft DTZ report under a confidentiality agreement, and this was offered very clearly in the letter.

Within the letter of the 21st July 2010, it stated that the Terms of Reference for the DTZ review "*made it quite clear that the WEB Board would have the opportunity to discuss and check facts as part of the review process*". We do not disagree with this statement, however, it was also made clear that the Scrutiny Panel should have received a copy.

This was perhaps recognised by the Chief Minister's Department because a day later (22nd July 2010) a second letter (Appendix Three) was sent to the Sub-Panel explaining that the draft DTZ report would in fact be released to the Sub-Panel under a strict confidentiality agreement.

After a comparison between the draft DTZ report and the final report, the Sub-Panel noted approximately 30 changes in content and in some cases, tone.

4. THE RECOMMENDATIONS

All the previous Sub-Panel's recommendations were accepted by the Chief Minister including a recommendation that suggested prior to the debate, the Chief Minister should ensure that the proposition is amended to show, without any room for doubt, that the SoJDC would not be the same as the current WEB.

In its report, the previous Sub-Panel questioned whether the proposition (P.79/2009) accurately conveyed that it would be more than just a change in name. Around the time of that review, the Chief Minister acknowledged that the new company would be completely different⁵. In the original P.79/2009 the accompanying report stated "*to agree that the role and*

⁴ Review of the Waterfront Enterprise Board: Terms of Reference, 22nd December 2009, p.5

⁵ Jersey Development Company (S.R.9/2009), presented 22nd October 2009, p.22

*remit of the company should be extended*⁶. This statement caused confusion for the previous Sub-Panel as it gave the impression that the new company would be an extension of the current WEB.

Confusion remains today, as to how exactly SoJDC will differ to WEB. The proposed Memorandum of Understanding in P.73/2010 states *“Their Act of [date] agreed that the role and remit of the company should be extended”*⁷ [our emphasis].

The Sub-Panel also note, however, that P.73/2010 states: *Appendix two of the said Report which fundamentally reforms [our emphasis] the role and remit of the Waterfront Enterprise Board Limited in accordance with the arrangements set out in the said Report...*⁸ The Sub-Panel asks whether P.73/2010 simply calls for WEB to be renamed as the “States of Jersey Development Company”.

The first DTZ report (*“A Review of Proposals for the States of Jersey Development Company”*) mentioned that, in principle, it considers that it would be appropriate for WEB to be seen to be disbanded and SoJDC take its place with a different remit. The report goes on to say that it may be beneficial for WEB to become a subsidiary of SoJDC so that assets and projects can transfer. This would be important to be seen in the public consciousness as a fresh vehicle with a different agenda focussed on excellent design, purposeful delivery, long term value and built on the principles of partnership.⁹

The Sub-Panel noted that the Chief Minister and Chief Executive both highlighted concerns regarding employment law.¹⁰ During the Hearing with the Minister for Treasury and Resources, it became increasingly clear that WEB could not be disbanded with SoJDC taking its place, because of both commercial and personnel contractual commitments. He said that starting SoJDC afresh would be *“hugely expensive to do and extremely risky in terms of having to deal with the existing contractual relations”*¹¹.

“EXISTING CONTRACTUAL RELATIONS?”

Hearing that there were contractual commitment issues intrigued the Sub-Panel. Below is a chronological order of events that followed:

⁶ P.79/2009 “Property and Infrastructure Regeneration: The States of Jersey Development Company Limited”, June 2009, p.2

⁷ P.73/2010 “Property and Infrastructure Regeneration: The States of Jersey Development Company Limited”, June 2010, p.34

⁸ P.73/2010 “Property and Infrastructure Regeneration: The States of Jersey Development Company Limited”, June 2010, p.2

⁹ DTZ, “Review of the Proposals for the States of Jersey Development Company”, May 2009, p.27

¹⁰ Transcript from Public Hearing with the Chief Minister, 18th August 2010, p.13

¹¹ Transcript from Public Hearing with the Minister for Treasury and Resources, 25th August 2010, p.23

- A letter from the Sub-Panel dated 25th August 2010 (Appendix Four) requested the contracts of all the Executive Directors of WEB.
- Access to the contracts was denied in a letter from the Chief Minister dated 8th September 2010 (Appendix Five) because he felt that the request did not relate to the Sub-Panel's Terms of Reference.

However, we felt that the request *did* relate to our second Term of Reference which was: *To assess whether the accepted recommendations made in S.R.9/2010 have been followed and implemented by the Council of Ministers.*

- This point was addressed in a second letter dated 10th September 2010 (Appendix Six) to the Chief Minister, which also presented a clear argument as to why we wished to look at the contracts.
- Following a delay from the Chief Minister we wrote a third follow-up letter (dated 16th September 2010; Appendix Seven) to the Chief Minister.
- The Chief Minister responded on the 20th September 2010 (Appendix Eight). His letter said that he remained of the view that the information requested was not relevant to the Sub-Panel's review.
- We wrote a fourth letter dated 22nd September 2010 (Appendix Nine) presenting our argument again.
- The Chief Minister responded on the 27th September 2010 (appendix ten) still denying access to the contracts. Within that letter he said "*contract of the Managing Director of WEB is a permanent contract which makes provision for its terms and condition to continue in circumstances where the company is reconstructed or amalgamated without a claim against the company.*"

We would like to make it clear that we did not single out any one member of WEB. It was our intention to view all of the contracts of the Executive Directors under a strict confidentiality agreement.

We were surprised to receive an email from the Chief Minister on the 29th September 2010 which said "*I now understand that it would be possible for the Corporate Services Scrutiny Sub-panel to attend upon the Board of Directors of WEB at their offices to view, in confidence, the employment contract of the current Chief Executive.*"

During the private meeting with WEB, which took place on the 1st October 2010, we were provided with a single paragraph from one of the contracts which WEB thought was relevant

to our review. A number of questions remain surrounding the contractual relations with WEB, which could have been answered if the contracts had been provided.

The questions we have been unable to answer are as follows:

1. We heard in a public hearing with the Minister for Treasury and Resources that the stage has passed when it would have been possible to start up a new company. What has happened that makes a severance with WEB now not possible when it was 3 or 4 years ago?
2. What are the contractual commitments that will need to be dealt with to shut down WEB and start SoJDC afresh?
3. What are the risks in having to deal with the existing contractual relations?
4. Why would it be administratively expensive?

The Sub-Panel's frustrations were aired in another letter, dated 1st October 2010, to the Chief Minister (Appendix Eleven). We made it very clear that there were no personal vendettas, and we were simply seeking answers to the questions we had raised.

We are aware that Part 2 of the States of Jersey (Powers, Privileges and Immunities) (Scrutiny panels, PAC and PPC) (Jersey) Regulations 2006 gives Scrutiny Panels and Sub-Panels the right to summon persons to produce documents which are relevant to the matter it is investigating. This is not a route we would wish to go down, however, it was a point that was raised within the letter.

The latest letter from the Chief Minister, dated 5th October 2010 (Appendix Twelve) has requested that we make our reasons "clearer" for wishing to view the contracts. We feel that the chronology of the numerous letters enclosed in this interim report demonstrate clearly the reasons for the requests.

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| <p>The time it has taken to receive and request the required information has contributed significantly to the Sub-Panel having to present an interim report.</p> |
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5. CONCLUSION

It is with great frustration that we have issued an interim report, but we are not yet at the stage in this review to present our final report or indeed our key findings or recommendations. We wish to provide the opportunity for a well informed debate, and in order to turn this into reality, the relevant information must be provided.

We have no doubt that the development of a new States of Jersey Development Company is the right way for Jersey to proceed, however, we envisage that in order for it to be successful, it needs to be established on a solid foundation acceptable to both the States Assembly and the Public.

6. PANEL MEMBERSHIP

For the purposes of this review, the Corporate Services Scrutiny Panel established the following Sub-Panel:

DEPUTY C.H. EGRE, CHAIRMAN

DEPUTY D.J. DE SOUSA, VICE-CHAIRMAN

SENATOR S.C. FERGUSON

The Jersey Development Company Sub-Panel appointed “Bruton Knowles” as its expert advisor, a property consultancy agent that provides property related services including building consultancy, compulsory purchase and compensation, estate strategy, agency and development consultancy, professional skills such as valuation, lease renewals, rent reviews and rating as well as commercial property management and residential block management. Mr. Richard Law acted as principal advisor to the Sub-Panel, a rôle he had also filled with the previous Sub-Panel.

The Corporate Services Scrutiny Panel itself comprised the following members:

SENATOR S.C. FERGUSON, CHAIRMAN

DEPUTY C.H. EGRE, VICE-CHAIRMAN

CONNETABLE D.J. MURPHY

[Connètable Murphy participated as a witness in the Public Hearing with WEB and did not take part in the proceedings as a Member of the Panel]

DEPUTY T.A. VALLOIS

7. METHODOLOGY AND EVIDENCE CONSIDERED

The following documents are available to read on the Scrutiny website (www.scrutiny.gov.je) unless received under a confidential agreement. In addition to material gathered during its review, the Sub-Panel was able to call upon documents and information received by the former Corporate Services (Jersey Enterprise Board) Sub-Panel, also chaired by Deputy C.H. Egré.

Documents

- Property and Infrastructure Regeneration: the States of Jersey Development Company Limited (P.73/2010)
- Property and Infrastructure Regeneration: the States of Jersey Development Company Limited (P.79/2009)
- Jersey Development Company (S.R.9/2009)
- DTZ: Review of Proposals for SoJDC (May 2009)
- DTZ: Review of Waterfront Enterprise Board (May 2010)

Public Hearings

15th July 2010

Deputy J.A.N Le Fondré, Assistant Minister for Treasury and Resources

Mr J. Richardson, Deputy Chief Executive, Chief Officer of Resources

Mr. D. Flowers, Director, Property Holdings

18th August 2010

Senator T.A Le Sueur, Chief Minister

Mr W. Ogley, Chief Executive of the States of Jersey

20th August 2010

Mr. S. Izatt, Managing Director, Waterfront Enterprise Board

Jurat J. Tibbo, Acting Chairman, Waterfront Enterprise Board

Connétable D.J. Murphy of Grouville, States Director, Waterfront Enterprise Board

25th August 2010

Senator P.F.C Ozouf, Minister for Treasury and Resources

Mr. J. Turner, Deputy Treasurer of the States of Jersey

Mr. D. Flowers, Director of Property Holdings

8. APPENDIX ONE

States of Jersey
States Assembly



États de Jersey
Assemblée des États

Scrutiny Office

Mr J. Richardson
Deputy Chief Executive, Chief Officer of Resources
P.O. Box 140
Cyril Le Marquand House
The Parade
St Helier
JE4 8QT

Our Ref: 513/21(5)

16th July 2010

Dear Mr Richardson,

Corporate Services Scrutiny Panel
Jersey Development Company Sub-Panel

On behalf of the Jersey Development Company Sub-Panel, I would just like to take this opportunity to thank you for attending yesterday's Public Hearing. I write further to what was discussed during the Hearing, and it became apparent that the Sub-Panel would like further clarification on a number of issues.

I think it may also be useful to give you the page numbers of the transcript, so that you can see the exact areas clarification was sought:

- Page 3 - What problems were perceived between the initial report produced by DTZ and the Waterfront Enterprise Board's concern relating to that report?
- Page 4 - Did the Chief Minister's Department pay for the report? If so, how much did it cost?

It was also noted during the Hearing (page 3 of the transcript) that there was indeed an original DTZ report. I would be very grateful if you could send this to the Scrutiny Office as soon as possible, as I am sure you can appreciate that the time frame for the review is tight.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'C. H. Egré'.

Deputy C. H. Egré

9. APPENDIX TWO

Chief Minister's Department

Deputy Chief Executive
Cyril Le Marquand House
St Helier, Jersey, JE4 8QT
Tel: +44 (0)1534 440400
Fax: +44 (0)1534 440408



21 July 2010

Deputy C H Egre
Chairman
Corporate Services Jersey Development Company Sub-Panel
Scrutiny Office
States Greffe
Morier House
St Helier
JERSEY
JE1 1DD

Dear Deputy Egre,

Corporate Services (Jersey Development Company) Scrutiny Sub-Panel

Thank you for your letter of 16th July, seeking clarification on issues from the Public Hearing I attended on 15th July. I set out my response below:-

Early working drafts of the DTZ Report

As I stated at the Hearing, I was not involved in the work with DTZ, however subsequent to your request, I have been advised by the Assistant Chief Executive that early working papers were presented on the basis that they were working documents which were incomplete and had not been checked for accuracy or content before being issued. These earlier working documents also contained commercially confidential information which was subsequently removed.

With this in mind, DTZ has stated that the early drafts were submitted on the implicit understanding that they would not be published and the deliverable from the DTZ engagement is the final published report. I have discussed this with the Chief Minister and Chief Executive and we concur with this view.

WEB's response to the initial working draft

The WEB Board responded to the early working draft with comment on factual inaccuracy and the commercially confidential nature of some financial information which could not be included within a published report.

Key areas where the Board sought to clarify factual issues, included:

- The breadth of its work in engagement/consultation.
- Examples of its work with regard to design
- Clarifying arrangements regarding the assets it holds
- Providing examples of how it has marketed the Waterfront development sites
- Providing further examples of public and political interest in its work

It also identified information that had been included within the early working draft which was commercially and contractually confidential (i.e. full transaction details) and could not be included within a published report.

The Terms of Reference for the review made it quite clear that the WEB Board would have the opportunity to discuss and check facts as part of the review process. All comments and further information provided by the WEB Board were passed to DTZ through the Chief Ministers Department which was co-ordinating the review.

As I pointed out at the public hearing, it is entirely normal for consultant's reports to be the subject of comments and fact-checking. The key issue is that the consultant – in this case DTZ – has to take this information and produce a final deliverable that represents its own views on the issues in question.

Cost of the Report

The DTZ report has been published on the States Website along with its cost - £52,700. The Chief Ministers Department has paid for this report.

Yours sincerely



John Richardson
Deputy Chief Executive – Chief Officer Resources

direct dial: +44 (0)1534 440582
email: j.richardson@gov.je
www.gov.je

10. APPENDIX THREE



Deputy C H Egre
Chairman
Corporate Services Jersey Development Company Sub-Panel
Scrutiny Office
States Greffe
Morier House
St Helier
JERSEY
JE1 1DD

22nd July, 2010

Dear Deputy Egre,

Corporate Services (Jersey Development Company) Scrutiny Sub-Panel

Further to my letter of 21st July 2010, I have again discussed the matter with the Chief Minister and he has agreed to release the early working draft of the DTZ report to the Sub-Panel.

As explained in my earlier letter, the working draft contained appendices that were highly commercially confidential and were subsequently removed from the final report. For this reason, these appendices have been excluded from the version being provided to you. Should you wish to verify the contents of these appendices I would be more than happy to arrange for you to view them.

The main body of the attached draft remains unchanged from that originally submitted by DTZ and this also includes information that should be regarded as highly commercially confidential. It is for this reason I asked for a confidentiality agreement to be signed before releasing the information.

In reviewing the working draft I should be grateful if the Sub-Panel would recognise that this document was prepared and submitted by DTZ on the implicit understanding that it would not be published and on the basis that it was a working document which was incomplete and had not been checked for accuracy or content before being issued.

Yours sincerely,

A handwritten signature in black ink, appearing to read "John Richardson".

John Richardson
Deputy Chief Executive and Chief Officer Resources

11. APPENDIX FOUR

States of Jersey
States Assembly



États de Jersey
Assemblée des États

Scrutiny

Office

Senator T A Le Sueur
Chief Minister
PO Box 140
Cyril Le Marquand House
The Parade
St Helier
JE4 8QT

Our Ref: 513/21(5)

25th August 2010

Dear Senator Le Sueur

Corporate Services (Jersey Development Company) Sub-Panel

On behalf of the Sub-Panel, I am writing to you to request the contracts of the Executive Directors of the Waterfront Enterprise Board. These documents would of course be bound by a confidentiality agreement and would be for information purposes of the Sub-Panel only.

Thank you for your assistance in this matter. We look forward to hearing from you.

Yours sincerely

A handwritten signature in black ink, appearing to read 'D Egré'.

Deputy C.H. Egré
Chairman
Corporate Services (Jersey Development Company) Scrutiny Sub-Panel

12. APPENDIX FIVE

Chief Minister

Cyril Le Marquand House
St Helier, Jersey, JE4 8QT
Tel: +44 (0)1534 440400
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8th September 2010

Deputy C H Egre
Chairman
Corporate Services Jersey Development Company Sub-Panel
Scrutiny Office
States Greffe
Morier House
St Helier
JERSEY JE1 1DD

Dear Deputy Egre,

Corporate Services (Jersey Development Company) Scrutiny Sub-Panel

Thank you for your letter of 25th August, requesting copies of the contracts of the Executive Directors of the Waterfront Enterprise Board.

Having discussed the matter with the Board of WEB, I am of the view that the release of individual contract information does not appear to be relevant to the Sub-Panel's review as identified within its Terms of Reference, dated 18th June 2010.

I write therefore to decline your request for information on this occasion.

I trust that the Sub-Panel remains in position to complete its work in time for the debate on 28th September 2010.

I am happy to discuss this further with you.

Yours sincerely

A handwritten signature in blue ink, appearing to read "Terry Le Sueur".

Senator Terry Le Sueur
Chief Minister

direct dial: +44 (0)1534 440585
email: chiefminister@gov.je
www.gov.je

13. APPENDIX SIX

States of Jersey
States Assembly



États de Jersey
Assemblée des États

Scrutiny Office

Senator T A Le Sueur
Chief Minister
PO Box 140
Cyril Le Marquand House
The Parade
St Helier
JE4 8QT

Our Ref: 513/21(5)

10th September 2010

Dear Senator Le Sueur

Corporate Services (Jersey Development Company) Sub-Panel

Thank you for your letter dated 8th September 2010. The Sub-Panel has met and discussed your decline of the request it made on the 25th August 2010 regarding the contracts of the Executive Directors of the Waterfront Enterprise Board (WEB).

Within the letter, you mention that the release of contract information does not appear to be relevant to the Sub-Panel's review, as identified within its Terms of Reference. We would however, like to draw your attention to the following point within the Terms of Reference:

To assess whether the accepted recommendations made in S.R.9/2009 have been followed and implemented by the Council of Ministers.

As you are aware, the previous Sub-Panel made a recommendation that stated "Prior to the debate, the Chief Minister should ensure that the proposition is amended to show, without any room for doubt, that the Jersey Development Company would not be the same as the current Waterfront Enterprise Board."

We heard in our Public Hearing on the 25th August 2010 with the Minister for Treasury and Resources that "shutting down WEB and starting SoJDC afresh is simply not realistic.....it would be administratively hugely expensive to do so, quite apart from extremely risky in terms of having to deal with the existing contractual relations".

I am sure you can appreciate this raises significant concerns for us as a Sub-Panel, as it appears our accepted recommendation has not been actioned. We felt it was a

necessary course of action for the outcome of our review, to request the contracts of the Executive Directors of WEB and we are still of the same opinion.

Therefore, we would like to invite you to a meeting at your earliest convenience to discuss these issues further. As a matter of urgency we propose a lunchtime meeting with you next week, which would be held in private session and would not be transcribed, although formal notes would be taken. We would also like to discuss the date of the final report with you. The lead Officer for the review, Kellie Boydens, will contact the department to make the necessary arrangements.

Thank you for your assistance in this matter. We look forward to meeting with you.

Yours sincerely

A handwritten signature in black ink, appearing to read 'D Egré', with a period at the end. The signature is written in a cursive, flowing style.

Deputy C.H. Egré
Chairman
Corporate Services (Jersey Development Company) Scrutiny Sub-Panel

14. APPENDIX SEVEN

States of Jersey
States Assembly



États de Jersey
Assemblée des États

Scrutiny Office

Senator T A Le Sueur
Chief Minister
PO Box 140
Cyril Le Marquand House
The Parade
St Helier
JE4 8QT

Our Ref: 513/21(5)

16th September 2010

Dear Senator Le Sueur

Corporate Services (Jersey Development Company) Sub-Panel

I would like to refer back to my letter dated 10th September 2010 regarding the contracts of the Executive Directors of the Waterfront Enterprise Board. We appreciate that you were unavailable to meet with the Sub-Panel this week however, would like to stress the matter of urgency with this request.

We would therefore like you to reconsider your decision regarding the release of the contracts.

Thank you for your assistance in this matter. We look forward to hearing from you.

Yours sincerely

A handwritten signature in black ink, appearing to read 'D Egré'.

Deputy C.H. Egré
Chairman
Corporate Services (Jersey Development Company) Scrutiny Sub-Panel

15. APPENDIX EIGHT

Chief Minister

Cyril Le Marquand House
St Helier, Jersey, JE4 8QT
Tel: +44 (0)1534 440400
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20th September 2010

Deputy C H Egre
Chairman
Corporate Services Jersey Development Company Sub-Panel
Scrutiny Office
States Greffe
Morier House
St Helier
JERSEY JE1 1DD

Dear Deputy Egre,

Corporate Services (Jersey Development Company) Scrutiny Sub-Panel

Thank you for your letter of 16th September 2010, reiterating your request for copies of the contracts of the Executive Directors of the Waterfront Enterprise Board.

As we have discussed, I remain of the view that the contract information you have requested is not relevant to the Sub-Panel's review and I am therefore not willing to reconsider my original decision.

I trust that the Sub-Panel remains in position to complete its work in time for the debate on 12th October 2010.

I am happy to discuss this further with you.

Yours sincerely

A handwritten signature in black ink, appearing to read "Terry Le Sueur".

Senator Terry Le Sueur
Chief Minister

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email: chiefminister@gov.je
www.gov.je

16. APPENDIX NINE

States of Jersey
States Assembly



États de Jersey
Assemblée des États

Scrutiny Office

Senator T A Le Sueur
Chief Minister
PO Box 140
Cyril Le Marquand House
The Parade
St Helier
JE4 8QT

Our Ref: 513/21(5)

22nd September 2010

Dear Senator Le Sueur,

Corporate Services (Jersey Development Company) Sub-Panel

Thank you for your letter dated 20th September 2010, declining the Sub-Panel access to the contracts of the Executive Directors of the Waterfront Enterprise Board (WEB).

Within the letter, you mention that the release of contract information does not appear to be relevant to the Sub-Panel's review. As we have already pointed out, one of our Terms of Reference states:

"To assess whether the accepted recommendations made in S.R.9/2009 have been followed and implemented by the Council of Ministers."

You will recall that one of those recommendations states: *"Prior to the debate, the Chief Minister should ensure that the proposition is amended to show, without any room for doubt, that the Jersey Development Company would not be the same as the current Waterfront Enterprise Board."* We would like to highlight that this recommendation was accepted.

Whilst exploring whether the accepted recommendations had been implemented in P.73/2010 we were given the following evidence in the Public Hearing on the 25th August 2010 with the Minister for Treasury and Resources:

"...shutting down WEB and starting SoJDC afresh is simply not realistic.....it would be administratively hugely expensive to do so, quite apart from extremely risky in terms of having to deal with the existing contractual relations".

Given this, and in order to fulfil its Term of Reference above, we are sure you understand that the Sub-Panel needs to know what contractual relations have arisen

since the recommendation was accepted which now make it “*extremely risky*”. It is clear that our accepted recommendation has not been actioned, and we need to investigate the reasons why. Within the Code of Practice for Scrutiny Panels and the Public Accounts Committee, clause 9.5 states:

The States have conferred powers on the Panels to call for any persons, papers or records relevant to the subject of a review and to require any person to attend before them, providing that the correct procedures are observed. Elected members are required under the Code of Conduct set out in Schedule 3 of Standing Orders to co-operate when requested to appear and give evidence before or produce documents to a Scrutiny Panel. In the vast majority of cases, the Panels expect that requests for information will be met on the basis of co-operation and negotiation rather than compulsion.

It might also be useful to draw your attention to the Code of Conduct set out in Schedule 3 of Standing Orders (Standing Order 155):

9 Co-operation with committees and panels

Elected members shall co-operate when requested to appear and give evidence before or produce documents to:

- (a) *a scrutiny panel, for the purpose of the review, consideration or scrutiny of a matter by the panel pursuant to its terms of reference and the topics assigned to it, to a sub-panel or any person appointed by the scrutiny panel to review, consider, scrutinize or liaise upon any particular matter.*

Such denial of access to relevant information seriously impedes the Sub-Panel’s work in fulfilling its Term of Reference as referred above and, indeed, undermines the scrutiny process itself. Hopefully you will now appreciate the reasonable request for information in respect of the contractual arrangements to help us to understand why the accepted recommendation has been reneged on.

We would appreciate this information in the short term through your attendance at a Sub-Panel meeting which can be held in private if necessary.

Thank you for your assistance in this matter. We look forward to hearing from you.

Yours sincerely



Deputy C.H. Egré
Chairman
Corporate Services (Jersey Development Company) Scrutiny Sub-Panel

17. APPENDIX TEN

Chief Minister

Cyril Le Marquand House
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27th September 2010

Deputy C H Egre
Chairman
Corporate Services Jersey Development Company Sub-Panel
Scrutiny Office
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Morier House
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JERSEY JE1 1DD

Dear Deputy Egre

Corporate Services (Jersey Development Company) Scrutiny Sub-Panel

Thank you for your letter of 22nd September 2010.

It is unfortunate that you appear to believe that the Council has 'reneged' on an accepted recommendation as this is simply not the case. The Sub-Panel's original report (SR9/2009) suggested as a key finding that the Proposition did '*not accurately convey the intentions*' that the States of Jersey Development Company (SoJDC) would be different than the Waterfront Enterprise Board (WEB). As a result of this, the Sub-Panel rightly asked the Council to clarify the role of the company, principally to address concerns that it could become WEB by another name. This has been addressed in P73/2010 which makes it clear that the Proposition will fundamentally reform the role and remit of WEB.

Both the original and current SoJDC Propositions have been absolutely clear that, whilst building on the existing corporate structure, the new arrangements would provide a revised and strengthened Board structure, enhanced governance arrangements and an operational remit focussed on delivery. Within SR9/2010 the Sub-Panel made no specific suggestion or recommendation that an alternative approach to forming SoJDC should be taken.

Turning to the matter of the contracts, whilst I remain minded not to release contract documentation to the Sub-Panel, I can confirm that the employment contract of the Managing Director of WEB is a permanent contract which makes provision for its terms and conditions to continue in circumstances where the company is reconstructed or amalgamated without a claim against the company.

In the light of the above, it may be that there is no point in meeting with the Sub-Panel in advance of the debate on 12th October 2010, and certainly I would not wish to further delay the production of a report from the Sub-Panel.

Yours sincerely

A handwritten signature in black ink, appearing to read "Terry Le Sueur".

Senator Terry Le Sueur
Chief Minister

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18. APPENDIX ELEVEN

States of Jersey
States Assembly



États de Jersey
Assemblée des États

Scrutiny Office

Senator T A Le Sueur
Chief Minister
PO Box 140
Cyril Le Marquand House
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St Helier
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Our Ref: 513/21(5)

1st October 2010

Dear Senator Le Sueur,

Corporate Services (Jersey Development Company) Sub-Panel

We received your email dated 29th September 2010 explaining that, as you understood it, it would be possible for the Sub-Panel to attend upon the Waterfront Enterprise Board to view, in confidence, the employment contract of the current Managing Director. Deputy de Sousa, Vice-Chairman of the Sub-Panel and Senator Ferguson attended this meeting this morning. I regret that I was unable to attend due to ill health.

The meeting was very valuable and the Sub-Panel appreciated the time that had been given up by the Board Members. However, during the meeting, it became apparent that the Board Members had no intention of showing the contract to the Sub-Panel. Deputy de Sousa and Senator Ferguson were only given access to paragraph 15 from the contract, which WEB thought was relevant to our review.

It is with great frustration that I have to write to you yet again, to explain the situation we are in. For the purposes of our review, we need access to the full contract which you understood could be viewed by us. In order to fulfil our Terms of Reference, we are sure you understand that the Sub-Panel needs to know what contractual relations have arisen since the recommendation was accepted which now make it impossible for a clear difference between SoJDC and the current WEB.

In previous letters to you, we have quoted the evidence heard at Public Hearings. The Scrutiny process is to investigate an issue objectively and to collect factual-based evidence. We would therefore like to make it clear that no personal vendettas are present with this review; we are simply seeking answers to the questions we have raised, as a result of Public Hearings.

We would like to reiterate the points we made in our last letter dated 22nd September 2010. The Code of Conduct set out in Schedule 3 of Standing Orders (Standing Order 155) states:

9 Co-operation with committees and panels

Elected members shall co-operate when requested to appear and give evidence before or produce documents to:

- (a) *a scrutiny panel, for the purpose of the review, consideration or scrutiny of a matter by the panel pursuant to its terms of reference and the topics assigned to it, to a sub-panel or any person appointed by the scrutiny panel to review, consider, scrutinize or liaise upon any particular matter.*

We first asked for the contracts of the Executive Directors of WEB on the 25th August 2010. We wrote a second letter to you dated 10th September 2010 when the information requested was not forthcoming along with an invitation to attend a private meeting with us. Following a delay in response from your office, we wrote to you on the 16th September 2010 acknowledging your reasons for not meeting us, which were brought to our attention through the Scrutiny Office but also explaining the matter of urgency with our request for the contracts. The final letter we sent was on the 22nd September 2010, we find it astounding that it has taken over a month.

It is with regret therefore, that I have no choice other than to draw to your attention Part 2 of the States of Jersey (Powers, Privileges and Immunities) (Scrutiny panels, PAC and PPC) (Jersey) Regulations 2006. This gives Scrutiny Panels and Sub-Panels the right to summon persons to produce documents which are relevant to the matter it is investigating.

Please be assured that this is not a route the Sub-Panel wishes to go down, however, in order to fulfil out Terms of Reference for the review and to enable a well-informed debate on the proposition, we would urge you to consider this letter as a matter of urgency and enable the viewing of the contract.

With regard to the debate, the Sub-Panel is intending to present an interim report before the 12th October 2010. We are sure you can appreciate that due to the time constraints, and information having not been forthcoming; there will be no time for factual checking of this report once it has been drafted. When the Sub-Panel finishes its final report however, it will of course be sent to your department as a matter of course.

Yours sincerely



Deputy C.H. Egré
Chairman
Corporate Services (Jersey Development Company) Scrutiny Sub-Panel

19. APPENDIX TWELVE

Chief Minister

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5 October 2010

Deputy C H Egre
Chairman
Corporate Services Jersey Development Company Sub-Panel
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JE1 1DD

Dear Deputy Egre

Corporate Services (Jersey Development Company) Scrutiny Sub-Panel

I was somewhat surprised to receive your letter of 1st October 2010 as I understood that the meeting between the Sub-Panel members and the WEB Board had been positive and matters relating to the contracts of employment had been discussed. I also understand that the WEB Board sought to respond to all questions asked of it and also offered to provide any further information arising out the Sub-Panel's meeting later in the day. It appears to me that the WEB Board has taken a very helpful stance and has provided the opportunity for the Sub-Panel to ask whatever it wishes in relation to the contract information it seeks.

As this information is held by WEB rather than myself, if you intend to use powers under Part 2 of the States of Jersey (Powers, Privileges and Immunity) (Scrutiny Panels, PAC and PPC) Regulations 2006, this is something that I will need to discuss with the WEB Board.

However, bearing in mind the steps that have been taken in order to satisfy the information required by the Sub-Panel, I believe that the reasoning for wanting to see employment contract information must be made clearer. Before I speak further with the WEB Board I must therefore insist that the Sub-Panel:

- a) Sets out clearly both the reason for wishing to see this employment contract and its relevance to the SoJDC Proposition.
- b) Sets out the specific questions the Sub-Panel is seeking to answer from the employment contract along with their relevance to its review.

I do not believe that any contractual arrangements have arisen since the Sub-Panel's original report that would impact making a difference between the current role of WEB and the future role of SoJDC. In my view it is therefore important that the Panel is absolutely clear as to why it requires this information.

I note your intention to produce an interim report and I look forward to receiving it prior to the debate.

I am happy to discuss this further should you so wish.

Yours sincerely



Senator Terry Le Sueur
Chief Minister

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